



## **UN judges lambaste colleagues at Khmer Rouge war crimes court October 25, 2011**

Phnom Penh - A litany of obstruction, violations of victims' rights and possible misconduct by investigating judges was laid out in a decision published Tuesday at the Khmer Rouge tribunal.

Rowan Downing and Katinka Lahuis, the two international judges on a tribunal chamber that rules on disputes while a case is still under investigation, listed a string of questionable actions by co-investigating judges Siegfried Blunk and You Bunleng in a 12-page minority decision.

Blunk and You jointly headed the Office of the Co-Investigating Judges prior to Blunk's resignation October 9.

Downing and Lahuis said the two had backdated documents, inexplicably refused to recognize civil party lawyers, prevented civil party lawyers from accessing the case file despite repeated requests and, in so doing, denied victims the 'fundamental right to legal representation.'

Clair Duffy, a tribunal observer with the Open Society Justice Initiative, a non-governmental organization, said the ruling had serious implications for the UN-backed court.

'There is no question in my mind that this opinion is prima facie evidence of judicial misconduct,' Duffy said, adding that the United Nations and donors must investigate since failure to do so would 'look farcical.'

Tuesday's ruling related to the tribunal's third case, which the Cambodian government has long said it would not permit. The Office of the Co-Investigating Judges, which closed its investigation into the case in April, stands accused of deliberately scuppering it for political reasons.

To date, the office has rejected at least three civil party applicants in case three. The ruling handed down Tuesday was in connection with New Zealand national Robert Hamill, whose brother was tortured and murdered by the Khmer Rouge in 1978.

In April, the Office of the Co-Investigating Judges rejected Hamill's application on the grounds that he 'did not demonstrate that he suffered the alleged psychological injury as a direct consequence of the death of his brother.'

Hamill appealed to Downing and Lahuis' panel, but in Tuesday's ruling, the three Cambodian judges who hold sway on the five-member bench ruled against him on the

grounds that the investigating judges had not charged the two suspects and, therefore, there could be no victims.

The two international judges disagreed. Downing and Lahuis said the Office of the Co-Investigating Judges had made so many mistakes that it should reconsider its rejection.

They also noted that Blunk and You had altered their initial rejection of Hamill's civil party application - changes that were 'so fundamental that they affect its very substance' - backdated it and failed to notify Hamill or the appeals panel.

Duffy said that was extraordinary.

'The fudging of public records by any public official would ordinarily be a cause for concern, but judges attempting to cover up their mistakes while their decision is being appealed is shocking,' she said.

Downing and Lahuis also said the investigating judges' failure to keep victims in case three informed meant 'the rights of the victims have been ignored.'

Questions emailed to You Tuesday went unanswered.

When Blunk quit, he claimed it was due to repeated government meddling in case three that could give the impression of political interference.

Opening arguments in the tribunal's second case are to start November 21 and would see the four surviving Khmer Rouge leaders on trial for their alleged roles in devising policies that led to the deaths of up to 2.2 million people under the 1975-79 regime.

In its first case, the court last year sentenced the regime's security chief, Comrade Duch, to 30 years in prison after finding him guilty of war crimes and crimes against humanity. Duch has appealed his conviction.