

THE RIGHT TO A PUBLIC HEARING

Definition



Everyone has the right to have their guilt or innocence determined in a **public hearing**, except in certain exceptional circumstances. This means that trials must in principle be conducted **publicly and orally** to ensure the transparency of the proceedings.

The right to a public hearing applies to all trials in criminal matters or related to a lawsuit. However, it does not necessarily apply to all appeal proceedings or to pre-trial decisions made by prosecutors and other public authorities. For the right to a public hearing to be upheld:



Trials should be open to the public, including the media, and conducted orally.



The public must be informed of the venue and date of the trial.



The public should be provided with adequate facilities to ensure their attendance within reasonable limits.

In the exceptional circumstances in which the public is excluded from a trial, the judgment - including essential findings, evidence, and legal reasoning - must be made public.

Legal Framework

International Law

The right to a public hearing is expressly protected by Article 14(1) of the International Covenant on Civil and Political Rights which states, "Everyone is entitled to a **“fair and public hearing”**[...]."



Cambodian Law

The right to a public hearing is protected by Article 316 of the Cambodian Code of Criminal Procedure which states, "**Trial hearings shall be conducted in public.**" It is also protected by Article 7 of the Law on the Organization of the Court which states, "**In all cases, the court shall announce the judgment during a public session.**"



Importance



The right to a public hearing is fundamental to ensuring the **transparency of proceedings** and the **accountability of those delivering justice**. It is an essential safeguard for interests of both the individual and society as a whole.

For the parties involved in a trial, including the accused, public scrutiny provides a **check** against arbitrary decision-making, abuses of power, procedural violations (including inequality in the treatment of parties), and the interference and influence from external parties.



Preventing the public from being able to monitor justice is a threat to the principle of the rule of law. Denying the right to a public hearing allows the space for corruption and impunity to prevail, and undermines the accused's right to a fair trial as it exposes them to wrongful conviction and unfair sentencing.

Limitations

The law permits **restrictions** on the right to a public hearing in a number of **specific and narrowly defined circumstances**. According to Article 14 (1) of the ICCPR, the right to a public hearing can be restricted if the following are threatened:



Morals (for example, if the case involves sexual offences)



In special circumstances, when the court believes that publicity would the interest of justice



National security in a democratic society



Public order



When the interest of the private lives of the parties so requires (for example, protecting the identity of victims of sexual violence)

September 2022