

GOVERNMENT SUPERVISION

Roundtable Discussion on the Proposed Amendments to Law 1 of 2001

Current Problems with Government Supervision of Associations and Foundations

Government:

- CSOs do not comply with yearly reporting requirements
- Ministry lacks capacity to monitor 6,500+ (and growing) CSOs
- Terrorism and money laundering are growing concerns
- Others?

Civil Society:

- Hard for rural CSOs to visit Sana'a for government meetings and filings
- Inconsistent application of CSO law
- Hard to understand reporting requirements
- Others?

Proposed Amendments

- Article 2: Increased minimum association membership from 21/41 to 51/101
- Articles 82 and 44: Mandatory registration for all CSOs and re-registration every two years.
- Article 9: Increased time for registration – from 30 days to 90 days.

Proposed Amendments

- Article 4: Supervisory authority extended to Mayor of Sana'a and Head of the Governorate where the CSO is located (previously only the Ministry of Labor and Social Affairs).

Proposed Amendments

- Article 44: Deletes requirement of a court order for suspension or dissolution of a CSO, removing judicial oversight over these procedures.

Best Practices in CSO Supervision

- Ensure that regulatory schemes are **proportional** and **minimally invasive**.
- *Government supervision should be proportionate to the public need and to the public benefits accepted by a CSO.*
- *The activities of NGOs should be presumed to be lawful in the absence of contrary evidence.*
- *NGOs should not be subject to search and seizure without objective grounds for taking such measures.*

Best Practices in CSO Supervision

- Consider the differences between **public benefit organizations** and **member benefit organizations**
 - No clear PBO distinction in Yemen, but perhaps the time has come?

Best Practices in CSO Supervision - Examples

- Registered CSO with no tax or other government benefits
 - *Limited Reporting proportionate to size of organization*
 - *District of Columbia – report updating information on current officers and directors every two years*

Best Practices in CSO Supervision - Examples

- Registered CSO with tax or other government benefits
 - Designation as public benefit organization
 - PBOs receive preferential treatment with respect to tax and other benefits; are subject to greater oversight through reporting and audits
 - *In Hungary, PBOs are entitled to tax exemptions and may receive tax deductible donations. PBOs must prepare and make available on their websites a report that includes an accounting report, a summary of public benefit activity, and information regarding the use of public support, the use of its own assets, amounts of budgetary subsidies received, and amount of remuneration extended to senior officers.*

Best Practices in CSO Supervision - Examples

- Registered CSO that provides services for which a provider requires a license (e.g. child care)
 - *CSO is licensed on same terms as other providers*
 - *CSO may be subject to on site inspections, greater reporting, and other conditions of licensing on same terms as other providers*

Best Practices in CSO Supervision - Examples

- Registered CSO that raises funds from the public
 - *Reasonable regulation of time and place of fundraising*
 - *Self-regulation can be an important tool in informing public donors*

Best Practices in CSO Supervision

- CSO regulations should provide notice of violation and opportunity to correct
 - Utilize fines and other administrative (not criminal) penalties
 - If public benefit CSOs are involved, loss of PBO status in appropriate circumstances

Best Practices in CSO Supervision

- Remember that all CSOs – like all legal persons – are covered by existing criminal laws, foreign exchange laws, etc.

HOW CAN WE IMPROVE THE PROPOSED AMENDMENTS?

Facilitated Discussion

Some Recommendations for Yemen

- Simple and clear reporting forms make it easier for CSOs to comply with annual report requirements
- Build capacity and increase hiring in supervisory agencies
- Partner with the sector to launch self-regulatory initiatives and codes of conduct
- Promote networking and improve relationships between government and civil society
- Your ideas??

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