“Shackled Freedoms : What Space for Civil Society in the EuroMed?”

April 2016

EuroMed Rights
EuroMed Droits
الأورو-متوسطية للحقوق

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Report drawn up following the discussion and dialogue seminar organised by EuroMed Rights Brussels, 23-24 APRIL 2016

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Contents

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1. Introduction and Methodology

The freedoms of assembly and association are a priority for EuroMed Rights since its inception in 1997. EuroMed Rights has acquired great expertise on the subject through years of specialised work and numerous studies, supported by the "Freedom of association and assembly" working group which gathers twenty member associations of the network throughout the euro-Mediterranean region.

Combatting the shrinking space for civil society in the region, supporting human rights organisations and promoting a more favourable environment for civil society actors remain strategic objectives of the Network's Work Plan for 2015-2018.

This report follows the seminar about "Combatting the shrinking of civil society space", organised by EuroMed Rights, 22-24 April 2016, in Brussels. The meeting brought together about twenty organisations from North Africa, the Middle East and Europe.

This seminar was preceded by a one-day meeting focused on the new European Neighbourhood Policy (ENP)[1] and civil society participation opportunities in its implementation and evaluation with the participation of many representatives of European institutions and Non-governmental organisations based in Brussels. The 23-24 April seminar focused on the exchange of experience between civil society organisations in the region to fight against the multifaceted restrictions they face. The impact of security and anti-terrorist policies was particularly highlighted, and recommendations were made for joint action to protect the scope of civil society and influence the European policies in this direction with Southern neighbouring.

This report aims to analytically present the experiences and testimonies gathered during this seminar. It is therefore more than an account, it is an inventory of obstacles and repression against civil society in the euro-Mediterranean region, and it synthetically presents relevant experiences and recommendations directly from the actors.

1 See the Report on the ENP seminar What space for civil society in the implementation of the ENP-South? Brussels, 22 April 2016.

2. Shrinking Space for Civil Society: Concepts and Definitions

The existence of an independent civil society is one of the cornerstones of a democratic political system. The actors of civil society, such as organisations, allow the expression and claims of collective interests and the participation of the population in the process of debate and public decision making.

The definition of the contours of civil society is deeply political and controversial. As emphasised in this report, during the seminar some participants expressed that some groups are self-defining as actors of civil society but in truth act against democracy and human rights.

The Office of the United Nations High Commissioner for Human Rights defines civil society as "individuals or groups who voluntarily engage in forms of public participation and actions with common interests" [2]. It gives the following examples (not exhaustive) of civil society:

- Human rights defenders, including Internet activists and organisations defending human rights (NGOs, organisations, victim groups);
- Alliances and networks (women's rights, children's rights, environmental issues, LGBTI etc.);
- Community groups (indigenous people, minorities, rural communities etc);
- Faith-based groups (churches, religious groups);
- Federations (unions and professional associations, student associations etc);
- Social movements (peace movements, democracy movements, student movements etc.)

The scope of civil society is the place occupied by civil society within society, the environment as well as the framework of civil society and the links between its actors, the state, the private sector and the general public.

The UN experts also indicate that certain conditions are necessary for the existence of a free and independent civil society. States, under their international commitments to human rights, have the obligation to create the legal, but also economic, social and cultural conditions that actively support the skills and abilities that people have, individually or in groups, to become involved in civic activities.

In practice, this means creating a supportive political and public environment; a incentive legislative framework; a free flow of information; long-term support and resources; the existence of spaces for dialogue and collaboration; and no interferences by the state in organisation activities. The freedoms of expression, peaceful assembly and association as well as the right to participate in public affairs are fundamental rights, as their observance enables a favourable environment for civil society.

2 Practical guide for civil society. The scope of civil society and the United Nations' Human Rights system, High Commissioner for Human Rights of the United Nations.

Shrinking Space for Civil Society: a Worldwide Trend

Around the world, governments are finding new forms of civil society repression. These measures that stifle civil society are aimed at the forms of mobilisation that have emerged in the 21st century, such as the massive use of the Internet and social networks or the permanent occupation of public spaces.

Since 2012, the International Center for Not-for-Profit Law (ICNL) has documented restrictive legislative changes to civil society in 60 countries. Most of these new provisions are aimed at association registration, foreign funding and barriers to public meetings and demonstrations.

CIVICUS has documented between 2012 and 2013 more than 400 threats to civil society worldwide. In a report published in 2013, this platform identified five key trends in the repression of civil society: the aggravation of restrictions on a legislative level; the administrative closure of organisations; violence and killings of activists and human rights defenders; imprisonment of activists; and repression against civil society organisations (CSOs) and defenders who cooperate with United Nations agencies.

International bodies of Human Rights also noted the shrinking space for civil society, and alerted the States and public opinion about it. The United Nations Human Rights Council adopted several resolutions. The most recent, 27/31, adopted in 2014, acknowledges "the vital importance of involving civil society at all levels in the governance process and in promoting good governance" and calls on States to "create and maintain, in law and practice, a safe and supportive environment, in which civil society can operate without interference or threat."

The European Union has also taken note of this issue by including it in its Action Plan for Human Rights and Democracy 2015 - 2019, the Action Item 10 includes: assessing the legal and practical environment for CSOs and taking measures to counteract threats; publicly and privately condemning the restrictions to freedom of association and assembly as well as attacks against HRDs and CSOs, and raising these issues in all bilateral meetings, forums etc.

3. Situation in the Euro-Mediterranean Region

The Euro-Mediterranean region is paradigmatic of this narrowing of civil society space. It is interesting to note that this trend, although of varying intensity depending on the country, is observed in the countries of North Africa and the Middle East, but also in consolidated democracies in Europe.

