The Law on the Establishment and Operation of Non-Governmental Organizations (NGOs)

A HANDBOOK FOR PARLIAMENTARIANS

December 2014
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Introduction

This Handbook for Parliamentarians on the Law on the Establishment and Operation of Non-Governmental Organizations (NGOs) is published by The Protection Project. I would like to thank Ms. Julia Braunmiller, Director of Legal Affairs, for drafting the Handbook and guiding the research and consultations that led to its publication.

The Handbook is based on an “Arab Model Law on the Establishment and Operation of NGOs” which has been drafted by The Protection Project in a dialogue with members of academia and civil society in Jordan and Kuwait. The Arab Model Law has also been presented in a Symposium organized jointly by The Protection Project and the League of Arab States titled “Arab Model Laws: The Concept, Successful Models, and an Agenda for the Future” held in Casablanca, Morocco, in June 2014.

Freedom of association is a fundamental human right which needs to be observed in a legal system that is based on the rule of law and respect for the rights of all people. NGOs are essential elements of civil society that must be granted freedom to participate in any democratic process so that they may contribute to the good of society.

The concept of a handbook for parliamentarians is to provide guidance for legislators. Parliamentarian handbooks are written on a variety of topics, such as human rights, eliminating the worst forms of child labor, controlling corruption, combating human trafficking, addressing issues of nationality and statelessness, or enacting effective laws to end HIV and AIDS. This publication on the establishment and operation of NGOs complements this series of parliamentarian handbooks.

The purpose of the Parliamentarian Handbook is to highlight the role of NGOs in furthering a democratic, just, and pluralistic society. The Handbook compiles international principles and best practices found in national laws to facilitate the functioning of NGOs. It offers practical advice for legislators on the rules that govern the establishment and operation of an NGO in light of international principles.
I hope this Handbook will assist parliamentarians in their efforts to review existing NGO legislation in accordance with international principles and norms; draft and enact laws that facilitate the establishment of NGOs through simple procedures; urge the state to become party to international treaties relevant for the functioning of a free civil society; monitor that the state is in compliance with its international obligations under these treaties; study official state reports and alternative reports submitted by NGOs to international bodies; allow NGOs a role in implementing national policies; ensure that the government is not unduly restricting activities of NGOs; guarantee the rights of NGOs to freedom of association, freedom of expression, privacy, and to seek and receive funding; take the necessary legislative actions to balance the fundamental rights of NGOs with administrative and governmental oversight; hold parliamentary hearings on the implementation of the legal framework on NGOs; and support the role of NGOs in drafting international conventions, lobbying for their passage, and participating in state negotiations in international organizations and committees.

Mohamed Mattar
Executive Director
The Protection Project
Part 1

Interpretation of the Law on the Establishment and Operation of NGOs in Light of International Legal Standards
1. The Right to Freedom of Association

There are many principles in international law that aim to ensure freedom of association. The “right to freedom of peaceful assembly and association” as guaranteed by Article 20 (1) of the Universal Declaration of Human Rights (UDHR), specified as “right to freedom of association with others” in Article 22 (1) of the International Covenant on Civil and Political Rights (ICCPR), is a fundamental human right. Associations, especially non-governmental organizations (NGOs), are a vital element of civil society. NGOs serve many purposes in a democratic and pluralistic society. First and foremost, they are a form of collective exercise of freedom of expression. They collectively express the opinions of their members or on behalf of certain groups of society and thus shape the dialogue on political, social, or cultural issues.

In addition to raising awareness, NGOs may also gather resources and carry out concrete activities to advance certain social, economic, or policy goals. They may monitor actions of the government and directly support the balance of power. In addition, NGOs can be important international actors, highlighting concerns about domestic compliance with international obligations or raising their voices across borders to further global goals.

Freedom of association is at the heart of an active civil society and a functioning democracy.

United Nations General Assembly, Human Rights Defenders, Note by the Secretary General, October 1, 2004 (A/59/401) at 47

The right to freedom of association contains the following principles:

RIGHT TO ESTABLISH AN NGO

Individuals wishing to pursue a common purpose have the right to form an NGO. The establishment of NGOs should follow a simple, clear, and quick procedure. No insuperable administrative burdens should be imposed on individuals wishing to form an NGO.

The right to establish NGOs should also not be limited through the imposition of high fees but should rather be free of charge.

Additionally, a small required number of founding members, preferably no more than three individuals, encourages the formation of NGOs within society and gives full effect to the right to establish an NGO.
A “notification” procedure, whereby the founding members merely inform the competent authority of their will to establish an organization, is preferable to an “authorization” procedure which would require prior approval of the administration.

The Special Rapporteur is of the opinion that a “notification procedure”, rather than a “prior authorization procedure” that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law and should be implemented by States.


In any case, the agencies in charge of administering NGOs should decide on applications in a timely and non-discriminatory manner. Where a notification procedure is in place, the failure of the agency to respond to an application within a given, short time frame should result in the automatic legal establishment of the NGO. Should the authority reject the application—under either procedure, notification or authorization – it should give detailed reasons for this decision in writing. The NGO should have the possibility to appeal this decision and re-apply after correcting the reasons that led to the rejection. Should the authority also reject the re-application, the NGO should be given the possibility to appeal this decision before a competent and impartial court.

The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, has outlined these principles in a Report submitted to the UN Human Rights Council.
Under the notification procedure, associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created. In most countries, such notification is made through a written statement containing a number of elements of information clearly defined in the law, but this is not a precondition for the existence of an association. It is rather a submission through which the administration records the establishment of the said association. …

Under both notification and prior authorization regimes, registration bodies must be bound to act immediately and laws should set short time limits to respond to submissions and applications respectively. The Special Rapporteur echoes a ruling of the European Court which provided that “significant delays in the registration procedure, if attributable to the Ministry of Justice, amounts to an interference with the exercise of the right of the association’s founders to freedom of association”. During this period associations should be presumed to be operating legally until it is proven otherwise. … Failure to provide a response within a clear and short time limit should result in a presumption that associations are operating legally. …

United Nations General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, May 21, 2012 (A/HRC/20/27) at 58 and 60

The documents to be submitted in either a notification or authorization procedure should be limited in number and scope. NGOs should not be required to send any more information than necessary for the administration to decide upon the application. Only basic information should be required, for example the name of the NGO and its founding members and their address or other means to contact them. The NGO may also be asked to submit a copy of its bylaws.

The UN Special Representative of the Secretary-General on human rights defenders, Hina Jilani, recommended the following (A/59/401 at 82 (e) and (f)):

Clear and publicly accessible criteria and procedures for registration. NGO laws must provide for clear and accessible information on the registration procedure. Official documents describing in detail the necessary steps and documentation for registration, including sample applications, must be accessible to NGOs and disseminated to all State organs. Training must be conducted or instruction given to ensure homogenous implementation of the law and to prevent arbitrary interpretations of registration criteria;

Documents required. NGO laws should preclude overly burdensome requests for unnecessary documents. Documentation required for registration should serve the sole objective of registration and must not be used for intelligence or other purposes.
PRINCIPLES OF THE RIGHT TO ESTABLISH AN NGO:

- Small number of founding members
- Minimal or no fees
- Notification procedure
- Clear outline of process
- No requirement of unnecessary documents
- Timely response with detailed reasoning
- Possibility to appeal
- No compulsory registration

RIGHT TO PARTICIPATE

Individuals other than the founding members have the right to join an already established NGO. Organizations should be allowed to establish their own terms of membership that determine who can become a member and which process should be adhered to. No administrative or financial burdens should be imposed on NGOs to accept new members.

NEGATIVE FREEDOM OF ASSOCIATION

The so-called “negative freedom of association” establishes that no one can be forced to join or participate in an organization. Membership in NGOs should be completely voluntary.

No one may be compelled to belong to an association.

Article 20 (2) Universal Declaration of Human Rights

LEGITIMATE PURPOSE

An association or NGO is often characterized by the pursuit of a common purpose or interest of its members. The UN Special Representative of the Secretary-General on human rights defenders defined freedom of association as follows:

Freedom of association involves the right of individuals to interact and organize among themselves to collectively express, promote, pursue and defend common interests (A/59/401 at 46).
The NGO legal framework should permit a wide range of objectives that NGOs may pursue. Legitimate or lawful purposes can be social, political, cultural, educational, or environmental in nature and any other purposes that the members of the NGO would like to achieve. The members alone should decide on them freely according to their common interests.

NGOs’ activities should not be restricted for political reasons. NGOs have a role in defending fundamental freedoms and should be given a role in monitoring the status of human rights in a given country.

No restrictions should be imposed on the types of activities that human rights defenders carry out in the defence of human rights, provided they respect the principle of transparency and non-violence. Legitimate aims must include the right to engage in the defence of human rights standards, including but not restricted to furthering democratic rights, advocating for constitutional reforms, publicizing opinions and facts critical of government policies and actions and advocating for State accountability.

United Nations General Assembly, Human Rights Defenders, Note by the Secretary General, October 1, 2004 (A/59/401) at 82 (n)

VOLUNTARY REGISTRATION

Registration of an NGO as a legal person should not be required by law for the NGO to come into existence and assume its activities. Registration may be necessary for the NGO to be afforded legal personality. However, informal or unregistered organizations are legitimate means of pursuing common interests and should be protected by the law.

The Special Rapporteur underlines that the right to freedom of association equally protects associations that are not registered... Individuals involved in unregistered associations should indeed be free to carry out any activities, including the right to hold and participate in peaceful assemblies, and should not be subject to criminal sanctions... This is particularly important when the procedure to establish an association is burdensome and subject to administrative discretion, as such criminalization could then be used as a means to quell dissenting views or beliefs.

**LEGAL PERSONALITY**

An organization that wishes to obtain legal personality should be able to apply for it. The NGO legal framework should facilitate the process through clear and precise regulations that do not pose significant obstacles on the NGO, such as high fees or lengthy procedures.

**RIGHT TO REGULATE INTERNAL AFFAIRS**

NGOs should be allowed to regulate their internal affairs freely. This includes the right of an NGO to enact its bylaws and decide on its hierarchical and management structure, decision-making process, membership requirements, frequency of meetings, fundraising activities, etc.

**RIGHT TO PRIVACY**

NGOs also enjoy the right to privacy as stipulated under Article 17 ICCPR:

> No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

The UN Human Rights Committee in its General Comment No. 31 (9) on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant makes it clear that this right applies not only to individuals but also to organizations:

> Although… the Covenant does not mention the rights of legal persons or similar entities or collectivities, many of the rights recognized by the Covenant… may be enjoyed in community with others.

This means that the authorities cannot access the records, grounds, or property of an NGO without due process. NGOs have the right to keep their activities private within the limits of adhering to the principles of accountability and transparency.

**RIGHT TO FREEDOM OF EXPRESSION**

NGOs have the right to freedom of opinion and expression as guaranteed by Article 19 of the ICCPR and Article 19 of the UDHR.

> This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. (Article 19 UDHR)
It is the role of NGOs to actively inform public opinion and speak out on issues of public interest. Particularly, this includes providing and disseminating information on political and human rights issues.

The UN Human Rights Defenders Declaration clarifies this function in Article 16:

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research...

Governments should not limit this role of NGOs but support them in their efforts to create a more just and pluralistic society.

**RIGHT TO SEEK AND RECEIVE FUNDING**

Although most laws define NGOs as “not for profit” organizations, NGOs must be able to disburse over their own resources in order to conduct activities. NGOs therefore have the right to seek and receive funding. While economic activity cannot trump the not-for-profit character of the NGO, NGOs should be allowed to obtain funding for their activities. This right should include funding from foreign entities.

The UN Human Rights Defenders Declaration provides for the following in Article 13:

The right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means.

The UN Office of the High Commissioner for Human Rights clarifies in its Fact Sheet No. 29 on Human Rights Defenders: Protecting the Right to Defend Human Rights that this includes “the receipt of funds from abroad.”

This right should not be limited by requiring governmental approval for the seeking or receiving of funding nor should it be restricted in any other way unless it is in accordance with the recognized causes of the limitations clause of Article 22 (2) ICCPR. It is reasonable to ask NGOs to declare their foreign funding but in no case should the receiving of foreign funding be prohibited.
Governments must allow access by NGOs to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments. The only legitimate requirements of such NGOs should be those in the interest of transparency...

Access to funds, including from foreign sources, for the purpose of defending human rights should be ensured and facilitated by the law.

United Nations General Assembly, Human Rights Defenders, Note by the Secretary General, October 1, 2004 (A/59/401) at 82 (l) and (l)

RIGHT TO ENGAGE WITH THE INTERNATIONAL COMMUNITY

NGOs have a role in monitoring state laws and policies and assuring that they are in accordance with international obligations. NGOs can work on the domestic level, for example, by coordinating a national strategy and lobbying the state to participate in international events and initiatives.

NGOs can also get involved with international organizations directly. There are formal ways and informal ways of such involvement, ranging from initiating informal meetings, submitting reports or making oral interventions, to formally participating in international consultations. Each UN treaty body makes detailed information on NGO participation available, for example, on the Committees’ websites.

A way for NGOs to fulfill their role of monitoring state laws and policies is submitting alternative or “shadow” reports to international human rights bodies. Alternative reports support the monitoring of the implementation process in a given country and provide additional information that may be left out in the official state report. Article 45 (a) of the Convention on the Rights of the Child and Article 74 (4) of the Migrant Workers Conventions are two examples of provisions in international conventions explicitly inviting NGOs to submit alternative reports as shadow reporting is allowed under each international convention.
Under article 45(a) of the Convention, the Committee on the Rights of the Child may invite specialized agencies, UNICEF and “other competent bodies” to provide expert advice on the implementation of the Convention. The term “other competent bodies” includes non-governmental organizations (NGOs). This Convention... expressly gives NGOs a role in monitoring its implementation. The Committee has systematically and strongly encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture and expertise as to how the Convention is being implemented in a particular country. The Committee warmly welcomes written information from international, regional, national and local organizations. Information may be submitted by individual NGOs or national coalitions or committees of NGOs.

Guidelines for the Participation of Partners (NGOs and Individual Experts) in the Pre-Sessional Working Group of the Committee on the Rights of the Child, 22nd Session, December 7, 1999, CRC/C/90, Annex VIII at 1

The Committee [on the Protection of the Rights of All Migrant Workers and Members of Their Families] may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990, Article 74 (4)

Every treaty body has a process for receiving and utilizing information submitted by NGOs. However, each committee follows a slightly different procedure and format. NGOs may submit a shadow report that specifically addresses one topic only, or they may address the status of implementation of a certain convention in general. Information and detailed guidelines on the submission of alternative or shadow reports is found on the UN Committee websites.
Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process [of the present Convention].

*Convention on the Rights of Persons with Disabilities, 2006, Article 33 (3)*

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

...The Committee [on the Rights of Persons with Disabilities] may invite the specialized agencies and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates...

*Convention on the Rights of Persons with Disabilities, 2006, Article 38 (a)*

Furthermore, States Parties should encourage and facilitate the involvement of non-governmental organizations, including organizations of persons with disabilities in the preparation of reports. Such constructive engagement on the part of these organizations will enhance the quality of reports as well as promote the enjoyment by all of the rights protected by the Convention. The reports should contain an explanation of the procedure used to consult with civil society and in particular with representative organizations of persons with disabilities and the measures taken to ensure that this process was fully accessible.


UN Committees continuously express the importance of the involvement of NGOs in the reporting process. For example, the Committee on the Elimination of Discrimination against Women regularly documents the participation of NGOs in its sessions and emphasizes their importance. The “Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations,” issued during its 45th session in 2010, lays out various procedures. It specifies that NGOs play an important part in implementing the Convention on the Elimination of All Forms of Discrimination against Women. They can consult with the government on the state party report and submit alternative reports and present oral information to the pre-sessional working group. Subsequently, during the meetings of the Committee, NGOs may organize informal briefings (side-events) and then participate in the follow-up procedure. NGOs
may also assist in disseminating the Committee’s concluding remarks and increasing awareness for the Convention in general.

It should be noted that the involvement of NGOs in the process of drafting and submitting the state report does not substitute for their right to present an alternative report.

<table>
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<tr>
<th>NGOs are encouraged to provide alternative or shadow reports on States parties’ reports relating to the implementation of some or all the provisions of the Convention or specific themes focusing on gaps in implementation of the Convention or the Committee’s concluding observations. NGOs may provide comments and suggestions to the State party’s reports in any way they see fit. The Committee recommends that States parties consult NGOs when they prepare the State report and make this report available to all sectors of civil society. The State party is encouraged to invite NGOs to provide their input. This does not imply that NGOs take over the writing of the report or undertake a joint reporting with the State party. At all times the report has to be the report of the State party. Furthermore, the role played by NGOs in providing information for the report of the State party should not exclude the possibility of submitting an alternative/shadow report. The Committee often raises questions with States parties, asking whether NGOs have been consulted in the writing of the report and whether there has been collaboration and transparency in the reporting process.</th>
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<td>Statement by the Committee on the Elimination of Discrimination against Women on its relationship with non-governmental organizations, 45th Session, January 18 – February 5, 2010, at 7 and 8</td>
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The Committee on Enforced Disappearances drafted a document titled “The relationship of the Committee on Enforced Disappearances with civil society actors” (December 30, 2013, CED/C/3) where it lays out the role of NGOs to support its mandate. The Committee makes it clear that the role of NGOs is manifold – they should cooperate with governments on the national level and influence the reporting process of the state; they should also submit shadow reports to the Committee directly.
The Committee [on Enforced Disappearances] provides a space for civil society actors to play a constructive role in relation to the reporting process under article 29 of the Convention, as well as in the review by the Committee of States parties’ compliance with their obligations under the Convention.

Taking note of the fact that consideration of State parties’ reports by the Committee is based on a constructive dialogue with States parties, the Committee considers necessary that it be based on information received not only from States parties, intergovernmental organizations and national human rights institutions, but also from civil society actors, in particular associations of relatives of disappeared persons when they exist, to ensure a well informed and constructive discussion.

Civil society actors therefore have a key role to play in providing information during the reporting process, at all stages, including for the preparation of the list of issues and for the follow-up to the concluding observations of the Committee.

Civil society actors are encouraged to provide alternative reports that contain information on the implementation of some or all of the provisions of the Convention; comments on the reports of State parties and their written replies to the lists of issues; and information on the implementation by the State party concerned of the concluding observations of the Committee...

The Committee acknowledges that civil society actors may provide useful input to State party reports and encourages States parties to involve civil society in the preparation of their reports. However, the role played by civil society in providing information for the State party’s report should not exclude the possibility of submitting an alternative report to the Committee.

United Nations International Convention for the Protection of all Persons from Enforced Disappearance, The relationship of the Committee on Enforced Disappearances with civil society actors, December 30, 2013, CED/C/3 at 4-8

Additionally, NGOs can get involved with the United Nations during the Universal Periodic Review (UPR). The UPR is a process to comprehensively review the status of human rights in all member states of the United Nations. It was established with the Human Rights Council by General Assembly resolution 60/251 of March 15, 2006. The resolution gives a role to NGOs by stating that the Council shall “work in close cooperation in the field of human rights with Governments, regional organizations, national human rights institutions and civil society” (A/RES/60/251 at 5 (h)). During the UPR process, NGOs can submit additional information on the state which is under review. This information is submitted to the Council as part of the information provided by other relevant stakeholders in accordance with Human Rights Council resolution 16/21 of April 12, 2011.
Another way for NGOs to raise their voice in international affairs is through obtaining consultative status with international organizations.

For example, NGOs can formally participate in the UN Human Rights Council by acquiring consultative status with the Economic and Social Council (ECOSOC) in accordance with ECOSOC resolution 1996/31 of July 25, 1996 on “Consultative relationship between the United Nations and non-governmental organizations.” This status gives NGOs the right to submit written statements to the Council which will then be circulated. After accreditation, NGOs may also attend the Council’s sessions as observers, make oral interventions, and organize “parallel” or “side” events.

Other international organizations that allow consultative status for NGOs are, for example, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organizations (ILO). The World Health Organization (WHO) establishes “official relations” with certain NGOs.

