

BRIEFING #78

Defending Civil Society Space in Southern Neighbourhood Countries

Freedom of association is an enabling right that underpins inclusive development. The social movements that have flooded the streets of the Arab Spring have the potential to democratize the state and secure democratic transition. However, Southern Neighbouring countries are recording alarming growing levels of shrinking space for civil society, violations of freedom of association and peaceful assembly, coupled with restrictions of the right to access to information and challenges in mobilizing financial resources. In the light of the revised European Neighbourhood Policy, SOLIDAR, the Euromed NGO Platform and The Arab NGO Network for Development (ANND) call the EU institutions to:

- **Promote the implementation of Aid Effectiveness Principles** by fully implementing the international aid and development effectiveness commitments made in Paris, Accra and Busan.
- **Ensure the statutory role of Independent Civil Society Organisations:** by supporting existing initiatives aimed at promoting long-term structured dialogue between independent civil society and the EU.
- **Ensure effective monitoring in close cooperation with EU Delegations:** by setting up monitoring benchmark to assess and measure the enabling environment for independent CSOs;



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EXECUTIVE SUMMARY

Neighboring countries are recording alarming growing levels of shrinking space for civil society, violations of freedom of association, and expression and restrictions of the right to access to information and challenges in mobilizing financial resources. These factors limit the capacities (financial, structural and organizational) and human resources of civil society organizations, particularly those of advocacy and rights-based organizations targeting policy change. The importance of tackling the issue of freedom of association and enabling environment for civil society, human rights defenders and trade unions in the region is paramount, especially in the light of the revised European Neighbourhood Policy (ENP)¹ on which bases the EU is going to re-negotiate cooperation priorities with partner countries. However, while defending civil society space and strengthening dialogue on civil political rights as well as Economic, social and cultural rights (ESCRs) is key to ensure stability and prosperity in the southern neighborhood, the revised ENP policy does not outline concrete proposals for promoting and defending the statutory role of CSOs in the implementation phase.

Against this background, this policy briefing aims to shed light on the ongoing existing limitations for civil society, human rights defenders and trade unions in southern neighborhood countries and provides for concrete policy recommendations to the EU in order to strengthen civil society's enabling environment. It builds on the policy monitoring carried out by civil society organisations across the Euro-Mediterranean Region in 2015, and the information they provided in the 2015 ENP Social Protection Monitoring Reports that have been developed in the framework of the Regional EU-funded programme "Decent Work, Social Protection and Freedom of Association in the Middle East and North Africa Region".

CIVIL SOCIETY SPACE IS KEY FOR INCLUSIVE DEVELOPMENT

Freedom of peaceful assembly and association are fundamental human rights that can be enjoyed and exercised by individuals and groups, unregistered associations, legal entities and corporate bodies – "everyone is entitled to these rights" they are the cornerstones of the space for civil society. These rights can be an important strand in the maintenance and development of culture, and are crucial to creating a tolerant, inclusive and pluralistic society in which groups with different beliefs, practices or policies can exist peacefully together.

Moreover, freedom of peaceful assembly and association must be recognised as an enabling right that underpins inclusive development, in which decent work and social protection and the progressive realisation of social, economic and cultural rights (ESCRs) are key. As such freedom of peaceful assembly and association is a precondition for the defence of collective rights as well the only way to protect the freedom of minorities. An approach that – when implemented in dialogue and coordination – can provide sustainable pathways out of the current economic and social crisis.

ESCRs are a broad category of human rights guaranteed in the International Covenant on Economic, Social and Cultural Rights and other legally binding international and regional human rights treaties. These include the right to education; cultural rights of minorities and Indigenous Peoples; the right to the highest attainable standard of physical and mental health; the right to adequate housing, including security of tenure, protection from forced eviction and access to affordable, habitable, well located and culturally adequate housing; the right to food; the right to water – the right to sufficient water and sanitation that is available and accessible (both physically and economically). Women's rights are also included in ESCRs². Despite this, the 2015 SOLIDAR, ANND and Eurmed Platform Social Protection Monitoring Reports show that although

¹ Joint communication, Review of the European Neighborhood Policy, 18/11/2015
http://eeas.europa.eu/enp/documents/2015/151118_joint-communication_review-of-the-enp_en.pdf

several states have ratified, or are signatories to international human rights conventions, transposition into national legislation or enforcement is ineffective in several countries. Access to or the full enjoyment of ESCRs is widely limited, thus hampering the possibility to progressively realize and enjoy other human rights.

In this context, the role of civil society, human rights defenders and trade unions is essential in order to keep governments accountable for failing to realize ESCRs as a key to ensure inclusive development.

