

# ปัจจัยที่ส่งผลต่อการตัดสินใจของผู้พิพากษาทางอาญา:

## มุมมองของนักศึกษาในกรุงพนมเปญ

### Factors Affecting Judicial Decision on Criminal Case: A Perspective of Undergraduate Students in Phnom Penh

Sreynoch Lanh<sup>1</sup>

ปิยะ นาควัชระ (Piya Narkwatchara)<sup>2</sup>

<sup>1,2</sup>Faculty of Political Science and Laws, Burapha University, Chonburi 20131 Thailand

Email: sreynochlanh@gmail.com

Received: 2 June 2022

Revised: 30 June 2023

Accepted: 30 June 2023

#### บทคัดย่อ

ผู้พิพากษาเป็นผู้มีบทบาทในระบบตุลาการในการสร้างความยุติธรรมและกฎหมายให้เกิดขึ้นในสังคม งานวิจัยนี้มีวัตถุประสงค์เพื่อศึกษามุมมองของนักศึกษาระดับปริญญาตรีในกรุงพนมเปญต่อปัจจัยที่มีผลต่อการตัดสินใจอาญา มหาวิทยาลัยที่เข้าร่วม 3 แห่ง ได้แก่ Build Bright University, Royal University of Phnom Penh และ University of Cambodia กลุ่มที่ใช้ในการศึกษา คือ นักศึกษา จำนวน 391 คนวิธีการเชิงปริมาณถูกนำมาใช้สำหรับการรวบรวมข้อมูล ผู้วิจัยใช้สถิติเชิงพรรณนา และการถดถอยพหุคูณสำหรับการวิเคราะห์ข้อมูล ผลการวิจัยพบว่าความรู้ในเรื่องกฎหมายของผู้พิพากษา มีอิทธิพลมากที่สุดต่อการพิจารณาคดีอาญา ในขณะที่ความคิดเห็นของประชาชน การเมือง และการทุจริตไม่มีการเกี่ยวข้อง แสดงว่าความรู้ของผู้พิพากษามีความเชื่อถือได้

หลังจากศึกษาวิจัยเสร็จแล้ว ผู้วิจัยได้เสนอแนะโดยขึ้นกับผลการวิจัยว่าระบบกฎหมายอาจอัปเดตให้ทันต่อความต้องการทั่วไป ความรู้ระบบศาลและตุลาการควรรวมไว้ในระบบการศึกษาของนักศึกษาระดับปริญญาตรีและขั้นตอนความรู้พื้นฐาน เกี่ยวกับกระบวนการทางกฎหมายควรโฆษณาให้ประชาชนทั่วไปทราบมากขึ้น

**คำสำคัญ:** ระบบกฎหมาย, การรับรู้ส่วนตัวของผู้พิพากษา, ความคิดเห็นของประชาชน, อิทธิพลทางการเมือง, การทุจริต

## Abstract

Judges play virtual role in judicial system in creating a fair and lawful society. This research aimed to study a perspective of undergraduate students in Phnom Penh toward the factors affecting judicial decision on criminal case. The three participated universities were Build Bright University, Royal University of Phnom Penh and University of Cambodia. There were 391 students participating in this study. Quantitative method was adopted for data collection. The authors employed descriptive statistics and step-wise multiple regression to analyze the data. The result showed that legal system and judges' personal perceptions has most influences on judicial decisions on criminal case while public opinion, politics and corruption has no revelation. This showed that legal system and judges' personal perception are to be reliable, sustainable and accountable for the society.

After the research study was completed, the researcher had some recommendations by depending on the findings that legal system may keep updating up to date to meet general needs, court and judicial system knowledge should be included in education system for undergraduate students, and basic knowledge procedures regarding to legal system process should be advertised more to general public.

**Keywords:** Legal system, Judges' personal perceptions, public opinion, political influence, corruption

## Introduction

After many years beneath overseas government tasks. In 1993, Cambodia through worldwide corporation followed a free device with loose marketplace economic. Then, the USA had problem in coordinating freedom and sell monetary updates. During post-warfare public, innovative innovations call for a widely valid politic device, a device typically recognized as accountability (Kheang Un, 2009).