We are compelled to acknowledge this regression after the hope of openness and progress raised by the 2011 uprisings in many Arab countries. A "counterrevolutionary" trend of the regimes in place nowadays is clearly at work in order to maintain an illusory status quo. Human rights defenders and civil society face a growing arsenal of repressive measures in law, but above all in practice, and numerous violations, sometimes mounting to arbitrary imprisonment etc. In some countries, the failure of governments to respond to peaceful demands of civil society and to the aspirations of the people eventually turn into armed conflict (Syria).

In countries of the European Union, despite legal safeguards and the human rights "shared values" rhetoric, civil society is under pressure. The protest against austerity policies in the context of economic and social crisis has caused the emergence of new citizen movements and forms of mobilisation (such as the occupation of public space), which are sometimes met with forceful opposition from the authorities. The anti-terrorism policies are also source of legal reforms and practices that go against individual freedoms and rights of assembly, association and expression.

There is often a continuum of repressive measures which articulates laws targeting independent organisations, freedom of expression and assembly, as well as stigmatising discourses and campaigns of media "lynching" targeting supporters and opponents, judicial harassment leading to imprisonment, threats and intimidation, physical violence and sometimes, assassination.

All these threats come together and complement each other, but for clarity, this report chose to classify as follows: firstly, the legal measures (in law) applied by States against civil society; secondly, extra-legal measures (in practice) used by the authorities against defenders and CSOs; thirdly, ambivalent or negative roles played by some non-state actors; and finally the increasing importance of so-called "anti-terrorist" policies in restricting civil society space.

1. Legal Restrictions

The first finding on legal measures is that, everywhere, constitutions recognise the necessary rights for civil society action: the freedoms of assembly, association, expression and information flow. All the countries in the region have ratified international conventions protecting these rights, including the International Covenant on Civil and Political Rights (ICCPR). Most constitutions also recognise the primacy of international law over national law or, at least, its equivalence.

When civil society points out human rights gaps and lack of protection, governments defend themselves by claiming that these rights are recognised in the constitution and therefore are, effectively protected. Nevertheless, authorities often pass restrictive laws that come into contradiction with the constitutional provisions and international commitments, at least in practice.

In recent years, **the fight against terrorism was used to justify laws that affect or directly target civil society**. Some States have passed provisions containing very vague definitions of offenses related to terrorism, which can target actors and peace groups who disagree with government policies.

Demonstration bans and arrests in France

According to the French League of Human Rights (LDH) "the legislators attack rights and freedoms in the name of the fight against terrorism". The LDH denounces the state of emergency declared by the French government after the November 2015 attacks in Paris, arguing that these measures have enabled the administrative authorities to tackle for example, environmentalists, but have not proven effective in the fight against terrorism.

Following the attacks of 13 November 2015, in Paris, the French government introduced a state of emergency (which is still in force). Under these provisions, many long-planned protests during the COP21 conference on climate were banned in Paris. Hundreds of environmental activists were stopped at rallies and placed in custody for one or more days.[3]

Terrorism as a pretext for limiting the freedom of expression

Some concepts, such as "advocating terrorism" are subject to very vague definitions in laws. Therefore, peaceful activists may fall under these provisions, even if they have no connection with the acts of violent groups. A Jordanian activist denounces that in her country, "the anti-terrorist legislation is so broad that anyone can be prosecuted for a simple tweet or post on Facebook."

Prosecution of Academics for Peace in Turkey,

In Turkey in January 2016, 1128 university professors and researchers (currently over 2200) signed the "We will not be a party to this crime" statement denouncing the military policy of the Turkish government in the Kurdish regions in the southeast of the country, and in particular curfews imposed on entire cities. They called on the authorities to lift the curfews and work for the establishment of a sustainable peace process.

All signatories are currently victims of prosecution for "propaganda of a terrorist organisation" or "denigrating the Turkish nation". They are the subject of an intense stigmatisation campaign and the President of the Republic Erdogan is accusing them of being "the fifth column of terrorism"[4].

Some countries are trying to **restrict foreign funding to independent civil society organisations** which do not have access to grants in their own country and therefore depend on funds from abroad. This is the case of a proposed law in Israel, which targets CSOs denouncing the occupation of Palestinian territories. Egypt (since 2002) and Algeria (since 2012) have very restrictive laws on foreign funding. These provisions complicate the daily activity of associations and seek to make them disappear (when these laws are used to block funds). Moreover, they

3 See Human Rights League (LDH) press release.
4 See the Report Human rights under curfew, EuroMed Rights / FIDH, February 2016

are accompanied by, and maintain, a climate of distrust and prejudice against civil society. A representative of the Israeli organisation B'Tselem condemns this "political discourse related to this legislation which constitutes a hostile environment and public opinion, making it very difficult to do our work."

Israeli Law

In Israel, the bill for "NGO transparency" is still being discussed in Parliament (the Knesset). This project provides that organisations, which receive more than 50% of their funds from abroad, will be classified as "foreign entities". This legislation especially affects the Israeli and Palestinian organisations opposed to the military occupation and those working to document human rights violations [5].

Egyptian Law

In Egypt, the Law on Associations (dating from 2002) imposes significant restrictions on the external financing of organisations. A ministry approval (subject to a political decision) is necessary before receiving foreign funds. Receiving these funds without official authorisation may result in blocked bank accounts, the dissolution of the association and lawsuits against employees which can lead to prison. A penal code modification adopted by President Sisi in September 2014 allows life sentence if found guilty.

In many countries of the southern Mediterranean, the judicial system is not independent from the executive system. This makes it difficult, useless or even counter-productive, for civil society to address the courts concerning violations of the freedoms of assembly, association and expression. An Egyptian activist denounces that in her country "justice is totally corrupt.".

5 See EuroMed Rights press release, June 2016.

Military Courts

In some countries, under the pretext of a war situation, state of emergency or anti-terrorist law, civilians may be tried by military courts. These courts do not guarantee the right to a fair trial, and international conventions on Human Rights clearly state that under no circumstances should civilians be tried by military courts.

Yet this is the case in Israel, where Palestinian militants are commonly tried by military courts[6].

