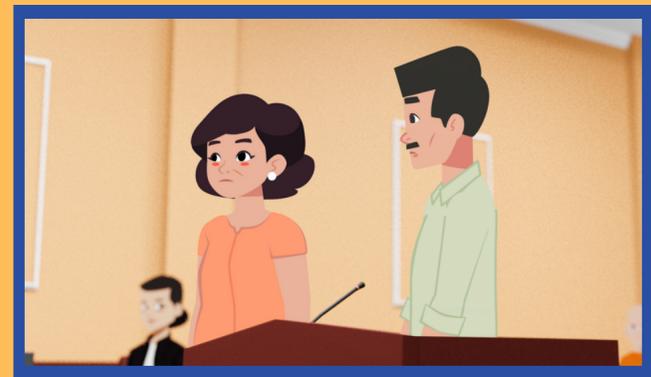


# THE RIGHTS TO A PUBLIC AND REASONED JUDGMENT

## Definition

The right to a public judgment means that judgments rendered in civil and criminal proceedings must be made public. This right is linked to the accused's right to a public hearing. Both aim to ensure public and open administration of justice.



Even when the public is excluded from a trial, the courts have an obligation to make their judgment public, including the essential findings, evidence, and legal reasoning. A judgment is considered public when it is pronounced orally by the court in a public session or provided in writing to the parties and made available to the public, including through court registries or other avenues such as websites.



The right to a reasoned judgment means that a criminal judgment rendered against an individual must explain why and how the verdict has been reached and why the person was found guilty or innocent.

In their judgments, judges must explain both the facts and the law on which they based their decision:

**The Facts:** the judgment must set out the facts for which the person is convicted as clearly as possible, including the date, the location, and the actual event(s). In doing so, the judges must ideally refer to the piece(s) of evidence on which they relied in order to reach the finding, for instance a confession or a specific witness' testimony, and explain why they relied on it.



**The Law:** the judgment must also include the legal basis on which the ruling is based, both in terms of substantive law (the crime) and of criminal liability (the mode of liability: direct perpetrator, accomplice, etc.).



# Legal Framework

## International Law

The right to a public judgment is guaranteed in Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR): "[...] But any judgment rendered in a criminal case or in a suit at law shall be made public [...]." The right to a reasoned judgment is not explicitly enshrined in the ICCPR but is inherent to the the right to a fair trial.

## Cambodian Law

The right to a public judgment is guaranteed in Article 317 of the Cambodian Code of Criminal Procedure (CCPC) which states, "In all cases, a judgment shall be announced publicly," and Article 7 of the Law on the Organization of the Court. The right to a reasoned judgment is guaranteed in Articles 357 and 403 of the CCPC.

## Importance

The rights to a public and reasoned judgment guarantee an open, transparent and accountable justice system, which is fundamental to the rule of law. They ensure that:

The public sees justice being delivered and how it is delivered to ensure it is administered properly.

An explanation of the judges' decision is provided to allow the accused to know why and what they are being convicted for and prevent arbitrary decisions and abuses.

Accused fully enjoy their right to appeal.

Jurisprudence and legal certainty about the interpretation and application of the law can be developed.

The upper courts know how the lower judgments were rendered to properly review them.

## Limitations

The right to a public judgment is not absolute and can be restricted under certain circumstances. It can be restricted where the interest of juvenile persons requires it or in proceedings that concern matrimonial disputes or the guardianship of children.

The right to a reasoned judgment must be respected at all times and in all cases. However, judges are not required to answer each of the arguments made by the accused. The court must at least publicly pronounce the essential findings, evidence, and legal reasoning of its decision.

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