

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

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**RESPONSE TO FORWARDING ORDER AND SUPPLEMENTARY SUBMISSION
REGARDING WAT TA MEAK**

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RESPONSE TO FORWARDING ORDER

1. Pursuant to Rules 55(2) and (3),¹ the International Co-Prosecutor (“ICP”) hereby responds to the International Co-Investigating Judge’s (“ICIJ”) Forwarding Order dated 6 July 2015.²
2. In the Forwarding Order, the ICIJ informs the Co-Prosecutors that the ongoing investigation in Case 004 has resulted in evidence that Wat Ta Meak was used as a temporary detention office for victims of the Central Zone purge and prisoners en route to other security centres,³ and in some cases as an execution site.⁴ He further informs the Co-Prosecutors that there is evidence of Ao An’s connection with Wat Ta Meak which may be relevant to his knowledge of and contribution to crimes committed at that site.⁵ Since Wat Ta Meak is not one of the explicitly named sites identified for full “crime base” investigation, the ICIJ asks the Co-Prosecutors to clarify the extent of investigation that is authorised for that site.⁶
3. Having considered the evidence cited in the Forwarding Order, the ICP informs the Office of Co-Investigating Judges (“OCIJ”) that it is seised and authorised to conduct a full investigation of the crimes that may have been committed at the Wat Ta Meak site during the time period that Ao An served as Secretary of Sector 41 of the Central (old North) Zone. The ICP considers that facts relating to Wat Ta Meak fall within the scope of the current investigation by virtue of the following allegations contained in the Third Introductory Submission:
 - a. During the purge of the Central Zone carried out by Southwest Zone cadres under the command of Ao An, local CPK cadres and their families were arrested and executed at S-21 and *other prisons*.⁷
 - b. The victims of the purges conducted by Ao An and the Southwest cadres also included New People, people connected to the former regime and Cham. The security centres, prisons and execution sites set forth in paragraphs 23-53 were

¹ Extraordinary Chambers of the Courts of Cambodia, Internal Rules (Rev. 9), as revised on 16 January 2015 (“Rules”).

² **D254** Forwarding Order, 6 July 2015.

³ **D254** Forwarding Order, paras. 8, 10.

⁴ **D254** Forwarding Order, para. 12.

⁵ **D254** Forwarding Order, paras. 9-11.

⁶ **D254** Forwarding Order, paras. 14-15, 17a.

⁷ **D1** Co-Prosecutors’ Third Introductory Submission, 20 November 2008 (“Third Introductory Submission”), paras 18-21 (emphasis added).

some of the crime sites at which these persons were detained and executed.⁸

- c. Ao An was directly responsible for the 25 known security centres located in the Central Zone, including Wat Ta Meak located in Chrey Vien commune, Prey Chhor district.⁹ During his tenure as Sector 41 Secretary and Deputy Secretary of the Central Zone, Ao An's principal office was located in Chrey Vien commune, Prey Chhor district.¹⁰
 - d. Wat Ta Meak was a temporary detention centre, used to hold prisoners before being sent for execution at other places, which was visited by Ao An.¹¹
 - e. Ao An planned, ordered and approved the arrest and detention of individuals in Sector 41 and the Central Zone, and the movement of prisoners between different districts in Sector 41.¹²
4. The ICP considers that the recently obtained evidence regarding executions of East Zone cadres at Wat Ta Meak may also fall within the facts and crimes of which OCIJ was seized in the Third Introductory Submission.¹³ In addition to the other allegations regarding Wat Ta Meak set forth above, OCIJ was authorised to investigate the execution of people brought by trucks from the Eastern Zone to the Wat Batheay Security Centre during 1978 in Sector 41 of the Central Zone.¹⁴ The described executions of East Zone cadres at Wat Ta Meak may be related to and part of the same executions that were carried out at Wat Batheay. Nonetheless, to avoid any uncertainty on the matter and to ensure that OCIJ is fully seized to investigate all crimes committed at Wat Ta Meak for which Ao An may be responsible, the ICP hereby provides the following Supplementary Submission in conformance with Rules 53 and 55(3):

SUPPLEMENTARY SUBMISSION

5. Wat Ta Meak was located in Chrey Vien commune, Prey Chhor district (part of Sector 41 of the Central Zone), and was used as a sector-level office during the Democratic

⁸ D1 Third Introductory Submission, para. 22 (emphasis added).

⁹ D1 Third Introductory Submission, para. 87 and fn. 362 citing D1.3.32.1 DC-Cam Prison List, 23 August 2006, ERN (En) 00194822. Wat Ta Meak appears at no. 36 on the list.

¹⁰ D1 Third Introductory Submission, para. 88.

¹¹ D1 Third Introductory Submission, para. 90(f) and fn. 388.

¹² D1 Third Introductory Submission, para. 90(e).

¹³ The ICIJ requested clarification as to whether execution of East Zone cadres at Wat Ta Meak constituted a "new fact" that was prohibited from investigation without a Supplementary Submission. See D254 Forwarding Order, para. 17b.

¹⁴ D1 Third Introductory Submission, para. 26.

