**Regional consultation on draft guidelines on the effective implementation
of the right to participate in public affairs**

**Economic and Social Commission for Western Asia (ESCWA)
Beirut, 21 and 22 December 2017**

 **Summary of the discussions**

**Welcome, introduction and opening remarks**

In his opening remarks, Mr. Adbel Salam Sidahmed, Regional Representative for the Middle East and North Africa of the Office of the High Commissioner for Human Rights (OHCHR), welcomed the opportunity provided by the consultation to understand better the implementation of the right to participate in public affairs in the region. Referring to the on-going challenges faced by States in the region, he highlighted the importance for all States of public participation, including in politics, peace-building, migration, and humanitarian assistance. He noted the many impediments to full public participation in the region, such as the shrinking space for civil society (including legislation restricting civil society activities), on-going conflicts and terrorism. He called for recognition of the important role played by civil society organizations (CSOs), trade unions, human rights activists and the media in facilitating public participation. Providing a brief review of the work undertaken by OHCHR in the region, he underlined the importance of addressing the limited participation of young people, restrictions on the right to freedom of expression and peaceful assembly, and the need to protect human rights defenders from reprisals.

In his opening remarks, Mr. Hernan Vales, Human Rights Officer, Rule of Law and Democracy Section, OHCHR,recalled that the right to participate in public affairs was included in several human rights instruments and that the realization of all human rights was underpinned by meaningful participation. He underscored the link between the right to participate and other rights, including the right of peaceful assembly and association and to freedom of opinion and expression. He observed the multiple challenges to the effective enjoyment of the right to participate, particularly where multiple or intersecting grounds of discrimination were involved. He noted that factors such as a lack of political will, protracted violence, insecurity and poverty represented obstacles to the enjoyment of the right to participate. He highlighted that exclusion from public decision-making also had negative implications on the enjoyment of economic, social and cultural rights and the right to development.Noting that information and communication technologies (ICTs) had the potential to reduce inequalities (for example through electronic voting), he asked whether innovative ways of participating through ICTs were inclusive enough. Mr. Vales recalled that Human Rights Council resolution 33/22 mandated OHCHR to prepare draft guidelines on the implementation of the right to equal participation which would be presented to the 39th session of the Human Rights Council. He underlined that the draft guidelines would be informed by the discussions held during the regional consultations, and, as such, noted the importance for OHCHR of all the information gathered during these consultations.

**Session 1: The right to participate in public affairs: Scope, content, and related guidance at the international, regional and national levels.**

The session was opened by Mr. Fateh Azzam, former Director of the Asfari Institute for Civil Society and Citizenship at the American University of Beirut, and former Regional Representative of OHCHR for the Middle East and North Africa.Drawing on relevant jurisprudence of various United Nations human rights mechanisms, he underlined the importance of a non-discriminatory approach to participation, and of equal access to information and to public service. He recalled that article 21 of the Universal Declaration of Human Rights provided that the will of the people shall form the basis of the authority of government. He underlined that more efforts were needed to tackle discrimination, to improve representation at all levels of government, and to enable all people to join political and public associations. In relation to persons with disabilities, he said that the Convention on the Rights of Persons with Disabilities (CRPD) required State Parties to remove barriers and reduce discrimination of persons with disabilities in the public sphere. He highlighted the difficulties facing non-citizens in the region, such as refugees and stateless persons, and emphasized their right to participate in decisions that affect them. He referred to participation as a requirement under the 1986 Declaration on the Right to Development (A/RES/41/128) and also to UN Security Council resolution 1325 which considered the participation of women as fundamental to any peace and security efforts. Recalling the data concerning the representation of women and minorities in parliaments across the region, he observed the importance of adopting temporary special measures to redress imbalance. He also discussed national laws concerning the participation of CSOs and noted the shrinking space for dialogue or dissent within the region. Referring to the shrinking space for CSOs to operate freely, he cited the growing number of unreasonable restrictions on the registration, funding and activities of CSOs.

