

January 5, 2022

TO LEGISLATORS, POLICYMAKERS, JOURNALISTS AND SUPPORTERS OF AN OPEN AND  
FREE SOCIETY

Re: Need to reject draft laws that pose a risk of shrinking civil society

On November 24, 2021, the Minister of Justice and Home Affairs (MoJHA) submitted two draft laws to the Speaker of Parliament – the draft Law on Legal Status of Associations and Law on Legal Status of Foundations (hereinafter referred to as the draft laws on Associations and Foundations). However, while drafting the bills, the MoJHA did not comply with Mongolia's Law on Legislation as well as the Government Action Plan, which require the participation and input of citizens and civil society.

Although a working group to draft the law was established in November 2020, in practice it was a mere formality for several reasons: 1) the working group has not convened again since its first virtual meeting in January 2021; 2) although civil society organizations submitted feedback on legal concepts and provisions of the bills on January 21, 2021, the working group refused to provide an official response; 3) since then, civil society representatives have not been involved in any discussions or activities related to the bills for more than ten months; 4) the MoJHA approved the bills during the Cabinet meeting and submitted them to parliament without informing civil society organizations and working group members about who is working on the bills and what changes were made to the bills.

In addition, the MoJHA violated the Financial Action Task Force (FATF)'s official guidelines when developing the draft laws on Associations and Foundations, while at the same time inappropriately referencing the FATF's own risk assessment for terrorist financing as the main basis of legal concept. While the FATF guidelines warn that the risk assessment applies only to fundraising organizations and does not apply to all non-profit organizations, the MoJHA applied this to all civil society organizations, thus positioning this legislation to potentially narrow civil society space.

The Civil Society Consortium and Human Rights Forum of Mongolia, which consists of a wide range of non-governmental organizations (NGOs) submitted official letters to the Prime Minister of Mongolia L.Oyun-Erdene, Speaker of the Parliament G.Zandanshatar and President of Mongolia U.Khurelsukh on November 30, 2021, expressing their opposition to the two bills. Despite such push back from civil society,

the Standing Committee on State Structure met on December 30, 2021 and voted to introduce the bills for initial discussion in parliament. As a result, the issue of deciding whether to discuss the bills is on the agenda for the January 6-7, 2022 plenary session of the State Great Hural.

In addition to the issues described above, NGOs and civil society activists are concerned that the draft laws on Associations and Foundations pose certain risks to civic space and the independence of Mongolian NGOs. Provisions of the bills published on Parliament's website [parliament.mn](http://parliament.mn) which include stringent requirements regarding NGO types, governance, and reporting pose risks of restricting operations of thousands of non-profit NGOs that serve the community and operate in accordance with the law. Recent studies and analysis have determined that such legalization of “associations” and “foundations” does not fully reflect the current diversity of Mongolian civil society, and that overly narrow types of NGOs and a tightening legal framework for their organization and management systems will limit further development of the civil society and non-profit sector. In addition, the two bills pose a risk of politicizing civil society through establishment of a Civil Society Development Council and making access to important funding sources more difficult.

The draft laws on Associations and Foundations and related annexes have been drafted in a closed manner and contain misleading information, putting Mongolia's civic space at risk. If a large number of non-profit NGOs that serve Mongolian society are unable to operate, there is a risk of losing civil society organizations that improve governance and conduct public oversight on behalf of citizens. Therefore, as a diverse consortium of NGOs, we agree on these basic principles and therefore issue following appeals:

- For initiators of the draft laws on Associations and Foundations to withdraw the bills; for the relevant standing committee of the State Great Hural to reject these bills, and for legislators to not endorse these bills.
- To ensure participation of civil society representatives in the process of drafting these bills and that any policy or bill intended to reform the legal status of the civil society sector.
- To properly organize public forums on the bills and other relevant topics and seek public input.
- For policymakers and legislators to ensure transparency, openness and genuine participation of citizens and civil society organizations.
- That adoption of any legislation to reform the legal status of NGOs and the civil society sector should not threaten the integrity of civil society and independence of NGOs and should not shrink civic space.

- For media outlets shall provide timely updates and inform the public on these important issues.
- At a time when many countries around the world are undergoing democratic backsliding and the COVID-19 coronavirus pandemic is challenging democratic institutions and threatening civic space, we urge you to support this open letter to protect the independence of NGOs and Mongolian civil society.

Open letter from:

Democracy Education Center (DEMO)

Youth Policy Watch

Globe International Center

Researcher Ts. Batsugar