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**CLOSING ORDER (INDICTMENT)**

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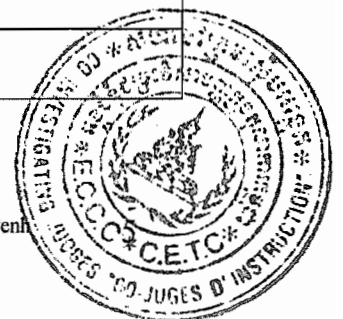
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## ACRONYMS

Term	Abbreviation / Acronym
Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law of Crimes Committed During the Period of Democratic Kampuchea	ECCC Agreement
Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia	ECCC Law
Criminal Code of the Kingdom of Cambodia	Penal Code
Supreme Court Chamber	SCC
Pre-Trial Chamber	PTC
Office of the Co-Investigating Judges	OCIJ
Co-Investigating Judges	CIJs
International Co-Investigating Judge	International CIJ
Office of the Co-Prosecutors	OCP
International Co-Prosecutor	ICP
National Co-Prosecutor	NCP
Joint Criminal Enterprise	JCE
Written Record of Interview	WRI
Democratic Kampuchea	DK
Communist Party of Kampuchea	CPK
Revolutionary Army of Kampuchea	RAK
International Criminal Court	ICC
International Criminal Tribunal for the Former Yugoslavia	ICTY
International Criminal Tribunal for Rwanda	ICTR
Special Court for Sierra Leone	SCSL
Extraordinary Chambers in the Courts of Cambodia	ECCC/Court
Documentation Centre for Cambodia	DC-Cam
Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment	Convention against Torture
Royal Government of Cambodia	RGC



## 1. PROCEDURAL HISTORY

1. Disagreements between the CIJs in this case were registered on 22 February 2013, 5 April 2013, 22 January 2015, 16 January 2017, and 12 July 2018.
2. On 20 November 2008, the ICP issued the *Co-Prosecutors' Third Introductory Submission* ("Introductory Submission") where he alleged, *inter alia*, that **Ao An** was criminally responsible for a number of national and international crimes committed under the Court's temporal and territorial jurisdiction.<sup>1</sup> Due to a disagreement between the Co-Prosecutors, the Introductory Submission was forwarded to the CIJs by the Acting ICP on 7 September 2009.<sup>2</sup>
3. On 18 July 2011, 24 April 2014, 4 March 2015, 4 August 2015, and 20 November 2015, the ICP filed supplementary submissions seising the CIJs of new allegations against **Ao An**, pursuant to Internal Rule 55(3).<sup>3</sup>
4. On 27 March 2015, my predecessor, Judge Harmon, charged **Ao An** with violations of Articles 501 and 506 (premeditated homicide) of the 1956 Penal Code and crimes against humanity.<sup>4</sup> At that time, **Ao An** stated that he would not answer questions from the International CIJ.<sup>5</sup> On 14 March 2016, I charged **Ao An** with additional crimes, including violations of Articles 501 and 506 (homicide) of the 1956 Penal Code, violations of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948, and additional counts of crimes against humanity.<sup>6</sup> The full record of charges is contained within the *Written Record of Further Appearance of Ao An* dated 14 March 2016.<sup>7</sup> **Ao An** waived his right to attend the further appearance, and his Co-

<sup>1</sup> **D1**, *Co-Prosecutors' Third Introductory Submission*, 20 November 2008.

<sup>2</sup> **D1/1**, *Acting International Co-Prosecutor's Notice on Filing of the Third Introductory Submission*, 7 September 2009.

<sup>3</sup> **D65**, *Co-Prosecutors' Supplementary Submission regarding Sector 1 Crime Sites and Persecution of Khmer Krom*, 18 July 2011; **D191**, *Co-Prosecutors' Supplementary Submission regarding Forced Marriage and Sexual or Gender-Based Violence*, 24 April 2014; **D237/1**, *Response to Forwarding Order D237*, 4 March 2015; **D254/1**, *Response to Forwarding Order and Supplementary Submission regarding Wat Ta Meak*, 4 August 2015; **D272/1**, *Response to Forwarding Order Dated 5 November 2015 and Supplementary Submission regarding the Scope of Investigation into Forced Marriage in Sectors 1 and 4*, 20 November 2015.

<sup>4</sup> **D242**, *Written Record of Initial Appearance of Ao An*, 27 March 2015.

<sup>5</sup> **D242**, *Written Record of Initial Appearance of Ao An*, 27 March 2015, p. 6.

<sup>6</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016.

<sup>7</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016, pp 3-9.



Lawyers elected not to make a statement or observations on his behalf at the time.<sup>8</sup>

5. On 16 December 2016, I issued a decision reducing the scope of the investigation by excluding the following alleged facts pursuant to Internal Rule 66 *bis* (“Rule 66 *bis* Decision”):<sup>9</sup>
  - a. All allegations relating to crime sites in Sectors 42 and 43:
    - i. Tuol Ta Phlong Security Centre;<sup>10</sup>
    - ii. Wat Kandal Security Centre;<sup>11</sup>
    - iii. Chamkar Svay Chanty Security Centre;<sup>12</sup>
    - iv. Wat Baray Chan Dek Security Centre;<sup>13</sup>
    - v. Wat Srange Security Centre;<sup>14</sup>
  - b. The arrests and executions of Cham in the Eastern Zone;<sup>15</sup>
  - c. Torture at Tuol Beng / Wat Angkuonh Dei;<sup>16</sup> and
  - d. Imprisonment and persecution at Wat Phnom Pros,<sup>17</sup>

(together, the “Excluded Facts”).
6. The Excluded Facts formed the basis of certain charges against **Ao An**, namely, crimes against humanity and premeditated homicide committed at Chamkar Svay Chanty Security Centre,<sup>18</sup> Wat Baray Chan Dek Security Centre,<sup>19</sup> and Wat Srange Security Centre.<sup>20</sup>

<sup>8</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016, p.2.

<sup>9</sup> **D337**, *Decision to reduce the scope of judicial investigation pursuant to Internal Rule 66 bis*, 16 December 2016.

<sup>10</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, paras 50-51.

<sup>11</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, para. 52.

<sup>12</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, para. 34.

<sup>13</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, para. 53.

<sup>14</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, para. 49.

<sup>15</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, paras. 45-46.

<sup>16</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, paras. 30-33; **D191**, *Co-Prosecutors’ Supplementary Submission regarding Forced Marriage and Sexual or Gender-Based Violence*, 24 April 2014, para. 11; **D237/1**, *Response to Forwarding Order D237*, 4 March 2015, paras 1-2.

<sup>17</sup> **D1**, *Co-Prosecutors’ Third Introductory Submission*, 20 November 2008, para. 30-31.

<sup>18</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016, p. 7.

<sup>19</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016, pp. 10-11.

<sup>20</sup> **D303**, *Written Record of Further Appearance of Ao An*, 14 March 2016, p. 8.



7. The reasons for reducing the scope of the investigation were set out in my *Notice of Provisional Discontinuance Regarding Individual Allegations* and *Notification Pursuant to Internal Rule 66 bis(2)*.<sup>21</sup> The investigation into the Excluded Facts must be formally terminated pursuant to Internal Rule 66 bis(5) and I will make that order.
8. On 16 December 2016, both CIJs notified the parties pursuant to Internal Rule 66(1) of the conclusion of the judicial investigation against **Ao An**, informed the parties that they may request further investigative action within 15 days,<sup>22</sup> and ordered the severance of the investigation against **Ao An** from Case 004.<sup>23</sup> On 26 December 2016, I extended the period of time for the parties to request further investigative action to 16 January 2017.<sup>24</sup>
9. A number of investigative requests were filed by the parties in accordance with this instruction. On 29 March 2017, following my issuance of decisions on those investigative requests, the CIJs issued a second notice of conclusion of the judicial investigation against **Ao An** and informed the parties that no additional period for requesting further investigative action was required by law.<sup>25</sup>

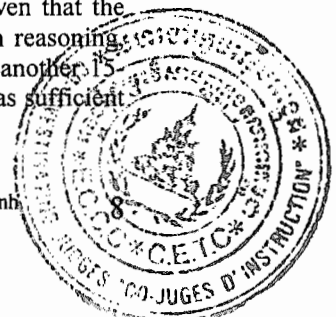
<sup>21</sup> **D307/3**, *Notice of Provisional Discontinuance Regarding Individual Allegations*, 25 August 2016; **D307/4**, *Notification pursuant to Internal Rule 66 bis(2)*, 9 November 2016.

<sup>22</sup> **D334**, *Notice of Conclusion of Judicial Investigation against Ao An*, 16 December 2016.

<sup>23</sup> **D334/1**, *Order for Severance of Ao An from Case 004*, 16 December 2016.

<sup>24</sup> **D340/1**, *Decision on Ao An's Request for Extension of Time Limit for Requesting Further Investigative Action Following Rule 66 Notice*, 26 December 2016.

<sup>25</sup> **D334/2**, *Second Notice of Conclusion of Judicial Investigation against Ao An*, 29 March 2017. – The PTC, despite not being formally seised of this aspect at the time, has since stated *obiter* in a decision in Case 004 that, according to its interpretation of Internal Rule 66(1), a further 15 days from the date of notification of a second notice of conclusion should have been granted to the parties by the CIJs in order to review any newly collected evidence (*see* Case File No. 004-D361/4/1/10, *Decision on Yim Tith's Appeal Against the Decision on Yim Tith's Request for Adequate Preparation Time*, 13 November 2017, paras 23-27). We did not consider it necessary to grant the parties in case 004 or 004/2 a further 15 days to request investigative action in light of the PTC's comments as we considered it unlikely that any party had suffered prejudice as a result of us not granting the further 15 days, and certainly not prejudice to the extent that would constitute an exceptional case warranting a reconsideration of our decision. This is reinforced by the fact that no party in Case 004/2, despite having access to Case File 004 and thus being aware of the PTC's view, appealed our second notice of conclusion or raised the lack of a further 15-day period as an issue, nor did they seek reconsideration of the second notice of conclusion since the PTC's comments were made. This constitutes an informed implied waiver of an additional 15-day period under Internal Rule 66(1), which means the comment by the PTC on the law is moot. It is of relevance in this context that the PTC in Case 004 neither saw fit to formally order the CIJs to grant another 15 days, as it could in theory have done, given that the appeal in that case was after all about adequate preparation time (although under its own reasoning, which did not engage with the CIJs' opposing reasoned opinion in any detail, the lack of another 15 day period could be qualified as a major procedural defect), nor did it consider this aspect as sufficient grounds to extend the preparation time itself as requested by the Defence in Case 004.





10. On 19 May 2017, the CIJs forwarded the Case File to the Co-Prosecutors for their final submissions.<sup>26</sup>
11. On 5 June 2017, due to logistical problems surrounding the schedule for their full translation into Khmer, the CIJs permitted the ICP to file his final submissions in English and Khmer by 21 August 2017, with references in English for both versions, and to file a fully translated Khmer version as soon as possible after that.<sup>27</sup>
12. On 18 August 2017, the National Co-Prosecutor filed her final submission, requesting that all allegations against **Ao An** be dismissed on the grounds that **Ao An** does not fall within the personal jurisdiction of the ECCC.<sup>28</sup>
13. On 21 August 2017, the ICP filed his final submission, requesting **Ao An** be indicted for the charges set out in the submission.<sup>29</sup>
14. On 18 September 2017, the CIJs informed the parties that they considered separate and opposing closing orders based on a disagreement between them as permissible under the law applicable before the ECCC, and of the likely consequences for the appellate process under Internal Rule 77(13).<sup>30</sup>
15. On 24 October 2017, the Defence for **Ao An** filed their response, submitting that the charges against **Ao An** should be dismissed on the grounds that the Introductory Submission and all subsequent acts are null and void, the CIJs cannot safeguard the integrity and fairness of the investigation, the ECCC do not have personal jurisdiction over **Ao An**, and there is insufficient evidence to indict and send **Ao An** to trial for the crimes charged.<sup>31</sup>
16. On 12 July 2018, the CIJs registered a disagreement regarding the issuance of separate and opposing closing orders.

<sup>26</sup> **D351**, *Forwarding Order pursuant to Internal Rule 66(4)*, 19 May 2017.

<sup>27</sup> **D351/3**, *Decision on the International Co-Prosecutor's Request to Modify the Schedule for the Filing of Final Submissions*, 5 June 2017.

<sup>28</sup> **D351/4**, *Final Submission concerning Ao An pursuant to Internal Rule 66*, 18 August 2017.

<sup>29</sup> **D351/5**, *International Co-Prosecutor's Rule 66 Final Submission*, 21 August 2017.

<sup>30</sup> **D355/1**, *Decision on Ao An's urgent request for disclosure of documents relating to disagreements*, 18 September 2017, paras. 13 – 16. No appeal was filed against the decision, nor was a reconsideration requested.

<sup>31</sup> **D351/6**, *Ao An's Response to the Co-Prosecutors' Rule 66 Final Submissions*, 24 October 2017.



## 2. IMPACT OF THE PTC'S CONSIDERATIONS ON THE ICP'S APPEAL AGAINST THE CLOSING ORDER IN CASE 004/1

17. The drafting of this Closing Order had already progressed to the very final stages when the PTC issued its considerations on the ICP's appeal against the Closing Order in Case 004/1 on 29 June 2018 ("Considerations").<sup>32</sup> The PTC made a number of findings which have a bearing especially in the case of an indictment. The PTC and/or its international judges had concerns in three major areas that may impact on the remaining cases: undue delay, the position of the ECCC in the Cambodian legal system, and the CIJs' approach to the evaluation of evidence. They will be addressed in turn below.

### 2.1. Undue delay

18. In a sweeping statement supported by four paragraphs,<sup>33</sup> the PTC *per curiam* accused the CIJs of having violated Art 35 *new* of the ECCC Law and Internal Rule 21(4), i.e. the rule that proceedings shall be brought to a conclusion "*within a reasonable time*". The basis for this serious allegation was in essence the time elapsed between the conclusion of the investigation and the *Closing Order (Reasons)* of 18 months, which the PTC considered disproportionate<sup>34</sup> due to the "*limited complexity of the case*", as well as in comparison to the time it took to draft the closing orders in Cases 001 and 002.<sup>35</sup>
19. Of relevance in this context are further factors, namely on the one hand that the PTC, again *per curiam*, held that the closing order was already issued by the *Closing Order (Disposition)* issued on 22 February 2017 and that the CIJs were immediately *functus officio* upon signature of said Disposition,<sup>36</sup> and on the other hand that it took the PTC itself almost a year to issue its Considerations after waiting until the Closing Order (Reasons) had been filed. Moreover, the PTC's international judges opined that Im Chaem was subject to the Court's personal jurisdiction, and should have been charged with more crimes and been

<sup>32</sup> **Case File No.004/1-D308/3/1/20**, *Considerations on the International Co-Prosecutor's Appeal of Closing Orders (Reasons) (PTC)*, 29 June 2018.

<sup>33</sup> Considerations, paras 28 – 31.

<sup>34</sup> Considerations, para. 31.

<sup>35</sup> Considerations, para. 30.

<sup>36</sup> Considerations, para. 33.



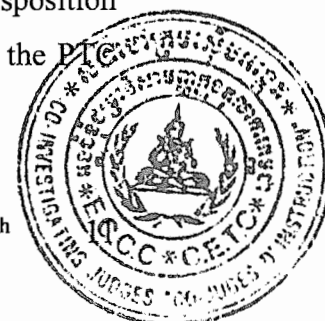
indicted; they expressed an exhortation to the ordinary Cambodian courts to take up the baton the CIJs had in their view dropped;<sup>37</sup> they did not, however, offer any views as to whether and how the “*undue delay*” caused by the CIJs might impact on any future prosecution before the national courts, something which obviously would *mutatis mutandis* also apply to the ECCC environment in the case of future indictments, and for which the CIJs would have appreciated detailed guidance.

20. These factors together make it very difficult for the CIJs to draw any clear lessons for the future and the treatment of the remaining cases under the heading of “*undue delay*”. Since the PTC made the finding without any prior notice and may do so again in any of the remaining cases, it is prudent to lay out the issues the CIJs are faced with and how, from their point of view, they may impact on the remaining cases.

*Unclear nature and purpose of the finding of undue delay*

21. Firstly, the PTC made this statement *proprio motu* and entirely unexpectedly. None of the parties had brought it up before the PTC in their submissions on appeal or indeed at any time during the entire period the PTC based its criticism on, nor did the PTC give the parties any advance notice in the appeal proceedings that the issue might be raised and addressed by it. The CIJs were never put on notice in any previous decisions by the PTC that an issue of undue delay might be arising, although nothing would have prevented the PTC from expressing its apparently very serious concerns, also *proprio motu*, in an *obiter dictum* in another of its earlier decisions.
22. Secondly, it is unclear what the nature of the prejudice to any of the parties was, and what relief was being provided by a finding of undue delay: Im Chaem, like **Ao An**, had never been detained and the potential impact by having her name made public as a person under investigation by the CIJs was not significantly enhanced by the time it took to close the case. Her case was unanimously dismissed and the parties as well as the public were informed by the Disposition ahead of the filing of the reasons for the dismissal. Even if the relief the PTC

<sup>37</sup> Considerations, paras 339 – 340.



had in mind was to have been of a declaratory nature, it should have identified the prejudice that was meant to be addressed. It remains unclear therefore for whose benefit the finding was made and what lessons the CIJs should draw for the case of **Ao An** and the remaining cases.<sup>38</sup>

23. Thirdly, the PTC did not set out in any detail the criteria against which it had measured the CIJs' performance beyond stating that in its own general view the case's complexity did not warrant such a long time. It needs to be pointed out that the PTC had no separate insight whatsoever into the problems faced by the OCIJ, nor did it ever request an explanation from the CIJs in the course of previous appellate proceedings. Since 2014, the CIJs have been providing regular and detailed updates for the ECCC's quarterly completion reports, which explained the reasons why cases might be delayed – the PTC did not engage with this aspect at all, thus by implication declaring them irrelevant for its finding. Good judicial practice commands that allegations against judges of violating fair trial rights on the grounds of not progressing the case adequately must always be accompanied by a painstakingly precise description of the points where a reason for delay occurred and what the inferior court could have done to avoid the delay. The Considerations do not meet that standard and consequently leave the CIJs in the dark as to how to evaluate any past delay that may already have occurred in, and to gauge the potential consequences for, the pending cases. This is all the more problematic because, judging by the time needed for the appeal in Case 004/1, it is very likely that all remaining closing orders will have been issued before the PTC will be able to give more detailed guidance in the more complex Case 004/2.
24. Fourthly, further uncertainty about the threshold for a finding of undue delay is caused by the PTC's holding *per curiam* that a closing order cannot be split into a disposition and a separate reasons section, and that the CIJs were *functus officio* the moment they signed the Disposition in February 2017. According to the PTC's own logic, the Disposition was already voidable for lack of sufficient reasons and the Reasons were certainly void for lack of jurisdiction. There was

<sup>38</sup> As things stand, however, the PTC in essence made what almost appears to be a performance-related statement about the overall conduct of the CIJs in handling the investigations. With all due respect, and as will be explained below, that is not its function, and if that was indeed the intention of the PTC, it acted *ultra vires*.



thus neither a valid disposition nor a valid reasoning. Because splitting the Closing Order, in the view of the PTC, was a serious procedural error by the CIJs, the PTC *per curiam* should have quashed the Disposition, regardless of the question on the merits of personal jurisdiction, and remanded the case back to the CIJs with instructions not to split the closing order, at which point a comment about the concern regarding undue delay could have been inserted. This is in keeping with the general rule that questions of procedure must be resolved before a case is examined on the merits.<sup>39</sup> Furthermore, it was at the time not outlandish to entertain the idea that the scenario might arise again in another case before the appeal in Case 004/1 had been decided. Yet, the PTC ordered the ICP to wait for the filing of the reasons before filing his appeal, and then took almost a year until 29 June 2018 to deliver its Considerations, despite the fact that the remit of the appeal was even less complex than the task of constructing the case for and the drafting of, a closing order.

25. Fifthly, the PTC did not explain what the consequences of a finding of undue delay were, nor did the international judges address the matter when expressing their wish that the ordinary Cambodian courts should now prosecute Im Chaem, although the potential impact under rule-of-law aspects was obvious. Nor did the PTC explicitly refrain from stating its views because of the lack of authority its views would have had with regard to binding the national courts (see below regarding the issue of the position of the ECCC in the Cambodian legal system). While the issue may be of lesser relevance in the case of a dismissal, it becomes crucial if the closing order is to be an indictment: are there differing degrees of undue delay and do they have differing effects on the outcome of a case? Is there a threshold above which an investigation becomes so unduly lengthy that it breaches fair trial standards to an extent that the only reasonable remedy is to stay the proceedings or dismiss the case? There is ample case law in many jurisdictions on the matter and it could have been reasonably expected that the PTC give the CIJs appropriate guidance when raising a generic problem of such magnitude, at such a late stage and *proprio motu*.

<sup>39</sup> This is of relevance, for example, in the context of avoiding the effect of *res judicata* if the court was not procedurally allowed to make a finding on the merits.



*Unclear basis for the finding by the PTC*

26. It is striking that the PTC, *per curiam*, uses the term “**control body at the judicial investigation stage**”<sup>40</sup> (emphasis added) as a justification for making its finding on undue delay. That term is not used in any of the legal instruments governing the law before the ECCC. It is hence unclear what the PTC meant by the use of that term and what its inferences are.
27. The law applicable before the ECCC clearly delineates the roles and functions of the PTC in the pre-trial process; it does not contain a single provision that would confer upon the PTC the power to generally supervise the performance of the CIJs.
28. The Internal Rules in particular have consistently been held to have the status of a *lex specialis* for the purpose of regulating the proceedings before the ECCC and recourse to the general Cambodian law is allowed only insofar as it can be shown that the drafters of the Internal Rules left an *unintentional lacuna*. Given that the performance supervision and/or disciplinary management of the CIJs is such a serious matter in the context of judicial independence, it is simply unimaginable that it should have been overlooked.
29. To re-emphasise this finding of principle is relevant because the PTC has in the past and in this case asserted that it fulfils the function of the Investigation Chamber at the Cambodian Court of Appeal; yet, in all the instances when that reference was made it related only to the powers in the substantive investigation, i.e. whether the PTC could perform its own investigative action or replace a decision of the CIJs with its own etc. Although the PTC does not say so explicitly, there is a *soupeçon* that it may now also assume that it has the functions and powers of the President of the Investigation Chamber under Articles 283 ff of the 2007 Cambodian Code of Criminal Procedure (“CCP”), and in particular Article 283:

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<sup>40</sup> Considerations, para. 28.



## Article 283.

## Power of the President of the Investigation Chamber

The president of the Investigation Chamber shall be in charge of the well-functioning of the Department of the Investigating Judges. The president of the Investigation Chamber shall check primarily on the conditions for implementing the provisions concerning pre-trial detention, court warrants, and rogatory commission and forensic examinations.

**The president of the Investigation Chamber shall ensure that there is no unreasonable delay in the implementation of procedures.** (Emphasis added).

The president of the Investigation Chamber may inspect the investigation department.<sup>41</sup>

30. Even if that provision was applicable before the ECCC, any such power would lie with the PTC's *President*, not with the PTC as a whole, and in a purely *administrative* capacity, not in the exercise of the judicial role in judicial proceedings. It would also have to be exercised pro-actively on a regular basis, not at the stage of a final appellate decision when the oversight role would no longer serve any useful purpose. Lastly, to assert such a function for the PTC as a whole at this late stage in the OCIJ's life-cycle would raise problems of constitutional dimensions for the ECCC.

*Consequences of the PTC's finding of undue delay for future closing orders*

31. The lack of specificity of the PTC's findings regarding undue delay is unhelpful to the CIJs – not to mention to the parties – and the basis for and purpose of such a *proprio motu* finding *ex post*, bare of any detail, is questionable. Yet, the message emanating from the Considerations clearly suggests that the PTC will do so again and without prior notice if it deems the case calls for it.
32. The CIJs will therefore have to make sure that in any future case the PTC will be able to address the issue in a more specific manner as required by good judicial practice, and that the Cambodian public is adequately informed of the development of the cases and the reasons for any case-specific delay.
33. Each closing order signed by the International CIJ, beginning with this one, will thus feature two standard annexes: the first will contain a detailed chronological compendium of the CIJs' contributions to the quarterly completion plan updates, the second a detailed chronological list of all motions and investigative requests filed with the CIJs, how long the CIJs took to address them, as well as



all appeals filed against their decisions and/or the annulment motions forwarded to the PTC and the time taken until a decision was reached. Particular care must be taken in this context with regard to investigative requests insofar as they were acted upon by the OCIJ, which typically meant multiple investigative missions and summonses; this explains the sometimes long periods until a final decision was taken on each request. A large part of the OCIJ's staff time was also taken up by the many disclosure requests from the ICP related to Case 002, which made a detailed check of all relevant WRIs for confidential information and for decisions on protective measures necessary. This work detracted from the capacity available to progress the actual investigations.

## 2.2. Position of the ECCC within the Cambodian legal system

34. The PTC took issue with the CIJs' finding that the ECCC had exclusive jurisdiction over the crimes committed during the Khmer Rouge era.<sup>42</sup> It held that the CIJs overstepped their mandate by making such a finding, because neither they nor the PTC had jurisdiction over that issue.<sup>43</sup> It nevertheless went on to give its own extensive opinion "*as an appellate chamber*" and considered it "*necessary to consider the issue raised as one of general significance for the ECCC's jurisprudence and legacy*".<sup>44</sup> Finally, it included its own opinion that the ordinary Cambodian courts retained jurisdiction over crimes that could not be tried before the ECCC in the disposition of its joint views,<sup>45</sup> something it could not do according to its own view that it had no jurisdiction. The question retains its relevance in principle for the remaining closing orders. It should, however, have been obvious to everyone that to *deny* exclusive jurisdiction to

<sup>42</sup> Considerations, paras 64 ff.

<sup>43</sup> Considerations, para. 72.

<sup>44</sup> Considerations, para. 73: The first obvious comment is that if the CIJs overstepped their mandate by making such a finding, so did the PTC; even more so by listing its finding in the Disposition despite acknowledging it had no jurisdiction. This finding is moreover merely an *obiter dictum* since it does not form part of the *ratio decidendi*. It does not bind the CIJs. To refer to matters of "general significance" and "legacy" as a justification for addressing issues about which one has no jurisdiction that would bind the national courts is pointless, because the ECCC in the PTC's own logic can neither determine this matter of general significance, nor determine the legacy in the sense that the national courts will have to follow it. The national courts will determine if that is indeed a legacy the ECCC leaves behind. The aim of the CIJs in addressing the issue was accurately captured by Dr Bit Seanglim, the national co-lawyer of IM Chaem, in the appeals hearing before the PTC on 12 December 2017. **D308/3/1/19/2.1** Transcript of hearing on appeal against the Closing Order in Case 004/1 [Im Chaem], 12 December 2017, pp. 13 – 15.

<sup>45</sup> Considerations, page 27.





the ECCC will make it *easier* for the CIJs to reject personal jurisdiction, precisely because there will be a residual jurisdiction and no impunity gap. However, while the PTC cannot bind the national courts on points of law at all, its *obiter dicta* – such as this – do create persuasive authority for the CIJs and the PTC's view is therefore noted for the remaining closing orders.

### 2.3. Evidentiary considerations

35. The PTC and/or the international judges criticised the CIJs in the context of their treatment of the evidence on the Case File. This critique has the potential to impact the remaining closing orders and needs to be analysed. That analysis leads to the conclusion that the PTC and/or the international judges in some aspects misinterpreted, and in consequence misrepresented, the CIJs' approach; in others, with all due respect, their findings do not accurately reflect the treatment of evidence in civil law systems. These errors are of such a nature that the CIJs cannot simply acquiesce in the PTC's holdings; rather it is appropriate to allow the PTC to reconsider its opinion in the appeal that will be filed against this Closing Order.
36. The PTC made the following criticisms:
- a. *Per curiam*
    - i. The CIJs should not have included the section on Evidentiary Considerations, because such "*considerations are ... not envisaged by the ECCC Law, the Internal Rules or the Cambodian Code of Criminal Procedure and may be, in the Pre-Trial Chamber's view, unnecessary and superfluous. The sole duty of the Co-Investigating Judges pursuant to Internal Rule 67 is to issue a dismissal order if, inter alia, there is not 'sufficient evidence [ ] of the charges'.*" The PTC also points to the fact that the closing orders in Cases 001 and 002 did not contain such a section.<sup>46</sup>
    - ii. "*The gathering of evidence before the ECCC is ruled by the principle of freedom of evidence which is peculiar to **the civil law system**. In other words, all evidence is admissible as provided under Internal Rule 87. Furthermore, all evidence generally has the same probative value. Article 23 new of the ECCC Law reflects this principle by establishing that "[t]he Co-Investigating Judges*

<sup>46</sup> Considerations, para. 41.



*shall conduct investigations on the basis of information obtained from any institution". Article 321 of the Cambodian Code of Criminal Procedure moreover states that **unless provided otherwise by law** all evidence is admissible in criminal cases and the court has to consider the value of the evidence submitted for its examination according to the judge's personal conviction. Article 427 of the French Code of Criminal Procedure equally provides that offences may be proved by any mode of evidence and that the judge decides according to his or her personal conviction."<sup>47</sup> (Emphasis added).*

- iii. *"The Pre-Trial Chamber further recalls that the Co-Investigating Judges freely evaluate the probative value of the evidence collected during the investigation and that the applicable law before the ECCC does not prescribe rules with regard to the assessment of the sufficiency of the evidence for the charges. There are in fact no grounds for distinguishing statements based on their provenance. All evidence is admissible and generally **enjoys the same legal presumption of reliability** provided it has been legally collected."<sup>48</sup> (Emphasis added).*
- iv. *"The Pre-Trial Chamber therefore finds that it is an error of law **in an inquisitorial system based on written proof** to make general assertions as to the value of certain categories of evidence thus creating a hierarchy of evidence based on its nature rather than on its substance and to consequently give less weight to evidence collected by other entities for strictly formal reasons. The only relevant criterion should be the impact that the substance of the evidence may have on the personal conviction of the Co-Investigating Judges regarding whether there is sufficient evidence for the charges."<sup>49</sup> (Emphasis added).*
- v. *"The Pre-Trial Chamber finds it particularly problematic to generally preclude civil party applications from any presumption of reliability and to afford them "little if any probative value" on the basis of the circumstances surrounding their recording. **The ECCC is the first court trying mass international crimes that provides an opportunity for victims to participate directly in the criminal proceedings as civil parties.** [...] Therefore, if they were to deny prima facie the presumption of reliability for civil party applications and afford them less weight than other evidence collected by their Office the Co-Investigating Judges either*

<sup>47</sup> Considerations, para. 44.

<sup>48</sup> Considerations, para. 51.

<sup>49</sup> Considerations, para. 52.



*themselves or through rogatory letters would be bound to hear every applicant as a witness considering that they possess information conducive to ascertaining the truth.” [...] In other words, the legally incorrect hierarchisation of evidence imposed by the Co-Investigating Judges denying the presumption of reliability and generally giving less weight to civil party applications may be such as to reveal serious flaws in the conduct of the judicial investigation pursuant to Internal Rule 55(9). Furthermore, this hierarchisation would have the consequence of limiting the effectiveness of the victims’ right of access to the courts in the sense of Article 33 new of the ECCC Law Internal Rule 21 and the United Nations General Assembly’s Resolutions on Basic Principles of Justice for Victims despite the ECCC being among the first internationalised tribunals to have granted victims a role in proceedings.”<sup>50</sup>*

- vi. Regarding the DC-Cam Statement by Im Chaem, the PTC first acknowledges that the International CIJ tried unsuccessfully to have her attend for an initial appearance,<sup>51</sup> yet then proceeds to argue that *“if the Co-Investigating Judges found the statements given by the Suspect to other institutions to be insufficient for ascertaining the truth because of their provenance they should necessarily have invited her for an interview by their Office after her Co-Lawyers were granted access to the Case File. The Pre Trial Chamber has not found any indication that this was the case.”*<sup>52</sup> Since **Ao An** also gave a DC-Cam statement to which reference is made occasionally, the matter becomes relevant in the present case.
- vii. The PTC further criticised the CIJs for referring to evidentiary considerations from the trial and appeals stage and opined that they are inapplicable because the standard of proof at trial is higher than at the investigation stage.<sup>53</sup> It concluded by saying that *“sufficient charges’ corresponds a minima to Internal Rule 55(4)’s ‘clear and consistent evidence’ indicating that a person may be criminally responsible for the commission of a crime and thus indicted by the Co-Investigating Judges.”*<sup>54</sup>

<sup>50</sup> Considerations, paras 54 – 56.

<sup>51</sup> Considerations, para. 5.

<sup>52</sup> Considerations, para. 59.

<sup>53</sup> Considerations, paras 60 – 62.

<sup>54</sup> Considerations, para. 62.



b. International judges

- i. The international judges, referring to case law from the ICTY, ICTR and ICC, noted that the CIJs “*sought throughout their review of the evidence to establish an accurate and precise number of victims for each uncharged crime site.*” The international judges considered “*this requirement unjustified particularly in view of the evidential standard applicable at the pre-trial stage of proceedings. They recall that it may be impractical to insist on a high degree of specificity in cases of mass crimes and that it is not necessary that the precise number of victims be known. The uncertainty regarding the exact number of victims indeed does not preclude the conclusion that crimes were committed at a concrete place and at a concrete point in time.*”<sup>55</sup>

37. None of these criticisms are convincing and hence require no change in approach for the remaining closing orders:

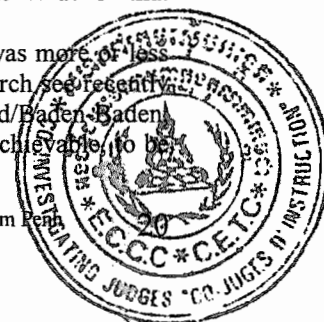
a. *Per curiam*

- i. The fact that something is not envisaged by statute or rules does not mean it is prohibited, unnecessary or superfluous. The aim of the CIJs was to provide transparency regarding their methodology when evaluating the evidence on the Case File; the approach advocated by the PTC does not attain the same level of transparency. Furthermore, the function of that section was, in mathematical terms, to take out the common factor, as in the equation  $ab + ac = a(b + c)$ , that applied to all evidentiary evaluations in individual crime sites etc. The CIJs did not intend to create a theoretical hierarchy in the sense of largely overcome formal rules of evidence, nor was such a rigid hierarchy applied when assessing the evidence.<sup>56</sup>
- ii. Both CIJs come from civil law systems, from Germany and from Cambodia. Yet, the comparison of only those two systems already shows that there is no one “*civil law system*”. The PTC thus engaged in unhelpful essentialising.<sup>57</sup>

<sup>55</sup> Considerations, para 214.

<sup>56</sup> The fact that the National CIJ, who has been the CIJ from the very beginning, also signed the closing orders in Cases 001 and 002, might have given the PTC pause to reflect upon the value of that particular argument.

<sup>57</sup> In fact, the citations used by the PTC seem to indicate that “the civil law system” was more equated with the French system. On the dangers of essentialising in comparative research, see recently Albin Eser, *Comparative Criminal Law*, 2017, CH Beck/Hart/NOMOS, Munich/Oxford/Baden-Baden, page. 141. Eser warns that it is crucial “not to be tempted by expectations that are unachievable, to be



- iii. The view, expressed at such a level of generality, that all evidence enjoys the same presumption of reliability as long as it has been legally collected, is inaccurate. Two examples may suffice: numerous S-21 confessions were over the years lawfully collected from either DC-Cam or S-21; yet, because they are tainted by torture, they enjoy no presumption of reliability at all, quite the contrary. Taking the view of the PTC at its most literal would also mean that, for example, an anonymous letter given to an OCIJ investigator in the field and passed on to the Case File as part of the investigator's action report, bearing only the words "*Ao An did it!*" would enjoy the same presumption of reliability as a 200-page WRI taken by the CIJs themselves. Finally, free evaluation of evidence grants discretion to the judges, not a licence for arbitrariness: judges have to give reasons for their decisions and those reasons have to be consistent and relate to certain general parameters accepted by the law and the courts.
- iv. The procedure before the ECCC may be inquisitorial – at least in the investigation phase – but to call it "*based on written proof*" and trying to draw conclusions on evidentiary criteria from that betrays a willingness to content oneself with a description of surface appearance: of course, the material on the Case File is in written form, but not the substance of the evidence, unless it is actual documentary evidence. The material substance and provenance of the written manifestation of the evidence on the Case File is what provides the basis of the evaluation of reliability and credibility. Furthermore, while the CIJs did not write the section as a theoretical treatise on evidence, the fact that there *exists* a hierarchy of evidence in civil law systems is all too plain. The PTC itself admits as much when it inserts the qualifier "*unless the law provides otherwise*" – that qualifier is nothing but the recognition of a legal prescription of hierarchy.<sup>58</sup>

armed against hasty conclusions and party-monopolization for hoped-for positions, and also methodically not to fall prey to superficiality..."

<sup>58</sup> This applies even in French law, as one example will show: *Procès-verbaux* have different probative value depending on how/by whom they were established: A *Procès-verbal* has value as evidence only when it is regular in form and when its author, acting in the performance of his duties, reports on a topic of his competency what he saw, heard, or personally witnessed (art. 429 CCP). Except in cases where the law prescribes otherwise, *procès-verbaux* regarding offences only serve as sources of information (art. 430 CCP). In instances where judicial police officers or public agents in charge of certain functions of judicial police received from a legal provision the power to establish offences by *procès-verbal* or reports, the contrary evidence can only be brought in writing or through witnesses (art. 431 CCP). The (South) Korean Supreme Court, in another civil law system, subscribes to the best evidence rule: "*The Korean Supreme Court treats oral testimony as the original evidence and written testimony as a substitute for the original evidence, and believes that oral testimony should be the basis for trials. Duplicate copies are given the same evidentiary power as the original only when specific criteria are met. This can be seen as the Korean Supreme Court's decision to adopt the best evidence*"



- v. The argument around the issue of the ECCC's pioneering role in victim representation is a red herring: a policy decision to allow victims to participate in the proceedings has no bearing whatsoever on how reliable or credible individual civil party applicants in their CPAs are. It does not equate to a generic presumption that all CPAs are reliable because they come from victims. In fact, at some point there was a concern in the OCIJ about an emerging pattern regarding CPAs submitted from a particular source in that they were not properly screened for individual relevance and substance by the source submitting them. Against the background of the CIJs' wide discretion with regard to how to conduct the investigations, those applicants whose CPAs allowed a sufficient judgment on the potential usefulness as evidence for the investigation were, of course, interviewed. To require the CIJs to interview everyone or to accept every CPA at face value flies in the face of the reality of investigation practice and is especially concerning in the context of the broad condemnation of the CIJs for undue delay.
- vi. Apart from the fact that the PTC contradicts itself when it acknowledges the ultimately unsuccessful attempts made at the time by Judge Harmon to have Im Chaem attend for an initial appearance but then goes on to say it found no indication that there was ever any attempt to interview her, the argument can in any event have no bearing in the remaining cases: **Ao An** and all remaining charged persons appeared before the International CIJ but all declared, in the presence of defence counsel, that they would not make any statement. This decision must on the one hand be respected by the CIJs, and on the other hand, any further attempts to interview the charged persons would in any event have been futile *ab initio*.
- vii. Finally, the criticism surrounding the use of case law on evaluation of evidence from the trial and appellate stages is beside the point because the PTC conflates the *standard of proof*, which is of course different in the investigation and trial stages, with the principles that govern the *evaluation of evidence*, which are the same across the entirety of the proceedings. However, its reference to an "a minima" standard of "clear and consistent evidence" as corresponding to "sufficient charges" leaves a doubt as to whether it now sees the standard for charging a suspect as also sufficient for indicting a charged person.

rule", See Sang Won Lee, The Best Evidence Rule in a Digital Age, in Laurent Mayali/John Yoo (eds), *Current Issues in Korean Law*, 2014, The Robbins Collection, Berkeley, page. 188; Online at: [www.law.berkeley.edu/robbins](http://www.law.berkeley.edu/robbins). Cambodian law is no different, see Article 321 of the 2007 CCP, which also includes several instructions on the use of evidence.



## b. International judges

- i. Firstly, the international judges misrepresent what the CIJs did: they did not aim at establishing *accurate or precise* numbers, but conservative minimum estimates, and the same approach was followed in this Closing Order. The CIJs were fully aware that precision is an ultimately unattainable goal in these kinds of proceedings, yet on the one hand that does not absolve judges from at least attempting to be as precise as possible under the circumstances, and on the other hand, the principle of *in dubio pro reo* also applies in the context of establishing the gravity of the crimes as an element of personal jurisdiction.<sup>59</sup>
- ii. Secondly, the case law cited by the international judges to support their view that, in the process of confirming the charges by the ICC Pre-Trial Chamber and later on in the trial, attempts at specificity are not required in cases of mass crime, was already very much in doubt and most likely moot for all intents and purposes, after the Appeals Chamber of the ICC issued its 3:2 majority judgment in the case of *Bemba* on 8 June 2018.<sup>60</sup> The Trial Chamber – supported by the Appeals Chamber minority dissent<sup>61</sup> – had argued similarly to the PTC regarding the need to establish individual incidents but the Appeals Chamber majority found that this was ultimately not appropriate.<sup>62</sup> The majority also had clear words for the questions of reliability and probative value of evidence and thus its views reinforce the arguments made above against the PTC’s *per curiam* criticisms.<sup>63</sup>
- iii. Judge Eboe-Osuji aptly summarised the issue in that:

“[t]he finding of guilt [...] does not result from giving bloated significance to available evidence, in ingenious ways; nor, from an analysis of the evidence that suggests purposeful tropism in the light of the indictment. In these things, the mind can begin to ‘see’ what is not there.”<sup>64</sup>

<sup>59</sup> This view was expressed by the International CIJ in his *Decision on Ao An’s Amended Fourth Request for Investigative Action*, **D244/1**, 17 October 2016, paras 24 – 26. The decision was not appealed. No prior *proprio motu* comment on this point was made by the PTC to this date in any of the remaining cases.

<sup>60</sup> *Prosecutor v Jean-Pierre Bemba Gombo*, Judgement, ICC Appeals Chamber (ICC-01/05-01/08 A), 8 June 2018 (“Bemba AC Judgment”); with a joint separate opinion by Judges Van den Wyngaert and Morrison (“Wyngaert/Morrison”), ICC-01/05-01/08-3636-Anx2, and a separate opinion by Judge Eboe-Osuji (“Eboe-Osuji”), ICC-01/05-01/08-3636-Anx3, who were all in the majority.

<sup>61</sup> Dissenting opinion of Judges Monageng and Hofmanski, ICC-01/05-01/08-3636-Anx-1-Red.; see in particular their opinion at paras 33 f.

<sup>62</sup> For example, Bemba AC Judgment, paras 103 f, 110, 183 f, 192.

<sup>63</sup> Wyngaert/Morrison, paras 8 – 9, 23 – 25, 74, 77 and 79.

<sup>64</sup> Eboe-Osuji, para. 10.



## 2.4. Conclusion

38. The above analysis shows that the PTC's Considerations, be it *per curiam* or *per incuriam*, are ultimately unhelpful for the task of the CIJs and do not provide any useful guidance in issuing the remaining closing orders.

## 3. GENERIC PROCEDURAL OBJECTIONS BY THE DEFENCE

39. The Defence raise a number of generic objections related to the process of the investigation. They are the following:
- a. The Third Introductory Submission ("3IS") is flawed because the preliminary investigation was initiated unilaterally by the ICP without prior consultation with the NCP,<sup>65</sup> and because it does not bear the signature of the NCP.<sup>66</sup> The Defence assert that these flaws in effect render the entire investigation null and void.<sup>67</sup>
  - b. The ICP's Final Submission is null and void because there was no disagreement signed or recorded regarding the NCP's Final Submission, and hence the ICP was precluded from filing his own final submission.<sup>68</sup> In particular, the Defence argue that separate final submissions are not permitted under the applicable law.<sup>69</sup>
  - c. The CIJs are unable to safeguard the fairness and integrity of the proceedings after an indictment and hence a stay of proceedings is required.<sup>70</sup> In addition to the funding problems addressed in the CIJs' decision on the impact of the budgetary situation of 11 August 2017,<sup>71</sup> the RGC's publicly and repeatedly declared lack of willingness to countenance any trials in Cases 003 and 004 would lead to a situation where an indictment could continue to hang over **Ao An**'s head without the prospect of a fair and speedy trial, unless an assurance of cooperation was obtained from the RGC before the Closing Order is issued.<sup>72</sup> The CIJs are said to be unable to protect the fair trial rights after an indictment.<sup>73</sup>

<sup>65</sup> Response, paras 25-27.

<sup>66</sup> Response, paras 28-29.

<sup>67</sup> Response, para. 31.

<sup>68</sup> Response, paras 33-34.

<sup>69</sup> Response, paras 35-36.

<sup>70</sup> Response., paras 41-45.

<sup>71</sup> See **Case File No. 004/2-D349/6**, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, and 004/2 and Related Submissions by the Defence for Yim Tith*, 11 August 2017.

<sup>72</sup> Response, para. 44.

<sup>73</sup> Response, para. 45.





- d. The ICP is seeking to extend the scope of the closing order by requesting an indictment for facts that **Ao An** was not charged with.<sup>74</sup> The Defence do not object to the ICP's request to drop the charges for crimes under the 1956 Penal Code on the basis that they are statute-barred.<sup>75</sup>
- e. The ECCC has no personal jurisdiction over **Ao An**.<sup>76</sup> The CIJs should not follow the SCC judgment in Case 001 on the interpretation of the terms "*senior leader*" and those "*most responsible*".<sup>77</sup> In particular, these terms should be interpreted as fully justiciable criteria.<sup>78</sup>

40. It is useful to deal with these generic objections in advance.

### 3.1. The 3IS is flawed and the entire investigation is null and void

- 41. This argument misses the reality of the manner in which Case 004 as a whole, and hence also Case 004/2, has developed since the filing of the 3IS, especially since the initial disagreement procedure between the ICP and NCP before the PTC,<sup>79</sup> which did not produce a supermajority for either view and thus allowed the 3IS to go forward.<sup>80</sup> The alleged lack of a properly filed IS remains nonetheless a matter which all judges would have to address *ex officio* and at any stage of the proceedings.
- 42. It is in this context notable that, on the one hand, both CIJs proceeded with issuing a Closing Order in Case 004/1 on the merits of the question of personal jurisdiction; they did not argue that a dismissal was necessary because there was a serious procedural flaw in the 3IS voiding the entire investigation. On the other hand, the PTC, including its national judges which the Defence seem to adduce as the voice of authentic interpretation,<sup>81</sup> has consistently engaged with the appeals and motions by the parties on the grounds of either overall lack of personal jurisdiction (raised by the national judges) or on the substance of the complaint in question. In particular, it is noteworthy that the PTC in Cases 004

<sup>74</sup> Response, paras 47-48.

<sup>75</sup> Response, para. 51.

<sup>76</sup> Response, paras 53-55.

<sup>77</sup> Response, paras 53, 77-79.

<sup>78</sup> Response, paras 56, 62-69.

<sup>79</sup> NCP Final Submission, paras 2-12.

<sup>80</sup> **Case File No. 004-D121/4/1/4**, *Considerations of the Pre-Trial Chamber on Ta An's Appeal against the Decision Denying his Requests to Access the Case File and Take Part in the Judicial Investigation*, 15 January 2014, Opinion of Judge Prak Kimsan, Ney Thol and Huot Vuthy, para. 12.

<sup>81</sup> Response, para. 54.



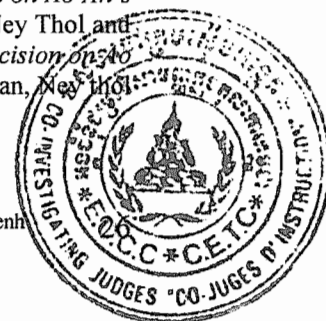
and 004/2 recently assembled the required majority of votes to decide on the admissibility and/or merits of two annulment motions and two appeals by the Yim Tith and Ao An Defence.<sup>82</sup> This was despite the fact that the national judges had regularly held in previous decisions across Cases 004, 004/1, 004/2, and 003 that there was no personal jurisdiction and that hence all investigative acts should be annulled,<sup>83</sup> or that for the same reason any further investigation was unnecessary.<sup>84</sup> The alleged flaw in the 3IS was never mentioned as a reason for annulment or lack of a need to investigate further. Thus it would appear that apart from the CIJs, the PTC does not accept the Defence's argument, either. In fact, not even the NCP, who after all described the disagreement procedure regarding the 3IS in detail in her final submission,<sup>85</sup> raised this argument but relied solely on the personal jurisdiction issue.

<sup>82</sup> **Case File No. 004-D360/1/1/6**, *Decision on Yim Tith's Application to Annul the Placement of Case 002 Oral Testimonies onto Case File 004*, 26 October 2017; **Case File No. 004-D351/1/4**, *Decision on Yim Tith's Application to Annul the Investigative Material Produced by Paolo Stocchi*, 25 August 2017; **Case File No. 004-D347/2/1/4**, *Decision on Yim Tith's Appeal of the Decision on Request to Place Materials on Case File 004*, 25 October 2017; **Case File No. 004/2-D350/1/1/4**, *Decision on Appeal against the Decision on Ao An's Application to Annul the Entire Investigation*, 5 September 2017.

<sup>83</sup> See for example, **Case File No. 004-D257/1/8**, *Considerations on Ao An's Application to Seize the Pre-Trial Chamber with a View to Annulment of Investigative Action Concerning Forced Marriage*, 17 May 2016, Opinions of Judges Prak Kimsan, Ney Thol and Huot Vuthy, para. 14; **Case File No. 004/1-D298/2/1/3**, *Considerations on Im Chaem's Application for Annulment of Transcripts and Written Records of Witnesses' Interviews*, 27 October 2016, Opinions of Judges Prak Kimsan, Ney Thol and Huot Vuthy concerning the Merits of the Application, para. 39; **Case File No. 004-D345/1/6**, *Considerations on Yim Tith's Application to Annul Investigative Action and Orders Relating to Kang Hort Dam*, 11 August 2017, Opinions of Judges Prak Kimsan, Ney Thol and Huot Vuthy, para. 16; **Case File No. 003-D165/2/26**, [Redacted] *Decision related to (1) Meas Muth's Appeal against Decision on Nine Applications to Seize the Pre-Trial Chamber with Requests for Annulment and (2) the Two Annulment Requests Referred by the International Co-Investigating Judge*, 13 September 2016, Opinions of Judge Prak Kimsan, Judge Ney Thol, and Judge Huot Vuthy regarding Meas Muth's Nine Applications for Annulment, para. 96.

<sup>84</sup> See for example, **Case File No. 004/2-D343/4**, *Decision on Appeal against the Decision on Ao An's Tenth Request for Investigative Action*, 26 April 2017, Opinions of Judges Prak Kimsan, Ney Thol and Huot Vuthy, paras 17-18; **Case File No. 004/2-D277/1/1/4**, *Decision on Appeal against Decision on Ao An's Seventh Request for Investigative Action*, 3 April 2017, Opinion of Judges Prak Kimsan, Ney Thol and Huot Vuthy, paras 18-19.

<sup>85</sup> NCP Final Submission, paras 2–12.



### 3.2. The ICP's final submission is flawed; separate submissions are not permitted

43. The argument regarding opposing final submissions has no merit, as the CIJs already decided.<sup>86</sup> The Defence arguments in the Response do not require a reconsideration of that view.

### 3.3. The CIJs are unable to safeguard the fairness and integrity of the proceedings after a closing order

44. As far as the budgetary situation is concerned, the CIJs have already stated their views in their decision of 11 August 2017 and remain actively seised of the matter.<sup>87</sup> The PDG reaffirmed their deep and ongoing commitment to the proper funding of the Court at their meeting with the CIJs on 20 June 2018. The CIJs have also clarified that once a closing order has been issued, they are in principle *functus officio*<sup>88</sup> and it is for the PTC, TC and SCC judges to safeguard the fair trial rights of an accused person.<sup>89</sup>
45. The CIJs' term of office lasts until the end of the investigations, according to Article 27 new of the ECCC Law. While Article 5(7) of the UN-RGC Agreement speaks of the end of the "*proceedings*", it is the view of the UN and the RGC that the form of words in Article 27 new of the ECCC Law better reflects the parties' intention, and that in the case of an appeal against a closing order the term of office ends with the last decision of the PTC on such an appeal.<sup>90</sup> The CIJs agree with that interpretation. Hence, while the CIJs can control any obstacles that arise in cases pending before them before an appeal against a closing order is filed, i.e. when they lose case-specific jurisdiction, they will cease to hold office entirely with the last decision of the PTC on a closing order appeal. The protection of the parties' rights and of the integrity of

<sup>86</sup> Case File No. 004/2-D353/1, *Decision on Ao An's Request for Clarification*, 5 September 2017.

<sup>87</sup> Case File No. 004/2-D349/6, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, and 004/2 and Related Submissions by the Defence for Yim Tith*, 11 August 2017.

<sup>88</sup> Case File No. 004/2-D349/6, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, and 004/2 and Related Submissions by the Defence for Yim Tith*, 11 August 2017, para. 18.

<sup>89</sup> Case File No. 004/2-D349/6, *Combined Decision on the Impact of the Budgetary Situation on Cases 003, 004, and 004/2 and Related Submissions by the Defence for Yim Tith*, 11 August 2017, para. 18.

<sup>90</sup> Letter from ASG Mathias of 28 November 2017 to the International CIJ. The letter is on file with the CIJs but will not be disclosed because the exact content goes beyond what has been stated above and is as such confidential to the employment situation of the International CIJ.



the proceedings is thus solely in the hands of the PTC and the other chambers, as the case may be. The CIJs can no longer interfere, and this is simply the consequence of the ECCC Law's procedural command. By the same token, there is no *prima facie* case of injustice merely because the CIJs are no longer involved.

46. The Defence's argument regarding political interference by the RGC in Cases 003, 004 and 004/2 based on statements by representatives of the government, and the alleged lack of certitude of having a trial at all, let alone a fair and speedy one, must be answered in the same manner.

### **3.4. The ICP is seeking an indictment for facts not charged**

47. The CIJs have made it clear that this is impermissible.<sup>91</sup> There is, however, no reason to drop the charges of domestic crimes as requested by the ICP and accepted by the Defence.<sup>92</sup> These have been retained.

### **3.5. The CIJs should not follow the SCC's interpretation of personal jurisdiction**

48. This matter was amply discussed in the Im Chaem *Closing Order (Reasons)*.<sup>93</sup> The interpretation of the terms "*senior leader*" and "*persons most responsible*" has been litigated previously in the ECCC<sup>94</sup> and there is no reason to depart from the CIJs' joint view in Case 004/1.

## **4. APPLICABLE LAW**

### **4.1. Personal jurisdiction at the ECCC**

49. Under Article 1 of the Agreement between the United Nations and the Royal Government of Cambodia Concerning the Prosecution Under Cambodian Law

<sup>91</sup> **Case File No. 004/1-D308/3**, *Closing Order (Reasons)*, 10 July 2017, para. 245.

<sup>92</sup> See Applicable Law section titled "National crimes – violations of the 1956 Penal Code" for further discussion on the parties' submissions to dismiss charges of domestic crimes.

<sup>93</sup> **Case File No. 004/1D308/3**, *Closing Order (Reasons)*, 10 July 2017, Section 2.1 Personal Jurisdiction at the ECCC.

<sup>94</sup> See **Case File No. 001-F28**, *Appeal Judgement*, 3 February 2012, paras 58-79.



of Crimes Committed During the Period of DK, signed on 6 June 2003 (“ECCC Agreement”):

“[t]he purpose of the Agreement is to regulate the cooperation between the United Nations and the Royal Government of Cambodia in bringing to trial senior leaders of Democratic Kampuchea and those who were most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognized by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.”

50. Article 1 of the Law on the Establishment of the Extraordinary Chambers, promulgated on 27 October 2004 (“ECCC Law”) on the basis of the ECCC Agreement,<sup>95</sup> states:

“The purpose of this law is to bring to trial senior leaders of Democratic Kampuchea and those who were the most responsible for the crimes and serious violations of Cambodian penal law, international humanitarian law and custom, and international conventions recognised by Cambodia, that were committed during the period from 17 April 1975 to 6 January 1979.”

51. Article 2 of the ECCC Law re-iterates that the ECCC shall be established to bring to trial “*senior leaders of Democratic Kampuchea and those who were most responsible for the crimes [...] that were committed during the period from 17 April 1975 to 6 January 1979.*”
52. The SCC has interpreted the terms “*senior leaders of Democratic Kampuchea and those who were most responsible*” as referring to two categories, namely, senior leaders of the Khmer Rouge who are among the most responsible, as well as non-senior leaders of the Khmer Rouge who are also among the most responsible. Both categories of persons must be Khmer Rouge officials *and* among the most responsible in order for the ECCC to properly exercise personal jurisdiction; the criteria are thus cumulative, not disjunctive.<sup>96</sup>
53. The SCC also pronounced itself on the jurisdictional nature of Article 1 of the ECCC Law. In this regard, the SCC found that the question of whether an accused is a Khmer Rouge official “*involves a question of historical fact that is intelligible, precise, and leaves little or no room for discretion of the Trial*

<sup>95</sup> Article 2 of the ECCC Agreement.

<sup>96</sup> **Case File No. 001-F28**, *Appeal Judgement of Case 001*, 3 February 2012, para. 57.



*Chamber,*” and is therefore a justiciable issue covered by the personal jurisdiction of the ECCC.<sup>97</sup>

54. Conversely, with respect to the terms ‘senior leaders’ and ‘most responsible’, the SCC found that these two categories were not jurisdictional criteria *stricto sensu*, but merely described the outlines of the prosecution and investigation policies to be employed by the OCP and, independently, by the OCIJ. It found them to be in principle unfettered by any strict rules of interpretation and in essence non-justiciable before the Trial Chamber or SCC, short of a showing of abuse of discretion through bad faith or unsound professional judgment.<sup>98</sup> The CIJs already expressed their own joint view of the interpretation and nature of this criterion in the *Closing Order (Reasons)* in Case 004/1;<sup>99</sup> the same applies in this case.

*Criminal law principles – the effect of “in dubio pro reo” and strict construction*

55. Among the factors to be considered for the exercise of discretion are the principles of *in dubio pro reo* and of strict construction of the criminal law. I refer to the *Closing Order (Reasons)* in Case 004/1 for the detailed argument in this respect.<sup>100</sup>

*Criteria for the exercise of discretion – decision-making in the DK structures*

56. I note that by adopting the definition laid out in its judgement in Case 001 the SCC also *implicitly* held that there is no merit in any historical-political contention that the negotiations around the establishment of the ECCC led to a joint and binding understanding that only a certain finite number of (named) individuals were to be under the court’s jurisdiction. The selection of persons to be investigated and indicted was and is purely a matter for the discretion of the OCP and OCIJ, and based entirely on the merits of each individual case. For the

<sup>97</sup> Case File No. 001-F28, *Appeal Judgement of Case 001*, 3 February 2012, para. 61.

<sup>98</sup> Case File No. 001-F28, *Appeal Judgement of Case 001*, 3 February 2012, paras 79–81.

<sup>99</sup> Case File No. 004/1-D308/3, *Closing Order (Reasons)*, 10 July 2017, paras 9-10.

<sup>100</sup> Case File No. 004/1-D308/3, *Closing Order (Reasons)*, 10 July 2017, paras 26-36.



details regarding the exercise of this discretion, I refer to the *Closing Order (Reasons)* in Case 004/1.<sup>101</sup>

#### 4.2. Crimes under the jurisdiction of the ECCC

57. National and international crimes under the jurisdiction of the ECCC are listed in Articles 3 to 8 of the ECCC Law. This section will only summarise the law relevant to the crimes alleged and charged against **Ao An**.

##### 4.2.1. National crimes – violations of the 1956 Penal Code

58. Article 3 new of the ECCC Law gives the CIJs jurisdiction over the crimes of homicide,<sup>102</sup> torture,<sup>103</sup> and religious persecution,<sup>104</sup> as violations of the 1956 Penal Code, which was the criminal code applicable from 1975 to 1979.<sup>105</sup>

59. In his Final Submission, the ICP states that he does not seek **Ao An**'s indictment for national crimes on the grounds that **Ao An**'s conduct is better characterised under the international crimes of genocide and crimes against humanity, and that dispensing with the national crimes will avoid unnecessary litigation and thus expedite the proceedings.<sup>106</sup> The Defence support the dismissal of charges for national crimes on the grounds that they believe the crimes to be statute-barred, citing an earlier opinion of the international judges of the Trial Chamber to that effect.<sup>107</sup> I am not persuaded of the necessity or utility in dispensing with national crimes on such grounds. Firstly, any time saving that might be achieved in doing so would be minimal given that the facts and evidence required to establish international crimes will significantly, if not completely, overlap with the facts and evidence required to establish national crimes. Secondly, I repeat my previously stated view that the issue of the statute of limitations has been clearly and unanimously resolved by the PTC and there

<sup>101</sup> Case File No. 004/1-D308/3, *Closing Order (Reasons)*, 10 July 2017, paras 37-41.

<sup>102</sup> Articles 501, 503, 504, 505, 506, 507, and 508 of the 1956 Penal Code.

<sup>103</sup> Article 500 of the 1956 Penal Code.

<sup>104</sup> Articles 209 and 210 of the 1956 Penal Code.

<sup>105</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 92.

<sup>106</sup> Case File No. 004/2-D351/5, *International Co-Prosecutor's Rule 66 Final Submission*, 21 August 2017, para. 638.

<sup>107</sup> Case File No. 004/2-D351/6, *Ao An's Response to the Co-Prosecutors' Rule 66 Final Submission*, 24 October 2017, para. 51, citing the opinion of Judges Cartwright and Lavergne in Case File No. 001-E187, *Decision on the Defence Preliminary Objection Concerning the Statute of Limitations of Domestic Crimes*, 26 July 2010, paras 27-35, 39-55.



is accordingly no doubt that the national crimes for which **Ao An** has been charged are not statute-barred.<sup>108</sup>

### *Homicide*

60. There are two forms of the domestic crime of homicide under the 1956 Penal Code: (1) homicide without the intent to kill;<sup>109</sup> and (2) premeditated murder.<sup>110</sup>

61. The domestic crime of homicide requires the following elements:

a. *Actus reus*: for both forms of homicide, the perpetrator must have caused the death of another person.<sup>111</sup>

b. *Mens rea*:

i. for homicide without the intent to kill, the perpetrator must have taken acts “*with the aim of harming persons*” but not with “*the intent to cause death*”;<sup>112</sup> and

ii. for premeditated murder, the perpetrator must have acted “*with premeditation*” and “*with the intent to cause death*”.<sup>113</sup> Premeditation is defined as “*the decision to act before the action is actually undertaken, whereby the amount of time after this decision must be long enough for the author to perform preparatory acts*”.<sup>114</sup>

62. The PTC has found that homicide without the intent to kill is subsumed by the international crime of murder,<sup>115</sup> while premeditated murder, which requires

<sup>108</sup> **Case File No. 004-D258/1**, *Decision on Ao An’s Internal Rule 76 Application for Annulment of Premeditated Homicide Charges and Related Investigations*, 13 November 2015, paras 11-12.

<sup>109</sup> Article 503 of the 1956 Penal Code; **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, paras 74-75.

<sup>110</sup> Article 506 of the 1956 Penal Code; **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, paras 74, 76.

<sup>111</sup> **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, para. 74.

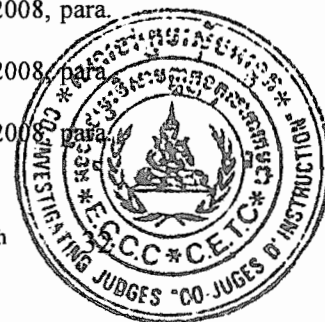
<sup>112</sup> **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, para. 75.

<sup>113</sup> **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, para.

<sup>114</sup> **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, para.

<sup>115</sup> **Case File No. 001-D99/3/42**, *Decision on Appeal against Closing Order*, 5 December 2008, para.

83.





premeditation and a higher *mens rea*, i.e. the intent to kill rather than the lesser intent to cause serious bodily harm, is not.<sup>116</sup>

#### 4.2.2. *International crimes*

63. The sources of applicable international law during the relevant period are international conventions, customary international law, and general principles of law recognised by the community of nations.<sup>117</sup> While the jurisprudence of the *ad hoc* tribunals established since the 1990s is not binding in proceedings before the ECCC,<sup>118</sup> the Chambers of the ECCC have relied heavily on their holdings in relation to elements of crimes and modes of liability, the SCC noting however that chambers are obliged to determine that such holdings were applicable during the temporal jurisdiction of the ECCC and were foreseeable and accessible to the charged persons at the time relevant to the charges.<sup>119</sup>

#### *Crimes against humanity*

64. Article 5 of the ECCC law gives the ECCC jurisdiction over the crimes against humanity, which it defines as “*any acts committed as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds*” such as murder, extermination, enslavement, imprisonment, torture, rape, persecutions on political, racial, and religious grounds, and other inhumane acts.
65. These crimes against humanity, with the exception of rape, were part of customary international law between 1975 and 1979.<sup>120</sup> With regard to rape, the

<sup>116</sup> Case File No. 001-D99/3/42, *Decision on Appeal against Closing Order*, 5 December 2008, para. 84.

<sup>117</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, paras 17-18; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 92.

<sup>118</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 97, citing Article 38 of the Statute of the International Court of Justice.

<sup>119</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 97.

<sup>120</sup> Murder: Case File No. 002-E313, *Judgement*, 7 August 2014, para. 411; Extermination: Case File No. 002-E313, *Judgement*, 7 August 2014, para. 415; Enslavement: Case File No. 001-E188, *Judgement*, 26 July 2010, para. 342; Imprisonment: Case File No. 001-E188, *Judgement*, 26 July 2010, para. 347; Torture: Case File No. 001-E188, *Judgement*, 26 July 2010, para. 353; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 195-205; Persecution on Political Grounds: Case File No. 002-E313, *Judgement*, 7 August 2014, para. 426; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 225; Other Inhumane Acts: Case File No. 002-E313, *Judgement*, 7 August 2014, para. 435.



SCC held that it was not a distinct crime against humanity between 1975 and 1979, the period covered by the ECCC jurisdiction.<sup>121</sup> However, the ECCC has jurisdiction over rape as an act of torture, when all the other elements of torture are satisfied,<sup>122</sup> and as an act amounting to other inhumane acts.<sup>123</sup>

*Chapeau elements of crimes against humanity*

66. ***Existence of an attack*** – An attack is a course of conduct involving a series of acts of violence, which is not strictly limited to the use of armed force, and may include mistreatment of the civilian population.<sup>124</sup> An attack on the civilian population is a different concept from that of an armed conflict.<sup>125</sup>
67. ***Widespread or systematic nature of the attack*** – The ‘widespread’ requirement refers to the large-scale nature of the attack and the number of victims, whereas the ‘systematic’ element refers to the organised nature of the acts of violence.<sup>126</sup> Proof of either the widespread or systematic character of the attack is sufficient to satisfy this *chapeau element* of crimes against humanity.<sup>127</sup>
68. ***Directed against any civilian population*** – The attack must be primarily directed against a civilian population.<sup>128</sup> It is not necessary to show that the entire population of a geographic entity was subject to the attack. It is sufficient that enough individuals were targeted in the course of the attack or that they were targeted in such a way as to indicate that the attack was in fact directed against a civilian ‘population’ rather than against a limited and randomly

<sup>121</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 180-183.

<sup>122</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 207-208, 213.

<sup>123</sup> Case File No. 002-D427/2/12, *Pre-Trial Chamber Decision on Ieng Thirith's and Nuon Chea's Appeals Against the Closing Order*, order 11(2); Case File No. 002-D427, *Closing Order*, 15 September 2010, para. 1433; see also *Prosecutor v. Akayesu*, *Judgement*, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 688.

<sup>124</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 178; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 298.

<sup>125</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 178; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 299.

<sup>126</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 179; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 300.

<sup>127</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 179; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 300.

<sup>128</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 182; *Prosecutor v. Kunarac et al.*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, paras 91-92.



selected number of individuals.<sup>129</sup> The population subject to the attack must be predominantly civilian in nature.<sup>130</sup> The presence, within the civilian population, of individuals who do not qualify as civilians does not necessarily deprive the population of its civilian character.<sup>131</sup> Further, as notified to the parties, I consider that an attack by a state or organisation against its own armed forces amounts to an attack against a civilian population, except insofar as the attacked armed forces were allied with or providing militarily relevant support to an opposing side to an armed conflict.<sup>132</sup>

69. ***On national, political, ethnical, racial or religious grounds*** – Article 5 of the ECCC Law requires that the attack as defined above be carried out on national, political, ethnical, racial, or religious, but not necessarily on discriminatory grounds.<sup>133</sup> This is a jurisdictional requirement that applies to the attack in general, and not to the underlying offences.<sup>134</sup> It is, therefore, not necessary to prove discriminatory intent for all the underlying crimes against humanity. Discriminatory intent is only a requirement in relation to the underlying crime of persecution.<sup>135</sup>
70. ***Nexus between the acts of the charged person and the attack*** – The acts of the perpetrator must, by their nature or consequences, be objectively part of the attack against the civilian population.<sup>136</sup>

<sup>129</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, paras 182; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 303.

<sup>130</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 738, 740; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 183; *Prosecutor v. Dragomir Milošević*, *Judgement*, ICTY Appeals Chamber (IT-98-29/1-A), 12 November 2009, paras 50-51.

<sup>131</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 740; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 183; *Prosecutor v. Galić*, *Judgement*, ICTY Appeals Chamber (IT-98-29-A), 30 November 2006, paras 136-138.

<sup>132</sup> Case File No. 004/2-D347.1, *Notification on the Interpretation of 'Attack against the Civilian Population' in the Context of Crimes against Humanity with Regard to a State's or Regime's Own Armed Forces*, 7 February 2017, para. 69.

<sup>133</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 742, 744-745; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 188.

<sup>134</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 744-745; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 188; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 238.

<sup>135</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 744; Case File No. 002-E313, *Judgement*, 7 August 2014, paras 188-189; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 238. See also *Prosecutor v. Akayesu*, *Judgement*, ICTR Appeals Chamber (ICTR 96-4-A), 1 June 2001, paras 465-466.

<sup>136</sup> Case File No. 002-F36, *Appeal Judgement*, paras 753-754; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 190; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 318; *Prosecutor v. Akayesu*, *Judgement*, ICTR Appeals Chamber (ICTR 96-4-A), 1 June 2001, paras 465-466.



71. **Requisite knowledge** – A perpetrator must have known of the attack on the civilian population and that his or her acts were part of it. He or she is not required to be aware of the details of the attack or share the purpose or goals of the broader attack.<sup>137</sup>
72. **No nexus with armed conflict** – In a public decision issued in Case 003, I found that the existence of a nexus between crimes against humanity and an armed conflict was no longer a constitutive element of crimes against humanity by 1975.<sup>138</sup> The PTC, Trial Chamber, and SCC all reached the same finding.<sup>139</sup>

*Elements of the crimes against humanity listed in Article 5 of the ECCC Law*

73. The elements of **murder** are:
- a. **Actus Reus**: an act or omission resulting in and contributing substantially to the death of the victim.<sup>140</sup>
  - b. **Mens Rea**: the intent of the perpetrator to either kill or cause serious bodily harm in the reasonable knowledge that such act or omission would likely lead to the death of the victim.<sup>141</sup>

*Dragoljub Kunarac et al.*, Judgement, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 99.

<sup>137</sup> Case File No. 002-E313, Judgement, 7 August 2014, para. 191; Case File No. 001-E188, Judgement, 26 July 2010, para. 319; *Prosecutor v. Kunarac et al.*, Judgement, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, paras 102-103.

<sup>138</sup> Case File No. 003-D87/2/1.7/1, *Decision on Meas Muth's Request for Clarification Concerning Crimes Against Humanity and the Nexus with Armed Conflict*, 5 April 2016.

<sup>139</sup> See Case File No. 002-E313, Judgement, 7 August 2014, para. 177 and Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 721. The PTC did find in 2011 that the nexus was an element of crimes against humanity between 1975 and 1979, see Case File No. 002-D427/3/15, *Decision on Appeal by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 144 and Case File No. 002-D427/1/30, *Decision on Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 311. However, following an appeal against my Case 003 decision of 5 April 2016 (Case File No. 003-D87/2/1.7/1, *Decision on Meas Muth's request for clarification concerning crimes against humanity and the nexus with armed conflict*, 5 April 2016), the PTC has reconsidered its previous stance and found that no nexus was required, thereby aligning itself with the other ECCC chambers, see Case File No. 003-D87/2/1.7/1/1/7, *Decision on Meas Muth's Appeal against the International Co-Investigating Judge's Decision on Meas Muth's Request for Clarification concerning Crimes against Humanity and the Nexus with Armed Conflict*, 10 April 2017.

<sup>140</sup> Case File No. 002-E313, Judgement, 7 August 2014, para. 412; Case File No. 001-E188, Judgement, 26 July 2010, para. 331.

<sup>141</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 391, 409, 410; Case File No. 002-E313, Judgement, 7 August 2014, para. 412; Case File No. 001-E188, Judgement, 26 July 2010, para. 333.



74. The elements of **extermination** are:

- a. *Actus Reus*: an act, omission, or a combination of both, resulting in the death of persons on a massive scale.<sup>142</sup> There is no minimum number of victims required to establish extermination.<sup>143</sup> The assessment of the 'massive scale' requirement must be made on a case-by-case basis, having regard to such factors as the time and place of the killings, the selection of the victims and the manner in which they were targeted, and whether the killings were aimed at the collective group rather than the victims in their individual capacity.<sup>144</sup>
- b. *Mens Rea*: the intent to kill persons on a massive scale, or to inflict serious bodily injury or create living conditions calculated to bring about the destruction of a numerically significant part of the population.<sup>145</sup> The SCC took the position that the aim of extermination is to eliminate individuals that are part of a group and that it is thus incompatible with the notion of *dolus eventualis*. It then clarified, however, that knowledge that the *actus reus* would cause certain death is not required, but rather, what is necessary is "a showing that the killing of members of a group is what was desired by the perpetrator, irrespective of whether he was certain that this would actually happen. Mere knowledge that deaths may occur would be insufficient."<sup>146</sup>

75. The elements of **enslavement** are :

- a. *Actus Reus*: the exercise of any or all powers attaching to ownership over a person.<sup>147</sup> Forced or involuntary labour may constitute enslavement.<sup>148</sup> Proof of ill-treatment is not necessary to find the existence of the crime of enslavement.<sup>149</sup>

<sup>142</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 520; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 334.

<sup>143</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 336.

<sup>144</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 525, 527; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 416; *Prosecutor v. Lukić and Lukić*, *Judgement*, ICTY Appeals Chamber (IT-98-32/1-A), 4 December 2012, para. 538.

<sup>145</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, paras 520-522, citing *Prosecutor v. Krstić*, *Judgement*, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 503; **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 338.

<sup>146</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 520.

<sup>147</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 342.

<sup>148</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 344; *Prosecutor v. Krnojelac*, *Judgement*, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 359; *Prosecutor v. Kunarac et al.*, *Judgement*, ICTY Trial Chamber (IT-96-23-T & IT-96-23/1-T), 22 February 2001, paras 542-543.

<sup>149</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 344; *Prosecutor v. Kunarac et al.*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 123, citing *United States v. ...*



- b. *Mens Rea*: the perpetrator must have intentionally exercised a power attaching to ownership over a person.<sup>150</sup>

76. The elements of **imprisonment** are:

- a. *Actus Reus*: the arbitrary deprivation of liberty without due process of law, or based on national legal provisions that violate international law.<sup>151</sup> Not every minor infringement of the right to liberty amounts to imprisonment, and such deprivation must be of similar gravity and seriousness as the other crimes against humanity set forth in Article 5 of the ECCC Law.<sup>152</sup>
- b. *Mens Rea*: the perpetrator intended to arbitrarily deprive the individual of his or her liberty, or acted with the reasonable knowledge that his or her actions were likely to cause the arbitrary deprivation of liberty.<sup>153</sup>

77. The elements of **torture** are:

- a. *Actus Reus*: any act causing severe pain or suffering, considering both the objective severity of harm inflicted and subjective characteristics of the victim, whether physical or mental, committed or instigated by a public official.<sup>154</sup>
- b. *Mens Rea*: the perpetrator must intend to inflict severe pain or suffering on the victim.<sup>155</sup>
- c. The act must have been for such purposes as obtaining information or a confession, punishment, or intimidation.<sup>156</sup>

78. The SCC has held that **rape** may amount to torture, when all the other elements of the crime of torture are also established.<sup>157</sup> The Trial Chamber in Case 001, endorsed by the SCC,<sup>158</sup> characterised rape as:

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*Oswald Pohl and Others*, Judgement, 3 November 1947, reprinted in *Trials of War Criminals before the Nuernberg Military Tribunals under Control Council No. 10*, Vol. 5, (1997), p. 958 at p. 970.

<sup>150</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 345; *Prosecutor v. Kunarac et al.*, Judgement, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 122.

<sup>151</sup> Case File No. 001-E188, Judgement, 26 July 2010, paras 347-348.

<sup>152</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 349, citing *Prosecutor v. Ntagerura et al.*, Judgement, ICTR Trial Chamber (ICTR-99-46-T), 25 February 2004, para. 702. *Contra Prosecutor v. Krnojelac*, Judgement, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 112.

<sup>153</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 350; *Prosecutor v. Krnojelac*, Judgement, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 115.

<sup>154</sup> Case File No. 002-E188, Judgement, 26 July 2010, para. 355; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 195-196.

<sup>155</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 195-196.

<sup>156</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 195-196.

<sup>157</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 207-208, 213.



- a. *Actus Reus*: the sexual penetration, however slight, of the vagina or anus of the victim by a penis or any other object; or the mouth of the victim by a penis, where such sexual penetration occurs without the consent of the victim. Consent, for this purpose, must be given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances.<sup>159</sup>
- b. *Mens Rea*: the perpetrator must have acted with the intent to effect this sexual penetration, in the knowledge of the lack of consent of the victim.<sup>160</sup>

79. The elements of the crime of **persecution** are:

- a. *Actus Reus*: an act or omission which discriminates in fact and denies or infringes upon a fundamental right laid down in international customary law or treaty.<sup>161</sup> The discriminatory element in the *actus reus* is established when the victim is targeted due to membership of a group that is subjectively defined and consequently persecuted by the perpetrator on political, racial, or religious grounds.<sup>162</sup> The victim must actually belong to a sufficiently discernible political, racial, or religious group, such that persecutory consequences must occur for the group.<sup>163</sup> In this regard, the SCC has held that there is no discrimination when there is a mistake of fact by the perpetrator as to whether a victim actually belongs to the defined targeted group, or when the perpetrator targets victims irrespective of whether they fall under the discriminatory criterion or, in other words, when the targeting is 'indiscriminate'.<sup>164</sup> Persecution on political grounds takes into account the perpetrator's perspective when defining the group that is the object of persecution and thus does not require that the members of the targeted group hold common, or even any, political views.<sup>165</sup>

<sup>158</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 208.

<sup>159</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 362; *Prosecutor v. Kunarac et al*, *Judgement*, ICTY Appeals Chamber (IT-96-23 & IT-96-23/1-A), 12 June 2002, para. 127.

<sup>160</sup> Case File No. 001-E188, *Judgement*, 26 July 2010, para. 365.

<sup>161</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 667-668; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 257, 261-262, 267, 271-278; Case File No. 002-E313, *Judgement*, 7 August 2014, paras 427-428.

<sup>162</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 667, 678-679, 687, 695; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 272-273, 274, 276-277; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 428.

<sup>163</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 668; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 274-277; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 428.

<sup>164</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 277, *see also* paras 272-276.

<sup>165</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, paras 668, 677-680; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 272-273.



- b. Persecution may be committed through one or more of the other underlying crimes against humanity listed in Article 5 of the ECCC Law, as well as through other acts which are characterised by the same level of gravity or seriousness, including acts which are not necessarily international crimes in and of themselves.<sup>166</sup>
- c. *Mens Rea*: the deliberate perpetration of an act or omission with the intent to discriminate on political, racial, or religious grounds.<sup>167</sup> Even when the underlying acts constitute crimes under international law, the *mens rea* required for these crimes need not be established: it suffices to prove that the underlying act was carried out with the required discriminatory intent.<sup>168</sup>

80. The elements of **other inhumane acts** are:

- a. *Actus Reus*: an act or omission of the perpetrator causing serious bodily or mental suffering or injury or constituting a serious attack on human dignity.<sup>169</sup> The acts or omissions of the perpetrator must be of a nature and gravity similar to the other crimes against humanity enumerated under Article 5 of the ECCC Law, assessed on a case-by-case basis, with due regard to the individual circumstances of the case.<sup>170</sup> The effect of the suffering is not required to be long-term, although this may be a relevant factor for the determination of the seriousness of the act.<sup>171</sup>
- b. *Mens Rea*: the perpetrator must have deliberately performed the act or omission with the intent to inflict serious bodily or mental harm or commit a serious attack upon the human dignity of the victim at the time of the act or omission, or knew that the act or omission was likely to cause serious physical or mental suffering or a serious attack upon human dignity.<sup>172</sup>

<sup>166</sup> Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, para. 261; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 296; *Prosecutor v. Blaškić*, Judgement, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 135.

<sup>167</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 427; Case File No. 001-F28, *Appeal Judgement*, 3 February 2012, paras 229, 236, 240.

<sup>168</sup> *Prosecutor v. Popović et al.*, Judgement, ICTY Appeals Chamber (IT-05-88-A), 30 January 2015, para. 738.

<sup>169</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 580.

<sup>170</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 567, 586; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 438.

<sup>171</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 439; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 369.

<sup>172</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 580; Case File No. 002-E313, *Judgement*, 7 August 2014, para. 437; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 371.





81. Other inhumane acts existed in customary international law as a residual category of crimes against humanity by 1975.<sup>173</sup> The conduct underlying ‘other inhumane acts’ need not have been criminalised under international law at the time of commission.<sup>174</sup> It merely suffices that the conduct in question, taking into account the circumstances of the case at hand, satisfies the legal elements of other inhumane acts.<sup>175</sup> Accordingly, it is not necessary to stipulate any elements of the conduct that is alleged to amount to other inhumane acts. While this was done in the *Closing Order (Reasons)* in Case 004/1<sup>176</sup> to provide details of the types of conduct that had been found to amount to other inhumane acts, the SCC deems this approach incorrect<sup>177</sup> and I have not adopted it in this Closing Order.
82. It may however be necessary to establish the parameters of the underlying conduct in order to determine whether it was foreseeable and accessible to the charged person that they could be investigated and prosecuted for such conduct.<sup>178</sup> The *nullum crimen sine lege* principle is respected if the underlying conduct violates a basic right of the victims and is of a similar nature and gravity to the other crimes against humanity, which requires a case-by-case analysis of the conduct in question.<sup>179</sup>
83. To comply with the requirements of legal certainty, the comparison of the nature and gravity of the conduct against those of the other enumerated crimes against humanity is undertaken in accordance with the doctrine of *ejusdem generis*.<sup>180</sup> As for the nature of conduct that may constitute an inhumane act, reference can be made to serious breaches of international law regulating armed conflict from 1975 to 1979, including the grave breaches provisions of the 1949

<sup>173</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 576.

<sup>174</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 584.

<sup>175</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 589.

<sup>176</sup> Case File No. 004/1-D308/3, *Closing Order (Reasons)*, 10 July 2017, paras 76-77.

<sup>177</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 589.

<sup>178</sup> D301/5, *Consolidated Decision on the Requests for Investigative Action Concerning the Crime of Forced Pregnancy and Forced Impregnation*, 13 June 2016, paras 51, 63.

<sup>179</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 586; see also D301/5, *Consolidated Decision on the Requests for Investigative Action Concerning the Crime of Forced Pregnancy and Forced Impregnation*, 13 June 2016, para. 64.

<sup>180</sup> *Ejusdem generis* is defined as “A canon of construction holding that when a general word or phrase follows a list of specifics, the general word or phrase will be interpreted to include only items of the same class as those listed.” (Black’s Law Dictionary, 9<sup>th</sup> Ed.).



Geneva Conventions, or serious violations of the fundamental human rights norms protected under international law at the time.<sup>181</sup>

84. Instances of enforced disappearance,<sup>182</sup> rape,<sup>183</sup> the physical abuse of prisoners,<sup>184</sup> inhumane conditions of detention,<sup>185</sup> and forced marriage<sup>186</sup> have previously been found to be of the same nature and gravity as other enumerated crimes against humanity.

*Genocide*

85. Article 4 of the ECCC Law, giving the ECCC jurisdiction over the crime of genocide, is based on Articles II and III of the Genocide Convention,<sup>187</sup> which were part of customary international law between 1975 and 1979.<sup>188</sup> In

<sup>181</sup> **Case File No. 002-D427/3/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 164.

<sup>182</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 444-448; *Prosecutor v. Kupreškić et al.*, Judgement, ICTY Trial Chamber (IT-95-16-T), 14 January 2000, para. 566; *Prosecutor v. Brima et al.*, Judgement, SCSL Appeals Chamber (SCSL-04-16-A), 22 February 2008, para. 184.

<sup>183</sup> **Case File No. 002-D427/3/15**, *Decision on Appeals by Nuon Chea and Ieng Thirith against the Closing Order*, 15 February 2011, para. 154; **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1433; *Prosecutor v Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 688.

<sup>184</sup> *Prosecutor v. Kvočka*, Judgement, ICTY Trial Chamber (IT-98-30/1-T), 2 November 2001, paras 208, 209.

<sup>185</sup> *Prosecutor v. Krnojelac*, Judgement, ICTY Trial Chamber (IT-97-25-T), 15 March 2002, para. 133.

<sup>186</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1314.

<sup>187</sup> Article 4 of the ECCC Law does not punish direct and public incitement to commit genocide or complicity in genocide, being paragraphs (c) and (e) of Article III of the Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”). The definition of genocide contained in the English version of Article 4 of the ECCC Law could be interpreted as creating a non-exhaustive list of constitutive acts of genocide (“such as”) and removing the reference to destroy (in whole or in part) a protected group “as such”, both being in contradiction of the Genocide Convention and established jurisprudence. The French version of Article 4, by contrast, reflects the provisions of the Genocide Convention: “On entend par crime de génocide, qui est imprescriptible l'un quelconque des actes ci-après, commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, comme tel”. The Khmer version also more closely matches the text of the Genocide Convention in that it limits the constitutive acts of genocide to those listed in Article 4: “អំពើប្រល័យពូជសាសន៍ ដែលគ្មានអាជ្ញាយុកាល គឺជាអំពើមួយក្នុងចំណោមអំពើដូចខាងក្រោមហើយដែលបានប្រព្រឹត្តក្នុងគោលបំណងបំផ្លិចបំផ្លាញទាំងស្រុង ឬមួយផ្នែកនៃក្រុមជាតិ ជាតិពន្ធុ ពូជសាសន៍ ឬសាសនាណាមួយ ដូចជា:”, translated as “The acts of genocide, which have no statute of limitations, mean any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group”. ECCC Agreement, Article 9 and ECCC Law, Article 4 also both provide that the ECCC’s jurisdiction with respect to genocide is restricted to the crime “as defined” in the Genocide Convention. Therefore the definition applied in this Closing Order adheres to the definition in the French and Khmer versions of Article 4, the Genocide Convention, and established jurisprudence, see **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1311.

<sup>188</sup> *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, ICJ Rep 15 (1951), p. 23; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 539; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 495; **Case File No. 002-D427/2/15**, *Decision on Appeals by*



accordance with the *nullem crimen sine lege* principle and established jurisprudence, the definition of genocide applied in this Closing Order is the commission of any of the underlying acts set out in Article 4 of the ECCC Law, committed with the specific intention to destroy, in whole or in part, a national, ethnical, racial or religious group, specifically targeted as such.<sup>189</sup>

### *Chapeau elements of genocide*

86. There is no requirement that the alleged conduct took place in the context of a manifest pattern of similar conduct.<sup>190</sup> Similarly, the existence of State (or other) policy or a plan to commit genocide is not an element of the crime of genocide<sup>191</sup> and there is no requirement that the alleged conduct formed part of a widespread or systematic attack on a civilian population.<sup>192</sup> Such factors may however support a finding of specific intent.<sup>193</sup>

### *The protected groups*

87. The ECCC has jurisdiction in respect of genocide directed against national, ethnical, racial and religious groups.<sup>194</sup> Only the four explicitly listed groups enjoy protection.<sup>195</sup>

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*Nuon Chea and Ieng Thirith Against the Closing Order*, 15 February 2011, para. 108. Cambodia acceded to the Genocide Convention on 14 October 1950 after acquiring sovereign autonomy pursuant to the Constitution of the Fourth French Republic. Cambodia's accession was accepted by the United Nations and no legal challenge with respect to the accession has been recorded. Following receipt of the requisite number of accessions and ratifications, the Genocide Convention entered into force on 12 January 1951, see **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1310.

<sup>189</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1312; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 49; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 498-499; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para 542.

<sup>190</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, paras 223-224.

<sup>191</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Appeals Chamber (IT-05-88-A), 30 January 2015, paras 430, 436, 440; *Prosecutor v. Rutaganda*, Judgement, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, para. 525.

<sup>192</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 223; *Prosecutor v. Jelisić*, Judgement, ICTY Appeals Chamber (IT-95-10-A), 5 July 2001, para. 48.

<sup>193</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 223; *Prosecutor v. Jelisić*, Judgement, ICTY Appeals Chamber (IT-95-10-A), 5 July 2001, para. 48; *Prosecutor v. Rutaganda*, Judgement, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, para. 525.

<sup>194</sup> ECCC Law, Article 4; Genocide Convention, Articles II, III.

<sup>195</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 542; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 409; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 471.



88. There are no generally accepted definitions of the four protected groups.<sup>196</sup> The jurisprudence of the *ad hoc* tribunals evinces the development of a hybrid, case-by-case test to determine whether a victim (or targeted group) falls within one of the protected groups.<sup>197</sup> Firstly, there should be reference to the objective particulars of the relevant political, social, historical and cultural context.<sup>198</sup> However, as a targeted group may not have precisely defined boundaries and may have been characterised by the perpetrator(s) in a different manner to the conceptions of the group shared generally, or by parts of society,<sup>199</sup> the subjective perceptions of the victim and the perpetrator(s) with respect to the victim's membership of the targeted group should also be considered.<sup>200</sup>

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*Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 98; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, paras 60-61; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 311. *Although see Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 516 where an ICTR trial chamber stated that the Genocide Convention was intended to protect "*any stable and permanent group*" (emphasis added) in response to the question of whether genocide is limited to acts against the four groups expressly mentioned. More expansive findings in this regard have otherwise been limited to stating that the Genocide Convention's field of application is restricted to stable and permanent groups, thereby excluding certain "*mobile groups*" but stopping short of concluding that *any* stable and permanent group is therefore protected. *See Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 69; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 57; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 162.

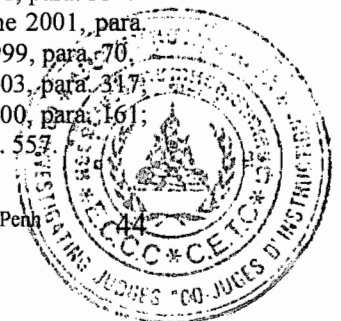
<sup>196</sup> *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 56; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 65; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 161; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, paras 555-556; *see also Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para 70, although ICTR trial chambers have, on occasion, attempted to define the four protected groups, *see Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 512-515; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 98.

<sup>197</sup> *Although see Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para 70 in which an apparently entirely subjective test was adopted.

<sup>198</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 317; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, paras 56-58; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 557.

<sup>199</sup> *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 65; *Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 70.

<sup>200</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 317; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 161; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 557.



89. The targeted group must have a particular positive identity and therefore cannot be defined negatively.<sup>201</sup> If more than one group is targeted for destruction, the elements of genocide must be satisfied in relation to each group.<sup>202</sup>

*Elements of the underlying acts of genocide listed in Article 4 of the ECCC Law*

90. Article 4 of the ECCC Law sets out the underlying acts of genocide in respect of which the *actus reus* and *mens rea* must be established (in addition to specific intent for genocide,<sup>203</sup> as set out below). The following underlying acts are relevant in Case 004/2: (1) killing members of the group; (2) causing serious bodily or mental harm to members of the group; and (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.
91. The elements of **killing members of the group** are equivalent to those of murder as a crime against humanity.<sup>204</sup> The death of a victim can be established

<sup>201</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 541.

<sup>202</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 541.

<sup>203</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 20.

<sup>204</sup> See *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 810, 787-788 where the ICTY Trial Chamber, in finding that the elements of killing members of a group were equivalent to those of murder, held that the elements of murder as a violation of the laws or customs of war (under Article 3 of the ICTY Statute) and as a crime against humanity (under Article 5 of the ICTY Statute) are the same. See also *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542. "Killing" has been interpreted as intentional killing (see *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 103), homicide committed with the intent to cause death (see *Prosecutor v. Seromba*, Judgement, ICTR Trial Chamber (ICTR-2001-66-I), 13 December 2006, para. 317; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 155), and murder (see *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 810, 787-788; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542). In *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, at note 2918, the Trial Chamber refers approvingly to *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319, *Prosecutor v. Seromba*, Judgement, ICTR Trial Chamber (ICTR-2001-66-I), 13 December 2006, para. 317, and *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 155, indicating equivalence in elements despite differing nomenclature. With respect to *mens rea* the English version of the Genocide Convention prohibits "killing", which is neutral with respect to the intentionality of the act, whereas the French version prohibits "meurtre", which amounts to intentional homicide. The ICTR chambers adopted the interpretation most favourable to the accused, being "meurtre", thereby requiring an intention to kill or cause death, but no premeditation (see *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras 500-501; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 319; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Appeals Chamber (ICTR-95-1-A), 1 June 2001, para. 151). The ICTY chambers have assumed an equivalent position by equating "killing" with "murder".



by circumstantial evidence provided the only reasonable inference that can be drawn from such evidence is that the victim is dead<sup>205</sup> and, as such, proof (albeit by inference) of a result is required.<sup>206</sup> A numeric assessment of the numbers killed is not required to establish the *actus reus*.<sup>207</sup>

92. The elements of **causing serious bodily or mental harm to members of the protected group** are:

a. *Actus reus*:

- i. An act or omission causing serious bodily or mental harm to one or more members of a protected group, assessed on a case-by-case basis with regard to the particular circumstances.<sup>208</sup> Proof of a result is required.<sup>209</sup> The serious harm need not be permanent or irremediable but must go beyond minor or temporary mental or physical faculty impairment and result in a grave and long-term disadvantage to a person's ability to lead a normal and constructive life.<sup>210</sup>
- ii. There is no requirement that the harm inflicted be of a sufficiently serious nature to threaten the destruction in whole

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and in doing so approved the ICTR's approach (see *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 810; *Prosecutor v. Jelisić*, Judgement, ICTY Trial Chamber (IT-95-10-T), 14 December 1999, para. 63; *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Trial Chamber (IT-02-60-T), 17 January 2005, para. 642). In any case, it has been observed that, in the context of genocidal intent, there is "virtually no difference" between killing and *meurtre* (see *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Appeals Chamber (ICTR-95-1-A), 1 June 2001, para. 151).

<sup>205</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, paras 789, 810; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, paras 446, 542; *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 260.

<sup>206</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542.

<sup>207</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 542; *Prosecutor v. Karadžić*, Rule 98 bis Judgement, ICTY Appeals Chamber (IT-95-5/18-AR98bis.1), 11 July 2013, para. 23.

<sup>208</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 811; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, paras 543, 545; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, paras 108, 110; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 323.

<sup>209</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 811; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 543.

<sup>210</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 811; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 543; see also *Prosecutor v. Seromba*, Judgement, ICTR Appeals Chamber (ICTR-2001-66-A), 15 March 2008, para. 46; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, paras 320-322.



or in part of the protected group, however the degree of threat to a group's destruction may be considered a measure of the seriousness of harm inflicted.<sup>211</sup>

- iii. Inhuman or degrading treatment, mental or physical torture, rape, sexual abuse, deportation, interrogations combined with beatings and/or death threats, non-fatal physical violence that damages health or causes disfigurement or serious injury to members of the protected group and persecution are among the acts that may cause serious bodily or mental harm.<sup>212</sup> Trauma and wounds suffered by survivors of mass executions constitute serious mental (as well as physical) harm.<sup>213</sup> Forcible transfer

<sup>211</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 544. It was stated in *Prosecutor v. Seromba*, Judgement, ICTR Appeals Chamber (ICTR-2001-66-A), 12 March 2008, para. 46 and in *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 811 that such a requirement existed, however in neither case did the chambers actually examine whether the evidence demonstrated that the harm was sufficiently serious to threaten the destruction in whole or in part of the protected group and the majority of trial judgements rendered before and since the initial statement in the *Seromba* Appeal Judgement have consistently omitted the requirement (see e.g., *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Trial Chamber (IT-02-60-T), 17 January 2005, para. 645; *Prosecutor v. Brđanin*, Judgement, ICTY Trial Chamber (IT-99-36-T), 1 September 2004, para. 690; *Prosecutor v. Stakić*, Judgement, ICTY Trial Chamber (IT-97-24-T), 31 July 2003, para. 516; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 513; *Prosecutor v. Ntawukulilyayo*, Judgement, ICTR Trial Chamber (ICTR-05-82-T), 3 August 2010, para. 452; *Prosecutor v. Kalimanzira*, Judgement, ICTR Trial Chamber (ICTR-05-88-T), 22 June 2009, para. 159; *Prosecutor v. Renzaho*, Judgement, ICTR Trial Chamber (ICTR-97-31-T), 14 July 2009, para. 762; *Prosecutor v. Bagosora et al*, Judgement, ICTR Trial Chamber (ICTR-98-41-T), 18 December 2008, para. 2117; *Prosecutor v. Gacumbtsi*, Judgement, ICTR Trial Chamber (ICTR-2001-64-T), 17 June 2004, para. 291; *Prosecutor v. Ntagerura et al*, Judgement, ICTR Trial Chamber (ICTR-99-46-T), 25 February 2004, para. 664; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, paras. 320–323; *Prosecutor v. Ntakirutimana*, Judgement, ICTR Trial Chamber (ICTR-96-10 & ICTR-96-17-T), 21 February 2003, para. 784; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 59; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 156; *Prosecutor v. Rutaganda*, Judgement, ICTR Trial Chamber (ICTR-96-3-T), 6 December 1999, para. 51; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, paras. 502–504). See also *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, ICJ, 26 February 2007, para. 319, in which the ICJ did not apply any additional requirement to its factual findings. The ICTY appeals chamber has similarly recalled the wording of the relevant provisions of the ICTY Statute without including such a requirement (see *Prosecutor v. Karadžić*, Rule 98 bis Judgement, ICTY Appeals Chamber (IT-95-5/18-AR98bis.1), 11 July 2013, para. 33).

