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Cambodian Center for Human Rights

Fair Trial Rights in Cambodia Monitoring at Courts of Appeal

1 January to 31 December 2024



October 2025

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Cambodian Center for Human Rights (“CCHR”)

This report on “Fair Trial Rights in Cambodia” (the “Report”) is a publication of the Fair Trial Rights Project (“The Project”), implemented by the Cambodian Center for Human Rights (“CCHR”). CCHR is a non-aligned, independent, non-governmental organization (“NGO”) that works to promote and protect democracy and respect for human rights – in particular civil and political rights – in the Kingdom of Cambodia (“Cambodia”).

CCHR’s vision is of a peaceful Cambodia in which all people can enjoy the fundamental human rights to which they are entitled, all are subject to the rule of law without impunity, all are treated equally without discrimination, all are empowered to participate fully in the democratic process, and all can share in the benefits of Cambodia’s sustainable economic development.

CCHR’s logo shows a white bird flying out of a circle of blue sky – this symbolizes Cambodia’s bid for freedom.

CCHR’s Fair Trial Right Project

The Project is the successor of CCHR’s Trial Monitoring and Judicial Reform Projects and has the overall goal of supporting the right to a fair trial with two main objectives: firstly, increasing compliance with fair trial rights standards within the judiciary; and secondly socializing the concept of fair trial rights among the public. Under its first objective, the Project conducts trial monitoring at the Phnom Penh, Battambang, Tboung Khmum, and Preah Sihanouk Courts of Appeal, the results of which are published and used for evidence-based advocacy to encourage increased respect for international fair trial standards within Cambodia’s courts and justice sector. The Project has been monitoring appeal trials at the Phnom Penh Appeal Court since 2013; and at the Battambang, Tboung Khmum and Preah Sihanouk Appeal Court since June/July 2022. The present report is the ninth annual report produced by the Project, and the third that includes data from trials monitored at all the Appeal Courts.



Under the Project, CCHR has also produced [a series of modules](#) containing full explanations, videos, infographics, and quizzes on all the fair trial rights. The modules are available on the Cambodian Human Rights Portal (www.sithi.org).

Queries and Feedback

This Report and the previous “Fair Trial Rights in Cambodia” reports can be found on CCHR’s website www.cchrcambodia.org and [Sithi Portal](#). Should you have any questions or require any further information about this Report, please email CCHR at info@cchrcambodia.org. Alternatively, please contact CCHR at: #798, Street 99, Sfangkat Boeng Trabek, Khan Chamkarmon, Phnom Penh, Cambodia. (Tel: +855 (0) 23 72 69 01).

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Acronyms and Abbreviation

BAKC	The Bar Association of the Kingdom of Cambodia
CCHR	Cambodian Center for Human Rights
Checklist	The checklist used by CCHR to record trial data
Checklist Guidance	Comprehensive guidelines to help CCHR’s Trial Monitors understand the Checklist
Code of Conduct	A document outlining the obligations of non-interference, objectivity, and confidentiality to which CCHR’s Trial Monitors are bound
Constitution	The Constitution of the Kingdom of Cambodia
CRC	Convention on the Rights of the Child
Database	The database in which CCHR’s Trial Monitors store trial data recorded on checklists
ECCC	Extraordinary Chambers in the Courts of Cambodia
ICCPR	International Covenant on Civil and Political Rights
I/U	Information Unknown
LOC	Law on the Organization of the Courts
LOFSCM	Law on the Organization and Functioning of the Supreme Council of Magistracy
LSJP	Law on the Status of Judges and Prosecutors
MoI	Ministry of Interior
MoJ	Ministry of Justice
NGO	Non-governmental Organization
OHCHR	Office of the United Nations High Commissioner for Human Rights
RGC	Royal Government of Cambodia
UDHR	Universal Declaration of Human Rights
UPR	Universal Periodic Review

Executive Summary

Between 1 January and 31 December 2024, CCHR's Fair Trial Rights Project monitored **582** criminal trials at the **Phnom Penh, Battambang, Tboung Khmum, and Preah Sihanouk** Appeal Courts¹ to assess their adherence to 14 key fair trial rights established in Cambodian and international law. This Report presents an analysis of this data, with the aim of contributing to transparency, accountability and the enhanced administration of justice in Cambodia. It compares this data with that of previous reporting periods to identify trends and analyze the evolution of fair trial rights compliance.

The Report finds that for the third consecutive year, three fair trial rights were upheld by all four target courts: the pre-trial right to speak with a lawyer and adequate time and facilities to prepare a defense, the right to a public judgement, and the right to understand the nature and cause of the charge(s). A number of rights were welcomingly upheld by three of the four courts, namely the right to a public hearing, the right to be present at trial and the right to be tried without undue delay. This represents an improvement on 2023, whereby only two rights were upheld by three of the Appeal Courts. Rights that were upheld by two of the Appeal Courts were the right to the presumption of innocence and the professionalism of judges, prosecutors and lawyers, a significant improvement for the latter since 2023, when it was not upheld by any of the courts.

Four key fair trial rights were disappointingly not upheld by any of the four Appeal Courts: the right to a reasoned judgement, the right to liberty, evidentiary rights, and the right to legal representation. Whilst this indicates a relative improvement on the previous year overall, when six fair trial rights were not upheld by any of the four courts, there were still concerning regressions. One example is that of the right not to be compelled to confess guilt or testify against oneself. The upholding of this right deteriorated overall since 2023, with a reported 15 instances across three of the four Courts in 2024 where violence or torture was used to coerce a confession from defendants.

The **Tboung Khmum** Appeal Court demonstrated the most promising progress since 2023, upholding seven key fair trial rights out of the 14 assessed, up significantly from four in 2023. The Court newly upheld the rights to be present at trial, the professionalism of judges, prosecutors and lawyers and the right not to be compelled to confess guilt or testify against oneself. The **Phnom Penh** Appeal Court also demonstrated promising progress, upholding seven key fair trial rights overall. Similar to Tboung Khmum, the Phnom Penh Appeal Court newly upheld the right to be tried fairly by a competent and impartial tribunal (professionalism of judges), the right to understand the nature and the cause of the charge(s) and notably also the right to the presumption of innocence.

The **Preah Sihanouk** Appeal Court had a more mixed performance, upholding six key fair trial rights overall. It notably regressed in its compliance with the right to legal representation. The **Battambang** Appeal Court upheld five of the 14 fair trial rights assessed, an improvement compared to 2023. The Court encouragingly improved on its compliance with the right to a public hearing.

¹ The Project started to monitor trials at the Battambang Appeal Court on 29 June 2022; at the Tboung Khmum Appeal Court on 15 July 2022; and at the Preah Sihanouk Appeal Court on 24 July 2022.

There was insufficient data from the trial monitoring related to juvenile defendants, meaning that only the Battambang Appeal Court could be assessed, yet it failed to uphold the right. Of the small number of cases that were assessed, there was a concerning reliance on pre-trial detention.

1. Introduction

1.1. The Right to a Fair Trial

The right to a fair trial is a fundamental tenet of the rule of law and is central to any criminal justice system. Its fundamentality extends beyond the individual trial in question, as the upholding or violation of this right speaks to the overall quality and health of the legal system in that jurisdiction in adhering to the rule of law. The various components of the right are aimed at ensuring fairness and transparency in the application of the law in order to ensure both the rights of the accused and the proper administration of justice in the interest of wider society. These components encompass the entire legal process, spanning from the initial arrest of the suspect through to the completion of the final appeal.²

1.1.1. The right to a fair trial under international law

A cornerstone of international human rights law, the right to a fair trial is enshrined in Article 10 of the Universal Declaration of Human Rights (“UDHR”) and Article 14 of the International Covenant on Civil and Political Rights (“ICCPR”), among other instruments.³ Both the UDHR and the ICCPR guarantee the right to a fair and public hearing by a competent, independent, and impartial tribunal. The ICCPR further elaborates on the various components of a fair trial, which include, but are not limited to, the following rights and principles (referred to as “fair trial rights”): the right to a public hearing, the presumption of innocence, the right to liberty, the right to be tried without undue delay, the right to understand the nature and cause of the charge(s), the pre-trial right to speak with a lawyer and the right to adequate time and facilities to prepare a defense, the right to legal representation, the protection against self-incrimination, and the right to appeal to a higher court on grounds of fact and law.

Cambodia ratified the ICCPR on 26 May 1992, with Article 31 of the Cambodian Constitution directly incorporating international human rights obligations into Cambodia domestic law.⁴ Therefore, the provisions of the ICCPR are directly applicable in Cambodian courts, as was reaffirmed by the Constitutional Council in a decision in 2007.⁵ In its most recent review of Cambodia’s compliance with the ICCPR in 2022, the Human Rights Committee expressed a number of concerns relevant to the right to a fair trial, namely allegations of torture and ill-treatment occurring in police custody and places of detention, high numbers of persons in pre-trial detention and the independence of the judiciary.⁶

1.1.2. The right to a fair trial under Cambodian law

² For more details on this right, see CCHR’s module “What are fair trial rights?” (September 2022), <https://tinyurl.com/bdfnh66h>

³ [UDHR \(1948\)](#); [ICCPR \(1966\)](#); American Convention on Human Rights (1969) Art. 8; African Charter on Human and Peoples Rights (1981) Art. 7; European Convention on Human Rights (1950) Art. 6; European Charter of Fundamental Rights of the European Union (2000) Art. 47-50.

⁴ Constitution of Cambodia (1993), Art. 31, <https://tinyurl.com/58rn4thj>

⁵ Constitutional Council of Cambodia, Decision No. 092/003/2007 (10 July 2007) p. 2, <https://tinyurl.com/3p3z9zzn>

⁶ Human Rights Committee (HRC), ‘Concluding Observations on the third periodic report of Cambodia (CCPR/C/KHM/CO/3), para. 22, 26, 32

The basic framework for a fair trial is enshrined in the Cambodian Constitution. It provides for the separation of powers and an independent judiciary, and guarantees the following rights for Khmer citizens:

- There shall be no physical abuse against any individual;
- The prosecution, arrest, or detention of any person shall not be done except in accordance with the law;
- Coercion, physical ill-treatment or any other mistreatment that imposes additional punishment on a detainee or prisoner shall be prohibited;
- Confessions obtained through physical or mental force shall not be admitted as evidence of guilt;
- Any reasonable doubt that arises shall be resolved in favor of the accused;
- The accused shall be considered innocent until the court has finally decided on the case; and
- Every citizen shall enjoy the right to defense through judicial recourse.

The Criminal Code of the Kingdom of Cambodia (“Criminal Code”) sets out classes of offenses, principles of criminal responsibility, and principles of sentencing.⁷ The Code of Criminal Procedure of the Kingdom of Cambodia (“CCPC”) establishes in detail how suspects should be treated.⁸ It sets out the roles and responsibilities of judges, prosecutors, and defense counsel; from the initiation of an investigation to the time of arrest and throughout the entire criminal process until the final appeal. The 2016 Law on Juvenile Justice⁹ establishes norms and procedures for dealing with children in conflict with the law and protect their rights during criminal proceedings.¹⁰

Additionally, the three fundamental laws pertaining to the judiciary, namely the Law on the Organization of the Courts (“LOC”),¹¹ the Law on the Statute of Judges and Prosecutors (“LSJP”),¹² and the Law on the Organization and Functioning of the Supreme Council of Magistracy (“LOFSCM”),¹³ adopted in 2014, were ostensibly aimed at improving the independence and transparency of the judiciary and protecting the rights and freedom of Cambodian citizens. Regrettably however, these laws have been criticized for conversely consolidating the proximity of the two branches.¹⁴

In June 2003, the RGC approved a Legal and Judicial Reform Strategy centered around four principles: the rights of individuals, the principle of liberal democracy, the separation of powers, and the rule of law.¹⁵ The RGC’s National Strategic Development Plan (“NSDP”) for 2019-2023 outlined key priorities to implement this Strategy: improving the effective work of law enforcement officials, strengthening

⁷ Criminal Code of Cambodia (2010), <https://tinyurl.com/2hrdjbf7>

⁸ Code of Criminal Procedure of Cambodia (“CCPC”) (2017), <https://tinyurl.com/3tk7sk6c>

⁹ Law on Juvenile Justice (2016), <https://tinyurl.com/2vvr7293>

¹⁰ UNICEF, ‘Q&A on the newly adopted Juvenile Justice Law in Cambodia’ (19 September 2016), <https://tinyurl.com/46ftzbjk>

¹¹ Law on the Organization of the Courts (2014), <https://tinyurl.com/ck3c96f>

¹² The Law on the Status of Judges and Prosecutors (2014), <https://tinyurl.com/y8zhk6vc>

¹³ The Law on the Organization and Functioning of the Supreme Council of Magistracy (2014), <https://tinyurl.com/yc2t8kwz>

¹⁴ CCHR, Destination Justice, API, ADHOC, Transparency International, IFEX, ‘Joint Submission on Access to Justice in Cambodia’ (12 July 2018), <https://tinyurl.com/545deb9s>; CCHR, ‘Legal Analysis, Three Draft Laws Relating to the Judiciary’ (2014), <https://tinyurl.com/jzmpp4un>; See also OHCHR Cambodia’s Comments on the three fundamental draft laws pertaining to the judiciary (May 2014): <https://tinyurl.com/ys4jypw5>; <https://tinyurl.com/yt3ud573>; <https://tinyurl.com/yufd4442>.

¹⁵ Cambodian Rehabilitation and Development Board & Council for the Development of Cambodia, ‘Government’s Policy Performance’ (2004), para. 16, <https://tinyurl.com/bddka8a>

the public's trust in the judiciary, and fighting injustice.¹⁶ In August 2023, the RGC released a "Pentagonal Strategy-Phase I" listing the "Enhancement and Strengthening of the Effectiveness of Laws and Justice System" as a priority. It pledged to focus on enhancing the capacity of human resources in the justice sector; providing legal consultation and representation to the poor and vulnerable; strengthening the effectiveness of court proceedings; modernizing court administration to improve justice delivery; and promoting the development of dispute settlement mechanisms.¹⁷

Several developments which took place during the Reporting Period and could lead to improvements on legal and judicial reform, are as follows:

- On 27 August 2024, the Ministry of Justice (MoJ) announced that it was in the process of revising the Cambodian Criminal Code, ostensibly to enhance the country's judiciary, align with international standards and combat transnational crime. According to the Ministry, it was engaging key stakeholders to ensure the reforms align with current and future societal needs and that the reforms are aimed at improving the efficiency, quality and fairness of the judicial system, so that it reflects basic human rights principles. Specific emphasis has been placed on the protection of suspects' and defendants' rights, including their right to legal representation, the right not to self-incriminate, and the right to a fair trial.¹⁸
- In January 2025, the MoJ announced that it had established the Strategic, Policy Research and Analysis Group. The group, comprised of 12 members, has been charged with researching, analyzing and advising on strategies and policies related to judicial reform, as well as reviewing and advising on the preparation of laws.¹⁹
- On 19 February 2025, the Disciplinary Council of the Supreme Council of the Judiciary announced that disciplinary action was being imposed against 14 judges and nine prosecutors in relation to allegations of misconduct. In four cases, the individuals were verbally reprimanded, whilst 11 received formal letters. Three individuals were suspended from the promotion list, whilst the remainder involved forced transfers, demotion and the dismissal of a deputy prosecutor. The MoJ stated that the disciplinary measures were indicative of the efforts being taken to reform the judicial system.²⁰

These initiatives may be viewed as commendable efforts by the RGC to implement the recommendations on access to justice it recently accepted during the Fourth Cycle of the Universal Periodic Review (UPR) in May 2024.²¹ During the Review, the RGC notably accepted a recommendation regarding fair trial rights: "Ensure that fair trial guarantees, especially the rights of access to the outside world, family and lawyers, as provided in international law and standards, are respected and

¹⁶ Ministry of Planning, 'National Strategic Development Plan 2019-2023', p. 205-206, para 4.21(7), <https://tinyurl.com/yep76sfa>

¹⁷ RGC, "Pentagonal Strategy-Phase I" (August 2023), p. 31, <https://tinyurl.com/3nu67vh4>

¹⁸ Khmer Times, 'Ministry Drafting Criminal Law', 27 August 2024 <https://www.khmertimeskh.com/501547983/ministry-drafting-criminal-law/>

¹⁹ Khmer Times, 'Ministry establishes a working group for justice reform', 9 January 2024 <https://www.khmertimeskh.com/501420008/ministry-establishes-a-working-group-for-justice-reform/>

²⁰ Cambodia News, 'Over 20 Judges, Prosecutors Face Disciplinary Action, Including Suspensions, Demotions and One Dismissal', 20 February 2025 <https://cambojanews.com/over-20-judges-prosecutors-face-disciplinary-action-including-suspensions-demotions-and-one-dismissal/>

²¹ OHCHR, Universal Periodic Review – Cambodia, <https://www.ohchr.org/en/hr-bodies/upr/kh-index>

upheld in all cases”.²² The RGC also welcomingly accepted four recommendations regarding judicial independence, three recommendations relating to access to justice and one focused on juridical and legal reform.²³ The acceptance of these recommendations is welcomed by CCHR, as it had explicitly advocated for enhanced adherence to fair trial rights and access to justice overall in the lead up to the UPR.²⁴

1.2. Scope and Methodology

Throughout the Reporting Period, CCHR’s Trial Monitors attended criminal trials at the four target Courts on a daily basis. Monitors used a specifically designed trial-monitoring checklist (the “Checklist”)²⁵, which includes more than 80 questions focusing on a number of key fair trial rights, including the following:

- Right to a public hearing;
- Right to understand the nature and cause of the charge(s);
- Right to liberty;
- Right to be tried without undue delay;
- Pre-trial right to speak with a lawyer and right to adequate time and facilities to prepare a defense;
- Right to legal representation;
- Right to be present at trial;
- Right to the presumption of innocence;
- Right to not be compelled to confess guilt or to testify against oneself;
- Evidentiary rights (including the right to call and examine witnesses);
- Rights to a public reasoned judgment;
- Rights of children in conflict with the law and
- Right to be tried by a competent and impartial tribunal (“professionalism of judges, prosecutors, lawyers”).

In its efforts to sustain constructive engagement, CCHR introduced and explained the Checklist and its trial monitoring activities to representatives of the Courts and the Ministry of Justice. CCHR also developed a one-page annex to the Checklist for trials involving children. In consideration of the brevity of the Checklist, CCHR compiled comprehensive guidance notes (“Checklist Guidance”)²⁶ to provide an understanding of the legal basis and purpose of each question, in order to ensure a uniform interpretation. CCHR’s Trial Monitors were also provided with a legal framework document, outlining the relevant national and international laws underpinning each question in the Checklist.

²² UNGA, Report of the Working Group on the Universal Periodic Review, A/HRC/57/17, para. 139.64 <https://docs.un.org/en/A/HRC/57/17>

²³ CCHR, ‘4th Cycle Recommendations supporting by RGC pertaining to access to justice’, 29 November 2024 <https://www.cchrcambodia.org/en/publications/infographics/4th-cycle-upr-recommendations-supported-by-rgc-pertaining-to-access-to-justice-2024>

²⁴ CCHR, ‘Joint Submission for the Universal Periodic Review of the Kingdom of Cambodia Access to Justice in Cambodia’, 17 July 2024 <https://cchrcambodia.org/en/publications/general-reports/joint-submission-4th-upr-access-to-justice>

²⁵ CCHR, ‘Appeal Hearing Monitoring Checklist,’ <https://tinyurl.com/3jcd458>

²⁶ CCHR, ‘Guidance Notes for CCHR Appeal Court Monitoring Checklist,’ <https://tinyurl.com/ywr3twde>

In its monitoring, CCHR was attuned to the fact that the right to appeal encompasses the right to be granted a full review, meaning that an appeal must involve both the legal and material aspects of the individual's conviction and sentence, providing "a full evaluation of evidence and the conduct of the trial".²⁷ As evidence of its commitment to the international principles applicable to trial monitoring, CCHR devised a Code of Conduct for its Trial Monitors, outlining the obligations of non-interference, objectivity and confidentiality, by which the trial monitor is bound.²⁸

CCHR's Trial Monitors did not target specific trials, but rather monitored trials at random selection in accordance with the courts' schedules. This was done in order to ensure the data collection process remained unbiased and representative. When the Trial Monitors observed a trial, the information was recorded directly on the Checklist. The data gathered was limited to the trial process itself, with no additional interviews or dialogues taking place, except where the Trial Monitor made efforts to obtain information relating to trial verdicts. After each trial, the data was entered in the CCHR Trial Monitoring Database ("the Database"). This data was then analyzed by CCHR to identify both positive practices and areas of concern relating to each trial, which was in turn used cumulatively to assess areas of progression and regression by each of the target courts.

For the purposes of the present analysis, CCHR will consider a given fair trial right as respected if it was upheld in at least 80% of the monitored trials during the Reporting Period. However, for cases where there has been a violation of non-derogable and absolute rights (see page 43), CCHR will systematically classify the corresponding fair trial right as not respected, regardless of the percentage. The number of trials CCHR monitored in 2024 (582) was relatively lower than the previous year (772), owing to financial and human resource constraints. CCHR hopes to resolve these constraints in order to continue carrying out its trial monitoring to an effective degree.

CCHR has always ensured that all Courts of Appeal were afforded the opportunity to provide their inputs on the findings of its trial monitoring, prior to publication. In 2024, CCHR conducted meetings with the target courts to present the findings of its trial monitoring and seek clarification where necessary. During these meetings, the courts welcomed CCHR's contribution and efforts to promote fair trial rights. CCHR expresses its sincere gratitude to the target courts for their invaluable collaboration and ongoing commitment to participate in these crucial dialogues.

In addition, a final draft of the present Report was sent to the Presidents of the target courts and the General Prosecutors attached to the target courts for their comments and recommendations. CCHR received their input during consultation meetings on 5 August 2025 (Preah Sihanouk Court of Appeal), and on 12 August 2025 (Battambang Court of Appeal). The Phnom Penh Court of Appeal and General

²⁷ ICCPR, Art. 14 (5); CCPC, Art. 375, HRC, 'General Comment No. 32 – Article 14: Right to equality before courts and tribunals and to a fair trial' (23 August 2007), CCPR/C/GC/32, para. 48, <https://tinyurl.com/ymw9vvcv>; HRC, Communications Nos. 623, 624, 626, 627/1995, *V. P. Domukovsky et al. v. Georgia* (6 April 1998) GAOR, A/53/40 (vol. II), p. 111, para. 18.11, <https://tinyurl.com/mvntuakv>

²⁸ Amnesty International, 'Fair Trial Manual, Second Edition' (2014), <https://tinyurl.com/nnhppm6b>; Lawyers Committee for Human Rights, 'What is a Fair Trial: A Basic Guide to Legal Standards and Practice' (2000), <https://tinyurl.com/y9ymx3z7>; OSCE 'Trial Monitoring: A Reference Manual for Practitioners' (2008), <https://tinyurl.com/2p88e64s>; International Commission of Jurists, 'Trial Observation Manual' (2002), <https://tinyurl.com/3a3b3u9r>; CCHR, 'Trial Monitoring Code of Conduct,' <https://tinyurl.com/3fxvhxz6>

Prosecution attached to the Phnom Penh Court of Appeal provided its input through a letter dated 11 August 2025. Their inputs were incorporated into the present Report to provide insights into some of the challenges faced by justice professionals. CCHR also sent this draft report to the MoJ on 1 October 2025.

2. Overview

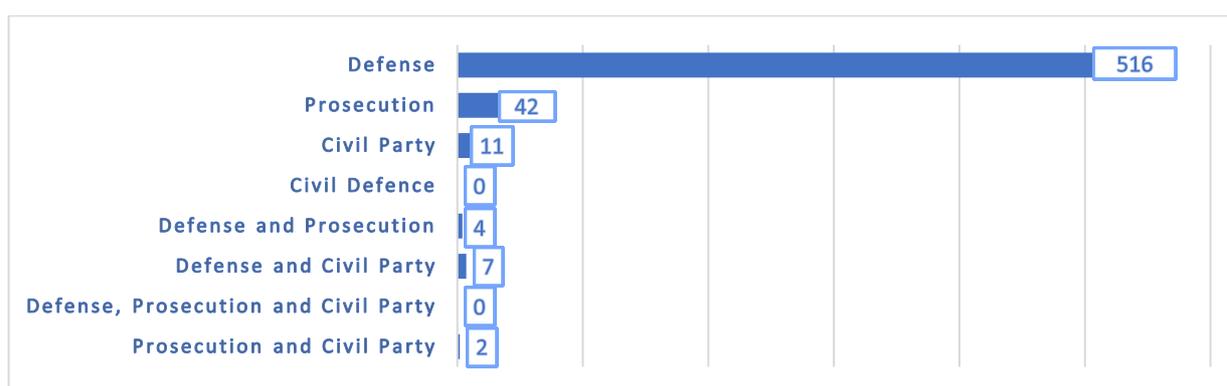
This section sets out the raw data recorded on the Checklist from the 582 trials monitored at the four target courts between 1 January and 31 December 2024.

Figure 1: Overview of the cases monitored by CCHR in 2024

<i>Court of Appeal</i>	<i>Phnom Penh</i>	<i>Battambang</i>	<i>Preah Sihanouk</i>	<i>Tboung Khmum</i>	<i>Total</i>
<i># of cases</i>	276	182	36	88	582
<i># of felonies²⁹</i>	121	58	12	25	216
<i># of misdemeanors³⁰</i>	150	121	23	62	356
<i># of petty offenses³¹</i>	5	3	1	1	10
<i># of defendants</i>	365	290	41	126	822
<i># of child defendants</i>	(1)	7	0	1	9
<i># of female defendants</i>	60	37	3	13	113

A judgment issued by a Court of First Instance may be appealed by the Royal Prosecutor of the Court of First Instance, the General Prosecutor attached to the Court of Appeal, the convicted person (defense), and the civil party or civil defendant (both regarding civil matters).³² Figure 2 shows that the vast majority of appeals (88%) were filed by the defense.

Figure 2: Party that brought the appeal in the hearings monitored in 2024³³



²⁹ Any offense for which the maximum penalty is imprisonment of more than five years (Criminal Code, art. 46).

³⁰ Any offense for which the maximum penalty is imprisonment for more than 6 days and up to five years (CC, art. 47).

³¹ Any offense for which the maximum penalty is imprisonment for six days or less or solely a fine (CC, art. 48).

³² CCPC, Art. 375.

³³ This data is based on the total number of trials monitored in 2024 (582).

The table below outlines, in the trials monitored by CCHR, the fair trial rights which were respected (green cells) and those which were not fully complied with (orange cells). Cells featuring an up-arrow symbol (↑) refer to rights that were newly upheld in 2024, indicating significant progress from the previous Reporting Period. Conversely, cells featuring a down arrow symbol (↓) denote rights that were respected in 2023 but not in 2024, signaling areas of concern and potential regression in ensuring fair trial standards. Grey cells indicate that CCHR was not able to collect enough data to assess whether a particular right was upheld.

Figure 3: Compliance with key fair trial rights in 2024, by target court

Appeal Court Fair Trial Right	Phnom Penh	Battambang	Preah Sihanouk	Tboung Khnum
Pre-trial right to speak with a lawyer and right to adequate time and facilities to prepare a defense				
Right to a public judgement				
Right to a public hearing		↑		
Right to understand the nature and cause of the charges	↑	↑	↑	
Right to be present at trial		↓		↑
Right to be tried without undue delay				
Right to the presumption of innocence	↑			
Right not to be compelled to confess guilt or testify against oneself				↑
Professionalism of judges, prosecutors, lawyers	↑			↑
Right to a reasoned judgement				
Right to legal representation			↓	
Right to liberty				
Evidentiary rights				
Rights of children in conflict with the law				

The sections below analyze the implementation of the different relevant components of fair trial rights by the Courts during the Reporting Period. For the purpose of analysis, the Report will first highlight those aspects of fair trial rights that were upheld in all four of the target courts, before then shedding light on the practices that did not fully respect fair trial rights.

3. Fair Trial Rights Upheld by All Courts

3.1 Pre-trial right to speak with a lawyer and right to adequate time and facilities to prepare a defense

International Law	Cambodian Law	
ICCPR	CCPC	Law on Juvenile Justice
Article 14(3)(b)	Articles 48, 98, 145, 259 & 319	Article 29

An individual facing criminal charges should be provided with adequate time and facilities to prepare a defense. Whilst the length of time that is “adequate” depends on the circumstances of each case,³⁴ the guiding principle is that the accused must be able to properly prepare to challenge the prosecution’s evidence, investigate and present defense witnesses. It is the role of the defense to request the adjournment of the trial if they reasonably feel that the preparation time is insufficient.³⁵

The necessary facilities to prepare a defense include access to case documents and evidence, so as to ensure that the accused is fully aware of the charges against them and can thus provide full instructions to their lawyer.³⁶ In particular, this includes access to all materials that the prosecution plans to present in court and those that are exculpatory. At the appeal stage, in order to effectively exercise their right to appeal and prepare their case, the defendants should have access to a duly reasoned, written, first-instance judgment as well as the transcripts of the trial.³⁷ In addition, accused persons must have adequate time and facilities to communicate with counsel of their own choosing. This provision ensures respect for the principle of equality of arms and requires that the accused is granted prompt access to a lawyer. Facilities must also be provided so that the accused and their counsel can communicate with one another confidentially.³⁸

Whilst the trial monitoring during this period did not provide CCHR with all the requisite information to assess whether the accused had sufficient time and adequate facilities to prepare their defense and to communicate with a lawyer, the information available indicates that these rights were respected by the four target courts. Furthermore, none of the 459 (55%) defendants represented by a lawyer had their lawyer assigned to them on the day of the appeal. Most of these defendants were given a lawyer early on in proceedings, and in no cases did a defendant’s lawyer raise the issue of lack of adequate preparation. CCHR notes with appreciation that the pre-trial right to speak with a lawyer

³⁴ HRC General Comment 32, para. 32.

³⁵ Ibid.

³⁶ HRC, General Comment 32, para. 33.

³⁷ Ibid, para. 49, See *i.e.* HRC, Communication No. 1797/2008, *Mennen v. The Netherlands* (27 July 2010), CCPR/C/99/D/1797/2008, paras 8.2.-8.4, <https://tinyurl.com/z2x7tu9e>

³⁸ HRC, General Comment 32, para. 34, For further information, see also CCHR’s module “The right to adequate time and facilities to prepare a defense and the right to speak with a lawyer” (September 2022), <https://tinyurl.com/yckvz5>

and the aspects of the right to adequate time and facilities to prepare a defense have been consistently respected by Cambodia’s appeal courts since 2014.

<p>It was suggested that no defendants had their lawyer assigned to them on the day of the appeal.</p>	<p>The issue of adequate time and facilities to prepare a defense was not raised by any of the 459 defendants represented by a lawyer.</p>
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3.2 Right to a public judgment

International Law	Cambodian Law	
ICCPR	CCPC	LOC
Article 14(1)	Article 317	Article 7

Judgments rendered in legal proceedings must be made public, a key right in ensuring transparency and accountability.³⁹ As per Article 14(1) of the ICCPR, even in cases where the public is excluded from the trial, the relevant judgement – including the essential findings, evidence and legal reasoning – must be made public.⁴⁰ Publicizing judgements has the effect of encouraging transparency and accountability, compelling judges to act with the utmost rigor and ensure the fair delivery of justice. Few exceptions to this rule exist, namely where the interest of children requires the judgement not to be made public.⁴¹

During the Reporting Period, the right to a public judgement was respected by three of the four target courts in all cases for which the information was available (79 out of 582). CCHR notes with appreciation that this right has been consistently upheld by the country’s Appeal Courts since 2014. However, CCHR’s Trial Monitors were only able to follow one verdict at the Tboung Khmum Appeal Court. Whilst this verdict was announced publicly, there is insufficient data to assess whether this right was consistently upheld in 2024 on the remaining 87 cases there.

<p>Of the 79 monitored cases where a verdict was reached in the presence of CCHR’s trial monitors, all except for one (Battambang) were announced publicly.</p>



³⁹ For more details, see CCHR’s module “The right to a public judgment and the right to a reasoned judgment” (September 2022), <https://tinyurl.com/5ssncvyy>
⁴⁰ HRC, General Comment No.32, para.29.
⁴¹ Ibid.

3.3 Right to understand the nature and cause of the charge(s)

International Law	Cambodian Law	
ICCPR	CCPC	Law on Juvenile Justice
Article 14(3) (a) & (f)	Articles 322, 325, 330, 331 & 396	Articles 6 & 5

Individuals accused of criminal offenses must be informed “promptly” of the nature of the offense with which they have been charged. Judges have the obligation to provide an adequate explanation and to make sure that the accused understands the nature and cause of the charge(s) against them, so that they can properly prepare their defense.⁴² Information about the relevant charges must be given as soon as the accused is formally charged with a criminal offense under domestic law, or as soon as the individual is publicly named as an accused. This can be done either orally (only if later confirmed in writing) or in writing, provided that the information indicates both the law and the alleged general facts on which the charge is based.⁴³

It should be noted that CCHR’s trial monitors collect data at the commencement of the appeal trial, and so by this time the accused should already be aware of the charges against them. It is nonetheless important for judges to remind the defendants of this information and to ensure that they fully understand it, especially in cases where charges may have been changed or amended between the initial arrest/charge and the actual trial. In addition, article 396 of the Code of Criminal Procedure explicitly states that the rules that apply to first instance hearings shall also apply to appeal hearings.

Welcomingly, CCHR recorded that the judges stated all relevant charges in 100% of the 582 trials monitored across the four Appeals Courts. This is a significant improvement from 2023 when this figure stood at 88.6%, and a major improvement considering that in 2022 it stood at 59.7%. There were also positive results overall regarding the statement by the judges of the date of the offence, the place of the offence, article of relevant law and the parties involved. Judges did so in 94%, 91%, 70% and 99% of cases, respectively. It is also welcomed that in 100% of the cases where an interpreter was required (34), one was provided.

CCHR has revised its methodology to determine whether this right is being upheld. If the overall percentage of judges who informed defendants of all relevant charges, the date and place of the offense, the applicable article of legal provisions, and the parties involved, is 80% or higher, the right

⁴² For more details on this right, see CCHR’s module “The right to be informed of the nature and causes of the charge(s)” (September 2022), <https://tinyurl.com/5h6ec5vz>

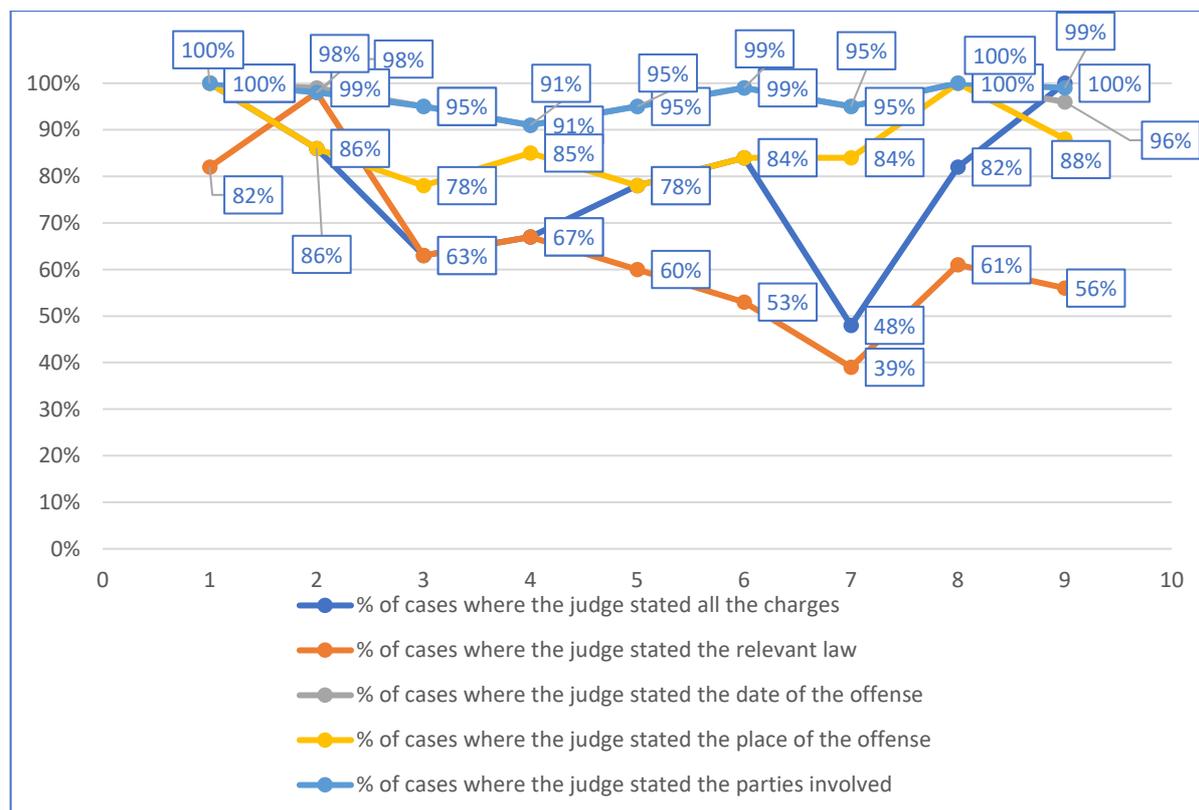
⁴³ UNHRC, General Comment No. 32; *See also* UNHRC, Communication No. 609/1995, *Nathaniel Williams v. Jamaica* (4 November 1997) CCPR/C/61/D/609/1995, in which the Committee further clarified that detailed information about the charges must be provided at “*the beginning of the preliminary investigation or the setting of some other hearing which gives rise to a clear official suspicion against the accused.*”

is considered to be upheld. This differs from previous years, whereby each element of the right must have been upheld in 80% or more of cases in order for the right to be considered upheld.

Phnom Penh Appeal Court

As with the three other courts, the Phnom Penh Appeal Court informed defendants of the relevant charges against them in 100% of the cases monitored in 2024 (276), an increase on 2023 when this figure stood at 82.1%. This is particularly notable progress, given that in 2022, defendants were only informed of the relevant charges in 47.9% of cases monitored. Unfortunately however, the Court regressed in its record of stating articles of the relevant law, with judges doing so in just 56% of cases (155 out of 276), down from 61% in 2023. Despite this, the Court did perform well regarding the statement of the date of the offence and the relevant parties involved, doing so in 96% and 99% respectively. There was also an unfortunate regression though in the rate of judges stating the place of the offence, decreasing from 94% in 2023 to 88% in 2024. All elements of the right were upheld in 87.8% of cases, meaning the right is considered to have been upheld by the Phnom Penh Appeal Court.

Figure 4: Evolution of the right to understand the nature and cause of the charge(s) at the Phnom Penh Appeal Court (2014-2024)⁴⁴



⁴⁴ The data is based on the 128 cases monitored in 2014/2015; the 340 cases monitored in 2016/2017; the 213 cases monitored in 2017/2018; the 239 cases monitored in 2018/2019; the 203 cases monitored in 2019/2020; the 85 cases monitored in 2021; the 257 cases monitored in 2022; the 336 cases monitored in 2023 and 276 cases monitored in 2024.

Battambang Appeal Court

The Battambang Appeal Court made significant progress all round on respecting the right to understand the nature of the charge. Its 100% rate of judges stating the relevant charges is a commendable increase on its 89% rate recorded in 2023. Welcomingly, articles of the relevant law was stated in 77% of cases monitored (141 out of 182), notably up from 64% in 2023. Judges also welcomingly stated the date and place of the offence and the parties involved in 89.5%, 94.5% and 98.8%, respectively. Therefore, the right was respected in 91.98% of cases monitored. In August 2025, representatives from the Battambang Court of Appeal and the General Prosecution attached to the Court asserted that the procedures at the Court of Appeal differ from those at the Court of First Instance, whereby it primarily focuses on aspects such as some parts of the decision and sentence reduction. Generally, according to the representatives, it does not re-examine the evidence that was reviewed by the Court of First Instance.⁴⁵

Preah Sihanouk Appeal Court

Whilst the Preah Sihanouk Appeal Court improved on its record of stating all the relevant charges, reaching 100% up from 97% in 2023, there was a concerning regression regarding the rate of judges stating articles of the relevant law. The rate for 2024 was 72%, down from 76% the previous year and down further from 89.8% in 2022, representing a year-on-year regression. There was also evident regression regarding the rate at which judges stated the place where the offence took place, down from 88% in 2023 to 83% in 2024, 86% of date of offence was stated, and the judge stated the relevant parties was 91%. Therefore, this right is considered upheld, with a support rate of 86.4%.

In previous consultations with CCHR, representatives of the Preah Sihanouk Appeal Court and General Prosecution attached to the Court said the accused should be informed of the charges against them by the investigating judge after the release of the Prosecutor's introductory submission; not by the Appeal Court. They pointed out that appeal judges usually read the case file and first instance ruling. They then inform the accused about their rights and the parties to the hearing, before asking which parts of the first instance ruling, they appeal against, and why. In general, defendants deny having committed the offense or say the sentence is too severe. Therefore, nothing requires the appeal judge to state and explain the cause and nature of the charges. However, the Court and Prosecution representatives pointed out that they do so if the defendants say they do not understand the charges against them,⁴⁶ and thus suggested that CCHR consider limiting its assessment to rights implemented at the Court of Appeal level. They reasoned that some rights are not reiterated by the Court of Appeal because they have already been communicated by the Court of First Instance, and defendants are presumed to understand these rights.⁴⁷

⁴⁵ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the Prosecution General attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

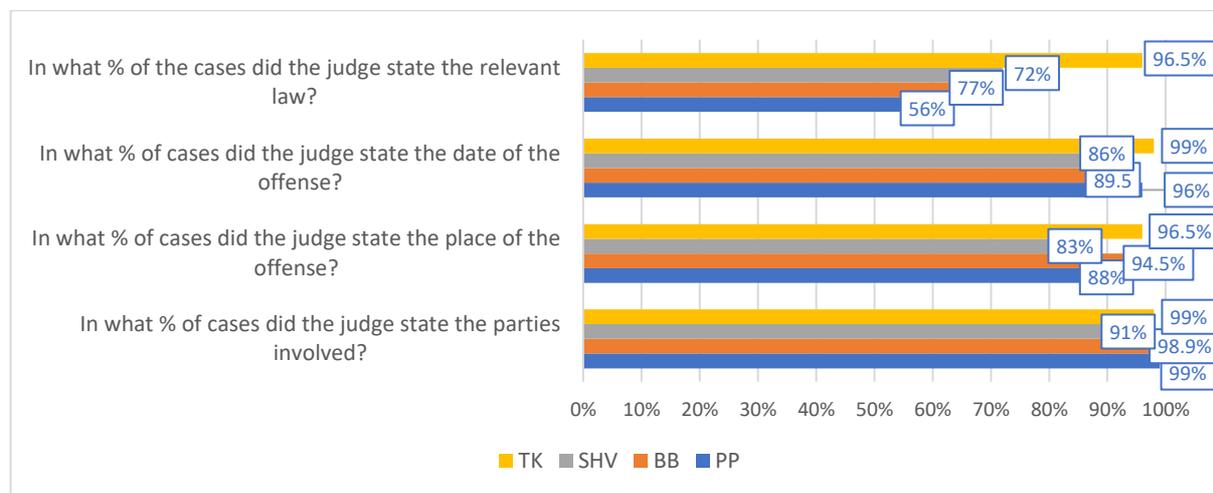
⁴⁶ Letter No.1919/23 issued on 20 September 2023 by the Preah Sihanouk Court of Appeal and the General Prosecution attached to the Preah Sihanouk Court of Appeal in response to the findings of CCHR's 2022 Annual Report on Fair Trial Rights.

⁴⁷ On 13 August 2024, the CCHR team met with the representatives from Preah Sihanouk Court of Appeal to present the findings of the report from its trial monitoring.

Tboung Khmum Appeal Court

For the third year in a row, the Tboung Khmum Appeal Court respected the right of defendants to understand the nature and cause of the charge, the only one of the four target courts to do so. It maintained its 100% record of judges stating all the relevant charges against the defendants. Regarding the statement by judges of the relevant law, the Tboung Khmum court far outperformed the other three courts, with a rate of 96.5%. However, this is in fact a regression from the previous year, when judges stated the relevant law in 100% of cases monitored. Efforts should be taken to ensure this rate does not regress further. The Court also delivered a strong performance on the issue of judges stating the date and place of the offence and the relevant parties involved, doing so in 99%, 96.5% and 99% of cases, respectively. Therefore, this right is upheld with the highest support rate overall of 98.2%.

Figure 5: The right to understand the nature and cause of the charge(s), by target court⁴⁸



⁴⁸ This data is based on the 582 cases that were monitored in 2024.

4. Fair Trial Rights Upheld by Some of the Courts

4.1. Right to a public hearing

International Law	Cambodian Law	
ICCPR	CCPC	LOC
Article 14(1)	Article 392	Article 7

Everyone has the right to have their guilt or innocence determined in a public trial.⁴⁹ Exceptions to this right will be made however in cases where a public hearing could cause “significant damage” to public order, national security or morality, the interest of the private lives of the parties (notably in sexual assault cases), or the presence of a child in conflict with the law.⁵⁰ In such cases, the trial will be held in camera.

Guarantees in case of in camera hearings

Even if the public or part of the public is excluded from the hearings due to exceptional circumstances, there remains safeguards in order to ensure publicity. In such a situation, the judgment, including the essential findings, evidence and legal reasoning, must be made public.⁵¹ Only in a very few cases (ex: if required by the interests of children) can exceptions be made to this last safeguard.

Only in exceptional circumstances prescribed by law can all or part of the public be excluded.⁵² In any other circumstances, the hearings must be open to the public, including members of the media, and cannot exclude a particular category of persons.⁵³ As part of this right, courts are also obliged to make information regarding the time and venue of the oral hearings available to the public and to provide, within reasonable limits, adequate facilities for public attendance.⁵⁴ Efforts should be made to ensure that members of the public and media attempting to attend trials that are open to the public, can do so without undue questioning as to the reasons for their attendance, and requiring registration to attend a trial should be avoided in all cases.

⁴⁹ For more details on this right, see CCHR’s module “The right to a public hearing” (September 2022), <https://tinyurl.com/2c67u8sn>

⁵⁰ UN Committee on the Rights of the Child (CRC), General Comment No. 24 on Children’s Rights in the Child Justice System (18 September 2019) CRC/C/GC/24, para. 67, <https://tinyurl.com/2s4kka66>

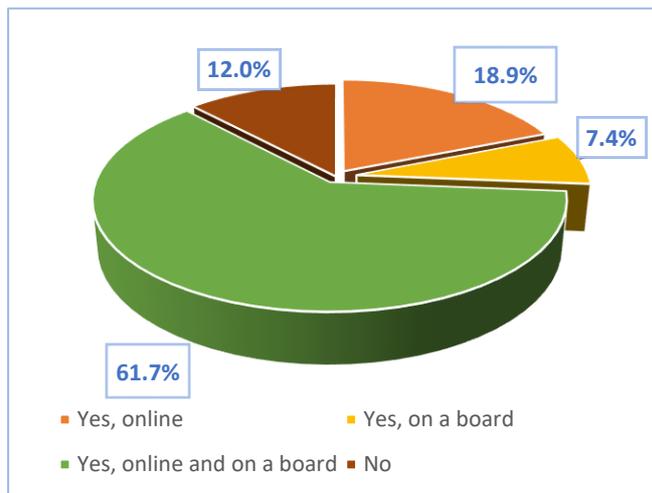
⁵¹ HRC, General Comment 32, para. 29.

⁵² Ibid.

⁵³ HRC, General Comment 32, para. 29.

⁵⁴ HRC, General Comment 32, para.28; HRC, Communication No. 215/1986, *Van Meurs v. The Netherlands* (23 July 1990) CCPR/C/39/D/215/1986, para. 6.2, <https://tinyurl.com/2nc55r5f>

Figure 6: Percentage of cases for which hearing notices were posted, total⁵⁵



Hearing notices, displaying the date, location and starting time of a hearing, strategically placed outside courtrooms or published online, are one way of promoting public hearings and informing the public, to facilitate their accessing the courtroom where trials are taking place.

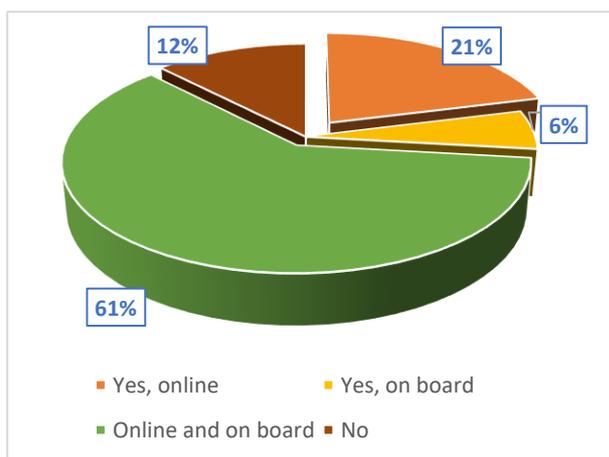
Encouragingly, and in continuation of the previous two years, there was nothing to suggest that members of the public or media were prevented from entering or dismissed from the courtroom in cases monitored

across the four courts in 2024. In 88% of the trials monitored by CCHR (512 out of 582), hearing notices were posted on a public board outside the courtroom and/or online. This is an increase on 2023, where this was the case in 84% of the trials monitored. Despite this commendable process, with Battambang upholding this right for the first time, CCHR cannot classify the right as being fully respected due to the performance of Preah Sihanouk.

Phnom Penh Appeal Court

In 2018 and 2019, the Phnom Penh Appeal Court recognized that there was a lack of hearing notices in relation to the Court’s schedule, and informed CCHR that they would take action in order to improve the public’s information about and access to hearings.⁵⁶

Figure 7: Percentage of cases for which hearing notices were posted, Phnom Penh Appeal Court⁵⁷



In the Court’s view, displaying the public trial schedule was an administrative matter and not required by law, however it committed to prioritizing the issue and developed a [webpage](#) to post information about upcoming cases, as well as a [hearing schedule](#). The information now made available includes - among other things - the date, time and location of the hearing, the case’s file number, the charge(s), and the name of the judge.

The Phnom Penh Appeal Court posted notices in 88% (242 out of 276) of the cases monitored in 2024, marking a regression from 95% in 2023.

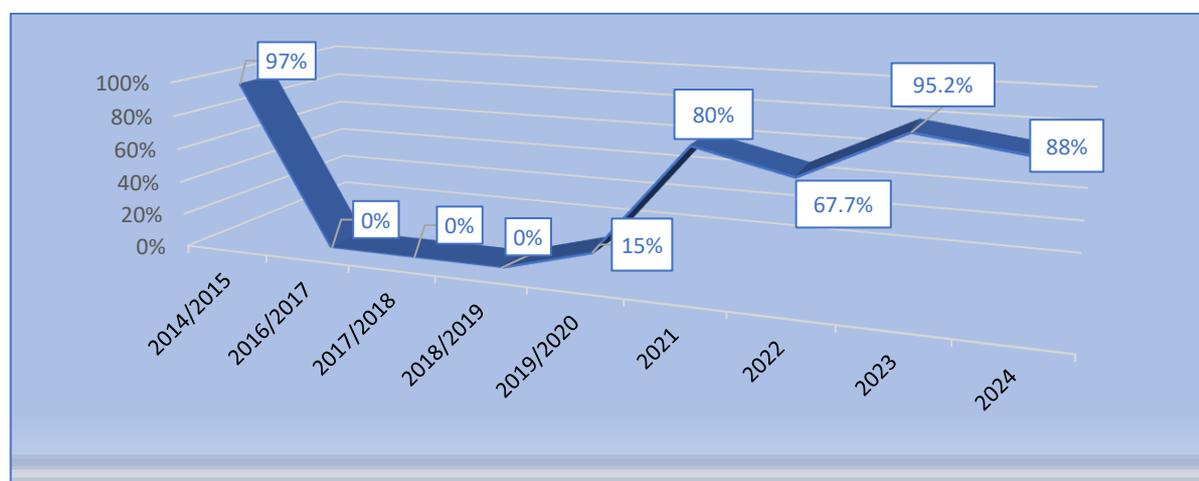
⁵⁵ This data is based on the total number of 582 cases monitored in 2024.

⁵⁶ On 5 April 2018 and 27 August 2019, CCHR’s Fair Trial Monitoring Project team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Court of Appeal in order to discuss the findings contained in the 2016/2017 and 2017/2018 reports.

⁵⁷ This data is based on the 276 cases monitored at this court in 2024.

Particularly commendable is the fact that 61% of these cases (168 out of 276) adhered to the good practice of posting the notice both online and on the Court’s public board. This is an improvement on 2023, whereby this practice was followed in 49% of cases. Whilst the overall regression in posting notices is somewhat discouraging, the fact that when cases are being posted, they are increasingly done so in accordance with best practice. Attention should be paid to improving on this record and maintaining this best practice. During consultations with representatives from the Court, CCHR raised the issue that often the hearing schedules on the information board were overlapping with one another, making it difficult for CCHR’s trial monitors to view the full schedules. In response, the representatives said they would review the issue and consider whether the information board could be expanded in size.⁵⁸ Representatives from the Phnom Penh Court of Appeal and General Prosecution attached to the Court asserted that the requirement for attendees to register for the trial hearings is for the purpose of maintaining order before and during the trial hearing, due t the limited space and overcrowding in the courtroom.⁵⁹

Figure 8: Evolution of the percentage of cases for which hearing notices were posted outside the courtroom (until 2022) and outside the courtroom or online (from 2022) at the Phnom Penh Appeal Court (2014-2024)⁶⁰



Battambang Appeal Court

The Battambang Court of Appeal had a significant improvement in complying with the right to a public hearing in 2024, posting notices about hearings either online or on a board in 93% of cases (169 out of 182). This is a commendable improvement on 2023, where it did so in 75.1% of cases, which resulted in CCHR classifying the right as not being respected by the Court. The Battambang Court also improved commendably in carrying out best practice of posting the notices both online and on a board, doing so in 70% of cases (127 out of 182), up from 43% in 2023.

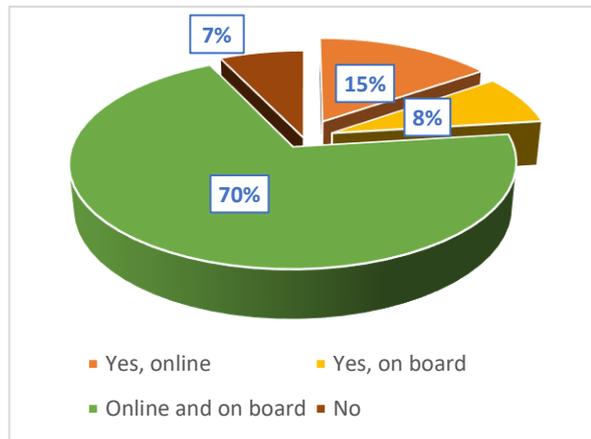
⁵⁸ On 4 November 2024, the CCHR team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR’s trial monitoring activities.

⁵⁹ Letter No. 929/25 issued on 11 August 2025 by the Phnom Penh Court of Appeal and the Prosecution General attached to the Phnom Penh Court of Appeal in response to the finding of 2024 annual report.

⁶⁰ The data is based on the 128 cases monitored in 2014/2015, the 340 cases monitored in 2016/2017, the 213 cases monitored in 2017/2018, the 239 cases monitored in 2018/2019, the 203 cases monitored in 2019/2020, the 85 cases monitored in 2021, the 257 cases monitored in 2022; the 336 cases monitored in 2023 and the 276 cases monitored in 2024.

In consultation with CCHR, Battambang Court officials stated that a commitment had been made to regularly post the hearing schedules, as is evidenced by the result for 2024.⁶¹ This overall improvement signifies an encouraging return to Battambang’s 2022 performance on this right, when it posted notices in 93.7% of cases (134 out of 143). Efforts should be made to maintain this progress and ensure it is not reversed once again.

Figure 9: Percentage of cases for which hearing notices were posted, Battambang AC⁶²



Preah Sihanouk Appeal Court

The Preah Sihanouk Court of Appeal was the only of the four target courts to not respect the right to a public hearing, and discouragingly had very little progress since 2023. Trial notices were posted online or on a board in just 36% of cases (13 out of 36), a minor decline from 2023 when this was done in 37% of cases. Similar to previous years, the Court exclusively displayed notices on a public board only, not posting any online. Posting notices online is not only an easier way of posting notices compared to posting on a public board, but it is also a more accessible way of posting notices, as it does not require members of the public to physically go to the court in order to view the schedule.

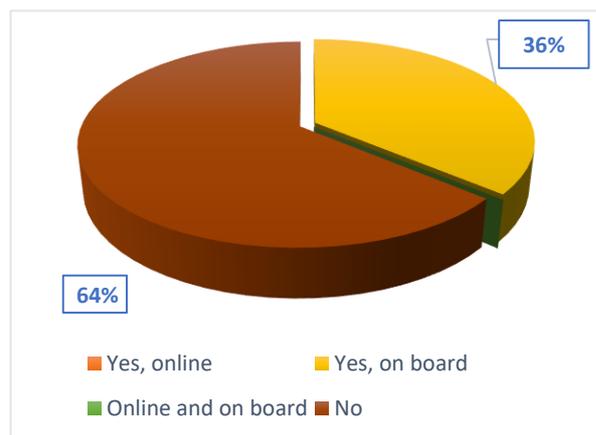


Figure 10: Percentage of cases for which hearing notices were posted, Preah Sihanouk AC⁶³

These findings point to a need for concerted efforts by the Preah Sihanouk Court to systematically publicize trial schedules, with particular focus on prioritizing online notices. In previous consultations with CCHR, representatives of the Court have asserted that posting notices is not a role for the Court as it is an administrative manner.⁶⁴ In August 2025,

⁶¹ CCHR had a consultation meeting with court representatives for the Battambang Court of Appeal on 23 October 2024.

⁶² This data is based on the 182 cases monitored at this court in 2024.

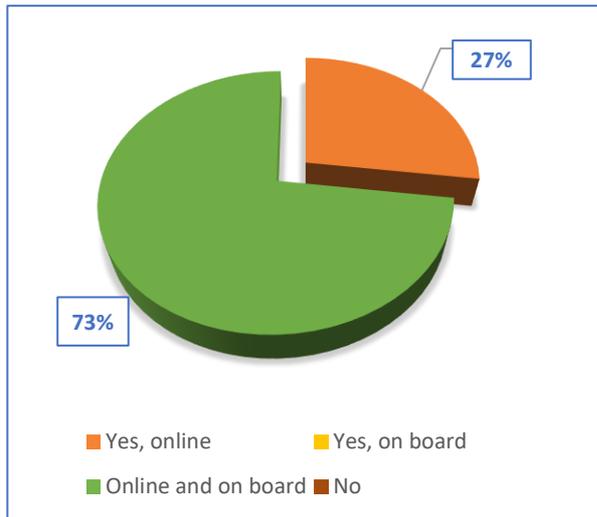
⁶³ This data is based on the 36 cases monitored at this court in 2024.

⁶⁴ Letter No.1919/23 issued on 20 September 2023 by the Preah Sihanouk Court of Appeal and the General Prosecution attached to the Preah Sihanouk Court of Appeal in response to the findings of CCHR’s 2022 Annual Report on Fair Trial Rights. CCHR, Annual Report on Fair Trial Rights in Cambodia (1 January to December 2023), (28 October 2024) p.24

representatives from the Preah Sihanouk Court of Appeal and General Prosecution attached to the Court expressed their views that posting hearing schedules alongside the defendants' names may negatively impact their rights. In their view, this practice may lead to discrimination within communities, especially as many people lack a clear understanding of legal distinctions between an accused person and a convicted individual.⁶⁵

Tboung Khmum Appeal Court

Figure 11: Percentage of cases for which hearing notices were posted, Tboung Khmum AC⁶⁶



Welcomingly, the Tboung Khmum Appeal Court maintained its commitment to publicizing hearings, posting notices either online or on a board in 100% of the 88 cases monitored by CCHR in 2024, the best performance amongst the four target courts in respecting this right. This is the second year in a row that the Court has achieved this record, and the third year in a row that it has upheld this right. Indicative of the Court’s commitment to improving on and maintaining this record, there was also an encouraging increase in the number of instances where the notice was posted both online and, on the board, up from

62% in 2023 to 73%. In those cases where the notice was only posted in one of the two places, all were encouragingly online, with none posted on the board only.

4.2. Right to be present at trial⁶⁷

International Law	Cambodian Law			
ICCPR	Constitution	CCPC	Law on Juvenile Justice	Law on Prisons ⁶⁸
Article 14(3)(d)	Article 38	Article 300	Articles 6 & 51	Article 62

<https://tinyurl.com/CCHR-FTR-report-2023>

⁶⁵ On 5 August 2025, CCHR’s team met with representatives from Battambang Court of Appeal and the General Prosecution attached to the Preah Sihanouk Court of Appeal to discuss the findings of CCHR’s trial monitoring.

⁶⁶ This data is based on the 88 cases monitored at this court in 2024.

⁶⁷ For more details on this right, see CCHR’s module “The right to be present at trial and the right to defend oneself in person or through legal representation” (September 2022), <https://tinyurl.com/ytxdtk4>

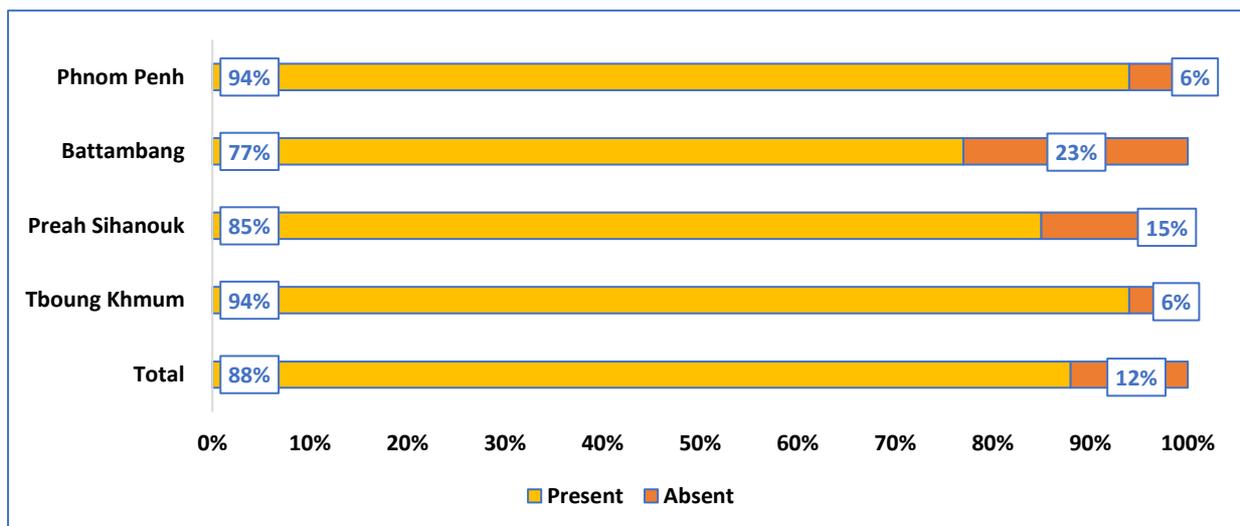
⁶⁸ Law on Prisons (2011), <https://tinyurl.com/37eyeh3t>

Trials must be held in the presence of the accused, as it allows them to hear and challenge the evidence against them and present a defense.⁶⁹ In cases concerning children, the hearing should take place in the presence of “legal or other appropriate assistance” and their parents, legal guardians or caregivers, unless it is considered that it is not in the child’s best interest for them to be present, or based on the child’s request not to be present.⁷⁰

The right to be present at trial is applicable to appeal proceedings, if they involve questions of both fact and law, as is the case in Cambodia.⁷¹ Trials *in absentia* are permissible under international human rights law in exceptional circumstances and when it is in the interest of the proper administration of justice.⁷² However, cogent justification must be provided and the accused must have unequivocally waived their right to appear at trial.⁷³

In 2024, 88% (721 out of 822) of the defendants involved in the monitored trials were present at their hearings, an increase from 81.6% in 2023. The right to be present at trial was fully respected at three out of the four target courts during the Reporting Period, with Battambang just short of the 80% threshold for the right to be classified as fully respected. This is promising progress for the overall respect of this right by the target courts going forward.

Figure 12: Percentage of cases where the defendant was present at trial, by target court⁷⁴



Phnom Penh Appeal Court

Since 2017-18, the Phnom Penh Appeal Court has consistently upheld the right to be present at trial, with 2024 being no exception. The percentage of defendants who were present at their hearings reached 94% (343 out of 365), up from 81% in 2023. This represents a commendable return to, and

⁶⁹ ICCPR, Art. 14(3)(d)

HRC, General Comment 32, para. 36.

⁷⁰ CRC Committee, General Comment 24, para. 63, 56.

⁷¹ UNHRC, Communication 387/1989, *Karttunen v. Finland* (23 October 1992) CCPR/C/46/D/387/1989, para. 7.3 <https://tinyurl.com/267vaeud>

⁷² UNHRC, General Comment 32, para. 36.

⁷³ UNHRC, Communication 016/1977, *Mbenge v. Zaire* (25 March 1983) CCPR/C/18/D/16/1977, para. 14.1, <https://tinyurl.com/2e7vba3k>

UNHRC, General Comment 32, para. 36.

⁷⁴ This data is based on the total number of defendants (822 individuals) involved in the 582 cases monitored in 2024.

improvement on, the Court’s strong performance on this right in 2019-2020, when defendants were present at 90.2% of trials monitored.

This significant improvement indicates that the issues previously cited as contributing to the absence of defendants from trials – logistical issues and communication problems between the Court and places of detention – would seemingly indicate that efforts have been made to resolve such issues. Previously, the Court had reported that on many occasions the transportation of defendants didn’t occur as either the Court sent information to the wrong correctional centers, or because the centers failed to keep the Court updated about prisoner transfers. This may be addressed by improving record keeping and communication between the Court and places of detention. In consultation with CCHR, the Court asserted that it could hear cases without the presence of the accused if their lawyers are present, if the appeal request is not considered valid, if the appeal request is made by the prosecution, or if the case has been pending before the Court for a long time and a party requests the judges to adjudicate it without the presence of the accused.⁷⁵

Figure 13: Evolution of the percentage of cases where the defendant was present at trial, Phnom Penh Appeal Court (2014-2024)⁷⁶

Was the defendant present at trial?	Yes	No
2014/2015	79.0%	21.0%
2016/2017	72.4%	27.6%
2017/2018	82.5%	17.5%
2018/2019	80.7%	19.3%
2019/2020	90.2%	9.8%
2021	83.1%	16.9%
2022	81.8%	18.2%
2023	81.5%	18.5%
2024	94.0%	6%

Battambang Appeal Court

⁷⁵ Letter No. 431/21 issued on 12 October 2021 by the Phnom Penh Court of Appeal in response to the findings of CCHR’s 2019/2020 Report on Fair Trial Rights.

⁷⁶ This data is based on the 129 defendants present at trial out of the 161 defendants involved in the 128 cases monitored in 2014/2015; the 404 defendants present at trial out of the 558 defendants involved in the 340 cases monitored in 2016/2017; the 260 defendants present at trial out of the 315 defendants involved in the 213 cases monitored in 2017/2018; the 284 defendants present at trial out of the 352 defendants involved in the 239 cases monitored in 2018/2019; the 230 defendants present at trial out of the 255 defendants involved in the 203 cases monitored in 2019/2020; the 98 defendants present at trial out of the 118 defendants involved in the 85 cases monitored in 2021; the 288 defendants present at trial out of the 352 defendants involved in the 257 cases monitored in 2022; the 375 defendants present at trial out of the 460 defendants involved in the 336 cases monitored in 2023 and the 343 defendants present at trial out of the 365 defendants involved in the 276 cases monitored in 2024.

Concerningly, in continuation of the regression on respect for this right from 2022 to 2023, the Battambang Appeal Court further regressed in ensuring the presence of defendants at trial in 2024. During the Reporting Period, defendants were present at trial in 77% of cases monitored (224 out of 290), down from 82% in 2023 and 91% in 2022. This discouraging regression also places the Court below the 80% threshold for classifying that the right to be present at trial has been respected. CCHR recalls that in 2022, the Deputy President of the Court asserted that the Court takes the issue seriously, as the presence of defendants at hearings is a critical component of access to justice, and that the Court requires all defendants be present, including those who have requested not to attend.⁷⁷ Given this regression over the past three years, the Court must ensure this stated commitment is acted on, to ensure this right of defendants is duly respected.

In August 2025, representatives from the Battambang Court of Appeal and General Prosecution attached to the Battambang Court of Appeal asserted that the court endeavors to uphold the rights of defendants to be present at trial and avoid issuing default judgments, which leads the Court to take further time to proceeding the defendant's appeal against the default judgment. They noted that when a defendant is absent, the trial may only proceed with the consent of the other parties involved. If such consent is not granted, the hearing is delayed. However, prolonged delays can negatively impact the defendant's right to be tried without undue delay. In some cases, the representatives contended, the defendant's absence is due to their own actions or concerns about arrest, despite the Court issuing multiple summonses. In such instances, the representatives stated, the Court is not responsible, and that the Code of Criminal Procedure allows proceedings to continue without the defendant's presence. The representatives recommended that CCHR review its methodology on assessing the right to be present at trial.⁷⁸

Preah Sihanouk Appeal Court

In 2024, the Preah Sihanouk Appeal Court maintained its 2023 record of upholding the right to be present at trial, with defendants present at 85% of the trials monitored (35 out of 41). This was a slight regression from 2023 however, when this figure stood at 90%. Despite the regression, this is still an encouraging rate, considering that in 2022 defendants were present at 74.7% of trials monitored by CCHR.

Tboung Khmum Appeal Court

The Tboung Khmum Appeal Court had the strongest performance of the four courts in 2024 on the right to be present at trial, with defendants present at 94% of the trials monitored. Not only is this the highest rate of the four, it is also the most significant improvement, up from its rate of 73% in 2023, when the right was classified as not having been respected and it had the lowest performance amongst

⁷⁷ On 15 December 2022, CCHR's Fair Trial Monitoring Team met with representatives from the Battambang Court of Appeal and the General Prosecution attached to the Battambang Court of Appeal in order to discuss the findings of its trial monitoring activities.

⁷⁸ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the General Prosecution attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

the four courts. Tboung Khmum Court and General Prosecution representatives had emphasized the fundamentality of the right in 2023 during consultation with CCHR, and noted that the Court routinely summonses the defendants charged to appear at the hearing, however some decide to waive this right for various reasons.⁷⁹ The Court also noted that it makes considerable effort to ensure the presence of the defendant, such as issuing numerous summonses, allowing for trial delays and conducting trials in absentia when necessary.⁸⁰ Given the significant improvement in the number of defendants present at trial in 2024, continued efforts to respect this right going forward are encouraged.

4.3. Right to be tried without undue delay

International Law	Domestic Law
ICCPR	Law on Juvenile Justice
Article 14 (3) (c)	Article 57

Article 14(3)(c) of the ICCPR guarantees every individual charged with a criminal offense the right to be tried without undue delay, expeditiousness being an essential aspect of the fairness of a trial.⁸¹ As far as adult defendants are concerned, Cambodian law does not contain any provisions that create a time limit for Appeal Courts have to hold an appeal hearing once the appeal has been lodged. Regarding children however, article 57 of the Law on Juvenile Justice states that appeals lodged on behalf of children in conflict with the law shall be heard within three months, unless there is an external obstacle outside the control of the Court. For the purpose of this analysis, CCHR considers the right to be tried without undue delay as being respected if the hearing took place less than six months after the appeal was received by the target courts.

Figure 14: Time between the reception of the appeal and the appeal hearing in the cases monitored, by target court⁸²

Duration	Phnom Penh AC	Battambang AC	Tboung Khmum AC	Preah Sihanouk AC	Total
Less than 6 months	206	172	48	30	456
6 months to 1 year	34	8	3	1	46

⁷⁹ On 18 September 2023, CCHR’s Fair Trial Monitoring Team met with representatives from the Tboung Khmum Court of Appeal and the General Prosecution attached to the Tboung Khmum Court of Appeal to discuss the findings of its trial monitoring activities.

⁸⁰ On 8 August 2024, the CCHR team met with the representatives from Tboung Khmum Court of Appeal and General Prosecution attached to Tboung Khmum Court of Appeal to present the findings of the report from its trial monitoring.

⁸¹ HRC, General Comment 32, para. 27.

⁸² This data is based on the 582 cases monitored in 2024.

>1 to 2 years	11	0	1	2	14
>2 to 3 years	7	0	0	0	7
Over 3 years	7	0	0	0	7
Data not available	11	2	36	3	52
Total	276	182	88	36	582

Phnom Penh Appeal Court

Hearings at the Phnom Penh Appeal Court took place less than six months after the appeal was received in 77.7% of monitored cases (206 out of 265). This is an improvement on the previous year, when this figure stood at 61.9%. Whilst this improvement is encouraging, it is not sufficient to classify the right to be tried without undue delay as being respected, making 2024 the third consecutive year that the right was not upheld by the Phnom Penh Appeal Court. It is also the lowest rate of the four target courts. Further concerning is that in 11 cases the defendant had to wait 1-2 years for their appeal hearing, seven defendants had to wait 2-3 years and most concerning, a further seven defendants had to wait more than three years. Such delays place defendants in a legal limbo and hinder their full exercising of their rights, regardless of whether they are in detention or not. In consultation with CCHR, representatives of the court noted that some of the delays were due to complaints by defendants sentenced in absentia – an issue of concern in and of itself – and that the court had been prioritizing cases involving children in conflict with the law, cases with light prison sentences, cases appealed by the prosecutions, and cases involving traffic incidents.⁸³ Though the Court has seemingly made some progress, more concerted efforts are evidently needed in order to expedite the appeals process for defendants.

Battambang Appeal Court

The hearing took place less than six months after the appeal was received in 95.5% of the cases monitored by CCHR at the Battambang Appeal Court in 2024 (172 out of 180). Whilst this is a commendable rate and the highest across the four courts, it also represents a continuation of the year-on-year similarity on this right by the Battambang Court, down from 95.3% in 2023 and 96.4% the year prior. In previous consultations with CCHR, representatives from the Court and the General Prosecution noted that the factors that delay the appeal hearings include requests for delays by the accused or defense lawyers, complaints against default judgments, and instances where the accused did not receive court notifications.⁸⁴ Whilst the high rate is still commendable, and the right has been upheld by the Court, due attention should be paid so as to ensure this regressive trajectory does not continue.

⁸³ On 4 November 2024, the CCHR team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR's trial monitoring activities.

⁸⁴ On 25 July 2024, the CCHR team met with the representatives from Battambang Court of Appeal and General Prosecution attached to this court to present the findings of the report from its trial monitoring.

Preah Sihanouk Appeal Court

Whilst the hearing took place less than six months after the appeal was received in 90.9% of cases monitored at Preah Sihanouk Appeal Court (30 out of 33), this represents a significant regression from the rate of 95.3% achieved by the Court in 2023. In one case, the defendant waited between 6-12 months for their appeal and in two cases the defendants were required to wait 1-2 years for their appeal hearing. Representatives from the Appeal Court and General Prosecution attached to the Preah Sihanouk Appeal Court previously affirmed in consultations with CCHR that trials for defendants in detention are always expedited, with encouragement and support from the Ministry of Justice.⁸⁵ However, some cases may experience delays due to factors such as defendants not being in custody, complaints against default judgments, or defendants failing to appear in court despite multiple summonses. Whilst these regressions are not enough to classify the right as not being respected, increased efforts are evidently needed to prevent the further regression in the rate of carrying out appeal hearings without undue delay.

Tboung Khmum Appeal Court

The Tboung Khmum Appeal Court made significant progress in improving the number of hearings that take place less than six months after the appeal was received, increasing to 92% from 83.3% in 2023. This is a commendable improvement in ensuring defendants can proceed with their appeal in a timely manner, and efforts must be made to maintain this rate in order to ensure the right is duly respected.

4.4. Right to the presumption of innocence

International Law	Cambodian Law	
ICCPR	Constitution	Law on Juvenile Justice
Article 14(2)	Article 38	Article 5

The presumption of innocence is a fundamental and universally recognized fair trial right that applies throughout the entirety of the process, from the criminal investigation and trial proceedings, up to and including the end of the final appeal.⁸⁶ In accordance with this right, an individual is presumed innocent until proven guilty by law and through a final ruling. That the burden of proof is vested in the prosecuting body and not the accused, stems from the presumption of innocence.⁸⁷ Even if the accused remains silent and presents no evidence, they must still be acquitted if the prosecution has failed to provide evidence reaching the requisite burden of proof for a conviction – it is not the

⁸⁵ On 13 August 2024, the CCHR team met with the representatives from Preah Sihanouk Appeal Court and General Prosecution attached to Preah Sihanouk Appeal Court to present the findings of the report from its trial monitoring.

⁸⁶ OHCHR 'The Right to a Fair Trial (Part I), Chapter 6', p. 219, <https://tinyurl.com/35w2rrm6>; Amnesty International, 'Fair Trial Manual' (2014), p. 125, Section 15.1.

⁸⁷ HRC, General Comment 32, para. 30.

responsibility of the accused to prove their innocence, such innocence is presumed as a fundamental baseline.⁸⁸

A number of factors can be considered to assess whether a defendant's right to the presumption of innocence has been upheld. Factors that may undermine the presumption of innocence are attributes of guilt attached to the accused during the trial, such as shackles, handcuffs, cages or prison uniforms.⁸⁹ International best practice in criminal justice indicates that defendants should be allowed to wear their own clothing when appearing in court, as a marker of their dignity and their status as an innocent person.⁹⁰ When a defendant is forced to attend their hearing in the uniform of a convicted person, the implication is that they are a guilty criminal, which risks affecting – consciously or subconsciously – the judgement of the presiding judge or judges, the manner in which proceedings are conducted, and ultimately the outcome of the case.

The 2015 UN Standard Minimum Rules for the Treatment of Prisoners (“The Nelson Mandela Rules”), which represent internationally recognized best practices for the treatment of prisoners, provides that untried prisoners should be allowed to wear their own clothing at trial or if they wear prison uniforms, they must be different from those of convicted prisoners.⁹¹ Similarly, defendants tried by the ECCC were permitted to wear their own clothes at all stages of the criminal process until a final conviction was reached.

In Cambodia, the issue of defendants appearing in court in prison uniforms falls within the responsibility of the General Department of Prisons. The uniform to be worn by prisoners is set out in Prison Procedure No. 5 (4.1), ‘Prisoner Uniforms and Cell Equipment’ of the 2003 Prison Procedure of the Ministry of Interior: “Admitting officers are to ensure that when a convicted person is admitted to prison, he/she is provided with the following uniform items and cell equipment: two blue cotton shirts with a white stripe around the collar; two pairs of blue cotton trousers with a white stripe down each outside leg.” A 2013 *Prakas* dictated that persons who have not been convicted, or whose convictions are not yet final but who are detained by the authorities, will wear a dark orange uniform.⁹² While the provision of different uniforms for convicted persons and those whose convictions are not yet final is a relative improvement, in order to ensure that the right to be presumed innocent is fully respected, all defendants whose convictions are not yet final should be able to wear their own clothes to court.⁹³ That defendants whose conviction is not yet final appear before the court in convict uniforms is contrary to the Constitution, the 2013 *Prakas*, and Prison Procedure No.5. It is also inconsistent with international human rights law, which guarantees the right to the presumption of innocence, and

⁸⁸ For more details, see CCHR’s module “The right to the presumption of innocence and the right to remain silent” (September 2022), <https://tinyurl.com/4mj9dmre>

⁸⁹ HRC, General Comment No.32, para 30, ECtHR, *Samoila and Cionca v. Romania* (4 March 2008) App no. 33065/03, paras 99-101, <https://tinyurl.com/yaebnffc>

⁹⁰ CCHR, *Fair Trial Rights Newsletter: Prisoner Uniforms and the Presumption of Innocence* (2017), <https://tinyurl.com/FTR-Prison-Uniforms-2017>

⁹¹ UN General Assembly, ‘UN Standard Minimum Rules for the Treatment of Prisoners,’ Resolution 70/175 (17 December 2015), Rule 19: Clothing and Bedding <https://tinyurl.com/3hrbhupp>

⁹² Phnom Penh Post, *Suspects to wear saffron*, 16 October 2013 <https://web.archive.org/web/20131018080921/https://www.phnompenhpost.com/national/suspects-wear-saffron>

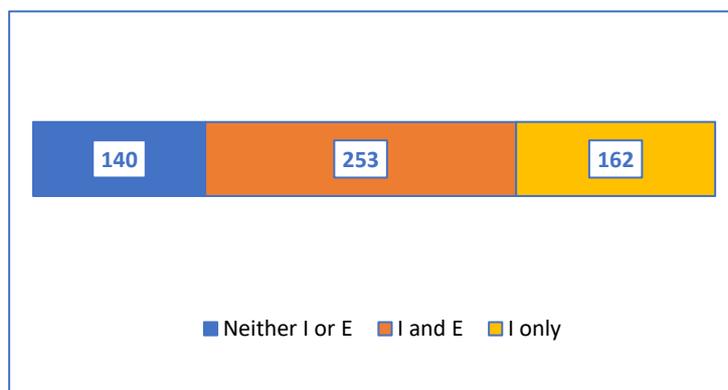
⁹³ CCHR, *Newsletter on the right to the presumption of innocence: uniform for prisoners*, December 2024 <https://www.cchrcambodia.org/en/publications/factsheets/newsletter-on-right-to-presumption-of-innocence-uniform-for-prisoners>

international standards such as the Mandela Rules, specifically Rule 19 which covers clothing and bedding.

Other elements of this right include whether the defendant was duly informed of their right to remain silent, whether an inference of guilt was drawn as a result of the defendant’s silence, and any statements by the judge prior to the verdict about the guilt of the defendant. Regarding the right to remain silent, Cambodian law places this responsibility on investigating judges during the notification of placement under examination.⁹⁴ However, CCHR encourages appeal judges to systematically follow the good practice of not only informing but also explaining this right to defendants, so as they can then make an informed decision about speaking during the trial.

These four factors – handcuffing, prison uniforms, informing and explaining the right to remain silent and inferences or statements of guilt by the judge - were considered in the cases monitored at each of the four target courts by CCHR’s Trial Monitors in order to assess whether the right to the presumption of innocence was upheld. Across the four target courts there was relative improvement on respecting this right, with two out of the four doing so, in contrast to 2023 whereby only the Preah Sihanouk Appeal Court did so. It is worth noting that no courts did so in 2022. Overall, there were no recorded instances from any of the four target courts of defendants being handcuffed throughout the hearing. Nor were there any incidents recorded by CCHR’s Trial Monitors of the judge either inferring guilt from the defendant’s silence, or making any statement about the defendant’s guilt prior to the delivery of the verdict. Across the four target courts, in 25% of cases monitored by CCHR (140 out of 555) the judge neither informed nor explained to the defendant their right to remain silent. Whilst this is an improvement since 2023, when this was the case for 34% of the trials CCHR monitored, it still represents a concerning proportion of cases where defendants were not made aware of a right that is central to the presumption of innocence afforded to them.

Figure 15: Number of defendants where the judge informed (I) and explained (E) their right to remain silent⁹⁵



On the issue of prison uniforms, whilst CCHR advocates for the target courts to adopt international best practice of allowing defendants to wear their own clothes – and as was the case for defendants facing trial before the Extraordinary Chambers in the Courts of Cambodia (ECCC) – it considers the right to be upheld in this regard if the defendant is wearing the dark orange

uniform designated for court. On this aspect of the right to the presumption of innocence, there was an overall improvement in the number of defendants wearing the dark orange uniform rather than the blue uniform worn by convicted persons in prison. In 2024, CCHR recorded that in 29% (187 out of 643) of the cases it monitored across the four target courts, the defendants subjected to pre-trial detention wore the blue prison uniform, a slight improvement on 2023 when this stood at 36.5%. All

⁹⁴ CCPC, Art. 143.

⁹⁵ This data is based on the 721 defendants out of 822 were present at the hearing.

of the remaining defendants who were being held in pre-trial detention wore the dark orange uniforms. It is worth noting that whilst this improvement is welcomed, there was significant disparity across the four target courts in upholding this right, with two out of four doing so. This is an improvement on 2023, when only one court was found to respect the right to the presumption of innocence. Nonetheless, priority should be given to civilian clothes in order to fully uphold this right in accordance with best practice.

Figure 16: Respect for the right to the presumption of innocence, by target court⁹⁶

Duration	Phnom Penh AC			Battambang AC			Tboung Khmum AC			Preah Sihanouk AC		
	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A	Yes	No	N/A
Was the defendant handcuffed throughout the hearing?	0	311	54	0	200	90	0	103	23	0	29	12
Were any statements made by the judge about the guilt of the defendant prior to the delivery of the verdict?	0	365	0		290	0	0	126	0	0	41	0
Was there anything to suggest that the judge drew an inference of guilt from the silence of the defendant?	0	343	22	0	215	75	0	118	8	0	35	6

Phnom Penh Appeal Court

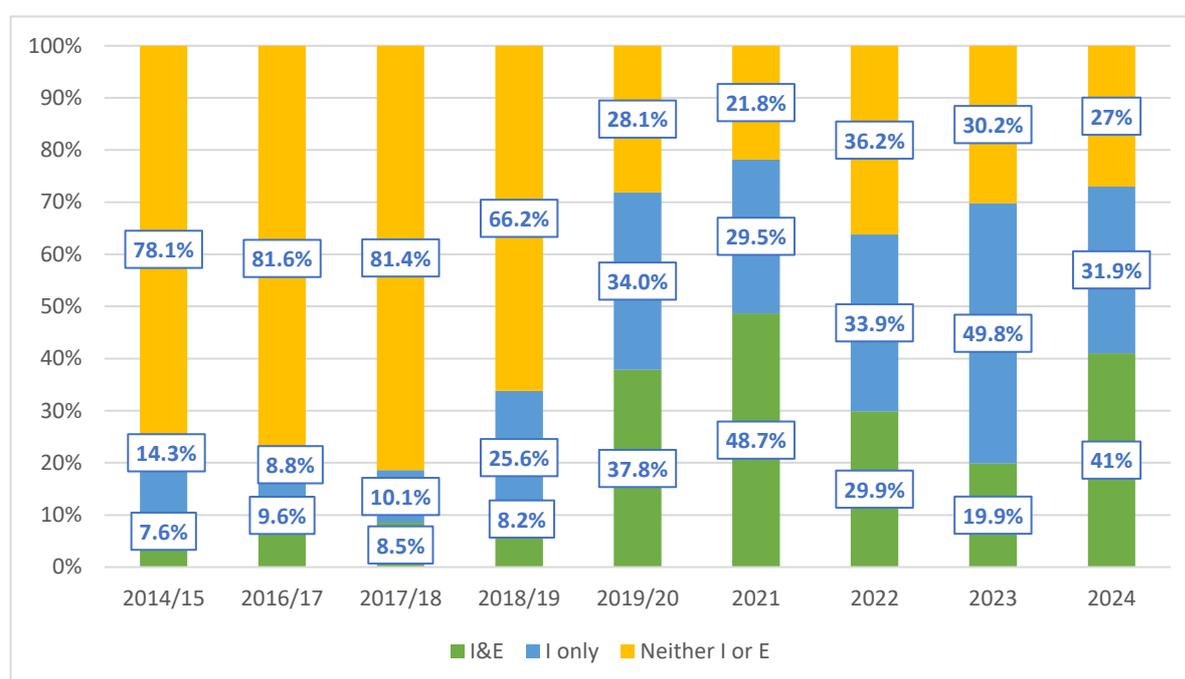
In 41% of cases (110 out of 266) monitored at the Phnom Penh Appeal Court in 2024, the judge both informed and explained the defendant their right to remain silent, an improvement on 2023 when this was done in just 19% of the cases CCHR monitored. It is possible that this improvement is due in part to the Court implementing some of the changes it had previously stated it would, when in consultation with CCHR. In 2023, representatives from the Phnom Penh Appeal Court and the General Prosecution

⁹⁶ This data is based on the total number of defendants (822 individuals) involved in the 582 cases monitored. N/A = The defendant was either absent or were not imprisoned.

attached to it acknowledged that judges at times fail to inform defendants of this right, and that it would instruct judges to do so on a systematic basis going forward.⁹⁷

For the first time in a number of years, the Phnom Penh Appeal Court reached the threshold for upholding the right to the presumption of innocence, with 96% of defendants (300 out of 311) appearing in the dark orange uniform. This is a commendable improvement by the Court, considering that in 2023 this figure stood at 76%. In consultations with CCHR in 2020, representatives of the Court had previously claimed that the issue of prison uniforms did not fall under its purview, and rather was the responsibility of the General Department of Prisons.⁹⁸ In 2023 it informed CCHR it would follow up with the General Department of Prisons on the matter.⁹⁹

Figure 17: Evolution of the percentage of relevant cases where the judge informed (I) and explained (E) to defendants their right to remain silent at the Phnom Penh Appeal Court (2014-2024)¹⁰⁰



Whilst welcoming this progress and the efforts made to achieve it, continued progress is encouraged, as whilst the 11 cases where defendants wore a blue prison uniform is a small proportion of the overall number, each still represents a case where the right to the presumption of innocence was violated, and with potential consequences for the ultimate outcome of each such individual case. This

⁹⁷ On 16 November 2023, CCHR representatives met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR’s trial monitoring activities.

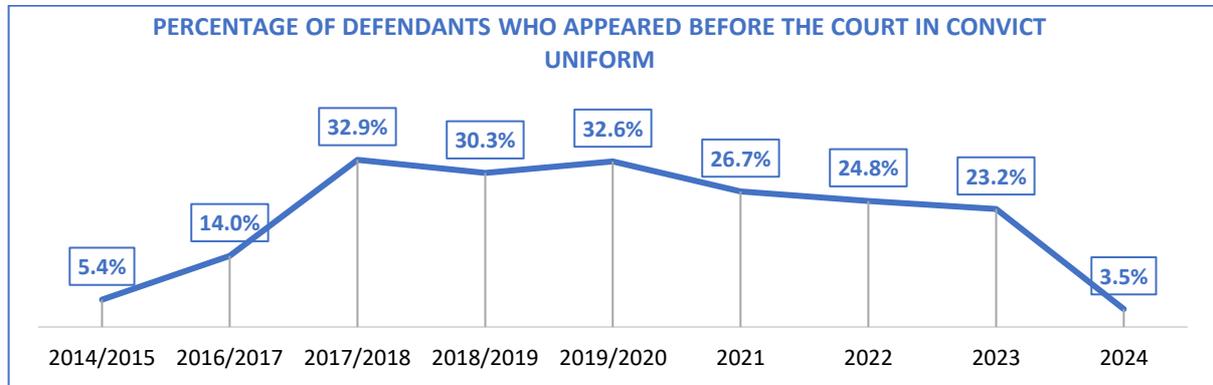
⁹⁸ On 13 August 2020, CCHR team met the President and Deputy President of Court of Appeal, the General Prosecutor and Deputy General Prosecutor to Court of Appeal, and the General Secretary and Deputy General Secretary of Court of Appeal in Phnom Penh, to discuss the findings of CCHR’s 2018/2019 Report on Fair Trial Rights.

⁹⁹ On 16 November 2023, CCHR team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR’s trial monitoring activities.

¹⁰⁰ The data presented in this table is based on the number of cases in which the defendants attended the monitored hearings during each reporting period.

underscores the fundamentality of upholding the right to the presumption of innocence in each and every case, particularly critical at the appeal stage.

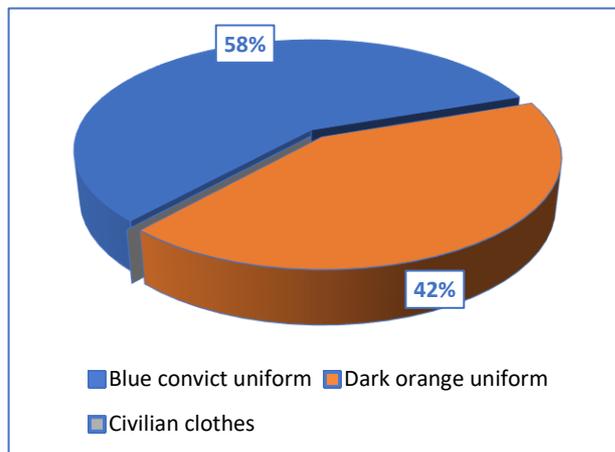
Figure 18: Percentage of defendants who appeared before the Phnom Penh Appeal Court in blue convict uniform (2021-2024)¹⁰¹



Battambang Appeal Court

At the Battambang Appeal Court, the judge informed and explained the right to remain silent to the defendant in 59% of cases (101 out of 172), a notable regression from the previous year when judges did so in 70% of the cases monitored. This is a disappointing reversal of the positive progress Battambang had made in 2023, when it achieved the highest rate amongst the four target courts with regard to informing and explaining the right to remain silent to defendants.

Figure 19: Clothing worn by defendants subject to pre-trial detention before the Battambang Appeal Court¹⁰²



Concerningly, defendants in pre-trial detention at the Battambang Appeal Court appeared in the blue prison uniforms in 58% of cases monitored by CCHR (116 out of 200). Whilst this is indicative of some progress on the year prior, when blue prison uniforms were worn by defendants in a discouraging 65.1% of the cases monitored. The fact that such a high percentage of defendants wore blue uniforms at their hearings for a second consecutive year is particularly troubling. As mentioned earlier, this

conveys the message that they are guilty prior to the delivery of the verdict, potentially introducing a bias that could influence the trial outcome in their disfavor.

Such an outcome justifies classifying the right as not having been upheld, for the third year in a row. In a meeting with CCHR, representatives from the Court noted that they had security concerns about

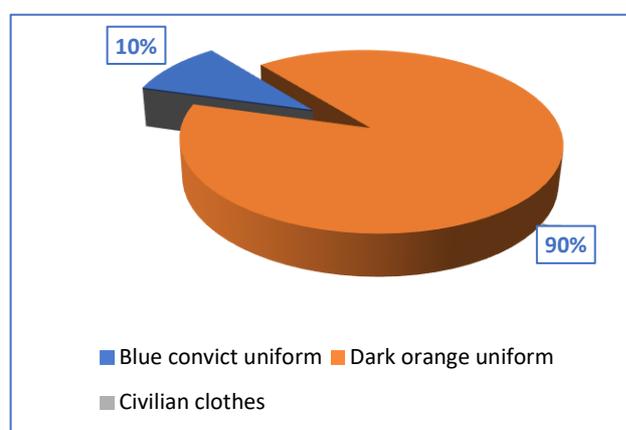
¹⁰¹ The data presented in this chart is based on the number of defendants subject to pre-trial detention who attended the hearings monitored at the Phnom Penh Appeal Court during each reporting period.

¹⁰² The data presented in this chart is based on the number of defendants subject to pre-trial detention who attended the hearings monitored at the Battambang Appeal Court in 2024 (290).

defendants wearing their own clothes to trial.¹⁰³ Significant efforts must be undertaken to ensure defendants appear in court in the dark orange uniforms at the very least, to ensure they may enjoy their critical right to the presumption of innocence. In August 2025, representatives from Battambang Court of Appeal and Prosecution General attached to the Battambang Court of Appeal submitted that defendants wearing convict uniforms in the courtroom are not under the court’s responsibility, but rather fall under the competence of the General Department of Prisons. They noted that while some prisons follow good practice by bringing accused individuals in orange uniforms, others have not adhered fully. The Court plans to engage with those prisons to ensure that accused persons are not brought to trial in convict uniforms. Additionally, they recommended that CCHR engage in discussions with the General Department of Prisons on this matter.¹⁰⁴

Preah Sihanouk Appeal Court

Figure 20: Clothing worn by defendants subject to pre-trial detention before the Preah Sihanouk Appeal Court¹⁰⁵



The Preah Sihanouk Appeal Court had a concerning performance regarding the informing of and explaining to defendants their right to remain silent. Judges at the court neither informed or explained this right in 91% of cases, a regression on 2023 when this figure was 86%. This has concerning implications for defendants’ knowledge and understanding of their right to remain silent during their trial, in turn potentially informing their participation and running the risk of self-incrimination. In

merely 6% of cases (2 out of the 32) did the judge inform the defendant of this right, at a minimum. In previous consultations with CCHR, representatives of the Preah Sihanouk Appeal Court have asserted that defendants are typically informed of their rights at the Court of First Instance.¹⁰⁶ Whilst this may be the case, it should not be assumed that defendants will be aware that this right also applies in appeal, or that they have been informed and explained the right in the first place. In August 2025, representatives of the Preah Sihanouk Court of Appeal contended that when defendants exercised their right to remain silent, it made it difficult for the court to adjudicate the case due to insufficient information.¹⁰⁷

¹⁰³ On 23 October 2024, CCHR team met with representatives from the Battambang Court of Appeal and the General Prosecution attached to the Battambang Court of Appeal to discuss the findings of CCHR’s trial monitoring activities.

¹⁰⁴ On 12 August 2025, CCHR’s team met with representatives from Battambang Court of Appeal and the Prosecution General attached to the Battambang Court of Appeal to discuss the findings of CCHR’s trial monitoring.

¹⁰⁵ The data presented in this chart is based on the number of defendants subject to pre-trial detention who attended the hearings monitored at the Preah Sihanouk Appeal Court in 2024 (41).

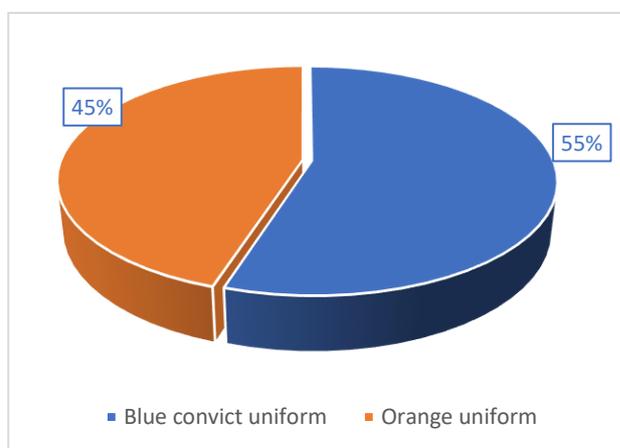
¹⁰⁶ On 13 August 2024, the CCHR team met with the Preah Sihanouk Court of Appeal and General Prosecution representatives to present the findings of the report on its trial monitoring.

¹⁰⁷ On 5 August 2025, the CCHR team met with the Preah Sihanouk Court of Appeal and General Prosecution representatives to present the findings of the report on its trial monitoring.

Despite this record regarding the right to remain silent, the Preah Sihanouk Appeal Court achieved another commendable performance regarding the number of defendants wearing the dark orange prison uniform during the trial, with 90% of defendants wearing it in the trials monitored by CCHR (26 out of 29). It is notable however that this constitutes a regression from 2023, when this figure stood at 98%. CCHR encourages the Preah Sihanouk Court to continue to uphold the right to the presumption of innocence, return to its previous high rate of providing defendants with the dark orange uniform, and work towards allowing defendants to wear civilian clothing. In March 2023, Court representatives told CCHR that they had instructed prison officials to facilitate defendants standing trial in civilian clothing,¹⁰⁸ seemingly not yet to any avail.

Tboung Khmum Appeal Court

Figure 21: Clothing worn by defendants subject to pre-trial detention before the Tboung Khmum Appeal Court¹⁰⁹



The Tboung Khmum Appeal Court made relative improvement on the issue of informing and explaining the right to remain silent to defendants, with judges doing both in 48% of cases. This is a substantial increase from 35% in 2023. This progress is a continuation of Tboung Khmum’s year-on-year progress on upholding this right, and so is encouraged to take the necessary measures to ensure this progress continues.

Regarding the wearing of blue prison uniforms however, the Court had another year of discouraging results. Defendants wore the blue prison uniforms in 55% of the trials monitored by CCHR during the Reporting Period. This is a concerning increase in the number of instances of defendants wearing this uniform, as in 2023 the figure stood at 49%. For the second consecutive year, this indicates that one in two defendants had their right to the presumption of innocence violated, is serious cause for concern.

In August 2024, representatives from the Tboung Khmum Court of Appeal and the General Prosecution stated that the court had already purchased civilian clothes to replace convict uniforms, but the practice had not yet been implemented.¹¹⁰ CCHR urges the Court to take the necessary measures to ensure that these civilian clothes can be used going forward in all cases before it, in order to ensure the upholding of this critical right for defendants.

¹⁰⁸ On 28 March 2023, CCHR’s Fair Trial Monitoring Team met with representatives from the Preah Sihanouk Court of Appeal and the General Prosecution attached to the Preah Sihanouk Court of Appeal in order to discuss the findings of its trial monitoring activities.

¹⁰⁹ The data presented in this chart is based on the number of defendants subject to pre-trial detention who attended the hearings monitored at the Tboung Khmum Appeal Court in 2024 (126).

¹¹⁰ On 8 August 2024, CCHR representatives met with the Tboung Khmum Court of Appeal and General Prosecution representatives to present the report’s findings from its trial monitoring.

4.5. Right not to be compelled to confess guilt or testify against oneself

International Law			Cambodian Law		
UDHR	ICCPR	CAT	Constitution	CCPC	Law on Juvenile Justice
Article 5	Article 14(3)(g) & Article 7	Article 15	Article 38	Articles 145 & 321	Articles 5 & 6

The right not to be compelled to confess guilt or testify against oneself, guaranteed under Article 14(3)(g) of the ICCPR, has a number of components.¹¹¹ Firstly, it means that no direct or indirect physical or psychological coercion must be used to compel a suspect of an individual facing criminal charges to provide evidence against themselves.¹¹² Secondly, this means that such individuals cannot be made to self-incriminate by testifying against themselves, and must not be made to provide evidence that could be used against them.¹¹³ The circumstances whereby an inference of guilt may be drawn by a judge based on an individual’s silence or decision not to testify against themselves, are restricted.¹¹⁴ A defendant’s exercising of the right to silence may not be used as the sole basis for a conviction, but may be taken into account when assessing the evidence adduced by the prosecution.¹¹⁵ In cases involving children in conflict with the law, international human rights law is more general, stating that they must not be compelled to “give testimony.”¹¹⁶

The other critical component of the right not to be compelled to confess guilt or testify against oneself is the absolute prohibition of torture and cruel, inhuman or degrading treatment or punishment. This right is enshrined in Article 7 of the ICCPR, Article 5 of the UDHR and Article 15 of the UN Convention Against Torture (CAT), which Cambodia acceded to on 15 October 1992. The prohibition of torture has long been considered a ‘peremptory norm’ in international law or *jus cogens*, meaning there are no circumstances in which it can be derogated from. No matter the context, no derogation is permissible, whether during times of conflict or for the purposes of national security, and no matter the status of the person, whether they be a convicted criminal or a suspected terrorist, there are no circumstances in which torture and other ill-treatment is justified. Furthermore, any statement or evidence that has been obtained through the use of coercion, torture or other ill-treatment must be discarded as

¹¹¹ For more details on this right, see CCHR’s module “The right not to be compelled to confess guilt or to testify against oneself” (September 2022), <https://tinyurl.com/8jv3ynni>

¹¹² HRC, General Comment 32, para. 41; HRC, Communication 912/2000, *Deolall v. Guyana* (1 November 2004), CCPR/C/82/D/912/2000, para. 5.1, <https://tinyurl.com/9ch8r85e>, HRC, Communications 1263/2004 and 1264/2004, *Khuseynova and Butaeva v. Tajikistan* (20 October 2008) CCPR/C/94/D/1263–1264/2004, para. 8.3, <https://tinyurl.com/3768t8cd>, ECCC, Kaing Guek Eav alias Duch (Case 001), Trial Chamber, (26 July 2010) para. 360.

¹¹³ ICCPR, Art. 14(3)(g), CRC, Art. 40(2)(b)(iv).

¹¹⁴ ECtHR, *Condron v. the United Kingdom* (2 May 2000) App no. 35718/97, para. 56, <https://tinyurl.com/yc4tphd8>;

ECtHR, *Beckles v. the United Kingdom* (8 October 2002) App no 44652/98, para. 58, <https://tinyurl.com/3bw72a74>

¹¹⁵ *Ibid.*

¹¹⁶ CRC, Art. 40(2)(b)(iv).

evidence.¹¹⁷ Rather, it may only be used as evidence that coercion, torture or other ill-treatment in fact occurred.¹¹⁸

As is well established in international human rights standards and practice, prompt access to a lawyer as soon as possible after an individual has been deprived of their liberty is a fundamental safeguard against the use of coercion, torture or ill-treatment against the detained individual.¹¹⁹ According to Cambodian domestic law however, specifically Article 98 of the CCP, “*after* a period of twenty four hours from the beginning of the police custody has expired, the detainee may request to speak with a lawyer or any other person who is selected by the detainee” (emphasis added). Such a provision is therefore incompatible with Cambodia’s obligations pursuant to international human rights law as it exposes the individual to risk of coercion, torture and or ill-treatment, as the initial 24-hour period of detention is the most critical for torture prevention, as it is when the individual is at their most vulnerable.¹²⁰ As stated by the UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “the existence of torture and ill-treatment in places of detention is not a chance occurrence; rather, it is fostered by legislative neglect and judicial inactivity that create a breeding ground for these practices”.¹²¹ The Subcommittee recommended that States parties to the Optional Protocol to the Convention against Torture - of which Cambodia is one since 2007 - comply with their obligation to adopt “effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”.¹²²

It is also worth recalling that in its Concluding Observations for its review of Cambodia in 2022, the Human Rights Committee expressed concern that whilst article 210 of the Criminal Code prohibits torture and acts of cruelty, it does not provide any legal definition of torture and ill-treatment.¹²³ The Committee also noted its concern regarding the inability the National Committee against Torture and

¹¹⁷ HRC, General Comment No.32, para. 41

¹¹⁸ Ibid.

¹¹⁹ HRC, General Comment no.32, §34 UN Committee Against Torture (UNCAT), General Comment no.2, CAT/C/GC/2, (24 January 2008) §13 <https://tinyurl.com/UNCAT-GC-2>, UNGA, ‘Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’, A/71/298, (5 August 2016) <https://tinyurl.com/UNSR-Torture-2016> ECtHR, *Salduz v. Turkey* (27 November 2008) 36391/02, para. 55, <https://tinyurl.com/ECHR-Salduz-v-Turkey>, African Commission for Human and Peoples’ Rights, ‘Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa’ (2003) M(1)(F) <https://tinyurl.com/ACHPR-Guidelines>, UNGA, ‘United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems: resolution / adopted by the General Assembly’, A/RES/67/187, (28 March 2013), <https://tinyurl.com/UNGA-Res-67-187>, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, ‘Access to a lawyer as a means of preventing ill-treatment’, CPT/Inf(2011)28-part1 (2011), <https://tinyurl.com/CPTAccessToLawyer>

¹²⁰ UN Human Rights Council, ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak’, A/HRC/13/39, (9 February 2010), §52 <https://tinyurl.com/UNSR-Torture-2010>, UNGA, ‘Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’, A/68/295, (9 August 2013), §73 <https://tinyurl.com/UNSR-Torture-rep-2013>, UN Human Rights Commission, ‘CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF TORTURE AND DETENTION’, E/CN.4/2003/68, (17 December 2002), §26(g) <https://tinyurl.com/HRC-Torture-2002>

¹²¹ UN Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ‘Provisional statement on the role of judicial review and due process in the prevention of torture in prisons, adopted by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment’, CAT/OP/2, (1 October 2012), §18 <https://tinyurl.com/CAT-OP-2012>

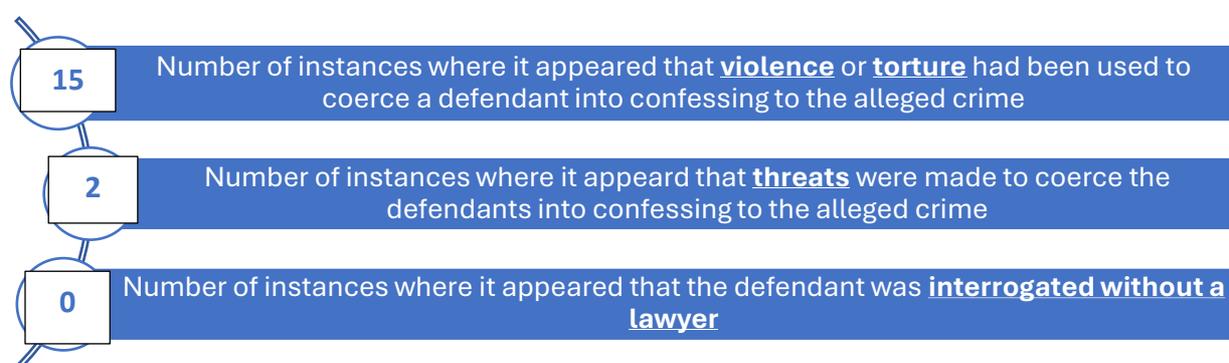
¹²² Ibid.

¹²³ Human Rights Committee (HRC), ‘Concluding Observations on the third periodic report of Cambodia (CCPR/C/KHM/CO/3), para. 22, <https://tinyurl.com/HRC-Concluding-Obs-2022>

Other Cruel, Inhuman or Degrading Treatment or Punishment to conduct visits to prisons and interview detainees, as well as its independence.¹²⁴ Furthermore, the Committee was also ‘deeply concerned about the serious allegations of torture and ill-treatment occurring in police custody and in other places of detention, which in some cases have resulted in death’.¹²⁵

During the Reporting Period, none of the 822 defendants indicated that they had been interrogated without their lawyer being present. This is the second consecutive year where no such cases were reported, an improvement on 2022 figures, when six such defendants were documented by CCHR. Out of the cases monitored in 2024, two defendants (out of 723) reported that they were threatened into giving a confession. This incident came from the Phnom Penh Appeal Court, which overall had a particularly concerning record during the Reporting Period for upholding this right. Overall, however, this is a welcome decrease on the 2023 figures, when there were five cases of defendants who had reported being subjected to threats (one each at Phnom Penh and Tboung Khmum and three at the Battambang Appeal Court).

Figure 22: The right not to be compelled to confess guilt or to testify against oneself¹²⁶



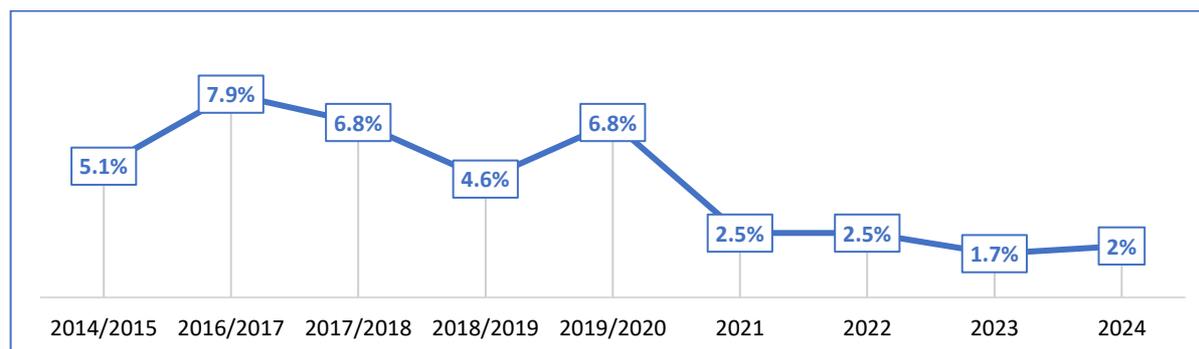
Quite concerningly, there were 15 defendants (2% of the 720 involved in cases where either the accused or their lawyer attended the monitored hearing) stated that they had been subjected to violence or torture for the purposes of obtaining a confession, during the investigations carried out by the judicial police. This reflects practically no change from 2023, when this figure stood at 1.7% (16 out of 919), or from 2022 when it was 2.5% (17 defendants). Whilst this number has decreased relatively since 2019-20, CCHR remains concerned by the continued reports of violence or torture being used against individuals in police custody, and also that this figure seems to have stagnated in recent years, seeing little reduction in the number of cases reported. This is particularly concerning, given that the prohibition of torture is absolute and its special status in international law as a peremptory norm.

¹²⁴ Ibid.

¹²⁵ HRC, ‘Concluding Observations’, para. 22

¹²⁶ This data is based on the total number of defendants (individuals) involved in the 582 cases monitored. N/A = Neither the defendant nor their lawyer was present, there was therefore no one to raise the issue.

Figure 23: Trends in defendants claiming police violence or torture to coerce confessions before the Phnom Penh Appeal Court (2014-2021) and the four target courts (since 2022)¹²⁷



International Human Rights Law Terminology:

- **Non-derogable right:** A right whose application cannot be suspended by governments in circumstances of a “state of emergency”, in accordance with Article 4 of the ICCPR.
- **Absolute right:** A right to which no restrictions are allowed.
- **Peremptory norm of general international law (jus cogens):** “A norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.”¹²⁸

Phnom Penh Appeal Court

In 2024, most allegations on the use of torture and violence in police custody were raised before the Phnom Penh Appeal Court, a change from 2023 when most of such cases were raised before the Preah Sihanouk Appeal Court. There were 11 defendants who reported having been subjected to torture and violence before the Phnom Penh Court, representing an almost tripling of the cases in 2023 (4). It is notable that in 2024, the only instances of defendants reporting that threats had been used against them were raised before the Phnom Penh Court only, not any of the other Appeal Courts. This indicates an overall disappointing performance regarding respect for the right not to be compelled to confess guilt or testify against oneself in the jurisdiction of the Phnom Penh Appeal Court.

In consultation with CCHR regarding its findings, representatives of the Phnom Penh Appeal Court alleged that defendants claim they were tortured in order to avoid criminal responsibility. It did state

¹²⁷ This data is based on the percentage of defendants who alleged that violence or torture were used to coerce them into confessing to the alleged crime before the Phnom Penh Appeal Court (until 2021); and on the percentage of defendants who alleged the same before the four target courts in cases where either the accused or their lawyer attended the monitored hearing (from 2022 onwards). Given that the Phnom Penh Appeal Court had jurisdiction over the entire country before the three provincial appeal courts began adjudicating cases in April 2020, figures up until the 2019/2020 reporting period can be considered as reflecting national trends. This is also applicable to figures from 2022 onwards, as CCHR started trial monitoring at the three provincial courts that year. The figure for 2021 is provided to avoid gaps in data and only reflects the situation in the provinces under the jurisdiction of the Phnom Penh Appeal Court.

¹²⁸ International Law Commission, ‘Report of the International Law Commission on the Work of its Seventy-first Session,’ Supplement No. 10 (A/74/10) (2019), para. 56, <https://tinyurl.com/42tkj27m>

however that in cases where defendants report being subjected to torture or violence, the Court of Appeal will re-investigate, where the Court of First Instance did not investigate the claims or take any actions. It also stated it would recommend the Court of First Instance to duly investigate reports by defendants of being subjected to torture and violence.¹²⁹

Battambang Appeal Court

The Battambang Appeal Court improved somewhat on its record from the previous year in 2024, with no reports of threats being used against defendants, following from three such defendants in 2023.¹³⁰ Unfortunately however, there was minimal year-on-year progress regarding the use of torture and violence against defendants, two defendants reported in 2024, down from three the year prior.

In August 2025, representatives from the Battambang Court of Appeal and the General Prosecution attached to the Court asserted that in their experience, defendants did not deny their confession during earlier stages of the legal process, including the prosecution, investigating judge, and trial at the Court of First Instance, however during the appeal hearing, defendants reversed their position, claiming that their confession had been coerced or obtained through torture by judicial police officers. They contended that the defendants did not provide evidence to support this claim. The Court representatives stated that they would summon judicial police officers for questioning in cases where the defendant had not denied their confession during the initial trial, but did so during their hearing at the Court of Appeal.¹³¹

Preah Sihanouk Appeal Court

In 2024 the Preah Sihanouk Appeal Court made some progress to improve its respect of the right not to be compelled to confess guilt or testify against oneself, with no cases of threats being used against defendants raised before the Court during the Reporting Period. Whilst there were still two defendants reporting having been subjected to torture or violence in police custody, this is a welcome decrease from the eight defendants reported in 2023.

Tboung Khmum Appeal Court

The only one of the four target courts to respect the right not to be compelled to confess guilt or testify against oneself, the Tboung Khmum Appeal Court did not receive any reports from defendants regarding threats being used against them, nor did they receive any regarding the use of torture or violence. This is a commendable record, improving on that of the previous year, when one defendant reported. The Court is encouraged to maintain this record and continue to fully respect this critical fair trial right.

¹²⁹ On 4 November 2024, the CCHR team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR's trial monitoring activities.

¹³⁰ CCHR, Annual Report on Fair Trial Rights in Cambodia (1 January to December 2023) p.44-45

¹³¹ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the Prosecution General attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

4.6. Professionalism of judges, prosecutors and lawyers

International Law	Cambodian Law		
ICCPR	Constitution	LSJP	Cambodian Code of Judicial Ethics
Articles 14(1) & 14(5)	Articles 128 & 132	Articles 8, 50 & 77	Articles 2 & 8

Guaranteed by Article 14(1) of the ICCPR, the right to be tried fairly by a competent, and impartial tribunal is a cornerstone of fair trial rights.¹³² Without respect for this right, all other fair trial rights become superfluous. Indeed, a tribunal that is not competent, and impartial is incapable of discharging its duty to ensure fair trials and to properly administer justice. Judges must therefore convey an image of professionalism at all times to appear competent, and impartial.

The extent to which the judiciary fulfills this obligation of impartiality has been cited as a point of concern by various UN human rights mechanisms, notwithstanding the efforts taken by the RGC to strengthen its independence.¹³³ As mentioned above, in the most recent Fourth Cycle of the UPR, Cambodia accepted three recommendations relating to the judiciary and its independence, an encouraging indication that the Government intends to continue working to tackle this issue.

In Cambodia, the conduct of judges is regulated by the LSJP and the Cambodian Code of Judicial Ethics, which require judges to remain free of any form of influence by the parties or any other persons, groups or institutions and to adjudicate cases with the utmost conscientiousness, respect, patience, politeness, and morality to provide fair justice to the parties. The Courts are therefore encouraged to dedicate adequate time to hearing cases in order to ensure that they are properly and thoroughly adjudicated, and that all the fair trial rights of the defendants are fully respected.

During the Reporting Period, and for the third consecutive year, no judges or prosecutors made discriminatory comments towards any party, including the defendants. Encouragingly, there were no instances reported of judges acting in an intimidating manner either. Across the four target courts overall however, it is encouraging that judges and prosecutors did not act in a discriminatory or inappropriate manner.

Regarding the use of electronic devices (smart phone, iPad, tablet etc.) by the judge, prosecutor or defense lawyer, there were eight in total. Three instances concerned judges, four related to prosecutors and one case concerned a defense lawyer. The Battambang Appeal Court had the worst

¹³² For more details on this right, see CCHR's module "The right to be tried by a competent, independent, and impartial tribunal" (September 2022), <https://tinyurl.com/3s3n2489>

¹³³ HRC, 'Concluding Observations', para. 32

record of the four target courts, with six out of these eight instances occurring there – two were by judges answering the phone briefly and hanging up, three were by prosecutors, with one concerningly conducting a conversation on the phone, and one was by a defense lawyer who briefly answered and hung up. This is a discouraging regression from 2023, when there were two cases of a judge and a prosecutor respectively using their phones during the proceedings.

The two cases documented at the Preah Sihanouk Appeal Court concerned one judge and one prosecutor, with the latter concerningly conducting a conversation. That there were no documented instances of defense lawyers using devices is an improvement on 2023 however, when one instance was reported. The Phnom Penh and Tboung Khmum Appeal Courts performed well on the issue of using electronic devices during the hearing, with no cases of any use by any actor reported at either, leading to the conclusion that the right to be tried fairly by a competent, and impartial tribunal was upheld at these two courts.

Regarding the length of a trial, as there is no technical standard as to the recommended length of a trial, given the number of variables involved, CCHR does not formally consider it as a determining factor when assessing whether the right to be tried by a competent, and impartial tribunal. However, it considers it still relevant to mention here, particularly given the concerningly short duration of the majority of the trials across the four target courts.

Figure 24: Length of monitored hearings, by target court¹³⁴

Overall

Hearing Length	15 mins or less	16 - 30 mins	31 mins – 1h	More than 1h	Total
Felony	71	76	46	21	214
Misdemeanor	168	101	62	27	358
Petty Offense	5	3	1	1	10
Total	244	180	109	49	582
Total in %	42%	31%	18%	8%	100%

Phnom Penh Appeal Court

Hearing Length	15 mins or less	16 - 30 mins	31 mins – 1h	More than 1h	Total
Felony	51	46	18	5	120
Misdemeanor	88	37	13	13	151
Petty Offense	2	2	1	0	5

¹³⁴ This data is based on the hearing length recorded for the 582 cases monitored in 2024.

Total	141	85	32	18	276
Total in %	51%	31%	12%	7%	100%

Battambang Appeal Court

Hearing Length	15 mins or less	16 - 30 mins	31 mins – 1h	More than 1h	Total
Felony	20	19	14	5	58
Misdemeanor	71	31	18	1	121
Petty Offense	2	1	0	0	3
Total	93	51	32	6	182
Total in %	51%	28%	18%	3%	100%

Preah Sihanouk Appeal Court

Hearing Length	15 mins or less	16 - 30 mins	31 mins – 1h	More than 1h	Total
Felony	0	5	2	5	12
Misdemeanor	4	11	4	4	23
Petty Offense	1	0	0	0	1
Total	5	16	6	9	36
Total in %	14%	44%	17%	25%	100%

Tboung Khmum Appeal Court

Hearing Length	15 mins or less	16 - 30 mins	31 mins – 1h	More than 1h	Total
Felony	0	6	12	6	24
Misdemeanor	5	22	27	9	63
Petty Offense	0	0	0	1	1
Total	5	28	39	16	88
Total in %	6%	32%	44%	18%	100%

As per the Human Rights Committee's guidelines, the right to have one's conviction reviewed by a higher tribunal imposes on the State party a duty to review *substantively*, both on the basis of

sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for *due consideration* of the nature of the case. Before deciding whether there is sufficient incriminating evidence to justify a finding of guilt, higher courts must look at the allegations against the defendant in *great detail* and consider the evidence submitted at the trial and referred to in the appeal.¹³⁵ Whilst it is accepted that there are no set standards, it is worth reflecting that hearings that last less than 30 minutes, especially when they concern offenses punishable with imprisonment, can hardly provide an enabling environment in which the parties can fully exhaust their cases and the judges can substantially review the case.

At the Phnom Penh Appeal Court, 51% of hearings lasted merely 15 minutes or less (141 out of 276) and 31% lasted between 16-30 minutes. This represents effectively no change in two years, as in 2023 81% of cases lasted less than 30 minutes, and 81.3% in 2022. Of particular concern is the fact that of the 141 hearings that lasted 15 minutes or less during the reporting period, 36% were felonies, representing a regression from 2022 when this figure stood at 28%. In previous consultations with CCHR, Phnom Penh Court and General Prosecution representatives said hearings tend to be shorter when there is only one accused, when the defendant is absent or has already confessed to the crime, or when there is enough corroborative evidence to reach a decision without much debate.¹³⁶ The Court affirmed that hearings lasting 15 minutes or less were based on the case status, such as non-compliant appeal complaints, appeal withdrawals, absence of parties, or misdemeanor offenses.¹³⁷

Not far off the Phnom Penh Appeal Court's concerning record was that of the Battambang Appeal Court, with 51% of trials lasting 15 minutes or less and 28% taking just 16-30 minutes. Furthermore, of those trials lasting 30 minutes or less, 67% were for felony charges. This marks another year of a discouraging lack of progress for the Battambang Court, effectively maintaining its similar rate of 78% of hearings lasting 30 minutes or less in 2023 and 72% rate in 2022.

The Preah Sihanouk Appeal Court unfortunately regressed on its performance for the second year in a row. During the Reporting Period, 58% of the trials monitored by CCHR lasting 30 minutes or less, up from 55 % in 2023 and further increasing on the 2022 rate of 44.1%. However, the Preah Sihanouk Court achieved the highest rate across the four courts of hearings lasting more than one hour, 25% (9 out of 36).

The Tboung Khmum Appeal Court rendered the most encouraging record on the length of hearings out of the four target courts. Of the cases monitored by CCHR in 2024, 44% (39 out of 88) lasted between 31-60 minutes and 18% (16 out of 88) lasted more than one hour. There were however still five cases which lasted 15 minutes or less, 6% of the total, but welcomingly none of these cases were felonies. Disappointingly though, there were still six cases with felony charges that lasted just 16-30 minutes, particularly given that such cases tend to carry prison sentences.

¹³⁵ HRC, General Comment 32, para. 32.

¹³⁶ On 16 November 2023, CCHR's Fair Trial Monitoring Team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of CCHR's trial monitoring activities.

¹³⁷ Letter No. 706/24 issued on 1 August 2024 by the Phnom Penh Court of Appeal and General Prosecution attached to the Phnom Penh Court of Appeal in response to the findings of CCHR's 2023 Annual Report on Fair Trial Rights.

5. Fair Trial Rights Not Fully Respected

5.1 Right to a reasoned judgement

Cambodian Law
CCPC
Articles 357 & 403

The right to a reasoned judgement, as provided for in Cambodian law, guarantees that a criminal judgement rendered against an individual must explain why and how the verdict has been reached and why the individual was found guilty or innocent.¹³⁸ To do so, a verdict must sufficiently cover the facts of the case (date, location, actual events), the evidence relied on by judges to reach their verdict and an explanation for their reliance on it, the law (i.e. the crime and the mode of liability: direct perpetrator, accomplice etc.). The right to a reasoned judgement is inherent to the right to a fair trial, and is included in the right to a public judgement. A reasoned judgement is not only critical for protecting the accused against arbitrary judgements, but it also acts a safeguard to the fundamental right of appeal. In accordance with international human rights law, to effectively enjoy the right to have convictions and sentences reviewed by a higher tribunal, a convicted person is entitled to, within reasonable time, access to a written judgement which is duly reasons, for all instances of appeal.¹³⁹ In the Cambodian context, this is respected by both the accused and prosecution being able to petition the Supreme Court to review appeal rulings.

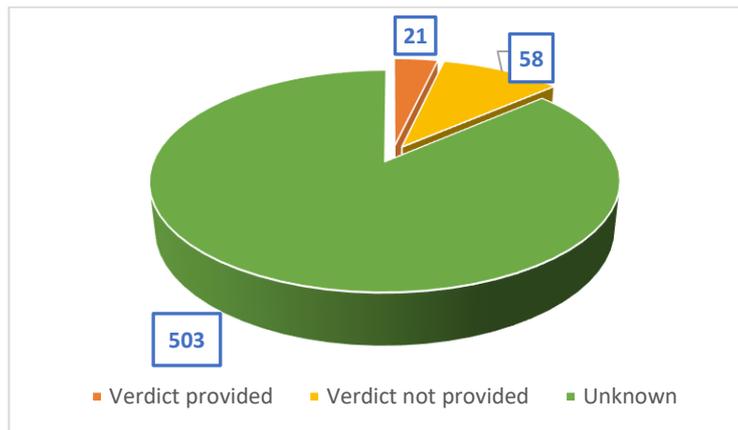
Of the verdicts that CCHR could follow across the four target courts, in 73% of them (58 out of 79) no detailed reasoning was provided by the judge as to how they reached their decision, only the announcement of the ruling. This represents a slight improvement since 2023, when this figure stood at 79.9%, and even the year prior when it stood at 80.9%. Whilst these incremental improvements are welcomed, they ultimately do not represent a significant change, and meaningful action must thus be taken to uphold this critical component of the right to a fair trial. In only 31% of cases overall (11 out of 35) was the defendant's lawyer present for the delivery of the verdict. Whilst this is an indisputably low rate still, it is an improvement on the previous year, when defense lawyers were present for the verdict in just 11% of cases (16 out of 144).

Figure 25: Percentage of monitored hearings where judges provided reasons for the verdict¹⁴⁰

¹³⁸ For more details on this right, see CCHR's module "The right to a public judgment and the right to a reasoned judgment" (September 2022), <https://tinyurl.com/5ssncyyv>

¹³⁹ HRC, General Comment No. 32, para. 49, HRC, Communication No. 320/1988, *V. Francis v. Jamaica* (24 March 1993), GAOR, A/48/40 (vol. II), para. 12.2, <https://tinyurl.com/275fa3sr>

¹⁴⁰ This data is based on the 582 trials monitored in 2024. I/U (unknown) means that the Trial Monitor was not present on the date of the verdict.



Phnom Penh Appeal Court

At the Phnom Penh Appeal Court there was a notable improvement in the provision of a reasoning for a verdict by judges. In 62.5% of cases (10 out of 16), the judge provided a reasoning for their judgement, up from 29.6% in 2023. This is a significant improvement by the Phnom Penh Appeal Court, which is encouraged to maintain and build upon this progress going forward. It indicates that the intention to take action on the issue, stated by representatives of the Court in November 2023, is potentially having an impact.¹⁴¹ The representatives had stated that judges would henceforth briefly state the reasons behind their verdict, so as to allow the accused to better understand their case. CCHR welcomes the fact that in 100% of cases before the Phnom Penh Appeal Court, the verdict was announced in public, the date of the verdict was announced during the appeal hearing, and the judge made reference to the relevant law and the evidence presented during the trial. There were also no cases reported of judges basing their verdict on evidence not included in the case file.

Battambang Appeal Court

At the Battambang Appeal Court, judges failed to provide reasoning for their verdict in a discouraging 86% of cases (51 out of 59), signifying practically no improvement since 2023, when this figure stood at 87%. CCHR highlights this as a priority area for the Court to focus on improving moving forward. Representatives of the Court have previously mentioned in consultations with CCHR that reading the entire judgement may be time consuming, and that a full copy is always shared with both parties.¹⁴² Whilst a written copy of the judgment is useful, it is important that the defendant can understand the reason for the verdict without delay, with an oral explanation being the most accessible medium for doing so. In a discouraging 25.5% of defendants (12 out of 47), the judge relied on a confession by the defendant as evidence. Whilst a confession can be considered by a judge whilst they are reviewing a case, it is worth noting that confessions should not be relied upon solely or disproportionately as they can be unreliable and may have been obtained through coercion or violence in order to obtain a confession. Rather, verdicts should be based on a consideration of the evidence presented before the

¹⁴¹ On 16 November 2023, CCHR’s Fair Trial Monitoring Team met with representatives from the Phnom Penh Court of Appeal and the General Prosecution attached to the Phnom Penh Court of Appeal to discuss the findings of its trial monitoring activities.

¹⁴² On 23 March 2023, CCHR’s Fair Trial Monitoring Team met with representatives from the Battambang Court of Appeal and General Prosecution attached to the Battambang Court of Appeal in order to discuss the findings of its trial monitoring activities.

court in the case file. In August 2025, representatives from the Battambang Court of Appeal and General Prosecution attached to the Court of Appeal asserted that, when delivering a judgment in cases where the defendant was not present, the judge read only the ruling and omitted the full reasoning behind the decision, ostensibly due to time constraints.¹⁴³

Unfortunately, during the Reporting Period CCHR could only record three verdicts at the Preah Sihanouk Appeal Court and one at the Tboung Khmum Appeal Court. Of those verdicts followed at the Preah Sihanouk Court, the judge provided reasoning in 66.6% (2 out of 3). For all four verdicts, the judges welcomingly referred to articles of the relevant law and to the evidence presented, an improvement on 2023 when the relevant law was referenced in 71% of the verdicts CCHR recorded, and evidence was referenced in 56% of them. There was also a slight regression regarding the reliance on confessions as evidence across all four courts in 2024, with judges doing so in 27% of the verdicts recorded by CCHR, up from 24% in 2023. There were no reported instances in 2024 of judges basing the verdict on evidence not in the case file. The single verdict monitored at Tboung Khmum Appeal Court is hopefully a positive indicator of standard practice at the Court, as it included reasoning by the judge, reference to the relevant article of the law and the evidence presented.

5.2 Right to legal representation

International Law	Cambodian Law		
ICCPR	Constitution	CCPC	Law on Juvenile Justice
Article 14(3)(d)	Article 38	Articles 143, 300, 301 & 389	Articles 6, 50 & 51

Being charged with an offense entails navigating through legal procedures that can be complex and confusing. To ensure a defendants' rights are fully protected during criminal proceedings, they should be represented by professional lawyers who have the ability to explain their rights and the charges against them, guide them through the trial process, and represent their interests in court. If the accused cannot afford their own counsel, the relevant authorities should provide a lawyer free of charge, if the interests of justice so require (e.g., gravity of the offense, existence of some objective chance to win the appeal).¹⁴⁴ According to the Code of Criminal Procedure of Cambodia (CCPC), legal representation is only compulsory for individuals charged with a felony offense, or if they are a child. Therefore, it is not mandatory for an individual accused of a misdemeanor offense (unless they are a child), however individuals still have the option to hire a lawyer if they so wish, but this responsibility does not lie with the court.

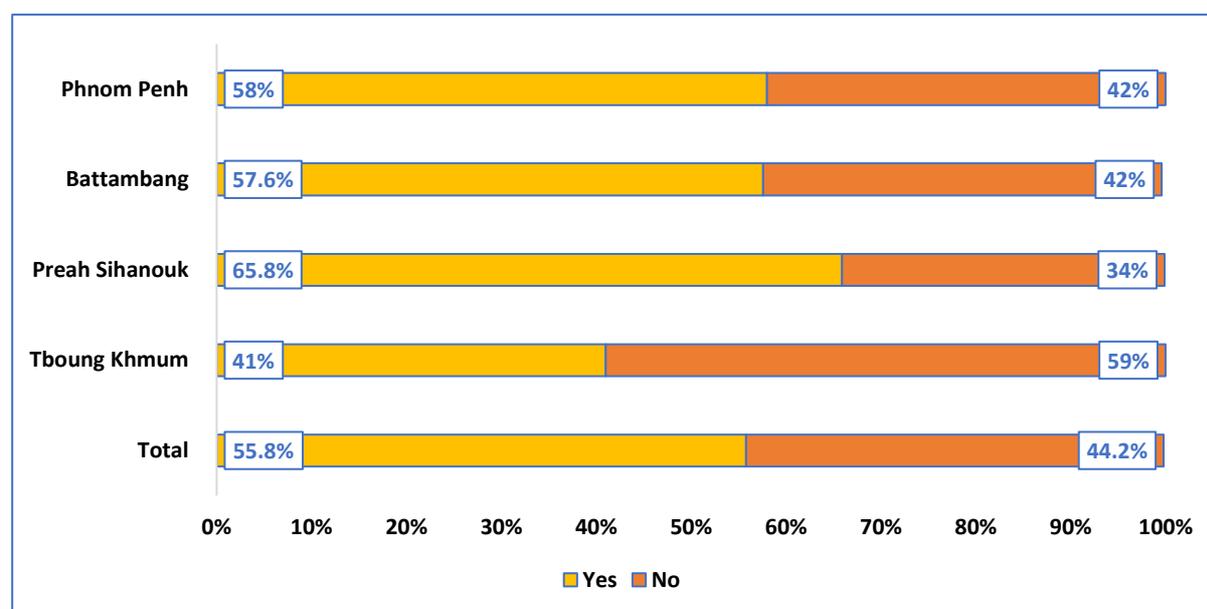
Across the four target courts in 2024, 55.8% of defendants in the cases monitored by CCHR (459 out of 822) were represented by a lawyer. This constitutes a regression on this right for the second year

¹⁴³ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the General Prosecution attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

¹⁴⁴ ICCPR, Art. 14(3)(d)
HRC, General Comment 32, para. 38.

in a row, as in 2023 there was legal representation for 58.7% of defendants, down from 66.7% in 2022. Disappointingly, the one court that had upheld the right in 2023, the Preah Sihanouk Appeal Court (defendants had legal representation in 81.6% of cases – 111 out of 136), failed to do so in 2024, with defendants having legal representation in 65.8% of cases (27 out of 41). This is thus a disappointing reversal of nascent signs of progress on this right, as prior to 2023 it had not been upheld by any of the target courts since 2014-2015.

Figure 26: Percentage of defendants represented by a lawyer in 2024, by target court¹⁴⁵



In the determination of any criminal charge against them, every defendant shall be entitled to be informed, if they do not have legal assistance, of this right.¹⁴⁶ Whilst Cambodian law stipulates that this responsibility lies with judicial police officers, investigating judges, and prosecutors,¹⁴⁷ CCHR encourages appeal judges to systematically follow the good practice of not only informing but also explaining to unrepresented defendants what the right to defend themselves in person or through legal representation entails. Following this explanation, the judge should then seek the consent of the defendant to proceed with the case without a lawyer. Proceeding without legal representation may have a number of impacts on a defendant’s case, not to mention the eventual outcome. One such impact is that in accordance with Article 319 of the Criminal Procedure Code in relation to the examination of case files and briefs, crucially only lawyers or the secretary of a lawyer may examine the case file prior to the hearing and make copies of the documents included therein. This therefore means that a defendant without legal representation will not have access to the case file that will be used by the prosecution to make the case against them, therefore limiting their ability to prepare a defense. Across the four courts in 2024, judges did not either inform or explain the right to self-defense to unrepresented defendants in 14% of cases monitored (37 out of 265). Whilst it is still concerning

¹⁴⁵ This data is based on the total number of defendants (822 individuals) involved in the 582 cases monitored in 2024.

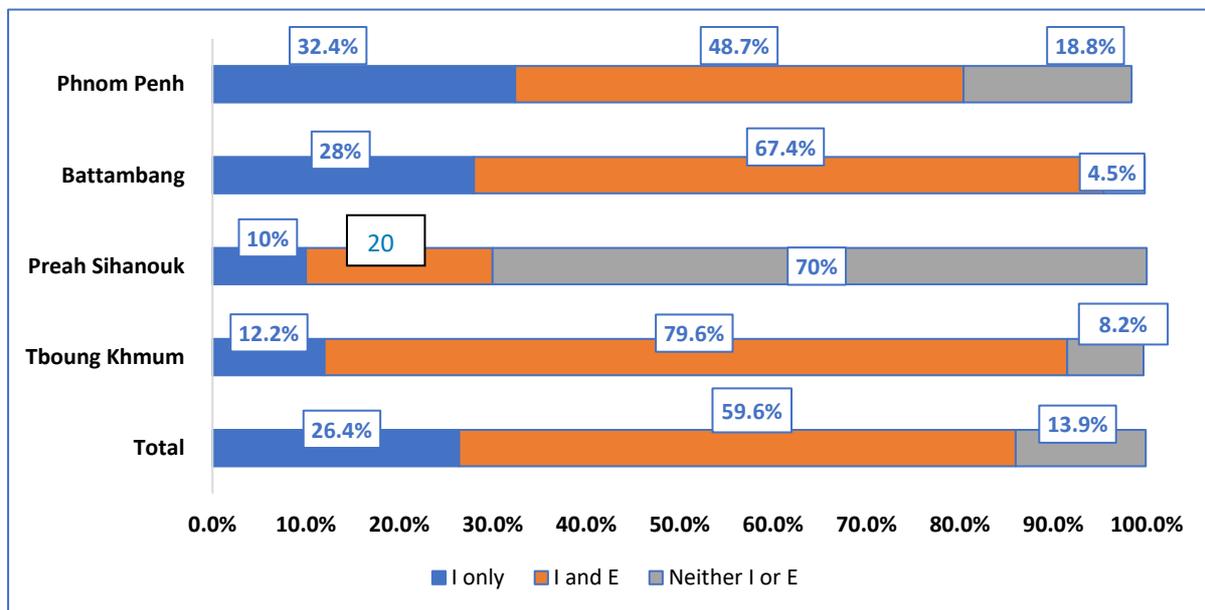
¹⁴⁶ ICCPR, Art. 14(3)(d).

¹⁴⁷ CCPC, Art. 46, 48, 97, 143, 304.

that defendants were not informed of this critical right, this is a notable improvement on 2023, when this rate stood at 24% and even more so on 2022, when it stood at 48.6%.

Another aspect of the right that saw encouraging improvement was regarding lawyers representing more than one accused in a single case. In 2024, 24% of represented defendants (197 out of 822) were defended by a lawyer who was representing more than one accused, a welcome decrease from 25% in 2023. Whilst having one lawyer represent more than one defendant may be cost effective, it has the potential to undercut that lawyer’s ability to effectively defend and adequately represent the accused, thus jeopardizing that individual’s fair trial rights. Encouragingly however, out of those cases where a lawyer was representing more than one defendant, there were only two cases where a conflict of interest was identified, both of which were at the Phnom Penh Appeal Court.

Figure 27: Percentage of cases where the judge informed (I) and explained (E) to defendants their right to legal representation or to defend themselves, by target court¹⁴⁸



Phnom Penh Appeal Court

In 2024, 58% of defendants in trials monitored by CCHR were represented by a lawyer, a slight decrease from the 60.9% recorded in 2023 (280 out of 460). Reassuringly, 100% of individuals charged with felony offenses (158 out of 158) had legal representation, in accordance with code of criminal procedure, whilst only 23.9% (48 out of 201) of individuals facing misdemeanor charges had legal representation. Of those facing petty offense charges, 33% (2 out of 6) had legal representation. For the remainder of cases, where the defendant was not legally represented, it can be assumed in good faith that the judge sought and confirmed consent from the defendant to proceed in the case without a lawyer. This is still an improvement however, as in 2023 only 7.2% (19 out of 260) of those charged with misdemeanor offenses were represented by a lawyer, with this rate at 20% (2 out of 10) for those charged with petty offenses. Whilst this year-on-year improvement is welcomed, these figures still

¹⁴⁸ This data is based on the 265 monitored cases (117 cases at the Phnom Penh Appeal Court; 89 at the Battambang Appeal Court; 10 at the Preah Sihanouk Appeal Court; and 49 at the Tboung Khmum Appeal Court.

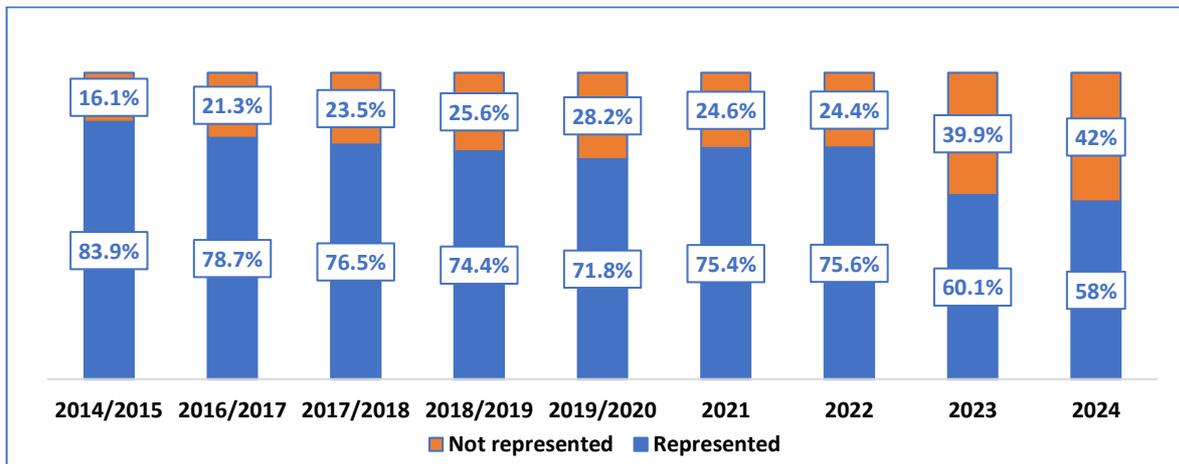
mean that the majority of individuals facing misdemeanor and petty offense charges. It is difficult to determine the potential impact this had on the outcome of their case, but it can be surmised that it was likely significant. In 22% of cases (82 out of 365) where the defendant had legal representation however, the lawyer in question was representing more than one individual. Further concerning is that in two of these cases, CCHR noted a conflict of interest. It is important that judges pay particular attention to identifying instances where a lawyer representing several defendants puts forward a defense that negatively impacts the interests of one of them. In such cases, the hearing should be immediately adjourned, and measures should be taken to facilitate this defendant's access to a different lawyer.

Another element of progress at the Phnom Penh Appeal Court was regarding the rate at which judges informed and explained to defendants not represented by a lawyer, of their right to defend themselves or through legal representation. This best practice was done in 48.7% of cases (57 out of 117), a significant increase on 2023 when this stood at just 17% (18 out of 105). In a concerning 18.8% (22 out of 117) of cases however, the judge neither informed nor explained this right to defendants, potentially leaving such individuals unaware of their rights and the potential implications of waiving their right to be represented by a lawyer. It is worth noting however that this is an improvement since 2023, when judges failed to inform and explain this right to defendants in 24.7% of cases monitored.

Improvements notwithstanding, these findings mean that for another consecutive year, the right to legal representation has not been upheld by the Phnom Penh Appeal Court, and has not been done so since 2014-2015. Urgent and concerted efforts must therefore be made to ensure all defendants are represented by a lawyer, a fundamental component of the right to a fair trial.

Figure 28: Evolution of the percentage of defendants represented by a lawyer at the Phnom Penh Appeal Court (2014-2024)¹⁴⁹

¹⁴⁹ This data is based on the 135 defendants represented by a lawyer out of the 161 defendants involved in the 128 cases monitored in 2014/2015; the 439 defendants represented by a lawyer out of the 558 defendants involved in the 340 cases monitored in 2016/2017; the 241 defendants represented by a lawyer out of the 315 defendants involved in the 213 cases monitored in 2017/2018; the 262 defendants represented by a lawyer out of the 352 defendants involved in the 239 cases monitored in 2018/2019; the 183 defendants represented by a lawyer out of the 255 defendants involved in the 203 cases monitored in 2019/2020; the 89 defendants represented by a lawyer out of the 118 defendants involved in the 85 cases monitored in 2021; the 266 defendants represented by a lawyer out of the 352 defendants involved in the 257 cases monitored in 2022; and the 280 defendants represented by a lawyer out of the 460 defendants involved in the 336 cases monitored in 2023.



Battambang Appeal Court

For the third consecutive year, the right to legal representation was not consistently upheld at the Battambang Appeal Court, with only 57.6% of defendants (167 out of 290) being represented by a lawyer in the trials monitored during the Reporting Period. This is a marginal but nonetheless welcome increase from 2023, when this figure stood at 53.8% (186 out of 346). Encouragingly, 100% of defendants charged with felony offenses (99 out of 99) were represented by a lawyer, however only 35% (66 out of 187) of those facing misdemeanor charges had legal representation, whilst none of those (4 out of 4) facing petty offenses had any such representation. This means that the majority of defendants facing misdemeanor or petty offenses, navigated their trials without legal counsel. For the remainder of cases, where the defendant was not legally represented, it can be assumed in good faith that the judge sought and confirmed consent from the defendant to proceed in the case without a lawyer. There was also a discouraging increase in the number of cases where lawyers represented more than one defendant, reaching 31.7% (92 out of 290) in 2024 as opposed to 29% in 2023. It is reassuring that despite this increase, there were no documented conflicts of interest.

There was practically no change in the rate of judges adhering to the best practice of informing and explaining to defendants the right to self-defense since 2023, with judges doing so in 67.4% of cases (60 out of 89), up from 66%. Whilst this is not a significant increase, CCHR encourages the Court to continue to progress on this best practice, as it improved substantially since 2022 when defendants were informed and explained the right in just 16.7% of cases. An encouraging improvement in 2024 was the fact that the number of instances in which the defendant was neither informed nor explained about this right decreased substantially since the previous year from 19.6% (22 out of 112) to 4.5% (4 out of 89).

