



INNOVATIONS FOR SUCCESSFUL SOCIETIES

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Thun Saray

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SARAY: *I would like to start from the motive of my involvement in the civil societies activities. My own experience is I was put in jail two times for political reasons. Not only political, but sometimes ideological reasons, like in Khmer Rouge times I was put in jail because I was living in Phnom Penh, the city, and I had to be brainwashed before I could enter into new society. I didn't do any harmful or illegal act at all. The second time, I was put in jail in 1990 for seventeen months because I got some paper from the one group that would like to set up a new political party. I was put in bad conditions in that period of time. That is the reason why I had the idea to set up this human rights organization. After prison, I started to set up this human rights organization in December 1991 and I was involved and committed to work for this organization from that period until now.*

MUKHERJEE: Mr. Thun Saray, the President of Cambodian Human Rights and Development Association (ADHOC), thank you for talking with me today. I just wanted to go into a bit more detail about your past, your background, as it were. Were you educated and brought up in Cambodia?

SARAY: *I was a student in the faculty of law in Phnom Penh, but in the economic science section. I did work around ten months in the Finance Ministry before the Khmer Rouge took power. Later on, after the Khmer Rouge took power, I became, as I said to you, put in a re-education center for ten months and later on I became a farmer, like forced labor by the Khmer Rouge regime. After the Khmer Rouge collapsed, I started to work in the Sociology Institute in Phnom Penh until I was put in jail again in 1990. From 1992—that means at the end of 1991— I set up the Human Rights Organization. In 1992, I started to implement the activities of this organization until today. That is my background.*

MUKHERJEE: Thank you. Did you establish the Sociology Institute?

SARAY: *No, only one founder was my director in 1980. I did publish some books at that time, like a history of Khmer money, coins in Khmer history. The last publication that I did before I was put in jail was a review in Khmer on the economy.*

MUKHERJEE: What kinds of activities has your NGO (nongovernment organization) been involved in since 1992?

SARAY: *Since 1992 we started to educate the public in general about human rights principles, democratic principles, and later on—after 1992—we trained police officers, government officials, on human rights and public principles until 2003 or 2004. We switched from training the police and government officials on human rights to people at the grassroots level. With this education activity, we also provided legal assistance—legal advice—to the victims of all kinds of human rights violations— from political killing, extra-judicial killing, physical assault, intimidation, and political intimidation. Also, gender-based violence, like rape, domestic violence, sex trafficking and land grabbing. We have done a lot of this kind of activity to provide assistance to the victim.*

Each year now we receive around more than 1,000 complaints of all kinds—land conflicts, political cases and gender-based violence cases. Also we provide some legal advice on cases that do not fit under our mandate. We receive each year around 1,000 such cases, but we do not provide any legal assistance, or legal investigation or intervention, just provide legal advice for those that do not fit our mandate. For the more than 1,000 cases that do fit our mandates, we try to do the investigation, collect all the information, and we do some intervention with the

relevant authorities and provide legal assistance to the victim if they need our lawyer to assist them in the court.

MUKHERJEE: For this, obviously, you have to work through the legal system in Cambodia. Have you found that to be developed enough? As an institution, has it grown over the last few years in a way that helps you protect the human rights of ordinary citizens?

SARAY: *Yes, we try to provide capacity building to our staff. We try to organize sharing of experience, sharing of knowledge, regularly from one year to another year. Every month we have a meeting here with all the staff and coordinators of our organization. We have branches all over the country now. We try to meet once a month and also we organize many trainings to improve their capacity. Also we provide some scholarships for our staff to build their capacity in the long run, like master degrees, or bachelor degrees. Those who don't have a bachelor degree are provided some scholarships to follow their study until they get bachelor degree or master degree abilities. We make a lot of effort to improve the capacity of our staff.*

MUKHERJEE: Legal and judicial reform is one of the things the government has focused on, to some extent. They've set up a council on these matters. Do you think the government has been successful in developing the legal system and the judicial system in a satisfactory manner?

SARAY: *I would like to separate two things: legal and judicial.*

MUKHERJEE: Sure.

SARAY: *On the legal aspect, we see that many, many laws—yes, hundreds of laws have been passed in the last fifteen or sixteen years. That is great. Some laws also try to implement human right principles because in our 1993 constitution we have provisions on human rights. Finally some laws tried to improve the implementation of human rights principles in our society, like the domestic violence law. That is a new law that we didn't have in the past. I think that is a progressive law to change our society.*

But we still have the problem of implementation. That is the big challenge for our society, I think, today. We have enough laws, good laws, like the land law with good provisions—not perfect, but anybody can say that it is a good law. The problem we still have is the gap between the provisions of the law and their implementation.