<sup>212</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 513; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 812; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 545; *Prosecutor v. Seromba*, Judgement, ICTR Appeals Chamber (ICTR-2001-66-A), 12 March 2008, para. 46; *Prosecutor v. Musema*, Judgement, ICTR Trial Chamber (ICTR-96-13-A), 27 January 2000, para. 156.

<sup>213</sup> *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Trial Chamber (IT-02-60-T), 17 January 2005, paras 647, 649, at para. 647, “the fear of being captured, and, at the moment of the separation, the sense of utter helplessness and extreme fear for their family and friends’ safety as well as for their own safety, is a traumatic experience from which one will not quickly – if ever – recover. Furthermore [...] the men suffered mental harm having their identification documents taken away from them; seeing that they would not be exchanged as previously told, and when they understood what their ultimate fate was”.



does not itself constitute a genocidal act, however it can be an underlying act causing serious bodily or mental harm to survivors, especially if the circumstances of the operation lead to the death of the whole or part of the displaced population.<sup>214</sup>

- iv. The precise relationship between the different acts of genocide under Article 4 ECCC Law which mirror Article II(a) and (b) of the Genocide Convention has not yet been clarified with sufficient precision in the case law, as far as can be seen,<sup>215</sup> possibly because it was considered obvious. In a strictly factual sense, modelled on a basic homicide scenario, virtually every act of killing involves the causing of serious bodily harm, albeit in some cases for a mere split second, as a necessary intermediate stage to causing death. If death ensues and the intentional causation by the defendant can be established, no domestic court would enter an additional conviction based on the same facts for causing serious harm.<sup>216</sup> In domestic systems, these cases are routinely covered by the criminal law principles of concurrence of offences (*concursum delictorum*).<sup>217</sup> In the present case one might be tempted to consider the concept of a lesser-included-offence relationship between (a) and (b). This conclusion is, however, doubtful: the *ad hoc* tribunals, as explained above, have so far interpreted the serious bodily harm element in alternative (b) as “*a grave and long-term disadvantage to a person’s ability to lead a normal and constructive life*” and previous judgments have pronounced on the matter only in the context of harm *suffered by survivors*.<sup>218</sup> This does thus not sit well with cases where the *intended and achieved* outcome is the expeditious killing of the members of the protected group, notwithstanding that there may, for example, have been a period of detention that included physical and mental abuse before the act of killing occurred.

<sup>214</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 813; *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Trial Chamber (IT-02-60-T), 17 January 2005, paras 650, 654; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 545.

<sup>215</sup> There has been some case law on the relationship between genocide and complicity to commit genocide, with the prevailing view appearing to be that the latter should not be used as a cumulative conviction; see Stuckenberg, *Cumulative Charges and Cumulative Convictions*, in Stahn (ed.), *The Law and Practice of the International Criminal Court*, OUP, 2015, 850 f.

<sup>216</sup> Indeed, such an approach would lead to a regression *ad minimum*: Ultimately, the regressive chain of additional convictions would end with simple assault and battery.

<sup>217</sup> Stuckenberg, *Cumulative Charges and Cumulative Convictions*, in Stahn (ed.), *The Law and Practice of the International Criminal Court*, OUP, 2015, 840 ff with references. – Judicial practice on the issue is still far from being settled in a doctrinal sense.

<sup>218</sup> See Tams/Berster/Schiffbauer, *Convention on the Prevention and Punishment of the Crime of Genocide – A Commentary*, CH Beck/Hart/Nomos, 2014, Article II, mn 69.





Alternative (b), in other words, in its implied *actus reus* requires that the individual victims *survive*, and as a matter of proper doctrinal methodology it cannot be cumulatively applied when the victims are killed. It is not a lesser included offence to alternative (a). Nor is it necessary to stretch the interpretation of alternative (b) to scenarios of intentional killing in order to avoid undesirable and unintended impunity gaps: if any of the victims scheduled for killing survive, the *mens rea* for killing (see para. 91 above) is in any event sufficient to cover a charge under alternative (b).<sup>219</sup>

v. Attempted genocide was not charged in this case, so there is no need to discuss the relationship of that mode of genocide to scenarios of the kind described above.

b. *Mens rea*: the act or omission must be intentional and intended to cause serious physical or mental harm.<sup>220</sup>

93. The elements of **deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part** are:

a. *Actus reus*: methods of destruction that do not immediately kill members of a protected group, but which ultimately seek their physical destruction. As such, no proof of a result is required.<sup>221</sup> Examples include rape,<sup>222</sup> the denial of medical services, the imposition of a subsistence diet, the creation of circumstances leading to a slow death, such as a lack of proper food, water, housing, clothing, sanitation or hygiene, subjecting persons to excessive work or physical exertion, and the systematic expulsion of persons from their homes.<sup>223</sup> Conditions

<sup>219</sup> See on the underlying context of the question as to which extent the Genocide Convention's drafters were able or intended to address the doctrinal ramifications of the interplay between the different forms of genocide Kreß, *The ICC's First Encounter with the Crime of Genocide*, in Stahn (ibid., fn. 224), 700.

<sup>220</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 811; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 543; *Prosecutor v. Semanza*, Judgement, ICTY Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 323.

<sup>221</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 814; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 546; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 505; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 116.

<sup>222</sup> *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 116.

<sup>223</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 815; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 547; *Prosecutor v. Akayesu*, Judgement, ICTR Trial Chamber (ICTR-96-4-T), 2 September 1998, para. 506; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, paras 115-116.



must be calculated to physically destroy the group, in whole or in part, as opposed to being designed to result in the dissolution of the group.<sup>224</sup> Absent direct evidence that the conditions were calculated to physically destroy the group, focus turns to the “*objective probability*” of such conditions leading to the group’s physical destruction, with relevant factors including the nature of the conditions, the length of time persons were subjected to them and characteristics of the members of the targeted group, for example their vulnerability.<sup>225</sup> Conditions that are inadequate by any number of standards but are still adequate for the survival of the group and therefore do not contribute to the destruction of the group will not satisfy the *actus reus* requirement.<sup>226</sup>

- b. *Mens rea*: the “*deliberate*” infliction of such conditions which must be calculated to bring about the group’s physical destruction, in whole or in part.<sup>227</sup>

### *Genocidal intent*

94. In addition to possessing the *mens rea* required in relation to the relevant underlying act, as set out above, a perpetrator must possess the specific intent to destroy, in whole or in part, the relevant protected group, as such.<sup>228</sup>
95. ‘*to destroy*’ – Genocide only encompasses acts intended to amount to biological or physical destruction of a protected group, in whole or in part.<sup>229</sup> Accordingly, acts that attack only the cultural or sociological characteristics of a protected group in order to deny that group its own identity (for example the destruction of religious buildings or houses belonging to members of the group) do not fall

<sup>224</sup> *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 547.

<sup>225</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 816; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 548; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 548.

<sup>226</sup> *Prosecutor v. Krajišnik*, Judgement, ICTY Trial Chamber (IT-00-39-T), 27 September 2006, para. 863; *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, para. 548.

<sup>227</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 817; *Prosecutor v. Brđanin*, Judgement, ICTY Trial Chamber (IT-99-36-T), 1 September 2004, para. 692.

<sup>228</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 808; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 549; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 20.

<sup>229</sup> *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 822; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 822; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 822; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 550.



within the definition of genocide. Such acts may however be evidence from which the intention to physically or biologically destroy can be inferred.<sup>230</sup>

96. **'in whole or in part'** – This phrase refers to the intention to destroy the entirety *or part* of a protected group: the destruction of part of a group need not be accompanied by the intention to destroy the whole group.<sup>231</sup> In the absence of guidance in the Genocide Convention or their statutes the *ad hoc* tribunals have formulated the intention to destroy a group in part as the intended destruction of at least a “*substantial*” part of the group, significant enough to have an impact on the group as a whole, bearing in mind the context in which the alleged conduct occurs.<sup>232</sup>
97. The targeted group can include military personnel, provided the military personnel were targeted because of their membership in a protected group.<sup>233</sup>
98. **'as such'** – The underlying acts must be committed with the intention of destroying the targeted group as a separate and distinct entity to the individual victims: the ultimate victim of the crime is the group.<sup>234</sup> Correlatively, individual victims must be targeted *because* they are a member of the group (but

<sup>230</sup> *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 25; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 822; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 553.

<sup>231</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, paras 583-584.

<sup>232</sup> *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 64; *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 590; *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, ICJ, 26 February 2007, para. 198; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, paras 8-9; *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 831; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para 555; *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 316. Although in *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999, at para. 97, the language used is “*considerable number of individuals*”, in *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001 (at para. 64), citing *Prosecutor v. Kayishema and Ruzindana*, Judgement, ICTR Trial Chamber (ICTR-95-1-T), 21 May 1999 (and in turn cited in the *Prosecutor v. Semanza*, Judgement, ICTR Trial Chamber (ICTR-97-20-T), 15 May 2003, para. 316), the Trial Chamber uses “*substantial part*” and therefore it is clear that the *Kayishema* Trial Chamber did not intend to adopt a different standard, see *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, note 15, para. 9.

<sup>233</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 833; *Prosecutor v. Krstić*, Judgement, ICTY Appeals Chamber (IT-98-33-A), 19 April 2004, para. 226.

<sup>234</sup> *Prosecutor v. Popović et al*, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 821; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 551; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 61.



not necessarily *solely* because of such membership) and therefore knowledge of such membership alone is insufficient.<sup>235</sup>

### 4.3. Modes of liability

#### 4.3.1. Modes of liability applicable to international crimes

99. Pursuant to Article 29 of the ECCC Law, an individual may be held criminally responsible through the modes of liability of commission (including by participation in a joint criminal enterprise), planning, instigating, ordering, aiding and abetting, and superior responsibility. These forms of liability were all part of customary international law during the time period covered by the ECCC's temporal jurisdiction.<sup>236</sup>
100. **Commission** – This form of criminal liability encompasses physical perpetration or culpable omission of an act.<sup>237</sup> The perpetrator must have acted with the intent to commit the crime, or with an awareness of the substantial likelihood that the crime would occur as a consequence of the alleged conduct.<sup>238</sup> Commission also encompasses participation in a Joint Criminal Enterprise,<sup>239</sup> which is discussed further below.
101. **Planning** – This form of criminal liability arises when one or more persons design criminal conduct constituting one or more crimes that were later perpetrated.<sup>240</sup> The planning must have preceded and substantially contributed to the commission of the crimes.<sup>241</sup> The perpetrator must have had the intent for

<sup>235</sup> *Prosecutor v. Krstić*, Judgement, ICTY Trial Chamber (IT-98-33-T), 2 August 2001, para. 561; *Prosecutor v. Karadžić*, Judgement, ICTY Trial Chamber (IT-95-5/18-T), 24 March 2016, para. 551; *Prosecutor v. Bagilishema*, Judgement, ICTR Trial Chamber (ICTR-95-1A-T), 7 June 2001, para. 61; *Prosecutor v. Niyitegeka*, Judgement, ICTR Appeals Chamber (ICTR-96-14-A), 9 July 2004, para. 53.

<sup>236</sup> **Commission**: Case File No. 001-E188, Judgement, 26 July 2010, paras 478-479; **Planning**: Case File No. 002-E313, Judgement, 7 August 2014, para. 697; **Instigating**: Case File No. 002-E313, Judgement, 7 August 2014, para. 699; **Ordering**: Case File No. 002-E313, Judgement, 7 August 2014, para. 701; **Aiding and Abetting**: Case File No. 002-E313, Judgement, 7 August 2014, para. 703; **Superior Responsibility**: Case File No. 002-E313, Judgement, 7 August 2014, para. 714.

<sup>237</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 479.

<sup>238</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 481.

<sup>239</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 479.

<sup>240</sup> Case File No. 002-E313, Judgement, 7 August 2014, para. 698; Case File No. 001-E188, Judgement, 26 July 2010, para. 518; *Prosecutor v. Kordić and Čerkez*, Judgement, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, para. 26.

<sup>241</sup> Case File No. 001-E188, Judgement, 26 July 2010, para. 518.



the crime to be committed, or have been aware of the substantial likelihood that the crime would be committed in the execution or implementation of the plan.<sup>242</sup>

102. **Instigating** – This form of criminal liability arises when an individual, through an act or an omission, prompts another person to commit a crime.<sup>243</sup> Instigation may be established through implicit, written or other non-verbal prompting, and it is not necessary to establish authority between the alleged instigator and perpetrator.<sup>244</sup> The instigation must precede and substantially contribute to the commission of the crime.<sup>245</sup> The instigator must intend to provoke or induce the commission of the crime, or be aware of the substantial likelihood that a crime would be committed in the execution of the instigation.<sup>246</sup>
103. **Ordering** – This form of criminal liability arises when an individual, in a position of *de facto* or *de jure* authority, instructs another person to commit a crime.<sup>247</sup> No formal superior-subordinate relationship is required between the person giving the instruction and the person receiving it.<sup>248</sup> The order in question, which is not required to take any particular form, must have substantially contributed to the criminal conduct.<sup>249</sup> Responsibility for ordering may ensue also where an individual passes down or otherwise transmits an order, including through intermediaries.<sup>250</sup> The ordering person must have had the intent to bring about the commission of the crime, or have been aware of the

<sup>242</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 698; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 519.

<sup>243</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 700; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 522.

<sup>244</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 700; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 522.

<sup>245</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 700; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 522; *Prosecutor v. Kordić and Čerkez*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, para. 27.

<sup>246</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 700; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 524.

<sup>247</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>248</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>249</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.

<sup>250</sup> Case File No. 002-E313, *Judgement*, 7 August 2014, para. 702; Case File No. 001-E188, *Judgement*, 26 July 2010, para. 527.



substantial likelihood that the crime would be committed as a consequence of the execution or implementation of the order.<sup>251</sup>

104. ***Superior responsibility*** – Superior (or command) responsibility is a mode of criminal responsibility by culpable omission pursuant to which a military or civilian superior may be held criminally responsible for having failed to prevent and/or punish crimes committed by subordinates.
105. The first requirement is the existence of a superior-subordinate relationship,<sup>252</sup> which can be either *de jure* or *de facto*.<sup>253</sup> Further, superior responsibility applies to both military and civilian superiors.<sup>254</sup> The superior, whether military or civilian, must have had effective control, which is the material ability to prevent and/or punish the crimes of the subordinate-perpetrator.<sup>255</sup> Finally, the superior must have failed to take the necessary and reasonable measures to prevent the commission of such crime or punish the perpetrator.<sup>256</sup> According to the jurisprudence of the *ad hoc* tribunals, it is not necessary to prove a causal link between a superior's failure to prevent the subordinate's crimes and the occurrence of these crimes.<sup>257</sup>
106. In addition, to incur criminal responsibility the superior must have known or had reason to know, by being in possession of information sufficiently alarming to justify further enquiry, that a crime was about to be, or had been, committed by one or more of his or her subordinates.<sup>258</sup> The superior need not know the

<sup>251</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 702; Case File No. 001-E188, Judgement, 26 July 2010, para. 528.**

<sup>252</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 715; Case File No. 001-E188, Judgement, 26 July 2010, para. 538.**

<sup>253</sup> **Case File No. 001-E188, Judgement, 26 July 2010, para. 540; see also Prosecutor v. Delalić et al (“Čelebići Case”), Judgement, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, paras 191-192; and Prosecutor v. Popović et al, Judgement, ICTY Trial Chamber (IT-05-88-T), 10 June 2010, para. 1038.**

<sup>254</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 714; Case File No. 001-E188, Judgement, 26 July 2010, paras 476-477.**

<sup>255</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 715; Case File No. 001-E188, Judgement, 26 July 2010, paras 540-542.**

<sup>256</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 716; Case File No. 001-E188, Judgement, 26 July 2010, paras 545-547.**

<sup>257</sup> **Prosecutor v. Hadžihasanović and Kubura, Judgement, ICTY Appeals Chamber (IT-01-47-A), 22 April 2008, para. 40.**

<sup>258</sup> **Case File No. 002-E313, Judgement, 7 August 2014, para. 715; Case File No. 001-E188, Judgement, 26 July 2010, paras 543-544.**



- precise identity of the subordinate-perpetrator, however their existence must be proved.<sup>259</sup>
107. The failure to prevent and failure to punish are legally and factually distinct modes of liability representing two distinct legal obligations. A superior may be held responsible for both failures.<sup>260</sup>
108. Superiors may incur responsibility for crimes committed by subordinates who were not formally under their *direct* control, provided the other requirements of superior responsibility are met.<sup>261</sup>
109. The *mens rea* required for superiors to be held responsible for genocide is that the superior knew or had reason to know that their subordinates (1) were about to commit or had committed genocide, and (2) possessed the requisite specific intent.<sup>262</sup>
110. ***Joint criminal enterprise*** - Participation in a joint criminal enterprise (“JCE”) amounts to commission under Article 29 of the ECCC Law.<sup>263</sup> JCE is a form of co-perpetration where a plurality of persons shares a common purpose or objective which amounts to or involves the commission of one or more crimes.<sup>264</sup>
111. International criminal courts and tribunals have identified three forms of JCE.<sup>265</sup> The first and second forms of JCE existed in customary international law

<sup>259</sup> *Prosecutor v. Blagojević and Jokić*, Judgement, ICTY Appeals Chamber (IT-02-60-A), 9 May 2007, para. 287; *Prosecutor v. Orić*, Judgement, ICTY Appeals Chamber (IT-03-68-A), 3 July 2008, para. 35.

<sup>260</sup> **Case File No. 001-E188**, Judgement, 26 July 2010, paras. 545-547; *see also*, *Prosecutor v. Hadžihasanović and Kubura*, Judgement, ICTY Appeals Chamber (IT-01-47-A), 22 April 2008, paras. 259-260.

<sup>261</sup> **Case File No. 002-E313**, Judgement, 7 August 2014, para. 721; **Case File No. 001-E188**, Judgement, 26 July 2010, para. 542, citing *Prosecutor v. Blaškić*, Judgement, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 67 and *Prosecutor v. Delalić et al* (“*Čelebići Case*”), Judgement, ICTY Appeals Chamber (IT-96-21-A), 20 February 2001, para. 252.

<sup>262</sup> *Prosecutor v. Blagojević & Jokić*, Judgement, ICTY Trial Chamber (IT-02-60), 17 January 2005, paras 682, 686; *Prosecutor v. Brđanin*, Judgement, ICTY Trial Chamber (IT-99-36-T), 1 September 2004, paras 715-721.

<sup>263</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 22; **Case File No. 002-E313**, Judgement, 7 August 2014, para. 690.

<sup>264</sup> **Case File No. 002-E313**, Judgement, 7 August 2014, para. 692.

<sup>265</sup> **Case File No. 002-E313**, Judgement, 7 August 2014, para. 690; *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras 196-204.



between 1975 and 1979 and are applicable at the ECCC.<sup>266</sup> The second form of JCE, which has essentially the same elements as the first one, is not charged against **Ao An**. The third form of JCE was not part of customary international law during that period and is therefore not applicable at the ECCC.<sup>267</sup> Thus, only the elements of the first form of JCE will be summarised in this section.

112. *Common purpose* - The common purpose or objective can either be inherently criminal (such that the common purpose *amounts to* the commission of a crime or crimes), or have a non-criminal objective which the plurality of persons intends to achieve through criminal means (such that the common purpose *involves* the commission of a crime or crimes).<sup>268</sup>
113. In Case 002/1, for example, the Trial Chamber and SCC found that the JCE members shared a common purpose to implement a socialist revolution in Cambodia, which itself was not a criminal purpose, but it involved the commission of crimes to bring the common purpose to fruition.<sup>269</sup>
114. There is no requirement for a previously arranged or formulated plan by the participants. The common purpose or objective may materialise extemporaneously and may be inferred from the fact that a plurality of persons acts in unison to put into effect a JCE.<sup>270</sup>

<sup>266</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 22; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 691; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 791.

<sup>267</sup> **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, paras 35, 38; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 791; **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges' Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, paras 77, 87-88.

<sup>268</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 814; **Case File No. 002-E100/6**, *Decision on the Applicability of Joint Criminal Enterprise*, 12 September 2011, para. 17; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 696; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 418; *Prosecutor v. Brima et al*, Judgement, SCSL Appeals Chamber (SCSL-04-16-A), 22 February 2008, para. 80. *See also Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 96.

<sup>269</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, paras 778, 804, 834; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 816. Similarly, in *Prosecutor v. Prlić et al*, Judgement, ICTY Trial Chamber (IT-04-74-T), Vol. 4 of 6, 29 May 2013, paras 24, 41-43, 65-68, the Trial Chamber found that the JCE members shared the objective to create an independent state separate from Bosnia and Herzegovina. While this objective was not criminal, the JCE members sought to achieve it through the commission of a number of crimes against the Muslim population.

<sup>270</sup> *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(f); *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 418; *Prosecutor v. Mpambara*, Judgement, ICTR Trial Chamber (ICTR-01-65-T), 11 September 2006, para. 13, "Unlike conspiracy, no specific agreement to commit the crime need be shown: the common





115. *Plurality of persons* – JCE requires the participation of a plurality of persons in the common criminal purpose.<sup>271</sup> It is not necessary to identify, by name, all JCE participants and it may be sufficient to adequately refer to categories or groups of persons.<sup>272</sup> The plurality of persons need not be organised in a military, political or administrative structure.<sup>273</sup>
116. *Participation in the common purpose* – Participation in the common purpose need not involve carrying out any part of the *actus reus* of a crime forming part of the common purpose.<sup>274</sup> It suffices that the conduct of the participant is in some way directed to furthering the common criminal purpose.<sup>275</sup> A JCE member's conduct can take the form of an act or culpable omission.<sup>276</sup> A JCE member's contribution need not be a necessary one, without which the crime(s)

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*purpose may arise spontaneously and informally, and the persons involved need not be associated through a formal organization”.*

<sup>271</sup> **Case File No. 002-E313, Judgement**, 7 August 2014, para. 692; *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 81.

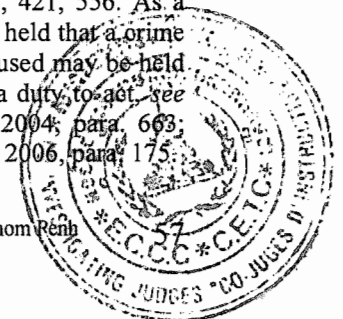
<sup>272</sup> **Case File No. 002-E313, Judgement**, 7 August 2014, para. 692; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Đorđević*, Judgement, ICTY Trial Chamber (IT-05-87/1-T), 23 February 2011, para. 1861, “*It is not necessary to identify by name each of the persons involved; depending on the circumstances of the case, it can be sufficient to refer to categories or groups of persons. However, such categories or groups must be adequately identified as to avoid vagueness or ambiguity*”. For an example of too vague a characterisation of the members of a JCE, see *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 156-157.

<sup>273</sup> *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(i); *Prosecutor v. Đorđević*, Judgement, ICTY Trial Chamber (IT-05-87/1-T), 23 February 2011, para. 1861.

<sup>274</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 427; *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, para. 227(iii); *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 215.

<sup>275</sup> *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras. 191, 227 (iii), 229 (iii); *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, para. 187. The *Krajišnik* trial judgement provides a good example of a conduct which is not criminal *per se*, but which in the circumstances of the case significantly contributed to the commission of the crimes. In paras 1120 and 1121 of *Prosecutor v. Krajišnik*, Judgement, ICTY Trial Chamber (IT-00-39-T), 27 September 2006, the Chamber found that Krajišnik's overall contribution to the JCE was to help establish and perpetuate the SDS party and state structures “*that were instrumental to the commission of the crimes.*” The Appeals Chamber upheld the Trial Chamber's judgement, stating that “*the participation of an accused in the JCE need not involve the commission of a crime, what is important is that it furthers the execution of the common objective or purpose involving the commission of crimes*”, *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras. 215, 218. See also *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430.

<sup>276</sup> **Case File No. 002-E313, Judgement**, 7 August 2014, para. 693; *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras. 187, 421, 556. As a matter of general principle, the ICTY and ICTR Appeals Chambers have consistently held that a crime may be committed by culpable omission where there is a duty to act, and that an accused may be held directly responsible for contributing to a crime by omission where an accused had a duty to act. See *Prosecutor v. Blaškić*, Judgement, ICTY Appeals Chamber (IT-95-14-A), 29 July 2004, para. 663; *Prosecutor v. Galić*, Judgement, ICTY Appeals Chamber (IT-98-29-A), 30 November 2006, para. 175.



part of the common purpose could or would not have been committed,<sup>277</sup> but must, however, at least amount to a significant contribution to the crimes.<sup>278</sup>

117. Even activities that are, on their face, unrelated to the commission of crimes may be taken into account when determining whether the JCE member made a significant contribution.<sup>279</sup> Such activities may nevertheless further and support the commission of crimes, if only indirectly.<sup>280</sup> In making this assessment, the totality of the activities should be considered, and particular contributions should not be assessed in isolation.<sup>281</sup> The significance of a contribution to the JCE should be determined on a case-by-case basis, taking into account a variety of factors, including the position of the charged person, level and efficiency of participation, and any efforts to prevent crimes.<sup>282</sup>
118. *Mens rea* - A JCE member must intend the commission of each crime that is part of the common purpose, that is, the intent must cover both the common purpose and the crimes it encompasses.<sup>283</sup> This intent must be shared by and be common to all JCE members.<sup>284</sup> Where the crime involves persecution or

<sup>277</sup> *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras 98, 193.

<sup>278</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 980; *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras. 215, 696.

<sup>279</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 984.

<sup>280</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 984.

<sup>281</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 980.

<sup>282</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 980.

<sup>283</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 1053.

<sup>284</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 430; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 200; *Prosecutor v. Stakić*, Judgement, ICTY Appeals Chamber (IT-97-24-A), 22 March 2006, para. 65. See also *Prosecutor v. Tadić*, Judgement, ICTY Appeals Chamber (IT-94-1-A), 15 July 1999, paras 196: “The first such category is represented by cases where all co-defendants, acting pursuant to a common design, possess the same criminal intention; for instance, the formulation of a plan among the co-perpetrators to kill, where, in effecting this common design (and even if each co-perpetrator carries out a different role within it), they nevertheless all possess the intent to kill. The objective and subjective prerequisites for imputing criminal responsibility to a participant who did not, or cannot be proven to have, effected the killing are as follows: (i) the accused must voluntarily participate in one aspect of the common design (for instance, by inflicting non-fatal violence upon the victim, or by providing material assistance to or facilitating the activities of his co-perpetrators); and (ii) the accused, even if not personally effecting the killing, must nevertheless intend this result,” and para 228; *Prosecutor v. Ntakirutimana et al.*, Judgement, ICTR Appeals Chamber, (ICTR-96-10-A and ICTR-96-17-A), 13 December 2004, para. 463: “The first category is a ‘basic’ form of joint criminal enterprise, represented by cases where all co-perpetrators, acting pursuant to a common purpose, possess the same criminal intention”; **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 694; *Prosecutor v. Vasiljević*, Judgement, ICTY Appeals Chamber (IT-98-32-A), 25 February 2003, para. 10



genocide, the JCE members must share the special intent required for those crimes.<sup>285</sup>

119. The SCC has clarified that, in the instance of a common purpose *involving* the commission of a crime or crimes, it is not necessary that those who agree on the common purpose actually desire that the crime be committed, as long as they recognise that the crime is to be committed to achieve the ulterior objective.<sup>286</sup> The SCC added that this may include crimes that are foreseen as a means to achieve a given common purpose, even if their commission is not certain.<sup>287</sup> It explained that if attaining the objective of a common purpose may bring about the commission of crimes, but it is agreed to pursue the objective regardless, the common purpose encompasses these crimes because, even though not directly intended, they are contemplated by it.<sup>288</sup> I interpret this holding of the SCC, also on the basis of its use of the word “*desire*”, as a clarification that the commission of the crimes need not be the primary objective of the JCE members. However, there remains the need to show intent to commit the crimes by the JCE members, which is a fundamental requirement of the first type of JCE.
120. *Physical perpetrators* – JCE members can be held responsible for crimes committed by physical perpetrators who were not members of the JCE, as long as the crimes were part of the common purpose and committed in its furtherance.<sup>289</sup> To hold a member of a JCE responsible for crimes committed by non JCE-members, it must be shown that the crime can be imputed to at least one member of the JCE, and that this member – when using a physical perpetrator who was not a member of the JCE – acted to further the common

<sup>285</sup> *Prosecutor v. Kvočka et al*, Judgement, ICTY Appeals Chamber (IT-98-30/1-A), 28 February 2005, paras 109-110; *Prosecutor v. Krnojelac*, Judgement, ICTY Appeals Chamber (IT-97-25-A), 17 September 2003, paras. 111-112.

<sup>286</sup> *Case File No. 002-F36, Appeal Judgement*, 23 November 2016, para. 808.

<sup>287</sup> *Case File No. 002-F36, Appeal Judgement*, 23 November 2016, para. 808.

<sup>288</sup> *Case File No. 002-F36, Appeal Judgement*, 23 November 2016, para. 808.

<sup>289</sup> *Prosecutor v. Brđanin*, Judgement, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, paras 1040-1041; *Prosecutor v. Krajišnik*, Judgement, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, para. 225.



purpose.<sup>290</sup> The existence of this link is a matter to be assessed on a case-by-case basis.<sup>291</sup>

#### 4.3.2. *Modes of liability applicable to national crimes (violations of the 1956 Penal Code)*

121. The CIJs in Case 002 held that commission through participation in a JCE, superior responsibility, and instigation only apply to international crimes.<sup>292</sup> The PTC has not specifically addressed the applicability of superior responsibility and instigating to national crimes, but rejected the civil parties' argument that JCE is applicable to national crimes. In the PTC's view, participation in a JCE embraces situations where the charged person may be "*more remote from the actual perpetration of the actus reus of the crime than those foreseen by the direct participation required under domestic law.*"<sup>293</sup> The PTC has also expressed the view that the domestic form of co-perpetration set forth in Article 82 of the 1956 Penal Code is, like JCE, a form of commission which falls under Article 29 of the ECCC Law.<sup>294</sup>
122. Thus, consistent with the Closing Order in Case 004/1, applying the PTC's formulation of domestic modes of liability and taking into account the CIJs' approach in Case 002, the modes of liability of commission (as a co-

<sup>290</sup> **Case File No. 002-E313**, *Judgement*, 7 August 2014, para. 693; *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, para. 413.

<sup>291</sup> *Prosecutor v. Brđanin*, *Judgement*, ICTY Appeals Chamber (IT-99-36-A), 3 April 2007, paras 413, 418; *Prosecutor v. Krajišnik*, *Judgement*, ICTY Appeals Chamber (IT-00-39-A), 17 March 2009, paras 225-226. According to the *Krajišnik* Appeal *Judgement*, para. 226: "*Factors indicative of such a link include evidence that the JCE member explicitly or implicitly requested the non-JCE member to commit such a crime or instigated, ordered, encouraged, or otherwise availed himself of the non-JCE member to commit the crime.*" According to the *Brđanin* Appeal *Judgement*, para. 410: "*In cases where the principal perpetrator of a particular crime is not a member of the JCE, this essential requirement may be inferred from various circumstances, including the fact that the accused or any other member of the JCE closely cooperated with the principal perpetrator in order to further the common criminal purpose*".

<sup>292</sup> **Case File No. 002-D427**, *Closing Order*, 15 September 2010, para. 1307; **Case File 002-D427/1/30**, *Decision on Ieng Sary's Appeal Against the Closing Order*, 11 April 2011, para. 296; see also **Case File No. 002-D97/13**, *Order on the Application at the ECCC of the Form of Liability Known as Joint Criminal Enterprise*, 8 December 2009, para. 22.

<sup>293</sup> **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, para. 101.

<sup>294</sup> Article 82 of the 1956 Penal Code reads in French: "*Toute personne participant volontairement, soit directement, soit indirectement, à la perpétration d'un crime ou d'un délit, est passible des peines applicables à l'auteur principal. La participation directe constitue la coaction, la participation indirecte constitue la complicité.*"; **Case File No. 002-D97/15/9**, *Decision on the Appeals against the Co-Investigating Judges Order on Joint Criminal Enterprise (JCE)*, 20 May 2010, para. 102.



perpetrator), planning, and ordering will be considered with regard to violations of the 1956 Penal Code.

## 5. EVIDENTIARY CONSIDERATIONS

### 5.1. Statements other than written records of interviews generated by the OCIJ

123. The vast majority of the evidence relied on in Case 004/2 consists of WRIs generated by the OCIJ during the investigation, which are prepared under judicial supervision and subject to specific legal and procedural safeguards, and are thus entitled to a presumption of relevance and reliability.<sup>295</sup> I consider that transcripts of trial proceedings from other ECCC cases, and placed on Case File 004/2 because of their relevance to the allegations, enjoy the same presumption.
124. Statements or other evidence collected without judicial supervision by entities external to the ECCC, including DC-Cam, were generated without the judicial guarantees and formality that characterise WRIs, and thus enjoy no such presumption.<sup>296</sup> However this does not include contemporaneous DK-era documents originating from DC-Cam, which the Trial Chamber has found to enjoy a rebuttable presumption of *prima facie* relevance and reliability.<sup>297</sup>
125. Interviews conducted by the Co-Prosecutors during their preliminary investigations, although prepared specifically for criminal proceedings, are not conducted under oath and are prepared by a party with an inherent interest in the outcome of the case. Such statements are, however, collected for the purpose of

<sup>295</sup> **Case File No. 002-E96/7**, *Decision on Co-Prosecutors' Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents before the Trial Chamber*, 20 June 2012, paras 26-27, 29; **Case File No. 002-E162**, *Trial Chamber response to portions of E114, E114/1, E131/1/9, E131/6, E136 and E158*, 31 January 2012, para. 3; **Case File No. 002-E185**, *Decision on Objections to Documents Proposed to be put before the Chamber on the Co-Prosecutors' Annexes A1-A5 and to Documents cited in Paragraphs of the Closing Order Relevant to the First Two Trial Segments of Case 002/01*, 9 April 2012, para. 20.

<sup>296</sup> **Case File No. 002-E96/7**, *Decision on Co-Prosecutors' Rule 92 Submission Regarding the Admission of Witness Statements and Other Documents before the Trial Chamber*, 20 June 2012, para. 29.

<sup>297</sup> **Case File No. 002-E185**, *Decision on Objections to Documents Proposed to be put before the Chamber on the Co-Prosecutors' Annexes A1-A5 and to Documents cited in Paragraphs of the Closing Order Relevant to the First Two Trial Segments of Case 002/01*, 9 April 2012, para. 28; **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 373.



- a criminal trial and are therefore, in principle, afforded higher probative value than evidence not collected specifically for that purpose (including statements prepared by DC-Cam).<sup>298</sup>
126. Civil party applications enjoy no presumption of reliability and have been afforded little, if any, probative value if the circumstances in which they were recorded are not known.<sup>299</sup> Civil party applications and victim complaints offering only general conclusions and therefore representing a “*common narrative*” as opposed to personal experiences have been treated as insufficient to establish relevant facts.<sup>300</sup> Out-of-court statements by civil parties, other than those taken by the OCIJ, have been afforded low probative value,<sup>301</sup> while in-court civil party testimony has been assessed with caution.<sup>302</sup>
127. In conclusion, and balancing these considerations, WRIs generated by the OCIJ and trial transcripts enjoy a higher reliability presumption and have been afforded a higher probative value than statements prepared by other entities. With regard to the latter, a more cautious approach has been adopted in their assessment, and the information contained therein has been relied on only when corroborated by other sources.
128. A cautious approach has also been applied to the assessment of the DC-Cam statement of **Ao An**, taken on 1 August 2011.<sup>303</sup> The Defence argue that the CIJs should not give any consideration to this statement in light of the fact that the interview was conducted by DC-Cam without due regard to **Ao An**’s fair trial rights and at a time when **Ao An** had no, or no conclusive knowledge that he was a suspect in the judicial investigation.<sup>304</sup> As the CIJs noted in the Case 004/1 *Closing Order (Reasons)*, there are no provisions in the Internal Rules governing the use of statements given by suspects and charged persons to other entities or organisations whether aware or unaware of being a suspect or being

<sup>298</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 296.

<sup>299</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 296.

<sup>300</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 457.

<sup>301</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 550.

<sup>302</sup> Case File No. 002-F36, *Appeal Judgement*, 23 November 2016, para. 315.

<sup>303</sup> While the DC-Cam statement is filed on Case File 004/2 with document number D191.2, the OCIJ has not yet received the official transcription of that interview, bearing document number D219/847.

<sup>304</sup> D351/6, *Ao An’s Response to the Co-Prosecutor’s Rule 66 Final Submissions*, 24 October 2017, paras 209, 211.



charged under an ECCC investigation, however such statements have been relied upon to varying degrees by former CIJs and the Trial Chamber in the exercise of their discretion and in accordance with the normal canons of evidence evaluation.<sup>305</sup> Consistent with that approach and the principles of the evaluation of evidence explained in this section, I have given less weight to the DC-Cam statement of **Ao An** than interviews conducted by the OCIJ. The credibility and probative value of the statement has been assessed on a case-by-case basis in light of all the other evidence on the Case File.

## 5.2. Hearsay evidence and reliance on uncorroborated evidence

129. Pursuant to Internal Rule 87, all evidence is admissible in cases before the ECCC, including hearsay. Both the Trial Chamber and the SCC consider that hearsay evidence can be relied upon, where sufficiently relevant and probative.<sup>306</sup> Other international courts have also acknowledged that judges may cautiously rely on hearsay, determining its reliability and probative value on a case-by-case basis.<sup>307</sup> This is the approach followed in this Closing Order.
130. The testimony of a single witness may be sufficient to establish a fact where sufficiently reliable and probative (although, as noted above, this approach has only been taken with respect to WRIs generated by the OCIJ and ECCC trial transcripts).<sup>308</sup> In principle, uncorroborated hearsay evidence can also be relied upon.<sup>309</sup> However, factors such as the source of that hearsay, the circumstances in which the witness learned about it, the consistency of that evidence with other related evidence on the Case File, and all other relevant circumstances need to be carefully assessed in cases of uncorroborated hearsay, especially

<sup>305</sup> **Case File No. 004/1-D308/3**, *Closing Order (Reasons)*, 10 July 2017, paras 138-139.

<sup>306</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 43; *see also Case File No. 002-F36*, *Appeal Judgement*, 23 November 2016, para. 302.

<sup>307</sup> *Prosecutor v. Ndindabahizi*, *Judgement*, ICTR Appeals Chamber (ICTR-01-71-A), 16 January 2007, para. 115; *Prosecutor v. Gacumbitsi*, *Judgement*, ICTR Appeals Chamber (ICTR-2001-64-A), 7 July 2006, para. 115; *Prosecutor v. Rutaganda*, *Judgement*, ICTR Appeals Chamber (ICTR-96-3-A), 26 May 2003, paras 34, 207, 311; *Prosecutor v. Karera*, *Judgement*, ICTR Appeals Chamber (ICTR-01-74-A), 2 February 2009, paras 39, 178; *Prosecutor v. Kordić and Cerkez*, *Judgement*, ICTY Appeals Chamber (IT-95-14/2-A), 17 December 2004, paras 281-284; *Prosecutor v. Gatete*, *Judgement*, ICTR Appeals Chamber (ICTR-00-61-A), 9 October 2012, para. 99; *Prosecutor v. Đorđević*, *Judgement*, ICTY Appeals Chamber (IT-05-87/1-A), 27 January 2014, para. 397.

<sup>308</sup> **Case File No. 001-E188**, *Judgement*, 26 July 2010, para. 43.

<sup>309</sup> **Case File No. 002-F36**, *Appeal Judgement*, 23 November 2016, para. 302; *Prosecutor v. Gacumbitsi*, *Judgement*, ICTR Appeals Chamber (ICTR-2001-64-A), 7 July 2006, para. 13.



when the evidence relates to specific elements of crimes or to the conduct of the charged person.

131. Contemporaneous DK-era documents originating directly from DC-Cam, in contrast to statements gathered after the DK-era, were recorded at or in close temporal proximity to the events depicted therein and are direct evidence thereof. They do not suffer from memory deficits associated with witness statements, nor were they prepared by a party with an inherent interest in the outcome of the case, at the time of their creation. As noted above, they are also afforded a rebuttable presumption of relevance and reliability. Accordingly, while a cautious approach is required, uncorroborated evidence of this type has been relied upon where appropriate.

### 5.3. Torture-tainted evidence

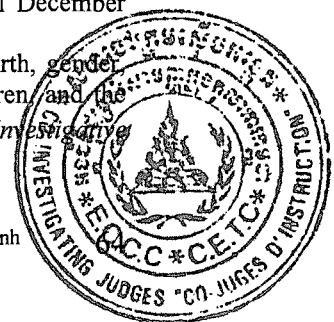
132. Pursuant to Article 15 of the Convention against Torture, there is an absolute prohibition against using as evidence information contained in statements obtained under torture<sup>310</sup> and in using such statements in the questioning of witnesses,<sup>311</sup> except as evidence against an accused torturer as evidence that a statement was made under torture.
133. Confessions of prisoners detained in the S-21 Security Centre are presumed to have been made under torture. This is a rebuttable presumption.<sup>312</sup>
134. Information contained in S-21 “*detainee biographies*”<sup>313</sup> other than a prisoner’s name, sex, and date of arrest or execution falls under this prohibition.<sup>314</sup>

<sup>310</sup> **Case File No. 002-D130/9/21**, *Decision on Admissibility of the Appeal against the Co-Investigating Judges’ Order on Use of Statements Which Were or May Have Been Obtained by Torture*, 18 December 2009, para. 30; **Case File No. 001-E1/27.1**, *Transcript of trial proceedings* [Kaing Guek Eav “Duch”], 28 May 2009, ERN 00336853, l. 1-25; **Case File No. 001-E176**, *Decision on Parties’ Request to Put Certain Materials Before the Trial Chamber Pursuant to Internal Rule 87(2)*, 28 October 2009, para. 8; **Case File No. 002-E1/129.1**, *Transcript of hearing on the substance in Case 002* [Meas Voeun], 3 October 2012, ERN 00852660, l. 8-21.

<sup>311</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, para. 47; **Case File 002-E1/129.1**, *Transcript of hearing on the substance in Case 002* [Meas Voeun], 3 October 2012, ERN 00852660, l. 8-21.

<sup>312</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, paras 57-58.

<sup>313</sup> Typically single-page documents setting out a S-21 detainee’s name, alias, date of birth, gender, nationality, position and department in “*the revolution*”, place of birth, number of children, and the date and place of arrest. See **D251**, *Consolidated Decision on Meas Muth’s Requests for Investigation Action Regarding Potential Use of Torture-Tainted Evidence*, 24 May 2017, para. 31.





Information contained in S-21 confessions that originates from persons other than the torture victim, for example annotations made by the torturer, does not, however, fall under this prohibition.<sup>315</sup> Nor does Article 15 prohibit the use of information found in statements taken under torture during the DK to locate witnesses and possibly interview them.<sup>316</sup> There is thus no prohibition against the use of evidence of witnesses identified in torture-tainted statements such as S-21 confessions and subsequently interviewed by the OCIJ.<sup>317</sup>

#### 5.4. Documentation Center of Cambodia mapping reports

135. From 1997 to 1999, as part of its mapping project to identify and map mass graves across Cambodia, DC-Cam prepared five reports containing information potentially relevant to the investigation into allegations against **Ao An** (“Mapping Reports”). Two of the Mapping Reports concern field-missions carried out in March and April 1997 and July 1998 by DC-Cam’s mapping team to Kampong Cham province.<sup>318</sup> The other three Mapping Reports concern field missions carried out in 1997 and 1999 in Kampong Thom and at Wat Baray

<sup>314</sup> **D251**, *Consolidated Decision on Meas Muth’s Requests for Investigative Action Regarding Potential Use of Torture-Tainted Evidence*, 24 May 2017, para. 35.

<sup>315</sup> **Case File No. 002-F26/12**, *Decision on Objections to Document Lists Full Reasons*, 31 December 2015, paras 66-68.

<sup>316</sup> One of the policy rationales underpinning Article 15 of the Convention against Torture is to remove any incentive for states to engage in torture. To avoid frustrating this policy rationale, in stating the legitimacy of using evidence located through information obtained under torture, it is necessary to distinguish between the following two scenarios. Firstly, a situation where torture information is used by the torturing authorities to locate witnesses, suspects, fugitives or to otherwise further an ongoing investigation; and secondly, a situation where a judicial authority investigating the torturers seeks to use information elicited by the latter in order to identify possible sources of evidence against them. Allowing the use of torture information as investigative leads in the first scenario could incentivise the use of torture. So, for example, if an intelligence agency obtains a statement through torture, and subsequently uses names provided in that statement to locate a stash of documents or a person with information relevant to the investigation, those documents or the testimony of that person should not be admitted as evidence in any proceedings. In the second scenario, however, the judicial authority is neither directly nor indirectly connected to the torturing authorities, and would use possible leads to locate evidence *against* the torturers. In our view, evidence from witnesses located on the basis of statements obtained under torture can only be used in the second scenario. The Pre-Trial Chamber has also confirmed that the use of information from torture-tainted material as investigative leads does not amount to the use of that information as ‘evidence’ (**Case File No. 003-D257/1/8**, [Redacted] *Decision on Application for the Annulment of Torture-Derived Written Records of Interview*, 24 July 2018, para. 28; **Case File No. 003-D253/1/8**, *Decision on Request for Annulment of D114/164, D114/167, D114/170, and D114/171*, 13 December 2017, paras 30, 32).

<sup>317</sup> **Case File No. 002-E350/8**, *Decision on Evidence Obtained through Torture*, 5 February 2016, paras 63, 70.

<sup>318</sup> **D1.3.10.8**, DC-Cam Report, Mapping the Killing Fields of Cambodia, 1997: Khet Kampong Cham, 1997; **D1.3.10.12**, DC-Cam Report, Kampong Cham province, 1998.



Choan Dek,<sup>319</sup> which concern sites that have been excluded from the investigation pursuant to Internal Rule 66 *bis*.<sup>320</sup> The reports provide information on, *inter alia*, the numbers of graves and of victims in relation to sites that form part of the allegations in Case 004/2.

136. My views on the probative value of the Mapping Reports mirror those expressed by the CIJs in the Case 004/1 *Closing Order (Reasons)* on reports containing information potentially relevant to the allegations against Im Chaem.<sup>321</sup> Specifically, the Mapping Reports, which are based on field visits and interviews with sources, do not provide sufficient information regarding the sources of witnesses' knowledge of victim numbers so as to enable an adequate reliability and credibility assessment of the evidence. The dates and causes of death of the victims are also unknown or unclear, thereby rendering it impossible to determine whether the deaths fall under the relevant temporal jurisdiction. I thus find the victim numbers reported in the Mapping Reports to be unreliable and have consequently not relied on them. In accordance with my previous pronouncements in this case,<sup>322</sup> in calculating the number of victims attributable to **Ao An**, I have relied on witnesses who gave evidence to the OCIJ on the numbers and causes of death at each crime site.

### 5.5. Victim numbers

137. Each section of the factual findings on crimes in this Closing Order includes, where relevant, an estimate of the number of deaths associated with the respective crime site or scenario. It merits some explanation as to the principles and methodology I have employed in arriving at these estimates.

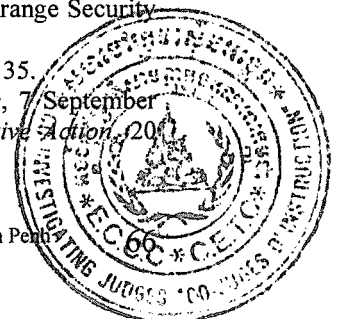
138. In respect of all crime sites or scenarios, I have conservatively adopted the minimum number of victims that can be estimated on the evidence by applying

<sup>319</sup> **D1.3.10.9**, DC-Cam Report, Mapping the Killing Fields of Cambodia, 1997: Khet Kampong Thom, May 1997; **D1.3.27.8**, DC-Cam Report, Mapping Project, Srok Baray, Wat, Baray Chaon Dek, 17 May 1997; **D1.3.10.16**, DC-Cam Report, Mapping Project 1999: Kampong Thom Province, 10 August 1999.

<sup>320</sup> **D337**, *Decision to Reduce the Scope of Judicial Investigation Pursuant to Internal Rule 66 bis*, 16 December 2016, paras 4(a), 13 (regarding Wat Baray Chan Dek Security Centre, Wat Strange Security Centre).

<sup>321</sup> See **Case File No. 004/1-D308/3**, *Closing Order (Reasons)*, 10 July 2017, paras 131-135.

<sup>322</sup> **D188/1/1**, *Decision on Ao An's Amended Second Request for Investigative Action*, 7 September 2016, para. 48; **D189/2**, *Decision on Ao An's Amended Third Request for Investigative Action*, 20 September 2016, para. 20.



the following principles. While some principles evince a more conservative approach to the assessment of evidence than is required for indictment, I have adopted this approach so as to avoid any risk of double-counting victim numbers. As a result, many witness accounts describing victims have been excluded from the total calculations where there is a risk of the same victims being counted twice, or of including victims whose deaths cannot reasonably be determined to relate to the temporal scope of the investigation. These conservative exclusions are intended to ensure that the estimates remain at minimum numbers, but also mean that the actual victim numbers are very likely to be much higher than estimated in this Closing Order.

*Calculating victim numbers based on evidence provided by a witness*

139. Where a witness provides a numerical range for the number of victims (e.g. between 100 and 200), I have taken the lowest number in the range (100), as opposed to calculating the average.
140. In some instances, witnesses describe events as occurring repeatedly, as part of a regular practice, or as part of a process but without specifying the actual number of occurrences of which they were aware. If it is clear from the evidence that the events occurred on a regular basis and/or over a longer period of time and hence obviously more than just twice, I have assumed the event to have occurred three times; otherwise, the default count was only twice.
141. Where a witness refers to “*more than half*” of the number of people in a group, I have calculated this as half of the group plus one.
142. I have taken approximations at face value, provided I am satisfied of the witness’ basis of knowledge, as there is no non-arbitrary way to conservatively reduce the estimate. For example, where a witness states “*about 10*”, “*around 10*”, or “*approximately 10*”, then that number has been calculated as 10.
143. Any unspecified reference to “*hundreds*” is calculated as 200, and a reference to “*thousands*” is calculated as 2000.



144. Where a victim is described as having “*disappeared*”, that victim has been included in the calculation of deaths where the evidence supports the inference that the person was killed (e.g. where the disappearance occurred in the context of a mass killing operation and where the person was never seen again after the DK regime).

*Calculating victim numbers based on the evidence of multiple witnesses*

145. In respect of calculating total numbers of victims based on the combined evidence of multiple witnesses, only the minimum estimates from each witness are added.

146. Where it is possible that witnesses are describing the same event, I have not added together the numbers provided by multiple witnesses. However, if the evidence indicates that the groups of victims being described are different between each witness, then the numbers have been added.

147. Where multiple witnesses for one event provide conflicting accounts of the number of victims, then the lowest number provided is chosen, unless the figure provided by another witness is more reliable due to, for example, credibility, corroboration, or a stronger basis of knowledge. For example, if two witnesses state that they saw 20 people being killed in one event, but another witness only heard that merely 10 people were killed in that event (hearsay evidence), then the calculation will rely on 20, the number provided by the eye-witnesses.

148. If it cannot be excluded, based on a holistic evaluation of the evidence, that a victim’s death occurred outside the timeframe of the allegations in Case 004/2, that victim has been excluded from the calculations.

149. Where a witness cannot name with any certainty the exact crime site at which a victim perished, but it is otherwise either clear from the evidence that the victim died at a crime site that was charged, or there is no reasonable hypothetical alternative which would sever any link of criminal responsibility of the charged person for that particular victim, the victim has not been counted in the death toll for any specific crime site but has been included in the toll for the sector in



which the victim is reported to have been detained or perished, and hence in the overall toll for the case.

### *Counting families*

150. Many witnesses, particularly those giving evidence about the treatment of the Cham, describe victim numbers in terms of the number of families, as opposed to a number of individuals. While, strictly speaking, the absolute minimum number of people required to constitute a family could be considered to be two persons, the factors I set out below, when considered together, suggest that a reasonable and appropriate minimum estimate of a family is four persons.
151. According to the Case 002 testimony of the Cham expert, and former OCIJ analyst, Ysa Osman, the average Cham family consisted of five to six family members. Many of these families were multigenerational households including grandparents, and sometimes great grandparents.<sup>323</sup> Indeed, Mr Ysa considered that five members in the family could be considered below average.<sup>324</sup>
152. It is otherwise clear from the evidence that families with a single child in Cambodia were rare; most witnesses came from families with several children/siblings. To estimate that there were only two members of every family would undermine the evidence of many witnesses who describe families as being more than two members.
153. Finally, if it were the case that only a few families were victims, then it is possible that they all could have been substantially below the average family size. However, given the high number of families as victims described by witnesses, it is probabilistically impossible that all families would have been uncharacteristically small.
154. These considerations lead me to the conclusion that, unless a family size is specified by the witness, four is the lowest minimum reasonable estimate for the size of families.

<sup>323</sup> **D219/702.1.80**, *Transcript of hearing on the substance in Case 002/2* [Ysa Osman], 9 February 2016, ERN 01405963, l. 18-22.

<sup>324</sup> **D219/702.1.80**, *Transcript of hearing on the substance in Case 002/2* [Ysa Osman], 9 February 2016, ERN 01405970, l. 4-9.



## 5.6. The OCIJ's list of S-21 prisoners

155. The OCIJ's list of S-21 prisoners<sup>325</sup> (the "OCIJ S-21 List") has been relied upon in this case to establish the date of entry into S-21 of individuals transferred thereto; where so determined, the date of execution of individuals detained at S-21; and the number of persons transferred to and/or executed following detention at S-21. Such reliance is appropriate given the thorough and lengthy analysis and the robust and rigorous methodology employed by the OCIJ analyst in preparing the OCIJ S-21 List.<sup>326</sup>

## 5.7. Letters of assurance

156. Letters of assurance were given, pursuant to Internal Rule 28, to witnesses who requested them. Experience has shown that the provision of such assurances did not necessarily render witnesses less reluctant to discuss events, particularly in instances where there were indications that a witness may have been involved in criminal activity. This was likely due to a desire to maintain "face" and avoid the implication of involvement in crimes committed against fellow Cambodians. Thus, the credibility of certain witnesses has been determined on the substance of their testimony and in accordance with their possible involvement in alleged criminal conduct, notwithstanding that letters of assurance were given.

# 6. FACTUAL ANALYSIS AND FINDINGS

## 6.1. Administrative structure

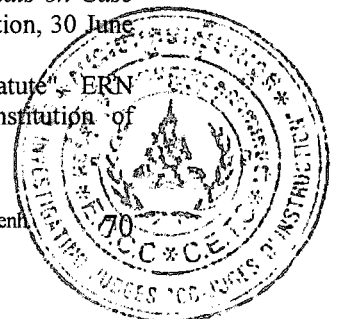
### 6.1.1. National

157. DK was governed through a hierarchical administrative structure, with the Central Committee serving as the "highest operational unit throughout the country".<sup>327</sup> It consisted of members of the Standing Committee and Zone

<sup>325</sup> **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222328-01222936.

<sup>326</sup> **D322/8**, *Decision on the International Co-Prosecutor's Request to Place CPK Materials on Case File 004*, 15 December 2016, para. 47; **D219/825.1.1**, Written Record of Investigating Action, 30 June 2016, ERN 01301657-01301658.

<sup>327</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184038, Article 7(1); **D1.3.20.2**, DK Government Legal Documents entitled *Constitution of Democratic Kampuchea, 1975*, ERN 00184834, Article 1.



Secretaries as non-permanent members.<sup>328</sup> Although under the CPK Statute the Central Committee exercised operational authority over DK, *de facto* control was exercised by an extra-statutory body known as the Standing Committee drawn from the Central Committee.<sup>329</sup>

158. The Central Committee and Standing Committee were responsible for formulating policies and instructions and disseminating them to the Zone and Autonomous Sector Secretaries, who in turn would forward them to the sector and district level secretaries for implementation.<sup>330</sup> The implementation of instructions would then be reported back up the chain of command to the two Committees ("*the Centre*").<sup>331</sup>
159. In 1975, the CPK subdivided the country into six administrative zones which directly reported to the Centre, i.e. the North Zone, Northwest Zone, Northeast

<sup>328</sup> **D179/1.2.11**, Transcript of hearing on the substance in Case 002 - 27 March 2012 [Kaing Guek Eav alias DUCH], ERN 00795639, 00795652-00795653; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796336, l. 1-11; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346160; *see also* **D219/702.1.137**, Transcript of Proceedings – “Duch” Trial – 9 June 2009 [Kaing Guek Eav alias DUCH], ERN 00339336-00339337.

<sup>329</sup> **D179/1.2.34**, Transcript of hearing on the substance in Case 002 – 24 July 2012 [David CHANDLER], ERN 00828843, l. 5-6; **D179/1.2.11**, Transcript of hearing on the substance in Case 002 - 27 March 2012 [Kaing Guek Eav alias DUCH], ERN 00795639-00795640; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796343, l. 16; **D219/702.1.137**, Transcript of Proceedings – “Duch” Trial – 9 June 2009 [Kaing Guek Eav alias Duch], ERN 00339336-00339337; **D1.3.36.1**, Written Record of Interview of Charged Person (KHIEU Samphan), 13 December 2007, ERN 00156750; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346160; **D6.1.1051**, Written Record of Interview of Charged Person Duch by CIJ, 4 December 2007, ERN 00154910; **D6.1.91**, Written Record of Interview of Charged Person Duch by CIJ, 19 November 2008, ERN 00242874; **D118/103.3**, Accused's Final Written Submission, 25 November 2009, ERN 00412107, para.56.

<sup>330</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184037, Articles 6(4)-6(5), 00184041, Article 12(2), 00184042, Article 15(2), 00184043, Article 18(2), 00184045, Articles 23(1)-23(3); **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796343-00796344; **D179/1.2.24**, Transcript of hearing on the substance in Case 002 – 06 June 2012 [Sao Sarun], ERN 00815485, l. 6-10; *see also* **D267.1.80**, Transcript of hearing on the substance in Case 002 – 01 July 2013 [Pech Chim], ERN 00934979-00934982; **D6.1.989**, Written Record of Interview of Witness MEAS Voeun, 3 March 2010, ERN 00491656, A14-A15; **D6.1.697**, Written Record of Interview of SUON Kanil, 18 August 2009, ERN 00384429; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434520, A2, 01434524, A29.

<sup>331</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184037, Article 6(5), 00184040, Article 10(2)(B), 00184042, Article 13(4), 00184043, Article 16(4), 00184044, Article 19(4); **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796339-00796340, 00796342; **D179/1.2.24**, Transcript of hearing on the substance in Case 002 – 06 June 2012 [Sao Sarun], ERN 00815438, l. 6-15.



Zone, Southwest Zone, West Zone and East Zone.<sup>332</sup> In late 1976 or 1977, the North Zone was dissolved, and the Central Zone and the New North Zone established.<sup>333</sup>

160. In addition to the zones, the CPK created a number of “*autonomous sectors*” which reported directly to the Centre, bypassing the zone level, i.e., Autonomous Sector 103 (Preah Vihear), Autonomous Sector 105 (Mondulhiri), Autonomous Sector 106 (Siem Reap), Autonomous Sector 505 (Kratie) and the Kampong Som Autonomous City.<sup>334</sup>
161. The zones were divided into 32 sectors, each made up of districts which were in turn divided into communes; the lowest administrative units were villages and cooperatives.<sup>335</sup> Each administrative tier from commune level upwards was governed by a committee consisting of a Secretary, Deputy Secretary and at least one Member.<sup>336</sup> The Committee Secretary was the most senior cadre in the

<sup>332</sup> **D6.1.975**, Geography Text book of DK's Ministry of Education, 1977, ERN 00814510-00814511; **D6.1.82**, 1976 Colour map of Democratic Kampuchea showing zones as they stood at that time, 1976, ERN 00295143; **D1.3.27.1**, DK Government Map of Democratic Kampuchea, 1976, ERN P 00000002.

<sup>333</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373572; **D6.1.724**, Written Record of Interview of PRUM Sou, ERN 00422380, A6, 00422382, A15; **D118/103.3**, Accused's Final Written Submission, 23 November 2009, ERN 004120104; **D6.1.697**, Written Record of Interview of SUON Kanil, 18 August 2009, ERN 00384426; **D6.1.736**, Written Record of Interview of Duch by CIJ, 11 November 2009, ERN 00403922; **D6.1.729**, Written Record of Interview of SENG Kimoeun, 17 December 2009, ERN 00421613, A1; **D219/486.1.1**, Transcript of hearing on the substance in Case 002 – 14 December 2012 [SUON Kanil], ERN 00872199-00872200; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796334, l. 11-14, l. 24-25; see also: **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died", 20 November 2008, ERN 00089714 (“*I served as secretary, Kang Chab as my deputy and Ta An as member. The new Northern Zone was divided into two: Kang Chab took charge of Siem Reap-Oudard Meanchey region under the director control of the Central Committee; as for me, I was told to stay in the Central Zone.*”); **D179/1.2.38**, Transcript of hearing on the substance in Case 002 – 04 September 2012 [NORNG Sophang], ERN 00846220, l. 3-5 (“*I recall that it was a newly established zone. After the autonomous zone in Siem Reap, Preah Vihear was removed and named as Zone 801. I and my team used to decode messages from that zone.*”).

<sup>334</sup> **D6.1.975**, Geography Text book of DK's Ministry of Education, 1977, ERN 00814511; **D6.1.82**, 1976 Colour map of Democratic Kampuchea showing zones as they stood at that time, 1976, ERN 00295143; **D1.3.27.1**, DK Government Map of Democratic Kampuchea, 1976, ERN P 00000002; **D179/1.2.39**, Transcript of hearing on the substance in Case 002 – 05 September 2012 [NORNG Sophang], ERN 00846426, l. 16-25, 00846427, l. 1-4.

<sup>335</sup> **D6.1.975**, Geography Text book of DK's Ministry of Education, 1977, ERN 00814510-00814511, 00814564; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796336, l. 16-18, 00796337, l. 7-10, l. 19-21; **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184038, Article 7.

<sup>336</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184038, Article 7; **D6.1.975**, Geography Text book of DK's Ministry of Education, 1977, ERN 00814512, 00814568; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796335, l. 9-13, l. 22-25, 00796336, l. 19-22, 00796337, l. 11-16, 00796337, l. 19-21, 00796338, l. 1-2, l. 15-23; **D179/1.2.10**, Transcript of Hearing on the Substance in Case 002 – 26 March 2012 [Kaing Guek Eav alias DUCH], ERN 00795133.





respective administrative tier and was usually also a member of the committee of the administrative tier immediately above.<sup>337</sup>

162. The CPK armed forces were divided into the regular army, sector army, and militias.<sup>338</sup> Each zone committee had under its direct authority at least one division of the regular army, responsible for defence and security in the Zone.<sup>339</sup> Each division consisted of three regiments, and each regiment in turn of three battalions, further divided into companies, platoons and squads.<sup>340</sup>

### 6.1.2. Central Zone

163. The Central Zone was an administrative region located in the geographic centre of DK, encompassing parts of Kampong Cham, Kampong Thom, and Kratie provinces.<sup>341</sup> The Central Zone shared boundaries with the New North Zone, East Zone, West Zone, Northwest Zone and Autonomous Sectors 106 and 505. Its southern and eastern boundaries were partially demarcated by the Mekong

**D179/1.2.24**, Transcript of hearing on the substance in Case 002 – 06 June 2012 [Sao Sarun], ERN 00815437, l. 13-25, 00815438, l. 2-4, 00815470, l. 9-15, 00815485, l. 2-4; **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184038, Article 7; *see also* **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076; **D6.1.989**, Written Record of Interview of Witness MEAS Voeun, 3 March 2010, ERN 00491657, A22; **D6.1.651**, Written Record of Interview of Witness PECH Chim, 26 August 2009, ERN 00379303.

<sup>337</sup> **D6.1.651**, Written Record of Interview of Witness PECH Chim, 26 August 2009, ERN 00379303; **D179/1.2.24**, Transcript of hearing on the substance in Case 002 – 06 June 2012 [Sao Sarun], ERN 00815436, l. 6-25, 00815437, l. 1-8; **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491734, A1, 00491735, A5.

<sup>338</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184046, Article 27; **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 1975, ERN 00184837, Article 19; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796351, l. 15-25.

<sup>339</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184028, Article 1, 00184038, Article 7(2), 00184044, Article 19(1)-Article 19(2), Article 19(4); **D6.1.873**, Transcript of Proceedings – "Duch" Trial [Kaing Guek Eav alias DUCH], 25 November 2009, ERN 00406692, l. 11-13; **D219/702.1.148**, Written Record of Interview of Witness SUOS Siyat, 17 January 2008, ERN 00204707; **D6.1.751**, CPK Magazine entitled: "The Revolutionary Flag", Issue 6, June 1976 (FULL), 1 June 1976, ERN 00233951; **D6.1.734**, Written Record of Interview of Witness SOKH Chhien, 19 August 2009, ERN 00374947.

<sup>340</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184028, Article 1; **D219/702.1.112**, Transcript of Proceedings – "Duch" Trial – 12 August 2009, ERN 00364361 [BOU Thon], l. 9-11; **D179/1.2.43**, Transcript of hearing on the substance in Case 002 – 08 October 2012 [MEAS Voeun], ERN 00855098, l. 4-19, l. 24, 00855099, l. 3-5; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151227, A4; **D219/876**, Written Record of Interview Witness CHHEAN Heang, 30 November 2016, ERN 01362674, A15; **D219/847.1** Attachment I: Transcript of AO An, 17 October 2016, ERN 01373551-01373552.

<sup>341</sup> **D179/1.2.12**, Transcript of Hearing on the Substance in Case 002 – 28 March 2012 [Duch], ERN 00796334, l. 12-13; **D6.1.637**, Written Record of Interview of Charged Person Duch by Cl 010322, October 2009, ERN 00398231.



River. The Central Zone and Phnom Penh, the capital of DK, shared a common boundary at the confluence of the Mekong and the Tonle Sap rivers.<sup>342</sup>

164. The Central Zone was established in late 1976 or early 1977 and was carved out of a larger region called the (Old) North Zone which also included the northern provinces of Siem Reap, Oddar Meanchey and Preah Vihear.<sup>343</sup> Autonomous Sector 106 (Siem Reap) and Autonomous Sector 103 (Preah Vihear) were merged to create the New North Zone.<sup>344</sup> The Central Zone had three sectors: 41, 42 and 43.<sup>345</sup> The Zone Office, which was the official Zone headquarters, was in the centre of Kampong Cham Town.<sup>346</sup>

<sup>342</sup> **D6.1.82**, 1976 Colour map of Democratic Kampuchea showing zones as they stood at that time, 1976, ERN 00295143; **D1.3.27.1**, DK Government Map of Democratic Kampuchea, 1976, ERN P 00000002; **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 1975, ERN 00184837, Article 15.

<sup>343</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373572; **D6.1.724**, Written Record of Interview of PRUM Sou, ERN 00422380, A6, 00422382, A15; **D118/103.3**, Accused's Final Written Submission, 23 November 2009, ERN 004120104; **D6.1.697**, Written Record of Interview of SUON Kanil, 18 August 2009, ERN 00384426; **D6.1.736**, Written Record of Interview of Duch by CIJ, 11 November 2009, ERN 00403922; **D6.1.729**, Written Record of Interview of SENG Kimoeun, 17 December 2009, ERN 00421613, A1; *see also* **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died", 20 November 2008, ERN 00089714 ("I served as secretary, Kang Chab as my deputy and Ta An as member. The new Northern Zone was divided into two: Kang Chab took charge of Siem Reap-Oudar Meanchey region under the director control of the Central Committee; as for me, I was told to stay in the Central Zone.").

<sup>344</sup> **D179/1.2.39**, Transcript of hearing on the substance in Case 002 – 05 September 2012 [NORNG Sophang], ERN 00846426, l. 16-25, 00846427, l. 1-4; **D6.1.724**, Written Record of Interview of PRUM Sou, ERN 00422380, A6, 00422382, A15; **D6.1.736**, Written Record of Interview of Duch by CIJ, 11 November 2009, ERN 00403922 **D6.1.729**, Written Record of Interview of SENG Kimoeun, 17 December 2009, ERN 00421613, A1; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 - 28 March 2012 [Kaing Guek Eav alias DUCH], ERN 00796334, l. 11-14, l. 24-25; *see also* **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died", 20 November 2008, ERN 00089714; **D179/1.2.38**, Transcript of hearing on the substance in Case 002 – 04 September 2012 [NORNG Sophang], ERN 00846220, l. 3-5 ("I recall that it was a newly established zone. After the autonomous zone in Siem Reap, Preah Vihear was removed and named as Zone 801.").

<sup>345</sup> **D117/35**, Written Record of Interview of Witness BAN Siek, 24 March 2014, ERN 00984873, A13; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384427; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095782, A1; **D6.1.675**, Written Record of Interview of Witness EM Hoy, 8 November 2009, ERN 00410237, A63; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A3; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012-01077013, A5.

<sup>346</sup> **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351703; **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384426; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095783, A5; **D6.1.385**, Written Record of Interview of Witness SOU Soeun, 5 July 2009, ERN 00360119; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A2; **D6.1.707**, Written Record of Interview of SUON Kanil, 19 August 2009, ERN 00390075.



165. Near the Zone office were the telegram unit and the commerce department; the latter stored and distributed supplies to the sectors.<sup>347</sup> As part of its logistical framework, the Central Zone also possessed and operated trucks to transport supplies and prisoners to security centres and worksites throughout the Zone.<sup>348</sup>
166. The Zone armed forces were under the direct control of the Zone Committee.<sup>349</sup> Zone military units were stationed at bases throughout the Zone, including at Wat Phnom Pros Phnom Srei in Krala and Ampil Communes, Kampong Siem District, Kampong Cham Province.<sup>350</sup> The Central Zone operated a security centre that was located near the Kampong Cham provincial hall.<sup>351</sup> The CIJs are not seized of this facility.

### 6.1.3. Sector 41

167. Sector 41 was in the southern part of the Zone, its southern boundary was the Mekong river; it covered most of the western part of Kampong Cham Province,

<sup>347</sup> **D6.1.707**, Written Record of Interview of SUON Kanil, 19 August 2009, ERN 00390075-00390076, 00390079-003900080; **D6.1.697**, Written record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384426; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095783, A5-A6; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A1, 00900990, A19; **D219/606**, Written Record of Interview Witness CHEA Kheang Thai, 13 November 2015, ERN 01184891-01184892, A38-A41, A43-A45.

<sup>348</sup> **D219/855**, Written Record of Interview Witness NHEM Chen, 27 October 2016, ERN 01374647, A47, A54; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167896, A72, 01167897, A76, 01167898, A78, 01167913, A143; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179828, A54-A55; **D219/855**, Written Record of Interview Witness NHEM Chen, 27 October 2016, ERN 01374655, A146; **D219/816**, Written Record of Interview Witness YA Matly, 23 August 2016, ERN 01377996, A21, 01378000, A45; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 - 28 September 2015 [NO Sates], ERN 01403685, l. 6-10.

<sup>349</sup> **D117/66**, Written Record of Interview of ORN Kim Eng, 27 August 2014, ERN 01040459, A2; **D1.3.30.16**, DK Military Telegram by Pauk entitled "Telegram 10 - Radio Band 393 - To Beloved and Missed Committee 870", 4 May 1978, ERN 00185254; **D219/702.1.26**, DK Telegram No 11 on 06-05-1978, ERN 00322057; **D6.1.974**, Telegram Number 3, to beloved and missed Committee M-870, 12 April 1978, ERN 00522911; **D6.1.437**, Written Record of Interview of Witness KE Un, 13 January 2009, ERN 00283341; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077011-01077012, A1-A4; **D6.1.636**, Written Record of Interview of Duch by CIJ on 21-10-2009, ERN 00398207-00398208.

<sup>350</sup> **D107/5**, Written Record of Interview of ORN Kim Eng, 18 February 2012, ERN 00787224, A2; **D219/602**, Written Record of Interview Witness NIB Kimheng, 16 November 2015, ERN 01185783, A18; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A97; *see Wat Phnom Pros Phnom Srei Crime Site Section; see also D219/178*, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077014, A13 ("Phnum Pros Mountain is located close to Kampong Cham Province and was a place where soldiers were stationed. Before 1978, we guarded it as well").

<sup>351</sup> **D6.1.697**, Written record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384426; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900990.



west of the Mekong.<sup>352</sup> Sector 41 consisted of the following districts: Kampong Siem, Prey Chhor, Batheay, Kang Meas and Cheung Prey.<sup>353</sup>

168. The Sector 41 Office was the sector headquarters as well as home and office of the Sector Secretary. It was in Prey Toteung Village, Chrey Vien Commune, Prey Chhor District, Kampong Cham Province.<sup>354</sup>
169. The Sector Office compound included several other buildings:<sup>355</sup> one house for the Sector Secretary, and one house for the Sector 41 Office Chief, who essentially functioned as a chief of staff to the Sector Secretary.<sup>356</sup> The Sector Military Chairman lived underneath the Sector Secretary's house along with members of the Sector Secretary's defence unit.<sup>357</sup> Sector 41 drivers also slept

<sup>352</sup> **D6.1.82**, 1976 Colour map of Democratic Kampuchea showing zones as they stood at that time, 1976, ERN 00295143; **D1.3.27.1**, DK Government Map of Democratic Kampuchea, 1976, ERN P 00000002.

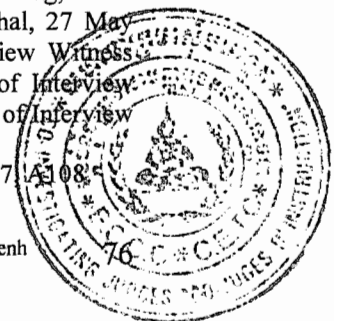
<sup>353</sup> **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384427; **D6.1.373**, Written Record of Interview of Witness PON Ol, 7 May 2009, ERN 00336526; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A30.

<sup>354</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A25; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225, A23; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098552, A11; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033103, A8; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 – 14 January 2016 [YOU Vann], ERN 01438492, 1. 16-18; *see also* **D74**, Written Record of Interview of Witness ROTH Peou, 26 August 2011, ERN 00740801, A9; **D219/802**, Written Record of Interview Witness HONG Heng, 27 July 2016, ERN 01331755, A15; **D219/761**, Written record of interview Witness MEL Khorn, 12 May 2016, ERN 01313240, A6-8; **D219/870** Written Record of Interview of Witness Ry Nhor, 10 November 2016, ERN 01373687, A30, A33.

<sup>355</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331726, A100.

<sup>356</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331726, A101; **D117/56**, Written Record of Interview of Witness CHOM Vong, ERN 01067811, A18-A19, 01067813, A25; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167887, A19; **D219/788**, Written record of interview Witness KHUT Saret, 27 June 2016, ERN 01331688, A49-A50; **D219/315**, Written Record of Interview Witness SAT Pheap, 18 May 2015, ERN 01111973, A12, A16, 01111978, A89, 01111981, A130, A132; **D219/321**, Written Record of Interview Witness KHUTH Khy, 13 May 2015, ERN 01112025, A7-A9; **D219/686**, Written record of Interview Witness KHUTH Khy, 11 February 2016, ERN 01216228, A21, 01216230, A37, A39; **D219/541**, Written Record of Interview Witness KIM Thoeurn, 5 October 2015, ERN 01174524, A44-A45, 01174525, A52; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434531, A73-A74; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A25-A28, 01112051, A38; **D219/704**, Written Record of Interview Witness KIM Koeun, 1 March 2016, ERN 01218601, A28, A32; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374649, A71; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A8-A10.

<sup>357</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331727, A108.



under the Sector Secretary's house.<sup>358</sup> Another defence unit slept beneath the office of the Office Chief.<sup>359</sup>

170. The Sector Commerce Office, Sector Logistics, Sector Garage, Sector Warehouse, Sector Dining Hall, Sector Handicap section, and Sector Propaganda Office were located within or close to the Sector 41 Office.<sup>360</sup>
171. The main Sector 41 security centre (Met Sop) was located in Kor Commune, Prey Chhor District and was administered by the Sector Security Chief, who reported to the Sector Secretary and also on occasion to the Sector Office Chief.<sup>361</sup> Another Sector 41 security centre was at Wat Ta Meak, approximately one kilometre from the Sector 41 Office.<sup>362</sup>
172. The Sector Military was under the direct control of the Sector Committee;<sup>363</sup> the Sector Military Chief reported directly to the Sector Secretary.<sup>364</sup> The Sector Military consisted of a regiment of approximately 300 soldiers billeted at Wat Ta Meak and other locations in Sector 41.<sup>365</sup>

<sup>358</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331727, A111.

<sup>359</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331727, A107.

<sup>360</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156189, A13; **D219/541**, Written Record of Interview Witness KIM Thoeurn, 5 October 2015, ERN 01174522-01174523, A33-35; **D219/460**, Written Record of Interview Witness SAT Pheap, 7 August 2015, ERN 01151217, A2; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179823, A20, A25; **D219/686**, Written record of Interview Witness KHUTH Khy, 11 February 2016, ERN 01216233, A67.

<sup>361</sup> See section 6.4.1.3 Met Sop Security Centre, paras 385-411.

<sup>362</sup> See section 6.4.1.8 Wat Ta Meak, paras 556-589.

<sup>363</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184042, Article 16(1); **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000680, A112; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374653, A117-122; see also **D117/10**, Written Record of Interview of Khim Choeung, 17 December 2012, ERN 00876114, A24 (stating that orders to carry out arrests came from the district or sector committees).

<sup>364</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374652, A100, 01374665, A250; **D219/504**, Written record of Interview of Witness Sat Pheap, 17 September 2015, ERN 01167891, A41, 01167892, A53.

<sup>365</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374651, A93, 01374653, A115; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A151; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 001167894, A66; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174530, A93; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174545, A55-A56; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151209, A10; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174561, A39; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179831, A76; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331740, A201; **D219/837**, Written Record of



#### 6.1.4. Districts in Sector 41

173. The Kampong Siem District Office was located in the Krala Pagoda, in Angkuonh Dei Village, close to Wat Angkuonh Dei.<sup>366</sup> Kampong Siem District had two security offices at Wat Angkuonh Dei and Tuol Beng.<sup>367</sup>
174. The Prey Chhor District Office was very close to the Sector Office near the Prey Toteung intersection in Chrey Vien Commune, Prey Chhor District.<sup>368</sup>
175. The Kang Meas District Office was at the same location as the present-day District Office, at the corner of the road from Peam Chi Kang Market to Prey Toteung and the road from Peam Chi Kang to Roka Kaong.<sup>369</sup> The Kang Meas District Security Office was located at Wat Au Trakuon.<sup>370</sup>
176. It is unknown where the Batheay District Office was located. The Batheay District Security Office was located at Wat Batheay.<sup>371</sup>
177. It is unknown where the Cheung Prey District Office or the respective District Security Office were located.
178. Each district committee controlled a “*Militia Unit*”<sup>372</sup> and the District Military Chief reported directly to the District Secretary.<sup>373</sup>

Interview of Witness SO Saren, 22 June 2016, ERN 01364058, A42, 01364059, A49 01364060, A58; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434541, A128, A130; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059296, A94-A95; cf **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A10 (“*All of the guards were soldiers from the Zone. They had three vehicles. In my estimation there were about 50 to 60 soldiers.*”).

<sup>366</sup> **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151227, A5; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A13; **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966963, A12, 00966964, A16; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098559, A91; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217-01056218, A30; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034906, A6.

<sup>367</sup> See Section 6.4.1.4 Tuol Beng and Wat Angkuonh Dei, paras 412-455.

<sup>368</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111973, A11; **D219/460.1**, Map of Prey Chhor District, 7 August 2015, ERN 01348598; **D219/460**, Written Record of Interview Witness SAT Pheap, 7 August 2015, ERN 01151217, A2; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A71.

<sup>369</sup> **D117/62**, Written Record of Interview of Witness KONG Yoeun, 4 August 2014, ERN 01025203; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044601; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 7 August 2014, ERN 01044602, A33; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 7 August 2014, ERN 01044606, A4.

<sup>370</sup> See section 6.4.1.5 Wat Au Trakuon Security Centre, paras 456-491.

<sup>371</sup> See section 6.4.1.6 Wat Batheay Security Centre, paras 492-536.



### 6.1.5. Statutory powers of zones and sectors in DK

179. The constitutional framework of DK set forth in the CPK Statute specifies the roles, powers, and prerogatives of DK's political bodies and administrative levels.<sup>374</sup>
180. Zones were the administrative levels below the centre level,<sup>375</sup> and were controlled by a zone committee.<sup>376</sup> Zone Committee members had a statutory duty to “go down close to the Sectors, Districts, Branches ... and in the Revolutionary army, in order to lead the implementation of tasks”; to “constantly and tightly grasp the popular masses” by “arming them politically, ideologically, and organizationally”.<sup>377</sup>
181. The zone committee was responsible for managing the property of the zone, including worksites and roads.<sup>378</sup> Consequently, the zone committee was responsible for visiting worksites within the zone,<sup>379</sup> and monitoring and

<sup>372</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", ERN 00184029, Article 1, 00184041, Article 13(1), 00184042, Article 13(4); **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434543, A144; **D219/26**, Written Record of Interview of Witness PRAK Ny Dated, 14 October 2014, ERN 01044877-01044878, A41; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A11-A12; **D219/463**, Written Record of Interview Witness PEN Thol, 10 August 2015, ERN 01151234, A1.

<sup>373</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D219/323**, Written Record of Interview Witness MUT Sophon, 15 May 2015, ERN 01113698, A23; **D219/26**, Written Record of Interview of PRAK Ny, 13 October 2014, ERN 01044877-01044878, A41; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275, A16, 01059283, A47, 01059296-01059297, A96; cf **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A41; **D219/463**, Written Record of Interview Witness PEN Thol, 10 August 2015, ERN 01151234, A4; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374666, A257; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; see also **D6.1.386**, Written Record of Interview of BAN Siek, 6 July 2010, ERN 00360755; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A28.

<sup>374</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976.

<sup>375</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184038, Articles 7(1)-(2), 00184043, Article 18(3), 00184044, Article 19(4).

<sup>376</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184043-00184044, Articles 19.

<sup>377</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184043-00184044, Article 19(1)-(3); 'Branches' refers to the lowest organisational unit in the CPK: see **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184039-00184040, Articles 9-11.

<sup>378</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184044, Article 19(4); **D179/1.2.11**, Transcript of hearing on the substance in Case 002/27 March 2012 [KAING GUEK EAV, alias DUCH], ERN 00795623, l. 11-18.

<sup>379</sup> **D6.1.437**, Written Record of Interview of KE Un, 13 January 2009, ERN 00283343; **D6.1.427**, Written Record of Interview of LIV Peou, 19 December 2008, ERN 00277828.



authorising transfers and movements of people and logistics within their respective zone.<sup>380</sup>

182. The zone committee was also responsible for administering discipline within the zone.<sup>381</sup> Whilst the CPK Statute does not define what is meant by discipline, in practice “*discipline*” was synonymous with “*punishment*”, and thus “*administer discipline*” involved carrying out punishment.<sup>382</sup>

183. In addition, the zone committee was responsible for “*maintaining a system of reporting to the Central Committee on the situation and the work of the Zone*”.<sup>383</sup> In practice, this entailed a number of duties which included sending and receiving reports from the Centre;<sup>384</sup> attending training sessions with

<sup>380</sup> **D219/193**, Written Record of Interview Witness VAT Phat, 23 February 2015, ERN 01079879-01079881, A42-A43, A48, A53; **D6.1.364**, Written Record of Interview of CHHOEUN Sem, 21 April 2009, ERN 00338377-00338378; **D219/702.1.5**, Transcript of hearing on the substance in Case 002 – 21 June 2012 [KHIEV Neou] ERN 00820858 l. 19-25, 00820859 l. 4-7; **D6.1.697**, Written Record of Interview of SUON Kanil, 18 August 2009, ERN 00384430; **D219/551**, Written Record of Interview Witness HENG Khly, 19 October 2015, ERN 01178563, A84; **D118/92**, Written Record of Interview of Witness Nop Nan, ERN 00967027, A11; *On how movement was generally restricted for all individuals, and required approval by higher entities*: **D219/395**, Written Record of Interview of Civil Party Applicant CHIEV Heng, 27 June 2015, ERN 01132663, A8; **D219/427**, Written Record of Interview Witness HIM Houy, 22 July 2015, ERN 01135185, A57; **D219/666**, Written Record of Interview Witness YANG Sarieb, 27 January 2016, ERN 01204297, A83; **D219/22**, Written Record of Interview of ORK Chhoem, 2 October 2014, ERN 01050501, A54; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116056, A2; **D219/125**, Written Record of Interview of Civil Party SREY Soeum, 15 December 2015, ERN 01067757, A244; **D219/50**, Written Record of Interview of UY Chinda, 21 October 2014, ERN 01056846, A30; **D6.1.156**, Written Record of Interview of TANN Saroeun, 3 June 2008, ERN 00225531; **D219/702.1.45**, Request to send a letter by KHIEU Samphan, on 30 December 2007, ERN 00170882; **D219/702.1.38**, KHIEU Samphan, “Open letter to all compatriots,” published in the Cambodia Daily, 20/08/01 ERN 00149526; **D219/702.1.70**, Transcript of hearing on the substance in Case 002 – 20 June 2012, ERN 00820129; **D219/370.1.4**, Airgram entitled “Life inside Cambodia”, ERN 00443072; **D179/1.2.18**, Transcript of hearing on the substance in Case 002 – 9 April 2012, ERN 00800437; *Travel permits were checked and enforced by militias at checkpoints and those without a permit would be arrested see e.g.* **D118/48**, Written record of Witness interview of HENG Prel, 25 April 2013, ERN 00938189, A8; **D219/63**, Written Record of Interview of Civil Party SAO Sok, 13 November 2014, ERN 01053931, A74; **D119/52**, Written Record of Interview of MOM Chhouk, 17 June 2013, ERN 00966764, A30; **D219/121**, Written Record of Interview of LOEM Ngen, 11 December 2014, ERN 01057796, A16; **D6.1.1059**, Written Record of Interview of Charged Person DUCH, 1 April 2008, ERN 00177635; **D179/1.2.17**, Transcript of hearing on the substance in Case 002 – 5 April 2012, ERN 00799839; *Zone Committees were responsible for monitoring the movements of evacuated persons from other Zones within their Zone, see e.g.* **D6.1.991**, Written Record of Interview of Witness UK Soeum, 3 March 2010, ERN 00491350, A5.

<sup>381</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184044, Article 19(4).

<sup>382</sup> **D6.1.1073**, Answers of DUCH to the 13 written questions of the CIJ, 22 October 2008, ERN 00251374.

<sup>383</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184044, Article 19(4).

<sup>384</sup> **D6.1.514**, Written Record of Interview of SAO Sarun, 29 June 2009, ERN 00350264; **D118/249**, Written Record of Interview of Civil Party Son Em, 2 June 2014, ERN 01034083, A9, 01034084, A124.





“*Angkar*”<sup>385</sup> in Phnom Penh,<sup>386</sup> and receiving Centre Committee members within the respective zone.<sup>387</sup>

184. Zone committees were responsible for receiving reports about the situation and work of the sectors.<sup>388</sup> Zone committees were required to hold zone conferences once per year,<sup>389</sup> and ordinary meetings every three months.<sup>390</sup>

01034085 A16; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346156; *Contemporaneous Telegram Reports sent from the Zone to the Centre, see e.g. D6.1.499*, DK Telegram entitled “Telgram 324”, 10 April 1978, ERN 003405039-003405042; **D1.3.34.2**, Report from Southwest Zone office to Angkar re Defense and Economics Situation in Zone, 3 June 1977, ERN 00185243-00185246; **D6.1.1230**, To Respected Angkar: about defending the enemy, 16 May 1978, ERN 00321961-00321963; **D1.3.27.3**, DK-Government Report by Mo-560 on the Situation in the Northwest Zone, 29 May 1977, ERN 00183010-00183018; **D219/702.1.65**, Telegram no 53: To beloved and missed chief of 870, 23 August 1977, ERN 00143572-00143574; **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289921-00289924; **D219/370.1.13**, To respected Angkar from M401, 4 August 1978, ERN 00315368-00315383; **D6.1.966**, Report of M560 re Northwest Zone, 24 May 1977, ERN 00583917-00583921; **D1.3.30.19**, Report by Nhim to Angkar 870, 11 May 1978, ERN 00185215-00185218; **D1.3.27.4**, Report from Nhim to Angkar 870, 17 May 1978, ERN 00387587-00387587; **D219/702.1.62**, Telegram 60: To Beloved and Missed Chief of 870 about a number of all section 's situation, 5 September 1977, ERN 00517923-00517925; **D1.3.27.3**, DK-Government Report by Mo-560 on the Situation in the Northwest Zone, 29 May 1977, ERN 00183010-00183018; **D6.1.60**, Telegram no 32 sent to Office 870, 15 August 1977, ERN 00335206-00335206; **D219/702.1.3**, To beloved and missed Office 870, 26 November 1976, ERN 00506647-00506647; *The Zone Committees would receive communications directly from the Central Committee, see e.g. D6.1.1085*, Written Record of Interview of THA Sot, 19 January 2008, ERN 00226112.

<sup>385</sup> “*Angkar*” was a term used to denote the highest levels of the CPK, however it was also used by the general population to refer to the CPK more broadly: **D6.1.1070**, Written Record of Interview of Charged Person DUCH, 2 June 2008, ERN 00195574; **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting 18 May 2009 [Duch] ERN 00328460, l. 25, 00328461, l. 1-5; **D6.1.1067**, Written Record of Interview of Duch by CIJ on 02-10-2007, ERN 00147602; **D179/1.2.13**, Transcript of hearing on the substance in Case 002 - 29 March 2012 [Duch], ERN 00796899, l. 2-25.

<sup>386</sup> **D6.1.677**, Written Record of Interview of DUK Suo, 10 November 2009, ERN 00404729, A58; **D6.1.389**, Written Record of Interview of Witness KHIEV Noeu, 23 July 2009, ERN 00358142; **D6.1.141**, Written Record of Interview of SAO Sarun (1), 17 December 2008, ERN 00278695-00278696; **D6.1.501**, Written Record of interview of PHAN Sovanhan, 11 March 2009, ERN 00295162-00295163; **D6.1.637**, Written Record of Interview of Charged Person DUCH, 22 October 2009, ERN 00398230; **D6.1.736**, Written Record of Interview of Duch by CIJ dated 11-11-2009, 11 November 2009, ERN 00403919; **D6.1.1051**, Written Record of Interview of Charged Person DUCH, 4 December 2007, ERN 00154910; **D6.1.1070**, Written Record of Interview of Charged Person DUCH, 2 June 2008, ERN 00195576; **D6.1.661**, Written Record of Interview of SAO Sarun, 20 October 2009, ERN 00403024-00403025;; **D6.1.1076**, Written Record of Interview of SAO Run, 11 December 2007, ERN 00231697; *Specific Example of Connection between Civilian and Military administrations: Zone Secretaries were required to attend meetings along with the Military apparatus in Phnom Penh to discuss military matters, see e.g. D6.1.674*, Written Record of Interview of CHAOM Se, 8 November 2009, ERN 00406222-00406223, A3.

<sup>387</sup> **D34.1.11**, Foreign Broadcast Information (FBIS) Collection of December 1977, Phnom Penh Domestic Service Broadcast, ERN 00168335; **D6.1.1070**, Written Record of Interview of Charged Person Duch by CIJ, 2 June 2008, ERN 00195576; **D6.1.438**, Written Record of Interview of Witness OV Yae, 13 January 2009, ERN 00282818; **D6.1.1081**, Written Record of Interview of Witness SENG Lytheng, 4 December 2007, ERN 00223564; **D6.1.385**, Written Record of Interview of Witness Soeun, 5 July 2009, ERN 00360116-00360117.

<sup>388</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute” January 1976, ERN 00184043, Article 16(4).



185. Zone secretaries had the authority to appoint and remove other zone committee members, with the approval of the Central Committee.<sup>391</sup> Furthermore, zone committees were responsible for approving and authorizing sector secretaries to appoint and demote members on the sector committees.<sup>392</sup>
186. While the CPK Statute does not further elaborate on the composition of zone committees, former Chief of S-21 Kaing Guek Eav *alias* Duch (“Duch”) explains that the zone was governed by a three-person committee, consisting of a secretary, a deputy usually responsible for security, and a member usually responsible for economics.<sup>393</sup>
187. Under the CPK Statute, the RAK was under the direct command of the Central Committee.<sup>394</sup> However, the zone committee was also responsible for “*lead[ing] the implementation of tasks*” conducted by constituent units within the RAK,<sup>395</sup> and in practice, RAK divisions were integrated into zone administrations.<sup>396</sup>
188. Under the CPK Central Committee directive of 30 March 1976, zone secretaries, including Ke Pauk, had the authority to decide on arrests and

<sup>389</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184043, Article 18.

<sup>390</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184044, Article 20.

<sup>391</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184043, Article 18(3); **D6.1.533**, Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, 18 July 2007, ERN 00146832.

<sup>392</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184042, Article 15(3); **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting, 18 May 2009 [Craig Etcheson], ERN 00328519 l. 5-9, l. 18-22; **D6.1.533**, Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, 18 July 2007, ERN 00146836.

<sup>393</sup> **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting 18 May 2009 [KAING GUEK EAV, *alias* DUCH], ERN 00328517 l. 24-25, 00328518 l. 1; *see also* **D6.1.533**, Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, 18 July 2007, ERN 00146823; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373549, 01373550, 01373557.

<sup>394</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184046, Article 27-Article 28.

<sup>395</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184044, Article 19(1).

<sup>396</sup> **D6.1.734**, Written Record of Interview of SOKH Chhien, 19 August 2009, ERN 00374947; **D219/702.1.148**, Written Record of Interview of SUOS Siyat, 17 January 2008, ERN 00204707; **D1.3.29.7**, UNHCHR Suspect Statement of KAING Guek Eav *alias* DUCH, 4–6 May 1999, ERN 00184998; *see also* **D219/702.1.9**, Written Record of Interview of CHEA Chinit, 20 December 2009, ERN 00425881, A8; **D219/702.1.149**, Written Record of Interview of TEA Tit, 28 January 2009, ERN 00284711.



executions.<sup>397</sup> In some instances, Duch states that deputy zone secretaries also exercised the power to decide who would be arrested,<sup>398</sup> or “*smashed*”.<sup>399</sup> Furthermore, decisions regarding arrests of some party members and mid-level cadres were made by the standing committee of each zone.<sup>400</sup> Thus, members of the Central Zone Standing Committee had significant authority over decisions regarding arrests and executions in the Central Zone.

189. Sectors were the administrative levels below the zone level.<sup>401</sup> The sector committee was the “*highest operational organization*” for the sector and the subordinate administrative levels.<sup>402</sup> Under the CPK Statute, sector committees were responsible for managing the property of the sector, administering discipline in the sector, and maintaining a system of reporting to the upper

<sup>397</sup> **D1.3.19.1**, CPK Central Committee Directive entitled “Decision of the Central Committee regarding a number of matters”, ERN 00182809; **D6.1.94**, Written Record of Interview of Charged Person DUCH, 27 November 2008, ERN 00242937; **D6.1.736**, Written Record of Interview of Duch by CIJ dated 11-11-2009, ERN 00403919; **D6.1.871**, Transcript of Proceedings - “Duch” Trial - 15 September 2009 [KAING GUEK EAV, alias DUCH], ERN 00377706, l. 25; **D118/103.3**, Accused’s Final Written Submission, 25 November 2009, ERN 00412101; **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting 18 May 2009 [KAING GUEK EAV, alias DUCH], ERN 00328461 l. 6-22; **D6.1.1056**, Written Record of Interview of Charged Person DUCH, 27 March 2008, ERN 00194551; **D1.3.29.5**, Written Record of Interview of Charged Person DUCH, 25 June 2008, ERN 00198883; **D179/1.2.12**, Transcript of hearing on the substance in Case 002 – 28 March 2012 [KAING GUEK EAV, alias DUCH], ERN 00796345, l. 9-12, l. 14-22; **D6.1.873**, Transcript of Proceedings – “Duch” Trial, 25 November 2009 [KAING GUEK EAV, alias DUCH], ERN 00406692 l. 2-18; **D6.1.636**, Written Record of Interview of Duch by CIJ on 21-10-2009, ERN 00398208.

<sup>398</sup> **D6.1.796**, Written Record of Interview of Duch by CIJ dated 03-12-2009, ERN 00414348; **D219/702.1.40**, Letter To Respected and Beloved Angkar in Khmer by Pal on date 26 March 1978, ERN 00524161; **D118/103.3**, Accused’s Final Written Submission, 23 November 2009, ERN 00412096.

