

Fraternity

The status of _____

The right to freedom of association Syrian Government controlled area

2018-2021



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About FFHR

a non-governmental, non-profit human rights organization. established on the first of January 2013 in Syria and its permanent headquarters is in Germany. led by Syrian human rights defenders

FFHR seeks to promote and protect the right to freedom of peaceful assembly and of association for all Syrians. And advocating the Syrian individuals and groups to ensure that they have this right and can implement it. and support their role in effective civic engagement in political decision-making

Fraternity Foundation for Human Rights thanks everyone who contributed to the completion of this work, especially our researchers inside Syria, our legal support unit, our colleagues, our legal advisors, and human rights lawyers from Egypt and elsewhere

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Title:

This report covers the status of the right to form associations during the period 2018–2021, mainly in areas that are under the control of the Syrian government: Damascus, Rif Dimashq (aka Damascus Suburb), As-Suwayda, Tartous, Latakia, and Homs. Based on the legal analysis of Fraternity Foundation for Human Rights of Law No. 93 of 1958, the reality of its application, and its approaches to the obligations of the Syrian Arab Republic to the international conventions

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1 ► Executive summary



This report covers the status of the right to form associations during the period 2018—2021, mainly in areas that are under the control of the Syrian government: Damascus, Rif Dimashq (aka Damascus Suburb), As-Suwayda, Tartous, Latakia, and Homs. The starting year of 2018 was chosen because it was the year that the Fraternity Foundation for Human Rights announced its specialization in promoting and protecting the right to peaceful assembly and association in Syria.

Based on the legal analysis of Fraternity Foundation for Human Rights of Law No. 93 of 1958, the reality of its application, and its approaches to the obligations of the Syrian Arab Republic to the international conventions, which it joined, signed, and ratified, the legal analysis concluded the status of the right to form associations under national law and its incompatibility with international standards, particularly in the following procedures:

- · The intricacies of registration and announcement
- · Founders and board members
- · Conducting activities
- · Dissolution of the association and penalties
- · Refusal to register and preventing work
- · Security oversight and intimidation
- · Arbitrary arrest
- Prevention and elimination of work

And by approaching the practical reality about the actual mechanism that is followed in the process of registration, announcement and activity with the legal reference from every articles of Law No. 93 of 1958, on which civil society associations and organizations are based in the mechanism of their registration and announcement in the areas controlled by the Syrian government, supported by testimonies from the organizations we interviewed, we have provided our legal comments that are contrary to such abuses and violations based on optimal ways and in accordance with international standards for the right to freedom of association and Syria's obligations under the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights, both of which Syria signed and ratified on March 23, 1976, and on 3 January 1976 respectively.

The team that prepared the report relied mainly on field interviews and research on the status of the right to form associations operating in accordance with Law No. 93 of 1958 in the areas under the control of the Syrian government where the Legal Support Unit based its work on the main source of the law and on previously published literature and research studies on the subject. Our researchers and monitors conducted 18 investigations and interviews with representatives of some of the civil society organizations operating in the region. Of which, 10 interviews explored the legal status of the procedure of registration of organizations, the difficulties that the organizations endure during the registration process, and the extent of unjustified interference, whether in the registration, boards of directors, or the activities of these organizations. Interviews were conducted in the following cities: six interviews in Damascus and Rif Dimashq, one interview in Tartous, two interviews in As-Suwayda, and one interview in Lattakia.



On the basis of the testimonies of 18 associations and their activists, who were victims of Syrian government violations, and whom we interviewed between June 2021 and December 2021 and the documented testimonies of witnesses, we, Fraternity Foundation for Human Rights, believe that the Syrian government is still violating the right to freedom of association, its international standards and relevant conventions through the following:

- 1.Breaching and violating Law No. 93 of 1958 on international standards for the right to freedom of association and the exercise of its activities
- 2. The Syrian government violates the right of Syrian citizens to freedom of association and prevents it on a large scale through the Ministry of Social Affairs and Labor and through the security services, and mainly the Political Security Department of the Ministry of Interior, which is authorized to follow up the registration and practice of Syrian associations' activities that contravene with the content of Law 93 of 1958 in violations of the standards of the right to freedom of association and Syria's international obligations. The registration period sometimes reaches two years of waiting and a minimum of 6 months, and this contradicts the law itself, the international standards, and Syria's obligations.
- 3. Syrian associations and their members are subjected to arrest and constant threat of arrest and banning from work
- 4. After a decade of the Syrian conflict, the Syrian government is still insisting on its methodology of suppressing public freedoms on charges of implementing foreign agendas and receiving foreign funds.
- 5. Despite the repeal of Article 8 of the Syrian Constitution regarding the leadership of the Arab Socialist Baath Party for the state and society in Syria, the party and its branches continue to exercise their governing authority over the Syrian civil work association sector and use the security services to suppress this vital sector.
- 6. Although the United Nations monitors the status of the right to freedom of association through the Civil Society Room in the Syria office of the Syrian-Syrian negotiations, it does not exert the required pressure to protect Syrian activists, especially those who participate in the meetings of those negotiations in Lebanon and elsewhere, where they are subjected to repeated summonses and arrests. and interrogation
- 7. The Syrian Trust for Development and the Syrian Arab Red Crescent organizations control all the civil work tracks in the region, and particularly, the Syrian Trust for Development mainly monopolizes the civil work sectors only because it is affiliated with the wife of the Syrian President.

Fraternity Foundation for Human Rights, while monitoring the state of the right to freedom of association in areas under the Syrian government the violations and abuses that this right is subjected to, we salute the courage of our colleagues in this sector for continuing to provide their services and finding alternatives to adapt to the repression they are facing by the Syrian government.



In this regard, the Fraternity Foundation for Human Rights recommends the following:

A) To the Syrian government:

While the laws regulating the establishment, registration and the work of civil society organizations should meet the minimum requirement to enhance and promote the right to freedom of association, the Syrian government must:

- 1.Establish clear, consistent, and simple criteria for the registration or incorporation of a civil society organization as a legal person.
- 2. Nongovernmental organizations (NGOs) that meet all required administrative criteria should be able to register immediately as legal entities.
- 3.We call on the Syrian government to repeal Law 93 of 1958 and to adopt a new law that aligns with the international standards for the right to freedom of association, in particular Article 22 of the International Covenant on Civil and Political Rights, which the Syrian government signed and ratified
- 4.All NGOs that were previously registered should be considered as legal and active in conducting their work and should be given a reasonable deferral period to regulate their legal status, without any unnecessary administrative complications.
- 5.It is necessary to establish a law regulating the right to information. Because the right to freedom of expression and information is the bedrock of all free and democratic societies. Without a law regulating the right to information, the right to freedom of association will be, indirectly, curtailed.

B) To the Civil Society Support Room of the Office of the Special Envoy for Syria:

- 1. The UN Envoy and Civil Society Support Room should intervene with the Syrian government to ensure that female activists and civil society activists are not subjected to arrest or travel bans because of their activities in the Syrian political solution process and Syrian peace building
- 2. Holding open meetings with representatives of the Syrian civil society to find out the reality of the harassment they are exposed to.

C) To Syrian Civil Society Organizations:

- 1. Continue with the struggle for a fair law regulating the work of Syrian civil society institutions.
- 2. Adopt networking and establishing alliances to ensure that Syrian civil society institutions enjoy their full freedom in civil and humanitarian work.
- 3. Bridge the gap between Syrian civil society institutions and Syrian people.
- 4. Adopt advocacy mechanisms to enhance the protection and enjoyment of the right to form associations.
- 5. Adopt more dynamic and modern mechanisms to monitor violations of the right of association.
- 6. Strengthen the capacities of actors in the field of providing legal support to assist associations in establishing or reconciling the conditions of existing ones.





2▶ Methodology:



The report team relied mainly on field interviews and conducting research on the status of the right to form associations operating under Law No. 93 of 1958 in the areas under the control of the Syrian government. The Legal Support Unit relied on the main source of the law and on previously published literature on research and studies. Our researchers and monitors conducted 18 interviews and investigations with representatives of some civil society organizations operating within the region, of which 10 interviews addressed the legal status of the registration process and the extent of unjustified interference, whether in the registration and boards of directors or interference with the activities of these organizations. Interviews were conducted in the following cities: six interviews in Damascus and Rif Dimashq, one interview in Tartous, two interviews in As-Suwayda, and one interview in Lattakia.