In Egypt, 3,000 civilians appeared in 2015 in a military court for alleged charges of terrorism or political violence[7]. In 2014, a coalition of local associations had also denounced a presidential decree expanding the powers of military courts despite constitutional provisions and international law[8].

In Morocco/Western Sahara, 24 people detained after the mobilisation of the "Gdem Isik camp" in 2010 in Western Sahara de facto ruled by Morocco, were tried in 2013 by a Moroccan military court. All received heavy prison sentences after a trial which did not guarantee the rights of the defence [9].

Armed conflict and military occupation are obviously an additional pressure factor on civil society. In Palestine, civil society organisations suffer on one side from the restrictions imposed by the Israeli authorities - searches, restrictions of assembly and movement rights, military courts etc. - and on the other side those decreed by the Palestinian National Authority (PAN). The PAN often legislates in the form of presidential decrees, which are without debate or transparency. Palestinian civil society has denounced in March 2016, the adoption of various provisions that attack the freedoms of association and assembly, and are contrary to international standards[10].

6 Practice documented in the AI and HRW reports, 2016.
7 See Amnesty International Report, 2015.
8 See the joint press release by Egyptian organizations, 2014
9 Judicial observation report EuroMed Rights, 2013.
10 See Al Haq press release, 2016.

Conflicts also cause the movement of thousands or even millions of people. In Syria, more than 4 million people have fled since the beginning of the armed conflict. Laws of host countries often limit the rights for refugees to establish their own associations. A Syrian activist notes that in Turkey, Jordan and Lebanon, Syrian exiles cannot legally register an association.

The case of the Syrian Association Dawlaty

The Syrian organization Dawlaty works on different topics related to nonviolence, human rights, democracy and transitional justice. It counts on staff in Syria and in neighboring countries. Because of repression in Syria and legal restrictions in neighboring countries, it had to register as an international organization in Belgium[11].

Civil society organisations in the different countries of this region have found a convergence of laws and proposals of laws restricting the rights of assembly and association, indicating that governments share "bad practices".

11 See video interview of the representative of Dawlaty , 2016.

2. Extra-legal Restrictions

The recognition of fundamental freedoms (in particular the freedoms of expression, assembly and association) in the Constitutions, as well as the ratification of conventions and treaties to protect human rights are not a guarantee of respect and promotion of rights in practice.

On the contrary, throughout the region, authorities **exercise abusive and arbitrary administrative, police and judicial restrictions. The most common forms of these restrictions are the refusal to register associations,** banning public demonstrations and rallies, or movement bans, often applied without a clear legal basis, and therefore without the possibility of an appeal.

Algeria, barriers in law and in practice in the creation of associations and unions

In Algeria, there are very restrictive provisions to the law (No. 12-06, enacted in 2012) as well as abusive administration practices which do not routinely issue a file deposit receipt for associations wishing to register, as required by law. This receipt is actually required for any procedure, and by refusing to deliver it, the authorities arbitrarily deprive certain associations of legal recognition and therefore these associations face the risk of prosecution.

So far, associations such as the Algerian League for the Defence of Human Rights (LADDH), SOS-Disappeared, the Rassemblement Action Jeunesse (RAJ) or the local chapter of Amnesty International have not received the receipt even though they followed every procedure provided by law[12].

Independent unions face similar obstacles. Although union freedom and plurality are recognised by the Constitution and international conventions ratified by Algeria, the government refuses to recognise independent unions. To date, the records of 6 sectoral unions and 1 independent union confeder-

12 See Algeria, the slow strangulation of associations, Report (in French only) of the Coalition of Families of the Disappeared in Algeria, 2015

ation remain unanswered by the administration. The International Labour Organisation (ILO) has repeatedly called on Algeria to recognise and register these unions[13].

In Western Sahara de facto ruled by Morocco, the authorities refuse to register associations defining themselves as "Sahrawi" and defending the self-determination of that region. Only one organisation with these characteristics, the Sahrawi Association of Victims of Grave Human Rights Violations by the Moroccan State (ASVDH), was recently recognised, in 2015, after 10 years of efforts. However, it still faces administrative barriers.

The Moroccan government also imposes **restrictions of movement and travel** on activists. This is the case for some representatives of international organisations who wish to travel in the Saharawi territories and are denied entry. Movement restrictions are sometimes imposed on Moroccan citizens, for example during a trainee teacher protest movement in February 2016, some activists were forbidden to leave their cities and were thus prevented from protesting.

This practice is quite common in the region, in the North and in the South. EuroMed Rights and other international organisations regularly denounce the Egyptian authorities applying movement restrictions in the country as well as arbitrary bans on leaving the country for many activists and human rights defenders[14]. In May and June 2016 in France, dozens of individuals have been repeatedly forbidden by the authorities to attend protests, using the provisions of the state of emergency law[15].

Organizations supporting migrants and asylum seekers suffer from threats and administrative or judicial harassment. In Greece, authorities are now imposing the "filing" of all NGOs and volunteers[16] that bring support, spontaneously or in an organised way, to refugees arriving to the Greek islands. Elsewhere in Europe, solidarity movements with refugees are also hindered or criminalized [17].

13 Violations of trade union freedoms and harassment of independent trade unionists in Algeria, note by EuroMed Rights, 2016
14 See joint press release of Egyptian organizations, February 2016
15 See press release (in French only), The state of emergency benefits the enforcement of the social order, May 2016
16 See the official document and the Statewatch press release, February 2016
17 See the article on the ban from the French authorities of an aid convoy from the UK under the pretext of the state of emergency, June 2016

Another form of pressure is that of **police searches on association premises, often without reason or warrant.** The Palestinian NGO Al-Haq condemned the Israeli police for using this practice regularly in its offices. Egyptian organisations are also regular victims of this practice, which is often accompanied by destruction and seizure of equipment.

The authorities also resort to **arbitrary detention of activists and workers**. These arrests often take place in the context of demonstrations and public meetings or during the searches on association premises. The arrests sometimes lead to -usually unfair- trials, but are often followed by no action, showing that they are primarily a method of intimidation and harassment.