<sup>399</sup> **D6.1.862**, Transcript of Proceedings – “Duch” Trial – 30 April 2009 [KAING GUEK EAV, alias DUCH], ERN 00326157 l. 21-22, 00326158 l. 5-12; **D179/1.2.19**, Transcript of hearing on the substance in Case 002 – 10 April 2012 [KAING GUEK EAV, alias DUCH], ERN 00801272, l. 17-23; **D118/103.3**, Accused’s Final Written Submission, 23 November 2009, ERN 00412098; *see also* **D6.1.873**, Transcript of Proceedings – “Duch” Trial, 25 November 2009 [KAING GUEK EAV, alias DUCH], ERN 00406690, l. 10-14 (“*The Chief of the Police Office had no right to make arrests; the Party made such decisions. Note, the term “Party” in this context refers to the secretary and under-secretary of the zone, or deputy secretary of the zone*”); **D6.1.1063**, Written Record of Interview of Charged Person DUCH, 5 May 2008, ERN 00204354 (“*the term “smash” means arrest, detention (for being interrogated) and execution at last*.”); **D1.3.29.3**, Written Record of Interview of Charged Person DUCH, 21 January 2008, ERN 00159558 (“*the words “smash” and “resolve” are synonymous and mean “execution” i.e. take the interrogated person to be executed. The word “resolve” was used under Vorn Vet whereas under Son Sen, we used “smash”...But after 17 April 1975... the Khmer Rouge used the word “purge”, which means collective arrest.*”).

<sup>400</sup> **D6.1.1056**, Written Record of Interview of Charged Person DUCH, 27 March 2008, ERN 00194551.

<sup>401</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184038, Articles 7(2)-(3), 00184042, Article 15(3), 00184043, Article 16(4).

<sup>402</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184038, Article 7(3), 00184041, Article 12(3), 00184042, Article 16 (1).



- echelons on the situation and work within the sector.<sup>403</sup> The Sector Committee was also responsible for the proper administration of the unions, cooperatives, branches, and the RAK within the Sector framework.<sup>404</sup> Sector committees had a statutory duty to disseminate and implement the work plans of the Central Zone Committee throughout the sector, by “*constantly and tightly*” guiding the political and ideological stance of the lower echelons and the people.<sup>405</sup>
190. Sector committees were responsible for receiving reports about the situation and work of the districts.<sup>406</sup> They were also required to hold sector conferences every six months,<sup>407</sup> and ordinary meetings monthly.<sup>408</sup>
191. Sector Secretaries had *de jure* authority over the district and commune-level cadres in their sector, including the appointment of members of the sector and

<sup>403</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184043, Article 16; *for further explanation of the reporting system, see also D6.1.1073*, Answers of DUCH to the 13 written questions of the CIJ, 22 October 2008, ERN 00251374; **D118/285**, Written Record of Interview of Witness Nop Ngim, 12 August 2014, ERN 01044681, A44; **D118/249**, Written Record of Interview of Civil Party Son Em, 2 June 2014, ERN 01034083, A9; **D6.1.652**, Written Record of Interview of PECH Chim, 27 August 2009, ERN 00380137; **D118/152**, Written Record of Interview of Witness Pok Touch, 25 November 2013, ERN 00979111, A84; **D219/294**, Written Record of Interview of Witness Muol Eng alias Ta En, 4 May 2015, ERN 01111834, A69-A74; **D219/85**, Written Record of Interview of Vy Phann, 18 November 2014, ERN 01061168, A3; **D118/149**, Written Record of Interview of Witness Ham Sorm, 20 November 2013, ERN 00974999, A53; **D219/117**, Written Record of Interview of Top Seung, 8 December 2014, ERN 01067708, A72; **D219/226**, Written Record of Interview of Civil Party PENH Va, 11 March 2015, ERN 01088625, A14; **D119/136**, Written Record of Interview of PAN Chhuong, 22 July 2014, ERN 01044765, A19-A20; **D119/108**, Written Record of Interview of SOK Rum, 19 March 2014, ERN 00986254, A42; **D219/762**, Written record of interview Witness SARAY Hean, 19 May 2016, ERN 01309792, A16.

<sup>404</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042, Articles 16 (1)-(2), 00184043 Article 16(3).

<sup>405</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042-00184043, Article 16(2); *Throughout the CPK, Sector Secretaries were responsible for disseminating and implementing the work plans of their respective Zone Committees, see e.g. D6.1.652*, Written Record of Interview of Witness PECH Chim, 27 August 2009, ERN 00380138; **D118/96**, Written Record of Interview of Witness LOCH Eng, ERN 00974060, A32-A33; **D118/245**, Written Record of Interview of Witness Chuon Than, 26 May 2014, ERN 01029381-01029382, A16-A17; **D118/87**, Written Record of Interview of Witness of Tep Sien, 13 August 2013, ERN 00976974, A28; **D219/117**, Written Record of Interview of Witness Top Seung, 8 December 2014, ERN 01067711, A98; **D118/149**, Written Record of Interview of Witness Ham Sorm, 20 November 2013, ERN 00974995, A21-A23; **D6.1.786**, Written Record of Interview of IEM Duch (2), 1 November 2007, ERN 00223513; **D6.1.688**, Written Record of Interview of BUN Thien, 17 August 2009, ERN 00384406.

<sup>406</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042, Article 13(4); see e.g. **D6.1.653**, Written Record of Interview of Witness PECH Chim, 28 August 2009, ERN 00381025; **D6.1.1200**, Report on admissions of prisoners from Department 105 to Party, 30 July 1977, ERN 00276593-00276597; **D6.1.229**, Report to the Party on prisoners, 4 August 1976, ERN 00322114-00322116.

<sup>407</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042, Article 15.

<sup>408</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184043, Article 17.



district committees, with the approval of the Zone Secretary and the Standing Committee.<sup>409</sup> Sector secretaries under the CPK could also appoint and demote other cadres at the sector, district, and commune level.<sup>410</sup> Sector secretaries were also responsible for approving and authorizing district secretaries to appoint and demote cadres at the district and commune level.<sup>411</sup>

192. Under the CPK Statute, the sector committee was also responsible for the administration and implementation of tasks conducted by the RAK.<sup>412</sup> As such, throughout the CPK, each sector had a military unit which reported directly to the sector secretary.<sup>413</sup>

193. Consistent with the CPK's fundamental principle of "*vigilance toward all enemy activities*", sector secretaries were also responsible for instructing the

<sup>409</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042, Article 15(3); **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting, 18 May 2009 [Craig Etcheson], ERN 00328519, l. 5-9, l. 18-22; **D6.1.533**, Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, 18 July 2007, ERN 00146836.

<sup>410</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184041, Article 12(3); **D6.1.863**, Transcript of Proceeding Duch Trial – Trial Management Meeting, 18 May 2009 [Craig Etcheson], ERN 00328519 l. 18-22; *Examples of Sector Secretaries appointing (or removing) sector level positions*: **D119/29**, Written record of Witness interview of PAN Chhuong, 14 March 2013, ERN 00937035, A6; **D118/274**, Written Record of Interview of Witness Bun Thoeun, 10 July 2014, ERN 01031974, A21; **D118/23**, Written Record of Interview of Witness Tem Phal, 20 February 2013, ERN 00967018, A11; **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000672, A44; *Examples of Sector Secretaries appointing (or removing) district and commune committee positions*: **D118/242**, Written Record of Interview of KHOEM BOEUN, 21 May 2014, ERN 01057688, A70, 01057723, A275; **D119/65**, Written Record of Witness Interview TUM Soeun, 16 October 2013, ERN 00966787, A63; **D6.1.988**, Written Record of Interview of Witness SOU Nan, 9 April 2010, ERN 00508565, A19- A20; **D134/2**, Written Record of Witness Interview SOU Nan, 4 September 2013, ERN 00974273, A8; **D6.1.985**, Written Record of interview of Witness SAO Phen, 5 April 2010, ERN 00508571 A1, 00508572, A2; **D219/702.1.142**, Written Record of Interview of BUN Loeng Chauy, 10 June 2008, ERN 0027410; **D179/1.2.23**, Transcript of hearing on the substance in Case 002, 5 June 2012 [Sao Sarun], ERN 00814738, l. 8-10; **D6.1.141**, Written Record of Interview of SAO Sarun (1), 17 December 2008, ERN 00278695; *Examples of Sector Secretaries appointing (or removing) commune and village committee members*: **D118/77**, Written Record of Interview of Witness NANG Ny, 23 June 2013, ERN 00970455, A23; **D118/87**, Written Record of Interview of Witness of Tep Sien, 13 August 2013, ERN 00976974, A28; **D119/156**, Written Record of Interview of CHHOENG Chooun, 4 September 2014, ERN 01044846, A26.

<sup>411</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184041, Article 12(3); **D6.1.533**, Written Record of Analysis by Craig C. Etcheson, Investigator of the Office of Co-Prosecutors, 18 July 2007, ERN 00146842.

<sup>412</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184042, Article 16(1).

<sup>413</sup> **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000680, A112; **D219/294**, Written Record of Interview of Witness MUOL Eng alias Ta En, 4 May 2015, ERN 01111844, A182, 01111845, A190-A191; **D219/263**, Written Record of Interview of Witness Chham Luy, 8 April 2015, ERN 01097407, A3; **D118/244**, Written Record of Interview of Witness Phat Per, 23 May 2014, ERN 01029410, A5-A6; **D118/285** Written Record of Interview of Nop Ngim, 12 August 2014, ERN 01044682, A50.



lower echelons and the people to seek out enemies for re-education or “smashing”.<sup>414</sup> Throughout the CPK, sector secretaries had the authority to order the arrest and execution of particular individuals and in some cases order their release within their respective sectors.<sup>415</sup>

194. Furthermore, sector security centres were under the direct supervision of the respective sector secretary.<sup>416</sup>

## 6.2. Factual findings on the joint criminal enterprise

195. Beginning approximately late 1976 or early 1977 and lasting until at least 6 January 1979, Ke Pauk, **Ao An** and other CPK cadres shared the common purpose of implementing, in the Central Zone of DK, the following CPK policies:

- a. The establishment and operation of cooperatives and worksites;
- b. The re-education of “bad elements” and killing of “enemies” both inside and outside the CPK ranks;
- c. The targeting of specific groups, including Central Zone CPK cadres, former officials of the Khmer Republic, “17 April people”, people from the East Zone, the Cham, and their families;
- d. The regulation of marriage through, *inter alia*, the forced marriage of the inhabitants of the Central Zone.

<sup>414</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184024-00184025, ‘Fundamental principles and political stances of the Party’, 00184035, Article 5(3), 00184036, Article 5(9); **D6.1.740**, CPK Magazine entitled: “Revolutionary Flag, Special Issue, October - November 1977, ERN 00182550; **D1.3.22.5**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, December 1977 - January 1978 (FULL), ERN 00184315; *Throughout the CPK, Sector Secretaries instructed lower echelons to monitor and investigate enemies in their ranks, see e.g. D118/285*, Written Record of Interview of Witness NOP Ngim, 12 August 2014, ERN 01044684, A56; **D219/85**, Written Record of Interview of Witness VY Phann, 18 November 2014, ERN 01061169, A5; **D219/117**, Written Record of Interview of Witness TOP Seung, 8 December 2014, ERN 01067712, A100, 01067715, A125, 01067718, A147; **D118/96**, Written Record of Interview of Witness LOCH Eng, ERN 00974060-00974061, A34; **D118/77**, Written Record of Interview of Witness NANG Ny, 23 June 2013, ERN 00970456, A30; **D118/108**, Written Record of Interview of Witness Lim Tim, 24 August 2013, ERN 00976925, A22; **D6.1.688**, Written Record of Interview of BUN Thien, 17 August 2009, ERN 00384407-00384408.

<sup>415</sup> **D6.1.1063**, Written Record of Interview of Charged Person DUCH, 5 May 2008, ERN 00204339; **D6.1.653**, Written Record of Interview of Witness PECH Chim, 28 August 2009, ERN 00381025; **D6.1.695**, Written Record of Interview of Witness PHAN Chhen, ERN 00426301, A19-A23; **D6.1.1200**, Report on admissions of prisoners from Department 105 to Party, ERN 00276593-00276594; **D6.1.229**, Report to the Party on prisoners, ERN 00322114.

<sup>416</sup> **D118/103.3**, Accused’s Final Written Submission, 23 November 2009, ERN 00412111; **D6.1.652**, Written Record of Interview of Witness PECH Chim, 27 August 2009, ERN 00380134, 00380436.



### 6.2.1. *The establishment and operation of cooperatives and worksites*

196. The CPK sought to transform Cambodia from a market-based economy into an autarkic socialist state based on an agrarian economy.<sup>417</sup> This goal was to be achieved through a number of measures including, critically, the establishment of cooperatives and worksites throughout Cambodia and the forced relocation of the entire population to work on them.<sup>418</sup>
197. To that end, the CPK developed and implemented a series of policies that pre-date the establishment of DK. Beginning in May 1972, the CPK established cooperatives and worksites in CPK-controlled territory.<sup>419</sup> Upon the establishment of DK, worksites and cooperatives were established and expanded throughout Cambodia.<sup>420</sup>
198. The forced relocation and concentration of human labour into worksites and cooperatives was intended to achieve several CPK objectives, including the rapid transformation of the country's degraded agricultural system into a modern agricultural system within 10-15 years,<sup>421</sup> in order to support a

<sup>417</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184024-00184026; **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184834; **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495808; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357902; **D6.1.532**, KHIEU Samphan, "Consideration on the history of Cambodia from Early stage to the Period of Democratic Kampuchea", Reahu, October 2007, ERN 00498303; **D6.1.1139**, General Assembly first session of representative assembly of Kampuchea People, 13 April 1976, ERN 00184062; **D6.1.774**, Presentation of comrade secretary general in the 1st meeting of ministers on 22/4/76, ERN 00143461.

<sup>418</sup> **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357902-00357903; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363426; **D322/8.1.11**, CPK Magazine entitled: "Revolutionary Youth" Issue 8, August 1975 (FULL), 1 August 1975, ERN 00532692.

<sup>419</sup> **D179/1.2.8**, Transcript of hearing on the substance in Case 002 - 20 March 2012 [Kaing Guek Eav alias Duch], ERN 00793000, l. 5-7, 00793038, l. 18-21; **D117/36.1.21**, The 3rd anniversary of the farmer collective organizing, 20 May 1976, ERN 00636009; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488630.

<sup>420</sup> **D179/1.2.8**, Transcript of hearing on the substance in Case 002, 20 March 2012 [Kaing Guek Eav alias Duch], ERN 00793000, l. 9-12; **D6.1.755** CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL), ERN 00491424-00491425; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357902; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401507.

<sup>421</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October-November 1975 (FULL), ERN 00495808; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357902-00357903; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486746-00486747, 00486762; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN, 00488633, 00488635, 00488636; **D6.1.1257**, Suspect Statement of IENG Sary alias Van entitled "UN General Assembly, 32nd Session, 28th Plenary Meeting, 11 October 1977, ERN 00072814;



projected population of 20 million people.<sup>422</sup> This included the annual target of producing three to seven tonnes of rice per hectare in order to feed the people and attain self-sufficiency.<sup>423</sup> In addition, the CPK embarked on a nationwide infrastructure construction project, which included expanding cooperatives;<sup>424</sup> construction of irrigation systems and dams;<sup>425</sup> roads, railways, bridges, ports, and airfields;<sup>426</sup> and extracting mineral resources.<sup>427</sup> The symbolic and practical engine of this policy was the formation of mobile units some of which numbered thousands of workers, which were deployed throughout Cambodia's worksites and cooperatives to work the land and construct the supporting infrastructure according to the CPK's plan.<sup>428</sup>

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**D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523569.

<sup>422</sup> **D6.1.1257**, Suspect Statement of Ieng Sary alias Van entitled "UN General Assembly, 32nd Session, 28th Plenary Meeting, 11 October 1977, ERN 00079815; **D6.1.816**, *Foreign Broadcast Information Service Collection of Reports for October 1977*, October 1977, ERN 00168651, 00168718.

<sup>423</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495813, 00495815; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486751; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488633; **D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523588; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182681; **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October - November 1977, ERN 00182555; **D117/52**, Written Record of Interview of Civil Party BUM Ser, 27 May 2014, ERN 01076886, A23.

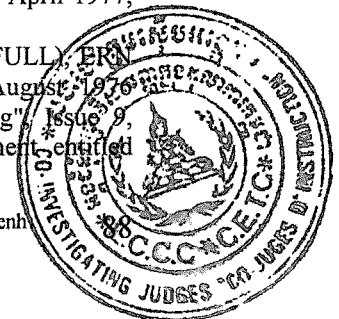
<sup>424</sup> **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401507; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488628, 00488633-00488634.

<sup>425</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495804; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488632; **D6.1.536**, Minutes of the Meeting of All Division Committees, 1 June 1976, ERN 00143489-00143490, 00143491; **D6.1.1257**, Suspect Statement of IENG Sary alias Van entitled "UN General Assembly, 32nd Session, 28th Plenary Meeting, 11 October 1977, ERN 00079814; **D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523572-00523573; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363430; **D1.3.30.2** Telegram 04 from Central Zone Secretary Ke Pauk to Pol Pot, 2 April 1976, ERN 00182658.

<sup>426</sup> **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363430, 00363452; **D1.3.24.2**, CPK Standing Committee Meeting Minutes entitled "Meeting of the Standing Committee, 9 October 75", ERN 00183401, 00183407.

<sup>427</sup> **D215/1.1.5**, D61152 DK Magazine entitled Kampuchea, June 1976, ERN 01148997; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488634; **D215/1.1.10**, D61157 DK Magazine entitled Kampuchea, Issue No. 24, January 1978, ERN 01174805; **D215/1.1.3**, D61150 DK Magazine entitled Kampuchea, Issue No. 3, March 1976, ERN 01149042; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363431; **D322/8.1.23**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), 1 April 1977, ERN 00478498.

<sup>428</sup> **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357925; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486746; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN, 00488635; **D6.1.837**, CPK Document entitled





199. The establishment of cooperatives and worksites also allowed the CPK to better monitor and control the movement and daily life of individuals,<sup>429</sup> and to indoctrinate the population with the CPK's ideology.<sup>430</sup> The cooperatives also facilitated the CPK's objective of implementing a class-less society where everyone worked collectively,<sup>431</sup> without any form of remuneration.<sup>432</sup>
200. Concomitantly, the CPK sought to establish complete control of the economy by attacking and removing "*feudalists*", "*landowners*", and "*capitalists*",<sup>433</sup> with

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"Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523579-00523580, 00523590; **D6.1.755** CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 –January 1977 (FULL), ERN 00491400-00491401; **D322/8.1.23**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), 1 April 1977, ERN 00478498; **D322/8.1.35**, Revolutionary Youth Number 11 November 1978, ERN 00524167.

<sup>429</sup> **D1.3.24.1**, CPK Standing Committee Meeting Minutes entitled "Minutes on the Standing [Committee's] visit to Northwest Zone, August 20-24 1975, 24 August 1975, ERN 00850973, 00850975-00850976, 00850978; **D6.1.1127**, About governing and carrying out the policy of gathering force of Democratic National Front of party (6th document), 22 September 1975, ERN 00244276; **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289923; **D6.1.743**, CPK Magazine entitled: "The Revolutionary Flag", Issue 7, July 1978 (FULL), ERN 00428291, 00428299, 00428301; **D6.1.1267**, Telegram 254: To respected and beloved Chief of 870 about situation of enemy along of the border of Preah Vihea and Otdar Meanchey Province, 10 January 1978, ERN 00182757.

<sup>430</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495810-00495811, 00495824; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357904, 00357924; **D6.1.1127**, About governing and carrying out the policy of gathering force of Democratic National Front of party (6th document), 22 September 1975, ERN 00244277; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486750, 00486768; **D6.1.1257**, Suspect Statement of IENG Sary alias Van entitled "UN General Assembly, 32nd Session, 28th Plenary Meeting, 11 October 1977, ERN 00079814; **D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523571; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363432, 00363433-00363435; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182676, 00182683-00182684; **D6.1.1160**, Minutes of permanent committee meeting on 9 January 1976, 9 January 1976, ERN 00182614.

<sup>431</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495820; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357904; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357908; **D6.1.1127**, About governing and carrying out the policy of gathering force of Democratic National Front of party (6th document), 22 September 1975, ERN 00244275; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401505-00401506; **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488629; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363425; **D6.1.755**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 –January 1977 (FULL), ERN 00491400.

<sup>432</sup> **D6.1.745**, CPK Magazine entitled: "The Revolutionary Flag", Issue 9, September 1978 (FULL), September 1978, ERN 00488635; **D6.1.753**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, September - October 1976 (FULL), ERN 00450513.

<sup>433</sup> **D117/36.1.21**, The 3rd anniversary of the farmer collective organizing, 20 May 1976, ERN 00636009; **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495818; **D1.3.22.1**, CPK Magazine entitled: "Revolutionary Youth," Issue 10, October 1975 (FULL), ERN 00357902; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401485; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363424.



the goal of executing an “*absolute democratic revolution*”.<sup>434</sup> This was achieved by abolishing private markets, prohibiting private ownership and money and all financial instruments.<sup>435</sup> Furthermore, all property including food was collectivised,<sup>436</sup> and people were forced to eat communally.<sup>437</sup>

201. The CPK disseminated the policy regarding cooperatives and worksites through meetings with lower echelons and the masses,<sup>438</sup> site visits,<sup>439</sup> official publications,<sup>440</sup> and radio broadcasts.<sup>441</sup> The policy was administered through the official reporting structure, with lower echelons instructed to provide

<sup>434</sup> **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401482.

<sup>435</sup> **D6.1.753**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, September - October 1976 (FULL), ERN 00450510, 00450513; **D6.1.749**, CPK Magazine entitled: "The Revolutionary Flag", Issues 2 and 3, February - March 1976 (FULL), ERN 00517819; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401483-00401484; **D6.1.141**, Written Record of Interview of SAO Sarun (1), 17 December 2008, ERN 00278694; **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363425; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486745-00486746, *c.f. the CPK developed a "new riel" currency with the intention of distributing it: D6.1.837*, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523584-00523586.

<sup>436</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184047, Article 29; **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184834, Article 2; **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495818, 00495823; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486744; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401482, 00401487; **D1.3.22.3**, CPK Magazine entitled: "Revolutionary Youth," Issue 7, July 1976 (FULL), ERN 00360786.

<sup>437</sup> **D322/8.1.13**, Revolutionary Youth, No. 12 Dec., 1975, ERN 00363427; **D6.1.755** CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 - January 1977 (FULL), ERN 00491400; **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died", ERN 00089712.

<sup>438</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184037, Article 6(5), 00184039, Article 10(1), 00184041, Article 12(2), Article 13(1), 00184042, Article 15(2), Article 16(1), 00184043, Article 18(2), 00184044, Article 19(1), 00184045, Article 23(2).

<sup>439</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495823-00495824; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182677; **D6.1.774**, Presentation of comrade secretary general in the 1st meeting of ministers on 22/4/76, ERN 00143469-00143470; *see also: D1.3.24.1*, CPK Standing Committee Meeting Minutes entitled "Minutes on the Standing [Committee's] visit to Northwest Zone, August 20-24 1975, 24 August 1975, ERN 00850973-00850978.

<sup>440</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495810; **D6.1.1160**, Minutes of permanent committee meeting on 9 January 1976, 9 January 1976, ERN 00182614; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182683.

<sup>441</sup> **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495810; **D6.1.1160**, Minutes of permanent committee meeting on 9 January 1976, 9 January 1976, ERN 00182614; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182683.



production statistics<sup>442</sup> in order for the upper echelons to determine where to strategically move resources in order to maximise production and complete construction projects.<sup>443</sup>

202. The CPK policy regarding cooperatives and worksites was implemented without regard for human liberty. The CPK prevented people from leaving their cooperatives or worksites without permission<sup>444</sup> and required the workforce to meet high work quotas.<sup>445</sup> These conditions were exacerbated by insufficient food and inadequate healthcare being provided to the workers.<sup>446</sup> Furthermore, workers who were unable to achieve production targets; or were caught possessing food without permission; or complained about the revolution; or attempted to leave, would be accused of being enemies of the revolution,<sup>447</sup> and

<sup>442</sup> **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184037, Article 6(5); **D118/285**, Written Record of Interview of Witness Nop Ngim, 12 August 2014, ERN 01044681, A44; *see e.g.* **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289923.

<sup>443</sup> **D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523589-00523590; **D1.3.24.2**, CPK Standing Committee Meeting Minutes entitled "Meeting of the Standing Committee, 9 October 75", ERN 00183395; **D1.3.24.1**, CPK Standing Committee Meeting Minutes entitled "Minutes on the Standing [Committee's] visit to NorthwestZone, August 20-24 1975, 24 August 1975, ERN 00850977; **D6.1.743**, CPK Magazine entitled: "The Revolutionary Flag", Issue 7, July 1978 (FULL), ERN 00428301-00428302; **D6.1.746**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, October - November 1975 (FULL), ERN 00495822.

<sup>444</sup> **D6.1.1059**, Written Record of Interview of Charged Person DUCH, 1 April 2008, ERN 00177635; **D179/1.2.17**, Transcript of hearing on the substance in Case 002 – 5 April 2012 [Kaing Guek Eav alias Duch], ERN 00799839, l. 20-21; **D6.1.993**, Written Record of Interview of PIL Kheang, 27 November 2007, ERN 00233133; **D6.1.996**, Written Record of Interview of TOB De, 28 November 2007, ERN 00233142; **D219/702.1.70**, Transcript of hearing on the substance in Case 002 – 20 June 2012 [Yun Kim], ERN 00820128, l. 11-17, 00820129, l. 3-7, l. 15-17; **D219/370.1.4**, Airgram entitled "Life inside Cambodia", ERN 00443071.

<sup>445</sup> *See* section 6.4.1.1 Anlong Chrey Dam, para 334; *Trapeang Thma Dam Worksite*, *see e.g.* **D6.1.451**, Written Record of Interview of SAING Nham, 30 January 2009, ERN 00290384-00290385; *1<sup>st</sup> January Dam Worksite*, *see e.g.* **D6.1.407**, Written Record of Interview of AU Hau, 18 November 2008, ERN 00250045.

<sup>446</sup> **D1.3.24.1**, CPK Standing Committee Meeting Minutes entitled "Minutes on the Standing [Committee's] visit to NorthwestZone, August 20-24 1975, 24 August 1975, ERN 00850973, 00850978; **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289924; **D1.3.22.6**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, May-June 1978 (FULL), ERN 00185328, 00185337; **D6.1.837**, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523590; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182682, 00182689; **D6.1.755**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 – January 1977 (FULL), ERN 00491400-00491402.

<sup>447</sup> **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289922-00289923; **D6.1.977**, To respected Brother about the enemy situation in Sectors 101, 102, 104 and 107, 10 November 1976, ERN 00548801-00548803; **D6.1.386**, Written Record of Interview of BAN Siet, 10 July 2009, ERN 00360756. **D6.1.993**, Written Record of Interview of PIL Kheang, 27 November 2007, ERN 00233133; **D6.1.676**, Written Record of Interview of CHEANG Sreimom, 11 November 2009,



were often subjected to harsh sanctions, including imprisonment or extra-judicial execution.<sup>448</sup> CPK leaders were aware of the conditions at the worksites and cooperatives, as these were reported to and acknowledged by the highest echelons,<sup>449</sup> and CPK leaders made regular visits to cooperatives and worksites throughout the country.<sup>450</sup>

ERN 00410266, A11; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13.

<sup>448</sup> **D6.1.995**, Written Record of Interview of MIC Siphon, 28 November 2007, ERN 00233138; **D6.1.996**, Written Record of Interview of TOB De, 28 November 2007, ERN 00233141, 00233143; **D219/17**, Written Record of Interview of Civil Party PIN Dan, 16 September 2014, ERN 01047084, A3; **D6.1.991**, Written Record of Interview of Witness UK Soeum, 3 March 2010, ERN 00491349, A4; *Caught possessing food without permission, see: D219/287*, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A16; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A11, 01111774, A13; **D219/699**, Written Record of Interview of Witness CHOENRM Veun, 26 February 2016, ERN 01213460, A57; **D6.1.344**, Written Record of Interview of Witness SIM Leang, 2 February 2009, ERN 00284313; **D118/221**, Written Record of Interview of Witness PHAN Yim, 20 May 2014, ERN 00987748-00987749; *Attempting to leave or escape, see: D3/5.1*, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by: D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/865**, Written Record of Interview of Witness PUT Heng, 3 November 2016, ERN 01373656; **D118/301**, Written Record of Interview of Witness KHOEM Sorn, 1 September 2014, ERN 01045456, A 39; *Unable to reach production targets, see: D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A9; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8; **D117/60**, Written Record of Interview of Civil Party SUM Pet, 4 August 2014, ERN 01044587-01044588, A23; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179844, A162-A166; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A12; **D219/839**, Written Record of Interview of Witness CHEA Koeung, 23 September 2016, ERN 01399445, A96; **D6.1.590**, Written Record of Interview of Civil Party Applicant SUONG Sim, 9 July 2009 ERN 00353704; *Complained about the revolution, see: D118/181*, Written Record of Interview of Witness RIEL Son, 18 February 2018, ERN 00982640, A42; **D118/212**, Written Record of Interview of MEAS Nakry, 1 April 2014, ERN 00985156, A47-A49; **D118/176**, Written Record of Interview of Witness SOEM Voern, 6 February 2014, ERN 00981960, A45-A46; **D118/194**, Written Record of Interview of Civil Party Applicant RUOS Narin, 28 February 2014, ERN 00986733, A46-A47.

<sup>449</sup> *CPK Telegrams, see: D219/370.1.14*, To respected Angkar from M401, 16 July 1978, ERN 00289922-00289924; **D6.1.1266** Telegram 14: To respected and beloved Office 870 about Yuen enemy 's situation in Kampong Cham Province, 31 December 1977, EN 00183641; **D6.1.977** To respected Brother about the enemy situation in Sectors 101, 102, 104 and 107, 15 November 1976, EN 00548800-00548801; **D6.1.1267**, Telegram 254: To respected and beloved Chief of 870 about situation of enemy along of the border of Preah Vihea and Otdar Meanchey Province, 10 January 1978, ERN 00182758; **D6.1.770**, Telegram 23 date May 20, 1976 to Dear beloved Brother 89 of Division 920, Political section, 20 May 1976, ERN 00517910-00517913; **D1.3.30.2** Telegram 04 from Central Zone Secretary Ke Pauk to Pol Pot, 2 April 1976, EN 00182658-00182659; *CPK Publications, see: D1.3.22.6*, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, May - June 1978 (FULL), ERN 00185328, 00185336-00185337; **D6.1.752**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1976 (FULL), ERN 00486757, 00486760; **D6.1.755** CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 -January 1977 (FULL), ERN 00491400, 00491402; *CPK Communications, see: D6.1.837*, CPK Document entitled "Governing and carrying out policy and restoring all fields of the country (3rd document), 19 September 1975, ERN 00523590 **D1.3.24.1**, CPK Standing Committee Meeting Minutes entitled "Minutes on the Standing [Committee's] visit to NorthwestZone, August 20-24 1975", 24 August 1975, ERN 00850973, 00850978; **D6.1.1145**, Minute of second meeting of ministers on, 31 May 1976, ERN 00182678, 00182679; **D6.1.1147**, Minute of the meeting on social affairs and health on 10/6/76, ERN 00182678, 00182679.



203. In the Central Zone, general living and working conditions at cooperatives and worksites deteriorated further after the arrival of the Southwest cadres.<sup>451</sup> Events at Anlong Chrey Dam Forced Labour Site in particular are discussed in the relevant section below.

**6.2.2. The re-education of “bad elements” and killing of “enemies” both inside and outside the CPK ranks**

**6.2.2.1 DK policy to purge enemies, establish security centres, and execution sites**

204. The CPK implemented a policy to identify, monitor and re-educate or kill (“smash”)<sup>452</sup> perceived enemies of the CPK.<sup>453</sup> According to former Chief of S-21 Duch, “to smash means to arrest secretly and then people who were arrested [would] be interrogated, with tortures employed, and then ... executed secretly without the knowledge of their family members” and “the person was not to be released”, as the “ultimate goal is that the person is dead”.<sup>454</sup> The policy to destroy enemies was initiated in 1960<sup>455</sup> and evolved

00183369; see also: **D6.1.385**, Written Record of Interview of SOU Soeun, 5 July 2009, ERN 00360113.

<sup>450</sup> **D1.3.24.1**, CPK Standing Committee Meeting Minutes entitled “Minutes on the Standing [Committee’s] visit to Northwest Zone, August 20-24 1975, 24 August 1975, ERN 00850973-00850978; *1<sup>st</sup> January Dam Worksite*, see e.g.: **D34.1.11**, Foreign Broadcast Information (FBIS) Collection of December 1977, Phnom Penh Domestic Service Broadcast, ERN 00168335; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 – 19 May 2015 [Or Ho], ERN 01503140 l. 19-22, 01503141, l. 6-8; **D219/702.1.108**, Transcript of hearing on the substance in Case 002/02 – 28 May 2015 [Un Ron], ERN 01477235 l. 15-18.

<sup>451</sup> See 6.3.4.1 The establishment and operation of worksites and cooperatives, paras 273-275.

<sup>452</sup> *The Central Committee expressly gave certain zone committees the “right to smash inside and outside the ranks”*, see: **D1.3.19.1**, CPK Central Committee Directive entitled “Decision of the Central Committee regarding a number of matters”, 30 March 1976, ERN 00182809; **D6.1.100**, CPK Magazine entitled, “The Revolutionary Flag” Issue 7, July 1976, ERN 00268935; **D322/8.1.17**, Revolutionary Youth Number 6, June 1976, ERN 00583807; **D322/8.1.31**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 3, March 1978, ERN 00504074; **D1.3.22.1**, Revolutionary Youth Number 10, October 1975, ERN 00357911.

<sup>453</sup> *The CPK used different words to describe its policy to eliminate their enemies*, see e.g.: **D322/8.1.23**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, April 1977 (FULL), 1 April 1977, ERN 00478498, 00478501; **D322/8.1.35**, Revolutionary Youth Number 11 November 1978, ERN 00524168.

<sup>454</sup> **D6.1.863**, Transcript of Proceeding in Case 001, Trial Management Meeting, 18 July 2009 [Kaing Guek Eav alias Duch], ERN 00328458; **D179/1.2.7**, Transcript of hearing on the substance in Case 002, 19 March 2012 [Kaing Guek Eav alias Duch], ERN 00792616.

<sup>455</sup> **D6.1.808**, Foreign Broadcast Information Service collection of reports for January 1977, ERN 00168465, 00168467; **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September-October 1976 (FULL), ERN 00450507; **D6.1.739**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September 1977 (FULL), 1 September 1977, ERN 00486236, 00486238-00486239; **D6.1.737**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 8, August



- over time as a result of domestic and external developments.<sup>456</sup> This policy was authorised under Article 10 of the DK Constitution, which stated that “*dangerous activities in opposition to the people’s State must be condemned to the highest degree.*”<sup>457</sup> It was encapsulated by the CPK slogan “*an individual who does not follow the Party line will be considered as an opponent of the Party*”, and therefore “*is considered as a traitor and must be smashed*”.<sup>458</sup>
205. In practice, enemy activities was interpreted broadly and often arbitrarily, encompassing: minor infractions such as complaining about living and working conditions, making a mistake while working, missing work on account of an illness, possessing food without permission, or travelling without a permit;<sup>459</sup> and more serious offences such as sabotage and espionage.<sup>460</sup>
206. People were often considered to be enemies not for their acts, but for the mere suspicion that they did not share the values of the CPK or might potentially be disloyal in the future.<sup>461</sup>
207. The CPK distinguished minor offenders from serious offenders.<sup>462</sup> Minor offenders could be sent for re-education, a form of disciplinary action.<sup>463</sup>

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1975 (FULL), ERN 00401491; **D6.1.755** CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, December 1976 – January 1977 (FULL), ERN 00491412.

<sup>456</sup> **D322/8.1.11**, CPK Magazine entitled: “Revolutionary Youth” Issue 8, August 1975 (FULL), 1 August 1975, ERN 00532691; **D322.8.1.6**, Brief Study of the History of the Kampuchean Revolutionary Movement under the Leadership of the Communist Party of Kampuchea, ERN 00716599.

<sup>457</sup> **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184836, Article 10.

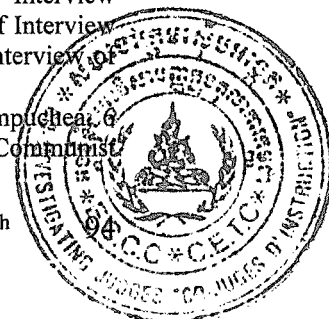
<sup>458</sup> **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346160.

<sup>459</sup> See para. 202; see also: **D6.1.750**, “CPK Magazine entitled, “The Revolutionary Flag” Issue 4, April 1976, ERN 0051788; **D6.1.768**, “Revolutionary Youth” Issue 10-11, November – October 1977, ERN 00517895-00517896; **D179/1.2.17**, Transcript of hearing on the substance in Case 002, 5 April 2012 [Kaing Guek Eav alias Duch], ERN 00799839 1. 20-21; **D219/702.1.70**, Transcript of hearing on the substance in Case 002, 20 June 2012 [Yun Kim], ERN 00820127-00820128.

<sup>460</sup> **D1.3.6.1**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 6, June 1977 (FULL), ERN 00446855; **D322/8.1.11**, CPK Magazine entitled: “Revolutionary Youth” Issue 8, August 1975 (FULL), 1 August 1975, ERN 00532686; **D322/8.1.35**, Revolutionary Youth Number 11 November 1978, ERN 00524169; **D219/340**, Written Record of Interview Witness KE Oe, 26 May 2015, ERN 01117704, A52.

<sup>461</sup> **D6.1.1156**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 9 October 1976, ERN 00940350; **D6.1.691**, Written Record of Interview of UM Proeung, 8 December 2009, ERN 00422351, A21; **D267.1.81**, Written Record of Interview Witness of YIN Teng, 7 October 2014, ERN 01050314, A45; **D219/135**, Written Record of Interview of YIN Teng, 29 December 2014, ERN 01067046, A108; **D118/190**, Written Record of Interview Witness MOEU Pov, 25 February 2014, ERN 00986161, A32-A333.

<sup>462</sup> **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184836, Article 10; **D1.3.20.1**, CPK Legal Documents entitled “Communist



Serious offenders would be arrested<sup>464</sup> and “disappeared”<sup>465</sup> or “smashed”<sup>466</sup>. In some cases, people sent for “re-education” were in fact sent to be killed, an example of CPK using deceptive euphemisms.<sup>467</sup>

208. The CPK’s objective was manifold; it sought to eliminate all opposition to the regime,<sup>468</sup> prohibit religion,<sup>469</sup> and abolish class society,<sup>470</sup> in order to create a politically and ideologically pure party and society.<sup>471</sup> Another objective of the

Party of Kampuchea Statute”, January 1976, ERN 00184033, Article 4; **D179/1.2.10**, Transcript in the hearing on the substance in Case 002 [DUCH], 26 March 2012, ERN 00795095, I. 5-7; **D219/19**, Written Record of Interview of Witness SANN Lorn, 29 September 2014, ERN 01050440, A845-A847.

<sup>463</sup> **D6.1.996**, Written Record of Interview of TOB De, 28 November 2007, ERN 00233141; **D6.1.652**, Written Record of Interview of Witness CHIM Pech, 11 November 2009, ERN 00380133; **D6.1.672**, Written Record of Interview of Witness CHHAOM Se, 31 October 2009, ERN 00406214, A9; **D118/300**, Written Record of Interview of Witness TEM Bunly, 4 September 2014, ERN 01045416; **D6.1.387**, Written Record of Interview of Witness TUOLOAS Sma El, 10 July 2009, ERN 00353496; **D179/1.2.10**, Transcript in the hearing on the substance in Case 002 [Kaing Guek Eav alias Duch], 26 March 2012, ERN 00795093-00795094.

<sup>464</sup> **D179/1.2.10**, Transcript in the hearing on the substance in Case 002 [Kaing Guek Eav alias Duch], 26 March 2012, ERN 00795097, 00795145.

<sup>465</sup> **D6.1.652**, Written Record of Interview of Witness Pech Chim, 11 November 2009, ERN 00380135; **D117/52**, Written Record of Interview of Civil Party BUM Ser, 27 May 2014, ERN 01076885, A17.

<sup>466</sup> **D1.3.22.6**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, May-June 1978 (FULL), ERN 00185342; **D1.3.6.1**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 6, June 1977 (FULL), ERN 00446876.

<sup>467</sup> **D6.1.867**, Transcript of hearing on the substance in Case 001 [Kaing Guek alias Duch], ERN 00345026, I. 22-23, 00345030, I. 21-23; **D6.1.171**, Written Record of Interview of Witness SENG Yon, 20 April 2008, ERN 00272282; **D219/261**, Written Record of Interview of Witness KHOEUN Sngoeun, 6 April 2016, ERN 01095844, A51; **D219/307**, Written Record of Interview of Witness PALL Yung, 9 May 2015, ERN 01111923, A10; **D219/226**, Written Record of Interview of Civil Party Applicant, PENH Va, 11 March 2015, ERN 01088624, A11, A13.

<sup>468</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184025; **D1.3.6.1**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 6, June 1977 (FULL), ERN 00446877; **D6.1.754**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 11, November 1976, ERN 00455286; **D6.1.100**, CPK Magazine entitled, “The Revolutionary Flag” Issue 7, July 1976, ERN 00268933; **D6.1.415**, Written Record of Interview of Witness PEN Sot, 25 November 2008, ERN 00251067; **D219/398**, Written Record of Interview of Witness RUOS Suy, 7 July 2015, ERN 01147806, A65; **D219/28**, Written Record of Interview of Witness MA Sim, 31 October 2009, ERN 01067885, A53-A57; **D219/19**, Written Record of Interview of Witness SANN Lorn, 29 September 2014, ERN 01050440, A845-A847; **D219/58**, Written Record of Interview of Civil Party Applicant YIM Sovann, 3 November 2014, ERN 01053854, A52-A54; **D119/98**, Written Record of Interview of Witness KOR Len, 11 March 2014, ERN 00985192, A41; **D132.1.63**, Telegram No 324 dated 10-04-1978, ERN 00293359; **D6.1.127**, Written Record of Interview of Witness SUN Nat, 18 November 2008, ERN 00250285.

<sup>469</sup> **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 6 January 1976, ERN 00184838, Article 20; **D6.1.1127**, About governing and carrying out the policy of gathering force of Democratic National Front of party (6th document), 22 September 1975, ERN 00244275.

<sup>470</sup> **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September-October 1976 (FULL), ERN 00450509, 00450524; **D6.1.739**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September 1977 (FULL), 1 September 1977, ERN 00486228, 00486230.

<sup>471</sup> **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September-October 1976 (FULL), ERN 00450518, 00450505, 00450535; **D6.1.743**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 7, July 1978 (FULL), ERN 00428296; **D322/8.1.23**, CPK Magazine



policy was to ensure strict obedience to “*Angkar*” by creating a pervasive state of heightened fear whereby every single individual, including party members, was under constant surveillance and suspicion.<sup>472</sup> This climate of fear was well illustrated by the ominous warning “*Angkar has the many eyes of the pineapple*”.<sup>473</sup>

209. The CPK disseminated information about the policy on enemies and its implementation through regular meetings at all echelons,<sup>474</sup> and via official publications<sup>475</sup> and radio broadcasts.<sup>476</sup> This reinforced the CPK’s requirement

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entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), 1 April 1977, ERN 00478499; **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October-November 1977, ERN 00182550-00182551, 00182580.

<sup>472</sup> **D1.3.22.5**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1977-January 1978 (FULL), ERN 00184313; **D6.1.753**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, September-October 1976 (FULL), ERN 00450543; **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02, 25 October 2016 [SAY Narooun], ERN 01371183, l. 10-11; **D119/120**, Written Record of Interview of Civil Party Applicant SAM Sak, 23 April 2014, ERN 01057753; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-01044590, A33; **D6.1.842**, Written Record of Interview of Civil Party Applicant TES Ding, 10 September 2009, ERN 00377170.

<sup>473</sup> **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02, 25 October 2016 [SAY Narooun], ERN 01371183, l. 10-11; **D219/340**, Written Record of Interview Witness KE Oe, 26 May 2015, ERN 01117704, A52; **D119/120**, Written Record of Interview of Civil Party Applicant SAM Sak, 23 April 2014, ERN 01057753; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-01044590, A33; **D6.1.842**, Written Record of Interview of Civil Party Applicant TES Ding, 10 September 2009, ERN 00377170; **D179/1.2.32**, Transcript of hearing on the substance in Case 002, 20 July 2012, 20 July 2012 [David CHANDLER], ERN 00827392, l. 15-24; **D219/370.1.5**, LOCARD Henri, *Le Petit Livre Rouge de Pol Pot* (Pol Pot’s Little Red Book), 2004, ERN 00394743-00394744.

<sup>474</sup> See e.g. **D6.1.688**, Written Record of Interview of BUN Thien, 17 August 2009, ERN 00384407-00384408; **D118/86**, Written Record of Interview of Witness NHOEK Ly, 11 August 2013, ERN 00976967, A47; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374643-01374645, A5-A8, A17-24, A29-A31; **D219/85**, Written Record of Interview of Witness VY Phann, 18 November 2014, ERN 01061169, A5.

<sup>475</sup> **D6.1.1063**, Written Record of Interview of Charged Person Duch by CIJ, 5 May 2008, ERN 00204340; **D6.1.723**, Written Record of Interview of Witness LONH Dos, 20 November 2009, ERN 00407793, A57-A60; **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390077; *CPK publications*, see e.g. **D6.1.739**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, September 1977 (FULL), 1 September 1977, ERN 00486260; **D322/8.1.23**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), 1 April 1977, ERN 00478494-00478495; **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October-November 1977, ERN 00182559; **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401501; **D6.1.542**, *Revolution Flag*, 6 June 1977, ERN 00446862; **D1.3.22.6**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, May-June 1978 (FULL), ERN 00185342.

<sup>476</sup> **D6.1.1063**, Written Record of Interview of Charged Person Duch by CIJ, 5 May 2008, ERN 00204340; **D6.1.939** Khieu Samphan’s Speech at Anniversary Meeting, 15 April 1977, ERN 00419513; **D6.1.815** Foreign Broadcast Information Service collection of reports for September 1977, 03 August 1977, ERN 00168723.





that both party members and ordinary people maintain constant “*vigilance toward all enemy activities*”.<sup>477</sup>

210. The policy to arrest and execute “*enemies*” of the DK regime was carried out systematically involving all levels of the civilian administration and the RAK.<sup>478</sup> Reports about enemy activities including arrests and executions were sent on a regular basis from the lower administrative and military echelons to the upper echelons, after which decisions about whom to “*purge*” or “*smash*” would be transmitted back down the chain of command.<sup>479</sup>
211. Alleged “*enemies*” were arrested and detained without legal protections,<sup>480</sup> in a nationwide network of security centres and execution sites.<sup>481</sup> Many were subjected to interrogation and torture,<sup>482</sup> the object of which was to produce a confession in order to implicate others in their alleged networks (so-called

<sup>477</sup> See e.g. **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184025; **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September-October 1976 (FULL), ERN 00450534; **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289923; **D322/8.1.11**, CPK Magazine entitled: “Revolutionary Youth” Issue 8, August 1975 (FULL), 1 August 1975, ERN 00532685; **D322/8.1.35**, Revolutionary Youth Number 11 November 1978, ERN 00524168.

<sup>478</sup> **D6.1.740**, CPK Magazine entitled: “Revolutionary Flag, Special Issue, October-November 1977”, ERN 00182550; **D1.3.19.1**, CPK Central Committee Directive entitled “Decision of the Central Committee regarding a number of matters”, 30 March 1976, ERN 00182809; **D219/702.1.8**, Transcript of hearing on the substance in Case, 18 April 2009 [SEN Srun], ERN 00325580; **D219/702.1.119**, Transcript of hearing on the substance in Case 001 [Kaing Guek alias Duch], 15 June 2009, ERN 00341700.

<sup>479</sup> **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September - October 1976 (FULL), ERN 00450543; **D6.1.705**, Written Record of Interview of Witness MEAS Soeun, 18 December 2009, ERN 00425890, A44; **D219/188**, Written Record of Interview of Witness Khorn, 17 February 2015, ERN 01106437, A88; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297-01059298, A98-A100; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431666-01431667, 01431686, 01431690-01431691; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441016-01441018, 01441041-01441042.

<sup>480</sup> **D6.1.83**, Book by David Chandler entitled “Voices from S-21: Terror and History in Pol Pot’s Secret Prison”, 1999, ERN 00192813; **D6.1.863**, Transcript of Proceeding in Case 001, Trial Management Meeting, 18 July 2009 [Kaing Guek Eav alias Duch], ERN 00328458, l. 15-20.

<sup>481</sup> **D219/852.1.10**, Transcript of hearing on the substance in Case 002/02, 22 June 2016 [Kaing Guek Eav alias Duch], ERN 01337856, l. 14-16, 25; **D219/852.1.3**, Transcript of hearing on the substance in Case 002/02, 09 June 2016 [Kaing Guek Eav alias Duch], ERN 01319883, l. 15-21.

<sup>482</sup> **D6.1.1060**, Written Record of Interview of Charged Person DUCH, 2 April 2008, ERN 00178067; **D6.1.873**, Transcript of hearing on the substance in Case 001 [KAING Guek Eav alias DUCH], 25 November 2009, ERN 00406707; **D219/852.1.9**, Transcript of hearing on the substance in Case 002/02, 21 June 2016 [KAING Guek Eav alias DUCH], ERN 01338049, l. 17-21.



“strings”).<sup>483</sup> Often, those implicated in confessions would then be subject to arrest and execution.<sup>484</sup> Executions were carried out on a massive scale.<sup>485</sup>

### 6.2.2.2 *Implementation of the purge policy in Central Zone after the arrival of the Southwest Zone cadres*

212. The CPK policy to arrest and kill enemies was implemented with extreme intensity during a series of “*purges*” of the ranks of the CPK and of the general population. The purge of the Central Zone began in late 1976 or early 1977 and continued until the arrival of the Vietnamese.
213. The CPK had considered the Southwest Zone of DK to be a model for reshaping Cambodian society pursuant to the upper-echelon’s ideological objective.<sup>486</sup> Accordingly, between 1976 and 1978, when CPK leadership decided that the Central (and old North) and Northwest Zones had failed to achieve CPK goals and that their leaders were disloyal,<sup>487</sup> several hundred Southwest Zone cadres were deployed to take control of those zones by implementing a systematic and coordinated purge of the entire administrative and military structure.<sup>488</sup>
214. In the Central Zone, the intended goal of the operation was to systematically identify and remove the entire Central Zone administration with cadres from the Southwest Zone led by **Ao An**. The purge of incumbent cadres through the

<sup>483</sup> **D6.1.94**, Written Record of Interview of Charged Person KAING Guek Eav alias DUCH, 27 November 2008, ERN 00242932; **D1.3.29.7**, UNHCHR Suspect Statement of KAING Guek Eav alias DUCH, 4-6 May 1999, ERN 00185023; **D6.1.755** CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, December 1976–January 1977 (FULL), ERN 00491398.

<sup>484</sup> **D219/702.1.137**, Transcript of hearing on the substance in Case 001, 9 June 2009 [KAING Guek Eav alias DUCH], ERN 00339326, l. 23-24; **D6.1.94**, Written Record of Interview of Charged Person KAING Guek Eav alias DUCH, 27 November 2008, ERN 00242932.

<sup>485</sup> **D6.1.1061**, Written Record of Interview of Charged Person DUCH, 29 April 2008, ERN 00185477; *see* sections 6.4.1.2 – 6.4.1.8.

<sup>486</sup> **D6.1.877**, Meng-Try EA, *The Chain of Terror: The Khmer Rouge Southwest Zone Security System*, 2005, DC-Cam, ERN 00105649.

<sup>487</sup> **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000674, A60-61, 01000675, A64; **D219/702.1.99**, Transcript of hearing on the substance in Case 002/02, 22 April 2015 [PECH Chim], ERN 01418925, l. 1-2; **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379172; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033103, A7; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373570.

<sup>488</sup> **Central Zone**: **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059280, A36; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A17; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373570.  
**Northwest Zone**: **D219/294**, Written Record of Interview of Witness Muol Eng, 4 May 2015, ERN 01111828-01111831, A9-A10, A15, A20, A32, A36; **D118/87**, Written Record of Interview of Witness Tep Sien, 13 August 2013, ERN 00976971, A7; **D118/285**, Written Record of Interview of Witness Nop Ngim, 12 August 2014, ERN 01044678-01044681, A27-A29, A31, A37-A42.



ranks was comprehensive from the zone level right down to the village level.<sup>489</sup>

In many cases, the families of the purged cadres were targeted as well.<sup>490</sup>

215. Beginning in early 1977, purged Central Zone cadres began to arrive at S-21, commencing with the Central Zone Secretary Koy Thuon and his closest subordinates.<sup>491</sup> This initial wave of arrivals at S-21 comprised high-ranking zone, sector and district-level, and military cadres from the Central Zone.<sup>492</sup> According to Duch, sending people to S-21 required the approval of the Centre Standing Committee.<sup>493</sup> Those brought to S-21 were interrogated and

<sup>489</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142992, A65-A67, 01143001, A139-A142; **D219/331**, Written Record of Interview Witness PHORN Sophal, 27 May 2015, ERN 01112049-01112050, A13, A29; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746820; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088625, A13; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231-01056232, A69; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167886, A13-A15, 01167898, A79; **D219/837**, Written Record of Interview of Witness So Saren, 22 September 16, ERN 01364070, A122; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116057, A7; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360752; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434526, A38; *cf.* **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111817, A10 (stating that cadres at the zone level were purged but not at the village level).

<sup>490</sup> **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151209, A13; **D219/321**, Written Record of Interview Witness KHUTH Khy, 13 May 2015, ERN 01112024, A4; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A16; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360752.

<sup>491</sup> **D219/852.1.4**, Transcript of hearing on the substance in Case 002/02, 13 June 2016 [Kaing Guek Eav alias Duch], ERN 01322390, l. 5-8; **D219/852.1.3**, Transcript of hearing on the substance in Case 002/02, 09 June 2016 [Kaing Guek Eav alias Duch], ERN 01319813-01319814; **D219/852.1.5**, Transcript of hearing on the substance in Case 002/02, 14 June 2016 [Kaing Guek Eav alias Duch], ERN 01330816; **D6.1.1063**, Written Record of Interview of Charged Person DUCH, 5 May 2008, ERN 00204355; **D219/852.1.2**, Transcript of hearing on the substance in Case 002/02, 08 June 2016 [Kaing Guek Eav alias Duch], ERN 01312989; **D6.1.1094**, Written Record of Interview of Charged Person DUCH, 15 May 2008, ERN 00205162-00205163; **702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, 01406816-01406817; **D219/825.1.2**, OCIJ S-21 Prisoner List, ERN 01222904, 01222923.

<sup>492</sup> **D179/1.2.9**, Transcript of hearing on the substance in Case 002 – 21 March 2012 [Kaing Guek Eav alias Duch], ERN 00793694, l. 21-23; *see e.g.*, **D219/825.1.2**, OCIJ S-21 Prisoner List, ERN 01222342 (Chhor Chhan alias Sreng, Chief of Old North Zone – 18 February 1977), 01222348 (Chann Mon, Secretary of Sector 42 – 19 or 29 February 1977), 01222416 (Hin Hao, Chief of Batheay District – 26 or 27 February 1977), 01222415 (Mang Kun, Secretary of Kang Meas District in Sector 41 – 11 March 1977), 01222414 (Hang Yoeun, Chief of Sector 41 Office – 11 March 1977), 01222541 (Nhim Chhon, Deputy Chief of Sector 41 Security – 20 March 1977); 01222895 (Yok Hom, Deputy Secretary of Sector 42 – 19 March 1977), 01222415 (Erng Hor, Deputy Secretary of Chamkar Leu – 01 March 1977).

<sup>493</sup> **D6.1.1056**, Written Record of Interview of Charged Person DUCH, 27 March 2008, ERN 00194551; **D6.1.1063**, Written Record of Interview of Charged Person DUCH, 5 May 2008, ERN 00204339; **D219/702.1.119**, Transcript of hearing on the substance in Case 001, 15 June 2009, [Kaing Guek Eav alias Duch], ERN 00341704, l. 7-11.



tortured.<sup>494</sup> Other cadres implicated in their confessions were then arrested and detained.<sup>495</sup> Almost without exception, S-21 detainees were killed.<sup>496</sup> Central Zone cadres from Sectors 41, 42, and 43 continued to arrive at S-21 until at least August 1978.<sup>497</sup>

216. The implementation and progress of the purge of CPK cadres within the Central Zone was acknowledged and reported in the CPK's official "*Revolutionary Flag*" magazine as early as October 1977.<sup>498</sup>
217. There was a substantial increase in arrests and killings, among both cadres and the general population, in the Central Zone following the arrival of the Southwest Zone cadres and **Ao An**.<sup>499</sup> As the purge progressed throughout 1977 and 1978, while Ke Pauk and **Ao An** held the highest positions in the Central Zone, many thousands of Central Zone inhabitants were imprisoned, tortured, and/or killed at security centres and execution sites throughout the zone. Family members of those purged were also routinely arrested and killed.<sup>500</sup>

<sup>494</sup> **D219/702.1.120**, Transcript of hearing on the substance in Case 001, 16 June 2009 [Kaing Guek Eav alias Duch], ERN 00342032-00342034; **D6.1.95**, Written Record of Interview of Charged Person Duch, 28 November 2009, ERN 00244243.

<sup>495</sup> **D6.1.95**, Written Record of Interview of Charged Person Duch, 28 November 2009, ERN 00244243.

<sup>496</sup> **D6.1.1066**, Written Record of Interview of Charged Person Duch, 5 September 2007, ERN 0014758.

<sup>497</sup> See e.g., **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222377 (Chheng Kim Sun, Chief of Central Zone Culture Ministry – 19 July 1978), 01222380 (Chann Sorn, Secretary of Santuk District, Sector 43 – 16 August 1978).

<sup>498</sup> **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October-November 1977, ERN 00182550-00182553 (describing the fight against enemies in "*former Zone 304*", which was the code number of the former North Zone before it was rezoned and split into the the new North Zone and Central Zone, see **D6.1.716**, Written Record of Interview of Witness YUNG Yem, 31 August 2009, ERN 00375694.

<sup>499</sup> **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167897-01167898, A77, 01167903, A97; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A40-A41; **D219/323**, Written Record of Interview Witness MUT Sophon, 15 May 2015, ERN 01113698, A27; **D219/288**, Written Record of Interview Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111775, A29, A31; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A28; **D107/3**, Written Record of Interview of Witness KAK Sroean, 16 February 2012, ERN 00787202; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746820; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, 01067910-01067911, A26, A28; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 03 November 2016, ERN 01373606, A13-A14, 01373613, A87; **D117/43**, Written Record of Interview of SBONG Yann, 7 May 2014, ERN 01034899-01034900, A7, A12.

<sup>500</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A200-201; **D219/315**, Written Record of Interview of SAT Pheap, 18 May 2015, ERN 01167897-01167898, A12.



**6.2.3. The targeting of specific groups, including Central Zone CPK cadres, former officials of the Khmer Republic, "17 April people", people from the East Zone, the Cham, and their families**

218. The CPK identified and targeted particular categories of people perceived as potential threats to the DK regime or to have views otherwise incompatible with CPK doctrine,<sup>501</sup> including CPK cadres accused of "traitorous activities";<sup>502</sup> people connected to the former Lon Nol regime;<sup>503</sup> alleged CIA, KGB or Vietnamese ("Yuon") spies;<sup>504</sup> the Cham;<sup>505</sup> and people supposedly belonging to the "capitalist", "feudalist", "landowner" or "bourgeois" classes.<sup>506</sup>
219. After the fall of Phnom Penh on 17 April 1975, the CPK began a policy of "refashioning" so-called "New People" or "17 April people" (CPK terms

A164; **D219/327**, Written Record of Interview of Witness CHENG Tul, 2 May 2015, ERN 01112045, A18.

<sup>501</sup> **D6.1.739**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, September 1977 (FULL), 1 September 1977, ERN 00486235; **D6.1.1156**, Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 9 October 1976, ERN 00940345-00940346; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02, 14 September 2015 [SEN Srun], 01406847; **D219/522**, Written Record of Interview of Witness HUN Kimseng, 15 September 2015, ERN 01168022, A103-108; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A19, 01044587-01044588, A23; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179844, A162-A166; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8.

<sup>502</sup> **D6.1.743**, CPK Magazine entitled: "The Revolutionary Flag", Issue 7, July 1978 (FULL), ERN 00428294, 00428295; **D322/8.1.23**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), ERN 00478499, 00478501; **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October-November 1977, ERN 00182548-00182549.

<sup>503</sup> **D6.1.810**, Foreign Broadcast Information Service collection of reports for April 1977, 31 March 1977, ERN 00168183, 00168249; **D6.1.744**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1977 (FULL), ERN 00499784; **D117/70**, Written Record of Interview of PRAK Yut, 28 May 2013, ERN 01056219, A44; **D117/71**, Written Record of Interview of PRAK Yut, 19 June 2013, ERN 01056228, A48, A49; **D117/72**, Written Record of Interview of PRAK Yut, 21 June 2013, ERN 01056235, A6; **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056238, A5, A7, 01056240, A12, A15; **D219/120**, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063608, A12; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645, A33, 01374657, A166, 01374659, A183.

<sup>504</sup> **D6.1.473**, June 1978 CPK Central Committee Policy Directive, 20 June 1978, ERN 00275217-00275218 **D6.1.743**, CPK Magazine entitled: "The Revolutionary Flag", Issue 7, July 1978 (FULL), ERN 00428291; **D322/8.1.23**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, April 1977 (FULL), ERN 00478496, 00478502; **D118/124**, Written Record of Interview of Civil Party Applicant KIM So, 9 October 2013, ERN 00975888, A27-A29; **D118/181**, Written Record of Interview of Witness RIEL Son, 18 February 2014, ERN 00982640, A43, 00982647, A103, 00982655, A164; **D118/189**, Written Record of Interview of Civil Party Applicant PHAN Saray, 25 February 2014, ERN 00986696-00986697, A70; **D6.1.515**, Telegram 54: To respected Brother about the situation of the Youns undercover agent, 23 April 1978, ERN 00296220.

<sup>505</sup> See 6.4.2 Genocide of the Cham in Kampong Cham.

<sup>506</sup> **D6.1.737**, CPK Magazine entitled: "The Revolutionary Flag", Issue 8, August 1975 (FULL), ERN 00401486; **D6.1.755**, CPK Magazine entitled: "The Revolutionary Flag", Special Issue, December 1976 - January 1977 (FULL), ERN 00491412; **D6.1.740**, CPK Magazine entitled: "Revolutionary Flag, Special Issue, October - November 1977, ERN 00182552.



denoting people who lived in urban areas) into peasants in order to diminish their power to oppose the Party.<sup>507</sup> “17 April people” were forced to relocate from cities to rural cooperatives and many were ultimately killed.<sup>508</sup>

220. As early as 1976, Ke Pauk reported to Pol Pot regarding the situation of enemies in the Central (old North) Zone, naming Cham people, former Lon Nol soldiers, and Lon Nol sympathizers as enemies.<sup>509</sup> In 1978 Southwest Zone cadres based in the Central Zone along with Ke Pauk were involved in the purge of incumbent cadres in the East Zone who were alleged to have betrayed the Party.<sup>510</sup> The CPK sought to carry out “*shock assaults*” against these “*concealed enemies*”.<sup>511</sup>

221. Many people belonging to these groups were killed at the network of security centres and execution sites in Sector 41.

#### 6.2.3.1 *The directive to end the purge*

222. In September 1978 during a meeting attended by the CPK leadership, Pol Pot announced that “*Angkar had eliminated all enemies*”, and “*declared that the*

<sup>507</sup> **D6.1.737**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 8, August 1975 (FULL), ERN 00401486; **D6.1.100**, CPK Magazine entitled, “The Revolutionary Flag”, Issue 7, July 1976, ERN 00268917-00268918; **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, September-October 1976 (FULL), ERN 00450524; **D6.1.755**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, December 1976–January 1977 (FULL), ERN 00491424, 00491425; *see also* **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374658-01374659, A177-A183 [“*He did not let the 17 April people who were educated survive*”], 01374660, A195-198; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360756 [“*The new people were considered as bad elements*”].

<sup>508</sup> **D6.1.755**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, December 1976 – January 1977 (FULL), ERN 00491396; **D6.1.740**, CPK Magazine entitled: “Revolutionary Flag, Special Issue, October - November 1977, ERN 00182548, 00182559; **D6.1.746**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, October-November 1975 (FULL), ERN 00495814.

<sup>509</sup> **D1.3.30.2**, CPK Telegram by Pok entitled “Telegram 94 - Radio Band 1100 - With Respect to Beloved Brother Pol”, 2 April 1976, ERN 00182658.

<sup>510</sup> **D219/852.1.5**, Transcript of hearing on the substance in Case 002/02, 14 June 2016 [KAING Guek Eav alias DUCH], ERN 01330784-01330785, 01330787; **D1.3.29.7**, UNHCHR Suspect Statement of KAING Guek Eav alias DUCH, 4–6 May 1999, ERN 00185020; **D6.1.1063**, Written Record of Interview of Charged Person DUCH, 5 May 2008, ERN 00204354; **D6.1.99**, Written Record of Interview of CHHOUK Rin, 29 July 2008, ERN 00268895-00268897; **D6.1.725**, Written Record of Interview of CHHOUK Rin, 26 November 2009, ERN 00414058, A1; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02, 09 March 2016 [VAN Mat alias SALES Ahmat], ERN 01216601-01216602, 01216604, 01216628-01216631.

<sup>511</sup> **D/322.8.1.6**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 7, July 1978, ERN 00428293, 00428296.



*civilian and military cadres should stop the killing*".<sup>512</sup> Furthermore, those who "committed any wrongdoings ... shall not be killed or arrested, instead they should be educated".<sup>513</sup> In late 1978, a directive titled "*Salvation from further execution*" issued from the highest echelons was circulated, most likely to all the zones, instructing cadres to stop executing people, and indicating that the Party would tolerate mistakes.<sup>514</sup> The directive was subsequently forwarded to the lower echelons, and broadcast to the public via the radio.<sup>515</sup>

223. In the Central Zone, Ke Pauk distributed this order to his subordinates.<sup>516</sup> Several witnesses throughout the Central Zone state that they received the directive.<sup>517</sup> Furthermore, some witnesses throughout DK state that executions

<sup>512</sup> **D6.1.141**, Written Record of Interview of Witness SAO Sarun, 17 December 2008, ERN 00278694, 00278697; **D179/1.2.27**, Transcript of hearing on the substance in Case 002 [SAO Sarun], 12 June 2012, ERN 00817453, l. 19-22; Some witnesses have speculated that the reason behind the directive was to enable the Party to recruit soldiers to fight the Vietnamese, see: **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148838, A13; **D219/858**, Written Record of Interview of Witness OUCH Hi, 31 October 2016, ERN 01519624, A139; **D118/123**, Written Record of Interview of Civil Party Applicant THOEK Yoeun, 8 October 2013, ERN 00975880, A65 [69].

<sup>513</sup> **D179/1.2.27**, Transcript of hearing on the substance in Case 002 [SAO Sarun], 12 June 2012, ERN 00817453, l. 19-22.

<sup>514</sup> **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000689, A188-A189; **D219/702.1.101**, Transcript of hearing on the substance in Case 002/02 [PECH Chim], 23 April 2015, ERN 01444156, l. 18-19; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360758; **D219/551**, Written Record of Interview of Witness HENG Khly, 19 October 2015, ERN 01178566, A95; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148837, A13, 01148839, A20; **D107/13**, Written Record of Interview of Witness LONG Sokhai, 15 March 2012, ERN 00804710; **D6.1.379**, Written Record of Interview of Witness KÈ Pich Vannak, 4 June 2009, ERN 00346156; **D1.3.10.22**, Report entitled "Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221805, para. 37, *as confirmed in D3/7*, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; *Northwest Zone: D219/252*, Written Record of Interview of Witness DENG Leap, 30 March 2015, ERN 01095797, A31, 01095798, A41; **D118/278**, Written Record of Interview of Witness NAM Im, 21 July 2014, ERN 01031804, A171-A172, 01031806, A186; **D219/858**, Written Record of Interview of Witness OUCH Hi, 31 October 2016, ERN 01519609, A44, 01519624, A139; *Northeast Zone: D219/702.1.142*, Written Record of Interview of Witness BUN Loeng Chauy, 10 June 2008, ERN 00274099; *cf. D6.1.351*, Written Record of Interview of Witness BAN Siek, 17 February 2009, ERN 00284493 ("*The document was issued in 1977 by Pol Pot or the upper echelon.*"); **D6.1.438**, Written Record of Interview of Witness OV Yae, 13 January 2009, ERN 00282817-00282818 ("*In 1977, there was an announcement not to kill people... KE Pok made his announcement about stopping the killings during a meeting with Proeung in late 1977.*").

<sup>515</sup> **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000689-01000690, A189-A191; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A33.

<sup>516</sup> **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000689-01000690, A189-A191; **D219/702.1.101**, Transcript of hearing on the substance in Case 002/02 [PECH Chim], 23 April 2015, ERN 01444156, l. 14; **D6.1.438**, Written Record of Interview of Witness OV Yae, 13 January 2009, ERN 00282817-00282818.

<sup>517</sup> *Sector 41: D219/405*, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148837, A12, 01148837-01148838, A13, 01148839, A18; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A33; *see also D113.10.22*.



ceased following the issue of the directive,<sup>518</sup> and that conditions improved, for example food rations increased.<sup>519</sup> While it is possible that the killing may have decreased in some areas, it is clear from other witnesses that killings continued until the arrival of the Vietnamese.<sup>520</sup>

#### 6.2.4. *The Regulation of marriage*

224. The CPK's policy on marriage was designed to achieve the objectives of increasing the population and building ideologically pure families. This policy was implemented by forcing people to marry a spouse chosen by "Angkar" and, in many cases, compelling the couple to consummate their marriage. The CPK regulated marriage throughout Cambodia, including in the Central Zone, both before and during the administration of the Southwest Zone cadres. **Ao An**, as Central Zone Deputy Secretary and Sector 41 Secretary, supported the CPK policy on the regulation of marriage, oversaw its implementation in Kampong Siem and Prey Chhor Districts, and at times personally presided over wedding ceremonies.

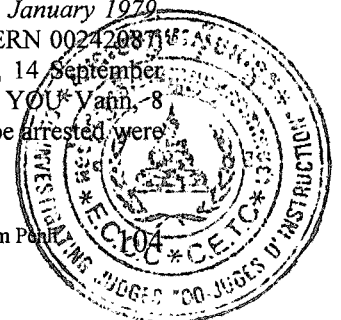
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Report entitled "Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221805, para. 37, *as confirmed in D3/7*, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; Sector 42: D6.1.386, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360758; **D6.1.351**, Written Record of Interview of Witness BAN Siek, 17 February 2009, ERN 00284493; **D107/13**, Written Record of Interview of Witness LONG Sokhai, 15 March 2012, ERN 00804710.

<sup>518</sup> **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360759; **D6.1.438**, Written Record of Interview of Witness OV Yae, 13 January 2009, ERN 00282818; **D118/278**, Written Record of Interview of Witness NAM Im, 21 July 2014, ERN 01031806, A186.

<sup>519</sup> **D219/551**, Written Record of Interview of Witness HENG Khly, 19 October 2015, ERN 01178566, A96-A97.

<sup>520</sup> *Several witnesses state that the remaining prisoners detained at the Sector 41 Security Centre (Met Sop) were killed just before the arrival of the Vietnamese, see: D3/15*, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622275, A9; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050577, A60; *see also D117/67*, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A12; *Killings at Wat Batheay Security Centre continued until the prisoners were liberated by the Vietnamese, see: D97*, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746830-00746831; *At Wat Au Trakuon Security Centre, a former guard states that killings occurred up until January 1979, see: D6.1.192*, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406814. *See also D219/138*, Written Record of Interview of Witness YOU Yann, 8 January 2015, ERN 01059286, A58, 01059298, A102 (explaining that lists of Cham to be arrested were instructed to be drawn up but were not done due to the arrival of the Vietnamese).





225. The CPK redesigned, reconstructed and regulated the institution of marriage to achieve CPK objectives of increasing population growth through procreation,<sup>521</sup> and building so-called “*revolutionary families*”,<sup>522</sup> to further its revolutionary mission and party lines.<sup>523</sup> Under the CPK, individual aspirations for marriage and family were subordinate to revolutionary goals.<sup>524</sup> One *Revolutionary Youth* magazine, reprinted in June 1975, states that building families was not just “*to have children [or] grandchildren*”, but “*so that the revolution may achieve its highest mission*” and “*advance socialism and communism*”.<sup>525</sup>
226. From late 1975 until at least November 1978, the CPK aimed to increase the Cambodian population from eight million to 15-20 million over 10 to 15 years, in order to exploit Cambodia’s natural resources and ensure the defence of the country.<sup>526</sup> These objectives, which were widely disseminated through meetings

<sup>521</sup> **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151165, A64-A70; **D219/406**, Written Record of Interview of Witness YOU Phnom, 10 July 2015, ERN 01139555, A48-A49, 01139569, A152; **D219/398**, Written Record of Interview of Witness RUOS Suy, 7 July 2015, ERN 01147811, A86; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050568, A31; **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02 [NGET Chat], 25 October 2016, ERN 01371146, l. 23-25; **D342/1.1.19**, Transcript of hearing on the substance in Case 002/02 [CHEA Dieb], 30 August 2016, ERN 01369989-01369990; **D342/1.1.17**, Transcript of hearing on the substance in Case 002/02 [SOU Sotheavy], 23 August 2016, ERN 01369726, l. 18-22; **D219/115.1**, Book by Rochelle Braaf entitled “Sexual Violence against Ethnic Minorities during the Khmer Rouge Regime”, 2014, ERN 01045677; **D219/370.1.3**, Foreign Broadcast Information Service collection of reports for June 1978, 16 June 1978, ERN 00169824.

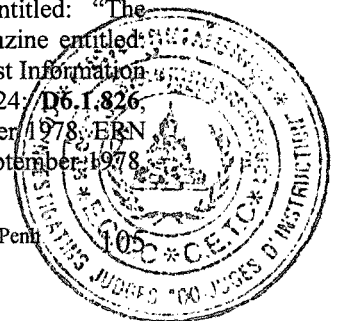
<sup>522</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D6.1.753**, CPK Magazine entitled: “The Revolutionary Flag” Special Issue, September - October 1976, ERN 00450539.

<sup>523</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943, 001417945.

<sup>524</sup> **D1.3.31.1**, Minutes of the Meeting of the Standing Committee on the Party’s Draft of a Four-Year Plan for the Construction of Socialism in all Domains, 1977-1980, 21 July to 2 August 1976, ERN 00104076; **D219/370.1.15**, Revolutionary Youth Number 10 October 1978, 1 October 1978, ERN 00539994; **D1.3.22.1**, CPK Magazine entitled: “The Revolutionary Flag”, October 1975, ERN 00357909-00357910; **D219/370.1.5**, Book by Henri Locard entitled, “Le Petit Livre Rouge de Pol Pot (Pol Pot’s Little Red Book)”, 2004, ERN 00394738; *see also*: **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151161, A45-A46; **D219/888.1.5**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 11 October 2016, ERN 01361249-01361252; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361821.

<sup>525</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943.

<sup>526</sup> **D6.1.746**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, October-November 1975, November 1975, ERN 00495808; **D6.1.745**, CPK Magazine entitled: “The Revolutionary Flag”, September 1978, ERN 00488637; **D6.1.755**, CPK Magazine entitled “The Revolutionary Flag”, December 1976 - January 1977, ERN 00491435; **D6.1.742**, CPK Magazine entitled: “The Revolutionary Flag”, April 1978, 1 April 1978, ERN 00519834; **D6.1.739**, CPK Magazine entitled: “The Revolutionary Flag”, September 1977, ERN 00486263; **D6.1.827**, Foreign Broadcast Information Service collection of reports for November 1978, 30 November 1978, ERN 00170124; **D6.1.826**, Foreign Broadcast Information Service collection of reports for October 1978, 31 October 1978, ERN 00170269; **D6.1.825**, Foreign Broadcast Information Service collection of reports for September 1978.



within Cambodia,<sup>527</sup> were also communicated by CPK leaders to the United Nations General Assembly and foreign delegations.<sup>528</sup>

227. Although CPK propaganda and statements by Pol Pot portrayed marriage under the CPK as a voluntary agreement between the couple and *Angkar*,<sup>529</sup> the ubiquitous pattern of coerced marriages and consummation throughout Cambodia, and the Central Zone in particular, shows that these were not isolated occurrences but were central to the CPK's policy on marriage.

228. Forced marriages were organized through mass weddings. In Prey Chhor and Kampong Siem Districts, group weddings with five to 150 couples were regularly organised.<sup>530</sup> Aside from Prey Chhor and Kampong Siem Districts,

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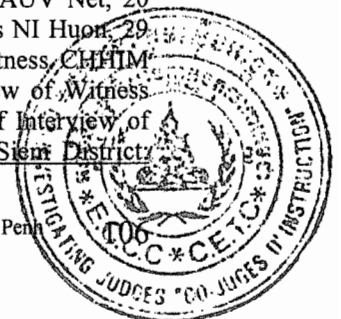
26 September 1978, ERN 00170426-00170428; **D6.1.816**, Foreign Broadcast Information Service collection of reports for October 1977, 4 October 1977, ERN 00168651, 00168719; **D6.1.1257**, UN General Assembly, *Plenary Meetings, A/32/PV.28*, 11 October 1977, ERN 00079813, 00079815; **D219/370.1.9**, UN Economic and Social Council, *Note by the Secretary-General regarding the question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to Colonial and other dependent countries and territories, E/CN.4/1295*, 13 June 1978, ERN 00075933; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309805, A108; **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151165, A64-A67; **D219/406**, Written Record of Interview of Witness YOU Phnom, 10 July 2015, ERN 01139555, A48, 01139569, A152, 01139573, A188; **D117/36.1.3**, Written Record of Interview of Witness CHUON Thi, 2 March 2010, ERN 00513314, A4; **D219/370.1.10**, Written Record of Adversarial Hearing of NUON Chea, 19 September 2007, ERN 00148699; **D219/370.1.6**, Transcript of hearing on the substance in Case 002 [CHUON Thi], 24 April 2013, ERN 00905360-00905361; **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02 [SAY Naroeun], 25 October 2016, ERN 01371176.

<sup>527</sup> **D117/36.1.3**, Written Record of Interview of Witness CHUON Thi, 2 March 2010, ERN 00513314; **D219/370.1.6**, Transcript of hearing on the substance in Case 002 [CHUON Thi], 24 April 2013, ERN 00905414, A4; **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02 [SAY Naroeun], 25 October 2016, ERN 01371176.

<sup>528</sup> **D6.1.1257**, UN General Assembly, *Plenary Meetings, A/32/PV.28*, 11 October 1977, ERN 00079813; **D6.1.816**, Foreign Broadcast Information Service collection of reports for October 1977, 4 October 1977, ERN 00168651; **D6.1.825**, Foreign Broadcast Information Service collection of reports for September 1978, 26 September 1978, ERN 00170428; **D6.1.827**, Foreign Broadcast Information Service collection of reports for November 1978, 30 November 1978, ERN 00170428; **D342/1.1.8**, Transcript of hearing on the substance in Case 002/02 [Elizabeth BECKER], 9 February 2015, ERN 01453629, l. 24-25, 01453630, l. 1-11; **D342/1.1.9**, Transcript of hearing on the substance in Case 002/02 [Elizabeth BECKER], 10 February 2015, ERN 01446933-01446935.

<sup>529</sup> **D219/370.1.15**, Revolutionary Youth Number 10 October 1978, 1 October 1978, ERN 00539994; *see also*: **D6.1.825**, Foreign Broadcast Information Service collection of reports for September 1978, 26 September 1978, ERN 00170426; **D219/370.1.5**, Book by Henri Locard entitled "Le Petit Livre Rouge de Pol Pot (Pol Pot's Little Red Book)", 2004, ERN 00394897.

<sup>530</sup> Prey Chhor District: **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050566, A25; **D219/882.1.20**, DC-Cam Interview of PREAP Sokhoeurn, 11 October 2003, ERN 01337493; **D219/47**, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050696, A16; **D219/159**, Written Record of Interview of Witness NI Huon, 29 January 2015, ERN 01067867, A119; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148844, A52; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A79; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820, A31; Kampong Siem District:

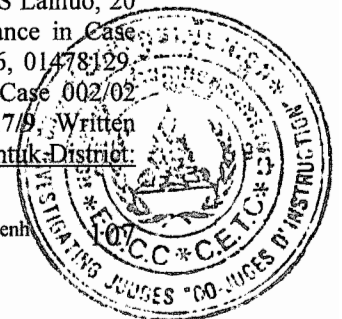


group weddings and the forced consummation of marriage took place throughout Cambodia,<sup>531</sup> including in other districts of the Central Zone.<sup>532</sup>

**D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034901, A19; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032990, A12; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032999, A36; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067913, A45; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054030, A4-A5; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059279, A33; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111791, A37; **D219/320**, Written Record of Interview of Witness PAOR San, 12 May 2015, ERN 01112020, A14; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364070, A126; *see also*: **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361815; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797024; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373613, A94; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A16; **D219/322**, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A22; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A102; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152376, A34; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031722, A130; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044582, A3, 01044588, A25; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057763, A20-A21; *Cf.* her husband: **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A24; **D219/159**, Written Record of Interview of Civil Party Applicant NI Huon, 29 January 2015, ERN 01067867, A119, A123, 01067870, A147; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35; *cf.* **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111975, A44; *contra.* **D219/435**, Written Record of Interview of Witness TOUCH Chamroeu, 30 July 2015, ERN 01142991, A56.

<sup>531</sup> *See* Annex III, Witnesses of Forced Marriage by Province.

<sup>532</sup> Kampong Cham Province: Chamkar Leu District: D6.1.385, Written Record of Interview of Witness SOU Soeun, 5 July 2009, ERN 00360115-00360116; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A8; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309805, A109, 01309808, A129; **D219/888.1.1**, Transcript of hearing on the substance in Case 002/02 [OM Yoeurn], 22 August 2016, ERN 01361712-01361718; **D342/1.1.17**, Transcript of hearing on the substance in Case 002/02 [OM Yoeurn], 23 August 2016, ERN 01369677-01369678; **D342/1.1.24**, Transcript of hearing on the substance in Case 002/02 [SAY Naroeun], 25 October 2016, ERN 01371170-01371173; Kang Meas District: D6.1.192, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242084-00242088; **D6.1.701**, Written Record of Interview of Witness YIM Kimsan, 10 December 2009, ERN 00421620, A20, A21; **D219/82**, Written Record of Interview of Witness RIEL Neang, 21 November 2014, ERN 01067802, A24-A28; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111791, A37; **D219/320**, Written Record of Interview of Witness POR San, 12 May 2015, ERN 01112020, A14-A15; Kampong Thom Province: Baray District: D6.1.384, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351705; **D6.1.388**, Written Record of Interview of Witness KÂNG Ut, 8 October 2008, ERN 00233533; **D6.1.405**, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244159; **D6.1.408**, Written Record of Interview of Witness VAN Sorn, 19 November 2008, ERN 00244170; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250047; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503162, 01503164-01503166, 01503182-01503185; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244165; **D219/702.1.106**, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 26 May 2015, ERN 01478055-01472059, 01478063-01478066, 01478129-1.25, 01478130-01478133; **D219/702.1.105**, Transcript of hearing on the substance in Case 002/02 [KONG Uth], 25 June 2015, ERN 01503894-01503895; Kampong Svay District: D117/9, Written Record of Interview of Witness HIENG Sây, 14 December 2012, ERN 00876098, A1; Santuk District:



These events took place in at least 16 provinces within Cambodia and are described by numerous witnesses and civil party applicants.<sup>533</sup>

229. There were severe consequences for those who refused to marry or to consummate their marriage. For example, they could be sent for re-education,<sup>534</sup> subjected to physical violence,<sup>535</sup> raped,<sup>536</sup> or killed.<sup>537</sup> They would also be

**D219/348**, Written Record of Interview of Witness UM Torn, 2 June 2015, ERN 01116138, A97-A102, 0111614, A141-A143; Kratie Province: Prek Prasab District: D219/702.1.71, Transcript of hearing on the substance in Case 002/02 [SEANG Sovida], 2 June 2015, ERN, 01480790, 01480828-01480833.

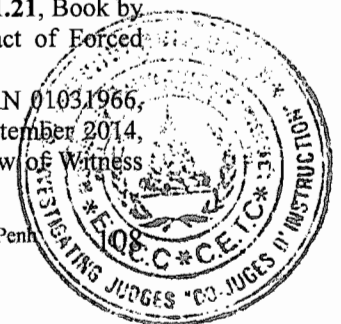
<sup>533</sup> See Annex III, Witnesses of Forced Marriage by Province.

<sup>534</sup> **D118/238**, Written Record of Interview of Witness KOL Set, 16 May 2014, ERN 01040482, A113-A116; **D118/257**, Written Record of Interview of Witness CHHAT Phan, 12 June 2014, ERN 01031965, A126-A127, 01031966, A128-A134; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057771, A69, 01057772, A70-A71, A75; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A31, 01044590, A39; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046945, A37-A38, 01046946, A42; **D219/8**, Written Record of Interview of Witness YANG Sokhom, 15 September 2014, ERN 01047790, A162-A164; **D219/134**, Written Record of Interview of Witness NET Savoeun, 22 December 2014, ERN 01059982, A50-A53, 01059983, A54, A55; **D5/1050/3**, Written Record of Interview of Witness NAP Somaly, 22 January 2015, ERN 01069371, A141; **D219/221**, Written Record of Interview of Witness ██████ Sieng, 10 March 2015, ERN 01104769, A101; **D6.1.408**, Written Record of Interview of Witness VAN Sorn, 19 November 2008, ERN 00244170; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441064, l. 16-19; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361803-01361804; **D301/2.1.21**, Book by Theresa De Langis et al. entitled "Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime", 2014, ERN 01037038; **D310/1.1.6**, Book by Kasumi Nakagawa entitled "Gender-Based Violence During the Khmer Rouge Regime: Stories of Survivors from the Democratic Kampuchea (1975-1979)", 2008, ERN 00421892.

<sup>535</sup> **D118/194**, Written Record of Interview of Witness RUOS Narin, 28 February 2014, ERN 00986734-009867335, A54; **D118/276**, Written Record of Interview of Witness UK Him, 14 July 2014, ERN 01031762, A22; **D5/1050/3**, Written Record of Interview of Witness NAP Somaly, 22 January 2015, ERN 01069371, A141; **D219/234.1.7**, Written Record of Interview of Witness TAE Ry, 18 February 2015, ERN 01079942, A97-A102, 01079943, A103-A107; **D219/115.1**, Book by Rochelle Braaf entitled "Sexual Violence against Ethnic Minorities during the Khmer Rouge Regime", 2014, ERN 01045712; **D301/2.1.21**, Book by Theresa De Langis et al. entitled "Like Ghost Changes Body – A Study on the Impact of Forced Marriage under the Khmer Rouge Regime", 2014, ERN 01037033, 01037038; **D310/1.1.6**, Book by Kasumi Nakagawa entitled "Gender-Based Violence During the Khmer Rouge Regime: Stories of Survivors from the Democratic Kampuchea (1975-1979)", 2008, ERN 00421892, 00421919; **D310/1.1.4**, Book by Bridgette Toy-Cronin entitled "'I Want to Tell You': Stories of Sexual Violence during Democratic Kampuchea (1975-1979)", 2006, ERN 00449488.

<sup>536</sup> **D118/191**, Written Record of Interview of Witness NGET Chat, 26 February 2014, ERN 00986721, A92-A93; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361802, l. 8-13; **D342/1.1.21**, Transcript of hearing on the substance in Case 002/02 [MOM Vun], 16 September 2016, ERN 01385273-01385275; **D310/1.1.6**, Book by Kasumi Nakagawa entitled "Gender-Based Violence During the Khmer Rouge Regime: Stories of Survivors from the Democratic Kampuchea (1975-1979)", 2008, ERN 00421893; **D310/1.1.4**, Book by Bridgette Toy-Cronin entitled "'I Want to Tell You': Stories of Sexual Violence during Democratic Kampuchea (1975-1979)", 2006, ERN 00449488-00449489; **D301/2.1.21**, Book by Theresa De Langis et al. entitled "Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime", 2014, ERN 01037033, 01037038.

<sup>537</sup> **D118/257**, Written Record of Interview of Witness CHHAT Phan, 12 June 2014, ERN 01031966, A132-A134; **D219/18**, Written Record of Interview of Witness PHAN Chhean, 29 September 2014, ERN 01047734, A40-A43, 01047735, A44-A50; **D219/182**, Written Record of Interview of Witness ██████



threatened with such retaliation;<sup>538</sup> they lived under “*extreme fear*” and a “*silent pressure*” to accept the marriage and were monitored to ensure consummation.<sup>539</sup> Although Prak Yut and You Vann claim that marriages in

UON Heav, 10 February 2015, ERN 01079791-01079792, A80-A84; **D219/221**, Written Record of Interview of Witness ██████ Sieng, 10 March 2015, ERN 01104769, A101; **D119/131**, Written Record of Interview of Civil Party Applicant THANG Theouy, 16 June 2014, ERN 01025299-01025300, A77-A82; **D342/1.1.18**, Transcript of hearing on the substance in Case 002/02 [SENG Souen], 29 August 2016, ERN 01369845; **D342/1.1.21**, Transcript of hearing on the substance in Case 002/02 [MOM Yun], 16 September 2016, ERN 01385273-01385275; **D219/888.1.1**, Transcript of hearing on the substance in Case 002/02 [OM Yoeurn], 22 August 2016, ERN 01361715-01361716; **D301/2.1.21**, Book by Theresa De Langis et al. entitled “Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime”, 2014, ERN 01037033, 01037038; **D310/1.1.6**, Book by Kasumi Nakagawa entitled “Gender-Based Violence During the Khmer Rouge Regime: Stories of Survivors from the Democratic Kampuchea (1975-1979)”, 2008, ERN 00421892; **D310/1.1.4**, Book by Bridgette Toy-Cronin entitled “I Want to Tell You’: Stories of Sexual Violence during Democratic Kampuchea (1975-1979)”, 2006, ERN 00449488-00449490.

<sup>538</sup> **D118/234**, Written Record of Interview of Witness TUM Nga, 13 May 2014, ERN 01055608, A67; **D219/268**, Written Record of Interview of Witness NAM Phorn, 9 April 2015, ERN 01098487, A72; **D219/702.1.104**, Transcript of hearing on the substance in Case 002/02 [CHUM Samoeurn], 24 June 2015, ERN 01478287, l. 10-25; **D219/494.1.11**, Transcript of hearing on the substance in Case 002/02 [YI Laisov], 20 August 2015, ERN 01499107; **D342/1.1.17**, Transcript of hearing on the substance in Case 002/02 [SOU Sotheavy], 23 August 2016, ERN 01369717-01369718; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361801-01361802; **D219/494.1.3**, Transcript of hearing on the substance in Case 002 [KHIN Vat], 29 July 2015, ERN 01437856-01437857; **D310/1.1.6**, Book by Kasumi Nakagawa entitled “Gender-Based Violence During the Khmer Rouge Regime: Stories of Survivors from the Democratic Kampuchea (1975-1979)”, 2008, ERN 00421918-00421920; **D301/2.1.21**, Book by Theresa De Langis et al. entitled “Like Ghost Changes Body - A Study on the Impact of Forced Marriage under the Khmer Rouge Regime”, 2014, ERN 01037033, 01037038, 01037052-01037053; **D219/115.1**, Book by Rochelle Braaf entitled “Sexual Violence against Ethnic Minorities during the Khmer Rouge Regime”, 2014, ERN 01045677, 01045711, 01045713; **D219/882.1.21**, Kasumi Nakagawa, Motherhood at War: Pregnancy During the Khmer Rouge Regime, ERN 01322863; **D310/1.1.4**, Book by Bridgette Toy-Cronin entitled “I Want to Tell You’: Stories of Sexual Violence during Democratic Kampuchea (1975-1979)”, 2006, ERN 00449488.

<sup>539</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054036, A19, A21-A27; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046947, A48; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088553-01088554, A185, A187; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-01044590, A31, 010445991, A41; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767-01057768, A43-A45; **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050698-01050700, A27-A31, A35, A39-A40; **D219/159**, Written Record of Interview of Witness NY Huon, 29 January 2015, ERN 01067868-01067869, A135-A137; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825-01214826, A81-A82; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570-01050571, A37; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361550; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362063; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361802; **D219/888.1.5**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 11 October 2016, ERN 01361319-01361320; **D219/888.1.6**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 12 October 2016, ERN 01361378, 01361393.



Kampong Siem District were organised only when both parties agreed,<sup>540</sup> and Prak Yut denies that newlyweds were required to consummate their marriage,<sup>541</sup> the overwhelming evidence of coercion militates against the truthfulness of their testimony.

230. The CPK regulated marital and sexual relations between individuals by replacing the role of parents,<sup>542</sup> and establishing a methodology for spouse selection.<sup>543</sup> Specifically, marriages required the approval of *Angkar*<sup>544</sup> to ensure that those married were not connected to “*enemy strings or bad elements*”.<sup>545</sup> Couples were matched based on their biographies<sup>546</sup> and political status.<sup>547</sup> The

<sup>540</sup> **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364085; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441054, 01441056-01441057, 01441092; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059273, A7.

<sup>541</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441062-01441064, 01196126 *citing* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A80.

<sup>542</sup> **D219/370.1.14**, To respected Angkar from M401, 16 July 1978, ERN 00289924; **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417942-00417945; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565-01050566, A22; **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151164, A57-A58; **D6.1.518**, Written Record of Interview of SAO Sarun, 30 June 2009, ERN 00348373; **D219/444.1.8**, Transcript of hearing on the substance in Case 001 [CHUM Neou], 24 August 2009, ERN 00370660; **D219/702.1.106**, Transcript of hearing on the substance in Case 002 [MEAS Layhuor], 26 May 2015, ERN 014780556-01478057; *cf.* **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351705.

<sup>543</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417942-00417945.

<sup>544</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151156, A13, 01151162, A49; **D219/234.1.7**, Written Record of Interview of Civil Party Applicant TAE Ry, 18 February 2015, ERN 01079945-01079946, A127-A128, 01079947-01079949, A144-A149; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309808, A129-A130; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 13 September 2016, ERN 01361772, 01361784.

<sup>545</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D219/888.1.6**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 12 October 2016, ERN 01361369.

<sup>546</sup> **D219/702.1.106**, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 26 May 2015, ERN 014780056-01478059; **D342/1.1.20**, Transcript of hearing on the substance in Case 002 [NOP Ngim], 5 September 2016, ERN 01382713, l. 11-12; **D6.1.676**, Written Record of Interview of Witness CHEANG Sreimom, 11 December 2009, ERN 00410264, A8.

<sup>547</sup> **D310/1.1.1**, Global Vision: Revolution and non-revolution toward family building issue, 2 June 1975, ERN 00417943; **D342/1.1.15**, Transcript of hearing on the substance in Case 002/2 [Henri LOCARD], 1 August 2016, ERN 01351428, l. 11-12; **D219/702.1.139**, Transcript of hearing on the substance in Case 001 [Kaing Guek alias Duch], 16 September 2009, ERN 00378697, l. 11-12; **D342/1.1.11**, Transcript of hearing on the substance in Case 002/02 [KHOEM Boeun], 4 May 2015, ERN 01500016-01500017; **D219/702.1.106**, Transcript of hearing on the substance in Case 002 [MEAS Layhuor], 26 May 2015, ERN 014780556-01478059; **D219/702.1.73**, Transcript of hearing on the substance in Case 002/02 [SOU Soeun], 4 June 2015, ERN 01424232-01424233; **D118.2.17**, Written Record of Interview of Witness KHOEM Boeun, 21 May 2014, ERN 01057695, A112; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250047.



CPK arranged marriages for soldiers, often disabled.<sup>548</sup> People were not permitted to divorce the spouses *Angkar* had selected for them.<sup>549</sup>

231. CPK weddings were deliberately austere, and group weddings were aimed at efficiency.<sup>550</sup> Wedding ceremonies were devoid of the traditional Khmer practices that couples would have followed if they had a choice in the matter.<sup>551</sup>

**D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151157, A19, 01151158, A25; **D6.1.795**, Written Record of Interview of Charged Person KAING Guek Eav alias Duch, 2 December 2009, ERN 00414334; **D219/370.1.18**, Written Record of Interview of Witness TAN Meng Hun (TAN Wardeny), 11 June 2009, ERN 00345537; **D6.1.844**, Written Record of Interview of Witness SENG Chon, 16 October 2009, ERN 00400458; **D6.1.676**, Written Record of Interview of Witness CHEANG Sreimom, 11 November 2009, ERN 00410264, A8; **D6.1.679**, Written Record of Interview of Witness SENG Soeun, 11 November 2009, ERN 00412185, A65; **D6.1.599**, Book by Karl Jackson entitled "Cambodia 1975-1978: Rendez-vous with Death", 1989, ERN 00394011.

<sup>548</sup> **D342/1.1.20**, Transcript of hearing on the substance in Case 002 [NOP Ngim], 5 September 2016, ERN 01382718, l. 21-24, 01382723, l. 22-23; **D342/1.1.18**, Transcript of hearing on the substance in Case 002/02 [SENG Soeun], 29 August 2016, ERN 01369856; **D219/406**, Written Record of Interview of Witness YOU Phnom, 10 July 2015, ERN 01139565-01139568, A119-A144; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079860-01079861, A15; **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151161, A45, 01151166, A78; **D219/234.1.7**, Written Record of Interview of Civil Party Applicant TAE Ry, 18 February 2015, ERN 01079941, A93, 01079942, A97; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167914, A146-A148; **D267.1.1**, Written Record of Interview of Witness of SENG Ol, 2 December 2009, ERN 00413906, A20; **D6.1.475**, Written Record of Interview of Witness AFFONCO Denise, 3 June 2009, ERN 00346935; **D6.1.159**, Written Record of Interview of Witness OUK Savuth, 9 June 2008, ERN 00242135; *contra* **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351705 [no requests from upper echelon for women to marry disabled combatants].