We have divided the report into two main axes:

The first axis:

On Syria's obligations under international law and Law No. 93 of 1958 regulating the work of associations in Syria and the reality of the right to freedom of association under it with regard to registration procedures and its difficulties, and the extent of unjustified interference in these procedures by the authorities overseeing the association sector, and obstacles facing the exercise of the right to form associations.

The authors of the report divided this axis into three main sections:

Legal reference: which are the articles of Law No. 93 of 1958 on which civil society associations and organizations in areas under the Syrian government control base the mechanism of their registration and publicity.

Implementation reality: which discusses the real mechanism that is followed in the process of registration, advertisement and practice, supported by testimonies from the organizations that we interviewed.

Legal commentary according to the standards of the right to freedom of association:

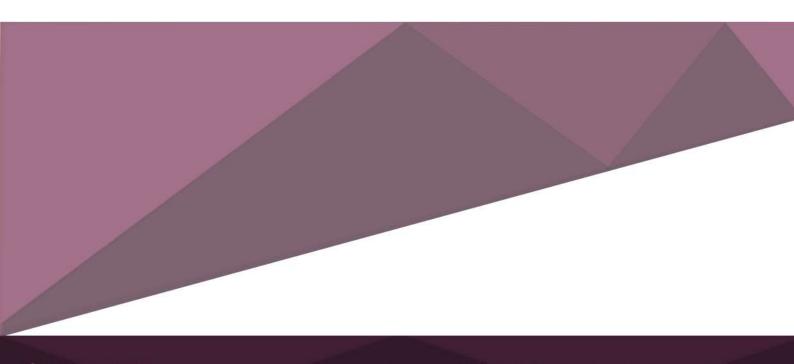
In which we followed the comparison of the law and the practical reality with the best methods and international standards and Syria's obligations under international law and the agreements it has ratified.



The interviews that were conducted on the implementation reality of exercising the right to form associations and their activities took place in November of 2021 and included mainly the following questions:

- 1. How is an organization registered or licensed in the region? What are the procedures that the organization takes to start its work publicly and officially, and how long does it take to obtain approval/permit?
- 2. Is the registration process easy and smooth, or is it complicated, difficult, and financially expensive?
- 3. What is the validity period of the permit? Does the organization or association need to re-register and follow the same procedures it did when registering for the first time?
- 4. Who are the authorities responsible for issuing permits?
- 5.Is there a law and a regulation of procedures regulating the registration and work of civil society organizations in the region?
- 6. What are the areas of work of civil society organizations in the region that the authority prevents, monitors, or interferes in their practice?
- 7.Do the controlling forces in the region interfere in the process of establishing an association or organization, whether by modifying its programs, rejecting programs, refusing to have members on the board of directors, or interfering with the recruitment of activists in the organization?
- 8. Does the ruling authority in the region allow the organizations to carry out their work freely and without interference?

 9. Do civil society organizations in the region work in shaping policies and influencing decision-making through the promotion of democracy and human rights, accountability of authority, and pressure on the authorities to achieve the interests of the groups that these organizations target?
- 10. Are there any cases that you know of in which the right to form associations and practice their activities has been violated (arrest, closing an organization, banning an organization from working, canceling work permit, killing members of the organization, threatening members, threatening beneficiaries of the organization's services, intimidating members and beneficiaries through certain means and others)





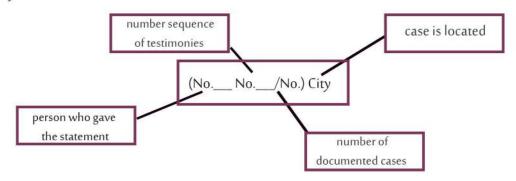
The second axis: duly documented violations

The Documenting Team recorded 8 cases of violation of the right to freedom of association, of which four cases occurred in the cities of Tartous, three cases in the city of Homs, and one case in Rif Dimashq, together with sworn testimonies of those who were subjected to these violations according to the legal forms designated and designed by the Legal Support Unit at Fraternity Foundation for Human Rights (Picture 1). These areas and cities are the most prominent centers of the Syrian governorates, which are controlled by the Syrian government. The types of violations committed against local civil society organizations mentioned in the report were categorized, and they mainly included:



These violations were committed against the association as a legal person, against the board of directors, against the executive management and against the public dealing with the association.

In order to ensure the safety of organizations, victims and witnesses who gave their testimonies in this report, the report's authors followed the coding mechanism in the following form: (No.____No.___/No.) City. The first number indicates the name of the person who gave the statement, whether he is a victim or witness, and the second number refers to the number sequence of testimonies in the documented case, and the third number refers to the number of documented cases in the city where the case is located.



The time period and the targeted place in the report:

This report covers the period between 2018 and December 31, 2021, mainly within the areas under the Syrian government control in Damascus, Rif Dimashq, As-Suwayda, Tartous, Lattakia and Homs. The year 2018 was identified as it is the year that the Fraternity Foundation for Human Rights announced its specialization in promoting and protecting the right to peaceful assembly and association in Syria.

3 ▶ Introduction:



Associations and civil society:

Associations are among the most important civil society institutions in which the individual works voluntarily and with relative independence from the state. It is the backbone of civil society, as it plays a pivotal role in public life. Civil society, although it has different definitions, is ultimately defined as the sum of the existing organizations in society, including institutions, associations, agencies, unions, parties, media, and others that operate in relative separation from the state and whose goal is achieving democratic transformation and limit the coercive power of the state.

And the civil society that exists under a democratic state has no tendency to get rid of the state or reduce its authority as much as it seeks to consolidate and protect it because its strength is from its strength, and therefore this society is more like an active civil society, while civil society in a non-democratic state often is absent and is excluded from the public space, so his job becomes more like opposition and resistance.

Moreover, the political participation is the essence of the democratic process in any of the societies of the modern state, which is distinguished from the traditional state by the wide extent in which individuals and groups participate in political work, and the greater the political participation, that was positive indicator of a healthy relationship between the state and society in term of increased opportunities for members of society to gain access to the civil sphere through the formation of modern institutions, through which the activities of civil society are organized independently of government departments, and these are opportunities that work to increase the volume of community members' participation in the areas of human development, and even the volume of their political and social representation through associations and civil organizations in all their diversity, and thereby enabling them to participate in public affairs.

Association concept:

An association or civil society organization that is established in order to achieve a specific goal that is reached through the cooperation of a group of individuals or groups. An Association stems from the goal to cooperate, unite, and to adopt common caused for the good of community. In its work, the association does not aim to make a profit. The association, like other civil society institutions, is a third force between the authority and the citizens. It assumes the task of mediating between the state and the citizen. The association is defined as "a set of values and norms accepted by an organized society in a peaceful and voluntary manner. It includes civil organizations and gatherings that do not seek to gain power and that mediate between individuals and the state and even though it is linked with the state, there is a clear separation between it and the authority and its various institutions." By considering them as non-governmental organizations, they are "a set of voluntary social initiatives that are active in various fields, such as social services, charitable aid, education, health and culture services, in addition to attention to environmental affairs, development, vocational training, women training, community development, defense of human and child rights, and others. From the perspective of the United Nations, it is "a voluntary, not-for-profit group organized by citizens on a local, national or international basis and whose work revolves around specific tasks led by people with common interests. It performs a variety of services and humanitarian functions, informs governments of citizens' concerns, monitors policies and encourages political participation on societal level." Whereas from the perspective of the World Bank, they are "private organizations that carry out activities to alleviate suffering, defend the interests of the poor, protect the environment and achieve community development".



Non-governmental organizations (NGOs) have often proven that they constitute a social and conscientious force with impact, although they do not represent or seek to possess any kind of political authority. Some of them work to spread the principles of human rights, and to defend the victims and the oppressed, and some of them work in the field of development and poverty alleviation, and some of them are biased towards charitable work, and between this and that there are organizations concerned with providing services and humanitarian aid.

In every sphere of life, NGOs are active and struggle to achieve human well-being and preserve their dignity. This is the content and message of NGOs, and this is what most of them have done, even if some of them do not express this content or message.