Cambodia though, to ensure social order, it is inevitable that the region needs laws and justice so that everyone in society could receive fair and just in their living. Justice needs high accountable judges to ensure fair decisions on each and everyone in society. In responding correctly to any cases for fair decisions, there must include different factors affecting the judge's decision such as legal system, judges' personal perceptions, public opinions, political influences, and so on. Even though the court system in Cambodia has its clear structures and procedures on which factors that should be the ideal to judges, it somehow not only the legal system, personal experiences and public opinions are the reasons but also the impacts of political influences and powerful people (corruption) in Cambodia. In addition to such issues, it is true that

Cambodian people are currently lack awareness of how judicial system work and that may become the major reason that they do not also aware of having received unjust sometimes in life. The most interesting part is that Cambodian people seem to unconditionally accept those unjust since their perceptions have been shaped by social norms which believe that if you are poor and powerless, then you have no expectations to get a fair judgment in any case (David Hutt, 2019). According to such issue though, a research study should be adopted; and undergraduate students should be the participants since they are from different locations which could provide different perceptions depending on their areas. The above facts leave on-going question marks to Cambodian people considering that if those factors are truly giving impacts on judicial decisions in Cambodia. Therefore, this research study had adopted to study five different factors affecting judicial decision on criminal case. The factors included legal system, judges' personal perceptions, public opinion, political influence and corruption.

### **Research questions**

1. What undergraduate students' perceptions towards judicial decision on criminal case in Phnom Penh?
2. What is the relationship between independent variables and judicial decision on criminal case?
3. What could be the suggestions/recommendations for relevant agencies?

### **Research objectives**

1. To study perceptions of undergraduate students in Phnom Penh towards judicial decisions on criminal case
2. To study the relationship between independent variables and judicial decision on criminal case
3. To provide suggestions/recommendations the findings for relevant agencies

## **Literature Review and Related Studies**

### **1. Legal System**

Edwards and Livermore (2008) It is inevitable that legal materials are the most important tool for the judges when deciding a case. These materials may include agency and the recorded file in the trial court;

The issues must have been recorded by relevant agencies from the trial court or agencies; the record must include oral and written argument between the parties which standard reviewed and controlled when necessary. During all the process, judges do not perform alone when making decision; it is always a wisely determination for the correct result in a case. If the relevant materials are not complicated, the issues are uncontroversial which mean judges can just be straightforward in reaching final decisions.

**H1:** Legal system has a positive influence on judicial decisions on criminal case.

## **2. Judges' Personal perceptions**

Amaral-Garcia, Garoupa, and Grembi (2009) by reviewing the Portuguese constitutional court, Kelsenian-type constitutional judges are independent from political parties. The findings shown three main assumptions. First, legitimate judges in Portugal are quite delicate to their political party's presence in government and their political affiliations when elective. Second, peer compression is very related. Third, the reform in 1997 endorsed to increase judicial liberation has had no vigorous statistically substantial outcome.

**H2:** Judges' personal perceptions has a positive influence in judicial decisions on criminal case.

## **3. Public Opinions**

Lawyers, judges, the general public, and businesses all have different perspectives on judicial independence. These categories' perceptions are highly connected. The judges, on the other hand, are significantly more optimistic than the companies and the broader public. In terms of the general public, people with higher levels of education are generally more enthusiastic about the presence of independence than those with lesser levels of education. The disparity grows as the degree of independence grows (Van Dijk Frans, 2021).

**H3:** Public opinions has a positive influence on judicial decisions on criminal case.

## **4. Political Influence**

Kritzer (1978) Provisional judges' movements and higher court judges are all politics. The majority of trial judges' daily activities, however, take place in a highly unclear political milieu. In regular situations, political indications for trial judges may be imprecise or fictional, making it problematic for pragmatic social scientists to establish a solid relationship between judicial conduct and the relevant variables. This reasoning is compatible with the concept that the primary drivers of judicial performance are the legal rules that judges have to follow; yet, judges are often given a great lot of discretion, and political factors frequently influence how that discretion is applied.