NGOs can also work with UN Special Procedures. For example, NGOs may provide information on specific human rights violations to a Special Rapporteur with a thematic mandate or advocate for a country visit of the mandate holder.

Finally, NGOs can partner with international organizations to carry out specific programs and events. For example, NGO may cooperate with the United Nations International Children’s Emergency Fund (UNICEF) or the United Nations Development Programme (UNDP) to organize awareness raising campaigns, training programs, or provide services to the community.

**RIGHT TO FILE INDIVIDUAL COMPLAINTS**

Another way for NGOs to fulfill their role of monitoring international obligations is through supporting individual complaints. NGOs should be allowed to file individual complaints to international bodies for violations of internationally recognized rights on behalf of a victim. Usually, NGOs must provide the written consent of the victim to act on her or his behalf. Each complaint procedure has its own rules of admissibility.

The Human Rights Council complaint procedure established in 2007 allows for submission by NGOs. Communications to the Committee on Economic, Social and Cultural Rights can be submitted by NGOs according to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
A communication related to a violation of human rights and fundamental freedoms, for the purpose of this procedure, shall be admissible, provided that: …

It is submitted by a person or a group of persons claiming to be the victims of violations of human rights and fundamental freedoms, or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and claiming to have direct and reliable knowledge of the violations concerned. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence.

Human Rights Council, Resolution 5/1, Institution-Building of the United Nations Human Rights Council, June 18, 2007 at 87 (d)

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2008, Article 2

NGOs are also entitled to submit communications to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in accordance with the procedure established under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women:

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent. (Article 2)

For example, two NGOs, the Vienna Intervention Centre against Domestic Violence and the Association for Women’s Access to Justice, brought Communication No. 5/2005 to the CEDAW Committee on behalf of an Austrian national who died as a result of an incident of domestic violence. The Committee found that law enforcement failed to exercise due diligence to protect the victim and that Austria had violated its obligations under the
Convention. It recommended that the State Party “ensure that criminal and civil remedies are utilized in cases where the perpetrator in a domestic violence situation poses a dangerous threat to the victim; and also ensure that in all action taken to protect women from violence, due consideration is given to the safety of women” (CEDAW/C/39/D/5/2005 at 12.3).

The recently adopted third optional protocol to the Convention on the Rights of the Child introduces a complaint mechanism to the Committee on the Rights of the Child. NGOs can submit communications on behalf of a victim or a group of victims of human rights violations with their consent. These are admissible if filed in writing within one year after the exhaustion of domestic remedies (Article 7). In particular, the protocol provides:

1) Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:
   a) The Convention;
   b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;
   c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2) Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent. (Article 5. Individual Communications)

According to Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, NGOs can submit a communication within six months of the exhaustion of domestic remedies.

Similarly, the Committee on Enforced Disappearances may consider communications submitted by NGOs on behalf of individuals alleging violations of the International Convention for the Protection of All Persons from Enforced Disappearance as long as the concerned state party made the necessary declaration under article 31 of the Convention. The Enforced Disappearances Convention also provides for a special procedure in which NGOs may take part. According to Article 30 of the Convention, NGOs may submit to the Committee a request that a disappeared person should be sought and found.

If the state in question has ratified the Optional Protocol to the Convention on the Rights of Persons with Disabilities, NGOs can also address the Committee on the Rights of Persons with Disabilities.

Additionally, NGOs will be able to file an individual complaint with the Committee on Migrant Workers under Article 77 of the Convention on the Protection of the Rights of Migrant Workers once the procedure enters into force.
2. Duty of the Government to Protect NGOs

Governments should encourage the operation of NGOs and their active participation in the life of society. Several international legal provisions demand that states should not only refrain from unduly interfering with the rights of NGOs; they are under a positive obligation to protect and support civil society.

**PROHIBITION OF UNDUE INTERFERENCE**

The government and other authorities may not unduly interfere with the activities of NGOs. They are bound by law and can only limit NGO activities in accordance with the reasons given by law in the “limitations clause.” Governments must also refrain from unduly restricting NGOs’ right to regulate their internal affairs. Additionally, authorities must respect the right to privacy of NGOs. Article 17 (2) ICCPR calls upon states to guarantee “the protection of the law against such interference or attacks.”

**LIMITATIONS CLAUSE**

International law only lists four grounds under which the authorities can interfere with freedom of association, i.e. limit the rights of NGOs. These grounds have to be “prescribed by law.” The limitation of NGOs’ rights must also be “necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others” (Article 22 (2) ICCPR).

The UDHR has a more general limitations clause that applies to all its rights and freedoms in Article 29 (2):

> In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

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**Reasons for Limiting the Activities of NGOs in accordance with Article 22 (2) ICCPR:**

1. Must be prescribed by law AND
2. Must be necessary in a democratic society in the interests of
   a) national security or public safety,
   b) public order / ordre public,
   c) protection of public health or morals, or
   d) protection of the rights and freedoms of others
ROLE OF NGOS IN MONITORING DOMESTIC LAWS AND POLICIES

NGOs have a role in monitoring domestic laws and policies. They raise awareness on issues of public interest and assist with ensuring government accountability. Governments should embrace this role of NGOs and support them in their efforts to create a more just and democratic society.

This implies that authorities should concede to NGOs the role to analyze and also criticize their actions. The UN Human Rights Defenders Declaration in Article 8 (2) explicitly confers:

The right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Additionally, states are asked to cooperate with NGOs according to their international reporting obligations. Each member state of an international convention has to follow a reporting schedule. There are detailed guidelines on the type of information that needs to be submitted to the competent UN treaty body. The common core document, which comprises the first part of state reports, includes an assessment of the role that states give to civil society. States are called to report on their national framework of human rights protection and include information on the role of NGOs in promoting human rights in accordance with to international standards and on the support they receive from the government.

States should set out the efforts made to promote respect for all human rights in the State. Such promotion may encompass actions by government officials, legislatures, local assemblies, national human rights institutions, etc, together with the role played by the relevant actors in civil society. States may offer information on measures such as dissemination of information, education and training, publicity, and allocation of budgetary resources.... In particular, States should provide information on:

- Role of civil society, including non-governmental organizations. The extent of the participation of civil society, in particular non-governmental organizations, in the promotion and protection of human rights within the country, and the steps taken by the Government to encourage and promote the development of a civil society with a view to ensuring the promotion and protection of human rights;

United Nations, International Human Rights Instruments, Harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, May 10, 2006 (HRI/MC/2006/3) at 43 (g)
COOPERATION BETWEEN GOVERNMENTS AND NGOS

In order to support the role of NGOs in society, the government should actively cooperate with NGOs when formulating policies and enacting laws. Examples of successful collaboration include cooperative programs and action plans, roundtables, joint committees, and provision of resources. This is mandated by international law.

For example, Article 2 (2) ICCPR asks for an active role of governments in implementing the rights guaranteed under the Covenant, including the right to free association:

Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps … to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

The UN Human Rights Committee in General Comment No. 31 on The Nature of the General Legal Obligation Imposed on States Parties to the Covenant explains:

7. Article 2 requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations. The Committee believes that it is important to raise levels of awareness about the Covenant not only among public officials and State agents but also among the population at large. …

14. A failure to comply with this obligation cannot be justified by reference to political, social, cultural or economic considerations within the State.

Additionally, more recent and specific international conventions specify the obligation of governments to work together with NGOs. For example, in Article 6, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons asks states to “consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations.” A similar provision is found in Article 9 which talks about prevention of human trafficking.
1) States Parties shall establish comprehensive policies, programmes and other measures:
   a) To prevent and combat trafficking in persons; and
   b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2) States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3) Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society. …


Likewise, the Convention on the Rights of Persons with Disabilities has an article on international cooperation and the partnerships between states and NGOs. Preventive and awareness raising policies, including research, are an ideal means of cooperation between the government and NGOs.

States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

   a) Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;
   b) Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;
   c) Facilitating cooperation in research and access to scientific and technical knowledge;
   d) Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

Convention on the Rights of Persons with Disabilities, 2006, Article 32 (1)
It is important to distinguish that cooperation should take place not only on the vertical level but also horizontally – NGOs may cooperate with each other. For example, an NGO can form a new NGO or a network through liaison with others. NGOs should also be encouraged to cooperate with foreign NGOs and international organizations.

**PARTICIPATION OF NGOS IN PUBLIC LIFE**

Governments should actively encourage the participation of NGOs in public life. They should provide the relevant resources and fora where NGOs can raise their voice. Participation of NGOs is, for example, mandated by the UN Convention Against Corruption.

> Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.

*United Nations Convention Against Corruption, Article 13*

**SANCTIONS FOR ACTIVITIES OF NGOS**

In order for states to fulfill their obligations of encouraging the work of NGOs, they should ensure that people can participate in NGOs without fear of being arrested, detained, or otherwise severely sanctioned. It is of particular importance that members of an NGO may not be imprisoned for actions that are in direct relationship to the work of the NGO.

The right of governments to regulate and oversee the establishment and operation of NGOs must be carefully balanced with their duty to support an active and free civil society. Therefore, NGO laws should limit sanctions for violations of the law, which need to be clearly defined, to a fine. The maximum penalty should be dissolution of the NGO, but only by court order.

> The right to freedom of association obliges States to take positive measures to establish and maintain an enabling environment. It is crucial that individuals exercising this right are able to operate freely without fear that they may be subjected to any threats, acts of intimidation or violence, including summary or arbitrary executions, enforced or involuntary disappearances, arbitrary arrest or detention, torture or cruel, inhuman or degrading treatment or punishment, a media smear campaign, travel ban or arbitrary dismissal, notably for unionists…

*United Nations General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, May 21, 2012 (A/HRC/20/27) at 63*
3. Role of Parliamentarians

Parliamentarians have an important role in safeguarding the rights of NGOs and encouraging their activities. In their capacity of monitoring the government, they should ensure that authorities do not unduly restrict the establishment and operation of NGOs.

Parliamentarians should assume the following responsibilities:

- Review existing NGO legislation in light of international principles and norms
- Draft and enact laws that facilitate the establishment of NGOs through simple procedures without unnecessary administrative restrictions, financial burden, or other limitations
- Monitor that the state is in compliance with its obligations under these international treaties
- Study official state reports and alternative (“shadow”) reports submitted by NGOs to international bodies
- Allow NGOs a role in implementing national policies
- Ensure that the government is not unduly restricting activities of NGOs
- Guarantee the rights of NGOs to freedom of association, freedom of expression, privacy, and to seek and receive funding
- Take the necessary legislative actions to balance the fundamental rights of NGOs with administrative and governmental oversight so that there is no undue interference with the basic functions of NGOs and their role in furthering the social, cultural, economic, and other public interests
- Hold parliamentary hearings on the implementation of the legal framework on NGOs to ensure that NGOs are allowed to freely perform their functions
- Support the role of NGOs in drafting international conventions, lobbying for their passage, and participating in state negotiations in international organizations and committees
4. Best Practices in NGO Legislation

The following are examples taken from NGO laws from all over the world that can be considered best practices in supporting the rights of NGOs and allowing their full participation in society. These rights need to be carefully balanced with the authority of states to regulate and oversee NGOs’ activities but the rights of NGOs should not be limited through governmental oversight.

A LEGAL OBJECTIVE TO ENCOURAGE AND SUPPORT NGOS

Zimbabwe, The Non-Governmental Organisations Act, 2004

6. Objectives of Act

The objectives of this Act are:

1) to establish an independent, responsible and self-monitoring system for civil society by providing for a framework for responsible and effective self-regulation and accountability of non-government organizations and thereby to increase public and donor confidence in the work of such organisations;

2) to protect the rights of non-governmental organizations, work as an affirmation of the fundamental constitutional freedoms of peaceful assembly, expression, and association;

3) to promote the work of non-governmental organisations and to enhance their capacity to deliver public services by lobbying for such things as fiscal incentives and tax exemptions.

4) to facilitate a constructive relationship between government and non-governmental organizations in order to advance the public good.

THE SUPREMACY OF INTERNATIONAL STANDARDS IN THE APPLICATION AND INTERPRETATION OF THE NGO LAW

Kyrgyzstan, Law on Non-Commercial Organizations, 1999

Article 35. International Conventions and Treaties

In case if provisions of this Law are otherwise regulated by international conventions, international and bilateral treaties, provisions of the appropriate international conventions and international and bilateral treaties shall apply.
SMALL NUMBER OF FOUNDING MEMBERS OF THE NGO

Austria, Federal Law on Associations, 2002

Section 1. Association

1) An association for the purposes of this Federal Law is a voluntary organization of at least two persons, established for a longer period of time and organized according to bylaws with the intent to pursue a specific, common, ideological purpose. The association enjoys legal personality (sec. 2 para. 1).

2) An association may not intend to make profits. The association’s assets may be used only in accordance with the association’s purpose.

Estonia, Non-profit Associations Act, passed 6 June 1996, as amended 2005

Article 5. Founders

A non-profit association may be founded by at least two persons. The founders may be natural persons or legal persons.

NOTIFICATION PROCESS FOR THE ESTABLISHMENT OF NGOS

Austria, Federal Law on Associations, 2002

Section 2. Establishment of the Association

1) The establishment of an association includes its founding and its formation. The association is established with the stipulation of its bylaws (establishment agreement). It is created as a legal entity after the expiration of the deadline named in sec. 13 para. 1 or earlier after issuance of a certificate pursuant to sec. 13 para. 2.

Section 13. Invitation to start the association’s activities

1) In the absence of a declaration pursuant to sec. 12 para. 3 within four weeks, or in the case of an extension pursuant to sec. 12 para. 1 after no more than six weeks, following the receipt of the establishment notification, the silence of the association authority shall constitute an invitation to start the association’s activities. The association (sec. 2 para. 1) is established after expiration of the deadline and can begin its work. …

Article 2

Persons’ associations can be freely established without a prior permission provided that the provisions of the Article 5 is to be observed.

Article 5

An association should present an application to the headquarters of the local administrative authority where the premises of the association is located or by a court assistance for which a receipt is to be delivered. This receipt should be signed and dated. The local authority addresses a copy of the application to the General Prosecution in the primary court, and also a copy of the documents attached thereto, as indicated in the paragraph 3 with purpose of enabling it to give its opinion when necessary.

When the application fulfills the procedures stated in the subsequent paragraph, the receipt is to be delivered within a period of 60 days and in case of not being delivered within this period, the association can practice its activities according to the objectives in its statutes. …

NO REGISTRATION REQUIREMENT FOR NGOS

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2010

Article 9 Registration

1) Every person, notwithstanding the race, nationality, religion, gender etc. shall be eligible to register NGO under the terms and conditions of this Law. No person needs to register the NGO to exercise the right on freedom of association.

RIGHT OF FOREIGNERS TO ESTABLISH AN NGO

Macedonia, Law on Associations and Foundations, 2010

Foreign Person and Foreign Organizations - Article 37

1) Foreign persons may also be founders and members of an organization, in accordance with this Law.

2) The persons from paragraph (1) of this Article shall have the same rights and responsibilities as the domestic persons, unless otherwise stipulated by Law.
PROVISION OF RESOURCES AND SUPPORT FOR NGOS

Croatia, Act on the National Foundation for Civil Society Development, 2003

Article 3

1) The Foundation shall be established with the basic purpose of promoting and developing the civil society in the Republic of Croatia.

2) In order to fulfil its basic purpose, the Foundation shall provide support for programmes fostering the sustainability of the not-for-profit sector, inter-sector co-operation, civil initiatives, philanthropy and volunteerism, those improving the democratic institutions of the society, as well as other programmes fulfilling the basic purpose of the Foundation.

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 12: Financial support from the Government

The Government shall include in its national budget funds meant for supporting national non-governmental organisations.

An Order of the Minister in charge of national non-governmental organisations shall specify modalities for granting such support.

BENEFITS FOR NGOS

Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000


1) Every Non-Governmental Organisation registered under this Act shall be exempt from the payment of income tax, but subject to the provisions of regulations made under subsection (3) below, may apply to the Minister of Finance to be exempted from the payment of business tax or any other tax, duty or impost levied by the Government from time to time.

2) Subject to sections 17 and 109 (1) of the Income and Business Tax Act, every person in Belize who makes a donation to a Non-Governmental Organisation registered under this Act shall be eligible, in the financial year when the donation is made, to have such donation treated as tax-deductible for income tax and business tax purposes.

3) The Minister of Finance may, after consultation with the Minister, make Regulations to give effect to the provisions of this section.
Montenegro, The Law on Non-Governmental Organizations, 1999

Tax and Other Exemptions and Privileges - Article 27

The Government shall provide tax and other exemptions and privileges for nongovernmental organizations.

INCLUSION OF FOREIGN FUNDING FOR NGOS

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article 13

NGOs’ resources consist of:

First: Members’ fees and dues.

Second: Internal or external donations, grants, bequests and gifts.

Third: The revenues from their activities and projects.

CODIFICATION OF THE RIGHTS AND FUNCTIONS OF NGOS

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 28: Rights of a national non-governmental organisation

National non-governmental organisation shall have the following rights:

1) to put forward views in designing national policies and legislation in relation with the functioning of national non-governmental organizations;

2) to advocate, protect and promote human rights and other national values;

3) to express opinions and views on national policies and legislation;

4) to enter into agreements with other organisations and entities;

5) to enjoy tax exemption in accordance with relevant laws;

6) to enjoy the literary and artistic property right and property of all its operations related to its mission.

PARTICIPATION OF NGOS IN BUILDING PUBLIC OPINION

Macedonia, Law on Associations and Foundations, 2010

Initiatives in Public Life - Article 14

Organizations may freely express and promote their positions and opinions regarding the issues of their interest, raise initiatives and participate in building the public opinion and policy making.
THE ROLE OF NGOS IN MONITORING THE GOVERNMENT

Tunisia, Decree Number 88 for the Year 2011, Published on 24 September 2011 Pertaining to Regulation of Associations

Article (5):
An association has the right to:

1) Access information.
2) Evaluate the role of the State institutions and submit proposals to improve their performance.
3) Organize meetings, demonstrations, conferences, workshops and all types of civil activities.
4) Publish reports and information, print leaflets, and conduct opinion polls.

INTERNATIONAL AFFILIATIONS

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (28)
Any Association or Organization may join or be affiliated with any Arab or regional or international Organization or Union outside the Palestinian territories, as long as it keeps the competent party informed.

A CONSTITUTIONAL MANDATE TO RECOGNIZE THE ROLE OF NGOS AS ESSENTIAL MEMBERS OF CIVIL SOCIETY

Constitution of the Arab Republic of Egypt, 2014

Article (16)
The State shall honor the martyrs of the nation; shall care for revolution-wounded persons, veterans and wounded warriors, families of those missing in war and its equivalents, and persons wounded in security operations, as well as their wives, children and parents; and shall strive to provide all of them with job opportunities, all as regulated by Law.

The State shall encourage the participation of the civil society organizations in achieving those objectives.

Article (25)
The State shall develop a comprehensive plan to eradicate alphabetical and digital illiteracy among citizens of all ages. The State shall develop its implementation mechanisms with the participation of civil society organizations within a definite timeline.
Article (75)

All citizens shall have the right to form non-governmental associations and foundations on democratic basis, which shall acquire legal personality upon notification.

Such associations and foundations shall have the right to practice their activities freely, and administrative agencies may not interfere in their affairs or dissolve them, or dissolve their boards of directors or boards of trustees save by a court judgment.

The establishment or continuation of non-governmental associations and foundations, whose statutes or activities are secretive or conducted in secret or which are of military or quasi-military nature is prohibited as regulated by Law.

Article (83)

The State shall guarantee the health, economic, social, cultural and entertainment rights of the elderly people, provide them with appropriate pensions which ensure a decent life for them, and enable them to participate in public life. In its planning of public facilities, the State shall take into account the needs of the elderly. The State shall encourage civil society organizations to participate in taking care of the elderly people.

All the foregoing is to be applied as regulated by Law.

Article (84)

Everyone has the right to exercise sports. The State institutions and civil society shall endeavor to discover and sponsor the talented athletes and take the necessary measures to encourage the exercise of sports.

The Law shall regulate the affairs of sports and non-governmental sporting agencies in accordance with international standards and shall regulate the manner of settling sporting disputes.