In addition to that, the role of CSO is key not only in monitoring the implementation and enjoyment of ESCRs, but is also essential in implementing these rights, by contributing to delivering essential social services for the most vulnerable groups, and for engaging in national dialogue on the establishment of social protection floors³. As a matter of fact, civil society organizations play a crucial role in ensuring the continuation and/or restoration of essential services during conflicts and fragile settings, including providing vocational education and training, housing and food for displaced communities, refugees, and by contributing to uphold decent livelihoods for marginalized and vulnerable groups⁴.

In this context, the EU has recently adopted a new EU Action Plan on Human Rights and Democracy⁵ that puts a strong focus on the need to *“foster a comprehensive agenda to promote economic, social and cultural rights... to promote and support the development and increased coverage of national social protection floors and gradual implementation of higher standards of social guarantees, and that places a strong focus on the role played by CSOs in shaping EU human rights agenda. Therefore, the implementation of the new ENP should be consistent with the implementation priorities committed to in the new EU Action Plan on Human Rights and Democracy.*

COMMON REGIONAL CHALLENGES OF THE CIVIL SOCIETY

The 2015 Social Protection Monitoring Reports developed by SOLIDAR, the ANND and the Euromed Platform, launched on the occasion of the third regional conference on the EU-Arab Partnership organized in Beirut on 30 and 31 October 2015, have highlighted common regional challenges for civil society across the Southern Neighbourhood countries. As emerged in the country reports, these regional challenges threaten civil society space at different levels, from restrictive legal frameworks that restrict and limit access to resources, and reduce access to information, hence hampering transparency and state accountability. In addition, the reports have insisted on similar regional violations of freedom of association for civil society and human rights defenders, and lack of peaceful assembly and trade unions rights for independent trade unions. Lastly, government-civil society relations are often shaped by security narrative and the lack of meaningful partnership and dialogue with civil society is documented in all countries. **Access to Resources**

One of the most common threats faced by the Arab civil society organizations is the scarce or difficult access to resources and their degree of mobilization, since most of these organizations rely on the international or national funding for their operation, sustainability and independence. These processes require proper transparency and accountability mechanisms to maintain their trustworthiness and public image in order to have more impact.

In **Algeria**, legal framework for establishing associations and accessing to funding is really restrictive. The Law on Associations (2012) requires a mandatory registration process for national and almost all international NGOs, which restricts international cooperation. For example, the international NGOs' representatives are unable to obtain visas to enter Algeria, which hinders their work and their cooperation with local NGOs. Particularly, the Article 40 prohibits associations from interfering in the internal affairs of

⁴ See SOLIDAR Briefing #76 « Social Protection : Key for Peace and Prosperity in the Middle East and North Africa»: http://solidar.org/IMG/pdf/76_2015_11_13_solidar_briefing_mena.pdf

⁵ https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/joint_communication_on_human_rights_and_democracy_en.pdf

the country under penalty of being suspended. Through this article, the law undermines the essence itself behind the creation of an association. Under this law, Algerian authorities have been arbitrarily rejecting applications from organizations, hence resulting in de facto impeding independent organizations' ability to receive foreign funding or to hold public meetings⁶.

In **Jordan**, since organizations' operation approval will have to be done in accordance with the National Development Plan and the Ministry of Social Development, and a quarterly reporting to the government is foreseen for already registered ones; the request for funding can be rejected by the Ministry of Social Development to receive foreign funds without a clear justification. In addition, The Jordanian government has issued new instructions at the end of last year which narrowed the possibilities of access to external resources, and become not linked to the approval of the cabinet only, but linked to the objectives of projects with the government strategies and priorities⁷.

In **Palestine**, in East Jerusalem, Palestinian organizations are subject to the "Israeli Law of Association" under the Israeli Ministry of Justice, so that they have to register with and report to two authorities to be considered legal by each one. Particularly, CSOs remain under pressure with different obstacles to CSOs activities posed by the officials from the de facto authorities: demanding continuous information on financial and staffing matters. More recently, the so-called Israeli "NGO Bill", namely the 'Obligation to Disclose Support by a Foreign Political Entity Act (Amendment) (Increasing transparency for supported entities whose primary financing comes from support by foreign political entities), 5776-2016' has raised several concerns and prompted Members of the European Parliament (MEPs) to write a letter to the Knesset calling to suspend the EU-Israel Association Agreement⁸, since the law is seen as a repressive measure against human rights and civil society organization in Israel, including targeting Palestinians living in Israel.

