

ISSUES RELATING TO CSO'S LEGAL FORM AND MANAGEMENT* IN MONGOLIA AND THE ATTEMPTS TO RESTRAIN CIVIL SOCIETY

Khatanzorig Munkhbayar–Enkhbadral Myagmar

Introduction: Context of civil society and its issues

Mongolia, staunchly committed to upholding the principles of human rights, freedom, and democracy, finds itself in a pivotal juncture as a post-socialist nation transitioning to democratic governance within the last three decades. Despite this transition, a myriad of challenges persist, particularly within the realm of civil society development, a key catalyst in the progression of democratic ideals. These challenges span from issues of legal culture, and funding mechanisms, to capacity shortcomings of civil society organizations (CSOs)! Amidst these common concerns, the establishment of a robust legal framework based on a clear concept remains paramount for the judicious evolution of civil society.

The legal status of CSOs is still defined by a law adopted almost 30 years ago, and is still controversial in Mongolia. In terms of concept, civil society is a free sphere where citizens enjoy their rights and freedom, to protect the common interests, and safely oversight the Government policy and actions. Civil society has an advocacy role and is created by the diverse forms of civic initiative and mobilization (Nagy Ádám 2018). As defined by scholars (Nagy Ádám 2014) (László Kákai 2024), it has several functions, including participation, provision of services, and oversight. This concept has been recognized and guaranteed by the Constitution of Mongolia (Constitution of Mongolia 1992).

However, in a political foundation where power is mostly concentrated in a single political party, the concept enshrined in the Constitution must always be prevented from being violated by ordinary laws. In this article, civil society organizations are considered organizations that perform the mentioned functions and are vital to the protection of democracy in Mongolia.



Although constitutionally guaranteed and conceptually relatively unified, the development of civil society is not proceeding smoothly. The year 2021 witnessed a notable deviation from legislative processes when the government introduced draft laws titled "On the Legal Status of Associations and Foundations" to the State Great Khural² in Mongolia. It was a major attempt to restrain civil society, ostensibly in response to widespread criticism of the unclear legal form and lack of reporting and proper governance within these organizations.

While acknowledging the genuine concerns surrounding the legal form and sector management sophistication of civil society organizations, it is important to scrutinize the proposed legislative solution critically. Contrary to its professed objectives of resolving these issues, the government's initiative appears to wield an ulterior motive an attempt to exert authority over civil society under the guise of rectifying perceived shortcomings.

The issue of regulating civil society is not a unique problem, as it also arises in other countries undergoing a democratic transition. Particularly, the issue of relation between the government and the civil society is constantly raised in any democratic country (for example Moldova (Putină–Brie 2023), Hungary (Altankhuyag–Gankhuyag 2019), Slovenia (Bahovec 2023), Romania (Ciot 2023), Poland (Lewandowski–Perlikowski 2023) etc.), and it is an issue that should be constantly monitored. The explanation of administrative representatives about the real aim and consequences of the law on civil society organizations could raise doubts and should be examined (Jensen 2017).

For Mongolia, the 2021 draft law was not even the first regulation to jeopardize civil society. The 2019 draft law "On Non-profit Legal Entities" was also considered not only as a risk to civil society but also as a risk of democratic backsliding (Jargalsaikhan 2019) (Altankhuyag–Gankhuyag 2019). This article delves into a legal examination of the two aforementioned issues, ultimately contending that the government's proposition is not only suboptimal but harbors inherent dangers, notably in terms of restraining civil society.

Brief overview of the history and current situation of CSOs in Mongolia

In 1990, Mongolia underwent a transition to a democratic system, marking a significant departure from its socialist past. The preceding socialist era completely restrained the free development of civil society organizations in Mongolia until 1990.

During the 20th century, key social institutions associated with the People's Democratic Party, including youth, women, and trade unions, played a crucial role in shaping Mongolian society. These institutions not only facilitated the renewal and augmentation of the party through elections but also engaged the public extensively in socialist ideals through large-scale movements, meetings, and events.



It can be seen from their slogans and appeals that these unions and associations were the tools of the socialist movement (Gundsambuu 2002).

CSOs in Mongolia emerged during the 20th century, characterized by close coordination between the state and the party. The "Mongolian Trade Union" was established in 1917, followed by the creation of the "Revolutionary Youth Union of Mongolia" in 1921, and the Children's Pioneer Organization in 1925. In 1924, the Mongolian Women's Association, initially named the "Women's Development Department," was founded, and recognized as the first women's organization in Asia.