Constitution of the Tunisian Republic, 2014

Preamble:

… With a view to building a participatory, democratic, republican regime, under the framework of a civil State where sovereignty belongs to the people through peaceful rotation of power through free elections, and on the principle of the separation of powers and balance between them; in which the right to association based on pluralism, neutrality, of administration and good governance constitute the basis of political competition; and where the State guarantees supremacy of the law, respect for freedoms and human rights, independence of the judiciary, equality of rights and duties between all male and female citizens and fairness between all regions; …
Article 35
The freedom to establish political parties, unions, and associations is guaranteed. Political parties, unions, and associations must abide, in their internal charters and activities, by the constitution, the law, financial transparency, and the rejection of violence.

Article 139
Local authorities shall adopt the mechanisms of participatory democracy and the principles of open governance to ensure broader participation by citizens and civil society in the preparation of development programs and land management and monitoring of their implementation, in accordance with the law.

The Constitution of The Hashemite Kingdom of Jordan, as amended 2011

Article 16
1) Jordanians shall have the right to hold meetings within the limits of the law.
2) Jordanians shall have the right to establish societies, unions and political parties provided their objective is lawful, their methods peaceful, and their by-laws not in violation of the provisions of the Constitution.
3) The law shall regulate the manner of the establishment of societies, unions and political parties and the control of their resources.

Constitution of Morocco, 2011

Article 12
Associations of civil society and non-governmental organizations are established and exercise their activities in all freedom, with respect for the Constitution and for the law.

They may not be dissolved or suspended by public authorities except by virtue of a court decision.

Associations interested in public affairs and non-governmental organizations contribute, within the framework of a participatory democracy, to the elaboration, implementation and evaluation of projects and decisions of elected institutions and public authorities. These institutions and powers must organize this contribution in accordance with the conditions and modalities established by law.

The organization and functioning of associations and non-governmental organizations must conform to democratic principles.
Article 26
The public authorities bring, by appropriate measures, their support to the development of cultural and artistic creation and scientific and technical research and to the promotion of sports. They favor the development and the organization of these sectors in an independent manner and on accurate democratic and professional bases.

Article 29
The freedoms of reunion, assembly, peaceful demonstration, association, and union and political membership, are guaranteed. The law sets the conditions for the exercise of these freedoms.

The right to strike is guaranteed. An organic law establishes the conditions and the modalities of its exercise.

Constitution of Iraq, 2005
Article 45.
1) The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and this shall be regulated by law.

Constitution of the Republic of South Africa, 1966
18. Freedom of association
Everyone has the right to freedom of association.

31. Cultural, religious and linguistic communities
1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community -
   a) to enjoy their culture, practise their religion and use their language; and
   b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

38. Enforcement of rights
Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are -
   a) anyone acting in their own interest;
   b) anyone acting on behalf of another person who cannot act in their own name;
c) anyone acting as a member of, or in the interest of, a group or class of persons;

d) anyone acting in the public interest; and

e) an association acting in the interest of its members.

59. Public access to and involvement in National Assembly

1) The National Assembly must -

  a) facilitate public involvement in the legislative and other processes of the Assembly and its committees; and

  b) conduct its business in an open manner, and hold its sittings, and those of its committees, in public, but reasonable measures may be taken -

     i) to regulate public access, including access of the media, to the Assembly and its committees; and

     ii) to provide for the searching of any person and, where appropriate, the refusal of entry to, or the removal of, any person.

(2) The National Assembly may not exclude the public, including the media, from a sitting of a committee unless it is reasonable and justifiable to do so in an open and democratic society.

193. Appointments

1) The Public Protector and the members of any Commission established by this Chapter must be women or men who -

   a) are South African citizens;

   b) are fit and proper persons to hold the particular office; and

   c) comply with any other requirements prescribed by national legislation.

5) The National Assembly must recommend persons -

   a) nominated by a committee of the Assembly proportionally composed of members of all parties represented in the Assembly; and

   b) approved by the Assembly by a resolution adopted with a supporting vote –

      i) of at least 60 per cent of the members of the Assembly, if the recommendation concerns the appointment of the Public Protector or the Auditor-General; or

      ii) of a majority of the members of the Assembly, if the recommendation concerns the appointment of a member of a Commission.

6) The involvement of civil society in the recommendation process may be provided for as envisaged in section 59(1)(a).
NGOs in International Legal Documents

The Universal Declaration of Human Rights, 1948

*Article 20.*

1) Everyone has the right to freedom of peaceful assembly and association.

2) No one may be compelled to belong to an association.

International Covenant on Civil and Political Rights (ICCPR), 1966

*Article 2*

2) Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.

*Article 22*

1) Everyone shall have 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 prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.

3) Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.


7) Article 2 requires that States Parties adopt legislative, judicial, administrative, educative and other appropriate measures in order to fulfil their legal obligations. The Committee believes that it is important to raise levels of awareness about the Covenant not only among public officials and State agents but also among the population at large.

9) The beneficiaries of the rights recognized by the Covenant are individuals. Although, with the exception of article 1, the Covenant does not mention the rights of legal persons or similar entities or collectivities, many of the rights recognized by the Covenant, such as the freedom to manifest one’s religion or belief (article 18), the freedom of association (article 22) or the rights of members of minorities (article 27), may be enjoyed in community with others. The fact that the competence of the Committee to receive and consider communications is
restricted to those submitted by or on behalf of individuals (article 1 of the Optional Protocol) does not prevent such individuals from claiming that actions or omissions that concern legal persons and similar entities amount to a violation of their own rights.

14) The requirement under article 2, paragraph 2, to take steps to give effect to the Covenant rights is unqualified and of immediate effect. A failure to comply with this obligation cannot be justified by reference to political, social, cultural or economic considerations within the State.


Article 2 Communications

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

International Convention on the Elimination of All Forms of Racial Discrimination, 1965

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(ix) The right to freedom of peaceful assembly and association;

Article 14

1) A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2) Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies. …

5) In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6) (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;
(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7) (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8) The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations. …

Convention on the Elimination of all Forms of Discrimination against Women, 1979

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999

Article 2

Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the rights set forth in the Convention by that State Party. Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Convention on the Rights of the Child, 1989

Article 15

1) States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2) No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.
**Article 22**

1) States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2) For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

**Article 45**

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;…

**Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, 2011**

**Article 5. Individual communications**

1) Communications may be submitted by or on behalf of an individual or group of individuals, within the jurisdiction of a State party, claiming to be victims of a violation by that State party of any of the rights set forth in any of the following instruments to which that State is a party:

a) The Convention;

b) The Optional Protocol to the Convention on the sale of children, child prostitution and child pornography;
c) The Optional Protocol to the Convention on the involvement of children in armed conflict.

2) Where a communication is submitted on behalf of an individual or group of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

**Article 7. Admissibility**

The Committee shall consider a communication inadmissible when:

a) The communication is anonymous;

b) The communication is not in writing;

c) The communication constitutes an abuse of the right of submission of such communications or is incompatible with the provisions of the Convention and/or the Optional Protocols thereto;

d) The same matter has already been examined by the Committee or has been or is being examined under another procedure of international investigation or settlement;

e) All available domestic remedies have not been exhausted. This shall not be the rule where the application of the remedies is unreasonably prolonged or unlikely to bring effective relief;

f) The communication is manifestly ill-founded or not sufficiently substantiated;

g) The facts that are the subject of the communication occurred prior to the entry into force of the present Protocol for the State party concerned, unless those facts continued after that date;

h) The communication is not submitted within one year after the exhaustion of domestic remedies, except in cases where the author can demonstrate that it had not been possible to submit the communication within that time limit.

**International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990**

**Article 26**

1) States Parties recognize the right of migrant workers and members of their families:

a) To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;

b) To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;

c) To seek the aid and assistance of any trade union and of any such association as aforesaid.

2) No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.
Article 74

4) The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.

Article 77

1) A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration. …


Article 32 – International cooperation

1) States Parties recognize the importance of international cooperation and its promotion, in support of national efforts for the realization of the purpose and objectives of the present Convention, and will undertake appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities. Such measures could include, inter alia:

   Ensuring that international cooperation, including international development programmes, is inclusive of and accessible to persons with disabilities;

   Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;

   Facilitating cooperation in research and access to scientific and technical knowledge;

   Providing, as appropriate, technical and economic assistance, including by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies.

2) The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present Convention.

Article 33 – National implementation and monitoring

3) Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 38 – Relationship of the Committee with other bodies

In order to foster the effective implementation of the present Convention and to encourage international cooperation in the field covered by the present Convention:

a) The specialized agencies and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies and other competent bodies as it may consider appropriate
to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite specialized agencies and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;


Article 1

1) A State Party to the present Protocol (“State Party”) recognizes the competence of the Committee on the Rights of Persons with Disabilities (“the Committee”) to receive and consider communications from or on behalf of individuals or groups of individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of the provisions of the Convention.

2) No communication shall be received by the Committee if it concerns a State Party to the Convention that is not a party to the present Protocol.

International Convention for the Protection of All Persons from Enforced Disappearance, 2010

Article 24

7) Each State Party shall guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance.

Article 31

1) A State Party may at the time of ratification of this Convention or at any time afterwards declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction claiming to be victims of a violation by this State Party of provisions of this Convention. The Committee shall not admit any communication concerning a State Party which has not made such a declaration...

Convention Relating to the Status of Refugees, 1951

Article 15. Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Convention Relating to the Status of Stateless Persons, 1954

Article 15. Right of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible, and in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 6. Assistance to and protection of victims of trafficking in persons

3) Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:
   a) Appropriate housing;
   b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
   c) Medical, psychological and material assistance; and
   d) Employment, educational and training opportunities.

Article 9. Prevention of trafficking in persons

1) States Parties shall establish comprehensive policies, programmes and other measures:
   a) To prevent and combat trafficking in persons; and
   b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2) States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3) Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4) States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5) States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10. Information exchange and training

2) States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.
United Nations Convention Against Corruption, 2004

Article 13. Participation of society

1) Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;

b) Ensuring that the public has effective access to information;

c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:

   i) For respect of the rights or reputations of others;

   ii) For the protection of national security or ordre public or of public health or morals.

2) Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Human Rights Defenders Declaration), 1998

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

a) To meet or assemble peacefully;

b) To form, join and participate in non-governmental organizations, associations or groups;

c) To communicate with non-governmental or intergovernmental organizations.
Article 6

Everyone has the right, individually and in association with others:

a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, inter alia, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 18

1) Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2) Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3) Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

4) Calls upon States to ensure that legislation designed to guarantee public safety and public order contains clearly defined provisions consistent with international human rights law, including the principle of non-discrimination, and that such legislation is not used to impede or restrict the exercise of any human right, including freedom of expression, association and peaceful assembly, which are essential for the promotion and protection of other rights; ...

8) Calls upon States to respect, protect and ensure the right to freedom of association of human rights defenders and, in this regard, to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration, in accordance with national legislation, and are in conformity with international human rights law;

9) Also calls upon States to ensure that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy, and that restrictions are not discriminatorily imposed on potential sources of funding aimed at supporting the work of human rights defenders other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the geographic origin of funding thereto;

11) Further calls upon States to ensure that all legal provisions and their application affecting human rights defenders are clearly defined, determinable and non-retroactive in order to avoid potential abuse to the detriment of fundamental freedoms and human rights, and specifically to ensure that:

   a) The promotion and the protection of human rights are not criminalized, and that human rights defenders are not prevented from enjoying universal human rights owing to their work, whether they operate individually or in association with others, while emphasizing that everyone shall respect the human rights of others;...

   d) Any provision or decision that may interfere with the enjoyment of human rights must respect fundamental principles enshrined in international law so that they are lawful, proportionate, non-discriminatory and necessary in a democratic society;...

   h) Legislation aimed at preserving public morals is compatible with international human rights law;

   i) Legislation does not target activities of individuals and associations defending the rights of persons belonging to minorities or espousing minority beliefs;...

15) Reaffirms the necessity for inclusive and open dialogue between civil society actors, particularly human rights defenders, and the United Nations in the field of human rights and, in this context, underlines that participation by civil society should be facilitated in a transparent, impartial and non-discriminatory manner;

B. **Admissibility criteria for communications**

87) A communication related to a violation of human rights and fundamental freedoms, for the purpose of this procedure, shall be admissible, provided that:…

d) It is submitted by a person or a group of persons claiming to be the victims of violations of human rights and fundamental freedoms, or by any person or group of persons, including non governmental organizations, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and claiming to have direct and reliable knowledge of the violations concerned. Nonetheless, reliably attested communications shall not be inadmissible solely because the knowledge of the individual authors is second-hand, provided that they are accompanied by clear evidence;
Part 2

Model Law on the Establishment and Operation of Non-Governmental Organizations (NGOs)
1. Definitions and Principles

Article 1: Title of the Law

This law is titled Law on the Establishment and Operation of Non-Governmental Organizations (NGOs) (NGO Law).

Article 2: Purpose of the Law

Recognizing the ultimate goal of protecting the freedoms of assembly and association which serve as a vehicle for the exercise of fundamental civil, political, cultural, economic, and social rights that are essential for the functioning of a democratic, just, and pluralistic society, the purpose of this Law is –

a) To harmonize legal provisions for the establishment and operation of NGOs;
b) To guarantee the right to establish and operate NGOs as independent actors of society;
c) To promote the right of individuals to join NGOs;
d) To determine the role of NGOs in supporting individuals to collectively exercise their civil, political, cultural, economic, and social rights;
e) To establish a mechanism to organize the process of registering local and foreign NGOs;
f) To provide the right of NGOs to seek, receive, and use resources for their activities; and

g) To create a mechanism to monitor the activities of NGOs aiming to ensure that they carry out their activities in accordance with this Law without unduly interfering with their right to freedom of assembly and association.

Based on:


5. Objectives of the Act

The objectives of this Act are to:

a) Facilitate the establishment and growth of PBOs and MBOs in order to strengthen civil society, promote social welfare and improve the conditions and quality of life for the people of Bhutan;
b) Ensure a system of public accountability by providing a framework for responsible and
effective self-regulation of CSOs;

c) Protect national and public interest;

d) Facilitate a constructive partnership between the Government and CSOs in order to
advance the public interest;

e) Provide opportunities for people to serve public interest;

f) Benefit the public at large or particular sections of the public;

g) Demonstrate and continue to increase CSO’s value to the larger communities of which
they form a part;

h) Promote compliance by CSOs with their legal obligations to exercise effective control and
management over the administration of their activities and funding; and

i) Promote the delivery of emergency relief services and other types of public services by
PBOs, and promote the effective use of public and private financial resources by PBOs for
such purposes.

Iraq, Number (12) of the Year 2010 The Law of Non–Governmental Organizations, 2010

Article (2):
The goals of this law are:

1) To enhance the role played by NGOs by supporting their growth, development and
independence according to law.

2) To promote the freedom of citizens to establish and join NGOs.

3) To create a central mechanism to regulate the registration of Iraqi and foreign NGOs.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental
Organizations, 2009

Article 1 Aims and scope of Law

1) The Law sets out the establishment, registration, internal management, activity, striking off
and cease of legal persons organized as NGOs in Kosovo.

2) The Law does not apply to political parties, trade unions and unions’ organizations and
religion centers or temples and other fields regulated with special laws.

Palestinian Legislative Council, Law of Charitable Associations and Community
Organizations Law No. 1, Year 2000

Article (1)
Palestinian citizens have the right to practice social, cultural, professional and scientific
activity in all freedom, including the right to establish and run Associations and Community
Organizations.

South Africa, Non-Profit Organizations Act, No. 71, 1997

2. Object of Act
The objects of this Act are to encourage and support nonprofit organisations in their contribution
to meeting the diverse needs of the population of the Republic by-
a) creating an environment in which nonprofit organisations can flourish;
b) establishing an administrative and regulatory framework within which nonprofit organisations can conduct their affairs;
c) encouraging nonprofit organisations to maintain adequate standards of governance, transparency and accountability and to improve those standards;
d) creating an environment within which the public may have access to information concerning registered nonprofit organisations, and
e) promoting a spirit of co-operation and shared responsibility within government, donors and amongst other interested persons in their dealings with nonprofit organisations.

Zimbabwe, The Non-Governmental Organisations Act, 2004

6. Objectives of Act

The objectives of this Act are -

1) to establish an independent, responsible and self-monitoring system for civil society by providing for a framework for responsible and effective self-regulation and accountability of non-government organizations and thereby to increase public and donor confidence in the work of such organisations;

2) to protect the rights of non-governmental organizations, work as an affirmation of the fundamental constitutional freedoms of peaceful assembly, expression, and association;

3) to promote the work of non-governmental organisations and to enhance their capacity to deliver public services by lobbying for such things as fiscal incentives and tax exemptions.

4) to facilitate a constructive relationship between government and non-governmental organizations in order to advance the public good.

Article 3: Definitions

For the purpose of this Law –

a) “Non-governmental organization” or “NGO” shall mean an association that is independent from the government, consists of natural or legal persons, acquired the status of a legal person through notification and registration in accordance with the provisions of this law, and seeks to achieve its purposes operating on a not-for profit basis according to its bylaws;

b) “Foreign Non-Governmental Organization” shall mean an NGO with legal personality that is established and recognized in another country in a manner that does not conflict with the laws of this country;
c) “Competent authority” shall mean the agency, commission, committee, or department that is established in accordance with the provisions of this Law and is responsible for the registration and oversight of non-governmental organizations;

d) “Resources” shall include financial transfers, such as donations, grants, contracts, sponsorships, and social investments; loan guarantees and other forms of financial assistance from natural and legal persons; in-kind donations, such as contributions of goods, services, software and other forms of intellectual property, and real property; material resources, such as office supplies and IT equipment; human resources, such as paid staff and volunteers; and access to international assistance and solidarity.

Based on:

Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000

3. Non-Governmental Organisations defined.

1) A Non-Governmental Organisation is a legal entity formed as a company limited by guarantee under the Companies Act whose aims, nature and objects, direct or indirect, are consistent with the principles enshrined in the preamble to the Belize Constitution and the Universal Declaration of Human Rights and all those international and regional human rights treaties and instruments to which Belize is a party, and are designed to contribute to sustainable human development in Belize.

2) Without prejudice to the generality of subsection (1) above, but subject to section 13(2) of the Belize Constitution, a Non-Governmental Organisation shall also have the following attributes and characteristics:

   a) it shall be independent of Government control in its operations and management;

   b) its aims, objects and purposes shall be to achieve sustainable human development on a voluntary, non-profit basis;

   c) its business and affairs shall be under the management and control of a Board of Directors, elected to office for a period and in a manner specified in its Articles of Association, and no member of the Board of Directors or an officer or employee of the Non-Governmental Organisation shall have any interest in using the objects, aims and purposes of the Non-Governmental Organisation for personal gain or profit; and

   d) its activities in and within Belize shall be consistent with the principles and provisions of the Belize Constitution.


3. Civil Society Organizations

   Civil Society Organizations (“CSO”) shall refer to associations, societies, foundations, charitable trusts, not-for-profit organizations or other entities that are not part of Government and do not distribute any income or profits to their members, founders, donors, directors or trustees. CSOs do not include trade unions, political parties, cooperatives or religious organizations which are devoted primarily to religious worship.
4. For the purpose of this Act, there are two types of CSOs, distinguished by their differing objectives:

a) Public Benefit Organizations ("PBOs") are CSOs, which are established in order to benefit a section or the society as a whole.

b) Mutual Benefit Organizations ("MBOs") are CSOs which are established in order to advance the shared interests of their members or supporters, such as to advance the shared interests of people working in a particular profession, the businesses engaged in a particular industry, youth studying in a university, or people who are interested in a particular cultural activity, sport or hobby.

Iraq, Number (12) of the Year 2010 The Law of Non–Governmental Organizations, 2010

Article (1):

The following terms, used in this law, have the following definitions:

1) Non-Governmental Organization: A group of natural or legal persons that have registered and obtained legal personality according to the terms of this Law to pursue not-for-profit purposes.

2) Foreign NGO: A branch of an organization that has been established according to the laws of another country. ...

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 2 Definitions

“Non-Governmental Organization” ("NGO") means any domestic association and foundation, as defined in Article 5 of this Law, or any foreign or international organization as defined in Article 7 of this Law. ...

