

## **Leaked document casts doubt on impartiality of Khmer Rouge judges**

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As an international tribunal prepares to bring former Khmer Rouge leaders to trial beginning June 27, a confidential document obtained by The Christian Science Monitor raises questions about the UN-backed court's ability to independently prosecute members of the brutal regime.

The 2008 court document reveals when tribunal prosecutors laid out their case against two former military commanders, they requested that the investigating judges detain them.

The level of detail in the document builds a strong case against the commanders, but the judges ignored the request to detain them and didn't even summon the suspects for questioning during 20 months of investigation. The judges lack of response underscores concerns about their ability to carry out their duties. When they announced April 29 that they had concluded their investigation, many victims and observers were outraged, pointing out that investigators failed to question suspects and witnesses, or even inspect sites that could contain mass graves.

"[This] could in no way amount to an investigation in the eyes of any reasonable observer and is nothing short of a slap in the face to the millions of victims of the Khmer Rouge," says Ou Virak, president of the Cambodian Centre for Human Rights (CCHR).

On Tuesday, the coinvestigating judges rejected a request by International Co-Prosecutor Andrew Cayley to extend the investigation, sparking a new round of criticism from observers and watchdog groups.

"If the judges had ever been serious about carrying out their legal obligations, as well as their ethical ones, they would be looking for a way to conduct the investigations with thoroughness and precision," says Clair Duffy of the Open Society Justice Initiative.

"Instead they've availed themselves of every opportunity to shut them down."

She adds that it was "particularly disturbing" that the judges treated allegations of war crimes and crimes against humanity with such "flippancy."

**Two new suspects**

About one quarter of Cambodia's population died from starvation, forced labor, disease, or execution during the regime's reign from 1975 until 1979. A Khmer Rouge prison chief was sentenced last year, while four top regime leaders are expected to begin trial in June for allegedly orchestrating policies that killed approximately 2 million people.

The 2008 document outlines the case against two additional suspects – Khmer Rouge Air Force Commander Sou Met, and Navy Commander Meas Mut. Prosecutors alleged they share responsibility for crimes including torture, killing, and the forced labor of tens of thousands of people.

“In particular, Sou Met and Meas Mut participated in a criminal plan to purge the RAK [Revolutionary Army of Kampuchia] of all undesirable elements, which resulted in at least thousands and quite probably tens of thousands of deaths,” the prosecutors alleged. Resistance to proceeding with the trial Cambodian Prime Minister Hun Sen has repeatedly expressed opposition to expanding the scope of prosecution, even telling UN Secretary General Ban Ki-moon that he would not allow more cases to go forward. He has warned that pursuing further cases could spark political violence.

Echoing government rhetoric is Chea Leang, the Cambodian prosecutor in the hybrid tribunal, which assigns national and international staff to each role. She issued a statement on May 10 saying the case should be dropped.

Critics have accused Ms. Chea and the investigating judges, German Siegfried Blunk and Cambodian You Bunleng, of bowing to political pressure.

“Any appearance of independence at this institution is long since gone,” says Ou of the Cambodian Centre for Human Rights.

The judges strongly denied such claims in a May 26 statement, saying they “have worked independently from outside interference, and will continue to resist all such attempts and are resolved to defend their independence against outside interference, wherever it may come from.”

Close observers of the court, however, have noted difficulties prosecutors have faced in bringing more than five Khmer Rouge leaders to trial.

“The Cambodian government doesn't want the cases to move forward, the Cambodian prosecutor is under pressure from that side, and the international community doesn't want to pay for it,” said Ann Heindel, a legal advisor with the Documentation Centre of Cambodia, which researches Khmer Rouge history.

Despite such resistance, prosecutors built cases against a further handful of suspects, including Sou and Meas, who are the only suspects named in the document.

### **The case that was built**

In addition to their military roles, the court submission claims they were influential figures in the Communist Party of Kampuchea (CPK), as the regime's political entity was known, with Sou obtaining "one of the highest ranks within the CPK." Both attended meetings where planned purges of the armed forces were discussed, prosecutors claimed.

"Sou Met and Meas Mut were often present at these meetings and described their success in implementing the purge," according to the document.

As navy commander, Meas also controlled Cambodia's coast, where prosecutors allege that his sailors captured and killed Thai and Vietnamese fishermen, and abducted nationals of other countries including "at least four Westerners."

Also according to the document, a commander who reported directly to Sou was responsible for overseeing the construction of a military airport that also functioned as a "re-education or tempering site" for soldiers suspected of harboring disloyalty toward the regime. Witnesses interviewed by the prosecution described horrific conditions at the construction site, where starving workers perished daily as a result of "strenuous and unrelenting labor."

"Those who did not work to the satisfaction of the guards were often executed in the forest just west of the airfield site," according to witness accounts.

The document details similar atrocities carried out at other sites. These included a Buddhist temple used as a detention center, and a rock quarry where prisoners included fishermen, navy sailors, and "people whose relatives had been members of the previous regime."

Cayley has the option to seek permission from the court to appeal to the pretrial chamber, which has the power to order the investigating judges to reopen their investigation.