

## **Commentary: Elizabeth Becker and the campaign to put NGOs above the law**

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Nobody seems entirely sure of the number, but it is generally believed that more than 2000 non-governmental organisations operate in Cambodia. One of the reasons for the uncertainty about the number is that Cambodia is one of the few countries that has not established laws and procedures for the formation and operation of NGOs.

The Royal Government has been working for several years to rectify this situation by adopting a law that defines NGOs and sets a few broad parameters for their operation. Under this law, NGOs will have to register with the government and submit annual reports on their activities, income and expenditures.

Unfortunately, a minority of NGOs have objected to the very idea that NGOs should be required to register or be subject to any rules established by the elected government. To a certain extent, this is understandable: nobody enjoys being subjected to rules, as you can see by observing the behaviour around traffic lights when no police are present. But most people realise that some rules and regulations are a necessary part of social existence. NGOs that aim to promote democratic principles ought to be particularly aware of this, rather than claiming to be above the law.

The minority campaign against NGO registration has partly overlapped with legitimate concerns about the wording of particular provisions of the draft law, which may not have always been completely clear in early drafts. However, there have been numerous consultations between NGOs and the Ministries of the Interior and Foreign Affairs, and such legitimate concerns have been or are being addressed in redrafting (the third draft of the law is now being discussed). But that of course does not satisfy those who are opposed to any registration requirement, and they have continued their campaign against the law by denying or dismissing the changes that have been made, and by exaggerating or inventing what the law supposedly says.

Recently, this campaign of misinformation appears to have influenced some people who ought to have known better, a notable case in point being the well-known US journalist Elizabeth Becker, who published an attack on the law in the August 17 New York Times.

Part of the reason that Becker could be taken in by the we're-above-the-law campaign is that she seems remarkably uninformed on recent Cambodian history, despite having written a book on the Khmer Rouge period. For example, Becker writes that the 1991 Paris accords "ended the Cambodian war and any further threat from the murderous Khmer Rouge". The reality is that the Khmer Rouge never implemented any of their obligations under the accords, and continued the war for another seven years, until the

Royal Government's "win-win" policy brought real peace for the first time in three decades.

In another clanger, Becker seems to believe that Cambodia's current constitution was a product of the 1991 Paris negotiations, writing: "the framework for Cambodia's democracy was a much debated element of the peace accords. That debate led to Cambodia's Constitution and its guarantee of freedom of association and speech." She calls NGOs "one of the few groups still enjoying the freedoms created under the peace accords". The reality, as even the newest journalist ought to know, is that the constitution was adopted by the National Assembly elected in 1993, not dictated by the Paris talks two years earlier.

Becker displays equal ignorance about the real content of the draft NGO law. The article makes a number of assertions without attempting to document any of them. They can't be documented because they aren't true:

- Becker writes that the law would deprive Cambodian NGOs of freedom of association and freedom of speech. Nothing even remotely related to these freedoms is mentioned in the law.
- She writes that NGOs would have to "win [government] approval to operate under vague criteria". The law says only that NGOs need to comply with the quite specific registration procedure and obey Cambodian law.
- She writes: "... if the government disapproves of a group's behavior it can dissolve it using equally vague criteria. There would be no right of appeal." The draft law does not allow the government to dissolve an NGO arbitrarily. Article 17 says that the Ministry of the Interior will examine the registration document, notify the NGO if it is defective in some way (such as lacking the specified information) and allow the NGO to amend the document. If the ministry does not approve the amended registration, the NGO can appeal to the courts. Furthermore, an NGO that fails to file its annual report (Article 53) or that violates its statutes (Article 54) is to be issued a warning, and can then be suspended if it fails to correct its violation.
- She claims that the law will "hamstring the country's lively civil society and NGOs, among the last independent voices in Cambodia". The draft says nothing at all about civil society outside NGOs, and it is impossible to understand how registering and filing an annual report will "hamstring" NGOs. Most NGOs already prepare detailed annual reports for their donors; photocopying one more for the government would hardly be crippling.

On the previous point, it is also laughable to call NGOs Cambodia's "last independent voices". Cambodia's National Assembly has representatives of five parties — more than the US Congress. People who want something changed frequently demonstrate in Phnom Penh or provincial cities. There are more than 500 magazines and newspapers, many of them opposed to the government. There are more than 100 radio stations, which

broadcast not only local news and opinions but also major international networks, including VOA, RFA, BBC, RFI and Radio Australia. All the parties in the National Assembly and many others have at least one newspaper of their own, and they also buy air time on radio stations.

Becker's distortions of reality on all these points fit a pattern. They fall into a consistent but totally false scenario that, roughly, goes something like this: After the Khmer Rouge, Cambodia was a disaster until international intervention rescued it in 1991. But evil people (the present government) undid all the good international work, so now the international community needs to intervene again.

This happens to be the outlook of a small number of NGOs that are taking out their frustrations on the draft NGO law. And it is only after she has presented her list of totally unsubstantiated accusations that Becker, in passing, mentions that she has a personal interest in all this: she is a member of the board of directors of one of the international NGOs active in Cambodia, Oxfam America. That is, two-thirds of the way through the article, the New York Times allows readers who are still reading to learn that this article is not an "objective" journalistic analysis, but a plea on behalf of an interested party.

Becker then has the effrontery to claim that the law will "diminish" the beneficial activities of international NGOs (i.e. her organisation) by requiring them "to work directly with official agencies, essentially becoming an arm of the government". What the draft law actually says is that foreign NGOs should "collaborate" with the relevant government department. Does Becker think it is preferable, for example, if an NGO has an idea for improving traffic flow in Phnom Penh, for it to install traffic barriers and road signs without consulting the city authorities? Would consulting the authorities about that really make them an "arm" of the city?

The other obligation that will supposedly convert international NGOs into an "arm" of the government is the requirement (Article 36) to "notify" the relevant authorities when they implement a project in the provinces. "My God! How can they expect us to dig a well if we have to tell someone?"

Most NGOs do not share Becker's attitude that the government is an enemy, and only a small minority have been sufficiently misled by the campaign of misinformation to sign on to a statement calling the draft law "unacceptable". NGOs and, indeed, any citizen can continue to call attention to any provisions they regard as inappropriate or unclear. But such discussion needs to deal with the real draft law, not with imagined "threats". Becker and the people who put her up to it are not helping either democracy or the real interests of NGOs in Cambodia.