<sup>549</sup> **D219/702.1.106**, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 26 May 2015, ERN 01478063; **D6.1.679**, Written Record of Interview of Witness SENG Soeun, 11 November 2009, ERN 00412186, A74.

<sup>550</sup> **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151158, A21, 01151161, A44; **D6.1.518**, Written Record of Interview of Witness SAO Sarun, 30 June 2009, ERN 00348374; *see also*: **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151156, A11, 01151164, A57-A59; **D219/406**, Written Record of Interview of Witness YOU Phnom, 10 July 2015, ERN 01139556, A54.

<sup>551</sup> **D219/406**, Written Record of Interview of Witness YOU Phnom, 10 July 2015, ERN 01139556, A54; **D6.1.385**, Written Record of Interview of Witness SOU Soeun, 5 July 2009, ERN 00360115-00360116; **D219/454**, Written Record of Interview of Witness CHUM Neou, 13 August 2015, ERN 01151158, A21, 01151161, A44, 01151171, A111; **D219/99**, Written Record of Interview of Witness Khet Sokhan, 27 November 2014, ERN 01077083, A83; **D219/888.1.5**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 11 October 2016, ERN 01361259, 01361266; **D219/702.1.96**, Transcript of hearing on the substance in Case 002 [OR Ho], 19 May 2015, ERN 01503183; **D219/702.1.106**, Transcript of hearing on the substance in Case 002 [MEAS Layhuor], 26 May 2015, ERN 01478063-01478064, 01478132; **D219/702.1.105**, Transcript of hearing on the substance in Case 002 [KONG Uth], 25 June 2015, ERN 01503898, l. 1-21; **D219/888.1.1**, Transcript of hearing on the substance in Case 002/02 [OM Yoeurn], 22 August 2016, ERN 01361717, l. 3-13; **D219/370.1.16**, Supplementary statement of CHUM Neou, 7 February 2011, ERN 00891888; on the absence of family see: **D219/494.1.3**, Transcript of hearing on the substance in Case 002 [KHIN Yal], 29 July 2015, ERN 01437857, l. 8-10; **D219/702.1.105**, Transcript of hearing on the substance in Case 002 [KONG Uth], 25 June 2015, ERN 01503897, l. 22-25; **D219/702.1.96**, Transcript of hearing on the substance in Case 002 [OR Ho], 19 May 2015, ERN 01503183, l. 9-14; **D219/888.1.1**, Transcript of hearing on the substance in Case 002/02 [OM Yoeurn], 22 August 2016, ERN 01361716-01361717.



232. There were also instances where voluntary marriages were possible for some people,<sup>552</sup> the circumstances of which are discussed in greater detail below. However, on balance the evidence shows that from 1976, or by 1977 at the latest, the majority of marriages took place under coercive circumstances.<sup>553</sup>

**D342/1.1.20**, Transcript of hearing on the substance in Case 002 [NOP Ngim], 5 September 2016, ERN 01382729, l. 7-8; **D342/1.1.24**, Transcript of hearing on the substance in Case 002 [NGET Chat], 25 October 2016, ERN 01371140, l. 15-17; Kampong Siem District: D342/1.1.21, Transcript of hearing on the substance in Case 002/02 [MOM Vun], 16 September 2016, ERN 01385298; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057774, A86; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054032, A12; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530, A32; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A103; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356216, A83; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050563, A13; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361546-01361547, 01361549, 01361573; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362073-01362074; **D219/882.1.20**, DC-Cam Interview of PREAP Sokhoeurn [PREAB Sokhoeun], 11 October 2003, ERN 01337494; **D219/47**, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050696-01050697, A17; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820, A33, 01111822, A35, 01111823, A39; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A59-A60; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214826, A89; *see also*: **D219/888.1.3**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 14 September 2016, ERN 01361878-01361879; **D219/882.1.21**, Book by Kasumi Nakagawa entitled “Motherhood at War: Pregnancy during the Khmer Rouge Regime”, 2015, ERN 01322865; **D219/882.1.24**, Book by Peggy Levine entitled “A Contextual Study into the Wedding and Births under the Khmer Rouge: The Ritual Revolution”, 2007, ERN 00482489, 00482492; **D301/2.1.21**, Book by Theresa De Langis et al. entitled “Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime”, 2014, ERN 01037041.

<sup>552</sup> **D6.1.1061**, Written Record of Interview of Charged Person DUCH, 29 April 2008, ERN 001854765; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A15-A16; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067913, A45; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057763, A21; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111821-01111822, A34; **D219/370.1.5**, Transcript of hearing on the substance in Case 002 [CHUON Thi], 24 April 2013, ERN 00905360-00905361; **D219/888.1.3**, Transcript of hearing on the substance in Case 002/02 [Kasumi NAKAGAWA], 14 September 2016, ERN 01361915, l. 4-20; **D219/888.1.4**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 10 October 2016, ERN 01362038-01362040; **D342/1.1.12**, Transcript of hearing on the substance in Case 002/02 [KHOEM Boeun], 5 May 2015, ERN 01494801-01494802.

<sup>553</sup> **D342/1.1.17**, Transcript of hearing on the substance in Case 002/02 [OM Yoeun], 23 August 2016, ERN 01369677-01369678; **D219/888.1.2**, Transcript of hearing on the substance in Case 002/02 Kasumi NAKAGAWA, 13 September 2016, ERN 01361796, l. 2-11, 01361800, l. 6-14; **D219/888.1.4**, Transcript of hearing on the substance in Case 002/02 [Peggy LEVINE], 10 October 2016, ERN 01362046, l. 6-14; *see also*: **D342/1.1.18**, Transcript of hearing on the substance in Case 002/02 [SENG Soeun], 29 August 2016, ERN 01369899; Kampong Siem District: D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059293, A82; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054030, A5; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178457, A98; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356216, A83-A85; **D219/463**, Written Record of Interview of Witness PEN Thol, 10 August 2015, ERN 01151240, A23; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014.





### 6.3. Factual Findings on the Role of Ao An

#### 6.3.1. Role of Ao An before April 1975 and after 6 January 1979

##### 6.3.1.1. Personal history

233. **Ao An** was born in 1933 in Taing Svay Village, Peam Commune, Kampong Tralach District, Kampong Chhnang Province.<sup>554</sup> His birth name has been recorded as Oam Yoeung,<sup>555</sup> and Ao Yoeung respectively.<sup>556</sup>
234. **Ao An** states that in approximately 1954, he became an ordained monk,<sup>557</sup> serving until 1960 at which point he left the monkhood due to illness.<sup>558</sup> In 1963, he recovered and subsequently worked as a rice farmer in his birth village until 1970.<sup>559</sup>

ERN 01031703, A10; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A24-A25; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35, 01076951, A39, A41; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053866-01053867, A1, 01053870, A9; Prey Chhor District: D219/287, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100843, A28-A31; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111775-01111776, A33; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050568-01050569, A32; **D219/882.1.20**, DC-Cam Interview with PREAP Sokhoeurn [PREAB Sokhoeurn], 11 October 2003, ERN 01337487; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361543, 01361573-01361575; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362103, l. 8-10; **D219/47**, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050701, A46; **D219/289**, Written Record of Interview of Civil Party Applicant PENH Va, 25 April 2015, ERN 01111781, A9-A10; **D219/606**, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184897, A80; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142987-01142988, A23-A30; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179837-01179838, A114-A116; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111975, A47; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167916, A159; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A68; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820-01111821, A31, 01111823, A45; **D219/286**, Written Record of Interview of Witness MEN At, 22 April 2015, ERN 01100837, A21-A23; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148837, A12, 01148844, A51-A52, 01148846, A63; **D219/609**, Written Record of Interview of Witness Samrith An, 17 November 2015, ERN 01185819, A40.

<sup>554</sup> **D242**, Written Record of Initial Appearance of AO An, 27 March 2015, ERN 01096764; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373529.

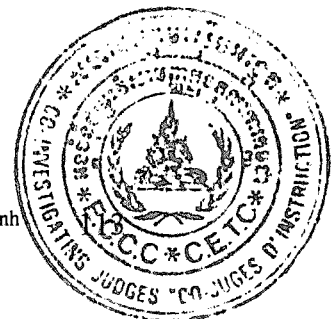
<sup>555</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373525.

<sup>556</sup> **D242**, Written Record of Initial Appearance of AO An, 27 March 2015, ERN 01096764.

<sup>557</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373532.

<sup>558</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373535.

<sup>559</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373537.



235. In 1976, **Ao An** married Ban Kou alias Kan in Kampot Province.<sup>560</sup> According to **Ao An**, Kan was initially a chairwoman of the Chhouk District Mobile Unit in Kampot Province,<sup>561</sup> and after their transfer to Kampong Cham she was based in the Sector 41 Office, but it is unclear what her role was.<sup>562</sup> She may have also held the role of Secretary of Khvet Commune and Klaeng Poar (currently Chrey Vien) Commune, both in Prey Chhor District.<sup>563</sup> Kan passed away in 1979.<sup>564</sup> In 1990, **Ao An** married his second wife, Prum Ran, who passed away in 2014.<sup>565</sup>
236. After the end of the DK, **Ao An** fled to Mum Bei Refugee Camp along with other Khmer Rouge forces including Son Sen.<sup>566</sup> There he supervised several womens' brigades connected with a centre named "P-7" which was under Son Sen's authority.<sup>567</sup> Later, he moved to Steung Chann Camp in Thailand, and in 1989 settled in Sante Pheap Village, Trapeang Prei Commune, Anlong Veang District, Oddar Meanchey Province along with Ta Mok.<sup>568</sup> He claims that he held no role during that time in Anlong Veang.<sup>569</sup>

### 6.3.1.2. Political activity

237. According to **Ao An**, he joined the Khmer Rouge movement after Lon Nol launched a *coup d'état* to overthrow Prince Sihanouk on 18 March 1970.<sup>570</sup> **Ao An** states that he had no association with the Khmer Rouge prior to this event, however in the same interview he states that he had been arrested a few months earlier in approximately August 1969 by Lon Nol officials and subsequently

<sup>560</sup> **D242**, Written Record of Initial Appearance of AO An, 27 March 2015, ERN 01096764; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373532, 01373592-01373593.

<sup>561</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373593.

<sup>562</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373593; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059288, A66; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056226, A32.

<sup>563</sup> **D3/10**, Written Record of Interview of Witness NIV Sun, 9 March 2011, ERN 00623578, A9.

<sup>564</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373531-01373532; **D242**, Written Record of Initial Appearance of AO An, 27 March 2015, ERN 01096464; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056226, A31.

<sup>565</sup> **D242**, Written Record of Initial Appearance of AO An, 27 March 2015, ERN 01096764; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373530.

<sup>566</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373582, 01373598-01373599; **D219/180**, Written Record of Interview Witness TOUCH Phearom, 23 March 2015, ERN 01077028, A14.

<sup>567</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373598-01373599.

<sup>568</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373599.

<sup>569</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373599.

<sup>570</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373538.



interrogated regarding his links to the Khmer Rouge resistance.<sup>571</sup> Shortly after joining, **Ao An** was appointed leader of a 12-person propaganda unit that operated in Udong District, Kampong Speu Province.<sup>572</sup>

238. **Ao An** states that, in 1971, Ta Mok appointed him to the District Committee of Kandal Stueng District, located in an area south of Phnom Penh in what was then known as the “*white zone*”.<sup>573</sup> It is unclear what specific role **Ao An** had on the District Committee. During this period, **Ao An** states that he was also appointed Commander of Division 11,<sup>574</sup> which was stationed in Kandal Stueng District.<sup>575</sup> Division 11 was initially part of the Southwest Zone but was later merged with a brigade of the “*Special Military Zone*”,<sup>576</sup> which was located south of Phnom Penh.<sup>577</sup> Vorn Vet was the commander of the military in the Special Zone at the time.<sup>578</sup>

### 6.3.2. Role and authority of Ao An in the Southwest Zone

239. On 17 April 1975, Division 11, under the command of **Ao An**, participated in the attack on Phnom Penh.<sup>579</sup> Shortly after the fall of Phnom Penh, **Ao An** states that he was summoned by Son Sen to a zone-level meeting at the Provincial Headquarter Hall in Ta Khmau District, Kandal Province.<sup>580</sup> At the meeting Son Sen removed **Ao An** from his military post and appointed him as a “*member*” of

<sup>571</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373538-01373541.

<sup>572</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373541-01373542.

<sup>573</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373544-01373545; **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 13 March 2015, ERN 01093017, A20 (describing Ao An’s duties at the time).

<sup>574</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373544-01373546, 01373548-01373549; **D219/119.1.5**, Written Record of Interview of Civil Party Applicant OU Dav, 3 March 2014, ERN 01055700, A6; **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 13 March 2015, ERN 01093016, A17.

<sup>575</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373550.

<sup>576</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373546; **D6.1.672**, Written Record of Interview of CHHAOM Se, 31 October 2009, ERN 00406211, A2.

<sup>577</sup> **D6.1.672**, Written Record of Interview of CHHAOM Se, 31 October 2009, ERN 00406211, A2; *c.f.* **D6.1.1090**, Written Record of Interview of RUOS Suy, 14 March 2008, ERN 00205109 [“*The Special Zone was at Phnom Penh.*”].

<sup>578</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373554; **D6.1.672**, Written Record of Interview of CHHAOM Se, 31 October 2009, ERN 00406211, A2; **D6.1.1090**, Written Record of Interview of RUOS Suy, 14 March 2008, ERN 00205109; **D179/1.2.8**, Transcript of hearing on the substance in Case 002, 20 March 2012 [Kaing Guek Eav alias DUCH], ERN 00793019, l. 9-10; **D179/1.2.7**, Transcript of hearing on the substance in Case 002, 19 March 2012, [Kaing Guek Eav alias DUCH], ERN 00792601, l. 23.

<sup>579</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373553-01373553.

<sup>580</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373555.



- the Sector 25 Committee in the Southwest Zone.<sup>581</sup> According to **Ao An**, the other members of the Sector 25 Committee included Chea who was Secretary and in charge of politics, Prak who was Deputy Secretary and in charge of the military, and Sien who was First Member and in charge of the economy.<sup>582</sup> **Ao An** states that he had no specific role on the Sector 25 Committee but was nevertheless appointed Secretary of Sa-Ang District in Sector 25.<sup>583</sup>
240. In early 1976, the Southwest Zone Secretary Ta Mok transferred **Ao An** and appointed him a member of the Sector 35 Committee.<sup>584</sup> **Ao An** states he was also put in charge of three districts in Sector 35: Chhouk, Koh Sla, and Sre Khnong.<sup>585</sup> The other members of the Sector 35 Committee included Kang Chap *alias* Sae who was Secretary and in charge of politics,<sup>586</sup> and Roeun who was Deputy Secretary and in charge of the military.<sup>587</sup>
241. **Ao An** states that he was in charge of the economy for Sector 35, and his responsibilities included supervising and reporting on rice production, water and irrigation management, and dam construction, pursuant to plans by the Southwest Zone Committee.<sup>588</sup> In one of her interviews, a former member of the Sector 35 Committee, Prak Yut, states that **Ao An** served as the Deputy Secretary.<sup>589</sup> However, in later testimony, she expresses uncertainty about the precise role **Ao An** held on the committee.<sup>590</sup>

<sup>581</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373555-01373558.

<sup>582</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373556-01373557.

<sup>583</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373557.

<sup>584</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373558-01373560; **D117/56**, Written Record of Interview of Witness CHOM Vong *alias* YOUK Nhov or Ngov, 19 November 2014, ERN 01067810, A13.

<sup>585</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373561-01373562.

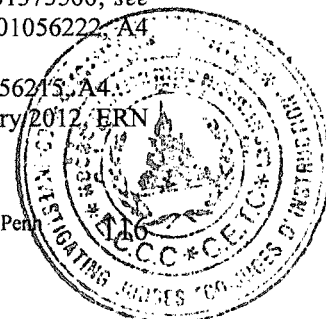
<sup>586</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373560-01373562; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 0036407; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215; **D179/1.2.4**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 25 January 2012, ERN 00774114, 1. 1; **D179/1.2.6**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 30 January 2012, ERN 00775501, 1. 23; **D117/56**, Written Record of Interview of Witness CHOM Vong *alias* YOUK Nhov or Ngov, 19 November 2014, ERN 01067809, A5; **D6.1.734**, Written Record of Interview of SOKH Chhien, 19 August 2009, ERN 00374949.

<sup>587</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373560-01373562.

<sup>588</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373563-01373566; *see also* **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056222, A4 [“Grandfather An’s duty mainly focussed on digging dams and canals.”].

<sup>589</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215, A4.

<sup>590</sup> **D179/1.2.6**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 30 January 2012, ERN 00775501, 1. 11-19.



### 6.3.3. Role and authority of Ao An in the Central Zone

#### 6.3.3.1 Ao An's transfer to the Central Zone

242. Beginning at the latest in early 1977 and continuing through at least mid-1977, Ta Mok, the Secretary of the Southwest Zone, sent groups of Southwest Zone cadres to replace local cadres in the administrative structure of the Central Zone.<sup>591</sup> Ta Mok alleged that there were traitors amongst the incumbent administrative ranks.<sup>592</sup>

243. At a point in time between late 1976 and February 1977, a group of approximately 100 to 300 Southwest Zone cadres including Ao An were ordered to work in the Central Zone.<sup>593</sup>

<sup>591</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215, A6-A7; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056223, A13, 01056227, A38; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966988, A4-A5; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059280, A36; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438487, l. 22-23; **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000684, A142; **D107/2**, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787232, A7; **D219/41**, Written Record of Interview of PHANN Chhen, 12 October 2014, ERN 01053645, A30; **D117/39**, Written Record of Interview of TO Sem, 27 April 2014, ERN 01033103, A7.

<sup>592</sup> **D117/39**, Written Record of Interview of TO Sem, 27 April 2014, ERN 01033103, A7; **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000689, A184-A185; *see also* **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373570 [*"They said that Kampong Cham became traitorous. All the leaders in Kampong Cham became traitors, so, they had to send me over there... Ta Mok said that"*].

<sup>593</sup> **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224103, A12; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059280, A36; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966988, A4-A8; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056223, A12, 01056227, A37; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215, A6; **D6.1.721**, Written Record of Interview of Witness PRAK Yut, 18 November 2009, ERN 00407797, A4; **D6.1.650**, Written Record of Interview of PECH Chim, 25 August 2009, ERN 00379172-00379173; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787213; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, A2, EN 00966996; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076939, A2; *c.f.* **D117/26**, Written Record of Interview of PUT Kol, 25 September 2013, ERN 00977331, A2 [*"At that time it was in the dry season of 1977, around March."*]; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364081 [*"In around March or April 1977"*]; **D6.1.733**, Written Record of Interview of Witness PRAK Yut, 29 July 2009, ERN 00364075 [*"Ta An was transferred to the Central Zone in around May or June 1977"*]; **D179/1.2.5**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 26 January 2012, ERN 00774543, l. 9-12 (between February and April 1977); **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095782, A1 [*"As far as can remember the Southwest Zone cadres came to the Central Zone in around late 1977"*]; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167915, A152 [*"Southwest Zone cadres began to arrive in October or November 1977. Then Ta An arrived, but I do not remember when he arrived"*]; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN



244. On their way to the Central Zone, the group stopped in Phnom Penh for a few days to attend a meeting with Pol Pot, Khieu Samphan, Ta Mok, Nuon Chea, Ke Pauk, Kang Chap and Son Sen.<sup>594</sup> At the meeting, Pol Pot announced that the Central Zone was “*traitorous*”, and he assigned the Southwest Zone cadres to go “*deal with*” the situation there.<sup>595</sup>
245. Immediately after the meeting in Phnom Penh, the group of Southwest Zone cadres travelled to the Central Zone where they attended a meeting in Kampong Cham town presided over by Central Zone Secretary Ke Pauk.<sup>596</sup> At the meeting, Ke Pauk appointed a number of Southwest Zone cadres to committee

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01067810, A14 [“*To my recollection, Grandfather An left for Kampong Cham in April or May in 1977*”]; **D219/284**, Written Record of Interview Witness POV Sarom, 9 April 2015, ERN 01098553, A29-A30 (stating Prak Yut was transferred in March or April 1977); **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000687, A169, A173; **D219/702.1.103**, Transcript of hearing on the substance in Case 002/02 [PECH Chim], 24 April 2015, ERN 01444541, 01444599-01444601.

<sup>594</sup> **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379173; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000674, A60-A61, 01000684, A142, 01000687, A169; **D219/702.1.99**, Transcript of hearing on the substance in Case 002/02, 22 April 2015 [PECH Chim], ERN 01418855-01418856, 01418920; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364081; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056216, A14; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063619, A62; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441067, l. 14-16; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A12; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059280, A36; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438489-01438490; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977332, A5; **D117/27**, Written Record of Interview of Witness DEUR Raun, 26 September 2013, ERN 00977414, A1.

<sup>595</sup> **D219/702.1.99**, Transcript of hearing on the substance in Case 002/02, 22 April 2015 [PECH Chim], ERN 01418925; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000674-01000675, A60-A61, A64-A65.

<sup>596</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056216, A16-A24; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A17-A18; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A12; **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379173; **D219/702.1.99**, Transcript of hearing on the substance in Case 002/02, 22 April 2015 [PECH Chim], ERN 01418856, l. 1-3, 01418924, l. 14-20; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977332, A5.



positions within the Central Zone,<sup>597</sup> including the appointment of **Ao An** as Secretary of Sector 41.<sup>598</sup>

### 6.3.3.2 Secretary of Sector 41

246. Immediately after being appointed Sector 41 Secretary at the meeting in Kampong Cham town, **Ao An** and a number of Southwest Zone cadres were transported to Prey Chhor District, Kampong Cham Province, whereupon he chaired a meeting at the Sector 41 Office located in Prey Toteung Village, Chrey Vien Commune, Prey Chhor District.<sup>599</sup> During the meeting, **Ao An** appointed the district secretaries of Sector 41, gave instructions related to digging canals and building dams, and ordered the district secretaries to organize and assign the necessary military and security personnel of each respective district.<sup>600</sup>
247. In March 1977, **Ao An** presided over a meeting at Wat Ta Meak, the site of the former Sector 41 Office.<sup>601</sup> Approximately 300 cadres attended.<sup>602</sup> **Ao An** announced that he was the new Secretary of Sector 41.<sup>603</sup> The timing of this

<sup>597</sup> **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364081; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056216-01056217, A20-A23; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A17; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1; **D219/702.1.99**, Transcript of hearing on the substance in Case 002/02, 22 April 2015 [PECH Chim], ERN 01418921, l. 18-25.

<sup>598</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A23; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A19; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1; *see also* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059288, A64.

<sup>599</sup> **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977332, A5; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225, A23; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A25; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989; *Sector 41 Office location, see:* section 6.1.3 Sector 41 (Administrative Structure), para. 168.

<sup>600</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A25-A27.

<sup>601</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.

<sup>602</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2016, ERN 01156186, A5-A6.

<sup>603</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.



event is consistent with the evidence on the removal of **Ao An**'s predecessor Ta Taing, who was arrested around early February 1977.<sup>604</sup>

248. After the Southwest Zone cadres took administrative control of the Central Zone, the Sector 41 Committee consisted of:

- i. **Ao An** as Secretary of Sector 41;<sup>605</sup>
- ii. Sim, who was Deputy Secretary and was also the Secretary of Prey Chhor District;<sup>606</sup>
- iii. Phim (also known as Phal) who was responsible for the Sector economy and was also the Secretary of Batheay District;<sup>607</sup>
- iv. Kan was responsible for dam and canal construction and was also the Secretary of Kang Meas District;<sup>608</sup>
- v. Prak Yut who was responsible for social work in the eastern part of Sector 41<sup>609</sup> and was also the Secretary of Kampong Siem District;<sup>610</sup> and

<sup>604</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A4-A5, 01088624, A13; **D6.1.314**, Confession of Chun Chhum alias Taing, combatant of Sector 41, 15 March 1977, ERN 00786989; **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222374; **D219/315**, Written Record of Interview Witness SAT Pheap, 18 May 2015, 01111974, A26-A27, 01111975, A39; *see also* **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373570-01373572.

<sup>605</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A23; **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000686, A165 [*"Ta An ... was the Sector 41 Chairman, and his core position was the Sector Secretary."*].

<sup>606</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A23; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056234, A2; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903206, A15; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059864, A15; **D219/802**, Written Record of Interview of Witness HONG Heng, 21 July 2016, ERN 01331761, A60; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373574.

<sup>607</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225-01056226, A24, A28; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A21; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224111, A81; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A31; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434536, A103; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373574.

<sup>608</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A23; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225-01056226, A24, A28; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A20; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224111, A81; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A31; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373575.

<sup>609</sup> **D117/71**, Written Record of Interview of PRAK Yut, 19 June 2013, ERN 01056226, A28.

<sup>610</sup> **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774607; **D179/1.2.6**, Transcript of hearing on the substance in Case 002, 30 January 2012 [PRAK Yut], ERN 00775490, 1. 18-19; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May





vi. Monn who was responsible for culture and social work and was also the Secretary of Cheung Prey District.<sup>611</sup>

249. **Ao An** held the position of Secretary of Sector 41 from the date of appointment until the end of DK on 6 January 1979.<sup>612</sup>

### 6.3.3.3 Deputy Secretary of the Central Zone and Member of the Zone Committee

250. As Secretary of Sector 41, **Ao An** was automatically a member of the Central Zone Committee,<sup>613</sup> a position he held until the end of DK. In addition, **Ao An** held the position of Deputy Secretary of the Central Zone from late 1977 until the end of DK.<sup>614</sup>

251. After the arrival of the Southwest Zone cadres, the Central Zone Committee consisted of Ke Pauk as Secretary,<sup>615</sup> Kang Chap as Deputy Secretary,<sup>616</sup> and **Ao An** as member.<sup>617</sup> According to a former Central Zone cadre, Ke Pauk

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2013, ERN 01056217, A23; **D117/50**, Written Record of Interview of IM Pon, 23 May 2014, ERN 01059865, A19.

<sup>611</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056226, A28; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A21; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224111, A81; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A31; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373575.

<sup>612</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059871, A58; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224104, A18; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373581.

<sup>613</sup> **D219/353**, Written Record of Interview Witness SARAY Hean, 22 May 2015, ERN 01117710, A4; **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491735, A5; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056226, A27; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A5.

<sup>614</sup> See para. 252.

<sup>615</sup> **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491735, A5; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364081; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156191, A20; **D107/7**, Written Record of Interview of NHIM Kol, 19 February 2012, ERN 00787214; **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000674, A59, 01000686, A156; **D219/870**, Written Record of Interview Witness RY Nhor, 10 November 2016, ERN 01373688, A43; **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774126, l. 17; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966990, A17; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373572; *contra* **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438492, l. 5-9.

<sup>616</sup> **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died", 20 November 2008, ERN 00089714; **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379172; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1.

<sup>617</sup> **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1; **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117710, A4.



chaired a meeting in February 1977, where he announced that Kang Chap was his first deputy and **Ao An** his second deputy in the Zone Committee.<sup>618</sup>

252. In late 1977, Kang Chap was removed as Deputy Secretary of the Central Zone and promoted to the position of Secretary of the New North Zone.<sup>619</sup> **Ao An** subsequently became the Deputy Secretary of the Central Zone.<sup>620</sup> According to his driver, **Ao An** held the position of Deputy Secretary of the Central Zone until the end of the regime,<sup>621</sup> and another sector cadre confirms that he heard **Ao An** was Deputy Zone Secretary shortly before the end of DK.<sup>622</sup> This is contradicted by the evidence of Sim's wife, To Sem, who states that **Ao An** was

A3; **D1.3.16.1**, Biography of KE Pauk entitled "Ke Pauk Had Defended Himself Before He Died, 20 November 2008, ERN 00089714; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373590.

<sup>618</sup> **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1.

<sup>619</sup> **D6.1.724**, Written Record of Interview of Witness PRUM Sou, 24 November 2009, ERN 00422380, A6; **D6.1.729**, Written Record of Interview of Witness SĒNG Kimoeun, 17 December 2009, ERN 00421613, A1; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384434; **D6.1.636**, Written Record of Interview of Duch by CIJ, 21 oktober 2009, ERN 00398208; **D219/702.1.103**, Transcript of hearing on the substance in Case 002/02, 24 April 2015 [PECH Chim], ERN 01444563, l. 6-10; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373591-01373592; Kang Chap was arrested in mid-1978 and executed on 31 October 1978 see **D6.1.873**, Transcript of Proceedings, "Duch" Trial, 25 November 2009, ERN 0040700, l. 18-20; **D6.1.724**, Written Record of Interview of Witness PRUM Sou, 24 November 2009, ERN 00422381, A8-A9; **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222353; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A2; **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309833-01309834, A22; *c.f.* **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A19; after Kang Chap was removed, Soeung was appointed the secretary of the New North Zone see **D6.1.724**, Written Record of Interview of Witness PRUM Sou, 24 November 2009, ERN 00422381, A8.

<sup>620</sup> **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A2; **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076; **D29**, Written Record of Interview of Witness SUON Kanil, 10 June 2011, ERN 00716227; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033104, A14; **D117/35**, Written Record of Interview of Witness BAN Siek, 24 March 2014, ERN 00984873, A15; **D219/355**, Written Record of Interview of Witness BAN Siek, 26 May 2015, ERN 01116324, A9; **D6.1.386**, Written Record of Interview of BAN Siek, 6 July 2009, ERN 00360760; **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D219/702.1.75**, Transcript of Hearing on the Substance in Case 002/2, 5 October 2015 [BAN Siek], ERN 01409566, l. 19-22, 25, 01409567, l. 26-27; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095783, A4; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077013, A6; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059866, A29, 01059875, A75; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309793, A18, A22, 01309794, A25; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000685, A156, 01000686, A162, A165, 01000692, A208, 01000693, A216; **D219/870**, Written Record of Interview Witness RY Nhor, 10 November 2016, ERN 01373687, A33-34, A37; **D6.1.652**, Written Record of Interview of Witness PECH Chim, 27 August 2009, ERN 00380139.

<sup>621</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059873, A67, A68.

<sup>622</sup> **D219/870**, Written Record of Interview Witness RY Nhor, 10 November 2016, ERN 01373687, A41.



demoted as Deputy Secretary of the Central Zone and replaced by Sim approximately six months before the arrival of the Vietnamese in January 1979.<sup>623</sup> While several other witnesses confirm that Sim was promoted to Sector 43 Secretary and a member of the Central Zone Committee,<sup>624</sup> no other witnesses corroborate To Sem's account of **Ao An**'s demotion or that Sim ever became Deputy Zone Secretary. On this matter, the evidence of **Ao An**'s driver, who worked closely with **Ao An**, is considered to be more reliable than the evidence of the wife of another sector cadre.

253. Upon **Ao An**'s appointment as Deputy Zone Secretary, the other members of the Central Zone Permanent Committee included Oeun who was in charge of Sector 42,<sup>625</sup> and Chan who was in charge of Sector 43.<sup>626</sup>

254. The membership of the Zone Committee continued to evolve. In September 1977, Chan was arrested and removed from his position as Sector 43

<sup>623</sup> **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033104, A15, 01033105, A19; *see also* **D219/677**, Written Record of Interview of Witness TO Sem, 3 February 2016, ERN 01213911, A23.

<sup>624</sup> *See* **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D117/35**, Written Record of Interview of Witness BAN Siek, 24 March 2014, ERN 00984873, A13; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309795, A34, ERN 01309807, A123; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059875, A76; **D219/179**, Written Record of Interview of Witness CHANN Sang, 6 February 2015, ERN 01077019-01077020, A1, A2.

<sup>625</sup> **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A4-A5; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360760; **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D117/35**, Written Record of Interview of Witness BAN Siek, 24 March 2014, ERN 00984872, A9, 00984873, A15; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012, A5; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384427-00384428; **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491734, A1; **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379173; **D117/18**, Written record of Witness interview of Witness PICH Cheum, 28 February 2013, ERN 00903205, A9; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000693, A216; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056224, A20; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059875, A75; **D219/789**, Written record of interview Witness CHHEAN Chhoeurn, 28 June 2016, ERN 01331695, A17; **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351702; **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331724, A84; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373580.

<sup>626</sup> **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A4 A5; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012, A5-A6; **D6.1.697**, Written Record of Interview of SUON Kanil, 18 August 2009, ERN 00384427-00384428; **D117/21**, Written Record of Interview of Witness CHAN Sang, 29 May 2013, ERN 00950663; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373572.



Secretary.<sup>627</sup> In approximately early 1978, Phen who was also from the Southwest Zone was sent to the Central Zone to be appointed Sector 43 Secretary, and Zone Committee Member.<sup>628</sup> In approximately mid-1978, Sim who was the Deputy Sector 41 Secretary, was appointed Sector 43 Secretary and Zone Committee Member.<sup>629</sup>

255. There is also evidence that **Ao An** served as Acting Central Zone Secretary during periods when Ke Pauk was absent from the Zone or indisposed. Around October 1978, a Zone congress was held in Kampong Cham Town with Ke Pauk presiding.<sup>630</sup> During the meeting, Central Zone Secretary Ke Pauk announced that **Ao An** would take charge of the Zone when he was absent.<sup>631</sup> The assertion that **Ao An** acted as *de facto* Central Zone Secretary is supported by a number of former cadres, including Ke Pauk's son who claimed that, "[i/n

<sup>627</sup> **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222424; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360761; *see also* **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346151; **D117/21**, Written Record of Interview of Witness CHAN Sang, 29 May 2013, ERN 00950665, A7; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373585; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012-01077013, A5; *c.f.* **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384438; **D219/486.1.1**, Transcript of hearing on the substance in Case 002, 14 December 2012 [Suon Kanil], ERN 00872210, l. 7-8.

<sup>628</sup> **D219/762**, Written Record of Interview Witness SARAY Hean, 19 May 2016, ERN 01309789, A1, 01309795, A32-A34, 01309804, A101; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373596-01373597; **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491734, A4; **D219/702.1.101**, Transcript of hearing on the substance in Case 002/02, 23 April 2015 [PECH Chim], ERN 014441777, l. 10-14; **D6.1.650**, Written Record of Interview of Witness PECH Chim, 25 August 2009, ERN 00379172; *c.f.* **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903203, A1; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000682, A126.

<sup>629</sup> **D117/39**, Written Record of Interview Witness of TO Sem, 27 April 2014, ERN 01033105, A19, 01033106, A21; *see also* **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A23; **D117/18**, Written Record of Interview of Witness PECH Chim, 28 February 2013, ERN 00903203, A1, 00903206, A15; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A17, ERN 01059875, A76; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373573; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360760; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012-01077013, A5; **D117/21**, Written Record of Interview of Witness CHAN Sang, 29 May 2013, ERN 00950665, A7; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059875, A76; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012-01077013, A5; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000685, A156; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095783, A4; *contra* **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309795, A34-A35, 01309807, A123-A125.

<sup>630</sup> **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117710, A5- A6; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309790, A5.

<sup>631</sup> **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309793, A18, A22, 01309794, A25; *see also* **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117710, A4.



the Zone, **Ta An** took over my father[’s] role because my father was busy with his work on the battlefields along the border [with Vietnam]’.<sup>632</sup> However, no witnesses identify specific instances of when or how long he held such a role.

#### 6.3.3.4 *Ao An’s responsibilities, authority, and sources of knowledge in the Central Zone*

256. **Ao An** exercised all the statutory powers of sector secretaries during the DK. As Secretary of Sector 41, **Ao An** exercised complete civilian and military authority over the sector, including its districts, communes and villages. **Ao An** appointed and removed cadres at the sector, district and commune levels,<sup>633</sup> supervised worksites,<sup>634</sup> and was responsible for the administration of all the Sector 41 departments.<sup>635</sup> **Ao An** also managed the movement of personnel and supplies throughout the Sector,<sup>636</sup> and the issuing of official permits for travel

<sup>632</sup> **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346158; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A28; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867, A31; *c.f.* **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040461, A13.

<sup>633</sup> *Ao An involvement in appointing District level administrative positions, see e.g.* **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A26; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225, A23-A24; **D117/24**, Written Record of Interview of Witness POV Sarom, 7 August 2013, ERN 00966963, A11; *Ao An involvement in appointing or removing Commune level administrative positions, see e.g.* **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774125, l. 23-24; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A42-A43; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059283, A45, A47; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088625, A13.

<sup>634</sup> **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774127, l. 13-15; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867, A34; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100837, A24; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A17-A21; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A28-A30; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167907, A116-A117; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A154-155, 01179843, A157-A160; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A18.

<sup>635</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374658, A174.

<sup>636</sup> **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774128, l. 5-8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A88; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A70, 01059290, A74; *see also* **D219/847.1**, Attachment 1: Transcript of **Ao An**, August 2011, ERN 01373582-01373583.



within the Sector.<sup>637</sup> **Ao An** also made frequent visits to oversee the progress of Sector 41 worksites.<sup>638</sup>

257. **Ao An** exercised authority over matters of security and administered discipline in the Sector, including through his control over security centres within Sector 41 and by coordinating large scale operations to arrest and kill CPK enemies.<sup>639</sup> **Ao An** received reports on these matters from the lower echelons<sup>640</sup> which he, in turn, reported to the Zone Committee in line with the vertical reporting structure within the CPK.<sup>641</sup>
258. In addition to his civilian role in the Sector, **Ao An** exercised authority over the Sector 41 military.<sup>642</sup> For example, **Ao An** personally appointed the Sector 41 Military Chairman,<sup>643</sup> and received reports from the Sector Military.<sup>644</sup> Furthermore, **Ao An** held meetings with the Sector Military to discuss security

<sup>637</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434534-01434535, A96 01434541-01434545, A133-138, A141, A149-A151.

<sup>638</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867-01059868, A35-A37, 01059869, A41; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A73.

<sup>639</sup> See section 6.3.4.2 The re-education of bad elements and killing of 'enemies'.

<sup>640</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A36; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056227, A39, 01056229, A50-A52; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A5; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238-01056240, A5, A7, A10, A15; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063609, A14; 01063611-01063612, A26-A28, 01063615, A44; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151268, A1, 01151270, A8; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431667, l. 2-5, l. 20; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441027, l. 6-8, 01441043, l. 14-23, 01441044, l. 1-6, 01441046, l. 10-13; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A49, 01059286, A55, 01059299, A106.

<sup>641</sup> See section 6.1.5 Statutory powers of zones and sectors in DK, paras 183-184; section 6.3.4.2 The re-education of bad elements and killing of 'enemies', paras 276-280.

<sup>642</sup> **D118/259**, Written Record of Interview of PECH Chim, 19 June 2014, ERN 01000680, A112; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98; **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2015, ERN 01434538, A114, A116, 01434540, A125, 01434542, A138, 01434544, A149; see also **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364057, A37; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224103-01224104, A13-A14; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143009, A197, 01143010, A201, **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373688, A49, 01373690, A81.

<sup>643</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374652, A100, 01374665, A250, 01374667, A270-A272; **D219/504**, Written record of Interview of Witness Sef Pheap, 17 September 2015, ERN 01167891, A41, 01167892, A53.

<sup>644</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2015, ERN 01434539, A118, A120; see also **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A106-A107.



and national defence matters, and ordered the Sector 41 military units to carry out missions, including deploying troops outside of Sector 41.<sup>645</sup> In addition to this, **Ao An** dispatched Sector military forces,<sup>646</sup> often to conduct the arrests of individuals, who were later sent for re-education, or “*smashed*”.<sup>647</sup> The Sector Military also coordinated with district level military to coordinate arrests.<sup>648</sup> Sector Military units were also deployed to carry out agricultural and construction works.<sup>649</sup>

259. As Deputy Secretary and member of the Central Zone Committee, **Ao An** exercised aspects of zone level authority in the DK, playing a key role in the administration of the Central Zone along with the Zone Secretary Ke Pauk. **Ao An** was responsible for construction projects throughout the entire Central Zone.<sup>650</sup> **Ao An** visited other sectors and worksites throughout the Zone,<sup>651</sup> in addition to providing workers and resources from Sector 41 to these

<sup>645</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374651, A93-A98, 01374652, A100-A104, 01374653, A116-A117; **D219/800**, Written Record of Interview of Witness So Saren, 19 July 2016, ERN 01331743, A217-A218; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224113, A97; **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2015, ERN 01434535-01434536, A101-A104, 01434540, A126, 01434541, A128, A130; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364056, A24-A25, A27, A28-A29, 01364057, A33; *see also*: **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284-01059286, A49, A54, A56, 01059297, A96.

<sup>646</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374653, A116-122; *see also* **D117/10**, Written Record of Interview of Witness Khim Choeung, 17 December 2012, ERN 00876114, A24; **D219/294**, Written Record of Interview of Witness MUOL Eng alias Ta En, 4 May 2015, ERN 01111844-ERN01111845, A182-A184. **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374665, A246; **D1.3.13.1**, Telegram 32 entitled “To Missed Committee 870”, 29 March 1978, ERN 00208256.

<sup>647</sup> *See* section 6.3.4.3 The targeting of specific groups, para. 294; *see generally* 6.3.4.2. The re-education of bad elements and killing of ‘enemies’.

<sup>648</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A49, 01059285, A54, 01059286, A56, 01059297, A96, 01059298, A100, 01059299, A105.

<sup>649</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2015, ERN 01434535, A101.

<sup>650</sup> **D117/21**, Written Record of Interview of CHAN Sang, 24 May 2013, ERN 00950666, A15; **D219/179**, Written Record of Interview Witness CHHAN Sang, 6 February 2015, ERN 01077021, A12; **D219/847.1**, Attachment 1: Transcript of AO An, ERN, 01373576-01373577, 01373580-01373581, 01373583;

<sup>651</sup> **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224110, A72, A75-A79; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A41; **D117/21**, Written Record of Interview of Witness CHAN Sang, 24 May 2013, ERN 00950666, A16; **D219/179**, Written Record of Interview Witness CHHAN Sang, 6 February 2015, ERN 01077021, A12; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224110, A72-A79; *see also* **D34.1.11**, Foreign Broadcast Information (FBIS) Collection of December 1977, Phnom Penh Domestic Service Broadcast, 8 December 1977, ERN 00168335.



- worksites.<sup>652</sup> **Ao An** attended meetings in Phnom Penh,<sup>653</sup> and attended zone-level meetings in Kampong Cham to plan the purge and implementation of CPK policies.<sup>654</sup> In mid-1978, Son Sen, who was in charge of DK's military forces, and **Ao An** discussed the need to transfer individuals from the East to the Northwest Zone for agricultural work.<sup>655</sup>
260. Along with his civilian duties at the zone level, **Ao An**'s authority extended to zone military matters. Shortly after an explosion at the Kampong Cham ammunitions warehouse in September 1977, which the CPK leadership alleged was an attempted coup,<sup>656</sup> **Ao An** in his capacity as Deputy Secretary of the Central Zone appointed the Commander and Deputy Commander of the newly-formed Regiment 71 under Division 117, a zone-level RAK division.<sup>657</sup> Furthermore, **Ao An** attended regular zone level military meetings chaired by Son Sen, although it is unclear whether he attended in the capacity of a Sector Secretary or Zone Member.<sup>658</sup>
261. **Ao An**, in his capacity as Deputy Zone Secretary, had *de jure* responsibility for matters relating to security in the Zone.<sup>659</sup> While it is clear that **Ao An** exercised authority over security issues in Sector 41 and that he participated in zone-level meetings to plan the purge throughout the Central Zone, there is no evidence of him actively exercising authority over security centres in Sectors 42 and 43.

<sup>652</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167906-01167907, A114; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373577, 01373579, 01373582-01373583; *c.f.* **D6.1.722**, Written Record of Interview of Witness PRAK Yut, 19 November 2009, ERN 00407805, A16-A17, 00407806, A19-A20, A22.

<sup>653</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438499, l. 20-25, 01438501, l. 23-24, 01438503, l. 9-12, l. 19-20.

<sup>654</sup> See section 6.3.4.2 The re-education of bad elements and killing of 'enemies', para 276.

<sup>655</sup> **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 30 March 2015, ERN 01093016, A15, 01093018, A28-A31.

<sup>656</sup> **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390080-00390081; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012, A2.

<sup>657</sup> **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077011-01077012, A1-A4; *see also* **D219/602**, Written Record of Interview of Witness NIB Kimheng, 16 November 2015, ERN 01185783, A18.

<sup>658</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374652-A101-A104, A110-A113; *see also* **D219/178**, Written Record of Interview Witness KUCH Ra, 5 February 2015, ERN 01077013, A7-A8, 01077015, A18, A19; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2010, ERN 00360755.

<sup>659</sup> See section 6.1.5. Statutory powers of zones and sectors in DK, para. 186.





262. There is no evidence of specific instances of **Ao An** exercising authority as Acting Central Zone Secretary.
263. During his tenure as Secretary of Sector 41 **Ao An** maintained a system of reporting and administration over the five districts in the Sector. This included holding regular meetings at the Sector Office,<sup>660</sup> attending meetings in the districts,<sup>661</sup> and sending written orders and receiving reports from the districts.<sup>662</sup>

### ***6.3.4 Ao An's conduct in the Central Zone and contribution to the joint criminal enterprise common purpose***

#### ***6.3.4.1 The establishment and operation of worksites and cooperatives***

264. **Ao An** played a crucial role in implementing the CPK's economic and agricultural policies throughout the Central Zone, which had the aim of increasing DK's national production through the establishment of worksites and

<sup>660</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A29, 01056219, A45; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056225, A25; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063610, A22, 01063611, A28, 01063619, A63, 01063622, A84; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431690, l. 10-16; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441032, l. 1-3; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A26; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A51, 01052985, A54, 01059286, A58; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A22; **D219/802**, Written Record of Interview of Witness HONG Heng, 21 July 2016, ERN 01331761, A61; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364056, A24-A29, 01364057, A33; *see also* **D1.3.20.1**, CPK Legal Documents entitled "Communist Party of Kampuchea Statute", January 1976, ERN 00184043, Article 17.

<sup>661</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A30-A31; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A24-A26; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A81; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059868, A38; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A10; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A32-A33, 01224111, A81, A86, 01224112, A87; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977333, A13; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, 01111974, A30-A31.

<sup>662</sup> **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774569, l. 10-13; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431686, l. 2-6; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02, 21 January 2016 [PRAK Yut], ERN 01441497, l. 5-6; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059277, A23, 01059286-01059287, A54; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364056, A28, 01364057, A33-A34.



cooperatives. **Ao An**'s tenure in the Central Zone was characterized by deteriorating working conditions, insufficient food, inadequate health care and a severe disciplinary regime.

265. **Ao An** attended meetings at the Zone and Centre levels where he received specific instructions on how to implement CPK economic policy.<sup>663</sup> **Ao An** would then convene meetings with cadres from the sector, district and commune levels, whom he instructed on how to implement the economic plans of *Angkar*.<sup>664</sup> For example, **Ao An** conducted regular meetings with district

<sup>663</sup> **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117710, A5-A6; **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774570, l. 13-20; 07774571, l. 10-16; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441029 l. 10-15, 01441083, l. 5-9; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056230, A56-A59; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438499-01438501, 01438503; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059871, A54-A56; **D219/486.1.2**, Transcript of hearing on the substance in Case 002, 17 December 2012 [SUON Kanil], ERN 00873894, l. 18-25, 00873895, l. 11-15, 00873929, l. 1-8; **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491735, A9; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373588-01373589; *other high level cadres from the Central Zone attended meetings in Phnom Penh to receive instructions see D219/702.1.73*, Transcript of hearing on the substance in Case 002/02, 04 June 2015 [SOU Soeurn], ERN 01424240, l. 1-4, 01424241, l. 11-16, 01424242, l. 3-10; *other senior level cadres from the Central Zone attended meetings with Ke Pauk to receive instructions see D117/19*, Written Record of Interview of Witness TEP Pauch, 4 March 2013, ERN 00901044, A5, 00901044, A7; **D6.1.690**, Written Record of Interview of Witness PECH Chim, 6 December 2009, ERN 00422339, A6, 00422340; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309789-01309790, A2.

<sup>664</sup> **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033104, A11; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179842, A155, 01179843, A157; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A3; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by D3/4*, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D219/870**, Written Record of Interview Witness RY Nhor, 10 November 2016, ERN 01373687, A34, A36; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A25, A27; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A31; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441029 l. 20-25; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [You Vann], ERN 01438499 l. 14-15; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059288, A69; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224106, A35, 01224111-01224112, A87, A89; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A17, 01076886, A23; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434559, A240; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167888, A19, 01167888, A24-A25; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585-01044586, A17; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174521, A21, A23, A25; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840, A30; **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117710, A7, *confirmed by D219/762*, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309791, A9, A11; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431154, l. 10-12, l. 23-24; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100837, A24-25; *Tep Pauch a former Party*



secretaries and instructed them on how to build dams and canals and on methods to improve crop production.<sup>665</sup> Throughout these meetings, **Ao An** would repeatedly emphasize the necessity of achieving 3 to 7 tonnes of rice per hectare.<sup>666</sup> Furthermore, **Ao An** warned the audience that if they were unable to achieve production targets then they would be considered enemies of the revolution.<sup>667</sup> These plans along with the warning were subsequently disseminated by the Sector 41 Office Chief, and the district and commune committees down to the lower echelons.<sup>668</sup> There were severe consequences for

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*District committee member in Sector 42 describes similar meetings in Sector 42* see **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351703; *Saray Hean a former Preaek Prasab committee member in Sector 42 describes similar meetings in Sector 42* see **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309803, A94-A95; *Sou Soeun (Ke Pauk's wife) a former Chamkar Leu committee member in Sector 42 describes similar meetings in Sector 42* see **D6.1.385**, Written Record of Interview of Witness SOU Soeun, 5 July 2009, ERN 00360115.

<sup>665</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438498-01438499; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059288, A69; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217, A25, A27; **D219/120**, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063612, A31; **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [Prak Yut], ERN 00774127, l. 11-24; **D179/1.2.6**, Transcript of hearing on the substance in Case 002, 30 January 2012 [PRAK Yut], ERN 00775516, l. 23-25, 00775517; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033104, A10-A11; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A35, 01224111-01224112, A87, A89.

<sup>666</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A35, 01224111-01224112, A87, A89; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by D3/4*, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A17, 01076886, A23; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434559, A240.

<sup>667</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A17; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116059, A18.

<sup>668</sup> *Kampong Siem District* see **D117/32**, Written Record of Interview of Witness Nhem Kol, 12 November 2013, ERN 00966997, A6; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178456, A75, A82; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067859, A56, 01067862, A78-A79, A80, 01067863, A87; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067909, A20; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A24-A25; **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072508, A14, 01072508, A15; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098564, A150; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031710-01031711, A23-A28; *Batheay District* see **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A14-A15; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044587-01044588, A23; *Kang Meas District* see **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506032, A38; *Sector Dam Worksite* see **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13; *examples of Sector Level cadres disseminating the plan and warning workers* see e.g. **D219/788**, Written Record of Interview of Witness KHUT Saret, 27 June 2016, ERN 01331688, A50-A53; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015,



workers who failed to finish their work: workers could be deprived of food,<sup>669</sup> sent for re-education,<sup>670</sup> arrested,<sup>671</sup> beaten,<sup>672</sup> or “disappeared”.<sup>673</sup>

266. **Ao An** closely monitored the implementation of CPK economic policy on worksites and cooperatives. District secretaries and sector department chiefs would receive reports from the lower echelons about production achievements and working conditions,<sup>674</sup> and this information would be relayed to **Ao An** via

ERN 01112025, A7-A9; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216228, A21, 01216230, A37, A39; **D219/541**, Written Record of Interview Witness KIM Thoeurn, 5 October 2015, ERN 01174524, A44-A45, 01174525, A52; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A25; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179844, A162-A164; *Tep Pauch, the former Secretary of Baray District, Sector 42 describes implementing the same policy in his respective district see **D219/888.1.1***, Transcript of hearing on the substance in Case 002/02, 22 August 2016 [Tep Pauch], ERN 01361667, l. 23-25, 01361668 l. 1-2; *Tep Pauch describes a similar situation when he was on the S-Ang District committee, Southwest Zone and on the Baray District committee, Sector 42 see also **D6.1.384***, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351701, 00351704; *A former committee member of Russei Keo commune, Prek Prasab District, Sector 42, describes his responsibilities in relation to the policy see: **D219/353***, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117711, A8.

<sup>669</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112054, A65; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079865, A40; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178454, A46; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835-01100836, A12, A14; **D117/38**, Written Record of Interview of Civil Party Applicant KRUOCH Kim, 24 April 2014, ERN 01056737, A11.

<sup>670</sup> **D6.1.388**, Written Record of Interview of Witness KANG Ut, 8 October 2008, ERN 00233533; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A8; **D219/191**, Written Record of Interview Witness KEO Voeun, 19 February 2015, ERN 01079867, A48-A49.

<sup>671</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050576, A57; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A8, 01116059, A18.

<sup>672</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A19; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835-01100836, A13-A14; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A12.

<sup>673</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076883, A6, A8, 01076885, A17; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167888, A24-A25; **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050694, A3-A6; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2008, ERN 00607226, A9; **D6.1.388**, Written Record of Interview of Witness KANG Ut, 8 October 2008, ERN 00233534; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179843, A160, 1<sup>st</sup> January Dam, see e.g. **D219/403**, Written Record of Interview of Witness VENG Vuthy, 7 July 2015, ERN 01148822-01148823, A13.

<sup>674</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059272, A1, 01059277, A22; **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774558, l. 16-25; 00774560, l. 5-19; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [You Vann], ERN 01431592-01431594; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090007, A24-A25; *examples of Sector 41 department chiefs collecting information, see e.g. **D219/504***, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167908, A121.



reports,<sup>675</sup> or during meetings.<sup>676</sup> **Ao An** would in turn report on the situation in Sector 41 at zone-level meetings.<sup>677</sup> The Zone Secretary would then report to the Centre on the situation in the Central Zone.<sup>678</sup>

267. **Ao An** supervised construction projects in all three sectors of the Central Zone.<sup>679</sup> **Ao An** also furthered the cooperative system by travelling throughout Sector 41 to cooperatives, villages, and districts to see which cooperatives performed the best and then rewarding high performing cooperatives with commendations and supplies.<sup>680</sup> **Ao An** was thus aware of the conditions at sites under his authority.

268. In Sector 41, **Ao An** exercised complete authority over the construction of the sector-level Anlong Chrey Dam situated in Cheung Prey and Prey Chhor

<sup>675</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059278, A25; *sector departments reported directly to Sector Office, see: D219/315*, Written Record of Interview Witness SAT Pheap, 18 May 2015, ERN 01111973, A12, A16, 01111978, A89, 01111981, A130, A132; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063615, A44; **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774569, I. 10-13.

<sup>676</sup> **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167906, A112-A113; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033105, A18; **D117/56**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 19 November 2014, ERN 01067815, A33.

<sup>677</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056230, A56-61; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434531, A73; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900988, A7, 00900989, A8; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903204, A7; **D219/249**, Written Record of Interview of Witness SUON Kanil, 28 March 2015, ERN 01095783, A3, A5, A8.

<sup>678</sup> **D1.3.30.2**, CPK Telegram 94 entitled "Respectfully submitted to respected Brother Pol", 02 April 1976, ERN 00182658-00182660; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900989, A8-A10, 00900990, A19; **D6.1.1081**, Written Record of Interview of Witness SENG Lytheng, 4 December 2007, ERN 00223564; **D6.1.4**, Written Record of Interview of Witness OEUN Tan, 9 October 2008, ERN 00235127-00235128; **D179/1.2.28**, Transcript of hearing on the substance in Case 002/01, 13 June 2012, ERN 00817966, I. 2-13; **D6.1.91**, Written Record of Interview of Charged Person Duch by CIJ, 19 November 2008, ERN 00242880; **D179/1.2.12**, Transcript of Hearing on the Substance in Case 002, 28 March 2012 [DUCH], ERN 00796342, I. 22-25, 00796343, I. 1; **D6.1.1081**, Written Record of Interview of Witness SENG Lytheng, 4 December 2007, ERN 00223565; **D6.1.1070**, Written Record of Interview of Charged Person Duch by CIJ, 2 June 2008, ERN 00195576; **D6.1.839**, Written Record of Interview of Witness PEAN Khean, 27 August 2009, ERN 00375888; **D179/1.2.38**, Transcript of hearing on the substance in Case 002, 04 September 2012 [NORNG Sophang], ERN 00846229, I.5-19.

<sup>679</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059873, A69; **D117/21**, Written Record of Interview of Witness CHAN Sang, 24 May 2013, ERN 00950666, A13; **D219/179**, Written Record of Interview of Witness CHHAN Sang, 6 February 2015, ERN 01077021, A12; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN, 01373576-01373577, 01373580-01373581, 01373583.

<sup>680</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179830, A66-67.



Districts.<sup>681</sup> For instance, **Ao An** mobilized the workforce and resources from various districts in Sector 41 to construct the dam<sup>682</sup> and delegated senior Sector 41 cadres to oversee its construction.<sup>683</sup> **Ao An** attended both the worksite's opening and closing ceremonies,<sup>684</sup> and attended monthly meetings at the dam.<sup>685</sup> **Ao An** also made frequent visits in order to inspect the progress of the dam,<sup>686</sup> and he gave instructions regarding production targets and warned that those who failed to complete their task would be considered enemies.<sup>687</sup>

<sup>681</sup> See section 6.4.1.1 Anlong Chrey Dam Forced Labour Site; **D219/286**, Written Record of Interview Witness MIN Art, 22 April 2015, ERN 01100837, A24; **D219/288**, Written Record of Interview Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A17-21; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/405**, Written Record of Interview Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A28-30; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167907, A116-117; **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373583.

<sup>682</sup> **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774128, l. 5-8; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5; *contra* **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A88: [“*[Ao An] never asked for labour forces to work at Anlung Chrey Dam*”]; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7 [“*Because this dam was the dam of the sector, there were thousands of workers who were from the districts of Kang Meas, Kampong Siem, Prey Chhor, Cheung Prey and Chamkar Loeur.*”].

<sup>683</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050-01112051, A24-A28, A38; **D3/5.1**, Annex: Interview of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2008, ERN 00607225, A3, 00607226, A10; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A6-A10, 01112052, A49-A50; **D219/800**, Written Record of Interview of Witness So Saren, 19 July 2016, ERN 01331722, A70, A72, 01331725, A91.

<sup>684</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A13, 01116059 A17; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, 01111774, A19-A20; **D219/324**, Written Record of Interview of Witness CHIN Tep, 29 May 2015, ERN 01113702, A5; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A28-A30; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373690, A78.

<sup>685</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A1; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/5.1**, Annex: Interview of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, 00607226, A10.

<sup>686</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867-01059868, A35, A37; **D219/17**, Written Record of Interview of Witness PIN Dan, 16 September 2014, ERN 01047084, A4; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143006, A178; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179842, A154, A155.

<sup>687</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A72, A73; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116059, A18; **D219/324**, Written Record of Interview of Witness Chin Tep, 19 May 2015, ERN 01113702, A5, A6; **D219/288**, Written Record of Interview Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A21; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN, 01072518-01072519, A25-A26.



269. Throughout his tenure, **Ao An** also inspected other uncharged construction sites throughout Sector 41,<sup>688</sup> including the sector-level Sautip Prey Char worksite in Prey Chhor District,<sup>689</sup> and the Pring Chrum worksite in Cheung Prey District.<sup>690</sup> Furthermore, according to **Ao An**, he was also responsible for overseeing the construction of the Peam Cheang Dam in Kang Meas District,<sup>691</sup> and Phnom Phnov Dam in Batheay District.<sup>692</sup> **Ao An**'s senior subordinates often inspected various worksites throughout Sector 41, ostensibly on **Ao An**'s instructions.<sup>693</sup>
270. **Ao An**, through his subordinates, ordered the Sector 41 Mobile Unit to travel throughout Sector 41 in order to carry out construction and agricultural work.<sup>694</sup> Furthermore, **Ao An**'s district secretaries ordered their respective Commune and Village Chiefs in Sector 41 to organize and assign their mobile units to carry out work within and sometimes outside of their districts, including sector-level and zone-level worksites.<sup>695</sup>

<sup>688</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867, A34; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374661, A206; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167912, A136.

<sup>689</sup> **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214.

<sup>690</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A18-A19.

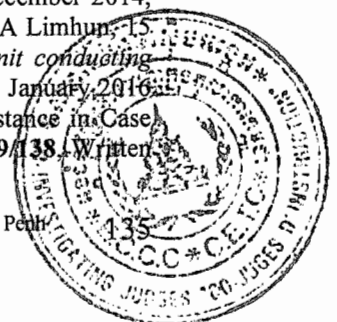
<sup>691</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373576, 01373577, 01373583.

<sup>692</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373576.

<sup>693</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A25-A28, 01112051, A38; **D219/800**, Written Record of Interview of Witness So Saren, 19 July 2016, ERN 01331722, A70, A72, 01331725, A9-A92, A96; **D219/315**, Written Record of Interview Witness SAT Pheap, 18 May 2015, ERN 01111975, A37; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167888, A21-A23.

<sup>694</sup> *The Sector Mobile Unit reported to Sal, who reported to Chhin, who reported to Aun the Sector 41 Office Chief, who in turn reported to Ao An, see D219/331*, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A8-A10; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167907, A117; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A5, A6, A8, A9, A10; *the Sector 41 Logistics department provided rice to the Sector Mobile Unit, see e.g. D219/435*, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143014, A235; *examples of Sector 41 department workers being ordered to work throughout the Sector, see e.g. D219/435*, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143004, A161, 01143006, A176-A177; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167909, A124, A125, 01167910, A127.

<sup>695</sup> **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057761, A12; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5; *examples of Kampong Siem District Mobile Unit conducting work, see e.g. D219/702.1.87*, Transcript of hearing on the substance in Case 002/02- 14 January 2016 [YOU Vann], ERN 01438502, l. 4-6; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [YOU Vann], ERN 01431630, l. 19-20, 01431631, l. 5-9; **D219/138**, Written



271. With regard to the wider Central Zone, **Ao An** states that he was involved in the construction of the zone-level 1<sup>st</sup> January Dam in Baray and Santuk Districts, and later the 6<sup>th</sup> January Dam in Santuk District, both of which were located in Sectors 42 and 43.<sup>696</sup> It is unclear when **Ao An** became involved in these construction projects. Construction of the 1<sup>st</sup> January Dam began between late 1976 and early 1977 under the Central Zone Committee which included Sreng, the incumbent Sector 41 Secretary, and later his successor Taing,<sup>697</sup> and was completed approximately one year later.<sup>698</sup> It is likely that **Ao An** took charge of the construction shortly after he was appointed Sector 41 Secretary in February 1977.<sup>699</sup> **Ao An** and several witnesses state that workers and resources from Sector 41 were sent to both worksites during **Ao An**'s tenure.<sup>700</sup> For example,

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Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A70, 01059290, A76, 01059291, A77; *examples of Kang Meas District Mobile Unit conducting work, see e.g. D219/876*, Written Record of Interview Witness CHHEAN Heang, 30 November 2016, ERN 01362674, A9-A11, 01362675, A21; *examples of commune mobile units conducting work, see e.g. D219/461*, Written Record of Interview Witness PEN Thol, 8 August 2015, ERN 01151228, A11, 01151229, A14-16; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111816, A6.

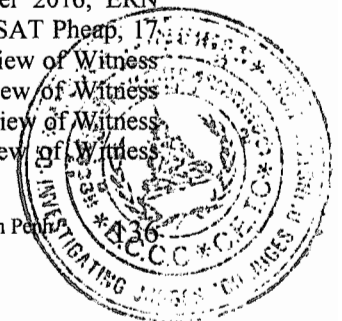
<sup>696</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373576-01373577, 01373582; **D6.1.659**, Written Record of Interview of Witness PECH Sokha, 12 October 2009, ERN 00403008; **D6.1.412**, Written Record of Interview of Witness CHOEU Saing, 21 November 2008, ERN 00244152; *c.f. one witness who states that Ke Pauk was in charge of the 1<sup>st</sup> January Dam D219/702.1.96*, Transcript of hearing on the substance in Case 002/02, 19 May 2015 [OR Ho], ERN 01503143, l. 12-13, 01503146, l. 16-18; *for location of the dams, see D6.1.722*, Written Record of Interview of Witness PRAK Yut, 19 November 2009, ERN 00407805, A15-A16; **D6.1.405**, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244159; **D6.1.365**, Report of the Execution of Rogatory Letter, 23 February 2009: Site Identification Report, ERN 00290634; **D6.1.443**, Written Record of Interview of Witness Ut Seng, 14 January 2009; ERN 00282354; **D6.1.659**, Written Record of Interview of Witness PECH Sokha, 12 October 2009, ERN 00403008; **D117/21**, Written Record of Interview of Witness CHAN Sang, 24 May 2013, ERN 00950666, A14; *Ao An may have also been in charge of other dam construction sites, see D117/21*, Written Record of Interview of Witness CHAN Sang, 24 May 2013, ERN 00950666, A13; **D219/179**, Written Record of Interview Witness CHHAN Sang, 6 February 2015, ERN 01077021, A12.

<sup>697</sup> **D6.1.659**, Written Record of Interview of Witness PECH Sokha, 12 October 2009, ERN 00403003-00403005; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346149-00346151; **D6.1.675**, Written Record of Interview of Witness IENG Chham, 8 November 2009, ERN 00410236, A56; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250044; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02, 19 May 2015 [OR Ho], ERN 01503141, l. 2-3.

<sup>698</sup> **D6.1.443**, Written Record of Interview of Witness Ut Seng, 14 January 2009, ERN 00282354; **D6.1.675**, Written Record of Interview of Witness IENG Chham, 8 November 2009, ERN 00410240, A86; **D6.1.437**, Written Record of Interview of Witness KE Un, 13 January 2009, ERN 00283344.

<sup>699</sup> See section 6.3.3. Role and authority of Ao An in the Central Zone, paras 245-246.

<sup>700</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373577; **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362674, A9-11, 01362675 A21; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167906-01167907, A114; **D6.1.659**, Written Record of Interview of Witness PECH Sokha, 12 October 2009, ERN 00403008; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244163; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250045; **D6.1.722**, Written Record of Interview of Witness





**Ao An** delegated Ta Am to supervise workers from Sector 41 at the 1<sup>st</sup> January Dam worksite,<sup>701</sup> and sent Sim (Deputy Secretary of Sector 41) to lead the construction of the 6<sup>th</sup> January Dam.<sup>702</sup> Also, **Ao An** states that he inspected both sites.<sup>703</sup>

272. Furthermore, **Ao An** played an essential role in facilitating the transfer of personnel and resources within Sector 41, and between Sector 41 and Sectors 42 and 43 respectively, which allowed the cooperatives and worksites to operate. The movement of people and resources in Sector 41 was heavily regulated and monitored.<sup>704</sup> According to a former Sector 41 Office cadre, formal travel between districts within Sector 41 required the express permission of **Ao An** in the form of an official travel permit.<sup>705</sup> Similarly, travel from Sector 41 into

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PRAK Yut, 19 November 2009, ERN 00407805, A16-A17, 00407806, A19-A20; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A88.

<sup>701</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167906-01167907, A114.

<sup>702</sup> **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033103-01033104, A10.

<sup>703</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373576-01373577; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A41.

<sup>704</sup> **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [YOU Vann], ERN 01431590, l. 14-23, 01431591, l. 4-7; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02, 21 January 2016 [PRAK Yut], ERN 01441489, l. 1-8; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309792, A16; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167888, A23, 01167911, A133; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174527-01174528, A71, A73; **D219/704**, Written Record of Interview of Witness KIM Koeun, 1 March 2016, ERN 01218602, A28, A32; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143008, A190, 01143009, A196; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2016, ERN 01156187, A7; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934; *vehicles under the direct control of Sector 41 were used to transport people and resources throughout Sector 41 see e.g. D219/752*, Written Record of Interview of Witness LOR Venghuor, 28 April 2016, ERN 01300140, A17, A18, 01300141, A25, A27; **D219/704**, Written Record of Interview of Witness KIM Koeun, 1 March 2016, ERN 01218601, A23-A25; *soldiers under the authority of Sector 41 were tasked with monitoring movement within the sector, see e.g. D6.1.764*, Telegram No 32 Dated 29 March 1978, ERN 00377841; *Sector 41 controlled resources, see D219/606*, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184891-01184893, A38-A51; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178452, A27.

<sup>705</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434534-01402235, A96, 01434541-01434545, A133-A150; *other witnesses who describe the need for travel permits at sector, district, and commune levels see D219/226*, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088625, A14; **D117/57**, Written Record of Interview of KEAN Ley, 24 June 2014, ERN 01067909, A16; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02, 21 January 2016 [PRAK Yut], ERN 01441488, l. 5-6 l. 4-9.



Sectors 42 or 43 required permission from **Ao An** and the Zone Secretary.<sup>706</sup>

People who travelled without a permit would be arrested.<sup>707</sup>

273. The arrival of **Ao An** and the Southwest Zone cadres to the Central Zone marked a significant change in the working conditions at worksites and cooperatives. Witnesses consistently describe harsher working conditions during the Southwest Zone administration.<sup>708</sup> For example, **Ao An** and his subordinates raised production quotas and forced people to work longer hours than under the previous administration.<sup>709</sup> They also reduced food rations and implemented harsher discipline.<sup>710</sup> These conditions were exacerbated by

<sup>706</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434545, A151.

<sup>707</sup> **D6.1.764**, Telegram No 32 Dated 29 March 1978, ERN 00377841.

<sup>708</sup> *Prey Chhor District* see e.g. **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044625, A10; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111977, A73; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111816-01111817, A7, A11; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A6; **D3/10**, Written Record of Interview of Witness NIV Sun, 9 March 2011, ERN 00623578, A5; *c.f. Witnesses who state that conditions did not get worse but stayed the same* see **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907, A5, 01067908, A12; *Kampong Siem District*, see e.g. **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032980, A11, A13; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032987-01032989, A2; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132628-01132629, A3; **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072505, A6; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090000, A12; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hooun, 23 March 2013, ERN 00797023.

<sup>709</sup> *Prey Chhor District*, see e.g. **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179831, A71; **D219/541**, Written Record of Interview of Witness KIM Thoeun, 5 October 2015, ERN 01174521-0117422, A25-A26; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076883, A6-A8; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746820; *Kampong Siem District* see e.g. **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031710, A23, A25; 01031719, A102; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant Phlong Han, 23 March 2012, ERN 00797011; *Kang Meas District* see e.g. **D87**, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 00746826; **D219/497**, Written Record of Interview of Witness ORM Lanh, 2 September 2015, ERN 01167865, A14-A15; *Sector Worksite* see e.g. **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A8; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4.

<sup>710</sup> *Prey Chhor District* see e.g. **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111816, A6-A7; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167908, A122-A123; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A6-A10; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148841, A36; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179831, A71, 01179843, A156; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 9 July 2015, ERN 01148841, A36; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373691, A92; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364069, 01364070, A121; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, A31, 01112053, A59; **D117/52**, Written Record of Interview of Civil Party Applicant



inadequate health care and a lack of supplies.<sup>711</sup> Another witness describes attending a meeting with **Ao An** where Ke Pauk announced a plan to “*starve the*

BUM Ser, 27 May 2014, ERN 01076883, A6, A8; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746820; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622275, A11; *Sector 41 department workers received the same amount of food as previously see e.g. D219/704*, Written Record of Interview of Witness KIM Koeun, 1 March 2016, ERN 01218602, A43; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143004, A144, A145, 01143012, A216; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434546, A159, A161, A162; *Kampong Siem District see e.g. D219/472*, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178452, A27, 01178454, A46; **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072505, A6; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356212, A15, A19; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090000, A12; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032979, A9; **D117/38**, Written Record of Interview of Civil Party Applicant KRUOCH Kim, 24 April 2014, ERN 01056736, A8, 01056737, A11; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant Phlong Han, 23 March 2012, ERN 00797011; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2013, ERN 00797023; *Kang Meas District, see e.g. D87*, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 00746825; **D219/497**, Written Record of Interview of Witness ORM Launh, 2 September 2015, ERN 01167865-01167866, A15-A21; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A33; **D219/320**, Written Record of Interview Witness Por San, 29 June 2015, ERN 01112019, A6; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506028, A14; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431122, l. 8-9; *Batheay District see e.g. D219/871*, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A33-A34; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365586, A72; *Sector Worksite see e.g. D219/288*, Written Record of Interview Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A8, A9, 01148863, A27; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100836, A12; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A8, A12, 01116059, A18; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2008, ERN 00607225, A6, 00607226, A13; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A10, A11; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A155, 01179843, A156; **D219/287**, Hai Taun Written Record of Interview, 23 April 2015, ERN 01100841, A9; *1<sup>st</sup> January Dam zone level worksite see e.g. D6.1.437*, Written Record of Interview of KE Un, 13 January 2009, ERN 00283343-00283344; *c.f. witness Sou Soeurn who states that the living and working conditions at the 1<sup>st</sup> January Dam were adequate D219/702.1.73*, Transcript of hearing on the substance in Case 002/02, 04 June 2015 [SOU Soeurn], ERN 01424117, l. 5-19, 01424178, 3-10; 01424214, l. 9-13, 01424247, l. 19-25, 01424248, l. 1-5; *Chamkar Andaung Rubber Plantation, Central Zone see e.g. D6.1.690*, Written Record of Interview of PECH Chim, 6 December 2009, ERN 00422338-00422339, A7, A11, A12; *contra witness Keo Voeun, who states that at the Sector 41 Dam worksite people had enough food and sick people were treated: D219/191*, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079867, A47; *contra witness Pon Ol who states that food was sufficient D6.1.373*, Written Record of Interview of Witness PON Ol, 7 May 2009, ERN 00336526.  
<sup>711</sup> **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179843, A156; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A59; **D219/606**, Written Record of Interview Witness CHEA Kheang Thai, 13 November 2015, ERN 01184893, A51; **D219/320**, Written Record of Interview Witness Por San, 29 June 2015, ERN 01112019, A6; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A9; **D6.1.659**, Written Record of Interview of Witness PECH Sokha, 12 October 2009, ERN 00403005-00403006, 00403008; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346150; **D6.1.388**, Written Record of Interview of



people” by reducing food rations.<sup>712</sup> According to a former Sector 41 Office cadre, **Ao An** acknowledged during another meeting that people in Sector 41 were receiving inadequate food.<sup>713</sup> At another meeting, **Ao An** stated that once the plan to kill enemies was completed, there would be “*thick gruel*” for the population to eat.<sup>714</sup>

274. All property in the sector, including food, was collectivized and managed by the sector,<sup>715</sup> and people who foraged or were in possession of food without permission were arrested and in some cases killed.<sup>716</sup> Several witnesses have

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Witness KANG Ut, 8 October 2008, ERN 00233534; *contra witness Preap Sokhoeurn who states that he received treatment when he became ill: D219/24*, Written Record of Interview of PREAP Sokhoeurn, 8 October 2014, ERN 01050564, A17.

<sup>712</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374644, A15-19.

<sup>713</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434546, A157.

<sup>714</sup> **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224108, A53-A57.

<sup>715</sup> **D1.3.20.1**, CPK Legal Documents entitled “Communist Party of Kampuchea Statute”, January 1976, ERN 00184043, Article 16(4); **D179/1.2.11**, Transcript of hearing on the substance in Case 002, 27 March 2012 [KAING Guek Eav, alias DUCH], ERN 00795623, l. 11-18; **D219/320**, Written Record of Interview Witness Por San, 29 June 2015, ERN 01112018, A1-A2, 01112019, A5; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072514, A2, A4, 01072515, A5, A8; **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050693, A2; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2013, ERN 00797023; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339933; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02, 21 January 2016 [PRAK Yut], ERN 01441489, l. 16-23, 01441490, l. 3-6, l. 25, 01441491, l. 1-5; **D219/497**, Written Record of Interview Witness ORM Launh, 2 September 2015, ERN 01167865, A15, A16; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178452, A27; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, A33-A35; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143007-01143008, A183-A190, 01143009, A196, 01143014, A235, 01143015, A239; **D219/321**, Written Record of Interview Witness KHUTH Khy, 13 May 2015, ERN 01112023, A1.

<sup>716</sup> **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A27; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067858-01067858, A52-A54; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178454, A44-A45; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A33; **D219/320**, Written Record of Interview of Witness Por San, 29 June 2015, ERN 01112019, A1-A2; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031710-01031711, A23-A28, 01031719, A102; **D117/38**, Written Record of Interview of Civil Party Applicant KRUOCH Kim, 24 April 2014, ERN 01056737, A11; **D117/42**, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034076, A8; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053868-01053869 A6; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821; **D6.1.437**, Written Record of Interview of Witness KE Un, 13 January 2009, ERN 00283344; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934-00339935; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364067, A104; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A10; *a witness describes seeing prisoners bought to Wat Baray Chan Dek Security Centre located near the 1<sup>st</sup> January Dam project, they were arrest for stealing food, see D219/401*, Written Record of Interview of Interviewee



described a practice devised by **Ao An** to deceive people into believing they could take private possession of food, and then those who did so were arrested and killed.<sup>717</sup>

275. **Ao An** ordered his district secretaries to identify and execute people who complained about their living and working conditions.<sup>718</sup> In one example, **Ao An** presided over a meeting at Wat Au Trakuon Security Centre where he encouraged those attending to identify and report to him whether or not their village or unit chairmen were giving them sufficient food, and then those who unwittingly reported on their superiors were arrested as soon as they returned home, and subsequently disappeared.<sup>719</sup>

#### 6.3.4.2 *The re-education of bad elements and killing of 'enemies'*

##### *Ke Pauk and Ao An planned the purge of the Central Zone*

276. The purge of the Central Zone was orchestrated by Ke Pauk, **Ao An** and other members of the Central Zone Committee.<sup>720</sup> **Ao An** attended monthly meetings of the Central Zone Committee in Kampong Cham town during which the plan to kill enemies was discussed.<sup>721</sup> When **Ao An** was unable to attend the

Witness HIN Long, 4 July 2015, ERN 01147852, A47; *the situation was similar in Sector 42 see e.g. D219/41*, Written Record of Interview of Witness PHANN Chhen, 12 October 2014, ERN 01053643-01053644, A21.

<sup>717</sup> **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088552, A174; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A10.

<sup>718</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063610, A19, A20-A22, 01063611, A26, A28, 01063623, A85; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304; *Sector 41 Office cadres monitored the living conditions of the workers see e.g. D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2008, ERN 00607226, A10; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13.

<sup>719</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740714, A11-A12; **D6.1.700**, Written Record of Interview of SENG Srun, 9 December 2009, ERN 00423722, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406822, l. 22-25, 01406823, l. 1-25, 01406895, l. 7-14.

<sup>720</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040461, A9; **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A2; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374643, A7-A8, **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364082.

<sup>721</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, 01224106, A36; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A36; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374643, A5-A8, 01374644, A17, A20-A24, 01374645, A29-A33; 01374661, A207; 01374662, A208, A210; **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965.



meeting, he would send Aun, the Sector 41 Office Chief, to attend on his behalf.<sup>722</sup>

277. Shortly after **Ao An**'s appointment as Sector 41 Secretary, Ke Pauk convened a meeting in Kampong Cham Town where he ordered **Ao An** and other senior cadres from the Central Zone "to do whatever could be done to arrest all the enemies", as this was the plan of the upper echelon.<sup>723</sup> He explained "that when digging up grass, dig it up the roots and all".<sup>724</sup> In other words, the purge of the Central Zone was to be thorough and exhaustive. **Ao An** was instructed to purge the old cadres first, "from unit chairpersons up", followed by the arrests of ordinary civilians.<sup>725</sup> **Ao An** also received written kill orders from Ke Pauk every one to three months.<sup>726</sup>

278. **Ao An**, Ke Pauk, and the other Zone Committee members from Sectors 42 and 43 discussed a plan to invite cadres on the pretence they were to attend a "study session" so as not to alarm them, and once they arrived they would be arrested and sent to a security centre to be re-educated or killed.<sup>727</sup> They then prepared lists and decided when those incumbent cadres would be invited to attend such a

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00841965; **D118/259**, Written Record of Interview of Witness PECH Chim, 19 June 2014, ERN 01000674, A59; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364082; **D117/18**, Written Record of Interview of Witness PICH Cheum, 28 February 2013, ERN 00903204, A7; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360756-00360757; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056230, A56-A57.

<sup>722</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374643, A13-A14, 01374649, A71.

<sup>723</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224088, A49; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224103, A7, 01224106, A35-A37, A40-A42, 01224109, A61, 01224112, A90, A91; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374644, A20.

<sup>724</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A41, 01224112, A90; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374645-01374646, A36.

<sup>725</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645, A30-A33.

<sup>726</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224088, A41-A43; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374650, A79-A81; A85, 01374651, A86, 01374659, A193.

<sup>727</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374643, A10-A12, 01374644, A15, A16, 01374645-01374646, A30-A36; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360752.



“*study session*”.<sup>728</sup> This plan was to be implemented in all three Sectors of the Central Zone.<sup>729</sup>

279. During the Central Zone Committee meetings, **Ao An** devised a plan whereby senior-ranking cadres (i.e., those from the zone level who were not sent to S-21)<sup>730</sup> were to be arrested and taken to Wat Phnom Pros Phnom Srei to be killed, while lower-ranking cadres and minor offenders were to be taken to the main Sector 41 Security Centre (Met Sop) or Wat Ta Meak Security Centre, and ordinary people were to be sent to Wat Batheay Security Centre.<sup>731</sup> The security centres in Sector 41 thus operated as an integrated network. For example, if Wat Phnom Pros Security Centre was full, **Ao An** would authorise Sector 41 vehicles to transport prisoners to be executed at Met Sop Security Centre in Kor Commune.<sup>732</sup> Ngov, the Sector 41 Security Chairman, would send written reports to **Ao An** confirming the prisoners were executed.<sup>733</sup> Former district and sector-level cadres in Sector 41 recall that the locations of execution were based on the victim’s classification, status or hierarchy.<sup>734</sup> In addition, **Ao An** authorized his subordinates, including Aun and Prak Yut, to decide who should be arrested and which security centre they should be sent to.<sup>735</sup>

<sup>728</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645-01374646, A33-A36.

<sup>729</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645, A35.

<sup>730</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A17.

<sup>731</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374646, A38-A40, 01374647, A45, A53, 01374663, A231, 01374664, A232, 01374665, A245.

<sup>732</sup> **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224107, A46, A49; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A46-A48, 01374648, A55, A56, A61, 01374649, A67-A71.

<sup>733</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A58-A59, 01374649, A74, 01374650, A75, A76.

<sup>734</sup> **D117/32**, Written Record of Interview of Witness Nhem Kol, 12 November 2013, ERN 00966999, A11; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, A2, EN 01076949, A33; **D219/138**, Written Record of Interview of Witness You Vann, 8 January 2015, ERN 01059299, A104; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A16-A17; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156188, A10; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18.

<sup>735</sup> *Aun (Sector 41 Office Chairman)* see e.g. **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374647, A46, 01374648, A55-A56; **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179840-01179841, A140-A143; **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374649, A71; *Prak Yut (Kampong Siem District Secretary)* see e.g. **D107/8**, Written Record of Interview of Witness Nhim Kol, 20 February 2012, ERN 00787219.



280. **Ao An** was firmly committed to carrying out the plan to kill enemies. According to his former bodyguard, **Ao An** stated that he was “*determined to achieve the plan set by the Party*”, albeit because “*he would be killed if he did not do it*”.<sup>736</sup>

*Ao An led the purge of Sector 41*

281. **Ao An** actively led the purge of Sector 41 by identifying enemies to be purged, ordering his subordinates to carry out arrests and killings, monitoring the implementation of the purge, providing logistical support, and using the Sector 41 Office as a key operational hub for purge activities.

282. The purge operation in Sector 41 was accomplished via a strict chain of command with **Ao An** at the top, disseminating orders to the lower echelons through the district secretaries and his other immediate subordinates including Aun, Sok and Ngov.<sup>737</sup>

283. **Ao An** held regular meetings at Wat Ta Meak and throughout Sector 41, when he ordered his subordinates to maintain constant vigilance against enemies<sup>738</sup> and to “*arrest them all*.”<sup>739</sup>

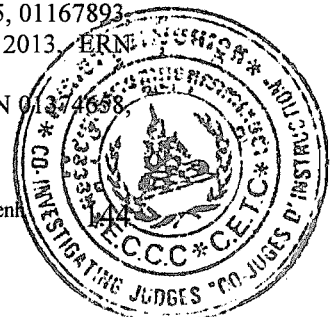
284. On one occasion, **Ao An** ordered the execution of five people shortly after they attended a meeting with him at the Sector Office.<sup>740</sup>

<sup>736</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374644, A22, A24, 01374646, A40-A41, 01374661, A202, 01374662, A218; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224108, A60.

<sup>737</sup> **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431666, l. 11-21, 01431667, 2-8, 01431686, l. 2-6, 01431690, l. 10-25, 01431691, l. 1-5; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441015, l. 20-23, 01441018, l. 10-25, 01441041, l. 23-25, 01441042, l. 1-3; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331734, A160-A164; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A87; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364069, A113; **D117/56**, Written Record of Interview of Witness CHOM Vong, ERN 01067813, A25-A27; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434554, A206.

<sup>738</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374657, A166, 01374658, A174; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057789, A60; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A15-A19, 01373702, A32, 01373703, A40-A41; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167888, A24-A25, 01167893, A58; **D117/32**, Written Record of Interview of Witness Nhem Kol, 12 November 2013, ERN 00966997, A6.

<sup>739</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374658, A177.





285. **Ao An** monitored the purge closely, through a system of reporting and meetings with the lower echelons. He would send out his personal messenger to collect written reports from his subordinates confirming that the arrested prisoners had been killed.<sup>741</sup> Ngov, the Sector 41 Security Chairman, made frequent visits to the Sector 41 Office to report to **Ao An** and Aun.<sup>742</sup>
286. **Ao An** made regular visits to security centres throughout Sector 41 to assess the progress of the purge and ensure his orders were fully implemented.<sup>743</sup> **Ao An**'s former bodyguard states that he accompanied **Ao An** to the Sector 41 Security Centre, Met Sop, once every month or two, "*when there were orders from above*",<sup>744</sup> implicitly related to killings. On one occasion, he accompanied **Ao An** to Met Sop to verify whether **Ao An**'s orders to kill prisoners had been implemented, and to obtain security reports about killings at the security centre.<sup>745</sup>
287. On another occasion in 1977, **Ao An** convened a meeting "*about killing plans*" at Met Sop Security Centre and ordered Ngov and his subordinates to do whatever was necessary to carry out the "*1977 plans*", which required all enemies to be killed before 1978, after which there was supposed to be a moratorium on executions.<sup>746</sup> **Ao An** was issued the directive to cease killings, either directly from Office 870 or through Ke Pauk.<sup>747</sup>
288. **Ao An** was in charge of maintaining and coordinating the logistical infrastructure required to transport prisoners among the network of security

<sup>740</sup> **D219/582**, Written Record of Interview Witness TOY Meach, 2 September 2015, ERN 01179831, A76, 01179832, A77-A78, A83, 01179833, A86, A88, 01179834, A96, 01179841, A148.

<sup>741</sup> **D219/855**, Written Record of Interview Witness NHEM Chen, 27 October 2016, ERN 01374648, A58-59; 01374649, A74, 01374650, A75, 01374659, A187, A190.

<sup>742</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331734, A160-164; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A87; **D219/837**, Written Record of Interview Witness SO Saren, 22 September 2016, ERN 01364069, A113; **D117/56** Written Record of Interview of Witness CHOM Vong, ERN 01067813, A25-A27; **D219/442**, Written Record of Interview of Witness CHOM Vong, ERN 01434554, A206.

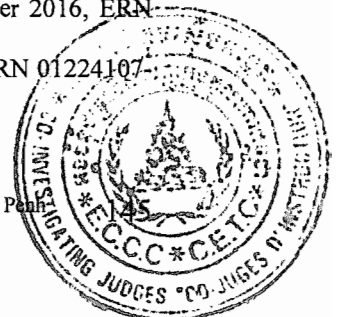
<sup>743</sup> See paras 491, 588-589.

<sup>744</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224106, A31, 01224108, A53, A58-A60; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374664, A236.

<sup>745</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224088, A38-A40; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A58-A59.

<sup>746</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107-01224108, A50-A56.

<sup>747</sup> See section 6.2.3.1 The directive to end the purge.



centres throughout Sector 41.<sup>748</sup> He authorised the use of Sector 41 motorvehicles and boats to transport prisoners to security centres and execution sites in Sector 41.<sup>749</sup> The Sector possessed approximately 20 to 30 trucks with the capacity to hold up to 50 prisoners each.<sup>750</sup> Some of these vehicles were also used to transport **Ao An** and other Sector 41 cadres to meetings throughout the Central Zone.<sup>751</sup> **Ao An** coordinated with the Zone to use Zone trucks to transport prisoners from Sector 41 Office to Wat Phnom Pros Phnom Srei Security Centre.<sup>752</sup>

*Detention, interrogation and killings at the Sector 41 compound*

289. Several witnesses describe detention, interrogation, torture, and killings occurring within the Sector 41 Office compound, as well as the direct involvement of Sector 41 military and security personnel in carrying out these acts.<sup>753</sup> Although **Ao An** has not been charged for crimes carried out at the

<sup>748</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A21; *Ao An authorised the Sector 41 garage to repair and modify cars and trucks that belonged to other Sectors and the Central Zone military see D219/321*, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112025, A7, A12, 01112026, A16; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216233, A73, A74, 01216234, A79, 01216235, A92, A93.

<sup>749</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42, 01374647, A46-A47, A53-A54, 01374648, A56-A57, 01374648-01374649, A63-A64, A71, A73, 01374650, A79-A86, 01374654, A138, 01374655-01374556, A139, A140-A152, A155-160, A164-A165; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112025, A9; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216233, A75, 01216234, A82, 01216235-01216236, A99-A104; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179823, A23-A26; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167898, A76, A78, 01167900-01167902, A89-A94; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A21.

<sup>750</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A21.

<sup>751</sup> **D219/752**, Written Record of Interview of Witness LOR Venghuor, 28 April 2016, ERN 01300141, A30, A38, 01300142, A45; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111974, A30-A31; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167900-01167901, A89, A91; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331725, A89; **D219/802**, Written Record of Interview of Witness Hong Heng, 21 July 2016, ERN 01131757, A32.

<sup>752</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A47, 01374655, A146; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167896-01167898, A72, A76, A78, 01167913, A143; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179828, A54-A55.

<sup>753</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42, 01374648, A57; **D219/731**, Written Record of Interview of Witness NHEM Chen, 13 March 2016, ERN 01224103, A7, 01224107, A42-A45; **D219/837**, Written Record of Interview of Witness



Sector 41 Office, these events are relevant to the extent that they demonstrate his knowledge and overall involvement in the purge operation.

290. A former member of **Ao An**'s personal defence unit describes guarding between four to five prisoners who had been arrested from the districts and were detained directly in front of **Ao An**'s house.<sup>754</sup> Some prisoners were tortured during interrogations by that defence unit in a school building behind Aun's house.<sup>755</sup> The prisoners were suspended upside down, cut with broken pieces of glass, suffocated with plastic bags, subjected to electric shocks, and in some cases their heads were immersed in large jars filled with water.<sup>756</sup> One female prisoner died during her interrogation.<sup>757</sup> The prisoners were then taken to be executed at Met Sop.<sup>758</sup> In another incident, three prisoners were detained inside the Sector 41 Office, interrogation and tortured with electric shocks, resulting in the death of one of them.<sup>759</sup>
291. In late 1978, a former Sector 41 Mobile Unit worker saw Cham prisoners detained inside the Sector 41 compound.<sup>760</sup> They were shackled and kept for one night before being escorted on foot by the militia to another location.<sup>761</sup> The witness concluded that they had been executed nearby,<sup>762</sup> because an hour later

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SO Saren, 22 September 2016, ERN 01364062-01364063, A75-A77; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331730-01331732, A131-A142.

<sup>754</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331728-01331730, A113-A130.

<sup>755</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331730-01331731, A131-A134.

<sup>756</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331731, A135, A137, 01331746-01331747, A233; *as confirmed by* **D219/776.1.1**, DC-Cam Interview of SAUR Saren, 3 May 2016, ERN 01309880, 01309891, 01309895-01309896.

<sup>757</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331732, A141-A142, 01331746, A233, *as confirmed by* **D219/776.1.1**, DC-Cam Interview of SAUR Saren, 3 May 2016, ERN 01309891.

<sup>758</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331728, A113, A115.

<sup>759</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331741-01331745, A209-223, 01331747, A234; **D219/776.1.1**, DC-Cam Interview of SAUR Saren, 3 May 2016, 01309892-01309894.

<sup>760</sup> **D219/788**, Written Record of Interview of Witness KHUT Saret, 27 June 2016, ERN 01331682, A8, 01331685, A29, A30.

<sup>761</sup> **D219/788**, Written Record of Interview of Witness KHUT Saret, 27 June 2016, ERN 01331685, A3, 01331686, A37-A38.

<sup>762</sup> **D219/788**, Written Record of Interview of Witness KHUT Saret, 27 June 2016, ERN 01331682, A8, 01331685, A29.



the militia group returned with the prisoners' clothing and stored the items at one of the Sector Office buildings.<sup>763</sup>

292. On another occasion, a member of **Ao An**'s personal defence unit named Run escorted two prisoners from the Sector Office to Wat Ta Meak Security Centre, and upon arriving, Run killed them by slashing their throats and then disembowelled them, removing their livers.<sup>764</sup>

### 6.3.4.3 The targeting of specific groups

#### *Purge of incumbent cadres*

293. **Ao An** strove to remove systemically the existing Sector 41 administration and replace them with cadres from the Southwest Zone.<sup>765</sup> In March 1977, **Ao An** presided over a meeting at Wat Ta Meak where approximately 300 sector-level cadres attended.<sup>766</sup> At the meeting, **Ao An** accused the Central Zone cadres of betrayal, alleging that “[t]hose who fought against LON Nol now ride LON Nol's horse”.<sup>767</sup> **Ao An** then warned that “[f]rom now on, more people will die by a soundless war than those who were killed by the B-52s”.<sup>768</sup>
294. Shortly after the meeting at Wat Ta Meak in March 1977, **Ao An** began inviting cadres to Sector 41 Office on the pretence they were attending a meeting or

<sup>763</sup> **D219/788**, Written Record of Interview of Witness KHUT Saret, 27 June 2016, ERN 01331682, A8, 01331685-01331686, A29, A32-A35.

<sup>764</sup> **D219/800**, Written Record of Interview Witness SO Saren, 19 July 2016, ERN 01331747, A235-A237, as confirmed by **D219/776.1.1**, DC-Cam Interview of SAUR Saren, 03 May 2016, ERN 01309900-01309901.

<sup>765</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645-01374646, A30-A40, 01374647, A45, A53, 01374663, A231, 01374664, A232, 01374665, A245; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, 01224106, A36-A37, A40; **D107/15**, Written Record of Interview of Witness BAN Siek, 1 April 2012, ERN 00841965; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364082; **D219/870**, Written Record of Interview of Witness Ry Nhor, 10 November 2016, ERN 01373695, A144; **D117/39**, Written Record of Interview of Witness TO Sem, 27 April 2014, ERN 01033102-01033103, A6-A7, 01033105, A17.

<sup>766</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156186, A5-A6; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6, 01088628, A33.

<sup>767</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6, 01088626, A15; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156188, A11.

<sup>768</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156187, A7; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.



“*study session*”.<sup>769</sup> They arrived in large trucks belonging to the Central Zone and were detained for a short period of time within the Sector 41 Office compound, guarded by **Ao An**’s personal bodyguard unit.<sup>770</sup> **Ao An** then ordered his Sector military and security personnel to load the prisoners onto Sector 41 trucks and had them transported to the Sector 41 Security Centre or to Wat Au Trakuon Security Centre, where they were executed shortly thereafter.<sup>771</sup> Approximately 50 cadres were arrested after these meetings and later replaced by Southwest Zone cadres.<sup>772</sup> Sector 41 cadres were arrested or detained at the Sector 41 Security Centre and sent to Wat Phnom Pros Phnom Srei Execution Site on the orders of **Ao An** or his Sector Office Chief Aun.<sup>773</sup>

<sup>769</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179834-01179836, A92-A108; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A21-A22, 01224088, A41; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374660-01374661, A199; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224103, A11-A12; **D219/837**, Written Record of Interview of Witness So Saren, 22 September 16, ERN 01364067-01364068, A106-A107; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111978, A93; **D219/331**, Written Record of Interview Witness PHORN Sophal, 27 May 2015, ERN 01112050-01112051, A29-A32.

<sup>770</sup> **D219/732**, Written Record of Interview Witness NHEM Chen, 17 March 2016, ERN 01224086-01224087, A14-A20.

<sup>771</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A23-A36, 01224088, A50; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179834-01179836, A92-A108.

<sup>772</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179834-011798345, A98-A99.

<sup>773</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151218-01151219, A7-A11; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111978-01111979, A92-A102; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167889-01167890, A36, 01167892, A52-A53, 01167893, A57-A59; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179821-01179822, A10-A16, 01179823-01179826, A21-A40; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214823-01214824, A47-A56; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112024-01112025, A4-A9, 01112026, A18; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216227, A14, 01216228, A18-A22, 01216229, A28-A31, 01216230, A35, A37, A39, A45, 01216232, A61, 01216234 A82; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A13, 01112050, A29, 01112053, A60; **D219/606**, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184885, A4, 01184887-01184888, A17-A21, 01184890, A34; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059866, A24, 0105987, A62-A65; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142985-01142986, A6-A17, 01142995, A90-A92, 01143005, A168-A169, 01143006, A174, 01143008, A188, 01143009, A193, A194, 01143012, A215; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111977, A74, A78-A79, 01111978, A80-A81, 01111979, A96, 01111981, A136, A138-A139; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167905, A105, A108, 01167906, A109.