Article 3 Freedom of Association

1) Every Person shall enjoy the full freedom of association and establishment in NGO.

2) No Person shall be required to associate involuntarily, nor any Person be discriminated against in any way because of any decision to associate or not to associate.

Article 4 Non-distribution of net Earnings and Profits and Restriction on Special Benefits

NGO shall not distribute any net earnings or profits as such to any Person. The assets, earnings, and profits of NGO shall be used to support the not-for-profit purposes of the organization and shall not be used to provide benefits, directly or indirectly, to any founder, director, officer, member, employee, or donor of the NGO. This Article does not preclude the payment of reasonable compensation to such Persons for work performed for the organization.

Macedonia, Law on Associations and Foundations, 2010

Non-for-Profit - Article 12

1) Organizations cannot be established for the purpose of profit generation.

2) Organizations may perform profit generating activities, if the activity is related to the goals determined by the statute.
3) If profit has been generated from the operations of organizations, it has to be used for fulfillment of the goals determined by the statute.

4) The generated profit from paragraph (3) of this Article cannot be allocated among the founders, members, members of bodies, directors, employees, or any other person associated with them.

**Non-Partisan Activity - Article 13**

1) Organizations cannot perform activities of a political party, i.e. they cannot provide direct or indirect financing to a specific political party and to influence elections.

2) As influencing elections in the sense of paragraph (1) of this Article, shall be considered participation of organizations in elections and election campaign of a specific political party and direct or indirect financing of the election campaign of a political party.

**Initiatives in Public Life - Article 14**

Organizations may freely express and promote their positions and opinions regarding the issues of their interest, raise initiatives and participate in building the public opinion and policy making.

**Montenegro, The Law on Non-Governmental Organizations, 1999**

**The Scope of the Law - Article 1**

This Law shall regulate the founding, registering, operating, joining and cessation of non-governmental organizations.

The term non-governmental organizations in this Law encompasses nongovernmental associations and non-governmental foundations.

**Non-Governmental Association - Article 2**

A non-governmental association (hereinafter: association) is a not-for-profit membership organization which can be established by domestic and foreign natural or legal persons for the purpose of accomplishing individual or common interests, or for the purpose of accomplishing and promoting public interests.


**Article 1**

An association is an agreement to achieve a constant cooperation between two or many persons using their information or activities for a non-profit purpose.

These associations are subject to the legal rules being applied to the contracts and obligations.

**Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012**

**Article 2: Definitions of terms**

In this Law, the following terms shall be defined as follows: …
2) Non governmental organization: an organization which is comprised of natural persons or of autonomous collective voluntary organizations whose aim is to improve economic, social and cultural development and to advocate for public interests of a certain group, natural persons, organizations or with the view of promoting common interest of their members.

Rwanda, Law No. 05/2012 of 09/04/2012 Governing the Organisation and Functioning of International Non-Governmental Organisations, 2012

Article 2: Definition of the term

For the purpose of this Law, an international non-governmental organisation is an organisation that was established in accordance with foreign laws and the objective of which is related to public interests.

Article 4: Purpose of the NGO

An NGO may be established under this Law to achieve political, social, cultural, educational, environmental, or other purposes. In achieving these purposes, NGOs shall assist local communities to carry out public interest activities such as public awareness raising and advocacy; establish a political dialogue; organize initiatives to combat illiteracy, poverty, unemployment, lack of equal opportunities, and discrimination; provide health, legal, and social services; promote a safe, clean, and healthy environment; strengthen ties among members of a local community; and foster international cooperation and development.

Based on:


6) PBOs shall serve to supplement or complement the efforts made by the Government to:
   a) Protect human life and health;
   b) Prevent and alleviate human suffering and poverty;
   c) Disseminate knowledge and advance learning;
   d) Develop the Country economically and culturally;
   e) Assist in the protection and promotion of national culture and heritage;
   f) Protect the natural environment; and
   g) Promote social harmony and Gross National Happiness.
Iraq, Directions on facilitating execution of NGO Law number (12) of 2010, 2010

**Article 7-**

NGO shall operate in areas set out in its bylaw, including:

1) Provision of humanitarian assistance and relief projects and other charity work.

2) Human rights advocacy and awareness.

3) Educational and cultural activities.

4) Health and environmental protection.

5) Civil society development.

6) Any other non-for-profit or political activity.

**Article 8 –**

NGOs are prohibited from practicing:

1) Commercial businesses for the purpose of distributing funds among its members for personal benefit or use NGO for tax evasion.

2) Fund-raising for senior political and professional positions candidates or provision of financial support to them directly or indirectly.

United Kingdom, Charities Act 2006, 2006 Chapter 50

2 Meaning of “charitable purpose”

1) For the purposes of the law of England and Wales, a charitable purpose is a purpose which—

   a) falls within subsection (2), and

   b) is for the public benefit (see section 3).

2) A purpose falls within this subsection if it falls within any of the following descriptions of purposes—

   a) the prevention or relief of poverty;

   b) the advancement of education;

   c) the advancement of religion;

   d) the advancement of health or the saving of lives;

   e) the advancement of citizenship or community development;

   f) the advancement of the arts, culture, heritage or science;

   g) the advancement of amateur sport;

   h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;

   i) the advancement of environmental protection or improvement;

   j) the relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
k) the advancement of animal welfare;

l) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;

m) any other purposes within subsection (4).

3) In subsection (2)—

a) in paragraph (c) “religion” includes— (i) a religion which involves belief in more than one god, and (ii) a religion which does not involve belief in a god;

b) in paragraph (d) “the advancement of health” includes the prevention or relief of sickness, disease or human suffering;

c) paragraph (e) includes— (i) rural or urban regeneration, and (ii) the promotion of civic responsibility, volunteering, the voluntary sector or the effectiveness or efficiency of charities;

d) in paragraph (g) “sport” means sports or games which promote health by involving physical or mental skill or exertion;

e) paragraph (j) includes relief given by the provision of accommodation or care to the persons mentioned in that paragraph; and

f) in paragraph (l) “fire and rescue services” means services provided by fire and rescue authorities under Part 2 of the Fire and Rescue Services Act 2004 (c. 21).

4) The purposes within this subsection (see subsection (2)(m)) are—

a) any purposes not within paragraphs (a) to (l) of subsection (2) but recognized as charitable purposes under existing charity law or by virtue of section 1 of the Recreational Charities Act 1958 (c. 17);

b) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes falling within any of those paragraphs or paragraph (a) above; and

c) any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised under charity law as falling within paragraph (b) above or this paragraph.

Article 5: Principles for the NGO

An NGO shall –

a) Seek to achieve its specific purposes through peaceful and democratic means within the boundaries of this Law;

b) Ensure that its resources are effectively used for the intended purposes;

c) Commit to transparency, accountability, and openness in all its operations and activities;
d) Observe the fundamental human rights of all its members as well as members of the society;

e) Apply the principle of non-discrimination, i.e. equal treatment regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; in particular non-discrimination of indigenous peoples; persons with disabilities; persons belonging to minority groups or other groups at risk; and non-nationals including stateless persons, refugees, or migrants;

f) Enjoy legal, administrative, and financial independence and freedom from undue interference into its operations and activities by the government.

**Based on:**

**Laos, Decree on Associations, 2009**

*Article 5 Principles in the Establishment and Operation of Associations*

Associations are set up and operate on the basis of the following principles:

1. Voluntary adherence or resignation from an association without constraints or duress;
2. Permanent operation in accordance with the association’s charter;
3. Self-management and liability for the association’s activities before the law;
4. Financial self-sufficiency;
5. Non-profit seeking activities;
6. Transparency, openness, democracy and equality.

**Macedonia, Law on Associations and Foundations, 2010**

*Independence - Article 10*

The organizations shall be independent in the governance, determination and fulfillment of their goals and activities stipulated by their statute in accordance with the Constitution and the law.

*Publicity and Transparency - Article 11*

1) The work of the organization shall be public.

2) The publicity in the work of the organization shall be exercised by transparent publication of statutes and other acts of the organization pursuant to the statute of the organization.

**Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012**

*Article 10: Autonomy of national non-governmental organisations*

Without prejudice to provisions of other laws, national non-governmental organisations shall enjoy financial, moral and administrative autonomy.
Rwanda, Law No. 05/2012 of 09/04/2012 Governing the Organisation and Functioning of International Non-Governmental Organisations, 2012

Article 3: Autonomy of international non-governmental organisations

Without prejudice to other laws, international non-governmental organisations shall enjoy managerial, financial and administrative autonomy.

Article 4: Partnership for development

The Government of Rwanda and international non-governmental organizations shall engage in partnership for development.

Serbia, Law on Associations, 2009

Freedom and goals of association - Article 3

An association shall be established and organized freely and shall be independent in pursuit of its goals.

The association's goals and operations may not be aimed at violent overthrow of the constitutional order, breach of the Republic of Serbia's territorial integrity, violation of the guaranteed human or minority rights or incitement and instigation of inequalities, hatred and intolerance based on racial, national, religious or other affiliation or commitment as well as on gender, race, physical, mental or other characteristics and abilities. The provision of paragraph 2 hereof shall also apply to the associations not holding the status of legal entity.

Tunisia, Decree Number 88 for the Year 2011, Published on 24 September 2011 Pertaining to Regulation of Associations

Article (3):

Associations shall, in their bylaws, activities and funding, observe the principles of the rule of law, democracy, plurality, transparency, equality, and human rights as stipulated in international agreements ratified by the Republic of Tunisia.

Article (5):

An association has the right to:

1) Access information.
2) Evaluate the role of the State institutions and submit proposals to improve their performance.
3) Organize meetings, demonstrations, conferences, workshops and all types of civil activities.
4) Publish reports and information, print leaflets, and conduct opinion polls.

Article (6):

The public authorities are prohibited from directly or indirectly impeding or hampering the activity of an association.

Article (7):

The State shall make all necessary arrangements to guarantee that each person receives the protection of competent authorities against any violence, threat, vengeance actually or legally damaging, discrimination or pressure, or any other coercive measure as a result of the legal exercise of the above indicated rights by this decree.
2. Establishment of an NGO

Article 6: Establishment of the NGO through Notification

1) An NGO is established upon notifying the competent authority. Such notification occurs by submission of an application for registration in the required form to the competent authority.

2) The application for registration shall be submitted in writing and shall include the following –
   a) The official name of the NGO;
   b) The address of the main branch of the NGO;
   c) The name of at least two of the NGO’s founding members or board of directors and their contact information;
   d) The purpose of the NGO; and
   e) A copy of the NGO’s official bylaws.

3) The submission of the application for registration shall be free of charge.

4) The competent authority shall issue a registration certificate no longer than thirty (30) days after receiving the application for registration.

5) The competent authority may reject the application for registration within thirty (30) days of its submission.

6) In the event that the authority fails to reject the application for registration within the required period, the application shall be considered approved.

Based on:

Austria, Federal Law on Associations, 2002

Section 1. Association

1) An association for the purposes of this Federal Law is a voluntary organization of at least to persons, established for a longer period of time and organized according to bylaws with the intent to pursue a specific, common, ideological purpose. The association enjoys legal personality (sec. 2 para. 1).

2) An association may not intend to make profits. The association’s assets may be used only in accordance with the association’s purpose.
Section 2. Establishment of the Association

1) The establishment of an association includes its founding and its formation. The association is established with the stipulation of its bylaws (establishment agreement). It is created as a legal entity after the expiration of the deadline named in sec. 13 para. 1 or earlier after issuance of a certificate pursuant to sec. 13 para. 2.

Section 13. Invitation to start the association’s activities

1) In the absence of a declaration pursuant to sec. 12 para. 3 within four weeks, or in the case of an extension pursuant to sec. 12 para. 1 after no more than six weeks, following the receipt of the establishment notification, the silence of the association authority shall constitute an invitation to start the association’s activities. The association (sec. 2 para. 1) is established after expiration of the deadline and can begin its work. ...

Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000

6. Application for Registration.

(1) Every Non-Governmental Organisation desirous of being registered under this Act shall submit to the Registrar, within three months of the commencement of this Act, or within such other time as may be prescribed, the documents and information referred to in subsection (2) below.

(2) In support of such application, the Non-Governmental Organisation shall furnish the Registrar with the following documents together with its application:-

(a) the Memorandum and Articles of Association of the Non-Governmental Organisation, showing that it is a company limited by guarantee;

(b) the name and address of the Non-Governmental Organisation;

(c) brief details of the aims, objects and purposes of the Non-Governmental Organisation, especially those relating to sustainable human development in Belize;

(d) the organisational structure of the Non-Governmental Organisation (including without limitation details of its membership and management) and how its Directors are elected, their duties and powers and terms of office;

(e) the accounting and management procedures of the Non-Governmental Organisation;

(f) the names, addresses and occupation of each member of the Board of Directors of the Non-Governmental Organisation for each year, where applicable;

(g) the types of programmes that the Non-Governmental Organisation intends to carry out for that year;

(h) the maximum annual estimated revenues and grants of the Non-Governmental Organisation and, for a Non-Governmental Organisation with revenues of at least twenty-five thousand dollars per annum, the audited accounts of the Non-Governmental Organisation for the previous financial year, duly audited by an independent auditor, and for a Non-Governmental Organisation with annual revenues below twenty-five thousand dollars per annum, the statement of accounts for the Non-Governmental Organisation prepared by its accountant or bookkeeper;

(i) the By-laws of the Non-Governmental Organisation. …
7. Sustainable Human Development.

For the purposes of sections 3 and 6 (2) above, the expression “sustainable human development” shall be construed to include but not to be limited to any of the following:-

(a) a programme of activities by a Non-Governmental Organisation which promotes, protects, educates and encourages respect of human rights generally and the fundamental rights and freedoms enshrined in Chapter II of the Belize Constitution in particular;

(b) a programme of activities which encourages, promotes, protects and develops the educational system to meet the basic needs of the Belizean society and economy;

(c) a programme of activities which educates the Belizean public or any section thereof about the Belize Constitution and laws and their constitutional and legal rights and obligations as enshrined thereunder;

(d) a programme of activities that assists communities in general, and certain marginalised groups like women and the youth in particular, in the planning, implementation and successful execution of community-based developmental projects;

(e) a programme of activities that promotes and encourages the responsible conservation, protection and sustainable use of Belize’s natural environment, resources, antiquities and monuments;

a programme of activities that promotes and encourages the formation and sustainable growth of social and civil society organisations, groups and societies concerned with the constitutional and legal rights of workers, and the legal rights

Croatia, Law on Associations, 2014

Article 25. Procedure upon application for registration

(1) The competent office shall issue a decision on the application for registration within 30 days of the filing of a request for registration.

(2) If an official of the competent office finds that the statute of the association is not in accordance with the law or the application is not accompanied by adequate evidence as referred to in Article 23 of this Law, the decisive body will invite the applicant to harmonize the statute or submit evidence within a period not shorter than 15 days.

(3) The decision on registration of associations must include: name, address, registration number, objectives and activities of the association, economic activities, if they are prescribed by the statute, finding that the association entry in the register of associations acquires legal personality and registering will be executed on the day the decision takes effect, the name or the title of the liquidators of the association and the names of persons authorized to represent the association.

(4) An appeal against the decision of registration of the association should not delay its execution.

(5) A copy of the statute of the association shall be certified by the competent office, and sent to the association along with the decision on registration in the register of associations.

(6) The entry in the register of associations will be performed using the enforceability of the decision on registration.
(7) The decision on registration of the association, which is prescribed in the statute of economic activities by the competent office, is immediate upon entry into the register of associations to the Ministry of Finance - Tax Administration.

(8) If the competent office does not issue a decision on registration of associations within 30 days of the filing of a claim, it shall be deemed that the association is registered as association the day after the expiry of that period.

(9) The provisions of paragraph 8 of this Article shall not apply in the case of paragraph 2 of this Article.

**Estonia, Non-profit Associations Act, passed 6 June 1996, as amended 2005**

§ 5. Founders

A non-profit association may be founded by at least two persons. The founders may be natural persons or legal persons.

**Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010**

*Article (5):*

First: A NGO is established by submitting an application for registration to the Department, signed by at least (3) three founding persons. This application must include the following information:

1. The official name of the organization in Arabic or Kurdish, and English.
2. The official address of the organization certified by a competent official body.
3. The names, phone numbers and e-mail addresses (if any) of the founding members.

Second: The establishment application should be attached with the following:

a. The Articles of Incorporation.
b. The NGO’s Bylaws.
c. Copies of the Iraqi nationality certificate and civil identification card of the natural founding members or the document of residence for foreign residents.
d. The names and contact information of the persons who will be the official point of contact of the NGO and who shall receive official notifications, answer inquiries related to establishment and registration.

*Article (7):*

The establishment and registration applications should be exempted from duties.

*Article (8):*

1) The Department shall decide on the establishment application within (7) seven days of the date of registration with the Department. Otherwise, the application is considered approved.

2) The NGO must submit to the Department the registration application within (30) thirty days of the date of application approval. Otherwise, the application for registration is considered refused.
3) The application for registration shall include the following documents:
   a. The registration form prepared by the Department, which must include the required information.
   b. Minutes containing the election of the Board of Directors or the decision of appointment.

4) The Department issues the NGO’s certificate of registration within no more than 30 days of the date of receiving a registration application that meets the required information and documents.

5) An NGO obtains legal personality as of the date of issuing the registration certificate...

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 5 Notion of NGO in Kosovo

1. Domestic NGO is domestic association or foundation established in Kosovo to accomplish the purpose based on the law, either for public benefit or mutual interest.

2. An association is a membership organization. An association may be established by at least three or more Persons, at least one of whom has a residence or seat in Kosovo.

3. A foundation is an organization without membership established to manage properties and assets. A foundation may be established by one or more Persons, at least one of whom has a residence or seat in Kosovo.

Article 6 Establishment of Associations and Foundations in Kosovo

1. An association or foundation is established by a founding instrument which shall contain the following records:
   1.1. the official name, official acronym and the official logo of the organization;
   1.2. its organizational form (association, foundation or umbrella organization);
   1.3. the organization’s address;
   1.4. the organization’s purposes and activities;
   1.5. the names and addresses of the founders; and
   1.6. the name, address and other contact information of the Authorized Representative.

2. A foundation may also be established by a will, bequest, if it includes the information set forth in paragraph 1 of this Article.

3. An association or foundation shall have a statute containing the following information:
   3.1. the name of the organization;
   3.2. the purposes of the organization;
   3.3. the name of the highest governing body;
   3.4. if the NGO is an association, the procedures for selecting and removing members, the conditions for membership, and if the organization is to have a Board, the procedures for electing and removing members of the Board and the allocation of powers and responsibilities between the General Assembly of members and the Board;
3.5. if the NGO is a foundation, the procedures for electing and removing members of the Board;
3.6. the authority and responsibilities of officers, if any;
3.7. the way of decision-making;
3.8. rules and procedures for:
   3.8.1. amending the founding instrument and statutes;
   3.8.2. for merging, splitting up, or dissolving the organization; and
   3.8.3. distribution of any assets remaining after such dissolution.
4. A statute may contain any other rule, provision, or procedure that is not inconsistent with the requirements of the current law.
5. Rules and procedures of internal governance included in NGOs statute shall comply with democratic principles.
6. An association, foundation or umbrella organization shall have only those powers, and be entitled to engage in those activities and purposes, consistent with its Founding Instrument and statute and which are permitted by Law.

Article 9 Registration
1. Every person, notwithstanding the race, nationality, religion, gender etc. shall be eligible to register NGO under the terms and conditions of this Law. No person needs to register the NGO to exercise the right on freedom of association.
2. The NGO shall be registered to the competent body in order to operate as a legal person in Kosovo.
3. The NGO shall attach to registration application an application form, founding instrument, and its statute.
4. An NGO shall designate in writing an Authorized Representative. All applications for registration must be signed by the NGO’s Authorized Representative. The establishment act is signed by three establishers. …
6. Applications for the registration of NGOs shall be submitted to and accepted by the competent body. Registration decisions and Registration numbers shall be taken and assigned by the competent body.
7. Documents submitted by an NGO in support of its application for registration shall be in corresponding languages in compliance with Constitution of Republic of Kosovo. …
9. The Competent Body shall issue to an NGO a registration certificate or a written decision denying registration within sixty (60) days of receiving an application to register, unless the competent body requests in writing during that same time period further information or clarification. If registration is denied, the competent body shall include an explanation of the grounds upon which registration was denied.
10. If the Competent Body requests in writing further information or clarification in connection with an application to register, the sixty (60) day period with in which the competent body must issue a registration certificate or a written decision denying registration shall cease to run as of the date of the written request. Upon receipt of the further information or
clarification requested, the competent body shall issue a registration certificate or a written decision denying registration within:

10.1. the number of days remaining in the original sixty (60) day time period for issuing a decision; or

10.2. fourteen (14) days of receipt of further information or clarification, whichever is greater.

