



ماعت للسلام والتنمية وحقوق الإنسان  
Maat For Peace, Development, and Human Rights

# Civil Society Governance in the Arab Region



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## Governance of Civil Society Organizations in the Arab Region

Governance is a key pillar of promoting the right to development. . It involves the principles related to justice, participation, transparency, rule of law and accountability, which - if applied effectively and efficiently – will ensure the comprehensive achievement of sustainable development goals. Given the fundamental role played by institutions in the development process, the international agenda has incorporated it in SDG 16, which is about “peace, justice and strong institutions”. This goal focuses on achieving stability, promoting human rights, and strengthening governance based on the rule of law, by ensuring equal opportunities and access to justice for all, establishing effective, transparent and accountable institutions, reducing corruption, ensuring citizens’ access to information and protecting fundamental freedoms, and making decisions in a responsive and inclusive manner.

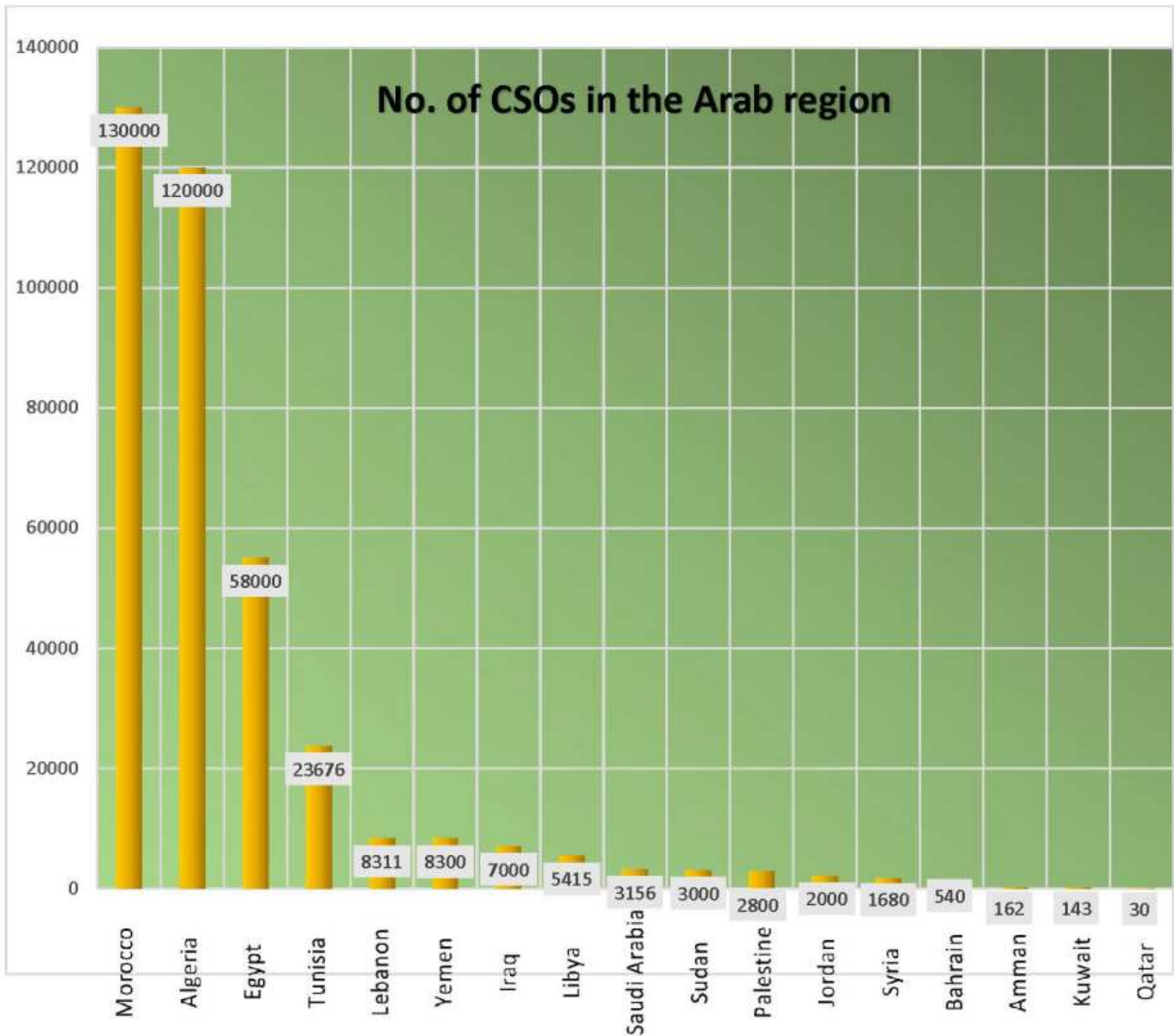
As to Civil society organizations, they have played a major and complex role during the last two decades in the Arab region, especially after the Arab Spring. They began to act as observers of the economic, social and development policies of the Arab governments. In parallel, some organizations monitored the human rights situation in the Arab states and their commitment to the international agreements they have ratified, which made some governments in the Arab region see civil society as a threat to the state and its national security, rather than as a partner in achieving SDGs and spreading awareness on human rights issues. As a result of the growing role of CSOs in the past years, some organizations faced ongoing condemnations from some governments. These governments claimed that some organizations operate illegally and lack the sufficient transparency<sup>1</sup>. In response to these accusations, some CSOs have adopted internal political and institutional measures characterized by transparency and disclosure, ensuring equal opportunities and improving financial management procedures. These principles are among other principles called governance, institutionalization, or good governance in the management of CSOs. However, more than 371,000 civil organization are still unable to implement the principles of governance because of the challenges posed by the nature of the work of these organizations in the Arab region.<sup>2</sup>