295. **Ao An** ordered the arrest and execution of Sop the Chairman of the Sector 41 Security Centre, along with the members of his network.<sup>774</sup> Ngov, from the Southwest Zone, was appointed to replace Sop.<sup>775</sup> **Ao An** acknowledges that Sop was arrested but denies responsibility.<sup>776</sup>
296. In approximately mid-1977,<sup>777</sup> **Ao An** ordered the arrest of Am (husband of Prak Yut), his Sector 41 Office Chief.<sup>778</sup> Am was accused of being a traitor, was detained inside the Sector 41 Office, and tortured with electric shocks.<sup>779</sup> **Ao An** was present inside the building during Am's detention.<sup>780</sup> Later, Am was executed in Prey Toteung.<sup>781</sup> In November 1977, **Ao An** ordered the arrest and

<sup>774</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179836, A109; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746822; **D219/870**, Written Record of Interview of Witness Ry Nhor, 10 November 2016, ERN 01373688, A52, 01373692, A107-A108; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151218, A8; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A8; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A4; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A6.

<sup>775</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167891, A43, 01167900, A87; **D3/11**, Written Record of Interview of Witness NAI Seu, 20 October 2010, ERN 00622282, A4; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A4; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A6; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746991; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A149; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151217, A3; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374644, A27, 01374649, A70; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063622, A83.

<sup>776</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 1 August 2011, ERN 01373585.

<sup>777</sup> *There is conflicting evidence about the date of Am's arrest see e.g. D6.1.721*, Written Record of Interview of PRAK Yut, 18 November 2009, ERN 00407800, A34, 00407801, A42; **D117/70**, Written Record of Interview of PRAK Yut, 28 May 2013, ERN 01056219, A46; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A18; **D219/606**, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184889, A28.

<sup>778</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167911, A135; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A18; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434526, A40, 01434528, A53-A58; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A42; **D219/284**, Written Record of Interview of Witness POV Sarom, 01098554, A33; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977332, A4; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088624, A11.

<sup>779</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167911, A135; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434526, A40-A41, 01434527, A46-A47, A50, 01434528, A58-A59; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02, 21 January 2016 [PRAK Yut], ERN 01441484, l. 8-10; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02, 20 January 2016 [PRAK Yut], ERN 01438655, l. 8-20.

<sup>780</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434526, A47.

<sup>781</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A149.



execution of Hum, the Sector 41 Military Chief, after he was accused of having sexual relations outside of marriage with **Ao An**'s sister in law.<sup>782</sup>

297. **Ao An** also ordered the purge of cadres at the district level. Upon her appointment as Kampong Siem District Secretary, Prak Yut convened a meeting with the commune chiefs in her district and then reported to **Ao An** that "*some commune chiefs were not active ... and their presence caused people to be unable to fulfill the plans of Angkar*".<sup>783</sup> Following the report, **Ao An** consulted with Ke Pauk and subsequently ordered the arrest of the commune chiefs and replacement with Southwest Zone cadres.<sup>784</sup> The arrested cadres were first detained at the Kampong Siem District Security Centre and then later transported to Met Sop from where they disappeared, with the only reasonable explanation being that they had been killed.<sup>785</sup> Furthermore, witnesses in Kampong Siem District describe district, commune and village cadres being

<sup>782</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059301, A111; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331736, A173-A175; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374665, A251, 01374667, A276; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, 01224104, A14.

<sup>783</sup> **D219/120**, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063614, A42, 01063615, A44; **D117/70**, Written Record of Interview of PRAK Yut, 28 May 2013, ERN 01056218, A36; **D117/71**, Written Record of Interview of PRAK Yut, 19 June 2013, ERN 01056225, A25; 01056227, A37; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059283, A44, 01059284-01059286, A49-A55, **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [You Vann], ERN 01431602, l. 22-24, 01431603, l. 9-25, 01431604, l. 5-10; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098557-01098558, A73-A75; *contra* **D117/31**, Written Record of Interview of YOU Vann, 11 November 2013, ERN 00966989, A14 ["...the former cadres had been removed before we arrived there."].

<sup>784</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218-01056219, A33-A43; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056227-01056228, A38-A43; **D179/1.2.4**, Transcript of hearing on the substance in Case 002, 25 January 2012 [PRAK Yut], ERN 00774125, l. 23-24; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063615, A44, 01063616, A51, 01063619, A64; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431666, l. 11-21, 01431667, 2-8; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059282-01059284, A43-A49, 01059297, A98, 01059298, A100-A101; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989-00966990, A15; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943-01076944, A14-A15, 01076946, A20.

<sup>785</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063617, A53-A54, 01063620, A66, 01063623-01063624, A90, A94; **D107/8**, Written Record of Interview of Witness Nhim Kol, 20 February 2012, ERN 00787219; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907, A8; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A15-A17; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178459, A130; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 03 November 2016, ERN 01373605, A10, 01373606, A13-A14; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33.



called to “attend study sessions” and subsequently being arrested and executed at a security centre or disappearing; later their positions were filled by cadres from the Southwest Zone.<sup>786</sup> The purge was carried out with the same pattern and intensity in Prey Chhor,<sup>787</sup> Batheay,<sup>788</sup> and Kang Meas Districts.<sup>789</sup>

298. At a meeting in Wat Au Trakuon Security Centre with senior Kang Meas District cadres, **Ao An** denounced the old cadres as “traitors of Angkar”,<sup>790</sup> and

<sup>786</sup> **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907-01067908, A8-A9, 01067910-01067911, A26, A28; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A4, A7; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A15-A17; **D117/42**, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034076, A9; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178451, A18, 01178452, A22-A26, 01178459, A130-A131; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 03 November 2016, ERN 01373605, A10, 01373606, A13-A14.

<sup>787</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622273-00622274, A2-A5; **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, 00629467, A2; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A2-A4; **D74**, Written Record of Interview of Witness ROTH Peou, 25 August 2011, 00740800, A1-A3, 00740801, A5, 00740802, A15-A16; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044625, A10; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774-01111775, A23, A28-A32; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 9 July 2015, ERN 01148837, A12, 01148846, A62; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151210, A15; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185814, A11, 01185815, A13; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623578-00623579, A9-A10; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A13.

<sup>788</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057781, A13, 01057785, A38, 01057787, A45; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373699, A10-A11; **D219/331**, Written Record of Interview Witness PHORN Sophal, 27 May 2015, ERN 01112050, A15; **D219/285**, Written Record of Interview Witness HO Hoeun, 21 April 2015, ERN 01116057-01116058, A7; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067781-01067782, A4, 01067785, A20.

<sup>789</sup> **D219/82**, Written Record of Interview of Witness RIEL Neang, 21 November 2014, ERN 01067800, A13, 01067801, A17-A18; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044605, A2; **D219/870**, Written Record of Interview of Witness Ry Nhor, 10 November 2016, ERN 01373686, A15-A17, 01373687, A21; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02, 14 September 2015 [SEN Srun], ERN 01406815, l. 10-25, 01406816, l. 1-9, 01406818, l. 17-20; **D6.1.702**, Written Record of Interview of MAN Heang, 10 December 2009, ERN 00421084, A5; **D6.1.400**, Written Record of Interview of SAMRET Muy, 20 October 2008, ERN 00235508-002355089; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044597, A3, 01044599, A15; **D117/62**, Written Record of Interview of Witness KONG Yoeun, 4 August 2014, ERN 01025202, A2; **D219/123**, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057809, A14; **D219/324**, Written Record of Interview of Witness CHIN Tep, 19 May 2015, ERN 01113701, A1.

<sup>790</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740714-00740715, A13-A17; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406822, l. 16-23, 01406825, l. 18-19.





announced that the previous cadres “*had been killed because they were cruel*”.<sup>791</sup>

*Purge of Specific Groups and Ordinary Civilians*

299. After the purge of CPK cadres, **Ao An** instructed his subordinates to identify and arrest other specific groups of people perceived to be enemies of the CPK, starting with people connected with the former Lon Nol regime, and “*17 April People*”.<sup>792</sup>

300. Less than two weeks after **Ao An** announced a “*soundless war*” against the “*traitors*”, prisoners from surrounding villages and communes were gathered next to the Sector 41 Office compound, specifically at the Prey Toteung market intersection.<sup>793</sup> The prisoners consisting of “*new people*”, “*base people*” and cadres were told they were to be relocated to a “*new village*,” but instead they were loaded onto trucks and sent, depending on their biographies, to either Wat Phnom Pros Phnom Srei Execution Site, Met Sop or Wat Ta Meak Security Centres.<sup>794</sup> This triage of prisoners was planned in advance, according to a former Sector 41 cadre.<sup>795</sup> The operation involved both zone trucks and Sector 41 vehicles.<sup>796</sup> The arrests continued unabated for one week and then intermittently until at least October 1977.<sup>797</sup> Ke Pauk’s son recounts one incident when he saw ten fully-loaded military trucks with prisoners driving

<sup>791</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722-00423723, A6.

<sup>792</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645, A33, 01374657, A166, 01374659, A183.

<sup>793</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6-A7; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156187, A7, 01156188, A10.

<sup>794</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622-01088623, A6-A8; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156188, A10, 01156192, A23; *Several witnesses describe a similar operation see e.g. D74*, Written Record of Interview of Witness ROTH Peou, 25 August 2011, 00740802, A15-A16; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374660-01374661, A196-A201.

<sup>795</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156192, A23.

<sup>796</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622-01088623, A6-A8, 01088626, A21.

<sup>797</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156187, A7.



towards Wat Phnom Pros Phnom Srei Execution Site.<sup>798</sup> Shortly after, he reported this incident to his father Ke Pauk, who then made inquiries with Vey Reap, a Military Division Chairman in the Central Zone, who stated that the prisoners were being brought to “*the new village ... in the Phnom Pros Phnom Srey area*”, but in actual fact “*brother [Ao] An ... [gave] an order to transport those people there where they will be smashed*”.<sup>799</sup>

301. At a meeting in Wat Ta Meak, approximately in April or May 1977, **Ao An** ordered his subordinates to identify “*17 April people*” and “*anyone who had [an] affiliation with the previous regime*”.<sup>800</sup> Then he ordered his cooperative chiefs to search the communes and villages to “*find out what positions the people*” held previously, and to “*trick them to believe that they would not be mistreated when they told the truth and that they would be offered the same positions*”.<sup>801</sup> For example, “*[a]nyone who had been a colonel would be told that they would be re-promoted to colonel rank. Former teachers and officers would get back their positions*”.<sup>802</sup> Shortly after the meeting “*civil servants, soldiers, students and scholars came forward to reveal their [previous] occupations*”, they were subsequently arrested by the District and sent for execution.<sup>803</sup>
302. During monthly meetings at the Sector, **Ao An** ordered his district secretaries “*to identify those who opposed the revolution, those who wanted to topple the revolution and those who were not satisfied with their living conditions, and to arrest those people to be smashed*”.<sup>804</sup> Furthermore, **Ao An** directly ordered Kampong Siem District Secretary Prak Yut and other district secretaries to

<sup>798</sup> D6.1.379, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157.

<sup>799</sup> D6.1.379, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157.

<sup>800</sup> D219/855, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374657, A166, A171, 01374658, A179, 01374659, A183, 01374660-01374661, A199; D219/731, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224111-01224112, A87.

<sup>801</sup> D219/855, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374657, A168, A170.

<sup>802</sup> D219/855, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374657, A167.

<sup>803</sup> D219/855, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374657, A169-A170, 01374658-01374659, A180-A185.

<sup>804</sup> D117/70, Written Record of Interview of PRAK Yut, 28 May 2013, ERN 01056219, A44-A45; D219/120, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063610-01063617, A19-A28, 01063622-01063623, A85; D219/702.1.95, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441041, l. 23-25, 01441042, l. 1-3, 23-25, 01441043, l. 8-9, l. 14-23.



identify and arrest Cham people and former Lon Nol soldiers or people with “social status”.<sup>805</sup> These orders were disseminated to the lower echelons.<sup>806</sup> In some instances, **Ao An** provided lists of names to Prak Yut, ordering her to arrest these specific individuals, which included Cham, former Lon Nol soldiers, and former village and commune chiefs.<sup>807</sup> Prak Yut implemented **Ao An’s** directive by ordering her commune chiefs to identify and record the names of Cham people and former Lon Nol soldiers<sup>808</sup> and to “designate by level of seriousness those who strongly opposed the revolution and those who could cause great danger to the revolution”.<sup>809</sup> Following Prak Yut’s order, the commune chiefs began to “arrest no-good elements who wanted to overthrow the revolution” in order for them “to be detained or to be smashed”.<sup>810</sup>

<sup>805</sup> **D117/70**, Written Record of Interview of PRAK Yut, 28 May 2013, ERN 01056219, A44; **D117/71**, Written Record of Interview of PRAK Yut, 19 June 2013, ERN 01056228, A48-A49; **D117/72**, Written Record of Interview of PRAK Yut, 21 June 2013, ERN 01056235, A6; **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056240, A12, A15; **D219/120**, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063608, A12; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431666, l. 14-21, 01431667, l. 17-20; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284-01059287, A49-A58; 01059297-01059298, A98-A102; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A13; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441041, l. 16-25, 01441042, l. 1-3, l. 13-19, l. 23-25, 01441043, l. 1-9, 01441044, l. 1-6; *c.f.* **D179/1.2.5**, Transcript of hearing on the substance in Case 002, 26 January 2012 [PRAK Yut], ERN 00774583, l. 3-24.

<sup>806</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [You Vann], ERN 01431618, l. 1-5; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441015, l. 20-23, 01441041, l. 16-25, 01441042, l. 1-3.

<sup>807</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059298, A100; **D6.1.722**, Written Record of Interview of Witness PRAK Yut, 19 November 2009, ERN 00407805, A11-A12, **D179/1.2.6**, Transcript of hearing on the substance in Case 002, 30 January 2012 [PRAK Yut], ERN 00775517, l. 16-24; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612-01063613, A31-A32, 01063621, A75-A76, 01063624, A94.

<sup>808</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A49; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966992, A29-A33; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059276, A18; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438504, l. 18-21, 01438505, l. 5-11, 01438506, l. 1-4, l. 11-25, 01438507, l. 5-17; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [YOU Vann], ERN 01431646, l. 9-20.

<sup>809</sup> **D219/120**, Written Record of Interview of PRAK Yut, 30 September 2014, ERN 01063609, A17-A18, 01063611-01063612, A28; *regarding the compilation of lists at the commune level see D219/284*, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098556, A56-A61, 01098557, A63-A65.

<sup>810</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063609, A17-A18, 01063611-01063612, A28; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228-01056231, A49-A67; **D117/73**, Written Record of Interview



303. Furthermore, **Ao An** ordered the Sector Military to arrest Cham people, former Lon Nol soldiers and officials, Vietnamese, and other “no good elements” in Kampong Siem District with the cooperation of Prak Yut and the Kampong Siem District Military.<sup>811</sup> Sometimes entire families were arrested.<sup>812</sup> Prisoners were temporarily detained at the Kampong Siem District Security Centre.<sup>813</sup> Later, Prak Yut would send lists of the names of prisoners to **Ao An**, who then arranged for the most important prisoners to be transferred to the Sector, and ordered the rest to be executed at other security centres including Kok Pring Execution Site and Tuol Beng Security Centre.<sup>814</sup> Prak Yut then reported to **Ao**

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of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966992, A32, 00966993, A35.

<sup>811</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438493, l. 15-16, l. 25, 01438494, l. 1-5, l. 9-12, l. 24-25, 01438495 l. 1-12, l. 23-24, 01438496, l. 2-5, 11-14, 01438508, l. 3-8, 01438509, l. 17-18, 01438512, l. 1-8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063609, A17, 01063611-01063612, A28; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5, A7, 01056239, A10; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A32, 00966993, A35; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [YOU Vann], ERN 01431628, l. 13-18; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [PRAK Yut], ERN 01431666, l. 14-21, 01431667, l. 1-8.

<sup>812</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438510 l. 15-21; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; **D117/42**, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034076, A8, 01034077, A10; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33; *Batheay District see e.g. D219/855*, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374660, A196, 01374661, A200-A201; *Prey Chhor District, see e.g. D117/67*, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A11; **D219/405**, Written Record of Interview Witness CHHIM Bunserey, 9 July 2015, ERN 01148837, A13, 01148841, A35, 01148843, A43, 01148846, A62; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; *Kang Meas District see e.g. D219/324*, Written Record of Interview of Witness CHIN Tep, 19 May 2015, ERN 01113703, A9-A10.

<sup>813</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438495 23-24, 01438496, l. 2-5.

<sup>814</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50-A55; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7-A8; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056240, A12; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A29, 01063613, A34-A35, 01063620, A66, A68, 01063623-01063624, A90, A94; **D179/1.2.6**, Transcript of hearing on the substance in Case 002, 30 January 2012 [PRAK Yut], ERN 00775492, l. 13-20; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A107; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02, 14 January 2016 [YOU Vann], ERN 01438507, l. 5-17, 01438508, l. 3-8, 01438511, 10-13; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02, 18 January 2016 [YOU Vann], ERN 01431619, l. 3-5, 01431627, l. 23-25, 01431646, l. 9-12; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441018, l. 23, 01441023, l. 3-9, 01441027, l. 6-8, 01441041, l. 23-25, 01441042, l. 1-3, 23-25, 01441043, l. 8-23, 01441044, l. 1-6, 01441045, l. 20-25, 01441046, l. 1-3, l. 10-13; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076942-01076943, A12; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02, 20 January 2016 [PRAK Yut], ERN 01438619, l. 7-11.

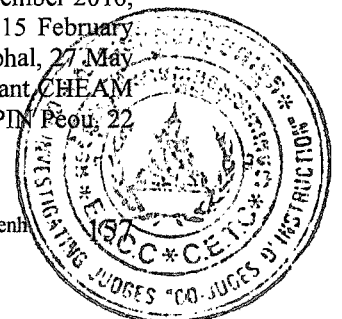


An on the progress of the purge in a “complete report”, which “listed [the] names of people arrested and [the] reasons for their arrest, for their detention, or their release, and for their execution”.<sup>815</sup>

304. Ao An and district secretaries throughout Sector 41 arrested, re-educated or “smashed” people who had committed or were accused of committing minor offences such as stealing food, or committing moral misconduct.<sup>816</sup> In another example of using deception to identify enemies, Ao An told an audience to report on their unit or village chairmen if they were not being giving enough

<sup>815</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063609, A14, 01063611-01063612, A26-A28; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02, 20 January 2016 [PRAK Yut], ERN 01438619, l. 7-11; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2; *c.f.* **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364084, 00364085; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059277, A23, 01059279, A29, 01059299, A106; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02, 19 January 2016 [PRAK Yut], ERN 01441027, l. 1-8, 01441028, l. 16-18; *Sector secretaries had the authority to order the arrest and execution of particular individuals and in some cases order their release within their respective sectors see D6.1.653*, Written Record of Interview of Witness PECH Chim, 28 August 2009, ERN 00381025.

<sup>816</sup> **D219/504**, Written Record of Interview Witness SAT Pheap, 17 September 2015, ERN 01167916, A159; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A9-A11, 01059275, A17, 01059301, A111; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A27; *Kampong Siem District see D117/42*, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034076, A8, 01034077, A10; **D179/1.2.6**, Transcript of hearing on the substance in Case 002, 30 January 2012 [PRAK Yut], ERN 00775492, l. 13-20, 00775498, l. 4-9; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067858-01067859, A52-A54; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178454, A44; **D219/320**, Written Record of Interview of Witness Por San, 29 June 2015, ERN 01112018, A1-A2; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031710, A23, A25; 01031711, A26, A28, 01031719, A102; **D117/38**, Written Record of Interview of Civil Party Applicant KRUOCH Kim, 24 April 2014, ERN 01056737, A11; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053868-01053869 A6; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821; **D6.1.437**, Written Record of Interview of Witness KE Un, 13 January 2009, ERN 00283344; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934, 00339935; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307; **D219/837**, Written Record of Interview Witness SO Saren, 22 September 2016, ERN 01364067, A104; **D219/687**, Written record of interview Witness MAO Saroeun, 15 February 2016, ERN 01214821, A16; **D219/331**, Written Record of Interview Witness PHORN Sophal, 27 May 2015, ERN 01112053, A54; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111816, A7; **D219/871**, Written record of interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A16-A19, 01373702, A33.



food.<sup>817</sup> After the meeting, three villagers who complained were arrested and taken to Wat Au Trakuon Security Centre.<sup>818</sup>

305. Witnesses consistently describe Southwest Zone cadres under **Ao An**'s authority comprehensively and methodically arresting and executing former officials of the Khmer Republic, "*17 April people*", the Cham, and their families in Kampong Siem,<sup>819</sup> Prey Chhor,<sup>820</sup> Kang Meas,<sup>821</sup> and Batheay Districts.<sup>822</sup> The purge was conducted in a similar manner in Sector 42 and 43.<sup>823</sup>

<sup>817</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406823.

<sup>818</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406823.

<sup>819</sup> **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907, A8, 01067908, A9, 01067910-01067911, A26-A28, 01067912-01067913, A40-A41; **D117/42**, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034076-01034077, A8-A10; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 03 November 2016, ERN 01373605-01373607, A10-A25, 01373608, A32, 01373610, A55, 01373612, A79, A84, 01373613, A87; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A7-A8.

<sup>820</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622273-00622274, A2-A5; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A11; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111775, A29, A31-A32; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 9 July 2015, ERN 01148837, A13, 01148841, A35, 01148843, A43, 01148846, A62; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151208-01151209, A8-A11, 01151210, A18; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815-01185816, A17-A20; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179826-01179828, A42-A57; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111817-01111818, A10-A13.

<sup>821</sup> **D219/82**, Written Record of Interview of Witness RIEL Neang, 21 November 2014, ERN 01067801, A17-A18; **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421084, A5; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A17-A18, 01044600, A21, A24, 01044602, A34; **D219/324**, Written Record of Interview of Witness CHIN Tep, 19 May 2015, ERN 01113703, A9-A10.

<sup>822</sup> **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A28.

<sup>823</sup> *Purge of Sector 42 see* **D6.1.386**, Written Record of Interview of BAN Siek, 6 July 2009, ERN 00360759, 00360761, 00360763; **D219/702.1.75**, Transcript of hearing on the substance in Case 002/02, 05 October 2015, ERN 01409572, 01409523-01409525; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02, 06 October 2015, ERN 01435807-01435808, 01435811-01435812, 01435884-01435885-, 01409529-01409531; **D117/7**, Written Record of Witness Interview of Witness MEAK Suo, 13 December 2012, ERN 00876125-00876126, A7- A9; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309797, A53; *Purge of Sector 43 see* **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077012-01077013, A5; **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076-00390077; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384428; **D219/486.1.1**, Transcript of hearing on the substance of Case 002, 14 December 2012, ERN 00872210; **D219/702.1.101**, Transcript of hearing on the substance in Case 002/02, 23



306. **Ao An**'s specific contribution to the destruction of the Cham of Kampong Cham Province is discussed below at paragraphs 633-637.

*Purge of East Zone cadres and civilians in the Central Zone*

307. During the purge of the East Zone in 1978, **Ao An** played a key role in the arrest and transfer of East Zone cadres and civilians to be executed in the Central Zone.
308. **Ao An** attended several meetings with senior CPK leaders, including Pol Pot, to discuss the evacuation and purge of enemies in the East Zone.<sup>824</sup> **Ao An** attended monthly meetings chaired by Son Sen at unspecified locations, which were attended by both civilian and military leaders from the sector and district level.<sup>825</sup> During the meeting "*internal purges were discussed*", the gathered cadres were ordered to "*identify people who joined with the Vietnamese and that they had to reorganise the base*".<sup>826</sup> Furthermore, at the end of the meeting a civil party applicant saw "*district committee [members] giving written reports*" containing names of "*internal enemies*" to the sector level, which were then "*sent to the higher level for consideration*".<sup>827</sup> As Sector 41 Secretary, it can be expected that **Ao An** received these reports during the meeting.

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April 2015, ERN 01444177; **D117/10**, Written record of Witness interview of KHIM Choeung, ERN 00876114; **D117/9**, Written Record of Interview of Witness HIENG Say, ERN 00876100.

<sup>824</sup> **Ao An** met with the Sector 42 and 43 Secretaries to discuss the East Zone see **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331723, A76, A78, A81; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 16, ERN 01364055, A18, 01364055, A21; **Ao An** attended a meeting with Pol Pot to discuss the purge in the East Zone see **D219/119.1.5**, Written Record of Interview of Civil Party Applicant OU Dav, 3 November 2014, ERN 01055700; **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 30 March 2015, ERN 01093014, A4, 01093018, A30-A31, 01093019, A38-A40; *contra* **D6.1.690**, Written Record of Interview of Witness PECH Chim, 6 December 2009, ERN 00422338, A7 ["*Yes, POL Pot visited it once about in 1978. He came through the Zone, but there was no meeting held...POL Pot asked about the living condition of the worker [during our meeting] in which there were only me, KE Pauk, and POL Pot.*"].

<sup>825</sup> **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 30 March 2015, ERN 01093015, A11-A13, 01093016, A16.

<sup>826</sup> **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 30 March 2015, ERN 01093015, A12, A14.

<sup>827</sup> **D219/247**, Written Record of Interview of Civil Party Applicant OU Dav, 30 March 2015, ERN 01093015-01093016, A14.



309. On Ke Pauks' orders, **Ao An** coordinated and personally oversaw operations to transport people from the East Zone to Sector 41 and then onward to security centres in the Central Zone to be executed.<sup>828</sup>
310. In late 1978, **Ao An** visited the Sector 41 Dam (Anlong Chrey) and accused a group of mobile unit workers of being “CIA agents or Vietnamese spies”. Later, some of those workers who were former East Zone soldiers were taken away in trucks westward of the dam.<sup>829</sup> It is unclear what happened to these workers, but given the accusations against them, it is likely they were sent to a security centre or killing site.

*Ao An continued the purge despite the directive to stop*

311. Despite the directive to cease the killing (see paragraphs 222-223), the evidence shows that **Ao An** continued the purge of Sector 41 up until the end of DK. As stated by one former Sector 41 cadre, in “mid-1978, the arresting of cadres was still going on. For a period of time, they said that a pardon would be granted, but the arrests still continued ... [and] Wat Ta Mea[k] [security centre] continued to serve as a security office until the end of the Khmer Rouge regime”.<sup>830</sup> At a meeting in Prey Toteung in late 1978 just before the arrival of the Vietnamese, **Ao An** ordered his subordinate district and commune chiefs, “to go to the villages directly to record who were the bad people and good

<sup>828</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646-01374651, A42, A46-A47, A53-A54, A57, A63-A64, A71, A73, A79-A82, A85, A86, 01374654-01374655, A138-A142, A149, A151, 01374556, A152, A155-A160, A164-A165; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224103, A7, 01224107, A42-A45; a former soldier stationed at Phnom Pros confirms seeing detained East Zone cadres on Zone level trucks arriving at the execution site see **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A7, see also **D219/502**, Written Record of Interview of Witness MUOK Sengly, ERN 01152374, A24-A25; Aun and members of **Ao An**'s “defence unit” went to Kaoh Soutin in the East Zone to arrest three district-level East Zone cadres. The prisoners were detained at the Sector 41 office and subjected to interrogation and electric shock torture, resulting in one death see **D219/776.1.1**, DC-Cam Interview of SAUR Saren, 3 May 2016, ERN 01309892-01309894, as confirmed by **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331741-01331744, A209-223, 01331747, A234;

**Ao An** was seen accompanying a convoy carrying less than 20 detained East Zone cadres, they were later executed see **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156189-01156190, A14-A16.

<sup>829</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051-01112052, A39-A48.

<sup>830</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167889-01167890, A36, 01167915, A152.





*people,”* along with identifying those with “*affiliations*”, and “*people of different ethnicities*” such as the Cham, so that they could be “*purge[d]*”.<sup>831</sup>

312. Killings at Met Sop Security Centre, Wat Batheay Security Centre, and Wat Au Trakuon Security Centre continued until the end of DK.<sup>832</sup> Wat Ta Meak also continued to operate as a security centre until the end of DK.<sup>833</sup>
313. The targeting and killing of the Cham continued right up until the fall of the regime.<sup>834</sup>

#### 6.3.4.4 *The regulation of marriage*

314. While **Ao An** and the Southwest Zone cadres were in control of the Central Zone, inhabitants of the Central Zone were forcibly married. **Ao An**, as Central Zone Deputy Secretary and Sector 41 Secretary, played a substantial role in regulating marriage throughout Sector 41. Both Ke Pauk and **Ao An** chaired meetings touching upon the topic of marriages and shared Pol Pot’s visions of increasing the population.<sup>835</sup>
315. One witness states that, in late 1977, **Ao An** presided over a meeting at Wat Ta Meak where he announced Pol Pot’s plan to increase the number of people aged between 15 and 20 years to 20 million by 2001.<sup>836</sup> The plan would be achieved by marrying off workers from ministerial offices and cooperatives.<sup>837</sup> **Ao An**

<sup>831</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438513-01438517; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286-01059287, A58, 01059298, A102.

<sup>832</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622275, A9; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeum, 8 October 2014, ERN 01050577, A60; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A12; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746830-00746831; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508.

<sup>833</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167894, A65.

<sup>834</sup> See para. 674.

<sup>835</sup> **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309789-01309790, A1-A2, 01309805, A108, 01309809, A135-A137; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167887, A18-A20, 01167888, A24, A27-A28, 01167912, A139, 01167916, A159.

<sup>836</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167887, A18-A20, 01167888, A24, A27-A28, 01167916, A159.

<sup>837</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167912, A138.



said that married couples had to produce children and, when their offspring turned two years old, they were required to send them to political schools.<sup>838</sup>

316. **Ao An** also announced a policy that married couples had to “*sleep together*” in order to “*produce children*” for “*national progress*”.<sup>839</sup>

317. Various levels of the CPK hierarchy, from the unit to sector levels, were involved in arranging wedding ceremonies in Kampong Siem and Prey Chhor Districts. Generally, unit leaders and village and commune chiefs arranged the pairing of couples, submitted proposed arrangements to the district level for approval, and organised wedding ceremonies.<sup>840</sup>

<sup>838</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167912, A139.

<sup>839</sup> **D219/504**, Written Record of Interview of Witness Sat Pheap, 17 September 2015, ERN 01167912, A138-A139; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A80; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438521, l. 9-14.

<sup>840</sup> *Kampong Siem District*: **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031720-01031721, A112-A117; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A25; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941, A18; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059276-01059277, A21; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438518, l. 1-9, l. 17-23; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 18 January 2016, ERN 01431637, l. 3-15; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441062, l. 5-8; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364085; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441503, l. 1-3, *cf.* l. 4-6; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079859, A8, 01079861, A19, 01079865, A40; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054032, A11; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364071, A128; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090003, A38-A39; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057763, A21, 01057764, A25; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072529, A30, 01072532, A43; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A36 *cf.* A37; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A16; **D219/322**, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A17-A18; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152377, A37; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373613, A92; *cf.* **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53-A54; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167912, A137; *Prey Chhor District*: **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148837, A12, 01148844, A52, 01148846, A61, A63; **D219/286**, Written Record of Interview of Witness MEN At, 22 April 2015, ERN 01100837, A21-A22; **D219/287**, Written Record of Interview of Witness HAI Tann, 23 April 2015, ERN 01100841, A10; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A23; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820, A30; **D219/47**, Written Record of Interview of



318. **Ao An**'s approval was often required for district-level marriage ceremonies in Sector 41.<sup>841</sup> Prak Yut recalls that after a couple had consented in written form,<sup>842</sup> a formal request with their names was sent to the sector level, which generally approved the marriage.<sup>843</sup> Soon after, the wedding ceremony would be organised at the lower level.<sup>844</sup> In addition, You Vann states that **Ao An**, as Sector 41 Secretary, had district-level authority to arrange marriages on his own,<sup>845</sup> and a logistics office worker remembers that **Ao An** decided who could marry whom.<sup>846</sup> Men and women were simply matched, usually by unit chiefs who consequently submitted a request to the commune or district level.<sup>847</sup>

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Witness KHAUV Net, 20 October 2014, ERN 01050696, A16, 01050702, A49; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142987, A24; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050566, A23; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361548, l. 10-12; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362104, l. 17-25; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185819, A41.

<sup>841</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059278, A26, 01059279, A31; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441056; cf. **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A37.

<sup>842</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441092, l. 12-14.

<sup>843</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441057, l. 2-8.

<sup>844</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441061, l. 11-12.

<sup>845</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059278, A26.

<sup>846</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179839, A125.

<sup>847</sup> *Kampong Siem District*: **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031720-01031721, A112-A117; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A25; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941, A18; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054032, A11; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057764, A25; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A24; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A111; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364071, A128-A129; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373613, A91; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079859, A10, 01079860, A13; *Prey Chhor District*: **D219/47**, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050702, A49; **D219/123**, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057811, A19; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53-A54; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167912, A137; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050569, A34.



Couples were generally given little prior notice before their wedding,<sup>848</sup> or no notice whatsoever, often learning that they were about to get married and whom they would marry only upon arriving at the wedding venue.<sup>849</sup> Sometimes, when organizers could not locate the people whose names had been selected for marriage, they selected other people instead.<sup>850</sup> In some cases, couples in Prey Chhor District and Kampong Siem District had never met before,<sup>851</sup> while on some occasions they had previously worked together.<sup>852</sup>

319. Ao An himself presided over several marriages.<sup>853</sup>

<sup>848</sup> *Kampong Siem District: D117/68*, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046942-01046943, A27; *D219/83*, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A8; *Prey Chhor District: D219/293*, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820, A31, 01111822, A35.

<sup>849</sup> *Kampong Siem District: D219/83*, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A8; *D219/113*, Written Record of Interview of Civil Party Applicant KEO Theory, 8 December 2014, ERN 01057764, A26-A28; *D219/323*, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; *D219/472*, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A111; *D117/60*, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A25; *D219/136*, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A24, 01072529, A26, A28; *Prey Chhor District: D219/24*, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050569, A34; *D219/47*, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050696-01050697, A16-A17, A23; *D219/405*, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148844, A53-A54; *D219/687*, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214819, A2, 01214820, A14, 01214825, A71, A76, A78; *D219/888.1.7*, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361547-01361548, 01361556-01361557; *D219/888.1.8*, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362085-01362086.

<sup>850</sup> *D219/24*, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050569, A34.

<sup>851</sup> *Kampong Siem District: D219/83*, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A8; *D219/472*, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A111; *Prey Chhor District: D219/24*, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A20; *D219/47*, Written Record of Interview of Witness KHAUV Net, 20 October 2014, ERN 01050697, A18, A23.

<sup>852</sup> *D219/315*, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A57; *D219/435*, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142989, A43; *D219/293*, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111821-01111822, A34; *D219/113*, Written Record of Interview of Civil Party Applicant KEO Theory, 8 December 2014, ERN 01057764, A26-A28; *D219/323*, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; *D117/60*, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A25; *D219/136*, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A24, 01072529, A26, A28.

<sup>853</sup> See para. 685.



## 6.4. Factual findings on crimes

### 6.4.1. Worksites, security centres, and execution sites

#### 6.4.1.1 Anlong Chrey Dam Forced Labour Site

##### *Location and Establishment*

320. Anlong Chrey Dam was a sector-level worksite at the border of Cheung Prey and Prey Chhor Districts in Sector 41 of the Central Zone.<sup>854</sup> The worksite was known as the “Sector Dam” or “Sector Worksite”.<sup>855</sup> Anlong Chrey was the name of a bridge near the area where the dam was built<sup>856</sup> that was formerly called Prey Char Village.<sup>857</sup> The dam was also known as Tuol Kok Kou,<sup>858</sup>

<sup>854</sup> **D3/24**, Report of the Execution of Rogatory Letter, dated 2 February 2011: Site Identification Report, ERN 00644140; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; as confirmed by **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112048, A3, 01112049, A5-A6; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148859, A6; **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607251, A28; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047083-01047084, A2.

<sup>855</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; as confirmed by **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, 00607226, A8; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A5; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; as confirmed by **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607250, A24; **D3/24**, Report of the Execution of Rogatory Letter, dated 2 February 2011: Site Identification Report, ERN 00644141; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059868, A35; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A16; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A8; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112048, A3; **D219/324**, Written Record of Interview of Witness CHIN Tip, 19 May 2015, ERN 01113702, A3; **D219/802**, Written Record of Interview of Witness HONG Heng, 21 July 2016, ERN 01331756, A26; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373687, A34-A36, 01373690, A75.

<sup>856</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A6.

<sup>857</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867, A35; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A154; **D219/813.1.6**, DC-Cam Interview of MEACH Tauy, 15 June 2016, ERN 01348692.

<sup>858</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; as confirmed by **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, A7; **D219/324**, Written Record of Interview of Witness CHIN Tip, 19 May 2015, ERN 01113702, A3, A4; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143006, A177.



which was the name of a small nearby hill.<sup>859</sup> In his DC-Cam interview, **Ao An** refers to the site as the “17 Anniversary” dam.<sup>860</sup>

321. The dam is located approximately four kilometres south of National Road 7, between the towns of Skuon (alternative spelling Skun) and Kampong Cham.<sup>861</sup> National Road 7 forms the northern border of the dam reservoir.<sup>862</sup>
322. Though initial work at the dam site may have commenced under the control of the North Zone cadres,<sup>863</sup> the considerable majority of the construction works were carried out during the period of administration by **Ao An** and the Southwest Zone cadres. In early 1977<sup>864</sup> or early 1978,<sup>865</sup> **Ao An** presided over an event to mark the opening of the worksite,<sup>866</sup> which was attended by cadres from other districts and thousands of people from mobile units.<sup>867</sup> Witnesses who arrived at the dam around December 1977<sup>868</sup> and January 1978<sup>869</sup> describe the progress of construction at that time as still at the “initial stage”.<sup>870</sup> Further, the majority of witnesses who provide information on the timeframe of construction refer to the period of administration by the Southwest Zone

<sup>859</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; as confirmed by **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, A7; **D3/24**, Report of the Execution of Rogatory Letter, dated 2 February 2011: Site Identification Report, ERN 00644143.

<sup>860</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373583.

<sup>861</sup> **D3/24**, Report of the Execution of Rogatory Letter, dated 2 February 2011: Site Identification Report, ERN 00644140.

<sup>862</sup> **D3/2**, Written Record of Interview of Witness KIM UI, 28 July 2010, ERN 00607251, A28.

<sup>863</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A155, 01179843, A156, 01179844, A168. **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A12 (“*The old cadres gave us rice to cook on our own But when the new cadres arrived they distributed cooked rice to us and we received less rice*”). **D3/2**, Written Record of Interview of Witness KIM UI, 28 July 2010, ERN 00607248, A3-A4, 00607249, A5-A11, A13, 00607250, A14-A15, A17.

<sup>864</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A28-A30.

<sup>865</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5.

<sup>866</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, 01111774, A19-A20; **D219/324**, Written Record of Interview of Witness CHIN Tip, 29 May 2015, ERN 01113702, A5; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A28-A30; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373690, A78.

<sup>867</sup> **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A20; **D219/324**, Written Record of Interview of Witness CHIN Tip, 19 May 2015, ERN 01113702, A5; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148840-01148841, A30.

<sup>868</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A6.

<sup>869</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A6.

<sup>870</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A6.

**D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740736, A18.



cadres.<sup>871</sup> It is not clear how long construction had been ongoing prior to the transfer in control or when this transfer of control took place.

323. The bulk of the work was completed by mid-1978,<sup>872</sup> but Anlong Chrey Dam never became operational because the sluice gate was not completed.<sup>873</sup>

### *Structure and personnel*

324. At the request of the “*sector level*”, Kampong Siem District Secretary Prak Yut arranged for workers to assist in constructing the dam.<sup>874</sup> She instructed commune chiefs and mobile unit chiefs to order the mobile units and people from villages to go to the dam to work.<sup>875</sup> Upon the orders of their village, unit

<sup>871</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167907, A115, A116; *cf* **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044583, A5.

<sup>872</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A6; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059863, A6; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D3/2**, Written Record of Interview of Witness KIM UI, 28 July 2010, ERN 00607251, A29; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A6 (“*dam construction was completed in May 1978 when the rainy season started*”); **D117/68**, Written Record of Interview of Witness VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/113**, Written Record of Interview of Witness KEO Theary, 8 December 2014, ERN 01057761, A14; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A19; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210430; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740736, A18; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A4; *cf.* **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058-01116059, A13, 01116059, A17; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A4; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A24.

<sup>873</sup> **D3/2**, Written Record of Interview of Witness KIM UI, 28 July 2010, ERN 00607251, A29-A30; *see also* **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740736, A18; **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373581, 01373583; **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373583; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A70-A72; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A5.

<sup>874</sup> **D179/1.2.4**, Transcript of hearing on the substance in Case 002 - 25 January 2012 [PRAK Yut], ERN 00774127, I. 11-24, 00774128, I. 3-9; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5; *contra* **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A88.

<sup>875</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A70, 01059290, A74; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5.



or group,<sup>876</sup> workers also came from all districts in Sector 41,<sup>877</sup> i.e. Prey Chhor,<sup>878</sup> Kampong Siem,<sup>879</sup> Kang Meas,<sup>880</sup> Cheung Prey<sup>881</sup> and Batheay.<sup>882</sup> At

<sup>876</sup> **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607249, A5; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A9; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A5.

<sup>877</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427-00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A9; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4-A8.

<sup>878</sup> **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607252, A38; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A16; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A13; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167909, A124.

<sup>879</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A16; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A6; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759-01057760, A10-A12; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D179/1.2.4**, Transcript of Hearing on the Substance in Case 002 - 25 January 2012 [PRAK Yut], ERN 00774128, l. 3-9; *cf.* **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A88.

<sup>880</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A9; **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607252, A38; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A16; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A13; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148859, A4-A6.

<sup>881</sup> **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607248, A1, 00607252, A38; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5.

<sup>882</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN





least two workers also came from Chamkar Leu District,<sup>883</sup> which was located in Sector 42. Various sector-level units were also mobilized to work at the dam.<sup>884</sup> Some workers were deployed to the site on a rotational basis.<sup>885</sup>

325. The workforce at the dam included children, although their exact age at the time could not be verified.<sup>886</sup>
326. Several witnesses state that Cham people were among the workers at the dam.<sup>887</sup> Many came from Kampong Siem District,<sup>888</sup> and others were from Kang Meas District.<sup>889</sup> One former worker states that there were hundreds of Cham people and that they had their own units,<sup>890</sup> though another states that Cham people were “*intermingled*” with Khmer people.<sup>891</sup> No clear time frame is provided for the presence of Cham at the dam.
327. It is not possible to determine precisely how many people worked at the dam in total. At the opening event, **Ao An** announced that approximately 20,000 people

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01044585, A16; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5.

<sup>883</sup> **D3/2**, Written Record of Interview of Witness KIM Ul, 28 July 2010, ERN 00607252, A38; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7.

<sup>884</sup> **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373687, A34-A36, 01373690, A77; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51.

<sup>885</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A70, ERN 01059290, A76.

<sup>886</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A56; *contra* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607227, A15.

<sup>887</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210430; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100836, A19; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A14; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A9; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A13; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A45.

<sup>888</sup> **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A13.

<sup>889</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112054, A66; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A9.

<sup>890</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A15.

<sup>891</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843-01148844, A48.



were sent from five districts to build the dam,<sup>892</sup> but it is not possible to verify that figure. Witnesses provide estimates of 1000,<sup>893</sup> “1500 from the sector mobile unit” plus mobile units from four districts,<sup>894</sup> and “thousands”.<sup>895</sup> One former worker in 1978 states that each district had a work force of three female “battalions” of 300 women and a number of “male brigades” working at the dam, though she does not know how many workers there were from districts other than her own, Kang Meas District.<sup>896</sup> A mobile unit sent to work at the dam from Kampong Siem District had around 100 members.<sup>897</sup> The lowest estimate provided, *i.e.* 1000, does not appear accurate in light of the numerous other witnesses who provide higher estimates, and because the witness who provides the figure had previously estimated, in an earlier interview, that there were almost 10,000 workers at the dam. A very conservative minimum estimate of **2500** can be calculated based on the 1500 from the sector mobile units, plus 900 from Kang Meas District (3 battalions of 300), plus a mobile unit of 100 from Kampong Siem District.

### *Chain of command*

328. Anlong Chrey Dam operated as a sector-level worksite under the supervision and control of **Ao An**.<sup>898</sup> In his DC-Cam statement, **Ao An** states that approval

<sup>892</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116059, A17-18.

<sup>893</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A5; *cf.* **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4.

<sup>894</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A51.

<sup>895</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, ERN 00607230, A9; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373690, A77.

<sup>896</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>897</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A5, A8; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A14, A16; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5-A7; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057760-01057761, A9-A14; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7.

<sup>898</sup> **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100837, A24; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A17-21; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2013, ERN 01111773, A77.



from the zone was required to establish a worksite at the level of the sector.<sup>899</sup> Central Zone Secretary Ke Pauk also came to inspect the dam construction many times.<sup>900</sup>

329. Sector Office Chief Aun visited the dam worksite frequently to hold meetings and disseminate instructions.<sup>901</sup>
330. According to one former worker, **Ao An** assigned Ta Chhin to be in charge of the sector mobile units at the dam; Ta Chhin received reports about the construction, and distributed instructions about the dam during meetings.<sup>902</sup> Unit chiefs reported to Ta Chhin, who then further reported to the “sector”, and specifically to Aun.<sup>903</sup> Ta Chhin was also responsible for distributing food to the mobile units.<sup>904</sup> One witness, who used to be in charge of the warehouse at the Sector Office in Prey Totueng,<sup>905</sup> states that he gave reports on the quantity of rice distributed to workers to his wife, who would give them to **Ao An**<sup>906</sup> and possibly to Aun.<sup>907</sup> This witness’ wife was in charge of the logistics section at the Sector 41 Office in Prey Totueng.<sup>908</sup>
331. One civil party applicant who worked at Anlong Chrey Dam for several months states that each district maintained an office at the dam with a district

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ERN 01143006, A178; **D219/813.1.8**, DC-Cam Interview of TOUCH Chamroeun, 15 June 2016, ERN 01348755; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167907, A116-A117; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A155, 01179843, A157, A160.

<sup>899</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373567.

<sup>900</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A14.

<sup>901</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050-01112051, A24-A28, A38; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A28; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>902</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A10, 01112052, A49, A50.

<sup>903</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A8-A10, 01112051, A33, A34, 01112052, A50; *cf.* **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116059, A16.

<sup>904</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112049, A8-A10, 01112051, A33-A34, 01112052, A50.

<sup>905</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143008, A188.

<sup>906</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143008-01143009, A188-A190, A196, 01143014-01143015, A236-A239.

<sup>907</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143015, A239.

<sup>908</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142990, A45.



representative and one or two messengers.<sup>909</sup> Mobile unit chiefs were called to meetings with their home districts' representatives and received instructions from them.<sup>910</sup> According to Prak Yut, she submitted written reports to the Sector level detailing whether or not her district mobile units had achieved work targets.<sup>911</sup>

332. A former Sector courier states that **Ao An** had him deliver letters from the Sector office to the dam once per week.<sup>912</sup>

*Living and working conditions*

333. In order to relocate to Anlong Chrey Dam worksite, some workers from other districts had to travel by walking all night<sup>913</sup> or for two to three days.<sup>914</sup> Once they reached the dam, workers were not permitted to leave the site,<sup>915</sup> even to visit family members.<sup>916</sup>

334. According to the former chairperson of a mobile unit group, conditions at the dam were “*very difficult*”.<sup>917</sup> Workers collected reeds and timbers<sup>918</sup> and carried

<sup>909</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044587, A22.

<sup>910</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044587, A22; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A6; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2013, ERN 01057761, A12.

<sup>911</sup> **D179/1.2.5**, Transcript of hearing on the substance in Case 002 - 26 January 2012 [PRAK Yut], ERN 00774558, l. 16-25; *Prak Yut also reported on the conditions of the dam worksite in Sector 35, see also D6.1.721*, Written Record of Interview of PRAK Yut, 18 November 2009, ERN 00407799, A22, A23, A25, A26, A27, A28.

<sup>912</sup> **D219/802**, Written Record of Interview of Witness HONG Heng, 21 July 2016, ERN 01331756, A25-A26, 01331757, A28-A29.

<sup>913</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A7.

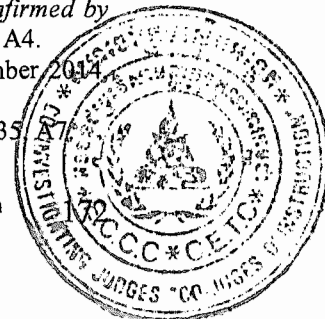
<sup>914</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044585, A16; *see also D3/5.1*, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>915</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by D3/4*, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A7; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>916</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210443; *as confirmed by D3/4*, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4.

<sup>917</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935-01046936, A4.

<sup>918</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A7.



soil to construct the dam,<sup>919</sup> ranging from two to ten cubic metres of soil per person or per unit per day,<sup>920</sup> depending on the distances walked by the workers.<sup>921</sup> The quantity of soil to be carried increased over time.<sup>922</sup> In cases of misconduct people would be punished by being required to carry 10 cubic metres of earth per day.<sup>923</sup>

335. Workers were required to work seven days per week,<sup>924</sup> although sick workers were allowed to rest.<sup>925</sup> Witnesses provide varying accounts of the required working hours, ranging from between 4 to 7 AM until 4 to 6 PM, with a break of one or two hours in the middle of the day.<sup>926</sup> One civil party applicant states that he did not have to work in the afternoon, but had to work from 7 AM to 11 or 12 AM and from 6 PM to 10 PM.<sup>927</sup> Some workers were forced to continue working through the night if there was sufficient moonlight.<sup>928</sup>

<sup>919</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A7; **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A4; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A8.

<sup>920</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A12, 01100836; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9; **D219/324**, Written Record of Interview of Witness CHIN Tep, 19 May 2015, ERN 01113702, A4; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076882, A2, 01076883, A8.

<sup>921</sup> **D219/324**, Written Record of Interview of Witness CHIN Tep, 19 May 2015, ERN 01113702, A4.

<sup>922</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5.

<sup>923</sup> **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100836, A20.

<sup>924</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A8.

<sup>925</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607230, A7; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9.

<sup>926</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A6; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A58; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A8; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A8; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076882, A2, 01076883, A8.

<sup>927</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A18.

<sup>928</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; *see also* **D219/138**, Written Record of Interview of Witness YOU Vann, January 2015, ERN 01059289, A73; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9.



336. Many people became sick as a result of overwork.<sup>929</sup> Some sick workers were treated with medicines made from tree roots and vines (so-called “*rabbit pellets medicine*”).<sup>930</sup> A sector-level hospital was built specifically for patients from the dam one kilometre away from the worksite.<sup>931</sup> Sick workers were also sent to the Kampong Siem District hospital and the Prey Chhor District hospital.<sup>932</sup> While some patients returned to the site following treatment, others disappeared or died as a result of illness.<sup>933</sup>
337. Sick workers were sometimes considered to be “*lazy*”, or “*enemies or spies*”,<sup>934</sup> and were thus at risk of being beaten.<sup>935</sup>
338. Some unit chiefs “*constantly*”<sup>936</sup> threatened workers they regarded as disobedient or lazy with arrest<sup>937</sup> or “*torture*”.<sup>938</sup> Workers were in constant fear.<sup>939</sup> One former worker states that he saw a group chief beat a man with the

<sup>929</sup> D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A10.

<sup>930</sup> D219/331, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A59; D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835-01100836, A13; D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A11; D219/288, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9.

<sup>931</sup> D3/5, Written Record of Interview of Witness BAO Troab, ERN 00607225-00607226, A8.

<sup>932</sup> D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A71; D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A11.

<sup>933</sup> D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A11; D219/582, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179843, A156.

<sup>934</sup> D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13; D219/287, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; D219/285, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116059, A18.

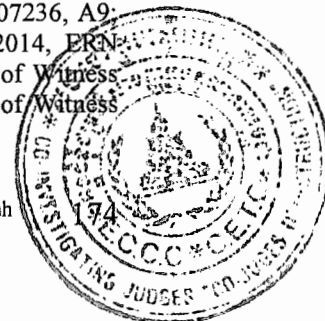
<sup>935</sup> D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835-01100836, A13; *cf.* A14.

<sup>936</sup> D117/60, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044587-01044588, A23.

<sup>937</sup> D219/285, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8; D117/60, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A23; D219/582, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179844, A162-A166.

<sup>938</sup> D117/60, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A19; *cf.* D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A12; D3/5, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A17; D219/288, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A12.

<sup>939</sup> D3/4, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A9; D117/60, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A18, A19, 01044587-01044588, A23; D219/285, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8; D219/191, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079867, A48.



back of an axe on his ankle, accusing him of “*daring to argue with them and being lazy to work.*”<sup>940</sup> By contrast, other witnesses state that they did not see physical abuse of workers, nor did they experience it themselves, even when they received threats.<sup>941</sup>

339. Workers did not receive enough food.<sup>942</sup> Food was generally served at noon and in the evening.<sup>943</sup> Most workers received one to two scoops of rice porridge per day.<sup>944</sup> Many people suffered from diarrhoea and became sick due to unhygienic food and water.<sup>945</sup> One witness states that many people died from sickness.<sup>946</sup>

<sup>940</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A19, 01044587-01044588, A23.

<sup>941</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A12; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607227, A17; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A12; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8; *cf.* **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A12.

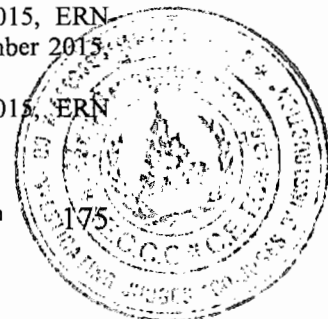
<sup>942</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A10; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A7; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044586, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A9; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, A31; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A155; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A10; *contra* **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8, A12.

<sup>943</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A9; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A8.

<sup>944</sup> **D3/5.1**, Written Record of Interview of Witness BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D117/68**, Written Record of Interview of Witness, VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A12; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A3; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A58; *see also* **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A5.

<sup>945</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A9; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179843, A156.

<sup>946</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179843, A156.



340. After the arrival of the Southwest Zone cadres, workers at the dam were given less food than before.<sup>947</sup>
341. Food deprivation was used as a form of punishment.<sup>948</sup> Workers' food rations were proportionate to the work they had completed; those who did not complete their work were given less.<sup>949</sup> Sick workers were also given less food.<sup>950</sup> Different workforces received different amounts of food.<sup>951</sup>
342. **Ao An**'s driver visited the dam regularly but claims not to have heard that people were dying or starving.<sup>952</sup> He states that the mobile unit food supply was "fine".<sup>953</sup> In his DC-Cam interview, **Ao An** also denies that there were food shortages at the worksites<sup>954</sup> and states that sufficient food was provided.<sup>955</sup> This assertion is not credible in light of the extensive evidence of numerous former workers who state that food was insufficient.
343. Some workers were accommodated at the nearby Tuol Kok Khou hill and walked to the worksite.<sup>956</sup> Groups of workers from different districts slept in separate locations.<sup>957</sup> One unit stayed in a stable covered by a palm leaf roof, which would leak in strong winds and rain.<sup>958</sup> Workers in that shelter would sleep on mattresses on the ground in cramped conditions, although they were not shackled or handcuffed.<sup>959</sup> The "Khmer Rouge" ordered two workers on a one-hour shift to "guard [the shelter] against the enemy".<sup>960</sup> There were no

<sup>947</sup> **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A12; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179843-01179844, A152, A156.

<sup>948</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112054, A65.

<sup>949</sup> **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A12.

<sup>950</sup> **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835-01100836, A12-14.

<sup>951</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A8, A12.

<sup>952</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059868, A39.

<sup>953</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059868, A39.

<sup>954</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373568.

<sup>955</sup> **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373577.

<sup>956</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A7.

<sup>957</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210427; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, 00607227, A13.

<sup>958</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A13.

<sup>959</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A13.

<sup>960</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A13.





toilets so that the workers had to dig holes into the ground.<sup>961</sup> At some point the shelters of all mobile units were flooded due to rain, and it was decided to send all the mobile units back to their bases.<sup>962</sup>

### *Arrests and killings*

344. At the event to mark the opening of Anlong Chrey Dam worksite, **Ao An** announced that workers who failed to complete their tasks would be “*considered the enemies*”.<sup>963</sup> Likewise, group and “*brigade*” chiefs at the dam announced at meetings that they would monitor “*enemies or spies*”.<sup>964</sup> Workers were declared to be an enemy if, for example, they broke a tool,<sup>965</sup> or hid or stole food.<sup>966</sup> One witness states that “*repeated*” incidents of sickness would result in arrest or execution.<sup>967</sup> One witness states that if a man and a woman stood next to each other, they would be accused of being in love, taken away, and killed.<sup>968</sup>
345. On an almost daily basis, workers were arrested, tied up, and taken away, or disappeared, usually at night.<sup>969</sup> Trucks would transport people away from the

<sup>961</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860, A9.

<sup>962</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044588, A24.

<sup>963</sup> **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116059, A18.

<sup>964</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13.

<sup>965</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13.

<sup>966</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A16; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A11, 01111774, A13.

<sup>967</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A9.

<sup>968</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112052, A52.

<sup>969</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A11; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2013, ERN 01057761, A15-A16; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A16, A18; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2013, ERN 01057762, A16; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A7-A8; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A3; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773-01111774, A10, A13, A15; cf. **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2013, ERN 01059290, A76.



dam.<sup>970</sup> According to the understanding of a former worker, “a transfer of anyone for re-education” meant being taken for execution.<sup>971</sup>

346. A former worker at the dam observed that the Cham people were intermingled with Khmer people working at the dam and at some point completely disappeared so that only Khmer people remained.<sup>972</sup> He also states that he does not know who took them because of the secrecy at the time.<sup>973</sup> The same witness also states that those Cham people were killed but provides no basis of knowledge for that belief and does not know where the killing occurred.<sup>974</sup> Another former worker saw a unit chief “taking the Cham unit members out at night” and heard a rumour that they were taken to be killed because they stole food to eat.<sup>975</sup> Several other witnesses provide hearsay accounts of Cham people being taken away from the dam and killed after being accused of “having failed to follow Angkar”.<sup>976</sup> Two former workers state that Cham people were taken away from their mobile units,<sup>977</sup> in one case 10 young women were taken one year before the fall of the regime.<sup>978</sup> However, at least two of these women survived.<sup>979</sup>

347. One month before the Vietnamese troops arrived, **Ao An** visited the dam to “check the worksite” and accused members of a mobile unit of being CIA agents

<sup>970</sup> **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057761-01057762, A15-A16; **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A12; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057761-01057762, A15-A16.

<sup>971</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A11; see also **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4.

<sup>972</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A46, 01148844, A48.

<sup>973</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A47.

<sup>974</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A47.

<sup>975</sup> **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A15.

<sup>976</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, ERN 01100842, A19; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112054, A66; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A9.

<sup>977</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148861, A12; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A15.

<sup>978</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148861, A12.

<sup>979</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148861, A10.



and Vietnamese spies.<sup>980</sup> Afterwards, an unstated number of male and female East Zone soldiers who had been sent to the dam earlier were gathered at Ta Chhin's office and transported away in an unknown number of "Zil" Chinese military trucks.<sup>981</sup>

348. There is evidence that some workers were killed in close proximity to the dam. A former worker states that on two or three occasions she saw groups of five to six workers being taken away to a place called Tuol Ta Khou, and later she saw their dead bodies there.<sup>982</sup> The same witness also states that on two or three occasions, she saw two or three people being taken toward some big trees at the dam worksite, and she then went to that location and saw their bodies after the "killers" returned.<sup>983</sup> It is not clear whether or not these descriptions refer to the same events. The witness initially states that the killings occurred in 1976<sup>984</sup> but later clarifies that they occurred after new cadres replaced the old cadres, that is, after "Comrade Man" on the Samraong Commune Committee was replaced by "Comrade Pho",<sup>985</sup> a cadre from the Southwest Zone.<sup>986</sup> Another witness, who worked at the dam for two months in 1977, "believed", without elaborating further, that people were taken away to be executed at a nearby forest.<sup>987</sup> Witness Toy Meach also heard from his wife, a mobile unit member who worked at the dam, that workers who did not work hard enough were taken to a nearby forest and killed.<sup>988</sup>

349. Soon after the end of DK, one former worker saw three pits near the dam, beneath the "Raing tree" which currently still stands.<sup>989</sup> About one year after the

<sup>980</sup> D219/331, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, A41.

<sup>981</sup> D219/331, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051-01112052, A42-A46, A48.

<sup>982</sup> D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A15-A16.

<sup>983</sup> D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A6-A7.

<sup>984</sup> D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A6.

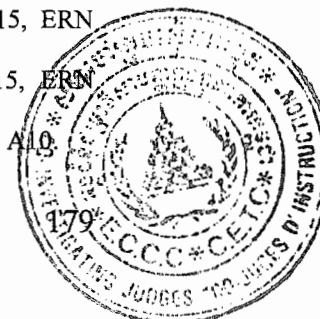
<sup>985</sup> D219/286, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100835, A10.

<sup>986</sup> D219/405, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148837, A10; D219/288, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A23.

<sup>987</sup> D219/288, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111773, A7, ERN 01111773, A11.

<sup>988</sup> D219/582, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179844-01179845, A162-A172.

<sup>989</sup> D3/3, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607231, A10.



witness found the three pits, he dug up the graves to look for gold and saw that the pits contained clothing and human bones.<sup>990</sup> The pits were around 10 metres apart, measured about 0.5 by 2 metres, and there was at least one body in each pit.<sup>991</sup> The witness also states that there were two other pits approximately 700-800 metres away from the pits at the “*Raing tree*”.<sup>992</sup> Those pits had “*similar characteristics*” and the bodies were not exhumed.<sup>993</sup>

350. Based on the evidence above, it can be concluded that at least several workers at Anlong Chrey Dam worksite were killed there during the period of administration by the Southwest Zone cadres, while many others disappeared or were killed. An unknown number of workers also died from sickness due to the poor conditions at the worksite.

#### *Visits by Ao An*

351. **Ao An** presided over the event marking the opening of the Anlong Chrey Dam worksite; he later spoke at the closing ceremony; he announced his official position during a meeting at the dam; and he once accused members of a mobile unit at the dam of being spies.<sup>994</sup> In addition to these specific events, the evidence shows that **Ao An** was at Anlong Chrey Dam often.<sup>995</sup>

<sup>990</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607231, A10.

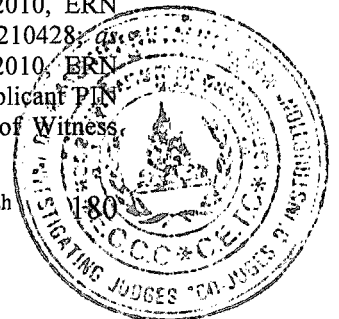
<sup>991</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607231, A10.

<sup>992</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607231, A11.

<sup>993</sup> **D3/3**, Written Record of Interview of Witness BOEU Tauch, 29 July 2010, ERN 00607231, A11.

<sup>994</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A25, 01112051, A41; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A1; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116057, A5, 01116058, A13, 01116059 A17.

<sup>995</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143006, A178; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867-01059868, A34-A36; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740735, A11; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A4; *see also* **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331722, A70-A72 [“*He went down to look at Anlong Chrey Worksite*”]; *cf.* **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051-01112052, A38-A42; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A1; **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210428; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3, 00607226, A10; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A4; **D219/435**, Written Record of Interview of Witness



352. **Ao An** spoke at large meetings at the dam<sup>996</sup> about the plans of *Angkar*,<sup>997</sup> the “*great leap forward*”, and achieving the production of three tons of rice per hectare.<sup>998</sup> During one visit, **Ao An** sought to raise the morale of the workers and told them to “*work hard for national progress and development.*”<sup>999</sup> A former Sector Children’s Unit cadre stated that during one meeting **Ao An** talked about “*the progress of the dam building, farming and transplanting; [but] he did not talk about politics.*”<sup>1000</sup>
353. On one occasion, **Ao An** announced a competition over the loudspeaker at the dam whereby the first district mobile unit to finish its work would be the first allowed to rest.<sup>1001</sup> A report about this competition was discussed during a monthly meeting where **Ao An**, “*section chiefs*”, and workers from the five districts were present.<sup>1002</sup>
354. **Ao An** came to meetings accompanied by his bodyguards or messengers, his deputy, and people responsible for logistics.<sup>1003</sup> According to her former messenger, Kampong Siem District Secretary Prak Yut would sometimes

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TOUCH Chamroeun, 30 July 2015, ERN 01143006, A178; **D219/813.1.8**, DC-Cam Interview of TOUCH Chamroeun, 15 June 2016, ERN 01348755; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A4; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148841, A34; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059867-01059868, A35, A37; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059868-01059869, A37, A39-A40

<sup>996</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, 00210442; *as confirmed in* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A1, 00740735, A11; **D219/286**, Written Record of Interview of Witness MIN Art, 22 April 2015, ERN 01100837, A24-A25.

<sup>997</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A1, A3, 00740735, A11.

<sup>998</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4.

<sup>999</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179842, A155, 01179843, A157.

<sup>1000</sup> **D219/870**, Written Record of Interview Witness RY Nhor, 10 November 2016, ERN 01373687, A34-A36.

<sup>1001</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289-01059290, A72, A73; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079867, A47.

<sup>1002</sup> **D78**, Written Record of Interview of Witness CHIN Sinal, 26 August 2011, ERN 00740734, A4.

<sup>1003</sup> **D3/4.1**, Annex: Interview Note of CHIN Sinal, 4 August 2008, ERN 00210442; *as confirmed by* **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607235, A4; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, 01112052, A41, A47.



accompany **Ao An** to the dam,<sup>1004</sup> though Prak Yut herself denies knowing anything about Anlong Chrey Dam.<sup>1005</sup>

355. Witnesses state that the visiting “*Khmer Rouge leaders*”, or sector staff, observed the living conditions of the workers,<sup>1006</sup> and that **Ao An** had an office<sup>1007</sup> or a house<sup>1008</sup> by the dam, though it is not clear whether they are referring to the same building.

#### 6.4.1.2 *Kok Pring Execution Site*

##### *Location and establishment*

356. Kok Pring was an execution site<sup>1009</sup> located about one kilometre west of Kdei Boeng Village, Vihear Thom Commune, Kampong Siem District, in Sector 41 of the Central Zone.<sup>1010</sup> It was situated on the edge of Boeng Thom Lake.<sup>1011</sup>

<sup>1004</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059289, A71.

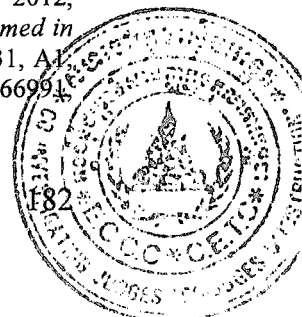
<sup>1005</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063623, A86.

<sup>1006</sup> **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A10; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112051, A41.

<sup>1007</sup> **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A3.

<sup>1008</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143006, A178, ERN 01143014, A231-A232; **D219/813.1.8**, DC-Cam Interview of TOUCH Chamroeun, 15 June 2016, ERN 01348755.

<sup>1009</sup> **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210453; *as confirmed in* **D80**, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040462, A14; **D107/12**, Written Record of Interview of Witness KIEN Lei, 14 March 2012, ERN 00804705; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A66; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A14; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A13; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072516-01072517, A16; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935-01046936, A4, A5, 01046940, A15; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054038, A42; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A19; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448-00210449; *as confirmed in* **D107/10**, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D1.3.11.45**, Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; *cf.* **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A22; **D219/138**, Written Record of Interview of Witness YOU Vann, ERN 01059301, A112.



357. Kok Pring Execution Site was about one to three kilometres away from the Vihear Thom Commune Office in Kok Kriem Village.<sup>1012</sup> The office had a cell which could hold two or three prisoners.<sup>1013</sup>
358. Kok Pring Execution Site was used as a large-scale killing site after the arrival of the Southwest Zone cadres in the area in early 1977,<sup>1014</sup> until the Vietnamese arrived,<sup>1015</sup> although some smaller-scale killing may have occurred there as early as 1970.<sup>1016</sup>

<sup>1010</sup> **D107/16**, Report of the Execution of Rogatory Letter, dated 28 February 2012: Site Identification Report, ERN 00787437; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A10; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A19; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210453; *also confirmed in D80*, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739.

<sup>1011</sup> **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210453; *also confirmed in D80*, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739; **D107/16**, Report of the Execution of Rogatory Letter, dated 28 February 2012: Site Identification Report, ERN 00787438; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A27; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A19; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2014, ERN 00210474; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1012</sup> **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356216, A77; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067908, A10; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A5; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447-00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1013</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A3.

<sup>1014</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A7; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A66; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076883-01076884, A4, A9; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029-01054031, A2, A7, 01054038, A42; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113698, A27; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A18-A19; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356212, A18; **D1.3.11.45** OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1, 00787232, A7; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; *cf.* witnesses stating that there were k **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067910, A26 (“*there were more arrests and killing immediately after the arrival for the Southwest group*”, emphasis added”); **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202 (“*killings began in 1970 at the time of the coup [...] around 20 to 30 people [...] large-scale killings were from early 1977 through 1978, until the Vietnamese arrived*”); **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A6 (the first to be killed were the village militia, in late 1977).

<sup>1015</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D1.3.11.45** OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*.



359. Nobody was normally allowed to go to Kok Pring Execution Site.<sup>1017</sup> However, some people who fished or worked at the water pump at Boeng Thom Lake, or who tended cattle in the area, would occasionally pass near the site.<sup>1018</sup>

### *Personnel*

360. Kok Pring Execution Site was under the direct control of Ta Chea,<sup>1019</sup> a native of Takeo Province<sup>1020</sup> in the Southwest Zone,<sup>1021</sup> who became the Vihear Thom Commune Chief following the arrival of the Southwest Zone cadres in the Central Zone.<sup>1022</sup> Ta Chea remained in charge of Vihear Thom Commune until the arrival of the Vietnamese troops in 1979.<sup>1023</sup>

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Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072516, A16.

<sup>1016</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202.

<sup>1017</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A12.

<sup>1018</sup> **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448-00210449; *as confirmed in* **D107/10**, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067911, A30; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A22; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029, A1.

<sup>1019</sup> **D80**, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A66; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029-01054030, A2, 01054038, A42; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1020</sup> **D80**, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977334, A14; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in* **D107/10**, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1021</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031709, A11; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D107/12**, Written Record of Interview of Witness KIEN Lei, 14 March 2012, ERN 00804705; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907, A8; **D117/60**, Written Record of Interview of Civil Party Applicant PET Sum, 4 August 2014, ERN 01044584, A11; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356212, A15; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210451.

<sup>1022</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031709, A11; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210451.





361. Ta Chea worked under the supervision of Kampong Siem District Secretary Prak Yut<sup>1024</sup> and regularly reported to her.<sup>1025</sup> Ta Chea also worked in close connection with Si (alternative spelling Sy), Prak Yut's deputy.<sup>1026</sup>
362. Witnesses and civil party applicants variously experienced, saw or heard of arrests performed by militiamen, unit chiefs, or district soldiers from the Southwest Zone upon orders from Ta Chea.<sup>1027</sup>

*confirmed in D80*, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739; **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A8; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D107/12**, Written Record of Interview of Witness KIEN Lei, 14 March 2012, ERN 00804705; **117/57**, Written Record of Interview of KEAN Ley, 24 June 2014, ERN 01067911, A33; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215, A10; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441046, l. 15-25, 01441047, l. 1-14; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977334, A14; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A15; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059282, A43; **D117/60**, Written Record of Interview of Civil Party Applicant PET Sum, 4 August 2014, ERN 01044584, A11; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047085, A9; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029, A2; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356212, A15; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A5; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

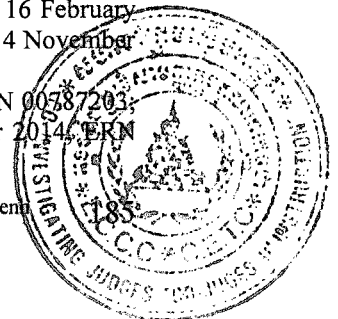
<sup>1023</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029, A2; **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231.

<sup>1024</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076886, A20; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210451; *further specified in D80*, Written Record of Interview of KLOUK Lim, 26 August 2011, ERN 00740739.

<sup>1025</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A5; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063611, A26; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1026</sup> **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977333, A9; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441015, l. 20-21; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A2.

<sup>1027</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047085, A9.



*Chain of command*

363. Orders to carry out arrests and executions in Kampong Siem District originated from the Zone Committee and were then transmitted through the chain of command down to the sector, district and commune levels.<sup>1028</sup> In his capacity as Secretary of Sector 41, **Ao An** had authority over Kok Pring Execution Site, a killing site situated in his sector, and was aware of the killings carried out there, as demonstrated by the fact that he gave precise instructions to Prak Yut regarding executions at Kok Pring Execution Site.<sup>1029</sup>
364. During monthly meetings, **Ao An** instructed Kampong Siem District Secretary Prak Yut to identify certain categories of people;<sup>1030</sup> she would list their names and report back to him.<sup>1031</sup> **Ao An** ordered Prak Yut to arrange the arrests,<sup>1032</sup> and to “*send the important people to the sector level [...] and kill the rest at [...] Kok Pring*”.<sup>1033</sup> She would forward the order to Si<sup>1034</sup> who would then cooperate with Ta Chea to carry out the arrests,<sup>1035</sup> and make a list indicating who was to be sent to the sector, or to Kok Pring Execution Site.<sup>1036</sup> After arrests

01047084-01047085, A5-A9; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9; **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031715-01031716, A65, A79-A80; **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A7; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A66; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076883-01076884, A4, A9; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029-01054031, A2, A7, 01054038, A42; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113698, A27; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A18-A19; **D219/846**, Written Record of Interview of Civil Party SEM Phoeun, 13 October 2016, ERN 01356212, A18; **D1.3.11.45** OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1, 00787232, A7; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067910, A26.

<sup>1028</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A35A36.

<sup>1029</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A67; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7.

<sup>1030</sup> **D117/71**, Written Record of Interview of PRAK Yut, 19 June 2013, ERN 01056228, A48.

<sup>1031</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50.

<sup>1032</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A44;

**D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476-00210477; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1;

<sup>1033</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7.

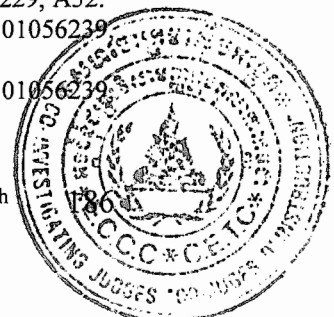
<sup>1034</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52.

<sup>1035</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239

A10.

<sup>1036</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239

A10.



and killings were carried out, Prak Yut would receive reports from Ta Chea and, after consulting with Si, would report back to **Ao An**.<sup>1037</sup>

365. The evidence also shows that the district level was actively involved in organizing and carrying out the killings. Prak Yut visited Vihear Thom Commune Office on a regular basis.<sup>1038</sup> She describes one occasion when she went to Vihear Thom Commune to meet Si and Ta Chea and instruct them to “*be careful with work*”, because “*any wrongdoing would affect the district’s reputation*”.<sup>1039</sup> Upon receiving information from the communes, she would “*decide on a case-by-case basis [...] who to be sent to [...] Kork Pring*”.<sup>1040</sup>
366. After receiving orders from Prak Yut,<sup>1041</sup> Ta Chea delegated village chiefs, unit chiefs or the militia in Vihear Thom Commune to carry out the arrests.<sup>1042</sup> Ta Chea was in charge of all village chiefs and working units in the commune,<sup>1043</sup>

<sup>1037</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A5; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063611, A26-A27.

<sup>1038</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A8; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072518, A22; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356215, A7; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210477; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210451-00210452.

<sup>1039</sup> **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056239, A10.

<sup>1040</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A29.

<sup>1041</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056231, A67; **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A9; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939-01046940, A14.

<sup>1042</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031719, A102-A103; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A11; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939, A14; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210478; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210452.

<sup>1043</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031709, A12; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A11; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072515, A10-A11; **D117/60**, Written Record of Interview of Civil Party Applicant PET Sum, 4 August 2014, ERN 01044584, A10; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939, A12, A14; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.



and of the special militia,<sup>1044</sup> commanded by Ken<sup>1045</sup> or Em.<sup>1046</sup> Ta Chea would summon unit chiefs to meetings to provide instructions on how to conduct the arrests and killings,<sup>1047</sup> stating that the order came from Prak Yut.<sup>1048</sup>

367. There is circumstantial evidence that unit chiefs could exercise a measure of discretion regarding arrests and killings: for instance, a civil party applicant who witnessed various arrests states that unit chiefs would sometimes go beyond the orders that they were given, for example arresting ten people instead of five.<sup>1049</sup>
368. In her Case 002/02 trial testimony, Prak Yut retracted parts of her previous accounts, by stating: “*I, at that time, did not know the location of Kouk Pring [...]; I was not aware of the execution [...]. And concerning the order from Ta An to deal with some particular group of people at Kouk Pring, I was not aware of that.*”<sup>1050</sup> However, these denials do not appear credible, given the extensive details provided in her previous interviews and the evidence from several other witnesses who describe her role in Vihear Thom Commune.<sup>1051</sup>

<sup>1044</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067908, A12.

<sup>1045</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203-00787204.

<sup>1046</sup> **D107/12**, Written Record of Interview of Witness KIEN Lei, 14 March 2012, ERN 00804705; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067908, A12.

<sup>1047</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939-01046940, A14-A15; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047085, A9.

<sup>1048</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939-01046940, A14, A15.

<sup>1049</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A10-A11; *see also*: **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1050</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441045, l. 14-25, 01441046, l. 1-5.

<sup>1051</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031711, A26; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076886, A20; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072518, A22; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939-01046940, A14; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356215, A71; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210446; *as confirmed in* **D107/10**, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A5.



*Arrests*

369. After the arrival of Ta Chea and the Southwest cadres, arrests in Vihear Thom Commune were carried out on a regular basis and at least every other night.<sup>1052</sup> Villagers arrested in Vihear Thom Commune were brought to Kok Pring Execution Site,<sup>1053</sup> with the exception of those sent to the sector.<sup>1054</sup> Arrests were carried out in at least seven villages in the commune: Prey Phdau,<sup>1055</sup> Andoung Svay,<sup>1056</sup> Kouk Kream,<sup>1057</sup> Kdei Boeng,<sup>1058</sup> Prasat,<sup>1059</sup> Kouk Kotea<sup>1060</sup> and Kong Moha.<sup>1061</sup>

<sup>1052</sup> **D107/12**, Written Record of Interview of Witness KIEN Lei, 14 March 2012, ERN 00804705; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A17; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067910, A26; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031717-01031718, A83, A98; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A48; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447-00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1.

<sup>1053</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7; **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056239, A10; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A13; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935-01046936, A4; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047085, A10; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7, 01054038, A42; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356212, A21; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448-00210449; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1054</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10.

<sup>1055</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029, A1, 01054031, A7.

<sup>1056</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031709-01031710, A16, A23.

<sup>1057</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1.

<sup>1058</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A5, 00787233, A16; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A10; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A17; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474-00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.



370. Arrests were carried out at night.<sup>1062</sup> Male arrestees were sometimes tied up,<sup>1063</sup> but women and children were not.<sup>1064</sup> The people conducting the arrests were armed.<sup>1065</sup> Sometimes villagers were told that those arrested were being transferred to other villages,<sup>1066</sup> or that they were being taken to be re-educated.<sup>1067</sup>
371. Sometimes arrestees were walked directly to the killing site,<sup>1068</sup> and some were first kept in the villages in Vihear Thom Commune for a week to 10 days.<sup>1069</sup>

<sup>1059</sup> **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356211, A4, 01356214, A48; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1060</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202-00787203; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A6; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210451-00210452; *as confirmed in D80*, Written Record of Interview of Witness KLOUK Lim, 26 August 2011, ERN 00740739.

<sup>1061</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031715-01031716, A65, A79-A80; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9.

<sup>1062</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031717, A87; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935-01046936, A4; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474-00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448-00210449; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1063</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210448; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; *c.f.*: **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474 (“*They were not tied up*”) *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1064</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031715, A68.

<sup>1065</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A11.

<sup>1066</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031715, A70-A71; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.

<sup>1067</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031711, A29; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067910-01067911, A28.

<sup>1068</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072516-01072517, A16, A18.

<sup>1069</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046940, A15.



Unit chiefs controlled and oversaw groups of prisoners as they were taken to the site.<sup>1070</sup> Those who were too weak to walk were beaten, and elderly people who were feeble were killed along the way.<sup>1071</sup> A witness who saw various arrests describes seeing a woman's throat being cut and her body dumped into a stream on the way to the execution site.<sup>1072</sup>

372. People were also taken to Kok Pring Execution Site from other communes in Kampong Siem District,<sup>1073</sup> such as Kaoh Mitt, Kaoh Tontuem, Kaoh Samraong, Krala and Han Chey Communes.<sup>1074</sup>

*Categories of people targeted*

373. During the period of administration by the Southwest Zone cadres, biographies were routinely taken in Vihear Thum Commune, often by unit chiefs, in order to identify Cham, Chinese and “*new people*”.<sup>1075</sup> In 1977, Prak Yut oversaw the purge in Kampong Siem District, during which low-level cadres, their families, and associates were killed at Kok Pring Execution Site.<sup>1076</sup>

374. Several witnesses state that “*new people*” in Vihear Thum Commune were targeted for arrest,<sup>1077</sup> and that most of the victims executed at Kok Pring

<sup>1070</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9.

<sup>1071</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1072</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.

<sup>1073</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233, A16; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935, A4; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A8.

<sup>1074</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233, A16; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046935-01046936, A4, 01046940, A15.

<sup>1075</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031711-01031712, A32-A33, A37, 01031714, A56; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046944, A32.

<sup>1076</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233, A16; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040462, A14; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A19; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18.

<sup>1077</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031717, A88, 01031718, A99; **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233, A16.



Execution Site were “*new people*” who had been evacuated to Vihear Thom Commune.<sup>1078</sup> Entire families and entire units of “*new people*” were taken to the site after being arrested in villages throughout Vihear Thom Commune in 1977 and 1978.<sup>1079</sup> They were usually taken away at night.<sup>1080</sup> Sometimes several families would be arrested over the course of multiple nights.<sup>1081</sup> During one night in Kong Moha Village toward the end of 1977, two entire mobile units (60 women and 72 men) and about 200 families were arrested.<sup>1082</sup> The unit chiefs accused them of being enemies, because they were on Lon Nol’s side during the war.<sup>1083</sup>

375. There is only circumstantial evidence regarding the arrest of former Lon Nol soldiers. Apart from the Cham, Prak Yut was also ordered to list and arrest former Lon Nol soldiers in Kampong Siem District.<sup>1084</sup> She forwarded the

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February 2012, ERN 00787233, A16; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937-01046938, A10; **D1.3.11.21**, OCP Interview of KHLOAK Lim, 5 August 2008, ERN 00210452.

<sup>1078</sup> **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113698, A27; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151229, A19; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447, 00210449; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1079</sup> **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356211, A4, 01356212, A11, A21; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084-01047085, A5-A10; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937-01046938, A10.

<sup>1080</sup> **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937-01046938, A10.

<sup>1081</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1.

<sup>1082</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937-01046938, A10.

<sup>1083</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937-01046938, A10.

<sup>1084</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A44; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A48; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059298, A100.





instructions to all commune chiefs,<sup>1085</sup> including Ta Chea, who executed the order together with her deputy Si and listed who was to be sent to Kok Pring Execution Site or sent to the “Sector level”.<sup>1086</sup> Although Prak Yut denies that she had “direct involvement”, she acknowledges receiving reports from her “deputies”. Nevertheless, it is unclear whether those orders were carried out, thus it cannot be concluded that former Lon Nol soldiers were killed at Kok Pring Execution Site.<sup>1087</sup>

376. An undetermined number of “base people” were also arrested in Vihear Thom Commune and taken away to Kok Pring Execution Site based on allegations that they were enemies, CIA, or KGB agents,<sup>1088</sup> or because they had stolen something to eat.<sup>1089</sup>
377. There is evidence showing that families of Cham people were regularly arrested and taken to Kok Pring Execution Site between 1977 and 1978. In Prasat Village, a civil party applicant recalls seeing two to four Cham families arrested each night over the course of several nights until there were no Cham left in the village, she heard that they were sent to Kok Pring Execution site.<sup>1090</sup> Another witness states that she saw a group of Cham and “17 April People” being escorted to Kok Pring Execution Site, she later learnt they were executed from one of the executioners.<sup>1091</sup> A civil party applicant states that Ta Chea arrested

<sup>1085</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A49;

**D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A5-A6.

<sup>1086</sup> **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056239, A10.

<sup>1087</sup> **D117/73**, Written Record of Interview of PRAK Yut, 27 October 2013, ERN 01056239, A10.

<sup>1088</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A17-A18.

<sup>1089</sup> **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447-00210449; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198.

<sup>1090</sup> **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356211, A1, 01356214, A48-A49, A51, 01356215, A57-A58, A63.

<sup>1091</sup> **D107/3**, Written Record of Interview of Witness KAK Sroean, 16 February 2012, ERN 00787202-00787204; *Ken was an executioner, see D107/3*, Written Record of Interview of Witness KAK Sroean, 16 February 2012, ERN 00787203-00787204; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046938, A10; **D1.3.11.45**, OCP Interview of SANN Son, 5 August 2008, ERN 00210474, 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.



at least 20 Cham families throughout the Commune and took them to Kok Pring Execution Site,<sup>1092</sup> however the basis of knowledge is not clear.

### *Executions*

378. One civil party applicant describes killings at a place she refers to as Boeng Daeum Ta Sek Lake.<sup>1093</sup> This is likely the same lake as Boeng Thom, as there are no other lakes in the area, and her evidence aligns with a similar account of killings at Kok Pring provided by her husband. The applicant states that two mobile units were brought to the killing site: the female unit that she was part of and a unit comprising 72 people; she also mentions that “*the unit of [her] future husband had 72 people*”.<sup>1094</sup> The applicant’s husband mentions that everyone in his unit, and people from other units, including that of a woman from the same mobile unit as his wife, were brought to Kok Pring Execution Site,<sup>1095</sup> suggesting that the event is the same. However, the husband does not mention that his wife was sent there and states that the arrests were carried out in Kouk Kotea Village,<sup>1096</sup> whereas, according to his wife, they were performed in Kong Moha Village.<sup>1097</sup> Nonetheless, in light of the evidence that all arrestees in the commune were taken to Kok Pring and the strong similarities between the description of the location of the killing site by the wife and Kok Pring Execution Site, it is likely that Boeng Daeum Ta Sek is part of Kok Pring Execution Site.

379. The civil party applicant was brought along with others to be killed, but she managed to hide in a bush and survive.<sup>1098</sup> She observed the mass killing of two

<sup>1092</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076887, A26.

<sup>1093</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9.

<sup>1094</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046938, A4.

<sup>1095</sup> **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047085, A8, A10, 01047086, A15.

<sup>1096</sup> **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047084, A6.

<sup>1097</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046937, A9.

<sup>1098</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A4, 01046938-01046940, A10, A17; *see also* **D1.3.11.45**, OCP Interview of SANN Son, 5 August 2008, ERN 00210476-00210478; *as confirmed in* **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.



entire units (60 women and 72 men) and 200 families of “1975 people” from Kong Moha Village during one night in late 1977. The unit chairpersons separated them into groups of twelve, tied them up, and walked one group at a time to the killing site. At the killing site, victims were led to a pit, around 10 metres deep and 20 metres in circumference. Some victims resisted, shouting: “Kill us! Blood will be repaid in blood!” The unit chairpersons used hoes and steel ox-cart axles to strike each victim’s head from behind. The victims were then pushed down into the pit. Men were killed first, and children were thrown into the pit alive. One woman attempted to crawl out of the pit after being struck, but was caught and had her throat slit. The arrests occurred at an unspecified time at night, and the killings continued until midnight. The civil party applicant concludes that a total of approximately 700 people from Kong Moha Village were killed, including 100 children under the age of seven or eight.

380. There are no other eyewitnesses to the acts of killing at Kok Pring Execution Site, but there is reliable and corroborated hearsay evidence from other witnesses who heard the executioners describing the killings immediately after they took place; at the Vihear Thom Commune Office, killers could often be heard discussing how many people they had killed, and the items of value that they had obtained from their victims.<sup>1099</sup> A unit chief who was repeatedly identified as one of the executioners at Kok Pring Execution Site,<sup>1100</sup> explained to one witness that victims were beaten with clubs, and then had their throats slit.<sup>1101</sup> The killers used iron bars,<sup>1102</sup> sticks<sup>1103</sup> and strings.<sup>1104</sup> It was also

<sup>1099</sup> **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476-00210478; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

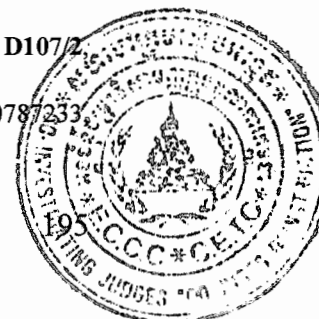
<sup>1100</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203-00787204; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046938, A10; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210474, 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1101</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.

<sup>1102</sup> **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1103</sup> **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1104</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233 A16.



common knowledge among the villagers of Kok Kriem Village that arrested villagers were sent to Kok Pring.<sup>1105</sup>

381. Pits were dug and used as graves at Kok Pring.<sup>1106</sup> The burial pits were dug by villagers and mobile unit workers assigned to this task by Ta Chea and unit chiefs.<sup>1107</sup> Some witnesses saw pits of dead bodies before the end of DK,<sup>1108</sup> and after DK pits were also discovered by people who went to the killing site in search of valuables.<sup>1109</sup> It is possible that some of the pits seen after the end of DK may have contained the bodies of people who were killed out of revenge by local villagers after DK had ended.<sup>1110</sup> For example, according to one witness, local villagers killed one of the alleged executioners along with his wife, children and his brother Ken at Kok Pring Execution Site, and their corpses were placed in the graves.<sup>1111</sup> However, viewed in the light of the extensive evidence of mass killing and burial pits seen at the site during DK, the accounts

<sup>1105</sup> **D1.3.11.13**, OCP Interview of CHUONG Srim, 4 August 2008, ERN 00210447-00210449; *as confirmed in D107/10*, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198, A1.

<sup>1106</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787232, A12; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A27; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A13; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475-00210475; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1107</sup> **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1, 00787233, A15; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1108</sup> **D107/2**, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787232, A14; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A27; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210475-00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dan, 16 September 2014, ERN 01047083, A2, 01047085, A10; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A13.

<sup>1109</sup> **D107/2**, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787232, A14; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A14; **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1110</sup> **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D107/10**, Written Record of Interview of Witness CHUONG Srim, 23 February 2012, ERN 00787198; **D117/52**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, 01072517, A12.

<sup>1111</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204.



of revenge killings can be reasonably concluded to relate only to a very small number of the bodies found in the pits after DK.

382. One witness saw “*about 22 pits*” at Kok Pring Execution Site,<sup>1112</sup> each around 1.5 x 3 x 1 metres,<sup>1113</sup> both before and after the arrival of the Vietnamese.<sup>1114</sup> He states there were “*approximately 15-20 bodies*” per pit.<sup>1115</sup> Another witness states there were 70 burial pits in the area,<sup>1116</sup> and explains there were “*50 grave pits in Kouk Pring and 20 others along the banks of Boeng Thom Lake*”.<sup>1117</sup> Also during DK, the survivor who describes the killing of 700 people explains that dead bodies were tossed into a 10-metre deep and “*20 square metre long pit*”.<sup>1118</sup>
383. Witness estimates of the number of people killed at Kok Pring range from 800-900<sup>1119</sup> or 1000<sup>1120</sup> to approximately 25,000,<sup>1121</sup> although this last figure is unreliable given the lack of specificity of the statement supporting it. It can be conservatively estimated that the minimum number of people killed at the site is **1030**. This estimate is based on the evidence of the survivor of one large-scale killing in late-1977 who saw approximately **700** people killed in a single event and thrown into one large pit,<sup>1122</sup> plus the 22 smaller pits seen at the site before the end of DK that, by each containing at least 15 bodies, held no less than **330** bodies. The 330 victims added to the 700 results in the total minimum estimate of **1030** persons killed at Kok Pring Execution Site. There are many other accounts of killings and disappearances that have not been included in this

<sup>1112</sup> D107/2, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787232, A12.

<sup>1113</sup> D107/2, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787233, A17.

<sup>1114</sup> D107/2, Written Record of Interview of SANN Son, 16 February 2012, ERN 00787232, A14.

<sup>1115</sup> D1.3.11.45, OCP Interview of SAN Son, 5 August 2008, ERN 00210476; *as confirmed in* D107/2, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1116</sup> D107/3, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202.

<sup>1117</sup> D107/3, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202.

<sup>1118</sup> D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046938, A10.

<sup>1119</sup> D107/2, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787233, A16; D1.3.11.45, OCP Interview of SAN Son, 5 August 2008, ERN 00210474; *as confirmed in* D107/2, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1120</sup> D107/16, Report of the Execution of Rogatory Letter, dated 28 February 2012: Site Identification Report, ERN 00787437; D117/52, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076885, A14.

<sup>1121</sup> D107/3, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202.

<sup>1122</sup> D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046938, A10.



calculation in order to avoid the possibility of double-counting, but this suggests that the actual number of victims is probably much higher.

### *Visits by Ao An*

384. There is no evidence that **Ao An** visited the killing site at Kok Pring Execution Site, although unidentified sector-level cadres visited the Vihear Thom Commune Office at the end of 1978.<sup>1123</sup>

### **6.4.1.3 Met Sop Security Centre**

#### *Location and establishment*

385. Met Sop Security Centre was the main sector-level security centre in Sector 41 of the Central Zone.<sup>1124</sup> The security centre was also known as Krouch Kor,<sup>1125</sup> and commonly referred to as “*Kor*”.<sup>1126</sup> It was located approximately one kilometre east of Takeo Village<sup>1127</sup> and 500 metres to the east of Wat Kor,<sup>1128</sup> in

<sup>1123</sup> **D1.3.11.45**, OCP Interview of SAN Son, 5 August 2008, ERN 00210477; *as confirmed in D107/2*, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A1.

<sup>1124</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167891, A43, 01167900, A86; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A5; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811-01067812, A19-A20; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112024, A6; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A145, 01111983, A166; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331732, A145; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 16, ERN 01364059, A45, 01364065, A95; **D219/226**, Written Record of Interview of Civil Party PENH Va, 11 March 2015, ERN 01088624, A13; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A24; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623573-00623574, A1.

<sup>1125</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A43, A46; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331720, A56; **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309834, A28.

<sup>1126</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179825, A39; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A38; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A46; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A143, A148; **D219/870**, Written Record of Interview of Witness RY Nha, 10 November 2016, ERN 01373692, A101.

<sup>1127</sup> **D3/21**, Report of the Execution of Rogatory Letter, dated 9 June 2010: Site Identification Report, ERN 00637342; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623573, A2; **D1.3.11.32**, OCP Interview of NAI Seu, 11 November 2006, ERN 00222958; *as confirmed by D3/11*, Written Record of Interview of Witness NAI Seu, 20 October 2010, ERN 00622281, A1; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067812, A20.

<sup>1128</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A145; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179825, A39.



Kor Commune, Prey Chhor District, Kampong Cham Province.<sup>1129</sup> The site was located seven kilometres northwest of Ao An's Sector 41 Office along Highway 62.<sup>1130</sup> Met Sop Security Centre was established around 1975<sup>1131</sup> and continued to function until the end of DK.<sup>1132</sup>

386. The security centre was surrounded by barbed-wire and rice fields.<sup>1133</sup> Within its perimeter, there were several wooden buildings formerly used as a school,<sup>1134</sup> referred to by witnesses as "halls" and "houses",<sup>1135</sup> which were allocated for staff accommodation and the detention of prisoners.<sup>1136</sup> One of them was the security chief's house.<sup>1137</sup> There is evidence that prisoners were detained under

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01179825, A34; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A48.

<sup>1129</sup> **D3/21**, Report of the Execution of Rogatory Letter, dated 9 June 2010: Site Identification Report, ERN 00637342; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746822; **D3/18**, Written Record of Interview of Witness ROTH Peou, 30 November 2010, ERN 00630440, A9; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112024, A6; **D219/606**, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184893, A53; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A28-29; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331736, A171.

<sup>1130</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A168; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A28; **D3/21**, Report of the Execution of Rogatory Letter, dated 9 June 2010: Site Identification Report, ERN 00637341-00637342.

<sup>1131</sup> **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, ERN 00629468, A3; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053866-01053867, A1; *cf.* **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179826, A40 ("*Before [the arrival of the Southwest Zone cadres], no one was arrested and sent there*").

<sup>1132</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274-00622275, A8-A9; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746993; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050577, A60.

<sup>1133</sup> **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623573-00623574, A2; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111984, A169; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067812, A20.

<sup>1134</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A152.

<sup>1135</sup> **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623573-00623574, A2; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044625, A9; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067812, A20; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111984, A169; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167899, A85.

<sup>1136</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111984, A169.

<sup>1137</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A152; **D219/837**, Written Record of Interview of Witness So Saren, 22 September 16, ERN 01364068, A140; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224109, A62.



a roof with no walls<sup>1138</sup> and in wooden shacks on stilts.<sup>1139</sup> The site is now a large area of rice fields and palm plantation; none of the site's original features remain.<sup>1140</sup>

387. Except for persons assigned to work in nearby fields, ordinary people were not allowed near the security centre, otherwise they would be arrested.<sup>1141</sup>

### *Structure and personnel*

388. Met Sop Security Centre was named after Sop, the chief of the security centre at the time when the Southwest Zone cadres arrived.<sup>1142</sup> He maintained his post for an initial period after their arrival and participated in the purge of the sector, for example, by arranging the arrest and detention of the former Sector 41 Secretary, Sreng, and 10 of his family members, all of whom disappeared.<sup>1143</sup> Sop was then arrested several months after the arrival of the Southwest Zone cadres.<sup>1144</sup> He arrived at S-21 on 19 May 1977,<sup>1145</sup> and was executed on 8 July 1977.<sup>1146</sup>

<sup>1138</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A60, 01374664, A233.

