



## **After UN visit, increased stakes for tribunal credibility** **October 28, 2011**

Following the visit of the UN's top legal representative to Cambodia last week, the Khmer Rouge tribunal is facing increased pressure to regain its credibility, court observers say.

Patricia O'Brien, flew to Phnom Penh last week to warn Cambodian officials to refrain from speaking against two cases before the investigating judges.

The office of investigating judges is now facing accusations that its judges, Siegfried Blunk and You Bunleng, altered documents for controversial Case 003, among other irregularities. Tribunal officials have told local media that edits to court documents is a regular occurrence and not improper.

Blunk announced his resignation earlier this month, saying public statements by top Cambodian officials have made it impossible to do his job without perceived bias, and rights groups and others have called for You Bunleng to similarly step down.

Chhang Youk, director of the Documentation Center of Cambodia, said the office of investigating judges has had irregularities "that will seriously affect the court's process, as well as its outcome."

The widespread perception of political interference remains a problem, he said, one that the UN must work to solve.

The UN "projected a positive image" following O'Brien's visit last week, he said, but that has been a distraction from issues facing the court. "This shows a UN weakness in providing leadership to ensure the court's international standards."

Long Panhavuth, a court monitor for the Cambodia Justice Initiative, said the UN was neglecting its role to ensure the court meets high standards.

The court has failed to conduct thorough investigations into alleged atrocity crimes by former Khmer Rouge leaders, he said, and the UN ignored early warnings of political interference through the public objections of Prime Minister Hun Sen and other senior officials to some cases at the court.

"It seems like the UN is only taking credit for success, not the failures, and once it doesn't go well, they say this is a Cambodian issue," he said. This goes against the requirement that both sides are responsible for the successes and failures of the court, he said.

Replacing Blunk with another UN judge and simply issuing a statement against government interference are not “real solutions,” he said.

“The UN must be bold in implementing the agreement” between it and the Cambodian government when the tribunal was established, said Lao Monghay, an independent political analyst.

UN spokesman Fahan Haq said the UN has urged all sides to refrain from interference in the court’s work.

O’Brien has “made clear her concern about recent developments at the court,” he said. “The UN continues to call on upon all people to respect and support integrity and independence of the [tribunal] and to support the judicial process. So that’s what her goals are.”

Lao Monghay said there is more at stake for Cambodia than the credibility of the tribunal. Cambodia is trying to become a non-permanent member of the UN Security Council for 2013 and 2014. Whether Cambodia abides by its agreements with the tribunal could affect the way it is seen interacting with the Security Council, he said.

“Would it affect the credibility, dignity and the work of the UN Security Council if there is a member, even if it is non-permanent one, that does not respect its agreements with the UN?” he asked. “This is something that must be considered.”

“I wonder whether other countries will support a country, generally speaking, that does not respect international agreements,” he said.

Ouch Borith, secretary of state for the Ministry of Foreign Affairs, said Cambodia is confident in its qualifications for a temporary seat on the council and has cooperated with the UN on the tribunal in the spirit of good will.

Chhang Youk said that Cambodia’s cooperation with the UN on the tribunal will factor into its council ambitions. But he recommended an investigation into the offices of the investigating judges to clear all doubts.

“This will restore confidence in the court at a time when it is now preparing for Case 002, and it will help Cambodia in its application as a [non-permanent] member of the Security Council,” he said.

Meanwhile, it remains unclear what the UN will do next about the tribunal.

Haq said O’Brien will discuss developments at the court with UN Secretary-General Ban Ki-moon and other senior UN officials “to determine what the next steps are.”

Whatever the steps are, the court needs to restore its credibility, said Ou Virak, director of the Cambodian Center for Human Rights.

“Investigations must be conducted by an independent UN institution over political interference, illegal backdating and other irregularities,” he said, as a guest on “Hello VOA” Thursday.

Latt Ky, a tribunal monitor for the rights group Adhoc, said victims who are civil parties in the tribunal to seek justice and the truth about crimes of the Khmer Rouge need to be better considered, too, if the court is to be seen as credible.

“A big mission of this tribunal is to rebuild human dignity, especially the victims of the Khmer Rouge regime, for them to be mentally healed and receive an international standard of justice,” he said. “Seeking the truth is very important in this court, where many Cambodians don’t understand the truth.”

Andrew Cayley, the international prosecutor for the tribunal, who is currently in the US, told VOA Khmer that the most important task before the court is Case 002—a trial for jailed leaders Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith.

“It’s very difficult for me to measure how much justice the victims actually require,” Cayley said in an interview. “That’s really a matter for the Cambodian people. I think the expectation is at least, at the moment, that Case 002 comes to some kind of conclusion. These are the most senior living members of the Khmer Rouge regime. These are the people who were the top of the power pyramid in the country.”

Cayley said the allegations of political interference have not directly affected him as the UN prosecutor.

“The government has never blocked any actions that I have wanted to take on cases,” he said. “I’ve always been able to carry out my duty. It’s been very stressful at times and very challenging, but I have always been able to do what I need to do and I consistently said I would follow the laws and rules. That’s my duty and I will do my duty.”