



WITNESS TESTIMONY ENDS AS DUCH TESTIFIES FOR THE LAST TIME

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The court in the trial of Kaing Guek Eav (alias Duch) recalled Duch to the stand one final time to face questioning from the prosecution and the defense on the issue of his character. The prosecution attempted to portray Duch as a man who remained loyal to the Khmer Rouge until the bitter end while the defense focused on Duch's apology to victims and his acknowledgement of guilt.

The prosecution characterized Duch as a man who was proud of his role at Tuol Sleng prison (S-21) because he had the opportunity to work with the highest echelon of the Khmer Rouge leadership. They argued that Duch executed his duties with great care and enthusiasm. They suggested that his work was primarily motivated by an underlying and genuine sense of loyalty to the Khmer Rouge regime. Duch responded that his work was motivated not by a sense of loyalty to the regime, but rather by a fear for his own safety. After seeing many people close to him implicated as enemies, he felt that his arrest was inevitable, and the only way to stay alive was to continue pleasing his superiors.

The prosecution also argued that Duch remained loyal to the Khmer Rouge up until his arrest in 1999 and did not accept his individual criminal responsibility until he first met his lawyers in 2007. They stressed the fact that he did not abandon the party after it was defeated on January 6, 1979. Duch admitted that he was a dedicated revolutionary at the start of the Khmer Rouge regime, but he argued that he began to lose faith in the party once he learned of its criminal nature. He was not able to leave the movement, he explained, because he continued to fear for his safety.

Later, the defense attempted to demonstrate that Duch's remorse was sincere and his acknowledgement of guilt was unconditional. Duch accepted the assertion that as chairman of S-21 he implemented the persecution of the Cambodian people in a devoted and merciless fashion. Duch stated that he was both legally and emotionally responsible for the crimes committed at S-21 and would not contest the judgment of the tribunal. He repeated his apology to victims and asked again for their forgiveness.

In the afternoon session the trial chamber began the laborious task of accepting requests for submissions of additional documentary material that was not yet before the trial chamber. Under Rule 87 (“Rules of Evidence”) of the Internal Rules, the trial chamber may only base its decision on evidence that has been put before it and subjected to examination. Evidence that is part of the case file, but that has not been referred to during the trial, must be expressly put before the parties.

The main issue of contention between the prosecution and the defense arose from the prosecution’s request to submit many annotated confessions from S-21 that were not referred to during the trial. The defense objected on the basis that it did not have the chance to examine these confessions. The defense noted that it identified many inaccuracies in the translation of several confessions and annotations that were referred to during the trial. Furthermore, according to the defense, Duch was able to provide the trial chamber with important contextual background regarding the confessions because he personally annotated many of them. Therefore, the defense argued that allowing the trial chamber to rely on annotated confessions that were not examined by the defense would be prejudicial to the accused.

The trial chamber will briefly reconvene tomorrow morning to accept the final requests for submissions of additional documents at which point it is expected to adjourn until November 23 for closing arguments.