

NGO Law of 2019



LAW



EGYPT

BACKGROUND:

In November 2018, and in the wake of widespread criticism of the NGO Law (Law No. 70 of 2017), President Abdel-Fattah El Sisi made comments at the World Youth Forum in which he agreed that the law needed to be amended. Days later, the prime minister created a committee to review the NGO Law, host a series of national dialogue sessions, and put forth proposed amendments. After the dialogues—which were critiqued for failing to welcome the participation of human rights organizations—took place, the committee announced in April 2019 that it would instead draft an entirely new law to replace Law No. 70 of 2017. In May, the cabinet approved the text of the new draft law and in the first week of July 2019, the draft was formally submitted to the House of Representatives for discussion and debate. It was preliminarily approved by the House on July 14 and ultimately in a final vote on July 15; six members of the House voted against the draft law. The law will go into effect once it is ratified by President El Sisi.

SUMMARY:

Egypt's 2019 draft NGO Law governs the process by which domestic and foreign nongovernmental organizations (NGOs) can achieve legal recognition and sets forth provisions on their activities, oversight and monitoring, funding, and sanctions for violations of the law.

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In contrast to prior laws, the draft law does away with all penalties involving jail time, and instead imposes fines ranging between 100,000 and 1 million Egyptian pounds, depending on the violation. Additionally, the draft law does away with the National Agency to Regulate the Work of Foreign NGOs, an entity created by Law No. 70 of 2017 to approve and monitor foreign funding and which had a heavy representation of security and intelligence personnel. Although both of these changes are improvements, if passed, this law still threatens to restrict civil society significantly; the following are particular areas of concern:

- The draft law conceives a narrow purpose for domestic and foreign NGOs. Multiple provisions in the law reference “societal development” as the purpose of NGO work, marginalizing organizations that do not fit into the traditional development definition.
- Although the draft law states that domestic NGOs are considered recognized under the law upon submission of their paperwork to the Ministry of Social Solidarity, their registration can still be challenged by the ministry in the following 60 days in cases where NGO activities are deemed to violate the constitution or the law, or there is an issue with paperwork. Additionally, an NGO cannot open a bank account until the ministry first communicates with the bank. Foreign NGOs must apply for and receive approval for their activities from the Ministry of Foreign Affairs before being able to engage in any activities in Egypt.
- Domestic and foreign NGOs are prohibited from pursuing activities that breach a number of vaguely worded terms like “national security,” “public order,” and “public morals.” Other provisions prohibit NGOs from conducting political activities; entering into agreements with foreign entities; conducting opinion polls and surveys; relying on foreign persons as experts, employees, or volunteers; and participating in workshops abroad without prior approval.
- Per the draft law, domestic NGOs may receive funding from Egyptians and foreign persons residing abroad or foreign persons residing inside the country. The Ministry of Social Solidarity must be informed of the transaction and is then given a period of 60 days to challenge the transaction, during which the money cannot be spent.
- The draft law creates a Central Unit for Associations and Civil Work within the Ministry of Social Solidarity to be responsible for the monitoring and oversight of NGOs. Designated representatives of the ministry are, upon providing notice to the NGO, allowed to enter its headquarters to provide technical support, monitor activities, and review books and records. It is unclear how often such monitoring may take place. Another provision in the draft allows the ministry to challenge the candidacy of NGO board members. The draft law requires that the ministry create an instrument to enable exchange of information between “relevant authorities” in cases where NGOs are suspected to be involved in terrorist financing or to be exploited for this purpose.
- The draft law authorizes the minister of social solidarity to temporarily halt activities and to order the closure of the headquarters of domestic NGOs for up to one year in a number of circumstances. This order is then subject to court review within seven days. The law also authorizes the minister to request the dissolution of a domestic NGO or the removal of its board of trustees or board of directors by court order. It also empowers authorities to halt activities or to cancel the permits of foreign NGOs that are deemed to be in violation of the law or due to national security threats.

SIGNIFICANCE:

The draft NGO Law is significant in that it came about in the wake of widespread domestic and international criticism of the earlier Law No. 70 of 2017. The new draft law contains two improvements: It cancels jail sanctions and does away with the security-heavy agency previously designated to approve and monitor foreign funding. However, the law furthers problematic restrictions on the right to freedom of association; it conceives of a narrow role for civil society, relegating it to the field of development; it significantly constrains the activities of both domestic and foreign NGOs, particularly under the pretense of national security; and it empowers authorities with expansive monitoring authority and broad discretion

to regulate and dissolve NGOs. The authority of the Ministry of Social Solidarity to take punitive action against NGOs for what it deems to be violative behavior—only seeking court review after the fact—raises questions on the discretionary nature of this power.

