

## Rule of Law

### By Attorney Sok Sam Oeun

Before 1975, I did not know the word "Rule of Law." In school, I heard only the word "State of Law" which is translated from French, "état de droit." I have heard the word "Rule of Law" after 1991, when some foreigners from United States and common law countries came to Cambodia. At first this word was translated in Khmer with many different words. At last, a word was accepted among NGO people, "Dhama Dhipatey." It was translated by a Cambodian staff working in United Nations office in Cambodia. Dhama means "Good Law", and Dhipatey means "superior." It means the good law must be above all persons or rule of good law. In accordance with this word, we have two issues, how to have good laws and how to rule efficiently. Relating to how to have good laws, we have many points to consider, how a law is drafted or passed, how to check constitutionalism before promulgation, and how a law is evaluated or how to correct or improve the law.

**Law Making Process:** According to positive law concept, law making is always influenced by the leader. If the law is made by human being, it must be always influenced by individual interest. Therefore, only the law made through democratic process can be accepted as good or fair enough. Can the law be fair enough if it is passed by parliament? Even though each members of Parliament may be good and real representative of the people, but we are not sure that they really express the opinion of the people in their constituencies. Therefore, before passing any law, the government and Parliament shall allow the public to access to the draft of law and open or organize any events to allow the people to express their opinion.

**Law Review:** After the law has been passed it is better to have mechanism to check constitutionality of the law before promulgation. In Cambodia, the King has power to send the passed law to the Constitutional Council before he decides to promulgate the law, if he has some doubt on constitutionalism of the law. But, until now, no law was sent by the King to check on its constitutionality.

**Law Reform:** The law shall reflect to the changes of the society. On another hand, they law may not be perfect, so it must be reviewed all the time in order to improve and to make sure that the law is to protect the people's rights. However, it is to be sure that the amendment of law is to protect and up-rise the peoples' rights. It must not be for suppress the peoples' rights.

**Law Interpretation:** If the law is not good, its implementation may suppress the rights of the people or make the people lose confidence on government. However, some bad law does not state clearly bad intention but because the provisions are not clear and the government interprets in wrong way. So, only the court can correct these mistakes and protect the people's rights. In strong legal system countries, unclear laws are declared by the court as unconstitutional and must be nullified. Therefore, the independence of judiciary is very important mechanism to protect the peoples' rights.

**Rule of Law:** Even though we have good law and strong and independent judiciary, but if the law enforcement agencies are still weak we cannot combat the crimes. If the crimes are increased, the society will be chaos, society will be unstable and the people will lose confidence in the government. So, the law enforcement agencies must be strengthen and reformed.

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