These organizations played an active role in shaping various aspects of Mongolian society during the socialist era, contributing to cultural transformation, educational initiatives, collectivization, cooperative efforts, and the establishment of new land for agriculture. They assumed dual roles, executing and distributing government functions, while also undertaking the responsibility of training young workers, personnel, and socialist-minded individuals for both the party and civil service.

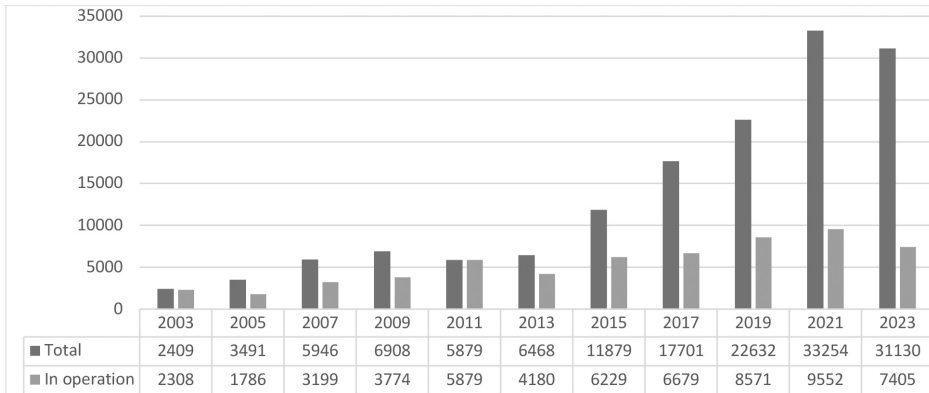
For instance, the Children's Pioneer Organization identified itself as a "pioneer organization of Mongolian youth dedicated to diligent study, aspiring to become workers, herders, teachers, engineers, and scientists in the future, to construct socialism and communism in their homeland (Ч.Цэрэндулам 1988: 75)".

Following the democratic revolution in Mongolia in 1990, mass organizations were required to relinquish their socialist functions. However, these institutions were not completely dissolved. Entities like the Mongolian Trade Union, the Youth Union, and the Women's Union continue their operations to the present day under the democratic system.

In 1997, the Mongolian parliament, formed through the second round of democratic elections, ratified and enacted the Law on Non-Governmental Organizations. This legislation established the legal status of non-governmental organizations in alignment with democratic principles. By enabling non-governmental organizations to govern themselves through their regulations, it facilitated the diverse and unrestricted development of Mongolian civil society organizations. Nevertheless, the law faced criticism for its perceived inadequacy in regulating the financial relationships of non-governmental organizations.

In 2023, based on data from the Mongolian State Statistics Committee's business registry database, 7405 out of 31,130 registered NGOs were reported as active. (Statistics 2023)

Figure 1. NGOs registered in the Business Registry.



The diverse landscape of CSOs in Mongolia encompasses associations, foundations, professional groups, and institutes, spanning various sectors such as education, health, human rights, governance, arts, sports, culture, child protection, welfare, and aid. However, the legal framework surrounding the form and registration of non-governmental organizations is currently ambiguous, marked by conflicting and overlapping laws, a subject explored in subsequent chapters.

The legal status of non-governmental organizations (NGOs) in legal documents is inconsistent and unclear. The contradictions in the legal regulation of NGO types and forms create confusion for NGOs, making it difficult to manage a unified register of NGO information analyze it, and use consolidated information in sector policies. (Consortium for Civil Society SICA 2021)

The average NGO has spent up to MNT 50 million on management or administrative expenses over 3 years, which is 8.6% or MNT 4.3 million at most. Therefore, it can be seen that there are limited opportunities for NGOs to implement and finance governance structures. As a result, small NGOs have combined their board of directors and executive management to reduce their management expenses (Consortium for Civil Society SICA 2021).

In 2019, 10.2% of NGOs paid 108,970,000 MNT in corporate income tax, and 23.6% paid 446,670,000 MNT in personal income tax. Additionally, 2.5% paid 91,908,000 MNT in property tax and land use tax. In 2019, 23.0% of NGOs paid social insurance premiums. On average, NGOs paid 986,000 MNT in social insurance premiums, with employers contributing 455,000 MNT. Only 34% of the NGOs surveyed benefited from tax exemptions, deductions, or incentives between 2015 and 2019 (Consortium for Civil Society SICA 2021).

Over 2019–2021, 683 NGOs have involved 784,730 people in their activities and services, and the number of books, brochures, and manuals they published reached 56,524 thousand. They have contributed to the amendments and adoption of 512 policy documents and legal acts at local and national levels, filed 2,850 public interest lawsuits, conducted 8,526 research studies, and implemented activities



covering 3,782 areas, including land, rivers, and biological and animal species. These results demonstrate the broad scope of the role and impact NGOs have in society. However, the effectiveness of NGOs' activities is not transparently measurable in society, reporting systems are not well established, and the reports submitted to government agencies lack any incentive, support, or evaluation mechanisms, posing challenges in measuring and recognizing the impact of the civil society sector.