On the other hand, NGOs represent a global phenomenon in the sense that they are present everywhere and are not limited to one place. However, there is a relationship between the degree of tyranny of the authority and the qualitative and quantitative decline of NGOs. The authoritarian state prohibits the existence of NGOs or allows only those loyal to them. Whereas the democratic authorities, they base their democratic legitimacy on multiple factors, the most important of which is the presence of non-governmental organizations, as an expression of the will of citizens.

"The right of citizens to form civil associations is a branch of freedom of assembly, and that this right must result in a free and voluntary behavior in which the administrative body does not interfere, but rather is independent of it. This freedom then evolve into a primary rule given a constitutional value by many states, including Egypt, to ensure that everyone concerned has the right to join the association that he deems best able to express his interests and goals, and to select one or more of these associations - if there are several - to be a member of it, and this right is only an integral part of his personal freedom."

The obligation of the legislative and executive authority to protect public rights and freedoms:

"Since the Constitution was keen to impose restrictions on the legislative and executive authorities as it saw fit to safeguard public rights and liberties — particularly the freedom of assembly - so that neither of them would invade the area protected by right or freedom, or interfere with it, in a way that prevents its effective exercise. The development and evolvement of these rights and freedoms through continuous efforts seeking to establish their international concepts among civilized nations, was a basic requirement to confirm their social value, and in appreciation of their role in satisfying the vital interests associated with them. This endeavor was accompanied and reinforced by the emergence of the role of civil society and its organizations—including parties, civil associations, professional and labor unions—in the field of collective work".

"And since it is clear from all of the above that the right of citizens to form associations, and the accompanying—imperatively—of their other public rights and freedoms, are all fixed constitutional principles, exercised by the individual, harmonious with each other, overlapping with each other, supporting and consolidating each other in an integrated fabric that occupies a high place in constitutional documents".



The role of civil society: "and since civil society organizations - and according to what the judiciary of this court is doing are the mediator of the contract between the individual and the state, as it is the guarantee to elevate the personality of the individual as the basic base in building society, by spreading awareness and spreading knowledge and general culture, and then raising citizens on a culture of democracy and consensus within a framework of free and constructive dialogue, mobilizing individual and collective efforts to bring about further social and economic development together, working by all legitimate means to ensure transparency, consolidating the value of the sanctity of public money, influencing public policies, deepening the concept of social solidarity, and assisting the government through experiences and voluntary projects to better performance of public services, urging good distribution and directing resources, rationalizing public spending, and highlighting the role of role models.

With all of these, credibility is spread, and responsibility is determined in all its forms, so it does not spread or disagree, and justice and fairness are achieved, and the active forces of society harmonize, so that they unite to elevate its status and advance it to the heights of progress.

The right of association and the right to freedom of opinion and expression:

"And since the right of assembly— whether it is an original right or assuming that freedom of expression includes it as a guarantor of its most important channels, through which it achieves its goals—is most connected to the freedom to present and circulate opinions whenever people who support a particular position or trend form an association that contains them, through which they employ their expertise and put forward, they present their hopes and their difficulties, and they discuss through dialogue what troubles them, so that this organized gathering becomes a window from which they view what is going on in their souls, and a vivid image of a form of collective thinking, and the right to establish associations— whether its purpose is economic, cultural, social or otherwise It is nothing more than an optional act, aimed by peaceful means to create a framework in which they express their attitudes and orientations.

Hence, the right of assembly interferes with freedom of expression, constituting one of the elements of personal freedom that may not be restricted without following the objective and procedural means required by the constitution or guaranteed by law, as necessary, even if there is no provision for it in the constitution, guaranteeing the rights that he enumerated its guarantees, realizing Its effectiveness, prior to the existence of constitutions themselves, is linked to civilization in the various stages of its development, is latent in the human soul, which its instinct calls for, and it is above all a right that should not be marginalized or aborted. Rather, the freedom of expression itself loses its value if the legislator denies the right of those who take refuge in it in the organized assembly, thus blocking the exchange of opinions in a wider circle, which prevents their interaction and correcting each other, and disrupts the flow of opinions related to decision-making, and impedes the flow of tributaries of the formation of the human personality that can only be evolved through a form of assembly. Likewise, the demolition of freedom of assembly undermines the foundations without which a system of government that is based on the popular will cannot be established. Hence, it has become necessary - and based on what the judiciary of this court has established - to refrain from restricting freedom of assembly except in accordance with the law, and within the limits that democratic systems tolerate. It is satisfied by the values that call for it, and it is not permissible - therefore - for the legislative authority to impose restrictions on the freedom of assembly in order to organize it, unless the danger of the interests that directed it to determine it imposes on it, and it also has a support of its weight and necessity, and its intervention - through these restrictions - is as much as tjhe severity and extent of these interests



The status of the right and its violations in Syrian Government controlled area



Syria's obligations under international law and Law No. 93 of 1958 regulating the work of associations in Syria and the reality of the right to freedom of association under it

4.1. Syria's obligations under international law

Both the right to freedom of association and the ensuing rights to freedom of expression and assembly are all existing and well-established rights in international law. Syria is bound by several international treaties to preserve these rights, including the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic and Cultural Rights. Syria ratified the International Covenant on Civil and Political Rights on March 23, 1976, and the International Covenant on Social, Economic and Cultural Rights on January 3, 1976. ¹

The Special Rapporteur on the situation of human rights defenders defines freedom of association as "the right to form associations with others to achieve a common interest. The European Commission for Human Rights defined the right to form associations as "the freedom of association is a general ability available to citizens to enter without undue interference from the state in associations in order to achieve various goals".

The European Court of Human Rights clarified in its jurisprudence that Article 11 is not intended to protect a mere gathering of people who wish to accompany each other, and for a gathering to have an association, it requires a kind of organizational structure, even if it is an informal one .

Freedom of association is located in areas that intersect between civil and political rights. Considering that freedom is a civil right, it grants protection from arbitrary interference by the state or its agents when an individual desires for any reason and for any purpose whatsoever to form an association with others or has already done so. Considering that freedom as a political right, it is an indispensable element for the establishment and proper functioning of democracy, because political interests can only be effectively defended in a collective framework with others.

Article 22 of the International Covenant on Civil and Political Rights provides an explicit list of the possible goals that the association may seek to achieve, and it is assumed that the preventive scope of this article is broad. Religious associations, political parties, business partnerships, and trade unions enjoy the protection of this article, such as cultural organizations or human rights organizations and other assemblies that aim to achieve common goals.

¹ Quoted from Human Rights Watch https://bit.ly/3oWSxnW Research conducted in Syria from November 10 to 18, 2006, by two researchers in the Middle East and North Africa division of Human Rights Watch.

² Report of the Special Rapporteur on the situation of human rights - paragraph 19 - A/64/

³ Previous reference

⁴ Previous reference



The Amman Declaration⁵ on Principles and Criteria for Freedom of Association in the Arab Countries, in the principle of freedom of association and the limits of its regulation, affirms the following criteria:

- 1. Every natural or legal person has the right to participate in the establishment, management, affiliation and withdrawal of associations freely, in order to achieve a goal or objectives that do not aim at profit sharing. The association, in turn, has the right to benefit from an independent legal personality enjoying rights and freedoms.
- 2.No restrictions may be placed on the exercise of this right other than those prescribed by law and required by a democratic society. These restrictions may only be interpreted in a narrow and exclusive way, and in the event of ambiguity, the principle of freedom shall be applied.
- 3. The state, with the participation of civil society, should work to establish an organizational framework that encourages the exercise of freedom of association and the strengthening of an independent, active and democratic civil society. The public administration must deal with associations equally and without any discrimination.

Treaties such as the International Covenant on Civil and Political Rights, which Syria ratified on March 23, 1976, and the International Covenant on Social, Economic and Cultural Rights on January 3, 1976, affirm Syria's obligations towards the right to freedom of association and the exercise of its activities without undue interference.

The various UN bodies responsible for monitoring Syria's compliance with its treaty obligations have repeatedly indicated the government's need to ease restrictions on civil society. In July 2005, the UN Human Rights Committee said of its examination of Syria's implementation of the International Covenant on Civil and Political Rights:

"he Committee was concerned at the obstacles imposed on the registration and free operation of non-governmental human rights organizations in the State party and the intimidation, harassment and arrest of human rights defenders. It also continued to be deeply concerned about the continuing detention of several human rights defenders and the refusal to register certain human rights organizations.