This is the reason why I would like to talk about the judicial system. You see, with the small salaries of the judges and the police, judicial police; we see a lot of problems. A lot of capacity building with the judiciary people, like the judges, judicial police, provided through workshops and seminars by different actors, like some donors and NGOs. But capacity building is not enough with these small salaries. You see a lot of problems with corruption inside the court system; so many people do not trust the courts. They see the court as an instrument used by the powerful and the rich against the powerless and the poor. The poor people, they don't trust the court much. The public doesn't trust the court, because most of the time, they see that the rich and powerful are rarely punished. Rarely are there judgments in favor of the poor, in favor of the powerless. And also the court still receives a lot of political influence.

This is the reason why civil society, and also the international community, would like to see reform of the legal and judicial system, especially judicial reform. Legally, I see a lot of progress. We can say that is assisted by the donor community and also the NGOs. But judicially, in my opinion, there is some progress in capacity building, but not in providing justice to the people.

MUKHERJEE: What kinds of efforts have NGOs and international donors made in the area of judicial reform?

SARAY: *We at ADHOC, and other organizations, from 1999 we produced one report on impunity in collaboration with Human Rights Watch to sensitize the public about this issue. We started to lobby from that report to the donor committee in the CG meeting—the consultative group meeting, the meeting between donors and the government. Each year they meet together to assess implementation of assistance to the government.*

Three or four years later, we see some promise from the government side, but only promise. I remember well that in 2003, our head of the government pledged to the meeting that the government of Cambodia would amend the important Supreme Council of Magistracy Law in order to advance reform of the judiciary. But no progress has been made since that day on this law. For five or six years, we haven't seen any progress. Nobody has touched this law yet, and for us, as a civil society, we think this law and law on status of magistrate are keys for reform of the judiciary. But, no progress at all. That is my opinion about judicial reform.

One multilateral donor, I don't like to name names—one representative of that multidonor agency, said that they also don't want to work on this reform, because they say that no— [interruption]

MUKHERJEE: Please continue. You were talking about one of the representatives of the donor organization.

SARAY: *Yes. She said to me that she wasn't optimistic, because she didn't see any serious political will from the government to do this reform. This is the reason why the urgency of judicial reform dropped down. For us, too, because to make this reform, we need to have the will of the leaders. But the leaders of this country, in my opinion, are not ready to do the reform because they still need to protect their people in power. If we make this judiciary independent from them, and they cannot control the judiciary, the judiciary can punish many of their people. That's the problem. They need to protect their people.*

MUKHERJEE: Do you think there's any kind of thinking in the government about the economic logic of having an independent judiciary? That if the legal system of a country is more predictable and more objective then more companies will invest in Cambodia. Has that kind of thinking taken place in the government?

SARAY: *That is the reason why we still have a lot of mistrust from investors to come to Cambodia—because of their concern about the weakness of this judiciary. The reason why some investors prefer to go to the neighboring country courts if they have a conflict inside Cambodia. They don't trust this judiciary. But now, I think the government has to be aware about this. They need to attract investment to Cambodia, but to do so they have to reform the judiciary. Like I said to you, they still need to protect their people. They still don't like to see this judiciary escape from their control. You see? Because if the judiciary escapes from their control, the regime could have a lot of problems. I don't like to elaborate more.*

MUKHERJEE: Sure. Do you see any kind of situation in the future when this might change? When there might be a space for judicial reform to actually take place?

SARAY: *I say we need pressure from the World Trade Organization (WTO) regulations, because WTO requires a member state to transform its judiciary to be stable. I cannot say that it must be independent, but it must be stable to the investor. Also, we need pressure from the donor community on this government about willingness to attract investment for economic development of the country. They made the investments, but if they don't prepare the ground with favorable conditions for investors, how they can come?*

For example, in a recent statement by the Cambodian government, they mention that Japan is the biggest bilateral donor to Cambodia. But, to the contrary, Japanese investors coming to Cambodia are very small in number, very few. The government is aware of this and it made an appeal to Japanese investors to come, but appeals are nonsense if they don't prepare the ground for them. Now the Cambodian government has to be aware about this—why they don't come.

