



Tribunal observers split over value of two more cases

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With the UN-backed Khmer Rouge tribunal prepared to open a major trial for four jailed regime leaders later this month, observers are divided as to whether its completion will be enough to count the court a success.

The court has two more cases before it that would require five more indictments, but these have created continued controversy and debate inside and outside the court.

Peter Maguire, a former law professor at Columbia University and the author of “Facing Death in Cambodia,” told a group of students at Bard College, in New York, this week that Case 002 will be all the court can manage.

“Their job is to try the senior Khmer Rouge leaders,” he said. “Prime Minister Hun Sen has made it very clear that he wants no more trials in Cambodia. There will be no Case 003, so let’s see if they can complete Case 002 before the defendants die. If they fail to complete Case 002 before the defendants die, then this trial, this series of trials, will be a failure.”

Douglas Irvin, an international affairs doctorate student at Rutgers University and a researcher for the Documentation Center of Cambodia, said Case 002, to try leaders Nuon Chea, Khieu Samphan, Ieng Sary and Ieng Thirith, should be the court’s priority.

“If they succeed, in the perspective of the United Nations, I think this is sufficient,” he said. “Going further than 002 is not as important as achieving 002. And the reason for that is you can keep on trying people indefinitely and you can end up with so many people to bring in. It’s pointless to a certain extent. I think the value is symbolism, taking the people on the top to try them and hopefully find them guilty.”

However, Mary Orsini, a law student at Rutgers who has done research for the Documentation Center, said the court should go beyond Case 002.

“Although some people may think the UN should concentrate on those cases, the bottom line is that when the court was initiated, they discussed at least 10 to 15 people,” she said. “This has gone back and forth. But the fact that we end up with five, that’s not the initial purpose of the court.”

Elena Lesley, an international affairs student at Rutgers who blogs on the tribunal for the Phnom Penh Post, said the court should “try to do both.”

“I don’t think they should allow the court to be derailed by this controversy involving cases 003 and 004,” she said. “But I do think that prosecution of Case 002 is important.”

Andrew Cayley, the tribunal’s international prosecutor, who gave a talk at Rutgers recently, said, “There isn’t any other way to deal with” cases 003 and 004.

“There has to be an investigation,” he said. “There has to be a consideration by the investigating judges of the evidence, and then there either has to be a dismissal order or a closing order, an indictment. That’s what the rules say.”