A closed door

A paper on membership as an entry point for independent artistic syndicates in Egypt
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The analysis contained in this paper is based on research and gathering of news, data, and statements related to syndicates. It relied on the policies of the current artistic syndicates in Egypt, as well as the violations committed against creative people which AFTE has documented since 2014. It also relied on the successive laws and their various amendments, as well as the bylaws that regulated the work of syndicates in Egypt at different times, focusing on Law No. 35 of 1978 regarding the establishment of the actors, musicians and cinematic professions syndicates as well as the Union of Artistic Syndicates.

Introduction

Although the Egyptian constitution has clearly affirmed the right to establish syndicates, regulate their work, and manage them on democratic foundations (Articles 76 and 77), practices on the ground differ. These practices reflect restrictions on joining artistic syndicates, the prosecution of creative non-members, in addition to punishing creative members and artists for expressing views that may not appeal to the board of directors or the syndicate's head.

There are many forms of prosecuting artists and creative people and besieging their work. Coordination has increased in recent years between artistic syndicates and security authorities on the one hand and regulatory agencies on the other hand. This was evident in the position of the musicians syndicate, headed by Hany Shaker, when it launched a fierce media and security campaign to ensure the implementation of the ban on Mahraganat (festival) singers. The syndicate filed complaints against a number of those singers, either for singing in public places1 or for releasing new music videos online.2

If the syndicate continues to play similar roles, this will change the concept of syndicates and empty its content, so that the process of joining syndicates – which is supposed to be voluntary to preserve rights – becomes an obligatory move to produce content in Egypt and a burden on the artistic community. The artistic syndicates’ ability to control cultural production in Egypt is

limited, especially in the presence of a digital landscape that unfolds day after day. The digital content platforms have joined the production process; therefore artistic syndicates will be repellent over the time and artists and content makers will overtake them.

The first law on the establishment of syndicates, No. 85 of 1948, laid out preliminary features for the role of artistic syndicates. Despite its disadvantages, the law stipulated that syndicates should be voluntary and diverse entities that regulate the profession in order to ensure the members’ interests. Accordingly, it is necessary for artistic syndicates to review the arbitrary conditions they set for new memberships, and not to consider the revocation of membership as a means of political and moral discipline for members. It’s a priority for syndicates to stop interrogating members and holding them accountable for matters that go beyond the regulation of their work.

Artistic syndicates in Egypt should open up to include different forms and colors of art to be practiced freely by different individuals. It will be a first step for ensuring diversity, which will be reflected in the diversity of the syndicates’ sources of income and will also ensure sources of financing mainly based on self-financing from members. It will be a step on the way to achieving financial independence, which leads to political independence. This will also increase the syndicates’ ability to guarantee and care for the interests of their members, and will accordingly lead members of the cultural and artistic community to voluntarily join these syndicates.

Based on AFTE’s absolute belief in what the existence of independent artistic syndicates that support creativity can represent, especially in light of a state-controlled cultural scene, this paper tries to provide a reading of the possibility for syndicates to turn from being repellent entities with closed doors before new and potential members to entities that care for the interests of their members and support freedom of creativity and creative people.

Syndicate membership should be approached from three main axes. Firstly, it is a constitutional right. Secondly, it can be a tool that enhances the independence of syndicates. Lastly, this paper presents some examples of how membership can be negative and contradict the interests of artists and creative people, in the event that the syndicates turn from being supportive entities to supervisory ones.
Syndicate membership is a constitutional right

The principle of syndicate membership is based on voluntariness, which means that individuals have the free will to join syndicates to get the support and privileges granted to members. In fact, syndicates used the weapon of membership – whether by granting it or revoking it – as a “legalized” means against members of the cultural and artistic community.

The first law on the establishment of syndicates opened the door of membership for “every Egyptian worker who has reached at least fifteen years of age, unless he/she is prohibited by law from working in this profession”. Despite its disadvantages, the law guaranteed the right of those excluded to establish a syndicate that would take care of their interests. It also guaranteed the freedom not to join the syndicate in the first place.

Successive laws continued to stipulate extensively restricting conditions on membership, which have become largely arbitrary. This was evident when film director Samir Seif fought against these arbitrary conditions, which will be explained in detail later in this paper. The Constitutional Court issued a ruling in Seif’s favor in this regard, but the ruling was circumvented through pro forma amendments.