During the discussion[[1]](#footnote-1), participants explored the connection between enhancing the right to participate and strengthening democracy and the rule of law. In some conflict and post-conflict situations, participants underlined that, because of a long history of barriers to exercise the right to freedom of association, the concept of CSOs was unfamiliar to some, and civil society needed to be developed. They emphasized issues concerning the full participation by CSOs in regional bodies and the challenges for civil society to hold decision makers to account.

**Session 2: Ensuring an enabling environment for the effective exercise of the right to participate in public affairs: pre-requisites**

In her introductory remarks, Ms. Dima Jweihan, Executive Director of the Middle East and North Africa Regional Office of the International Center for Not for-Profit Law in Amman, noted that an enabling environment was linked to regulatory frameworks concerning other human rights. She highlighted the conditions that needed to be in place to enable effective participation, in particular the possibilities of individuals to organize and associate. She cited various good practices that should be emulated and institutionalized in the region in order to facilitate the right to participate, namely: access to information and documents during consultations; the establishment of web platforms that enable commentary on proposed laws; adequate resources to enable CSOs to participate in decision making (for example costs for personnel to attend meetings and communicate with their constituencies); and the capacity for CSOs to fundraise, including from overseas, without excessive requirements. She further highlighted the importance of regional bodies in facilitating participation, and of States to implement specific legislation following relevant recommendations formulated at regional level. She said that while there were some good laws, they were being implemented in a restricted way. Concerning participation of CSOs during elections and in the political debate, she emphasized that the overly broad prohibition for CSOs to carry out “political activities”, a term that was vague and not clearly defined, might result in unreasonable restrictions on their activities. She also highlighted the difficulties for CSOs with regard to access to foreign funding and laws requiring the mandatory registration or licensing of CSOs. She called for cooperation and trust between CSOs and authorities, and for laws regulating public consultation.

During the ensuing discussions, freedom of the press was described as key to the creation of an enabling environment for the right to participate. The right to access information was referred to as necessary for participatory processes and accountability. Participants discussed the need to address extensive restrictions on CSOs’ activities, including access to foreign funding, and visas for international travel by staff. While acknowledging the need for States to adopt anti-terrorism and security legislations, they noted that such laws might result in excessive State control over CSOs and in their de-legitimization. They suggested to ground domestic legislation in this area in existing international standards, for example the Financial Action Task Force’s Best Practices Paper (Recommendation 8) on Combating the Abuse of Non-Profit Organizations which aimed to prevent the misuse of CSOs’ funds while, at the same time, respecting CSOs’ legitimate activities. Participants also discussed the importance of clear legislation concerning CSO activities, as vague terminology could give rise to arbitrary interpretations that result in restrictions on their legitimate activities. Participants emphasized the need for on-going consultation and engagement with the public by those holding leadership roles and the importance of building trust between CSOs and the State.

**Session 3: Enjoyment of the equal right to participate in public affairs by all: overcoming challenges, creating opportunities and sharing good practices.**

The speakers were Ms. Naéla Gabr, Member of the Committee for the Elimination of Discrimination against Women, Ms. Wajeeha S. Al-Baharna, Vice-President of the Bahrain Women’s Association, Mr. Adel Sabaneh, Operations Manager at Sharek Youth Forum, and Mr. Zuhair Lazgeen, Yazidi peace activist and “Ambassadors of citizenship” for the initiative Kulluna Muwatinun (“We are all citizens”).

Ms. Gabr discussed the role of the Committee for the Elimination of Discrimination against Women in enhancing the participation of women in public affairs. She provided examples of the Committee’s jurisprudence and highlighted the relevance to the discussions of articles 4, 7, 8 and 9 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Committee’s general recommendations 29, 30, 31, 34, 35 and 36. She posited that existing laws and regulations needed to be fully implemented and that the key to women’s political empowerment lay in factors such as education and addressing negative stereotypes of women. She acknowledged the low number of women in top positions in the judiciary, political life and diplomatic services, but also some positive advancements, including in the number of female public prosecutors. She also highlighted the importance of language equality for participation and called for Arabic to be more widely used in United Nations meetings so as to facilitate the participation of Arabic-speaking women and CSOs.

