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HIGH COMMISSIONER FOR HUMAN RIGHTS

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

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; the Special Rapporteur on violence against women, its causes and consequences; and the Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice.

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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; Special Rapporteur on violence against women, its causes and consequences; and Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice pursuant to Human Rights Council resolutions 15/21, 16/5, 16/7, and 15/23.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **restrictions on the ability of associations to receive foreign funding.**

The New Woman Foundation (NWF) is an Egyptian NGO dedicated to the elimination of all forms of discrimination against women in society. NWF also plays a prominent role in the coordinated advocacy work of national and regional NGOs on freedom of association. The Center for Egyptian Women Legal Assistance (CEWLA) is an Egyptian NGO which provides legal aid to women facing violence.

The difficulties for NGOs to operate within the context of the provisions contained in the Non-Governmental Organizations (NGO) law 84/2002 was the subject of a previous communication sent to your Excellency's Government on 17 November 2011 by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the situation of human rights defenders. We acknowledge receipt of the response by your Excellency's Government dated 17 January 2012.

According to the information received

Law 84/2002 governing Non-Governmental Organizations provides that associations willing to receive funds from abroad need to obtain prior permission from the Minister of Social Affairs. The decision is to be taken within 60 days from the date of receiving the application.

On 5 May 2011, the NWF submitted a request to the Minister of Social Affairs to receive a grant related to the Nelson Mandela Award, awarded by CIVICUS: World Alliance for Citizen Participation. It is reported that the NWF received the approval for funding after a delay of seven months which went beyond the period of 60 days prescribed by law.

It is reported that all requests submitted subsequently have been rejected by the relevant authorities or are still pending. On 25 June 2011, the NWF submitted a request to receive funding from the Sigrid Rousing Trust in order to cover the association's core expenses. On 6 February 2012, the Ministry of Social Affairs informed the NWF that the application was rejected without providing any justification and further requested the association to promptly return the grant to the donor.

On 13 October 2011, the NWF submitted a request to obtain permission to receiving funding from the Arab Human Rights Fund. On 5 December 2011, it submitted a similar request to be able to receive funds from the Rockefeller Foundation. On 2 January 2012, the association submitted a request to receive funds from the Netherlands Embassy in Cairo. None of these requests have so far been replied to.

According to the information received, the NWF has filed a complaint before the Conflict Resolution Committee, a judicial mechanism specifically designed to mediate between the Ministry of Social Affairs and the associations registered under the Egyptian Law of Associations. The first hearing which was supposed to take place on 15 May 2012 was postponed to 9 June 2012 due to the absence of some of the Committee's members. It was then postponed again as the lawyers of the association were not able to obtain a copy of the memorandum prepared by the representatives of the Ministry. The hearing is now scheduled to take place during the first week of July.

It is reported that these restrictions have compelled the association to decrease the working hours of its employees and reduce their salaries by half.

The CEWLA also faced difficulties in receiving foreign funding. It is reported that the association applied to the Minister of Social Affairs on 25 January 2011 for permission to accept funding for five projects aimed at combatting violence

against women and at legally empowering marginalized groups. The Minister of Social Affairs reportedly has not replied to the requests yet, which compelled the association to return funds for two of these projects. It is alleged that this lack of response has prevented the association from filing a complaint.

This situation has reportedly had a detrimental effect on the sustainability of the association. It is further reported that members of the association have been subjected to various acts of intimidation. In recent weeks, the association was requested to submit the curriculum vitae and backgrounds of each staff member to the Minister of Social Affairs.

Serious concerns are expressed that the aforementioned restrictions to receive funding may be linked to the associations' activities in the defence of human rights. Concern is expressed that these restrictions could lead to the termination or to the substantial reduction of the activities of human rights organisations, as many of them rely on foreign funds to implement their activities. Concerns are further expressed that despite guarantees provided by your Excellency's Government in its letter of 17 January 2012, provisions of the Law 84 of 2002, particularly those related to foreign funding, are invoked in such a way as to impede the legitimate work of NGOs.

Without expressing at this stage an opinion on the facts of the case, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee the respect of the rights to freedom of association, in accordance with article 20 of the Universal Declaration of Human Rights (UDHR) and article 22 of the International Covenant on Civil and Political Rights (ICCPR), which states 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".

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that "Calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... 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; 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.

We deem it also pertinent to highlight the following recommendations contained in the report of the Special Rapporteur on the situation of human rights defenders to the General Assembly in 2009 (A/64/226, paras. 101-127):

- States should ensure that existing laws and regulations are applied in an independent, transparent and less burdensome or lengthy manner in order to avoid restricting the right to freedom of association.

- Governments must allow access by NGOs to foreign funding, and such access may only be restricted in the interest of transparency, and in compliance with generally applicable foreign exchange and customs laws. Restrictions on foreign funding may limit the independence and effectiveness of NGOs. States should therefore review existing laws in order to facilitate access to funding.

We would also like to recall the Convention on the Elimination of all Forms of Discrimination against Women ratified by Egypt on 18 September 1981, which commits the State to take all necessary measures to combat discrimination on grounds of sex and to respect, protect and fulfill women’s human rights. We would further like to bring to the attention of your Excellency’s Government 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. Article 4 (g) of the Declaration also notes the responsibility of States to work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counseling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

In light of these allegations, we urge your Excellency's Government to take all necessary measures to guarantee a safe environment for Egyptian and foreign NGOs to operate so that their work for the protection and promotion of human rights can continue unhindered in the country. We also request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

Moreover, 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 cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary accurate?
2. Has a complaint been lodged by or on behalf of the concerned associations?
3. Please provide information concerning the legal grounds for the aforementioned delays and refusals to permit reception of funding and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
4. Please indicate what measures have been taken to ensure that the legitimate right to defend human rights peacefully is guaranteed and respected.

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 rights and freedoms of the above mentioned human rights organizations are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person

responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders

Rashida Manjoo
Special Rapporteur on violence against women, its causes and
consequences

Kamala Chandrakirana
Chairperson-Rapporteur of the Working Group on the issue of
discrimination against women in law and in practice