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Cambodia: Proposed NGO law a key test for “culture of dialogue”

This opinion piece by Rupert Abbott and John Coughlan was published in the Cambodia Daily on 4 May 2015, see <https://www.cambodiadaily.com/opinion/proposed-ngo-law-is-a-main-test-for-culture-of-dialogue-83119/>.

During Amnesty International’s recent visit to Cambodia, the new “culture of dialogue” was discussed in many of our meetings, with some expressing cautious hope that it could provide an opportunity for reforms and improved respect for human rights.

However, conversely, another main point of discussion was a raft of new, imminent and potentially regressive laws on associations and NGOs, trade unions and cybercrime.

The next steps taken on this draft legislation by the governing Cambodian People’s Party (CPP) and the opposition Cambodian National Rescue Party (CNRP) will be a key test for the culture of dialogue.

Prime Minister Hun Sen and opposition Minority Leader Sam Rainsy are touting the culture of dialogue after months of negotiations on electoral reform, following an agreement between their two parties in July 2014.

It follows CPP promises of reform and consultation with the Cambodian people, after a bruising election in 2013 and mostly peaceful street demonstrations led by the CNRP in which participants called for “change”.

The CNRP is reportedly proposing reviving the ‘National Congress’ – for direct consultation between leaders and the people – and other forms of more direct engagement.

But some of those Amnesty International met during our recent visit raised concerns that the culture of dialogue involves only political leaders, with the country’s increasingly diverse civil society and wider public excluded.

They point to the Law on Amendments to the Law on Election of Members of the National Assembly (LEMNA), agreed by the CPP and CNRP in March 2015 without any genuine, broad consultation.

The law includes regressive provisions that unnecessarily restrict the rights to freedom of expression and assembly by, for example, requiring civil society groups to be “neutral and impartial”, prohibiting them from criticising politicians around elections.

Agreement on these regressive provisions may be seen by some as a pragmatic move required to secure other key reforms – compromises had to be made.

But these provisions breach Cambodia’s international and constitutional human rights obligations and should be removed from the LEMNA.

Similarly, compromises on any provisions in the proposed Law on Associations and NGOs (LANGO) and other draft laws that could curtail human rights in the country are not permitted under international law.

Prime Minister Hun Sen announced last month that the draft LANGO would pass through the Council of Ministers for consideration by the National Assembly in May and he also called for the quick passage of the draft Trade Union Law.

Amnesty International is calling on the CPP government and opposition CNRP to show that the culture of dialogue is sincere, participatory and inclusive by ensuring genuine, meaningful and extensive public consultation on the proposed LANGO and other draft laws.

The UN Human Rights Committee – the expert body that monitors State parties’ compliance with the International Covenant on Civil and Political Rights – recommended last month that Cambodia “should ensure transparency in the legislative process ...”

Amnesty International is joining with other international and Cambodian NGOs in calling on the government to #StopandConsult with civil society and the wider public. Without genuine consultation, these drafts should never become law.

Any consultation – and any laws that are passed – should prioritise respect for human rights and in doing so reflect the fragile context.

Local and international NGOs have played a crucial role in the development of Cambodia, providing social services for example and complementing the government’s significant efforts in alleviating poverty. They have also played a watchdog role on human rights, in a country where there are still no strong checks on the executive.

But civil society leaders and activists have faced intimidation, harassment, arrest, jail and even killings for their peaceful, legitimate activities.

Some in civil society are concerned that the LANGO is designed as another tool to restrict and undermine their invaluable work and along with many of Cambodia’s development partners question whether it is needed at all, with the Civil Code already including provisions on the registration and operation of not-for-profit entities.

Indeed, the LANGO was previously shelved in 2011 after consultation with civil society. The consultation resulted in improvements to the draft law but the last version was still troubling. Informal groups could be required to report their activities to the authorities and there would be no right of appeal against a decision to de-register an NGO.

Trade unions have played a vital role pushing for better treatment of workers and increased wages, particularly in the country’s crucial garment industry.

While there has been consultation with relevant stakeholders on the draft Trade Union Law, the International Labour Organization said last year that the latest draft represented a ‘step backwards’.

Under that draft, individuals with a criminal record would be prevented from holding trade union positions – every single independent union leader in Cambodia is currently facing trumped-up criminal charges for leading demonstrations or carrying out other legitimate union activities.

And while the position of the government on the draft Cybercrimes Law is less clear, a leaked version last year included a raft of vaguely worded offence provisions that could criminalize legitimate expression of opinion online.

Student groups have expressed concerns to Amnesty International that the authorities will attempt to curtail human rights online – a key forum for expression – in much the same way that they have exerted control over traditional media.

The government should alleviate these concerns by ensuring that there is a transparent process, and genuine, meaningful and extensive consultation on all of the draft laws. And the opposition should do all that it can to encourage them to do so.

If this happens, and the “culture of dialogue” passes this key early test, civil society and the wider public in Cambodia may start to believe in a new more progressive era of greater respect for human rights.

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