



**Monitoring group: United Nations must investigate tribunal judges
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Phnom Penh - The United Nations must investigate the conduct of investigating judges at the UN-backed Khmer Rouge tribunal, a monitoring group said Wednesday, in the wake of a recent decision that observers said lacked legal merit.

The Open Society Justice Initiative (OSJI) said the reasons behind the decision to bar a Cambodian victim from being a party in the tribunal's third case - a case the government has openly said it would not permit to proceed - were 'an affront.'

The judges, Germany's Siegfried Blunk and Cambodia's You Bunleng, are responsible for investigating suspects and for determining whether applicants for civil party status were victims of the crimes under investigation.

However, a number of their recent decisions have drawn criticism from inside and outside the court, most prominently the closure in April of their investigation into Case 003 against two former Khmer Rouge military officers.

The court's international prosecutor, Andrew Cayley, appealed that closure on the grounds that the investigation was deficient. Cayley listed omissions, including the investigating judges' failure to question the two suspects or to visit sites where the alleged crimes had taken place.

In a statement released overnight in New York, the OSJI's executive director, James A Goldston, said the ruling to exclude the applicant - whose spouse allegedly suffered hard labour and execution at the hands of the Khmer Rouge - had violated basic legal norms.

'These developments further contribute to an already sizeable body of evidence raising serious questions as to the independence, competence, and professionalism of the court's two co-investigating judges,' Goldston said.

To date the investigating judges have excluded three applicants seeking civil party status in Case 003. All three were recognized as civil parties in one or both of the tribunal's first two cases, and have appealed the rulings banning them from the third.

In their latest rejection the investigating judges said the applicant's claimed psychological harm was 'highly unlikely to be true,' and defined the requirement of 'direct' harm so narrowly as to exclude anyone not directly physically affected.

Anne Heindel, a legal advisor at genocide research organization DC-Cam, said the legal reasoning failed to meet the minimum standards.

'It's clear and well-established that immediate family members are recognized as victims and can participate in these circumstances,' Heindel said. 'So there's no precedent anywhere that supports the legal reasoning of this decision.'

Tribunal spokesman Lars Olsen said the investigating judges would not comment on the rejection as it was under appeal.

In the tribunal's first case, the Khmer Rouge's head of security, Comrade Duch, was convicted of war crimes and crimes against humanity for his role in the deaths of more than 12,000 people.

The court's second case, against four senior surviving leaders of the movement, will likely begin in 2012. More than 2 million people are thought to have died during the Khmer Rouge's rule between 1975 and 1979.