According to CCS (Consortium for Civil Society, SICA 2021), NGOs face obstacles and challenges in operating independently and freely. For example:

- Although half of the NGOs use the Law on Information Transparency, about 10% cannot access information. The most common difficulty in obtaining information is bureaucracy,
- Over 40% of NGOs experience pressure when criticizing government activities.
- Between 13.0% and 18.0% of NGOs face restrictions in expressing their views and conducting activities online and through media,
- 72% of NGOs encounter difficulties in exercising their right to assemble and establish organizations. These challenges include bureaucracy, unjustified refusals to register, and illegal demands,
- 35.1% of NGOs experience pressure from the government.

Recent legal reforms concerning civil society organizations in Mongolia have been underway. In 2021, parliament initiated discussions on the draft law addressing the legal status of federations and funds (Standing Committee on State Organization of the Parliament, Ministry of Justice and Internal Affairs, Institute of Constitutional Law, 2022). Nevertheless, strong opposition from civil society organizations resulted in the suspension of the law's deliberation (Democracy Education Center; Youth policy watch; Globe international center; Ts.Batshugar, 2022).

Some researchers interpret these legal developments as potential indicators of democratic regression, suggesting a contraction of civil society's space within the state (expounded further in Chapter 4). The shift away from military coups as a form of democratic regression is noticeable, with an emerging trend where political incumbents employ legal means to curtail human rights and freedoms, contributing to the retreat from democracy. Analyzing the legal regulations surrounding civil society organizations becomes imperative in light of Mongolia's current democratic risk.

Overview of the legal framework for civil society organizations

The democratic Constitution of 1992 serves as the foundational legal document affirming the status of civil society and civil society organizations within Mongolia. The preamble of this constitution inherently encompasses the conceptual development of civil society,³ explicitly outlining citizens' fundamental rights as the "guaranteed enjoyment of the right to form parties and other public organizations



and join voluntary associations for the sake of society and their interests and opinions.”⁴ This constitutional provision grants citizens a legal avenue to express, execute, and safeguard their interests, allowing the formation of non-profit legal entities independent of government influence and facilitating oversight of governmental activities.

Building upon this Constitutional framework, Mongolia enacted the “Law on Non-Governmental Organizations” in 1997, securing citizens’ right to associate. This law, in force for almost three decades with seven subsequent amendments,⁵ stands as the primary legislation regulating civil society organizations.

In 2002, Mongolia introduced the new “Civil Code”⁶ delineating essential regulations for legal entities involved in legal relations. The law categorizes legal entities into profit and non-profit entities,⁷ with the basic forms of non-profit entities specified as associations, foundations, and cooperatives.⁸ However, this classification deviated from other non-governmental organization forms outlined in the 1997 Law on Non-Governmental Organizations.

Presently, the 2021 “Revision of the Law on Cooperatives” is still effective, yet no laws explicitly delineate the legal status of associations and foundations. Notwithstanding, legal entities registered under the broad category of “non-governmental organization” continue to operate.

Supplementary to these laws defining the legal status of civil society organizations, the Law on State Registration of Legal Entities, outlining the registration process in the state registry, along with laws about financing, taxation, and control, remain in force.

Despite the government’s attempts to draft laws such as “On the Legal Status of Non-Profit Legal Entities,” “On the Legal Status of the Association,” and “On the Legal Status of Foundations,” public resistance, particularly concerns about citizens’ association rights, has been significant.⁹ In 2021, the development of the “Mongolian State and Civil Society Collaboration Concept” project, in cooperation with civil society organizations, is underway. Given Mongolia’s dynamic social, political, and economic landscape, rapid regulatory changes in this domain are anticipated shortly, underscoring the urgency of addressing the two focal issues discussed in this article: the legal form of civil society organizations and the management and control of the sector.

Key legal issues of civil society organizations: legal form, sector management and control

The departure from the centralized state system in the 1990s marked Mongolia’s pivot towards civil society, prompting the need for normative structures to govern its organizational landscape. In response, the Mongolian parliament has crafted an extensive body of legislation, exceeding 500 laws, leveraging diverse experiences to establish a legal milieu conducive to the formation and evolution



of the nascent democracy. This transformation, succeeding a socialist regime entrenched for over seven decades, is, however, accompanied by persisting challenges in the intricate realms of the legal form of CSOs and the consequential immaturity in sector organization.