11. An NGO shall inform the competent body within thirty (30) days of any change to the information required in paragraphs 1. and 3. of Article 6 and paragraph 5 of this Article. Amendments to registration shall be subject to procedures, standards, and time limits equivalent to those applicable to initial registration. Amendments accepted by the competent body shall be recorded, registered, and publicly available under Article 12 of this Law.

Lebanon, Ministry of Interior Circular No. 10/AM/2006

First: In Relation to the Establishment of a New Association

The second Article of the Law on Associations stipulates the following:

“No permit is initially needed to found an association. However, in all cases the government must be notified of the association after it is founded in accordance with Article 6.”

Therefore, it is enough upon establishment of certain associations (social, cultural, political and others...) that its founders should provide the Ministry of Interior and Municipalities with a notice including the following documents:

- Name of the association and its address.
- Three copies of bylaws of the association signed by its founders and certified with the association’s stamp and it is possible to take the model of other bylaws prepared by the Ministry which are given free of charge to founders.
- The names of the founders (and none of the founders should be under twenty years of age as stipulated by the Law on Associations).
- Judicial records [of the founders] that are not more than three months old.

The Ministry of Interior and Municipalities will scrutinize such documents and founders are given a receipt to indicate that the Ministry has taken a notice of the association establishment, without referring the notification to any reference for enquiry. The statement will be by the notification of the Ministry to other references (ministries, departments, unions, etc.)

The Ministry of Interior and municipalities has the right to refuse the delivery of the indicated statement in the following cases:

- If the statement does not include the legally required information.
- If the goals of association are illegal or contrary to the provisions of the law or public order or morals.

In case of rejection of notice for the above stated reasons, the association will be dissolved by a decree issued by the Council of Ministers.

After taking the notice, it is referred to the Official Gazette for publication according to the applicable practices.
Macedonia, Law on Associations and Foundations, 2010

Founders - Article 15

1) An association may be established by natural persons and legal entities. …

3) An association of citizens may be also established by minors, who have reached fifteen years of age, with a statement of consent for establishing an association by their legal representative, for the purposes for which the association is established, in accordance with law.


Article 2

Persons’ associations can be freely established without a prior permission provided that the provisions of the Article 5 is to be observed.

Article 5

An association should present an application to the headquarters of the local administrative authority where the premises of the association is located or by a court assistance for which a receipt is to be delivered. This receipt should be signed and dated. The local authority addresses a copy of the application to the General Prosecution in the primary court, and also a copy of the documents attached thereto, as indicated in the paragraph 3 with purpose of enabling it to give its opinion when necessary.

When the application fulfills the procedures stated in the subsequent paragraph, the receipt is to be delivered within a period of 60 days and in case of not being delivered within this period, the association can practice its activities according to the objectives in its statutes.

The application includes the following:

• Name of the association and its objectives;
• A list of personal and families names and the nationality and the age and date, and professions and residence of the members of the office;
• Their titles with which they represent the association;
• Copies of their national ID or their residence ID for foreigners and copies of the IDs of the criminal register:
• Headquarters of the association:
• Number of association’s branches and affiliated institutions working under its administration or that have constant relevance and aim to have common activity.

The basic laws are to be added to the indicated application in the first paragraph, and three copies of these documents to be provided to the headquarters of the local administrative authority, and one of which is to be addressed to the General Secretary of Government.

The applicant should sign his application and the attached documents and certifies they are authenticated, and the rights of TANABUR are imposed on the basic statutes and the list of the members assigned to manage the association.
Any change that occurs on the management or change that is introduced to the basic laws and creation of sub-institutions or separate institutions, should be permitted during the following month, under the same conditions, protests can be made for these changes and amendments only start in the date in which the permission is made.

In case there is no change in the association members, the concerned should declare that no change has been made, in the same date described under the basic laws.

A stamped and dated receipt should be delivered immediately for any application for change.

**Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000**

**Article (4)**

**Registration Procedures**

1) The founders of an Association or Organization submit a written application to the Competent Department for registration in compliance with all relevant conditions, signed by no less than three of the founding members authorized to register and sign on behalf of the Association or Organization. The application needs to be accompanied by three copies of the By-Laws signed by the members of the Founding Committee.

2) The Minister of the Interior has to issue his decision regarding the compliance of the application with the conditions of registration within a period not exceeding two months from the date of submission of the application. In case of submission of additional data or missing documents needed for the registration, the two-month period starts from the date of submission of the missing documents.

3) If the two-month period following the submission of the application for registration expires without a decision being taken, the Association or Organization is considered registered by law.

4) In the event a decision is issued by the Minister rejecting the application for registration, the decision should specify the reasons for the rejection. The applicants have the right to contest the decision before the competent courts within a period not exceeding thirty days from the date they are notified of the rejection of their application for registration.

**Portugal, Dec. Lei No. 594/74 of November 7**

**Article 4**

Associations acquire legal personality by the delivery, upon receipt, of a copy of the articles of association and the statutes with the civil government of the area of the respective headquarters, after previous publication in the Government Gazette and in one of the most-read daily newspapers in the region. Proof of publication is made by the simultaneous delivery of a copy of each newspaper.

Within eight days of the date of the delivery [of these documents], a copy of the Government Gazette that published the statutes must be sent, in a registered letter with acknowledgment of receipt, to the Public Ministry agent, along with the district court of the headquarters of the association, so that the court, in the case of the statutes or the association not being in accordance with the law or public morality, can promote the judicial declaration of dissolution.
Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 5: Establishment and membership of a national non-governmental organisation

... A national non-governmental organisation may be founded by at least three (3) persons.

A national non-governmental organisation may be founded by international non-governmental organisations or by foreigners if at least one of such foreigners resides in Rwanda or if one of such international organisations has a head office in Rwanda.

Members of a national non-governmental organisation shall be natural persons or non-governmental organisations that founded it or that are admitted into the organization.

South Africa, Non-Profit Organizations Act, No. 71, 1997

13. Application for registration

1) A nonprofit organisation may apply for registration by submitting to the director
   (a) the prescribed form, properly completed;
   (b) two copies of its constitution; and
   (c) such other information as may be required by the director so as to assist the director
       to determine whether or not nonprofit organisation meets the requirements for
       registration.

2) Within two months after receiving an application which complies fully with subsection (1)
   the director-
   (a) must consider the application and any further information provided by the applicant; and
   (b) if satisfied that the applicant by entering the applicant's name in the register.

3) If, after considering an application, the director is not satisfied that the application
   complies with the requirements for registration, the director is not satisfied that the
   application complies with the requirements for registration, the director must send the
   applicant a written notice, giving reasons for the decision and informing the applicant that
   it has one month from the date of the notice to comply with those requirements.

4) The period within which compliance must be effected may be extended by the director on
   good cause shown by the applicant.

5) If an applicant who has received a notice in terms of subsection (3) complies with the
   requirements for registration timeously, the director must register the applicant by entering
   the applicant's name in the register.

6) If an applicant who has received a notice in terms of subsection (3) has not complied
   timeously with the requirements set out in that notice, the director must-
   (a) refuse to register the applicant; and
   (b) notify the applicant in writing of the refusal and the reasons for it.
Switzerland, Civil Code, 1907, as amended until 2014

Article 52
A. Legal Personality

1) Associations and independent institutions dedicated to a particular purpose acquire legal personality through registration in the commercial register.

2) Public bodies and institutions, associations that do not pursue economic purposes, and ecclesiastical and family foundations do not require registration.

3) Associations pursuing immoral or illegal purposes cannot obtain legal personality.

Article 60
A. Establishment
I. Associations

1) Associations that are dedicated to a political, religious, scientific, artistic, charitable, social or other non-economic task obtain legal personality as soon as the will to exist as a corporate body is evident from the statutes.

2) The articles of association must be established in writing and give information about the purpose of the association, its agents and its organization.

Tunisia, Decree Number 88 for the Year 2011, Published on 24 September 2011 Pertaining to Regulation of Associations

Article (2):
An association is an agreement between two or more persons by virtue of which they operate permanently to achieve objectives that do not include the realization of profits.

Zimbabwe, The Non-Governmental Organisations Act, 2004

27. Consideration of applications by Board

1) The Board must deliberate upon and decide upon applications for registration as soon as reasonably possible and notify the applicant of the result of its deliberations.

2) Registration takes place when the applicant receives a certificate to that effect issued under Registrar’s seal as well as a document from the Registrar setting out the rights and obligations of a registered nongovernmental organisation in terms of this Act and any other law.

3) If an applicant has not received notification of the decision relating to its application after four months of the lodging of its application at any one of the designated receiving points, the applicant may, by written notice to the head office of the Board, require the Board to consider and decide upon its application within one month. If the applicant receives no response to its notice within the one month the applicant will be deemed registered in terms of this Act and will be regarded as having the rights and obligations of a registered Non-Governmental Organisation.
Article 7: Rejection of the Application for Registration

1) Should the competent authority reject the application for registration within thirty (30) days of its submission, it shall provide the NGO with a written statement explaining the reasons for the rejection. The authority shall also specify means to correct the reasons that led to the rejection and detail the process and timeline for a re-submission of the application for registration.

2) The authority shall respond to the re-submission within thirty (30) days.

3) The application for registration may only be rejected for failure to submit it in the required form or for other violations of this Law.

4) The decision of the authority to reject the application for registration may be appealed before the competent court. The NGO may file the appeal within thirty (30) days after it received a rejection of the re-submission of the application for registration.

Based on:

Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000

8. Registration.

1) The Registrar shall, within such time as shall be prescribed, if he is satisfied after receipt of an application under section 6(1):-

(a) that the organisation making the application meets the requirements of section 3 above;

(b) that the application complies with section 6 above;

(c) that the programme of activities of the organisation complies with the requirements of section 7 above, register the organisation as a Non-Governmental Organisation and issue to that organisation a Certificate of Registration in the prescribed form, upon payment of the prescribed fee.

2) The Registrar may refuse to register a Non-Governmental Organisation where, in the opinion of the Registrar:-

(a) the name of the Non-Governmental Organisation is similar to the name of another Non-Governmental Organisation or other organisation or entity as to be likely to mislead the public as to its true identity;

(b) the name of the Non-Governmental Organisation is offensive to good morals;

(c) the application for registration does not comply with the requirements of this Act or any Regulations made thereunder.

3) Where the Registrar refuses to register a Non-Governmental Organisation under subsection (2)(c) above, he may direct the Non-Governmental Organisation to resubmit, within such time as may be prescribed, a new application complying with the requirements of this Act. If the Non-Governmental Organisation complies with the Registrar's direction within the prescribed time, he shall register the Non-Governmental Organisation.
4) Any Non-Governmental Organisation, or a member or officer thereof aggrieved by the Registrar’s refusal to register a Non-Governmental Organisation under subsection (2) above may appeal to the Supreme Court and the decision of the Supreme Court thereon shall be final.

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (8):

6) If an application for registration or application for establishment is denied, the Department must state the reasons of refusal and notify the applicants in writing. Registration or establishment applications may be refused only if they are in violation of a provision of this law.

7) The Department’s decision to refuse registration or establishment applications may be appealed within 30 days of the date of the decision is appealable to the Court of Appeals.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2010

Article 10 Denial of Registration

The Competent Body may deny an application if:

1.1. the registration documents do not comply with the requirements of this Law;

1.2. if the statutes of the NGO would violate the provisions of enforceable Law in Kosovo; or

1.3. the organization seeking registration has the same name or acronym so similar to a previously registered or already established NGO that confusion is likely to result.

1.4. if the statute and the program of the NGO promotes races, ethnic, religious, gender inequality.

South Africa, Non-Profit Organizations Act, No. 71, 1997

14. Appeals against refusal to register

1) Within one month after receipt of a notice of a decision of the director not to register a nonprofit organisation, the organisation may appeal against the decision by submitting to the Directorate for consideration by an Arbitration Tribunal-

(a) the application to register;

(b) the notice sent to the applicant by the director in terms of section 13(3);

(c) details of the organisation’s response to the director’s notice; and

(d) the director’s notice and reasons for the decision which is the subject of the appeal.

2) Within three months after receipt of the relevant items, the Arbitration Tribunal must consider the appeal in the prescribed manner, including providing the appellant and the Directorate with the opportunity to make oral representations, and send a written notice of its decision to the appellant and to the director, stating the reasons for the decision.

3) If the Arbitration Tribunal upholds an appeal, the director must register the organisation by entering its name in the register.
Zimbabwe, The Non-Governmental Organisations Act, 2004

28. Appeal against decision to refuse registration

1) A non-governmental organisation that is refused registration by the Board may appeal against this decision to the Administrative Court and the Administration may set aside the decision of the Board and order it to register the organisation or may order the Board to reconsider its decision taking into account various specified matters or may dismiss the appeal.

2) The lodging of an appeal will suspend the decision appealed against.

Article 8: Legal Personality of the NGO

1) An NGO shall acquire the status of a legal person –
   a) Once the competent authority issues a registration certificate;
   b) Upon expiration of the 30-day period after submission or re-submission of the application for registration; or
   c) By court order.

2) Once the NGO receives legal personality it shall have the right to conduct all its activities in accordance with this Law.

3) No re-registration of the NGO shall be required. The NGO shall notify the competent authority of any change in the information provided in the application for registration.

Article 9: Unregistered Associations

Nothing in this Law shall infringe upon the rights of individuals to establish an association on a voluntary basis and without seeking registration. Such unregistered associations shall not receive the status of a legal person. Unregistered associations may conduct their activities freely and without undue interference from the government as long as they do not violate any provisions of this Law.
Based on:

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2010

Article 9 Registration

1. Every person, notwithstanding the race, nationality, religion, gender etc. shall be eligible to register NGO under the terms and conditions of this Law. No person needs to register the NGO to exercise the right on freedom of association.

Kyrgyzstan, Law on Non-Commercial Organizations, 1999

Article 6. The Legal Status and Organizational-Legal Forms of Non-Commercial Organizations

A non-commercial organization shall obtain a status of a legal entity starting from the date of its state registration.

A non-commercial organization can be created with or without registration as a legal entity in a form of a public association, foundation or institution.

United Kingdom, Charities Act 2006, 2006 Chapter 50

9 Registration of charities

For section 3 of the 1993 Act substitute—

3A Registration of charities

(1) Every charity must be registered in the register of charities unless subsection (2) below applies to it.

(2) The following are not required to be registered—

any exempt charity (see Schedule 2 to this Act);

any charity which for the time being— (i) is permanently or temporarily excepted by order of the Commission, and (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000;

any charity which for the time being— (i) is, or is of a description, permanently or temporarily excepted by regulations made by the Secretary of State, and (ii) complies with any conditions of the exception, and whose gross income does not exceed £100,000; and

any charity whose gross income does not exceed £5,000.
Article 10: Foreign NGOs

1) Any foreign NGO shall be allowed to establish a branch in this country if the competent authority approves its application for registration.

2) The foreign NGO shall submit an application for registration of the domestic branch to the competent authority providing the following documents translated into the official language of this country –
   a) The official name of the NGO;
   b) The address of the headquarters of the NGO;
   c) Certified proof of legal establishment of its headquarters showing that the NGO is legally authorized to conduct activities as a non-profit organization in its country of origin;
   d) The name of at least two of the NGO’s members of the board of directors and their contact information;
   e) The name of at least two members of the to-be-established domestic branch of the NGO and their contact information;
   f) The purpose of the NGO;
   g) A copy of the NGO’s bylaws;
   h) A report documenting the activities of the NGO in its country of origin as well as in other countries if applicable; and
   i) A list of activities that the NGO wishes to carry out in this country and reasons for the application to establish a domestic branch.

3) The submission of the application for registration shall be free of charge.

4) The competent authority shall issue a registration certificate no longer than sixty (60) days after receiving the application for registration.

5) Should the authority reject the application for registration within sixty (60) days of its submission, it shall provide the NGO with a written statement explaining the reasons for the rejection. The authority shall also specify means to correct the reasons that led to the rejection and detail the process and timeline for a re-submission of the application for registration.

6) The authority shall respond to the re-submission within sixty (60) days.

7) The application for registration may only be rejected for failure to submit it in the required form or for other violations of this Law.

8) The decision of the authority to reject the application for registration of a domestic branch may be appealed before the competent court. The NGO may file the appeal within 30 days after it received a rejection of the re-submission of the application for registration.
Based on:

Bulgaria, Law for the Non-Profit Corporate Bodies, 2009

Article 5. Founders

Founders of a non-profit corporate body can be Bulgarian and foreign corporate body and able individuals.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2010

Article 7 Foreign and International NGOs

1) A foreign or international NGO is a legal person established outside of Kosovo under legislation that substantially meets the requirements of Article 4 of this Law. …

Article 9 Registration

5) A foreign or international NGO registers by filing the following documentation:

5.1. an application form;
5.2. proof that it is a legal Person in another country;
5.3. the organization’s address in Kosovo; and
5.4. a written statement from a representative of the NGO’s headquarters with authority to provide such statement stating:

5.4.1. the purposes of the NGO;
5.4.2. a general description of the activities that the NGO is planning to carry out in Kosovo; and
5.4.3. the name, address and other contact information of the Authorized Representative.

8) Notwithstanding paragraph 7 of this Article, documents submitted by a foreign or international NGO as proof that it is a legal Person in another country, shall be submitted in their original language, together with a translation thereof in corresponding languages in compliance with Constitution of Republic of Kosovo. If the translation is not a certified translation, the authorized representative shall submit a declaration verifying that the translation is accurate. Any substantive or misleading difference between the original language and an unofficial translation is cause for withdrawing the organization’s registration. Translation should be from the licensed authorized interpreter.

Macedonia, Law on Associations and Foundations, 2010

Foreign Person and Foreign Organizations - Article 37

1) Foreign persons may also be founders and members of an organization, in accordance with this Law.

2) The persons from paragraph (1) of this Article shall have the same rights and responsibilities as the domestic persons, unless otherwise stipulated by Law.
Foreign Organization - Article 38

1) Foreign organizations may be active in the Republic of Macedonia through an affiliation, office or another organizational type of foreign organizations that have seat on the territory of the Republic of Macedonia.

2) In the Republic of Macedonia, foreign organizations shall work in accordance with the provisions of this Law, unless otherwise regulated by a ratified international agreement.

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (34)

In accordance with the Provisions of the Law:

1) Any foreign Association or Organization may submit an application to the Minister to open one or more branches of the Association or Organization in the Palestinian territories to carry out any social services provided these services are compatible with the developmental priorities of Palestinian society, and provided the request includes the name of the foreign Association or Organization, its main headquarters, address, names of founders and members of its Board of Directors, its main purposes, and the names of the persons in charge of the proposed branch and their nationalities, and the manner in which the funds of the branch will be disposed of upon the dissolution of the branch or the liquidation of its operations or its withdrawal, and this will not exceed a period of two months from the date of the submission of the application.

2) The Competent Ministry must take into consideration the opinion of the Ministry of Planning and International Co-operation regarding the registration request of foreign Associations and Organizations.

Rwanda, Law No. 05/2012 of 09/04/2012 Governing the Organisation and Functioning of International Non-Governmental Organisations, 2012

Article 2: Definition of the term

For the purpose of this Law, an international non-governmental organisation is an organisation that was established in accordance with foreign laws and the objective of which is related to public interests.

Article 3: Autonomy of international non-governmental organisations

Without prejudice to other laws, international non-governmental organisations shall enjoy managerial, financial and administrative autonomy.

