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Luis Ángel Saavedra

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Ecuadoran Government Seeks to Control Civil-Society Organizations

by Luis Ángel Saavedra
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As if managing to take political control of all state institutions were not enough (NotiSur, Feb. 15, 2013, and July 19, 2013), the Ecuadoran government is now attempting to control all organizations created at the initiative of civil society. To do so, it has implemented a series of legal, political, and financial controls requiring each organization to submit periodic reports that allow the government to know its activities and, if it considers them detrimental to the government, to close it down on the grounds that it has violated a regulation.

On June 4, President Rafael Correa signed an executive order (Decreto Ejecutivo 16), creating the Sistema Unificado de Información de Organizaciones Sociales (SUIOS), under the direction of the Secretaría Nacional de Gestión de la Política, which, in turn, is under the Ministerio Coordinador de la Política.

The decree aims to regulate the activities of social organizations, which it divides into two categories: "corporations," defined as associations that promote the common good of their members—clubs, committees, professional organizations, federations, national unions, or any other organization that has at least five members; and "foundations," or any organization that promotes the common good of society.

The decree also covers other social organizations, national or foreign, that are governed by their own laws, such as communes, water boards, popular- and solidarity-economy cooperatives, and committees. It covers organizations aimed at "social management and control," that is, groups established or regulated by state institutions, such as supervision and observation groups, and special working or monitoring committees. Thus, no organization remains outside the control of the Ministerio Coordinador de la Política.

Permanent vigilance

The vigilance begins with registering all organizations in the SUIOS computer system, including entering their public documentation and information dealing with their legal status, such as its members, the statement of projects financed with foreign funds, strategic and work plans, etc. All organizations—at whatever level—must complete this new registration in SUIOS, even if they already have legal personality.

"If a school parents committee is formed, it must fulfill all the requirements of registering with SUIOS, just like a national federation of any union," said Harold Burbano, legal advisor for grassroots indigenous and campesino organizations.

Under the new regulations, an organization must also systematize and save all documentation and information produced during its institutional life and turn this documentation over to state agencies depending on the organization's specific functions. A complete report of yearly activities must be uploaded to the SUIOS portal during the last quarter of each year.
"The decree does not spell out what this information will be used for or if it will be open to the public. The government will handle it at its discretion and can use it for purposes of persecution," said Burbano.

Just having an organization's membership list allows the government to look for corroborating information such as tax statements not filed or improperly prepared, obligations for food, debts, or any other information that allows the government to intimidate a person, and, in this way, to silence an organization.

Knowing the funding sources, the government will be (and already is) able to influence financial institutions to limit the help that local organizations can receive for their programs. This is especially true if such programs challenge government policy, as in the case of environmental organizations that oppose mining development or organizations that protect social leaders who are harassed through the courts by government officials.

As of the first quarter of 2014, organizations that do not turn over the required information will be dissolved and liquidated.

**All in the same basket**

Decree 16 regulates all social organizations, regardless of their nature, origin, or purposes; in particular, it does not consider diversity, and it violates the principle of "Estado Plurinacional" defined in the 2008 Constitution.

Indigenous communes, communities, peoples, and nationalities respond to historical processes distinctly; they have their own worldview and organizing methods, which are recognized in the Constitution. Decree 16 does not recognize these forms of organization, and especially the oral identity of indigenous peoples, instead demanding written reports, which will be very difficult for the communities to provide.

Also, treating all organization alike ignores small organizations' almost nonexistent structures and personnel limitations. They are required to comply with a series of requirements that will divert their leaders from their principal role, such as ensuring that the organization's objectives are met, instead requiring them to spend time writing bureaucratic documents.

Also noteworthy is the requirement that organizations reform their bylaws to allow any person interested in joining to do so without any restrictions. Organizations that refuse to admit anyone who wants to join run the risk of being dissolved.

"The requirement that an organization accept anyone as a member will allow the government to infiltrate and control it from within," says Carlos Pérez, president of Ecuarunari, the principal indigenous organization in the Ecuadoran highlands.

Nor is any distinction made regarding the size of nongovernmental organizations (NGOs), since to register they must deposit US$4,000 in a bank account in their name. What will happen to those foundations that accompany the indigenous movement and that are more activist than administrative? Where are they going to get US$4,000? Those are questions Carlos Pérez asks.

**Changes to state security**

It is troubling that several of the decree's articles leave decisions to the discretion of civil servants, which could put the organizations at risk, including of disappearing. This is especially true for
Article 26, which prohibits organizations from carrying out activities that threaten state security or affect peace. The constitutional right to freedom of association for peaceful purposes, of resistance, and social control could well be classified as nonpeaceful purposes, especially if the actions involve social mobilization.

The decree states that a civil servant, one working for the Ministerio Coordinador de la Política, will determine whether an organization's activities threaten state security or peace. Under the decree's provisions, a bureaucrat's mere whim can lead to an organization's disappearance.

If an organization opposes government policies, the civil servant can also determine whether it has deviated from its purposes and can, therefore, liquidate or dissolve it, especially if the official knows of a particular complaint in this regard.

"The possibility is left open for anyone, with ulterior motives, to destroy an organization, because [the decree] does not establish any sanction in case the complaint is malicious or intimidating," says Pérez.

**Motions of unconstitutionality**

A legal complaint of unconstitutionality against Decree 16 has already been filed by the legislative bloc of Pachacutik, the political arm of the Confederación de Nacionalidades Indígenas del Ecuador (CONAIE). FUNDAMEDIOS, an organization that defends freedom of speech, has filed another. Ecuarunari is considering a similar complaint, in coordination with several grassroots organizations and NGOs. However, in light of the Corte Constitucional's tendency to support government policy, these motions are unlikely to be successful and the decree will be applied with all the risks that that implies.