“The right of workers and professionals to form their own trade union is a branch of freedom of assembly. This right must be a free and voluntary act in which the administrative body shall not interfere. It should be independent and remain away from the administrative body’s control, in order to guarantee every worker the right to join the trade union they like, or not to join it, or to abstain from staying in it by ending their membership.”

Supreme Constitutional Court’s ruling – Lawsuit No. 2 of 15

Although the Egyptian constitution stipulated the establishment of a single syndicate to regulate each profession, it did not stipulate that the syndicate transcends its jurisdiction and becomes a party that monopolizes the profession instead of regulating it. So, the Mahraganat singers – for

4. Article 77 of the 2014 Constitution: “The law shall regulate the establishment and administration of professional syndicates on a democratic basis, guarantee their independence, and specify their resources and the way members are registered and held accountable for their behavior while performing their professional activities, according to ethical codes of moral and professional conduct. No profession may establish more than one syndicate. Receivership may not be imposed nor may administrative bodies intervene in the affairs of such syndicates, and their boards of directors may only be dissolved by a judicial ruling. All legislation pertaining to a given profession shall be submitted to the relevant syndicate for consultation.”
example – do not have the freedom to choose between more than a musical syndicate. The door of the sole syndicate is closed to them, thus depriving them not only of the syndicate umbrella and privileges, but also of the right to practice their art in the first place. Meanwhile, Article 67 of the Egyptian constitution guarantees freedom of artistic and literary creativity and prohibits the imposition of custodial sanctions for crimes committed because of the public nature of the artistic, literary or intellectual product. Article 71 of the constitution also guarantees the same protection for crimes committed by way of publication or the public nature thereof.

In contrast to the constitutional articles, the law regulating the work of artistic syndicates disregarded these rights, freedoms and guarantees. In articles 5 and 5 bis, the law stipulated that one may not perform any of the works regulated by the syndicate unless the person has an active membership or obtains a work permit from the syndicate, otherwise he will be punished by imprisonment or a fine, or both. The two articles have been engaged in a long legislative struggle over the years, during which they were amended. However, the last amendment – introduced in 20035 – is the most worrying, as it overturned an important legal progress in favor of creative people and freedom of creativity that had been established by the Supreme Constitutional Court. The two articles are an integral part of the legal battle of artistic syndicates against non-member practitioners.

Membership is a tool for boosting independence of syndicates

In conjunction with the establishment of the Doctors Syndicate and the Engineers Syndicate6, the Musicians Syndicate was established in 19427. Then, the Actors Syndicate was established in 19438, followed by a syndicate for “all professionals in the film industry”9, amid a financial crisis in filmmaking. These syndicates were affiliated to the Ministry of Social Affairs, before changing their legal status to become “professional” syndicates.10

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5. Law No. 8 of 2003 amending some provisions of Law No. 35 of 1978 regarding the establishment of the actors, musicians and cinematic professions syndicates as well as the Union of Artistic Syndicates, http://bit.ly/3kSMER
6. Ibid
10. Revocation by the Actors Syndicate of the memberships of Abu al-Naga and Waked is violation of freedom of expression, AFTE, ibid
The July 1952 regime separated professionals from workers by passing a special law in 1953\textsuperscript{11} to regulate labor unions that differ from professional unions, as each of them had their own law. Union activists\textsuperscript{12} argue that this continuous separation is a major factor in weakening syndicate life in Egypt. After the crisis of democracy in 1954, artistic syndicates were further weakened by the issuance of the first law (Law No. 142 of 1955) that regulates the work of the three artistic syndicates, namely the actors, musicians and cinematic professions syndicates. This law was later repealed in favor of Law No. 118 of 1958\textsuperscript{13} which banned syndicates and their members from engaging in political, party and religious affairs\textsuperscript{14}. The new law banned individuals from combining the two memberships of a professional and labor union. It also stipulated imprisonment and fines against professionals who are not registered with the union.

This was a legal entrenchment of the restrictions imposed on professional unionists that still exist until now. The previous law was abolished and replaced with Law No. 35 of 1978 on the establishment of the three artistic syndicates.

