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## **Cambodia Tribunal Clears Procedural Hurdle**

By Seth Mydans

BANGKOK — For a moment, it appeared that \$2,700 might be enough to save the mass killers of the Khmer Rouge from going on trial.

Thirty-two years after the deaths of 1.7 million people during the brutal rule of the Khmer Rouge, slow-moving preparations for an international tribunal were stalled again in early April when the foreign judges said a registration fee for lawyers was too high.

After a decade of delays and squabbles, the issue of the lawyers' fee became a critical one, crystallizing the distance between the crimes of the past and the preoccupations of the present.

Last week, the Cambodian Bar Association, which had first claimed an affront to its sovereignty, lowered the registration fee to \$500. On Monday the foreign judges at the trial, who had called the higher fee unacceptable, said they were satisfied.

Each side issued a statement asserting its commitment to justice.

It was the last of countless large and small stumbling blocks, and it seemed to open the way for an agreement on procedural rules a month from now.

But it remains unclear how long it will then be before the first indictments are brought. And even if all goes smoothly, it is likely to be months before the first defendant is brought into a courtroom to face charges.

"It comes down to time," said Youk Chhang, director of the Documentation Center of Cambodia, which has been gathering potential evidence for a trial.

"We need to use time wisely in order to catch up with the aging Khmer Rouge leaders," said Mr. Chhang, who is a survivor of the Khmer Rouge years, from 1975 to 1979. "People use so much time to deal with little things, probably because the victims are not their priority."

Since technical preparations began last summer, nearly one-third of the planned three-year period for the tribunal has been consumed by disputes and delays.

Before that, it took the United Nations and the Cambodian government six years of often-unfriendly talks to reach an agreement in 2003 to hold the trial.

The United Nations demanded that international standards be met and the Cambodians complained that their national sovereignty was being abused. The resulting hybrid has been criticized by human rights groups for setting too low a standard of justice.

The fee dispute illustrated the chill that has grown between the 12 foreign judges and prosecutors and the 17 Cambodian judges and prosecutors, who must reach agreement every step of the way, from indictment to final judgment.

"They sit across the table from each other, but they communicate by public statement," reported one official of the tribunal, who insisted on anonymity because he was not authorized to comment in public.

The fee became an issue in April when the foreign judges and prosecutors pulled out of discussions on rules of procedure for the tribunal.

The fee, they said, was "not in line with accepted practice at the international level" and could be a prohibitive financial burden on defense lawyers.

"The international judges wish to emphasize that the window of opportunity is closing quickly and they simply cannot allow for endless delays," they said in a statement at the time.

The disputed amount included a \$500 registration fee, a \$2,000 fee to sign on a client and \$200 a month in additional fees. All but the registration fee has now been waived.

Compared to the tribunal's \$53 million budget and to other fees in the legal profession in general the amount seemed small.

The near-breakdown it caused offered a glimpse into what may be the tenor of discussions on more substantive legal questions that the international teams will face.

"I think there will be more issues like this every step of the way," Mr. Chhang said. "And I just hope they don't take more time than the victims can stand."

Every delay over the years has revived concerns that the aging potential defendants may live out their lives in quiet retirement in Cambodia and evade trial entirely.

The Khmer Rouge leader, Pol Pot, died in 1998. His right-hand man, Son Sen, was killed the year before that. Ta Mok, the Khmer Rouge military commander, died last July.

All of the major remaining figures—Nuon Chea, Khieu Samphan and Ieng Sary—are reported to be in poor health.

The only prominent figure in prison is Kaing Guek Iev, the commandant of the prison and torture house Tuol Sleng.

Despite these problems, the judges and prosecutors have resolved more than 100 sometimes-complicated procedural rules, crossing barriers of legal systems, language and culture.

Under a complicated supermajority system, the Cambodians outnumber the foreign participants. But the foreigners retain the right to veto any decision. The standoff over the lawyers' fees showed that they are quite ready to use that power.

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