



THE RIGHT TO BE TRIED WITHIN REASONABLE TIME AND THE RIGHT TO BE TRIED WITHOUT UNDUE DELAY

Definition



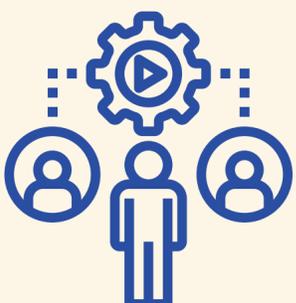
The right to be tried within a reasonable time (or to release) and the right to be tried without undue delay both require that criminal proceedings be completed within a reasonable timeframe.

The right to be tried within a reasonable time (or to release) applies only to individuals charged with a criminal offense and placed in pre-trial detention, while the right to be tried without undue delay has a much broader scope. It applies to every individual charged with a criminal offense, detained or not.



The right to be tried within a reasonable time (or to release) applies specifically to the periods of pre-trial detention, i.e., detention between the time of arrest and the first instance judgment. The right to be tried without undue delay has a broader application. This guarantee applies from the time of formal charging until the final judgment on appeal.

There is no fixed time limit defining what a reasonable time or an undue delay is. The reasonableness of the time taken to bring charged individuals held in detention to trial or of any delay in the criminal proceedings must be assessed on a case-to-case basis and take into consideration the circumstances of each case, including its complexity, the conduct of the accused during the proceedings, and the manner in which the case was dealt with by executive and judicial authorities.



It is the role of state authorities to organize and make sufficient resources available for their legal systems to ensure speedy justice. Should they not bring charged individuals in pre-trial detention to trial within a reasonable time, they must proceed to their release pending trial.

Legal Framework

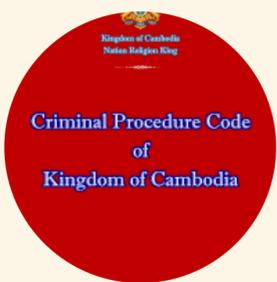
International Law

The right to be tried within a reasonable time (or to release) is expressly guaranteed in Article 9 (3) of the International Covenant for Civil and Political Rights (ICCPR) which states, "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release." The right to be tried without undue delay is enshrined in Article 14(3) of the ICCPR which states, "In the determination of any criminal charge against him, everyone shall be entitled: [...] To be tried without undue delay [...]."



Cambodian Law

Several provisions of the Cambodian Criminal Code of Procedure (CCPC) guarantee the right to be tried within a reasonable time (or to be released) and the right to be tried without undue delay. For instance, Article 249 of the CCPC states, "[...] The decision to keep the charged person in provisional detention ceases to be effective after four months. If the charged person has not been called to appear before the trial court within these four months, the charged person shall be automatically released [...]."



Importance

The right to be tried within a reasonable time (or to release) and the right to be tried without undue delay enable to protect other fundamental fair trial rights. Both rights are particularly important to preserving the right to liberty and the presumption of innocence as they avoid extremely prolonged pre-trial detention and keeping individuals in detention longer than strictly necessary throughout the criminal proceedings



Both rights allow for the expeditiousness of justice, which is an important aspect of a fair trial, as speedy justice avoids keeping individuals too long in a state of uncertainty about their fate and any stigma surrounding the accusations held against them. It also ensures that the interests of justice are served. A balance must, however, be found between the necessity to expedite justice and that to uphold other fair trial rights (e.g., the right to adequate time and facilities to prepare a defense).



Limitations

The right to be tried within a reasonable time (or to release) and the right to be tried without undue delay do not prohibit any delay in the criminal proceedings. Some delays can be justified by the complexity of the case or the conduct of the accused, for instance. However, delays arising from court backlogs, lack of human resources (e.g., shortage of judges), or the negligence of authorities are not acceptable justifications for delays in criminal proceedings.

September 2022