Moreover, stigmatising discourses and defaming human rights defenders are very harmful extra-legal means of pressure and they are increasingly used by governments and relayed by their supporters in society and in the media. Throughout the region, we see the development of a rhetoric that refers to any opposing or critical voices as a "foreign agent" and this is especially used against human rights organisations on the grounds that they receive foreign funding. It is a short step to define these organisations as "enemies of security", which sometimes paves the way for arbitrary arrests and prosecution.

In Tunisia, this discourse against NGOs has been copied by the national media in recent months. After the terrorist attacks in 2015, a rhetoric criticising civil society organisations spread, arguing that the defence of human rights undermines the fight against terrorism. Therefore a coalition of Tunisian associations presented a manifesto in April 2016, reiterating its condemnation of terrorism and demanding that security policies do not conflict with human rights[18].

Women human rights defenders are sometimes targeted in a particular way by discourses and threats that stigmatize them as women. Their reputation and morality are smeared in order to highlight that they got out of the traditional role that wants them within the domestic sphere. Threats suffered by women HRDs

18 See joint press release by Tunisian and international organisations, 2016.

sometimes mount to physical attacks, and in these cases it is common that these are sexual, so as to humiliate them and annihilate their involvement as human rights defenders. However, the intimidation against women HRDs is more rampant and difficult to denounce although many activists admit suffering from them without recognition of this daily harassment.

Finally, civil society is also a victim of violent or terrorist groups, particularly in armed conflict contexts. Syrian associations are not only affected by the regime, but in some areas, they are also victims of rebel groups, jihadists or others. In Turkey, Kurdish activists and the peace movement have been repeatedly targeted in deadly attacks, such as in Suruç on 20 July 2015 and in Ankara on 10 October 2015.

Moreover, **the role of civil society in these conflict situations is marginalised**, particularly in conflict resolution efforts and peace building. In the Syrian case, the media and foreign governments reduce the conflict to two actors: the government and the Islamic State terrorist organisation. This ignores the requests and the role of other actors and weakens independent civil society, which could play a very important role in the peace process, democratic transition and fight against extremism. In Turkey, peace activists and human rights organisations are accused of being "fifth column terrorists" if they criticise government policies.

3. The Ambivalent Role of some Non-state Actors

As we said in the introduction, the definition of "civil society" is being debated, and a wide variety of actors are claiming to be part of it. It is clear that in democratic countries, as well as in those in which the freedoms of association and expression are limited, some organisations carry out actions and discourses that go against human rights and democratic values, or more simply are only a communication channel for official positions. Some organisations even act as intermediaries for money laundering or for financing terrorism.

However, without going into these criminal activities, the fact that some "civil society actors" themselves promote hate speech, discrimination or violence, spreads confusion and endangers human rights organisations by attempting to delegitimise independent civil society, while occupying its space with anti-democratic discourse. This problem is particularly acute in the context of a strong presence of "GONGOS" ("governmental NGOs"), that is to say associations established, or widely supported, by the governments in place, which are used to occupy the space of civil society organisations at the expense of independent ones, sometimes to defame them and create a "counter-speech" (favourable to governments whose anti-democratic behaviour is denounced). The presence of GONGOs allows governments to falsely claim that the existence of a large number of associations is a proof of respect for freedom of association[19].

This phenomenon represents many risks for independent civil society, and has not gotten the attention it requires. It is particularly important that the European and international institutions, conducting consultations on political issues with local civil society or financially supporting associations, are sensitive to this issue and avoid at all costs strengthening the legitimacy and capacity of these organisations who mistakenly usurp the space much-needed by independent civil society.

In Israel, an organisation like NGO Monitor (close to the Israeli right and whose own funding remains very opaque) conducts smear campaigns against human rights organisations which denounce the Israeli occupation of Palestinian territories and the violations perpetrated by the State and the armed forces, under the guise of promoting "transparency".

I**n Algeria, a common practice of the authorities is to "clone"** the organisations or independent trade unions in order to cover their tracks and bring favorable government policy discourse on behalf of originally critical organisations.

19 See for example the report of the 17th EU-NGO Forum, December 2015.

4. Security Policies and Impact on Civil Society

A feature of recent decades is the multiplication of security policies and the adoption of increasingly numerous and freedom restrictive tools against terrorism, by the States, on a multilateral level and in the European Union. These measures have a more or less direct and serious impact on the exercise of fundamental freedoms and the protection of human rights and civil society.

In some countries, these policies and laws are developed or manipulated in order to silence or prevent action from some organisations or individuals deemed too critical, mostly human rights defenders and social protest movements.

A first observation is that in most cases, the definitions of "terrorism" and the qualification of "terrorist" acts and offenders are vague. This leaves a wide discretion to prosecutors and judges, and is a very significant threat to freedoms in countries where the judiciary system is politicised or lacks independence from the executive power.

In some countries, anti-terrorism laws or the penal code have been expanded to include new offenses such as "advocating terrorism", "call to arms" or "endangering state security", a series of offenses whose definition remains vague and often refers to freedom of expression. So many peaceful advocates and human rights activists are prosecuted on the basis of these legal provisions for simply talking or participating in gatherings.

This is the case, for example, of many protesters in Egypt, accused of endangering State security for having publicly protested, or NGO workers having published reports on violations of human rights by the authorities; Turkish academics who signed the "Declaration for Peace" denouncing the Turkish State's policy in the Kurdish regions; or Algerian activists prosecuted for "call to arms" because they called for gatherings to denounce government policies.

The United Nations Resolutions on Terrorism

Although there are many international resolutions and conventions on terrorism and counter-terrorism, the definition of «terrorist acts» by the United Nations remains vague. In principle, the intrinsic wave to the definition of certain crimes or offenses must be compensated by the existence of a favorable environment for the presumption of innocence, the right to a fair trial, access to information, and the application of legal provisions by the police and judicial authorities according to the principles of necessity and proportionality. However, these conditions do not exist in many countries of the world and the Euro-Mediterranean region.

