

**KRT judges rap prosecutor Cayley
James O'Toole and Cheang Sokha
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JUDGES at the Khmer Rouge tribunal have rebuked British co-prosecutor Andrew Cayley for a statement he issued last week that revealed their inaction in the court's controversial third case.

Last week Cayley issued a statement saying that the alleged crimes in Case 003 "have not been fully investigated".

The statement followed an announcement from the co-investigating judges last month that they had concluded investigation in the case.

In listing a series of additional investigative steps he planned to ask that the judges perform in the case, Cayley effectively divulged their lack of action over the last 20 months that the investigation was open.

Still remaining to be done, Cayley said, were investigations of mass grave sites and interrogations of witnesses including the suspects themselves, who have yet to be questioned in the investigation.

In addition to listing these requests, Cayley also named several crime sites in the investigation – the first time such information had been offered publicly – for the benefit of victims wondering whether they may qualify as civil parties in the case.

In an order dated yesterday, co-investigating judges You Bunleng and Siegfried Blunk rebuked Cayley for these disclosures.

"The International Co-Prosecutor lacked legal basis for making the above mentioned information public, and he also violated the Rule of Confidentiality," the judges said in a statement. They therefore ordered Cayley to publicly retract the offending

portions of his statement within three working days.

Deputy prosecutor William Smith said yesterday that his office was considering whether to appeal the order to the court's Pre-Trial Chamber.

Regarding the issuance of Cayley's statement last week, "the co-investigating judges and the international co-prosecutor obviously have a difference of opinion in terms of his justification", Smith said. "We're considering our position and what we should do."

A source at the court said last week that the judges were “seriously” considering initiating contempt-of-court proceedings against Cayley in relation to the disclosures, though yesterday’s order has apparently taken the place of such action for the moment.

Cayley’s statement was notably not joined by Cambodian co-prosecutor Chea Leang, who opposes the Case 003 investigation and toes the government’s line that the suspects fall outside the tribunal’s mandate to investigate “senior leaders” and those “most responsible” for Khmer Rouge crimes. The suspects in the case remain officially confidential, though court documents reveal them as former KR navy commander Meas Muth and court documents reveal them as former KR navy commander Meas Muth and air force commander Sou Met.

The judges’ handling of the case has prompted allegations that they have deliberately botched their investigation in the face of opposition from government officials including Prime Minister Hun Sen, who has warned that trials beyond the upcoming Case 002 could plunge the Kingdom back into civil war.

“That the co-investigating judges are more concerned with Cayley’s statement than they are with progressing Cases 003 and 004 says all you need to know about the prerogatives of that office,” Cambodian Centre for Human Rights president Ou Virak said in an email yesterday.

“The actions of Judge Blunk suggest that the international backers of this court have conceded to the demands of the Cambodian government and are acting to ensure that no further cases go ahead.”

The deadline for civil parties to apply in Case 003 was yesterday. Cayley had requested that this deadline be extended another six weeks, though Smith said yesterday that a decision on the matter still had not been released.

Just four people had lodged civil party bids for Case 003 as of earlier this week, though that total spiked yesterday thanks to a flood of new applications, with 318 in total having been filed as of yesterday evening, according to Im Sophea, outreach coordinator at the court’s Victims Support Section.

At least two of those applications have already been rejected, however – those of local activist Theary Seng and New Zealander Rob Hamill, whose brother was abducted by the Khmer Rouge in the Gulf of Thailand and later executed. Hamill’s rejection was particularly dubious, given that Cayley said last week that the “capture of foreign nationals off the coast of Cambodia and their unlawful imprisonment” figured in the Case 003 investigation.

“It appears the decision is based on political convenience rather than a proper application of the law,” Hamill said in a statement on Tuesday.