Also, we, as the civil society, try to sensitize the government about widespread injustice. Because if we would like to have sustainable social stability, how can we have it with widespread injustice to so many people? We cannot. This stability is only symbolic, a show, not concrete social stability at all. We try to sensitize the leaders of the country, or government officials about this: that stability is not based on political stability as such. It's based on social stability with equity, with justice. We always say that peaceful stability without justice is not sustainable and it could collapse one day. That's our message to the government about this. They have to be aware about this.

A duty or requirement of the donor community is to sensitize the government to this by having investors explain to our government why they don't come to our country because of the weakness of the judiciary. Also, we in the civil society have to sensitize them about this. I think different actors in this development process in Cambodia can also bring some contributions on that.

MUKHERJEE: So going back now to your role as an academic in Cambodia. You've been here since the early 1980s working in various organizations. You've mentioned the Sociology Institute where you were in the '80s. I wonder, as an observer of the government, if you can talk a little bit about how the priorities of the government have changed over the last three decades. If we start with the 1980s, what was the priority of the government then with regard to institutional development of Cambodia?

SARAY: *I said many times in our radio program talk show that we have to work to make our society viable, sustainable—not collapsing all the time. In the past, we based government on one person or one group of people and they run the country—like the monarchy, or one group supporting the leader. To maintain stability of the country, we should not base government on one person or one group of the people like this anymore. We need to strengthen the institutions, the state institutions, from now on. Because in the past, we have many collapses—changes of the regime from one to another.*

In only twenty years, we changed the regime five times. Because our country is based on one person or one group of familiar: charismatic leaders or a small group of people. But a group of people or one leader cannot stay all the time in

power. The reason why we need to strengthen the state institutions, especially the democratic institutions, is so that our society does not depend on one leader or one group anymore. Like in the mature democratic countries, we won't have a government for six months or one year, but a society going on with the stability. But here without our one leader, or one group of leaders, our society collapses; a lot of turmoil.

In order to stabilize our society, we need to strengthen institutions with separation of powers. The judiciary should be trusted by the people. Public administration should be neutral to serve the people, in general, not just one group. That is very important. The military, the armed forces, should be independent, because according to my observation from the past until today, we don't have a national army. We don't have a national police. The army is the army of a general or one group of generals. It's not the army for the whole nation. The administration in the Khmer Rouge time was the organization for the Khmer Rouge people, but the rest of the people were fearful of this administration because they were not protected by that administration, or provided service by them. During the different communist or totalitarian regimes, we saw also that kind of thing happen. Now we have a lot of, yes—we can say that—a lot of change, but still a far way to go.

Our civil administration still is not really independent from the ruling party, still controlled strongly by the ruling party. That's why we worry a lot. Yes, they tried to show us that they serve not only the supporters of the ruling party—that they serve also the rest of the people too—but a lot of people still feel discriminated against by the administration at the local level, at the provincial level. They still feel that, according to my knowledge. Perhaps I could be wrong, but I still see this.

The problem with the armed forces is also corruption. The armed forces were used to shoot down protestors against a private land concession company. I think, in a democratic society, the armed forces are to serve the nation—to defend the security and integrity of the territory of the country. It's not to serve and protect the private land economic concessions of a private company. The police officers, or the gendarmerie, or the armed forces should not be used by some powerful people or rich people to crack down on peaceful protests organized by poor people like this. I still see that kind of thing happening from time to time and am disappointed when I see the armed forces used by some powerful people against the powerless, the poor people like this. They crack down severely on peaceful demonstrations that were not committing any violent acts.

My opinion is that they should strengthen the public administration, the armed forces, to serve the national interests. And the court also should be reformed in order to gain the confidence, the trust, from the people in general, not to serve one leader and the rest of the powerful people.

MUKHERJEE: You talked about the desire in the government for peace and stability, and you said that it should not just be political. In the 1990s, that was a major argument that the government made, "That we are doing this for peace and stability." A lot of the things, the policies that were followed in the 1990s were done for peace and stability. After 1998, when there was just one party effectively ruling the government, it seems that argument no longer has much weight, because the peace and stability has been achieved to some extent. I mean, there is no longer a Khmer Rouge, there is no longer a war going on. So how do you think the

priorities of the government have changed now once that peace and stability is there? What are they now focusing on?