Article 11: Name of the NGO

The name of an NGO shall not be the same as or confusingly similar to a previously registered NGO. It may not violate fundamental human rights, the constitution, or other laws applicable in this country.
Protection of the name and the logo - Article 12

The name and the logo of a non-governmental organization must be distinguished from the name and the logo of another organization.

The name of a non-governmental organization must be registered in the official language. An organization may also have its name in one or more foreign languages.

Article 12: Activities of the NGO

It shall be prohibited for an NGO to –

a) Adopt goals and conduct activities that are in violation of fundamental human rights, the constitution and other laws applicable in this country, including but not limited to goals and activities that discriminate against anyone based on gender, race, religion, ethnicity, or language or incite to violence;

b) Carry out commercial activities aimed at gaining profit for the members of the NGO or distributing finances to the members of the NGO for personal benefit; and

c) Use the NGO in order to avoid taxation.

Article 13: Bylaws of the NGO

The bylaws of an NGO shall contain the following –

a) The official name of the NGO;

b) The purpose of the NGO, scope of its planned activities, and geographical area where it operates;

c) The names and contact details of at least two of the founding members or board of directors of the NGO;

d) The address of the headquarters of the NGO;

e) The logo, seal, or any other sign or symbol to be used by the NGO;
f) The organizational structure and hierarchy of the NGO, the election and decision-making process, including applicable quorums, powers of the internal committees, and separation of powers between committees and members;

g) The terms of membership in the NGO, rules of application for membership and selection of members, and the rights and duties of the members;

h) The financial resources of the NGO and the mechanisms of their management, spending, and collection, including membership fees; and

i) The process of modification of the bylaws and circumstances of the legal situation of the NGO, including the decision of dissolving, merging, and partitioning.

Based on:

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (6):
The Bylaws of an NGO must include the following:

1) The official name of the organization in Arabic or Kurdish, or the language of the NGO’s choice.

2) The address of the organization's main office.

3) A detailed statement of the organization’s objectives.

4) A copy of the logo and stamp of the organization.

5) The organization’s rules of membership. These should stipulate how members obtain and lose membership and the rights and duties of members.

6) The organizational structure of the organization, election mechanisms and powers of any other internal committees of the organization.

7) Identifying the body inside the NGO that has powers to modify the bylaws of the NGO and to make decisions concerning dissolution, merger or division, and moving funds inside the NGO accord, subject to the requirements of Articles 22(1) and 22(4).

8) Identifying the body that appoints employees of the organization and defines their compensation.

9) The financial resources of the organization and the sum of annual membership dues if any.

Montenegro, The Law on Non-Governmental Organizations, 1999

The By-laws - Article 11

A non-governmental organization shall have By-laws.

The By-laws shall have provisions with respect to the name and the seat of the organization, the internal structure of the organization, the organs of management and supervision of
the organization, the goals and activities of the organization, the methods of financing, liquidation and the distribution of assets, and other provisions pertinent to the activities of the organization.

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**Article 14: Registry of NGOs**

1) The competent authority shall keep a registry of NGOs, NGO networks, and foreign NGOs with branches in this country. This register shall contain the name of the NGO, address of its headquarters and/or local branch, its purpose, and any sanctions or penalties taken against it.

2) The public shall have the right to access the NGO registry.

*Based on:*

**Zimbabwe, The Non-Governmental Organisations Act, 2004**

23. Public Register

The register of non-governmental organizations is a public document and will be available for inspection during business hours at the office of the Registrar and in such other places as the Board may from time to time determine.
3. Membership in an NGO

Article 15: Requirements for Membership in an NGO

1) Every citizen or foreign individual who legally resides in this country and achieves the age of majority shall have the right to establish or be a member of an NGO.

2) Minors may join an NGO but may not take part in the decision-making process.

3) Legal persons shall have the right to establish an NGO or a network of NGOs.

Based on:

Bulgaria, Law for the Non-Profit Corporate Bodies, 2009

Article 5. Founders

Founders of a non-profit corporate body can be Bulgarian and foreign corporate body and able individuals.

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (4):

1) All natural or legal Iraqi persons have the right to establish, join or withdraw from an NGO pursuant to the provisions of this law.

2) Founding members must be:
   a) Iraqi nationals or residing in Iraq.
   b) Legally competent and be at least (18) eighteen years of age, if natural persons.
   c) Not convicted of any non-political crime or crime of honor.

Montenegro, The Law on Non-Governmental Organizations, 1999

Non-Governmental Association - Article 2

A non-governmental association (hereinafter: association) is a not-for-profit membership organization which can be established by domestic and foreign natural or legal persons for the purpose of accomplishing individual or common interests, or for the purpose of accomplishing and promoting public interests.

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 5: Establishment and membership of a national non-governmental organisation

... A national non-governmental organisation may be founded by at least three (3) persons.

A national non-governmental organisation may be founded by international non-governmental organisations or by foreigners if at least one of such foreigners resides in Rwanda or if one of such international organisations has a head office in Rwanda.
Article 16: Terms of Membership

1) An NGO may set its own terms and requirements for membership, including the rights and obligations of its members, in accordance with this Law.

2) The NGO may determine whether there are any membership fees, salaries for paid employees, and compensation for members of the decision-making body.

Article 17: No Personal Liability for Obligations of the NGO

Members, founders, employees, and directors of an NGO shall not be personally liable for the obligations of the NGO. An NGO’s creditor may not seek repayment for the debts of the NGO from their personal funds.

Based on:

Croatia, Law on Associations, 2014

Article 36. Responsibility for liabilities

1) The association is responsible for its liabilities with all its assets.

2) Members of the association and the members of its bodies are not liable for the obligations of the association.

3) Bankruptcy of the association can be declared in accordance to the law.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 11 Legal Status

1) A domestic NGO shall have the status of a legal person in Kosovo upon registration pursuant to this law.

2) Upon registration, a foreign or international NGO is authorized to operate as a legal person in Kosovo.

3) Domestic and foreign or international NGOs are subject to all applicable laws in Kosovo.

4) Any notice, letter, summons, or other legal acts shall be considered validly served on a registered NGO if it is delivered in person or by mail to the authorized representative or to the address specified pursuant to sub-paragraph 1.3. paragraph 1 of Article 6 and sub-paragraph 5.3. paragraph 5 of Article 9 of this law.

5) Officers, directors and employees of registered NGOs shall not be personally liable for the debts or obligations of the NGO, but they shall be personally liable for willful or grossly negligent performance or neglect of duty.
4. Rights and Duties of the NGO, including Organization and Funding

Article 18: Board of Directors

1) The founding members of an NGO shall select the members of the board of directors within thirty (30) days of acquiring the status of a legal person. The board of directors shall be selected independently by the members of the NGO and without requiring approval of the government or competent authority.

2) The NGO shall determine the selection process, number of members of the board of directors, and their functions and powers in its bylaws.

Based on:

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 13 Internal Governance of Associations, Foundations and Umbrella Organizations

1. The highest governing body of an association shall be the Assembly of members which shall consist of all members of the association. All members of the association shall be entitled to participate in meetings of the Assembly.

2. The highest governing body of a foundation shall be a Board of Directors. The Board of Directors shall consist of at least three members.

3. The highest governing body shall have full responsibility for the policies and financial affairs of the organization and shall meet at least twice a year, at which time it shall review and approve the assets, liabilities, income, expenditures, and programs of the organization for the past year as well as the anticipated plans for assets, liabilities, income, expenditures and programs for the upcoming year.

4. The highest governing body of an NGO shall not delegate:
   4.1. the duties under paragraph 3 of this Article;
   4.2. the election of officers of the NGO;
   4.3. amendments to the Founding Instrument or Statute; and
   4.4. decisions to merge, split up, or dissolve the NGO.

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (18)

Rights of the Board of Directors

The Board of Directors is entitled to:

1) Administer the affairs of the Association or Organization, and establish the necessary rules, regulations and instructions.
2) Appoint the staff necessary for the Association or Organization, to define their job or to terminate their services in accordance with the Provisions of the Law.

3) Set up committees it deems necessary for the improvement of operations, and to define the competence of each committee.

4) Draw up the final statement of accounts for the past financial year and the draft budget for the following year.

5) Present the annual administrative and financial reports, and any future plans and projects before the General Assembly.

6) Call the General Assembly to an ordinary or extraordinary meeting session, and implement its resolutions in accordance with the Provisions of the Law.

7) Follow up any observations presented by the Competent Department, Ministry or other official bodies regarding the activities of the Association or Organization, and respond to them.

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**Article 19: Decision-Making Process**

The NGO’s bylaws shall determine –

a) The powers of the board of directors and other internal committees of the NGO and the separation of powers between committees and members;

b) The manner in which members of the NGO are invited to official and unofficial, ordinary and unordinary meetings;

c) The frequency of meetings of the board of directors and the general assembly; and

d) The decision-making process, including the quorums required to pass decisions by the meetings of both the general assembly and the board of directors.

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**Article 20: Relationship with the Government**

1) The government shall strengthen the role of civil society in the country, preserve its independence, and support NGOs to achieve their legitimate purposes with peaceful means.

2) NGOs shall be free to conduct their activities without undue government interference. They shall be able to hold meetings without attendance of government representatives and without prior notification.
3) The financial records of an NGO may be accessed only in accordance with this Law. It shall be prohibited to freeze the assets or bank account of an NGO unless in circumstances prescribed by this Law.

Based on:

Bulgaria, Law for the Non-Profit Corporate Bodies, 2009

*Article 4. Relations with the state*

The state can support and encourage the non-profit corporate bodies registered in the central register in carrying out socially useful activity through tax, credit interest, customs and other financial and economic relief, as well as financing, under conditions and by an order determined by the respective special laws.

Croatia, Act on the National Foundation for Civil Society Development, 2003

*Article 3*

1) The Foundation shall be established with the basic purpose of promoting and developing the civil society in the Republic of Croatia.

2) In order to fulfil its basic purpose, the Foundation shall provide support for programmes fostering the sustainability of the not-for-profit sector, inter-sector co-operation, civil initiatives, philanthropy and volunteerism, those improving the democratic institutions of the society, as well as other programmes fulfilling the basic purpose of the Foundation.

Kyrgyzstan, Law on Non-Commercial Organizations, 1999

*Article 5. Interaction between the Government and Non-Commercial Organizations*

The Government shall guarantee conditions for non-commercial organizations to fulfil their Charter objectives. The Governmental bodies and officials shall provide that the rights and legal interests of non-commercial organizations are observed in accordance with the Constitution of the Kyrgyz Republic and shall support their activities.

A governmental support may have a form of purposive funding of several profit-for-public programs of non-commercial organizations, as well as other forms not prohibited by the legislation.

Interference of state bodies or officials into the activity of non-commercial organizations, as well as interference of non-commercial organizations into the activity of state bodies and officials shall not be acceptable, except for cases stipulated by the Law.

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

*Article 12: Financial support from the Government*

The Government shall include in its national budget funds meant for supporting national non-governmental organisations.

An Order of the Minister in charge of national non-governmental organisations shall specify modalities for granting such support.
Article 28: Rights of a national non-governmental organisation

National non-governmental organisation shall have the following rights:

1. to put forward views in designing national policies and legislation in relation with the functioning of national non-governmental organizations;
2. to advocate, protect and promote human rights and other national values;
3. to express opinions and views on national policies and legislation;
4. to enter into agreements with other organisations and entities;
5. to enjoy tax exemption in accordance with relevant laws;
6. to enjoy the literary and artistic property right and property of all its operations related to its mission.

South Africa, Non-Profit Organizations Act, No. 71, 1997

3. State’s responsibility to nonprofit organisations

Within the limits prescribed by law, every organ of state must determine and co-ordinate the implementation of its policies and measures in a manner designed to promote, support and enhance the capacity of nonprofit organisations to perform their functions.

4. Establishment of Directorate for Nonprofit Organisations

The Minister must establish within the national department a Directorate for Nonprofit Organisations.

5. Functions of Directorate

In addition to any other function determined by the Minister or specified elsewhere in this Act, the Directorate is responsible for-

a) facilitating the process for developing and implementing policy:

b) determining and implementing programs, including programs-

i) to support nonprofit organisations in their endeavor to register: and

ii) to ensure that the standard of governance within nonprofit organisations is maintained and improved:

c) liaising with other organs of state and interested parties; and

d) facilitating the development and implementation of multi-sectoral and multi-disciplinary programs.

6. Model documents and codes of good practice

1) The Directorate must –

a) prepare and issue model documents, including-

i) model constitutions for nonprofit organisations; and

ii) a model of the narrative report to be submitted by registered nonprofit organisations to the Directorate:
b) prepare and issue codes of good practice for
   i) nonprofit organisations; and
   ii) those persons, bodies and organisations making donations or grants to nonprofit
       organisations.

2) Any model document or code of good practice, or any amendment or substitution thereof
   must be-
   a) made in accordance with the procedure contemplated in section 28 with the necessary
      changes; and
   b) published in the Gazette.

7. **Reports of Directorate**

Within six months after the end of each financial year, the Minister must table a written narrative
and financial report on the activities of the Directorate for the previous financial year in Parliament.

8. **Designation of Director of Nonprofit Organisations**

The Minister must designate an employee of the national department as the Director of Nonprofit
Organisations to be in charge of the Directorate and to perform the other functions

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**Article 21: Records of the NGO**

1) An NGO shall keep records of –
   a) Names and contact information of its members;
   b) Decisions made by the board of directors and general assembly;
   c) Assets and financial accounts, including revenues and expenses; and
   d) Overview of conducted activities, including type, duration, financing, and scope
      for the duration of its existence.

2) To assure transparency and accountability of its financial records, the NGO shall
   conduct an internal auditing process through a registered accountant of their choosing.

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**Article 22: Reporting Obligations of the NGO and Auditing**

1) An NGO shall report to the competent authority once a year. It shall only be required
   to report brief overviews of the activities it conducted and of its financial resources.
2) The competent authority shall have the right to audit an NGO’s accounts if it believes that they are not accurate. The auditing body shall inform the NGO thirty (30) days before beginning the auditing process. It may not disclose information about the NGO to entities other than the concerned authority.

Based on:

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (15):
An NGO must submit the following to the Department each year:

1) One financial report including a detailed description of the source of the NGO’s funds and financial transactions.
2) A report of the NGO’s activities including a briefing on the projects implemented by the organization during the year.

Article (16):
1) NGOs should conduct all their financial transactions including receiving and disbursing financial resources through public or private banks via a bank account.
2) Only a court may authorize the freezing of the bank account of an NGO.

Article (18):
The NGO and its branches must keep the following records:

1) Members register containing the members’ names, addresses, nationalities, ages and positions.
2) A record of decisions containing the decisions of the General Assembly and the Board of Directors.
3) A record of accounts including the NGO’s revenues and expenses.
4) A record of monies containing the NGO's transferable and Non-transferable money with the values and details for each.
5) A record of activities and projects including the type of activity or project, the financing entity and the benefit of it.

Article (19):
1) NGOs must keep all financial documents, reports and records of activities for five years.
2) Accounting records of NGOs must conform to the legally approved accounting principles.
3) An NGO with a budget exceeding 75 million dinars annually must conduct an internal audit of its accounts each year through a chartered accountant.

Article 9

Every association, except for political parties and the association that has political nature, indicated in the Chapter Four of this law, can be recognized for public benefit according to a decree after presenting an application and the administrative authority should conduct an investigation of its objectives and resources.

Response to this application should be made in a period not later than six months that starts from date of request placed with the local administrative authority.

The necessary conditions for accepting the application for public benefit are determined by a regulating text.

The qualified sport universities according to the provisions of the article 17 of the law No. 06.87 related to the physical education and sports shall acquire, by the force of the law, the recognition for public benefit. This recognition is to be made by a decree.

The associations which enjoy public benefit should hold, according to the definite conditions by a regulating text, accounts that reflect a true profile of its accountability and financial position and its results, and should keep statements and documents that demonstrate the accounting entries and books for five years.

They should raise an annual report to the Secretary General of Government including all aspects of utilizing resources the association received within a year. This report should be certified by a chartered accountant enlisted on the board of Accountants who should certify the authenticity of the accounts with consideration of the law related to the code of the financial courts.

In case the association violates its financial obligations or the ones mentioned in its statute, the recognition for its public benefit can be withdrawn after warning it to fix its accounting position within a term of three months.

The association of public benefit, enjoys the privileges resulted in the following provisions afterward irrespective of the advantages stated in the chapter 6 above.

Except for the legislative texts related to the application for public support or any other authorized means that generate income, it is possible to state in the decree recognizing the public benefit, it is allowed for the association to apply for a public support or any other means. It should also declare that to the General Secretary of Government at least 15 days before the activity to be done. The indicated application should include the date and place of the activity and the estimated revenues and the purpose for which is dedicated.

The Secretary General of Government may within the mentioned term to object by a justified decision on the public support or any activity that may generate revenue if he saw it is inconsistent with the legislative and regulating provisions.

Article 32 (Repeated Two)

The associations which receive subsidies whose amount exceeds 10,000 dirhams from local groups or public institutions or the companies which the state or the group or institutions contribute in its capital wholly or partly, should present its accounts to the donating agencies with consideration of the law related to the code of the financial courts.
The account books which should be held by the association as indicated in the above paragraph, are to be defined by a decision of the Minister of Finance, and they are to be inspected by the inspectors of the Ministry of Finance.

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (11)
Records of the Association or Organization The Association or Organization keeps at its main headquarters its official financial and administrative records that include the following financial transactions, administrative decisions and data:

1) Incoming and outgoing correspondence, in special files and organized records.
2) By-Laws [of the Association or Organization], names of the members of the Board of Directors in each electoral term and the date of their election.
3) Names of all members of the Association, Organization or Institution, along with identification, age and date indicating when membership commenced.
4) Minutes of the Board of Directors meetings, in chronological order.
5) Minutes of the meetings of the General Assembly.
6) Record of revenues and expenditure, detailed according to financial rules.

Article (13)
The Association or Organization will present to the Competent Ministry, at a date no later than four months after the end of the financial year, two reports approved by the General Assembly:

1) an administrative report containing a full description of the activities of the Association or Organization during the last year;
2) a financial report signed by a legal auditor, and containing a detailed revenue and expenditure account of the Association or Organization finances in accordance with the accepted principles of accounting.

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 29: Responsibilities of a national non-governmental organisation
Every national non-governmental organisation shall have the following responsibilities:

1. to submit to the competent authority in charge of national non-governmental organisations a copy of its activity and financial report for the previous year in accordance with conditions set by the competent authority;
2. to notify the competent authority changes concerning the statutes, the legal representative and the head office;
3. to harmonize its functioning with laws.
South Africa, Non-Profit Organizations Act, No. 71, 1997

18. Duty to provide reports and information

1) Every registered nonprofit organisation must, in writing, provide the director with-

   a) a narrative report of its activities in the prescribed manner together with its financial
      statements and the accounting officer’s report as contemplated in section 17(1) and (2),
      within nine months after the end of its financial year;

   b) the names and physical, business and residential addresses of its office-

Article 23: Funding of the NGO

1) An NGO shall have the right to seek and receive funding for its activities. This shall
   include the right to –

   a) Collect membership fees;

   b) Receive revenue through the activities and projects carried out by the NGO;

   c) Acquire property/real estate;

   d) Invest the resources of the NGO;

   e) Receive donations, grants, wills, gifts and endowments from individuals,
      governmental and non-governmental organizations; and

   f) Receive donations, grants, wills, gifts, and endowments from foreign entities in
      accordance with the provisions of this Law.

2) The NGO shall use any funding in accordance with its purpose and bylaws.

Based on:

Bosnia and Herzegovina, The Law on Humanitarian Activities and Humanitarian
Organizations of the Federation of Bosnia and Herzegovina, The Official Gazette, No. 35, September 1998

Article 20

A humanitarian organization can acquire property for carrying out its activities from:

- Founding capital,
- Membership fees, contributions and membership gifts,
- The federal budget, the budget of a canton and municipality, in accordance with the
  decision of the Federation’s Government, the government of a canton or municipality,
  and upon the request of a humanitarian organization,
- Donations of domestic and foreign natural and legal persons,
- Other sources.
Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (13):

NGOs’ resources consist of:

1) Members’ fees and dues.
2) Internal or external donations, grants, bequests and gifts.
3) The revenues from their activities and projects.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 15 Prohibition on Fundraising, Campaigning, and Endorsing Political Candidates/Parties

NGOs may not engage in fundraising or campaigning to support political parties or candidates for political office, nor may they propose, register or in any way endorse candidates for public office.