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<sup>1</sup> إقامة جسور بين ضفتين: مراجعة المجتمع المدني في دول المتوسط، حوار المتوسط للحقوق والحريات، ص ٢٨، على الرابط التالي: <https://bit.ly/3mmus8G>

<sup>2</sup> رصد الباحث لعدد منظمات المجتمع المدني في المنطقة العربية

Figure 1. No. of CSOs in the Arab region



- The graph doesn't include countries with no reliable source about their number of CSOs

Given the most recent and successive changes in the world as well as in the Arab States, as well as the Covid-19-related crisis, some UN bodies come recognize the importance of civil society in partnering with governments to support recovery efforts<sup>3</sup>. In the Arab region in particular, positive signs have emerged from some governments that have stressed the importance of civil society's role

<sup>3</sup> الأمين العام يشدد على أهمية الشراكة مع المجتمع المدني من أجل التعافي بشكل أفضل من كورونا، أخبار الأمم المتحدة، ٢ نوفمبر ٢٠٢٠، على الرابط التالي:

<https://bit.ly/32bySZ2>



in responding to the pandemic, along with official institutions. The situation of CSOs in Egypt and the positive developments shown by the State on the part of these organizations, whether by closing case 173 of 2011, known as the Foreign Financing Case, in which the number of organizations acquitted by October 2021 reached 75 following the investigating judge's decision over the previous years not to institute criminal proceedings against these organizations, or the promulgation of Law No. 149 of 2019 on the Practice of Private Employment and the Executive Regulation of the Law National Human Rights Strategy ", or through the designation of 2022 as the Year of Civil Society, which was launched on the margins of the National Human Rights Strategy and was prepared jointly by a range of CSOs and is expected to play a key role in the Operational Action Plan on the Results and Targets of the Strategy.

Governance, in the context of the work of CSOs, means the set of policies, standards and internal principles of CSOs that, if applied properly, it will contribute to strengthening the institution's good governance and improving performance. These principles have been restricted by UN bodies such as the UN Program and international institutions such as the World Bank to transparency, accountability, participation, rule of law, response and strategic vision.