SARAY: *Before 1998, human rights violations came mostly from political conflict. Even in 2003, we still had some political conflict between the two parties who made up the government coalition. From 2004—after the formation of the government—the trend is different. Human rights violations mostly came from economic conflict, especially on land and related issues—like arbitrary arrests, shooting against the protesters, preventing freedom of assembly organized by the victims of the land conflict which were cracked down severely by the government authorities. Peaceful marches were cracked down also. I think to have sustainable stability, we should not let this gap between the powerful and powerless become wider and wider.*

Now the problem is the distribution of income, distribution of natural resources. You see now more and more forced eviction, more and more land conflict. The land mechanism is not working, is not enough to provide a fair judgment to the poor, to the powerless people. From the government side, they use the argument that more and more cars in the street, traffic jams in the street indicate that the gap is less. But according to surveys by some international organizations like Oxfam GB, they found in 1993 there were only 2% of landless, but in 2007, 25% were landless and around 30-35% more have less than a half hectare per family. That means 60% of the people living in the countryside—and 80% of the population of Cambodia lives in the countryside—need land. That means they are landless and they have not enough land.

Contrarily, our government provided a lot of land concessions to private companies. Like last year—2008—more than 200,000 hectares were provided to private companies instead of providing for the poor people who need land. And they used the argument that we need to have this kind of development in order to give jobs to the people. But I think this model of economic development does not fit our society. I think we should let the land be occupied by the poor people and allow the private companies to provide the seeds and technical assistance to the people. Private companies should just collect the products and process them for export and let the people occupy the land and produce the product themselves. This way, I think everybody can get the benefit. But if the government only provides big land concessions to private companies and evicts the people from their land, only the private companies get the benefit, but the poor people—the marginalized people—are disadvantaged by this economic development process.

We try to [explain this] a lot to the government, but the government thinks about personal and their group interests more than peoples' interest. According to a World Bank recent finding, the development of family agriculture can reduce poverty four times more than industrial or service development. Cambodia is a small country. We have less and less land for the people. The government's acceleration in providing land to private companies for 90 or 99 years, I think is not the correct— is not right way—to development.

I would like to appeal to our government to revise this kind of policy of development in order to reduce the poverty and develop our economy, our society, in the right way. They should think mostly of the people, not the private companies alone. Private companies, the people, and the state should get the benefit from that process all together, not just the private companies and the government people.

MUKHERJEE: So if there's—there must be a lot of discontentment among the people; a lot of unhappiness about these kinds of issues. Like you said, social stability is a major challenge. Do you think this is reflected in the elections? Do people vote against the government for these kinds of policies?

SARAY: *You see, our people, they are farmers, they are realistic people. They see the immediate benefit. If, during electoral campaigns, the government tries to provide something to them, they are happy with that. They may just only renovate some road for them, but not solidly, just only for six months. Later on, the road becomes bad again. They are satisfied with that and they vote for them. They don't see the long-term benefit. They only see immediate benefits. It is hard to sensitize the farmers to seek long-run change in the long run because that is the character of the farmers, not only in Cambodia, but all over the world.*

To have political change, or political reform, we need to have a middle class. We can't ask too much of the farmers. In Cambodia, 80% of farmers; the middle class is small. If we mobilize the farmers to protect their land rights, OK, they come because they can imagine a benefit. But if you mobilize them about electoral reform, or something that is very abstract, they won't come because they don't see any benefit.

We tried in 1999 or 2000 to have electoral reform. A lot of people were not aware about that. They didn't come. For the land grabbing case they came and they dared to sacrifice their lives to protect their land rights. That is the character of the farmers. You cannot expect too much from them if you would like to do some abstract thing, a long-term benefit thing. That is the limitation of the farmers for reform. We must wait until the middle class grows enough.

MUKHERJEE: Do you think the government has a long-term strategy for Cambodia's development?

SARAY: *I think they try to do something. Yes, some good government people would like to do something for the long run, but the problem is that they have low incomes, low salaries. The problem of corruption, the problem of maintaining their power—that is the challenge for them—so they cannot do a lot of things. This is the reason why the requests, pressures from civil society organizations, donor community, international investors, or international organizations is really crucial in order to push for reform.*

MUKHERJEE: Has that kind of pressure lead to national communities pressure, the NGO pressure, has it produced any results?

SARAY: *Yes, I see some progress. I did establish, on the first day of my organization, one office in one province. The provincial authority there used more than one hundred police and military and one tank to close down our office. When we established our office here in Phnom Penh, some police officers, tried to intimidate the chief of the monks, saying, "Why do you allow this group to work in your temple?"*

But now we can work everywhere, not only at home. Also many NGOs are working, not with one hundred percent freedom, but we can work. We can organize seminars. We can organize workshops. We can organize training for them. We can invite them to come. That is progress.