Ms. Al-Baharna presented CSOs’ perspectives in relation to enhancing women’s participation in public affairs. She stressed the importance of respecting women’s human rights and said that development not based on equal participation was not sustainable. She flagged personal status laws reaffirming the superiority of men over women as of particular concern, including laws or policies requiring the permission of women’s guardians or husbands to continue their education, and prohibiting or limiting the right of women who are married to foreigners to transmit their nationality to their children. She acknowledged that political will had allowed for the repeal of discriminatory laws and that progress was possible where there was cooperation between CSOs and States. She noted that, in States where women were permitted to stand for election, they were often subject to slander and harassment. She called for a change of mindset and a focus on addressing the social norms that relegated women to reproductive and domestic roles, and the root causes of discrimination. She referred to the need to fully implement Security Council resolution 1325 and for women to fully participate in its implementation. Addressing the issue of digital illiteracy, she called for capacity building to enable women to benefit from technological developments. Referring to the Sustainable Development Goals (SDGs), she spoke about the importance of the implementation of SDG 1, 3 10 and 16 for women’s participation.

Mr. Sabaneh addressed the participation of young people and the main challenges they face. He spoke about the role of local youth councils in facilitating youth political participation. He said that in circumstances where the State was weak, or barely functioning, CSOs had an important role to play in facilitating political participation of young people. He described the operation of youth councils and said that young people benefitted from learning about elections and how municipalities worked. He observed that young people were often absent from national level politics and perceived the electoral processes to be a formality rather than an open, participative process. Although in many States in the region young people constituted a majority, they did not hold public office. He detailed a range of restrictions placed on young people, for example, being prohibited from volunteering, or arrested for demonstrating or expressing their views. He elaborated on the linkages between the lack of access to economic and social rights and its impact on the right to participate. To improve the situation for young people, he suggested that funding should be made available to support small and medium sized enterprises to reduce unemployment; institutions fully dedicated to youth issues, such as a Ministry of Youth, should be created; the role of youth councils in strengthening meaningful participation should be recognized, and political will to include youth in politics should be harnessed.

Mr. Lazgeen talked about the participation of minorities, in particular the Yazidis. He observed that minority groups often only attained political power by working for the agendas of mainstream political groups. He noted that Yazidis were underrepresented in governmental positions and there was no quota for their representation in parliament. He said that anti-discrimination legislation was needed for the protection of minorities and noted that, where legal obligations were not implemented, then progressive constitutional provisions regarding minorities remained unfulfilled. Discussing the role of human rights mechanisms, he called for more specific recommendations to States on issues concerning minorities. He also recommended that States ensure the representation of minorities in regional and central parliaments.

During the ensuing discussions, most participants agreed that temporary special measures, such as quotas, were useful to address marginalization provided they were followed by reforms to address root causes of discrimination and entrenched cultural attitudes about social roles. Participants pointed to the need to promote grassroots leadership development in order to have qualified people standing in elections. Reference was made to the prevalence of patriarchal societies in the region and the tendency for older people to hold positions of power. Participants called for States and all actors of society, including religious leaders, to allow for the participation of all and adopt a discourse of inclusion. They also emphasized that participation was not just about elections but people taking decisions on matters that affect their lives. Participants felt that part of the solution lay in: awareness-raising and capacity-building about political processes; ensuring that equality and acceptance of the other is part of education; working to foster trust amongst communities; seeing young people as part of the solution; and engaging with religious authorities to seek their leadership in promoting equal participation.

