CONFLICTS OF INTEREST - SERIOUS CONCERNS ARISING FROM THE APPOINTMENT OF H.E. DR. HELEN JARVIS AS THE NEW HEAD OF THE VICTIMS UNIT AT THE ECCC

The Cambodian Center for Human Rights (CCHR) is extremely concerned about the recent appointment of Dr. Helen Jarvis as Head of the Victims Unit of the Extraordinary Chambers in the Courts of Cambodia (ECCC), otherwise known as the Khmer Rouge Tribunal (KRT). Aside from the question of Dr. Jarvis’s qualifications for the role, the appointment raises serious concerns regarding conflicts of interest that bring into question Dr. Jarvis’s ability to fulfil the role and thereby threaten to undermine the interests of the Victims and the KRT itself.

The most worrying conflict of interest arises out of Dr. Jarvis’s relationship with the Royal Government of Cambodia (RGC). Dr. Jarvis is an advisor to the RGC. The CCHR and many others have raised already the serious issue of sustained political interference at the KRT, best represented by the deadlock over further prosecutions. Further, the timing of Dr. Jarvis’s appointment comes against a backdrop of increased national and international media interest in the allegations of corruption at the KRT as well as the unexpected and, as yet unexplained, resignation of her predecessor. As Head of the Victims Unit, Dr. Jarvis must work to facilitate the effective participation of Victims in proceedings, including the submission of complaints to the co-Prosecutors who must take the interests of Victims into account when considering whether to initiate an investigation or a prosecution. The CCHR is not convinced that Dr. Jarvis can maintain her duty to act in the Victims’s best interests, given that her role entails a capacity to contribute to future prosecutions and ongoing investigations involving potentially negative consequences for the RGC. Indeed, the CCHR is concerned that the appointment of Dr. Jarvis to Head of the Victims Unit is a politically-motivated decision and one that is designed to further strengthen the RGC’s control over proceedings.

It is yet to be clarified whether Dr. Jarvis continues to function as the KRT’s Ethics Monitor, notwithstanding her recent appointment as Head of the Victims Unit. As the Ethics Monitor functions as the sole KRT employee responsible for investigating corruption allegations within the court, these positions are blatantly irreconcilable and could not conceivably be held by one person.

The Nuon Chea and Ieng Sary defence teams have raised the issue of Dr. Jarvis’s conflicting outreach role. It remains unclear as to what role Dr. Jarvis will continue to play in this regard. Nevertheless, assuming that her outreach activities are limited purely to the Victims or micro-outreach, to use a phrase coined recently, we are still left to ask whether or not Dr. Jarvis’s transition from voice of the entire KRT to that of the Victims advocate can plausibly be a seamless one. The former role requires objectivity towards all units within the KRT, whereas the latter necessarily requires promoting the best interests of one party – the Victims. As Public Affairs chief (and Ethics Monitor), Dr. Jarvis may have been privy to information that precludes her from full and effective Victims representation, as she may be obliged to withhold information material to the Victims’s objectives.
Further, recent revelations have suggested that Dr. Jarvis’s political views might be directly at odds with Victims’ advocacy. Not only do these reported views suggest an utter disregard for the rule of law and the legal process underway at the KRT, they ironically and perversely lend themselves to comparison with the alleged philosophy of the Khmer Rouge regime. They most certainly do not fit well with the role of Head of the Victims’ Unit.

Dr. Jarvis’s new role might therefore conflict with at least four noted interests. These conflicts would bring into question Dr. Jarvis’s ability to fulfill the role of Head of the Victims Unit and jeopardize the rights of the victims to representation and full participation in the legal process. The Internal Rules stipulate that the KRT cannot function successfully without the full participation of the Victims. Further, this appointment will inevitably arouse further public suspicion of the KRT, generate distrust of the Victims’ Unit by both the public and the Victims themselves and damage the legacy of the court.

The CCHR therefore strongly urges the United Nations and the Cambodian side at the KRT to address this serious issue of concern by suspending Dr. Jarvis’s appointment as a matter of urgency and until the conflicts of interest alleged above and elsewhere have been properly investigated and it is found beyond reasonable doubt that no such conflicts exist. The CCHR encourages other NGOs to echo this call, in the interests of the Victims and of the KRT as a whole.

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