

Cayley in the crosshairs

James O'Toole

May 13, 2011

The Khmer Rouge tribunal's investigating judges are considering initiating contempt-of-court proceedings against British co-prosecutor Andrew Cayley, a move observers said would deal a potentially critical blow to the reputation of a court already hobbled by allegations of political interference.

A source at the court said yesterday that co-investigating judges Siegfried Blunk and You Bunleng were "seriously" considering the move in relation to Cayley's disclosure earlier this week of details of their investigation in the court's third case.

The judges announced the conclusion of this investigation last month, though they provided no details about the case to the public, including the crime sites being investigated and the identities of the suspects, over the course of their work.

On Monday, Cayley therefore took the unique step of issuing his own statement detailing crime sites in the investigation and inviting victims to join the case as civil parties, as the judges had not done.

As he is permitted to do under court rules, Cayley also said he would request that the judges perform a series of additional – and seemingly basic – investigative steps in the case that had not been undertaken. These steps included the examination of potential crime scenes and the interviewing of the suspects, who were not even questioned by the judges over the 20 months that the investigation was open.

The identities of these suspects remain officially confidential, though court documents reveal them as former KR navy commander Meas Muth and air force commander Sou Met.

Yesterday, it emerged that rather than focusing their energies on these two former cadres, the judges were instead contemplating the initiation of contempt-of-court proceedings against Cayley himself.

"These proceedings are being seriously considered by the co-investigating judges," a source at the court said yesterday, speaking on the condition of anonymity.

Under the rules of the tribunal, the judges may handle such proceedings internally or refer the matter to domestic authorities or the United Nations. The potential penalty

facing Cayley was thus unclear yesterday, though any punishment handed down against him would almost certainly result in his departure from the court.

United Nations court spokesman Lars Olsen said yesterday that he had no information on the matter.

“The general principle is that the court will never make a comment about whether or not it is considering certain judicial decision,” he said.

Case 003 and the still-pending Case 004 have run up against stiff opposition from Cambodian officials, with Prime Minister Hun Sen declaring last year that they “will not be allowed”. The limited investigation in the third case and the concealment of information about it has fuelled allegations that the judges have planned its dismissal in advance in the face of such pressure.

Proceedings against Cayley could have a potentially devastating impact on the legacy of a court set up with the goal of providing a model to the Cambodian justice system, said Clair Duffy, a trial monitor with the Open Society Justice Initiative.

“The really concerning thing about this kind of action is what it says about the potential repercussions for someone fulfilling an obligation and acting independently,” she said. “The example is that someone seeking to act with integrity but running contrary to political whims will be punished.”