**Session 4: Various forms and levels of participation, including emerging new forms**

The speakers in this session were Ms Zeina El-Helou, Secretary General, Lebanese Association for Democratic Elections, Mr. Khaled Emam, Programs Director, Arab Program for Human Rights Activists, Ms. Haya Atassi Onugoren, co-founder of the Syrian Youth Assembly, and Mr. Tarik Nesh-Nash, CEO and co-founder of GovRight.

Ms. El-Helou talked about the relevance of human rights in the electoral process. She raised concerns regarding some restrictions on the exercise of political rights, including the minimum age to vote and run for office, as well as restrictions on the right to vote for members of the military and people in pre-trial detention. She also questioned restrictions on the ability to vote of citizens living abroad. In addition, she observed that in some cases individuals were obliged to vote not where they lived but where they were registered which hampered their ability to vote. She addressed the situation of persons with disabilities in the electoral process and remarked that the concept of reasonable accommodations was often inadequately implemented or non-existent. She also outlined the often lengthy process before which a person granted refugee status could vote. In relation to election monitoring, she described difficulties in independent associations being recognized as observers by the authorities but said the situation was improving. She said that taking part in election monitoring enabled those who could not vote to participate, to a certain extent, in elections.

Mr. Emam spoke about good national and regional practices in relation to ensuring accountability and transparency of public decision making processes and institutions. He referred to transparency and accessing information as pivotal for the enjoyment of human rights. He observed that following the Arab Spring, with the exception of Tunisia, there had been, within the region, a regression in social and political freedoms and a lack of progress on transparency and accountability issues. He called for people to be able to monitor and hold Members of Parliament to account and monitor how legislation was passed and budgets were allocated. Referring to participatory budgets, he explained that involvement in the allocation and monitoring of expenditure allowed individuals to prioritize their own needs, which often led to increased funding for education, welfare and access to information rather than the military and security. Discussing existing examples of guidelines on access to information, he said that pressure from CSOs was important in ensuring such guidelines were implemented. He noted the importance of complaint mechanisms when requests for information were denied. Citing the SDGs as an opportunity to enhance public participation, he said public policies should comply with SDG 16 and said that the call in SDG 17 for global partnerships should encourage the sharing of best practices in participation.

Ms. Atassi Onugoren discussed ways to enhance the role of civil society in the formulation, monitoring and implementation of policies and legislation in the context of post-conflict and peace-building efforts. She highlighted the important role played by CSOs in advocating for peace and democracy, the rule of law and equal participation. She made clear that elections alone were not enough to promote participation. She emphasized the need for participation in the design of transitional justice processes and institutions, highlighting the role of CSOs in helping communities to reconcile. She discussed the example of “Youth Assemblies” in Syria which were able to reverse the top-down approach to decision-making and proved successful in fostering dialogue among youth regardless of their political affiliation. She referred to political will as being essential for change. She underscored the importance of youth empowerment for advocacy and for assuming leadership roles in post–conflict situations. She noted the need to bring more young voices to international peace processes, including at the United Nations.

Mr. Nesh-Nash discussed opportunities and challenges to strengthen equal and meaningful participation using ICTs and social media. He provided examples of good practices that strengthened participatory rule making and access to information, for example through electronic platforms to submit petitions to local and central government, and/or comments on draft constitutions. He explained that the successful use of ICTs to enhance participation was often dependent on the capacity of the State, as well as the population’s access to the internet and ability to use technology. He stressed that the use of ICTs was complementary to traditional systems for accountability and participation. In terms of challenges to new models of participation, he cited internet-literacy gaps, and issues surrounding personal data and privacy which might pose a threat to the safety of bloggers and online human rights activists. He explained how participation could be negatively impacted by the “echo chamber effect” of social media creating silos of communities that were not talking to each other. He said that for ICTs to be effective the challenges of authenticity, authentication, hacking, disinformation, surveillance, and multiple social media accounts needed to be addressed and that internet-neutrality remained key. He observed that the recognition of a legal right to internet access was a good practice.