Legal Forms of Civil Society Organizations

In democratic jurisdictions, where the regulation of public and private entities diverges, the legal configuration assumes paramount significance, determining the main purpose, permissible activities, and management organization of any legal entity. This necessitates distinct rules for establishment and interaction with other legal subjects. In the Mongolian context, the legal typology of CSOs is delineated by the "Law on Non-Governmental Organizations," "Civil Code," and "Law on State Registration of Legal Entities." As per the Civil Code, CSOs are categorized as non-profit legal entities, mandated to adopt the forms of associations, foundations, or cooperatives.

The 1997 Law on Non-Governmental Organizations defines a non-governmental organization as a "non-profit organization established voluntarily by citizens and legal entities, independent of the government, operating on a self-governing basis." Consequently, non-governmental organizations are bifurcated into those serving society at large¹⁰ and those serving their members¹¹. The conceptual disparity between this law and the Civil Code introduces intricacies. Non-governmental organizations can exist as a general "NGO" per the Law on Non-Governmental Organizations, while associations and foundations stipulated in the Civil code must assume the form of "NGOs." This results in a singular legal entity adopting dual designations, defining the legal form as both "association" and "NGO."

Given the foundational role of the Civil code, adherence to the prescribed legal form is imperative for a legal entity to acquire legal capacity. However, the classification of for-profit and not-for-profit entities lacks clarity, contributing to the ambiguous legal status of some organizations.¹²

Furthermore, in conjunction with the laws defining legal status, the regulations of the "Law on State Registration of Legal Entities" must be applied to the establishment and operation of a legal entity. Mongolia's adherence to an abstract principle regarding legal entity capacity necessitates registration in the state registry to confer civil legal capacity. This renders a legal entity registered in the state register capable of exercising rights and fulfilling obligations in legal relations.^{13, 14, 15}

By the Law on State Registration of Legal Entities, a comprehensive array of 11 legal entity types¹⁶ is officially recognized and registered, thereby conferring legal capacity upon them. Notwithstanding the provision in Article 4.1.1 of the Law, articulating that "a legal entity shall denote an organizational unit possessing the attributes outlined in Article 25.1 of the Civil Code," the 11 categories eligible for registration diverge from the five legal entity types delineated in Article 33 of the Civil Code.



Consequently, the legal landscape surrounding civil society organizations is characterized by inconsistencies and conflicts within pertinent legislation. The resulting lack of clarity and internal contradictions in the regulatory framework concerning Civil Society Organizations exacerbates the challenge of comprehensively and coherently regulating these entities. This discord further compounds the ambiguity surrounding the legal status of civil society organizations and non-governmental organizations, rendering their legal standing enigmatic and challenging to ascertain.

Issues of Management and Control in Civil Society Organizations

While CSOs appear to enjoy a degree of freedom in their legal structuring,¹⁷ the prevailing legal environment remains opaque, resulting in disarray in the management and oversight of the sector. As of 2023, 7405 organizations, constituting 23.78 percent of the officially registered 31,130 NGOs, are in operation. Notably, the majority of NGOs registered in the state register are inactive, with 17,277 temporarily suspended, 269 completely suspended, and 31 lacking information due to unknown addresses or other reasons (Statistics 2023).

Moreover, non-governmental organizations are obligated to furnish regular financial reports as per legal requirements; however, the enforcement of this regulation is inadequate. (IRIM 2020) Despite the significant societal role played by CSOs, the transparency and measurability of their activities remain obscured. The reporting system lacks a robust structure, and there is a notable absence of incentive support or evaluation mechanisms for reports submitted to government institutions, posing challenges to the assessment and identification of impact. Only 46.9% of all organizations have implemented an activity evaluation system, leaving the remaining 53.1% without any formal evaluation of their activities. (Consortium for Civil Society, SICA 2021).

In addition to external reporting obligations, non-governmental organizations are mandated to institute internal reporting mechanisms. This internal framework serves to ensure equitable management and forestall the organization from being instrumentalized for narrow interests. Most organizations conduct regular board meetings, with 37.3% holding quarterly board meetings and 32.9% convening annual board meetings. In 87.9% of these organizations, the board of directors presents operational plans and financial reports during member meetings. Nonetheless, 11.6% indicate a complete absence of board operations (Consortium for Civil Society, SICA 2021).

As of 2021, ethical regulations were established by 43.5% of these organizations, financial regulations by 42.3%, operational regulations by only 19.4%, and 17.8% operated without any regulations. The disparity in regulatory adherence underscores the need for enhanced internal governance mechanisms within civil society organizations to ensure transparency, accountability, and ethical conduct.



