



WITNESS INTERVIEWS ARE CONTESTED AND A WESTERN PRISONER'S FATE IS REVEALED

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The Trial Chamber for the prosecution of Kaing Guek Eav (alias Duch) was extremely busy today as a new witness, Chheam Soeur, delivered significant testimony alleging that a western prisoner was burned alive at S-21. The Trial Chamber also deliberated further on the appropriateness of introducing witness interviews conducted by the Office of Co-Investigating Judges (OCIJ) instead of having witnesses physically present for their testimony in the courtroom.

The Fate of Western Detainees at S-21

The morning session began with questioning from the judges, largely led by Judge Ya Sokhan. Although he has not been the most loquacious of judges on the bench to date, his questions were concise and relevant when determining the witness' background and duties at S-21.

Chheam Soeur was originally forced to join the Khmer Rouge and fight Lon Nol's government as a child soldier. After 1975 he was taught military techniques in order to fight the Vietnamese. He was later assigned to guard the perimeter of S-21 and was unable to say how long he worked there. He said that by the time the Vietnamese invaded in 1979, he was planting rice at Pre Sar.

In the course of his time guarding S-21, the witness described having seen a Westerner burned alive. According to Chheam Soeur, he once saw a white man with brown hair brought into the grounds of S-21 by the guards, made to sit down, and then car tires were placed on top of him and set alight. The Chamber later clarified that Chheam Soeur believed the prisoner to have been burned alive.

The details surrounding this incident were somewhat difficult to obtain as the judges, the civil parties, and the Defense attempted to ascertain at what time this incident occurred and the surrounding circumstances. There were some translation issues which contributed to the difficulty in understanding the witness. It was evident that he was not comfortable in front of the Chamber.

Chheam Soeur frowned constantly and directed his eyes to the ground while giving mostly short answers. He unexpectedly responded to a Defense question saying, "I don't want to talk anymore." This spurred President Nil Nonn to try and ascertain the source of the victim's discomfort. He asked if Chheam Soeur was still afraid of S-21 or Duch, to which the witness

replied in the negative. Finally the President asked if the witness was frightened of the judges, to which Chheam Soeur paused and replied, “Yes, a little!”

Duch was given the opportunity to respond to the testimony of Chheam Soeur and stated that he had been looking forward to it. Duch suggested that the witness was mistaken in his testimony because although he admitted ordering that the western prisoners be killed and their bodies burned, he did not order that they should be burned alive. “No one would have dared disobey.” Duch’s perspective added an interesting angle to Chheam Soeur’s earlier assertion that he did not hear screaming and he did not stay long to watch the fire, but returned after his shift to see parts of the burned body.

Victims Unit Press Meeting

During the lunch recess, Helen Jarvis, Head of the Victims Unit, held her first press meeting since her appointment, and was joined by the Unit’s Outreach Co-ordinator. The two outlined the recent developments of the Victims Unit and their plans for the coming months, describing them as “ambitious.” They stated that they hoped to work in partnership with other departments wherever possible and also pledged to continue keeping the civil parties involved in court proceedings and to provide greater contact between civil parties and their legal representatives. They also mentioned plans to create forums to allow victims and civil parties to express their views and complaints regarding the trial proceedings.

Despite the extensive list of plans and reforms that the Victims Unit outlined in the meeting, it was the controversy regarding Helen Jarvis’ appointment that raised the first questions. Ms Jarvis appeared visibly irritated and refused to answer, stating that this meeting was “about the Victims Unit.”

Co-Defense Council Makes A Stand Over Witness Transcripts

The Trial Chamber continued with its new policy of reading out witness interview transcripts as a means of introducing the information into evidence without the need for witness questioning. The system adopted yesterday of providing the parties the opportunity to assert their support or object to the testimony once the Graffier has read it orally ran into difficulty immediately.

Upon being asked for the Defense’s support or objection to the witness testimony Co-Defense Counsel François Roux launched into a tirade against the court’s wasting of time and the failure of the recent witness testimony to contribute any new information to the case. He drew attention to the fact that Duch has admitted his guilt and that, “If this was a common law system, we would have finished,” also noting that if the trial were following a civil system, it also would have been completed by now.

In light of this, Mr Roux referred to Internal Rule 85 which prohibits “proceedings that unnecessarily delay the trial and are not conducive to ascertaining the truth.” Forced to respond to the witness transcript at hand, Mr. Roux registered his constant objection to the testimony and other testimony to follow on the grounds that it failed to introduce new evidence and perpetuated the trial beyond the bounds of necessity.

The Prosecution and the civil parties were both in disagreement with the Defense on this issue. The Prosecution stated that the issues of witness selection and trial management had

already been addressed in numerous trial management meetings and were therefore inappropriate for continued discussion.

As a compromise, Deputy Co- Prosecutor Anees Ahmed suggested that a summary be prepared of each witness testimony rather than presentation of the full transcript, which the Defense accepted. However, this procedure was acceptable only in relation to new evidence that the Prosecution sought to admit.

The Chamber adjourned for a break to address the matter but came back with no decisive course of action. Instead, the presentation of witness transcripts continued as before and the Defense took their second opportunity to address the court to express their dissatisfaction with the whole affair. The Defense criticized the inconsistency of the different witness transcripts on certain issues and asked the OCIJ “to tell us which is the truth.”

This is certainly not the last tussle the court will experience over witness interview transcripts.