**H4:** Political influence has a negative influence on judicial decisions on criminal case.

### **5. Corruption**

Rose-Ackerman (2007) even if the courts are unbiased of the relaxation of the nation, corruption within the judiciary also can occur. In fact, their very independence might also additionally clean corruption when you consider that no person has the rights to supervise them. When the judiciary is to be a powerful regulator over the government, there should be each unbiased of the govt and legislature, and of excessive veracity. It should no longer be challenge to stress from effective politicians or others within the public and personal segments who advantage from a dishonest popularity quo. Therefore, an essential inconsistency occurs. Judges can be biased towards individuals who make payoffs if courts are unbiased.

**H5:** Corruption has a negative influence on judicial decision on criminal case.

## **Research Methodology**

The gear of the take a look at are to accumulate information from the well-prepared questionnaires out of the centered population, undergraduate students. The questionnaires are about to ask if those five mentioned factors give impacts on judicial decision on criminal case in Cambodia and the perceptions towards such issues among undergraduate students, specifically in Phnom Penh. Moreover, the research questions would include those issues resulted from judicial decisions and gather suggestions from undergraduate students on how to deal with the issues.

### **Population and sample size**

The population of this research study is undergraduate students in Phnom Penh. Those three universities were: Build Bright University, Royal University of Phnom Penh, and University of Cambodia all of these universities are located in Phnom Penh city. The sample size was derived from Yamane formula (Yamane, 1967). Hence, 391 students were asked to participate in this research. The majority of the respondents were female accounted for 56.8%. Most respondents are between the age of 23-26 which accounted for 62.1%. Approximately 31.2% of the respondents were the third-year students following by the fourth-year, the second-year and the first-year.

### **Research instrument**

This research study will be using the quantitative method in collecting data. Then, the researcher will be using online survey research and finally adopt the questionnaire in the cross-sectional format. There were six measures in this research study which are Judicial Decisions, Legal System, Judges' Personal

Perceptions, Public Opinions, Political Influences, and Corruption. The items of the questionnaires are rated on a 5-point (Likert, 1932) ranging from 1 “strongly disagree” to 5 “strongly agree”

### Data Analysis

After the data collection was completed, the researcher organized and validated the questionnaires to ensure it was completed and usable for data analysis. Data analysis included descriptive data analysis and hypothesis analysis.

## Finding and Result

### Descriptive Data Analysis Results

This research studies on five independent variables affect judicial decision on criminal case, namely, legal system, judges’ personal perceptions, public opinion, political influence and corruption as shown in table 1.

**Table 1:** Descriptive statistic of independent variables and dependent variables

<b>Variables</b>	<b>N</b>	<b>Mean</b>	<b>SD</b>
Participant’s Perceptions on Judicial Decision	391	2.68	0.88
Legal System	391	3.02	0.89
Judges’ Personal Perceptions	391	3.11	0.84
Public Opinions	391	3.26	0.75
Political Influences	391	3.35	0.78
Corruption	391	3.50	0.79

The table shown that participant’s perceptions on criminal case which is a dependent variable has average score of 2.68 with standard deviation at 0.88. Independent variable of legal system has the average score of 3.02 with standard deviation at 0.89, average score of judges’ personal perceptions is 3.11 with standard deviation at 0.84, average score of public opinion is 3.26 with standard deviation at 0.75, average score of political influences is 3.35 with standard deviation at 0.78, and average score of corruption is 3.50 with standard deviation at 0.79.

