

Policy
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Policy Brief

Towards a Societies Law aligned with Human Rights Principles



PREPARED BY:

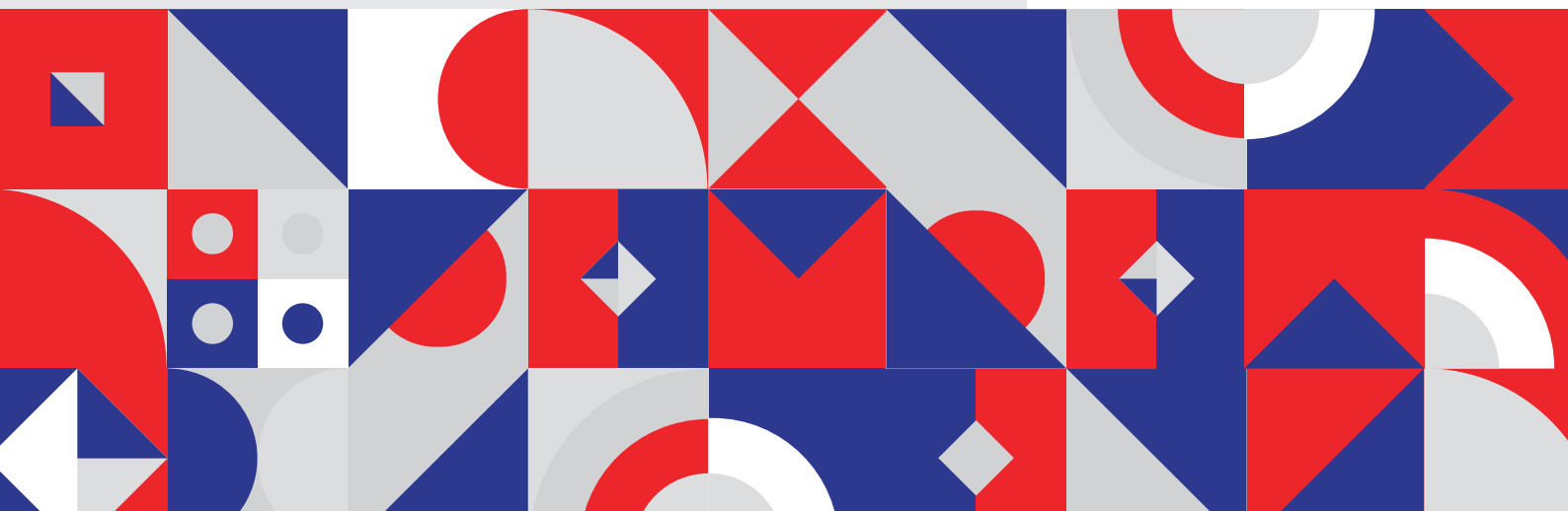
Phenix Center for Economics & Informatics Studies

AMMAN, JORDAN

September, 2023

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Phenix Center for Economics & Informatics Studies

The Phenix Center for Economic & Informatics Studies is a nongovernmental organization dedicated to independent policy research and measuring public opinions on impactful current and emerging issues in areas of economics, society, and its legislative environment in Jordan. The Center was founded in Amman, Jordan in 2003 under the registration number 142203. It works to promote a sustainable developmental paradigm in Jordan, rooted in human rights and the principles of democratic governance by focusing on reforming the labor policies, lifting of restrictions on freedom of association, and strengthening of social protection policies. The Center specializes in promoting inclusivity in development processes. It compiles databases of relevant actors and stakeholders, develops research, studies, papers and reports, conducts conferences and advocacy campaigns, and empowers several actors to take part in steering development through capacity building.



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The Law on Societies governs one of the most fundamental Human Rights and serves as a key tool for the realization of other rights, particularly through the right to organize.

Introduction

The Law on Societies No. 51 of 2008, with its subsequent amendments, is the main law regulating the operations of societies in Jordan. These societies form the backbone of civil society in the country. This law holds immense importance affecting the effectiveness of the civil society sector. Jordan's CSOs play a pivotal role in advancing sustainable development and enhancing the Human Rights situation in the country, whether through the direct provision of essential services to society's most vulnerable groups or by actively participating in policy analysis and proposing alternative policy solutions.