In the ensuing discussions, participants observed that accountability and transparency remained relatively novel concepts in the region. It was noted that despite the negative impact of corruption, there were instances of anti-corruption investigations being halted and anti-corruption measures not being fully implemented. Participants highlighted the need to ensure protection of whistleblowers. Some participants commented on a regional trend towards decentralization and called for more mechanisms to enhance participation in local decision making. However, they noted that some decentralization laws did not provide for CSOs and the public to participate in local government. Participants highlighted the importance of promoting collaboration between CSOs and strengthening the role of NGO networks in the region. In relation to voting by persons with disabilities, participants noted that the principles of accessibility and the requirement of reasonable accommodation should guide any initiative aimed at strengthening participation of persons with disabilities in public affairs. Referring to the 2030 Agenda, participants emphasized that participation by all was a condition to its implementation, and called for natural resources in the region to be used for the benefit of all. They also discussed the importance for post conflict initiatives to be inclusive and based on constructive dialogue, as well as the importance of participatory transitional justice processes. In discussing technology, participants thought that access to information laws needed to be improved to reflect the digital era. Participants highlighted the importance of informed decision-making, noting that new technologies should be used along with traditional methods of participation.

**Session 5: The right to participate at the regional and international level, including within international organizations.**

The speaker for this session was Ms. Amal Basha, Chairwoman of Sisters Arab Forum for Human Rights. She discussed opportunities for civil society to participate at the international level, including in sessions of the Human Rights Council and the Universal Periodic Review (UPR) and in the work of the Special Procedures. She said that since the Arab Spring the space for civil society in the region had been shrinking. In terms of regional participation, she referred to the Arab League as a largely political body and not sufficiently encouraging of public participation. She posited that ESCWA could facilitate the involvement of CSOs in consultations with States, and explained the value in CSOs participating in sessions of the Human Rights Council. She emphasized the importance of CSOs filing complaints with the Special Procedures and producing reports for the UPR and Human Rights Treaty Bodies, but also raised the issue of “GONGOs”[[2]](#footnote-2) occupying the space for civil society’s engagement with human rights mechanisms. She highlighted the risks that CSOs faced for engaging with the United Nations and the need for protection from reprisals. Finally, she highlighted that United Nations reports on such matters could act as a prompt for investigations to be opened at the national level.

In the ensuing discussions, participants indicated that the Arab Charter on Human Rights was an important document but there needed to be effective scrutiny to ensure adequate implementation by States of its provisions. The Statute of the Arab Court of Human Rights was referred to as needing improvement as individuals did not have standing to file complaints. At the international level, participants highlighted the difficulty for CSOs in obtaining visas to participate in international meetings, including those held within United Nations headquarters, and the risk of reprisals faced by those engaging with the international system.

**Closing session**

During the closing session, participants underscored the importance of some of the main issues raised during the discussions, including: the need for States to see public participation, particularly the participation of marginalized groups, as a key component of building mutual trust between State authorities and civil society, including in post-conflict and peace-building situations. They reiterated the importance of repealing the laws that discriminate against particular groups, and of the inclusion of minorities, migrants, non-citizens, Stateless persons, asylum seekers, and internally displaced persons in decisions that affect them. They stressed the importance of national constitutions setting out the right to participate in public affairs, and of limiting the restrictions placed on the work carried out by CSOs. They noted the protection of whistleblowers, and the absence of reprisals against people who expressed their opinion or disseminated information, both online and offline, as key to strengthening participation, transparency and accountability. The reinforcement of a diverse plural media and the key role of education and awareness-raising programs in promoting a culture of human rights was underlined.

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1. The representative of Saudi Arabia requested that this summary reflect his views that the participation of its delegation in the meeting was not to be considered as a change in its country’s position towards the request in HRC resolution 33/22 for the preparations of draft the guidelines. [↑](#footnote-ref-1)
2. A government-organized non-governmental organization [↑](#footnote-ref-2)