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Crisis Talks to Save Khmer Rouge Trials

In Phnom Penh, international and Cambodian judges have begun another round of negotiations to iron out procedural differences in the way the former Khmer Rouge regime leaders are to be tried for crimes against humanity.

Presenter/Interviewer: Claudette Werden

Speakers: Australian Justice Rowan Downing, UN appointed international judge of the Extraordinary Chambers in the Courts of Cambodia; Helen Jervis, Chief of Public Affairs of the Extraordinary Chambers in the Courts of Cambodia

WERDEN: Known officially as the Extraordinary Chambers in the Courts of Cambodia, the tribunal was set up last year after nearly seven years of negotiations between the United Nations and Cambodia.

Australian Justice Rowan Downing, one of the UN appointed international judges describes it as a hybrid court applying both Cambodian and International laws where appropriate. He says one of the sticking points is the right of international lawyers to appear for the defence.

DOWNING: The Cambodian Bar Association have some rights and have some say on admission to practice in Cambodia. At the moment they are requesting a significant registration fee and this may act as a bar to the admission of overseas counsel.

WERDEN: It's understood the Cambodian Bar Association is charging registration fees of 2-thousand US dollars which international lawyers would be required to pay to practice in Cambodia.

DOWNING: The prosecutors are experienced international prosecutors they know a great deal about international law and laws concerning humanity. The Cambodian domestic counsel are not experienced in international law, so that they may need the advice and the assistance of international counsel so there is equality of arms.

WERDEN: Helen Jervis, the Extraordinary Chambers' Chief of Public Affairs says there is in principle support for a balance of national and international law as well as a mix of international and local lawyers which she says is already reflected in the composition of the judges and prosecutors.

JERVIS: I'm not very comfortable with this term sticking point, I think there are many issues and some of them are being treated as part of a

complex issue that has many sub issues and the defence one is one of them and the fees is just one among many about getting international lawyers involved.

WERDEN: Helen Jervis dismisses ongoing claims the Cambodian government has a vested interest in delaying the start of the tribunal because of the potential damaging political fall out from testimonies from remaining Khmer Rouge leaders.

The men now in their 70's and 80's are being tried for their roles in the often brutal deaths of nearly 2-million Cambodians during Pol Pot's brutal rule from 1975 to 1979.

China, a significant aid donor to Cambodia, has also been accused of lobbying Prime Minister Hun Sen to stall proceedings to prevent the full extent of Beijing's involvement with the Khmer Rouge coming to light.

JERVIS: Well I've heard this refrain over the years but it's not what I see from where I sit in the court, I think the government has been supportive, the National Assembly has voted unanimously.

WERDEN: Justice Downing rejects suggestions that the International Judges are ready to walk away from the tribunal if judges fail to reach agreement over the next two weeks.

DOWNING: The importance of these trials, I don't think can be underestimated for the people of Cambodia. I can assure you the international judges will do everything possible to save the situation if it gets to a point where it looks as though it would otherwise collapse but by the same token there are some matters concerning international practice and human rights where we cannot and will not compromise.

WERDEN: Complicating matters is Cambodia's soon to be approved new criminal laws. It's taken two years to revise the laws from elements created by previous governments and regimes. The proposed new code is expected to be passed by parliament this month. Both sides say the new code will make the Chamber's work easier.

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