<sup>1139</sup> **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A6.

<sup>1140</sup> **D3/21**, Report of the Execution of Rogatory Letter, dated 9 June 2010: Site Identification Report, ERN 00637341.

<sup>1141</sup> **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A13; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A11; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746992; **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, ERN 00629468, A5-A6.

<sup>1142</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067812, A22, 01067812, A24; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A8; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A6; **D3/12**, Written Record of Interview of Witness BUN Tim, 20 October 2010, ERN 00623550, A4; **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746822; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A44; **D219/24**, Written Record of Interview of PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A21, 01050577, A60; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216230, A44, 01216231, A47; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A149; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179837, A111 [(Mout was) “*in charge of security before Sob. Mout was arrested, and Sob rose to replace him*”]; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746991 [“*Comrade Sop was the chief of this security centre*” when SW zone cadre arrived].

<sup>1143</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210438-00210439, as confirmed by **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112044, A11.

<sup>1144</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01112118, A4, A6; **D219/870**, Written Record of Interview of Witness RY Nha, 10 November 2016, ERN





389. Sop was replaced by a cadre from the Southwest Zone named Chom Vong, known during DK as Youk Nhov or Ngov (alternate spelling Ngauv).<sup>1147</sup> Ngov remained chief of Met Sop Security Centre and Sector 41 Security Chief until the end of DK.<sup>1148</sup> Ngov was also an executioner at Met Sop Security Centre.<sup>1149</sup> He lived in a wooden house at the security centre and rarely left.<sup>1150</sup>
390. Ngov denies having been the chief of Met Sop Security Centre.<sup>1151</sup> He claims that he was transferred to Sector 41 after the other Southwest Zone cadres, in

01373692, A107, A110; cf. **D1.3.11.49**, OCP interview of SOENG Leum, 17 November 2006, ERN 00222963 [“Then, in late 1977, Sop and Heng were taken away by car and killed by the Southwest Zoners”]; as confirmed by **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746991; accounts of Sop’s arrest without dates provided, see also **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A8; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A4; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A6; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044627-01044628, A16-A17; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434525, A37; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151207, A6-A7.

<sup>1145</sup> **D219/825.1.2**, OCIJ S-21 Prisoner List, 13 September 2016, ERN 01222486.

<sup>1146</sup> **D6.1.1047**, S-21 “North Zone Prisoners Smashed on 8 July 1977”, ERN 00657714.

<sup>1147</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063622, A83; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A4; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A6; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A149; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151217, A3; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167891, A43, 01167900, A87; **D219/800**, Written Record of Interview of SO Saren, 19 July 2016, ERN 01331733, A149; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364068, A108; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059874, A71-A72; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067808, A1. **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374644, A27, 01374649, A70; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746991-00746992; **D3/11**, Written Record of Interview of Witness NAI Seu, 20 October 2010, ERN 00622282, A4.

<sup>1148</sup> **D1.3.11.32**, OCP Interview of NAI Seu, 11 November 2006, ERN 00222958; as confirmed by **D3/11**, Written Record of Interview of Witness NAI Seu, 20 October 2010, ERN 00622281, A1; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063622, A83; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224114, A106; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331734, A158.

<sup>1149</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A50-A51; see also **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331737, A179 [Ngov told the witness he had been drinking “alcohol soaked with human gallbladder”].

<sup>1150</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A151-A152; **D219/837**, Written Record of Interview of Witness So Saren, 22 September 16, ERN 01364068, A110-A111; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224109, A62.

<sup>1151</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A18; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434533, A86.



early or mid-1978,<sup>1152</sup> and that the security centre chief was Sop.<sup>1153</sup> Ngov affirms that he reported to Sector Office Chief Aun about the security conditions and the living conditions of prisoners at the security centre, and that he worked there until January 1979.<sup>1154</sup> He adds that he only visited Met Sop Security Centre once per week, and “*always returned to work at the sector [41] office*”.<sup>1155</sup> Ngov claims that Yo, who was the chairman of the company of soldiers working and managing the security centre, controlled the place and gave orders.<sup>1156</sup> No other witness mentions Yo. Ngov’s claim not to have been the chief of Met Sop Security Centre is not credible in light of the volume and consistency of countervailing testimony, his own account of his actual duties related to the security centre, and his likely motivation to downplay his responsibility for the crimes carried out there.

391. **Ao An**’s former bodyguard states that Ke (*alias* Pin Pov and Khun Khim<sup>1157</sup>), the last security chief of Wat Batheay,<sup>1158</sup> lived with Ngov at the Met Sop Security Centre and was an executioner and deputy chairman of the security centre.<sup>1159</sup> Pin Pov denies any knowledge of Ngov and Met Sop Security Centre.<sup>1160</sup> A member of **Ao An**’s defence unit identifies a cadre named Ang as

<sup>1152</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A18; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434529, A64.

<sup>1153</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434525, A36.

<sup>1154</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25, 01067815, A33, A35; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434547, A166.

<sup>1155</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A19.

<sup>1156</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A19; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434547, A165; **D219/813.1.12**, DC-Cam Interview of YUK Ngov *alias* CHOM Vong, 22 June 2016, ERN 01335736, *as confirmed by* **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A20, A25.

<sup>1157</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373699, A4-A5.

<sup>1158</sup> **D219/116**, Written Record of Interview of Witness PIN Peou, 4 December 2014, ERN 01057780, A5.

<sup>1159</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374649, A70; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107-01224109, A50-A51, A62.

<sup>1160</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373703-01373704, A49, A52, A55-A57.



Ngov's "*right-hand man*", monitoring the arrival and departure of prisoners at the security centre.<sup>1161</sup>

392. While Ngov was in charge of the security centre, it was guarded by sector-level guards.<sup>1162</sup>

393. The Sector 41 Military was also present and exercised some level of authority at the security centre,<sup>1163</sup> with soldiers seen killing prisoners at the site<sup>1164</sup> and the Chairperson of the Sector 41 Military was overheard discussing plans of fresh executions with Ngov.<sup>1165</sup>

### *Chain of command*

394. In his capacity as Secretary of Sector 41, **Ao An** was directly superior to both the Sector 41 Security Chief and Sector 41 Military Chairperson and had authority over Met Sop Security Centre, the sector's main security centre. Orders to arrest and kill were transmitted from the "*upper echelons*" to Ke Pauk, then to **Ao An**, then to Ngov (sometimes via Aun), and finally to Ke at Met Sop Security Centre.<sup>1166</sup> In one instance, **Ao An** ordered killings of a group of East Zone cadres at Met Sop Security Centre, after receiving such orders from the zone level *via* zone messengers.<sup>1167</sup> Similarly, Aun, who organised the transportation of detainees and decided where they would be sent, did so on the

<sup>1161</sup> **D219/837**, Written Record of Interview of Witness SOSaren, 22 September 16, ERN 01364069, A114-A115; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331735, A165.

<sup>1162</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A86; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A153; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A28.

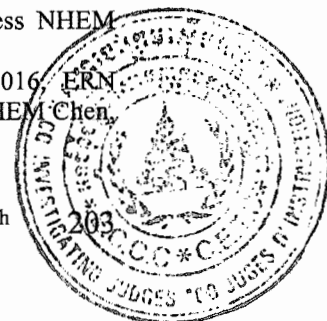
<sup>1163</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224104, A14, 01224112, A96; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A24-A25; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434547, A165; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067811, A19.

<sup>1164</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A5.

<sup>1165</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374666, A259-A261.

<sup>1166</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107-01224108, A51-A52, 01224109, A61; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647-01374649, A46, A48, A56, A71.

<sup>1167</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374667, A271-A272, A276-A277; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087-01224088, A35-A37, A41-A42.



orders of **Ao An**.<sup>1168</sup> According to Ngov, based on his understanding of “*work procedures during the regime*”, only the Sector Secretary and the District Secretary would have had the power to send prisoners to the sector and district security centres.<sup>1169</sup>

395. Ngov provided reports on Met Sop’s operations to the sector on a weekly basis and often went to the Sector 41 Office to meet with **Ao An** or Aun.<sup>1170</sup> Ngov’s weekly reports on the security centre concerned: the security conditions,<sup>1171</sup> the living conditions of staff and prisoners,<sup>1172</sup> the state of health of the prisoners,<sup>1173</sup> the agricultural production,<sup>1174</sup> the number of prisoners to arrive and depart from the security centre, and their area of origin.<sup>1175</sup> Ngov specifies that the reports did not include information on the number of prisoners who had been interrogated.<sup>1176</sup> After receiving reports from Ngov, Aun reported to the Sector Committee.<sup>1177</sup>

396. **Ao An** also received monthly written security reports from Met Sop, which were sealed in an envelope, collected and delivered to **Ao An** by his bodyguard,

<sup>1168</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647-01374649, A46, A48, A56, A71.

<sup>1169</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434558, A233-A234; *see also* **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331736, A173-A175 [The witness believes that it was **Ao An** who ordered Hum, the Chairperson of the Sector 41 Military, to be arrested and detained at Met Sop].

<sup>1170</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A87; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331734, A159-161; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 16, ERN 01364069, A113; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374644, A27; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067815, A33; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434533, A85, 01434551, A188, 01434552, A194; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063622, A84.

<sup>1171</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434533, A85, 01434551, A189.

<sup>1172</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25.

<sup>1173</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434551, A189.

<sup>1174</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434547, A163-A165, 01434551, A190.

<sup>1175</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25, A27; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434533, A85, 01434547, A163, 01434548, A169, 01434551, A188, 01434553, A202.

<sup>1176</sup> **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434552, A193.

<sup>1177</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25.



his messengers or the security personnel from the security centre.<sup>1178</sup> These reports confirmed that **Ao An**'s execution orders had been carried out.<sup>1179</sup> At least once, **Ao An** visited the security centre to confirm that his kill orders were fully implemented.<sup>1180</sup> Aun also occasionally visited Met Sop Security Centre to meet with Ngov.<sup>1181</sup>

### Arrests

397. During the period that the Southwest Zone cadres were in control of Sector 41, people were brought to Met Sop Security Centre in a variety of ways, such as first being summoned to attend a study session<sup>1182</sup> or meeting,<sup>1183</sup> or they were simply arrested at home.<sup>1184</sup> Prisoners were transported to the security centre by oxcart,<sup>1185</sup> jeep,<sup>1186</sup> sector trucks capable of carrying up to 50 people,<sup>1187</sup> zone trucks capable of carrying up to 30 people,<sup>1188</sup> and Aun's vehicle which could

<sup>1178</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A58-A59, 01374650, A75-A76; *see also* **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434551, A188 [*"the soldiers prepared more detailed reports for the sector level"*].

<sup>1179</sup> **D219/855**, Written Record of Interview of Witness Nhem Chen, 27 October 2016, ERN 01374649, A74.

<sup>1180</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224088, A38-A40.

<sup>1181</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331738, A184-A187.

<sup>1182</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A5; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A21-A23, A30; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A57, A59, 01374656, A165.

<sup>1183</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364067, A102, 01364067-01364068, A106-A107; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216230, A45; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A30.

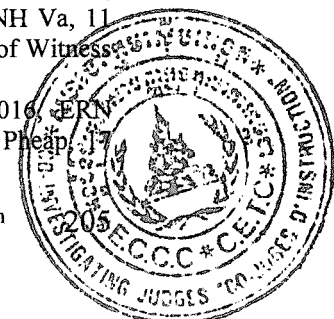
<sup>1184</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A5.

<sup>1185</sup> **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111817-01111818, A13-14, 01111819, A27-A28; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A21.

<sup>1186</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A89; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112025, A9; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216236, A100; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179828, A53.

<sup>1187</sup> **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044625, A9, 01044627, A14; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6, 01088626, A21; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224087, A24-A27.

<sup>1188</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647-01374648, A54-A55; **D219/504**, Written Record of Interview of Witness SAT Pheap.



carry approximately 15 persons.<sup>1189</sup> At least one driver from the transportation unit of the Sector 41 Commerce Office drove trucks of prisoners to the security centre.<sup>1190</sup>

398. Sector military, commune militiamen and district soldiers arrested people and sent them to the security personnel.<sup>1191</sup> Some of those making the arrests wore “black uniform[s] and were armed”.<sup>1192</sup> Sometimes, **Ao An**’s defence unit arrested people from the communes and the districts, and held them at the sector office for a short period before sending them to the security centre.<sup>1193</sup> If the district arrested more than three or four persons, they would send a courier to the sector to request a vehicle to transport all the arrestees.<sup>1194</sup> Arrests could be made at any level: district, commune, and unit.<sup>1195</sup>
399. Some prisoners were detained near **Ao An**’s house at the Sector 41 Office and then transferred to Met Sop Security Centre.<sup>1196</sup> Others were transferred to Met Sop Security Centre from Wat Ta Meak.<sup>1197</sup> One witness states that prisoners were also transported by truck from Wat Au Trakuon to Met Sop Security

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September 2015, ERN 01167901, A92; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224086, A19.

<sup>1189</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900-01167902, A89, A94.

<sup>1190</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A8, 01088626, A19.

<sup>1191</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2015, ERN 01374666, A262; **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A11; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A27, 01067815, A34.

<sup>1192</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A5.

<sup>1193</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331728, A113.

<sup>1194</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364067, A103.

<sup>1195</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364067, A102-A104.

<sup>1196</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179833-01179836, A90-A108; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331727-0133128, A112-A116, 01331730, A127-A130, 01331732, A143-A144; **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309835, A29-A31, 01309836, A38, A39; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42, 01374654-01374655, A138-A140; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A44, A46, A49.

<sup>1197</sup> **D219/541**, Written Record of Interview of Witness KIM Koeun, 5 October 2015, ERN 01174525, A55-A56; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374663, A231, 01374665, A245.



Centre,<sup>1198</sup> although he does not provide more details and the basis for his knowledge appears to be hearsay from villagers at the time.

### *Categories of detainees*

400. The categories of detainees sent to Met Sop Security Centre included Central Zone cadres and their families from various districts including Cheung Prey and Prey Chhor Districts,<sup>1199</sup> East Zone cadres,<sup>1200</sup> and “new people”.<sup>1201</sup> There is evidence that former Lon Nol soldiers were also detained at the security centre,<sup>1202</sup> but it cannot be determined whether this occurred during the period that **Ao An** and the Southwest Zone cadres were in control.

### *Conditions of detention*

401. With the exception of some prisoners who performed labour on the premises, prisoners at Met Sop Security Centre were shackled.<sup>1203</sup> Some prisoners had

<sup>1198</sup> **D1.3.11.32**, OCP Interview of NAI Seu, 11 November 2006, ERN 00222958; *as confirmed by D3/11*, Written Record of Interview of Witness NAI Seu, 20 October 2010, ERN 00622281, A1.

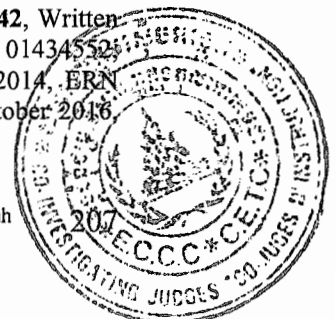
<sup>1199</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179824-01179827, A32-A35, A39-A40, A46; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044605, A2; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088626, A16, 01088626, A21; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112024-01112025, A6; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216227, A14, 01216230, A43, 01216234, A82; ; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A4; **D3/18**, Written Record of Interview of Witness ROTH Peou, 30 November 2010, ERN 00630439, A3-A5; **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309835, A29-A31, 01309836, A38; *On the arrest of drivers Se and Det: D219/315*, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A146-A148, A153; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A11; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A68, 01167897, A75-A76, 01167913, A143.

<sup>1200</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374645-01374648, A42-A48, A61; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A42-A46.

<sup>1201</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179826, A42-A45; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364066, A101.

<sup>1202</sup> **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, ERN 00629468, A3; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623573-00623574, A2.

<sup>1203</sup> **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356236-01356237, A4-A5, A10; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374664, A233; *see also during Sop's tenure: D219/459*, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151205-01151206, A2; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434550, A179, 01434552, A197; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A28; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374664, A233.



scars “as a result of being shackled for a long time”.<sup>1204</sup> Prisoners suffered from lice, and their accommodation was infested with bedbugs.<sup>1205</sup> Ngov states that there was a medic working at the security centre, but he had no medical equipment or medicine.<sup>1206</sup>

402. Prisoners were not given sufficient food and appeared weak and emaciated.<sup>1207</sup> Some prisoners died from starvation.<sup>1208</sup>

403. During Ngov’s tenure, depending on the level of their mistake or their willingness to confess, prisoners were either shackled inside or required to work in the area surrounding the security centre.<sup>1209</sup> Labour included rice farming,<sup>1210</sup> growing vegetables, feedings pigs,<sup>1211</sup> and climbing palm trees to collect palm

<sup>1204</sup> **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A10.

<sup>1205</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331734, A162; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364066, A100.

<sup>1206</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067812, A23.

<sup>1207</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364069-01364070, A121; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331735, A166; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Peou, 4 May 2015, ERN 01111819-01111820, A28; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A10; **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, ERN 00629468, A7; living conditions of prisoners cf. **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434546, A162, , 01434547, A164-A165, 01434552, A197; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A8-A9.

<sup>1208</sup> **D95**, Written Record of Interview of Witness SOEUNG Lim, 17 September 2011, ERN 00746992; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364069-01364070, A121; *contra* **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434551, A189 [“*The security conditions and the prisoners’ conditions; for example, if there were prisoners falling sick or dying. However, there was no case of any prisoners dying [in the prison]*”].

<sup>1209</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374664, A233; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111819-01111820, A28; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN01067813-01067814, A25, A28; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A18-A19; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434552, A196.

<sup>1210</sup> **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746992; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A167; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434547, A164; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25.

<sup>1211</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A19.





juice.<sup>1212</sup> Those who were assigned to perform labour did so under the supervision of armed guards.<sup>1213</sup> Prisoners were also used to bury the corpses of other prisoners.<sup>1214</sup>

### *Interrogation*

404. According to Ngov, prisoners were routinely interrogated and required to provide confessions.<sup>1215</sup> He saw prisoners being taken to the hall outside the gate to be interrogated.<sup>1216</sup> He states that prisoners may have been “*interrogated for the whole morning*”,<sup>1217</sup> but he did not know “*what methods or torture they used because [he] was not present during interrogations*”.<sup>1218</sup> However, this is not credible because, as the security centre chief, he necessarily would have known this information.

405. During Ngov’s tenure, one witness recalls hearing the screams of people coming from the security centre and surmises that “*they were probably interrogating prisoners*”.<sup>1219</sup> The witness also saw handcuffs, shackles, shackle bars, and “*interrogation tools*” when he visited the centre a few days after the fall of DK.<sup>1220</sup> A former sector mechanic also states that Met Sop Security

<sup>1212</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A5.

<sup>1213</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25, 01067814, A28; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A18; **D3/12**, Written Record of Interview of Witness BUN Thim, 20 October 2010, ERN 00623550, A4; *see also* **D95**, Written Record of Interview of Witness SOEUNG Lim, 17 September 2011, ERN 00746992 [saw detainees being “*escorted*” to work].

<sup>1214</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A155, 01331737, A177-A178; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A5.

<sup>1215</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A28.

<sup>1216</sup> **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A12.

<sup>1217</sup> **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A11, A13.

<sup>1218</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A28; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356237, A12; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434550, A181.

<sup>1219</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7.

<sup>1220</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, 00622275, A9.



Centre was “*the place where people were interrogated and tortured*”,<sup>1221</sup> without providing further details or basis of his knowledge.

### *Killings and disappearances*

406. It was generally understood that people taken to Met Sop Security Centre were killed there.<sup>1222</sup> While there is evidence that some prisoners were released from Met Sop prior to the arrival of the Southwest Zone cadres,<sup>1223</sup> there are no known cases of release occurring after their arrival. Ngov confirms that prisoners who were seen being taken out from the security centre were actually killed, although he claims not to have been involved.<sup>1224</sup> **Ao An**'s former bodyguard, who assisted **Ao An** in collecting reports on the killing operation at Met Sop,<sup>1225</sup> specifies that prisoners sent to Met Sop were killed and not transferred elsewhere.<sup>1226</sup>
407. Prisoners were sent to Met Sop during at least two large-scale killing operations. One former Sector 41 logistics worker states that every day for two months after the Southwest Zone cadres arrived, he saw two to ten people (including incumbent Central Zone cadres, new people, and base people) being taken toward Met Sop Security Centre two to four times per day.<sup>1227</sup> If this is

<sup>1221</sup> **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112025, A9.

<sup>1222</sup> **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309836, A39; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179826, A44; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A60, A61; witnesses who heard screaming, saw dead bodies, heard about killings, see also **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A155; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A5; **D3/14**, Written Record of Interview of Witness NAI Kimsan, 21 October 2010, ERN 00629468, A7.

<sup>1223</sup> **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A4; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053866-01053867, A1; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151205-01151207, A2, A5-A6.

<sup>1224</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813-01067814, A27, A32; **D219/851**, Written Record of Interview of Witness CHOM Vong, 21 October 2016, ERN 01356238, A21-A22; *cf.* **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331735, A166 [describing prisoners being taken out from the security centre without specifying what happened to them].

<sup>1225</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A58-A59.

<sup>1226</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648, A57, A60-A61.

<sup>1227</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179826-01179828, A42-A53.



calculated as two prisoners twice per day for 56 days (two months), the total is **224**. In addition, **Ao An's** bodyguard describes another operation during which Chinese "Zil" trucks with a capacity of 30 people transported East Zone prisoners from Prey Toteung to Wat Phnom Pros for execution, and when Wat Phnom Pros was "full" some of the trucks brought prisoners to Met Sop instead.<sup>1228</sup> Since the number of trucks sent specifically to Met Sop cannot be determined based on his account, this is calculated as two trucks with a total of **60** prisoners. These 60 prisoners combined with the 224 calculated above results in a total minimum estimate for this site of **284** victims. Several witnesses describe incidents involving relatively smaller numbers of prisoners being sent to Met Sop<sup>1229</sup> which cannot be distinguished from these accounts so, to avoid double counting, will not be included in the calculation of a minimum estimate.

408. Only one witness, who worked in a nearby field, saw killings at Met Sop Security Centre first-hand. Towards the end of DK, he saw soldiers who worked at the security centre shoot to death an unspecified number of prisoners and carry their bodies to be thrown away in a nearby field.<sup>1230</sup> (**Ao An's** former bodyguard also observed killing, but it is not clear from his evidence whether it occurred at Met Sop or Wat Batheay.<sup>1231</sup>) Dead bodies were often carried from the security centre to be buried in the nearby area.<sup>1232</sup> One witness saw people

<sup>1228</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646-01374649, A42-67; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224086-01224088, A13-A40; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224107, A43-A46.

<sup>1229</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331727-01331728, A112-116, 01331730, A127-130, 01331732, A143-A144; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179833-01179836, A90-A108; **D219/772**, Written Record of Interview of Witness SAT Sim, 31 May 2016, ERN 01309835, A29-A31, 01309836, A38, A39; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167900, A89, 01167901-01167902, A93-A94; **D3/12**, Written Record of Interview of Witness BUN Thim, 20 October 2010, ERN 00623549, A2; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A3; **D219/321**, Written Record of Interview of Witness KHUTH Khy, 13 May 2015, ERN 01112024, A6.

<sup>1230</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A5.

<sup>1231</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224109-01224110, A67-70; cf **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374665, A253 [*"I was confused. He never went to Batheay. He only went to "Kor" or the union place, but he never went to Batheay. At that time, there were a lot of questions, so I might have confused myself."*], 01374666, A254 [*"It took place at Batheay where I saw the prisoners collecting grasses to eat. That happened at Batheay."*].

<sup>1232</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059880, A5; **D95**, Written Record of Interview of Witness SOEUNG Lim, 17 September 2011, ERN 00746991, A5; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331733, A5.



exhuming dead bodies from pits in order to bury new corpses.<sup>1233</sup> He describes the smell of decomposing bodies,<sup>1234</sup> indicating that their deaths were recent.

409. Shortly after the Vietnamese arrived, witnesses visited the site and saw 10 to 20 bodies left on the ground; they believe that the remaining prisoners were killed before the security office was evacuated.<sup>1235</sup> Burial pits were discovered nearby and excavated.<sup>1236</sup>

#### *Visits by Ao An*

410. As previously discussed at paragraphs 286-287, **Ao An** visited Met Sop Security Centre on several occasions, at least once seeking to verify whether his orders to kill had been fully implemented, and on one occasion to convene a meeting about a plan to kill enemies.

411. One of **Ao An**'s drivers states that he never took **Ao An** to the security centre.<sup>1237</sup> This does not necessarily conflict with the evidence of **Ao An**'s bodyguard that **Ao An** did visit the security centre, because the driver and bodyguard worked with **Ao An** during different time periods,<sup>1238</sup> and it is also possible that the driver may not have accompanied **Ao An** during all of his trips. Ngov states that he neither saw nor knew of **Ao An** visiting Met Sop Security

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01331737, A177-A178; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7; **D3/13**, Written Record of Interview of Witness KUNG Ting, 20 October 2010, ERN 00623574, A5.

<sup>1233</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7.

<sup>1234</sup> **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622274, A7.

<sup>1235</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A7; **D3/15**, Written Record of Interview of Witness DUONG Sim, 21 October 2010, ERN 00622275, A9; **D117/67**, Written Record of Interview of Witness KAO Khorn, 3 September 2014, ERN 01044626, A12; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050577, A60; cf. **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067816, A39 (“*I just knew that a week before the arrival of the Vietnamese, there were 20 prisoners, and before that I did not see pits of dead bodies or I did not smell any bad odours there*”).

<sup>1236</sup> **D117/54**, Written Record of Interview of Witness SOEUNG Lim, 29 May 2014, ERN 01059881, A7.

<sup>1237</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059870, A48-A50.

<sup>1238</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059866, A24; see also **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224119, A96 [“*He was promoted to Sector 41 Military Chairman. Sok became Sector Military Commander around November 1977. I was moved to the Sector Military and no longer followed Uncle An. Sok was also in charge of Kor Security Office, and I accompanied him twice to Kor*”].



Centre.<sup>1239</sup> However, Ngov's statements on meetings with **Ao An** are unreliable as he may be attempting to distance himself from the Sector Secretary's involvement in the killing operation at the site in order to minimise his own responsibility. By contrast, **Ao An**'s former bodyguard provides evidence that is detailed and consistent.

#### 6.4.1.4 Tuol Beng and Wat Angkuonh Dei Security Centres

##### *Location and establishment: Wat Angkuonh Dei*

412. Wat Angkuonh Dei was a district-level security centre operating under the Southwest Zone cadres' control.<sup>1240</sup> It had already operated as a security centre prior to the Southwest Zone cadres' arrival.<sup>1241</sup>
413. Wat Angkuonh Dei was a pagoda complex situated in Angkuonh Dei Village, Krala Commune.<sup>1242</sup> During DK, the Kampong Siem District Office was about 100 metres from Wat Angkuonh Dei, on National Road 7.<sup>1243</sup> District-level meetings were sometimes organised on the pagoda grounds, for cadres and

<sup>1239</sup> **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067816, A37.

<sup>1240</sup> **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A3; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034907, A15; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A5, 01031703, A7; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072516, A15; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797022-00797023; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797010; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152372, A13; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A108.

<sup>1241</sup> **D219/463**, Written Record of Interview of Witness PEN Thol, 10 August 2015, ERN 01151235, A5.

<sup>1242</sup> **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987175.

<sup>1243</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275, A13; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A13; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151227, A5; **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966964, A16; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098559, A91; **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987189; cf. **D107/2**, Written Record of Interview of Witness SANN Son, 16 February 2012, ERN 00787231, A4; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056217-01056218, A30.



villagers, during the tenure of the Southwest Zone cadres in 1977.<sup>1244</sup> The office of Kampong Siem District Secretary Prak Yut was located in the Wat Angkuonh Dei area.<sup>1245</sup>

414. Prisoners were detained in a structure described as a “*shack*”<sup>1246</sup> behind the district military office<sup>1247</sup> and “*a long tile-roofed shelter and two queues of leg shackles together with iron bars*”.<sup>1248</sup> These buildings no longer exist.<sup>1249</sup>
415. The chief of Wat Angkuonh Dei and Tuol Beng Security Centres lived “*near*” Wat Angkuonh Dei in a “*leaf-roofed shack*”.<sup>1250</sup>
416. Wat Angkuonh Dei was used by the military to train soldiers during the daytime.<sup>1251</sup> The district hospital was located opposite Wat Angkuonh Dei and part of the pagoda complex was used as a hospital.<sup>1252</sup>

*Location and establishment: Tuol Beng*

417. Tuol Beng was a district-level Security Centre and Execution Site located near Tuol Beng Village<sup>1253</sup> in Krala Commune about 1.5 kilometres west of

<sup>1244</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178456, A72, A75-A77.

<sup>1245</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178459, A128.

<sup>1246</sup> **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044878, A42.

<sup>1247</sup> **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044878, A45.

<sup>1248</sup> **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A5; **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987176.

<sup>1249</sup> **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987182.

<sup>1250</sup> **D219/27**, Written Record of Interview of Witness PRAK Ny, 14 October 2014, ERN 01044884, A7; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A3.

<sup>1251</sup> **D117/33**, Written Record of Interview of Witness POV Sarom, 14 November 2013, ERN 00967005, A10; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098565, A173.

<sup>1252</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A9; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275, A13; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178456, A72; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152372, A13; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034075, A5; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A4, 01031703, A8, A10; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063605, A2, 01063620, A70; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A9, A11.



Angkuonh Dei Village.<sup>1254</sup> The facility was located in the fields east of the entrance of Tuol Beng Village.<sup>1255</sup> It occupied an area on the south side of National Road 7,<sup>1256</sup> near the road.<sup>1257</sup>

418. Tuol Beng was already used as an execution site before the arrival of the Southwest Zone cadres, and the killings increased after their arrival.<sup>1258</sup> The evidence shows that it is likely that Tuol Beng was used as a security centre and execution site until the end of DK. This is based on the evidence that the chief of Tuol Beng remained in charge of the site until just before the arrival of the Vietnamese,<sup>1259</sup> prisoners at the security centre were relocated to Prey Totueng

<sup>1253</sup> **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797022-00797023; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A9, 00966999, A12; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034077-01034078, A8-A14; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A9; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034907, A15; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A5; **D117/47**, Written Record of Interview of Witness AOK Chanthly, 10 May 2014, ERN 01032989-01032990, A8; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A18; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072526-01072528, A13-A22; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079863, A31; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090000, A15; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098558, A79-A84; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A4; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178453, A37, 01178455, A69; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152370, A7, 01152372, A13; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364064, A84, A87; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A105-A108.

<sup>1254</sup> **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987175-00987176, 00987189; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364064, A89.

<sup>1255</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A12.

<sup>1256</sup> **D219/463**, Written Record of Interview of Witness PEN Thol, 10 August 2015, ERN 01151234, A2.

<sup>1257</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364064, A85.

<sup>1258</sup> **D117/47**, Written Record of Interview of Witness AOK Chanthly, 10 May 2014, ERN 01032989-01032990, A8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A4; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151228-01151229, A11-A13; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151227, A5; cf. **D219/463**, Written Record of Interview of Witness PEN Thol, 10 August 2015, ERN 01151234, A2.

<sup>1259</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A56.



upon the arrival of the Vietnamese,<sup>1260</sup> and the pits full of bodies discovered by witnesses emitted strong odours, indicating recent killings.<sup>1261</sup>

419. There were several structures at Tuol Beng Security Centre:<sup>1262</sup> two wooden buildings measuring 7 x 20 metres<sup>1263</sup> used to detain prisoners before they were killed;<sup>1264</sup> one building was used as sleeping quarters for soldiers;<sup>1265</sup> and one building was a kitchen.<sup>1266</sup> These buildings no longer exist.<sup>1267</sup>

420. While access to the Tuol Beng area was restricted during DK,<sup>1268</sup> some people were allowed nearby.<sup>1269</sup> The detention buildings were guarded by approximately five guards.<sup>1270</sup>

*Link between Tuol Beng and Wat Angkuonh Dei*

421. During the Southwest Zone cadres' tenure, both Wat Angkuonh Dei and Tuol Beng were used as district-level detention centres, and Tuol Beng was also used as an execution site.

<sup>1260</sup> **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A9.

<sup>1261</sup> See section below on *Killings*, para 452.

<sup>1262</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A3; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A18; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A12.

<sup>1263</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A18.

<sup>1264</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A17, A18; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A4.

<sup>1265</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A3.

<sup>1266</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A3.

<sup>1267</sup> **D117/48**, Report of the Execution of Rogatory Letter, dated 15 May 2014: Site Identification Report, ERN 00987176.

<sup>1268</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076946, A21; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A13; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090001, A17; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152372, A14.

<sup>1269</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A12; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A17; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152372, A14.

<sup>1270</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A18.





422. Several witnesses state that during the Southwest Zone cadres' tenure, Wat Angkuonh Dei was used as a security centre and Tuol Beng as an execution site.<sup>1271</sup> Nhim Kol refers to Tuol Beng as an “*old District Security Centre*”,<sup>1272</sup> functioning before the arrival of Prak Yut.<sup>1273</sup> He specifies that the security office was relocated from Tuol Beng to Wat Angkuonh Dei approximately two to three months after his arrival in Krala Commune,<sup>1274</sup> which was in mid-April 1977.<sup>1275</sup> He recounts events of killings at Tuol Beng Execution Site during the Southwest Zone cadres' tenure.<sup>1276</sup> There is sufficient witness evidence as to conditions of detention at Tuol Beng Security Centre to conclude that it was not only used as an execution site but also as a detention centre throughout the Southwest Zone cadres' period of administration.<sup>1277</sup>

<sup>1271</sup> **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797020-00797023; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034907, A15; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A5.

<sup>1272</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A9, 00966999, A12.

<sup>1273</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076945, A19.

<sup>1274</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076945, A18.

<sup>1275</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076944, A15.

<sup>1276</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33.

<sup>1277</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900, A12; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A19; **D219/191**, Written Record of Interview of Witness KEO Vooun, 19 February 2015, ERN 01079863-01079864, A31, A35; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A4-A5; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178455, A70; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152373, A17-A18; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274-01059275, A11-A12, 01059300, A108, A110; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A41; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063607, A11, 01063613, A37, 01063621, A77. On the other hand, Prak Yut recalls only one district-level security centre in Kampong Siem District, “*at Tuol Beng*”, “*in front of*” Wat Angkuonh Dei. She places it approximately 3 km east of the Kampong Siem District Office. However, she appears confused about the direction and may be seeking to minimise her knowledge of these security centres. Similarly, Prak Yut’s messenger You Vann states the “*District Security Office [was] located near the District Office*”, and later specifies she refers to Tuol Beng Security Centre: **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A40; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A54, 01056231, A62; **D179/1.2.5**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 26 January 2012, ERN 00774568, l. 9-17, 22-23; **D179/1.2.6**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 30 January 2012, ERN 00775491, l. 25; **D61/730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364083; cf. **D179/1.2.4**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 25 January 2012, ERN 00774126, l. 1.



*Personnel*

423. After the Southwest Zone cadres took administrative control of Sector 41, **Ao An** appointed Prak Yut<sup>1278</sup> as the new Secretary of Kampong Siem District.<sup>1279</sup> The other members of the Kampong Siem District Committee consisted of Sy as Deputy Secretary,<sup>1280</sup> Treang as second member,<sup>1281</sup> Phan,<sup>1282</sup> and Nan as

2-6.; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063605, A1-A2..

<sup>1278</sup> **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364078-00364081; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384428; **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076; **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044875, A26.

<sup>1279</sup> **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364081; **D179/1.2.4**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 25 January 2012, ERN 00774123, l. 17-21; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384428; **D6.1.707**, Written Record of Interview of Witness SUON Kanil, 19 August 2009, ERN 00390076; **D107/3**, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202; **D107/4**, Written Record of Interview of Witness VORNG Sokun, 17 February 2012, ERN 00787236, A2; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A20; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040461, A12; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787213; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 – 14 January 2016 [YOU Vann], ERN 01438493, l. 10-11; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A4; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034075, A5; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A5; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034906, A5; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A4; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032989, A5, 01032990, A10; **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A19; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032996, A14; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072515, A8-A9; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067910, A22; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046939, A14; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A11; **D219/323**, Written Record of Interview of MUT Sophon, 15 May 2015, ERN 01113698, A18; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151228, A11; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152376, A30; *cf.* **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346152; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067814, A31..

<sup>1280</sup> **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977333, A9; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A31, 01056219, A39; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A9, *cf.* 01056238, A4; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441015, l. 20-21; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A8; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966988, A9, 00966990, A15; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059282, A43; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A2, A4; **D219/461**, Written Record of Interview of Witness PEN Thol, 8 August 2015, ERN 01151228, A11; *cf.* **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346152; **D107/3**, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034075, A5.



member,<sup>1283</sup> who also held the concurrent role of District Office Chairman.<sup>1284</sup> In late 1978,<sup>1285</sup> Prak Yut was removed as Secretary and replaced either by her direct subordinate Nan,<sup>1286</sup> Sy,<sup>1287</sup> or Ta Chea.<sup>1288</sup>

424. The District Military Chairman was Phon,<sup>1289</sup> who conducted arrests in Kampong Siem District with the district military.<sup>1290</sup> Phon reported to Prak

01034075, A5 (“*Ta Nân*”); **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032989, A5 (“*Ta Nân*”); **D117/53**, Written Record of Interview of Civil Party SUN Chean, 28 May 2014, ERN 01072515, A9 (“*Ta Chea*”).

<sup>1281</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A31.

<sup>1282</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A31.

<sup>1283</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A31; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977333, A9.

<sup>1284</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056216, A10, 01056219, A40; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 – 19 January 2016 [PRAK Yut], ERN 01441016, l. 16-18; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A8; **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966964, A14; *see also*: **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A15 (“*district clerk*”); *cf.* **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A42 (“*Prak Yut’s husband*”).

<sup>1285</sup> **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364082; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A38; *cf.* **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966966, A27, A29 (“*August 1978*”); **D117/33**, Written Record of Interview of Witness POV Sarom, 14 November 2013, ERN 00967005, A8 (“*May or June 1978*”); **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098565, A166: (“*late July or early August 1978*”).

<sup>1286</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00967000, A17.

<sup>1287</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059866, A28; **D219/813.1.1**, DC-CAM Interview of IM Pon, 25 May 2016, ERN 01366569; **D219/442**, Written Record of Interview of Witness CHOM Vong, 3 August 2015, ERN 01434532, A77.

<sup>1288</sup> **D219/323**, Written Record of Interview of MUT Sophon, 15 May 2015, ERN 01113698, A23.

<sup>1289</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056215, A10; **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966965, A19, 00966966, A30; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977334, A19; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A15; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438493, l. 12-16; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A3, A6, 00967611, A8; **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877, A36; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040462, A14; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00967000, A15; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A3, 010636018, A58, 01063620, A71; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A56 [*cf.* 01059275, A15 (“*Phèn*”)]; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A25; **D117/33**, Written Record of Interview of Witness POV Sarom, 14 November 2013, ERN 00967005, A9; *cf.* **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034075, A5 (“*in charge of security*”); **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A4, 01031703, A9 (“*in charge of security*”).

<sup>1290</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040462, A14; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00967000, A15; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A9, 01059275, A18, 01059297, A98; **D117/31**, Written Record of Interview of



Yut,<sup>1291</sup> and to the District Office.<sup>1292</sup> Prak Yut also names Yeng as a member of the district military,<sup>1293</sup> who replaced Phon as chairman when Phon left with her to Battambang in late 1978.<sup>1294</sup> The district military office was located in a house near Wat Angkuonh Dei.<sup>1295</sup>

425. Prak Ny (no relation to Prak Yut) was Phon's deputy,<sup>1296</sup> and chief of Wat Angkuonh Dei and Tuol Beng Security Centres,<sup>1297</sup> and was responsible for district security.<sup>1298</sup> Prak Ny states he only stayed at Wat Angkuonh Dei for one

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Witness YOU Vann, 11 November 2013, ERN 00966992, A32; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032977, A23.

<sup>1291</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98.

<sup>1292</sup> **D219/27**, Written Record of Interview of Witness PRAK Ny, 14 October 2014, ERN 01044891, A48, A50.

<sup>1293</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063618, A58; cf. **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A56.

<sup>1294</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063618, A58; **D6.1.730**, Written Record of Interview of Witness PRAK Yut, 21 July 2009, ERN 00364082; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056218, A38; cf. **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966966, A27, A29 ("*August 1978*"); **D117/33**, Written Record of Interview of Witness POV Sarom, 14 November 2013, ERN 00967005, A8 ("*May or June 1978*"); **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098565, A166 ("*late July or early August 1978*").

<sup>1295</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438494, l. 15-17.

<sup>1296</sup> **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A3 cf. **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877, A38; **D219/27**, Written Record of Interview of Witness PRAK Ny, 14 October 2014, ERN 01044884, A9, 01044885, A11; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A5, 01063620, A69, A71; cf. **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 0143895, l. 11-12 ("*he was under the supervision of Phon and Phaen*"); **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A56 (*Phen's deputy*); 01059286, A56, cf. 01059275, A15, 01059286, A56, 01059297, A98].

<sup>1297</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A10; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A30; **D117/33**, Written Record of Interview of Witness POV Sarom, 14 November 2013, ERN 00967005, A13; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098554, A45; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275, A16, 01059286, A56, 01059299, A105; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063606, A5, 01063620, A71; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966991, A20; cf. **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A40 ("*Nân*"); **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034908, A22 ("*Chea*"); **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A25 ("*Siem*"); **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A9 ("*Phon*").

<sup>1298</sup> **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787213; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076954, A45; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098566, A178; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 0143895, l. 1, l. 11-12; cf. **D117/42**, Written Record of Interview of Civil Party Applicant NHIM Kol, 14 November 2013, ERN 00967005, A13.



and a half to four months before returning to the Chub Rubber Plantation,<sup>1299</sup> however You Vann states that he was the Tuol Beng Security Centre Chief until the arrival of the Vietnamese.<sup>1300</sup>

426. The following persons are identified by witnesses as having carried out arrests of people who were brought to Tuol Beng and Wat Angkuonh Dei Security Centres: Prak Ny;<sup>1301</sup> Phon;<sup>1302</sup> Ta Nan<sup>1303</sup> and his messengers;<sup>1304</sup> Vihear Thom Commune Secretary Ta Chea<sup>1305</sup> and Southwest Zone cadres Rim, Sok, and Khom;<sup>1306</sup> Vihear Thom Village Chief<sup>1307</sup> Ta Loeung<sup>1308</sup> and his messenger,<sup>1309</sup> or

Applicant KHOEM Neary, 6 May 2014, ERN 01034075, A5 (places Phon “*in charge of security*”); **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031702, A4, 01031703, A9 (places Phon “*in charge of security*”); **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A39, A41 [*cf.* 01056215, A10]; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A44 (places Si in charge of security).

<sup>1299</sup> **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967610, A3; **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044878, A46.

<sup>1300</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A56.

<sup>1301</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A14.

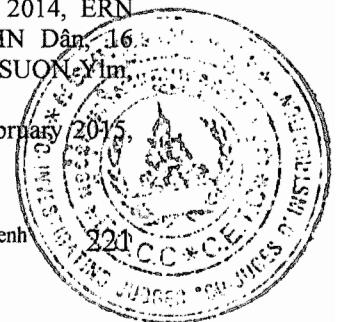
<sup>1302</sup> **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967611, A8; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A9.

<sup>1303</sup> **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797010; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178453, A33; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056216, A10, 01056219, A40; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441016, I. 16-18; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787214; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966998, A8; **D117/24**, Written Record of Interview of Witness PEOU Sarom, 7 August 2013, ERN 00966964, A14; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A15; *cf.* **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059869, A42 (“*Prak Yut’s husband*”).

<sup>1304</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178453, A33.

<sup>1305</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A14; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797010; *Ta Chea was Vihear Thom Commune Secretary, see D107/3*, Written Record of Interview of Witness KAK Sroeu, 16 February 2012, ERN 00787202; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A22; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787213; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977334, A14; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966989, A15; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067907, A8; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044584, A11; **D219/17**, Written Record of Interview of Civil Party Applicant PIN Dân, 16 September 2014, ERN 01047085, A9; **D219/83**, Written record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054029-01054030, A2.

<sup>1306</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A14.



Krala Commune “*security guard*”<sup>1310</sup> Keut Sun;<sup>1311</sup> Kdei Boeng Village (Vihear Thom Commune) cadres Khai<sup>1312</sup> and Soeun;<sup>1313</sup> Krala Commune Secretary Pov Sarom *alias* Rom;<sup>1314</sup> Long Kimchhan,<sup>1315</sup> and Prak Yut’s messenger Phâl.<sup>1316</sup> Nhim Kol also personally participated in arrests.<sup>1317</sup> Phon’s “*special squad*”<sup>1318</sup> and “*security guards from Tuol Beng Security Office*” also carried out arrests.<sup>1319</sup>

427. Phon,<sup>1320</sup> Prak Ny,<sup>1321</sup> and Phên<sup>1322</sup> carried out interrogations and torture at Wat Angkuonh Dei Security Centre. You Vann adds that Phon had authorisation

<sup>1307</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072525, A12.

<sup>1308</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A9; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797010; **D219/136**, written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072525-01072526, A12-A13.

<sup>1309</sup> **D219/136**, written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072525, A12.

<sup>1310</sup> **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A9.

<sup>1311</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A9; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A9; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072526, A13.

<sup>1312</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072519, A27.

<sup>1313</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072519, A27.

<sup>1314</sup> **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797010; *Pov Sarom alias Rom was Krala Commune Secretary, see e.g. D107/7*, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787213; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A15; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977334, A19; **D117/27**, Written Record of Interview of Witness DEU Raun, 26 September 2013, ERN.

<sup>1315</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A9.

<sup>1316</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A8.

<sup>1317</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A31.

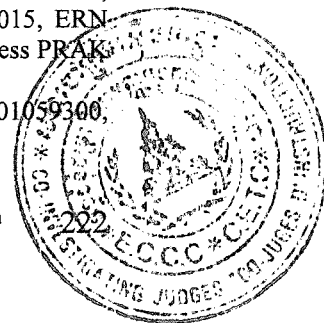
<sup>1318</sup> **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877, A41.

<sup>1319</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; *see also: D117/45*, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A9.

<sup>1320</sup> **D219/171**, Written Record of Interview of Civil Party NHIM Kol, 11 February 2015, ERN 01076947, A24-A26, 01076948, A29; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967612, A16.

<sup>1321</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059300, A108; **D219/171**, Written Record of Interview of Civil Party NHIM Kol, 11 February 2015, ERN 01076947, A24-A26, 01076948, A29; *contra. D117/34*, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967612, A16.

<sup>1322</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059300, A108.



from **Ao An** to “beat people during questioning” without seeking permission each time.<sup>1323</sup>

428. The identities of the persons carrying out the killings at Tuol Beng Execution Site are unknown. However, Sector soldiers killed some people at Tuol Beng Security Centre.<sup>1324</sup>

#### *Chain of command*

429. As Secretary of Sector 41, **Ao An** had authority over Wat Angkuonh Dei and Tuol Beng, two district-level sites situated in his sector. Both sites were part of the network of security centres involved in the wider purge of the Central Zone, and both sites operated along the same rigid chain of command and reporting.<sup>1325</sup> Specifically, **Ao An** ordered Prak Yut to identify and prepare reports about enemies in her district in preparation for their arrest.<sup>1326</sup> These reports were sent to **Ao An**, who instructed Prak Yut to arrest and execute particular individuals.<sup>1327</sup> Depending on their biographies, some prisoners were sent to the Sector Security Centre, while others were detained or executed at

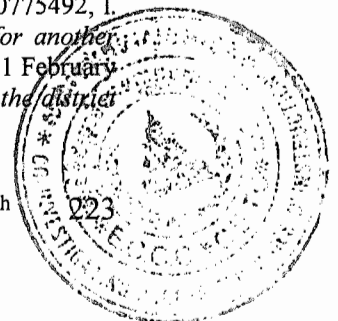
<sup>1323</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059300, A108.

<sup>1324</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A105.

<sup>1325</sup> See 6.3.4.2 The re-education of bad elements and killing of ‘enemies’, para. 279.

<sup>1326</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A44-A45; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5, A7, 01056240, A14; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063610, A19-A22, 01063611, A26, A28, 01063623, A85; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441041-01441043; see also **D3/4**, Written Record of Interview of Witness CHIN Sinal, 17 August 2010, ERN 00607236, A13.

<sup>1327</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50-A55; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7-A8; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5, A7, 01056240, A12; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A29, 01063613, A34-A35, 01063620, A66, A68, 01063623-01063624, A90, A94; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A107; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438507-01438508; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [You Vann], 18 January 2016, ERN 01431619, 01431628, 01431646; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441018, 01441023, 01441027, 01441041-01441046; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 20 January 2016, ERN 01438619, 1. 7-11; see also **D219/284**, Written Record of Interview Witness POV Sarom, 9 April 2015, ERN 01098558, A76-A78; cf. **D179/1.2.6**, Transcript of hearing on the substance in Case 002 [PRAK Yut], 30 January 2012, ERN 00775492, 1. 13-20 (“If the person cannot be educated, then the person would be sent to the sector for another education.”); **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A12 (“As for committees and former officials or **LON Nol** soldiers, the district sent them to the Sector, but for ordinary people, the district made their own decisions.”).



Tuol Beng or Kok Pring.<sup>1328</sup> Ao An was kept informed about the progress of arrests and executions via Prak Yut's regular reports.<sup>1329</sup>

430. At the district level, Prak Yut would transmit and implement arrest orders in a variety of ways: she would issue arrest orders directly to Prak Ny,<sup>1330</sup> and the "Tuol Beng Security Office sent forces to arrest people".<sup>1331</sup> Arrest orders were also conveyed to Krala Commune Secretary Pov Sarom, after which people were sent to Tuol Beng,<sup>1332</sup> and on at least one occasion Pov Sarom ordered Prak Ny to take arrestees to Wat Angkuonh Dei.<sup>1333</sup> Arrest orders were also issued to the district office chairman, who would relay them to Phon, who in turn would

<sup>1328</sup> D117/71, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50-A55; D117/72, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7-A8; D117/73, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5, A7, 01056240, A12; D219/120, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A29, 01063613, A34-A35, 01063620, A66, A68, 01063623-01063624, A90, A94; D179/1.2.6, Transcript of hearing on the substance in Case 002, [PRAK Yut], 30 January 2012, ERN 00775492, l. 13-20; D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A107; D219/702.1.87, Transcript of hearing on the substance in Case 002/02-14 January 2016 [YOU Vann], ERN 01438507-01438508, 01438511; D219/702.1.94, Transcript of hearing on the substance in Case 002/02 [You Vann], 18 January 2016, ERN 01431619, 01431628, 01431646; D219/702.1.95, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441018, 01441027, 01441041-01441046; D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A12; D219/792.1.2, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 20 January 2016, ERN 01438619, l. 7-11.

<sup>1329</sup> D219/120, Written Record of Interview Witness of PRAK Yut, 30 September 2014, ERN 01063608-01063609, A14, 01063611-01063612, A26-A28; D219/792.1.2, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 20 January 2016, ERN 01438619, l. 7-11; *see also* D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076940, A2 (discussing reports on killings being sent from the commune to the district; *cf* D6.1.730, Written Record of Interview of PRAK Yut, 21 July 2009, ERN 00364084 (*I received an order to help re-educate them, but I did not know where they were arrested and sent to.*), 00364085 (*There was no any discriminating policy; they just told us to re-educate those people and officials.*)). D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059277, A23, 01059279, A29, 01059299, A106; D219/702.1.87, Transcript of hearing on the substance in Case 002/02-14 January 2016 [YOU Vann], ERN 01438497-01438498; *cf* 01438499. D219/702.1.95, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441027-01441028; *Sector secretaries had the authority to order the arrest and execution of particular individuals and in some cases order their release within their respective sectors, see* D6.1.653, Written Record of Interview of Witness PECH Chim, 28 August 2009, ERN 00381025.

<sup>1330</sup> D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A30.

<sup>1331</sup> D219/120, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063607, A9-10; *cf* D179/1.2.6, Transcript of hearing on the substance in Case 002, [PRAK Yut], 30 January 2012, ERN 00775492, l. 13-18; D179/1.2.5, Transcript of hearing on the substance in Case 002-26 January 2012, ERN 00774568, l. 22-25 (*it did not concern the sector*).

<sup>1332</sup> D117/44, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034906-01034907, A9-A13, A16.

<sup>1333</sup> D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948-01076949, A31.





order his “*special squad*” to make arrests.<sup>1334</sup> Light offenders in mobile units were also brought to Prak Yut directly by village and commune chiefs, and she would send the prisoners to Tuol Beng Security Centre.<sup>1335</sup>

431. Information on arrests and killings that had been carried out would be reported up the chain of command. Phon made “*verbal reports during monthly meetings at the district office*” on his work.<sup>1336</sup> The district military, including Prak Ny, also reported to Ao An “*verbally or in writing through the Sector Military*” on “*the names [and sometimes the numbers, detailed ethnicity or composition] of those killed*”.<sup>1337</sup>

#### Arrests

432. People were arrested by “*the village*” militiamen, who sent them to “*the commune*”,<sup>1338</sup> which further transferred them to Wat Angkuonh Dei Security Centre.<sup>1339</sup>

433. You Vann specifies that “*the exact number of people written on the list*” were arrested.<sup>1340</sup> Every day, district military arrested three to 20 people, sometimes entire families in villages throughout the district, and took them to Tuol Beng and Wat Angkuonh Dei Security Centres.<sup>1341</sup> Some destined for Tuol Beng Execution Site were first “*sent to the [Krala] commune office*”.<sup>1342</sup>

<sup>1334</sup> **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877-01044878, A41; **D219/27**, Written Record of Interview of Witness PRAK Ny, 14 October 2014, ERN 01044890, A44.

<sup>1335</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063607, A9, A10.

<sup>1336</sup> **D219/27**, Written Record of Interview of Witness PRAK Ny, 14 October 2014, ERN 01044889, A35-A36, 01044891, A48-A50.

<sup>1337</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A106.

<sup>1338</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A30-A31.

<sup>1339</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 0096699, A11; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034077, A10, 01034078, A12; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A18-A22; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948-01076949, A31.

<sup>1340</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059299, A98.

<sup>1341</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A13, 01076949, A32; **D219/138**, Written Record of Interview of Witness YOU Vann,



434. Arrests generally occurred at night, and occasionally during the day.<sup>1343</sup> Arrestees had their hands tied behind their backs, and were walked towards Tuol Beng Security Centre and Execution Site,<sup>1344</sup> or taken by oxcart,<sup>1345</sup> and “covered [...] with a sack”.<sup>1346</sup>

### *Categories of detainees*

435. There were two types of detainees at Tuol Beng Security Centre: minor offenders and serious offenders.<sup>1347</sup> Wat Angkuonh Dei held only serious offenders.<sup>1348</sup> Minor crime offenders were those who “had stolen small things”.<sup>1349</sup> Serious crime offenders were sent to Wat Angkuonh Dei or Tuol Beng Security Centres<sup>1350</sup> for “education”.<sup>1351</sup> They included “those who

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8 January 2015, ERN 01059297, A98; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A8-A9.

<sup>1342</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A8-A12.

<sup>1343</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A8-A9; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034907, A12; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152370, A4, 01152371-01152372, A12.

<sup>1344</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D117/44**, Written Record of Interview of Civil Party Applicant NOV Hoeun, 8 May 2014, ERN 01034907, A13, 01034909, A26; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152371-01152372, A12-A13; *see also* **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178453, A33.

<sup>1345</sup> **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152370, A4, A7; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A8.

<sup>1346</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A8.

<sup>1347</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063624, A92; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A11-A12.

<sup>1348</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A31.

<sup>1349</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A10.

<sup>1350</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A11-A12; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178454, A44-A45; **D219/119.1.2**, Written Record of Interview of Civil Party PHLONG Han, 23 March 2012, ERN 00797010.

<sup>1351</sup> **D179/1.2.5**, Transcript of hearing on the substance in Case 002 – 26 January 2012, ERN 00774568, l. 22-24; **D179/1.2.6**, Transcript of hearing on the substance in Case 002 – 30 January 2012 [PRAK Yut], ERN 00775492, l. 13-16; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A40-A41.



*committed serious crimes*”, such as stealing food,<sup>1352</sup> and people accused of committing *“moral misconduct and mistakes”*.<sup>1353</sup>

436. Various groups of people were sent to Wat Angkuonh Dei and Tuol Beng Security Centre and Execution Site: former Central Zone cadres,<sup>1354</sup> former Lon Nol soldiers,<sup>1355</sup> *“new people”*,<sup>1356</sup> and Cham.
437. Several civil party applicants describe arrests of Cham people taken to or in the direction of Tuol Beng Security Centre and Execution Site during the Southwest Zone cadres’ tenure.<sup>1357</sup> A Tuol Beng villager saw about 30 Cham being walked from the Kampong Siem District Office towards Tuol Beng,<sup>1358</sup> during which they were sometimes *“beaten with whips from behind”*.<sup>1359</sup> The witness states

<sup>1352</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A10.

<sup>1353</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178456, A71; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A31; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063607, A8, A11.

<sup>1354</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A14, 01076946, A20; **D191.1.112**, Written Record of Interview of Civil Party NAT Hoeun, 23 March 2012, ERN 00797020-00797021; **D219/119.1.2**, Written Record of Interview of Civil Party PHLONG Han, 23 March 2012, ERN 00797009-00797010; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152371-01152372, A12-A13; *cf.* **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063617, A56, A57.

<sup>1355</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A11; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076946, A20, 01076949, A33-A34; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076, A9.

<sup>1356</sup> **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967611, A8; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072526-01072527, A16, 01072528, A21-A22; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152370-01152371, A5-A11; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33-A34.

<sup>1357</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A18-A22; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A11; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072526-01072528, A16-A17, A21-A22; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A13-A14; *see also* **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22, A24.

<sup>1358</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8.

<sup>1359</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8.



that “*no ethnic Cham remained*”,<sup>1360</sup> but does not specify how many there were. Some Cham arrestees were first brought to the Krala Commune Office where they spent two to three hours before being sent to Tuol Beng Security Centre.<sup>1361</sup>

438. Approximately one year before the Vietnamese arrived, a witness saw the arrest of 20 Cham, including “*both children and their parents*”, who were being walked towards Tuol Beng and were not seen again.<sup>1362</sup> He knew that they were Cham because they spoke the Cham language, while two other witnesses do not provide basis of knowledge as to their backgrounds.<sup>1363</sup>
439. At an unspecified date during the Southwest Zone cadres’ tenure, a mobile unit worker from Thmei Village, Krala Commune saw “*whole families*” of Cham, “*old and young*” being arrested near the district tailoring unit and walked in queues toward Tuol Beng.<sup>1364</sup> The Cham people had holes punched through their palms and “*strings*” linking them to each other through these holes.<sup>1365</sup>

#### *Conditions of detention*

440. One to 10 or more prisoners were detained at Wat Angkuonh Dei at a time.<sup>1366</sup> Prisoners were shackled<sup>1367</sup> by the legs in two rows.<sup>1368</sup> They were given little or

<sup>1360</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8.

<sup>1361</sup> **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A18-A22.

<sup>1362</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A17, 01072528, A21-A22.

<sup>1363</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A22.

<sup>1364</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A13-A14.

<sup>1365</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A13.

<sup>1366</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A24; **D117/34**, Written Record of Interview of Witness PRAK Ny, 14 November 2013, ERN 00967611, A9; cf. **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877, A41.

<sup>1367</sup> **D219/26**, Written Record of Interview of Witness PRAK Ny, 13 October 2014, ERN 01044877, A41; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A25-A26; **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A7.

<sup>1368</sup> **D117/45**, Written Record of Interview of Witness THOU Sokheng, 9 May 2014, ERN 01031703, A7.



no food.<sup>1369</sup> Some prisoners were forced to work.<sup>1370</sup> One prisoner was suffocated and kicked by Phon.<sup>1371</sup>

441. At Tuol Beng Security Centre, prisoners were shackled<sup>1372</sup> “*facing one another in two queues*”<sup>1373</sup> and “*had their legs tied to a wooden beam*”.<sup>1374</sup> There were 20 to 200 prisoners in buildings, both male and female.<sup>1375</sup> Prisoners were extremely hungry and emaciated.<sup>1376</sup> Hungry prisoners cried out for help and one witness heard from Prak Ny that prisoners were beaten with bamboo clubs.<sup>1377</sup>

### Transfers

442. Generally, serious offenders or “*important people*” were transferred to the “*sector level*”.<sup>1378</sup> The others were kept at Tuol Beng Security Centre,<sup>1379</sup> or sent to Kok Pring Execution Site.

<sup>1369</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076948, A31.

<sup>1370</sup> **D219/119.1.2**, Written Record of Interview of Civil Party PHLONG Han, 23 March 2012, ERN 00797010; **D191.1.112**, Written Record of Interview of Civil Party NAT Hoeun, 23 March 2012, ERN 00797020; *cf* **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A25.

<sup>1371</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A26.

<sup>1372</sup> **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079863-01079864, A31; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A4.

<sup>1373</sup> **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079863-01079864, A31.

<sup>1374</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A19.

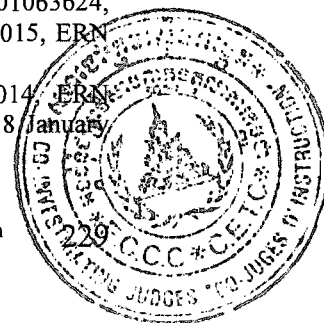
<sup>1375</sup> **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079858, A3, 01079863-01079864, A31; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178455, A70; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A4-A5; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A19.

<sup>1376</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527, A19; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079863-01079864, A31.

<sup>1377</sup> **D219/136**, written Record of Interview of Civil Party THAN Yang, 22 December 2014, ERN 01072527, A19; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059300, A108.

<sup>1378</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A7; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063624, A92; *see also* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059298-01059299, A104.

<sup>1379</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063620, A66; *see also* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059298-01059299, A104.



443. Transfers of prisoners from Tuol Beng Security Centre to the “*sector level*” were made by sector security guards and organised by the sector.<sup>1380</sup> Transferred prisoners only stayed at Tuol Beng Security Centre for one night.<sup>1381</sup>
444. Cadres and former Lon Nol soldiers were sent from the “*District Office at Angkuonh Dei Village*” to the sector security centre at Wat Ta Meak.<sup>1382</sup> Prak Ny told one witness that some of the arrestees were transferred to the “*Sector Military Office*”,<sup>1383</sup> which she locates between Phnom Pros Phnom Srey and Kampong Cham Town.<sup>1384</sup> Prak Yut states that the people on the list “*were arrested from the base to be sent to the district security, and [she] sent them to the sector security*”,<sup>1385</sup> that is, to “*Grandfather An*”.<sup>1386</sup> She adds that people who could not be educated by the district would then be sent to the sector level, “*for another education*”.<sup>1387</sup>
445. Some people sent to Wat Angkuonh Dei were later brought to Kok Pring Execution Site.<sup>1388</sup> Some prisoners from Tuol Beng Security Centre were either killed at Tuol Beng Execution Site or sent to “*Phnum Pros Phnum Srey Mountain [...] office*”.<sup>1389</sup>

<sup>1380</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063613, A34, 01063623-01063624, A90 (cf. 01063620, A66); **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A53-A54; cf. **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076943, A14 (“*Range Rover*” used by the district).

<sup>1381</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063613, A34-A35.

<sup>1382</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076942-01076945, A12-A16, 01076949-01076950, A33; **D107/7**, Written Record of Interview of Witness NHIM Kol, 19 February 2012, ERN 00787216; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A11.

<sup>1383</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059297, A98.

<sup>1384</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059296, A94.

<sup>1385</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A53.

<sup>1386</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A54.

<sup>1387</sup> **D179/1.2.6**, Transcript of hearing on the substance in Case 002 – 30 January 2012 [PRAK Yut], ERN 00775492, I. 18-20.

<sup>1388</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18.

<sup>1389</sup> **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152372, A16, 01152374, A24.



446. One witness recounts that, as the Vietnamese troops arrived, the remaining prisoners of Tuol Beng Security Centre were transported to a prison in Prey Totueng, and killed there with a hand grenade.<sup>1390</sup>

### *Killings*

447. No witness saw killings at Wat Angkuonh Dei or Tuol Beng first-hand.

448. There is uncorroborated hearsay evidence of the killing of a Wat Angkuonh Dei prisoner.<sup>1391</sup>

449. Some prisoners were taken from Wat Angkuonh Dei Security Centre to be executed at Tuol Beng Execution Site.<sup>1392</sup> One cadre describes two families, one of a former teacher and the other of a former Lon Nol soldier, who were taken from Wat Angkuonh Dei to Tuol Beng Execution Site to be killed.<sup>1393</sup>

450. Serious offenders who were arrested and taken to Tuol Beng Security Centre would disappear.<sup>1394</sup> Civil party applicants heard about killing at Tuol Beng from, respectively, a cadre and a former detainee.<sup>1395</sup>

451. An unknown proportion of the people killed at Tuol Beng Execution Site were Cham people from Kampong Siem District,<sup>1396</sup> most likely from among the Cham families who disappeared from various villages in Krala Commune.<sup>1397</sup>

<sup>1390</sup> **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A9.

<sup>1391</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076947, A26.

<sup>1392</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33; **D191.1.112**, Written Record of Interview of Civil Party NAT Hoeun, 23 March 2012, ERN 00797020-00797022; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797009-007970102.

<sup>1393</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33.

<sup>1394</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059274, A10-A12.

<sup>1395</sup> **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034076-01034077, A8-A10; **D191.1.112**, Written Record of Interview of Civil Party NAT Hoeun, 23 March 2012, ERN 00797022-00797023; *see also* **D117/38**, Written Record of Interview of Civil Party Applicant KRUOCH Kim, 24 April 2014, ERN 01056738, A17 (witness heard from an unnamed source that “*many people were killed and dropped into a well in that area*”).

<sup>1396</sup> **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A11-A12; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076945, A19, 01076946-01076947, A20-A23, 01076949, A33.



452. A conservative minimum number of victims can be established based on the evidence of mass graves created during the period of control by the Southwest Zone cadres. One civil party applicant states that, after the arrival of the Southwest Zone cadres, she saw a well and two pits full of swollen corpses, which gave off a “*stench*” behind Tuol Beng Village.<sup>1398</sup> She estimates the number of corpses to be “*hundreds*”,<sup>1399</sup> although she does not specify exactly how she reached that conclusion. Although her description of the pits is not precise, the applicant is generally coherent in her description of places and events. The smell the applicant describes, and the sight of decomposing bodies, both indicate the killings happened a short time before her passage in the area, thus placing these deaths during the period of control by the Southwest Zone cadres. Her description of “*hundreds*” is thus estimated as referring to a minimum of **200** people killed at Tuol Beng Execution Site.

453. There is additional evidence of pits with bodies at Tuol Beng that cannot be distinguished from those already described but which support a finding that the actual number of victims is very likely much higher. This includes the evidence of a witness who saw “*two large pits and around 20 smaller and larger pits*” and a “*three-square-metre*” pit containing 50 corpses;<sup>1400</sup> an applicant who saw approximately 20 pits which were each five metres wide, seven metres long, and 2.5 metres deep;<sup>1401</sup> an applicant who saw “*many*” pits after the fall of DK,

<sup>1397</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072526-01072527, A16, 01072528, A21-A22; **D117/32**, Written Record of Interview of Witness NHEM Kol, 12 November 2013, ERN 00966999, A11; **D117/42**, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A13-A14; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22-A24; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A19-A22; **D117/47**, Written Record of Interview of Witness AOK Chanthy, 10 May 2014, ERN 01032988, A2; **D219/119.1.2**, Written Record of Interview of Civil Party PHLONG Han, 23 March 2012, ERN 00797011-00797012; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608-01063609, A14, 01063611, A25.

<sup>1398</sup> **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072509, A21; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A103, 01373615, A112.

<sup>1399</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A103; *cf.* **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076949, A33 (states that fewer than 50 people were taken to be killed at Tuol Beng Execution Site during his time in Krala Commune).

<sup>1400</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034900-01034901, A14-A15.

<sup>1401</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072527-01072528, A20.





some containing decapitated bodies and others containing severed heads;<sup>1402</sup> and a witness account of “*many small pits together with bones and skulls*” numbering in the “*hundreds up to thousands*”.<sup>1403</sup>

454. Prak Yut states that the district security centre, which she later identifies as Tuol Beng,<sup>1404</sup> was used only for re-education purposes and that no-one was killed there.<sup>1405</sup> This is not credible in light of the evidence to the contrary and Prak Yut’s motivation to downplay the severity of crimes occurring in her district.

#### *Visits by Ao An*

455. There is no evidence that **Ao An** went to Wat Angkuonh Dei Security Centre or Tuol Beng Security Centre and Execution Site. Prak Yut states that **Ao An** did not come to monitor arrests or killings, but would meet her on an *ad hoc* basis to discuss arrests, building dams and farming.<sup>1406</sup>

### **6.4.1.5 Wat Au Trakuon Security Centre**

#### *Location and establishment*

456. Wat Au Trakuon was a district-level security centre<sup>1407</sup> in Sambuor Meas A Village, Peam Chi Kang Commune, Kang Meas District, Kampong Cham Province, in Sector 41 of the Central Zone.<sup>1408</sup> Wat Au Trakuon was officially

<sup>1402</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178453, A37.

<sup>1403</sup> **D117/41**, Written Record of Interview of Witness THLANG Pheng, 6 May 2014, ERN 01032974, A7.

<sup>1404</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063605, A1-A2.

<sup>1405</sup> **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A41; *cf.* **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063609, A14.

<sup>1406</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063612, A30-A31.

<sup>1407</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456491, I. 15-16; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A14.

<sup>1408</sup> **D6.1.397**, Report of the Execution of Rogatory Letter, dated 30-06-2009: Site Identification Report, ERN 00364806; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067800, A11; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET MUY], 15 September 2015, ERN 01431104, I. 1-2; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Kimhuon], 16 September 2015, ERN 01409021; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January



named Wat Monisaravoan.<sup>1409</sup> The pagoda complex is one to two kilometres away from the where the Kang Meas District Office was at the time,<sup>1410</sup> at the same place as the present-day district office, at the intersection of the roads leading from Peam Chi Kang market to Prey Totueng, and from Peam Chi Kang to Roka Kaong.<sup>1411</sup> The Peam Chi Kang Commune Office was located in Sambuor Meas A, around 1.5 kilometres away from the Kang Meas District Office.<sup>1412</sup>

457. The pagoda compound covered an area of approximately 170 x 200 metres.<sup>1413</sup> The temple building itself was around 10 x 17 metres.<sup>1414</sup> There were three other buildings on the site.<sup>1415</sup> The head of the security centre lived in a building west of the temple.<sup>1416</sup> A dining hall was located north of the temple.<sup>1417</sup> The guards lived in another building north of the dining hall.<sup>1418</sup> A three-hectare area to the east of the pagoda compound was used as an execution and burial site.<sup>1419</sup> A schoolhouse by the perimeter fence near the main gate served as an

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2016, ERN 01456492, l. 10; *see also* **D219/602**, Written Record of Interview of Witness NIB Kimheng, 16 November 2015, ERN 01185784, A25.

<sup>1409</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A13.

<sup>1410</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456491, l. 19-20; *see also* **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111786-01111786, A10 ("*Kang Meas District Office...was about three kilometres away from my cooperative.*").

<sup>1411</sup> **D117/62**, Written Record of Interview of Witness KONG Yoeun, 4 August 2014, ERN 01025203, A5; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044601-01044602, A33; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044606, A4.

<sup>1412</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044615, A5.

<sup>1413</sup> **D6.1.397**, Report of the Execution of Rogatory Letter, dated 30-06-2009: Site Identification Report, ERN 00364806.

<sup>1414</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A26.

<sup>1415</sup> **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094.

<sup>1416</sup> **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094.

<sup>1417</sup> **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094.

<sup>1418</sup> **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094.

<sup>1419</sup> **D6.1.397**, Report of the Execution of Rogatory Letter, dated 30-06-2009: Site Identification Report, ERN 00364806; **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094; *cf.* **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN, 01456513, l. 18-24 ("*...they were killed not far away from the pagoda in Chamkar ... It's about 100 metres from the pagoda to the place where the people were killed*"); **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456513, l. 18-24 ("*...the executions were carried out in front of the compound of the Au Trakuon pagoda.*"); **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456513, l. 18-24 ("*...they were killed not far away from the pagoda in Chamkar <or orchards belong to other people...>*").



interrogation facility.<sup>1420</sup> The security centre was located approximately 400-500 metres from a “dock” on the Mekong River.<sup>1421</sup> Local villagers were not allowed to go near the security centre.<sup>1422</sup>

458. Witnesses give conflicting accounts of when the complex began operating as a security centre, including immediately after the CPK took control of the area,<sup>1423</sup> 1976,<sup>1424</sup> and 1976 or 1977.<sup>1425</sup> Witnesses are also inconsistent on whether it began operating before<sup>1426</sup> or after<sup>1427</sup> the arrival of cadres from the Southwest Zone. What is clear is that the security centre was operational while **Ao An** was in control of Sector 41 and continued to operate until the arrival of the Vietnamese in 1979.<sup>1428</sup>

### *Personnel*

459. The Chief of Security at Wat Au Trakuon prior to the arrival of the Southwest Zone cadres was a man named Khun, who disappeared six months after their arrival.<sup>1429</sup> His replacement was a man from the Southwest Zone named Han

<sup>1420</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25; **D6.1.381**, Written Record of Interview of Witness SENG Srun, 23 June 2009, ERN 00348094; **D219/702.1.85**, Transcript of the hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, 01474907, l. 16-20, 01474908, l. 1-7; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456510, l. 9.

<sup>1421</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506030, A19.

<sup>1422</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339935; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251018.

<sup>1423</sup> **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430909, l. 15-16; **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091.

<sup>1424</sup> **D6.1.414**, Written Record of Interview of Witness TAY Kimhoun, 24 November 2008, ERN 00251020; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242086.

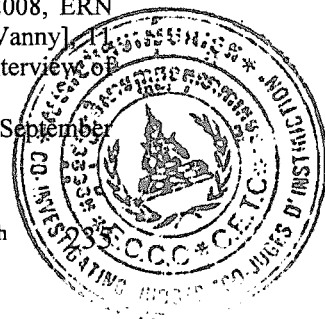
<sup>1425</sup> Seng Srun says 1976 or 1977: D219/702.1.88, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406900, l. 1-4; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517.

<sup>1426</sup> **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148862-01148863, A21-A22.

<sup>1427</sup> **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431104, l. 8.

<sup>1428</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242086-00242087; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456531, l. 1-2, 01456553, l. 1-18; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508.

<sup>1429</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406815, l. 12-24.



(alternative spelling Horn), who was also the newly appointed Security Chief of Kang Meas District and thus in charge of the “*district military*”.<sup>1430</sup> Han’s deputy at Wat Au Trakuon was initially Botr (alternate spelling Bot), who was replaced by a man named Kuong in late 1978.<sup>1431</sup>

460. Wat Au Trakuon Security Centre itself was garrisoned by the “*District Security*” personnel<sup>1432</sup> under Han’s control.<sup>1433</sup> Han’s former bodyguard, MUY Vanny, recalls that in late 1978 there were around 10 armed guards at Wat Au Trakuon who were between 20 to 40 years old and that the garrison was at one point complemented by a detachment of a special unit called the Long Swords.<sup>1434</sup> Former members of the Long Swords, however, deny any involvement with

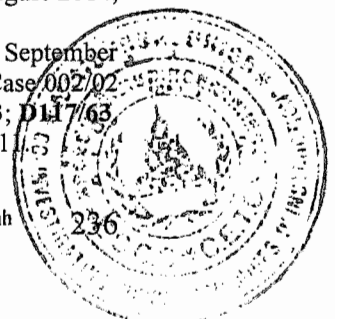
<sup>1430</sup> **D219/702.1.83**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 10 September 2015, ERN 01431024, l. 15-20; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430907, l. 23-25, 01430908, l. 23-25; **D6.1.400**, Written Record of Interview of Witness SAMRET MUY, 20 October 2008, ERN 00235509; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET MUY], 15 September 2015, ERN 01431116, l. 24; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A16, 00740716, A32-A33; **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722237; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044618, A17; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456477, l. 5, l. 9-10; *see also* **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, ERN 01474905, l. 20 (“*Horn was in charge of district soldiers.*”); **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035842, A6 (“*Han was commander of district military.*”); **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210430 (*Hoeun who was the security chief for the district*); *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; *contra* **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506028, A15 (“*Another man named Dan was the security chief; Zou and Han were Kan’s messengers.*”).

<sup>1431</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035849, A59; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456497, l. 20-22.

<sup>1432</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A14 *cf.* **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044600, A22 (“*...the Wat Ou Trakuon Pagoda compound was under the armed District Military.*”).

<sup>1433</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251305; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251018; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339935; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740716, A32; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044618, A17.

<sup>1434</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406875, l. 13-15; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456493, l. 3-4, 01456497, l. 4-11, 01456498, l. 2-3; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044598, A6-A17.



day-to-day operations inside the security centre premises and affirm that they delivered prisoners to the gate only.<sup>1435</sup>

461. The Long Swords unit was established by the Southwest Zone cadres after their arrival in Kang Meas District.<sup>1436</sup> Although they wore uniforms identical to the district military, their distinguishing characteristic was their use of prominent “*Samurai-like*” swords.<sup>1437</sup> The Long Swords were in charge of “*tracking, spying and arresting*”,<sup>1438</sup> and were deployed specifically on operations involving the arrest of large groups of people who were transported to Wat Au Trakuon.<sup>1439</sup> The Long Swords in Peam Chi Kang Commune shared offices with the Commune Committee,<sup>1440</sup> and orders were passed down to the Long Swords from the district level by Pheap, who was Kan’s wife, Deputy Secretary of the district, and the Secretary of Peam Chi Kang Commune.<sup>1441</sup> The Long

<sup>1435</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617-01044618, A14; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474941, l. 19-20, 01474970, l. 1-4.

<sup>1436</sup> **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431099, l. 19-21; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406910, l. 13-14; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235516; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044614, A1; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044598, A6; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474932, l. 3-7.

<sup>1437</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044610, A13; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044598, A7-A9; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474944, l. 4-9; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044606, A6, 01044610, A13; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; *see* **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088543-01088544, A48-A49; *cf.* **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035843 (“*There were five or six members in the group.*”).

<sup>1438</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044606-01044607, A6.

<sup>1439</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406827, l. 8-20, 01406907, l. 1-16.

<sup>1440</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044615, A5.

<sup>1441</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044616, A6, 01044617, A12; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474935, l. 21-22/01474936, l. 1-7, 01474965, l. 6-9; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044606-01044607, A6; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A17, 01044600, A24, 01044601, A31-A32; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067803, A29; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242088; **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423724, A12; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406818, A14.



Swords consisted of 10 to 14 men recruited from all the villages in the commune.<sup>1442</sup> They were initially led by Say Doeun.<sup>1443</sup> In Angkor Ban Commune, one witness observed people with long swords under the direction of a man named Run,<sup>1444</sup> who was Angkor Ban Commune Chief of Security.<sup>1445</sup> This evidence thus indicates that the Long Swords were hierarchically subordinate to the communes, although District Security Chief Han sometimes accompanied Long Sword members on their operations and on those occasions exercised direct control over them.<sup>1446</sup>

462. Interrogations were carried out by the deputy chief of the security centre, Botr,<sup>1447</sup> and his successor Kuong.<sup>1448</sup> The executioners at Wat Au Trakuon consisted of Botr<sup>1449</sup> and other young “security guards”, one of whom was named Nol.<sup>1450</sup> Prisoners were sometimes ordered to help kill other prisoners.<sup>1451</sup>

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01406910, l. 16-18; cf. **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044616, A9 (“... we did not have frequent communications with the district.”).

<sup>1442</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044614, A1, 01044615, A3, A5, 01044616, A8, 01044618-01044619, A20; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044598, A7-A9; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474944, l. 4-9; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Kimhuon], 16 September 2015, ERN 01409050, l. 3-4.

<sup>1443</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044615, A4, A6; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474958, l. 3; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251018.

<sup>1444</sup> **D219/702.1.83**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 10 September 2015, ERN 01431025, l. 7-13; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430892, l. 14-23.

<sup>1445</sup> **D1.3.11.46**, Interview of Witness SENG Khuy, 7 August 2008, ERN 00210481; as confirmed by **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236.

<sup>1446</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035843, A16, A17.

<sup>1447</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13, 01111790, A30; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, ERN 01474908, l. 15-25, 01474909, l. 1-13.

<sup>1448</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, ERN 01474909, l. 9-10.

<sup>1449</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406876, l. 1-16.

<sup>1450</sup> **D117/58** Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13, 01111789, A24; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406875, l. 13-25, 01406876, l. 1-16.

<sup>1451</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A30.



*Operation and chain of command*

463. When the Southwest Zone cadres arrived in Kang Meas District, a man named Kan from the Southwest Zone assumed the position of District Secretary,<sup>1452</sup> a position he held until the Vietnamese arrived in 1979.<sup>1453</sup> In his capacity as Sector 41 Secretary, **Ao An** was Kan's superior and therefore had authority over Wat Au Trakuon Security Centre, a district security centre within his sector. Kan and the other district chiefs in Sector 41 received instructions from and reported to **Ao An** on purge operations and other sector affairs.<sup>1454</sup>

<sup>1452</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456500, l. 4-5, l. 8-10; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934; **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421084, A5; **D87**, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 0746826; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142986, A19; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/702.1.83**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 10 September 2015, ERN 01431021, l. 18-19, l. 22-23, *but see* **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430907, l. 4-6, l. 9-12 ("*As to which year, I am not sure...(Kan) came to chair the meetings in 1977.*"); **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242090; **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210430; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D82**, Written Record of Interview of Witness HOK Hoeun, 26 August 2011, ERN 00739469; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251303; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251022; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A28; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044605, A2; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044597, A3; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044616, A6, A9; **D219/847.1**, Attachment 1: Transcript of AO An, 17 October 2016, ERN 01373575; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088544, A63; **D219/226**, Written Record of Interview of Witness PENH Va, 11 March 2015, ERN 01088627, A25; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111786, A7; **D219/402**, Written Record of Interview of Witness TUY Khuy, 4 July 2015, ERN 01147859, A8; **D219/602**, Written Record of Interview of Witness NIB Kimheng, 16 November 2015, ERN 01185783, A20; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406818, l. 7-8; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474927, l. 19-23.

<sup>1453</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251303; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142992-01142993, A68; **D1.3.11.6**, Interview of Witness Chea Maly, 6 August 2008, ERN 00210434; *see also* **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044600, A27 ("*I last saw Kan shortly before the Vietnamese arrived. At that time the situation was in turmoil. Kan walked around to tell the people in the village to flee...*"); *cf.* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242090 ("*(Kan) was the secretary here until 1978.*").

<sup>1454</sup> *See* section 6.3.4.2 The re-education of bad elements and killing of 'enemies', para. 294.



464. As Kang Meas District Secretary, Kan repeatedly issued orders to arrest or execute people in the district.<sup>1455</sup> Kan also visited Wat Au Trakuon Security Centre on several occasions to follow up on specific detainees.<sup>1456</sup> Kan's orders to arrest or execute were transmitted to the lower levels. Han, as District Security Chief and Chief of Wat Au Trakuon Security Centre, acted on orders he received from Kan or otherwise relayed such orders,<sup>1457</sup> including orders to release or kill prisoners.<sup>1458</sup> Han's deputy at Wat Au Trakuon would in turn issue instructions to the executioners who would then carry out the killings.<sup>1459</sup> While Han used the pagoda as his main office,<sup>1460</sup> he frequently travelled to other communes to inspect district soldiers stationed there.<sup>1461</sup> In his absence, Wat Au Trakuon was under the command of his deputy.<sup>1462</sup>

### Arrests

465. In early 1977, **Ao An** and District Secretary Kan convened a meeting in Kang Meas District and told the villagers attending that there were "enemies" among

<sup>1455</sup> **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740714, A4; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A16; **D219/602**, Written Record of Interview of Witness NIB Kimheng, 16 November 2015, ERN 01185785, A30-A31; **D219/402**, Written Record of Interview of Witness TUY Khuy, 4 July 2015, ERN 01147859-001147860, A8; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; *see also* **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 13 November 2008, ERN 00251306 ("From the District Com, who ordered the security unit to make the arrests.").

<sup>1456</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A32, 01111791, A42; *cf.* **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456502, l. 3-7 ("Q. ... did Kan, the district chief, come to the pagoda to visit or to hold meetings? A. I never saw him.").

<sup>1457</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307; *cf.* **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232 ("The one who had power (to send people to WAT) was (Han).").

<sup>1458</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740716, A32; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A26; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232.

<sup>1459</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456534, l. 22-23.

<sup>1460</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035842, A7; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456476, l. 25, 01456477, l. 1-2; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044598, A5.

<sup>1461</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, ERN 01474902, l. 9-25, 01474903, l. 1-9; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456493, l. 7-9, l. 15-19.

<sup>1462</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456526, l. 23-25.





the people.<sup>1463</sup> After this meeting, “*arrests accelerated both day and night*”.<sup>1464</sup> Most of the people arrested and sent to Wat Au Trakuon Security Centre were from Kang Meas District.<sup>1465</sup> People were arrested based on their biographies<sup>1466</sup> and on lists indicating whether they were “*new*” or “*old*” people, Khmer or Cham, feudalist or capitalist.<sup>1467</sup> One witness was similarly told by Kan that he was “*spared*” because he had not “*associated with anyone*”.<sup>1468</sup>

466. Arrests were carried out by a variety of groups, including “*security guards*”,<sup>1469</sup> the Long Swords,<sup>1470</sup> and militia from the village,<sup>1471</sup> communes,<sup>1472</sup> or district.<sup>1473</sup> These groups cooperated with one another, particularly during larger operations.<sup>1474</sup> Sometimes the Long Swords and commune militia coordinated

<sup>1463</sup> **D6.1.400**, Written Record of Interview of Witness SAMRET MUY, 20 October 2008, ERN 00235508; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET MUY], 15 September 2015, ERN 01431115, l. 23-25, 01431116, l. 1-6.

<sup>1464</sup> **D6.1.400**, Written Record of Interview of Witness SAMRET MUY, 20 October 2008, ERN 00235508; *see also* **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087 (“*The highest number of killings was in 1977.*”); **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A40 (“*At that time, many people including ordinary people and cadres were arrested after Ta An came to take charge of that sector.*”); **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406832, l. 1-21.

<sup>1465</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035848, A49; **D87**, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 00746826; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179836, A108.

<sup>1466</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304; **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421084, A5.

<sup>1467</sup> **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421084, A5.

<sup>1468</sup> **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409261, l. 15-17.

<sup>1469</sup> **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251018; *see also* **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474978, l. 15-25, 01474979, l. 1-6 (“*The security guards, they were also involved in the arrests in the villages.*”).

<sup>1470</sup> **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A17; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474940-01474941, 01474969; **D6.1.400**, Written Record of Interview of Witness SAMRET MUY, 20 October 2008, ERN 00235508.

<sup>1471</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456504, l. 15-17.

<sup>1472</sup> **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430892, l. 16-17; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067803, A29.

<sup>1473</sup> **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067803, A29.

<sup>1474</sup> *See* **D219/217**, Written Record of Interview of Witness Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A38; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474978, l. 21-23; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409245, l. 8-10.



with one another: the militia arrested people in the villages, and the Long Swords escorted them to Wat Au Trakuon.<sup>1475</sup>

467. Some but not all arrestees had their arms tied behind their backs.<sup>1476</sup> Sometimes, unit chairpersons tricked people into going to the security centre by telling them that they had to work at another location.<sup>1477</sup> These prisoners had their hands tied up or were shackled after arriving at the security centre.<sup>1478</sup> In other instances, people were simply told they were being sent off to study before being taken to the security centre.<sup>1479</sup> Families were often arrested together, including men, women, and children,<sup>1480</sup> while sometimes the Long Swords would arrest men and later return to arrest the wives and children.<sup>1481</sup>

468. Prisoners were walked to Wat Au Trakuon Security Centre,<sup>1482</sup> or transported by oxcarts,<sup>1483</sup> horse carts,<sup>1484</sup> and boats.<sup>1485</sup> Horse carts carrying prisoners

<sup>1475</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406907, l. 1-10; *see also* **D219/217**, Written Record of Interview of Civil Party Applicant Applicant CHHEN Ham, 11 March 2015, ERN 01088543, A49-A50 (“*Sak (person with long sword) was tasked with transporting prisoners and delivering messages to the district level.*”).

<sup>1476</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406881, l. 20-22; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251016; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Kimhuon], 16 September 2015, ERN 01409024, l. 2-5; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430895, l. 11-15; **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210429; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12.

<sup>1477</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12.

<sup>1478</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406881, l. 14-22.

<sup>1479</sup> **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431140, l. 7-10.

<sup>1480</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A13; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406833, l. 22-25, 01406834, l. 8-18; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430886, l. 8-9; *cf.* **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12 (“*Sometimes later on, we had to go back to arrest those arrestees wives and children.*”).

<sup>1481</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12.

<sup>1482</sup> **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251015; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Kimhuon], 16 September 2015, ERN 01409023, l. 5.

<sup>1483</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430895, l. 19-21; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02



arrived at the security centre “every single day”. “Machine boats” measuring 4 x 25 metres regularly transported hundreds of prisoners to the nearby banks of the Mekong River, where they were unloaded and taken to the security centre on foot.<sup>1486</sup>

### *Categories of detainees*

469. Groups of people sent to Wat Au Trakuon included former Lon Nol soldiers,<sup>1487</sup> “base” people,<sup>1488</sup> “new people”,<sup>1489</sup> Cham people,<sup>1490</sup> as well as cadres.<sup>1491</sup> The majority of prisoners in late 1978 were Cham people.<sup>1492</sup>

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[MUY Vanny], 11 January 2016, ERN 01456507, l. 18; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A28; **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210429; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>1484</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067801, A20-A21; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A28.

<sup>1485</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456508, l. 12-13; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506030, A18; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179836, A107-A108; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609.

<sup>1486</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506029-00506031, A16-A31.

<sup>1487</sup> **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A18, 01044602, A34.

<sup>1488</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232.

<sup>1489</sup> **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A18, 01044602, A34; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D219/402**, Written Record of Interview of Witness TUY Khuy, 4 July 2015, ERN 01147859, A6; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun 23 November 2008, ERN 00251304; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A14; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506029, A16.

<sup>1490</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304 ; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A18, 01044602, A34; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A14; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; *cf.* **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251019 (“...only the Cham.”).

<sup>1491</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789-01111790, A22-A23, A27; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067801, A18; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506029, A16, 00506031, A26.

<sup>1492</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035850, A70; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456508, l. 23; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474940, l. 1-11.



470. People were also arrested for specific misconduct,<sup>1493</sup> such as complaining about hunger,<sup>1494</sup> falling sick,<sup>1495</sup> stealing food,<sup>1496</sup> or growing food without permission.<sup>1497</sup> Reports of such misconduct were compiled in accordance with the chain of command: units compiled reports for the communes, with communes either reporting to Han or relaying arrest orders directly to the Long Swords.<sup>1498</sup> Reasons for arrest were rarely, if ever, explained to the arrestees, the witnesses to the arrest, or the wider community.<sup>1499</sup>

#### *Arrests of Cham people*

471. Cham inhabitants of Kang Meas District were arrested and taken to Wat Au Trakuon Security Centre over the course of 1977 and 1978.<sup>1500</sup> Witnesses affirm

<sup>1493</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035843, A22-A23; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307; **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934.

<sup>1494</sup> **D84**, Written Record of Interview of Witness MUY Vanny, 27 August 2011, ERN 00738990.

<sup>1495</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A9.

<sup>1496</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 5 August 2008, ERN 00251307.

<sup>1497</sup> **D219/320**, Written Record of Interview of Witness POR San, 12 May 2015, ERN 01112020, A10.

<sup>1498</sup> **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D117/58**, Written Record of Interview of Witness MUY Vanny, 11 January 2016, ERN 01035843, A17, 01035844, A22-A23; *cf.* **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339934 (“*The unit chairmen would report anyone who did not respect the security unit.*”); **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474966, l. 1-5 (“*Q. From whom did you receive the list of names? A. It came from the commune committee.*”); **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251307.

<sup>1499</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242088; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430895, l. 9-10; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406878, l. 12-13, 01406879, l. 7-8; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A21.

<sup>1500</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087, 00242088; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067801, A19-A20; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431141, l. 9-12, 01431148, l. 24-25, 01431149, l. 1; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430891, l. 1-11; *cf.* **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251020 (“*It was probably in 1976...*”); **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936 (“*The Cham people were arrested in 1978*”).



that District Secretary Kan ordered the arrests of Cham in the area,<sup>1501</sup> or otherwise claim that these orders came from upper echelons.<sup>1502</sup>

472. The Cham were initially arrested successively in small numbers starting in 1977,<sup>1503</sup> before virtually all the Cham in the district were rounded up in a mass arrest operation in mid-to-late 1978.<sup>1504</sup> Initially, these arrests were at least partly shrouded in secrecy to avoid alerting other Cham people.<sup>1505</sup> Accordingly, on some occasions, Cham families were told that they had to “change residence” or that “*Angkar has made a request*” to relocate.<sup>1506</sup> On other occasions, however, they were arrested with force: a witness recalls being ordered by a cooperative chairperson, Pech, to ambush 20 male Cham workers in Peam Chi Kang Village, to tie them up, and to bring them to Wat Au Trakuon, and later to return and arrest their families in the village.<sup>1507</sup> Although the witness states that this occurred in 1978, Pech was replaced sometime around mid-1977, so this event must have taken place in 1977.<sup>1508</sup> Another witness, from Angkor Ban Commune, recalls an evening in 1977 when 10 to 15 Cham people, mainly women and children, were arrested at the dining hall by commune “security forces”.<sup>1509</sup> The witness was ordered to take those Cham

<sup>1501</sup> **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; **D219/402**, Written Record of Interview of Witness TUY Khuy, 4 July 2015, ERN 01147859-01147860, A8-A9.

<sup>1502</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474965, l. 6-8; *cf.* **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474971-01474973 (questioning establishes that Doeun does not have basis of knowledge to determine whether orders came from upper echelons).

<sup>1503</sup> **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251020; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431097, l. 8-17.

<sup>1504</sup> **D6.1.191**, Interview of HIM Man in “The Cham Rebellion, Survivors' Stories from the Villages”, 2 May 2004, ERN 00218503; *as confirmed by* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474986, l. 1-6; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936.

<sup>1505</sup> **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421085, A9.

<sup>1506</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936.

<sup>1507</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608-01044609.

<sup>1508</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339933.

<sup>1509</sup> **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430891-01430892.



people by five or six oxcarts to Wat Au Trakuon Security Centre during the night.<sup>1510</sup>

473. The remaining Cham in Kang Meas District were ultimately rounded up in mass arrest operations in 1978.<sup>1511</sup> In Peam Chi Kang Commune, the chairman of the Long Swords<sup>1512</sup> describes how he received an order from Commune Secretary Pheap to arrest all the Cham in Peam Chi Kang Village, men, women, and children.<sup>1513</sup> The order was supplemented by a written list of targets,<sup>1514</sup> and reportedly came from the “upper echelon”.<sup>1515</sup> In a coordinated operation throughout one day, the Long Swords and district security arrested around 400-500 Cham people in villages and worksites throughout the commune including Sambuor Meas A, Sambuor Meas B, and Sach Sau Villages, and brought them to Wat Au Trakuon Security Centre.<sup>1516</sup> Only one Cham couple, a witness and his wife managed to escape by hiding in a nearby swamp.<sup>1517</sup>

<sup>1510</sup> **D219/702.1.81** Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430895, l. 16-25, 01430896, l. 1-7; *see also* **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067801, A20 (“I saw Cham people being transported in horse carts and boats during the rainy season to O Trakuon.”).

<sup>1511</sup> **D6.1.191**, Interview of HIM Man in “The Cham Rebellion, Survivors' Stories from the Villages”, 2 May 2004, ERN 00218503; *as confirmed by* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; *see also* **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474986, l. 1-6 (stating the Cham were arrested in late 1978); **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936, 00339936 (“Later on, they gathered them all. The Cham people were arrested in 1978.”); *cf.* **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, 01406832, l. 1-3 (“I was assigned to go with the Long Sword Group, <Cham people were arrested> in around 1977, although I'm not clear which month it was.”).

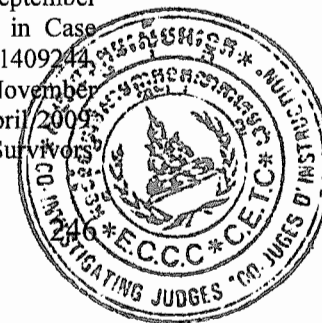
<sup>1512</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474967, l. 5-23.

<sup>1513</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474959, l. 12, 01474964, l. 20-25, 01474965, l. 1-5.

<sup>1514</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474965, l. 18-25, 01474966, l. 1; *see also* **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A17, describing arrests in general: (“The names of those arrestees were written on the letters to us.”).

<sup>1515</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474965, l. 6-8; *see generally* **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474971-01474973 (questioning establishes that Doeun does not have basis of knowledge to determine whether orders came from upper echelons).