It's much different than neighboring countries, like Vietnam, which allows no civil society organizations, no freedom of the press. We have some relative freedom of the press here, but we still have also some challenges, like many killings of journalists—until today around ten cases. But no one was arrested because of these killings. The television—all eight channels—is still controlled by the ruling party. But we still see some independent radio. That means some progress. We can say that our country is still in a transition period.

MUKHERJEE: What would you say have been the government's major achievements over the last twenty years or so, or ten years if you want to look at it in two different periods, 1990's and 2000's? What have been the government's major achievements?

SARAY: *Economic growth. We can appreciate that—economic growth with 7 or 8% rate is one of the highest rates of growth in the region. But the problem of economic growth for whom is still in question. Like I said to you, they still allow us to have some space to operate, decentralization. The people can have some space on that, but we still do not have participation of the grassroots people in that process.*

What else I can say? The law—hundreds of laws passed ratifying human rights. Cambodia is the first country in the region to be a member state of the ICC (International Criminal Court). We have to recognize some progress like this.

MUKHERJEE: If you were to think about the biggest drawbacks of the government, you spoken about the lack of proper human rights implementation, judicial reform, is there anything else? Inequality is another thing that you mentioned.

SARAY: *Deforestation. The forest is almost gone. Gem resources are also gone. Corruption is still going on. There is no serious effort to combat this kind of social sickness. The morality of the people now is pretty bad. You see everyone trying to become rich without thinking about the Karma of the Buddhists, without thinking about morality. Everyone, everywhere—they try to find their own way to get money, to become rich without thinking of the suffering of the others. Morality is pretty bad compared to the 1960's or 70's that I had experienced.*

Even the monks start to use violence to kill, commit criminal acts. This rarely happened in the past. Gangs did not happen during my youth. Drug addiction now is a bad thing. Cambodian society rarely had this kind of experience of drug addiction like today. Mothers, parents, they sell their daughter for money. This never happened in the past. The morality is pretty low.

I don't see any serious measures being taken by the Education Ministry or the Information Ministry to combat against this kind of low morality, low professional conscience. I met one Minister, he said that we just only provide skill training to our common officers, but we don't provide morality or professional conscience. That is the negative aspect that I observe.

You see in the newspaper every day a lot of violence in families. Children kill their parents.

MUKHERJEE: Why do you think this is happening?

SARAY: *Like I said to you, morality is very low, and it is a consequence from the past because, during the Khmer Rouge time, they put everybody in the hunger*

situation. Everybody hungry and now this hunger become a sickness. Even though they have enough to eat, they still want more and more. No limit. And no conscience to control that kind of dissatisfaction in their spirit, in their mind. Perhaps I could be wrong.

MUKHERJEE: Looking into the future, how do you see the role of ADHOC, your NGO, in improving the situation? Is it going to be something that you address; the various issues that you have talked about, the problems?

SARAY: *We try to continue to sensitize, to give the awareness, not only to the people, but also to our leaders about these issues: why they are important, the sickness of materialist extremism. Now some persons, they prefer to have three titles—Oknha, which represents the richest; Doctor, which represents the highest level of knowledge; Excellency, which represents the highest level of society. Some people, they prefer to use three titles, put together, you see. It's very strange for me. In the Western society, if you are a doctor, you put only doctor, not Excellency and Oknha. Here, some people put the three titles together at the same time.*

This means a sickness in their mind. They suffer; they're hungry for this kind of title. The riches, the position in the society, and the knowledge. But if they make the effort to become a doctor, they study hard, OK, no problem. But the problem, they don't study hard, but they would like to get the title of doctor. They don't make an effort to earn the money honestly, but they would like to become millionaire without honest income. They would like to become the "Excellency" without merit. That kind of thing concerns me a lot: a sickness in our society.

MUKHERJEE: On that note, I think that covers a lot of the questions that I was interested in. If there's anything else you would like to add.

SARAY: *We try to continue to sensitize firstly about this issue, the priority issue. Also, we try to provide protection to the victims, the poor, the powerless people so that they can have some hope, because when they have their problems, they sometimes they don't have hope. And maybe we can provide them some hope. That is our raison d'être here. That is our role. We know that we also, because we are NGO we don't have the power, we cannot help them or assist them a lot, but at least we can provide them some hope.*

MUKHERJEE: Thank you.

SARAY: *You're welcome.*