The State party should immediately release all persons detained for being human rights activists and end all harassment and threats against human rights defenders. The State party should also take rapid steps to amend all legislation restricting the activities of these organizations, in particular the state of emergency legislation, which must not be invoked to suppress activities aimed at promoting and protecting human rights. The State party should ensure that its law and practice allow these organizations to operate freely."

- 5 Declaration of Principles and Standards on Freedom of Association in the Arab Countries: These principles and standards, known for short as the "Amman Declaration", are the result of the work of a group of legal experts and activists from nine Arab countries during a workshop on "The Legal Framework for the Right to Assembly in the Arab World" (1999). We present below this declaration as one of the first steps aimed at collecting and evaluating the different principles and laws as well as the practices that affect the freedom of associations in the Arab countries.
- 6 United Nations Human Rights Committee, consideration of reports submitted by States parties pursuant to Article 40 of the Covenant. Concluding Observations of the Human Rights Committee: Syrian Arab Republic, CCPR/CO/84/SYR August 9, 2005, http://www.ohchr.org/english/bodies/hrc/hrcs84.htm (accessed August 10, 2007), para. 12.



Does the international law impose restrictions on the right to freedom of association:

The Syrian government has always imposed restrictions on the work of civil society organizations, claiming that they exercise legal rights and powers, which is completely contrary to the rules established in Article 22 of the International Covenant on Civil and Political Rights.

The Special Rapporteur on the situation of human rights defenders notes, The right to form associations is not an absolute right, but rather is subject to restrictions like other provisions of the Covenant and regional human rights instruments. Paragraph 2 of the article provides details of the conditions for these restrictions in order for them to be permissible. For the right to properly form associations, all of the following conditions must be met:

- a)It must be prescribed by law
- b) May be imposed only for the purposes set out in paragraph 2
- c) It shall be necessary in a democratic society to achieve these objectives
- d) Such restrictions may be imposed in the interests of national security, public safety, public order, to protect public health or morals, or to protect the freedoms and freedoms of others.

These reasons should be interpreted in a narrow sense, or else they will prevent the enjoyment of the right itself.

The African Commission on Human and Peoples' Rights affirms that "the relevant authorities may not override the constitutional provisions or undermine the rights guaranteed by the constitution and international standards. The relevant authorities, in order to regulate their use of this right, may not enact provisions restricting the exercise of this freedom". The European Court of Human Rights affirms "States not only have to refrain from limiting or impeding the exercise of this right, but also have positive obligations such as preventing attacks on it, protecting those who exercise it, and investigating violations."

"States have a duty to provide the means necessary to enable human rights defenders to carry out their activities and protect them if they are threatened, to avoid attacks on their life or safety, to refrain from placing obstacles in their way that would make their work more difficult, and to investigate seriously and efficiently any violations committed against them and thus combat impunity".

"Everyone has the right to form and freely participate in non-governmental organizations, associations and groups for the purpose of monitoring, condemnation/reporting and the promotion of human rights. Given the important role played by human rights defenders in democratic societies, the free and full exercise of this right places a duty on states. Creating actual conditions that enable them to carry out their activities freely".

- 8 Previous reference, paragraph 43
- 7 266/64/A-paragraph 26



4.2. Law 93 of 1958 regulating the right to freedom of association and the exercise of its activities in Syria and the executive regulations issued by Presidential Decree No. 1330/ of 1958

The amended Syrian constitution in 2012 referred to the provision of the right to form organizations in Article No. 10, and stated: "popular organizations, professional unions, and associations are bodies that bring together citizens in order to develop society and achieve the interests of their members. The state guarantees its independence, its exercise of popular oversight, and participation in various sectors and specific councils specified in the laws, in the areas that achieve their goals, and in accordance with the terms and conditions specified by the law". As well as Article No. 45, which stipulates the right to form associations: "The freedom to form associations and unions, on a national basis and for legitimate aims and by peaceful means, is guaranteed in accordance with the terms and conditions specified by law".

However, despite the passage of nearly 63 years since the issuance of the law referred to in that article, No. 93 of 1958 in the name of the Law of Private Associations and Institutions, in addition to its amendments, such as Presidential Decree No. 1330 of the same year, it is still in force until today, despite Syria's ratification of the two covenants, The international standards on civil, political, social and cultural rights, which are considered the most prominent international standards for the protection and promotion of the right to freedom of association, the above mentioned law has not undergone changes in its substance, but has been followed by a few decisions that increased violations of international standards of the right to freedom of association.

We will discuss articles of the law and its amendments, respectively, according to the following determinants and the reality of its implementation through testimonies and meetings with civil society organizations:



4.2.1. Registration and Publicity:

Legal reference:

Law No. 93 in Part One - Associations in General, Chapter One - General provisions in its articles (1 to Article 10) refer to the definition of an association, the conditions for its establishment, the mechanism for its registration with the relevant department, the time periods required to prove its legal personality and its registration, and the financial fees required for the registration process. (Article 8 was amended by Legislative Decree No. /224 dated 9/21/1969) related to announcement and registration fees.

As for the naming, the law does not mention at all the naming of civil society organizations, and according to the terminology used by the official authorities, they are referred to as "association" and "community institutions".

Article 1 of the law defines:

In implementing this law, an association is every group that has a continuous organization for a specified or unspecified period consisting of natural or legal persons for a purpose other than obtaining a material profit.

Testimony:

One of the associations we interviewed in Lattakia, when we were asked about the mechanism for registering an "organization", told us that:

This confusion shows the extent of distortion imposed by the Syrian government in the reality of the work and designation of civil society organizations!?

"I have no idea about licensing organizations.... If the intention is an association, then there is the security approval first then, after completing the required documents, an application for declaring the association is submitted to the Directorate of Social Affairs and Labor".

Perhaps this is the only time that associations have been named in a statement by Bashar al-Assad, the Syrian president, in an interview with Al-Sharq al-Awsat newspaper in 2001. He called them civil society organizations. In response to a question about his views of "civil society" in Syria, he said:

"The main thing is that these institutions are not a substitute for state institutions, as some suggest, and they should not precede them in construction....On the contrary, they are subsequent to them and supportive, and they are based on them and not built on their ruins. It is not possible to talk about sound and complete civil society institutions without emphasizing the completion of building of state institutions.... Since we have raised the need to carry out the process of reforming institutions and strengthening institutional thought, the development of civil society institutions must come at a later stage, and therefore it is not a priority for us"?

⁹ Interview with Syrian President Bashar al-Assad, Asharq Al-Awsat, February 8, 2001, at: http://www.al-bab.com/arab/countries/syria/bashar0102b.htm



Although the law defines the Ministry of Social Affairs and Labor as the only official body to grant approval for declaration and registration, the reality is completely different, according to an organization about registration and declaration, and that the security authorities and their agencies are the real decider:

Testimony:

Certainly, the security authorities study the goals and request their amendment, and they conduct a security study for the members of the board of directors. If there is a security problem for one of them, the request is rejected. As for the recruitment process, local associations are not pressured, but international associations are pressured, in addition to the United Nations offices that are engulfed by corruption.



Legal commentary according to the criteria of right

Civil society is defined as: a wide list of entities such as non-governmental and non-profit organizations, civil and charitable associations, non-profit support networks, social movements and clubs, unions, forums and associations, political parties and others, while NGOs are defined as: a sector of non-profit civil society organizations that is independent from both the government and the business sector, and its tasks are focused on promoting the public interest and serving the public interest, rather than making profit, such as human rights, educational, relief and humanitarian organizations. It is one of the gateways for participation in public affairs through civil activism in its various aspects, and in itself is also a means for exercising a wide range of human rights activities. 10

Article 20 of the Universal Declaration of Human Rights states:

- 1) Everyone has the right to freedom of peaceful assembly and meetings
- 2) No one may be compelled to belong to an association.

Article 22 of the International Covenant on Civil and Political Rights states:

- 1) Everyone has the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
- 2) No restrictions may be placed on the exercise of this right other than those which are provided by law and which are necessary in a democratic society in the interests of national security, public safety, public order, the protection of public health or morals, or the protection of the rights of others and their freedoms.

