



**AFTER HEARTBREAKING TESTIMONY FROM A CHILD SURVIVOR OF S-21, DUCH DENIES HE WAS A PRISONER THERE**

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Norng Chan Phal at S-21 (Toul Sleng prison) on January 10, 1979  
Photo by a Vietnamese military photographer  
*Courtesy of Documentation Center of Cambodia*

Today, the Trial Chamber heard testimony from 39 year old Norng Chan Phal, the fourth Tuol Sleng prison (S-21) survivor to testify in the trial of prison chief Kaing Guek Eav (alias Duch). The Chamber had scheduled two witnesses for today anticipating Chan Phal's testimony would be brief since he was so young during his time at S-21. However, evidentiary matters and an unexpected denial from Duch complicated his testimony leaving no time for another witness to be called. While a common response from Chan Phal was "I do not remember because I was too young," he also provided a great deal of interesting testimony.

Earlier this year, Chan Phal missed the filing deadline to become a civil party. When he finally came forward, civil party lawyers requested that the deadline be extended to allow his application, but the request was denied. Therefore, today he appeared only as a fact

witness and will not take part in any reparations that the Chamber may award with its final verdict.

### **Contested Evidence Delays Witness Testimony**

At the outset of today's proceedings, the prosecution announced two requests. First, the prosecution requested that the Chamber take notice of a motion it had filed just before 9 a.m. this morning. The motion sought to add to the case file an interview of Chan Phal taken by the Documentation Center of Cambodia, a Phnom Penh-based NGO. The prosecution further requested that parties be allowed to refer to the document during the day's proceedings. While the prosecution had possession of this interview since February 2009, it was apparently overlooked after Chan Phal failed to become a civil party. All documents attached to *approved* civil party applications are automatically included in the case file.

Second, the prosecution requested that the Chamber play two videos provided by the Vietnamese government that the prosecution alleges were taken at S-21 immediately after Duch fled in January 1979. As the defense contests the authenticity of these videos, the Chamber has not yet determined if the footage will be allowed as evidence and has made clear at least three times – and as recently as yesterday – that it is not ready to decide the matter. The prosecution asked that the witness, who allegedly appears in the videos, be allowed to view the footage to comment on its authenticity given the footage is relevant to “every aspect of this case” providing evidence of conditions, killings, and torture equipment.

After a great deal of clarifying questions and objections from the defense on both issues, the Chamber recessed for 45 minutes before denying both requests. Regarding the interview, the Chamber noted that while the prosecution had been in possession of the document since February it neglected to file until this morning. As a result, the defense was not given adequate time to review the interview and prepare. Regarding the video clips, the Chamber maintained its position and said it would decide whether to show the footage at a later date.

### **Norng Chan Phal's Story**

Chan Phal's father was a Communist Party of Kampuchea (CPK) cadre stationed at workshop which provided timber for building railroads. Sometime in 1978, Chan Phal's family learned his father was sent to Phnom Penh. A few months later, two jeeps showed up at the farming cooperative where they were living and claimed they were taking Chan Phal, his mother, and his brother to Phnom Penh to join him. After spending a few days at a train station, they were brought to S-21 along with two women and three children.

Upon arrival at S-21, eight year old Chan Phal watched guards beat his ill mother. She was threatened and pushed around. When she collapsed, she was pulled up by her hair and then slapped, kicked, and photographed. Chan Phal said his younger brother, only four at the time, was too young to understand what was going on so he played on the

floor, oblivious to his mother's beating. Chan Phal, on the other hand, remembers the beating vividly: "I was terrified."

The three were taken to a large cell along with the other women and children who arrived with them. One of the children was around three years old, another was younger than three, and the last was still breast-feeding. After spending the night on the floor without food, Chan Phal, his brother, and the other children were separated from their mothers. They were taken to the workshop area behind S-21 where carpenters, artists, and blacksmiths worked alongside a pig pen. The children were watched by a scared elderly woman. During his few weeks at S-21, Chan Phal does not recall having a bath. The children slept on the wooden floor and ate gruel, except for the baby who eventually died of starvation because it was too young to eat gruel. Chan Phal recalled ants crawling in and out of the dead baby's ears and mouth.

From the workshop area, Chan Phal could see the window of the cell where he had been detained with his mother. One time, he saw her standing at the window with her hands on the bars. That was the last time he saw her. He heard screams often and while he could not tell where they were coming from, he always looked up to that window.