### Hypothesis analysis

**Table 2:** Correlation between Independent Variables

	LS	JPP	PO	PI	Co
LS	1.00				
JPP	0.53**	1.00			
PO	0.38**	0.58**	1.00		
PI	-0.69**	-0.33**	-0.16**	1.00	
Co	-0.68**	-0.43**	-0.30**	0.79**	1.00

\*p&lt;.05

\*\*p&lt;.01

**Multiple Regression Analysis****Table 3:** Summary of multiple regression, analysis of legal system, students' attitude toward judges' personal perceptions, public opinions, political influence, and corruption

IVs	B	Std. E	Beta	t	Sig.
(Constant)	-0.03	0.13	-	-0.22	0.829
LS	0.52	0.04	0.53	12.32*	0.000
JPP	0.08	0.04	0.08	2.10*	0.036
PO	-0.07	0.04	-0.07	-1.60	0.111
PI	-0.24	0.05	-0.21	-4.47	0.000
Co	-0.19	0.05	-0.17	-3.51	0.001

R Square = 0.72 Adjusted R Square = 0.71 Std. Error of the Est. = 0.466

- Note: a. Dependent Variable: JDoCC  
b. Predictors: (Constant), LS, JPP, PO, PI, Co  
c. P-value less than 0.05

Based on table, R Square is 0.72 which showed that 72 % judicial decision was explained by the independent variables. The independent variable which has the most influence on judicial decisions was legal system (0.53); follow by students' attitude toward judges' personal perception (0.08); meanwhile political influence (-0.21); corruption (-0.17); and public opinion (-0.07) have a negative influence on judicial decisions.

*Equation 1 (Unstandardized coefficients):*

$$\text{Judicial decision} = -0.03 + 0.52(\text{LS}) + 0.08(\text{JPP}) - 0.07(\text{PO}) - 0.24(\text{PI}) - 0.19(\text{Co})$$

*Equation 2 (Standardized coefficients):*

$$\text{Judicial decision} = +0.53(\text{LS}) + 0.08(\text{JPP}) - 0.07(\text{PO}) - 0.21(\text{PI}) - 0.17(\text{Co})$$

### Summary of Hypothesis Testing Result

**Table 4:** Hypothesis Testing Result

Hypothesis	Results
H1: The legal system has a positive influence on judicial decisions	Accepted
H2: The judges' personal perception has a positive influence on judicial decisions	Accepted influence on
H3: The public opinions has a positive influence on judicial decisions	Rejected
H4: The political influences has a negative influence on judicial decisions	Accepted
H5: The corruption has a negative influence on judicial decisions	Accepted

### Discussion and Conclusion

Among 385 participants, 163 are males and 222 are females. The age is from 18 to 30. The age between 23 to 26 is the greatest number of participants. The participants are from three different universities namely, University of Royal Phnom Penh, University of Cambodia and Build Bright University. They are

undergraduate students which are from first-year to fourth-year, and the greatest number of participants are from third-year which accounted for 109 (30.9%). The research findings are discussed by basing on the research objectives as the following: 1) to study perceptions of undergraduate students in Phnom Penh towards judicial decisions on criminal case, 2) to study the relationship between independent variables and judicial decision on criminal case, and 3) to provide suggestions/recommendations the findings for relevant agencies.

**Objective 1:** to study perceptions of undergraduate students in Phnom Penh towards judicial decisions on criminal case.

Descriptive statistical analysis showed that the average mean value of judicial decisions is in the average level, 2.68. This demonstrated that the reliability on judicial decisions on criminal case among undergraduate students in Phnom Penh is average. For this reason, it is found that in each question among the five dimensions of participants' perception on judicial decisions has an average level. The result of research showed that the undergraduate students' perceptions on judicial decisions on criminal case is limited due to the fact that the mean value of this resulted in average. Undergraduate students in Phnom Penh could understand the factors affecting judicial decisions on criminal case by depending on their knowledges and experiences only. Besides, the researcher also found that the reliability of judicial decision on criminal case among undergraduate students is also limited.