Broadly speaking, the cultural awareness and active engagement of a nation's citizens play a pivotal role in shaping the contours of civil society. In the absence of widespread participation, operational entities find themselves compelled to seek external support in areas such as finance, human resource capacity, collaboration, and access to information dissemination channels. In a context where the populace is highly educated and the government implements pertinent policies, civil society organizations can effectively oversee governmental actions while aligning with their primary objectives. In the absence of these conditions, the emergence of a robust ecosystem is impeded, affecting financial stability, management, and organizational dynamics.

On one front, the foremost challenge identified by a majority of non-governmental organizations in Mongolia is a dearth of funds. Simultaneously, the management and oversight of this sector, compounded by legal form ambiguities, has attracted criticism from political quarters. Some studies indicate a lack of clarity in comprehending the sector's reporting system, which is, in turn, influenced by the stability and capacity of NGOs. (IRIM, 2020) In instances where CSOs face internal disarray, imposed reporting requirements should not be unduly burdensome but rather tailored to the size and scope of their activities.

However, as we shall explore in the subsequent section, government initiatives aimed at addressing these concerns have fallen short of meeting requisite standards.

Government legislative initiatives and restraints on civil society

It is essential to acknowledge that, in practical terms, the Law on Non-Governmental Organizations has wielded greater influence than the Civil Code. Over the past three decades since 1990, when comprehensive education on democracy was lacking, civil society organizations played a pivotal role in upholding democratic values and safeguarding public interests.¹⁸ (Consortium for Civil Society, SICA 2021)

Conversely, there exists a pervasive risk that authorities might exploit civil society organizations for narrow interests, and channel public funds through them, thereby creating potential vulnerabilities to money laundering¹⁹ (Democracy Education Center; Youth policy watch; Globe international center; Ts.Batshugar 2022). The inherent uncertainty in the legal form, coupled with the lack of accountability and organizational disarray within civil society organizations, has prompted active state intervention in this realm. Consequently, the government has undertaken the development of multiple draft laws aimed at regulating non-profit legal entities.

Recent draft laws, such as those about the legal status of Associations and Foundations (2021), explicitly addressed the aforementioned issues, contending that regulation is imperative. However, as previously noted, these legislative initiatives encountered vehement opposition from the public.



For instance, the drafts stipulate that civil society organizations cannot engage in activities characteristic of political party organizations.²⁰ Yet, the specifics of such proscribed activities remain unclear. Researchers have criticized the lack of specificity, particularly concerning whether peaceful demonstrations and collaborations with political parties contravene the law or if supporting election activities is deemed a violation.²¹ Such regulatory ambiguities effectively constrain the activities of civil society organizations. In contexts where public oversight, participation, and education are lacking, public authorities often harbor an interest in self-preservation, suppressing dissenting voices.

According to INConsortium research, over 40% of NGOs experience some form of pressure when critiquing government activities, and 35.1% face government-induced pressures (Consortium for Civil Society, SICA, 2021). Two of the most contentious aspects of the government-developed project are explored in this article: the legal form of civil society organizations and their management and control. Regarding the legal form, attempts were made to restrict organizations to the sole forms of associations or foundations, aligning with Civil code regulations.²² Additionally, the Draft Law on the Legal Status of Federations introduces superfluous and perplexing constraints, including restrictions on the use of names such as "national" and "Mongolian," excluding specific associations outlined in the law.²³

Regarding the constraints posed by this prescribed legal form, NGO representatives argue that the 1997 Law on NGOs provided a broad contextual definition of types and forms, affording NGOs the flexibility to independently evolve by implementing suitable structures, forms, and governance systems. (Consortium for Civil Society, SICA 2021) They contend that narrow delineation and stringent legalization of non-profit legal entity types and their organizational and management systems, as proposed for improvement, could curtail the progressive development of civil society and the non-profit sector. (Consortium for Civil Society, SICA 2021)

Concerning the management and oversight of the CSO sector, a notable provision in the proposed legislation involves the establishment of a "Civil Society Development Support Council."²⁴ This envisages the division of civil society into eight sectors, each subject to a voting process, culminating in the formation of a council at the national level. The members of the council, securing the highest number of votes in each sector, would subsequently be approved by the Prime Minister.²⁵ However, key uncertainties persist, such as the criteria for participation in the vote, the formation process of the council, mechanisms ensuring its independence, and the government's criteria for providing support to specific organizations. In light of these ambiguities, civil society members and researchers raise concerns that the Prime Minister or the government might be attempting to exercise control over civil society through centralized management, leveraging financial control to restrict its autonomy.