¹⁰ Report of the Special Rapporteur on the right to freedom of peaceful assembly and the right to freedom of association, Maina Kiai, United Nations, General Assembly, Human Rights Council, Session 20, May 21, 2012, p. 6, available at: https://cutt.us/JFgHn



• The reality of the registration and declaration process:

Article 7 of the law indicated that: the legal personality of the association is not established unless its system is declared in accordance with the provisions of this law.

In general, the organizations that we interviewed agreed that the registration procedures are difficult and complicated and unanimously agreed that the process is not financially expensive, but it takes a long period of time, in violation of Article 10 of Law 93, which set it at 60 days. Although the law grants the Ministry of Social Affairs and Labor the right to issue declaration and licensing, the process is completed through the security services of the Syrian government, where it has the upper hand to direct the ministry to approve or not. The matter does not stop here, but the disapproval of a goal or a member of this association deprives it of its right to declare and to prove its legal personality

Testimony:

About the registration of their organization, a member of the board of directors of an NGO in the capital, Damascus, reported during his interview with our team:

The difficulties begin with licensing and its mechanism, where an application is submitted to the Ministry of Social Affairs that includes the objectives, vision and nature of work. The application is modified by the Ministry at the level of goals to approve the receipt of the application. In the next stage, you need to submit 4 copies of each file with phots of the IDs of the founders (such as board of directors) because the ministry must submit the application to the following security branches: Political Security, State Security, Military Security to obtain security approval

An organization operating in Syria since 2012 said that:

Testimony:

The reality of the situation prevents civil work organizations from working inside Syria, and therefore it is not easy to obtain a license for these organizations. The Center (the organization's name has been deleted for the sake of the safety of its members) has been working in Syria since 2012 and has not been able to obtain a license yet, even though most of its members are Lawyers





Legal commentary according to the criteria of right

According to international standards for the state's duty to create the appropriate framework for exercising the right to freedom of association and for acquiring legal personality: Administrative procedures must be easy to exercise this right, so that they are quick, inexpensive and with the least possible amount of formalities, and the discretionary authority of the administrative body should not be with broad authority of approval or rejection, by specifying its authority precisely in the texts of the law" ¹¹

The Amman Declaration^{1,2} regarding the establishment of associations, stipulates the following principles:

- 1) The basic legal principle on which freedom of association is based is the right to establish without the need for prior authorization or permission. Associations are established as soon as the will of their founders agrees, and they may be announced by mere notification/prior notification, and the incorporation cannot be subject to any prior interference from the administrative authority or the judicial authority.
- 2) The objectives of associations, their systems, the personality of their founders, their affiliations, or their number, whatever their fields of work or approach must not be a reason for imposing any restrictions or obstacles on its establishment.
- 3) Administrative incorporation procedures, even though the notification/notification system, must not constitute obstacles and obstacles to the establishment of associations. These procedures should be fast, clear, simple, free of cost, and not be subject to the discretion of management.
- 4) Associations enjoy legal personality independent of their members immediately upon notification of their establishment, with all rights related to this legal personality such as: independent financial disclosure and the right to litigation in everything related to their interests or achieving their goals, and to own movable and immovable funds and accept gifts and donations and aid.

¹¹ Space for Civil Society and the United Nations Human Rights System, A Practical Guide for Civil Society, United Nations Office of the High Commissioner for Human Rights, October 2014, p. 8, available from the following link: https://cutt.us/RyiUv

¹² Previous reference - footnote 9



Reality of the time period required for registration:

Article 10 of Law No. 93 states that:

The relevant administrative authority shall carry out the declaration within sixty days from the date of its request. If the declaration was not carried out withing 60 days, the declaration becomes legal under the law. The aforementioned authority, upon the request of the concerned parties, shall make registration in the Register and publish in the Official Gazette.

Testimony:

Regarding the true reality of registration, an organization registered according to law in Damascus told us the following:

The process is very long, as it takes 6 months to a year, according to one of the authorities that carried out the licensing process a short time ago

According to an interview with an organization operating in As-Suwayda Governorate, the time does not differ from the time taken for the registration process in Damascus, where organization said

Testimony:

After obtaining the initial approval from the Ministry of Social Affairs and Labor, a request is sent to the Ministry of the Interior (Political Security Division) with the aim of obtaining security approval, and the procedure for declaration takes a minimum of 6 months

In Tartous, a registered organization we interviewed said about the duration of the security study to which the association applying for registration is subject:

Testimony:

A deep security study is conducted for all founders and all their social connections, etc. The approximate duration is (60-90 days)

Note: This period is for security studies and not for registration.

Sometimes the period lasts for two years, according to an organization registered in the Rif Dimashq:

Testimony:

The processing time for the application ranges from one to two years. We have been licensed as a community center that is concerned with helping children and adolescents who have been abandoned and who have been cut off to return to education, and to provide food and relief baskets to displaced families



 Fees and financial costs for registration and announcement in light of government corruption:

Article 8 of Law 93 of 1958 specified the advertising fee at (50) Syrian pounds, and the fee is not refundable in any way, and the amendments that must be made to the regulations are excluded from the announcement at the request of the competent administrative authority or based on a legal text issued after announcement of these regulations (This article has been amended by Legislative Decree No. / 224 / dated 9/21/1969).

Syria is considered one of the most corrupt countries in the world. In the annual report for the year 2020 issued by Transparency International, which monitors cases of transparency and corruption, in 180 countries around the world, Syria maintained its last rank in the list of the global corruption index. Corruption is considered one of the main reasons for which the popular uprisings broke out in 2011.

The Syrians are forced to bypass the obstacles set by the administrative agencies, especially the security ones, to pay bribes to implement what is legal. An organization we interviewed told us that they had to take this route, which is against their organization's registration. He said:

Testimony:

It is not easy to obtain security approval from the Political Security Division without paying a bribe to the parties and associations department (either gold or foreign currency) because they view the association's work as generating profits and a front for corruption and sustenance, so they are not ashamed to publicly declare the price of licensing. This in addition to simple bribes payment that is paid at each office door of the governorate, the Directorate of Affairs, or the Ministry

According to the nature of the work of the association or civil society organization, the costs and bribes that are paid vary based on the negative perception of this sector and in conjunction with the deterioration of the economic situation in the country, where civil work organizations are an important field to provide job opportunities for citizens. An organization told us:

Testimony:

"Costs vary depending on the type of license"

All the organizations we interviewed in general agreed that the costs are high and exorbitant, due to the reasons we explained. One of the organizations said:

Testimony

The registration process is difficult and is financially costly because the process requires bribes to facilitate things. In our case, we had to pay bribes to security authorities to speed up the licensing process



In another interview, a registered organization confirmed to us:

Testimony:

Political Security, Department of Organizations and Parties permanently monitors associations, where, according to observations, the license will lead to a follow-up provision from Political Security, which always makes financial bargains with associations to obtain bribes to overlook some issues related to the association

In the event that the association refuses to be involved in corruption, it cannot register. In this regard, a human rights organization that has been operating in Syria since 2012 without registration, given the impossibility of registration under this law and the rampant corruption in the Syrian government, said

Testimony:

The process is complex, difficult, and costly financially and morally—if it is even possible



Legal comment according to the criteria of right

- 1) Associations have the right to develop their financial resources, including members' fees and donations, accepting gifts, grants and aid from any natural or legal person, local or foreign, and carrying out activities that will generate income for them and generate profit for them to be used in their activities, provided that these are not distributed earnings for members.
- 2) The state must guarantee in its laws exemptions for associations from taxes and fees and encourage donors and funders by deducting the value of what they donate from their tax base at an acceptable rate. These benefits and tax exemptions should not be turned into means of interference in the affairs of associations.



4.2.2. Founders and Board Members:

Legal reference:

The second chapter of Law No. 93 of 1958 defines what is the Board of Directors in its articles 26, 27, 28, 29 and 30, and Legislative Decree No. 224/ dated 9/21/1969 was issued, which decided to amend Article 26 of Law 93 and accordingly the Minister of Social Affairs and Labor issued Resolution No. 1206/:

Article 1: The minimum number of members of the association's board of directors is set at five and the maximum at eleven.

Article 2: The maximum period during which a member of the association's board of directors may renew his membership is set at four years.

Resolution No. / 478 / dated 5-24-1973 was issued by the Minister of Social Affairs and Labor in which he amended Resolution No. / 1206 / dated 12-23-1969 as follows:

"A member of the board of directors of the association and the association union may renew his membership for a period not exceeding six consecutive years, and he/sh has the right to re-nominate himself for membership in the board of directors after a full term of not less than one year has been passed".