In **Lebanon**, while funding for humanitarian organizations is abundant⁹, especially with the spillovers of the Syrian crisis, allocation of further resources for CSOs working in the policy-advocacy field is necessary. At the local level, access to local resources is not organized and is affected by the lack of control and supervision leading to corruption and clientelism.

In **Egypt**, since 2012, the Egyptian Government has carried out investigations in foreign funding for local and international civil society organizations. In this context, in 2014 the Ministry of Social Solidarity (MoSS) issued an ultimatum requiring all Egyptian civil society and human rights organizations to re-register or else face closure. In September 2014, the amendment of the Penal Code allows prosecutors to sentence defendants with 25 years broadly for receiving funding from abroad¹⁰. Lastly, most recently, the Egyptian authorities have started investigation against civil society organizations on tax inquiry¹¹. Accordingly, since then, the MoSS has started an investigation to examine the civil society organizations activities under the repressive Law 84/2002. Only in February 2016 about 37 Egyptian organizations are on the prosecution list.¹²

Access to information

The right to access information is a right stipulated by Article 19 of the Universal Declaration on Human Rights, and International Covenant on Civil Political Rights. The explicit and implicit limitations placed on the access to information hinders the broad access to information for civil actors and the public as it is the right and responsibility of all citizens to get informed and participate in decisions relating to their own

⁶ <https://www.hrw.org/news/2014/03/30/algeria-bureaucratic-pleys-used-stifle-associations>

⁷ SOLIDAR, ANND, Euromed Platform, 2015 Social Protection Monitoring Report on Jordan:

http://www.solidar.org/IMG/pdf/2015_12_07_solidar_ois_case_study_jordan.pdf

⁸ http://www.juliewardmep.eu/meps_send_an_open_letter_on_israeli_government_ngo_bill

⁹ Enabln Environment National Assessment, the case of Lebanon, ANND <http://www.annd.org/data/item/pdf/22.pdf>

¹⁰ http://www.cc.gov.eg/Images/Legislations/G/2014/09/128-2014_21-09-2014.pdf

¹¹ <http://goo.gl/nKrdct>

¹² Cairo Institute for Human Rights Studies, Brief on Egypt "Obliterating NGOs in Egypt: Egypt Proceeds with the Second Phase of the NGO Trial": <https://www.opendemocracy.net/arab-awakening/amira-mikhail/obliteration-of-civil-society-in-egypt>

development; and a necessary condition for the full and effective exercise of democracy and allows proper accountability.

In **Algeria**, the area of communication and information is controlled by the Algerian administration. As result, there are no guarantees on the freedom of expression and therefore on the right to information and transparency. Some legislative texts restrict the different media in exercising their mission. The independent press is relatively free but suffers from financial burdens and is subject to the control and exploitation of counter- public advertising by the Algerian government.

In **Egypt**, In terms of access to information and transparency, the decree exempting president and cabinet from public sector laws in terms of hiring and firing process is relevant in this regard. There is the fear that such high level positions will be governed by cronyism and nepotism, rather than by merit, increasing corruption (contrarily to Article 218 of the Constitution). Hence, this decree circumventing 'transparency may potentially raise serious concerns' Egypt, despite being a signatory to the United Nations Convention Against Corruption, the right to information first appeared in the 2012 Egyptian constitution in Article 47, with its vague concept of stating "National Security" This in its turn legitimized the right of all governments to withhold information from the public sphere for reasons to protect the national security¹³.

In this context, Article 68 of 2014 constitution¹⁴ was an improvement, as it prescribes that "*Information, data, statistics and official documents are owned by the people. Disclosure thereof from various sources is a right guaranteed by the state to all citizens. The state shall provide and make them available to citizens with transparency*", however the main problem remained regarding the effective implementation on the ground. For example, there is a decree exempting the President and his cabinet from public sector laws in terms of the hiring and firing process. It is feared that such high level positions will be governed by cronyism and nepotism, rather than by merit, increasing corruption (contrary to Article 218 of the Constitution). Hence, this decree circumventing 'transparency may potentially raise serious concerns'¹⁵.

In **Lebanon**, there is no legislation that guarantees the rights to seek, receive and impart information and ideas, despite committing to protecting this right. Established on April 11, 2008, the National Network for the Right to Access Information (NNRAI) undertook the task of drafting the "Right to Access Information" law, and the 9 On February 3, 2015 "Whistleblowers Protection" law, in the purpose of promoting transparency and accountability, consolidating rule of law and civil involvement in Lebanon through access to information and whistleblowers protection. The draft law on the right to access information has been recently approved by the joint committees of the Lebanese Parliament and transmitted to the General Assembly. In Lebanon, there are few areas where access to information is indeed guaranteed, it remains mostly passive, i.e. individuals have to actively seek it, and in some cases go through a bureaucratic labyrinth to reach the information they seek. Some business owners reported that during the ongoing campaign by the ministry of public health they asked for the list of criteria for compliance of products, but it was not readily available. The law for the Right of Access to Information remains behind parliament's closed doors¹⁶.