Concerning the powers vested in the Council, mandates include "supporting the capacity of Mongolian civil society and non-profit legal entities" and "establishing and developing internal governance and ethical standards."²⁶



Additionally, the Council is tasked with managing relationships with the government, and international and foreign organizations on matters about the shared development and collaboration of non-profit legal entities.²⁷ Essentially, the council, endorsed by the Prime Minister, holds comprehensive authority to "set standards" for civil society development and possesses the discretion to support or withhold support from any organization. This authority extends to utilizing state and local property for such support, assuming functions of government organizations, and securing funding, along with rights like tax relief or exemption.²⁸

In Mongolia, financial sustainability within the realm of civil society proves to be a formidable challenge. According to the 2016 baseline study conducted as part of the Strengthening Social Responsibility Project, the average annual funding secured by NGOs amounted to 36 million MNT. Notably, 28.2 percent of NGOs identified government funding and tender income as their primary sources of financial support.

Furthermore, organizations aspire to serve as representatives for the entirety of Mongolian civil society, thereby securing the right to engage in dialogue with both the government and international organizations. The pivotal determination by the "Civil Society Development Support Council" regarding whether a legal entity is "engaging in activities beneficial to the public" adds another layer of significance.²⁹ Consequently, the council, sanctioned by the Prime Minister, wields the authority to decide which organizations possess the right to file claims in the administrative court for the public interest. Financial constraints create the need to engage with international donor organizations, which can negatively affect civil society outreach strategies (Baker et al. 2017). However, no doubt being indirectly financially dependent on the government has a high risk of directly restricting civil society.

This governmental emphasis on selectively supporting organizations, deciding exclusion from support, and imposing restrictions to limit official representation of civil society organizations raises concerns about an encroaching "iron fist" that could constrict civil society and contribute to a regression from democratic principles.

Conclusion

In conclusion, although civil society organizations in Mongolia play a crucial role in protecting democracy and human rights, they consistently face numerous challenges. These include issues such as funding, sector management, and a shortage of human resources. Additionally, the legal environment is underdeveloped, contradictory, and fraught with gaps, posing significant difficulties. A well-developed legal framework is of strategic importance for civil society.

The complicated and contradictory legal framework surrounding the legal form and management regulations for civil society organizations in Mongolia significantly hinders the development of the sector and increases the risk of state con-

■ ■
■ ■

straints on civil society. In a country with young democracy, creating an optimal legal environment for civil society is crucial for the protection of democracy and human rights.

Legislative efforts should in the future be undertaken jointly with representatives of civil society, lawyers, and academics. The adoption of the "Partnership Concept between the Mongolian State and Civil Society", the repeal of the 1997 Law on Non-Governmental Organizations, and the reasonable formulation of the "Law on Non-Profit Legal Entities" in line with this concept are essential steps.

Preserving the broad concept of CSOs beyond associations and foundations allows for a more expansive and unrestrained civil society space. Restricting it solely to associations or funds, especially in Mongolian conditions, is deemed suboptimal. Additionally, a review of the non-profit legal entity types specified in the Civil code is necessary, differentiating CSOs from registered organizations outlined in the Law on Civil Codes.

The disjointed management and control of CSOs at the sector level have invited disorganized and unaccountable criticism, prompting governmental attempts to curtail the voice of civil society. Without a clarified and refined legal framework, such attempts are likely to persist.

Given Mongolia's reliance on external funding, it is imperative to establish an independent monitoring system, detached from government influence. Future development of Mongolia's civil society should strive for independence from government organizations, avoid the concentration of funding in a few CSOs, and foster pluralism based on equal rights. This approach ensures the resilience and diversity of Mongolia's civil society in the years to come.

Bibliography

- Altankhuyag, B.-O.–Gankhuyag, B. (2019): *Comparative analysis of institutional environments of non-governmental organizations in Mongolia, Hungary, and Poland*. De Facto Institute. <https://www.uih.mn/sudalgaa/s/51>
- Bahovec, I. (2023): Civil Society, Political Parties, and the Development of Democracy in Slovenia. *Civil Szemle*, (Spec. Iss. 5.), pp. 25–42. <https://www.civilszemle.hu/wp-content/uploads/2023/12/Csz-2023-kulonszam-5-netre.pdf>
- Baker, A.–Boulding, C.–Mullenax, S.–Murton, G.–Todd, M.–Velasco-Guachalla, X.–Zackary, D. (2017): Maintaining Civic Space in Backsliding Regimes. *Research and Innovation Grants Working Papers Series*.
- Ciot, M.-G. (2023): Romanian Civil Society and the Preparation of Romania's Accession to the EU. *Civil Szemle*, (Spec. Iss. 5.), pp. 221–242. <https://www.civilszemle.hu/wp-content/uploads/2023/12/77-Civil-Szemle-20234.pdf>
- Civil code of Mongolia. (1994).
- Civil Code of Mongolia*. (2002): <https://legalinfo.mn/mn/detail/299>
- Consortium for Civil Society, SICA. (2021): *A study to determine the status of civic space and the needs and requirements of an enabled legal environment to support it*. Ulaanbaatar. <https://www.uih.mn/sudalgaa/s/20/>



