



THE RIGHT TO BE INFORMED OF THE NATURE AND CAUSES OF THE CHARGE(S)



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About Cambodian Center for Human Rights

The Cambodian Center for Human Rights (“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 Cambodian Human Rights Portal, accessible at <http://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.

For more information about CCHR, please visit www.cchrcambodia.org.

About the Fair Trial Rights Project

The Module on the Right to be Informed of the Nature and Causes of the Charge(s) is part of a series of modules on fair trial rights produced by CCHR’s Fair Trial Rights Project (“the FTR Project”). The FTR Project is the first – and only one – of its kind in Cambodia, uniquely and innovatively working to promote and protect fair trial rights in practice. It overall aims to increase the impartiality and independence of Cambodia’s judiciary by supporting the right to a fair trial in Cambodia’s courts. In pursuit of this goal, the FTR project has two specific objectives: to socialize the concept of fair trial rights among the public by raising its awareness of fair trial rights and to increase compliance with fair trial standards within the judiciary through trial monitoring.

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Queries and Feedback

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**The right to be informed of
the nature and causes of the
charge(s)**

1. Definition



The right to be informed of the nature and causes of the charge(s) entails that the accused and their counsel are informed promptly and with detailed information about:

- **The nature of the charge(s):** The law under which the accused has been charged.
- **The cause of the charge(s):** The alleged facts which form the ground of the accusation against the accused.¹

An individual accused of an offense must be informed as soon as they are formally charged under domestic law, or as soon as they have been publicly made a suspect.²

This right applies to all criminal cases, including those of charged individuals who are not held in detention.³



The information provided to the accused must be detailed enough to allow them the ability to prepare their defense and properly inform their lawyers of the nature and causes of the charge(s) laid against them. The information about charges can be provided either in writing or orally if it even if initially they were given orally, they must be confirmed in writing subsequently.⁴

It is also important that the defendant is provided with this information in language that they understand. This means that defendants who do not understand the language used by the authorities must be provided with a free interpreter. In addition, the relevant information should be provided to



defendants in a simple and non-technical language to ensure that the accused can understand the charges.⁵

While defendants must be informed of the nature and cause of the charges at the earliest possible opportunity in the legal proceedings judges are also obliged to remind the defendants of the charge(s) at trial by providing an adequate explanation to ensure they are aware of the nature and causes of the charge(s) against them.⁶

¹ Amnesty International, “Fair Trial Manual, Second Edition,” (April 2014), page 76, <https://www.amnesty.org/en/documents/pol30/002/2014/en/> (Amnesty International’s Fair Trial Manual).

² UN Human Rights Committee (‘UNHRC’), “General Comment No. 32 – Article 14: Right to equality before courts and tribunal and to a fair trial”, (CCPR/C/GC/32, 23 August 2007), para.31, <https://www.refworld.org/docid/478b2b2f2.html>, (UNHRC, General Comment No.32).

³ Ibid.

⁴ UNHRC, General Comment No 32, para.31.

⁵ Amnesty International’s Fair Trial Manual, page 38.

⁶ CCHR, ‘Fair Trial Rights Newsletter: The Right to Understand the Nature and Cause of the Charges and Explanation of Rights for Women Defendants’ (March 2021), <https://docs.google.com/viewerng/viewer?url=https://cchrcambodia.org/admin/media/newsletter/newsletter/english/CC+HR+Fair+Trial+Rights+Newsletter+on+Right-EN.pdf>.

They must ensure this by:

- Announcing the case to be heard.
- Explaining the charge(s), time, date and place where the alleged crime(s) was said to have been committed.
- Stating the parties involved.⁷

2. Legal Framework



2.1 International Law

The **right to be informed of the nature and causes of the charge(s)** is expressly protected by the **International Covenant on civil and political rights (“ICCPR”)**, which is directly applicable in Cambodian law through Article 31 of the Cambodian Constitution.

- **Article 14(3)(a) of the ICCPR:** *“In the determination of any criminal charge against him, everyone shall be entitled to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him.”*
- **Article 14(3)(f) of the ICCPR:** *“In the determination of any criminal charge against him, everyone shall be entitled to have the free assistance of an interpreter if he cannot understand or speak the language used in court.”*



2.2 Cambodian Law

The **Code of Criminal Procedure of the Kingdom of Cambodia (“CCPC”)** and the **Law on Juvenile Justice** also guarantee the right to be informed of the nature and causes of the charge(s) to adult and juvenile defendants.

