

Judges at KRT Fail to See Eye to Eye Again
Bridget Di Certo
February 16, 2012

International and Cambodian judges in the Khmer Rouge tribunal's Pre-Trial Chamber are again in deadlock over a government-opposed investigation into Khmer Rouge regime criminals.

Co-Investigating Judges last year rejected New Zealander Rob Hamill's application for civil party status in Case 004 for crimes committed against his brother Kerry by the regime that eventually executed him.

Hamill's lawyers appealed the rejection, saying the decision was unreasoned and premature, adding they had not been given access to any information in the Case 004 investigation.

Cambodian Pre-Trial Chamber judges said in a joint opinion on Tuesday that they concluded there must be no suspects in Case 004 and no persons who were a "leader or most responsible" for the crimes committed during the DK period, because no suspects had been arrested by the Co-Investigating judges.

International judges said in a joint opinion issued the same day that the Office of the Co-Investigating Judges were undermining the entire regime for victims at the court.

As well as lacking in transparency, the judges' actions were procedurally defective and seriously impaired victim's rights, they said.

Hamill claims to have suffered harm as a direct consequence of crimes committed against his brother, who was arrested in August 1978 by the DK Navy and transferred to the S-21 security centre where he was interrogated, tortured and executed.

This is the second time this week that Cambodian and international judges have drawn dichotomous conclusions about the legal provisions of the court.

Earlier this week, international judges Rowan Downing and Chang-Ho Chung accused Pre-Trial Chamber president Prak Kimsan of attempting to turn judicial decisions into administrative acts and excluding the international judges from decision-making.

Any party's appeals relating to the two government-opposed cases 003 and 004, must in the first instance be decided by the Pre-Trial Chamber, and to date the Chamber has proven unable to reach a common consensus on such appeals.

Clair Duffy of court monitor Open Society Justice Initiative told the Post earlier this week that Cambodian judges in the chamber have consistently voted along government lines in the two cases.

Prime Minister Hun Sen opposes cases 003 and 004.