

Guatemala City, February 21th, 2020

Steering Committee
Open Government Partnership

Dear Members of the Steering Committee of the OGP,

Considering that OGP promotes a space of receptive and inclusive governance, where government and civil society leaders participate, the signatory organizations have actively participated in the processes of co-creation and collaboration of the National Action Plans of OGP in Guatemala, and we had previously warned through the Rapid Response mechanism, that the principles of OGP were being violated, so on this occasion by having new authorities, we expressed our interest to join again in the co-creation of the 5th plan, however again it is putting the civic participation space promoted by the alliance at risk.

We address you with great concern to inform you about recent legal reforms that could potentially hinder the ability of civil society organizations to operate. On 11 February 2020, In a surprising way, the Guatemalan Congress approved a reform to the Law on Non-Governmental Organizations for Development in Guatemala. If published by the President, this law would allow the government a pervasive oversight and political control over non-governmental organizations, thus hindering freedom of association, assembly, and expression, and directly restraining civic space, all of which are core values of the Open Government Declaration.

Early analysis of unofficial versions of the law indicate that if published it will impose administrative obstacles to NGOs; prohibition to use foreign donations or financing to engage in activities that may "alter the public order"; possible draconian use and interpretation of the law against NGOs; and a potential violation of privacy rights of NGO members.

It's clear that these reforms are aimed at limiting the work of non-governmental organizations and respond to a slightly transparent and authoritarian agenda, which see organized civil society as a limitation on their illegitimate acts and the looting of public resources.

To date, a growing number of International Organizations and national civil society organizations, such as the Inter-American Commission on Human Rights, Amnesty International Americas, Unidad de Protección a Defensoras y Defensores de Derechos Humanos (Udefegua), USA Embassy, amongst others, have made public their disapproval to the reform and called for President Giamatti to veto the law. According to the ICNL, there already exist at least six separate legal challenges have been filed by Guatemalan NGOs contesting the constitutionality of Decree No. 4-2020.

The approved Decree No. 4-2020 was sent to the President Alejandro Giamattei stated that his office will review the law during the following 15 days, and decide whether to publish or veto. To

date, it is not clear what his course of action will be, nor the actions and ruling of the Constitutional Courts on the legality of this law.

Given the uncertain outcome of this case, we want to communicate that a group of CSO participating in Guatemalan OpenGov community is ready to immediately formalize a request to OGP to trigger a Response Policy Mechanism if the President decides not to veto the law and enacts it.

We kindly request that this legitimate concern of Guatemalan CSO is considered and discussed during this Steering Committee working sessions, and we hope there is no need to go further with this case.

Thanks for your attention.

Sincerely,

Acción Ciudadana
Instituto Centroamericano de Estudios Fiscales
Red Ciudadana