• The practical reality of unjustified interference in the selection of founders and members of the board of directors:

Regarding the interference of government agencies in imposing and selecting the members of the board of directors or the founders, the approval of the security branches is what depends on the registration of the association. We have one of the organizations:

Testimony:

The Ministry sends the names of the members to the political security unit for the security study, and after that the approval comes from the political security on the names, and the Ministry approves the license, and we have obtained a license for this mechanism as a charitable association

Another organization said about the same context:

Testimony:

No one interferes in the establishment of an association as long as it obtains security approval for all members of its board of directors



The application for registration of an association is subject to a critical security investigation process for approval or disapproval. Although the law defines the Ministry of Social Affairs and Labor and its sub-directors as the entity concerned with registration, four copies of registration application documents accompanied by copies of the ID cards of the founders and members of the board of directors are transferred from the Ministry to the government security agencies to obtain security approval, which contains two tracks, the first is a security study on the founders and members of the board of directors, and the second is related to the security study of the goals and plans. About the first track, an organization we interviewed told us:

Testimony:

The course of the security study for the founding members, and in the event that one of them did not obtain the security approval, the application is rejected

And about our question about the interference of the dominant forces in the region in the process of establishing an association or organization, refusing the presence of members on the board of directors, or interfering with the recruitment of male and female activists in the organization?

The testimonies showed continued interference from the Arab Socialist Ba'ath Party as the ruling party despite the abolition of Article 8 of the Syrian constitution regarding the party's leadership of the state and society in the constitutional amendments that were carried out in 2012. An organization that operates as an informal group (unregistered) told us

Testimony:

Of course, the security and partisan authorities prevent the granting of a license without a representative in the organization, and this poses a great danger to the work and members of the organization together. This imposition is a kind of limitation of the permitted activities and areas of work



Legal comment according to the criteria of right

- 1) The association is managed by its bodies stipulated in its own bylaws. The Public Administration has no right to interfere in or influence the process of running its meetings, elections, or activities.
- 2) The principle of freedom of association includes the freedom to join and withdraw, and the association has the right to set membership conditions.
- 3) ensure transparency, openness and credibility, associations must keep accounting books and records and appoint an auditor when necessary, and the associations' regulations include provisions that prevent conflict of interests between the association and its members.



4.2.3. Practicing Activities and Events:

Article 1 of the law defines that: An association is considered, in the application of this law, every group with a continuous organization for a specified or indefinite period consisting of natural or legal persons for a purpose other than obtaining a material profit.

This specifies that the association can practice all activities as long as it does not obtain a financial profit. To further define the nature of the activities, the law classified associations into:

Classification and naming of civil society organizations according to Law No. 93 of 1958:

In the second part of the law: Article 41 considers an association of public benefit, every association intended to achieve a public interest (a decision is issued by the President of the Republic as such), and it is also permissible by a decision of the President of the Republic to withdraw the status of public benefit from the association.

In the third chapter of the law and in special provisions for some associations, Article 52 stipulates:

A charitable association is any association formed to achieve one or more charitable or social welfare purposes. Its benefit is restricted to its members or is not limited to them. If a non-charitable association pursues a charitable or welfare goal through internal bodies within it, these bodies are subject to the provisions of charitable associations. It is not permissible to combine membership of the board of directors with paid work for the association

Article 54 stipulates that:

A cultural association is any association with the purpose of advancing sciences, arts, or literature.

Regarding the practice of activity, Article 10 of Law No. 93 of 1958 indicated that:

The relevant administrative authority shall carry out the declaration within sixty days from the date of its request. The aforementioned authority, upon the request of the concerned parties, shall make registration in the Register and publish in the Official Gazette.

However, Chapter Four of the Law specifies activities prohibited to associations registered in Paragraphs 3 and 4 of Article 36, Paragraph A:

- 1) The association's practice of sectarian, racist or political activity that harms the integrity of the state.
- 2) The association's practice of an activity that affects morals and public morals.

And in Article 37 of Chapter Four, the following is stated: Members of the dissolved association are prohibited, and those in charge of its management and employees are prohibited from continuing its activity, and it is prohibited for any person who is aware of the dissolution to participate in the continuation of its establishment.

Article 71 - shall be punished by imprisonment for a period not exceeding six months and a fine not exceeding one thousand Syrian pounds, or by one of these two penalties:

- 1) Whoever edits or keeps a document or record that is required by law to submit or keep it that includes false information with his knowledge of this, and whoever deliberately gives a statement of what has been mentioned to a non-relevant party or deliberately conceals a statement that the law is required to prove
- 2) Anyone who engages in the activity of the association or institution prior to its declaration in accordance with the provisions of this law.



The reality of the nature of the activities carried out by associations

The law sought to specify the nature of the activities carried out by the associations that are registered and licensed as we mentioned above, and this corresponds to the testimonies of the organizations we interviewed and asked about the nature of the activities prohibited by the authority. The organizations told us that activities related to formulating policies and influencing decision-making through the promotion of democracy, human rights and accountability of authority and pressure on the authorities to achieve the interests of the groups targeted by these organizations is prohibited and their practitioners are punished, one of the organizations

Testimony:

The areas of work of civil society organizations in the region that the

- a) Citizenship
- b) Transitional justice
- c) Constitution
- d) Constitutional Committee
- e) Coordination and activities across the lines of conflict
- f) Human rights and international law
- g) Direct legal support for women¹³ (because of trust's monopoly on it)
- h) The national identity

Non-governmental organizations affiliated with the Syrian government control the course of civil action:

Both the Syrian Trust for Development and the Syrian Arab Red Crescent mainly control the civil work process in the Syrian government's control area. The Trust defined itself as a non-profit, non-governmental organization that works to empower communities and individuals, in addition to involving them in development work so that they can perform their role in building society. It is a merger that took place in 2007 for a group of organizations founded by the wife of the Syrian President.

An organization in As-Suwayda told us that the prohibited activities are:

Testimony:

Relief and legal, as these areas are monopolized by the Syrian Trust for Development and the Red Crescent

The situation is not different in the rest of the regions. An organization we interviewed in Tartous told us that the activities prohibited by the authority

Testimony:

legal aid and activities related to human rights

¹³ It is the Syrian Trust for Development Organization, and the "Amanah" defined itself as a non-profit and non-governmental organization that works to empower communities and individuals, in addition to involving them in development work so that they can play their role in building society. It is a merger that took place in 2007 for a group of organizations founded by the wife of the Syrian President. https://www.enabbaladi.net/archives/534222#ixzz7Hwxoy71F



· Unjustified interference in the activities of associations and their prevention:

Regarding the authorities' oversight and unjustified interference in the work of associations, an organization registered in the Rif Dimashq told us that the authority:

Testimony:

It interferes in all areas of work and prevents everything related to legal awareness, directly or indirectly

Apparently, the law criminalizes the practice of activities that are not covered by the limitations contained therein. Regarding the nature of the activities practiced by registered associations, an organization registered in the Rif Dimashq told us:

Testimony:

Most of the civil and societal work that takes place within southern Syria takes place according to several detours and certain balances, but it does not prevent the imminent danger from the agencies. In Jaramana, there are several security and governmental bodies whose control sectors overlap (whether on neighborhoods or areas of intervention), which has created something like Customs and classic paths we follow in order to achieve our interventions and protect the beneficiaries

Testimony:

The Ba'ath Party plays a security blackmail role, as it has committees during the morning hours that carry out the normal business of individuals with their involvement within the community. Through these activities, they monitor the environment and any activity that you suspect. You can write a report on the individuals who conduct this activity. Either someone from the branch contacts them. Or this report will be transferred to the security branches

In our question, does the ruling authority in the region allow organizations to carry out their work without interference and freely? An organization we interviewed in Tartous responded

Testimony:

"Costs vary depending on the type of license"



Legal comment according to the criteria of right

Freedom of association does not mean the absence of accountability and oversight. Societies must be responsible towards every stakeholder and within the limits of that interest that justifies oversight, from the following bodies:



- a) Members of the association in all its affairs
- b) Public opinion and society in the event of a legitimate public interest related to the activity of the association, for example (the requirement of financial transparency if the association requests funding through a public endowment). c) Ordinary/natural judiciary.
- d) Public administration (financial control only) within the limits of the benefits and special tax systems that the association benefits from.