In **Palestine**, there are similar transparency restrictions especially in the public financial system. There is a need to advocate for more flexibility in order not to have discretionary information in the hands of ministries and other public institutions.

Freedom of association

Freedom of association is an enabling right that underpins inclusive development. The social movements that have flooded the streets of the Arab Spring have the potential to democratize the state and secure democratic transition. The right to assemble and organize is a precondition for the defense of collective

¹³ SOLIDAR, ANND, Euromed Platform, 2015 Social Protection Monitoring Report on Egypt :

http://www.solidar.org/IMG/pdf/2015_12_07_solidar_ois_case_study_egypt.pdf

¹⁴ Egypt 2014 Constitution: https://www.constituteproject.org/constitution/Egypt_2014.pdf

¹⁵ The Tahrir Institute for Middle East Policy, Legislation Tracker. A Constitutional Perspective, from <http://timep.org/legislationcatalog/>

¹⁶ SOLIDAR, ANND, Euromed Platform, 2015 Social Protection Monitoring Report on Lebanon:

http://www.solidar.org/IMG/pdf/2015_12_07_solidar_ois_case_study_lebanon.pdf

rights and remains at the core of any functioning democratic system. However, there is substantial evidence of continuous and systematic crack down on civil society organization and independent trade unions across the Southern Neighborhood countries.

In **Algeria**, the law on Association is still insufficient and incomplete in terms of proper freedom of association guaranty; it requires a long mandatory registration process for international and national NGOs. In addition, it prohibits associations from interfering in the internal affairs of the country, under risk of penalty or suspension, undermining the core purpose of an organization and hindering inclusive participation in the policy making process . Moreover, several procedures limit the international cooperation with NGOs such as the restriction on giving visas for international NGOs representatives. This status forms a major constraint to the Freedom of Association, besides the ability to create an association and to have access to foreign or national funding¹⁷.

In **Egypt**, in addition to the severe legal restriction put in place by the authorities, other unlawful practices have been used to crack down on civil society organizations. These include for instance travel bans, that have been have been recently used to impose restrictions on representatives of Civil Society Organizations and on human rights defenders¹⁸. In addition to that, in August 2015, the Egyptian government adopted new counterterrorism legal provisions affecting the work of NGOs. As a matter of fact, these new provisions allow for increased the government's surveillance, harsher penalties for terrorist crimes, and impose new restrictions on journalists reporting on terrorism-related matters¹⁹. The recent forced closure notification by

the Egyptian authorities to the El Nadeem Center for Rehabilitation of Victims of Violence; and the questioning of human rights lawyer Negad el-Borei by a judge, on a series of serious charges related to the drafting of an anti-torture law in 2015, are the most recent examples of restrictive measure of the Egyptian government's policy to suppress Egyptian civil society and human rights organizations.

In **Jordan**, there is limitation of the formation of organizations in the 2008 Law of Society, and Labor law 1996 and its amendments. Particularly, under those Laws, an organization or a trade union must present a request for approval to the Ministry of Social Development and/Ministry of labor. If it does not receive any contrary notification from the Ministry of Social development, it is automatically registered after 60 days. Regarding the trade unions, since 1976, the Ministry of Labor refused all applications to establish new unions. These measures are against Jordanian constitution and international standards of association, as they allow the government to interfere in the internal affairs of the organizations and use the registration time as a waiver for pressure. In this regard, recent developments give further supervising and controlling power to the government, since organizations' approval will have to be done in accordance with National Development Plan, and a quarterly reporting to the government is foreseen for those already registered. Finally, approval is also required when hold assemblies and public gatherings²⁰.

In **Lebanon**, While the collective dimension of the right to work is addressed in article 8 of the ICESCR, which enunciates the right of everyone to form trade unions and join the trade union of his/her choice as well as the right of trade unions to function freely, the Lebanese labor law restricts the full enjoyment of this right. It distinguishes between the freedom to form associations and political parties and the formation of syndicates and unions; as the former require only a notification, while the latter requires authorization. Accordingly, the application to form a union is submitted to the Ministry of Labor which consults with the Ministry of Interior. Moreover, laws in force require that unions' activities remain under permanent monitoring and supervision of the Ministry of Labor.

