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Challenges to civil parties

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While the surfacing of a Tuol Sleng document has appeared to vindicate one witness, testimony from civil parties continues to receive intense scrutiny.

One survivor appeared to be vindicated while another had his testimony challenged by lawyers at the Khmer Rouge tribunal Wednesday, continuing a week in which civil party testimony has repeatedly been called into question.

Before testimony began, the prosecution asked to submit a biography of the mother of Norng Chan Phal, a former child detainee at Tuol Sleng who testified last Thursday about escaping from the prison.

Prison chief Kaing Guek Eav, alias Duch, challenged the testimony at the time, saying there was not enough evidence to prove that Norng Chan Phal had ever been sent to the secret detention facility.

The prosecution argued Wednesday that the biography clearly showed that Norng Chan Phal entered the prison with his mother. After viewing the document, which the prosecution said was provided by the Documentation Center of Cambodia (DC-Cam) last Friday, Duch appeared to backtrack from his initial scepticism, saying that he recognised the document as having been produced by Tuol Sleng staff.

"So through this court I would like to seek forgiveness from Mr Norng Chan Phal," he said. "Now I would accept it entirely."

The court then returned to Phork Khan, who on Tuesday said he escaped from the Choeng Ek killing fields by pulling himself out from underneath a pile of corpses.

Duch's defence team attacked the validity of his story Wednesday, pointing to inconsistencies between what he said this week and what he reportedly told a representative from the rights group Adhoc in 2007. In a complaint submitted with the rights group's assistance, Phork Khan said, among other things, that Duch personally threatened to kill him and his wife, according to Duch's lawyers.

Phork Khan refuted much of the statement Tuesday, and on Wednesday he said he had not been allowed to review it before it was submitted on his behalf.

"I did not complete the whole reading of the document because I was told it was urgent to send the document back," he said.

Latt Ky, who coordinates tribunal outreach for Adhoc, said in an interview that he could not comment on Phork Khan's case specifically but said Adhoc workers were trained to make sure statements are reviewed before submission.

"We read the statements to them before we ask them to thumbprint, and when we read it if they object to some points, we take those points out," Latt Ky told the Post.

In addition to contradicting the Adhoc statement, Phork Khan appeared to contradict what he said Tuesday when asked about whether he had ever gone by names other than Phork Khan. He told the Trial Chamber on Tuesday that he had not, but on Wednesday he listed two other names he had previously used. He said Wednesday he had not understood the judge's question the day before.

Parts of his testimony were consistent with what other witnesses and civil parties have said - for instance that he was accused of having collaborated with the CIA and the KGB and that his cell at S-21 contained an ammunition box.

He also said that he had viewed testimony from at least four separate witnesses and civil parties, including Norng Chan Phal.

The use of civil parties

Phork Khan was the third civil party this week to have his testimony called into question.

Asked about the trend, Andrew Ianuzzi, a legal consultant for the defence team of former Khmer Rouge leader Nuon Chea, said: "It's not uncommon for witnesses to change their stories from the time of giving a complaint to being put on the stand. I think what's strange to us is that it's happened three times now in one week. The fact that it's happened three times in a row raises questions about the vetting process."

During the court's weekly press conference Wednesday, UN court spokesman Lars Olsen highlighted the differences between witnesses such as Norng Chan Phal and civil parties such as Phork Khan.

He said civil parties, unlike witnesses, are not summoned by judges and do not take an oath before testifying. Rather, he said, they appear at the request of civil party lawyers.

Court spokesman Reach Sambath said witnesses, unlike civil parties, were technically prohibited from observing court proceedings prior to sitting in the dock themselves, though he noted that there was little the court could do to prevent them from watching live broadcasts.

Olsen said, "The stories and information [civil parties] share with the court does not have the same weight as people who testify under oath."

He added: "It's obvious that we don't have too much experience" with the civil party process.

Also Wednesday, the court heard the beginnings of testimony from Chin Meth, 51, a civil party who worked with various work units during the regime and who Duch said he believed had been held in a divisional detention facility before being sent to Prey Sar.