

Khmer Rouge Trials Stalled by Political Deadlock

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PHNOM PENH, Cambodia -- Preparations for a tribunal to try the aging leaders of the Khmer Rouge for crimes against humanity are behind schedule because of a political deadlock in Cambodia, according to a senior U.N. official and diplomats.

U.N. and Cambodian officials agreed last June after prolonged negotiations to create a special court to try Khmer Rouge leaders. The deal still requires ratification by the country's National Assembly.

Yet nine months after Cambodia held national elections, the country remains without a functioning parliament, and the prime minister, Hun Sen, has been unable to assemble a ruling coalition, because the three main political parties remain deadlocked in a squabble over their roles in a future government.

Cambodian officials and foreign diplomats said they could not predict when the parliament will convene, creating uncertainty about the tribunals and the raising of an estimated \$60 million needed to finance them from international donors.

Karsten Herrel, U.N. coordinator for assistance to the Khmer Rouge trials, said preparations have faced an "uphill struggle" in the absence of a ratified agreement.

"Let's assume the National Assembly had been able to meet in July or August of last year after the signature of the agreement, I'm sure preparatory work would have started earlier and there would have been an earlier mobilization of donors given the prospect of moving forward," he said in telephone interview from New York.

U.N. and Cambodian officials, however, have continued to discuss logistics for a special tribunal. They decided that a theater in Phnom Penh would be converted into a courthouse, and investigators, prosecutors, judges and other court staff would operate from offices in the National Cultural Center.

"We try to put the unfortunate stalemate to good use to do as much preparatory work as possible," Herrel said.

Under the agreement, the court would operate under Cambodian legal jurisdiction and with a majority of Cambodian judges. Some human rights groups, however, have questioned the objectivity and competence of Cambodian judges to try former Khmer Rouge leaders, citing the fact that Hun Sen and others in the government were themselves once in the Khmer Rouge and could be tarred by the trials. The panel would also include international jurists; decisions would require the support of both Cambodian and foreign judges.

The agreement calls for the prosecution of senior leaders of the Khmer Rouge, a communist group that ruthlessly ruled Cambodia between 1975 and 1979 and was blamed for the deaths of about 1 million people. The agreement does not name the suspects, but Cambodian experts and foreign officials agree that five to 10 former Khmer Rouge leaders are likely to be indicted. They include Ieng Sary, a former deputy prime minister, and his wife, Khieu Thirith; Khieu Samphan, a former prime minister; Nuon Chea, a former top Khmer Rouge leader; Ta Mok, a former military commander; and Kang Kek Ieu, a former prison camp commander known as Comrade Deuch. The head of the Khmer Rouge, Pol Pot, died in 1998.

Herrel said he expected the entire process to last three years. The estimated \$60 million expense is to be divided between the United Nations and Cambodia. With the Phnom Penh administration strapped for money, though, officials said both sides would turn to foreign governments for support.

But even the preliminary task of setting a Cambodian government budget for the process has been hamstrung by political deadlock.

Hun Sen's Cambodian People's Party won more than half the votes in the July election but failed to gain a two-thirds majority required to form a government. Since then, his party has held sporadic talks with the opposition, including a former coalition partner, the royalist Funcinpec Party, but negotiations have produced more recrimination than results. The bargaining now focuses on a possible compromise that would bring Funcinpec back into a governing coalition along with members of the opposition Sam Rainsy Party while excluding that party's leader, Sam Rainsy, one of the prime minister's most bitter adversaries.

A similar standoff in 1997 provoked armed clashes between forces loyal to the Cambodian People's Party and Funcinpec, in which about 100 people were killed. Cambodian and foreign political observers, however, said they did not expect violence this time because most weapons are now in government hands and Hun Sen has shown little sign of wanting to resolve the deadlock by force. He has continued to run daily affairs as the head of a caretaker administration.

The absence of a functioning parliament has not only set back the Khmer Rouge tribunal but also has delayed votes on Cambodia's accession to the World Trade Organization, and has adversely affected foreign investment and aid from international donors, according to Cambodian officials and foreign diplomats.

Helen Jarvis, an adviser to the Cambodian government task force on the Khmer Rouge trials, said she did not expect the agreement with the United Nations to face major obstacles once the National Assembly convenes.

"The government indicated it will give high priority to the legislation. We don't expect a problem," Jarvis said.

Western and Asian diplomats said the delay in establishing the Khmer Rouge tribunal, which could set an important precedent for legal accountability, is holding back efforts to promote a functioning court system in a country that remains highly corrupt and often lawless.

"The Cambodian government realizes they need to change the atmosphere of impunity and also improve the judicial system," said Japan's ambassador to Phnom Penh, Fumiaki Takahashi, whose country will likely be one of the main financial backers of the special court. "This tribunal will send a big message in this regard."

Diplomats and Cambodian human rights activists warn that time is running short to try the aging Khmer Rouge leaders, many of whom are now in their seventies and could die before the trials convene. But Youk Chhang, whose Documentation Center of Cambodia has taken the lead in collecting documents and personal testimonies about Khmer Rouge atrocities, said his primary concern is that survivors of the genocide are also growing old.

"What I worry about is the victims dying without justice being done," he said.

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