



Submission to the Legislative Affairs Committee of the Chinese National People's Congress on the draft Non-Mainland Non-Governmental Organizations Management Law

CIVICUS is a global civil society alliance with members in over 165 countries. CIVICUS works to strengthen civil society and citizen action around the world, and especially in places where civic freedoms of expression, association and peaceful assembly are restricted.

CIVICUS is deeply concerned about the possible impact of China's new draft Non-Mainland Non-Governmental Organizations Management Law which applies to all non-profit, non-governmental "social organisations" formed outside mainland China that carry out activities promoting "public welfare" within mainland China. If enacted, the draft law will severely restrict the work of international civil society organizations (CSOs) and public spirited individuals operating in mainland China. In particular it will impede their right to critique and contribute to the development of national policies and public institutions in breach of the spirit of the International Bill of Rights and the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

We highlight below, some principal areas of concern with the draft law.

Creation of undue burdens and difficulties for foreign NGOs

The law requires foreign NGOs to register a representative office or obtain official approval to carry out their activities on a temporary basis in China. Furthermore, foreign NGOs wishing to hold events in China would be required to apply to relevant departments or commission their Chinese partners to apply for permission. They are also required to get their annual plans approved in advance. The enhanced red tape and scrutiny would severely restrict their independence and ability to critique official policies and contribute to national debates for fear of bureaucratic reprisals.

CIVICUS believes that the additional requirements created by the draft law are unnecessary as NGOs are currently subject to domestic criminal, administrative, and security laws, which provide ample safeguards to hold them to account for any breaches of existing laws.

Excessive policing powers over foreign NGOs

The draft law requires foreign NGOs to report to the Ministry of Public Security as opposed to the Ministry of Civil Affairs to which domestic NGOs report. Placing civil society organisations under the direct control of the security establishment impedes their independence and is not in line with international best practices. Worryingly, the draft law also gives the police powers to enter foreign NGO offices, question anyone with relevant

information, copy and remove documents and seize property. Penalties for non-compliance include detention and fines. Individuals and organisations within mainland China that cooperate with foreign NGOs that are not registered may also face fines or detention. Furthermore, unlike foreign companies, foreign NGOs will not have the status of legal persons requiring their staff to face individual liability further increasing the risk of engaging in regular civil society activities.

CIVICUS believes that civil society organisations, including NGOs play an important part in national life, contributing to public debates and assisting in the delivery of basic services. Placing foreign NGOs and their national partners under enhanced and excessive police scrutiny will create an atmosphere of fear thereby limiting their ability to serve society in myriad ways.

Chilling of academic freedoms and research

In addition to creating additional bureaucratic requirements for NGOs, the draft law's sweeping definition of "social organizations" is wide enough to encompass social enterprises, academic, research and cultural institutions. Thus, NGOs aside, the draft law will also chill academic freedom, research on social issues and cultural interactions thereby reinforcing state control over such activities.

CIVICUS believes that such actions could potentially isolate Chinese organisations from interactions with the international community and impede valuable partnerships from being formed for mutual benefit. Besides, having negative social consequences, it would also reduce inflows of funds from international sources with negative economic impacts.

In light of the above highlighted areas and China's obligations under international law, CIVICUS urges the National People's Congress to reconsider the draft law and carry out further consultations with national and international civil society organisations. In sum, the draft law will impede the vital work of civil society organisations and potentially subject them to increased monitoring, censorship and even criminalisation of their work in certain circumstances.

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