



## **TUOL SLENG PRISONER SPARED TO PAINT AND SCULPT POL POT**

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Over 500 observers, including hundreds of villagers from Kandal province, packed the public gallery today to hear the testimony of Vann Nath, one of the few survivors of Tuol Sleng prison, also known as S-21.

In over four hours of testimony, a powerful story unfolded in which an innocent artist from Battambang had the great misfortune of spending a year at S-21 and only survived because Pol Pot wanted his portrait painted and his likeness sculpted. 63 year old Vann Nath, who is in poor health, was calm and largely unemotional throughout his testimony. He gave the impression of objectivity because he recalled minute details of his personal experiences but did not speculate on matters he did not see or learn about directly. He never seemed to look in the direction of S-21 prison chief Kaing Guek Eav (alias Duch), but Duch could not seem to take his eyes off of him.

### **Duch: “Keep for Use”**

On April 17, 1975, when the Communist Party of Kampuchea (CPK) came to power, Vann Nath and his family were forced into a farming cooperative, where they lived with little shelter or food while harvesting the rice fields. Arrests from the cooperative were a daily occurrence, and in December 1977 Vann Nath fell victim to arrest as well. Without being told any reasons, he was sent to prisons at the sector and zone level of the CPK organization where he was interrogated and tortured by means of electrocution. Interrogators claimed Pol Pot never made a mistaken arrest, so he must confess his treacherous activities and name others in his network. “Half alive” and in and out of consciousness, he says he may have confessed to offenses.

On January 7, 1978, he was cuffed, shackled, and transferred by truck to a place he later learned was S-21. Upon arrival, he was stripped down to his underwear and assessed by guards. Later, ropes were tied around his neck and he walked blindfolded in a group of others bound at the neck to have his photograph taken. He was eventually taken to a second floor mass prison cell where he was shackled in a row of 20 to 30 other prisoners. He spent a month in that cell lying on the floor with between 40 and 65 other prisoners. Regarding the conditions, he said “They degraded us. It’s indescribable.” Prisoners were only allowed three teaspoons of gruel twice a day. If insects fell from the ceiling,

prisoners fought to eat them due to extreme hunger. If they were caught, however, they would be beaten. They had to defecate in place and were only sprayed by hose occasionally. They developed skin rashes. They were not allowed to talk, move, or sit up without permission. "Death was imminent," he said. "People died one after another." The dead bodies remained shackled along with prisoners for a time.

One day, Vann Nath was called to go downstairs. A woman who was also being moved broke free and jumped to her death. Precautions were taken against suicide, such as taking the string out of underwear so prisoners would not strangle themselves to death, but they were not completely successful. Finally downstairs, Vann Nath had a face-to-face meeting with Duch who inquired about his artistic abilities. Vann Nath was assigned to new living quarters on the ground level with other "workshop" prisoners, such as a blacksmith, a mechanic, and other artists. In this new situation, he was given a better food ration and he was allowed to bathe, wear clothes, and move freely within the workshop. He spent 11 months there painting portraits of a man he later learned was Pol Pot. He also painted other senior CPK leadership and some scenes of Vietnamese soldiers being beaten. Years later, after his release, Vann Nath was shown a prisoner list Duch had annotated. All the prisoners on the list were smashed, but Vann Nath's name was crossed out and handwriting next to it read: "keep for use."

### **Duch at the Center of S-21 Everyday**

On the ground level at S-21 interacting with Duch, guards, and other workshop prisoners, Vann Nath had the opportunity to witness and learn about S-21 operations. It was a "rare" day that Duch did not come to the workshop to observe its progress. Vann Nath pointed out the workshop was directly in the center of the S-21 compound within screaming range of prisoners.

Vann Nath was never personally interrogated or tortured at S-21, but his many paintings and sketches showcase his knowledge of what went on there. President Nil Nonn put up a series of Vann Nath's work demonstrating sexual abuse, electrocution, waterboarding in various forms, throat slitting, ripping out fingernails, and guards taking babies from mothers. One painting of a man being hung from a high wooden frame was of particular interest because Vann Nath witnessed such an incident of torture against a prisoner who had claimed to be a good sculptor, but Duch declared otherwise. Vann Nath once saw Duch kick a man, but otherwise did not witness him committing or ordering torture.