- Constitution of Mongolia. (1992): Preamble, § 16.10. legalinfo. mn. <https://legalinfo.mn/mn/detail?lawId=367>
- Democracy Education Center; Youth policy watch; Globe international center; Ts.Batshugar (2022): *Open letter to legislators, policymakers, journalists, and supporters of an open and free society*. Ulaanbaatar. <https://www.gic.mn/public/docs/publications/2022-01-05-Open-Letter-English-Translation.pdf>.
- Draft Law on the Legal Status of Federations (2021): <https://mojha.gov.mn/content/637dd837cc9861d1fb7abc35>
- Gundsambuu, Kh. (2002): Social transition: potential and reality. Gundsambuu.Kh-Д, *Mongolian social stratification in the 20th century: development and trends* (хүүд. 600). Ulaanbaatar: National Center for Comprehensive Development.
- IRIM (2020): *Research on the need for non profit organizations law*. Ulaanbaatar. <https://www.uih.mn/sudalgaa/s/15>
- Jargalsaikhan, D. (2019): *Three risks looming over our civil society*. Ulaanbaatar: United info hub. <https://www.uih.mn/sudalgaa/s/48>
- Jensen, M. (2017): *Alarming developments in Hungary: draft NGO law restricting civil society and possible closure of the European Central University*. Parliamentary Assembly.
- Kákai, L.–Glied, V. (2017): Sketch of the Hungarian non-profit sector after the regime change. *Civil Szemle*, 3, (6).
- Kákai, L.–Glied, V. (2024): Civil Society in the Crosshairs. *Political Studies*, 52.
- Law on Non-Governmental Organizations (1997): <https://legalinfo.mn/mn/detail/494>
- Law on State Registration of Legal Entities (2018): <https://legalinfo.mn/mn/detail/13591>
- Lewandowski, A.–Perlikowski, Ł. (2023): Between Social and Political Sphere – Civil Society Dilemmas in the Third Republic of Poland. *Civil Szemle*, 5, pp. 5–24. <https://www.civilszemle.hu/wp-content/uploads/2023/12/Csz-2023-kulonzsam-5-netre.pdf>
- Nagy Ádám (2014): *Civil társadalom, nonprofit világ*. Budapest: UISZ Alapítvány.
- Nagy Ádám (2018): A Nemzeti ifjúsági tanács közpolitikai elemzése, különös tekintettel annak érdek képviselői funkciójára. *Civil Szemle*, 3, (56.), pp. 39–68. https://www.civilszemle.hu/wp-content/uploads/2020/02/56_Civil_Szemle_2018_3_web.pdf
- National Statistics Office of Mongolia (2020): www.1212.mn
- National Statistics Office of Mongolia (2022): www.1212.mn
- Putină, N.–Brie, M. (2023): Civil Society Development and Democratization in the Republic of Moldova. *Civil Szemle*, pp. 79–108. <https://www.civilszemle.hu/wp-content/uploads/2023/12/77-Civil-Szemle-20234.pdf>
- Standing Committee on State Organization of the Parliament, Ministry of Justice and Internal Affairs, Institute of Constitutional Law. (2022): Discussion of the draft law on the legal status of associations and foundations.
- Statistics (2023): *Number of entities registered in database, by activity status and legal type*. National Statistics Office of Mongolia. https://www.1212.mn/tables.aspx?tbl_id=DT_NSO_2600_003V1&13999001_select_all=0&13999001SingleSelect=_02_01&01_select_all=0&01SingleSelect=_8&YearY_select_all=0&YearYSingleSelect=_2023_2021_2019_2017_2015_2013_2011_2009_2007_2005_2003_2001_1999&viewtype=c
- Ч.Цэрэндулам (1988): Д.Сүхбаатарын нэрэмжит монголын пионерийн байгууллага Атлас. Улаанбаатар. http://koha.plub.gov.mn/cgi-bin/koha/opac-detail.pl?biblionumber=7623&query_desc=kw%2Cwrdl%3A%20%D0%BF%D0%B8%D0%BE%D0%BD%D0%B5%D1%80

Notes

¹ In the last two elections, the Mongolian People's Party (MPP) won absolute victory and holds power in the state. In the 2016 parliamentary elections, 65 out of 76 seats were taken by the MPP, and in 2020, 63 out of 76 seats were taken by the MPP.