The NGO Governance Working Group CEE (Central and Eastern Europe) also defined good NGO governance as "a transparent decision-making process through which the CSO leadership effectively and accountably directs resources and exercises their powers on the basis of shared values with other actors".<sup>4</sup>

The current situation of CSOs in the Arab region confirms the need to apply the principles and mechanisms of governance so that these organizations are able to play their role as a third party in the development process and as a key partner in achieving it alongside the government and the private sector, in addition to their role in educating members of society. Subject to governance, a greater part of the criticism it faces will vanish, which is related in part to the lack of transparency and disclosure and the weak role in the practice of educating individuals in society and focusing on criticizing governments. Governments are of the importance of developing and improving governance systems, the administrative apparatus, and government institutions.<sup>5</sup>

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<sup>4</sup> الحوكمة الداخلية ومسألة المجتمع المدني، المركز الدولي للقانون غير الهادف للربح، ص ٤، على الرابط التالي: <https://bit.ly/3J5FzMH>  
<sup>5</sup> دراسة نظام الحوكمة في الشبكة الوطنية المصرية وآليات تحسينه، مجموعة الاستشارات الدولية، ص ٥، على الرابط التالي: <https://bit.ly/3pdIVGR>

In this paper, we will focus on the legal and legislative frameworks for the governance of CSOs in the Arab region, the basic principles of the governance of CSOs in the Arab region. The objectives of CSOs' governance and the challenges facing their governance in the Arab region.

### **First: Legal and Legislative Frameworks for the Governance of CSOs**

The legal and legislative framework for the governance of CSOs in the Arab region consists of the compilation of constitutions, local laws and supplementary implementing regulations governing the practice of community action in the region. In addition to the executive decisions issued by the relevant ministries. CSOs rely on these frameworks and legislation to establish, organize and promulgate the statutes of such organizations. In **Egypt**, for example, Article 75 of the 2014 Egyptian Constitution, amended in 2019, states that "Citizens have the right to form associations and nongovernmental institutions on a democratic basis and have legal personality upon notification. They operate freely and administrative bodies may not interfere in their affairs, dissolve them or dissolve their boards of directors or boards of trustees except by judicial decision. The establishment or continuation of non-governmental associations or institutions whose system or activity is secret, military or paramilitary in nature, as regulated by law, is prohibited<sup>6</sup>. In order to translate this constitutional obligation, Act No. 149 of 2019 and its Implementing Regulations affirm in article 28 a set of principles for the governance of CSOs. Article 28 of the Act stipulates that" The Association's commitment to transparency, openness and disclosure and to the announcement of its sources of funding, members' names, annual budget and activities and is committed to publishing this within the Society's headquarters and on its website and other means of publication<sup>7</sup>. The article also includes the Association's obligation to follow the rules of governance and good governance, to have an internal regulation containing the sections of procurement, financial affairs, human resources and penalties, and to have a functional code of conduct, and the implementing regulations of this Law specify the rules of governance to which the Association must abide.<sup>8</sup>

In **Tunisia**, chapter 35 of the Tunisian Constitution of 2014 guarantees the right of association. In paragraph 2 of this chapter, it is stipulated that in their statutes and activities,

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<sup>6</sup> <https://bit.ly/3q5zWp6> الدستور المصري المعدل لعام ٢٠١٩، منشورات قانونية، المادة ٧٥، على الرابط التالي:

<sup>7</sup> القانون رقم ١٤٩ لسنة ٢٠١٩، منشورات قانونية، المادة ٢٨، على الرابط التالي: <https://bit.ly/3Jhbbzp>

<sup>8</sup> نفس المصدر السابق



associations shall abide by the provisions of the Constitution and the law as well as financial transparency<sup>9</sup>. The organization of the work of associations is regulated by Decree No. 88 of 2011, which contains a set of principles establishing the governance of such organizations. Chapter 3, Part 1 of the previous Decree affirms the need for associations to respect the principles of the rule of law, democracy, pluralism, transparency, equality and human rights contained in Tunisia's international conventions.<sup>10</sup> Egypt and Tunisia are representative for incorporating governance principles into domestic constitutions and laws, but some other Arab States lacked those principles in their domestic legislation, which posed a challenge to the State itself and CSOs in applying governance principles and incorporating them into the standards and policies of the organizations' management. In **Qatar**, for example, Act No. 12 of 2004 on private associations and institutions makes no reference to governance principles such as transparency, participation, response, etc., which is a deficiency in the law itself.<sup>11</sup>

In a related context, some countries lack a unified law for the practice of civil work for CSOs. In **Iraq**, for example, although the constitution guarantees the right to form associations. However, the Iraqi legislator has not translated this constitutional obligation into a unified legal text regulating the work of CSOs. The organization of the work of CSOs in Iraq has been based on about three laws, which created an inconsistent environment of legislation and laws that sometimes contradict each other.

