

The Phnom Penh Post

'Waterlilygate' hits troubled tribunal

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June 5, 2009

The defence team for former Khmer Rouge leader Nuon Chea on Thursday added an alleged security breach to its growing list of concerns about Cambodia's war crimes court, which also includes allegations of government interference and doubts about whether the head of the Victims' Unit is fit for her job.

International co-lawyer Michiel Pestman said at a press conference that he had found one of his team's confidential documents floating in a "moat" on the grounds of the Khmer Rouge tribunal Wednesday afternoon, which he and other members of the defence team said had been taken from their office.

Pestman said he did not know why someone might have taken the document - a draft of a letter dated May 27 and addressed to Victims' Unit head Helen Jarvis - or why it surfaced in the "moat". But he and legal consultant Andrew Ianuzzi, who described the "moat" as a half-metre-wide "ditch filled with water lilies", said they believed the letter had been stolen.

"We have no explanation," Pestman said. "What we do know is that the documents should have been shredded. They were not, and they were most probably stolen from our office."

He added, "We have serious concerns about security and the confidentiality of our investigation. From now on we'll have to be very careful about what we put on paper."

Chief of Public Affairs Reach Sambath declined to comment in detail about the incident, saying Thursday afternoon that Pestman had "submitted the relevant information to the security section of the ECCC", which he said would conduct an investigation.

"At this time it is premature to conclude that anything has been stolen," he said. He added, "Generally, in the court each office is responsible for safely disposing of its own documents."

Victims' Unit concerns

Pestman said the draft letter details concerns about a 2006 open letter - signed by members of the Democratic Socialist Perspective's (DSP) Leninist Party Faction,

including Jarvis - that was circulated during a May 2006 meeting of the DSP, an Australian political organisation.

He described the letter as one "in which [Jarvis] takes the position that as a member of that particular faction she does not have to obey the rule of law".

The letter states: "Against the bourgeoisie and their state agencies we don't respect their laws and their fake moral principles."

Pestman suggested at the press conference that the letter indicated a willingness to flout rules that could compromise her work at the court.

"We think that all parties should follow the rules set up by the court," he said. "We think the Victims' Unit should follow the rules."

Ianuzzi said Jarvis informed the defence team on May 30 that she had brought its concerns to her superiors.

Jarvis declined to comment Thursday on the letter or the defence team's objections to her political activities.

Charges of meddling

Also Thursday, Pestman reiterated concerns about possible political interference at the court. The team said Wednesday that it had been "reliably informed" that national co-prosecutor Chea Leang had been instructed by the government not to prosecute additional suspects.

Pestman said Thursday that the charge stemmed from information given "by a reliable source within the court", though he declined to elaborate.

He described as "worrying" a May report from the Open Society Justice Initiative that accused the government of "attempting to block the investigating judges from interviewing certain insider witnesses who hold current positions of power". Government officials have rejected those allegations.

Pestman said he did not know when a criminal complaint before the Court of Appeal accusing tribunal officials of involvement in a kickback payment scheme would be resolved.

He also expressed concern that the case had been delegated to Deputy Prosecutor Ouk Savuth, who was at the Municipal Court when it abruptly terminated an investigation of the defence team's initial complaint in February.

Looking ahead, Pestman said he had no prediction as to when the trial of his client, commonly referred to as Brother No 2, would begin. "The future's very uncertain," he said.