Article 16 Property and Resources

1. The income of an NGO may include donations of cash, securities, and in-kind contributions; bequests; membership fees; gifts; grants; real or personal property; and income generated from any lawful activities undertaken by the NGO with its property and resources.

2. An NGO may engage in economic activities for the purpose of supporting its not-for-profit activities, in compliance with Article 4, and provided that income realized through economic activities is used solely to accomplish the purposes specified in the NGOs statute.

3. An NGO may own and manage property and assets for the accomplishment of its not-for-profit purposes.

4. It is forbidden by law to finance organizations whose activity does not coincide with legal order in republic of Kosovo and the international applicable right.

Kyrgyzstan, Law on Non-Commercial Organizations, 1999

Article 12. Activity of a Non-Commercial Organization

A non-commercial organization shall have the right to conduct any type of activity which is not prohibited by Law and do not contradict the goals and objectives established in the Charter, program documents and other acts of an organization.

A non-commercial organization shall have the right to conduct economic activities, including production, provided that the profit is not distributed among the founders, members, appointed persons and other employees and members of the governing bodies. Such activities may include production and sales of goods, performance of services, rendering of paid services, and other types of business activities, provided that such activities do not contradict goals and objectives of the organization.

Restrictions of some certain types of activities of a non-commercial organization may be established by Law only. In cases specified by the legislation, certain types of activities may be carried out with an appropriate license or a special permit.

Article 6
Every association that is legally permitted, has the right to plead before courts and possess and dispose of the following:

1. Public subsidies;
2. Duties of its members involvement;
3. Annual contributions of its members;
4. Supports of the private sector;
5. The assistances the association can receive from foreign agencies or international agencies with consideration of the provisions of the two article 17 and 32 of this law.
6. Headquarters and resources allocated for operation and holding its members’ sessions;
7. Properties necessary for achieving its objectives;

Article 10
Every association recognized for its public benefit can possess, within the described limits in the decree of recognition for public benefit, funds, properties and movables necessary for accomplishing its goal or targets.

Article 11
Every association recognized for the capacity of public benefit can, within the defined conditions in its basic statute and after the permission issued by the Prime Minister, possess without compensation, properties, or values or movables.

Any association with public benefit may not accept a gift of movable or property if its benefit is maintained for its giver.

Article 24: Funding through Foreign Entities

1) An NGO may seek funding through foreign entities to support its activities. The NGO shall not be required to submit a notification to the government for seeking foreign funding.

2) If an NGO wishes to receive donations, grants, wills, gifts, or endowments from foreign entities, it shall notify the competent authority about the value and source of the funding as well as the activities and items on which it is planning to spend it.
3) The competent authority may object to the receiving of foreign funding within thirty (30) days of the submission of the notification. It shall provide the NGO with a written statement explaining the reasons for the objection. It may object only if the receiving of foreign funding would violate this Law.

4) In the event that the authority fails to object to the foreign funding within the required period, the receiving of foreign funding shall be considered approved.

5) The NGO shall use the foreign funding in accordance with its purpose and bylaws.

**Based on:**

**Bhutan, The Civil Society Organizations Act of Bhutan, 2007**

66. Foreign Sources of Funds

Donations, grants, subsidies, financial assistance and contributions, bequests and other transfers of funds or other property from foreign sources, whether public or private, shall be routed through an authorized Financial Institution of Bhutan.

**Croatia, Law on Associations, 2014**

**Article 30. Property and Financing**

1) The assets of the association consist of the funds that the association gained through membership fees, voluntary contributions and gifts, funds which the association obtains through the performance of activities that meet the association’s goals, the performance of activities in accordance with Article 31 of this Act, the funding of programs and projects of the association from the state budget and budgets of local and territorial (regional) governments and funds and/or foreign sources, as well as other monetary assets acquired in accordance with the law, their real property and movables, as well as other property rights.

2) The Association may dispose of its assets only in order to achieve the objectives and performance of activities within certain articles of association, in accordance with the law.

**Israel, Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, 5771-2011, Statute Book 5771-2011 2 March 2011**

**Article 2. Requirement of quarterly report**

A recipient of support who received monetary support from a Foreign State Entity shall submit a report to the Registrar, within one week from the end of the quarter in which the donation was received, an online form to be established by the Minister of Justice (hereinafter – a quarterly report); The quarterly report shall detail:

1) The identity of the donor;

2) The amount of the support;

3) The goals or designation of the support;
4) The conditions of the support, including undertakings made by the recipient of support to the Foreign State Entity regarding the support, orally or in writing, directly or indirectly, if such exist.

Article 6. Obligation to inquire financial sources

An association or public benefit company receiving monetary support must do everything in its ability in order to inquire whether the support it received is from a Foreign State Entity.

Jordan, Law of Societies (No. 51 of 2008) as amended by Law No. 22 of 2009

Article [17]:

A. Subject to the provisions of paragraphs (B) and (C) of this article, a society shall indicate in its annual report any donation or funding it has obtained; a society shall record in its financial records the name of the entity that made the donation or provided funding, the amount, the purpose for which such money will be disbursed, and any specific conditions related to this.

B. If the donation or funding is provided by an individual who is not Jordanian, then the society shall follow the procedures specified in paragraph (C) of this article provided that the funding or donation meets the following conditions:

1. The source of funding or donation is legal and it does not violate public order or morals.

2. The conditions stipulated by the donor or funder do not conflict with the provisions of this law or with the society’s bylaws.

3. Donations or funding are used for the purpose for which they were donated.

C. 1. If a society wishes to obtain a donation or funding from a person who is not Jordanian, it must notify the Council of Ministers. Such notification should indicate the source of the donation or funding, its amount, how it will be received, the purpose for which it will be disbursed, and any conditions specific to such monies. In the event that a refusal has not been issued by the Council of Ministers within thirty days from the date of notification, the donation or funding shall be deemed approved.

2. If the Council of Ministers issues a decision to refuse the donation or funding within the period specified in clause (1) of this paragraph, then the society must refrain from receiving such donation or funding. A refusal may be appealed to the High Court of Justice according to the provisions of the legislation in force.

D. If a society obtained a donation or funding contrary to the provisions of paragraph (B) or paragraph (C) of this article, then the Council of Ministers shall transfer the amount to the account of the Fund unless the donor or funder refuses this action; Such transfer is in addition to any sanctions or other procedures stipulated in this law and the legislation in force.

E. A society shall deposit all its monies in banks operating in the Kingdom. A society’s accounts do not enjoy financial secrecy in the face of any inquiry presented by the Relevant Minister or the Registrar regarding them and this is notwithstanding what is found in any other piece of legislation.

Article 32 (Repeated)

Associations which receive foreign assistance should declare that to the General Secretary of Government along with specifying the amounts received and its resources within a term of thirty days from the date of this assistance.

Any violation of this article’s provisions, will expose the concerned association to dissolution according to the provisions of the article 7.

Nicaragua, General Law on Non-Profit Legal Persons, Law No. 147, 1992

Article 13.

The obligations of legal persons are as follows: …

e) To comply with the legal requirements established for donations from abroad and to inform the Associations Office of the Ministry of the Interior and the Ministry of Foreign Cooperation about the donations it receives.

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**Article 25: Economic Activities**

1) The NGO shall be allowed to conduct economic and fundraising activities that further its goals without prior approval or license. There shall be no limitations on the number of fundraising events conducted by the NGO.

2) The NGO shall be allowed to participate in biddings organized by the public authorities.

3) The NGO shall have the right to own real-estate and dispose of it.

**Based on:**

Bulgaria, Law for the Non-Profit Corporate Bodies, 2009

Article 3. Purpose of activity

1) The non-profit corporate bodies shall determine freely the means of achieving their goals.

2) Restriction of the activity and the means for achieving the goals of the non-profit corporate bodies can be determined only by a law.

3) The non-profit corporate bodies can carry out additional economic activity only if it is related to the subject of their basic activity for which they are registered, and by using the revenue for achieving the goals determined by the statutes or the constituting act.

4) The subject of the economic activity shall be determined by the statutes or the constituting act of the non-profit corporate body.
5) The economic activity carried out by the non-profit corporate bodies shall be subject to the conditions and the order determined by the laws regulating the respective type of economic activity.

6) The non-profit corporate bodies shall not distribute profit.

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (10):
All NGOs are prohibited from the following:

1) Adopting any goals or conducting any activities that violate the Constitution or other Iraqi laws.

2) Carrying out business so as to distribute money among its members for personal benefit, or using the organization to evade payment of a tax.

3) Raising funds to support candidates for public positions, or providing candidates with financial support.

4) Including a provision of the Bylaws that would distribute funds, grants, or aid among their members in the event that they are dissolved.

Article (14):

1) The NGO pledges to use its funds to fulfill the organization’s goals.

2) NGOs are eligible to bid on tenders announced by public authorities, provided that the subject of the procurement process relates to the NGO’s field of expertise.

3) An NGO may possess any real estate necessary to establish headquarters, branches, or a place of meeting for its members, or to achieve its goals in accordance with the law.

4) An NGO may sell any property not essential to attaining its objectives according to law. The property price shall be recorded as revenue to the organization.

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (33)
Associations or Organizations may collect contributions from the public for the social purposes for which they were established by, among other things, organizing parties, charity bazaars, and sports competitions, after informing the Competent Ministry.
5. Benefits for NGOs

Article 26: Preferential Treatment and Financial Incentives

1) NGOs shall receive preferred treatment in the taxation of their revenues. They shall receive preferred treatment in the taxation of buildings and real-estate owned.

2) NGOs shall be provided with financial incentives to conduct their activities. They shall be able to deduct purchases made in accordance with their purposes and bylaws from their taxable income. NGOs shall receive special offers for the consumption of electricity, water, natural gas, and other utilities necessary for their management.

Based on:

Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000


1) Every Non-Governmental Organisation registered under this Act shall be exempt from the payment of income tax, but subject to the provisions of regulations made under subsection (3) below, may apply to the Minister of Finance to be exempted from the payment of business tax or any other tax, duty or impost levied by the Government from time to time.

2) Subject to sections 17 and 109 (1) of the Income and Business Tax Act, every person in Belize who makes a donation to a Non-Governmental Organisation registered under this Act shall be eligible, in the financial year when the donation is made, to have such donation treated as tax-deductible for income tax and business tax purposes.

3) The Minister of Finance may, after consultation with the Minister, make Regulations to give effect to the provisions of this section.

Germany, Fiscal Code/Regulation on Taxes of 1977, as last amended 2011

Section 51 - General

1) The following provisions shall apply where the Code grants tax privileges to a corporation on account of its serving directly and exclusively public-benefit, charitable or religious purposes (tax-privileged purposes). A corporation shall be understood to mean a corporation, association of persons or conglomeration of assets within the meaning of the Corporation Tax Act. Functional subdivisions (departments) of corporations shall not be treated as independent taxable entities.

2) Where the tax-privileged purposes are achieved abroad, the tax privilege shall be conditional upon natural persons who have their residence or their habitual abode within the territory of the application of this Code being advanced or the activity of the corporation, alongside achieving the tax-privileged purposes, also being able to contribute to the reputation of the Federal Republic of Germany abroad.
3) A tax privilege shall furthermore require that the corporation does not, pursuant to its statutes and in its actual management, advance efforts within the meaning of section 4 of the Federal Constitution Protection Act and does not contravene the concept of international understanding. In the case of corporations which are listed in the Federation’s or a Land’s report on the protection of the constitution as an extremist organisation, it shall be refutably assumed that the conditions of the first sentence above are not fulfilled. The revenue authority shall inform the authority responsible for the protection of the constitution of facts substantiating the suspicion that efforts within the meaning of section 4 of the Federal Constitution Protection Act or contraventions of the concept of international understanding.

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (17):

1) Public utility NGOs shall be exempted from income tax, VAT, customs duties and sales tax.

2) Public utility NGOs should seek to achieve a public interest.

3) The capacity of a public utility organization shall be granted to an NGO or withdrawn from it under a decision by the Council of Ministers based on a proposal by the Secretary General of the Council of Ministers.

Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009

Article 17 Public Beneficiary Status

1) NGO registered under this law may apply for public beneficiary status if the NGO is organized and operated to undertake one or more of the following as its principal activities: humanitarian assistance and relief, support for persons with disabilities, charity activities, education, health, culture, environmental conservation or protection, economic reconstruction and development, the promotion of human rights, the promotion of democratic practices and civil society, or any other activity that serves the public beneficiary.

2) NGOs activities shall constitute public beneficiary activities only if significant benefits are provided free of charge or at less than fair market value to disadvantaged individuals or groups. NGOs activity shall constitute a public beneficiary activity only if it is undertaken primarily for the benefit of disadvantaged individuals or groups.

3) An NGO may apply for public beneficiary status upon initial registration by the NGO or thereafter. The Competent Body shall grant public beneficiary status if the registration documents of the NGO demonstrate that the purposes and activities of the NGO satisfy the requirements of paragraph 1 of this Article.

4) Pursuant to conditions and procedures contained in legislation into force, NGOs with public beneficiary status shall be entitled to tax and fiscal benefits, except those which are essentially charges for municipal public services.

Macedonia, Law on Associations and Foundations, 2010

Concept of the Public Benefit Status - Article 73

The organizations may obtain the status of public benefit organizations if they perform public benefit activities, implement programs and projects on central and/or local level, independently
or in cooperation with state administration bodies and municipal bodies, the bodies of the municipalities in the City of Skopje and the City of Skopje, as well as if they use the financial resources for realization of activities.

Montenegro, The Law on Non-Governmental Organizations, 1999

The Government’s Support - Article 26

The Government of Montenegro shall provide financial aid to not-governmental organizations. The criteria and the procedure for obtaining the government’s aid shall be prescribed by special regulations.

Tax and Other Exemptions and Privileges - Article 27

The Government shall provide tax and other exemptions and privileges for nongovernmental organizations.

Morocco, Decree to Implement the Decree on the Right to Establish Associations (Prime Ministerial Decree 2-04-969 of 2005), 2005

Article 8:

According to the provisions of the two last articles of the article 9, of the decree No. 1-58-376 issued on 3 Jumad Al Awal 1378 (15 Nov. 1958) above mentioned, every association-recognized for public benefit in the date of publishing this decree or while applying for the recognition of public benefit- can ask for an annual support from the government, according to the requirements stated in the article 9, taking the following into accounts:

• To be committed to use the raised amounts for its assigned purposes;
• To indicate to the estimated amount that can be collected from the government support and the requirements according to which it will be made, especially its term and scope;

This permission is to be granted by a decree of the recognition for the public benefit.

The association, within 15 days prior the application for a government support, should send an application to the General Secretary of the Government, containing the data stated in the article 2 of the decree issued to implement the Law No. 004-71 dated 21 Sha’aban 1391 (12 October 1971) relevant to the government support.

United States, 26 USC § 501, current through Public Law 112-143 of July 9, 2012

§ 501 - Exemption from tax on corporations, certain trusts, etc.

(a) Exemption from taxation

An organization described in subsection (c) or (d) or section 401 (a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503. …

(c) List of exempt organizations

The following organizations are referred to in subsection (a): …

3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures
to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

4) (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

5) Labor, agricultural, or horticultural organizations.

6) Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

7) Clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

8) Fraternal beneficiary societies, orders, or associations—

A) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

B) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

9) Voluntary employees’ beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of such association inures (other than through such payments) to the benefit of any private shareholder or individual. For purposes of providing for the payment of sick and accident benefits to members of such an association and their dependents, the term “dependent” shall include any individual who is a child (as defined in section 152(f)(1)) of a member who as of the end of the calendar year has not attained age 27. ...

Yemen, Law No. 1 for the Year 2001 Concerning Associations and Foundations, 2001

Article (40):
The associations and foundations that are subject to the provisions hereunder enjoy the following advantages:

1. Exemption from all forms of taxes for all the proceeds that they realize and the sources of their income.

2. Exemption from customs taxes and fees for the import of goods, supplies, equipment, instruments, spare parts, primary raw materials, whether manufactured or not manufactured, which are necessary to achieve its objectives.
3. Exemptions from customs duty on the gifts, grants and assistance it receives from overseas, which are needed for, undertaking its mission, based on the proposal of the Minister and the approval of the Minister of Finance.

**Zimbabwe, The Non-Governmental Organisations Act, 2004**

39. **Profits from Commercial Ventures**

Where, as a means of raising funds, an organization undertakes a commercial venture, the profit accruing from such venture will be tax-exempt up to such percentage of the profits as will from time to time be prescribed by the Board for the purpose.

40. **Donations from inside Zimbabwe**

Subject to such limits as may from time to time be prescribed by the Board, donations by Zimbabwean juristic and natural persons to one or more non-governmental organizations for the furtherance of their activities will be taxdeductible.

41. **Tax-Exemption on Income**

Income accruing to organizations by means of grants received from external or domestic sources, or from interest, rentals, or capital gains, shall be tax-exempt.
6. Merger and Dissolution

Article 27: Merger and Networks of NGOs

1) NGOs with a similar purpose may merge and form a new NGO with its own bylaws in accordance with this Law. Upon issuance of the registration certificate, the new NGO obtains its legal personality and becomes the successor to the merged organization with regards to rights and obligations.

2) NGOs with a similar purpose may affiliate or establish a network of NGOs. Such network may enact its own bylaws determining membership, organization, and distribution of powers.

Based on:

Montenegro, The Law on Non-Governmental Organizations, 1999

Membership in Umbrella Non-Governmental Organizations - Article 8

A non-governmental organization may collaborate or become a member of a foreign or domestic umbrella organization.

Rules of registration set forth in this Law shall also apply to registration of umbrella organizations.

Article 28: International Cooperation between NGOs

1) A domestic NGO may freely cooperate and correspond with a foreign NGO or international organization. Its members may attend international meetings without seeking prior approval or being required to notify the government.

2) Domestic NGOs may affiliate or form a network with a foreign NGO or join an international network of NGOs.

Based on:

Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

Article (28)

Any Association or Organization may join or be affiliated with any Arab or regional or international Organization or Union outside the Palestinian territories, as long as it keeps the competent party informed.
Article 29: Voluntary Dissolution

1) An NGO may be dissolved following a voluntary decision of its members.

2) If the members of an NGO have decided on its dissolution, the board of directors shall issue a decision to appoint a liquidator in a maximum period of thirty (30) days after the decision to dissolve the NGO has been made.

3) The liquidator shall manage the NGO for the amount of time necessary for the liquidation process. The liquidator shall confiscate all resources and assets of the NGO and take care of the NGO’s obligations for the purposes of liquidation and paying its debt and obligations. The debt and other financial obligations shall be met according to the following priorities –
   a) The cost of the liquidation process and the liquidator’s fees;
   b) The amounts owed by the NGO to its employees;
   c) The amounts owed by the NGO for the public treasury;
   d) The debt owed by the NGO to non-members.

Article 30: Dissolution by a Court

1) A court may order the dissolution of the NGO if it violates this Law.

2) The case may be filed by –
   a) The competent authority;
   b) A member of the NGO.

3) If the court order of dissolving the NGO has been issued but a liquidator has not been chosen within thirty (30) days, the competent court shall hire a liquidator.

Based on:

Estonia, Non-profit Associations Act, passed 6 June 1996, as amended 2005

§ 37. Bases for dissolution

A non-profit association is dissolved:

1) by a resolution of the general meeting;

2) by the declaration of bankruptcy of the non-profit association or abatement of bankruptcy proceedings before the declaration of bankruptcy;
3) upon a decrease of the number of members of the non-profit association to below two or another number specified by law or the articles of association;
4) due to the inability of the general meeting to appoint the members of bodies prescribed by law or the articles of association;
5) upon expiry of a term if the non-profit association has a specified term;
6) on another basis prescribed by law or the articles of association.

§ 38. Dissolution by resolution of general meeting
Dissolution of a non-profit association may always be decided by a resolution of the general meeting. A resolution is adopted if over two-thirds of the members who participate in or are represented at the general meeting vote in favour and the articles of association do not prescribe a greater majority requirement.

