

Index Number: MDE 12/9404/2018

Reference: TG MDE 12/2018.014

Mr Sameh Shoukry  
Minister of Foreign Affairs  
Ministry of Foreign Affairs  
Corniche el-Nile  
Cairo  
Egypt

14 November 2018

## **RE: AMENDING LAW NO. 70 OF 2017**

Your Excellency

We are writing to you to welcome the statements from President AbdelFatah al-Sisi about the need for a more “balanced NGO law” and from the official spokesman of the Cabinet regarding the foundation of a committee that would be tasked with amending Law no. 70/2017 on Associations and Other Foundations Working in the Field of Civil Work. It is encouraging that the President “believes in the work done by the civil society” and that the government aims to “achieve the aspirations of civil society”.

We propose in this letter that the logical conclusion of these statements is that the government should repeal the current law. We highlight several elements of the law which are incompatible with the right to freedom of association and which should therefore be excluded from any law that regulates the activities of civil society.

### **CONCERNS REGARDING LAW NO. 70 OF 2017**

Amnesty International assesses that the law as it stands is incompatible with Egypt's constitutional and international commitments to respect the right to freedom of association.

The 2014 Egyptian Constitution guarantees the right to freedom of association in Article 75, which states that NGOs “shall have the right to engage in activities freely, and administrative agencies shall not interfere in the affairs of such organizations or dissolve them or dissolve their boards of directors or boards of trustees except by a judicial ruling.”

The current law violates this provision and the right to freedom of association in several ways:

- It establishes undue barriers on organizations to register, operate independently or receive funding.
- It imposes severe penalties on civil society staff for violating several vaguely worded articles that could also be used to close civil society organizations, which further erodes the right to freedom of association.
- The establishment of the “agency” gives security services the power to interfere in almost all aspects of civil society organizations, including in funding and co-operation with international organizations.

The law criminalizes and provides severe punishments for a number of activities, including conducting surveys, receiving foreign funding and operating unregistered organizations. The law also violates the obligations Egypt entered into freely when it ratified the International Covenant on Civil and Political Rights and other international human rights treaties, which are also incorporated as a source of law in the Egyptian Constitution.

For more detailed analysis of the law, Amnesty International's statement of 18 November 2016 is attached as an annex.

## RECOMMENDATIONS

It is vital that the government takes an inclusive approach to developing any new law regulating the activities of civil society, where stakeholders, including human rights and civil society organizations, are consulted at all stages of the negotiations around developing the law. For our part, we provide the following recommendations for the Egyptian government's consideration.

To be fully aligned with Egypt's constitutional and international obligations to respect the right to freedom of association, any law regulating the activities of civil society should ensure the following:

1. Organizations can register by notifying the authorities. Amnesty International recommends:
  - a. ensuring that there are no stipulations that empower the authorities to halt the process of registration.
2. Organizations are able to operate independently. Amnesty International recommends:
  - a. ensuring that there are no stipulations that empower the executive authorities to halt activities, dissolve their boards or interfere in the composition of their boards;
  - b. ensuring that the closure of organizations would only take place where there is sufficient evidence that the organizations have been involved or aided in committing internationally recognized criminal activities, and such determination is subject to appeal by an independent, civilian court, not for vaguely worded charges. ensuring that there are no excessive reporting and approval requirements, including for conducting field surveys or co-operating or communicating with international organizations;
  - c. abolishing the "agency" and ensuring the security services are not involved in the working of the civil society organization, unless in relation to an internationally recognized criminal activity;
  - d. decriminalizing conducting surveys, co-operating with international organizations, operating unregistered organizations and receiving foreign funding, as well as removing the penalties of prison sentences and fines for violating the law.
3. Organizations are able to receive funding freely. Amnesty International recommends:
  - a. ensuring that there are no requirements for prior approval for raising funds locally or internationally.
4. International organizations are able to work freely. Amnesty International recommends:
  - a. ensuring that there are no stipulations limiting their ability to hire staff or volunteers or requiring them to obtain an authorization every year or to seek and receive approval for their activities.

## CASE 173 of 2011

In order to deliver on your commitment to help "achieve the aspirations of civil society", it will be necessary, in addition to repealing and replacing Law no. 70 of 2017, to close case 173/2011 and end the travel bans and asset freezes against civil society staff and the asset freezes in relation to the case. Under the case 173/2011, the Egyptian authorities have banned from travel at least 30 and frozen the assets of 10 directors and staff of civil society organizations, and seven organizations. Many of them risk long prison sentences, if convicted for "receiving foreign funding". We believe that the case is unfounded, and the charges solely stem from their work in defending human rights.

In this respect, we are also calling on you to rescind the order to close down Al-Nadeem Center for Rehabilitation of Victims for Torture, and to immediately and unconditionally release civil society organization directors Ezzat Ghoniem of the Egyptian Coordination for Rights and Freedoms and Hisham Gaafar of Mada for Media Studies, who are detained because of their work in defending human rights.

In conclusion, we hope that this step of reviewing the NGO law represents the start of a new stage for the government's approach to civil society in Egypt. We are at your disposal to discuss any of the recommendations or observations above.

Yours sincerely

Philip Luther  
Research and Advocacy Director  
Middle East and North Africa Regional Office