**Objective 2:** to study the relationship between independent variables and judicial decision on criminal case

**Hypothesis 1:** Multiple regression analysis supports the hypothesis that legal system has positive influence on judicial decisions on criminal case according to the perceptions of undergraduate students in Phnom Penh. The result is consistent with the literature review in chapter two as the following: According to the Constitution (2008), Article 128: The judiciary is an independent power; it must be impartial and preserve citizens' freedoms and rights. All legal cases, including administrative cases, may be considered by the judiciary. Any executive or legislative body shall not be accorded judicial power. Therefore, it can be seen clearly that legal system has positive influence on judicial decisions on criminal case among undergraduate students in Phnom Penh.

**Hypothesis 2:** Multiple regression analysis supports the hypothesis that judges' personal perception has a positive influence on judicial decisions on criminal case. The result is consistent with Van Koppen and Kate (1984) that Court decisions are moderately influenced by the personal characteristics of

the judge. It was concluded that the court's decision was based on the characteristics of the case and personal interactions. The hypothesis is also consistent with Gibson (1981) mentioned that judges' personal perceptions have a significant impact in making decision on criminal case indirectly. Judges' personal perception does play important role in making decisions on criminal case according to the research hypothesis and literature reviews.

**Hypothesis 3:** Multiple regression does not support the hypothesis that public opinions has a positive influence on judicial decisions on criminal case. Base on table 16, public opinion variable is not statistically signification. In other word, there is no any impact of public opinions on judicial decisions.

**Hypothesis 4:** Multiple regression analysis supports the hypothesis that political influence has a negative influence on judicial decisions on criminal case. The result is consistent with Amaral-Garcia et al. (2009) examined to the quantity Kelsenian-kind legitimate judges are impartial from politic events through reading the Portuguese legitimate court. The result is also consistent with West (2018) A legislative device with a civil regulation judicial department is the least probable constitutional association to offer for a functioning and unbiased judiciary withinside the neopatrimonialism political putting in Cambodia. Therefore, the variable of political influence has a negative influence on judicial decisions on criminal case.

**Hypothesis 5:** Multiple regression analysis supports the hypothesis that corruption has a negative influence on judicial decisions on criminal case. The result is consistent with Linton Suzannah (2006) Corruption is widespread in Cambodia and influences a lot of governments, non-authorities organizations, and trades. They were significant contentions that corruption in the Judiciary System is widespread. The result is also consistent with Rose-Ackerman (2007) Judicial corruption can happen even if the court is sovereign of the state. A corrupt status quo from influential politicians or others in the private and public sectors must not subjected to be pressure for any benefit. Therefore, the variable of corruption has negative influence on judicial decisions on criminal case.

Among five factors affecting judicial decisions on criminal case, there are four factors statistically significant such as legal system, judges' personal perception, political influence and corruption. However, there is one factor that is not statistically significant with the dependent variable. The variable that has most impact on judicial decisions on criminal case is legal system.

## **Research Result Recommendations**

Undergraduate students are group of people who have variety of skills. A nation cannot be developed without this group of people. As mentioned in chapter one and chapter two, judges make decisions by depending on different factors. Based on this study, the researcher found that legal system and judges' personal perception has positive impacts on judicial decisions on criminal case. The variables of political influence and corruption has negative impacts on judicial decisions on criminal case. Therefore, the researcher would like to provide recommendations as the following:

1. Court apply legal system as the soul of law in operating justice. The result of the study showed that legal system is the first and the most influence toward judicial decisions on criminal case. Even though legal system is the main soul of law, the society keep changing from time to time. Legal system at the same time should be kept updated according to the actual development of the society and the changes of human living conditions. Legal system should be reliable, sustainable and accountable where relevant department would pay attention on.

2. Policies makers may collaborate more with education centers in Phnom Penh in providing further court and judicial system knowledge towards students since they are the next generation of human resource. The knowledge could be providing more opportunities for students to access to the site and facility of the court to gain more understanding of the actual situation, providing actual experience by creating some more seminars sharing knowledge on relevant information, and supporting public to raise their voice when experiencing unjust.

3. Based on the research, undergraduate students in Phnom Penh had a limit understanding of how legal system work and limit access to judicial system which cause the chaotic in their beliefs. It would be great if basic knowledge procedures are being raised by the lawmakers to general public. It could be some short videos being explained how judicial system work, how to access to court, where they can look for help when in need, what to expect if they experience fighting for rights and justice, and how to react when facing unlawful situation.