Despite incremental progress on upholding this right, the figures at the Battambang Appeal Court were not sufficient overall to determine the right to legal representation as having been upheld. The Court is nonetheless encouraged to continue and build on this progress going forward, taking the necessary measures – informing and explaining the right to self-defense to defendants, ensuring no conflict of interests in cases where lawyers represent more than one defendant, etc. – to do so. In August 2025, representatives from Battambang Court of Appeal and the General Prosecution attached to the Court emphasized that, in cases involving misdemeanor charges, the Court is not obligated to provide legal representation for the defendant. However, they contended, where the defendant was unable to

afford a lawyer, the judge appointed one. According to the representatives, sometimes the defendant refused to accept the appointed lawyer.¹⁵⁰

Preah Sihanouk Appeal Court

Discouragingly, the Preah Sihanouk Appeal Court regressed in its upholding of the right to legal representation, as it had done the previous year, resulting in the conclusion that the right had not been upheld in 2024. This is particularly discouraging, given that it had been the only Court to do so in 2023. During the Reporting Period, defendants before the Court were represented by a lawyer in 65.8% of cases (27 out of 41), a significant regression from 81.6% in 2023. In accordance with the law, 100% (14 out of 14) of defendants facing felony charges were represented by a lawyer, however this was only the case for 50% of those facing misdemeanor charges. For the remainder of cases, where the defendant was not legally represented, it can be assumed in good faith that the judge sought and confirmed consent from the defendant to proceed in the case without a lawyer. Of the cases where there was legal representation, the lawyer was representing more than one defendant in 2% of them (1 out of 41), down from 42.6% (58 out of 136) recorded in 2023. Welcomingly however, no conflicts of interest were reported, an improvement on the year prior when two cases of such were documented by CCHR at the Preah Sihanouk Appeal Court.

Further concerning is the increase in the instances where the judge neither informed nor explained to the unrepresented defendant their right to self-defense, totaling 70% of the cases monitored by CCHR (7 out of 10), up from 82.6% the year previous. This means that only two defendants were informed of and explained this right, and on only one occasion did a judge carry out the best practice of informing and explaining this right to a defendant.

In previous consultations with CCHR, representatives from the Court and General Prosecution attached to the Court said that some of the unrepresented defendants involved in the cases monitored had already been informed about their right to legal representation during a first appeal hearing. Thus, the judges, did not inform them of this right again in subsequent hearings.¹⁵¹ Whilst this may be the case, CCHR encourages the best practice of systematically informing defendants of this right and explaining its meaning, to ensure they are fully aware.

Tboung Khmum Appeal Court

In 2024, only 41% (52 out of 126) of defendants were represented by a lawyer, the lowest rate across the four target courts and a regression from 2023 when this stood at 44.9% (79 out of 176). This makes 2024 the third consecutive year where there has been no meaningful progress on this right, as in 2022 only 44% of defendants had legal representation. Of those facing felony charges, 100% had legal representation, whilst just 19.7% (18 out of 91) of those facing misdemeanor charges were represented by a lawyer. For the remainder of cases, where the defendant was not legally represented, it can be assumed in good faith that the judge sought and confirmed consent from the

¹⁵⁰ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the General Prosecution attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

¹⁵¹ On 13 August 2024, the CCHR team met with the representatives from the Preah Sihanouk Court of Appeal and the Office of the General Prosecution attached to the Preah Sihanouk Court of Appeal to present the findings of a report from its trial monitoring.

defendant to proceed in the case without a lawyer. Encouragingly though, there was an improvement in the number of cases where a lawyer represented more than one defendant, down from 22% in 2023 to 17% in 2024 (22 out of 126). Nor were there any conflicts of interest documented amongst those cases. Despite this improvement, the rate of legal representation overall was not sufficient to conclude that the right to legal representation was upheld at the Tboung Khmum Appeal Court.

More encouragingly however, in 79.6% of cases monitored by CCHR (39 out of 49), the judge adhered to the best practice of both informing and explaining to the defendant of their right to defend themselves in person or through legal representation. This positive rate is also an improvement on 2023, when this was done by judges in 53.8% of cases (28 out of 52).

In August 2024, the Tboung Khmum Court of Appeal affirmed that the judge had informed defendants about their right to legal representation. However, the defendants did not seek legal counsel and permitted the court to proceed with the hearing without a lawyer present. The court clarified that it is not obligated to provide a lawyer, and misdemeanor offenses can be heard without legal representation under domestic law.¹⁵²

5.3 Right to liberty

International Law		Cambodian Law	
UDHR	ICCPR	Constitution	CCPC
Article 3	Article 9 (1)	Article 32, Article 38	Articles 203, 204, 205, 208, 209 & 211

Article 9(1) of the ICCPR guarantees the right to liberty and security of person, and that no one shall be subjected to arbitrary arrest or detention. Whilst the right to liberty is not absolute, as individuals may be deprived of their liberty “on such grounds and in accordance with such procedure as are established by law”, any such deprivation of liberty as part of criminal proceedings must be carried out in accordance with the law and with respect for the rule of law, and it must not be arbitrary.¹⁵³ According to the Human Rights Committee, “the notion of “arbitrariness” is not to be equated with “against the law”, but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.”¹⁵⁴ For example, holding an individual in pre-trial detention must be reasonable and necessary in all the circumstances, and the decision to keep them in detention is arbitrary unless subjected to periodic re-evaluation of the justification for continuing the detention. This is due to the fact that the right to liberty - specifically pre-trial detention - and the right to the presumption of innocence are intrinsically linked, as the former can undermine the latter. That is why pre-trial

¹⁵² On 8 August 2024, the CCHR team met with representatives from the Tboung Khmum Court of Appeal and the Office of the General Prosecution attached to this court to present the findings of the report from its trial monitoring.

¹⁵³ ICCPR, Article 9(1)

¹⁵⁴ HRC, General Comment no.35 (CCPR/C/GC/35), para. 12 <https://tinyurl.com/HRC-GC-35>

detention must only be ordered as a measure of last resort, when necessary and in the exceptional circumstances set out in law.

The use of pre-trial detention as an exceptional measure is provided for in the Code of Criminal Procedure of the Kingdom of Cambodia (CCPC), which explicitly states that “in principle, the charged person shall remain at liberty” and that “exceptionally” they may be detained in pre-trial detention.¹⁵⁵ In accordance with Article 205 of the CCPC, the decision to hold someone in pre-trial detention must be necessary to: 1) stop the offense or prevent the offense from happening again; (2) prevent any interferences on witnesses or victims or prevent any collusion between the accused person and the accomplice; (3) maintain evidence or material leads; (4) ensure the accused is kept for the court to decide according to its procedures; (5) protect the security of the accused; and (6) maintain public order to avoid any chaos caused by the offense.¹⁵⁶ It is worth noting that whilst the CCPC does not provide distinctive rules for procedure at the Court of First Instance and the Court of Appeal, Article 396 provides that “the rules that apply to hearings of the Court of First Instance shall also apply to the Court of Appeal”, thus indicating that the rules contained in the CCPC apply to both courts.

Article 306 of the CCPC grants the court the power to order the release of a detained defendant “at any time”, whilst Article 305 provides for similar power to release. These provisions in Cambodian legislation grant the Court the power to use its own discretion to order the release of a detained defendant. In exercising this power, the Court should give due consideration to the fact that Article 203 states the exceptionality of pre-trial detention. Therefore, remaining in liberty may be treated by the Court as the default, unless the exceptional circumstances under Article 205 of the CCPC are met. It is worth recalling that prison overcrowding is a significant issue throughout Cambodia’s prison system, with reporting by civil society indicating that across the majority of the country’s prisons, 75% of those detained are in pre-trial detention.¹⁵⁷ Therefore, not only is the exceptional use of pre-trial detention provided for by Cambodian legislation, but it is in the interest of the RGC and the penitentiary system, not only in terms of the safety and well-being of those detained and those working in the system, but also financial costs.

The exceptionality of pre-trial detention is also emphasized in the Law on Juvenile Justice, which underscores that the detention of a minor should be used as a last resort and for the shortest amount of time.¹⁵⁸ Furthermore, Article 45 of the Law on Juvenile Justice states that “for the best interests of the child, the Judge shall consider release of detained minors whilst awaiting trial” and that “during prolonged periods of adjournment, consideration should again be given to temporarily releasing the minor on bail”.¹⁵⁹ Article 57 also goes on to say that in the “best interest of a minor”, the relevant court should consider the release of the minor, if they are being detained. Such principles should also apply to non-juvenile defendants, in light of the disruption that being held in pre-trial detention can cause to many aspects of an individual’s life, but also the detrimental impact it can have on the defendant’s right to the presumption of innocence. It is therefore particularly significant that in none of the trials

¹⁵⁵ CCPC, Art. 203

¹⁵⁶ Ibid, Art. 205

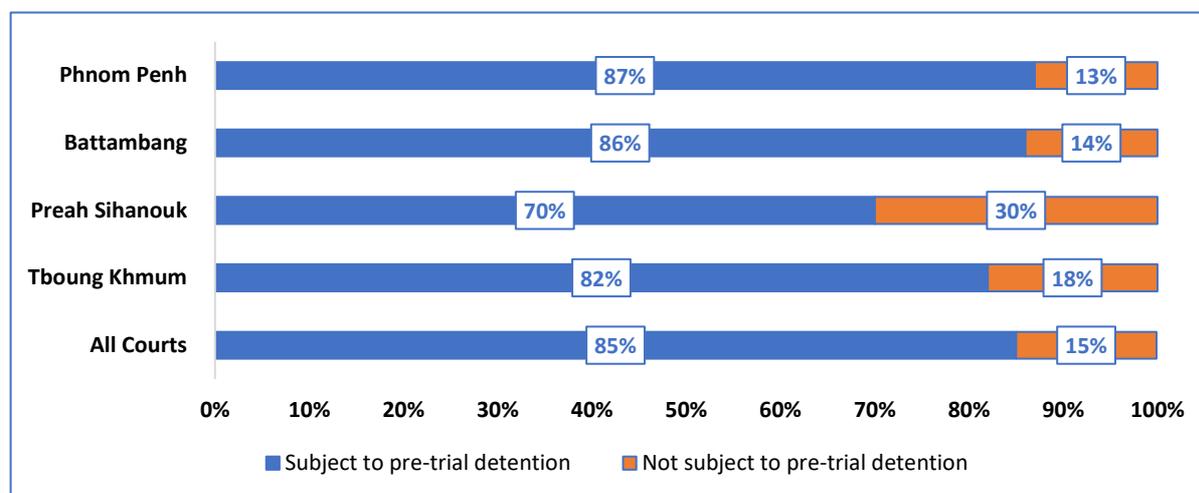
¹⁵⁷ LICADHO, ‘Cambodia’s Capacity Crisis: Overcrowded Prisons and the Need for Reform’, 18 February 2025 <https://tinyurl.com/LICADHO-prison-overcrowding>

¹⁵⁸ Law on Juvenile Justice (2016), Article 5 <https://tinyurl.com/Law-on-Juvenile-Justice>

¹⁵⁹ Ibid, Article 45

that CCHR monitored in 2024 did the judge order for the defendant to be released while awaiting the verdict.

Figure 29: Percentage of defendants subject to pre-trial detention, by target court¹⁶⁰



Contrary to these legal provisions, CCHR’s trial monitoring across the four target courts reveals what appears to be a concerning over-reliance on pre-trial detention as the default, rather than the exception. For the third consecutive year, CCHR documented an increase in the use of pre-trial detention across three of the four target courts – similar to 2023 – and generally high rates across all four. In 2024, 85% (640 out of 752) of the accused involved in the monitored cases for which this information is available were subjected to pre-trial detention, a worrisome increase from 75% in 2023 and 72.6% in 2022. That the majority of defendants in cases monitored during the reporting period across the four target courts were subjected to pre-trial detention indicates a year-on-year neglect of the principle of liberty and the blatant misuse of a measure designated for specific cases where it is necessary and appropriate. It also therefore amounts to a violation of Cambodia’s obligations under the ICCPR. Further concerning is that despite the explicit provisions of the Law on Juvenile Justice to guarantee the right to liberty for juvenile defendants except for in exceptional circumstances, CCHR recorded that 55% (5 out of 9) of juvenile defendants in trials monitored in 2024 were subjected to pre-trial detention. This is in contravention of the provisions of the Law on Juvenile Justice which provides that detention should be the exception, rather than the rule.

Furthermore, it is worth noting that of the 79 cases across the four courts in which CCHR could follow the trial verdict, 94% of defendants were sentenced to imprisonment. This represents a discouraging increase on 2023, when prison sentences were issued to 90.8% of defendants.

Phnom Penh Appeal Court

At the Phnom Penh Appeal Court, 87% of the defendants (301 out of 345) in the trials monitored by CCHR were subjected to pre-trial detention and all 301 individuals (100%) remained in prison until the date of judgment delivery an increase from 82.7% in 2023. Of those in pre-trial detention as part of trials before the Phnom Penh Appeal Court that were monitored by CCHR, 51% were in provisional

¹⁶⁰ This data is based on the number of defendants involved in cases monitored in 2024 for which information about whether they were subject to pre-trial detention is available (752 out of 822).

detention for less than one year. More discouraging however, is that fact that 47% were held in provisional detention for 1-2 years and in one particularly concerning case, a defendant was detained for more than three years in pre-trial detention.

Battambang Appeal Court

In 2024, there was a notable increase in the number of defendants who were remanded in pre-trial detention at the Battambang Appeal Court compared to 2023. The proportion of defendants in pre-trial detention increased from 73.9% in 2023 to 86% in 2024 (209 out of 242) and all 209 individuals (100%) remained in prison until the date of judgment delivery, indicating a further increase from 71% in 2022. This year-on-year increase in the number of defendants subjected to pre-trial detention is at odds with the legal standard that it should be imposed as a measure of last resort, given its potentially detrimental impact on the right to the presumption of innocence. A factor of pre-trial detention that particularly poses risk to the presumption of innocence is the length of time that person is provisionally detained for. Of those cases monitored at the Battambang Court of Appeal where the Trial Monitor could ascertain the length of time the individual had been in pre-trial detention for, 37.5% (3 out of 8) had been in detention for less than one year, whilst 62.5% (5 out of 8) were detained for 1-2 years. In August 2025, representatives from the Battambang Court of Appeal and General Prosecution attached to the Court claimed that the Court cannot release a defendant on bail unless a specific provision of the law permits it.¹⁶¹

Preah Sihanouk Appeal Court

Encouragingly however, the Preah Sihanouk Appeal Court recorded a decrease in the proportion of defendants subjected to pre-trial detention since the previous year, the only Court to register an improvement in upholding this right. In 2024, 70% of defendants (28 out of 40) in trials monitored by CCHR were in pre-trial detention and all 28 individuals (100%) remained in prison until the date of judgment delivery, down significantly from 82% in 2023. Regarding the length of time those individuals had spent in pre-trial detention, when this information was available, it was recorded by CCHR's trial monitors that 25% (4 out of 16) of them had spent less than one year and the other 75% (12 out of 16) had spent 1-3 years.

Figure 30: Total time spent in pre-trial detention at the time of the appeal hearing, by target court¹⁶²

Duration	Phnom Penh AC	Battambang AC	Preah Sihanouk AC	Tboung Khmum AC	Total
Less than 1 year	26	3	4	20	53
1 to 2 years	24	5	4	15	48
>2 to 3 years	0	0	8	1	9

¹⁶¹ On 12 August 2025, CCHR's team met with representatives from Battambang Court of Appeal and the Prosecution General attached to the Battambang Court of Appeal to discuss the findings of CCHR's trial monitoring.

¹⁶² This data is based on the number of defendants who were subject to pre-trial detention (640) in the cases that were monitored in 2024.

>3 to 4 years	1	0	0	0	1
>4 to 5 years	N/A	N/A	N/A	N/A	N/A
More than 5 years	N/A	N/A	N/A	N/A	N/A
Data not available	314	282	25	90	711
Total	365	290	41	126	822

Tboung Khmum Appeal Court

The Tboung Khmum Appeal Court reported the most significant regression amongst the four target courts regarding the use of pre-trial detention. The proportion of defendants in trials monitored by CCHR in 2024, 81.6% of them (102 out of 125) were in pre-trial detention and all 102 individuals (100%) remained in prison until the date of judgment delivery, a discouraging increase of 24.7 percentage points from 56.9% in 2023. This represents a disappointing regression from the progress the Tboung Khmum Appeal Court had made in recent years regarding pre-trial detention and the right to liberty. The previously lower rate of pre-trial detention at the Court seemingly indicated that judges operating within its jurisdiction had a higher tendency to opt for alternatives to detention. CCHR thus encourages the Court to take immediate efforts to resume this practice and reverse the regressive trajectory of 2024 going forward.

Somewhat encouragingly, 55.6% of those in pre-trial detention were so for less than one year, with 41.7% spending 1-2 years detained, and in one case an individual spent a concerning 2-3 years in pre-trial detention.

5.4 Evidentiary Rights

International Law	Cambodian Law	
ICCPR	CCPC	Law on Juvenile Justice
Article 14(3) (e)	Articles 153, 154, 298, 321, 322, 324, 326, 328 & 394	Article 6

In order to uphold the right to a fair trial, all the decisions of the Court must be based exclusively upon the evidence presented at trial. Each party must therefore be able to present evidence and call witnesses in support of their case, to cross-examine witnesses presented by other parties and to

challenge evidence that they do not accept.¹⁶³ This is essential to ensuring equality of arms between the parties involved, a fundamental principle that requires that all parties be treated in a way that ensures equality at all stages of the trial and that no party be placed at a disadvantage in presenting their case. According to the ICCPR, in the determination of any criminal charge against an individual, that individual is entitled to “examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions against [them]”.¹⁶⁴ The provision of evidence *via* a written statement (i.e., not during a court hearing) is not contrary to the rights of the accused if they had the right to challenge and question the witness when that witness made the statement, or at a later stage of the proceedings before the trial itself.¹⁶⁵

Welcomingly, and for the second consecutive year, in none of the 582 hearings monitored during the Reporting Period was there any indication that the defense was not given the opportunity to call witnesses. In addition, and for the third consecutive year, nothing suggested that any party was not given the opportunity to present evidence or to view the case file before the hearing; or that the judge based their verdict on evidence that was not in the case file or presented at trial. While this is encouraging, evidentiary rights remain not fully respected for two principal reasons.

Firstly, it is imperative that any evidence being relied upon is of sufficient reliability and authenticity, “probative value”. That evidence presented and considered is of requisite quality and quantity is essential to ensure that the legal burden of proof of beyond reasonable doubt has been met. In addition to documentary evidence, judges and prosecutors should therefore be actively seeking and examining other types of evidence where relevant, such as live witnesses, medical evidence, and forensic evidence. Yet, CCHR notes with concern that no forensic or medical evidence was presented in any of the hearings monitored in 2024. This is a regression from 2023, when such evidence was at least presented for a small number of cases, representing 0.13% of all cases monitored in 2023. Further discouraging was the fact that witnesses were called to testify in just 11.9% of cases (69 out of 582), though this does indicate an increase on 2023 when witnesses were only called in 7% of cases. This deficiency in presenting varied forms of evidence not only undermines the integrity of judicial proceedings but also risks compromising the fairness and accuracy of verdicts.

Secondly, Cambodian law mandates that summoned experts and witnesses stay in a waiting room prepared for them and from which they cannot see or hear anything in the courtroom before they testify.¹⁶⁶ Although witnesses who have not been formally summoned can initially be in the courtroom during the confrontation, they are to be instructed to stay in the waiting room if the hearing’s chairman decides to hear them at the request of a party.¹⁶⁷ However, in a concerning 56.5% of the cases in which witnesses were called (39 out of 69), these were present in the courtroom before they were questioned. This is a concerning reversal of the relative progress achieved on this issue in 2023,

¹⁶³ HRC, General Comment No. 32, paras 13, 39. For more details on these rights, see CCHR’s module “Evidentiary rights (the right to call and examine witnesses)” (September 2022), <https://tinyurl.com/zv93nahs>

¹⁶⁴ ICCPR, Article 14(3)(e)

¹⁶⁵ ECHR, *Mirilashvili v. Russia* (11 December 2008), App no. 6291/04, para. 163, <https://tinyurl.com/4kktr8yr>;

ECHR, *Asch v. Austria* (26 April 1991) Series A no. 203, para. 27, <https://tinyurl.com/bdfpm2ah>;

ECHR, *Isgrò v Italy* (19 February 1991) Series A no. 194-A, para. 34, <https://tinyurl.com/39mz7s7h>;

ECHR, *Kostovski v. the Netherlands* (20 November 1989) Series A no. 166, para. 41, <https://tinyurl.com/2e2pbxsh>

¹⁶⁶ CCPC, Art. 322.

¹⁶⁷ CCPC, Art. 324.

when this occurred in 36.8% of cases, an improvement on 2022 when this figure stood at 41.9%. This significant regression over the course of one year is cause for concern, as the presence of a witness in the court room prior to giving testimony may influence their testimony. This practice varied across the four target courts, however it did occur in all four of them, which is discouraging in and of itself.

At the Phnom Penh Appeal Court, of the cases where witnesses were called to testify, the witness was present in the court room prior to giving testimony in 46% of cases (6 out of 13). This is a notable regression since 2023, when no instances of this practice were documented. There was also a discouraging regression on this issue at the Battambang Appeal Court in 2024, whereby witnesses were present in the courtroom before testifying in 71% of cases (20 out of 28), increasing substantially from 39% in 2023. Regrettably, the Preah Sihanouk Appeal Court reversed the progress it had made in 2023 regarding the presence of the witness in the courtroom before testifying, as in 2024 this occurred in 50% of cases (3 out of 6), up from 28.6% in 2023. In August 2025, representatives of the Preah Sihanouk Court of Appeal asserted that judges permitted witnesses to be present in the courtroom before testifying, if they deemed the case not complicated. Conversely, the judges did not allow witnesses to be present before testifying in cases they deemed more complex.¹⁶⁸ At the Tboung Khmum Appeal Court in 2024 there was a regrettable regression, as the proportion of cases where the witness was present in the courtroom beforehand increased from 38% in 2023 to 45% in 2024 (10 out of 22). This is a discouraging regression on what was already a poor record on upholding this right, and so the Tboung Khmum Appeal Court is encouraged to take the necessary steps to ensure witnesses are not present in the court room before testifying.

Lastly, the lack of legal representation of many defendants in the cases monitored – as elaborated on above in section 5.2 - calls into question the capacity of the defendants who did not benefit from a lawyer’s legal knowledge and expertise to effectively exercise their right to call witnesses and cross-examine the other parties’ witnesses, and therefore raised doubts as to the respect for the principle of equality of arms. Another cause for concern is the access of unrepresented defendants to their case files. While in none of the cases monitored during the Reporting Period did the defense raise any issues related to adequate time and facilities for defense preparation, the provisions of the CCPC that allow defense lawyers to examine the case file and make copies do not provide the same access to unrepresented defendants.¹⁶⁹ This poses a potential risk that those defendants are denied access to the evidence against them and are unable to adequately prepare their own defense.

5.5 Rights of children in conflict with the law

International Law		Cambodian Law			
ICCPR	CRC	Constitution	CCPC	Criminal Code	Law on Juvenile Justice

¹⁶⁸ On 5 August 2025, CCHR’s team met with representatives from Preah Sihanouk Court of Appeal and the Prosecution General attached to the Preah Sihanouk Court of Appeal to discuss the findings of CCHR’s trial monitoring.

¹⁶⁹ CCPC, Articles 145,254,304,319,391, 428.

Article 14(1)	Articles 37 & 40	Articles 31 & 48	Articles 100 & 212	Articles 39 & 40	Articles 5, 6, 39, 47, 48, 49, 54, 57 & 82
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International law guarantees that children – individuals below the age of 18 – who are accused of committing a criminal offense have all the same fair trial rights that apply to adults. Critically though, it also recognizes that they require special protection, giving due consideration to their age, maturity and intellectual development.¹⁷⁰

Both the ICCPR and the Convention on the Rights of the Child (CRC) – which Cambodia acceded to in 1992 – establish specific provisions for the treatment of children in criminal justice proceedings, which are substantiated by several sets of international rules and guidelines.¹⁷¹ States are accordingly directed to establish laws, procedures, authorities, and institutions specifically applicable to children accused of, or recognized as having infringed criminal law. In particular, States shall establish a minimum age of criminal responsibility under which children shall be presumed not to have the capacity to infringe criminal law.¹⁷²

Children at or above the minimum age of criminal responsibility but below the age of 18 can be formally charged and subjected to child justice procedures in accordance with the CRC.¹⁷³ However, State parties are required to promote measures for dealing with children in conflict with the law without resorting to judicial proceedings, “whenever appropriate.”¹⁷⁴ Further, a variety of dispositions, such as care, guidance and supervision orders, counseling, probation, foster care, education and vocational training programs, and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner that is considerate of their well-being and proportionate both to their circumstances and the offence in question.¹⁷⁵ Cambodian law further provides differential treatment for children in conflict with the law in a number of important areas. The Law on Juvenile Justice was adopted in 2016 with the aim of safeguarding the rights and best interests of children in conflict with the law.