4.2.4. Dissolution of the association and penalties

· Legal reference:

Chapter IV of Law No. 96 of 1958 singled out the chapter on dissolving associations in Articles 36, 37, 38, 39 and 40, and the task of the decision was entrusted to the Ministry of Social Affairs and Labor in Article 36/a - a reasoned decision by the Minister of Social Affairs and Labor may dissolve the association. It is defined in the following cases:

- 1) The association deviates from its objectives set out in its bylaws.
- 2) If its board of directors has not met within six months, or if its general assembly has not met within two consecutive years.
- 3) The association's practice of sectarian, racist or political activity that harms the integrity of the state.
- 4) The association's practice of an activity that affects morals and public morals.
- 5) If the association repeats the violations despite being warned by the ministry.
- 6) The association's inability to achieve its objectives, fulfill its commitments, or allocate its funds for purposes other than those for which it was established.
- 7) If the Ministry considers that the services of the association are not needed.

The law is exploited for qualitative purposes by powerful government agencies, often for retaliatory purposes, without the presence of justice and trial, through a final decision of the Ministry of Social Affairs and Labor. The founder of an organization that was registered in Tartous told us that:

Testimony:

The association in which I work at the moment was licensed almost at the beginning of the war, and its board of directors was dissolved twice by the ministry (due to financial corruption, they said). It is worth noting that similar decisions, such as dissolving, dismissal, or suspending, are not justified, rather such information is spread as rumors

• It was detailed in the third book of Law 93, illogical and completely inconsistent punishments with the standards of the right to form associations that Syria has ratified in various international conventions and treaties. The punishment is imprisonment and a financial fine for members of associations according to Article 71 of Law 93 which states that:

Shall be punished by imprisonment for a period not exceeding three months and a fine not exceeding one thousand Syrian pounds, or by one of these two penalties





Legal comment according to the criteria of right

- 1) Individuals should be allowed to form groups to engage in legal activities without having to register as legal entities, in accordance with the provisions of Article 22 of the International Covenant on Civil and Political Rights and Article 5 of the Declaration on Human Rights Defenders, if they so wish.
- 2) The state should not criminalize or impose criminal penalties for activities related to the defense of human rights and for participation in unregistered entities.
- 3) Sanctions imposed for failure to submit reports, or to comply with other provisions of the law governing civil society organizations, should provide for an adequate warning period and an opportunity to correct such administrative violations. States should not criminalize non-compliance with the law governing civil society organizations



The second axis:





1- Refusal to register and prevent work:

On August 25, 2021, the team of researchers in our institution met the director of one of the organizations operating in the city of Homs, central Syria, which is under the control of the Syrian government. He was accused of receiving foreign funding and carrying out foreign agendas. The activist says 1-1/3 Homs (according to the coding shown in the methodology for the sake of the activists' safety)

Testimony:

The Political Security branch contacted me by phone to inform me of the necessity of coming to the branch. Questions were directed to me, which consisted of inquiring about my civil activities with one of the organizations that operate inside the country. Foreign agendas and receiving money from abroad, and this in turn contributes to supporting my team and continuing its work, and therefore my team's activity must be stopped and I was asked to sign a pledge not to practice the activity again without approvals and licenses

On the reasons for banning work and refusing to register, he told us that they had been accused of engaging in activities hostile to the Syrian government and violating public order!? The activist said,

Testimony:

The members of the association have been accused of engaging in activities hostile to the regime or violating public order

They were officially notified by the Social Affairs and Labor Authority not to engage in any activities and not to attempt to obtain a registration for their association?!

Testimony:

We were contacted and informed of the futility of applying for licenses

This was confirmed by the witness 2-1/3 Homs in his sworn testimony, where he said:

Testimony:

He (1-1/3 Homs) told me about the pressures exerted on him by the Political Security branch in Homs, due to his various activities in Homs, and that the Political Security branch summoned him to the branch because he traveled outside the country to attend training workshops, and they informed him of the need to stop the activity without obtaining a license, and a few days later, an employee from the Directorate of Affairs contacted him and asked him not to engage in activities because he did not obtain a license



This case was similar to the case we met in Tartous on June 8, 2021, in which the officially registered association was subjected to pressure from the Political Security branch in Tartous, which summoned the Board of Directors for investigation on charges of receiving external funding, and to increase the pressure, the Political Security informed the Directorate of Social Affairs and Labor to ask the association to hold new elections for the Board of Directors and suspension of activities and work until the change of the Board of Directors. In the event that elections are not held, the association's work must be suspended.

Testimony:

"In 2019, around the fourth month, an employee from the Societies Office in Social Affairs and Labor in Tartous contacted me and asked me to come to her office, and when I did she told me it was necessary to stop my activity and to inform the work team of this, and that the current board of directors should submit its resignation, to conduct urgent elections and to prevent the current board of directors from doing its work

The Syrian government confirms that it does not oppose civil and peaceful activities throughout its rule in Syria and during all the years of the Syrian conflict, the Syrian government has not retreated from its insistence that it is the protector of Syria's secularism and that it is fighting terrorism, extremism and the Islamization of the state. However, the reality of the whole situation is completely different from this. In another case, we interviewed an association in Tartus which applied for registration in May 2018, but it request was rejected by a decision of the Minister of Social Affairs and Labor, Rima Al-Qadri, after waiting for 3 months, after which pressure continued from the security authorities of the Syrian government, specifically the State Security Branch, which summoned the representatives of the association. The activist (1-2/4 Tartous)) in his interview on June 6, 2021 said

Testimony:

In 2018, the Directorate of Social Affairs and Labor informed us of the refusal to register our association, due to a decision by the Minister of Social Affairs and Labor, Rima al-Qadri. About a month later, we were summoned to the State Security Branch in Tartous to interrogate us about the background of our desire to register this association.

in 2018, the branch of the Arab Socialist Baath Party branch and the local council of the town raided Civic forum set up by an unregistered organization and threatened the participants and those in charge of it to end it and stop its implementation

The representative of the organization says as a victim of violation

Testimony:

In 2018, while we were organizing the Civic Forum, the Secretary of the Baath Party Division contacted me and threatened me to stop the activity if he did not participate and did not make a speech to the audience. He threatened to inform the security authorities of that



This was confirmed by the activist we interviewed her that:

Testimony:

In 2018 and while we were attending a training organized by an CSO, the Secretary of the Baath Party Division came suddenly and without prior notification to us as participants, accompanied by the head of the local council and a number of other members of the council

2- Security Control and Threat:

Security oversight of civil society activities is a prominent feature of authoritarian governments, and the security services are the whip with which these governments whip their people, especially civil society organizations. It is carried out by associations and organizations in the area controlled by the Syrian government, the representative of the organization says following his testimony that after the party's branch secretary threatened him as one of the forum's supervisors that he would inform the security authorities:

Testimony:

"Indeed, the Political Security detachment in the region contacted me and began to inquire about the activity

The security forces were not satisfied with summoning and investigations in their governmental centers but went beyond that as one agent of the State Security, a notorious security branch of the Syrian government, stormed a women's workshop set up by a women's association in the city of Homs. The activist (1-2/3 Homs) 35 years old, one of the participants, reported in the workshop held in 2019, attended by Syrian women of different affiliations in the city, on the role of women in building peace, as:

Testimony:

The association (the name of the association was withheld by the report's authors) invited me to participate in a workshop on the role of women in building peace, with the participation of women of diverse backgrounds. We were in the session, a man entered, and the director of the association went to talk to him, and then he sat alone in the corner of the meeting without any other men present and started writing what was happening within the session, forcing the facilitator to stop the workshop due to the lack of comfort in the meeting and the tension of the participants



Witness (2-2/3 Homs), a 28-year-old master's student, who we interviewed in Homs about this incident, confirmed the activist's testimony and repeated the same context for the event and told us:

Testimony:

My friend invited me to participate in a workshop with the Association (...) in Homs, and indeed I accepted the invitation, but after things were going well, suddenly the trainer apologized for not completing the workshop due to a personal circumstance, and it later became clear that there was a stranger in the meeting, a security element who was recording what was going on in the dialogue between the audience, forcing the instructor to stop the training

3- Arbitrary Arrest:

As we mentioned in the first axis of analyzing the Associations Law No. 93 of 1958, the security authorities of the Syrian government are the decision-makers to decide whether or not to grant licenses and registration to Syrian associations, in clear contradiction with the law itself.

