

Cambodia Rejects UN Genocide Judge

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New York — In another blow to investigations for alleged genocide, war crimes, and crimes against humanity, Cambodian officials are set to reject a United Nations judge nominated for a court created for the crimes of the Khmer Rouge, officials said.

Though details remained scant and a decision has yet to be officially announced, the development would constitute a new and grave challenge to the UN in its fraught co-management with Cambodian authorities of the tribunal, which is to try a minimal number of aging suspects for some of the worst crimes of the 20th century but has faced dysfunction, delay, and controversy since before it was created in 2006.

In a message sent Saturday by the micro-blogging service Twitter, Judge Laurent Kasper-Ansermet of Switzerland, who had been due to take office, said he believed he had been rejected because he sought to investigate cases that are vehemently opposed by the Cambodian government on political and national security grounds.

"Given my determination, today recognized, to pursue the investigation of case files 003 and 004, one could have expected this," he wrote.

By Saturday, word of the impending rejection continued to be tightly held. A spokesman for Cambodia's Cabinet Minister, Sok An, said deliberations by a judicial appointments body were continuing. A UN spokeswoman said Friday her organization had not been officially notified of any such development by the Cambodian government "and we continue to call upon the government to fulfill its obligation under" a 2003 treaty governing the creation of the tribunal.

Judge Laurent Kasper-Ansermet of Switzerland was to replace Judge Siegfried Blunk of Germany, who, as I reported in *Foreign Policy* in November, resigned in scandal three months ago after his own staff accused him of deliberately undermining investigations that are opposed by the Cambodian government, which says they risk sparking a new civil war.

The cases are of great magnitude, and concern both the executions of hundreds of thousands of people and suspects who continue to enjoy freedom in Cambodia.

The court's inability to make progress in the cases has cast a shadow over the continuing trial of three senior Khmer Rouge leaders, a landmark case for international criminal justice which opened last year and will almost certainly be the last held at the court (though it is only its second case).

It has also allowed critics to claim the vindication of views that the foreign powers including the United States, France, Japan, and Australia unwisely thrust the United Nations into a bargain with the Cambodian government ten years ago to create a mixed UN-Cambodian court that could not function independently of Cambodian authorities.

Appointed last year as a stand-in, Judge Kasper-Ansermet, a financial crimes investigator and photographer best known for his work in the French chapter of the investigation into the UN Oil-for-Food program, attempted last month to take up his position but was immediately and publicly rejected by his Cambodian counterpart, Judge You Bunleng, as I reported in a previous blog post.

The Open Society Justice Initiative, an organization which monitors the tribunal, called Tuesday for Cambodian authorities to end the delays and endorse Judge Kasper-Ansermet.

Judge Kasper-Ansermet had publicly complained on Monday that Judge Bunleng had refused to authorize the release of "information about important decisions" submitted last month. Ninety minutes later, Judge Bunleng released a statement saying Judge Kasper-Ansermet had again issued a statement without his knowledge and reiterated that the Swiss Judge "does not have legal accreditation."

Cambodia's Supreme Council of the Magistracy, the putatively independent body made up of Cambodia's senior-most jurists, decided Friday to deny that accreditation to Judge Kasper-Ansermet.

The pair is meant to be cooperating.

The reasons for the Swiss judge's rejection were unclear, but by law all 31 of the tribunal's judges and prosecutors are required to have "high moral character, a spirit of impartiality and integrity." Many of the court's 17 Cambodian judges and prosecutors have been involved in highly politicized cases and are widely believed to owe fealty to the government. The president of the court's Trial Chamber, Judge Nil Nonn, told a British former prosecutor that Cambodia's judges "aren't independent" and that the government — led by a prime minister who himself defected from the Khmer Rouge in 1977 — "threaten[s] and put[s] pressure on judges." His

"surprisingly candid" remarks were published in a report (PDF) in 2010 for which I was interviewed.

Some indication of the fault found with Judge Kasper Ansermet emerged last week when Cambodian officials on Thursday inadvertently released a record of high-level communications between Cambodia's Prime Minister Hun Sen and UN Secretary-General Ban Ki-moon, including a meeting between the two in Bali in November during which the matter was discussed face-to-face. Since October, the UN had been asking that the Cambodians process Judge Kasper-Ansermet's appointment, according to a statement released by Cambodia's Council of Ministers. Hun Sen replied on November 3, "suggesting prudent consideration in the light of 'certain activities by Mr Laurent Kasper-Ansermet that have been brought to public attention.'"

That could be a reference to the judge's Twitter account, which, until recently, he had used to refer to the statements of outside organizations concerning the work of the court but not to discuss the merits of the cases that he was to decide.

Later that day, the Council of Ministers sought to recall this statement, sending out a replacement version with the timeline of correspondence deleted and noting in an e-mail: "Please note that this replacement is MUST."

On his Twitter feed, Judge Kasper-Ansermet appeared to acknowledge on Friday the fact that his tweets on the tribunal had been held against him. Where once he had included headlines and text when referring followers to articles about the tribunal, on Friday, eight tweets had text that appeared censored with 'x's. One read: "Cambodia Khmer Rouge xxxxx xxxxxx xxxxx xx."

UN spokesman Martin Nesirky told the Agence France-Presse news agency this week that the UN had been "concerned" by foot-dragging in Cambodia on Judge Kasper-Ansermet's appointment.

"The United Nations has since made every effort to secure the appointment of the judge," Nesirky was quoted as saying, adding that Cambodia had "an obligation" to appoint Judge Kasper-Ansermet.