A large part of this union dependency can be attributed to Law No. 100 of 1993 on the guarantees of democracy in professional syndicates. This law was ratified by late President Hosni Mubarak after his meeting with the syndicates\textsuperscript{15}, perhaps in a bid to curb the rise of political Islam in the leadership of syndicates. After the law was ratified, it was impossible for most professional syndicates to hold internal elections due to the difficulty of meeting the 50% + 1 quorum required for holding the general assembly. Thus, the law stripped the syndicates of their power which was distributed among different political currents. Although this law was ruled unconstitutional in January 2011\textsuperscript{16} and elections were held, the current regime has deliberately liquidated new political currents similar to those within the syndicates (including revolutionary, liberal, pro-Muslim Brotherhood, and other currents).

Political independence of syndicates in Egypt cannot be achieved without guaranteeing their financial independence. According to Article 47 of their law, artistic syndicates receive grants, subsidies, and donations from the government or private sector. But the expenses of artistic syndicates exceed the revenues they get from their main source of funding, namely the registration

\textsuperscript{11} Law No. 62 of 1964 amending some provisions of the Labor Law issued by Law No. 91 of 1959, last visited in December 2020, \url{https://bit.ly/3gT4Pbx}

\textsuperscript{12} Elhamy El-Marghany, history and role of professional syndicates in Egypt, civilized dialogue, published in March 2010, last visited in December 2020, \url{https://bit.ly/3o3kjfL}

\textsuperscript{13} Law No. 118 of 1958 on the actors, musicians and cinematic professions syndicates in Egypt, \url{http://bit.ly/2Lb7yRC}

\textsuperscript{14} Article 11 of Law No. 142 of 1955

\textsuperscript{15} Heba Kamal Abdel Hamid, professional syndicates in Mubarak's era and transitions after the January revolution, Beirut Center for Middle East Studies, published in December 2015, last visited in December 2020, \url{https://bit.ly/3hatcSh}

\textsuperscript{16} Text of the unconstitutionality of professional syndicates Law No. 100 of 1993, digital archive, legal publications, last visited in December 2020, \url{http://bit.ly/3qgL1Bx}
and subscription fees. These syndicates have thousands of members. In 2016, the Musicians Syndicate spent 134 million pounds in salaries of 41 members, while its revenues from its main source amounted to one million pounds, only 129,000 pounds of which came from registration fees.

The law regards the artistic professional syndicates as administrative bodies acting on behalf of the state regarding payment and implementation of many financial and social duties towards members, including retirement allowances and medical treatment. In order to pay these expenses, the state provides financial aid to the syndicates annually. The service expenses in the same year were estimated at approximately 1.3 million pounds. Therefore, the financial burdens the state places on the syndicates should be viewed as impediment. So, it is important to look for self-financing sources based on the syndicate's activities, members and fees, which may pave the way for paying attention to syndicate membership.

Article 76 of the current constitution provides for the right to establish syndicates and unions on a democratic basis and guarantees their independence, defining their goals as “improving the skills of their members, defending their rights and protecting their interests”. Meanwhile, Article 77 stipulates that law shall regulate the establishment and administration of professional syndicates on a democratic basis and guarantee their independence. However, we cannot talk about real and possible independence for these entities under authorities that practice various forms of repression on a daily basis. In spite of this, real – albeit initial – attempts can be drawn up, and a constructive dialogue can be held and developed, with the hope that the syndicates will fulfil their commitments towards their members.
How has membership become a sword of Damocles hanging over the heads of creative people?

The number of members of the three artistic syndicates amounts to 47,600, according to the statistic published by the Central Agency for Public Mobilization and Statistics in 2018\(^\text{19}\). This number increases steadily year after year\(^\text{20}\), although it is disproportionate to the number of artists and creative people. However, the number of members of the Musicians Syndicate decreased from 63,023 in 2016 to 22,386 in 2018. This is consistent with the fact that the Musicians Syndicate has the largest number of members from among other artistic syndicates. It is also the most active in terms of attempts of control, use of power, and media propaganda, especially in recent years. The syndicate is still asked to practice more power over current and potential members.

Syndicates derive their existence and strength from membership. The constitution allows individuals to join syndicates voluntarily to get privileges and services. One must obtain a permit from the syndicate to produce any artistic content. The syndicate argues that opening the door to “outsiders” will limit its ability to provide resources to support its current members and provide job opportunities for them in light of an increasing demand on the market.

