



# THE RIGHT TO DEFEND ONESELF IN PERSON OR THROUGH LEGAL REPRESENTATION

## Definition

Every person charged with a criminal offense has the right to **defend themselves in person** or **to be defended by a legal counsel of their choice**.

The right to defend themselves in person to which individuals charged with a criminal offense are entitled means that they have the right to **refuse to be assisted by a lawyer** to a certain extent.

For the right to defend oneself in person or through legal representation to be effective, individuals charged with a criminal offense must also **be informed** of this right sufficiently in advance to provide them with **adequate time and facilities to prepare their defense** on their own or assisted by a lawyer.



Accused have the right to **be assisted by a lawyer** if they do not wish to defend themselves.



This right applies at all stages of the **criminal proceedings**, from the preliminary investigation to the trial and appeal stages.

Accused have the right to **choose the legal counsel** who will represent them. This is important to ensure trust and confidence between them and their lawyer and allow for an **effective defense**.

If they cannot afford a lawyer, accused individuals have the right to be **assigned a lawyer free of charge whenever the interests of justice require it** (e.g., the gravity of the offense.).

## Legal Framework

### International Law

The right to defend oneself in person or through legal representation is expressly protected by Article 14 (3) the International Covenant on Civil and Political Rights which states, **"In the determination of any charge against him, everyone shall be entitled: [...] and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it."**



# Cambodian Law

The right to defend oneself in person or through legal representation is expressly protected by Article 38 of the Cambodian Constitution which states, "Every citizen shall enjoy the right to defense through judicial recourse." It is also protected by Articles 143, 300, and 301 Cambodian Code of Criminal Procedure as well as Articles 6 and 50 of the Law on Juvenile Justice.



## Importance

Whether in person or through legal counsel, the right to defend oneself is central to ensuring a fair trial. An accused charged with a criminal offense must be allowed to challenge the accusations made against them. The right to legal representation is one of the pillars that uphold the equality of arms between the defense and the prosecution, a key principle of a fair trial.



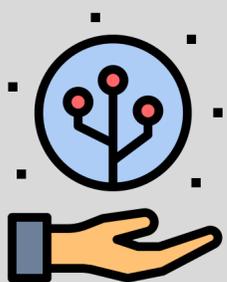
Legal representation enables the accused to prepare the best and most effective defense with the help of someone with adequate legal expertise who can properly explain the legal implication of the charges and defend the accused's interests in court. It also ensures that all accused have equal access to the law and that law is not dispensed discriminatorily.

## Limitations



The right to legal representation can be waived if an accused wishes to defend themselves, if it is done unequivocally and with adequate safeguards. The accused must also have the right to revoke their waiver during the criminal proceedings if they change their mind.

However, the right to defend oneself in person is not absolute. An accused can be assigned a lawyer against their wishes when the interests of justice so require. Overall, any restrictions on the right to defend oneself must have an objective and sufficiently serious purpose and not go beyond what is necessary to uphold the interests of justice.



While it is important that the accused chooses a lawyer they trust to represent them, this right of choice is also not absolute and can be reasonably and objectively restricted, especially if the services of the counsel are paid by the State.

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