



Spat at Cambodia's Khmer Rouge tribunal May 23, 2011

Cambodia's troubled tribunal has suffered further setbacks in recent weeks as a series of public disputes pitted officials against one another. The spats escalated quickly and dramatically with co-prosecutors issuing opposing statements and investigative judges reportedly threatening the international co-prosecutor with contempt of court.

The disagreements involve a prospective case that the government strongly opposes even though prosecutors say they have sufficient evidence to charge a further five former Khmer Rouge officials. Critics accuse the court's investigative section of bowing to political pressure by failing to carry out proper investigations, thereby increasing the likelihood that the case will be dropped.

Theary Seng, an activist and founder of the Centre for Justice and Reconciliation, said infighting and political interference could prevent the court from fulfilling its mandate. She called for intervention by international donors and UN headquarters to "salvage" the UN-backed court.

"At this pace, the tribunal is heading for an irreparable crash," said Seng, whose parents were killed by the Khmer Rouge.

Ou Virak, president of the Cambodian Centre for Human Rights (CCHR), said the tribunal is in danger of collapse even before trying four top Khmer Rouge leaders whose case (002) is scheduled to begin June 27. "I think the court may struggle even to complete Case 002," he said. "Even if it does, the nature of the 'justice' it seeks to dispense has been entirely and irreparably undermined."

The current crisis began with a seemingly innocuous one-sentence statement issued April 29 by the co-investigating judges, which simply said they had "concluded the investigations in Case 003". But the timing of the statement – released on a Friday evening when journalists are rushing to meet deadlines – along with its lack of detail raised alarm bells among observers.

High-ranking Cambodian government officials have repeatedly stated their opposition to expanding the scope of prosecution beyond the four persons already facing charges and one who has been convicted. Prime Minister Hun Sen even told visiting UN Secretary General Ban Ki-moon that he would not allow more cases to go forward.

Critics noted that investigators did not interview the suspects during 20 months of investigation into Case 003, involving several unknown suspects. Nor did they visit alleged crime sites. Some interpreted these facts, along with the secrecy surrounding the case, as signs of an internal decision to scuttle the case.

On May 9, International Co-prosecutor Andrew Cayley issued a detailed statement containing previously unreleased information, saying he was requesting further investigations, including interviews with witnesses and suspects, as well as visits to crime scenes that may contain mass graves. He reiterated his belief that the five suspects fall within the court's jurisdiction.

Cayley's statement was followed the next day by one issued by his national counterpart, Chea Leang. She echoed the government's position that the court should cease its work at the conclusion of case 002. She said the suspects in case 003 could not be considered senior leaders or those most responsible for crimes committed under the Khmer Rouge.

Many experts disagreed. The Open Society Justice Initiative called for further investigations, and noted: "Case 003 is believed to involve Sou Met, the former commander of the Khmer Rouge air force, and Meas Mut, the commander of the navy."

Seng said it was "laughable" not to consider such high-ranking Khmer Rouge officers to be senior leaders. Ou, of CCHR, also said they should be considered as such.

"I think they were important figures about which a good deal of evidence has been assembled," said David Chandler, a leading Khmer Rouge historian.

In the face of widespread support for Cayley, International Co-investigating Judge Siegfried Blunk lashed out at the international co-prosecutor. On May 13, The Phnom Penh Post quoted a court source claiming that Blunk was considering initiating contempt of court proceedings against Cayley.

Blunk has not denied that claim. Instead, his office announced on May 18 that it had issued an order for Cayley to retract parts of his statement within three working days. At the moment, the court's future hangs in the balance, which as Chandler pointed out, "is a state of affairs pleasing to those in power in Phnom Penh."