## **Second: Basic Principles of Governance for Civil Society Organizations**

Most United Nations bodies such as UNDP and international institutions such as the World Bank and the International Finance Corporation have agreed on basic principles for civil society organizations' governance, corporations, and non-profit institutions. In this section, we will address seven fundamental principles of governance that we see as compatible with the working environment of civil society in the Arab region. We will focus on defining these principles, explaining the aim and indicators of achievement of these principles

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<sup>9</sup> <https://bit.ly/3Jg0HAe> دستور تونس الصادر عام ٢٠١٤، الفصل ٣٠، على الرابط التالي:

<sup>10</sup> <https://bit.ly/3shGILn> مرسوم ٨٨ لسنة ٢٠١١ الخاص بالجمعيات التونسية، الفصل الثالث الباب الأول، على الرابط التالي:

<sup>11</sup> <https://bit.ly/3qdR64c> راجع، قانون رقم (١٢) لسنة ٢٠٠٤ بشأن الجمعيات والمؤسسات الخاصة، على الرابط التالي:

Principle	Definition of Principle	Purpose of Achieving it	Indications of Achieving it
<b>Transparency and disclosure</b>	<p>The definition of transparency in civil society governance is "informing all stakeholders, including donors, beneficiaries and those interested in all details of the Organization's policies in accessible ways and disclosing the Organization's founding, plans, activities, financial position, and performance.</p> <p>According to the World Bank, that principle is one of the most important principles underlying the governance of civil society organizations. The organization's transparency and disclosure through donors, target groups, and other entities to divert resources into genuine development programs makes the organization sustainable and transparent.</p>	<ol style="list-style-type: none"> <li>1. Effective participation of all stakeholders in decision-making and oversight.</li> <li>2. Strengthening target groups' confidence in the organization.</li> <li>3. To prepare the Organization for a team spirit.</li> <li>4. Strengthening donors' confidence in the Organization.</li> <li>5. Get rid of the organization's false rumors.</li> <li>6. Maximize the sense of loyalty and institutional belonging to the Organization.</li> </ol> <p>Remedy of making mistakes in the future.</p>	<ol style="list-style-type: none"> <li>1. Have a unit or transparency unit to follow up on all relevant requirements.</li> <li>2. The existence of a website through which the Organization presents the data required for disclosure.</li> <li>3. The existence of a documentary and book collection, financial reports and evidence of accounts at the organization's headquarters.</li> <li>4. The organization's rules of procedure provide for the right of employees to undertake network activities.</li> <li>5. External auditor (chartered accountant).</li> <li>6. The Organization's constituent, legal and organizational documents, activities and programmers should be updated and documented.</li> <li>7. Quality of specific disclosure and transparency mechanism.</li> </ol>
<b>Participation</b>	<p>Participation in the governance framework of civil society is defined as "the extent to which all stakeholders or actors are involved in their decision-making process and are engaged in making suggestions and recommendations. And the extent to which these Parties' involvement is permitted in the identification of needs, the preparation of plans, and the follow-up of implementation.</p> <p>According to OHCHR's Michelle Bachelet, participation creates more appropriate policies and results. It</p>	<ol style="list-style-type: none"> <li>1. Encourage the organization's cadre's at all administrative levels to exchange ideas to reach the formulation of organizational objectives, problem-solving, and decision-making.</li> <li>2. Participation of the Organization's staff is affected by decisions taken through the submission of observations and proposals.</li> </ol> <p>Participation of the organization's target groups in society when</p>	<ol style="list-style-type: none"> <li>1. Participation of all stakeholders in the planning, implementation, and follow-up of the Organization's activities and programs.</li> <li>2. There is a mechanism to ensure consultation and participation between the organization and beneficiaries to meet their needs.</li> <li>3. The Organization's and its cadres' commitment to coordination, cooperation, and work in a spirit of unity.</li> </ol>



