

Report of Workshop on Institutional & Legal Reform of the Voluntary & Humanitarian Sectors

Background:

- The Ministry of Labour & Social Development (MoL&SD) convened a workshop on institutional and legal reform of the voluntary and humanitarian sectors on 9 &10 March (at Khartoum). The objective of the workshop was to consult a diverse community of representatives of civil society organizations, government institutions, national and international NGOs, UN and academia on key issues impacting the current institutional and legal environment governing voluntary and humanitarian organizations, including opportunities, challenges and recommendations for reforms.
- In her opening remarks, the minister of Labour & Social Development communicated that the workshop comes within the overall priorities of the transitional government to reform and restructure national institutions so that they are civic centered, transparent, accountable and efficient. It also comes within the government's commitment to end conflict, bring sustainable peace, scale up and address the pressing needs of internally displaced and people living in the conflict affected areas.
- Participants recommended reforms to be pursued on two tracks; i) short term, where a number of actions were recommended for immediate implementation by the MoL&SD and ii) longer term; where it was recommended that a technical committee is set up to draft and oversee implementation of a roadmap for reform of the law, with broad consultation of stakeholders, particularly civil society actors at states level.
- Participants were requested to share the outcomes of the workshop with their respective constituencies and bring their voices back to the ministry.
- It was also communicated that a rapid institutional review of HAC will be undertaken in the coming weeks to enable the government to make informed decisions about the reform of HAC. The institutional review comprises consultation with broad and diverse stakeholders including visits to two states.
- In his closing remarks, the Undersecretary for Social Development reiterated the ministry commitment to collaborate with the civil society actors and informed that the ministry has allocated a dedicated staff to coordinate and facilitate partnerships with the CSOs

Summary of Key Findings

- In response to concerns that the audience was not fully representative of civil society in Sudan, it was stressed that the workshop was the starting point and that consultation will be further rolled out at states level. Participants called for transparency and wider consultation on law reform efforts.
- Given the opportunities offered by the New Sudan, there is need for a paradigm shift and thinking out of the box when revisiting the voluntary & humanitarian sectors. CSOs can represent local communities and empower them to communicate their priorities and needs and hence can contribute positively to the political and economic transformation in Sudan

- CSOs are the heart and mouth of their communities, a critical role that they can play is to monitor performance of the government and hold it to account, lobby and urge the government to work for the benefit of the public in general or in specific issues of urgency.
- National CSOs have several coordination mechanisms and networks, some of it are being hallmarked as "intelligence and security" affiliated and abandoned by many CSOs, other networks and coordination bodies are not all-encompassing due to the fact that they were formed during the time of a dictatorship that required caution and protection. The networks and coordination mechanisms which are not being hallmarked as "security affiliated" need to come together under one umbrella for experience sharing, collective lobbying, solidarity and protection.
- CSOs working on human rights, reported that they were systematically targeted, dissolved and stopped from working, largely by security elements associated with HAC
- The 2006 Voluntary Law is not in accordance with the 2019 Constitutional Document nor with international covenant on civil and political rights, it was assessed as not fit for revision and that a new law should be drafted
- Challenges are faced not only with the law but to a miserable extent with the bylaws and the directives that guide implementation of the law, besides there are problems of enforcement of issued bylaws and directives
- CSO flagged that currently registration is under an executive authority- noting that CSOs have a monitoring role to hold executive authority accountable- CSO stressed that they should be registered under an independent body separate from HAC.

Obstacles hindering effective functioning of CSOs:

- According to the constitution and the international covenant on civil and political rights, registration of CSOs is voluntary, however entities currently not registered are criminalized by the law. Besides CSOs are required to register at both federal and state levels, the legal reform should address this duplication. Some participants stressed that registration of CSO is critical because it institutionalize an acquisition of a legal personality and mitigate the risk of shadow organizations
- The registrar was described as practicing arbitrary right of accepting or refusing to register organizations, besides when registration is refused or canceled no explanation is usually given.
- Article 11 of the law stipulates that registration of CSO is renewed on annual basis, INGO cited that they are required to pay \$850 as fees to renew registration every year
- Thousands of NNGOs are registered as non-profit however some are engaging in commercial activities, some were reportedly using the registration to benefit from custom exemptions, some are reportedly security cover, while some are shadow CSOs with no activities nor impact
- Article 7 stipulates that fund raising by national CSOs should be through a project document that should be approved by HAC, CSO are not permitted to receive any funds without the approval of the minister
- CSOs are required to sign technical agreement with multiple entities, at times up to four; HAC at federal level. HAC at state level, the respective line ministry and the donor, the process is very cumbersome and lengthy delaying implementation of projects. Moreover, technical

agreements are valid for only 1 year and need to be renewed annually, despite the fact that projects may run for multiple years.

- Noting that administrative circular #5 (2019) stipulated that procedures for recruitment of local staff of NGOs at the joint Procedure Center should be stopped; CSOs stated that labour office and security staff should not interfere in recruitment of local staff, however CSOs should respect the Sudanese Labour Law
- Despite decision to move from travel permit to travel notification (HAC circular dated 6 Nov. 2019 in response to Cabinet Ministry Circular of 2 Oct. 2019), challenges are still faced in practice and should be examined and resolved, national CSOs highlighted that movement restrictions violate their citizens' rights to move freely in the country
- CSOs are required to be accompanied by staff from HAC (often security affiliated) on monitoring visits, the concerned organization is required to pay per diem to HAC staff. CSOs reported that those who refuse to pay are not allowed to undertake monitoring
- CSOs are also required to obtain permission prior to conducting any activity (mainly from security staff)
- Decisions taken by HAC at federal level are not honored at states level, in addition there are some contradictory laws issued by federal and state levels, leading to obstruction, confusion and delay of implementation. It was flagged that the Constitutional Document does not address the challenge of the center versus the peripheries whereby discussions are ongoing linked to the peace negotiation process.