In **Morocco**, freedom of association for civil actors is challenged by the government's direct interference in the work of these entities. For instance, the authorities have initiated criminal proceedings 14 National

¹⁷ 104th ILO-ILC session (2015) - [freedom of association and protection of the right to organise convention, 1948 \(no. 87\)](#) - Algeria:

http://www.ilo.org/dyn/normlex/en/f?p=normlexpub:13100:0::no::p13100_comment_id:3241933

¹⁸ Travel Bans <http://www.solidar.org/Organising-International.2052.html>

¹⁹ <http://www.icnl.org/research/monitor/egypt.html>

Initiative of Human Development (INDH), against journalists, activists, artists and others who criticized Moroccan state institutions. Recently, the activities of the most prominent social actors, including the Moroccan Association for Human Rights (AMDH), are systematically prohibited accusing them not to be in compliance with the "basic directions" of the state. The authorities have also blocked attempts by several human rights organizations to obtain official registration allowing them to conduct their business legally. This was the case of AMDH and Freedom Now - an advocacy organization for freedom of the press.

In **Palestine**, a special governmental Committee was established in August in order to evaluate the activities of CSOs and their internal laws in compliance with the Palestinian Law 1/2000 ("Law of Charitable Associations and Community Organisations"), whose implementation is very difficult in the OPT and which places the independence of the organization at a fragile status. Also, in East Jerusalem, Palestinian organizations are subject to the "Israeli Law of Association" under the Israeli Ministry of Justice, so that they have to register with and report to two authorities to be considered legal by each one. Particularly the Freedom of Association in both Gaza and the West bank remains under pressure with different obstacles to CSOs activities posed by the officials from the de facto authorities: demanding continuous information on financial and staffing matters, putting additional requirements to obtain exit permits for national staff of national and international CSOs and requiring particular licenses to organize a public event (in violation with the Palestinian Basic Law).

In **Tunisia**, the legislative framework relation to the associations' law has numerous shortcomings. In that sense, several legislative and legal measures were taken to frame the associative work in Tunisia. For instance, the Article 35 of the Tunisian Constitution guarantees the freedom of creating associations while different decrees are important in this regard: the Decree Law No. 2011- 88 (24th September 2011) on associations; the Decree No. 2013-5183 (18th November 2013) laying down the criteria, procedures and conditions for granting public funding for associations and the8 Ibid., pp.22-24 Decree No. 2012-640 (25th June 2012) establishing a specific structure at the presidency of the government for associations and political parties. Moreover, the adjustments underline how CSOs represent the main actors of the democratic transition since 2011. The democratic opening of the country generated a strong Tunisian citizens' engagement in the association field: 8056 associations born between January 2011 and March 2015. However, if the current legal framework will be improved in terms of enabling environment for CSOs to operate, a lot should be done in terms of strengthening the CSOs' capacity in the participation in the policy-making consultations processes.

Peaceful assembly

Several human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights acknowledge peaceful assembly as a universal right. The 2013 Human Rights Council adopted resolution 24/5 and the last report of the UN Special Rapporteur on Freedom of Association and Peaceful Assembly, Maina Kiai insist on the obligations of the States, under international law, to respect and ensure these rights of all individuals. The obligation to respect rights means that States must refrain from restricting the exercise of the rights where it is not expressly allowed under international law.²¹

In **Egypt**, national legislation has significantly restricted freedom of association and peaceful assembly especially for independent trade unions. In detail, many restrictions on demonstrations - requiring prior arrival - have been placed (Law No. 107/2013 on Public Meetings, Processions and Peaceful Demonstrations)²². It is noted that the number of protest in Egypt has exponentially increased in the beginning of 2015, where 'a total of 599 protests were recorded between January and June of 2015, with an average of three protests a day', comparing to 'the 433 protests in the last four months of 2014'²³. In this context, while the 2014 Constitution provisions (namely art. 15, and 76) ensure the right to strike, join and form a trade union and the right to peaceful strikes, a recent, and despite Egypt is State party to the ILO

²¹ HRC, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development; 4 February 2016

²² CTUWS, Bitter Harvest: A Report about the violations of Labor Freedoms in 2015", January 2016

²³ Daily News, Egypt, 599 Labour protest in H1 of 2015: Democracy Meter, from <http://www.dailynewsegypt.com/2015/08/18/599-labour-protests-in-h1-of-2015-democracy-meter/>

Core Conventions 87 and 98²⁴, the recent Periodical issued by the Ministry of Interior ceasing to endorse seals of independent unions is an example of measures of the government to effectively limit independent unions²⁵.