The syndicate thus ignores the fact that its role is primarily to support members and improve their skills, and that providing job opportunities for members requires qualification, development and creation of a good environment for these individuals to increase their competitiveness. Nevertheless, the syndicate clamps down on its members and others, something which contradicts its role and limits its ability to provide support. If the syndicates work on protecting the interests of their members, improving their skills, and engaging in negotiations in their favor, as stated by law, this will be reflected in the volume of their revenues, as these policies will attract all non-member artists. Thus, it will be easy for the syndicate to double its revenues in an environment that is full of different types of art and has a large and diverse audience as well.

- **Defining the concept of creativity according to syndicate membership**

In 1997, the Supreme Constitutional Court ruled\(^\text{21}\) that the fourth paragraph of Article 5 and 5 bis of Law No. 35 of 1978 was unconstitutional, in a lawsuit filed by film director Samir Seif against

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the Actors Syndicate. Seif filed the lawsuit after the head of the Actors Syndicate filed a lawsuit against him in 1992 to compel him to pay a fine imposed by the syndicate for what it considered an administrative legal mistake. This came after Seif directed a theatrical work called “Hob fi al-Takhshibah” (Love in prison) for a stand-up comedy troupe locally known as Tholathy Adwaa al-Masrah in 1992. The syndicate argued that Seif is a film director and did not have the right to direct a theatrical work; therefore, he was required to register himself with the Actors Syndicate and pay the syndicate a sum of 40,000 pounds in a clearly arbitrary manner. The Cinematic Professions Syndicate obliges its members to work only within the limits of the section in which they are registered, otherwise they will be fined.

In its ruling, the Supreme Constitutional Court defined creativity – be it scientific, literary, artistic or cultural – as “a free and conscious attitude that deals with various forms of arts and sciences, and can be expressed in different. It also takes a tangible shape, be it a drawing, a voice, an image, or a kinetic work, so it is not confined to creative people exclusivity, but extends to others to influence them”.

The article of the law in question was later amended to define the penalty for practicing the profession without referring to the syndicate to be one month to 3 months in prison, after it was open, and the same was done with regard to the financial fine. The amendment of the law in 2003 was more restrictive. Since then, filmmakers who are not registered with any syndicate could face up to three months in jail and a fine of up to 20,000 pounds if they were caught filming a movie without permission.

Punishing creative syndicate members

In 2019, the artistic syndicates imposed disciplinary sanctions on some members for political and ethical reasons. The Actors Syndicate revoked the memberships of Khaled Abu al-Naga and Amr Waked without investigation. It charged them with “high treason” after they attended a hearing session at the US Senate that discussed the human rights situation in Egypt.

In the same year, the Musicians Syndicate suspended singer Sherine from singing and referred her to interrogation on charges of harming Egypt's reputation and national security, after she hinted at the state of freedom of expression in Egypt during a concert held abroad. It was the second time for the syndicate to suspend Sherine, as it suspended her in 2017 over satirical remarks about the Nile waters. The syndicate also revoked the memberships of Fifi and Lamees for “not adhering to

23. Ibid
24. Ibid
the principles of the profession and the syndicate’s behavioral regulations, and their insistence on presenting pornographic and indecent songs”, according to the syndicate’s statement.

During these years, other artists were also punished – either by imprisonment or by revoking their membership – for their political25 and non-political26 views, and even for their clothing27 and artistic names.28

**Conclusion and recommendations**

This paper is issued amid increasing violations of freedom of expression and creativity, and a pandemic that has changed the concepts of work, time, and psychological and mental health, namely Covid-19. The current regime has exploited this pandemic, along with its ongoing war on terror, to pass further restrictions.

AFTE believes that the current situation requires the concerned bodies to review their policies and methods, taking into account the needs of the audience of arts and culture on the one hand and their makers on the other hand. There should be a more open atmosphere, especially in light of the spread of transnational digital platforms and media. The artistic syndicates must stop clamping down on their members. They should turn into entities that attract artists, defend their interests and rights, and care for their creativity and diverse ideas in a flexible way, taking into account the broad social and economic interests, not just the narrow political and security considerations.

The artistic syndicates in Egypt should:

- Stop pursuing members and non-members or holding them accountable for political or moral reasons.
- Open the door to new memberships and defend the intellectual, legal and material interests of their members.

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• Adhere to their roles as regulators of the profession and not to monopolize the profession's affairs.

• Work on guaranteeing their financial independence from state institutions, as well as their unconditional right to public funding and voluntary private donations in addition to the financial contributions provided by their members.