### **Recommendations and suggestions for future research study**

Having finished the thesis research on factors affecting judicial decisions on criminal case: a perspective of undergraduate students in Phnom Penh, the researcher has some recommendations and suggestions for future research study as the following:

## Sreynoch Lanh and Piya Narkwatchara

1. The researcher studied only with undergraduate students in Phnom Penh that may not be able to apply to the whole students in the country. In order to apply to the whole country, next researcher may study with the participants in various places so that it will be able to apply for the whole territory in Cambodia.

2. This research thesis studied with undergraduate students which no inclusion of any other group of people. Different professions may offer different perspective on judicial decisions. Students are group of people who only just starting to the new world of the society; thus, they have limit perspectives towards judicial decisions. Therefore, next researchers may choose variety of professions in order to check their perspectives toward judicial decisions on criminal case.

3. The researcher studied only five factors which may influence judicial decisions on criminal case which are legal system, judges' personal perception, public opinions, political influence and corruption. Therefore, to make the research topic factors affecting judicial decisions on criminal case better, the next study should look for more various factors or should study further on judicial decisions impact society.

4. The researcher only adopted quantitative method in collecting data which may not be able to get into a deeper response from the participants. It is recommended that next researchers may adopt others different methods for data collection. Qualitative method or mixed method are highly recommended which may enable the next research study related to judicial decisions on criminal case in Phnom Penh to provide further results.

## References

- Amaral-Garcia, S., Garoupa, N., & Grembi, V. (2009). Judicial independence and party politics in the Kelsenian constitutional courts: the case of Portugal. *Journal of Empirical Legal Studies*, 6(2), 381-404.
- Constitution. (2008). Cambodia's Constitution of 1993 with Amendments through 2008. Retrieved November 13, 2021, from [https://www.constituteproject.org/constitution/Cambodia\\_2008?lang=en](https://www.constituteproject.org/constitution/Cambodia_2008?lang=en)
- David Hutt. (2019). The injustice of Cambodia justice. *The Cambodia Daily*. Retrieved May 17, 2019, from <https://asiatimes.com/2019/05/the-injustice-of-cambodian-justice/>
- Edwards, H. T., & Livermore, M. A. (2008). Pitfalls of empirical studies that attempt to understand the factors affecting appellate decisionmaking. *Duke LJ*, 58, 1895.

- Gibson, J. L. (1981). Personality and elite political behavior: The influence of self esteem on judicial decision making. *The Journal of Politics*, 43(1), 104-125.
- Kheang Un. (2009). The judicial system and democratization in post-conflict Cambodia. *Beyond democracy in Cambodia: Political reconstruction in a post-conflict society*, 70-100.
- Kritzer, H. M. (1978). Political correlates of the behavior of federal district judges: A "best case" analysis. *The Journal of Politics*, 40(1), 25-58.
- Likert. (1932). A Technique for the Measurement of Attitudes. *Archives of Psychology*. (140), 1–55.
- Linton Suzannah. (2006). Safeguarding the Independence and impartiality of the Cambodian extraordinary chambers. *Journal of International Criminal Justice*, 4(2), 327-341.
- Rose-Ackerman, S. (2007). Judicial independence and corruption. *Transparency International, Global Corruption Report*, 15-24.
- Van Dijk Frans. (2021). Perceptions of Judicial Independence in European Countries. In *Perceptions of the Independence of Judges in Europe* (pp. 29-51): Springer.
- Van Koppen, P. J., & Kate, J. T. (1984). Individual differences in judicial behavior: Personal characteristics and private law decision-making. *Law and Society Review*, 225-247.
- West. (2018). The limits to judicial independence: Cambodia's political culture and the civil law. . 5(26). doi:10.1080/13510347.2018.1553956
- Yamane, T. (1967). *Statistics: An introductory analysis*. Retrieved from London: John Weather Hill, Inc.: