



منتدى البديل العربي للتحديات

Laws Governing Political Parties

Mohamed ElAgati

Executive Director at Arab Forum for Alternatives

Arab Forum for Alternatives (A.F.A)

Al-Mesaha St., Fourth Floor, App. 4, Dokki, Giza, Egypt :Address

Website: www.afaegypt.org

Mail: info@afaegypt.org

Telefax: +202-37629937

Twitter: AFAalternatives

Facebook : <https://www.facebook.com/AFAalternatives>



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This paper is a result of a closed round table discussion; it expresses the personal opinion of its writers and does not necessarily express the opinion of the Arab Forum for Alternatives or Global Partners Governance

This publication encompasses the different aspects of the laws governing political parties on local, regional and international levels. It coincides with the then-recent reforms regarding the aforementioned laws and features several models of legal regulation from across the world, discusses relevant pieces of international law, provides a criticism of the new laws and includes several policy recommendations and modifications.

It commences with Richard Katz's suggested framework for policy formulation pertaining to the legal regulation of political parties. Domestic law would have to lay out the different requirements, specifications and features a political party would have to fulfill and/or possess in order to qualify for legal status. This would not only regulate resources' allocation and funding for the different parties, but their internal activities and programs as well. Despite the controversy surrounding heavy state intervention in civil society, Katz notes that some laws need to be instated to ensure democratic proceedings within the party and the absence of discrimination.

The document goes on to discuss various models of regulation such as nonpartisan styles, single dominant party system and multiple party systems. This section serves to further display the correlation between the level of democracy prevalent in a state and the prevailing party system. It also highlights the observation that more autocratically governed states tend to retain their right to allow or outlaw political parties while more democratic governments have relinquished said power in a shift signifying the recognition of the organizing of political parties as a right of the peoples. The International Covenant on Civil and Political Rights (ICCPR) has long codified these principles to protect the rights of the peoples. Article 22 solidifies the principle of freedom of association and organization as long as it does not contravene democratic principles, international and/or domestic law or threaten national security and public order.

Constitutions of states internationally recognized as democratic, such as Germany, France and Spain have consistently that all political parties fall within the framework set out by the respective constitutions and domestic law and uphold the democratic principles set forth by both the political system of the state and international institutions.

While one can argue that most of the states' regulatory laws have covered Katz's principles, some of the new laws, such as the one requiring the publishing of party members' names, all 5000 of them, in two daily newspapers, seem to cripple rather than protect new or meagerly-funded parties.

A further law requiring political parties to apply for licensing through a specified committee, grants the aforementioned committee the right to reject the application, implying its right to investigate the applicants and collect data as well as resort to other governmental bodies to do so. Other criticisms include the absence of the civil

society, including the various political forces, in the policy formulation and respective decision-making process and laws that ensure the upholding of democratic principles in a party's internal politics.

The documents ends by outlying different policy recommendations and modifications that would lead to a more democratic and efficient way of regulating political parties. It recommends laws that ensure that a party's internal politics abide by accepted democratic principles and the state ensure the various political parties are not crippled and forced to operate underground and/or illegally within society. Furthermore, it suggests a departure from the licensing model, where the state must approve the any new party, to one where the law would only outline the various rules and regulations and appoint a body to oversee the political parties. Finally, while the state has instated laws that would help parties from illegally attaining excessive state funding, it must also set up new laws that help parties with the burden of funding by granting them free or inexpensive access to state facilities and resources.