<sup>1516</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474966, l. 2-5, 01474968, l. 3-6, 01474969, l. 18-21, 01474979, l. 2, l. 7-13, l. 17-18; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406833-01406836; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409244, l. 2-4, l. 7-8, 01409243, l. 18-25, 01409244, l. 1-2, l. 6-10, l. 19-22; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251305; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936-00339937; **D6.1.191**, Interview of HIM Man in “The Cham Rebellion, Survivors’



474. When Cham prisoners arrived at the security centre, the women were separated from the men and pushed into the temple building;<sup>1518</sup> the men were kicked<sup>1519</sup> or beaten with a metal bar to “*break their spirits*”,<sup>1520</sup> before also being detained in the temple.<sup>1521</sup> The children, not tall enough to climb the stairs on their own, were “*thrown or pushed into the temple*” and then shackled along with the rest.<sup>1522</sup>
475. Later in 1978, large numbers of Cham people were also brought to the security centre by boats. One witness saw what he believed to be 500 Cham people, including men, women and children, being led from a ferry boat anchored at the Wat Au Trakuon “*dock*”.<sup>1523</sup> The witness states that the arrested Cham people came from the “*upper areas*” of Kampong Cham Province.<sup>1524</sup> Although it is not clear how the witness knew about the origin of those Cham people, the witness’ statement is consistent with evidence of the large number of Cham people transported from the East Zone to the Central Zone, discussed in section 6.4.2 on the Genocide of the Cham.

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Stories from the Villages”, 2 May 2004, ERN 00218503; *as confirmed by* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.89** Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431097, l. 18-25; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A12; *cf.* **D6.1.702**, Written Record of Interview of Witness MAN Heang, 10 December 2009, ERN 00421085, A9 (“*Au Trakuon District Security personnel came to round up the Cham.*”).

<sup>1517</sup> **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409246, l. 12-25, 01409247 l. 1-13; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy] 15 September 2015, ERN 01431097, l. 20-25; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251305; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035849; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456490, l. 20-24.

<sup>1518</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456535, l. 21-25.

<sup>1519</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506029, A16.

<sup>1520</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406837.

<sup>1521</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087.

<sup>1522</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406881, l. 10-14.

<sup>1523</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9.

<sup>1524</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9.



*Conditions of detention*

476. Upon their arrival, prisoners were handed over to Wat Au Trakuon security staff,<sup>1525</sup> who recorded their names in a notebook.<sup>1526</sup>
477. Detainees were classified as either light or serious offenders.<sup>1527</sup> That status was partly based on reports from the communes.<sup>1528</sup> Serious offenders included those who committed political infractions,<sup>1529</sup> and may have been fed less than light offenders.<sup>1530</sup> Such prisoners were not permitted to leave the pagoda or to work around the prison.<sup>1531</sup> They were generally killed after prolonged and severe interrogations.<sup>1532</sup>
478. So-called light offenders had committed minor infractions such as stealing food,<sup>1533</sup> and were more likely to have been “*base*” persons with good biographies.<sup>1534</sup> Such prisoners sometimes performed labour around the security centre compound, such as climbing fruit trees,<sup>1535</sup> cleaning the premises, and planting sugar cane.<sup>1536</sup> One light offender was initially tied up so tightly for

<sup>1525</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617, A12-A13; **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044599, A17; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430898, l. 18-21; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474940, l. 21, 01474941, l. 1.

<sup>1526</sup> **D117/63**, Written Record of Interview of Witness SAY Doeun, 6 August 2014, ERN 01044600, A21; *cf.* **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014 ERN 01035848, A55 (“*I never saw any logbook used to record the names of the prisoners.*”).

<sup>1527</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A22; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13, 01111791, A40.

<sup>1528</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A23.

<sup>1529</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A20.

<sup>1530</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A26.

<sup>1531</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035848, A52.

<sup>1532</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A23.

<sup>1533</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A22; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456545, l. 9-15.

<sup>1534</sup> *See* **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111791, A40.

<sup>1535</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456498, l. 18-25.

<sup>1536</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A14, A18, 01111791, A42.





around 20 days that his arms became swollen,<sup>1537</sup> and he longed for death due to starvation and the abuse he witnessed during his incarceration.<sup>1538</sup> He also had to remove the excrement of his fellow prisoners,<sup>1539</sup> and to assist prisoners that were too weak to stand upright during interrogations.<sup>1540</sup>

479. All prisoners, regardless of their status, were given insufficient food,<sup>1541</sup> and looked “*emaciated*”.<sup>1542</sup> Inside the temple, all male prisoners were shackled by their legs in rows of 30 to 40.<sup>1543</sup> Female prisoners were locked in a separate part of the temple.<sup>1544</sup> There was no medical care at Wat Au Trakuon.<sup>1545</sup>

480. Some prisoners were either released or escaped from Wat Au Trakuon.<sup>1546</sup> Still, witnesses affirm that it was “*very rare*”<sup>1547</sup> for prisoners to survive Wat Au Trakuon,<sup>1548</sup> especially if they were “*17 April people*”.<sup>1549</sup>

<sup>1537</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A18.

<sup>1538</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787-01111788, A14.

<sup>1539</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A14.

<sup>1540</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A29.

<sup>1541</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035848, A50; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456499, l. 24-25; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A14; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111824, A52.

<sup>1542</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A14.

<sup>1543</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A21; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456555, l. 12, 01456556, l. 2-4; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406881, l. 6-17; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A26; **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A18; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339935.

<sup>1544</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087.

<sup>1545</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035848, A51.

<sup>1546</sup> **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088542, A28; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111824, A52; **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210429; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D84**, Written Record of Interview of Witness MUY Vanny, 27 August 2011, ERN 00738990; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A22; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456546, l. 19-23; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111791, A40.



*Interrogations*

481. An undetermined number of prisoners were interrogated at Wat Au Trakuon Security Centre.<sup>1550</sup> The interrogations took place in the school next to the south gate and normally took place in the mornings.<sup>1551</sup> The boat driver recalls being invited to join in “*hitting*” the detainees, but refused.<sup>1552</sup>
482. Interrogations at Wat Au Trakuon sought to uncover threats to the regime, and to map out networks of potentially disloyal persons.<sup>1553</sup> Prisoners were questioned about their biography and the biographies of their family members and associates.<sup>1554</sup> Those who provided names might be given extra food,<sup>1555</sup> but eventually they too would usually be killed.<sup>1556</sup> Security personnel would arrest the people named in the confessions.<sup>1557</sup>

<sup>1547</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456549, l. 20-22.

<sup>1548</sup> **D87**, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 00746826; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339935; *see also* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091 (“...they arrested many people and those people disappeared since.”); **D219/290**, Written Record of Interview of Witness SOR Chheang, 12 April 2015, ERN 01111789, A23 (“Those who gave the names to them could further survive; however, in the end they were taken to be killed.”); **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431104, l. 19-22 (“Those who were brought into that pagoda never returned. They were brought in, and disappeared.”); **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304 (“**Q.** So did they arrest (sic) all the people residing in the pagoda? **A.** They took them all away and killed them...”).

<sup>1549</sup> **D3/5.1**, Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210429; *as confirmed by* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>1550</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13, 01111789, A23; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088545, A84; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25.

<sup>1551</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13.

<sup>1552</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A28.

<sup>1553</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A22, A24, 01111790, A29.

<sup>1554</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A24; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A15, A22.

<sup>1555</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A25.

<sup>1556</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A25.

<sup>1557</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A26.



483. Treatment during interrogation may have depended on the status of the prisoner. One witness, an ostensibly light prisoner and a surviving witness, relates how he would be “*questioned*” whereas other prisoners were “*tortured*”.<sup>1558</sup> For most other prisoners, the interrogations were brutal. The witness saw former cadres tied up by their feet and hung upside down.<sup>1559</sup> Other witnesses describe how prisoners were threatened<sup>1560</sup> and subjected to electric shocks,<sup>1561</sup> with some interrogations lasting for six days or more.<sup>1562</sup> After DK, one civil party applicant heard from several former detainees that the methods used were “*similar to those being used in S-2I*”.<sup>1563</sup> The interrogator would generally carry out the torture himself, but would sometimes ask for assistance from the executioners.<sup>1564</sup>

484. An unknown number of prisoners died from torture during interrogation.<sup>1565</sup>

### *Killings*

485. There is extensive evidence of regular mass executions at Wat Au Trakuon Security Centre during the period of administration by the Southwest Zone cadres.<sup>1566</sup> Killings increased after the Southwest Zone cadres arrived.<sup>1567</sup> The

<sup>1558</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13.

<sup>1559</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13; *see also* **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740714, A5 (“*I did not know much. But for the former commune chief, I saw with own eyes that he was hung upside down with his legs tied up.*”); **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406817, l. 20-22 (“*At one time I walked past the pagoda, I found Comrade Khaeng (phonetic) dead in the school in the compound of Au Trakuon pagoda. He had been hung upside down.*”).

<sup>1560</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25.

<sup>1561</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035845, A25.

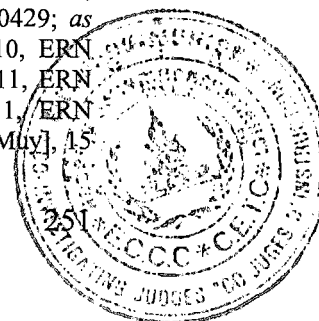
<sup>1562</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A25.

<sup>1563</sup> **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088545, A83.

<sup>1564</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111789, A25.

<sup>1565</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A13, A23.

<sup>1566</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13-A14; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251021; **D3/5.1** Annex: Interview note of BAO Troab, 5 August 2008, ERN 00210429; *as confirmed in* **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D84**, Written Record of Interview of Witness MUY Vanny, 27 August 2011, ERN 00738990; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740714; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15



categories of people killed reflected those of the detainees: cadres,<sup>1568</sup> “*new people*”,<sup>1569</sup> Cham people,<sup>1570</sup> and former Lon Nol soldiers.<sup>1571</sup>

486. Executions generally took place at night<sup>1572</sup> about 200 metres east of the pagoda.<sup>1573</sup> Men, women and children were taken out of the temple in groups of ten, blindfolded, and with their hands tied behind their backs.<sup>1574</sup> Victims were then killed by blows to the back of the neck with an iron axle from oxcarts, or

September 2015, ERN 01431106, l. 9-10; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035844, A22, 01035850, A71; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D87**, Written Record of Interview of Witness CHHEAN Heang, 26 August 2011, ERN 00746826; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506029; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339935; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608; **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044618, A19; **D219/82**, Written Record of Interview of Witness Riel NEANG, 21 November 2014, ERN 01067801, A22.

<sup>1567</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A2; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087.

<sup>1568</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A26.

<sup>1569</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235516.

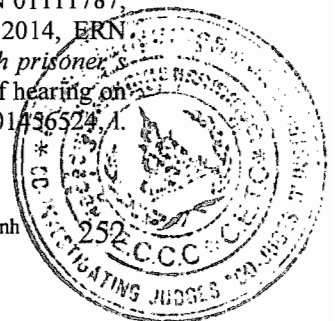
<sup>1570</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406841-01406842, 01406859, l. 1-7; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035851, A79; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715-00740716; **D6.1.192** Written Record of Interview of Witness SENG Srun, 11 August 2011, ERN 00242087; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304-00251305; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251021; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A14; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015 ERN 01409244, l. 6-8, 01409246, l. 23-25, 01409247, l. 1-13, 01409261, l. 8-25, 01409279, l. 4-7, 01409284, l. 17-23; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 14 September 2015, ERN 01456513, l. 5-6.

<sup>1571</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304.

<sup>1572</sup> **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET MUY], 15 September 2015, ERN 01431105, l. 11-13, l. 24-25; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A32.

<sup>1573</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A28; cf. **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035846, A35 (“...the Khmer Rouge sent them to the front of the pagoda which was about 200 metres away.”).

<sup>1574</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13; see also **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035846, A35 (“The prisoners were sent to be killed in groups of about ten people. Each prisoner’s hands were tied to their back and their face was covered...”); **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456522, l. 22-24, 01456524, l. 8-12.



some other blunt weapon and their bodies dropped into the pits.<sup>1575</sup> Small children would sometimes be grabbed by the feet and then smashed against the pagoda walls<sup>1576</sup> or the trees around the killing field.<sup>1577</sup> The corpses were then dumped into pits of varying sizes.<sup>1578</sup>

487. Sometimes, when the guards ran out of shackles, they would kill incumbent prisoners during the daytime to make space for new detainees.<sup>1579</sup> On at least one occasion when the pagoda was too crowded, prisoners were brought to the riverside to be killed.<sup>1580</sup>

488. The staff at Wat Au Trakuon masked the screams of victims by playing loud revolutionary music over the pagoda loudspeakers.<sup>1581</sup> In those moments, additional security forces would be deployed around the security centre, and locals were prohibited from coming close.<sup>1582</sup>

<sup>1575</sup> **D6.1.986**, Written Record of Interview of Witness MAT Toulouh, 7 April 2010, ERN 00506031, A29; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035846, A35.

<sup>1576</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13.

<sup>1577</sup> **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406842, l. 2-7, 01406860, l. 16-25.

<sup>1578</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035846, A35; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A28; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406843, l. 12-15.

<sup>1579</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111788, A14.

<sup>1580</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A32; **D219/289**, Written Record of Interview of Civil Party Applicant PENH Va, 25 April 2015, ERN 01111782, A12-A13.

<sup>1581</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035846, A35; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304, 00251308-00251309; **D6.1.400**, Written Record of Interview of Witness SAMRET Muy, 20 October 2008, ERN 00235508; **D219/702.1.89**, Transcript of hearing on the substance in Case 002/02 [SAMRET Muy], 15 September 2015, ERN 01431105, l. 4-7, l. 22-25; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251021; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Kimhuon], 16 September 2015, ERN 01409029, l. 1; **D6.1.192**, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406813, l. 8-25, 01406814, l. 1-18.

<sup>1582</sup> **D117/65**, Written Record of Interview of Witness SOK Meng Ly, 26 August 2014, ERN 01044617-01044618, A14.



489. According to MUY Vanny, all the Cham at Wat Au Trakuon Security Centre were killed within four days of their arrival.<sup>1583</sup> Cham people were killed to the north of the pagoda,<sup>1584</sup> in pits that one witness claims were larger than those designated for non-Cham victims.<sup>1585</sup> During the mass arrests in mid-1978, the Cham man who escaped by hiding in a nearby swamp overheard the sound of clubs and a cacophony of screams, some calling for Allah to save them.<sup>1586</sup> One witness later saw that the Cham victim's clothes were distributed to other people at the kitchen.<sup>1587</sup> Local residents who visited the pits after DK had ended<sup>1588</sup> saw traditional Cham clothes interspersed with the skulls of men, women, and children alike.<sup>1589</sup>

*Total number of executions*

490. It is impossible to determine a precise number of people killed at Wat Au Trakuon. A conservative minimum is based on the following accounts by witness accounts: 20 Cham families from Peam Chi Kang Commune arrested in 1977,<sup>1590</sup> multiplied by four, i.e. a total of **80**; 10 to 15 Cham people arrested in Angkor Ban in 1977,<sup>1591</sup> estimated as **10**; the mass arrest of 400 to 500 Cham

<sup>1583</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035851, A79; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 14 September 2015, ERN 01456513, l. 5-6.

<sup>1584</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406844, l. 3-5; cf. **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251304 (“*They arrested (the Cham) and brought them to the pagoda. Q. Then what? A. They were killed in front of the pagoda.*”), 00251305 (“*Q. How do you know they killed those Cham people? A. The militia told me. When the militia came out of the pagoda, they told the people about the killings.*”).

<sup>1585</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 15 September 2014, ERN 01406843, l. 14-17, 01406844-01406845.

<sup>1586</sup> **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409247, l. 2-13, 01409250, l. 16-25, 01409251, l. 1-3; **D6.1.191**, Interview of HIM Man in “The Cham Rebellion, Survivors’ Stories from the Villages”, Ysa Osman, Documentation serious No. 9m, DC-Cam, 2 May 2004, ERN 00218503; as confirmed by **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251305; see also **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456538, l. 7-9 (“*there were some trees there from a long time ago, including banana trees and areca trees...*”).

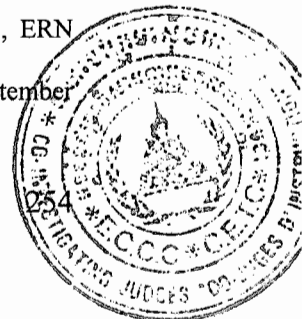
<sup>1587</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740716, A25.

<sup>1588</sup> **D6.1.190**, Written Record of Interview of HIM Man, 11 August 2008, ERN 00242091.

<sup>1589</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 15 September 2014, ERN 01406844, l. 18-23.

<sup>1590</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608-01044609.

<sup>1591</sup> **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430891, l. 3-9.



people in Peam Chi Kang Commune in mid-1978, estimated as **400**;<sup>1592</sup> in approximately September 1978, the deaths of 20 Cham people, six other individual prisoners, and at least two “*families*” of unspecified ethnicity,<sup>1593</sup> i.e. a minimum of **34** people; between 50 to 100 “*17<sup>th</sup> April*” people and Cham families brought into the security centre every day for a total of two months and 28 days, from September until early December 1978,<sup>1594</sup> calculated as 88 days times 50 people, i.e. **4400**. The combined minimum estimate from these accounts results in a total minimum estimate of **4924** people killed at Wat Au Trakuon between the arrival of the Southwest Zone cadres in early 1977 and the arrival of the Vietnamese in January 1979. Several other accounts of killings have been excluded from this computation in order avoid the possibility of double-counting, such as the evidence of the machine boat operator who transported hundreds of prisoners to the security centre and the witness who saw around 500 Cham people being led from the nearby dock to the security centre. Accordingly, the actual number of killings is likely to have been much higher than the estimate calculated.

#### *Visits by Ao An*

491. **Ao An** visited Wat Au Trakuon Security Centre at least once, when he presided over a meeting inside the security centre complex.<sup>1595</sup> Kang Meas District Secretary Kan, Peam Chi Kang Commune Secretary Pheap, Wat Au Trakuon Security Centre Chief Han,<sup>1596</sup> as well as the chiefs of units and dining halls attended the meeting.<sup>1597</sup> At the meeting, **Ao An** spoke for several hours.<sup>1598</sup> He announced that the previous cadre had been “*smashed*” or killed because they

<sup>1592</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406836, l. 6-11.

<sup>1593</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN01111787, A13.

<sup>1594</sup> **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13-A14, 01111791, A40.

<sup>1595</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374668, A283; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406822, l. 16-18, 01406825, l. 18-19; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A15.

<sup>1596</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A16.

<sup>1597</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A17.

<sup>1598</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406822, l. 22-25, 01406823, l. 1-24; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A17.



were cruel and disloyal to “*Angkar*” and the revolution.<sup>1599</sup> He said that if the unit or village chairmen were not giving enough food to the village, then the villagers should report them.<sup>1600</sup> After the meeting, three villagers who complained to Kan or Han were arrested and taken to Wat Au Trakuon Security Centre.<sup>1601</sup>

#### 6.4.1.6 *Wat Batheay Security Centre*

##### *Location and establishment*

492. Wat Batheay Security Centre was a district-level<sup>1602</sup> facility located in Batheay Village, Batheay Commune, Batheay District, Kampong Cham Province, which was in Sector 41 of the Central Zone.<sup>1603</sup> It is approximately 60 kilometres north of Phnom Penh, south of National Highway No. 6, near Batheay Mountain.<sup>1604</sup>
493. Witnesses give conflicting accounts of when the security centre was established. One detainee states he arrived at the security centre in 1975, although this witness also expressed confusion regarding the date.<sup>1605</sup> Another detainee states that she was taken there two to three years before the Vietnamese arrived,<sup>1606</sup> suggesting that it was open at some point before 1976. Other witnesses say the security centre was established in late 1976 or early 1977,<sup>1607</sup> or at an

<sup>1599</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A6; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406822, l. 22-23.

<sup>1600</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406823, l. 8-15.

<sup>1601</sup> **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SENG Srun], 14 September 2015, ERN 01406823, l. 15-23.

<sup>1602</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 34; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A16.

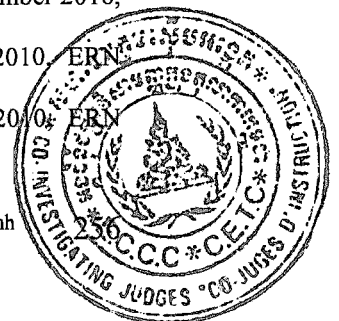
<sup>1603</sup> **D3/25**, Report of the Execution of Rogatory Letter, dated 8 February 2011 : Site Identification Report, ERN 00644186.

<sup>1604</sup> **D3/25**, Report of the Execution of Rogatory Letter, dated 8 February 2011 : Site Identification Report, ERN 00644187.

<sup>1605</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A17; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365582, A51-A52.

<sup>1606</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632076, A2.

<sup>1607</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A3.





unspecified time during 1977.<sup>1608</sup> The security centre functioned until the arrival of the Vietnamese in January 1979.<sup>1609</sup>

494. Within the Wat Batheay compound, there was a pagoda building and accommodation previously used by monks.<sup>1610</sup> The security office was located on the east perimeter of the pagoda complex<sup>1611</sup> – it occupied approximately two<sup>1612</sup> or three<sup>1613</sup> hectares, and was surrounded by a fence.<sup>1614</sup> The east, north, and south sides were designated as places for detaining prisoners.<sup>1615</sup>
495. The security office consisted of several wooden buildings, including large ones (around 5 x 30 metres) that housed detainees<sup>1616</sup> and smaller ones which were used for administration,<sup>1617</sup> cooking,<sup>1618</sup> and interrogations.<sup>1619</sup> The buildings

<sup>1608</sup> **D99**, Written Record of Interview of Witness CHUOB Cheun, 17 September 2011, ERN 00746997.

<sup>1609</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A3; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746831.

<sup>1610</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067783, A15.

<sup>1611</sup> **D3/25**, Report of the Execution of Rogatory Letter, dated 8 February 2011 : Site Identification Report, ERN 00644187; **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A5; **D3/6.1**, Annex: Location of security center, ERN 01147941; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A8; **D3/7.1**, Annex: Location of security center, ERN 00650893; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A4.

<sup>1612</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623585, A12.

<sup>1613</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067783, A15.

<sup>1614</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067783, A15.

<sup>1615</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067783, A15.

<sup>1616</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268-00622269, A8; **D3/6.1**, Annex: Location of security centre, ERN 01147941; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583-00623584, A8; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6.

<sup>1617</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268-00622269, A8; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A8.

<sup>1618</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268-00622269, A8; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A8.

<sup>1619</sup> **D3/25**, Report of the Execution of Rogatory Letter, dated 8 February 2011 : Site Identification Report, ERN 00644187; **D3/25.2**, Annex to Identification Report of Wat Batheay Security Centre, ERN 00650940; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A8; **D3/7.1**, Annex: Location of security center, ERN 00650893; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373701, A27.



consisted of walls<sup>1620</sup> which were constructed out of straw, mound soil, cow dung, and bamboo.<sup>1621</sup> The chief and guards of the security centre stayed in buildings on the site.<sup>1622</sup>

496. Ordinary people were not allowed to enter the killing site<sup>1623</sup> or to come near the area,<sup>1624</sup> or they would be killed.<sup>1625</sup>

### *Structure and personnel*

497. A former chief of Wat Batheay Security Centre, Pin Pov (known during the DK period as Khun Khim *alias* Ke), states that he was appointed to that position in late 1978 by the District Office Chairperson Nang, and held the position for about three months or possibly more.<sup>1626</sup> Several other witnesses confirm that “*Khim*” was the chief of the security centre<sup>1627</sup> and provide various names of his predecessors, including Has,<sup>1628</sup> Sin,<sup>1629</sup> and Peou.<sup>1630</sup>

<sup>1620</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583-00623584, A8; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A36.

<sup>1621</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A36.

<sup>1622</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6.

<sup>1623</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A30; *cf.* **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622269, A9 [“*I was walking around the area secretly*”].

<sup>1624</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221805, para. 36; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6.

<sup>1625</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221805, para. 36; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1626</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057781, A13-A14, 01057787, A48.

<sup>1627</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A18-A20; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746812; **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221803, para. 26, 00221805, para. 38; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A17-A18; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365574, A9-A12.

<sup>1628</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A17-A18; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365574, A9-A12; **D99**, Written Record of Interview of Witness CHUOB Chern, 17 September 2011, ERN 00746996-00746997; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057786-01057787, A42-A45.



498. According to Pin Pov, seven guards worked at the security office,<sup>1631</sup> and there was a special group for interrogation consisting of four people, including Lim and Rin.<sup>1632</sup> Lim or Rin was the chief of the executioners;<sup>1633</sup> Khim, Lim, Hoeun, Rim, Ti and Roeun also carried out killings.<sup>1634</sup>

#### *Operation and Chain of Command*

499. Before the Southwest Zone cadres arrived, the Batheay District Secretary was Sao.<sup>1635</sup> After the Southwest Zone cadres arrived, the post was held by Phim<sup>1636</sup>

<sup>1629</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A17-A18; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365574, A9-A12.

<sup>1630</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067784, A17-A18; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365574, A9-A12.

<sup>1631</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057781, A15.

<sup>1632</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782-01057783, A22.

<sup>1633</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A19; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057785, A33.

<sup>1634</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A7; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746830; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A19.

<sup>1635</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067781-01067782, A4; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057780, A8, A9 and 01057785, A38; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112050, A15-A17; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373699, A8.

<sup>1636</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221805, para. 38; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746812; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746830; **D99**, Written Record of Interview of Witness CHUOB Cheun, 17 September 2011, ERN 00746996; **D117/26**, Written Record of Interview of Witness PUT Kol, 25 September 2013, ERN 00977336, A28; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A20; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365572-01365573, A2-A3; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057781, A11; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373699, A11; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111978, A83-A85; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224111, A81.



(alternate spelling Phoem), also known as Phal.<sup>1637</sup> He was from Takeo in the Southwest Zone.<sup>1638</sup>

500. A man named En (alternative spelling In) was in charge of district security<sup>1639</sup> and/or the district military.<sup>1640</sup> En reported to Phim.<sup>1641</sup> En received and issued orders to kill people at Wat Batheay.<sup>1642</sup> En was also Phim's messenger and carried out arrests.<sup>1643</sup> Lim reported to En.<sup>1644</sup>
501. According to Pin Pov, Phim ordered arrests based on the plans and orders from the "upper echelon" and not on his own initiative; the "upper echelon" conveyed the plans to arrest "bandits or enemies" in the cooperatives, and Phim followed the orders.<sup>1645</sup> The cooperative chiefs reported on people to the district, and the District Secretary would report further to the upper level, who gave orders to make the arrests.<sup>1646</sup> Pin Pov would send interrogation reports to Phim, who would assess whether to "smash" those people depending on the offences

<sup>1637</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059865, A21; **D117/56**, Written Record of Interview of Witness CHOM Vong, 19 November 2014, ERN 01067813, A25-A26.

<sup>1638</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057785, A37; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A22; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746988; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A20.

<sup>1639</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111978, A86.

<sup>1640</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A5; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373701, A23, 01373704, A61; *cf.* **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746812 [*stating that In and Vat controlled the sector*].

<sup>1641</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374666, A257.

<sup>1642</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224109-01224110, A68, 01224112, A93; **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224089, A54.

<sup>1643</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373701, A23-A24, 01373705, A73; **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221803, para. 26; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1644</sup> **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224112, A93.

<sup>1645</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A16-A18; **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, para. 34; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2, 00623584, A11.

<sup>1646</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A19, 01373703, A41.



they were accused of committing.<sup>1647</sup> Phim took the interrogation reports to the “*upper level*” and, if instructed by the “*upper level*”, he would proceed with the killing.<sup>1648</sup> A district messenger would bring Pin Pov lists of prisoners specifying who had to be killed or released.<sup>1649</sup> There were not many cases of release.<sup>1650</sup>

502. Pin Pov also attended meetings at the district level to provide numbers of prisoners at the security office and the number of prisoners killed or released.<sup>1651</sup> He states that he did not attend sector-level meetings<sup>1652</sup> and never met the Sector Secretary.<sup>1653</sup> However, Phim went to the sector office to attend planning meetings once or twice per month.<sup>1654</sup> En would also deliver letters from the district to the sector, also making trips once or twice per month.<sup>1655</sup>

503. In his capacity as Sector Secretary, **Ao An** was Phim’s immediate superior and had authority over Wat Batheay Security Centre, a district security centre within his sector. **Ao An**’s former bodyguard, Nhem Chen, states that **Ao An** knew of the killings at Wat Batheay because the district and all of the security office cadres reported them to him.<sup>1656</sup> As District Secretary, Phim would have received orders from **Ao An** relating to the arrest and killing of enemies, as discussed at paragraph 282.

504. Responsibility over Wat Batheay Security Centre can be traced further up the chain of command to the Central Zone Committee. At a meeting in Kampong

<sup>1647</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373703, A40.

<sup>1648</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373703, A41.

<sup>1649</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783, A25-A26, 01057788, A52.

<sup>1650</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057788, A53.

<sup>1651</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783-01057784, A27.

<sup>1652</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783-01057784, A27.

<sup>1653</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057785, A35.

<sup>1654</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373701, A25.

<sup>1655</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373704 A61, 01373705, A73, A76.

<sup>1656</sup> **D219/732**, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224089, A53; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374665, A244.



Cham the Committee discussed a plan to send detained “ordinary people” (as opposed to cadres) to “*Batheay District Security*”.<sup>1657</sup>

### Arrests

505. After the Southwest cadres came to replace the local cadres, the number of people arrested and taken to Wat Batheay Security Centre increased.<sup>1658</sup> Prisoners were arrested from different villages and communes throughout Batheay District and brought to the security office by district soldiers or militiamen.<sup>1659</sup>
506. Prisoners were walked<sup>1660</sup> to the security centre or transported there by cart,<sup>1661</sup> car,<sup>1662</sup> or truck.<sup>1663</sup> Sometimes trucks came every few days, sometimes every day; sometimes they were full of people, sometimes not.<sup>1664</sup> Upon arrival, the chief of the security centre would write down the places that the prisoners came from.<sup>1665</sup>

<sup>1657</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A38-A39. See para. 279.

<sup>1658</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A28; **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 33; as confirmed by **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1659</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632076, A2; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783, A23; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A45; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373700, A16-A18, A21.

<sup>1660</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A3; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057787, A49.

<sup>1661</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057787, A49.

<sup>1662</sup> **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746813.

<sup>1663</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622269, A11; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584-00623585, A12; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829-00746830; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057787, A50; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A17.

<sup>1664</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A10.

<sup>1665</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A7.



*Categories of detainees*

507. During the period of control by Southwest Zone cadres, the various categories of prisoners arrested and brought to Wat Batheay Security Centre included Central Zone cadres,<sup>1666</sup> “17 April people”,<sup>1667</sup> Lon Nol soldiers and other people with official positions under the previous government,<sup>1668</sup> people from the East Zone,<sup>1669</sup> and Cham people.<sup>1670</sup> Entire families, including women and children, were brought to the security centre.<sup>1671</sup>
508. According to one former detainee, the “new people” were not arrested because of any mistakes they made.<sup>1672</sup>
509. The imprisoned cadres included village chiefs, commune chiefs and unit chiefs, mainly from Srah Pring, Svay Pork, Batheay, and Chrey Tuol Villages and various other places.<sup>1673</sup> On one occasion while Pin Pov was in charge of the security centre, a truck with over 20 women, including the “wives of cadres from Phnom Penh” and children, were brought to the security centre.<sup>1674</sup>

<sup>1666</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783, A23; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A32.

<sup>1667</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A35-A36; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365580, A45-A46.

<sup>1668</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A2; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A22; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365577, A27.

<sup>1669</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623585, A12; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811, 00746813; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986-00746987; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746830; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A17, 01365577, A27-A28; **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622269, A11

<sup>1670</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067789, A38; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365576-01365579, A22-23, A32-A35, A38-A39.

<sup>1671</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783, A23; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A29-A30; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986.

<sup>1672</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365581, A50.

<sup>1673</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365582, A54, 01365583, A56.

<sup>1674</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365584, A61, A63.



510. People were also brought to the security centre for a variety of alleged infractions, such as tending a cow which broke its leg,<sup>1675</sup> being married to a man who had fled from the village,<sup>1676</sup> and belonging to a “bandit group”.<sup>1677</sup> One detainee was transferred from another security centre in Kouk Lvea Commune, upon accusation of being an American spy.<sup>1678</sup>

#### *Conditions of detention*

511. Pin Pov states that prisoners were detained in the long hall, east of the pond in the pagoda compound.<sup>1679</sup> One former detainee estimates that around 100 other people were detained in the same room as him.<sup>1680</sup> Male and female prisoners were sometimes detained separately and sometimes together.<sup>1681</sup> One detainee states that there were four buildings housing prisoners: two holding men and two holding women.<sup>1682</sup> Another detainee states that men and women were housed in the same building, but were shackled in different rows.<sup>1683</sup>

512. There was a distinction between “minor crime prisoners” who could walk around the compound and “serious crime prisoners” who were shackled and not allowed to walk around.<sup>1684</sup> Only a small group of prisoners were unshackled

<sup>1675</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746985.

<sup>1676</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632076, A2, 00632078, A9.

<sup>1677</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221803-00221804, paras 26-27; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A33-A34.

<sup>1678</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067782, A6-A8, 01067783, A13-A14.

<sup>1679</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A18.

<sup>1680</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, para. 28; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1681</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A29-A30; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057788, A55.

<sup>1682</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6.

<sup>1683</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A29-A30.

<sup>1684</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A18; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A33-A34.





during the daytime to perform labour.<sup>1685</sup> The other prisoners were shackled by their feet<sup>1686</sup> and sometimes handcuffed,<sup>1687</sup> in rows of seven to ten people each, day and night.<sup>1688</sup> Small children were not shackled, but bigger children were.<sup>1689</sup>

513. Some prisoners were assigned to work<sup>1690</sup> on “*all kinds of tasks*”,<sup>1691</sup> such as carrying water<sup>1692</sup> for vegetables, planting yams<sup>1693</sup> and carrying firewood,<sup>1694</sup> climbing palm trees and making palm sugar,<sup>1695</sup> or digging earth and clearing the land.<sup>1696</sup> Another witness, accused of a “*moral offence*”, was not detained at the security centre but was forced to carry out prisoners’ urine and faeces from

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01373704, A65; cf. **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811 [“*Prisoners with minor moral misconduct were initially put behind bars*”].

<sup>1685</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A25.

<sup>1686</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746985; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A18.

<sup>1687</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 31; as confirmed by **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1688</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A25.

<sup>1689</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A31.

<sup>1690</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A10; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A8; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A24; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A18.

<sup>1691</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A10.

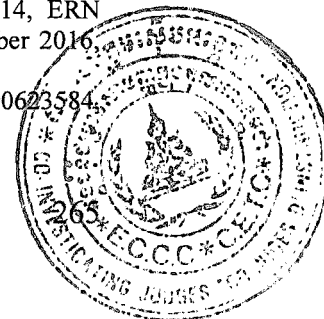
<sup>1692</sup> **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829.

<sup>1693</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A8; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A25;.

<sup>1694</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A8.

<sup>1695</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A25; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373704-01373705, A65-A67.

<sup>1696</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A10.



the prison.<sup>1697</sup> Some of the prisoners were also forced to dig pits and bury dead bodies.<sup>1698</sup>

514. Some prisoners performing labour were shackled and would be killed once they were unable to work due to fatigue or illness.<sup>1699</sup> According to one former detainee, the “*new people*” were shackled and forced to work and were not given any food.<sup>1700</sup> Four of them would be shackled together and, if one of them was unable to work anymore, then the security centre personnel told the other three to dig a pit and then, after having placed the prisoner on the edge of that, they hit him with a hoe and buried him in the pit. Then that person’s spot would be filled with a new person. This occurred “*all the time*”, both before and after the arrival of Phim.<sup>1701</sup>
515. Prisoners who were forced to work were very frightened,<sup>1702</sup> believing that they would be killed if they did not finish their work.<sup>1703</sup> One of them compares the situation to “*hell in the human world*”.<sup>1704</sup>
516. One former detainee states that Lim would beat her if she made a mistake, or did not work well. She was beaten two or three times per day with a thick bamboo stick, including on the head, and still suffers headaches as a result. She

<sup>1697</sup> **D99**, Written Record of Interview of Witness CHUOB Cheun, 17 September 2011, ERN 00746996.

<sup>1698</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622269, A8; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A10, A12; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078-00632079, A9, A11.

<sup>1699</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A8; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A24; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365581, A49, 01365582, A53.

<sup>1700</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365580, A46.

<sup>1701</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365580, A46-A47.

<sup>1702</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078-00632079, A11.

<sup>1703</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365582, A53.

<sup>1704</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12.



received no medical treatment.<sup>1705</sup> Another former detainee reports similar beatings.<sup>1706</sup>

517. Food rations were scarce.<sup>1707</sup> One detainee states that the shackled prisoners did not receive any food “*because the Khmer Rouge intended to kill them*”.<sup>1708</sup> Some prisoners released to perform labour were provided a ladle of gruel once or twice per day and were allowed to drink once per day.<sup>1709</sup> Some resorted to picking wild plants to supplement their diet.<sup>1710</sup> A number of prisoners died due to overwork, disease, starvation and mistreatment.<sup>1711</sup>
518. Some prisoners at Wat Batheay security centre were sent to work at worksites in other villages.<sup>1712</sup> According to one detainee, the security centre chief selected 36 prisoners to farm dry season paddies at Ou Mal village for six months.<sup>1713</sup> The prisoners included medics, professors, and well-educated people, and some died as a result of overwork, starvation and disease.<sup>1714</sup> Prisoners were also sent to perform labour at Spean Tros.<sup>1715</sup>

<sup>1705</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077-00632079, A8, A9, A11.

<sup>1706</sup> **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829.

<sup>1707</sup> **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746985; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829.

<sup>1708</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A28.

<sup>1709</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A28; **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 30; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A8.

<sup>1710</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A28.

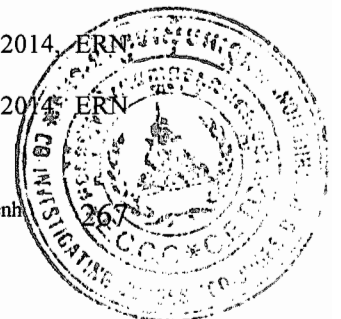
<sup>1711</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 30; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1712</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A26.

<sup>1713</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A26; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365586, A72.

<sup>1714</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A26.

<sup>1715</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A26.



*Interrogation*

519. Prisoners who were not immediately killed were all interrogated.<sup>1716</sup> Several witnesses describe physical abuse during interrogations.<sup>1717</sup> One witness specifies that the hands of the “*new people*” would be tied up “*for torturing*” as soon as they arrived at the security centre.<sup>1718</sup> Prisoners were beaten with bamboo sticks or clubs or suffocated with plastic bags.<sup>1719</sup> Some died as a result.<sup>1720</sup>
520. Interrogations sought to extract information on prisoners’ “*networks*”.<sup>1721</sup> One detainee was asked questions about his biography, family, and background.<sup>1722</sup> Two female witnesses were faced with accusations about their husbands.<sup>1723</sup>
521. Khim, Rim, Lim, Hoeun, and Roeun beat prisoners<sup>1724</sup> and, amongst others, Lim and Rim interrogated them.<sup>1725</sup>
522. Prisoners were generally killed after interrogation, although some prisoners were kept for a period of time after interrogation before being killed.<sup>1726</sup>

<sup>1716</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A20; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A16.

<sup>1717</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A21; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A7; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811.

<sup>1718</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365581, A50.

<sup>1719</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A7; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A21.

<sup>1720</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221804, para. 30; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1721</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A7.

<sup>1722</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221803-00221804, para. 27; *as confirmed and completed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A6; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A9; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811.

<sup>1723</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A9; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811.

<sup>1724</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623583, A7; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A9.

<sup>1725</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057782, A22.

<sup>1726</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A23.



*Killings*

523. Killings at Wat Batheay Security Centre increased when the Southwest Zone cadres arrived.<sup>1727</sup> All but a few prisoners brought to Wat Batheay Security Centre were killed.<sup>1728</sup> Most prisoners were executed either immediately upon arrival or the next day.<sup>1729</sup> Sometimes groups of prisoners were detained in the hall because the guards did not have the time to kill them all immediately.<sup>1730</sup>
524. The killing area has been described as 30 metres east of the main gate of the pagoda,<sup>1731</sup> or around 20 metres away from the security office, in the forest near the foothills.<sup>1732</sup> The killing area was fenced and enclosed with barbwire in parts.<sup>1733</sup>
525. Prisoners were used to dig pits before the killing began and then bury the corpses near the detention facilities two to three hours later.<sup>1734</sup> The executioners would walk the prisoners to the killing pits in a line with their hands tied behind their backs<sup>1735</sup> and would beat those who could not walk fast.<sup>1736</sup> Killings

<sup>1727</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057788, A54; **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, para. 33; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A33.

<sup>1728</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067786, A23; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A10; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057788, A53.

<sup>1729</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632077, A6; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811.

<sup>1730</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A10.

<sup>1731</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A35.

<sup>1732</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A30.

<sup>1733</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623585, A12.

<sup>1734</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221805, paras. 35-36; *as confirmed and completed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2, 00623584-00623585, A12; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746985-00746986; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A34-A35; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11

<sup>1735</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623585, A12; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11



occurred during the day<sup>1737</sup> and night.<sup>1738</sup> Prisoners were killed using bamboo clubs,<sup>1739</sup> hoes,<sup>1740</sup> bayonets,<sup>1741</sup> and knives to cut their throats.<sup>1742</sup> Some prisoners were forced to lie down at the edge of a pit, and then their throats were stabbed “*like they were slaughtering a pig*” and their bodies pushed into the pit to be buried later.<sup>1743</sup> Some prisoners were buried alive.<sup>1744</sup> The executioners would tell prisoners that they were traitors before killing them.<sup>1745</sup> According to one former detainee, the guards led groups of prisoners to the pits one to three times per day.<sup>1746</sup>

526. Entire families were killed, including small children and elderly people.<sup>1747</sup> Children were killed at the same time as their mothers.<sup>1748</sup> They would be

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00632078, A11; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31.

<sup>1736</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11.

<sup>1737</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067789, A37.

<sup>1738</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31.

<sup>1739</sup> **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31.

<sup>1740</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31.

<sup>1741</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986.

<sup>1742</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A34.

<sup>1743</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A34.

<sup>1744</sup> **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811.

<sup>1745</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12.

<sup>1746</sup> **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11

<sup>1747</sup> **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; **D3/16**, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A29-A30; **D219/875**, Written Record of Interview of Witness THOU Leang, 18 November 2016, ERN 01365579, A39.

<sup>1748</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A31.



grabbed by their feet and their heads bashed against trees.<sup>1749</sup> Loud music was played to drown out the sound of the victims' screams.<sup>1750</sup>

527. One former detainee saw female prisoners being stripped naked before they were executed but never saw or heard about rapes.<sup>1751</sup> Occasionally, the executioners would cut open the bodies of women and remove their gallbladders.<sup>1752</sup>
528. The rate of executions escalated when many people from the East Zone, including Cham people, were brought to Wat Batheay Security Centre on district-level trucks to be killed.<sup>1753</sup> They were either killed immediately after their basic information was recorded<sup>1754</sup> or detained just one night before being killed.<sup>1755</sup> This occurred in 1978 during the period when Phim was district chief and Pin Pov was chief of the security centre.<sup>1756</sup> A detainee who observed the arrival of the East Zone people estimates that approximately 10% of them were Cham.<sup>1757</sup> A separate incident that also occurred while Pin Pov was the security

<sup>1749</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A34.

<sup>1750</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, para. 32; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1751</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A32, 01067788, A34

<sup>1752</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788, A34; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365581, A49.

<sup>1753</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986-00746987; **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, paras. 33-34; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2, 00623585, A12; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829-00746830; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067788-01067789, A34, A38; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575-01365576, A16-A22, 01365577, A28-A29, 01365579, A40, 01365584, A60.

<sup>1754</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A16.

<sup>1755</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365577, A29, 01365580, A42.

<sup>1756</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221804, para. 34; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A33; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365573, A5, 01365575, A16, 01365577, A28.

<sup>1757</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365576, A23.



centre chief, in 1978,<sup>1758</sup> when two trucks arrived at the security centre that were full of only Cham people from the east,<sup>1759</sup> including both men and women, elderly people, and children.<sup>1760</sup> A former detainee saw two to three large pits each containing approximately 20 bodies of Cham people who had been brought on these trucks.<sup>1761</sup>

529. Although he concedes that thousands of prisoners were killed at the security centre, Pin Pov provides a substantially different account of the killing that took place while he was in charge. He claims that the morning after the East Zone people arrived they were taken to the rubber plantations and that only around 50 to 60 of them were killed at the security centre while he was in charge.<sup>1762</sup> Considering Pin Pov's potential motive to downplay his level of responsibility for executions, these claims do not appear credible compared to the evidence of multiple other witnesses who describe the killing of large groups of prisoners from the East Zone while he was chief of the security centre. Pin Pov makes a similarly dubious claim that he does not know whether or not Cham people were brought to the security centre, and he denies seeing any Cham while he was in charge.<sup>1763</sup> He also claims he could not distinguish between the ethnic Cham and other nationalities among prisoners.<sup>1764</sup> This is not credible in light of his motive to downplay his responsibility and the contrary evidence of a former detainee who clearly describes the presence of Cham among the victims while Pin Pov was in charge. Moreover, to acknowledge that large numbers of Cham

<sup>1758</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365578, A33, A34.

<sup>1759</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365578, A32, A35.

<sup>1760</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365579, A39.

<sup>1761</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067789, A38; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365578, A31-A32.

<sup>1762</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373701-01373702, A29-A31; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057785, A34, 01057787-01057788, A50.

<sup>1763</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057783, A24; **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A38.

<sup>1764</sup> **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057788, A54.





people were brought in and killed would also run contrary to his narrative portraying the prisoners as “*bandits and thieves*”.<sup>1765</sup>

530. By contrast, the former detainee’s description of Cham people at the security centre is both reliable and credible, as he was one of the few detainees allowed to walk around the security centre compound and was therefore in a good position to observe events therein, his overall evidence is corroborated by other witnesses, and he has no apparent reason to be dishonest. He provides a very clear account of how he identified the victims as Cham by being informed of their ethnicity by the security centre chief and by hearing them speak the Cham language.<sup>1766</sup> His evidence about the killing of Cham at the site is also consistent with the operation discussed in section 6.4.2 on the Genocide of the Cham, involving the transportation of large numbers of Cham and other people from the East Zone to various parts of Kampong Cham Province to be killed. Accordingly, this former detainee’s account of the mass killing of Cham people at Wat Batheay is substantially more likely to be true than the contrary claim by Pin Pov. Nonetheless, while Pin Pov cannot be considered credible on the type of victims and number of killings at Wat Batheay while he was in charge of the security centre, his evidence on other aspects of the security centre’s operations is considered reliable, overall, particularly when corroborated.
531. According to some former detainees, the killings at Wat Batheay stopped at some point in 1978 after the CPK announced an amnesty;<sup>1767</sup> and one witness describes a radio broadcast to this effect in late 1978.<sup>1768</sup> However, by that time

<sup>1765</sup> **D219/871**, Written Record of Interview of Witness PIN Peou, 22 November 2016, ERN 01373702, A33-A34.

<sup>1766</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365579, A38-A39.

<sup>1767</sup> **D1.3.10.22**, Report entitled “OCP Mission to Batheay District, Kampong Cham Province”, dated 30 July 2007, ERN 00221805, para. 37; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2; **D89**, Written Record of Interview of Witness CHEA Phy, 15 September 2011, ERN 00746811; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746987.

<sup>1768</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067787, A33.



only six to seven surviving prisoners remained.<sup>1769</sup> Another witness states that the killings continued until the prisoners were liberated by the Vietnamese.<sup>1770</sup>

532. The precise number of deaths at Wat Batheay Security Centre cannot be determined, but witnesses consistently observed that the victims numbered in the thousands.<sup>1771</sup> Although it is likely, in light of evidence that the security centre began operating prior to the arrival of the Southwest Zone cadres, that a relatively smaller number of killings may have occurred before their arrival, it is clear that the overwhelming majority of killings occurred after their arrival. This is consistent with the pattern of killing throughout Sector 41. In particular, the most prolonged, large-scale killing operations at the security centre – namely, the purge of suspect local people from the area and, later, the mass killing of people brought from the East Zone, including the Cham – both occurred during the period of administration by the Southwest Zone cadres.
533. Bearing these considerations in mind, a conservative minimum estimate is that **5000** or more people were killed at Wat Batheay Security Centre were killed after the arrival of the Southwest Zone cadres and before the arrival of the Vietnamese in January 1979. This estimate is based on the following witness accounts: A former detainee who observed and recalled the security centre operations in great detail estimates that approximately 10,000 or 11,000 people were killed there,<sup>1772</sup> although he does not specify how many were killed before or after the Southwest Zone cadres arrived. Since the killing increased after their arrival, it can reasonably be estimated that at least half of these 10,000 people were killed after their arrival, approximated as **5000**. Similarly, another detainee overheard security guards at the site saying that more than **5000** people from the

<sup>1769</sup> **D1.3.10.22**, Report entitled "OCP Mission to Batheay District, Kampong Cham Province", dated 30 July 2007, ERN 00221805, para. 37; *as confirmed by* **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623582-00623583, A1-A2.

<sup>1770</sup> **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746831.

<sup>1771</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A21, 01067789, A40; **D3/7**, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584-00623585, A12; **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746987; **D219/116**, Written Record of Interview of Witness PIN Pov, 4 December 2014, ERN 01057784, A30; **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A6.

<sup>1772</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067785, A21, 01067789, A40.



East Zone had been killed.<sup>1773</sup> This number is also consistent with the number of prisoners from the East Zone observed being brought to the security centre to be killed. Witnesses describe two American-made 4x4 trucks<sup>1774</sup> bringing prisoners from the East Zone to the security centre two to four times every day<sup>1775</sup> over a period of one to two months.<sup>1776</sup> Each truck was fully loaded and carried between 20 and 70 prisoners.<sup>1777</sup> These prisoners from the east included former soldiers, wives of soldiers, policemen, “*court people*” (ostensibly persons who previously worked in the judicial system during the Lon Nol regime), and military police who were “*disloyal*”.<sup>1778</sup> This account gives a range of between 2400 (2 trucks x 2 times per day x 1 month (30 days) x 20 prisoners) and 33,600 (2 trucks x 4 times per day x 2 months (60 days) x 70 prisoners). The estimate of **5000** is squarely within this range and, by being closer to the minimum, remains a very conservative estimate.

534. Witnesses describe grave pits of various numbers and sizes: pits that were “*1 x 2 meters in size with about 1.8 meters in depth*” that could each contain 40 bodies;<sup>1779</sup> seven or eight pits that were 20 metres wide and could contain hundreds of bodies;<sup>1780</sup> hundreds of pits with dimensions of several metres;<sup>1781</sup> and 1000 smaller pits containing one or two bodies.<sup>1782</sup> One detainee who dug pits states that the number of pits was “*uncountable*” and that they spanned an

<sup>1773</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746987.

<sup>1774</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A17.

<sup>1775</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829-00746830; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365576, A19.

<sup>1776</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365575, A17, 01365577, A29.

<sup>1777</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746986; **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829-00746830; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365576, A20-A21, 01365584, A60

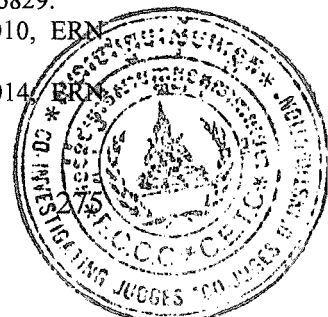
<sup>1778</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365577, A27.

<sup>1779</sup> **D91**, Written Record of Interview of Witness CHHOAY Loeung, 15 September 2011, ERN 00746985.

<sup>1780</sup> **D97**, Written Record of Interview of Witness SENG Run, 17 September 2011, ERN 00746829.

<sup>1781</sup> **D3/6**, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622269, A9.

<sup>1782</sup> **D219/80**, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067789, A39.



area covering two hectares.<sup>1783</sup> Pits were located to the east of the pagoda<sup>1784</sup> approximately 20 to 30 metres from the detention hall,<sup>1785</sup> and spread throughout the area spanning from the security centre to the foot of the hills to the south.<sup>1786</sup> After the end of DK, bones and skulls were dug up by people searching for valuables. One witness estimated that thousands of skulls were collected.<sup>1787</sup> A stupa houses remnants of the remains at the site.<sup>1788</sup> These pits and bodies observed by witnesses corroborate that mass killing occurred at Wat Batheay but have not been relied upon for calculating the number of victims, since it is not possible to determine which pits were created before or after the arrival of the Southwest Zone cadres, nor is it possible to distinguish these victims from the approximately 10,000 or 11,000 victims observed by the former detainee described above.

#### *Visits by Ao An*

535. There is no evidence that **Ao An** visited Wat Batheay Security Centre.
536. **Ao An**'s bodyguard describes an instance where **Ao An** visited Batheay District, but his evidence is unclear as to whether the visit was to the district office or Wat Batheay Security Centre. The witness initially states that he accompanied **Ao An** once to Wat Batheay Security Centre to attend an "ordinary meeting" where construction and food rationing were discussed.<sup>1789</sup> However, when asked about these meetings in a later interview, he replied that he and **Ao An** attended a meeting in Batheay about cultivation at the District Office with the commune and village chiefs, and, while in Batheay, he saw a

<sup>1783</sup> D3/7, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584-00623585, A12.

<sup>1784</sup> D3/7, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; D219/80, Written Record of Interview of Witness THOU Leang, 18 November 2014, ERN 01067789, A39.

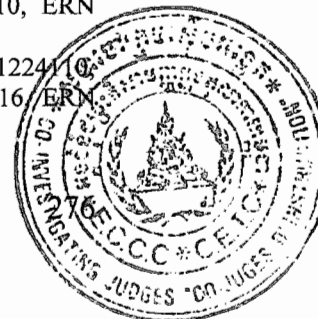
<sup>1785</sup> D3/7, Written Record of Interview of Witness UM Ruos, 24 September 2010, ERN 00623584, A12; D3/16, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632078, A11.

<sup>1786</sup> D3/16, Written Record of Interview of Witness PHLONG San, 10 November 2010, ERN 00632079, A11.

<sup>1787</sup> D3/6, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A6.

<sup>1788</sup> D3/6, Written Record of Interview of Witness CHEU Senghuot, 21 September 2010, ERN 00622268, A6.

<sup>1789</sup> D219/731, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224089, A69-A70; D219/732, Written Record of Interview of Witness NHEM Chen, 17 March 2016, ERN 01224089, A52-A53.



group of starving prisoners detained in a house 100 meters from the meeting place.<sup>1790</sup> On this occasion, the bodyguard also saw more than 10 people being tied up and walked to the jungle.<sup>1791</sup>

#### **6.4.1.7 Wat Phnom Pros Execution Site**

##### *Location and establishment*

537. Phnom Pros and Phnom Srei are two small, adjacent hills located in Krala and Ampil Communes, Kampong Siem District, Kampong Cham Province, in what used to be Sector 41 of the Central Zone.<sup>1792</sup> They are situated immediately north of National Road 7 approximately seven kilometres northwest of Kampong Cham Town.<sup>1793</sup> The Kampong Siem District Office was located four kilometres northeast of Phnom Pros Phnom Srei along National Road 7.<sup>1794</sup>
538. Before DK, a pagoda was in use at Phnom Pros Phnom Srei,<sup>1795</sup> as well as a military base for Lon Nol's troops at the entrance to the pagoda.<sup>1796</sup>
539. During DK, Phnom Pros Phnom Srei was as a Central Zone military base.<sup>1797</sup> There was a military barrack at the foot of Phnom Pros next to National Road 7

<sup>1790</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374664, A237-A239.

<sup>1791</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374666, A255, A258.

<sup>1792</sup> **D3/23**, Report of the Execution of Rogatory Letter: Site Identification Report, 1 December 2010, ERN 00644191.

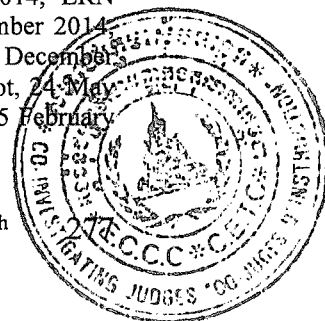
<sup>1793</sup> **D3/23**, Report of the Execution of Rogatory Letter: Site Identification Report, 1 December 2010, ERN 00644191.

<sup>1794</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275, A13; **D179/1.2.5**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 26 January 2012, ERN 00774566; **D179/1.2.6**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 30 January 2012, ERN 00775491.

<sup>1795</sup> **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A8.

<sup>1796</sup> **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A8; *see also* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059296, A94 [*"A military base had been located there even before the Khmer Rouge era"*].

<sup>1797</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040461, A8; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063622, A78; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A7; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A8; **D219/178**, Written Record of Interview of Witness KUCH Ra, 5 February 2015, ERN 01077014, A13.



known as Fort Hang or Banteay Se.<sup>1798</sup> Soldiers were also stationed at the top of Phnom Pros,<sup>1799</sup> including the chief of the site who lived at the top of Phnom Pros with his bodyguards.<sup>1800</sup>

540. The local population was prohibited from entering the Phnom Pros Phnom Srei area,<sup>1801</sup> although some people performed agricultural work in the surrounding area.<sup>1802</sup>

541. A killing site operated at Phnom Pros Phnom Srei by March or April 1977<sup>1803</sup> and continued to operate at least until the purge of the East Zone in mid-1978.<sup>1804</sup> Much of the killing took place between the two hills,<sup>1805</sup> although killings appear to have also occurred at other places on and around the two hills.<sup>1806</sup>

<sup>1798</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A6; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787224, A2.

<sup>1799</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A3; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787224, A2.

<sup>1800</sup> **D107/19.1**, Written Record of Interview of Witness VORNG Sokun, 17 February 2012, ERN 00787238, A20; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A7.

<sup>1801</sup> **D219/472**, Written Record of Interview of Witness SUM Chanthol, 24 August 2015, ERN 01178457, A90; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630444, A4; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 14 September 2015, ERN 01152374, A24; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373609, A44; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A16.

<sup>1802</sup> **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, ERN 01067872, A167; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373608, A39.

<sup>1803</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384434; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A3.

<sup>1804</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374648-01374649, A63, 01374660-01374661, A199. The witness states that the mass killing of East Zone cadres at Wat Phnom Pros occurred in June 1977 but appeared uncertain about the date. Based on the remainder of the evidence, however, this event most likely occurred during the purge of the East Zone in 1978.

<sup>1805</sup> **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A7; **D3/23**, Report of the Execution of Rogatory Letter: Site Identification Report, 1 December 2010, ERN 00644191.

<sup>1806</sup> **D95**, Written Record of Interview of Witness SOENG Lim, 16 September 2011, ERN 00746991-00746992; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D3/20**, Written Record of Interview of Witness SREI Kanooun, 18 February 2010, ERN 00631100, A3; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132626, A9; **D191.1.112**, Written record of Interview of Civil Party Applicant



*Personnel, operation, and chain of command*

542. Phnom Pros Phnom Srei was under the control of the Central Zone Secretary, Ke Pauk.<sup>1807</sup>
543. By June 1977,<sup>1808</sup> Ke Pauk had appointed Chhit Choeun (no relation to Chhit Choeun alias Ta Mok) to be in charge of Phnom Pros Phnom Srei.<sup>1809</sup> One witness states that Choeun was Ke Pauk's godson.<sup>1810</sup> Choeun was responsible for the security and management of Phnom Pros Phnom Srei<sup>1811</sup> and had the power to conduct interrogations and temporarily halt killings at the site.<sup>1812</sup> Choeun himself professed to a witness that he had "*authority and power*" over the Phnom Pros area,<sup>1813</sup> and also provided protection to certain persons escaping arrest.<sup>1814</sup> In late 1977, Ke Pauk visited Phnom Pros Phnom Srei and instructed Choeun to "*burn up all the remaining clothes of those who had been killed*" and "*to bury the corpses that had not yet been completely buried*".<sup>1815</sup> Choeun remained in charge of Phnom Pros Phnom Srei until the arrival of the

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NAT Hoeun, 23 March 2012, ERN 00797022 (told by an unnamed source that people were killed at the top of the mountain).

<sup>1807</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040459, A1-A2, 01040461, A8-A9; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787224-00787225, A3-A4; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A8, 01132626, A13; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630446, A13.

<sup>1808</sup> **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630444, A4.

<sup>1809</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787225, A7; **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787219; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113697, A11; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630444, A4; **D191.1.112**, Written record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797022; *see also; no relation to Chhit Choeun alias Ta Mok see D219/422.4*, Transcript of Interview of NHIM Kol, 20 Feb 2012, ERN 01136792 [*"Do not mistake CHHIT Choeun for Ta Mok; This CHHIT Choeun was not Ta Mok. This was another Choeun"*].

<sup>1810</sup> **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787219.

<sup>1811</sup> **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A7.

<sup>1812</sup> **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113697, A12.

<sup>1813</sup> **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630444, A4.

<sup>1814</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A15; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630444-00630445, A6-A8.

<sup>1815</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787225, A6-A7.



Vietnamese in 1979; there is no evidence that the command passed to someone else and he was seen in the area until that time.<sup>1816</sup>

544. Various groups assisted in the operation to kill people at Phnom Pros Phnom Srei during the time that Ke Pauk and Choeun were in control. According to a soldier stationed at the site, the soldiers based at the site were not to carry out the killings and, in July or August 1977 a “*security group*” or “*military team*” was brought from Siem Reap and killed people at the site.<sup>1817</sup> The killing paused in November or December 1977, when Ke Pauk “*arrested and took the security group from Siem Reap away*”.<sup>1818</sup> This group was then replaced by a group from Phnom Penh, under the leadership of a person named Ta Hao.<sup>1819</sup>
545. **Ao An** planned with the Central Zone Committee to send people to Phnom Pros Phnom Srei to be killed, and he oversaw operations to send prisoners from Sector 41 to be killed there.<sup>1820</sup> There is no further evidence of his authority or role in relation to the site.

*Arrests and transfer to Phnom Pros Phnom Srei*

546. Before being sent to Phnom Pros Phnom Srei, prisoners in Sector 41 were gathered in Prey Totueng near the Sector 41 Office or Wat Ta Meak Security Centre. Some prisoners were gathered under the pretence that they were to attend a study session or meeting and were not arrested until they boarded trucks to Phnom Pros Phnom Srei, while other prisoners were detained first at Wat Ta Meak Security Centre before being transferred to Phnom Pros Phnom Srei.<sup>1821</sup> Decisions on where to send prisoners would be made by **Ao An**'s

<sup>1816</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787227, A25; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113697, A14.

<sup>1817</sup> **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A6; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787224, A3, 00787226, A16.

<sup>1818</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787225, A6.

<sup>1819</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A19; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A6, A7.

<sup>1820</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157; see sections 6.3.4.2 – 6.3.4.3.

<sup>1821</sup> See section 6.3.4.3 Targeting of specific groups, para. 294.





office chief Aun, on **Ao An**'s orders.<sup>1822</sup> High-risk or priority prisoners would then be sent “east”, bound for Phnom Pros Phnom Srei,<sup>1823</sup> while lower priority prisoners would be sent to another killing site.<sup>1824</sup> This prisoner triage and dispatch operation was carried out in accordance with the plan devised by **Ao An** and the Central Zone Committee during the meetings discussed at paragraph 279.

547. Prisoners were brought to Phnom Pros Phnom Srei on trucks<sup>1825</sup> belonging to the Central Zone,<sup>1826</sup> some of which were escorted by armed guards.<sup>1827</sup> Some of the trucks may have belonged to Sector 41.<sup>1828</sup> At least two drivers from the transportation unit of the Sector 41 Commerce Office drove trucks of prisoners from Prey Totueng to Phnom Pros Phnom Srei.<sup>1829</sup> Initially, the vehicles used to transport prisoners were American GMC trucks, and later Chinese “Zil” trucks

<sup>1822</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174540, A21; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A152, **D219/855**, Written Record of Interview of Witness NHEM Chen, ERN 01374647, A46, A48, 01374648, A56, 01374649, A64.

<sup>1823</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A38, 01374656, A160.

<sup>1824</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A38, 01374647, A45.

<sup>1825</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A47; **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A19; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A7; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539, A7, A10; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152374, A24; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6; **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A7; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132625, A7; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157.

<sup>1826</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A47; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 November 2015, ERN 01167896, A72; **D117/66**, Written Record of Interview of Witness ORN Kim Eng, 27 August 2014, ERN 01040460, A7.

<sup>1827</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622-01088623, A6-A7; *cf.* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93 [“no guards”].

<sup>1828</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 November 2015, ERN 01167897, A75-A76; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A11.

<sup>1829</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A146-A147; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A11; *cf.* **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A8 [stating that the “transportation section of the sector” was not involved in taking people to Phnom Pros Phnom Srei].



were used.<sup>1830</sup> Prisoners taken to the site included whole families with elderly people and children.<sup>1831</sup>

548. Witnesses describe several operations to transport large numbers of people to Phnom Pros Phnom Srei. These witnesses saw the departure of prisoners on trucks and learned from the drivers or others involved in the operation that Phnom Pros Phnom Srei was the destination. From March or April 1977, a member of the Sector 41 textile unit began noticing two GMC trucks with a 50-person capacity transporting people from Prey Totueng “*for the entire week*” and later “*After being quiet for a while, the trucks came back again and took more people away. ... It continued to take place until October 1977*” when the witness stopped working there.<sup>1832</sup> Although the witness does not specify how many people were actually on the trucks, it can reasonably be inferred that the trucks were full, given that this would be the most efficient way to transport a large number of people on several trips; other witnesses also consistently describe fully loaded trucks heading to the site.<sup>1833</sup> Accordingly, a reasonable minimum can be calculated based on two trucks transporting 50 people on seven occasions (trucks came for an “*entire week*”, calculated as 5 events; plus the “*the trucks came back*” to take more people on multiple occasions, calculated as 2 events), which totals **700** people. In a separate operation, **Ao An**’s bodyguard describes Chinese “*Zil*” trucks with a capacity of 30 people transporting East Zone people from Prey Totueng over the course of two and one-half months, accounting for “*at least 500 people*” and suggesting that the number was higher because the operation continued after he left to work

<sup>1830</sup> **D107/5**, Written Record of Interview of Witness ORN Kim Eng, 18 February 2012, ERN 00787226, A19; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374647, A54; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152374, A24; **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.

<sup>1831</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93; **D117/38**, Written Record of Interview of Civil Party Applicant KRUCH Kim, 24 April 2014, ERN 01056735, A5; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067872-01067873, A167-A171.

<sup>1832</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.

<sup>1833</sup> **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113697, A11; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93; **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067873, A169-A171.



elsewhere.<sup>1834</sup> A Sector 41 logistics cadre describes another operation in late 1977, when “*entire families*”<sup>1835</sup> would stay at Wat Ta Meak for four or five days and, as soon as there was a “*sufficient number*” they would be transported to Phnom Pros Phnom Srei, estimating this happened to “*at least 300 people.*”<sup>1836</sup> The combination of minimum estimates for only these three distinct operations thus yields a total minimum estimate of **1500** people being transported to Phnom Pros Phnom Srei while **Ao An** was in charge of Sector 41. Since two of these witnesses saw only individual incidents of what was a larger operation, the actual number will be much higher.

549. Other witnesses who were transplanting rice nearby Phnom Pros Phnom Srei would see trucks of prisoners heading toward the site.<sup>1837</sup> One witnesses saw “*twenty to thirty vehicles per day ... fully loaded with people*” driving toward Phnom Pros Phnom Srei,<sup>1838</sup> without specifying over how many days, and another saw 10 military trucks filled with prisoners being unloaded at Phnom Pros Phnom Srei.<sup>1839</sup> Since it is not possible to determine on the current evidence whether or not these are the same prisoners seen heading to the site from Wat Ta Meak or the Sector 41 Office, these victims have not been counted in the total minimum estimate for this site.

<sup>1834</sup> **D219/855**, Written Record of Interview Witness NHEM Chen, 27 October 2016, ERN 01374647, A53, 01374648, A62, 01374651, A97, 01374656, A165; **D219/731**, Written Record of Interview Witness NHEM Chen, 15 March 2016, ERN 01224112, A96.

<sup>1835</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67, 01167913, A143.

<sup>1836</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67, 01167913, A143; *see also* **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A11 [“*There were two drivers named Se and Det. They worked in the transportation unit of the sector and were assigned to transport people from Wat Ta Meah Pagoda to Phnum Pros Phnum Srei Mountain*”], 01151220, A15 [“*each time there was a sufficient number*”]; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11 [“*I recall that in 1975 when the Southwest people took the command of the sector trucks arrived in the village and took away 15 families of new people [...] In 1983 went to Phnum Pros Phnum Srei and saw many skulls and bones so think that many people were take for execution there*”]; **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362677-01362678, A49 [“*Whenever it was full, those detainees were taken and killed*”], A50-A51, A61.

<sup>1837</sup> **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067873, A169-A171; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93.

<sup>1838</sup> **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01167913, A11.

<sup>1839</sup> **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 008461.



*Killings*

550. Over time it became common knowledge in Sector 41 that people who were taken to Phnom Pros Phnom Srei were ultimately killed.<sup>1840</sup> Witnesses confirm that people loaded onto the trucks that drove toward the site did not return,<sup>1841</sup> and some witnesses later learned from the truck drivers that these people were killed.<sup>1842</sup> Witnesses recount that only the people's clothes and belongings returned to be redistributed or stored,<sup>1843</sup> which is consistent with evidence that prisoners at Phnom Pros Phnom Srei were seen removing their clothes prior to being killed.<sup>1844</sup>
551. Other witnesses saw or heard the killing as it occurred. Several people were seen being burned alive in large kilns at Wat Phnom Pros Phnom Srei, on two occasions, while unidentified cadres were present.<sup>1845</sup> A civil party applicant was assigned to collect the resulting ash to be used as fertilizer and saw human bones in the large piles of ash located next to the kiln; the ash piles were “*as big*

<sup>1840</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539, A7; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797022; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384434; **D117/20**, Written Record of Interview of Witness LIM Seng, 5 March 2013, ERN 00900990, A15; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67, 01167913, A143.

<sup>1841</sup> **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42.

<sup>1842</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67, 01167913, A143; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539, A7, A10; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152374, A24. **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088622, A6.

<sup>1843</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A42; **D3/17**, Written Record of Interview of Witness NIV Sun, 30 November 2010, ERN 00631097, *as confirmed by D3/10*, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11.

<sup>1844</sup> **D6.1.379**, Written Record of Interview of Witness KE Pich Vannak, 4 June 2009, ERN 00346157; **D219/472**, Written Record of Interview of Witness SUM Chanthol, 24 August 2015, ERN 01178455, A65.

<sup>1845</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373607-01373608, A27, A30-A37, 01373610, A57-A62; **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 24 April 2014, ERN 01072509, A18.



as a house”, about 10 metres in diameter each and “*tall*”, and looked as if they had been piled up using an excavator.<sup>1846</sup>

552. You Vann, the messenger of Kampong Siem District Secretary Prak Yut, recalls seeing a GMC truck filled with men, women and children at Phnom Pros Phnom Srei and then realized the people were killed when she heard gunshots and screams coming from the site one hour later.<sup>1847</sup> Another witness who lived at Phnom Pros under the protection of Chhit Choeun “*heard people screaming in pain*” and was told by Choeun that it was prisoners being executed.<sup>1848</sup> Screaming and crying was also heard at night coming from a well approximately one half-kilometre from Phnom Pros Phnom Srei.<sup>1849</sup>
553. After the arrival of the Vietnamese in January 1979, witnesses recall seeing “*many pits*” of unspecified size containing human remains,<sup>1850</sup> including “*countless bones and skulls*”<sup>1851</sup> and rotting flesh,<sup>1852</sup> in the area stretching between Phnom Pros Phnom Srei and the airfield east of Sralao Village. The area lay under an unbearable stench from the decomposing bodies in the pits,<sup>1853</sup> suggesting the graves were fresh. There were also pits two metres deep in four or five rows to the north of Phnom Pros.<sup>1854</sup> In nearby Sralao Village, Ampil

<sup>1846</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373610-01373611, A64-A68; **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 24 April 2014, ERN 01072509, A20.

<sup>1847</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 August 2015, ERN 01059295, A93.

<sup>1848</sup> **D3/19**, Written Record of Interview of Witness VORNG Sokun, 2 December 2010, ERN 00630445, A6-A7.

<sup>1849</sup> **D219/772**, Written Record of Interview of Witness SAT Sim, 21 May 2016, ERN 01309839-01309842, A58-A79.

<sup>1850</sup> **D3/20**, Written Record of Interview of Witness SREI Kanoen, 31 February 2010, ERN 00631100, A3; **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132626, A9.

<sup>1851</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088623, A9; **D3/20**, Written Record of Interview of Witness SREI Kanoen, 31 February 2010, ERN 00631100, A3; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090003, A48; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111817, A10; **D95**, Written Record of Interview of Witness SOEUNG Lim, 16 September 2011, ERN 00746991; **D6.1.697**, Written Record of Interview of Witness SUON Kanil, 18 August 2009, ERN 00384434; **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579.

<sup>1852</sup> **D219/377**, Written Record of Interview of Witness MORN Mot, 24 May 2015, ERN 01132626, A10.

<sup>1853</sup> **D219/378**, Written Record of Interview of Witness TEM Chhean, 24 June 2015, ERN 01132630, A11.

<sup>1854</sup> **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011.



Commune, Kampong Siem District, there were a “*great number of pits in which thousands of dead bodies were buried,*” and two wells, three metres wide and ten metres deep, each filled to the brim with dead bodies.<sup>1855</sup>

554. A DC-Mapping report<sup>1856</sup> indicates that there were 10,000 people killed at Phnom Pros Phnom Srei, and one witness states that people counted more than that “*more than ten thousand skulls*” during an exhumation in 1980 or 1981.<sup>1857</sup> For the reasons explained at paragraph 136, this figure will not be relied upon.

#### *Visits by Ao An*

555. There is no reliable evidence that **Ao An** visited the site. A witness who was living at Phnom Pros under Choeun’s protection for one and one-half months was shown a photograph of **Ao An** and said she saw that person twice at Phnom Pros Phnom Srei.<sup>1858</sup> By contrast, both **Ao An**’s driver and **Ao An**’s bodyguard deny ever having been to Phnom Pros with **Ao An**.<sup>1859</sup>

### **6.4.1.8 Wat Ta Meak Security Centre**

#### *Location and establishment*

556. Wat Ta Meak was a sector-level security centre<sup>1860</sup> situated on approximately three hectares of land<sup>1861</sup> and located in Prey Totueng Village, Chrey Vien

<sup>1855</sup> **D219/378**, Written Record of Interview of Witness TEM Chhean, 24 June 2015, ERN 01132628, 01132630, A11.

<sup>1856</sup> **D1.3.10.5**, Report on CGP visit to Kampong Cham Province, 17 October 1995, ERN 00208309; *see also* **D219/363**, Written Record of Interview of Witness HAK Sophal, 12 June 2015, ERN 01128233, A10-A11 [explaining that figures are based on unidentified documents provided by the Cambodian government relating to excavations dating to 1982 and on conversations with the Director of the Provincial Department of Culture and Religion and his deputy]; **D219/366**, Written Record of Interview of Witness SIN Khin, 16 June 2015, ERN 01128240, A28 (“*Q. In (CGP document) it states that 10 000 people were killed at Phnom Pros...How was that data collected? A. I did not go to that location. This report was made before I joined the working group.*”).

<sup>1857</sup> **D3/20**, Written Record of Interview of Witness SREI Kanoen, 31 February 2010, ERN 00631100, A4.

<sup>1858</sup> **D107/19.1**, Written Record of Interview of Witness VORNG Sokun, 17 February 2012, ERN 00787239, A26.

<sup>1859</sup> **D117/50**, Written Record of Interview of Witness IM Pon, 23 May 2014, ERN 01059870, A50; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224109, A63.

<sup>1860</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A9; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167887, A16, 01167891, A42-A43, 01167913, A142; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156188, A9; **D219/501**, Written Record of Investigation Action, 11 September 2015, ERN 01141623; **D219/541**, Written Record of Interview of



Commune, Prey Chhor District, Kampong Cham Province.<sup>1862</sup> Witnesses also refer to the security centre as “*Wat Prey Totueng*”,<sup>1863</sup> “*Wat Prey Chhor*”,<sup>1864</sup> or “*Prey Tortoeng Prison*”.<sup>1865</sup>

557. The main (southern) entrance to the site was located on National Road 7 next to the present-day Chrey Vien Commune Office,<sup>1866</sup> approximately 500 to 600 metres west of **Ao An**’s former Sector 41 Office and several of Sector 41’s subordinate departments near the intersection of National Road 7, Highway 62, and Highway 70<sup>1867</sup> in Prey Totueng Village.<sup>1868</sup> The site also had an eastern entrance on Highway 62,<sup>1869</sup> approximately 600 metres northwest of the

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Witness KIM Thoeurn, 5 October 2015, ERN 01174523, A38, 01174530, A89; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174558, A12; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331739, A193; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373691, A85, A89; **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787219; *see also* **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A152 (“*Wat Tameak Pagoda belonged to the sector level, but it was not a security office. Instead it was like a transit place for prisoners taken from various places before they were sent out after a short detention*”).

<sup>1861</sup> **D219/584**, Site Identification Report, 6 November 2015, ERN 01167237.

<sup>1862</sup> **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722231; **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787219; **D219/217**, Written Record of Interview of Civil Party CHHEN Ham, 11 March 2015, ERN 01088552, A175; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111776, A39; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148847, A70; **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2015, ERN 01434559, A239; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174522, A30; **D219/584**, Site Identification Report, 6 November 2015, ERN 01167236; *cf.* **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623577, A1 (“*At that time, Chrey Vien commune was called Klaeng Poar commune*”); *witnesses who refer to its location as Sleang Village, cf.* **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173595, A1; **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184901, A1; **D219/608**, Written Record of Interview of Witness HOEM Him, 16 November 2015, ERN 01184909, A1.

<sup>1863</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174538, A3, A7, 01174539, A11, 01174541, A25, 01174542, A30, A34.

<sup>1864</sup> **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, 01151208, A8.

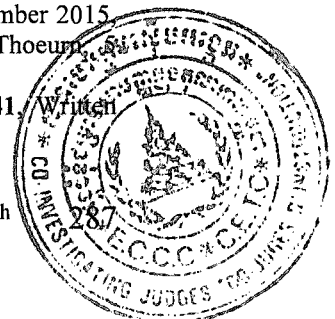
<sup>1865</sup> **D219/378**, Written Record of Interview of Witness TAEM Chheng, 24 June 2015, ERN 01132629, A9; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174538, A3, A5, 01174544, A51.

<sup>1866</sup> **D219/542**, Written Record of Interview Witness NUT Kimnang, 6 October 2015, ERN 01173600, A37; **D219/327**, Written Record of Interview of Witness Cheng Tul, 22 May 2015, ERN 01112045, A29.

<sup>1867</sup> **D219/584**, Site Identification Report, 14 September 2015, ERN 01167237.

<sup>1868</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151217, A1-A2; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A142; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156189, A13-A14; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174522-01174523, A35.

<sup>1869</sup> **D219/584**, Site Identification Report, 14 September 2015, ERN 01167261; **D219/641**, Written Record of Investigation Action, 8 January 2016, ERN 01186890, 01186893.



intersection. Wat Ta Meak Security Centre was approximately 6.5 kilometres southeast of Met Sop Security Centre.<sup>1870</sup>

558. One witness and one civil party applicant state that, before the arrival of **Ao An** and the Southwest Zone cadres, the “*sector office*” was located at Wat Ta Meak.<sup>1871</sup> When Sreng was Sector 41 Secretary, Wat Ta Meak was also used as a residence<sup>1872</sup> and a “*political school*”.<sup>1873</sup>
559. Wat Ta Meak was turned into a security centre after **Ao An**’s arrival in 1977<sup>1874</sup> and operated until the end of DK.<sup>1875</sup> Wat Ta Meak Security Centre was a temporary<sup>1876</sup> detention site,<sup>1877</sup> where prisoners were detained before being sent to various other locations.<sup>1878</sup>

<sup>1870</sup> **D3/21**, Report of the Execution of Rogatory Letter, dated 29 November 2010: Site Identification Report, 29 November 2010, ERN 00637340; *see also* **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112055, A89 (5 to 10 kilometres distance cited).

<sup>1871</sup> **D219/217**, Written Record of Interview of Civil Party CHHEN Ham, 11 March 2015, ERN 01088552, A175; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174558, A12.

<sup>1872</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439, para. 14; *as confirmed by* *Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112045, A23.

<sup>1873</sup> **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112054, A74-A76, 01112055, A80-A82.

<sup>1874</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439, para. 14; *as confirmed by* *Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112045, A23; **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787220.

<sup>1875</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167894, A65, 01167915, A152.

<sup>1876</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A9; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156192, A23; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174561, A45; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, 01174525, A56; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A152; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167894, A67.

<sup>1877</sup> **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815, A17; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331739, A192; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374665, A245.

<sup>1878</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A152; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A9; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148847, A71; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174525, A56; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174561, A45; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184939, A38; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374663, A231, 01374665, A245; *see also*; **D1.3.11.9**, OCP Interview of CHHEAN Heang, 1 August 2008, ERN 00210420; *as confirmed by* **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362677, A49.





560. The Wat Ta Meak compound consisted of a number of buildings and was also concomitantly described as a political school,<sup>1879</sup> a place for rallies,<sup>1880</sup> the sector military base,<sup>1881</sup> a rice warehouse,<sup>1882</sup> and a venue for official meetings and training of cadres<sup>1883</sup> and the military,<sup>1884</sup> which took place at the location of the present-day temple.<sup>1885</sup> Some witnesses describe it as being part of the main Sector 41 Office based at Prey Totueng.<sup>1886</sup> The Sector 41 Military Logistics Department was located on the security centre compound near the entranceway, along the road toward the temple complex.<sup>1887</sup> The Chrey Vien Commune Office was also located on the Wat Ta Meak Security Centre compound by the east side of the main entrance on National Road 7.<sup>1888</sup>

561. Witnesses identify several of the buildings that were used to detain prisoners, including: the temple,<sup>1889</sup> the Sector 41 Military Logistics Office,<sup>1890</sup> the Chrey

<sup>1879</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167884-01167885, A2-A4, 01167887, A16, 01167913, A142; **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173599, A35.

<sup>1880</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331739, A192.

<sup>1881</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179831, A76; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374651, A93; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815, A17.

<sup>1882</sup> **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184939, A38.

<sup>1883</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167887, A18; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174522, A29; **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173599, A35; **D219/606**, Written Record of Interview of Witness CHEA Kheang Thai, 13 November 2015, ERN 01184894, A57, A60-A61; **D219/686**, Written Record of Interview of Witness KHUTH Khy, 11 February 2016, ERN 01216237, A118-A119; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224111-01224112, A87; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374652, A103, 01374654, A136, 01374665, A245; **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184902, A6-A7.

<sup>1884</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374651, A93; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174557, A10-A11; **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184901, A2-A3, 01184902, A4; **D219/584**, Site Identification Report, 14 September 2015, ERN 01167244-01167245; **D219/501**, Written Record of Investigation Action, 11 September 2015, ERN 01141628-01141629.

<sup>1885</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A26.

<sup>1886</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156189, A14, 01156192, A23.

<sup>1887</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364059, A45; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331739, A193.

<sup>1888</sup> **D219/584**, Site Identification Report, 14 September 2015, ERN 01167239.

<sup>1889</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A28; **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173600, A37-A39, A42; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174543, A45.



Vien Commune Office,<sup>1891</sup> and monks' houses which each held five or six prisoners.<sup>1892</sup> One former detainee explains that there were actually “two jails” at the Wat Ta Meak complex: the “regular one” inside the perimeter of the site and the one nearby the “Logistics Office” which was used when the inside facility was full.<sup>1893</sup> The current buildings at the site do not reflect its layout during DK.<sup>1894</sup>

### *Structure and personnel*

562. There is conflicting evidence as to who was in charge of Wat Ta Meak Security Centre, and it is possible that several Sector 41 cadres may have exercised varying degrees of control over the site and its operations. These include Sector 41 Office Chief Aun, who was seen “managing” the security centre and giving orders, including orders to arrest people and kill them there;<sup>1895</sup> a member of **Ao An**'s “defence unit” named Run;<sup>1896</sup> Sector 41 Military Logistics Office Chairman Chhoeun, also known as Khuon Pek (alias “Brother Pek”),<sup>1897</sup> and the Sector 41 Military Chairman Sok,<sup>1898</sup> also described as “**Ta An**'s right hand” and “the Chief of the defence unit”.<sup>1899</sup>

<sup>1890</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364058, A42; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331741, A205-A206.

<sup>1891</sup> **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173600, A37-A39, A42; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A28.

<sup>1892</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174543, A44.

<sup>1893</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A51.

<sup>1894</sup> **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173602, A52-A54; *see also* **D219/584**, Site Identification Report, 14 September 2015, ERN 01167244-01167245.

<sup>1895</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179841, A140-A143.

<sup>1896</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331744, A223, 01331747, A237; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373691, A86.

<sup>1897</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364058, A42, 01364059, A46; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331740, A201-A202; **D219/870**, Written Record of Interview of Witness RY Nhor, 10 November 2016, ERN 01373691, A96; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 November 2015, ERN 01174560, A33.

<sup>1898</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167890, A37, 01167892, A49.

<sup>1899</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331720, A55; ERN 01331721, A61; 01331728, A118.



563. Sok led interrogations,<sup>1900</sup> and torture was carried out by soldiers stationed at the security centre.<sup>1901</sup> Wat Ta Meak Security Centre was heavily guarded by armed soldiers from the sector military who patrolled in groups of 10 to 12.<sup>1902</sup>
564. In his capacity as Secretary of Sector 41, **Ao An** was superior to the chief of Wat Ta Meak Security Centre and was ultimately in control over this Sector 41 security centre. The main cadres with leadership roles at Wat Ta Meak, *i.e.* Aun, Sok and Chhoeun, were each under **Ao An**'s chain of command.<sup>1903</sup> **Ao An** issued orders to arrest people sent to Wat Ta Meak, since such arrest orders had to come from the Sector 41 Secretary.<sup>1904</sup> Arrests were carried out by various units reporting to **Ao An**, and these units sometimes interrogated and tortured detainees before taking them to the security centre.<sup>1905</sup> One witness who worked as a cook at Wat Ta Meak Security Centre for five days states that **Ao An** summoned people to the Sector Office and then ordered his "*subordinates*" to arrest and transport those people to the security centre.<sup>1906</sup> The witness believes that it was **Ao An** who ordered those killings because "*the Sector Office was*

<sup>1900</sup> **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309923; *as confirmed by* **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364061, A62.

<sup>1901</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A71; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174545, A54.

<sup>1902</sup> **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151209, A10; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174544, A53, 01174545, A54-A55; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174530, A93; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174561, A39; **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364057, A36, 01364059, A49; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374653, A115; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167892, A49, 01167893, A56, 001167894, A66; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151219, A10; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111982, A151.

<sup>1903</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179841, A140; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167892, A52.

<sup>1904</sup> **D219/226**, Written Record of Interview of Civil Party Applicant PENH Va, 11 March 2015, ERN 01088624, A12; *see* **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167894, A66; **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309921; *as confirmed by* **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364061, A66.

<sup>1905</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179832, A78, 01179834, A92-A94; **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309892-01309893, 01309906; *as confirmed by* **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331742, A214-A216, 01331743-01331744, A220-A221.

<sup>1906</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179832, A78, 01179834, A92-A94.



*there, and the soldiers were his*”, and because the witness observed **Ao An** personally organize the arrests of 50 cadres over the next several months.<sup>1907</sup>

565. Responsibility over Wat Ta Meak Security Centre can be traced further up the chain of command to the Central Zone Committee. At the meeting in Kampong Cham described at paragraph 279, the Committee decided that some arrestees during the purge would be taken to Wat Ta Meak Security Centre.<sup>1908</sup>

#### *Arrests*

566. Numerous methods were used to arrest the people brought to Wat Ta Meak. As noted earlier, some prisoners were sent to Wat Ta Meak after being detained and tortured at the Sector 41 Office. Another common way to arrest people before sending them to Wat Ta Meak was to hold meetings where attendants were told to go to a particular place under a false pretext only to be arrested.<sup>1909</sup> This method of arresting people had been planned at the meeting of the Central Zone Committee discussed at paragraph 278.
567. One witness was transferred to Wat Ta Meak Security Centre after being detained at Prey Sar Prison.<sup>1910</sup> One witness states that, before the Vietnamese arrived, all the remaining prisoners at Tuol Beng were transported to “*a prison in Prey Tortoeng*”,<sup>1911</sup> however the witness does not explain how he knows this.
568. The method for transporting people to Wat Ta Meak Security Centre varied. Some people were walked to the site,<sup>1912</sup> while shackled around their legs and

<sup>1907</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179833-01179834, A86-A98.

<sup>1908</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374646, A38.

<sup>1909</sup> **D219/331**, Written Record of Interview of Witness PHAN Sophal, 27 May 2015, ERN 01112053, A60-A63; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179832-01179834, A82, A87-A99, 0117986, A108; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374643, A10-A13, 01374645, A30-A33.

<sup>1910</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174538, A3.

<sup>1911</sup> **D219/378**, Written Record of Interview of Witness TAEM Chheng, 24 June 2015, ERN 01132629, A9.

<sup>1912</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179841, A146; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 November 2015, ERN 01174559, A28; **D219/607**, Written Record of Interview of Witness HAK Kimsroent, 16 November 2015, ERN 01184904, A25-A26, A30; **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173600, A39, A42.



necks and escorted by armed men,<sup>1913</sup> while others were transported by truck<sup>1914</sup> or horsecart.<sup>1915</sup> They arrived in groups ranging in size from a few people<sup>1916</sup> to hundreds of people<sup>1917</sup> or hundreds of families.<sup>1918</sup> One sector cadre saw one or two trucks transport people to the security centre each day over the course of three consecutive days; the trucks were full and could hold 50 to 60 people.<sup>1919</sup> One former detainee states that prisoners arrived at Wat Ta Meak Security Centre on a daily basis,<sup>1920</sup> while another states that people arrived and left the security centre once every week although does not specify the number of weeks.<sup>1921</sup> Another former sector logistics cadre who stayed at Wat Ta Meak for five days during a training event, serving as a cook, saw five to six prisoners escorted in at night on foot.<sup>1922</sup>

569. People were generally arrested along with all of their family members.<sup>1923</sup> Two witnesses saw men, women and elderly people detained at Wat Ta Meak but no children.<sup>1924</sup> However, another witness heard from local villagers that there were also children at the security centre.<sup>1925</sup>

<sup>1913</sup> **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173600, A39, A42.

<sup>1914</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111981, A141, 01111983, A156, A161; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174538, A4; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156192, A23.

<sup>1915</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 01167898, A79.

<sup>1916</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539, A13; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179841, A147.

<sup>1917</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A156-A158; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167895, A67.

<sup>1918</sup> **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815-01185816, A17-A20.

<sup>1919</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A156-A159.

<sup>1920</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A65-A66.

<sup>1921</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174547, A74.

<sup>1922</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179841, A144-A148.

<sup>1923</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A164; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374661, A201.

<sup>1924</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174547, A27-A28; **D219/542**, Written Record of Interview of Witness NUT Kimnang, 6 October 2015, ERN 01173600, A39, A42.



*Categories of detainees*

570. The people detained at Wat Ta Meak were from throughout Sector 41<sup>1926</sup> and included new people,<sup>1927</sup> Central Zone cadres accused of betraying *Angkar*,<sup>1928</sup> people from the East Zone,<sup>1929</sup> students and civil servants from the previous regime and families considered to have “*Sihanouk or Lon Nol tendencies*”.<sup>1930</sup>
571. One witness was detained in the Logistics Office at Wat Ta Meak for one to two months because he refused to carry out an order.<sup>1931</sup> He was detained with 10 other “*light prisoners who committed minor crimes*”.<sup>1932</sup>
572. One former detainee states that Cham people were detained at Wat Ta Meak Security Centre along with Cambodian people<sup>1933</sup> without providing more

01173600, A40; cf. **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174524, A49.

<sup>1925</sup> **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362679, A66.

<sup>1926</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A14; **D219/504**, Written Record of Interview of Witness SAT Pheap, 01167898, A79; **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156192, A23; see also **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148847, A70.

<sup>1927</sup> **D1.3.11.35**, OCP Interview of NIV Sun, 1 August 2008, ERN 00210524; as confirmed by **D3/10**, Written Record of Interview of Witness NIV Sun, 19 October 2010, ERN 00623579, A11; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A16; **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362676-01362677, A37-A38, A41-A42; see also **D74**, Written Record of Interview of Witness ROTH Peou, 25 August 2011, ERN 00740802, A15.

<sup>1928</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156188, A10; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167886, A15; **D107/8**, Written Record of Interview of Witness NHIM Kol, 20 February 2012, ERN 00787219; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174523, A39; **D219/704**, Written Record of Interview of Witness KIM Thoeurn, 1 March 2016, ERN 01218602, A44; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A60-A62; see **D74**, Written Record of Interview of Witness ROTH Peou, 25 August 2011, ERN 00740801, A3, 00740802, A15.

<sup>1929</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156192, A23; **D219/376**, Written Record of Investigation of Action, 26 June 2015, ERN 01111627; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A24, 01174562, A46; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331741, A209, 01331742, A214, 01331743-01331744, A221-A222.

<sup>1930</sup> **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815-01185816, A17-A18; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374660, A199, 01374661, A201.

<sup>1931</sup> **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309857; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331748, A243; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364058, A41.

<sup>1932</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331741, A205.

<sup>1933</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174542, A30-A31.



detail, while other witnesses state that no Cham people were detained there.<sup>1934</sup>  
On balance it cannot be concluded on a preponderance of the evidence that Cham people were detained at the security centre.

### *Conditions of detention*

573. Prisoners were handcuffed<sup>1935</sup> or with hands tied,<sup>1936</sup> chained,<sup>1937</sup> tied up<sup>1938</sup> and/or shackled<sup>1939</sup> upon their arrival and during their detention at the security centre.<sup>1940</sup> Some detainees were shackled both day and night.<sup>1941</sup> Prisoners were tied five metres apart from each other as they were not allowed to walk or talk to each other.<sup>1942</sup> Another former detainee states that prisoners' ankles were shackled "*until the flesh decayed to the bone.*"<sup>1943</sup> By contrast, some detainees were not shackled<sup>1944</sup> and were allowed to walk freely around the compound.<sup>1945</sup> Shackles were seen at the site by witnesses after the end of DK.<sup>1946</sup>

<sup>1934</sup> **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174531, A100; **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362677, A47.

<sup>1935</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539 A11, 01174540 A16.

<sup>1936</sup> **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184904, A25; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174547, A76.

<sup>1937</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A54; *see also* **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167892, A47.

<sup>1938</sup> **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174523, A41-A42, 01174524, A47; **D219/704**, Written Record of Interview of Witness KIM Thoeurn, 1 March 2016, ERN 01218604, A61.

<sup>1939</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A66; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174523, A41-A42, 01174524, A47; **D219/704**, Written Record of Interview of Witness KIM Thoeurn, 1 March 2016, ERN 01218604, A61; **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A57.

<sup>1940</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174539, A11-A13, 01174540, A16, 01174541, A22; **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A66; **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A57.

<sup>1941</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184945, A20-A21; **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A57, 01364061, A59-A60.

<sup>1942</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184948, A43-A44, A46.

<sup>1943</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN01174541, A22.

<sup>1944</sup> **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151211, A20; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167896, A73; *see also* **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A16.



574. Prisoners at Wat Ta Meak Security Centre were provided insufficient food and were weak.<sup>1947</sup>
575. Some prisoners were ordered to perform labour.<sup>1948</sup> Prisoners who had committed “*minor mistakes*” were ordered to clear grass, while those who committed “*serious mistakes*” were detained until they were taken away.<sup>1949</sup>
576. Detainees were kept at Wat Ta Meak Security Centre for periods ranging from a few days<sup>1950</sup> to a few months,<sup>1951</sup> before being transferred to other places<sup>1952</sup> or, in very rare cases, released.<sup>1953</sup>

<sup>1945</sup> **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A16.

<sup>1946</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174562, A53; **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439, para. 14; *as confirmed by* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112045, A23; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185821, A54; **D1.3.11.9**, OCP Interview of CHHEAN Heang, 1 August 2008, ERN 00210420; *as confirmed by* **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362680, A72; **D219/584**, Site Identification Report, 14 November 2015, ERN 01167240, 01167255.

<sup>1947</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174546, A63; **D219/704**, Written Record of Interview of Witness KIM Thoeurn, 1 March 2016, ERN 01218604, A69; **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309858; *as confirmed by* **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364060, A57 and **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331748, A243; *see also* **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362679, A62-A65; *contra* **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151211, A20 (detained for three days and given “*plenty of tasty food*”); **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A16 (former cadre who states that prisoners were allowed to cook their own food as usual).

<sup>1948</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174543, A42-A43; **D219/608**, Written Record of Interview of Witness HOEM Him, 16 November 2015, ERN 01184910-01184911, A9-A10, A13, A15, A19.

<sup>1949</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174546, A68; *cf.* **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362679, A70.

<sup>1950</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111983, A163; **D219/460**, Written Record of Interview of Witness SAT Pheap, 7 August 2015, ERN 01151220, A15; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151208-01151209, A8-A9; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815, A17; **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A67.

<sup>1951</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184945, A19; **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309922, 01309924; *as confirmed by* **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331748, A243 and **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364058, A41; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174543, A45.

<sup>1952</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148847, A71; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174525, A56; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174561, A45; **D219/620**, Written Record of Interview of Witness PAIL Lay, 8





*Transfer of detainees to other crime sites*

577. In conjunction with the Sector 41 Office, Wat Ta Meak Security Centre served as a key transit point from which many prisoners were sent to other security centres and execution sites, including Wat Phnom Pros Phnom Srei Execution Site.<sup>1954</sup> An unknown number of prisoners were first held at Wat Ta Meak Security Centre before being sent to Met Sop, the main Sector 41 security centre.<sup>1955</sup>

578. Several witnesses state that people sent to Wat Ta Meak simply “disappeared”<sup>1956</sup> and are unable to provide information as to where they were taken. It is likely that many of these people were transferred to Wat Phnom Pros Phnom Srei and Met Sop as described above.