Germany, Association Act of Germany of 1964, as amended in 2007

Section 1 - Freedom of Association
1) The formation of associations is free (freedom of association).
2) Interventions against associations who abuse the freedom of association can only be made to ensure public safety or order and in accordance with this Act.

Section 3 - Prohibition
1) An association can only be deemed prohibited (Article 9 para. 2 of the Basic Law), when it has been determined by order of the competent prohibition authority that its purpose or activities are contrary to criminal laws or that it is directed against the constitutional order or the idea of international understanding among peoples; the order will prohibit the association (prohibition). The prohibition will provide the seizure and confiscation of
1. the assets of the associations,
2. receivables from third parties ..., and
3. property of third parties, insofar as the property promoted unconstitutional efforts of the association or was designated therefore.

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

Article (22):
1) NGOs may be dissolved voluntarily by a decision of its members and according to its bylaw, or by a court order.
2) NGOs must inform the Department within (30) thirty days of a decision to voluntarily dissolve. The organization must appoint a liquidator or contact the Department to appoint one.
3) In the event of a court decision of dissolution, the court shall appoint a liquidator.
4) NGOs must submit a statement of their movable and immovable assets. This statement shall be used to fulfill its obligations. Any assets remaining shall be distributed according to the NGO's Bylaws. If these assets were raised from grants, donations and bequests,
they shall be transferred to a successor organization of similar objectives to be determined by Board or the General Assembly of the NGO.

**Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009**

*Article 20 Termination of NGO*

1) An NGO may be terminated:

1.1) a voluntary decision to terminate the organization is made by the highest governing body in accordance with the NGO’s statute;

1.2) the NGO becomes insolvent as defined by applicable law;

1.3) the stated time limit expires.

**Lebanon, Ministry of Interior Circular No. 10/AM/2006, 2006**

*Fifth: The Dissolution of Associations*

Article 3 of the Law on Associations provides the following:

“Founding an associations on any unlawful basis which violates the provisions of laws and public documents or which aims to jeopardize the comfort of the monarchy and integrity of state property, change the form of the current government, or politically discriminate between different Ottoman citizens is not permitted. The attestations of such will be refused and they will be dissolved by decree issued by the Council of Ministers.”

Article 14 of the Law provides the following:

“If an association has been banned by the government or dissolved with the consent and option of its members or by virtue of its internal statutes and a text exists in the statutes regarding its assets, then this is placed in operation. Otherwise, the resolution given by the General Assembly of the association is placed in operation.”

The first Article of Decree No. 10830 provides the following:

“It is prohibited for anyone to continue membership in an association which has been dissolved due to the incarceration of its members for crimes related to the security of the state…”

Article 38 of the Penal Code provides the following:

“Any secret association will be dissolved and its funds will be confiscated.”

It is concluded from the above that cases in which it is permissible to dissolve an association are as follows:

- By its General Assembly according to the stated provisions in its bylaws.
- By a criminal court based on the Article 338 of the Penal Code.
- By the administrative action in case of violation of Articles 3 or 14 of the Law on Associations or Article 1 of Decree of the government if its subject is based on illegal base which comes under the following cases in the Articles 3 and 14 of the Law on Associations or the first Article of Decree 10830 as stated above.
Serbia, Law on Associations, 2009

Terms and method of deleting the association from the Register - Article 49

If the association is deleted from the Register, it shall lose the status of a body corporate.

Deletion from the Register shall only take place:

1) if the number of members declines below the number of founders required for its establishment and the association’s competent body fails to take a decision to admit new members within thirty (30) days;

2) if the term for which the association has been established expires, when an association has been established for a definite period;

3) if the association’s competent body takes the decision to terminate activities;

4) if a status change has been made that, in accordance with the law, has as its consequence the association’s termination;

5) if it is established that the association has not been pursuing the activities to achieve its statutory goals or has not been organized in line with its statute for over two (2) years without any interruptions or if the time that has elapsed has been double that specified by the statute for holding the assembly session and the session has not taken place;

6) if the association’s activities have been banned;

7) in case of bankruptcy.

Anyone may inform the Registrar that the reasons exist, as set forth in paragraph 2, sub-paragraph 5 hereof, for the association to be deleted from the Register.

The Registrar shall issue a decision establishing the facts mentioned in paragraph 2, sub-paragraph 5) of this Article.

In the cases referred to in paragraph 2, sub-paragraphs 1), 2), 3), 5) and 6) hereof deletion from the Register shall take place upon completion of the association’s liquidation procedure unless otherwise stipulated by the law. A note shall be entered in the Register on the conduct of the liquidation procedure.
7. Sanctions for NGOs

Article 31: Sanctions for Violation of the Law

An NGO may be sanctioned only for violations which are clearly defined by law. Sanctions shall be limited to a fine or dissolution of the NGO by court order. No member of the NGO shall be punished with imprisonment for any activities in direct relationship to the work of the NGO.

Based on:

Macedonia, Law on Associations and Foundations, 2010

Article 91
A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced for a misdemeanor to an organization whose activity does not comply with its goals determined by the statute from Article 18 and 31 of this Law.

Article 94
A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced for a misdemeanor to the organization, which fails to use the funds of the organization in accordance with Article 50 of this Law.

Article 95
A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced for a misdemeanor to the organization, which fails to publish the financial reports in accordance with Article 53 of this Law.

Article 97
(1) A fine in the amount of 300 to 3,000 Euro in Denar equivalent shall be pronounced for a misdemeanor to the responsible person in the public benefit organization, if it fails to submit narrative and financial report in accordance with Article 85 of this Law.

(2) A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced to the organization for a misdemeanor in accordance with paragraph (1) of this Article.

Article 98
A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced for a misdemeanor to the public benefit organization, if it fails to perform annual auditing of its financial operations and submit report in accordance with Article 86 of this Law.

Article 99
A fine in the amount of 200 to 300 Euro in Denar equivalent shall be pronounced for a misdemeanor to the public benefit organization, if it fails to publish the reports in accordance with Article 87 of this Law.
Article 101

Prior to filing the request for initiating a misdemeanor procedure, the Ministry of Finance, as competent body for controlling the financial operations of the organizations, shall offer a settlement to the perpetrator of the misdemeanor.

Montenegro, The Law on Non-Governmental Organizations, 1999

Fines - Article 30

A fine ranging from ten to fifty times the amount of the minimum wage in the Republic shall be imposed on a non-governmental organization which:
- started its activities before entry into the registry;
- failed to report any change to information necessary for entry into the registry within 30 days of the day these changes occurred;
- carried out activities not envisaged in the By-laws;
- used a name other than that stated in the registry.

A fine ranging from two to ten times the amount of the minimum wage in the Republic shall also be imposed on the representative of an organization which committed a violation of the Law stated in paragraph 1, subparagraph 1 through 4.

Article 31

A fine ranging from ten to eight times the amount of the minimum wage in the Republic shall be imposed on a non-governmental organization which generated a profit against the provisions of this Law.

A fine ranging from ten to fifty times the amount of the minimum wage in the Republic shall also be imposed on the representative of an organization which violates the provisions of this Article.

Rwanda, Law No. 04/2012 of 17/02/2012 Governing the Organisation and the Functioning of National Non-Governmental Organisations, 2012

Article 30: Supervision of activities

For the purpose of promoting transparency and accountability, the supervision of national non-governmental organisations shall be effected by the authority in charge of registration of national non-governmental organisations, granting legal personality and monitoring of their functioning.

The supervision of a national non-governmental organisation shall be conducted in accordance with the provisions of Article 29 of this Law.

For the purpose of conducting effective supervision, the competent authority may determine necessary administrative entities to assist it.

Article 31: Warning to a national non-governmental organisation

After supervision, a national non-governmental organisation which does not comply with its mission shall be addressed a warning letter by the authority referred to in Article 16 of this Law.
**Article 32: Temporary suspension of a national non-governmental organisation**

If after one month of warning, a national non-governmental organisation does not cease to be wrongful and does not explain to the competent authority the reasons thereof, the authority shall suspend such a national non-governmental organisation for a period of one (1) month to six (6) months.

The competent authority shall notify such a decision of suspension to the national non-governmental organisation and any concerned State institutions.

**Article 33: Final suspension of a national non-governmental organisation**

During the temporary suspension period, a national non-governmental organisation shall provide to the competent authority with measures taken to rectify its operation in order to continue to carry on its activities.

Where a national non-governmental organisation, after temporary suspension period, fails to rectify its operation, the competent authority may decide to suspend definitively its activities.

The competent authority may also definitively suspend a national non-governmental organisation where the organisation jeopardizes security, public order, health, morals and human rights.

If a national non-governmental organisation is not satisfied with the decision of terminating its activities, it may file the case to the competent court.

**Article 35: Judicial dissolution of a national non-governmental organisation**

A competent court in Rwanda, after considering the case submitted to it by the public prosecution and after hearing the defendant and failure to be satisfied, shall dissolve the national non-governmental organisation if it is ruled out that such an organisation is convicted of breach of laws, jeopardizes security, public order, health, morals or human rights.

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**Zimbabwe, The Non-Governmental Organisations Act, 2004**

29. **Code of Conduct**

1) The National Association of Non-Governmental Organisations will develop a Code of Conduct for Non-Governmental Organisations through a genuinely consultative process with non-governmental organizations throughout Zimbabwe.

2) This Code will be given to the Minister and to the Board and it will be published in the Government Gazette and in newspapers and copies of it must be sent to all non-governmental organisations in Zimbabwe.

3) This Code of Conduct must be observed by and will regulate the activities of all non-governmental organisations in Zimbabwe.

4) The Code will be enforced by the Board.

5) Misconduct in terms of the Code will include the following:

   a) mismanagement;
   b) negligent performance of duties;
   c) fraud, theft and corruption;
   d) breach of any of the values contained in the Code of Conduct.
30. Investigation of alleged breaches of Code

1) The Board will investigate all alleged violations of the provisions of the Code that it becomes aware of as a result of reports made to it directly by individuals or organisations or reports referred to it by the National Association of Non-Governmental Organisations.

2) An investigation into an alleged violation will be made initially by investigators under the control of the Registrar and if the Registrar decides that there is substance in the allegation, the Registrar will refer the matter for the Board.

31. Corrective action

1) Unless the breach is so serious that it warrants immediate disciplinary action, the Board must refer the matter to the National Association of Non-Governmental Organisations and allow to take such steps as it considers necessary to rehabilitate, re-align, correct, or otherwise assist the organization to rectify, or to stop, the violation, and record the action it has taken in a record that it will keep for the purpose.

2) Where the National Association of Non-Governmental Organisations National has been unable to resolve the matter in this manner within three months of the matter being referred to it for this action, it may refer the matter back to the Board for further action.

3) The Board may itself attempt to resolve the matter by mediation and counselling of the organisation concerned and for this purpose the Board may establish an ad hoc mediation committee consisting of the Registrar and to members of the Board.

32. Disciplinary Action

1) In serious cases and in cases that the National Association of Non-Governmental Organisations and the Board has been unable to resolve by mediation, the Board may take disciplinary action against the organisation concerned.

2) Before taking disciplinary action, the Board

3) A Disciplinary Committee of the Board will consist of three members of the Board one of whom must be a member who holds legal qualifications.

4) The Disciplinary Committee must give at least 14 days notice of a hearing to the organisation alleged to have committed the violation.

5) The organisation concerned will be represented at the hearing by the chief executive officer of the organisation.

6) The Disciplinary Committee will have power to subpoena witnesses to testify to any matter, being relevant to the case in question, that may be before it for its consideration.

7) Prior to the commencement of a hearing into an allegation, the Disciplinary Committee may order further investigations to be carried out.

8) Before the Disciplinary Committee arrives at any decision, it must carry out a full and fair hearing.

33. Penalties for violations

1) If the Disciplinary Committee decides that a non-governmental organisation has been guilty of a violation of the code, it may recommend to the Board that any of the following penalties should be imposed:
a) a written caution to the organization; or
b) a fine of up to $100 000 which will be paid into the funds of the Board; or
c) suspension of the registration of the organization for a period of up to six months or
d) deregistration of the organization.

2) The Board may impose the penalty recommended by the Committee or may substitute one of the other penalties imposable.

3) The Board must also refer all cases of fraud, theft and corruption to the police for full investigation into possible criminal charges.

34. Appeals

An organization found guilty of misconduct may appeal to the Administrative Court against the finding that it has been guilty of misconduct or against the penalty imposed or against both the finding and the penalty. The Administrative Court may dismiss the appeal or may set aside the finding of misconduct or may substitute for the penalty imposed a lesser penalty from the penalties that the Board was empowered to impose or may direct the Board to rehear the matter and give instructions on procedures to be followed at the rehearing.

Article 32: Suspension of Activities

1) If an NGO violates any provision of this Law, the competent authority may decide to temporarily suspend its activities.

2) The NGO shall be given a written statement detailing the reasons for the suspension and an explanation and timeframe of no less than ten (10) days to correct the violation. If the violation is not corrected within the given timeframe, the NGO’s activities may be suspended by the competent authority for no more than thirty (30) days.

3) The NGO may appeal the suspension decision before the competent court. The case shall be brought before the court within thirty (30) days of being notified of the suspension.

Article 33: Dissolution of an NGO by Court Order

If within the given timeframe the NGO does not correct the violation, the competent authority may bring the case to the competent court. The court may decide –

a) Measures for the NGO to resume its activities; or
b) Dissolution of the NGO.
**Based on:**

Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010

*Article (23):*

In consideration of other laws, NGOs may be penalized if they violate this law with the following penalties:

1) Suspension which is imposed by a Department decision according to the following:
   a) The Department must notify an NGO and give it (10) ten days to correct the violation as of the date of notification.
   b) If the violation is not corrected within the period stipulated in Clause (a) of this item, or was repeated, the NGO’s activity shall be suspended for (30) thirty days.
   c) The organization may appeal the suspension decision to the Secretary General of the Council of Ministers within (10) ten days of the date of notification.
   d) The Secretary General of the Council of Ministers must decide on the appeal within (10) ten days of the being received by the Department. His decision is appealable to the Court of Appeals within (10) ten days of the date the NGO was notified, or otherwise considered notified.

2) Dissolution by a court decision upon a request by the Department in one of the following cases:
   a) Should the NGO conduct activities contrary to the objectives stated in its bylaws or failed to fulfill the duties stipulated in this law.
   b) If proved to have violated any Iraqi laws that are in force.
   c) In case the NGO failed to correct the violation despite being notified and suspended and the period of appeal has expired.

Macedonia, Law on Associations and Foundations, 2010

*Ban of Operations of Organization - Article 65*

The operations of the organization shall be banned if:

- Its actions are directed at the violent destruction of the constitutional order of the Republic of Macedonia;
- It encourages and incites military aggression and stirs ethnic, racial or religious hatred or intolerance;
- It undertakes terrorism-related activities;
- It undertakes activities contrary to the Constitution or a law;
- It violates the freedoms and rights of other persons.

*Initiating a Procedure for Ban of Operations of Organizations - Article 66*

1) Anyone can file an initiative for ban of operations of organizations to the competent public prosecutor.
2) If the competent public prosecutor, depending on the seat of the organization, ex officio or on the basis of the submitted initiative, assesses that there are reasons in place to ban the operations of the organization according to this Law, he/she shall submit a proposal to the competent court;

3) The banning procedure shall be considered as an urgent procedure.

**Right to Appeal - Article 67**

1) An appeal may be filed to the competent appellate court against the decision for ban of operations of organization issued by the competent court, within 15 days from the day of the reception of the decision.

2) The basic court shall file the complaint to the appellate court within three days from the day of reception of the appeal.

3) The appellate court shall decide upon the appeal within eight days from the day of the reception of the appeal.

Nicaragua, General Law on Non-Profit Legal Persons, Law No. 147, 1992

**Article 22.**

The Department for the Registration and Control of Associations in the Ministry of the Interior may impose the following administrative sanctions on the entities considered in this law:

a) A fine of one-thousand córdobas (C$ 1,000.00) to five-thousand córdobas (C$ 5,000.00) payable to the Treasury, enforced according to governance procedures in the case of violations to sections a), b), c), d), e), f), and g) of Article 13 and Articles 19 and 20 of this law.

b) Intervention for the strictly necessary period of time to resolve irregularities that may have led to violations of Article 13 of this law or in the case of a repeat violation.

**Article 23.**

When the Department for the Registration and Control of Associations issues the kind of resolution mentioned in the previous article, the organization has the right to appeal the resolution before the Ministry of the Interior.

**Article 24.**

The legal status of Associations, Foundations, Federations, and Confederations subject to this law can only be cancelled by the National Assembly through the same procedure used for authorization and after previous consultation with the Ministry of the Interior in the following cases:

a) When it has been used to commit illegal acts.

b) When it has been used to disrupt public order.

c) When the number of the Association’s members has been reduced to below the minimum required by this law.

d) For carrying out activities unrelated to the ends for which it was established.

e) For impeding the monitoring and vigilance of the Department for the Registration and Control of Associations, at a time when measures established in Article 22 have been applied to the organization.
f) When dissolution is agreed upon by the organizations ruling body according to its by-laws.

*Article 25.*

Once legal status has been cancelled, the goods and shares that belong to the Association shall be liquidated and distributed according to that which is established in its articles of incorporation and by-laws. If such provisions have not been made, the goods and shares will become property of the State.

Article 34: Supremacy of International Law

This Law shall be interpreted in accordance with the relevant rules of international law. In the absence of a specific provision on an issue related to the establishment and operation of NGOs, the rules of international law shall apply.

Based on:

Kyrgyzstan, Law on Non-Commercial Organizations, 1999

Article 35. International Conventions and Treaties
In case if provisions of this Law are otherwise regulated by international conventions, international and bilateral treaties, provisions of the appropriate international conventions and international and bilateral treaties shall apply.

Article 35: Transitional Rule

NGOs that were established before the enactment of this Law shall modify their bylaws to bring them in accordance with this Law within one year of its implementation.

Article 36: Applicability of this Law

The provisions of this Law shall not be applicable to political parties, labor unions or associations, societies, or foundations that were established according to specific laws.

Article 37: Entry into Force

This Law shall enter into force on the date of its publication in the Official Gazette.
Sources for the Model Law

1. Austria, Federal Law on Associations, 2002
2. Belize, Non-Governmental Organisations Act, Chapter 315, Revised Edition 2000
4. Bulgaria, Law for the Non-Profit Corporate Bodies, 2009
6. Croatia, Law on Associations, 2014
10. Germany, Fiscal Code/Regulation on Taxes of 1977, as last amended 2011
11. Iraq, Number (12) of the Year 2010 The Law of Non-Governmental Organizations, 2010
12. Iraq, Directions on facilitating execution of NGO Law number (12) of 2010, 2010
15. Kosovo, Law No. 03/L-134, On Freedom of Association in Non-Governmental Organizations, 2009
17. Laos, Decree on Associations, 2009
22. Morocco, Decree to Implement the Decree on the Right to Establish Associations (Prime Ministerial Decree 2-04-969 of 2005), 2005
23. Nicaragua, General Law on Non-Profit Legal Persons, Law No. 147, 1992

24. Palestinian Legislative Council, Law of Charitable Associations and Community Organizations Law No. 1, Year 2000

25. Portugal, Dec. Lei No. 594/74 of 7 November


27. Rwanda, Law No. 05/2012 of 09/04/2012 Governing the Organisation and Functioning of International Non-Governmental Organisations, 2012

28. Serbia, Law on Associations, 2009

29. South Africa, Non-Profit Organizations Act, No. 71, 1997

30. Switzerland, Civil Code, 1907, as amended until 2014

31. Tunisia, Decree Number 88 for the Year 2011, Published on 24 September 2011 Pertaining to Regulation of Associations

32. United Kingdom, Charities Act 1993, 1993 Chapter 10

33. United Kingdom, Charities Act 2006, 2006 Chapter 50

34. United States, 26 USC § 501, current through Public Law 112-143 of July 9, 2012

35. Yemen, Law No. 1 for the Year 2001 Concerning Associations and Foundations, 2001

36. Zimbabwe, The Non-Governmental Organisations Act, 2004