In **Jordan**, civil society entities are concerned about the amendments of the 2006 Anti-terrorism Law and the 'broad definition of what constitutes a terrorist act' it brings, that 'could be used for prosecuting peaceful political speeches or assemblies'. That is due to the fact that, since its adoption, several individuals have been prosecuted in the State Security Court under the amended provisions on charges such as 'membership of a terrorist organization' or 'attempting to incite terrorism'. On another note, the legislative framework does not represent any support to the freedom of assembly. Therefore, some assemblies face violations because of their political nature: an example is the Muslim Brotherhood assembly in April 2015, as well as the organization of a debate on the issue of death penalty at the beginning of October 2015 which has been prevented for one of Jordanian civil society organization. It should be noted that as an example from time to time the Ministry of Interiors distribute instruction to the hotel to not accept any reservation for events without governorates previous permits, which is against Gathering law²⁶.

In **Lebanon**, the right to peaceful assembly is guaranteed in legal texts (international and national sources) as well as in practice. There are no heavy restrictions that hamper this right. Nevertheless, the reaction of the security forces to peaceful assemblies and protests is in many instances inadequate, non-proportional and disregards some basic human rights" principles. Furthermore, the liability of an assembly's organizers is exaggerated (i.e. over liability of organizers)²⁷.

In **Palestine**, peaceful assembly of organizations with an opposite political approach to the government has been highly restricted in recent years in areas under the full authority of the Palestinian Authority or by the Hamas authorities in the Gaza Strip. There are also significant restrictions at the trade unions level. For example, in Gaza the Union Law -adopted in 2013 by the Hamas government - Severely restricts workers' freedom of association, in violation of ILO standards. At the same time, in the West Bank, public sector employees (except the employees in education and health field) are deprived of representation, after banning the Union of Public Employees in November 2014. Generally, restrictions on the strike right in both public and private sectors continue to represent a threat to workers' rights, including unlawful killings or arbitrary detentions of protesters by Israeli forces in the West Bank (and East Jerusalem)²⁸.

Government-civil society relations

An important element of the enabling environment for civil society organization is the nature of cooperation with the government and its bodies. For proper functioning and impact of the civil entities, there is a need in having a defined strategy and specific objectives in the relation governing the two.

In **Jordan**, Several restrictions have been imposed, over the last few years, which did not allow the civil society to actively take part in national or EU decision-making processes. Non-cyclical consultations in policy-making processes and a clear mechanism is absent, sometimes the same individuals represent both the government and the CSOs. The government discourse focuses on the importance of partnership with civil society, at the same time narrowing in the exercise on the work of civil society.

In **Lebanon**, there is still insufficient engagement of the civil society in policy-formulation, programming, implementation, monitoring and evaluation phases at the national level. Additionally, the prolonged non-

²⁴ See the 375th Report of the ILO Committee of Freedom of Association, case N°. 3025 on Egypt:

http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_375796.pdf

²⁵ CTUWS, "Periodical from Ministry of Interior concerning ceasing to endorse seals of independent unions with the aim to limit independent unions", March 2016

²⁶ For more information, see Phenix Center, "Challenges of the Labor Movement in Jordan in 2015", <http://www.labor-watch.net/ar/paper/345>

²⁷ <http://www.annd.org/data/item/pdf/22.pdf>

²⁸ http://solidar.org/IMG/pdf/2015_12_07_solidar_ois_case_study_palestine-2.pdf

functioning of the Economic and Social Council is proof of the strong resistance to the institutionalization of civil society participation in policy making. Another strong barrier is the political deadlock that is restricting the work of parliament and parliamentary committees. Civil society organizations have taken the initiative on several occasions and in several areas to draft law proposals, especially around social protection and political rights. However with the limited time during which parliament is in session, very little is indeed achieved.

In **Palestine**, although there are modalities for CSOs participation in national planning process, the coordination between civil society and public authorities is not defined. As such, the openings for political dialogue with CSOs have been quite limited with varying degrees of success. However, with regard to the national Technical Vocational Education and Training (TVET) Strategy, they report that CSOs play a consultative role, while employers' organizations are considered as social partners, involved in shaping some aspects of TVET policy, and the trade union confederations are invited to participate from time to time.

In **Tunisia**, during 2013, a dialogue was facilitated between political parties following the political assassinations of Chokri Belaid and Mohamed Brahmi. As such, some organizations involved in this national dialogue (LTDH, Ordre des Avocats, UGTT, UTICA) were awarded the Nobel Peace Prize for the conduct of the dialogue. Constitutionally, it is the civil society mobilization which allowed a new constitution that made consensus in the country and which, if implemented, will be a model for the sub-region in terms of fundamental freedoms and male /female parity.