On January 7, 1979, Vann Nath was ordered at gunpoint to flee S-21 along with about 13 other workshop prisoners and many guards. He believes there were many prisoners still at S-21 upon his departure. Days later, he returned to S-21 with three others to collect some clothes and could hardly enter the compound due to the smell of dead bodies.

Overall, Vann Nath's testimony confirmed a great number of facts regarding conditions and operations at S-21. With regard to forms of torture used, his testimony contradicted Duch, who maintains only four types of torture were authorized and regularly used. Vann Nath confirmed Duch was at the heart of the S-21 compound daily. Most importantly,

even in a confined room, Vann Nath heard regular screaming, learned about operations, and witnessed torture. This testimony strikes at the heart of one of Duch's main assertions – that he managed S-21 from a distance and had little or no knowledge of day-to-day operations.

### **The Aftermath of Imprisonment: “It cannot be forgotten.”**

Vann Nath fielded several questions about life after S-21. He described how his experience still haunts him and he cannot forget it. Asked why he has painted scenes, written a book, and participated in a documentary, Vann Nath said he wants young people to know of the suffering of innocent people in order to avoid repetition of anything similar. In a very moving exchange, Judge Lavergne inquired about his hope for this trial and Vann Nath explained he wants only to see justice done. “I never imagined I would be able to sit in this courtroom today... This is my privilege. This is my honor. I do not want anything more than that.”

The defense inquired about Vann Nath's choice not to become a civil party to these proceedings and to be involved only as a witness. He said his main concern of present is his health and he did not think he would be able to attend trial often. Further, he does not desire any reparation and feels the trial is for all Cambodians. The defense followed up by asking if Duch's admission of regret and acknowledgement of most of the crimes is already helping Vann Nath believe that justice has been done in part. International co-prosecutor Robert Petit objected and the Trial Chamber agreed with his argument that such statements were appropriate for pleadings, not for questioning witnesses.

### **Frustration with Time Restrictions**

As reported last week, the Chamber is now enforcing strict time limits on questioning in order to promote an expeditious trial; however, the leftover time each day has not resulted in moving up the schedule. Time in the courtroom is being used more efficiently, but the trial is not moving faster overall. Today, after over two hours of questioning by the Chamber, the time allocation was as follows: 30 minutes for the prosecution, 40 minutes for the civil parties, and 40 minutes for the defense.

Before starting her questioning, civil party lawyer Silke Studzinsky noted the early time of day and asked that the civil parties, and the defense if desired, be allowed more time to question this key witness. She noted when proceedings ended early last week, the extra time was not put to use. After a brief huddle at the bench, the President announced the time limits would be strictly enforced. He said that there had been too many delays in the trial because of lengthy questioning and that the trial must proceed expeditiously for justice and in order to satisfy the public and “international opinion.”

Later, at the conclusion of the defense's questions, Studzinsky persisted. She pleaded with the Chamber to allow her to ask follow up questions on a point raised late in the day – that the witness saw Duch kick a prisoner. In the alternative, she asked that the

Chamber question the witness on this important topic. The Chamber declined her request without hesitation.

**Decisions of the Chamber: Removal of Witnesses and Joint Criminal Enterprise**

Also geared toward achieving a more expeditious trial, the Chamber announced its decision to remove several witnesses, identified by number for their protection, from the witness list. The Chamber reasoned that those witnesses would provide “similar testimony” to other witnesses. At a later time, the Chamber will examine statements made by those witnesses during the investigation phase. The Chamber declined to maintain a “reserve list” of witnesses, so these decisions are final.

The Chamber also announced it will decide whether to apply joint criminal enterprise as a mode of liability when it decides on the merits of Duch’s case as a whole. In a June 8, 2009 submission, the prosecution requested that joint criminal enterprise in all three of its forms be applied by the Chamber in this case.