- **Article 325 of the CCPC:** *“The presiding judge shall inform the accused of the charges he is accused of.”*
- **Article 330 of the CCPC:** *“If necessary, the presiding judge may seek the assistance of an interpreter/translator.”*
- **Article 331 of the CCPC:** *“When questioning a deaf and mute person, the court clerk shall write down the questions and ask the person being questioned to read the questions and answer them in writing. If the person cannot read or is illiterate, the presiding judge shall call on an interpreter/translator for him under the conditions stated in Article 330 [...] The presiding judge may call on any person who is able to communicate with the deaf and mute person.”*

⁷ CCHR, ‘Fair Trial Rights and Trial Monitoring Handbook’ (February 2012), page 18, <https://sithi.org/tmp/publication/view/2012-02-13-fair-trial-rights-and-trial-monitoring-handbook> (CCHR’s FTR Handbook).

- **Article 396 of the CCPC:** “[T]he rules that apply to hearings of the Court of First Instance shall also apply to the Court of Appeal.”
- **Article 6 of the Law on Juvenile Justice:** “Every minor suspected or accused of having committed an offence shall have the following basic procedural rights: [...] The right to be informed of the charge(s) [...]”
- **Article 51 of the Law on Juvenile Justice:** “At the commencement of trial, the court shall advise the minor in a language that the minor can understand of the following rights: The rights at trial as stipulated in Article 6 (procedural right of minors) of this law [...]”

3. Importance

The right to be informed of the nature and causes of the charge(s) at both the pre-trial and trial stages of proceedings is essential in order to:

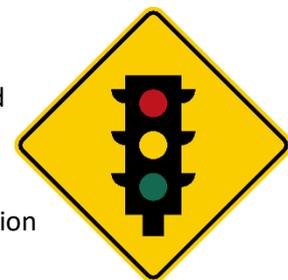
- Ensure that the accused understands why they are being prosecuted.
- Ensure that the accused is able to challenge any detention that they are subject to as soon as possible.
- Ensure that the accused has the opportunity to present the best possible defense. The right to be informed of the nature and causes of the charges is therefore an essential part of the **right to adequate time and facilities to prepare a defense**.⁸
- To guard the accused against unfounded criminal charges.⁹



The non-respect of this right by the authorities can therefore undermine the accused’s ability to defend themselves adequately against the charges held against them and lead to wrongful convictions.

4. Limitations

The right to be informed of the nature and causes of the charges is enshrined in Article 14 of the ICCPR. Article 14 is not in the list of non-derogable rights¹⁰ set out in Article 4 of the ICCPR (Derogations during a state of emergency). However, the UN Human Rights Committee has stated that general reservation



⁸ OSCE, “Legal Digest of International Fair Trial Rights,” page 116, <https://www.osce.org/odihr/94214#:~:text=The%20Legal%20Digest%20of%20International,of%20OSCE%20trial%20monitoring%20operations>.

⁹ CCHR’s FTR Handbook page 17.

¹⁰ A non-derogable right: A right whose application cannot be suspended by government in circumstances of “state of emergency under Article 4 ICCPR.

to the right to a fair trial is incompatible with the object and purpose of the ICCPR. Any deviation from fundamental principles of fair trial rights is therefore prohibited at all times.¹¹

The right informed of the nature and causes of the charges only applies from the moment charges have been laid against the defendant and not to criminal investigations preceding the laying of charges.¹² The right to be notified of the reasons of the arrest during criminal investigations and before official charges are laid is guaranteed in another article of the ICCPR (Article 9 (2)).

¹¹ UNHRC, General Comment No. 32 paras. 5 and 6; UNHRC, “General Comment No. 29 – Article 4: Derogations during a state of emergency”, (CCPR/C/21/Rev.1/Add.11, 31 August 2021), para. 11, <https://www.refworld.org/docid/453883fd1f.html>.

¹² UNHRC, General Comment No. 32, para. 31.