The UN Security Council has adopted various resolutions on terrorism, especially the 1269 in 1999, the 1373 in 2001 and the 2178 in 2014. These resolutions call on States to improve their coordination in the fight against terrorism, and encourage them to include fighting all forms of support and funding to groups that commit terrorist acts.

One of the international institution that have pushed for the adoption of new restrictive regulations for civil society is the Financial Action Task Force (FATF). Derived from the G7 in 1991, this organisation has put forward as a primary objective, the fight against money laundering by adopting standards and recommendations on a global scale. In this context, the FATF has made the financing of terrorist groups a priority. In the aftermath of the attacks of 11 September 2001, in the United States, the FATF adopted new recommendations on the matter.

Recommendation 8 specifically targets civil society organisations and non-profit associations which can, according to the text "be abused for the purpose of financing terrorism" and are especially "vulnerable" to that end. Recommendation 8 directly impels States to introduce legislation to increase control of associations' funding and activities without any mention of the principles of necessity and proportionality or guarantees for the protection of fundamental freedoms.

More than 180 countries have agreed to adopt the FATF recommendations. Although these are theoretically non-binding, not introducing them into national legislation means the country will get a negative assessment by the organisation, and adverse consequences on the economic level: difficult access to international credit, poor image among external investors, etc.

In this context, many countries have adopted new standards to adapt their laws to the FATF recommendations, particularly provisions to "fight terrorist financing" by civil society organisations, which has resulted in new restrictions for CSOs.

Egypt "fully complies with Recommendation 8"

In a report published in 2012 on the impact of Recommendation 8 on the laws in different countries, the British organisation Statewatch notes that the FATF considers Egypt "fully compliant" with that provision. Egyptian law on associations is nevertheless denounced as one of the most restrictive in the world, and the use of the safety pretext to silence any critical voice is particularly dramatic in the country.

The 2013 Law in Turkey

In 2013 Turkey adopted a specific law on "Prevention of Terrorism Financing" (Act 6415). The FATF has strongly supported the Turkish authorities in the adoption of this standard. Yet for years, many human rights organisations have denounced the use of anti-terrorism legislation to suppress any critical voices: human rights defenders, journalists, lawyers and parliamentary opposition.

The European Union (EU) is an important source of anti-terrorism policies. Statewatch has listed **239 anti-terrorism measures adopted by the European institutions** since 11 September 2011, 88 of which are considered to be "binding law" for Member States. Only three of the 88 measures were the subject of public debate. The European Parliament has been included as a co-legislator in only 23 of these standards. Finally, only 22 of these 88 measures were subjected to an impact assessment.

A new Directive concerning the fight against terrorism is currently under discussion (June 2016). It was suggested in December 2015 by the European Commission and is waiting for the adoption by Parliament. This Directive must be transposed into the national laws of the Member States. New offenses related to terrorism are introduced. According to legal experts, lawyers and civil society actors, the formulations are vague and no substantive mention is made concerning the protection of human rights.

4. Responses from Civil Society Organisations

Civil society organisations develop many strategies to avoid or fight against the narrowing of their space and their room for maneuver. From an exchange of experiences among organisations in the Euro-Mediterranean region, we can identify four modes of action: those that focus on advocacy with institutions; those that aim for public opinion awareness; those which seek to build coalitions of civil society organisations; and those which use justice and international bodies.

1. Advocacy

Advocacy remains a key strategy in the fight against the shrinking space for civil society. Organisations and associations are deploying actions towards institutions and policy makers in order to promote compliance with the freedoms of assembly, association and expression, and protection of human rights defenders. There are two levels to this strategy. First, actions that target national institutions and then those which seek to influence regional and international institutions.

At the national level, advocacy often uses parliamentary calendar and bill discussion opportunities. The targets of these actions can be the ministry responsible for the bill and / or members of parliament. In this context, CSOs seek to maximise their actions by a repercussion in the media. Some organisations report also addressing the European and American embassies in their countries to obtain official support for democratic reforms or against freedom-depriving laws.

The associations point out some advantages of advocacy at a national level: they get people to talk about them and their work and convey a message and a positive image of the role of civil society, especially when they manage to develop concrete alternative bills or amendments. Some activists point out that thanks to the work of civil society, repressive laws targeting CSOs have been postponed, as in Egypt on several occasions between 2011 and 2015, and Israel where a bill imposing penalties on NGO' foreign funding has been watered down and postponed several times, although its adoption is ultimately very likely. All associations agree that advocacy is most effective when it is based on coalitions, and when it also involves public figures outside of the non-profit sphere, embassies, members of parliament or even artists and intellectuals.

This advocacy level nevertheless has obvious limitations. In a context of repression against associations and activists, it is difficult to develop a dialogue with policy

makers. A hostile climate to civil society makes its voice less audible, and international organisations and legacies are not always sensitive to civil sociaty issues.

Internationally, the European Union (EU) is one the favorite targets of regional CSO advocacy. The organisations therefore undertake missions in Brussels, but also resort to EU delegations in their countries and to the embassies of Member States. In this context, the European Neighbourhood Policy (ENP) is a key policy and institutional framework. The discussions on action plans and progress reports were opportunities to push the inclusion of objectives in terms of promoting and protecting human rights and democracy. The ENP reform in 2015, which leaves less space to issues of democratisation and suppresses the progress reports, is therefore a challenge and raises the question of CSO participation in the development and monitoring of European cooperation policies with partnering countries[20].

Other international organisations are also relevant for CSO advocacy. The International Labour Organisation (ILO) for example, was a target of the action for the recognition of independent unions and denounced the repression of trade-unionists in Algeria and Egypt. Many organisations obviously use UN mechanisms, in particular the Human Rights Council and the High Commissioner for Human Rights, as well as the NGO participation channels such as parallel reports for the treaty bodies and the Universal Periodic Review.

