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PROCEDURES SPECIALES DU
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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on violence against women, its causes and consequences.

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 15/21, 16/5, and 16/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **a new draft law on associations which, if passed without changes, would violate international law and standards pertaining to the right to freedom of association.**

According to the information received:

On 7 March 2013, a new draft law on civil society organisations, presented by the Freedom and Justice Party, was discussed by the Human Development Committee of the Shura Council.

Article 3 of the draft law provides that the funds of associations will be considered "public funds." Reportedly, this provision places undue interference on the right to freedom of association, as under Egyptian law any citizen can request an investigation on the spending of public funds, and CSOs' resources can potentially be frozen if such an investigation is requested.

In addition, article 13 of the draft law stipulates that every activity to be organized by an association in Egypt in cooperation with a foreign association, committee or organization, is subject to approval by a Coordination Committee. Reportedly, these provisions place undue interference in the internal affairs of associations and may deter individuals from exercising their right to freedom of association.

Furthermore, article 14 subjects associations seeking foreign funding to a prior authorization procedure. Associations are forbidden from obtaining funds from abroad or sending money abroad without obtaining permission from the competent Minister, in this case the Minister of Social Affairs, subject to an appeal before a competent court in case of objection or lack of response within one month. This provision states that associations which gather donations from citizens or receive money from abroad or send money abroad will be subjected to an audit by the Central Accountability Body.

In relation to foreign non-governmental organizations, article 56 of the draft law provides that such organizations seeking to establish an office and conduct activities in Egypt will need to obtain a prior authorization. It is reported that the license will run for a period of three years, after which the association will need to re-apply for a new license. The competent body to approve the license, the Coordination Committee, will be composed of one representative each from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of International Cooperation, the Ministry of Interior, the security apparatus, the Central Bank and four representatives from civil society nominated by the General Union of Civil Society Entities, according to article 57 of the draft law. Reports indicate that this procedure does not comply with international law and standards pertaining to freedom of association; and that, due to its composition, the Coordination Committee may not be sufficiently independent from executive powers.

Article 59 of the draft law would limit the purposes and activities which can be carried out by a foreign non-governmental organization to “those in line with the needs of Egyptian society, as per priorities of development plans and taking into account public order and morals” only. These restrictions look rather generic and may have a detrimental impact on the ability of foreign non-governmental organizations to conduct freely activities in Egypt.

Article 59 further indicates that no permit will be granted to a foreign non-governmental organization which receives “governmental funds directly or indirectly” and whose activities promote “views or policies of a political party in its country of origin or violate national sovereignty”. These terms may be subject to subjective interpretation and could thus lead to arbitrary enforcement of the law..

Article 70 of the draft law provides the administration and any interested individual with the right to resort to the competent court to object to any decision taken by the general assembly or the administrative board of the association or to any of its activities. This provision allows for undue interference of State entities in the work of civil society organizations.

Article 71 of the draft law provides that representatives of associations can be subject to severe punishment, including prison sentences of up to six months and fines up to 100,000 LE, for certain offences, including in case they receive funds

from foreign sources, send funds abroad or do not provide information requested by a member or members of the association. It is alleged that such punishment is disproportionate to the offences mentioned under article 71.

Concern is expressed that several provisions of this new draft law do not comply with international law and standards pertaining to freedom of association. Concern is further expressed that the new draft law, if adopted, will compromise the role played by independent civil society organizations in Egypt, including associations that carry out primary prevention activities and provide essential services to victims and survivors of human rights violations.

In this context, we wish to remind to your Excellency's Government article 22 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

We would also like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."

We would also like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations;

- article 9, paragraph 4, which states that (a) (...) everyone has the right, individually or collectively, in conformity with applicable international instruments and procedures, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms; and

- article 13 which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the declaration.

Furthermore, we would like to bring to your Excellency's attention article 7 (c) of the International Convention on the Elimination of All forms of Discrimination against Women, which requires States Parties to take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Moreover, we would like to bring to your Excellency's attention article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women which notes that States should recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.

As it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the above summary accurate?
2. Please provide full details on the aforementioned draft law and explain how its provisions comply with Egypt's obligations under international human rights law.
3. Please indicate whether any consultation has been undertaken, including with civil society actors.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the right to freedom of association is respected.

Please accept, Excellency, the assurances of our highest consideration.

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of association

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