

ปัจจัยที่ส่งผลต่อการตัดสินคดีของผู้พิพากษาทางอาชญาคดี มุ่งมองของนักศึกษาในกรุงพนมเปญ

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

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บทคัดย่อ (Abstract)

งานวิจัยนี้มีวัตถุประสงค์เพื่อศึกษามุ่งมองของนักศึกษาระดับปริญญาตรีในกรุงพนมเปญ รวมถึงความสัมพันธ์ของปัจจัยที่มีผลต่อการตัดสินคดีอาชญาคดี กลุ่มตัวอย่างที่ใช้ในการศึกษา คือ นักศึกษา จากมหาวิทยาลัย 3 แห่ง ได้แก่ 'Build Bright University, Royal University of Phnom Penh and University of Cambodia' จำนวน 391 คน เป็นงานวิจัยเชิงปริมาณโดยใช้แบบสอบถาม ดัชนีความสอดคล้องตามวัตถุประสงค์ (IOC) ถูกนำมาใช้เพื่อให้คะแนนแบบสอบถาม และตรวจสอบความน่าเชื่อถือโดยใช้อัลฟ้าของค่าสัมประสิทธิ์ cronbach รวมถึงการใช้สถิติเชิงพรรณนา และการวิเคราะห์ทดสอบพหุคุณสำหรับการวิเคราะห์ข้อมูล ผลการวิจัยพบว่าความรู้ในเรื่องกฎหมายของผู้พิพากษา มีอิทธิพลมากที่สุดต่อการพิจารณาคดีอาชญาคดี ในขณะที่ความคิดเห็นของประชาชน การเมือง และการทุจริตไม่มีอิทธิพลต่อการพิจารณา

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คดีอาญา แสดงให้เห็นว่าระบบกฎหมายและการรับรู้ของผู้พิพากษาสามารถเชื่อถือได้ ยังยืน และมีความรับผิดชอบต่อสังคม จากผลการวิจัยสามารถเสนอแนะว่าระบบกฎหมายควรทันสมัย และตรงต่อความต้องการที่จะไป ความรู้ระบบศาลและตุลาการควรรวมไว้ในระบบการศึกษาของ นักศึกษาจะดับปริญญาตรีและความรู้พื้นฐานเกี่ยวกับกระบวนการทางกฎหมายควรทำการ โฆษณาให้ประชาชนทั่วไปรับทราบมากขึ้น

คำสำคัญ: การตัดสินคดีของผู้พิพากษา, คดีอาชญา

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: judicial decisions, criminal case

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 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 had 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.

Larkins (1996) noted that without the guideline of thumb of legal and there is no assessments and stability consequently no assure which wealthy and effective would perform inside felony limitation center. Within this circumstance, no upright duty structures may be controlled. Parallel duty refers back to the obligation of 1 kingdom organization to another, even as vertical duty way the obligation of elected officers now no longer handiest to electorate however additionally to civil society groups among election cycles. To hold the guideline of thumb of legal. The calls for being without difficulty dominant to save that from wondering the unlawful acts of kingdom performers.

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 indorsed to increase judicial liberation has had no vigorous statistically substantial outcome.

Gibson (1981) mentioned that judges' personal perceptions have a significant impact in making decision on criminal case indirectly. Yet, this may vary by according to each judge's self-esteem. Gibson's study shown that restraints orientation may result from internal role expectation while activist orientation is from external role expectation. However, he continues mentioning not all low self-esteem adopt restraint orientation which mean judges with low self-esteem who view external role expectation may also adopt restraint orientation. To understand the society clearly, it is important that the judge should pay more attention both individual and general expectations.

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).

Mishler and Sheehan (1993) Between Supreme Court and public opinion are complex and subtle. It is neither inferred that the act has been doing nor has been done. The impact of the public mood on the Court's decisions occurs at a moderate ranking; a somewhat shorter lag appears to exist in the corresponding effects of Supreme Court decisions on public opinion. These two statements are strongly positive suggests the existence of a responsive Court whose decisions

not only reflect changes in public opinion but also serve to legitimize and reinforce opinion change in a repeated process.