The Law on Societies governs one of the most fundamental Human Rights and serves as a key tool for the realization of other rights, particularly through the right to organize. Urgent and comprehensive amendments are needed to ensure that citizens have the right to form and participate in CSOs, thus facilitating their access to other Human Rights. It is widely recognized that organizing societies within a civil framework creates a balance among various segments of society, which, in turn, has a positive impact on the development of balanced legislation and policies that safeguard the interests and rights of all individuals.

The right to organize is dual, encompassing both civil and political aspects, as well as social and economic dimensions. This right is affirmed in both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). Given that the Jordanian State has ratified both of these covenants and published them in the Official Gazette, it is incumbent upon legislators in the executive branch, as well as members of both Houses of Parliament (deputies and senators), to fulfil their obligations under these international laws. In this regard, Jordan has long been overdue in making necessary amendments to the Law on Societies to align with its international commitments, as well as with the Jordanian Constitution, particularly Articles 16 and 128.

Article 16 of the Jordanian Constitution guarantees the right of Jordanians to form associations and societies, and the law (the Law on Societies) regulates the method of forming societies and monitoring their resources. Article 128 of the Constitution also affirms that «laws promulgated under this Constitution regulating rights and freedoms shall not affect the essence of these rights or affect their fundamentals».

Therefore, we emphasize the importance of considering a set of principles during the amendment of the Law on Societies. These principles should aim to enhance the independence and added value of different types of societies, including the registration by notification (filing) principle, ex-post oversight of societies' operations and guaranteeing access to their resources without requiring prior government approvals, in addition to ensuring the implementation of comprehensive governance principles in all aspects of societies' activities.

This requires abandoning the requirements for prior government approval for the establishment of societies, the government's powers to dissolve societies, required approvals for funding of all kinds, in addition to other requirements related to the holding of meetings of public bodies.

Any modifications to the law that do not significantly change those legal articles in alignment with



these principles are merely procedural and formal amendments. While these changes can hold importance, they alone will not establish an enabling environment for civil society's operations. Instead, they could impede Jordan's fulfilment of its obligations regarding the right to organize, a fundamental component of the Human Rights system.

Furthermore, it needs to be taken into account that civil society's significant contribution stems from its unique perspective on public policies and capacity to operate with diverse viewpoints that may differ from government stances on numerous matters. Consequently, any revisions to the Law on Societies should prioritize reinforcing the autonomy of associations throughout their formation, operational processes, and access to their diverse resources.

The existence of societies is intricately linked to the concept of the modern state. It enables diverse elements of civil society to articulate their voices, advocate for the interests of their members, and safeguard them. The existence and effectiveness of these societies serve as positive indicators of a state's progress and a guarantee of its stability. Achieving this requires ensuring a high degree of freedom and autonomy for these societies, along with creating a favorable political and legal environment that aligns with international standards and best practices for freedom of association. However, the current Law on Societies still imposes numerous restrictions on the activities of these associations in pursuing their multifaceted goals and roles. These restrictions have expanded significantly in recent years.

Therefore, we at the Phenix Center for Economic and Informatics Studies decided to submit a set of proposals to the Committee concerned with reviewing and amending the Law on Societies. These are as follows:

1

Revise Article 3 of the law, which currently prohibits societies from engaging in political activities falling within the scope of objectives of political parties. The current wording lacks clarity and fails to specify the nature of these political objectives subject to prohibition. This ambiguity hinders the advancement of democratic processes, curtails political participation, and undermines the protection of Human Rights.

2

Amend the wording of paragraph (a) in Article 5 of the law, which currently grants the Board of Directors of the Societies' Register the authority to pre-approve society registrations. We propose reevaluating the requirement for obtaining prior approval from the Register and instead shifting towards a registration by notification (filing) approach. In the event of objections by the Societies' Register or any other official body, the matter can then be resolved through legal means, specifically by resorting to the judiciary. While applicants currently have the right to appeal decisions in court, the absence of specific reasons for rejection can make it challenging to contest a refusal. This lack of methodological criteria means that refusals are subject to the discretion of the executive authority, which contradicts the fundamental principle of the right to establish associations and societies.

3

Amend the text of paragraph (a) of Article 8 of the law, which currently mandates that the founding member of any society must be a Jordanian national. Additionally, revise the provisions in paragraph (d) of Article 11 of the law, which necessitates obtaining approval from the Council of Ministers if a non-Jordanian is among the founding members of the society. These requirements are inconsistent with international standards and best practices, which uphold the right of «every individual» to establish associations, irrespective of their nationality.

4

While we emphasize the importance of the principle of registration by notification (filing) without obtaining prior government approvals, amend the text of paragraph (a) of Article 11 of the law, which provides for the legal period for registration, which is currently 60 days from the date of applying. This period should be shortened and we suggest that electronic registration of societies is made possible.

5

Revise the wording of Article 14 of the law, which currently mandates that societies must inform the relevant minister and the registrar about the date, location, and agenda of their general assembly meetings, a minimum of two weeks before the scheduled meeting. Failing to do so currently results in the meeting being deemed illegal. Additionally, the article grants both the competent minister and the registrar the authority to nominate a representative to attend the meetings of associations' general bodies. This provision contradicts the principle of associations' freedom to operate and places limits on their independence in conducting their activities.

6

Revise the wording of Article 16 of the law, which currently requires the administrative bodies of societies to submit their annual work plans, annual reports detailing the society's achievements, activities, revenue sources, expenditure details, and an annually audited budget by a registered accountant to the competent ministry. This requirement has the potential to compromise the independence of associations and may open avenues for undue interference in their activities. It goes against the principle of associations' freedom to operate and places restrictions on their independence in conducting their activities.

7

Reconsider Article 17 of this law, which currently mandates the Council of Ministers' approval for societies to receive foreign funding. This requirement contradicts the principles of freedom and independence essential for the work of societies. Instead, consider adopting a system that conducts post-evaluations based on the annual reports submitted by associations to the competent ministry. It is important to note that the Central Bank already applies stringent financial regulations to combat money laundering, terrorist financing, and illegal activities across all institutions, including associations. This prior approval requirement contradicts the principles of freedom and independence outlined in relevant international conventions and global best practices. Administrations of societies should have the right to secure the necessary resources to manage their affairs. Instead of prior approval for external funding, a more effective approach would involve implementing rigorous governance standards that mandate transparency regarding funding sources and expenditure details. Ex-post and judicial oversight can sufficiently address any potential illicit practices that might occur in some societies, similar to other institutions. The government can also proactively declare sources of funding that are prohibited for societies, eliminating the need for prior approvals. In practice, associations currently encounter issues with delayed or denied government approvals, which deprive them of access to their resources.

8

Amend the wording of Article 19, which currently gives the competent minister the power to appoint a temporary administrative body for a society, effectively replacing its existing administrative body. Regardless of the reason for such action, this authority should rest with the judiciary rather than the competent minister. These executive branch powers contradict the fundamental principle of freedom of association and impose limitations on the independence of societies in carrying out their activities. Such provisions also run counter to international Human Rights standards related to the right to organize and form associations and societies.

9

Amend Article 20 of the law, which currently deems any society that has not commenced its activities or has ceased its operations for one year as automatically dissolved. This provision does not account for situations where associations may halt their activities for reasons beyond their control, such as the completion of a specific project without follow-up projects. We propose transferring this authority from the competent minister to the judicial authority to ensure a fair and impartial assessment of such cases.

10

Revise paragraph (c) of Article 22 of the Law, which currently states that the criteria for expenditure and support for societies from the Societies Support Fund shall be established by the Council of Ministers through issued instructions, and the Council will disburse funds following these instructions. We propose incorporating these criteria directly into the law itself rather than leaving them as instructions. This ensures that they have a permanent and clear legal basis.

11

It is essential to incorporate clear provisions in the Law on Societies that allow for the establishment of networks and alliances by various legal entities, not limited to societies alone. Such provisions would significantly enhance the overall operations of civil society and amplify its impact and effectiveness.

In conclusion, we hope that the committee responsible for reviewing and amending the Law on Societies will enact comprehensive reforms, guided by the fundamental principles of the freedom of association, which is a fundamental right within the framework of the Human Rights system. These principles are firmly established in relevant international treaties and are based on global human experience. It is crucial to build upon the outcomes of the extensive dialogues that have taken place over the past two years between specialized civil society organizations and the Ministry of Social Development.

Furthermore, expanding the circle of dialogue and consultations on this matter is imperative because the ramifications are not solely technical and administrative; they encompass broader political dimensions. By doing so, we can preempt potential issues that might arise in connection with this vital law, as has occurred with other legislation, such as the cybercrime law.



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