Principle	Definition of Principle	Purpose of Achieving it	Indications of Achieving it
	allows for the expression and awareness of grievances and builds trust among all parties.	identifying needs and evaluating projects.	4. The organization should have a management culture by participating in and graduating new leadership.
<b>Accountability</b>	<p>Accountability in civil society governance is "the existence of accountability mechanisms and reporting on the use of the Organization's resources and responsibility for the achievement of objectives, tasks, and actions by its personnel. They are linked to transparency and the rule of law, as governance makes the organizations' managers accountable and responsible for the decisions. The Governing Council is accountable to all those affected by these decisions from groups, individuals, and communities, while they are issues before the higher official bodies and donors.</p> <p>It is also "the accountability of any of the Organization's actors for their role in service delivery to hold him accountable, administratively and technically."</p> <p>It is also "the obligation to disseminate and make available data on programs, operations and funding through records and channels that are available and open to all parties (founders, donor beneficiaries).</p>	<ol style="list-style-type: none"> <li>1. Effective and sustainable oversight.</li> <li>2. Improving managers' management of their staff.</li> </ol> <p>Continuous improvement in organizations' performance.</p>	<ol style="list-style-type: none"> <li>1. The existence of an internal complaints mechanism in the organization, whether the complaints of the organization's employees or any other affected persons.</li> <li>2. The organization's announcement of internal investigations into cases of harassment, financial misappropriation or any other cases.</li> <li>3. The Organization should have a tool to measure members' and beneficiaries' satisfaction with the performance of the Governing Council and executive management.</li> </ol>



Principle	Definition of Principle	Purpose of Achieving it	Indications of Achieving it
<b>Rule of law</b>	The rule of law within the governance framework of civil society organizations means that "in the discharge of its functions, activities and various roles. The Organization shall be based on a legal and legislative framework whereby its functions are exercised by the provisions of the law governing the exercise of community action in the Arab States."	<ol style="list-style-type: none"> <li>1. Compliance with applicable legislation when initiating administrative or financial procedures or decisions.</li> <li>2. Ensure compliance with the legislation on which the organization was founded.</li> </ol> Work to apply the internal regulations equitably to all	<ol style="list-style-type: none"> <li>1. The organization is registered by the provisions of the law governing the practice of private work</li> <li>2. The organization has a statute containing the provisions of the legislation</li> <li>3. The organization has specific and clear powers of the General Assembly/founders and exercises those powers</li> <li>4. The organization's regulations determine the composition of the Board of Directors/Board of Trustees and their respective terms of reference</li> <li>5. Organization of periodic meetings of the Governing Council</li> <li>6. Council of Assistance Committees with specific functions and competencies</li> </ol>
<b>Response</b>	Responding to civil society governance is the organizations' ability to guide projects and programs to serve stakeholders and align them with the emerging needs of target groups within a specific time frame.	<ol style="list-style-type: none"> <li>1. Rapid compliance with society's needs within a reasonable time.</li> </ol> Meeting the needs of target groups, especially emergency needs.	<ol style="list-style-type: none"> <li>1. The organization has a rapid response mechanism.</li> <li>2. The organization has models for identifying and responding to needs.</li> <li>3. The organization has indicators to measure the extent of timely response.</li> </ol>
<b>combating corruption</b>	Combating corruption in the governance of civil society is a catalytic and effective system for reducing corruption and how it is always applied.	<ol style="list-style-type: none"> <li>1. Improved performance of the Organization's management.</li> <li>2. Building trust with donors.</li> </ol> Building trust with the State and target groups.	<ol style="list-style-type: none"> <li>1. The organization has a mechanism to combat, investigate and publicize corruption.</li> <li>2. To what extent do the organization's internal regulations provide for anti-corruption clauses.</li> <li>3. The provisions exist to prevent conflicts of interest in the organization's rules of procedure to reduce corruption.</li> <li>4. Ability of the General Assembly to carry out the Organization's final account.</li> </ol>

