

## GUATEMALA

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“While not perfect, Guatemala’s *Law on Non-Governmental Organizations for Development* (Decree 2-2003) regulated the actions of NGOs in the country, and its drafting had been an exercise in varied participation.

Despite calls from several organizations, among them the Coordination of NGOs and Cooperatives (CONGCOOP) and the Association of Development and Non-Governmental Service Entities of Guatemala (ASINDES), the law was never promoted nor approved by the Congress of the Republic.

In 2017, Congress began discussing Initiative 5257 aimed at reforming Decree 2-2003, which was intended to be debated in various parliamentary meetings but without any success. Finally, on February 11, 2020, and unexpectedly, Congress included on its agenda the discussion and approval of Decree 4-2020, which establishes reforms to the Law of Non-Governmental Organizations for Development and the Civil Code, Decree Law 106. This decree was enacted by President Alejandro Giammattei on February 27, 2020. The Constitutional Court chose to protect NGOs and, on March 2, suspended the entry into force of the decree in question.

Analysis of Decree 4-2020 reveals that it violates Article 5 of the Constitution (freedom of action), Article 34 (right of association), Article 35 (freedom of expression), Article 149 (international relations), and Article 175 (constitutional supremacy), among other articles. It also violates the collective rights established in ILO Convention 169 (dignity, difference, equality, freedom of organization, freedom of religion, cultural integrity and development, social development, etc.).

Decree 4-2020 is spurious from many angles. It discourages all efforts at association and organization by indicating that NGO partners and leaders will have to account for any financial obligations of the NGO with their own assets, which is not even the case with private companies in the country. Therefore, this reform penalizes social organization and "kills" volunteerism.

Another reform is that all NGOs must register with the Secretariat of Planning and Programming of the Presidency (Segeplan) and the Superintendence of Tax Administration (SAT) in the case of national NGOs and, for international ones, with the Ministry of Foreign Affairs. The first registration was even recommended by CONGCOOP, while oversight from SAT already occurs around accounting and fiscal matters.

Among the control reforms, Article 22 provides for leaving it to the discretion of the country's Ministry of the Interior to assess whether or not NGOs comply with their statutes, and if it considers that they do not comply, it can unilaterally close them down. This limits the action of NGOs that publicly demonstrate against certain political actions, which could be considered as terrorists by disturbing public order.

For these and other reasons, as a person and as a professional linked to Guatemalan NGOs and social organizations, I join the call for the definitive suspension of Decree 4-2020 and seek a consensual solution to the concerns about the proper functioning of NGOs in Guatemala.

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