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Genocide Trial Rules Agreed in Cambodia

By: Ker Munthit

Cambodian and foreign judges announced rules Wednesday clearing the way for a U.N.-assisted genocide tribunal to begin investigating Khmer Rouge leaders in the deaths of 1.7 million people during their 1975-79 communist regime.

The rules were one of the judges' last major tasks before they could begin working on the cases, but it was unlikely the trials would start anytime soon. That is a growing concern as there is a chance the aging defendants could all die before they are brought to justice.

The top Khmer Rouge leader, Pol Pot, died in 1998. Ta Mok, the Khmer Rouge army chief, died last July while in detention pending trial by the special tribunal. He was believed to be 80.

The only defendant now in custody is Kaing Guek Iev, also known as Duch, who headed the notorious S-21 torture center in the capital, Phnom Penh.

Their senior-level colleagues, Nuon Chea, the movement's chief ideologue; Ieng Sary, the former foreign minister; and Khieu Samphan, the former head of state, live freely in Cambodia but are in declining health.

Cambodia and the United Nations created the genocide tribunal last year under an agreement they reached in 2003. The 17 Cambodian and 12 foreign judges and prosecutors have spent the last six months in sometimes rancorous disagreement on guidelines for the trials.

After two weeks of meetings, the Cambodian- and U.N.-appointed officials unanimously agreed on a set of rules Tuesday, they said at a joint news conference in Cambodia's capital.

"Now that the rules have been adopted we can move forward," Kong Srim, a Cambodian judge with the tribunal, read from their statement.

"These rules enable us to hold fair, transparent trials before an independent and impartial court," said Robert Petit, a U.N.-appointed prosecutor from Canada, also reading from the statement.

He said investigating judges will begin the judicial process as soon as they receive their first case from prosecutors.

"Although it's impossible to say when the first accused will appear before them (the judges), I think it's safe to say the process is going to get under way within the next weeks," Petit said.

The tribunal is an unprecedented hybrid. It will operate under the Cambodian judicial system often criticized as weak, corrupt and susceptible to political manipulation. Decisions require support from a majority of the Cambodian judges, backed by at least one U.N.-appointed judge.

Rupert Skilbeck, who heads the Defense Support Section of the tribunal, said the rules guarantee fundamental rights for the accused.

The tribunal "can only bring justice to the people of Cambodia, if the trials ... are fair, impartial and open," Skilbeck said in a statement.

With a \$56.3 million budget, the tribunal is supposed to complete its work within three years.

However, the judges were sworn in last July and the delays have meant that one year already has been lost without anyone even being charged.

Some 1.7 million people died a result of the Khmer Rouge's radical policies, either from hunger, disease, overwork or execution.

Hopes of convening the trials this year have been dashed by disputes over, for example, the high legal fees Cambodia imposes on foreign lawyers taking part in the tribunal. That issue was resolved in April.

On Wednesday, neither the Cambodian nor the foreign judicial officials would give details about their cases or reveal names and the number of potential suspects. But a U.N.-appointed judge said recently that more arrests could follow.

"I'm very elated that the rules are now official and now the Khmer Rouge tribunal has a green light to go ahead," said Theary Seng, director of the nonprofit Center for Social Development, which monitors Cambodia's court system.

But she added that there are still deep concerns whether the tribunal _ known officially as the Extraordinary Chambers in the Courts of Cambodia _ will be able to execute its mission without political interference from the government.

There are still going to be other challenges and obstacles for the tribunal, but the adoption of the rules shows that there is political will at the highest level of the Cambodian government to proceed, said U.S. Embassy Spokesman Jeff Daigle.

Japan, the largest financial contributor to the tribunal's budget, said in a statement that the rules represent "an important step to accelerate the process of the trials."