NEXT STEPS:

The draft law will go into effect once it is ratified by President Sisi. The text of the draft law states that implementing regulations for the law must be passed within six months. The law also states that existing NGOs will have up to one year within the issuing of those regulations to bring their legal statuses in accordance with the new draft law.

LEGAL CONTEXT:

When the 2019 draft NGO Law is ratified, it will replace Law No. 70 of 2017, which replaced the Mubarak-era Law No. 84 of 2002. Implementing regulations for Law No. 70 of 2017 were never passed, creating a legal limbo which left many unsure as to which combination of law and implementing regulations gov-

erned the NGO space. The lack of clarity on legal obligations and the procedures under which NGO workers and members of civil society were expected to operate contributed to a climate of uncertainty, fear, and self-censorship.

Egypt's NGO Law is not the only piece of legislation governing civil society work. Numerous laws—including

provisions within the Penal Code, the 2018 **media and cybercrime laws**, the country's **counter-terrorism legislation**, and the 2013 **Protest Law**—have articles which hinge upon broad terms like “terrorism” and “harm to national security,” empowering authorities to constrict the public sphere, shutter spaces for civil society work, and subject member of civil society to additional sanction.

December 2018 witnessed the acquittal of all defendants in **Case No. 173**, popularly known as the “Foreign Funding Case,” under which 43 foreign NGO workers had been convicted of receiving foreign funding, operating illegally without a permit, and encouraging social unrest. Despite those acquittals, a second phase of Case No. 173 remains open against domestic NGO workers. Under this phase, authorities have brought in dozens of members of civil society for questioning, have subjected at least 31 persons to asset freezes and others to travel bans, and have closed NGOs. In reliance on the December 2018 verdict, a number of individuals who have been subject to asset freezes are currently challenging the freezes in court; the appeal **has been adjourned** to September 14. Other cases continue to be levied against independent activists and members of civil society as well, including **Case No. 621 of 2018**, **Case No. 441 of 2018**, and **Case No. 930 of 2019**.

POLITICAL CONTEXT:

Following its ratification, Law No. 70 of 2017 was widely criticized by both domestic and international parties, from **civil society organizations** to the **United Nations High Commissioner for Human Rights**. The **European Union** also publicly criticized Law No. 70 of 2017, calling it an “additional burden on

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NGOs' activities." In August 2017, the United States government withheld \$195 million in military aid to Egypt in part because of the violation of a number of human rights conditions, including the passage of Law No. 70 of 2017. Although the law was not amended or repealed at the time, the funds were ultimately released in July 2018.

The new draft NGO Law underscores Egyptian authorities' attention to the international community's perception of Egypt; in fact, before the final House vote took place and in order to gather members of the House for the vote, the Speaker stated: "The NGO Law is in need of a final vote due to the upcoming Universal Periodic Review and Egypt's position."

Ten Egyptian NGOs have issued a statement criticizing the current draft NGO Law for being a "rebranding of the current repressive law."

ADHERENCE TO LEGAL NORMS:

Per Article 75 of the Egyptian Constitution, citizens have the right to form NGOs and the right to engage in activities freely. The same provision further states that administrative entities shall not interfere in the affairs of organizations, dissolve them, or dissolve their board of directors or board of trustees without a judicial ruling. Under its international and regional legal obligations laid out in treaties including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples' Rights, Egypt is obligated to respect the right to freedom of association; the extent of these rights is further detailed in reports by the U.N. Special Rapporteur on the Right to Freedom of Peaceful Assembly and of Association and the ACHPR Guidelines on Freedom of Association and Assembly in Africa. Passing a law that places restrictions on the activities of NGOs, grants wide discretion to authorities in overseeing and dissolving them, and limits the ability of NGOs to engage with foreign actors stands in violation of Egypt's domestic, international, and regional legal commitments.

TEXT OF THE DRAFT LAW:

The full text of the draft law, as it was originally submitted to the House of Representatives, is available in Arabic [here](#). An unofficial copy of the text that was ultimately voted on by the House is available in Arabic [here](#).

▶ TIMEP COVERAGE:

- "NGO Law" (TIMEP Brief)
- "Freedom of Association" (TIMEP Brief)
- "Case 173: Egypt's Foreign Funding Case" (TIMEP Brief)
- "I've Been Acquitted. Egypt's Struggle Continues" (External Commentary by Nancy Okail)
- "Bricks in the Wall: El Nadeem, the NGO Law, and Egypt's Crackdown" (TIMEP Commentary by Hussein Baoumi)