

Tribunal Process Remains Under Threat: OSJI

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The UN-backed Khmer Rouge tribunal has been compromised by the court's inability to try further leaders of the regime and by the refusal of senior officials to participate as witnesses, a monitoring group says in its latest monthly report. Both scenarios are the result of political interference in the court and violate the UN-Cambodia agreement of cooperation, the Open Society Justice Initiative said in its March report on the tribunal.

"If government officials or court officers refuse to cooperate with such steps, the UN, the donors, and the key international officers of the court must make it clearly and publicly known that such interference or refusal of cooperation is a violation of the Agreement and the principles that govern fair trials consistent with international standards," OSJI said.

OSJI urged the UN to create a top post to aid the tribunal and appealed to the UN, donors and the international community to prevent violations of the agreement, signed between the two sides at the onset of the tribunal.

"The safeguards against political interference included in the Agreement are useless if international officials do not implement them when they are most needed," OSJI said.

The OSJI report follows speeches by Prime Minister Hun Sen warning of political instability if the scope of the court expands beyond the five leaders currently in custody, and as key witnesses in the prime minister's Cambodian People's Party refuse to answer witness summonses.

International and Cambodian prosecutors found themselves at odds last year over whether to indict five more Khmer Rouge leaders.

Cambodian prosecutor Chea Leang echoed Hun Sen's statements, saying more indictments could destabilize the country. Observers have said that question is not strictly related to the prosecution's judiciary mandate.

OSJI said political interference, corruption and funding shortfalls could cripple the tribunal, a multi-million dollar effort that took years for the UN and Cambodia to negotiate.

However, tribunal spokesman Lars Olsen said the working environment and cooperation at the court was “very good.”

Phai Siphon, a spokesman for the Council of Ministers, denied any government interference in the court, and he said critics of the process were hurting the tribunal. “That’s their political goal,” he said. “That’s why they attack the government as well as the court.”

One Khmer Rouge cadre, the prison chief Kaing Kek Iev, has already been tried, and four more leaders were quickly arrested and are awaiting trial, Phai Siphon said, proof of the government’s willingness to cooperate with the UN and to try former leaders.

“Misunderstandings” have been solved at the court, and cooperation was deepening, he said. “We already know there were some differences [between Cambodian and UN court officials], but we looked at the mechanisms and looked at the law regarding resolving the differences, and then utilized those. There’s nothing wrong.” Cambodia and the UN say they now need \$85 million to continue the tribunal process in 2010 and 2011, especially for the upcoming trial of leaders Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith.

Donor countries have agreed to the budget but have not pledged funding yet. Olsen said he was confident the funding would come through.

Patricia O’Brien, UN Under-Secretary-General for Legal Affairs, is expected to visit Cambodia in coming days to begin regular tribunal discussions with government officials, Olsen said.