

Protocols with NGOs: The Need to Know

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THE state has no business in controlling Non-Government Organizations, but it does have a duty, in certain circumstances, to know about them. Organizations such as Greenpeace, Amnesty International, the Australian Council for Social Services and thousands more are the voice of civil society. However, the growth of NGOs, fuelled by the very success of liberal democratic market regimes—in particular, by affluence and free speech—has enhanced the range and intensity of issues now given voice. Democratically elected governments have to cope with the electorate's enhanced ability to voice its concerns. Indeed, some NGOs seriously challenge the legitimacy of elected governments. In July 2001, Britain's Development Secretary Clare Short condemned international aid agencies' part in the protests at the G8 summit in Genoa. 'These are NGOs from Britain, well-meaning good people who collect £200 million a year in charity. Our government gives £3 billion a year and they want to claim to speak for the poor of the world.' The response from an NGO journalist was, 'NGO relations are already strained with a Labour government whose democratic legitimacy—and the claims it makes to speak for the poor—rests on just 25 per cent of eligible British voters.'¹ NGOs are clearly free to express their views, but what is the basis for them to speak on behalf of the public, or at least sections of it? There is a contest between governments and civil associations to represent public opinion. Are there legitimate grounds to test the representative credentials of those who purport to represent civil society?

Governments rely heavily on a myriad of intermediaries to articulate the demands of citizens. All kinds of organized lobbies, including political parties, provide a link between the electorate and the government. Where does this leave those who are not represented by groups, and whose major recourse is simply to participate in elections? They have a formal, but a muted voice. To assist those whose interests are not organized, the unorganized should insist on knowing something about those advocates that have access to government.

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This is not to argue that governments should have a right to such information *per se*. However, concepts of rights are raised the moment an NGO wants something from government. An NGO that seeks access to government enters into a contest with the unorganized. Any weight given to the opinion of an NGO must, of necessity, be weighed against the opinions of other NGOs, and the unorganized. A way to re-balance the

displacement is to give the unorganized a right to know something about the groups who, collectively, displace them.

The same logic may be applied to corporations and foundations. Corporations are prevailed on by NGOs to act in various ways beyond their strict responsibility to their shareholders and to the law—for example, to be socially responsible. Foundations are asked to support causes somewhat distant from their original charter—for example, not simply to alleviate the suffering of the poor or sick, but to support political agendas to solve poverty. Corporations and foundations should seek information from those they assist, and make that information available to shareholders and trustees.

For example, Royal Dutch/Shell released a report in February 2001 extolling the virtues of sustainable development. The company credits three NGOs with helping to draft the report. Why did Shell rely on NGOs to give legitimacy to its report? Why did it not ask a panel of scientists, or several governments' environment protection authorities? Clearly, Shell made the judgement that it would be more credible in the eyes of its shareholders and customers to involve the NGOs. The problem, however, is that the primary owners, the shareholders, are being displaced. The way to overcome this is to make the relationship between the corporation and the NGO explicit. Shareholders should know with whom the company is dealing. Shareholders need to maintain their standing *vis-à-vis* any other players.

Some NGOs are being granted representative status by governments on the basis that they represent broad

interests—such as consumers or environmentalists—when in reality they express the interest of a few activists. Moreover, some of these organizations are directed and driven from abroad, with few local members. Some NGOs are given ‘standing’ on the basis of their expertise, even though they undertake no research, do not subject their statements to independent peer review, have little technical expertise in the topics upon which they make pronouncements, and base their utterances more on emotion than evidence. Their activities are driven more by fundraising than advancing the public good.

One way of managing the relationship with NGOs is to use a protocol. A protocol is a publicly available statement containing the information about an advocacy body, which a government, corporation or foundation can use to establish the standing of such a body. The information should be available by way of a register. The benefit of a protocol is that it enhances the openness of the relationship and the accountability of both parties to their constituencies. It also provides a protection for bodies that wish to deny access to groups because they lack standing. The key assumption in the protocol strategy is the recognition of the primacy of the granting body. For example, government derives legitimacy from the formal act of democratic elections. Corporations derive legitimacy from their legal obligations to their shareholders. The legitimacy of foundations is based on their charter. Where NGOs seek something from one of these bodies, their standing—their legitimacy—should be proved to the satisfaction of the provider.

The standing of organizations usually arises from their ability to represent a class of persons, or to have an expertise in the area. Using the Commonwealth Government as an example, a government Minister will generally seek advice on the bona fides of an organization with whom he or she consults. Rarely will such information be shared with constituents. In addition to lobbying the Minister,

individuals and organizations may make submissions to government or parliamentary inquiries. Such submissions carry the name of the organization and may, as part of the submission, argue the case for their right to represent a constituency or claim an expertise—but these are rarely requirements of the submission process itself.

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In a more permanent relationship, a Minister may appoint certain persons to the Minister’s or government’s advisory council. Such committee membership is from time to time made public, and although the individuals are named and some details given to suggest their expertise, rarely is the organization they may represent named or details made available.

The Commonwealth funds certain peak councils, especially in the welfare area, as a deliberate means of forcing a sector to aggregate its opinions. Still, there is little material made available to the public for them to judge the standing of such bodies. Over 40,000 NGOs are income-exempt charities, and over 15,000 have gift-deductibility status. In order to gain such standing they must prove their bona fides to the Australian Taxation Office and in some instances to a government department as well. For example, nearly 400 environmental groups are listed on the *Register of Environmental Organizations*, and between them

receive over \$30 million of tax-free donations. The information gathered for the purposes of tax status is not made available to the public.

The issues are: what information should governments (and corporations and foundations) collect to enable them to judge the standing of NGOs, and how much of that information should be made available to the public? The public needs sufficient information for it to judge the efficacy of the government’s selection of those who are given access to government resources. Without suggesting a definitive list, NGOs that seek access to providers should be asked the following questions and the answers should be publicly available:

1. Is the NGO well-governed and properly governed?
2. Is it representative and does it have links to the Australian community?
3. Is it financially accountable to its members?
4. How does it raise its funds?
5. What are the nature and extent of its claims to expertise?

This list seeks to establish the bona fides of an NGO, the fulfilment of which will be the acceptance by the provider of the NGO as being a body of good standing. These requirements do not arise at large, but because the NGO wants access to the resources of a provider organization, and seeks to represent a body of opinion.

The protocol is not a matter of imposing behaviour, but of making information available to the formal owners of the providing organization. NGO activity is not going to fade, but it can at least be put in perspective. Shareholders and citizens need to know about NGOs who seek access to their resources. The simple device of a protocol should help put the owners back in charge.

NOTE

- 1 Nick Cater, 2001, Reuters Limited via Alertnet, August 2001.

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