Chan Phal described the chaos that ensued in early January 1979 when shells started falling on S-21 and people started evacuating. The elderly caretaker tried to get him to leave S-21 with her, but he refused to leave without his mother. He waited behind a stack of clothes near the building where he thought his mother was still detained waiting for her to come out. At one point, he started running through the corridors looking for her. Instead, he saw what appeared to be a very recently deceased person chained to a bed with flies swirling around. This frightened him, so he ran back to the workshop and remained there with the other children. The children braced themselves as the area was bombarded. Chan Phal drank some rainwater from a broken jug and ate some leftover gruel that had spoiled. Perhaps a day later, two Vietnamese soldiers found the children there and cooked them a meal of duck and rice before departing. Perhaps a day after that, a large group of Vietnamese and Cambodian soldiers arrived at S-21. They asked the children a lot of questions about their parents and where they were from. Noting how ill and hungry the children were, the soldiers took them to a nearby hospital where all but Chan Phal were put on IVs. Chan Phal was "horrified" to leave S-21 because he did not know how his mother would ever find him. After a short period living with the soldiers, Chan Phal was placed in an orphanage.

After leaving S-21, Chan Phal would visit the site, then a museum, occasionally because he missed his mother. During one visit, a former blacksmith from the S-21 workshop who was working as a gardener at the museum recognized Chan Phal and told him to forget all his suffering at S-21.

When asked what he wants out of this trial, Chan Phal replied, "I would like justice for my parents. That's all." The biography of Chan Phal's father was recovered from S-21, but there is no evidence in the case file regarding his mother. Throughout his testimony,

Chan Phal rarely responded to a question regarding his mother without breaking down in tears.

### **Duch Acknowledges Suffering, but Refutes the Location**

The number of prisoners killed just before Duch fled S-21 in early January 1979 is a contested fact. Duch claims only four prisoners were killed that day with many killed in the days leading up to the evacuation. There are fourteen graves at the Tuol Sleng Genocide Museum for bodies allegedly found there by the Vietnamese. Witness testimony has confirmed this number. Given Chan Phal's testimony regarding the corpse he saw chained to a bed after the evacuation, one of the civil party lawyers requested that the President allow Duch to comment. The President allowed Duch to comment and instructed Duch not to spend time admitting responsibility, as he tends to do at length, but rather to simply to make observations regarding the corpse. Clearly, the President did not anticipate Duch's response.

Duch said he acknowledged Chan Phal's great suffering, but did not accept that he was a prisoner at S-21. Duch explained that he accepted that Chan Phal's father was at S-21 given the biography shown during the proceedings. However, Duch maintains that no children escaped from S-21 and all were killed based on orders from Nuon Chea before the evacuation took place. Therefore, Chan Phal was likely imprisoned at another CPK security office. Since there are no photographs or documents regarding his mother, Duch did not accept that she was imprisoned at S-21 either. He said, "Where did they suffer? I am uncertain on this matter." He then briefly responded regarding the corpse, maintaining that only four were killed on his last day at S-21.

Everyone in the courtroom appeared flabbergasted. Judge Cartwright suggested Duch consult with his lawyers if necessary. Judge Lavergne asked several clarifying questions to make sure he heard Duch properly and then asked Duch to repeat himself.

Despite the earlier ruling by the Chamber, during its questioning, the prosecution sought to put a still image from the Vietnamese video footage up on the screen so the witness could confirm his identity. This attempt was denied. Seizing the opportunity to raise the issue of the video footage yet again, the prosecution argued that if Duch truly asserts Chan Phal was never at S-21, the Chamber should play the video today or at least invite him back at a future date to comment. The civil parties implored the judges to show the footage as well. Further, the civil parties argued that on March 30 the defense had acknowledged Chan Phal as a survivor when it challenged the relevancy of his testimony, arguing that since Duch did not contest there were children at S-21 the testimony was unnecessary.

In a surprising compromise, Judge Cartwright then put up a still image from the Vietnamese video showing two small naked boys in front of a group of soldiers. One of the civil party lawyers smiled openly. Chan Phal confirmed it was him and his little

brother on the day they left S-21. He said at the time, he did not know they were being filmed.

Another S-21 survivor will take the stand on Monday. For their protection, witnesses' names are not being announced in advance.