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.

Coughlan, John Ghouse, Sana Smith, and Richard (2012) A gadget of sponsorship existed in Cambodia that judges placed themselves carefully to strong politics in persuading judicial engagement to make certain profession elevation. Patronage adversely impacts the guideline of thumb of regulation as judges and prosecutors do now no longer carry out consistent with the regulation however on the whim of their 'patron'. Judges could threat displeasing them and will without difficulty discover their careers stagnating or maybe lose their function with the aid of using now no longer appearing consistent with their patrons' wishes.

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.

Corruption is endemic in Cambodia that impacts many businesses, governments, and non-authorities' institutions. There was giant statement that dishonesty within the Judiciary System is extensive (Linton Suzannah, 2006). Yet, street-degree corruption via officials has subsided thinking about that 2000. H5: Corruption has a negative influence on judicial decision on criminal case.

Research Methodology

The purpose of the examination is to gather data via carefully constructed questionnaires for 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, totally 18221. The sample size was derived from Yamane formula (Yamane, 1967). Hence, 391 students were asked to participate in this research.

Research instrument

The researcher used online questionnaire to collect data. 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". The validity of the questionnaire was checked namely the evaluation of index of consistency (IOC). Three experts had scored all questionnaire higher than 0.5 which mean the questionnaire is usable for collecting data. The researcher also used Coefficient Cronbach's Alpha to test the reliability of the questionnaire and the value was greater 0.7 which mean the research instrument is reliable.

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 multiple regression.

1. Descriptive data analysis: To analysis participants' personal information such as gender, age and educational level, the frequency and percentage of those elements will be calculated.

2. Independent analysis: To analysis the independent variable data by using the tools such as Frequency, Percentage, Mean, Standard deviation, Coefficient of variation, Kurtosis, and Skewness.

3. Dependent analysis: To analysis the dependent variable data by using the tools such as Frequency, Percentage, Mean, Standard deviation, Coefficient of variation, Kurtosis, and Skewness.

4. Hypothesis analysis: To analysis hypothesis by using three different tools to analysis such as:

- Basic assumptions: To recheck the collected data
- Pearson correlation: To find the relationship between variables
- Multiple regression: To check the collected data weather it is able to analysis

Research Hypothesis

1. The legal system has a positive influence on judicial decisions
2. The judges' personal perception has a positive influence on judicial decisions
3. The public opinions has a positive influence on judicial decisions
4. The political influences has a negative influence on judicial decisions
5. The corruption has a negative influence on judicial decisions

Finding and Result

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.

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

Variables	N	Mean
SD		
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 items of the questionnaires are rated on a 5-point (Likert, 1932) ranging from 1 “strongly disagree” to 5 “strongly agree”. 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 which mean the mean value of dependent variable was average that this can be implied that most participants' respond were neutral.

Independent variable of legal system has the average score of 3.02 with standard deviation at 0.89 which mean most of respondents agreed with the questionnaire; average score of judges' personal perceptions is 3.11 with standard deviation at 0.84 which mean most of respondents agreed with the questionnaire; average score of public opinion is 3.26 with standard deviation at 0.75 which mean most of respondents agreed with the questionnaire; average score of political influences is 3.35 with standard deviation at 0.78 which mean most of respondents agreed with the questionnaire; and average score of corruption is 3.50 with standard deviation at 0.79 which mean most of respondents agreed with the questionnaire.