² State Great Khural is Mongolian parliament, which consists of seventy-six members and implement the legislative branch.

³ In the preamble of the Constitution of Mongolia, it is stated: "... we will build a humane civil democratic society in our country..."

⁴ Article 16.10 of the Constitution of Mongolia.

⁵ The law was amended in 1998, 2003, 2005, 2015, 2016, 2020 and 2021.

⁶ Previously, the Civil Code adopted in 1994 was in force.

⁷ Article 25.2 of the Civil Code states: "A legal entity may be for-profit with the purpose of making a profit, or non profit with the purpose specified by law or regulations."

⁸ Article 33.2 of the Civil Code states "not-for-profit legal entities shall be established in the form of associations, foundations, and cooperatives."

⁹ Center for Democratic Education. On December 23, 2019, 180 representatives of CSOs submitted a letter of demand to the Speaker of the Parliament. No. 25

¹⁰ §4.2.2/"non-governmental organization serving society" means non-governmental organizations that operate for the benefit of society in the culture, art, education, upbringing, science, health, sports, environment, environmental development, human rights, protection of the interests of certain groups and strata of the population, charity areas;

¹¹ §4.2.3/"non-governmental organization that serves its members" means a non-governmental organization that serves its members, with the main purpose of protecting their legitimate interests.

¹² For example, cooperatives. Although the Civil Code stipulates that it should be non-profit, but according to the Law on the Legal Status of Cooperatives, and empirically, it is operating as a de facto for-profit legal entity.

¹³ Article 26.1 of the Civil Code

¹⁴ Article 5.1 of the Law on State Registration of Legal Entities.

¹⁵ Article 5.2 of the Law on State Registration of Legal Entities.

¹⁶ Article 7.1. The state registration organization shall register the following legal entities, their branches and representative offices: 7.1.1. partnership; 7.1.2. company; 7.1.3. association /non-governmental organization/; 7.1.4. foundation; 7.1.5. cooperative; 7.1.6. religious organization; 7.1.7. public legal entity; 7.1.8. government organizations and offices; 7.1.9. state factory; 7.1.10. industrials with business settlement; 7.1.11. educational institution /preschool education, general education, professional and technical, higher education/.

¹⁷ As discussed earlier, the Law on Non-Governmental Organizations still recognizes general legal forms such as associations, foundations, non-cooperatives, and NGOs. Notably, NGOs often employ varied forms like centers, institutes, and collectives, with some organizations not explicitly specifying their organizational type, such as "Civic Education NGO" or "Ethical Society NGO."

¹⁸ Over the past three years, 683 NGOs have significantly impacted 784,730 individuals through their activities and services. Remarkably, they contributed to the publication of 56,524 books, pamphlets, and manuals. Furthermore, these organizations played a pivotal role in amending and approving 512 local and national policy documents and legal acts. They actively represented public interests by filing 2,850 claims, conducted 8,526 studies, and executed 3,782 activities related to areas, rivers, biological, and animal species.



¹⁹ While there is a general risk, concrete evidence of such a problem in Mongolia is lacking. On October 18, 2019, Mongolia entered the FATF gray list along with Iceland and Zimbabwe. Some politicians have misinformed the public by declared this was caused by the NGOs. This is rejected by civil society organizations. For example, some sources say "...the Ministry of Justice and Home Affairs of Mongolia (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. (Democracy Education Center; Youth policy watch; Globe international center; Ts.Batshugar, 2022)"

²⁰ Article 91.1 of the draft law on the legal status of the Association prohibits "implementing and financing the activities of political parties and political party organizations."

²¹ Standing Committee on State Organization of the Parliament, Ministry of Justice and Internal Affairs, Institute of Constitutional Law. Discussion of the draft law on the legal status of associations and foundations. 2022. November, State House.

²² The "definition of terms" section of the draft law does not mention this at all, but in the "explanation" section of Article 39, it is stated in the "explanation" section of Article 39: In accordance with this law, non-profit legal entity is a non-profit legal entity established on a voluntary basis by citizens, other than government organizations, public legal entities, based on their own interests, values, and opinions, and operates on the principle of independent self-management /association, foundation/.

²³ Article 10.5 of the draft Law on the Legal Status of the Association.

²⁴ Article 38.1 of the draft Law on the Legal Status of the Association.

²⁵ Article 38.1 of the draft Law on the Legal Status of the Association.

²⁶ Article 39.11 of the draft law.

²⁷ Article 39.1.3 of the draft law.

²⁸ Article 37.1 of the draft law.

²⁹ Article 37.2 of the draft law.