CSOs assess international advocacy very positively when it involves working with other organisations or platforms which can multiply the effect of actions. This implicates and strengthens solidarity, complements the work at a national level, even replaces it when the civil society space on a local level is too small and the dialogue with the authorities is broken.

Advocacy with the European Parliament

Thanks to advocacy by coalitions of international and local organisations, the European Parliament has adopted several resolutions on the human right situations in some countries in the region. This is the case of an urgent resolution adopted in April 2015 concerning Algeria, denouncing the violation of trade union freedoms, harassment of activists and calling on the authorities to release prisoners without delay and register the unrecognised unions [21].

Although these resolutions have no binding force and are not necessarily implemented by the authorities of the country concerned, they are an important political and symbolic point of support for civil society organisations to continue their advocacy work.

CSOs, however, perceive a strong discrepancy between the statements of EU politicians and the actions actually implemented by the Community institutions and Member States. The associations believe that the "declarations of principle" often contradict the economic and security interests of the European countries and do not give any concrete results. The EU - Turkey agreement on migrants and refugees is often cited as an example of the lack of European will to demand compliance with human rights from the Turkish authorities, as its strategic interest is at stake.

CSOs denounce that the European institutions and Member States apply the instruments of protection and promotion of human rights differently depending on the country, based on the interests involved and the political will of diplomats. Associations underline the need to demand more from the European institutions within the consultation and mechanism framework such as Structured Dialogue with civil society[22].

However, we observe a disturbing retaliation trend against organisations and individuals working with international institutions and United Nations mechanisms, which can be a strong deterrent; it even led the Secretary General of the United Nations to elaborate an annual report on these specific violations and intimidations[23].

20 See the Report on the ENP seminar, op. cited

21 See the EuroMed Rights press release, 2015.
22 See the Report on the ENP seminar, op. cite
23 In this regard, see the recommendations for presenting information to the General Secretariat if you suffer/ want to alert on retaliations against HRDs.

2. Building Alliances

The joint work and creation of coalitions are very well perceived by CSOs. To increase the efficiency of this type of dynamic, they recommend choosing specific themes and opening up to external and international actors.

Coalition building has various advantages. It defines more diverse and effective strategies, and a division of roles between the different actors involved. Joint work also involves strengthening solidarity between associations, experience and knowledge exchanges, which can be crucial in difficult contexts where CSOs are threatened with isolation.

However, coalition building is not without difficulty. CSOs sometimes struggle to agree on common priorities and to set aside time to work together. They sometimes perceive a gap between international NGOs and local organisations, the former do not always include the issues of the latter. Finally, as we have seen, the definition of "civil society" is problematic, and sometimes pro-governmental organisations (GONGOS) and organisations contrary to human rights, seek to infiltrate or destabilise initiatives.

South-South Solidarity

Some activists call to go beyond the conventional framework of North - South solidarity and encourage South - South solidarity. They noted it would be necessary to revive spaces and platforms that exist, but unfortunately are currently "empty shells".

Many limitations condition this South-South cooperation. Firstly, the fear of reprisal by the respective governments is a powerful obstacle. As one Egyptian activist said, CSOs have so much trouble with the authorities in their own country, it is almost unthinkable to denounce violations in others. Moreover, there are issues in the Euro-Mediterranean region which are bones of contention not only between States but also among civil society and make cooperation and solidarity difficult, such as the conflict in Western Sahara.

3. Mobilisation and Awareness

Mobilisation actions around campaigning and public awareness are looking to encourage broad support to put pressure on governments in addition to more specific advocacy actions.

Organisations implement various forms of campaigns, often on specific and concrete issues to better define the objectives and actions. Mobilisation through the internet and social networks has become increasingly important in these strategies in recent years.

The success of these campaigns partly depends on structuring well-argued claims. To do this, some CSOs explain that they undertake joint work with experts to construct arguments and recommendations about a subject. They point to the legal provisions which formally recognise the fundamental freedoms in order to legitimise their claims.

The mobilisation is closely linked to building alliances and coalitions, and associations generally seek to ally with others who face similar challenges, and with international NGOs. Just like advocacy, support by officials - working in embassies, MPs - and public figures play an important role, especially for media visibility.

However, restrictions on the exercise of freedoms of expression, assembly and association are a major obstacle to mobilisation. Restrictions on movement of people and information (eg. internet censorship) can prevent contact and communication between associations as well as between associations and citizens.

The associations also complain that governments and GONGOs are propagating a negative perception of CSOs through public opinion, which has a very negative impact on their ability to mobilise and unite around their demands.

4. Legal Action and International Bodies

The use of justice can be an important tool in a context of shrinking space and repression of civil society. We include both the legal dispute per se and the use of international mechanisms of human rights protection, based on international human rights law but which do not always have a binding legal force.

At the local level, this strategy is clearly effective if the courts have a certain degree of independence and guarantee the rights of complainants.

In France, the Human Rights League intervened alongside applicants complaining about violations of their rights under the legal provisions of the state of emergency enacted in the country following the terrorist attacks in Paris in November 2015. Although the Constitutional Court has validated the compliance of certain measures challenged by the League, such as house arrest or administrative searches, it specified the application conditions while limiting the power of the administrative authorities.

In Egypt, the New Woman Foundation (independent feminist association) fought in court several times to challenge the blocking by the authorities of its funding from foreign donors, based on the nº84 2002 law on associations. The Administrative Court ruled in their favor and unblocked the accounts of the association, allowing them to resume their activities, even though the interference of the state is continuing.

The issue of the implementation of judicial decision by administrative authorities also arises, and sometimes makes these victorious appeals vain in practice. This is the case for example of postal service unionists in Algeria, suspended in 2014 for union activities; the public company refuses their reintegration although justice required their reintegration in 2015.

