



Resignation raises doubts over Khmer Rouge tribunal

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PHNOM PENH, Oct 12, 2011 (IPS) - The United Nations must address a "crisis of confidence" at the beleaguered Khmer Rouge war crimes tribunal in Cambodia following the resignation of a controversial judge, critics say.

News this week that Siegfried Blunk, one of two investigating judges at the UN-backed tribunal, resigned citing political interference is raising questions about the legacy of the court itself.

Critics say the high-profile departure shows significant moves must be taken to ensure the integrity of the tribunal, known officially as the Extraordinary Chambers in the Courts of Cambodia, or ECCC.

"This should not be a case of business as usual," James Goldston, executive director of the New York-based Open Society Justice Initiative, said in a statement.

Goldston and other critics say the UN must secure public guarantees from senior Cambodian officials that they will fully cooperate with the four cases currently before the ECCC.

"If those guarantees are not forthcoming," Goldston said, "the UN should reassess its commitment to the court."

Since last December, Blunk has been one of two investigating judges at the hybrid tribunal, which pairs international legal officers with their Cambodian counterparts.

But he became the target of critics this year when he and Cambodian Judge You Bunleng announced they had shut down their investigations into a file known here as Case 003 even though they had not interviewed either of the two former mid-level Khmer Rouge commanders who were suspects in the case. Critics accused the judges of incompetence, and of bowing to political pressure from a Cambodian government that has been vocally opposed to future prosecutions against any Khmer Rouge figures beyond four former leaders currently indicted.

In announcing his resignation this week, Blunk himself cited repeated public statements by senior Cambodian officials. Cambodian Prime Minister Hun Sen has warned the country would slide back into civil war if the court pursues further charges. Last October, he told UN Secretary General Ban Ki-moon that the current prosecution of the four former leaders would be the tribunal's last.

While Blunk maintained he hasn't let such statements influence him, he said his "ability to withstand pressure by government officials and to perform his duties independently could always be called in doubt, and this would also call in doubt the integrity of the whole proceedings" in future cases.

Clair Duffy, an OSJI court monitor based in Phnom Penh, said Blunk's resignation must force the UN to confront the problem of political interference.

"They can't just appoint another judge and expect that person will suddenly have the power to investigate massive atrocities without Cambodian cooperation," Duffy said. "The UN must demand that the Cambodian government absolutely butts out of all judicial and prosecutorial decision-making in the court and let it perform independently, but not just through empty statements about the importance of independence. There need to be substantive guarantees by the government."

But the UN response in the wake of Blunk's departure has done little to assuage its critics. A spokesperson for Secretary General Ban Ki-moon told reporters this week the priority is to push ahead with replacing Blunk.

"The United Nations has noted the reason stated by Judge Blunk for his resignation," the spokesperson said. "As we have consistently emphasised, the ECCC must be permitted to proceed with its work without interference from any entity, including the Royal Government of Cambodia, donor states or civil society. We will continue to monitor the situation at the ECCC closely, including in consultation with the Royal Government."

But the court is tainted by "widespread perceptions of corruption" within Blunk's office, critics say. "The court is already seen as compromised," said Youk Chhang, the executive director of the Documentation Centre of Cambodia, which has provided thousands of documents used as evidence in court investigations.

He's calling for a full investigation into the entire office of the investigating judges. "The public is losing hope," Chhang said. "Without a proper investigation, the UN undermines the public support and shows disrespect to those who have died and those who survived the Khmer Rouge. The UN must fix this immediately."

The questions raised by this week's news comes at an inopportune time for the tribunal, which has been besieged by lengthy delays to what is meant to be its centrepiece case.

The prosecution of four former senior Khmer Rouge leaders - chief ideologue Nuon Chea, head of state Khieu Samphan, foreign affairs minister Ieng Sary and social affairs minister Ieng Thirith was supposed to be under way this year. But it's still mired in legal arguments and some observers question whether the elderly defendants will live long enough to hear a verdict.

"Unfortunately, by letting this situation fester, I do think it's worsened the situation for all branches of the court," Duffy, the OSJI monitor, told IPS.

Already, Blunk's resignation has provided fodder for defence lawyers in the case, who have repeatedly raised questions over judicial independence throughout the tribunal. This week, lawyers for Nuon Chea appealed to the tribunal's highest chamber. They cited Blunk's resignation in urging an investigation into "all outstanding allegations of ... interference".

"That so much of the (government) meddling has taken place in plain view suggests the significant probability of far more insidious interference behind the scenes," the lawyers wrote in their submission, noting that while the Cambodian government has opposed future cases, it has been publicly supportive of the case against their client. (END)