CHALLENGES AND LIMITATIONS OF THE CIVIL SOCIETY IN THE FRAMEWORK OF THE EU-ARAB PARTNERSHIP

The role and scope of the civil society's work in the Arab region is in remarkable transformation, affecting its impact on a national and a regional level. The deteriorated political situation and its spillovers, such as the escalating migration crisis in the Mediterranean Sea, is placing pressure on the region's societies. The absence of peace, instability and the focus on fighting terrorist movements are leading to a significant shrinking at the level of space for civil society. As a result to this situation, a new political wave is reshaping the region as external political initiatives are foreseen to resolve the ongoing conflicts; this could take its toll on the impact of CSOs at a policy-making level. The shrinking space for civic work is not solely due to the instable political conjuncture but also to its financing, as there is an increasing trend in placing conditions in the funding processes and a decrease in the global financial cooperation. This exposes civil work to risks as aid mechanisms are being implemented with insufficient transparency and accountability, and it could be exploited to become a mean of taking over sovereignty; such conditionality negatively affects national democratic processes.

At a global level, the new developmental framework launched and the Sustainable Development Goals governing the aid donation processes to developmental actors is focusing on the financing of the private sector as a tool for development especially the in the framework of Public Private Partnership (PPP) with the important role accorded to it as a developmental tool in recent years and noticed in the reviewed ENP and in the Busan Forum on aid effectiveness. This issue of the role of foreign companies must be raised and stressed, and particularly those concerned with investment in the natural resources of developing countries (like the energy investments). There is a need in having transparency and accountability mechanisms and responsibility, as well as commitment to human rights, justice and environmental sustainability.

In this global context, the EU-Arab Partnership needs to take certain elements into consideration. There is a need in engaging all stakeholders in any partnership to achieve high efficiency in responding to mutual benefits. Yet, in the EU-Arab partnership, certain aspects should be taken into consideration to ensure the proper power-complementarity role, the partnership. There is a need in assuring the involvement of CSOs from all sectors and the empowerment of civil society to reach independence. In addition, the dialogue with the civil society should be undertaken at the national and regional levels. National dialogues are essential for tackling challenges at the country level and the regional ones are needed to handle issues such as regional integration, regional negotiations on issues like trade, peace and security and rely on the exchange

of experiences between national stakeholders. Moreover, the partnership should enhance and support the existing initiatives, networks and bodies and create coordination mechanisms and efficient communication strategies among them.

Given all these issues of concern, the role of the civil society, human rights defenders and trade unions and the enabling environment provided for it in the context of the EU-Arab Partnership faces ongoing challenges that need to be addressed, and that have been showcased in the national outcomes of this project. There is a need in:

1. Promoting the implementation of Aid Effectiveness Principles

There is a need in for reducing “aid fragmentation” by fully implementing the international aid and development effectiveness commitments made in Paris, Accra and Busan; and in that sense, EU donor coordination should contribute to the objective of ending all formal and informal tied aid and to turning the "Aid Effectiveness Agenda" into a "Development Effectiveness Agenda". The latter is an agenda that is rooted in a human rights approach that addresses gender justice, decent work, environmental sustainability, and national democratic ownership of the development paths that guarantee the participation of various stakeholders, including civil society organizations in their various forms, development and human rights organizations, syndicates, women's groups and others.

In that framework, there is a need in empowering civil society with no restrictions or **conditionality** in the funding processes, abiding to the framework previously described.

Analysis on conditionality should take into consideration that we live in a world that is dominated by liberalization models, whereby the whole context in which aid flows needs to be addressed. For conditionality on aid could be exploited to become a means of taking over sovereignty. Such conditionality negatively affects national democratic processes. Instead of conditioned aid, there is a need for a partnership framework that is based on democratic governance. The basis of this partnership would be participatory and mutual responsibility towards impacts and results. This partnership distinguishes between policy conditionality and sound and common practice. It sets a transparent contractual relation, with responsibilities on both parties, and secures the ability to question both parties for common and similar commitments. This would lead to a balanced relation based on dialogue and real mutual responsibility.

Moreover, a related challenge regarding donation **coordination and harmonization** needs to be considered within this partnership. Due to the programs of financing accorded to the region, the alignment with the national needs is put-forward. This coordination and harmonization should be at the level of the civil society mechanisms and governmental entities.

2. Promoting the insurance of national ownership

There must be a promotion of **national ownership** linked to that of democratic ownership, which enforces the participation of various stakeholders in the development process and in decision-making and building development strategies that determine the frameworks for the systematic and sustainable use of aid. One of the necessary steps towards enhancing ownership is making the system of consultation with civil society a standard mechanism in all stages of formulation, implementation, design, and evaluation of aid policies, which has been already considered at the level of this partnership with the revision of the ENP and the implementation of this new policy at the national level.