At the regional and international levels, the results of complaints and submissions by CSOs are more difficult to measure and are often more symbolic than practical. Organisations, however, recognise the value of these regional mechanisms and United Nations bodies regarding human rights. They raise the need to better inform and train activists, but also lawyers and jurists working with CSOs on these procedures.

At the regional level, in the 47 countries that are members of the Council of Europe and have ratified the European Convention on Human Rights, **CSOs can make contribution and support complaints by individuals to the European Court of Human Rights**. This is a court whose decisions are mandatory for the States Parties and has important practical and symbolic results for complainants and civil society, because its judgments set a precedent and can be used in national law.

The African Commission on Human and Peoples' Rights, established by the African Charter on Human and Peoples' Rights, is responsible for promoting human rights in the African continent on the basis of the Charter. It has independent experts, in particular a Special Rapporteur on Human Rights Defenders. NGOs can seize the Commission and present alternative reports to those of the States, on the human rights situation in various countries. In the Euro-Mediterranean region, the Commission concerns Egypt, Libya, Tunisia and Algeria, but not Morocco, which is neither a member of the African Union nor a signatory of the Charter. The African Commission's decisions are not binding, but CSOs attribute strong moral authority to it.

Internationally, however, associations and NGOs cannot enter any court because only States have that right. Some NGOs, for example in Palestine and Syria, work to provide the **International Criminal Court** and the United Nations Security Council with documentation on human rights violations in the hope of pushing prosecutors in their own initiative, or the Security Council, to refer to the ICC.

In contrast, the **United Nations mechanisms** for monitoring and protection of human rights are increasingly used by civil society organisations. These mechanisms are not binding for the States, but their authority emanates from treaties and conventions ratified by the same States, which hereby agree to implement the recommendations of these bodies. Resolutions and reports adopted by the Human Rights Council, the High Commissioner for Human Rights, the treaty bodies such as the Committee against Torture or the Committee for the elimination of discrimination against women, or the Special rapporteurs on specific themes, have a moral force that is an important point of support for the civil society organisations advocacy work.

The Universal Periodic Review (UPR) of the United Nations

The UPR is an instrument of the UN's Human Rights Council through which all UN member States are reviewed by peers (other States) every four years on the protection and promotion of human rights. States must submit an official report, but civil society is also encouraged to submit its own contributions, which have the same rank as those of States and UN bodies and are published on the official website of the UPR. They may also make oral contributions during the final debate in the Human Rights Council. This therefore provides a unique opportunity for CSOs to make their voices heard and influence the recommendations transmitted to the authorities of a country.

In several countries of the Euro-Mediterranean region, associations, sometimes supported by international NGOs such as the EuroMed Rights network, have begun work building alliances and developing joint reporting to contribute to this review process, in North Africa, Egypt and Syria.

5. Recommendations and Suggestions for Action

1. Recommendations for the European Union

- The implementation of the new European Neighbourhood Policy (ENP) is an opportunity for the EU and Member States to strengthen the promotion and protection of human rights and the fight against the shrinking space of civil society in their cooperation relationships with partner countries on the Southern shore.
- As part of the ENP and the discussion of partnership priorities, the EU should systematise the consultation of civil society, on an inclusive and diverse basis (for example by including small organisations, those working in remote areas, women's organisations, those representing minorities etc.), ensuring feedback to CSOs on the results of these consultations and the inclusion of their recommendations in bilateral or regional policies.
- The EU should continue to apply "human rights conditionality" in the framework of the partnership agreements with countries on the Southern shore; it should particularly establish human rights and civil society promotion and protection indicators, and conduct impact assessments of all cooperation policies before the conclusion and renewal of any trade or other bilateral agreement.
- In doing so, the EU should especially take into account specific discriminations against female activists and human rights defenders.
- The EU and its member States must ensure that the development of anti-terrorist policies, on a European level or in cooperation with third countries, systematically include public consultations, guarantee the protection of human rights and fundamental freedoms and deliver impact assessments before any renewal, new directive or policy.
- Independent civil society should be central to establishing and monitoring dialogue mechanisms at national and regional levels between the EU, governments and civil society on laws and measures affecting the space for civil society, including anti-terrorist measures. Governments should not be part of such mechanisms in places where civil society space is shrinking.
- The EU and Member States should strive to increase, diversify and simplify access to sustainable financing (in particular structural funding in the context of medium-term programs and partnerships) for organisations of independent civil society in the southern and eastern Mediterranean region.

1. Recommendations for Civil Society

- Engage in advocacy towards the European institutions, participate in consultations and dialogue in order to work towards the promotion of human rights and protect independent civil society space within the ENP and other EU and Member States cooperation policies with the countries of the Southern and Eastern Mediterranean region.
- Strengthen bridges between human rights organisations, civil society and citizens in general, to defend the space for CSOs to promote democracy and fight the root causes of extremism and terrorism.
- Develop South - South solidarity between CSOs, strengthen the exchange of experience and good practices, as well as advocacy on a regional level.
- Strengthen and promote the participation of women within organisations and take into account the specific needs of women and men in the promotion and protection of human rights and the defense of civil society space, in order to promote gender equality as a democratic goal.

6. Appendix

Appendix 1 – List of Organisations Participating in the Seminar

Organisation	Country
Coalition of Families of the Disappeared in Algeria - CFDA	Algeria
Algerian League for the Defense of Human Rights - LADDH	Algeria
National Autonomous Union of Public Administration Personnel - SNAPAP	Algeria
Andalus Institute Tolerance and Non-Violence Studies	Egypt
Cairo Institute for Human Rights Studies - CIHRS	Egypt
League for Human Rights - LDH	France
AL HAQ	Palestine
B'tselem	Israel
Moroccan Association for Human Rights - AMDH	Morocco
Democratic Association of Women of Morocco - ADFM	Morocco
Sahrawi Association of Victims of Grave Violations of Human Rights - ASVDH	Western Sahara
Tunisian League of Human Rights - LTDH	Tunisia
Al Bawsala	Tunisia
Dawlaty	Syria
Solidar	Regional (Europe)
Norwegian People's Aid	Norway
Statewatch	UK
European Association for the Defense of Human Rights - AEDH	Regional (Europe)
Kvinna Til Kvinna	Sweden
World Organisation Against Torture - OMCT	International
EuroMed Rights	International

