



**Cambodia tribunal judges release misconduct report
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Two international judges at Cambodia's Khmer Rouge tribunal have issued a damning decision, accusing investigating judges of obstruction, violations of victims' rights and possible misconduct.

The two international judges Rowan Downing and Katinka Lahuis sit on a tribunal chamber that rules on disputes while a case is still under investigation.

They've criticised co-investigating judges Siegfried Blunk and You Bunleng in a 12-page minority decision, listing a string of questionable actions.

Siegfried Blunk resigned earlier this month, citing political interference in his work.

Presenter: Sen Lam

Speaker: Robert Carmichael, Phnom Penh-based journalist

CARMICHAEL: It is a somewhat explosive 12 page report that the two international judges released this week. It was part of a minority decision rejecting the application of a New Zealand man, Robert Hamill, whose brother was killed by the Khmer Rouge. And now the pre-trial chamber, which is the body that judges Downing and Lahuis sit on, ruled against Hamill because four judges are required to uphold the appeal that Robert Hamill's lawyers had put in after this office of crime investigating judges rejected him for a controversial case the Cambodian government has long said it doesn't want to take place. So the three Cambodian judges on that chamber rejected Hamill's appeal, the two internationals effectively upheld it, and then launched into an examination of exactly what's been going on in the office of co-investigating judges, which is run by Siegfried Blunk and You Bunleng. And their findings were grim reading but upheld a lot of what observers and critics have said is going wrong out of the court this year.

LAM: Indeed so do you agree then with those observers of the trial that this current development, the implications of this development are huge?

CARMICHAEL: They are significant, Robert Hamill's lawyers have said they want to see a criminal investigation. Among the things that are clear that judges You Bunleng and Siegfried Blunk did was secretly amend and then back-date documents in relation to Robert Hamill's rejection of appeal. And Robert Hamill's lawyers say that could well be a criminal offence, and they want it investigated. The problem is though it's not clear yet whether anything is really going to come of this, and I say that because the head of the UN's Office of Legal Affairs, Patricia O'Brien in New York, she was here last week, she

met with the government. There's been a lot of accusations that the government's been interfering with the tribunal and with cases three and four specifically, and she said that the government to stop meddling. But for months now observers and victims groups have called on the UN to investigate what's been going on in Blunk's office, and the UN has done nothing about it. And even later after this report came out from the two international judges, which is a highly critical ruling, even after that came out the UN's spokesman in New York said that merely they would take into account the opinion of the international judges, Downing and Lahuis, in issuing their order this week before deciding on any investigation. It does seem as though the UN is very reluctant to start an investigation into what's gone on in case three for fear that it could undermine the whole of case two, which is the case against the four senior leaders of the Khmer Rouge, which is due to start next month. And that's really the lynchpin case in this tribunal.

LAM: And so from where we sit it would seem that this court is effectively split with dissenting judges. Where to now for the UN Khmer Rouge tribunal?

CARMICHAEL: Well it's got other problems too, I mean one of the problems of course is funding, this is a voluntarily funded tribunal, so funding has always been a problem and that looks likely to continue. And reports like this coming out don't exactly make donors want to rush forward and put more money into it. So there's certainly a credibility issue that's going on. But it's important also for people to know what has gone on in the court. I mean observers have said to me there's undoubtedly judicial misconduct been going on, the question is will anyone do anything about it? And to date, no one has. Judges Blunk and You Bunleng have been highly controversial figures this year. There have been numerous calls for investigation, nothing's happened about it. Judge Blunk eventually resigned early this month claiming that the government's political interference means he couldn't possibly carry on his job. But it does rather seem as there might have been a bit more to his resignation than that because this is just the first ruling from the pre-trial chamber in which I think we're going to see decisions split along national versus international lines. There are other civil parties who appeal their rejections to the case three trial, that the two judges shut down earlier this year. And those are going to be coming out I guess in the next few weeks or months as well. And I imagine they'll be as critical of the conduct of the co-investigating judges as this one has, if not more so.