Kampuchea regime.¹⁵ Among other functions, Wat Ta Meak was used as a temporary detention centre to hold prisoners being sent to other security offices or execution sites, including local CPK cadres purged by the Southwest Zone forces led by Ao An.¹⁶ In some cases, cadres were called by the Sector 41 office to attend study sessions at Wat Ta Meak, where they were arrested and thereafter disappeared.¹⁷ In other cases, prisoners were brought to Wat Ta Meak by trucks, each of which held 50 to 60 people.¹⁸ Wat Ta Meak may also have been one of the sites to which people from the East Zone were transported and executed in the 1977 to 1978 time period.¹⁹

6. Wat Ta Meak was directly overseen by Sector 41 Secretary Ao An, whose office was located only 1 kilometre away in the same commune.²⁰ Ao An frequently visited Wat Ta Meak, and held political training or study sessions for cadres at that site.²¹ At those meetings, Ao An played recordings about “enemies”²² and announced there would be “more casualties” in the Sector.²³ As Sector Secretary and Deputy Secretary of the Central Zone, he was responsible for deciding the fate of the persons arrested and detained at Wat Ta Meak.²⁴
7. The ICP has reason to believe that the facts described above constitute crimes within the jurisdiction of the court, including but not limited to:
 - a. Murder, Extermination, Enslavement, Imprisonment, Torture, Persecutions on political grounds, and other Inhumane Acts, which constitute **CRIMES**

¹⁵ **D219/327** Written Record of Interview of Cheng Tol, 22 May 2015, at A3, A5; **D219/217** Written Record of Interview of Chhen Ham, 11 March 2015, at A175-A177.

¹⁶ **D219/226** Written Record of Interview of Penh Va, 11 March 2015, at A11, A15 [describing arrest of Sector cadres sent to Wat Ta Meak, and Aom An announcement that former cadres were “traitors”]; **D219/315** Written Record of Interview of Sat Pheap, 18 May 2015, at A152, A159-A163; **D107/8** Written Record of Interview of Nhim Kol, 20 February 2012, at ENG 00787219-20 [Wat Ta Meak used as security office after Ta An’s arrival]; **D219/171** Written Record of Interview of Nhim Kol, 11 February 2015, at A16; **D219/288** Written Record of Interview of Chheun Lai Sim, 24 April 2015, at A39; **D1.3.11.7** OCP Interview of Cheng Tol & Kun Sokha, 2 August 2008, at ENG 00210439; **D1.3.11.26** OCP Interview of Kun Sotha, 11 November 2006, at ENG 00208384.

¹⁷ **D219/331** Written Record of Interview of Phan Sophal, 27 May 2015, at A60-A63.

¹⁸ **D219/315** Written Record of Interview of Sat Pheap, 18 May 2015, at A141-A142, A154-A164 [former head of Sector Logistics describes witnessing 300 people transported by trucks to Wat Ta Meak].

¹⁹ **D219/376** Written Record of Investigation Action, 26 June 2015, at ENG 01111627.

²⁰ **D219/327** Written Record of Interview of Cheng Tol, 22 May 2015, at A5.

²¹ **D219/376** Written Record of Investigation Action, 26 June 2015, at ENG 01111626-27; **D219/226** Written Record of Interview of Penh Va, 11 March 2015, at A6.

²² **D219/376** Written Record of Investigation Action, 26 June 2015, at ENG 01111627.


²³ **D219/376** Written Record of Investigation Action, 26 June 2015, at ENG 01111626-27; **D219/226** Written Record of Interview of Penh Va, 11 March 2015, at A6.

²⁴ **D1.3.19.1** CPK Directive entitled “Decision of the Central Committee Regarding a Number of Matters”, 30 March 1976, at ENG 00182809 [providing to the Zone Standing Committees “the right to smash, inside and outside the ranks”].

AGAINST HUMANITY punishable under Articles 5, 29 (new) and 39 (new) of the ECCC Law; and

- b. Homicide and Torture, in violation of the **1956 PENAL CODE** (Articles 500, 501, 503, 504, 505, 506, 507 & 508), punishable under Articles 3 (new), 29 (new) and 39 (new) of the ECCC Law.
8. The ICP also has reason to believe that **YIM Tith alias Ta Tith, AO An alias Ta An, IM Chaem** and other senior leaders of the Democratic Kampuchea regime, including **NUON Chea** and **KHIEU Samphan**, committed the specific criminal acts described in this Supplementary Submission and the Third Introductory Submission which constitute offences under the ECCC Law. These acts were part of a common criminal plan or joint criminal enterprise, as described in paragraph 21 of the 18 July 2011 Supplementary Submission²⁵ and paragraphs 16 to 17 of the Third Introductory Submission.
9. This Submission is signed by only the International Co-Prosecutor and is therefore submitted subject to Rule 71(3). A record of this disagreement has been placed in the register kept by the Greffier of the Co-Prosecutors, pursuant to Rule 71(1).

Respectfully submitted,

Date	Name	Place	Signature
4 August 2015	Nicholas KOUMJIAN International Co-Prosecutor	Phnom Penh	

²⁵ **D65** Co-Prosecutors' Supplementary Submission Regarding Sector 1 Crime Sites and Persecution of Khmer Krom, 18 July 2011.