Appendix 2 - Summary of the Experience Exchange Workshops Identification of Obstacles and Violations Incurred by Civil Society

Law Restrictions	Restrictions in Practice	Restrictions from Non-State Actors
The Constitutions recognise the rights and freedoms, but they are not implemented. This weakens the ability to advocate.	Attacks by the media, governments and pro-government actors, describing civil society as enemies of security or foreign agents.	Terrorism / violent extremism aimed directly or indirectly towards defenders
Restrictions and censorship on the Internet and social networks.	Arbitrary restrictions from the authorities: non-registration of associations; forbidding meetings and demonstrations.	Hate speech sometimes used by self-proclaimed "civil society" actors
Monitoring and control of foreign sources of CSO funding.	Threats and attacks by non-state actors.	Some civil society organisations are actually used to launder money or finance / protect terrorist groups.
Criminalisation of solidarity and civil disobedience.	Forbidding overseas travelling, restricting movement within the country.	Political divisions within civil society making it difficult to cooperate and protect CS space and human rights.
Very broad definitions of terrorism may target civil society actors.	Searches on organisation premises and physical attacks.	
Restrictions on freedom of association of civil society actors based in other countries as foreigners, refugees or migrants.	Specific harassment of female activists and human rights defenders.	
Exchange of bad practice between governments.	Self-censorship for safety reasons.	
Violations and threats to civil liberties within the EU, despite official statements in favor of human rights.	Restrictions on NGOs and international institutions' access to the country or specific areas.	
Corruption and lack of independence of judicial systems.		

Appendix 3 - Summary of the Experience ExchangeWorkshops
Civil Society strategies to Counter the Shrinking Space: Methods Used, Benefits and Limitations

Advocacy Actions at National Level
Advocacy when legislation affects civil society.
Advocacy campaigns and media presence to denounce the shrinking space for civil society, with the support of European embassies where possible.
Letters to national authorities.
Advocacy objectives and clear messages; construction of national and international alliances.

Advantages / Good Practice	Limitations
Working on proposals for concrete amendments promotes collective action and shows that CSOs are present in the public debate.	Repression and obstacles to CSO limit the scope for action.
Better public impact when engaging public figures.	Environment of fear and hostility against CSOs.
Using personal contacts within the authorities to lever up claims.	No dialogue is possible and no response by some governments.
Alliance with MPs because they are closer and have influence in the decision process.	

Advocacy Actions at the International Level
Advocacy towoards the EU and its member States.
Advocacy missions in Brussels: European Parliament, Member State representations, European External Action Service, Commission etc.
Implementation of EUmonitoring tools related to civil society.
Advocacy with EU delegations in the Southern and Eastern Mediterranean regions.
Joint actions of international and local NGOs, for example letters to the authorities.
Advocacy with international organisations such as the International Labour Organisation (ILO) and United Nations .

Advantages / Good Practice	Limitations
International visibility, which also promotes awareness of public opinion.	The EU does not want to push some countries, and some delegations are not allied to civil society.
Solidarity between CSOs and complementarity on national / international levels.	Interest games between the EU and the Member States.
The action on an international level has an impact on a national level.	Little monitoring of international advocacy.
Adoption of urgent resolutions (European Parliament, international organisations...) .	Gap between words and action of European authorities.

Alliance Building Activities between CSOs	
Mapping of existing actors, interests and powers.	
Establishment of a common strategy.	
Choice of specific issues.	
Openness to other actors: media, artists etc.	
Openness to international actors and NGOs.	
Creating operational coalitions: facilitating the work of other NGOs.	
Advantages / Good Practice	**Limitations**
The clear identification of actors allows a more effective strategy.	"Ego" conflicts between actors.
The identification of specific topics allows us to be more effective.	Different schedules and political priorities of CSOs.
Common strategies avoid tension and strengthen solidarity among CSOs.	Differences in priorities between local and international NGOs.
Openness to external actors allows for better distribution of roles and greater involvement.	
International NGOs may have more resources and contacts.	

Awareness Raising and Mobilisation	
Public awareness campaigns on a particular topic	
Online and social media campaigns	
Campaigns to promote legislative changes	
Advantages / Good Practice	**Limitations**
Hire experts to prepare memoranda and position papers.	Limited access to new technologies.
Engage MPs and political representatives in public campaigns.	Civil society actors are perceived by the public as part of the problem.
Participate in public debates.	Travel restrictions imposed on certain militants and activists.
Work with other groups and NGOs that face similar problems.	CSOs may lose contact with reality when they are engaged in high-level discussions with governments.
Organise press conferences.	Little / no answers from authorities.
Send letters to officials and politicians	
Support from international actors and NGOs.	

Recourse actions to justice and to international Bodies
Appeal to the Constitutional and Administrative Courts
Appeal to the European Court of Human Rights
Communications, letters, reports to United Nations bodies, the ILO and the African Commission
Train judges and lawyers on the use of conventions, regional and international instruments of human rights protection.

Advantages / Good Practice	Limitations
In many countries, international conventions have a supra-legislative or supra-constitutional status.	The implementation of international conventions depends on the interpretation and training of judges.
Resolutions and Reports of the United Nations and the African Commission on Peoples' Rights take a long time but have an important role and moral authority.	Lack of binding regional instruments in the southern countries
Some courts or constitutional and administrative law judges are independent. Their decisions may be used as jurisprudence.	Lack of separation of powers and lack of judicial independence in the southern countries
Despite the shortcomings of regional instruments (African Charter, Arab Charter...), they remain tools which activists and militants must understand.	NGOs and HR defenders have to acquire legal status to be able to sue, which is not possible everywhere given the administrative and political barriers

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