The Incumbent HAC "of today" Mandate & Organizational Structure

- HAC mandate should be revisited and clarified. The current role is focused on control rather than facilitation and coordination of efforts, limited attention is paid to early warning, early action and preparedness, coordination for nexus between humanitarian and development is lacking
- There is contradiction in the current role of HAC performing both regulatory and operational roles e.g. HAC is currently engaged in distribution of relief supplies, it was also cited that when an organization is closed or dissolved, HAC takes over all its assets
- HAC has a critical role in coordination of response based on assessed needs and gaps, particularly in guiding work of international actors, however it was raised that national CSOs have the right to identify their priorities and target areas
- Sudan is lacking a national disaster risk management system, which should function across ministries, also there is no clarity which government entity is leading development coordination
- HAC has a bloated structure that should be streamlined in line with its mandate. The organizational structure of HAC has 13 unit and 4 divisions, under the divisions there are 11 sub divisions under which there are 27 sections. Despite this heavy structure, participants noted that delivery of services by HAC lacked professionalism and effectiveness

Summary of Recommendations:

Short term recommendations up to 6 weeks:

- Revision of HAC mandate; suggested functions include; facilitation, convening power, coordination, technical support and capacity building of NGOs, early warning and preparedness and monitoring & evaluation. With new mandate, there should be a new name that is reflective of the revised mandate. HAC should have no operational role, e.g. HAC should not engage in distribution of relief supplies
- Organizational structure of HAC should be streamlined in accordance with its mandate. Capacity and competencies of staff should be mapped against required functions to inform decisions on reform and restructuring. Revision of structure and staffing should also be guided by the law of dismantling the so-called Tamkeen within government institutions. Secondment of security staff to HAC should be terminated.
- Deployment of new staff at the Joint Procedures Center to bring new skills and competencies required to implement desired change in culture
- Undertake an exercise to review NNGO registered at federal and state levels. Ask donors for information about NGOs found engaged in fraud. Besides, organizations generating profit should be registered as commercial entities and not as non-profit
- Business processes review should be undertaken for the Joint procedures Center to identify and address bottlenecks and pain points in an evidence-based manner, simplify and accelerate processing of requests/applications including through launch of an online system, security functions should be removed from the Joint Procedures Center
- Registration process to be simplified and CSOs to be registered only once, with periodic submission of audit reports, all audit reports to be published to the public. Convening a CSO annual (or periodic) general assembly should not require prior permission from HAC registrar nor should their presence at the CSO general assembly be required. Decision to refuse or cancel registration of an organization should be on legal basis and justification should be provided within a given period of time
- Technical agreements should NOT be required from national organizations and may be required for INGOs. They should be simplified and signed only with one government entity, suggested to be signed with concerned line ministry, its duration should be for the life of the project
- Terminate any interference in recruitment of local staff by CSOs, while requesting CSOs to abide by the Sudan Labour laws, thus enforce implementation of administrative circular #5 (2019) that stipulated that procedures for recruitment of local staff of NGOs should be stopped at the Joint Procedure Center. National CSOs should also be permitted to recruit international experts whether as volunteers or staff and be able to solicit fund directly from donors without interference/authorization of HAC
- Examine and address challenges related to implementation of travel notification system at both federal and states level as per HAC circular dated 6 Nov. 2019 in response to Cabinet Ministry Circular of 2 Oct. 2019), cancel requirements for permits for vehicles movements
- Stop interference with processes of opening back accounts of CSOs as this is already regulated by the Bank of Sudan. CSOs need not get prior permission from HAC to open a bank account.
- Simplify the process for authorization of surveys, research and needs assessments

- Monitoring by HAC should be covered by its own budget, CSOs should not be asked to pay fees for HAC personnel undertaking monitoring to mitigate against risks of corruption
- Cancel current procedures that require permits for all activities
- Establish coordination between HAC & COR in areas of common operations

Longer term recommendations -up to 3 months:

- Ratification of Kampala Convention (the African Union Convention for Protection & Assistance of Internally Displaced People in Africa)
- On medium to longer term, the government should put in place a national disaster management system, with clear division of role of the different stakeholders, HAC- or the new entity- should function as part of the national systems of national disaster risk management
- The MoL&SD established technical committee , if need be reinforced by additional members, to undertake the following tasks: i) map key stakeholders and civil society actors, ii) review and document of all prior initiatives related to analysis of the 2006 Act and CSO law reform, iii) develop a roadmap for replacement of the 2006 Act including timeline, milestones, key actors and their roles , iv) undertake wide consultations with actors including at states level, v)oversee the implementation of the roadmap for replacement of 2006 Act. Issues related to disabled people to be mainstreamed and consultation to be completed within a given period of time
- It was discussed that the spirit of the new law should be to empower and strengthen the functioning of a vibrant civil society and not to regulate, the law should be very flexible and CSOs should not be categorized as in reality they undertake different roles. Law should address functioning of both international and national NGOs,
- It was also raised that noting that CSOs have a monitoring role to hold executive authority accountable, CSO should be registered under an independent entity, good practices cited from other contexts, entail the entity responsible for registration should have representation of CSOs. Commissioner to be nominated by civil society and appointed only for a limited duration of time.