

D146/3

BEFORE THE CO-INVESTIGATING JUDGES  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

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CO-PROSECUTORS' RESPONSE TO THE FORWARDING ORDER OF THE CO-INVESTIGATING JUDGES AND SUPPLEMENTARY SUBMISSION

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## SUPPLEMENTARY SUBMISSION

1. On 17 March 2009, the Co-Prosecutors received a Forwarding Order from the Co-Investigating Judges requesting advice on the admissibility of four civil party applications that are described as containing allegations of forced marriage, non-consensual sexual relations and threats of death if the persons refused to have sexual relations.<sup>1</sup> The Forwarding Order also references four civil parties who are described as having similar experiences. The Co-Investigating Judges request that if the Co-Prosecutors determine it is appropriate for these matters to be investigated, a supplementary submission should be issued “seizing [the Co-Investigating Judges] of such factual circumstances.”
2. The Co-Prosecutors hereby request and authorize the Co-Investigating Judges to investigate the following specific complaints:
  - (a) the complaints of [REDACTED] and [REDACTED] that they were forced by Khmer Rouge officials to marry and have sexual relations in Kampot Province during the DK period; and

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<sup>1</sup> The four civil party applications are: 08-VU-01937 [REDACTED]; and [REDACTED].

<sup>2</sup> The civil party application of [REDACTED] indicates that she was forced to marry in late 1978 in Chheu Teal village, Mroum commune, Angkor Chey district, Kampot province by the chief of her mobile unit named [REDACTED]. She was told she would be sent for re-education if they refused to marry, and was “forced to stay and sleep with her husband, [REDACTED] [for] one week under the control and guard of Khmer Rouge militia under her house,” after which they were separated and sent to different mobile units. Three of her sisters [REDACTED] were in the same mobile unit and were also forced to marry. **Report on Civil Party Application of [REDACTED]**

<sup>3</sup> The civil party application of [REDACTED] indicates that she was forced to marry in 1978 in Phnum Trael village, Phnom Kong commune, Angkor Chey district, Kampot province, and then forced to stay and sleep with her husband against her will. She states that she “could not refuse otherwise the Khmer Rouge soldiers would kill her.” **Report on Civil Party Application of [REDACTED]**. The man she was forced to marry was [REDACTED] who has already been admitted as a civil party in this investigation ([REDACTED]) and whose allegations are discussed below.

<sup>4</sup> The civil party application of [REDACTED] indicates that he was a former monk who was forced to marry around July 1978 in Angkor Chey district, Kampot province by the District Chief, a female named [REDACTED]. He also states that he was “forced to sleep with his wife through orders from Angkar.” **Report on Civil Party Application of [REDACTED]**. The woman he was forced to marry was [REDACTED], a civil party applicant.

- (b) the complaints of [REDACTED]<sup>6</sup> that they were forced to marry and have sexual relations in Takeo Province.
3. With respect to civil party [REDACTED] the Co-Prosecutors have reviewed that civil party's petition [REDACTED] and the written record of an interview conducted by OCIJ on 14 January 2009 [REDACTED]. The Co-Prosecutors note that the basis of this civil party's complaint was that her husband was arrested and executed at S-21, not that she was forced to marry him. There is no allegation by this party of forced sexual relations. The interview conducted by OCIJ on 14 January 2009 contains no questions or statements on either forced marriage or forced sexual relations. The Co-Prosecutors thus do not believe that an investigation of these factual issues by the Co-Investigating Judges is warranted in the case of [REDACTED].
  4. In the case of civil party applicant [REDACTED], the primary complaint of the applicant is the disappearance and execution of his father, a former captain in the Lon Nol regime. The applicant states that he was forced into marriage in 1978, but does not appear to make any allegation of forced sexual relations. The Co-Prosecutors therefore submit that the Co-Investigating Judges should determine the admissibility of this application based on the allegations regarding the execution of the applicant's father.
  5. In the case of civil party [REDACTED], the primary complaint is the arrest and execution of her husband at Koh Kor prison, and there does not appear to be an allegation of forced sexual relations. It is also unclear whether this party was ever a participant in a forced marriage.<sup>7</sup> This party's complaint thus falls outside the scope of

<sup>5</sup> The civil party application of [REDACTED] indicates that she was forced to marry in 1978 in Anlong Tien village, Borei Cholsar commune and district, Takeo province by the chief of her mobile unit named [REDACTED] (deceased). Twenty-four other women were forced to be married at the same time. She states that she was "forced to live with her husband in a small hut and had to sleep with her husband ... by the order from Angkar, otherwise she would have been killed."

**Report on Civil Party Application** [REDACTED]

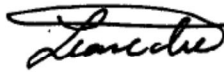
<sup>6</sup> The civil party application of [REDACTED] states that he was a transgender who was forced to marry a woman named [REDACTED] in August 1977 in Chek village, Dong commune, Bati district, Takeo province, and threatened by the "chief leader of the community" that they would be killed if they did not sleep together. The application states that his wife later had a daughter, though it is not stated whether this was his child. He states that a total of 117 couples were forced to marry in Chek village. **Civil Party Application of** [REDACTED]

<sup>7</sup> In a statement given to DC-Cam on 5 October 1999 (ERN 00279833-00279838), she appears to state that the Khmer Rouge tried three times to force her to marry, but she "didn't go" (at ERN 00279837). In her civil party application filed in 2009, she states that in April 1978 she was

the factual matters to be investigated, as defined above in paragraph 2.

- 6. The Co-Prosecutors also authorize the Co-Investigating Judges to investigate any other facts provided that those facts assist in determining either (a) the jurisdictional elements necessary to establish whether the factual matters referenced in paragraph 2 constitute crimes within the jurisdiction of the ECCC or (b) the mode of liability of NUON Chea, IENG Sary, KHIEU Samphan or IENG Thirith with respect to such matters.

Respectfully submitted,



CHEA Leang  
Co-Prosecutor



Robert PETIT  
Co-Prosecutor

Signed in Phnom Penh, Kingdom of Cambodia, on this 30<sup>th</sup> day of April 2009.

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forced by her mobile unit chief to marry an old man, “but she succeeded in refusing this marriage.” Similarly, at the end of 1978, she states that she was forced to marry another man from her cooperative, but “she was lucky in escaping the forced marriage because of all the chaos going on in the country.” **Report on Civil Party Application of** [REDACTED]