The Political Security Branch constitutes the main body to follow up on this field. The work of the aforementioned branch does not stop when approvals are granted or not. Rather, it works mainly on arresting activists in an arbitrary manner and without arrest warrants, as is the general situation in Syria

In Homs, the administration of one of the civil society initiatives related to building community peace was summoned and investigated for a period of 3 hours, and she was released after pledging in writing not to engage in any activities of this kind.

Testimony:

The Political Security branch in Homs summoned me to its headquarters to ask me about the team's activities, its founding date, its members, personal information about me and the team, in addition to pressuring me to know information related to my civil activity. They told me that I would struggle to get approvals, which in turn made me move away from this activity and from thinking about work

The testimony of the 27-year-old witness (2-3/4 Homs), whom we met on the same date in Homs, confirmed that:

Testimony:

We were in a work meeting when a call came to... (the victim's name has been withheld for her safety) regarding her summons to a security branch regarding the team's activity, and after a while I learned from her that work and activity will stop due to our unwanted work



Recommendations and Conclusions





a) To the Syrian government:

While the laws regulating the establishment, registration and the work of civil society organizations should meet the minimum requirement to enhance and promote the right to freedom of association, the Syrian government must:

- 1. Establish clear, consistent, and simple criteria for the registration or incorporation of a civil society organization as a legal person.
- 2. Nongovernmental organizations (NGOs) that meet all required administrative criteria should be able to register immediately as legal entities.
- 3. We call on the Syrian government to repeal Law 93 of 1958 and to adopt a new law that aligns with the international standards for the right to freedom of association, in particular Article 22 of the International Covenant on Civil and Political Rights, which the Syrian government signed and ratified
- 4. All NGOs that were previously registered should be considered as legal and active in conducting their work and should be given a reasonable deferral period to regulate their legal status, without any unnecessary administrative complications.
- 5. It is necessary to establish a law regulating the right to information. Because the right to freedom of expression and information is the bedrock of all free and democratic societies. Without a law regulating the right to information, the right to freedom of association will be, indirectly, curtailed.



b) To the Civil Society Chamber of the Office of the Special Envoy for Syria:

- 1) The UN Envoy and Civil Society Support Room should intervene with the Syrian government to ensure that female activists and civil society activists are not subjected to arrest or travel bans because of their activities in the Syrian political solution process and Syrian peace building
- 2) Holding open meetings with representatives of the Syrian civil society to find out the reality of the harassment they are exposed to.

c) To Syrian Civil Society Organizations:

- 1) Continue with the struggle for a fair law regulating the work of Syrian civil society institutions.
- Adopt networking and establishing alliances to ensure that Syrian civil society institutions enjoy their full freedom in civil and humanitarian work.
- 3) Bridge the gap between Syrian civil society institutions and Syrian people.
- 4) Adopt advocacy mechanisms to enhance the protection and enjoyment of the right to form associations.
- 5) Adopt more dynamic and modern mechanisms to monitor violations of the right of association.
- 6) Strengthen the capacities of actors in the field of providing legal support to assist associations in establishing or reconciling the conditions of existing ones.

Fraternity Foundation for Human Rights recommends that Syrian civil society organizations operating outside the Syrian government's areas of control must stop all forms of unfortunate accusations directed against civil associations and non-governmental organizations operating in the areas under the control of the Syrian government because of their work in the areas of the Syrian government and for reasons they consider to be the legitimacy of the Syrian government or not.



6. Criteria proposed by the FFHR to promote the right of association:

- 1.Individuals should be allowed to form groups to engage in legal activities without having to register as legal entities, in accordance with the provisions of Article 22 of the International Covenant on Civil and Political Rights and Article 5 of the Declaration on Human Rights Defenders, if they so wish.
- 2. The state should not criminalize or impose criminal penalties for activities related to the defense of human rights and for participation in unregistered entities.
- 3.Laws regulating the establishment, registration and operation of civil society organizations should be in writing and should set clear, consistent and simple criteria for the registration or incorporation of a civil society organization as a legal person. NGOs that meet all the stipulated administrative criteria should be able to register immediately as legal entities
- 4. The state should ensure that existing laws and regulations are implemented in an independent and transparent manner and that they are less complex and burdensome or take a long time to avoid restricting the right to freedom of association
- 5. The state must ensure that any restrictions relating to the registration of organizations are fully compatible with Article 22 of the International Covenant on Civil and Political Rights.
- 6.In the event of a new law being adopted, all NGOs that were previously registered as continuing their work should be considered legally, and expedited procedures should be submitted to update their registration
- 7.Unless a new law is adopted, existing laws regulating the registration process for civil society organizations should not require the periodic re-registration of organizations
- 8. The registration process should be immediate, fast, accessible and inexpensive
- 9. There should be clear procedures and timetables for the government to review the submitted applications. Cumbersome, bureaucratic and time-consuming registration processes that affect effective performance should be avoided
- 10. The State should not impose costs related to the registration process that would make it difficult for NGOs to maintain their registration or make other provisions that create unsustainable burdens

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- 11. The state should guarantee the right of associations to appeal against any refusal to register. Effective and prompt grievance against any refusal of the application and independent judicial review of the decisions of the registration authority is necessary to ensure that laws regulating the registration process are not used as obstacles to the right to freedom of association.
- 12. The registration authority should not be allowed to terminate an NGO against its will unless it commits flagrant violations, and all involuntary terminations should be subject to judicial review
- 13. States should establish a single register accessible to the public for civil society organizations
- 14. Registration bodies should be independent of the government and should include representatives of civil society
- 15. Reporting obligations required of NGOs should be simple, standardized and predictable
- 16. Penalties imposed for failure to submit reports, or to comply with other provisions of the law governing civil society organizations, should provide for an adequate warning period and an opportunity to rectify such administrative infractions. States should not criminalize non-compliance with the law governing civil society organizations
- 17. The registration and supervisory bodies should have access to the books, records and activities of civil society organizations during normal working hours only, with sufficient advance notice. Audit and oversight powers should not be used arbitrarily and to harass or intimidate organizations. Police and other law enforcement agencies should not raid NGO offices and confiscate their documents and equipment unless they are in possession of a valid search warrant or a valid court order and permit the presence of a lawyer.
- 18. Extensive scrutiny by tax authorities and abuse of financial measures by the state should not be allowed
- 19. The state should not interfere in the internal management and activities of NGOs. The validity of decisions taken by the Board of Directors should not be conditional on the presence of a representative from the Government at the Board of Directors meeting
- 20. Independent human rights organizations whose objectives and activities do not conflict with the International Covenant on Civil and Political Rights should have the right to engage in activities for the benefit of their members and the public, and should be free to participate in public policy discussions, including discussions on state action policies existing, proposed or criticized. Any restrictions under these standards, including lists of prohibited and permitted activities, are incompatible with the right to freedom of association. Therefore, no distinction should be made regarding permitted activities between national and foreign organizations
- 21. The government should allow NGOs to access foreign funding, and access to foreign funding must be restricted only in the interest of transparency, and in compliance with applicable foreign exchange and customs laws. Restrictions on foreign funding can limit the independence and effectiveness of NGOs, so states should review existing laws in order to facilitate access to funding.
- 22. The state should not require prior governmental permission to apply for or receive funding from abroad
- 23. Human rights NGOs should be allowed to participate in all legally acceptable fundraising activities under the same regulations that apply to other non-profit organizations in general. Fundraising by soliciting methods may require the public to register with a government agency or independent oversight body equally for all non-profit organizations.
- 24. Foreign NGOs carrying out human rights activities should be subject to the set of rules applicable to national NGOs; Separate recording and playback requirements should be avoided
- 25. The vague definition of terrorism and extremist activities and provisions relating to defamation make it possible to apply arbitrary provisions against individuals and associations, and should be amended. The use of defamation laws and other provisions that government officials use to block critical statements and reports from human rights NGOs should be repealed.



- Rights to freedom of peaceful assembly and of association
- الحق في حرية التجمع السلمي وتكوين الجمعيات 🌘
- Mafê komcivîna aştiyane û Azadî ya avakirina komeleyan