Principle	Definition of Principle	Purpose of Achieving it	Indications of Achieving it
<b>Strategic vision</b>	The strategic vision within the framework of the governance of civil society organizations is "the road map through which the organization can identify and achieve its future objectives, define its roles and enhance the efficiency of its personnel.	1. Looking for the sustainability of the organization. Uniting the organization's perspective, society, and stakeholders on the objectives that the organization wishes to reach.	1. The Organization should have a strategic vision and a stated strategic plan. 2. The Organization's annual plan is derived from the overall strategic plan and is part of the programs, activities, and projects it implements. 3. The organization's autonomy in making its decisions about any termination or bias in the provision of service the organization has a training plan for its cadres at various levels based on the identification of needs knowingly and implemented.

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## Objectives of Civil Society Organizations' Governance

According to UNDP and the International Centre for Civil Society Organizations' Laws, the objectives of civil society governance are as summarized as follows<sup>12</sup>:

- Sustainability of the organization's work and activities under the plans of the Organization's Governing Council.
- Integrating the organization's activities, programs, and mission.
- The rule of democracy within the organization and the reduction of conflicts of interest lead to widespread corruption.
- Striking a balance between the roles of the organization's members and distributing tasks between the Board of Directors, the Board of Trustees, and the working team.
- Achieving participation in decision-making within the organization and responding to the needs of target groups by the organization's field of work and their participation in the evaluation of projects submitted to donors.
- A complementary and trustworthy relationship exists between the organization and its Members and other stakeholders such as the Government, the private sector, and beneficiary groups.

## Challenges to civil society governance in the Arab region

- **Absence of legal and legislative frameworks in some Arab States** that promote the governance of civil society organizations and comply with international instruments and conventions and the Special Rapporteur's recognition of the right to peaceful assembly and association. Although laws are not a guarantee of governance in civil society organizations, the absence of provisions in national legislation emphasizing the need to apply good governance principles in civil society organizations' policies is a legislative gap in domestic laws. Some organizations may exploit them to pursue policies that contradict the principles of governance and good governance.

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<sup>12</sup> شراكة المجتمع المدني المحوكم في دورات السياسة العامة، ص ٧، على الرابط لتالي: <https://bit.ly/3pfqela>

- **Lack of awareness among civil society organizations in the Arab region** of the principles and issues of governance and good governance and the importance of their application. According to the United States Agency for International Development (USAID) report on civil society in Jordan, few NGOs are interested in governance issues. That is because the governing bodies of civil society organizations are ineffective, have little transparency, and are not interested in issuing written codes of conduct to their staff.
- **Lack of financial capacity or qualified personnel to apply the principles of good governance** in organizations. That is due to their poor and limited financing, insufficient sustainability of resources, and limited and scarce donor funding for civil society organizations' governance.
- **Armed conflicts in the Arab region** are among the most important challenges facing the governance of civil society in the Arab region, which render these organizations vulnerable to violence at any time and unable to carry out their activities freely. When they make such activities, they must be compatible with the Territory's dominated power, which loses their autonomy when exercising their activities.

### Recommendations

- The need to conduct surveys on the most important governance principles in civil society organizations, particularly NGOs;
- Governments should propose moral awards for community-based associations and institutions to enrich competition for governance;
- The need to eliminate administrative obstacles to civil society organizations' obtaining donations from donors;
- Civil society organizations should look for diversity and multiple sources of funding to address only donor-dependent challenges and consider potentially income-generating activities.



## For donors

- The need to contribute to civil society's efforts towards the application of governance principles through the application of activities related to this issue, such as workshops and policy support for combating discrimination in the workplace, combating harassment, and conducting research on transparency, the rule of law and participation;
- Financing research on civil society governance;
- Opening channels of communication with civil society organizations to address problems, encourage the investigation of transparency issues, and support organizations in this direction rather than withdraw funding;
- Engaging in a participatory with civil society organizations in the Arab region and consulting them in the formulating general direction process, not only as project operators.