Hypothesis analysis

Table 2: Correlation between Independent Variables

	LS	JPP	PO	PI	C	o
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<.05

**p<.01

Note: LS = Legal System

JPP = Judges' Personal Perceptions

PO = Public Opinions

PI = Political Influences

Co = Corruptions

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: JDCC

b. Predictors: (Constant), LS, JPP, PO, PI, Co

c. *p < 0.05

LS = Legal System

JPP = Judges' Personal Perceptions

PO = Public Opinions

PI = Political Influences

Co = Corruptions

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); meanwhile political influence (-0.21); corruption (-0.17); follow by students' attitude toward judges' personal perception (0.08); and public opinion (-0.07) have a negative influence on judicial decisions at 0.5 level. Hence, the results of hypothesis are shown in table 4.

Equation 1 (Unstandardized coefficients):

Judicial decision = -0.03 +0.52(LS) +0.08(JPP) -0.07(PO) -0.24(PI) -0.19(Co)

Equation 2 (Standardized coefficients):

Judicial decision = +0.53(LS) +0.08(JPP) -0.07(PO) -0.21(PI) -0.17(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	Accepted influence on judicial decisions
H3: The public opinions has a positive influence on judicial decisions	Rejected
H4: The political influences has a negative	Accepted
	influence on judicial decisions
H5: The corruption has a negative influence on judicial decisions	Accepted

Between these five hypotheses, there is one hypothesis that was rejected which is Public Opinions. This shown that Public Opinion may have no impacts on judicial decisions on criminal case in Cambodia. Multiple regression analysis rejected hypothesis of Public Opinions. The result demonstrated that the p-value

of public opinions and judicial decisions is 0.11, and the B value is -0.07. Therefore, public opinion has no impact on judicial decision which is in the contrast of the research hypothesis.

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 moderate level, 2.68. The division of the criteria of such level is basing on the Interpretation Level (បុណ្យម ស្រីសាគាត, 1999). This demonstrated that the reliability on judicial decisions on criminal case among undergraduate students in Phnom Penh is moderate. For this reason, it is found that in each question among the five dimensions of participants' perception on judicial decisions has a moderate 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 moderate. 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 1 that legal system has positive influence on judicial decisions on criminal case according to the perceptions of undergraduate students in Phnom Penh. Table 3 demonstrated that the p-value of legal system and judicial decisions is 0.00, and the B value is 0.52. The result is consistent 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 2 that judges' personal perception has a positive influence on judicial decisions on criminal case. Table 3 demonstrated that the p-value of judges' personal perception and judicial decisions is 0.03, and the B value is 0.08. 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. Therefore, undergraduate students believed that judges' personal perception has a positive influence on judicial decisions.

Hypothesis 3: Multiple regression analysis rejected hypothesis 3. Table 3 demonstrated that the p-value of public opinions and judicial decisions is 0.11, and the B value is -0.07. Therefore, public opinion has no impact on judicial decision which is in the contrast of the research hypothesis.

Hypothesis 4: Multiple regression analysis supports the hypothesis that political influence has a negative influence on judicial decisions on criminal case. Table 3 demonstrated that the p-value of political influence and judicial decisions is 0.00, and the B value is 0.24. 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 within 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. Table 3 demonstrated that the p-value of corruption and judicial decisions is 0.00, and the B value is 0.19. 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.

Undergraduate students are from various place in Cambodia that they have different views/perspectives toward judicial decision on criminal cases. The researcher included public opinions as one of factor affecting judicial decision due to the fact that some researcher studies from other countries such as (Scheb & Lyons, 2001) has shown similar result which judges may depend on this factor before making any decision related to criminal case. However, the result of this study shown the opposite in Cambodia.

Recommendations for relevant agencies

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 suggest:

- Court to apply legal system as the soul of law in operating justice. Legal system should be kept updated according to the actual development of the society and the changes of human living conditions.
- Policy 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.
- Some short videos should be created about 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

- Next researcher may study with the participants in various places so that it will be able to apply for the whole territory in Cambodia.
- Next researchers may choose variety of professions in order to check their perspectives toward judicial decisions on criminal case.
- Next study should look for more various factors or should study further on judicial decisions impact society.
- 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.

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