



PRESS RELEASE

The Cambodian Center for Human Rights (“CCHR”) Releases Fair Trial Rights Annual Report Outlining Key Findings from its Monitoring at the Phnom Penh Appeal Court.
Phnom Penh, 12 June 2023

Today, CCHR’s Fair Trial Rights Project released its annual report “Fair Trial Rights in Cambodia, Monitoring at the Court of Appeal”, covering the period from 1 January to 31 December 2021. This Report analyzes data gathered through the daily monitoring of 85 randomly selected criminal cases at the Phnom Penh Court of Appeal, using a specifically designed trial-monitoring checklist to assess adherence to fair trial rights as set out in international and Cambodian law.

The Report finds that a number of key fair trial rights were guaranteed before the Court – including the Pre-trial right to speak with a lawyer and right to adequate time and facilities to prepare a defense, the right to a public judgment, the prohibition against retroactive application of criminal law and protection against double jeopardy. Regrettably, trial monitoring also uncovered a lack of compliance with some fundamental fair trial rights, as outlined below:

- The right not to be compelled to confess guilt and to testify against oneself has been classified as being not fully respected due to the remaining number of defendants, including a child, who claim they have been subjected to violence or torture to force them into confessing the alleged crime (3 defendants out of 118) in the investigate stage of judicial officers.
- The fundamental right to a public hearing is not fully respected as 17 out of the 85 hearings monitored by CCHR did not have any notice posted on the public board outside the courtroom or online.
- The right to understand the nature and cause of the charges continues to be considered not fully respected as in 9.4% of the monitored cases, the defendants were not informed of all the charges against them and in 1.18% of the monitored cases, they were not informed of the charges against them at all.
- The right to have legal representation was not always respected: about 25% of defendants were not represented by a lawyer. Further, in 8 out of the 85 cases monitored by CCHR, the judges failed to inform and explain the accused about their right to legal representation, and in 9 cases, the judge only informed the defendants without explaining this fundamental right.
- The presumption of innocence remains not fully respected, with judges failing to inform and explain 18.8% of the defendants about their right to remain silent and 19.5% defendants appearing in court in the same prison uniform as convicts.
- The right to liberty and to be tried without undue delay was not fully upheld by the Court, with 89 defendants out of 118 being held in pre-trial detention.

- The rights of children in conflict with the law, who are entitled to special protection under international human rights law and Cambodian law, continued to be undermined with no specific measures put into place to protect the privacy, including of a child under 14 years old.

The Report compares 2021 data with that of previous reporting periods to identify trends and analyze the evolution of fair trial rights in the Kingdom. While the majority of the findings are similar, three main points emerge.

First, the right to a public hearing, while classified as not respected since 2016, saw a significant improvement during the Reporting Period as the Court posted a hearing notice on a public board outside the room in 80% of the cases monitored, compared to only 15% in the previous Reporting Period.

Second, the right not to be compelled to confess guilt or to testify against oneself continues to be not fully respected. During the Reporting Period, 2.5% of the defendants involved in the monitored cases alleged that their confession had been obtained through violence or torture in the investigation stage of judicial officers. This rate is lower than in any of the previous reporting periods, given that 6.7% of the defendants in 2019/2020, 4.3% of the defendants in 2018/2019, 7% of the defendants in 2017/2018 and 2016/2017, and 4% of the defendants in 2014/2015 made the same claims. While the latest rate is encouraging, allegations of violence or torture remain highly problematic and must be immediately and thoroughly investigated by the competent authorities.

Third, the rights of children in conflict with the law have been consistently undermined since 2014 and continued to be during the Reporting Period, including those of a child under 14 years old, which according to both international and domestic law, should have never been brought to trial. Children are amongst the most vulnerable segments of the population and need special protection when confronted with the justice system. It is therefore critical that the Court increases its efforts to fully uphold their fair trial rights.

Several key fair trial rights have been consistently upheld by the Court since 2014, including the pre-trial right to speak with a lawyer and the right to adequate time and facilities to prepare a defense, the right to a public judgment, the non-retroactive application of the law and the prohibition against double jeopardy. Regrettably, a certain number of rights have been consistently not fully respected since 2014, such as the right to a public hearing, the right to a reasoned judgment, evidentiary rights, and the rights of children in conflict with the law.

CCHR hopes that the data, analysis, and recommendations set out in this Report will assist the RGC's efforts to improve the judicial system and respect for fair trial rights and support those working to ensure that the judicial system in Cambodia is fair and equal for all.

The Report is available on CCHR's website in [Khmer](#) and in [English](#), and the underlying data can be found on CCHR's [Trial Monitoring Database](#).

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Notes to the Editor:

About the Fair Trial Rights Monitoring Project

CCHR's Fair Trial Rights Project was set up in 2009 to monitor criminal trials in Cambodian courts, and to assess their adherence to international and Cambodian fair trial standards. The Project uses the findings to promote increased respect for fair trial rights, to advocate for improvements in court practices, and to increase understanding and knowledge of the concept of fair trial rights among the public. The overall goal of the Project is to improve the procedures and practices of courts in Cambodia, resulting in full adherence to fair trial standards in criminal trials, and to increase understanding and knowledge of the concept of fair trial rights among the public. For more information, please visit [our website](#) as well as our [Fair Trial Rights Monitoring Database](#). Other publications from the project can be found [here](#).

About the Cambodian Center for Human Rights

Founded in November 2002, CCHR is a non-aligned, independent, non-governmental organization that works to promote and protect democracy and respect for human rights – primarily civil and political rights in Cambodia. CCHR is a member of the International Freedom of Expression Exchange (IFEX), the global network for freedom of expression, and CIVICUS: World Alliance for Citizen Participation. CCHR is also a member of the World Organization Against Torture (OMCT) SOS-Torture Network and OECD Watch.

The Cambodian Human Rights Portal (www.sithi.org) is the 2011 winner of the Information Society Innovation Fund Award in the category of Rights and Freedoms and the 2013 winner of the Communication for Social Change Award awarded by the Centre for Communication and Social Change at the University of Queensland in Brisbane, Australia.