

# WHAT IS A FAIR TRIAL?



Right to a public hearing

Right to an explanation of rights owed to the accused

Right to the presumption of innocence

Right against self-incrimination



Right to be tried without undue delay

Right to adequate time and facilities to prepare a defence

Right to be tried by an independent and impartial tribunal

Prohibition against retroactive application of penal legislation



Right to understand the nature of the charge

Right to legal representation and to be present at trial

Right to full disclosure of evidence for the preparation of the defence

Rights of juveniles

## RIGHT TO ADEQUATE TIME AND FACILITIES TO PREPARE A DEFENCE

The defense and the prosecution are given equal treatment, ensuring they are both given equal opportunity to prepare and present their cases



## RIGHT TO LEGAL REPRESENTATION AND TO BE PRESENT AT TRIAL

To ensure that the accused has the best possible defense at law from an expert advocate and all criminal accused have equal access to the law



## RIGHT TO BE TRIED WITHOUT UNDUE DELAY

Protects the right of an accused to be tried or charged within a reasonable time or released from custody



## RIGHT TO BE TRIED BY AN INDEPENDENT AND IMPARTIAL TRIBUNAL

A Court that is affected and influenced by outside sources is not capable of discharging its duty to ensure fair trials.

All tribunals courts and their judges must be independent from the legislative and executive arms of government, parties to the proceedings and any State mechanisms. This is to ensure that the justice system cannot be used for personal ends or manipulated into a political tool.

Tribunals, courts and judges must be impartial. This means that they must not have any interest or stake in the cases that they try, hold prejudicial or preconceived views regarding the matter or of the parties involved in the matter or show any party favouritism.



## RIGHT TO THE PRESUMPTION OF INNOCENCE

This right developed to ensure that no one may be arbitrarily punished for an act that they may have not committed. Any alleged act of wrongdoing must be proven in a court of law before punishment can be imposed. Judges must be impartial and must refrain from pre-judging a case and public officials should not make statements concerning the guilt or innocence of an accused before a trial has been completed.

The provision prohibiting "external indicators of guilt" includes: The accused's right to wear civilian clothing throughout a trial and not to be shackled or handcuffed during the trial. Every accused is entitled to be brought before a court with the appearance and dignity of a free and innocent person. When a accused is forced to attend a hearing in prison attire or wearing handcuffs or shackles, it has the potential to create an impression that the accused is a guilty or dangerous criminal and risks affecting, consciously or unconsciously, the judgment of the trial judge, the manner in which the proceedings are conducted and the outcome of the case.



## RIGHTS OF JUVENILES

Juveniles who are accused of having committed a criminal offense are entitled to all the fair trial rights that apply to adults, as well as additional protections in recognition of their age, maturity, and intellectual development. The primary purpose of juvenile justice should be to rehabilitate and reintegrate the offender towards becoming a constructive member of society.

These rights include:

- (1) The right to have his or her privacy fully respected at all stages of proceeding;
- (2) The right to legal representation for all offenses;
- (3) The right to closed hearings throughout trial process and at the judgment.



## LEGAL PROTECTION

Domestic Law

International Law



**The Constitution of the Kingdom of Cambodia**



A number of fair trial rights are enshrined in articles 38, 51, 128, 130, and 132

Article 31 guarantees respect for the provisions contained in international covenants and agreements

## Universal Declaration of Human Rights

Article 10 guarantees a fair public hearing by an independent and impartial tribunal

## International Covenant on Civil and Political Rights

Article 14 guarantees the right to a fair trial

## FAIR TRIAL RIGHTS PROJECT

Increasing respect for fair trial rights and advocating for improvements in Cambodian Court practices



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To learn more about Fair Trial rights and Trial Monitoring visit [www.cchrcambodia.org/ftrhandbook](http://www.cchrcambodia.org/ftrhandbook)  
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