In addition, there is a need in highlighting the role and impact of the expansion of the **private sector**, especially the in the framework of Public Private Partnership (PPP) with the important role accorded to it as a developmental tool in recent years and noticed in the reviewed ENP and in the Busan Forum on aid effectiveness. This issue of the role of foreign companies must be raised and

stressed, and particularly those concerned with investment in the natural resources of developing countries (like the energy investments). There is a need in having transparency and accountability mechanisms and responsibility, as well as commitment to human rights, justice and environmental sustainability. The role of the private sector should **not undermine the policy space of the state** designing its homegrown rights-based development path. The EU promotion of the private sector engagement in the delivery of public services (areas such as education, health, public transportation and other) should involve explicit consideration and respect of internationally agreed human rights standards at all stages, including policy formulation, monitoring and accountability phases.

3. Promoting launched initiatives to support CSO role within the partnership

Several initiatives were launched by the European Union to fortify the role of the civil society in the dialogue within the EU-Arab Partnership.

Structured Dialogue: A new initiative for the Southern Mediterranean, aimed at an enhanced and more strategic engagement with civil society, was launched in Brussels, at the first Southern Neighborhood Civil Society Forum in 29-30th of April 2014. The initiative followed a year-long consultation between the EU and Civil Society organizations aimed at improving dialogue between civil society, the EU and the authorities, and promoting reform in the region. It targets also creation of mechanisms for sustained, structured dialogue between civil society from the Southern Neighborhood, and the EU at a regional level. The structured dialogue allows civil society representatives to express their views about EU policies in the region and, more broadly, about the policy priorities that need to be tackled in the EU's policy in the Southern Region. The second forum was held in Brussels on 28-29 May 2015, and the main topics on the agenda of this second edition were the review of the European Neighborhood Policy and role of regional dialogue and civil society in light of the new socio-economic, political and security challenges in the Southern Neighborhood and Europe.

Involvement of CSO in the revision of the ENP: In the light of the EU communication "Towards a New European Neighborhood Policy" and in response to the open consultation that followed an inclusive participatory process was launched at the national and regional levels of neighboring countries, the civil society was able to participate and feed into the consultations. This initiative reinforces the partnership concept and is a step towards enhancing the enabling environment of civil society in the region. This process continues post the publication of the revised ENP; where consultations for the setting of the revised ENP plan on the national level involve the civil society.

Civil Society Facility South: The regional Civil Society Facility (CSF) South program aims at building the capacity of civil society organizations to influence policy and carry out successful dialogue and networking in ten countries of the Southern Mediterranean. It has been operational since 2013. The program, which also provides support to nine EU funded projects, aims at reinforcing the capacities of civil society organizations in partner countries to influence policy change, dialogue with state actors and other CSOs, build networks and Facilitate dialogue between regional CSO members and EU institutions. The five-year program (2013 – 2017) has just completed its first phase (2013 – 2015) consisting in mapping, assessing capacity building needs and engaging in the initiative for a regional structured dialogue; and three main challenges for the regions were identified : the shrinking space for civil society, the rise of inequalities and the migration crisis.

In addition, The European Union has constructed several other channels to engage with the civil society such as inserting Policy Coherence for Development commitments and Human rights and democracy focal points in Delegations and creating national **CSO roadmaps** that serve as a framework to ensure synergy and consistency with the civil society in all the sector of the EU External Policy. These roadmaps that are tailor-made for countries are considered as a major step towards reinforcing the CSOs relation with the EU within the Partnership. Nevertheless, over a year on their implementation, major challenges are still in place at the level of the dialogue between the EU delegation and civil society. For instance, the

consultation process is still ad hoc and needs to be reshaped into a constructed permanent dialogue, the number of CSO engaged and the issues addressed are still restrained and a lack of coordination is still tangible. Also, the EU has increased its relation with CSOs from the region and worldwide by engaging them in key events like the Political Forum for Development and creating additionally a Civil Society Forum

solidar

Rue du Commerce | Handelsstraat 22
1000 Brussels
Belgium
T +32 2 500 10 20
F +32 2 500 10 30

Twitter: @SOLIDAR_EU
Facebook: SOLIDAR
www.solidar.org
solidar@solidar.org

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SOLIDAR is a European network of membership based Civil Society Organisations who gather several millions of citizens throughout Europe and worldwide. SOLIDAR voices the values of its member organisations to the EU and international institutions across the three main policy sectors; social affairs, lifelong learning and international cooperation.

Responsible Editor:
Conny Reuter

Authors:
Serena Abi Khalil
Mabel Grossi



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