Criminal Responsibility of Children

Cambodian law establishes the age of criminal responsibility at 14 years old, in line with the practice of most States internationally.¹⁷⁶ This means that no child of this age at the time of the alleged offence should be tried by a court, and so the competent authorities must seek evidence to determine the age of a child suspected as having committed an offence as promptly as possible. This includes sourcing birth certificates or documents certifying their birth or using any other reliable and acceptable means to determine their age, in the absence of birth documentation. Should there be any doubt regarding

¹⁷⁰ CRC, Article 1.

¹⁷¹ For example, UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) or the UN Rules for the Protection of Juveniles Deprived of their Liberty, among others.

¹⁷² CRC, Art. 40(3).

¹⁷³ CRC Committee, General Comment No. 24, para. 21.

¹⁷⁴ CRC, Art. 40 (3); CRC Committee, General Comment No. 24, para. 13.

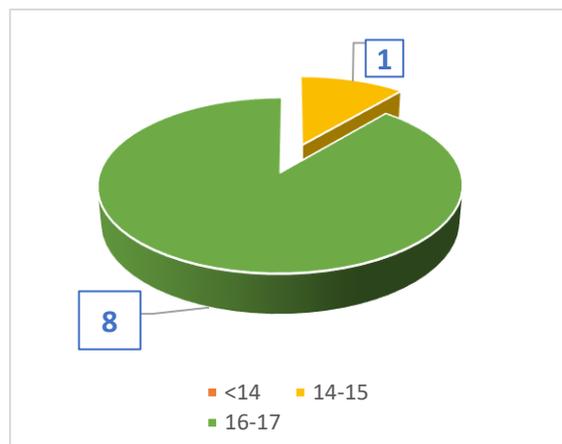
¹⁷⁵ CRC, Art. 40 (4).

¹⁷⁶ CRC Committee, General Comment No. 24, para. 21, Cambodian Criminal Code, Art. 38, Law on Juvenile Justice, Art. 7

the age of a child, it should be resolved in the child’s favor.¹⁷⁷ Courts must similarly verify the age of children in conflict with the law involved in the cases they are adjudicating. If it can be determined that the defendant was under 14 at the time of the alleged offense, or if there is any doubt as to their age when the offense occurred, the judges must immediately acquit them.

In 2024, only 9 of the 822 defendants involved in cases monitored by CCHR at the four target courts were children at the time of the alleged offense, and all of them were boys. For the third consecutive year, none were under the age of criminal responsibility, with one aged 14-15 years old and the remaining eight were aged 16-17 years old. One of these children in conflict with the law appeared before the Phnom Penh Appeal Court, seven appeared before the Battambang Appeal Court, and one before the Tboung Khmum Appeal Court. There were no cases involving children in conflict with the law amongst those monitored at the Preah Sihanouk Appeal Court by CCHR during the Reporting Period. The one 14–15-year-old child in conflict with the law stood trial at the Battambang Appeal Court, with the other six appearing before the court were aged 16-17 years old. The singular cases before the Phnom Penh and Tboung Khmum Appeal Courts both involved child defendants aged 16-17 years old.

Figure 31: Age of child defendants at the time of the alleged offense¹⁷⁸



Rights to Liberty and the Presumption of Innocence

The status of pre-trial detention as an exceptional measure is particularly accentuated in cases involving child defendants, and should only be used in the most serious of cases and only after community placement has been carefully considered.¹⁷⁹ The Law on Juvenile Justice clearly states that pre-trial detention of child defendants is a measure of *last resort*, and that appeal courts shall consider releasing children awaiting trial in detention to protect their best interest.¹⁸⁰ Furthermore, Article 39 of the Criminal Code stipulates that minors who commit offences shall be “subject to supervision, education, protection and assistance”.¹⁸¹ Article 40 of the Code goes on to state that such supervisory, educational and protective assistance measures shall include: (1) returning the minor to his or her

¹⁷⁷ Law on Juvenile Justice, Art.7

¹⁷⁸ This data based on the 9 children in conflict with the law involved in the 582 cases monitored in 2024.

¹⁷⁹ CRC Committee, General Comment No. 24, para. 86.

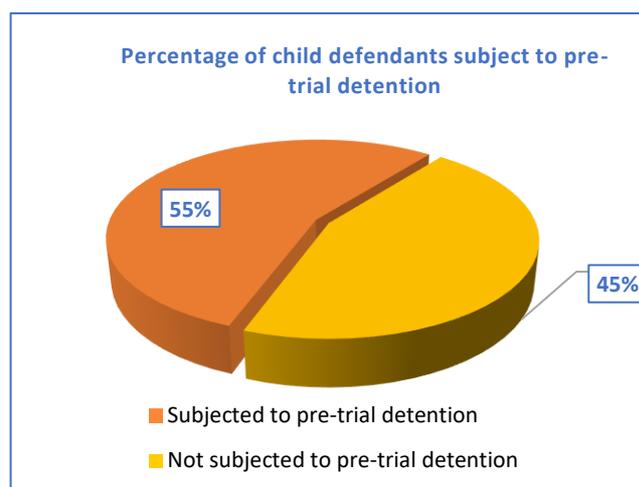
¹⁸⁰ Law on Juvenile Justice, Art.39, Law on Juvenile Justice, Art.57.

¹⁸¹ Cambodian Criminal Code, Art. 39

parents, guardian, custodian, or to another person who is trustworthy; (2) committing the minor to a social service agency which cares for minors; (3) committing the minor to a private organisation that is qualified to receive minors; (4) committing the minor to a specialized hospital or institution; (5) placing the minor under judicial protection. Despite these provisions, CCHR’s trial monitoring has consistently shown a quasi-systematic use of pre-trial detention in cases involving children in conflict with the law. In 2024, 55% of the child defendants involved in the monitored cases (5 out of 9) were subject to this measure, showing an improvement since 2023, when this figure stood at 80.8%. It is worth recalling at this point however that the number of child defendants between the two years is significant, and thus year-on-year comparisons may not be the most insightful in terms of obtaining an accurate indication.

It is worth reiterating, as CCHR has previously done, that the judiciary’s compliance with the right to liberty of child defendants has regressed significantly since 2014-2015. At that time, 62% of child defendants involved in hearings monitored at the Phnom Penh Appeal Court – which at that time had jurisdiction over the entire country – were subject to pre-trial detention. Such figures indicate that the 2016 Law on Juvenile Justice initiated no actual improvement when it comes to safeguarding this critical right, despite the fact that it established a diversion scheme for child offenders as an alternative to incarceration.¹⁸² The use of non-custodial measures should be expressly prioritized for cases involving defendants. However, this was evidently not followed in 2024, as in none of the seven cases involving juvenile defendants where CCHR was able to follow the verdict did the judge consider imposing a non-prison sentence, sentencing all seven defendants to imprisonment. Five of these cases were before the Battambang Appeal Court, one before Tbuong Khmum and one at the Phnom Penh Appeal Court. It is worth recalling that whilst still a low number, judges considered imposing a non-prison sentence for 27% of cases that CCHR monitored in 2023, signifying a year-on-year regression. On the subject of sentencing, it is also worth highlighting that in none of the cases monitored by CCHR involving a child defendant did the judge make reference to Article 38 or 39 of the Penal Code, articles which specifically provide for juvenile defendants.

Figure 32: Use of pre-trial detention in cases involving children in conflict with the law, 2024¹⁸³



For the third consecutive year, 55% of the detained children in conflict with the law attended their appeal hearings (5 out of 9) in a prison uniform, in the cases monitored at the four target courts. In a regression since the previous year, when no child defendants appeared before the court in a blue prison uniform, 100% (3 out of 3 defendants) did so in 2024 and all of which appeared before the Battambang Appeal Court. This corresponds with the Battambang Court’s discouraging record of providing defendants with the blue

¹⁸² Criminal Code, Art. 40, Law on Juvenile Justice, Chapter X

¹⁸³ This data based on the total number of children in conflict with the law (9 individuals) involved in the 582 cases monitored in 2024.

prison uniform only for attending their trials, as mentioned above in Section 4.5. In the singular cases before the Phnom Penh and Tboung Khmum Appeal Courts, the respective child defendants wore the dark orange uniform. Urgent attention must be paid to reverse this regression, in recognition of the fact that appearing for trial in any form of uniform can be a traumatic experience for a child, and bearing in mind the necessity to fully protect the best interest of child defendants at all stages of the proceedings, CCHR once again recommends that the target courts and the General Department of Prisons make a concerted effort to ensure children systematically wear civilian attire when attending their hearings.

Protection of child defendants' privacy

In accordance with international human rights law, a child has the right to have their privacy respected during all stages of the proceedings, starting from the initial contact with law enforcement up until the final decision.¹⁸⁴ This also applies if they are sentenced, covering their release from supervision, custody or deprivation of liberty. The rationale underpinning this is to avoid the potential harm caused by undue publicity or libel. Therefore, trials involving children in conflict with the law should not be conducted publicly. This is provided for in the Cambodian Law on Juvenile Justice, which states that the cross-examination and pronouncement of judgment shall be conducted in closed court for cases involving children in conflict with the law.¹⁸⁵

The privacy of children in conflict with the law or child victims may further be protected by placing them behind screens or using other alternative means of providing testimony. The use of tools such as video conferencing systems or closed hearings should be considered. If the verdict or the sentence is to be pronounced in public, the identity of the child should not be revealed.¹⁸⁶ Finally, any documentation concerning children should be kept strictly confidential and closed to third parties, except for those directly involved in the investigation and adjudication of the case.¹⁸⁷ This should be ensured even once the defendant has reached the age of 18.¹⁸⁸

In 2024, judges took measures – closed hearings – to protect the privacy of the child defendants in 77.8% (7 out of 9) of the monitored cases where the latter attended the hearing. With consideration for the caveat regarding the discrepancy in the number of cases between the two years, this nonetheless indicates an increase from 2023, when this figure stood at 52.9% (9 out of 17). It is worth highlighting that in all cases involving child defendants that came before the Battambang Appeal Court, the judges ordered a closed hearing. Measures to protect the privacy of the child defendant were disappointingly not taken in either of the relevant cases before the Phnom Penh and Tboung Khmum Appeal Courts.

Segregation of child detainees in prison

International standards on child justice mandate that children deprived of liberty be separated from adults and held in separate facilities staffed by appropriately trained personnel and operating

¹⁸⁴ CRC, Art. 40(2)(vii); Art. 16; Art 40(1), CRC Committee, General Comment No. 24, para. 66, 70

¹⁸⁵ Law on Juvenile Justice, art.47.

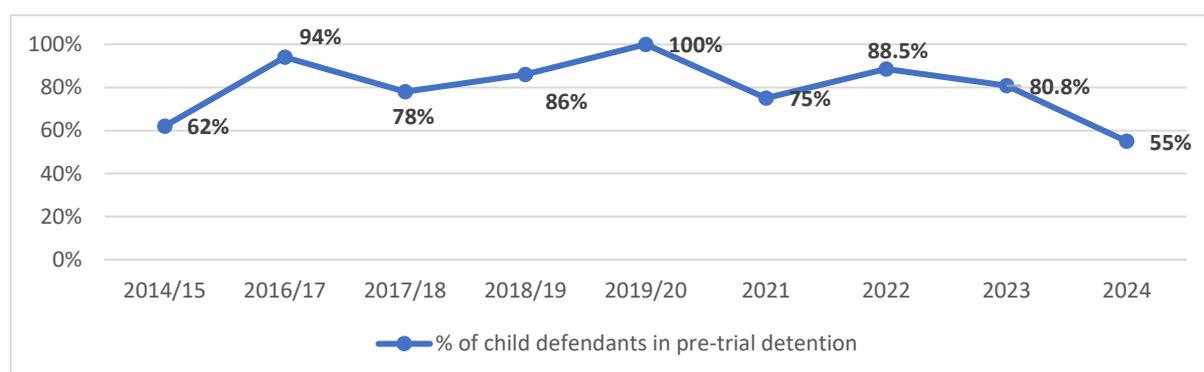
¹⁸⁶ CRC Committee, General Comment No. 24, para. 67.

¹⁸⁷ CRC Committee, General Comment No. 24, para. 67.

¹⁸⁸ CRC Committee, General Comment No. 24, para. 70.

according to child-friendly policies and practices. Exceptions can only be made if they are in the best interest of the detained child.¹⁸⁹ The Law on Juvenile Justice states that children deprived of liberty shall be separated from adults and held in Youth Rehabilitation Centers manned by staff who received appropriate training on child psychology, child welfare, national and international child rights standards, and treatment of detained children. It further stipulates that juveniles in pre-trial detention shall be separated from convicted child offenders.¹⁹⁰ Welcomingly, and for the third consecutive year, nothing indicated that the children in conflict with the law involved in the relevant cases monitored in 2024 were detained alongside adults.

Figure 33: Percentage of child defendants who were subject to pre-trial detention at the Phnom Penh Appeal Court (2014-2021) and the four target courts (from 2022)¹⁹¹



Conclusion

Notwithstanding the smaller portion size of cases involving children in conflict with the law that were monitored in 2024, some conclusions can still be drawn. It would appear that whilst steps have been taken to uphold the rights of child defendants, the persistence of certain challenges underscores that not all aspects of these rights are being adequately respected by the courts. Of particular concern are the widespread use of pre-trial detention in cases involving child defendants, the increased use of blue prison uniforms and its attendant impact on their right to the presumption of innocence and the improved yet inconsistent application of measures to protect their privacy during hearings. These shortcomings must be promptly addressed to ensure that children are afforded fair and equitable treatment throughout the judicial process.

¹⁸⁹ CRC Committee, General Comment No. 24, paras. 92 and 93.

¹⁹⁰ Law on Juvenile Justice

¹⁹¹ This data is based on the number of children in conflict with the law involved in the cases monitored during each reporting period. Given that the Phnom Penh Appeal Court had jurisdiction over the entire country before the three provincial appeal courts began adjudicating cases in April 2020, figures up until the 2019/2020 reporting period can be considered as reflecting national trends. This is also applicable to figures from 2022 onwards, as CCHR started trial monitoring at the three provincial courts that year. The figure for 2021 is provided to avoid gaps in data and only reflects the situation in the provinces under the jurisdiction of the Phnom Penh Appeal Court.

6 Conclusion and Recommendations

Whilst the trial monitoring data in 2024 demonstrated encouraging progress on some elements of the right to a fair trial, CCHR notes with concern that the four courts have yet to uphold most of the fair trial rights identified in this report. Of particular concern, and as have been for a number of years, are the judiciary's over-reliance on pre-trial detention, including cases involving children in conflict with the law; the persistence of torture allegations in police custody; and in 2024 in particular, the rights to a reasoned judgement and to legal representation.

As has been previously highlighted, many of the issues highlighted in this report can be addressed through simple, low-cost and measures that can be quickly implemented. Others merely require the provision of training for judges and lawyers regarding fair trial rights, and following from this, the will on their behalf to uphold them. By taking such immediate and necessary measures, the Courts may act as an example to the Courts of First Instance, and thus positively impact the overall quality of the administration of justice in Cambodia and contribute to strengthening the rule of law, in the interest of individuals standing trial and wider society.

6.1 General Recommendations

6.1.1 The MoJ should hold regular meetings with the judges of the Courts of Appeal regarding the practical implementation of fair trial rights based on national and international standards.

6.1.2 The MoJ should develop a standard form for judgments and disseminate it to all courts to be implemented. The form should set require the following information in order to ensure that the brief report read by the presiding judge is complete:

1. The offense(s) with which the defendant is charged and the relevant law(s);
2. The date, time, location of the alleged offense and relevant parties;
3. The fair trial rights to which the defendant is entitled.

In particular, this standardized form for judgments should remind judges of the defendants' right to be presumed innocent until a final and non-appealable judgment is rendered, and of the fact that the burden of proof lies with the Prosecutor.

6.1.3 Judges should ask the defendant directly whether they understand the charges and their rights. Failure to read out the above information at the beginning of a trial should constitute grounds to appeal a conviction.

6.2 Recommendations Regarding the Right to Liberty

6.2.1 The Ministry of Justice (MoJ) may consider proposing the amendment of Article 308 of the Code of Criminal Procedure to ensure it is aligned with Article 49 (Acquittal) of the Law on Juvenile Justice, to ensure the right to liberty is upheld for defendants who have been acquitted, regardless of whether the Prosecution intends to appeal the decision.

6.2.2 Judges should increasingly and systematically consider the use of alternatives to detention, such as judicial supervision, and in accordance with UN SDG 16.3.2 to ensure that detention remains

the exception and the right to liberty remains the rule and based on an individualized assessment of the factors of the case.

6.2.3 Judges should increasingly and systematically consider the use of alternatives to prison sentences (suspended sentence and alternative penalties), particularly in cases of child defendants.

6.2.4 The Courts must ensure that defendants, especially those who are held in detention, are brought to trial as promptly as possible and that unjustified delays do not undermine the right to the presumption of innocence and the swift administration of justice.

6.3 Recommendations Regarding the Right to Legal Representation

6.3.1 The Ministry of Justice (MoJ) may consider proposing the amendment of the Code of Criminal Procedure to allow for all defendants charged with criminal offenses to be provided with legal representation, in line with the Constitution of the Kingdom of Cambodia and international human rights law and standards.

6.3.2 The MoJ should consider proposing the amendment of Article 319 of the Code of Criminal Procedure, so as to allow defendants without legal representation to access the relevant Case File prior to the hearing and enhance their ability to prepare a defense.

6.3.3 The judges of the Courts should inform and explain to the accused their right to legal representation if they do not appear represented.

6.3.4 The Courts should ensure that, where a lawyer is representing several defendants in a trial, there is not an inappropriate conflict of interest.

6.3.5 The MoJ should take active efforts to inform the public about the right to state-sponsored legal aid, including through publications in post offices, prisons and court buildings.

6.4 Recommendations Regarding Evidentiary Rights

6.4.1 Judges should systematically inform defendants of their right to present evidence in the same conditions as the evidence presented against them.

6.4.2 Judges of the court should systematically instruct witnesses to leave the courtroom until they are called to testify, so as to avoid the influence of their testimony.

6.4.3 Judges should carefully assess whether the evidence presented establishes beyond a reasonable doubt that the defendant is guilty. If there is an interpretation of the evidence which is consistent with the innocence of the defendant, they must be acquitted.

6.4.4 The MoJ should develop clear guidelines regarding the presentation and evaluation of evidence, building on the work of the ECCC,¹⁹² and ensure that all judges are trained accordingly.

¹⁹² The practice of the ECCC may prove useful guidance, particularly its internal rules as well as paragraphs 204 to 209 of the case 002/01 Appeal Judgement, see 'Appeal Judgement'; ECCC, Supreme Court Chamber (23 November 2016), Case File/Dossier N° 002/19-09-2007-ECCC/SC, <https://tinyurl.com/3xyz4wz>

6.5 Recommendations Regarding the Right to Understand the Nature and Cause of the Charge(s)

6.5.1 Judges should systematically inform the defendant of the charges against them and provide relevant information such as the date, location, parties involved and articles of the applicable law. This is particularly important in cases where charges may have been changed or amended since the initial arrest/charge.

6.5.2 Judges should systematically provide an explanation of the defendant's trial rights, regardless of whether or not they have been explained by the First Instance Court judge.

6.5.3 Judges should clearly and directly ask the defendant whether they understand the charges against them and their rights.

6.6 Recommendations Regarding the Right to be Present at Trial

6.6.1 The Courts and the General Department of Prisons should consult and coordinate with each other to address any logistical and communication issues as soon as possible regarding the locations of defendants, to ensure their presence at trial.

6.6.2 The General Department of Prisons must ensure that information on the transfer of detained persons is regularly sent to the General Prosecution to ensure that the Courts give the information regarding the date and time of the appeal hearings to the correct correctional center in which the defendant is detained.

6.6.3 If the defendant is not present, judges should postpone any hearing – even if a lawyer is present, unless the defendant has formally waived their right to be present.

6.7 Recommendations Regarding the Right to the Presumption of Innocence

6.7.1 Judges must systematically and unequivocally inform defendants of their right to be presumed innocent until a final verdict is rendered; of the fact that the burden of proof lies with the Prosecutor; and that they have the right to remain silent and it will not be used against them.

6.7.2 The MoJ and MoI shall disseminate clear guidelines to all Courts that defendants held in pre-trial detention must be allowed to appear in Court wearing civilian clothes.

6.7.3 The General Department of Prisons shall ensure that defendants being brought to Court are not dressed in the blue prison uniform.

6.7.4 Judges shall allow defendants who have been brought to Court wearing a convict uniform to change into civilian clothes instead before the hearing.

6.8 Recommendations Regarding the Right not to be compelled to testify against oneself

6.8.1 Judges must ensure the prompt, thorough and effective investigation of defendants' claims of coercion, duress or torture to obtain confessions of guilt, before rendering their ruling.

6.8.2 The Courts must ensure that if any coercion, duress or torture claims are substantiated following investigations, that any evidence or confessions obtained by such methods are inadmissible and that relevant re-trials are conducted and ensure that appropriate reparations are made to victims.

6.8.3 The MoJ should consider proposing the amendment of Article 98 of the Code of Criminal Procedure relating to Assistance of Lawyer During Police Custody, to remove the 24-hour restriction to accessing a lawyer and allow for access to a lawyer as soon as possible from the moment the individual has been deprived of their liberty, in accordance with Cambodia's obligations under international human rights law and Article 31 of the Constitution.

6.9 Recommendations Regarding the Right to a Reasoned Judgement

6.9.1 The Courts must ensure that written judgements are made publicly available, with redactions to be applied where necessary to protect the identity of the defendants, victims or witnesses or for any other reason.

6.9.2 Drawing from the best practice as implemented by the ECCC,¹⁹³ establish a framework in which judges are obligated to inform and explain the legal and evidential reasons behind their verdict and ensure that reasoned written judgments are given to the defendant.

6.10 Recommendations Regarding the Professionalism of Judges, prosecutors, and lawyers

6.10.1 Judges should ensure that they allocate sufficient time to hear cases to ensure that they are adjudicated in a proper and thorough manner.

6.10.2 The MoJ and the Supreme Council of Magistracy should work together to review the code of conduct for judges and implement any necessary amendments, including a complete ban on the use of mobile phones during hearings and allowing a brief break during the trial.

6.11 Recommendations Regarding the Rights of Children in Conflict with the Law

6.11.1 The judges of the Courts should speed up and strengthen the implementation of the Law on Juvenile Justice, in particular Article 47 which requires that the trial process and the judgment be conducted in a closed hearing.

¹⁹³ See esp. 'Appeal Judgement', ECCC, Supreme Court Chamber (23 November 2016), Case File/Dossier N° 002/19-09-2007-ECCC/SC, <https://tinyurl.com/2amb8t57>

6.11.2 The judges of the Courts should follow the best practice of the ECCC and allow children in conflict with the law to appear in court wearing civilian clothing, at all stages of the criminal procedure.

6.11.3 The judges of the Courts should limit pre-trial detention of children in conflict with the law to exceptional cases when no other alternative exists and ensure that, in such case, all necessary measures are taken to respect their rights.

6.11.4 The MoJ should ensure that judges and prosecutors undergo specific training concerning issues relating to child justice.

6.11.5 The judges of the Courts should examine and make use of non-custodial measures for children in conflict with the law, and implement a set of sentencing guidelines for children who are recognized as having infringed criminal law that focus firmly on reintegration rather than punishment alone and on the best interests of the child.

6.11.6 The MoJ should implement a diversion scheme; through which a child offender is supported and rehabilitated within the community as an alternative to formal prosecution. This scheme must be implemented for all first-time offenders with the exception of the most serious felony offenses.

6.11.7 The MoJ should review the existing legislation, including the laws related to the functioning of the courts, in order to ensure their compliance with international standards on the child justice system, including, the Beijing Rules, the UNICEF guidance for legislative reform on juvenile justice,¹⁹⁴ the UNICEF implementation handbook for the Convention on the Rights of the Child,¹⁹⁵ and the UNICEF law reform and implementation of the Convention on the Rights of the Child report.¹⁹⁶

¹⁹⁴ UNICEF, 'Guidance for Legislative Reform on Juvenile Justice' (2011) <https://tinyurl.com/3y34324u>

¹⁹⁵ UNICEF, 'Implementation Handbook for the Convention on the Rights of the Child' (2007), p. 107, <https://tinyurl.com/yc3c7v8x>

¹⁹⁶ UNICEF, 'Law Reform and Implementation of the Convention on the Rights of the Child' (2007), p. 87, <https://tinyurl.com/3u3x2dh8>