*Interrogation and torture*

579. There is evidence that prisoners at Wat Ta Meak were interrogated and subject to physical abuse during interrogation.<sup>1957</sup> Detainees would be blindfolded,<sup>1958</sup> moved to a nearby area,<sup>1959</sup> and then tied up for interrogation.<sup>1960</sup> Prisoners were

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December 2015, ERN 01184939, A38; **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374663, A231, 01374665, A245.

<sup>1953</sup> **D219/776.1.1**, DC-Cam Interview of SO Saren, 3 May 2016, ERN 01309898; *as confirmed by* **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364058, A42 (“*there were only two who were released.*”).

<sup>1954</sup> See section 6.3.4.3 Targeting of specific groups, para. 294.

<sup>1955</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2016, ERN 01374663, A231, 01374665, A245; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174525, A55-A56.

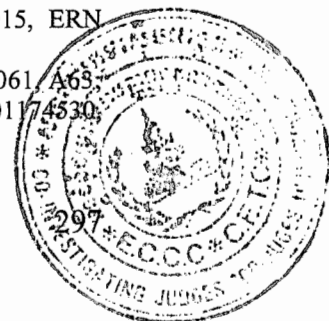
<sup>1956</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174541, A26; **D219/226**, Written Record of Interview of Civil Party PENH Va, 11 March 2015, ERN 01088623-01088624, A11; **D219/331**, Written Record of Interview of Witness PHORN Sophal, 27 May 2015, ERN 01112053, A60-A62; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185815-01185816, A18-A26; **D219/459**, Written Record of Interview of Witness YOU Oeurn, 6 August 2015, ERN 01151207-01151209, A8-A11.

<sup>1957</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174540, A20, 01174541, A22; **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A22-A27, 01184948, A42, 01184951, A66; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174525, A56, 01174530, A88; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179842, A149-A150.

<sup>1958</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A69.

<sup>1959</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184951, A68.

<sup>1960</sup> **D219/837**, Written Record of Interview of Witness SO Saren, 22 June 2016, ERN 01364061, A63; **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174530, A88.



interrogated about their family members,<sup>1961</sup> their “leaders”, and their affiliation with the CIA.<sup>1962</sup> They were repeatedly beaten with rods, chains and iron plates,<sup>1963</sup> or whips<sup>1964</sup> until they “passed out”,<sup>1965</sup> they were then revived and beaten again.<sup>1966</sup> One sector cadre saw prisoners being accused “of having betrayed Angkar. The word ‘betray’ was enough to know that they would be punished.”<sup>1967</sup>

580. Some prisoners were interrogated and abused three to four times per day, every day or every other day.<sup>1968</sup> According to one former detainee, each person would be interrogated under physical abuse for around a half hour,<sup>1969</sup> although the duration of the interrogation varied according to the level of compliance of the prisoner.<sup>1970</sup>
581. One witness heard from local villagers that a loudspeaker was used to drown out the loud screams of the prisoners.<sup>1971</sup>

### *Killings*

582. During the Southwest Zone cadres’ control of the area, small groups of prisoners were occasionally killed at Wat Meak Security Centre.<sup>1972</sup> A

<sup>1961</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A24.

<sup>1962</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174540, A21.

<sup>1963</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A23, 01184948, A42.

<sup>1964</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174540, A20, 01174541, A22.

<sup>1965</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A26.

<sup>1966</sup> **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A26.

<sup>1967</sup> **D219/541**, Written Record of Interview of Witness KIM Thoeurn, 5 October 2015, ERN 01174530, A88.

<sup>1968</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174547, A77; **D219/621**, Written Record of Interview of Witness PRAK Run, 10 December 2015, ERN 01184946, A27.

<sup>1969</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174541, A22.

<sup>1970</sup> **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174541, A22.

<sup>1971</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148847, A72.

<sup>1972</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179831-01179833, A76-A83, A87 01179841-01179842, A144-A15; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331747, A235-A237; **D219/376**, Written Record of



conservative estimate is that a minimum of **six** prisoners were killed, i.e. four to six people escorted into the site at night and beaten to death at a place west of the fence near the dining hall<sup>1973</sup> (estimated as four victims), plus two prisoners who were killed and then disembowelled at one of the former monks' houses.<sup>1974</sup>

583. It is not possible to determine the category of people killed at Wat Ta Meak. Two witnesses specify that people from the East Zone were among those killed at Wat Ta Meak,<sup>1975</sup> but their basis of knowledge is not clear.

584. Witnesses have identified graves at the Wat Ta Meak complex located to the north and west of the main temple area.<sup>1976</sup> Local residents counted approximately seven pits, including one containing only the skulls of children<sup>1977</sup> whereas another witness saw three or four pits, the largest of which was four metres long.<sup>1978</sup> Another witness who lived near some of the graves describes them as “*quite small*”, approximately 1.5 metres each.<sup>1979</sup> After the

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of Investigation Action, 26 June 2015, ERN 01111627; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A25, 01174561, A42, 01174567, A91; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184939, A38-A39; *see also* **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167886, A13, 01167894, A64; *contra* **D219/876**, Written Record of Interview of Witness CHHEAN Heang, 30 November 2016, ERN 01362680, A75 (claiming there was no execution site at Wat Ta Meak).

<sup>1973</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179831-01179832, A76-A83, 01179841-01179842, A144-A150.

<sup>1974</sup> **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331747, A235-A237.

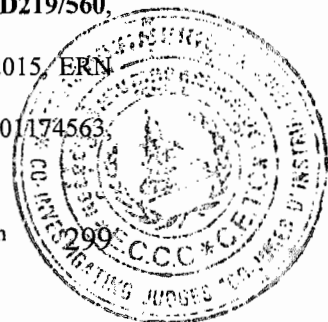
<sup>1975</sup> **D219/376**, Written Record of Investigation Action, 26 June 2015, ERN 01111627; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174559, A24-25.

<sup>1976</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439; *as confirmed by Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112046, A23; **D219/543**, Written Record of Interview of Witness NAM Monn, 7 October 2015, ERN 01174551-01174552, A112-A116, A119; **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174563, A55-A61; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 November 2015, ERN 01179840, A139; **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184903, A15-A18; **D219/584**, Site Identification Report, 14 September 2015, ERN 01167244; **D219/640**, Written Record of Investigation Action, 5 November 2015, ERN 01186836, 01186840-01186842.

<sup>1977</sup> **D219/640**, Written Record of Investigation Action, 5 November 2015, ERN 01186837; **D219/560**, Written Record of Investigation Action, ERN 01165542.

<sup>1978</sup> **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184903, A16-A17.

<sup>1979</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174563, A60.



end of DK, the bodies in the pits were still decomposing and gave off a stench, which indicates that the killings had happened recently.<sup>1980</sup>

*Nearby security centre and execution site “Tuol Trapeang Lvea”*

585. Across Highway 62 from Wat Ta Meak Security Centre there was a security centre and execution site called “*Tuol Trapeang Lvea*”,<sup>1981</sup> located in Doun Dei Village (alternate spelling Dondei Village), Chhrey Vien Commune, Prey Chhor District.<sup>1982</sup> Trapeang Lvea is located approximatively 600 metres to the east of Wat Ta Meak Security Centre.<sup>1983</sup> Tuol Trapeang Lvea was controlled by Pich<sup>1984</sup> or Vai Reab,<sup>1985</sup> although no further details are known about these individuals.

586. Many people were killed and buried at Tuol Trapeang Lvea.<sup>1986</sup> The victims included local villagers, taken from throughout the commune and the

<sup>1980</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174563, A61; **D219/607**, Written Record of Interview of Witness HAK Kimsroeun, 16 November 2015, ERN 01184903, A17.

<sup>1981</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439; *as confirmed by Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112046, A31; **D1.3.11.22**, OCP Interview of KHUN Sareth, 2 August 2008, ERN 00210457-00210458; *as confirmed by D93*, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821-00746822; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185817, A27-A31; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184937, A30; **D219/641**, Site Identification Report, 14 December 2015, ERN 011868870-01186888.

<sup>1982</sup> **D1.3.11.22**, OCP Interview of KHUN Sareth, 2 August 2008, ERN 00210457; *as confirmed by D93*, Written Record of Interview of Witness KHUN Saret, 2 August 2008, ERN 00746821; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184937, A30, 01184939, A40; **D219/619**, Written Record of Investigation Action, 30 November 2015, ERN 01181178; **D219/641**, Written Record of Investigation Action, 8 January 2016, ERN 01186888; *see also D219/609*, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185817, A27; *cf. (witnesses stating that Tuol Trapeang Lvea was located in “Ta Tit” Village (alternate spelling “Ta Tet”), one kilometre north of National Road 7 near Doun Dei Village): D219/544*, Written Record of Interview of Witness CHUN Heng, 9 November 2015, ERN 01174562, A49; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184938, A36; **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439; *as confirmed by Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112046, A31.

<sup>1983</sup> **D219/584**, Site Identification Report, 14 September 2015, ERN 01167234; **D219/641**, Written Record of Investigation Action, 8 January 2016, ERN 01186888.

<sup>1984</sup> **D93**, Written Record of Interview of Witness KHUN Saret, 2 August 2008, ERN 00746822.

<sup>1985</sup> **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184938, A35-A36.

<sup>1986</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439; *as confirmed by Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112046, A31; **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185817, A31; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184937, A30-A31, 01184938, A33; **D219/641**, Written



district,<sup>1987</sup> who were brought to Tuol Trapeang Lvea when they had committed a minor mistake such as stealing food or moral misconduct.<sup>1988</sup> Prisoners at Tuol Trapeang Lvea were also subject to beatings and provided insufficient food.<sup>1989</sup> After the fall of DK, one local villager saw 130 pits at Tuol Trapeang Lvea<sup>1990</sup> while another saw “*more than a hundred*” individual pits.<sup>1991</sup>

587. Two local villagers confirm that a number of people from Wat Ta Meak were taken to be killed at the nearby Tuol Trapeang Lvea security centre and execution site,<sup>1992</sup> described by one as the “*nearest killing site*” to Wat Ta Meak.<sup>1993</sup> However, these witnesses’ basis of knowledge is not specified. On balance, it cannot be concluded by a preponderance of the evidence that this is not a different, unconnected site.

#### *Visits by Ao An*

588. There is evidence that **Ao An** was at Wat Ta Meak Security Centre on many occasions.<sup>1994</sup> **Ao An** held meetings and gave speeches at Wat Ta Meak on

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Record of Investigation Action, 8 January 2016, ERN 01186887, 01186888; *see also* **D1.3.11.22**, OCP Interview of KHUN Sareth, 2 August 2008, ERN 00210457, 00210458; *as confirmed by* **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821.

<sup>1987</sup> **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184938, A33.

<sup>1988</sup> **D1.3.11.22**, OCP Interview of KHUN Sareth, 2 August 2008, ERN 00210456-00210457; *as confirmed and elaborated by* **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821.

<sup>1989</sup> **D93**, Written Record of Interview of Witness KHUN Saret, 16 September 2011, ERN 00746821.

<sup>1990</sup> **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184938, A31; **D219/641**, Written Record of Investigation Action, 8 January 2016, ERN 01186888, 01186894, 01186895.

<sup>1991</sup> **D1.3.11.7**, OCP Interview of CHENG Tol and KUN Sokha, 2 August 2008, ERN 00210439; *as confirmed by* *Cheng Tol (Kun Sokha is deceased)* **D219/327**, Written Record of Interview of Witness CHENG Tol, 22 May 2015, ERN 01112046, A31.

<sup>1992</sup> **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185817, A27, A31; **D219/620**, Written Record of Interview of Witness PALL Lay, 8 December 2015, ERN 01184938, A40.

<sup>1993</sup> **D219/609**, Written Record of Interview of Witness SAMRITH An, 17 November 2015, ERN 01185817, A27.

<sup>1994</sup> **D219/498**, Written Record of Interview of Civil Party Applicant PENH Va, 7 September 2015, ERN 01156189, A14; **D219/504**, Written Record of Interview of Witness SAT Pheap, 7 September 2015, ERN 01167887, A19, 01167889, A30; **D219/731**, Written Record of Interview of Witness NHEM Chen, 15 March 2016, ERN 01224112, A88; **D219/800**, Written Record of Interview of Witness SO Saren, 19 July 2016, ERN 01331739, A192-A193, A195; **D219/837**, Written Record of Interview of Witness SO Saren, 22 September 2016, ERN 01364063, A78-A80.



multiple occasions during which he espoused CPK policies on worksites and the elimination of enemies.<sup>1995</sup>

589. Wat Ta Meak was also the venue for military meetings held by **Ao An**.<sup>1996</sup>

#### ***6.4.2. Genocide of the Cham in Kampong Cham***

##### ***6.4.2.1 Introduction***

590. The Cham people are a distinct ethnic and religious group within Cambodia. By 1975, the CPK implemented discriminatory policies against the Cham people of Cambodia, restricting their practice of Islam and dispersing their communities. In 1977, after the arrival of the Southwest Zone cadres in the Central Zone, this policy escalated to the physical destruction of the Cham in Kampong Cham Province carried out with a massive, systematic, and comprehensive killing operation. In 1977 the Cham in the Central Zone were subject to arrests and execution in at least 47 villages, and at multiple worksites, and in late 1978 the Cham in the East Zone were also arrested and many transferred to the Central Zone to be killed.

##### *History and identity of the Cham*

591. Although it is unclear when the Cham first migrated to Cambodia, by the end of the 16th Century A.D. migrations had commenced from the Kingdom of Champa, continuing until the fall of Champa in the early 19th century, with

<sup>1995</sup> See sections 6.3.4.2 – 6.4.3.3, paras 295, 305, 313.

<sup>1996</sup> **D219/855**, Written Record of Interview of Witness NHEM Chen, 27 October 2010, ERN 01374651, A93, 01374652, A103.



most settling along the Mekong and Sap Rivers in Cambodia.<sup>1997</sup> By the 1970s they were the country's largest ethnic minority.<sup>1998</sup>

592. According to Ysa Osman, a prominent Cham scholar and former analyst at the OCIJ, the Cham maintained a distinct and separate cultural and ethnic identity despite living in Cambodia for more than 500 years.<sup>1999</sup> Cambodia's Cham have customarily lived in separate communities that were not integrated with the Khmer population.<sup>2000</sup> Unlike Cambodia's mostly Buddhist population, the Cham practice a unique variation of Islam<sup>2001</sup> and speak the Cham language, which is distinct from Khmer.<sup>2002</sup> Witnesses consistently describe Cham communities as distinguishable from the ethnic Khmer by virtue of their clothing, language and traditions.<sup>2003</sup>

<sup>1997</sup> **D219/879.1.17**, [Partial T.] Book by Researchers from Center for Advanced Study entitled "Ethnic Groups in Cambodia", 2009, ERN 00489309-00489326; **D1.3.3.3**, Book by Ysa Osman entitled "The Cham Rebellion: Survivors' Stories from the Villages", 2006, ERN 00219062; **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405915, l. 15-17; **D325/2.1.4**, Ben Kiernan, 'Orphans of Genocide: The Cham Muslims of Kampuchea Under Pol Pot', Critical Asian Studies, Vol. 20, No. 4, October-December 1988, ERN 01199567; **D1.3.17.5**, Book by Ben Kiernan entitled "The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975-79", 1999, ERN 00678631-00678632; **D1.3.17.1**, Book by Elizabeth Becker entitled "When the War was Over: Cambodia and the Khmer Rouge Revolution", 1998, ERN 00237956.

<sup>1998</sup> **D325/2.1.4**, Ben Kiernan, 'Orphans of Genocide: The Cham Muslims of Kampuchea Under Pol Pot', Critical Asian Studies, Vol. 20, No. 4, October-December 1988, ERN 01199563; **D6.1.595**, Book by Michael Vickery entitled "Cambodia 1975-1982", 1999, ERN 00396927.

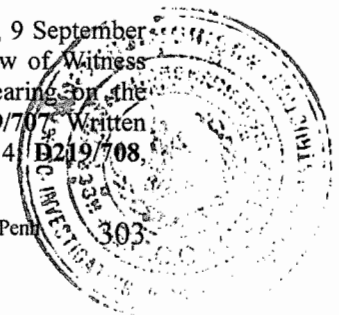
<sup>1999</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405916-01405917.

<sup>2000</sup> **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430664, l. 11-12; **D219/702.1.82**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 10 February 2016, ERN 01419039, l. 1-11; **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452593, l. 21-24; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449829, l. 5-11, l. 17-20; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433871, l. 25, 01433872, l. 1-3; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246671-01246672.

<sup>2001</sup> **D325/2.1.4**, Ben Kiernan, 'Orphans of Genocide: The Cham Muslims of Kampuchea Under Pol Pot', Critical Asian Studies, Vol. 20, No. 4, October-December 1988, ERN 01199563; **D219/879.1.17**, [Partial T.] Book by Researchers from Center for Advanced Study entitled "Ethnic Groups in Cambodia", 2009, ERN 00489310-00489315, 00489333.

<sup>2002</sup> **D219/879.1.17**, [Partial T.] Book by Researchers from Center for Advanced Study entitled "Ethnic Groups in Cambodia", 2009, ERN 00489295-00489296, 00489333; **D1.3.17.8**, Book by Ysa Osman entitled "OUKOUBAH – Justice for the Cham Muslims under the Democratic Kampuchea Regime", 2002, ERN 00078453; **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405917, l. 11-18.

<sup>2003</sup> **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 9 September 2015, ERN 01430884, l. 5-25, 01430885, l. 1-2; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035850, A68; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456479, l. 1-7; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215990, A14; **D219/708**.



*Kampong Cham Province*

593. In the late 16<sup>th</sup> and early 17<sup>th</sup> centuries, the growth of Cham-Malay Communities in the region saw the Malay word for village, “*Kampong*”, being adopted into the Khmer language. By the early 17<sup>th</sup> century, Kampong Cham became the name of the present-day city and province, meaning, “*Port of the Chams*”.<sup>2004</sup>
594. In 1975, Kampong Cham Province covered an area in eastern Cambodia, northeast of Phnom Penh with the Mekong River running through the centre, and comprised 16 Districts: Kampong Siem, Kang Meas, Prey Chhor, Batheay, Cheung Prey, Stueng Trang, Chamkar Leu, Kampong Cham, Kaoh Soutin, Krouch Chhmar, Memot, Ou Reang Ov, Ponhea Kraek, Dambae, Srei Santhor, and Tboung Khmum. In 1977 and 1978, the part of Kampong Cham Province to the west of the Mekong River was in the Central Zone of DK, while the part of the province to the east of the Mekong was in the East Zone.<sup>2005</sup>
595. Ysa Osman states that prior to April 1975, over 50 percent of the Cham population in Cambodia were living in Kampong Cham Province.<sup>2006</sup> The Chairman of Cambodia’s Highest Council for Islamic Religious Affairs (“Chairman for Islamic Affairs”),<sup>2007</sup> one of Cambodia’s highest Islamic leaders,<sup>2008</sup> notes that Kampong Cham Province had the largest Cham population in the country.<sup>2009</sup> (Although the Chairman for Islamic Affairs did not take an

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Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A17; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A14; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409270, l. 21-24, 01409271, l. 1-13; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406830, l. 2-8; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503169, l. 15-20.

<sup>2004</sup> **D325/2.1.4**, Ben Kiernan, ‘Orphans of Genocide: The Cham Muslims of Kampuchea Under Pol Pot’, *Critical Asian Studies*, Vol. 20, No. 4, October-December 1988, ERN 01199566; **D219/879.1.17**, [Partial T.] Book by Researchers from Center for Advanced Study entitled “Ethnic Groups in Cambodia”, 2009, ERN 00489316.

<sup>2005</sup> **D342/1.1.33**, Khmer Rouge Zone Map, 8 February 2017, ERN 01388609.

<sup>2006</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405895, l. 20-22.

<sup>2007</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246626, l. 3-20.

<sup>2008</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246627, l. 10-13.

<sup>2009</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246673, l. 9-25.





oath at the time of his testimony for religious reasons, he affirmed that he was telling the truth, and his evidence is considered reliable.)

596. Ysa Osman states that Krouch Chhmar District was home to Cham scholars and intellectuals who had studied abroad, and Cham people would travel to the district to meet and learn from them.<sup>2010</sup>

#### 6.4.2.2 CPK policy regarding the Cham

597. The CPK leadership sought to establish a classless, atheist and ethnically homogenous society by abolishing all ethnic national, religious, class, and cultural differences. To achieve this goal, the CPK implemented a policy to systematically target specific groups within the Cambodian population.<sup>2011</sup>

#### *Religious suppression*

598. The CPK announced officially that Cambodians were free to practise their religion but, in practice, enforced a policy of religious suppression across Cambodia, beginning in Kampong Cham Province as early as 1973. Article 20 of the 1976 Constitution of DK stated: “*Every citizen of Kampuchea has the right to worship according to any religion [...] Reactionary religions which are detrimental to Democratic Kampuchea and the Kampuchean people are absolutely forbidden,*”<sup>2012</sup> and CPK Foreign Broadcasts from 1975 describe the religious freedom enjoyed by the Cham.<sup>2013</sup> However in practice, the CPK’s definition of a reactionary religion extended to all religions, including Buddhism and Islam.<sup>2014</sup>

<sup>2010</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405921, l. 16-19, 01405922, l. 2-6.

<sup>2011</sup> See section 6.2.3. The targeting of specific groups.

<sup>2012</sup> **D1.3.20.2**, DK Government Legal Documents entitled Constitution of Democratic Kampuchea, 1976, ERN 00184838.

<sup>2013</sup> **D6.1.832**, Foreign Broadcast Information Service collection of reports for July 1975, 8 July 1975, ERN 00167281; **D6.1.833**, Foreign Broadcast Information Service collection of reports for August 1975, August 1975, ERN 00167362, 00167408; **D6.1.798**, Foreign Broadcast Information Service collection of reports for October 1975, 14 October 1975, ERN 00167520.

<sup>2014</sup> **D219/702.1.82**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 10 February 2016, ERN 01419108, l. 6-20; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449831, l. 24-25.



599. By 1975,<sup>2015</sup> and continuing throughout the DK period, the Cham were prohibited from practicing Islam or speaking the Cham language.<sup>2016</sup> Mosques

<sup>2015</sup> Religious suppression prior to 1975: D219/702.1.80, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405929, l. 4-6; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218502, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242090-00242091; **D6.1.120**, Written Record of Interview of Witness SOH Kamrei, 10 September 2008, ERN 00225496, *contra D219/792.1.12*, Transcript of hearing on the substance in Case 002/02 [SOH Kamri], 6 April 2016, ERN 01246579, l. 23-24; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242094-00242095, *as confirmed in D219/702.1.77*, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430661-01430663; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503205, l. 3-6; **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340171; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221858-00221859, *as confirmed in D6.1.101*, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163; Religious restrictions commenced in 1975: D6.1.375, Interview of RES Tort, 13 November 1999, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219119, *as confirmed in D6.1.374*, Written Record of Interview of Witness RES Tort, 19 May 2009, ERN 00340201-00340202; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433858, l. 14-19; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403676, l. 6-17; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449831, l. 18-20; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452686, l. 13-21; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308579, A6, A9.

<sup>2016</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405897, l. 15-17, 01405908, l. 15-25, 01405909, l. 1-12, 01405912, l. 3-12, 01405926, l. 17-25, 01405931, l. 23-24, 01405932, l. 1-6, 01405934, l. 15-16, 25, 01405935, l. 1; **D6.1.501**, Written Record of Interview of Witness PHAN Sovānhan, 11 March 2009, ERN 00295163; Evidence from the Central Zone: D219/862, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373620, A17; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 9 September 2015, ERN 01430888, l. 2-5, 01430889, l. 10-13; **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01216000, A11-A12; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409272, l. 14-25; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215986-01215987, A42; **D6.1.176**, Interview of EL Sam alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204426, *as confirmed in D6.1.175*, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D6.1.120**, Written Record of Interview of Witness SOH Kāmrei, 10 September 2008, ERN 00225496, *as confirmed in D219/792.1.12*, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246580, l. 10-12, 17-19, 22-23; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452734, l. 2-7, 01452744, l. 22-25, 01452745, l. 1-25; Evidence from East Zone: D219/702.1.86, Transcript of hearing on the substance in Case 002/02 [MATH Sor], 13 January 2016, ERN 01414984, l. 19-25, 01414985, l. 13-17; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452688; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449831, l. 2-4, l. 18-20, 01449832, l. 3-10; **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452515, l. 19-23, 01452516, l. 11-14, 01452517, l. 25, 01452536, l. 22-24; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403676, l. 6-9, 01403707-01403709; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216624, l. 1-25, 01216625, l. 1-2, 01216659, l. 5-8; **D6.1.109**, Interview of SOS Ponyamin, 25 January 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218582, *as confirmed in D6.1.108*, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242072; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02



were closed,<sup>2017</sup> Islamic religious leaders were arrested,<sup>2018</sup> and Cham were forced to relinquish their holy books.<sup>2019</sup> Cham who violated the prohibitions

[SOS Min], 8 September 2015, ERN 01433859, l. 1-10; **D6.1.112**, Written Record of Interview of Witness SOK Proeung, 18 August 2008, ERN 00275391; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242095; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430662, l. 20-23; Evidence from outside of Kampong Cham Province: **D219/234.1.7**, Written Record of Interview of Civil Party Applicant TEU Ry, 18 February 2015, ERN 01079934, A35, 01079935, A41, A43, 01079936, A46; **D6.1.475**, Written Record of Interview of Witness AFFONCO Denise, 3 June 2009, ERN 00346935; **D219/639**, Written Record of Interview of Civil Party Applicant, KEO Meur, 5 January 2016, ERN 01198191, A76-A77; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452688, l. 2-7, l. 22-25, 01452689, l. 1; **D118/237**, Written Record of Interview of Witness TIT Kas, 15 May 2014, ERN 01056772, A20; **D118/106**, Written Record of Interview of Witness HUON Choeum, 22 September 2013, ERN 00978427, A59; **D118/95**, Written Record of Interview of Witness SAMEY Saveng, 3 September 2013, ERN 00970471, A40; **D6.1.676**, Written Record of Interview of CHEANG Sreimom, 11 November 2009, ERN 00410266, A15; **D118/190**, Written Record of Interview of Witness MOEU Pov, 25 February 2014, ERN 00986161, A31-A33; **D6.1.387**, Written Record of Interview of Witness TUOLOAS Sma El, 10 July 2009, ERN 00353498.

<sup>2017</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405904, l. 8-9, 01405912, l. 10; **D6.1.375**, Interview of RES Tort, 13 November 1999, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219119, *as confirmed in* **D6.1.374**, Written Record of Interview of Witness RES Tort, 19 May 2009, ERN 00340201-00340202; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221859, *as confirmed in* **D6.1.101**, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433875, l. 2; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409272, l. 14-19; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449831, l. 18-20; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452749, l. 19-22; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216585, l. 16-17; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246614, l. 18-21, 01246615, l. 2-4, *see also* **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403706, l. 10-12, l. 23-25, 01403707, l. 1-3, l. 5-7.

<sup>2018</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405925, l. 11-16; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221858, *as confirmed in* **D6.1.101**, Written Record of Interview of Witness MAN Sen, 13 August 2008, ERN 00275163; **D6.1.104**, Interview of TEH Sren (TEH Zain), 8 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221898, *as confirmed in* **D6.1.103**, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379; **D6.1.105**, Written Record of Interview of Witness MĀT Ysa, 14 August 2008, ERN 00242078; **D6.1.185**, Written Record of Interview of Witness YUSUF Romly, 10 July 2008, ERN 00223087-00223088; **D219/792.1.1**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 6 January 2016, ERN 01449830; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433891, l. 13-14; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452734, l. 11-13; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat], 9 March 2016, ERN 01216586.

<sup>2019</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405912, l. 6-7; **D219/702.1.82**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 10 February 2016, ERN 01419065, l. 14-19; **D6.1.375**, Interview of RES Tort, 13 November 1999, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219119, *as confirmed in* **D6.1.374**, Written Record of Interview of Witness RES Tort, 19 May 2009, ERN 00340202; **D6.1.104**, Interview of TEH Sren (TEH Zain), 8 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221898, *as confirmed in* **D6.1.103**, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379; **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340171; **D219/792.1.5**, Transcript of



could be given a warning,<sup>2020</sup> but more frequently were beaten,<sup>2021</sup> killed,<sup>2022</sup> or accused of being “enemies” and taken away,<sup>2023</sup> presumably to be killed.

600. In September and October 1975, increasing religious restrictions and arrests of prominent Cham community leaders resulted in two organised rebellions by the Cham in the East Zone, first in Koh Phal Village, Peus I Commune,<sup>2024</sup> and then in Svay Khleang Village, Svay Khleang Commune<sup>2025</sup> Krouch Chhmar District. Immediately after the rebellion, many Cham in Krouch Chhmar District were

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hearing on the substance in Case 002/02 [SALES Ahmat], 9 March 2016, ERN 01216585; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430671; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403707; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246604, l. 15-19.

<sup>30</sup> **D219/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373620, A17.

<sup>2021</sup> **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340183.

<sup>2022</sup> **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2009, ERN 00242082; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D118/190**, Written Record of Interview of Witness MOEU Pov, 25 February 2014, ERN 00986161, A32-A33; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242095; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210482; *as confirmed in* **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236.

<sup>2023</sup> **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403681, l. 19-22; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433859, l. 11-12, 01433860, l. 4-13; **D118/190**, Written Record of Interview of Witness MOEU Pov, 25 February 2014, ERN 00986161, A32-A33; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409275, l. 4-10; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430670, l. 21-22, 01430672, l. 9-15.

<sup>2024</sup> **D6.1.194**, Interview of SMAN At, 9 March 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218594-00218595, *as confirmed in* **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.377**, Interview of KAE Noh, 22 April 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00219125-00219126, *as confirmed in* **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340180; **D6.1.375**, Interview of RES Tort, 13 November 1999, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00219120, *as confirmed in* **D6.1.374**, Written Record of Interview of Witness RES Tort, 19 May 2009, ERN 00340202; **D34.1.2**, Interview of CHI Ly, 14 March 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00219124, *as confirmed in* **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340170.

<sup>2025</sup> **D6.1.109**, Interview of SOS Ponyamin, 25 January 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218582, *as confirmed in* **D6.1.108**, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242072; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433864, l. 21-25, 01433865, l. 1-25, 01433866, l. 1-23; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452761, l. 17-21; **D6.1.104**, Interview of TEH Sren (TEH, Zain), 8 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00221898, *as confirmed in* **D6.1.103**, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00221859, *as confirmed in* **D6.1.101**, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163.



arrested<sup>2026</sup> on suspicion of participating in the rebellions.<sup>2027</sup> Many of the arrested Cham were detained and interrogated at Krouch Chhmar Security Centre.<sup>2028</sup>

601. The repressive policies toward the Cham did not ease in the Central Zone after the arrival of the Southwest Zone cadres. Throughout the Central Zone, Cham were prohibited from practicing their religion.<sup>2029</sup> They were forced to eat

<sup>2026</sup> **D6.1.401**, Written Record of Interview of Witness LENG Sokhchea, 22 October 2008, ERN 00235500; **D6.1.377**, Interview of KAE Noh, 22 April 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219126, *as confirmed in D6.1.376*, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340180; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452736, l. 9-12; **D6.1.415**, Written Record of Interview of Witness PEN Sot, 25 November 2008, ERN 00251068; **D6.1.105**, Written Record of Interview of Witness MAT Ysa, 14 August 2008, ERN 00242077; **D6.1.104**, Interview of TEH Sren (TEH Zain), 8 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221898, *as confirmed in D6.1.103*, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221859, *as confirmed in D6.1.101*, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163; **D6.1.109**, Interview of SOS Ponyamin, 25 January 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218582, *as confirmed in D6.1.108*, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242072; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433868, l. 18-25, 01433869, l. 1-5; **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452580, l. 15-17.

<sup>2027</sup> **D6.1.377**, Interview of KAE Noh, 22 April 2001, in "The Cham Rebellion", 2006, ERN 00219126, *as confirmed in D6.1.376*, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340180; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452737, l. 10-12.

<sup>2028</sup> **D6.1.401**, Written Record of Interview of Witness LENG Sokhchea, 22 October 2008, ERN 00235500; **D6.1.415**, Written Record of Interview of Witness PEN Sot, 25 November 2008, ERN 00251068; **D6.1.105**, Written Record of Interview of Witness MAT Ysa, 14 August 2008, ERN 00242077; **D6.1.104**, Interview of TEH Sren (TEH Zain), 8 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221898, *as confirmed in D6.1.103*, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379.

<sup>2029</sup> **Chamkar Leu: D219/702.1.75**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 5 October 2015, ERN 01409550, l. 22-23, 01409551, l. 3-4; **Kampong Siem: D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 18 January 2016, ERN 01431685, l. 5, l. 10-11; **Kang Meas: D1.3.11.4**, OCP Interview of BAO Troab, 5 August 2008, ERN 00210430, *as confirmed in D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242090, 00242091; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456480, l. 9-11; **Baray: D6.1.405**, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250047, 00250048; *as confirmed in D219/702.1.96*, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503170, l. 10-14; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244165; *as confirmed in D219/702.1.7*, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500298, l. 21-23.



pork,<sup>2030</sup> and the women were required to remove their scarves.<sup>2031</sup> Cham were also prohibited from speaking their language<sup>2032</sup> or wearing their traditional clothing.<sup>2033</sup> A Cham witness living in Cheung Prey District recalls that after the arrival of the Southwest Zone, Cham would be “*smashed*” if they refused to eat pork,<sup>2034</sup> another witness from the January 1<sup>st</sup> Dam states that if Cham practised Islam they would be killed, however she never saw any Cham killed for this reason as, “*they did not dare to go against any instructions*”.<sup>2035</sup>

### *Forced transfers*

602. Concurrently with religious suppression, the CPK policy targeting the Cham also entailed displacing them from their large communities located along the Mekong River, and dispersing them throughout Kampong Cham Province.

<sup>2030</sup> Kampong Siem: D219/159, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067862, A84; D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; Kang Meas: D1.3.11.4, OCP Interview of BAO Troab, 5 August 2008, ERN 00210430; *as confirmed in D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; D6.1.191, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091, *as confirmed in D219/702.1.93*, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409272, l. 24; Cheung Prey: D219/862, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373621, A29-A30; Baray: D6.1.407, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250047; *as confirmed in D219/702.1.96*, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, 01503170, l. 10-14; D6.1.405, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158; D219/702.1.7, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500299, l. 14-16; Kampong Thom: D6.1.376, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340182, 00340183, *contra D6.1.444*, Written Record of Interview of Witness KHIEV Sokh, 15 January 2009, ERN 00282328; D6.1.701, Written Record of Interview of Witness YIM Kimsan, 10 December 2009, ERN 00421619, A13.

<sup>2031</sup> D6.1.405, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158; D219/706, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215986-01215987, A42.

<sup>2032</sup> D6.1.191, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242090, 00242091; D6.1.405, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158; D219/706, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215986-01215987, A42; D219/702.1.84, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456480, l. 3-5; D219/702.1.7, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500298, l. 21-23.

<sup>2033</sup> D1.3.11.4, OCP Interview of BAO Troab, 5 August 2008, ERN 00210430, *as confirmed in D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; D219/702.1.84, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456480, l. 9-10.

<sup>2034</sup> D219/862, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373620-01373621, A28-A30.

<sup>2035</sup> D6.1.410, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244165, *as confirmed in D219/702.1.106*, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 26 May 2015, ERN 01478112, l. 7-15.



603. On 30 November 1975, “Chhon” in the East Zone sent a telegram to Pol Pot detailing a failed attempt that day to transfer tens of thousands of Cham from the East Zone to the North (Central) Zone.<sup>2036</sup> The telegram explained that the “transfer is in principle designed to disperse the Cham as per our previous discussion”, to “separate them from the banks of the Mekong River” and “ease tensions”.<sup>2037</sup>
604. The event described in the telegram is corroborated by witnesses who recount mass evacuations in 1975 after the Cham Rebellions in the East Zone.<sup>2038</sup> Cham were removed<sup>2039</sup> from their traditional villages along the east bank of the

<sup>2036</sup> **D325/2.1.1**, Telegram 15 entitled “Respectfully submitted to comrade Brother Pol”, 30 November 1975, ERN 00766762-00766763.

<sup>2037</sup> **D325/2.1.1**, Telegram 15 entitled “Respectfully submitted to comrade Brother Pol”, 30 November 1975, ERN 00766762-00766763.

<sup>2038</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405943, l. 9-24; *see also* **D219/702.1.82**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 10 February 2016, ERN 01419079, l. 1-3; **D6.1.105**, Written Record of Interview of Witness MĀT Ysa, 14 August 2008, ERN 00242077; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308581, A23-A24; **D6.1.705**, Written Record of Interview of Witness MEAS Soeun, 18 December 2009, ERN 00425891, A50, A51; *as confirmed in* **D219/882.1.2**, Transcript of hearing on the substance in Case 002/02 [MEAS Soeun], 30 June 2016, ERN 01341300, l. 6-25, 01341301, l. 1; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309822, A7; **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313249, A7-A9; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.377**, Interview of KAE Noh, 22 April 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00219126; *as confirmed in* **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340180; **D34.1.2**, Interview of CHI Ly, 14 March 2001, in book by Ysa Osman entitled “The Cham Rebellion”, ERN 00219125; *as confirmed in* **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340170-00340173; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242096; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430675-01430677; **D6.1.179**, Interview of NO Satas, 5 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204453; *as confirmed in* **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703; *as confirmed in* **D289.1**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 29 September 2015, ERN 01409356, l. 12-14; **D6.1.403**, Written Record of Interview of Witness CHEU Thán, 23 October 2008, ERN 00235483.

<sup>2039</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405943, l. 10-24; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A14; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216016, A6; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215985, A10-A16; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308581, A23; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309822-01309823, A5-A10; **D6.1.105**, Written Record of Interview of Witness MĀT Ysa, 14 August 2008, ERN 00242077; **D6.1.440**, Written Record of Interview of Witness UM Chi, 14 January 2009, ERN 00282345; **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309813, A9; **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313248, A3, 01313249, A4; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242096; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430677; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A6; **D219/792.1.5**, Transcript of



Mekong River in Krouch Chhmar District, East Zone.<sup>2040</sup> They were resettled in the Central Zone, specifically in Kampong Siem,<sup>2041</sup> Chamkar Leu,<sup>2042</sup> and Stueng Trang Districts<sup>2043</sup> in Kampong Cham Province, Preaek Prasab District<sup>2044</sup> in Kratie Province, and Baray<sup>2045</sup> and Santuk Districts<sup>2046</sup> in Kampong Thom Province.<sup>2047</sup> Other groups of Cham from Krouch Chhmar District were

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hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216589-01216590; **D6.1.403**, Written Record of Interview of Witness CHEU Tân, 23 October 2008, ERN 00235483, *see also* **D6.1.387**, Written Record of Interview of Witness TUOLOAS Sma El, 10 July 2009, ERN 0035349-00353495.

<sup>2040</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405943, l. 22, 23; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308581, A22-A24; **D5/387/4.1**, Transcript of hearing on the substance in Case 002/02 [MEAS Soeur], 29 June 2016, ERN 01341137; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403706; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Ponyamin], 8 September 2015, ERN 01433871-01433872; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A14, *compare* **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309812-01309813, A5-A8 (thousands of people lived there and only a few were Khmer); **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430661-01430662 (most were Cham).

<sup>2041</sup> **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A14; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216016, A6.

<sup>2042</sup> **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 24 March 2016, ERN 01236661.

<sup>2043</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405945, l. 22; **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 24 March 2016, ERN 01236661; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215985, A10-A16; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308582-01308583, A28-A32; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309823, A11-A12; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452738, l. 1-4; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A10; **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Ponyamin], 8 September 2015, ERN 01433856, 01433876-01433877; **D6.1.183**, Interview of IT Sen, 12 March 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204441-00204442; *as confirmed in* **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242095; **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430677-01430678.

<sup>2044</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405945.

<sup>2045</sup> **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 24 March 2016, ERN 01236661; **D6.1.440**, Written Record of Interview of Witness UM Chi, 14 January 2009, ERN 00282345; **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309813, A11-A12; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082.

<sup>2046</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309813, A11-A12; **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313249, A4, A5; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082.

<sup>2047</sup> **D6.1.105**, Written Record of Interview of Witness MĀT Ysa, 14 August 2008, ERN 00242077; **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340182-00340183; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216589, l. 10-12, l. 21-25, 01216590, l. 1; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A6.





moved to locations in the East Zone further inland and away from the concentration of Cham villages along the Mekong River.<sup>2048</sup> In 1975 and 1976 the CPK also dispersed Cham communities living in Antak Kouy (presently Daung Chrum)<sup>2049</sup> Village in Bakan District, Pursat Province.

605. Groups of Cham were also transferred internally within the Central Zone. Witnesses from Kang Meas and Kampong Siem Districts state that the Cham originally lived in roughly five communes concentrated along the Mekong River.<sup>2050</sup> Between 1974 and 1976, they were forcibly transferred to other

<sup>2048</sup> **D6.1.179**, Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204453, *as confirmed in* **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703, *as confirmed in* **D289.1**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 29 September 2015, ERN 01409356, l. 12-14; **D6.1.377**, Interview of KAE Noh, 22 April 2002, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219126, *as confirmed in* **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340180; **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.109**, Interview of SOS Ponyamin, 25 January 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218583, *as confirmed in* **D6.1.108**, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242072; *as confirmed in* **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433876-01433879; **D34.1.2**, Interview of CHI Ly, 14 March 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00219125, *as confirmed in* **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340170; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00221859, *as confirmed in* **D6.1.101**, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163.

<sup>2049</sup> **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452688, l. 12-16, 01452699-01452700.

<sup>2050</sup> **D1.3.11.6**, OCP Interview of Witness CHEA Maly, 6 August 2008, ERN 00210435, *as confirmed in* **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722233; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT Muy], 15 September 2015, ERN 01431097, l. 2-25; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210482, *as confirmed in* **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409233, l. 9-15, 01409234-01409236; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251306; **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A12; **D6.1.176**, Interview of EL Sam alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204426, *as confirmed in* **D6.1.175**, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D219/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373619, A3, A5; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406808, l. 13-25, 01406809, l. 1-10; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 9 September 2015, ERN 01430885, l. 7-10, 01430904, l. 12-19; **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01215999, A7; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215985, A25; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218502-00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216005, A5, A6; **D219/171**, Written Record of Interview of Witness NHIM Kol, 11 February 2015, ERN 01076946, A23; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A52; **D219/502**,



villages in the Central Zone.<sup>2051</sup> A number of witnesses state that, prior to the transfers, there had been no Cham people living in these other villages.<sup>2052</sup> There was also a community of Cham people originally living in Cheyyou (alternative spelling Chor-Yo), Spueu, and Ou Kray Villages, Cheyyou Commune, Chamkar Leu District.<sup>2053</sup> In late 1974 or early 1975,<sup>2054</sup> over 1000 Cham families were transferred from Spueu Village to live in different communes within Chamkar Leu District.<sup>2055</sup>

606. It can be concluded from this evidence that, already between 1974 and 1976, the CPK sought to break up the Cham population by transferring them away from

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Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152375, A26; *contra* **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Koemhun], 16 September 2015, ERN 01409040, l. 22, 01409068, l. 19-22.

<sup>2051</sup> **D219/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373619, A3, A5, 01373620, A21, A22; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D219/82**, Written Record of Interview of Witness RIEL Neang, 21 November 2014, ERN 01067798-01067799, A4; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210482, *as confirmed in* **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 9 September 2015, ERN 01430885, l. 7-17, 01430904, l. 12-19; **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01216000, A13-A18; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215986, A27; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044583, A6; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216005, A5; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409234, l. 10-24, 01409235, l. 1-22; **D6.1.176**, Interview of EL Sam alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204426; *as confirmed in* **D6.1.175**, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151272, A14; **D6.1.183**, Interview of IT Sen, 12 March 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204441-00204442, *as confirmed in* **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242095; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216589, l. 10-12, l. 18; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A52; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152375, A26.

<sup>2052</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373605, A5; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031712, A40, 01031713, A47-A48; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210482, *as confirmed in* **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215989-01215990, A6-A7.

<sup>2053</sup> **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 24 March 2016, ERN 01236660, l. 2-9, 01236661, l. 6-7; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246671, l. 15-25.

<sup>2054</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246609; **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496.

<sup>2055</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], April 2016, ERN 01246589, l. 1-22.



their traditional villages concentrated along the Mekong River in Kampong Cham Province and dispersing them amongst predominantly Khmer villages. The mass transfer and resettlement of segments of the Cham population appears to have concluded by the time the Southwest Zone cadres took control of the Central Zone. Although one witness and one civil party applicant state that transfers for resettlement continued after their arrival,<sup>2056</sup> their evidence is decisively contradicted by the wealth of evidence outlined above.

*Policy to eliminate the Cham*

607. The CPK policies of suppression of Cham religious practices and dispersal of Cham communities demonstrate a concerted attempt by the CPK to break down Cham communities and erase Cham identity in Kampong Cham Province. By early 1977, however, as explained by Stephen Heder, a well-known analyst and researcher of the DK period, *“the top [CPK] leadership having concluded that the Cham were beyond re-education, and therefore must be totally exterminated, as such”*.<sup>2057</sup>
608. The consistency of statements attributed to CPK cadres, ranging from high to low levels, and the evidence of mass arrests and killings are convincing evidence of this escalation in policy. Witnesses consistently describe hearing CPK cadres announce discriminatory policies toward the Cham. In 1976<sup>2058</sup> and 1977,<sup>2059</sup> two witnesses from Kang Meas and Chamkar Leu Districts heard the Cham described as *“enemies”*.<sup>2060</sup> The Sach Sau village chief told one Cham witness in Kang Meas District not to consider himself Cham, but rather part of

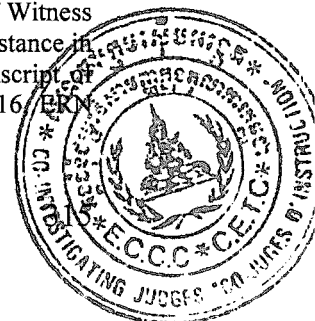
<sup>2056</sup> **D219/171**, Written Record of Interview of Witness NHIM Kol, 11 February 2015, ERN 01076946, A23; **D219/472**, Written Record of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178451, A15.

<sup>2057</sup> **D277/1.7**, Analytical Report by Stephen HEDER entitled “Reassessing the Role of Senior Leaders and Local Officials in Democratic Kampuchea Crimes: Cambodian Accountability in Comparative Perspective”, 1 March 2003, ERN 00661484.

<sup>2058</sup> **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409241, 1. 4-5.

<sup>2059</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246599, 1. 4-10, 01246667, 1. 9-17.

<sup>2060</sup> **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 28 September 2015, ERN 01403641, 1. 6-8; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246596-01246599, 01246667, 1. 6-17.



the Khmer nation.<sup>2061</sup> Another Cham witness was told by a “*mid-level Angkar representative*” that “*there would be no New People, no Base people, no Javanese or no Cham, but one Khmer population*”.<sup>2062</sup> In 1976, Koun Tnaot Village, Svay Dounkeo Commune, Bakan District, Pursat Province, the commune chief announced that “*there would be no more Cham ethnics*”<sup>2063</sup>.

609. Also indicative of discriminatory treatment, the Cham had been living in rural areas occupied by the Khmer Rouge in some areas since the early 1970s<sup>2064</sup> and therefore could have been categorised as base people. However, the Cham were considered “*depositee people*”<sup>2065</sup> and to have a status similar to new people,<sup>2066</sup> or lower.<sup>2067</sup>

<sup>2061</sup> **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409275, l. 17-25, 01409276, l. 1-19.

<sup>2062</sup> **D219/702.1.97**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 20 May 2015, ERN 01501957, l. 17-20.

<sup>2063</sup> **D219/639**, Written Record of Interview of Civil Party Applicant KEO Meur, 5 January 2016, ERN 01198180, A10, 01198181, A11-A12, 01198191, A79.

<sup>2064</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405924, l. 21-25, 01405925, l. 1-9; **D6.1.185**, Written Record of Interview of Witness YUSUF Romly alias SUF Romly, 10 July 2008, ERN 00223086, *as confirmed in D219/702.1.78*, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452560, l. 21; **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225495; *as confirmed in D219/792.1.12*, Transcript of hearing on the substance in Case 002/02 [SOS Kamrei], 6 April 2016, ERN 01246578, l. 14; **D6.1.109**, Interview of SOS Ponyamin, 25 January 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218582, *as confirmed in D6.1.108*, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242072, *as confirmed in D219/702.1.79*, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433872, l. 15; **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242094, *as confirmed in D219/702.1.77*, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430670, l. 20-21; **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503117, l. 23; **D6.1.378**, Written Record of Interview of Witness CHI Ly, 20 May 2009, ERN 00340171; **D6.1.102**, Interview of MAN Sen (Zain), 7 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00221858, *as confirmed in D6.1.101*, Written Record of Interview of Witness MAN Sen (Zain), 13 August 2008, ERN 00275163; **D34.1.1**, Interview of DIN Pèt (Paet), 11 June 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00234992, *as confirmed in D6.1.402*, Written Record of Interview of Witness DIN Pèt (Paet), 23 October 2008, ERN 00235486; **D6.1.104**, Interview of TEH Sren (TEH Zain), 8 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00221898, *as confirmed in D6.1.103*, Written Record of Interview of Witness TEH Sren (TEH Zain), 13 August 2008, ERN 00275379; **D34.1.4**, Interview of MAT Ysa, 24 January 2001, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00221873, *as confirmed in D6.1.105*, Written Record of Interview of Witness MÂT Ysa, 14 August 2008, ERN 00242077; **D219/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373618, A1, 01373619, A5.

<sup>2065</sup> **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503171, l. 22-24; **D6.1.101**, Written Record of Interview of Witness MAN Sen, 13 August 2008, ERN 00275163. The CPK categorized the population under three general groups, “*full rights*”, “*candidate*”, and, the lowest category, “*depositees*” who were given fewer rights and included



610. By 1977, several witnesses recall statements clearly indicating a policy to eliminate the Cham population. Two witnesses involved in the arrest of Chams in Angkor Ban Commune and Peam Chi Kang Commune in Kang Meas District heard their superiors – Run, the chief of Angkor Ban Commune Security, and Pheap, head of the Peam Chi Kang Commune Committee – exhort a plan to kill all the Cham and ensure none were spared.<sup>2068</sup> The former bodyguard for the Chief of Wat Au Trakuon's Security Centre recalls hearing, from an unidentified person working at the security centre,<sup>2069</sup> about “a plan to exterminate all the Cham people”.<sup>2070</sup> After the arrest of the Cham in Trapeang Ruessei Village, Krala Commune, a Khmer villager attended a “big meeting” where Prak Yut, the Kampong Siem District Secretary, stated “*The Cham are the enemy of Angkar [...] so Angkar has to smash them [...] If any Cham remain, this must be reported so they can be swept clean, because this is the plan of upper-echelon*”.<sup>2071</sup> Similarly, in the East Zone in 1977, the Sector 21 Security Chief came to Trea Commune, Krouch Chhmar District, and informed

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capitalists, “new people”, and “foreign minorities”: **D322/8.1.23**, CPK Magazine entitled: “The Revolutionary Flag”, Special Issue, April 1977 (FULL), ERN 00478505; **D322/8.1.31**, CPK Magazine entitled: “The Revolutionary Flag”, Issue 3, March 1978 (FULL), ERN 00504088; **D219/524**, Written Record of Interview Witness NHEB Noem, 17 September 2015, ERN 01168036, A57; **D118/300**, Written Record of Interview of TEM Bunly, 11 December 2014, ERN 01045431, A130; **D6.1.1105**, Book by Ben Kiernan entitled “The Pol Pot Regime: Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975-79”, 1996, ERN 00678634, 00678494, 00678577, 00678634, 00678643, 00678733; **D6.1.595**, Book by VICKERY Michael, Cambodia 1975-1982, 1999, ERN 00397002; **D6.1.943**, Book by Alexander HINTON entitled “Why did they kill?”, 2005, ERN 00431634-00431635; **D6.1.599**, JACKSON Karl, Cambodia 1975-1978: Rendezvous with Death, ERN 00393995.

<sup>2066</sup> **D219/702.1.81**, **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 9 September 2015, ERN 01430841; **D6.1.444**, Written Record of Interview of Witness KHIEV Sokh, 15 January 2009, ERN 00282327-00282329; **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405947, l. 10-15, 01405948, l. 8-13; **D219/639**, Written Record of Interview of Civil Party Applicant KEO Meur, 5 January 2016, ERN 01198191, A80-A81; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216006, A11.

<sup>2067</sup> **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250047, as confirmed in **D219/702.1.96**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 19 May 2015, ERN 01503131, l. 23-24; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452699, l. 2-5, 01452718, l. 5-6.

<sup>2068</sup> **D219/702.1.83**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 10 September 2015, ERN 01431038, l. 10-15; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474963-01474964.

<sup>2069</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456528, l. 16.

<sup>2070</sup> **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456508, l. 18-19, 01456525, l. 24-25, 01456526, l. 1, see also **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035847, A43 (“I just knew that they had a plan to kill all the Cham”).

<sup>2071</sup> **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152376, A30.



one witness that “*in the future those Cham people would be smashed until no one was left*”.<sup>2072</sup>

611. In late 1978,<sup>2073</sup> a witness was given and read a small, thin, 16-page book at the old Ou Nong Commune Office, in Ou Phneit Village, Chamkar Leu District entitled “*The Plan for Progressive Cooperatives*”,<sup>2074</sup> although he cannot recall the author’s name or the publishing date.<sup>2075</sup> The location in which the book was found and its title allows for the conclusion that it was a CPK publication. Written in the Khmer language, it described the “*enemy situation*”, which included higher educated people, civil servants of the Lon Nol government and religious leaders, and, the witness recalled, stated that “*Cham is the biggest enemy who must be totally smashed before 1980*”.<sup>2076</sup>
612. A witness from the East Zone who accompanied the Chumnik Commune Chief to a meeting of commune, sector, and district chiefs at a worksite in Kampong Thma Commune, Santuk District, Kampong Thom Province in late 1978, recalls that, while listening from outside the building, he heard Central Zone Secretary Ke Pauk announce over a loudspeaker that the new East Zone cadres must implement the “*policy of Angkar...to smash 100 per cent of the Cham*” when they returned to their bases.<sup>2077</sup> Two days after the meeting, having returned to

<sup>2072</sup> **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452596; **D6.1.185**, Written Record of Interview of Witness YUSUF Romly alias SUF Romly, 10 July 2008, ERN 00223089.

<sup>2073</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246643, l. 13-16, 01246644, l. 2-3.

<sup>2074</sup> **D6.1.121**, Extract of “The Cham Rebellion, Survivors’ Stories from the Villages”, Ysa Osman, Documentation series No. 9, DC-Cam, 2006, 10 September 2008, ERN 00223899, as confirmed in **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246602, l. 6-25, 01246603, l. 1-9, 01246638, l. 17-25, 01246639, l.1-8, 01246667-01246669.

<sup>2075</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497.

<sup>2076</sup> **D6.1.121**, Extract of “The Cham Rebellion, Survivors’ Stories from the Villages”, Ysa Osman, Documentation series No. 9, DC-Cam, 2006, 10 September 2008, ERN 00223899; as confirmed in **D6.1.120**, Written Record of Interview of SOH Kâmrei, 10 September 2008, ERN 00225497, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246599, l. 11-12, 01246602, l. 1-25, 01246603, l. 1-9, 01246638-01246639, 01246667-01246669.

<sup>2077</sup> **D6.1.107**, Extract of “The Cham Rebellion, Survivors’ Stories from the Villages”, Ysa Osman, Documentation series No. 9, DC-Cam, 2006, ERN 00218542, as confirmed in **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016.



Chumnik Commune, the witness and “*thousands*” of villagers from Krouch Chhmar District were ordered to relocate from the East Zone to the Central Zone.<sup>2078</sup> Several other witnesses also saw mass transfers of Cham from the East Zone to the Central Zone in late 1978 after the arrival of the Southwest cadre in the East Zone.<sup>2079</sup> Unlike the mass transfers of Cham populations earlier in the DK period, these Cham were not resettled elsewhere but killed at a number of locations in the Central Zone, as discussed below.

613. Official CPK documents also reflect an attempt to erase the Cham community by denying their historical existence both inside Cambodia and in broader the region. In August 1977, the country was described as being 99 percent Khmer<sup>2080</sup> and a September 1978 DK Ministry of Foreign Affairs publication declared that “*In 1693, the Vietnamese ‘swallowed’ the whole Champa [...] The Cham race was totally exterminated by the Vietnamese*”.<sup>2081</sup>
614. The evidence of CPK statements demonstrating a policy to eliminate the Cham is corroborated by the extensive evidence of widespread mass killing of the Cham population, discussed in further detail below. After the arrival of **Ao An** and the Southwest Zone cadres, incidents of arrests and killings of Cham were targeted in at least 10 districts in the Central Zone: Kampong Siem, Kang Meas, Prey Chhor, Cheung Prey, Batheay, Baray, Steung Trang, Chamkar Leu, Santuk, and Sandan. These include all five districts in Sector 41, three of the four districts in Sector 42, and two of the four districts in Sector 43.

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ERN 01216600-01216605, 01216667; **D40**, Written Record of Interview of Witness SALES Ahmat, 15 July 2011, ERN 00722240-00722241.

<sup>2078</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 July 2011, ERN 00242068-00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216607, l. 1-7.

<sup>2079</sup> **D6.1.179**, Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204453, *as confirmed in* **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Sates], 28 September 2015, ERN 01403680, 01403685, l. 6-10, 01403715, l. 14-23; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377996, A20-A21, 01377998, A27-A30; **D219/355**, Written Record of Interview of Witness BAN Siek, 26 May 2015, ERN 01116324, A6-A8; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435830, l. 4-8, l. 14-16; **D6.1.112**, Written Record of Interview of Witness SOK Proeung, 18 August 2008, ERN 00275391.

<sup>2080</sup> **D6.1.961**, DK Publication entitled “Democratic Kampuchea is Moving Forward”, August 1977, ERN 00050248.

<sup>2081</sup> **D1.3.17.2**, Book by Department of Press and Information of the Ministry of Foreign Affairs of DK, entitled “Black Paper: Facts and Evidences of the Acts of Aggression and Annexation of Vietnam Against Kampuchea”, September 1978, ERN 00082514-00082515.



615. It can be concluded from this evidence that there was an escalation in the enforcement of CPK policy targeting the Cham following the arrival of the Southwest Zone administration in the Central Zone. The policy, as applied in Kampong Cham Province, progressed from the suppression of the Cham religious and cultural identity to the physical destruction of the Cham population.

#### 6.4.2.3 Arrests, killings, and disappearances of Cham in the Central Zone

##### *Timeframe*

616. The widespread arrest and killing of Cham occurred in the Central Zone after the arrival of the Southwest Zone cadres.<sup>2082</sup>

617. The evidence described in detail below shows that the operation to kill the Cham of Kampong Cham Province occurred over two phases. The first phase of

<sup>2082</sup> See Annex IV, Cham Victims; Kampong Siem, see e.g.: **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A7; **D219/171**, Written Record of Interview of Witness NHIM Kol, 11 February 2015, ERN 01076939, A2, 01076946, A20, A23; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A5; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152375, A26, 01152376, A30-A31; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032981, A20, 01032982, A23; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067862-01067863, A84-A86; **D219/472**, Written Record of Interview of Civil Party Applicant, SUM Chanythol, 24 August 2015, ERN 01178451, A15-A17; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032988, A2; Kang Meas, see e.g.: **D1.3.11.46**, OCP Interview of Witness SENG Khuy, 7 August 2008, ERN 00210481, as confirmed in **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236; **D219/702.1.81** Transcript of hearing on the substance in Case 002/02 [SENG Khuy], 9 September 2015, ERN 01430907, l. 4-12, 01430908, l. 5-6; **D6.1.702**, Written Record of Interview of Witness MÂN Heang, 10 December 2009, ERN 00421084, A5; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235515-00235517; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740715, A21-A22; Prey Chhor, see e.g.: **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 October 2015, ERN 01174565, A76, A79; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111774, A15, A17, A23; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A9; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100841, A10, 01100842, A19; Batheay: **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365573, A3-A5, 01365576-01365578, A22-A25, A30-A33; Stueng Trang: **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309823-01309825, A11, A14-A19, A24, A26; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308584, A45, 01308586, A56-A59; Baray: **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147846, A16; **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313253, A38; cf. witnesses and civil party applicants who state that arrests of Cham occurred prior to the arrival of the Southwest Zone cadres: **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A33; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011.





the mass killing operation commenced in 1977 and was directed against the Cham population of the western part of Kampong Cham Province falling in the Central Zone. The second phase of the operation involved the large-scale transfer of Cham from the eastern part of Kampong Cham Province to the Central Zone during the purge of the East Zone in 1978. Beginning with the arrival of Southwest and Central Zone cadres in the East Zone, witnesses describe mass arrests, disappearances and killings of the Cham population,<sup>2083</sup> as well as mass transfers of people from the East Zone to the Central Zone,<sup>2084</sup> including Cham people who were then killed in the Central Zone.

*Total minimum estimate of Cham killed in the Central Zone*

618. The combined minimum estimates of Cham people killed in each district described below, based on witness observations, account for the deaths of a minimum of **17,115** Cham men, women, and children in the Central Zone between the arrival of the Southwest Zone cadres and the end of DK. This

<sup>2083</sup> **D6.1.108**, Written Record of Interview of Witness SOS Ponyamin, 16 August 2008, ERN 00242073, *as confirmed in* **D219/702.1.79**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 8 September 2015, ERN 01433889, l. 9-18; **D219/702.1.81**, Transcript of hearing on the substance in Case 002/02 [SOS Min], 9 September 2015, ERN 01430819-01430820; **D6.1.105**, Written Record of Interview of Witness MÂT Ysa, 14 August 2008, ERN 00242078; **D6.1.180**, Written Record of Interview of Witness AHMAD Sofiyah, 8 July 2008, ERN 00274708, *as confirmed in* **D219/702.1.86**, Transcript of hearing on the substance in Case 002/02 [MATH Sor], 13 January 2016, ERN 01415020-01415021; **D6.1.179**, Interview of NO Satas, 5 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204453, *as confirmed in* **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703, *as confirmed in* **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 28 September 2015, ERN 01403710, l. 19-25, 0143711, l. 1-4, 01403716, l. 10-17; **D6.1.183**, Interview of IT Sen, 12 March 2001, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204442-00204443, *as confirmed in* **D6.1.182**, Written Record of Interview of Witness IT Sen, 9 July 2008, ERN 00242095-00242096, *as confirmed in* **D219/702.1.77**, Transcript of hearing on the substance in Case 002/02 [IT Sen], 7 September 2015, ERN 01430682, l. 20-23, 01430702, l. 11-16; *see also* **D6.1.185**, Written Record of Interview of Witness YUSUF Romly alias SUF Romly, 10 July 2008, ERN 00223088, *as confirmed in* **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452524, l. 1-25, 01452525, 1-7.

<sup>2084</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068-00242069, *as confirmed in* **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216607, l. 5-17; **D6.1.179**, Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204453, *as confirmed in* **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703, *as confirmed in* **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 28 September 2015, ERN 01403685, l. 6-10; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A27-A30; **D219/355**, Written Record of Interview of Witness BAN Siek, 26 May 2015, ERN 01116324, A6-A8, *as confirmed in* **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435830, l. 4-8, l. 14-16; **D6.1.112**, Written Record of Interview of Witness SOK Proeung, 18 August 2008, ERN 00275391; *see also* **D219/702.1.86**, Transcript of hearing on the substance in Case 002/02 [MATH Sor], 13 January 2016, ERN 01414990, l. 3-5.



includes 1027 Cham victims in Kampong Siem District, 6443 in Kang Meas District, 200 in Prey Chhor District, 240 in Batheay District, 3160 in Stueng Trang District, 3806 in Chamkar Leu District, 219 in Baray District, 39 in Santuk District, and 1981 in Sandan District. The details of these calculations are explained in *Annex IV – Cham Victims*.

### *Proportions of Cham killed*

619. Apart from the actual numbers of Cham victims, many witnesses also describe the proportion of the Cham population targeted within a given area. At least 30 witnesses and civil party applicants from across the Central Zone make similar statements about Kampong Siem,<sup>2085</sup> Kang Meas,<sup>2086</sup> Cheung Prey,<sup>2087</sup> and

<sup>2085</sup> **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046942, A24; **D117/59**, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2009, ERN 01031711, A32; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216019, A49; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216008, A36; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A21; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215990-01215991, A10-A36; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090001, A18-A22; **D219/472**, Written Record of Interview of Civil Party Applicant, SUM Chanythol, 24 August 2015, ERN 01178455, A64; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152376, A31; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759-01057760, A5-A7; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D6.1.986**, Written Record of Interview of Witness MĀT Toulouh, 7 April 2010, ERN 00506032, A33; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A8; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076946; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373605, A3-A5, 01373612, A86.

<sup>2086</sup> **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210482, *as confirmed in D38*, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474965, l. 12; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503-00218504, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608-01044609, A9; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251306; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Koemhun], 16 September 2015, ERN 01409042-01409043; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT MUY], 15 September 2015, ERN 01431097, l. 10-21, 01431098, l. 1-8, 01431173, l. 14-25, 01431174, l. 1-15; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035849, A66, 01035850, A73, *as confirmed in D219/702.1.84*, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456491, l. 4-7, 01456526, l. 1-2; **D219/217**, Written Record of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088550-01088551, A147, A150.



Santuk Districts,<sup>2088</sup> indicating either that all the Cham disappeared, or that none remained in the villages after their removal.

620. Witnesses from Kang Meas District consistently refer to the survival of only one Cham couple in Sach Sau village, Peam Chi Kang Commune.<sup>2089</sup> This couple escaped arrest by hiding while all the other Cham from the commune were taken to Wat Au Trakuon Security Centre.<sup>2090</sup> A witness from Trean Commune, Kampong Siem District states that only one Cham man escaped arrest.<sup>2091</sup> In Kangsao Village, Kampong Thma Commune, Santuk District, in Kampong Thom Province, all of the Cham people disappeared at once except for one woman who was away working in a district mobile unit.<sup>2092</sup> A witness from Angkor Ban Commune states that Cham people rarely survived because “both those who had made mistakes and those who had not” were killed.<sup>2093</sup> Cadres from Kampong Siem District describe the survival of only one Cham girl, under the care of District Secretary Prak Yut since 1973, who protected the girl from arrest out of personal affection and “pity”.<sup>2094</sup> Upon receiving a letter ordering the girl’s arrest, Prak Yut told **Ao An** about her relationship with the

<sup>2087</sup> **D6.1.700**, Written Record of Interview of Witness SĒNG Srūn, 9 December 2009, ERN 00423723, A8.

<sup>2088</sup> **D6.1.443**, Written Record of Interview of Witness UT Seng, 14 January 2009, ERN 00282357.

<sup>2089</sup> **D36**, Written Record of Interview of Witness CHEA Maly, 14 July 2011, ERN 00722232; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503-00218504, as confirmed in **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT Muy], 15 September 2015, ERN 01431097, l. 20-25, 01431098, l. 1-20, 01431174, l. 15-17; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035849, A66; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456491, l. 4-7, 01456526, l. 1-3; **D216/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373624, A61-A62; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251021.

<sup>2090</sup> **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218502-00218503, as confirmed in **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091.

<sup>2091</sup> **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215996, A40-A42.

<sup>2092</sup> **D6.1.443**, Written Record of Interview of Witness UT Seng, 14 January 2009, ERN 00282357; **D219/702.1.72**, Transcript of hearing on the substance in Case 002/02 [UTH Seng], 3 June 2015, ERN 01498929, l. 3-9.

<sup>2093</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936.

<sup>2094</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056237-01056238, A2-A5; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441023-01441025; **D117/27**, Written Record of Interview of Witness DEUR Raun, 26 September 2013, ERN 00977413-00977414, A1; **D117/32**, Written Record of Interview of Witness NHIM Kol, 12 November 2013, ERN 00966999, A11.



girl.<sup>2095</sup> **Ao An** agreed not to have the girl arrested, but he ordered Prak Yut to make a list of the other Cham people.<sup>2096</sup> Prak Yut states: “*no other Cham people were spared, nor did I ask to spare any other Cham to Ta An*”.<sup>2097</sup> Other witnesses in the Central Zone describe instances where a small portion of the Cham in their village survived while the overwhelming majority were arrested, killed, or disappeared.<sup>2098</sup> The consistent references made to these few exceptional Cham to survive, particularly in Kang Meas and Kampong Siem Districts, demonstrate the otherwise comprehensive character of the killing operation.

621. A few witnesses provide examples of Cham communities in the Central Zone that survived the DK period. Some of these accounts do not appear credible in light of contrary evidence. For example, Tep Pauch, who was a member of the Baray District Committee, and Ban Siek, *alias* Ho and Hau, who was Chamkar Leu District Deputy Secretary and then Krouch Chhmar District Secretary, both claim that the Cham in Baray District lived in Trapeang Chhouk Village, Boeung Commune, and none of them were killed.<sup>2099</sup> However, there is repeated evidence of Cham living in at least three different communes in Baray District who were arrested and killed, as discussed below. Furthermore, Ban Siek has repeatedly denied knowing about the killing of Cham in Kampong Cham Province<sup>2100</sup> despite multiple witnesses suggesting his involvement;<sup>2101</sup> his

<sup>2095</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441024.

<sup>2096</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A5, *as confirmed in* **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441025-01441026.

<sup>2097</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441026, I. 18-20.

<sup>2098</sup> **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215985, A23, A25; **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01215999, A7-A8, 01216002, A44-A45; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308583, A38, 01308586, A58; **D6.1.176**, Interview of EL Sam *alias* ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204427, *as confirmed in* **D6.1.175**, Written Record of Interview of Witness EL Sam *alias* ISMAEL Maisam, 7 July 2008, ERN 00242110; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri *alias* Kamaruttin Yusof], 6 April 2016, ERN 01246589, I. 10-11.

<sup>2099</sup> **D219/485**, Written Record of Interview of Witness TEP Pauch, 28 August 2015, ERN 01151276, A1, 01151278, A9-A13; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435882, I. 9-22, 01435883, I. 8-23.

<sup>2100</sup> **D219/702.1.75**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 5 October 2015, ERN 01409587-01409590; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435876-01435879; **D6.1.386**, Written Record of



evidence in this regard is not credible. A woman assigned to be in charge of a battalion in Roka Koy Commune, Kang Meas District in 1977, states that her group of approximately 400 women included around 20 Cham girls and no one in her battalion was arrested.<sup>2102</sup> In light of extensive evidence to the contrary, i.e. that Cham in work groups in Kang Meas District were systematically arrested and killed, it is possible that this witness did not want admit that people under her supervision were killed in order to protect herself. In any event, this isolated incident of Cham surviving does not undermine the solidly supported overall pattern of the comprehensive killing of Cham in the district.

622. Conversely, there are credible examples of Cham communities who survived the regime, most of which were Cham transferred from the East Zone to either Sector 42 or 43 in the Central Zone. Two Cham witnesses evacuated to Kampong Thom Province with other Cham families from the East Zone in 1975-1976 survived until the arrival of the Vietnamese,<sup>2103</sup> as did two witnesses evacuated to Stueng Trang District in 1975-1976.<sup>2104</sup> However, neither witness from Stueng Trang specifies what happened to the Cham they were transferred with, and one survived after being assigned to the fishing unit at the river with two other Cham.<sup>2105</sup> Additionally, the Ruessei Keo Commune Secretary, who arrived in early 1978 states that the Cham in Preak Prasab District lived in Saob Commune, Preak Prasab Commune, Ruessei Keo Commune and on Koh Ta

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Interview of Witness BAN Siek, 6 July 2009, ERN 00360763; **D117/35**, Written Record of Interview of Witness BAN Siek, 24 March 2014, ERN 00984879, A49.

<sup>2101</sup> **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [Ysa Osman], 24 March 2016, ERN 01236616, l. 1-11, 01236695, l. 21-25; **D219/702.1.78**, Transcript of hearing on the substance in Case 002/02 [SOS Romly], 8 January 2016, ERN 01452523, l. 24-25, 01452524, l. 1-24, 01452525, l. 14-16; **D219/702.1.86**, Transcript of hearing on the substance in Case 002/02 [MATH Sor], 13 January 2016, ERN 01415010, l. 6-12; **D6.1.179**, Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled "The Cham Rebellion" 2006, ERN 00204453, as confirmed in **D6.1.178**, Written Record of Interview of NO Satas, 8 July 2008, ERN 00274703, as confirmed in **D289.1**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 28 September 2015, ERN 01409400.

<sup>2102</sup> **D6.1.701**, Written Record of Interview of Witness YIM Kimsan, 10 December 2009, ERN 00421618, A5, 00421619, A12, A14.

<sup>2103</sup> **D6.1.193**, Written Record of Interview of Witness SMAN At, 12 August 2008, ERN 00242082; **D6.1.376**, Written Record of Interview of Witness KAE Noh, 20 May 2009, ERN 00340182-00340183.

<sup>2104</sup> **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452738-01452748; **D219/706**, Written Record of Interview of Witness YOB Li, 22 February 2016, ERN 01215985, A11-A18.

<sup>2105</sup> **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452739, l. 4.

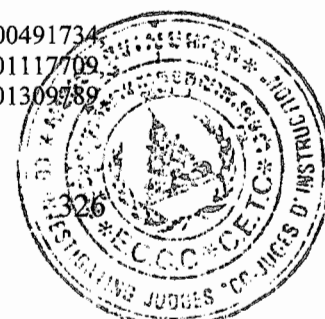


Suy, and that they lived there until the end of DK.<sup>2106</sup> Based on this evidence it can be concluded that the mass killing of the Cham was more intense in Kampong Cham Province, specifically where the majority of the Cham communities were located in Kampong Siem and Kang Meas Districts, than in other parts of the Central Zone.

*Pattern evidence*

623. The evidence below establishes that the arrests, killings and disappearances of the Cham people followed several consistent patterns throughout the Central Zone, demonstrating that there was a coordinated plan to kill the Cham on a massive scale and that they were targeted not for any wrongdoing but because of their ethnic and religious affiliation. There were at least two organized, largescale operations to kill Cham in the Central Zone after the arrival of the Southwest Zone cadres: first, in 1977, the widespread killing of Cham extracted from villages and work units throughout the Central Zone and predominantly in Kampong Cham Province; and, second, in 1978, the killing of large numbers of Cham transferred from the East Zone to the Central Zone. The pattern and similarity of the arrests and killings of the Cham across such a large area demonstrates largescale planning and coordination and is incompatible with the possibility of independent action by district, commune, or village chiefs. As the CPK's system of vertical communications prohibited horizontal communications, it is virtually impossible that the lower levels could have planned and carried such a widespread and well-coordinated arrest and killing operation among themselves. Rather, the administrative structure of DK and the scale and pattern of the atrocities are evidence of a coordinated plan originating from a high level. The uniformity of pattern and scale of killing in Kang Meas and Kampong Siem Districts in Sector 41 shows that these were coordinated at the sector level, while the scope of the killing operation across the Central Zone, including large numbers of Cham brought from the East Zone, is indicative of zone-level coordination.

<sup>2106</sup> **D6.1.980**, Written Record of Interview of Witness SARAY Hean, 10 March 2010, ERN 00491734; A1; **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117709; A1; **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309789; A1, 01309790, A6, 01309800, A69, A73.



624. In late 1977, Cham people in villages and work units were called to meetings and arrested, were told they had to leave to new locations and taken away, or just disappeared. This was the pattern across Kampong Siem, Kang Meas, Stueng Trang, Prey Chhor, Cheung Prey, Chamkar Leu, Baray, and Stantuk Districts. Though there are examples of Cham who were not arrested or killed, these exceptions pale in comparison to the extensive evidence in support of the pattern.
625. Witnesses consistently state that entire families were arrested killed or disappeared, including women and children. At least 21 witnesses and civil party applicants from Kampong Siem,<sup>2107</sup> Kang Meas,<sup>2108</sup> Batheay,<sup>2109</sup> Stueng Trang,<sup>2110</sup> and Baray Districts<sup>2111</sup> either describe Cham “families” being arrested or killed or specifically state that women and children were amongst those arrested or killed.

<sup>2107</sup> **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A37; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A5; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A25; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A28; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A37-A42; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A22; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373605, A9; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A8.

<sup>2108</sup> **D6.1.176**, Interview of EL Sam alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204427, *as confirmed in D6.1.175*, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9; **D6.1.191**, Interview of HIM Man, 2 May 2004 in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409245, l. 6-25, 01409246, l. 1-10; **D1.3.11.47**, OCP Interview of SENG Srun, 6 August 2008, ERN 00210488, *as confirmed in D6.1.192*, Written Record of Interview of Witness SENG Srun, 11 August 2008, ERN 00242087; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936; **D219/290**, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111787, A13; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9; **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210481, *as confirmed in D38*, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236.

<sup>2109</sup> **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365579, A39.

<sup>2110</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308586, A53.

<sup>2111</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A40.



626. Witnesses consistently state that, prior to the arrests and killings, Cham both lived amongst the Khmer people and worked with them in work units. At least 13 witnesses from Kampong Siem,<sup>2112</sup> Kang Meas,<sup>2113</sup> Prey Chhor,<sup>2114</sup> Stueng Trang,<sup>2115</sup>, and Baray Districts<sup>2116</sup> make statements to this effect.
627. There is no evidence indicating that, after the arrival of the Southwest Zone, the Cham in the Central Zone were targeted as a result of any specific wrongdoing. Witnesses consistently fail to mention any rebellion, unrest, or tension between the Cham and the Khmer Rouge in the Central Zone prior to the arrests and killings of the Cham. To the contrary, witnesses state that there was “*no confrontation*” between the Cham and Khmer people,<sup>2117</sup> that they “*did not have any problems*” with each other,<sup>2118</sup> that the Cham “*had not made any mistakes*”,<sup>2119</sup> “*had not done anything wrong*”<sup>2120</sup> and that there had been “*no activities against Khmer Rouge*” by the Cham.<sup>2121</sup> Though Kampong Siem District Secretary Prak Yut stated on three occasions that she was ordered to

<sup>2112</sup> **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215990, A13; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A16, A19; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216017, A24, A27.

<sup>2113</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251306; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409242, l. 7-12; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT MUY], 15 September 2015, ERN 01431096, l. 23-24; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 12 January 2016, ERN 01474898, l. 12-22; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406809, l. 17-19; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SEN Srun], 15 September 2015, ERN 01431074, l. 16-18; **D219/702.1.83**, Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 10 September 2015, ERN 01431016, l. 18-21; **D1.3.11.4**, OCP Interview of BAO Troab, 5 August 2008, ERN 00210430, *as confirmed in D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3; **D219/702.1.91**, Transcript of hearing on the substance in Case 002/02 [TAY Koemhun], 16 September 2015, ERN 01409074, l. 5-13.

<sup>2114</sup> **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148844, A48, *contra* **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A14-A15 (stating that there were hundreds of Chm people working in separate units at Anlong Chrey Dam worksite).

<sup>2115</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308584, A42.

<sup>2116</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309813, A17.

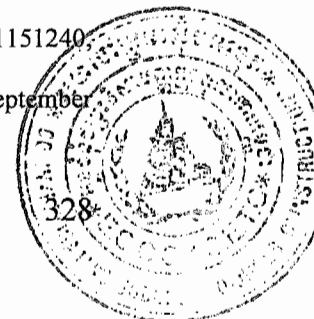
<sup>2117</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A22.

<sup>2118</sup> **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216017, A27.

<sup>2119</sup> **D1.3.11.46**, OCP Interview of SENG Khuy, 7 August 2008, ERN 00210483, *as confirmed in D38*, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236.

<sup>2120</sup> **D219/463**, Written Record of Interview of Witness PEN Thol, 10 August 2015, ERN 01151240, A24.

<sup>2121</sup> **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406810, l. 25, 01406811, l. 1-3.





identify and arrest Cham who “*caused problems*”,<sup>2122</sup> she never identifies any instances where the Cham had caused disturbances. Rather, in one of her most recent interviews she states: “*There were no rebellions or incidents that might have been grounds to kill those Cham,*”<sup>2123</sup> which she later confirms in her testimony at the Case 002/2 trial.<sup>2124</sup> The absence of any attempt to distinguish culpable from innocent Cham, and the lack of any professed reason for their widespread annihilation, strongly supports a finding that they were targeted primarily due to their ethnic and religious affiliation.

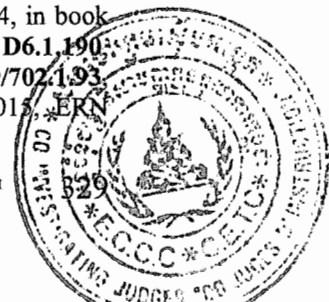
628. There is consistent evidence that the Cham were typically not detained for an extended length of time (i.e. more than one day), but were killed immediately after arrest or upon their arrival at a security centre. Witnesses and civil party applicants from Kampong Siem, Kang Meas, and Stueng Trang and Baray Districts provide evidence indicating that the Cham were killed within the same commune where they were arrested.<sup>2125</sup> Witnesses and civil party applicants

<sup>2122</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A49; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063610-01063612, A19-A28; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441020, l. 21-25, 01441021, l. 1-2, 01441022, l. 7-9.

<sup>2123</sup> **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151271, A10.

<sup>2124</sup> **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441457, l. 25, 01441458, l. 1-4.

<sup>2125</sup> Kampong Siem: **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A29-A33; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215996, A29-A33, **D219/711**, Written Record of Interview of Witness CHHORN Pech, 28 February 2016, ERN 01216012, A36-A39; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A25, A32; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216019, A48; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D117/42**, Written Record of Interview of Witness KHOEM Neary, 6 May 2014, ERN 01034078, A13; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/472**, Written Record of Interview of Civil Party Applicant, SUM Chanythol, 24 August 2015, ERN 01178455, A62-A65; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032988, A2; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076887, A26; Kang Meas: **D6.1.702**, Written Record of Interview of Witness MÂN Heang, 10 December 2009, ERN 00421085, A9; **D219/217**, Written Record of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088551, A150; **D6.1.399**, Written Record of Interview of Witness SĒNG Srun, 20 October 2008, ERN 00235517; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474967-01474970; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, as confirmed in **D6.1.190**; Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01034899, A8.



from Kampong Siem, Kang Meas, and Stueng Trang Districts provide evidence indicating that Cham were killed within a day of being arrested,<sup>2126</sup> witnesses from Wat Au Trakuon Security Centre and Wat Batheay Security Centre state the Cham were not interrogated at these security centres but were simply killed,<sup>2127</sup> and two witnesses provide evidence suggesting that the Cham who were evacuated from the East Zone were immediately killed upon arrival in Stueng Trang District.<sup>2128</sup> The evidence of immediate execution of the Cham stands in contrast to the CPK response to the Cham Rebellions in the East Zone in 1975, and their treatment of Khmer political prisoners across the country, who were detained or tortured for the purpose uncovering threats or further enemies of the CPK.

*The scale of the killing outside of the Central Zone and East Zone*

629. In parts of the DK outside of the Central and East Zones, only a few witnesses and civil party applicants recall large-scale killings of the Cham.<sup>2129</sup> Some

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01409244; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044607-01044609, A9; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT Muy], 15 September 2015, ERN 01431094, 01431102; **D82**, Written Record of Interview of Witness HOK Hoeun, 26 August 2011, ERN 00739469; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035850, A73; Baray: **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A35; **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313254, A42-A44; **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147845, A14; Stueng Trang: **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309825-01309826, A25-A36; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585-01308586, A51-A54.

<sup>2126</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A28; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A33-A37; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in D6.1.190*, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409246, l. 15-25, 01409247, l. 1-2; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309825, A29-A30; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585, A52.

<sup>2127</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044608, A9; **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035851, A79; **D219/702.1.84**, Transcript of hearing on the substance in Case 002/02 [MUY Vanny], 11 January 2016, ERN 01456510, l. 22, 01456511, l. 13-14; **D219/875**, Written Record of Interview of Witness THOU Leang, 30 November 2016, ERN 01365577, A29, 01365580, A42,

<sup>2128</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998-01378001, A30-A48; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [VAN Mat alias Sales Ahmat], 9 March 2016, ERN 01216608, l. 7-21, 01216618, l. 6-13.

<sup>2129</sup> **D118/217**, Written Record of Interview of Civil Party Applicant MEY Sam, 4 April 2014, ERN 00985662, A58, A59; **D118/223**, Written Record of Interview of Civil Party Applicant KOEM Huoy, 21 April 2014, ERN 01057645, A43; **D118/190**, Written Record of Interview of Witness MOE Peou, 25 February 2014, ERN 00986160, A24; **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452703, l. 10, 01452710; **D219114/47**, Written Record



witnesses and civil party applicants describe smaller-scale killing of Cham resulting from individuals breaking prohibitions on religion in Battambang<sup>2130</sup> and Pursat Provinces,<sup>2131</sup> but they do not mention mass arrests or mass killing. Others state that the Cham were not persecuted in Pursat,<sup>2132</sup> Banteay Meanchey,<sup>2133</sup> Takeo,<sup>2134</sup> or Kampot Provinces,<sup>2135</sup> or that the Cham in their villages survived the DK period in Kampot,<sup>2136</sup> Pursat,<sup>2137</sup> and Takeo Provinces.<sup>2138</sup> Based on this evidence, it can be concluded that the mass killing of Cham was more intense in the Central and East Zones than in other parts of DK.

### *Demographic evidence*

630. Expert witness Eva Tabeau's Demographic Expert Report "*CPK Victims in Cambodia, April 1975 – January 1979, A Critical Assessment of Major Estimates*" ("Demographic Expert Report") concludes that 36% of the Cham population in Cambodia perished while the CPK was in power,<sup>2139</sup> compared to a death rate of 18.7% for Khmers.<sup>2140</sup> The Demographic Expert Report took the figure of 36% from historian Ben Kiernan's research and, though considering it uncertain due to a lack of reliable statistical sources, found it to be the best

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of Interview of Civil Party Applicant TEU Ry, 18 February 2015, ERN 01079949, A160, 01079950-01079953, A167-A173, 01079958, A206, A207.

<sup>2130</sup> **D118/106**, Written Record of Interview of Witness HUON Choeum, 22 September 2013, ERN 00978427, A59.

<sup>2131</sup> **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MEU Peou], 29 February 2016, ERN 01452687, l. 16-17; **D118/237**, Written Record of Interview of Witness TIT Kas, 15 May 2014, ERN 01056772, A20.

<sup>2132</sup> **D6.1.160**, Written Record of Interview of Witness SUM Alät, 10 June 2008, ERN 00242125; **D6.1.159**, Written Record of Interview of Witness OUK Savuth, 9 June 2008, ERN 00242135.

<sup>2133</sup> **D6.1.451**, Written Record of Interview of Witness SAING Nham, 30 January 2009, ERN 00290385.

<sup>2134</sup> **D6.1.671**, Written Record of Interview of Witness RIEL Sän, 29 October 2009, ERN 00412172, A11.

<sup>2135</sup> **D6.1.842**, Written Record of Interview of Civil Party Applicant TES Ding, 10 September 2009, ERN 00377170.

<sup>2136</sup> **D6.1.654**, Written Record of Interview of Witness TUON Lorn, 29 August 2009, ERN 00373311, 00373312; **D6.1.648**, Written Record of Interview of Witness UK Phorn, 22 August 2009, ERN 00372930.

<sup>2137</sup> **D118/288**, Written Record of Interview of Witness LAY Bony, 20 August 2014, ERN 01066761, A30.

<sup>2138</sup> **D6.1.676**, Written Record of Interview of Witness CHEANG Sreimom, 11 November 2009, ERN 00410266, A14, A15.

<sup>2139</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385311.

<sup>2140</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385262.



justified among scholarly estimates.<sup>2141</sup> Kiernan estimates that the population of Cham in Cambodia in April 1975 was 249,450, of which 90,000 died during the DK period.<sup>2142</sup>

631. Other expert estimates include those of Ysa Osman, whose research found that prior to April 1975 there were approximately 700,000 Cham people living throughout Cambodia.<sup>2143</sup> He estimates that by the end of DK approximately 200,000 Cham survived,<sup>2144</sup> equating to a mortality rate of around 70%. Similarly, the Chairman for Islamic Affairs travelled to 70-80% of the Cham villages throughout Cambodia at the end of DK, and based on his own observations, estimated that 300,000 Cham were alive at that point.<sup>2145</sup> Overall, he estimates that 50% of Cham people died during DK.<sup>2146</sup> The estimates of Ysa Osman are based on interviews with witnesses who saw or read statistics,<sup>2147</sup> while Ben Kiernan made statistical calculations based on the demographic data available before and after the DK period.<sup>2148</sup> Historian Michael Vickery, who consistently provides some of the lowest estimates for death rates during DK,<sup>2149</sup> estimates that 11,000 Cham were killed in total.<sup>2150</sup> His methods of calculation, according to the Demographic Expert Report, “*have series [sic] flaws*”, due to his reliance on “*subjective guessing and his own intuition*” which caused him to reach estimates in conflict with the data available.<sup>2151</sup>

<sup>2141</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385312.

<sup>2142</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385311; **D325/2.1.8**, Ben Kiernan, Excerpts from “Genocide and Resistance in Southeast Asia”, 2007, ERN 01199612-01199616; **D325/2.1.4**, Ben Kiernan, ‘Orphans of Genocide: The Cham Muslims of Kampuchea Under Pol Pot’, Critical Asian Studies, Vol. 20, No. 4, October-December 1988, ERN 01199591.

<sup>2143</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405895, l. 3-4.

<sup>2144</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405900, l. 19-20.

<sup>2145</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246635, l. 21-25, 01246636, l. 1-20.

<sup>2146</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri alias Kamaruttin Yusof], 6 April 2016, ERN 01246635, l. 21-25, 01246636, l. 1-3.

<sup>2147</sup> **D219/702.1.80**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 9 February 2016, ERN 01405949, l. 15-25, 01405950, l. 4-12; **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385312.

<sup>2148</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385312, 00385370-00385371.

<sup>2149</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385330.

<sup>2150</sup> **D219/879.1.3**, Michael Vickery, ‘Comments on Cham Population Figures’, Critical Asian Studies, Vol. 22, No. 1, January-March 1990, ERN 01199597-01199598; **D325/2.1.8**, Ben Kiernan, Excerpts from “Genocide and Resistance in Southeast Asia”, 2007, ERN 01199612.

<sup>2151</sup> **D6.1.197**, Demographic Expertise Report, 30 September 2009, ERN 00385330, 00385352.



632. All of the available demographic evidence relates to Cambodia as a whole, and not specifically to the limited area of Kampong Cham Province, and is therefore only relevant to the extent it can provide context and a point of reference for comparison. In light of the evidence that the killing of Cham in Kampong Cham Province was more intense than elsewhere in the country, and that Kampong Cham Province contained the largest concentration of Cham in the country, the portion or percentage of Cham killed in Kampong Cham Province is likely to be substantially higher than for the country as a whole.

#### 6.4.2.4 *Ao An's role in the operation to eliminate the Cham*

633. In late 1977,<sup>2152</sup> **Ao An** ordered Kampong Siem District Secretary Prak Yut to compile a list of the Cham in Kampong Siem District.<sup>2153</sup> Prak Yut passed the order down to her subordinates at the district level.<sup>2154</sup> District-level cadres then contacted the communes and villages and ordered them to compile the names.<sup>2155</sup> Once the names of the Cham were recorded, the lists were sent back to the “sector level”,<sup>2156</sup> specifically to **Ao An**.<sup>2157</sup> You Vann, a messenger for

<sup>2152</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441015, l. 1-14; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 18 January 2016, ERN 01431667; **D219/171**, Written Record of Interview of Witness NHIM Kol, 11 February 2015, ERN 01076946, A22; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A51.

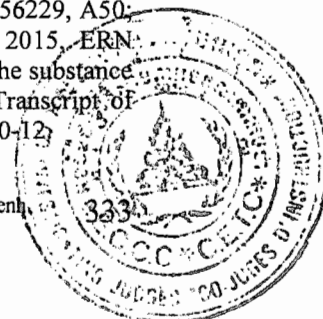
<sup>2153</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A48; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A4; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151268, A1.

<sup>2154</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056228, A49; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A4, 01056240, A12; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608, A14; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441449, l. 18-21.

<sup>2155</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608, A14; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966992, A29, A30; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A49; **D219/284**, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098556, A58, 01098557, A66; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438505, l. 11, 01438507, l. 5-7.

<sup>2156</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056240, A12; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441449, l. 21-23; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438507-01438508.

<sup>2157</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A50; see also **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284-01059285, A49-A51, as confirmed in **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438508, l. 5; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [Prak Yut], 19 January 2016, ERN 01441015, l. 10-12.



Prak Yut and the Ro'Ang Commune Deputy Chief,<sup>2158</sup> also states that she was told by Khom,<sup>2159</sup> another messenger for Prak Yut,<sup>2160</sup> that Prak Yut personally delivered the lists to **Ao An**.<sup>2161</sup> There is evidence that lists of Cham were also made in Kang Meas and Cheung Prey Districts;<sup>2162</sup> it can be inferred that this was also on **Ao An**'s orders.

634. At a monthly sector-level meeting toward the end of 1977, after the lists had been compiled, **Ao An** ordered Prak Yut and the other Sector 41 district committees to arrest and kill all the Cham.<sup>2163</sup> Prak Yut variously uses the terms “*arrest*”,<sup>2164</sup> “*kill*”,<sup>2165</sup> “*purge*”,<sup>2166</sup> and “*smash*”<sup>2167</sup> to describe the action she was

<sup>2158</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438490, l. 16-20; **D117/31**, Written Record of Interview of Witness YOU Vann, 11 November 2013, ERN 00966990, A15; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059276, A18.

<sup>2159</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438508, l. 5.

<sup>2160</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059281, A41; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438508, l. 1-2.

<sup>2161</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A49, as confirmed in **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438508, l. 5.

<sup>2162</sup> **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474965, l. 18-25, 01474966, l. 1; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406854-01406856; **D6.1.700**, Written Record of Interview of Witness SENG Srun, 9 December 2009, ERN 00423722-00423724, A3, A8, A10, A12.

<sup>2163</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441015, l. 9-14, 01441019, l. 16-18, 01441023, l. 24-25, 01441024, l. 1-5; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151270-01151271, A8-A9; **D117/70**, Written Record of Interview of Witness PRAK Yut, 28 May 2013, ERN 01056219, A44-A45; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608-01063610, A13-A14, A19-A23; **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A6; compare **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 18 January 2016, ERN 01431667, l. 19, 01431690-01431691; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076946, A22; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A51.

<sup>2164</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056235, A6; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063610, A21; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151271, A8.

<sup>2165</sup> **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151271, A8.

<sup>2166</sup> **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151272, A12; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441018, l. 12, 01441022, l. 8, 01441023, l. 4, l. 7, 01441024, l. 5.

<sup>2167</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608-01063609, A14, 01063610, A21.



ordered to take. She states **Ao An** ordered arrests of Cham on approximately three occasions.<sup>2168</sup>

635. Prak Yut passed this order to her subordinates, who then coordinated the arrests and reported back to her once the arrests and killing of Cham had been carried out.<sup>2169</sup> Prak Yut reported this to **Ao An**.<sup>2170</sup> Though Prak Yut states in her most recent Case 002 testimony that she could not remember the precise content of these reports, in past interviews she stated that she reported to **Ao An** the “names of the people arrested and list reasons for their arrest, for their detention, or for their execution”,<sup>2171</sup> and “the number of Cham they had killed”.<sup>2172</sup>
636. You Vann was later instructed to make a second list of Cham names during a meeting chaired by **Ao An** at Prey Totueng, Prey Chhor District.<sup>2173</sup> In her testimony at the Case 002/2 trial she states that Ta Mok was also present at the meeting and that the “persons responsible for lists and documentation”<sup>2174</sup> from each district under **Ao An**’s authority and all the Sector 41 commune chiefs

<sup>2168</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A55; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 20 January 2016, ERN 01438619, l. 2-11.

<sup>2169</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056234, A3, 01056235, A5; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608-0106309, A14, A18, 01063611, A26; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441027, l. 6-8, 01441047, l. 14; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A6, 01056239, A9-A10; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151270, A8; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A55.

<sup>2170</sup> **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056234, A3, 01056235, A5; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056239, A10; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608, A14, 01063611-01063612, A26-A28; **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151270, A8; **D219/792.1.2**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 20 January 2016, ERN 01438619, l. 11; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441027, l. 6-8, 01441028, l. 16-23; **D219/138**, Written Record of Interview of YOU Vann, 8 January 2015, ERN 01059286, A55.

<sup>2171</sup> **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063611, A27.

<sup>2172</sup> **D219/484**, Written Record of Interview of Witness PRAK Yut, 21 August 2015, ERN 01151270, A8.

<sup>2173</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438512-01438515; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286-01059287, A58.

<sup>2174</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059286, A58.



were in attendance. **Ao An** and Ta Mok announced that people of different ethnicities should be purged.<sup>2175</sup> Those in attendance were ordered to go to the villages directly, compile the names and make lists, making sure to record the ethnic composition of the people. The new lists were never compiled due to the arrival of the Vietnamese.<sup>2176</sup> Accordingly, although You Vann does not identify a date for the meeting, it can be concluded that it took place in late 1978 or early 1979.

637. It can safely be inferred from the evidence that **Ao An** also played a significant role in the operation to transfer Cham from the East Zone to the Central Zone, where they were to be killed: **Ao An** was involved in the planning of the purge of the East Zone, during which Cham were killed, and resources from Sector 41 (boats and trucks) were used to transport some of the Cham from the East Zone to the Central Zone where they were then killed at Sector 41 crime sites. **Ao An** would have necessarily been involved in this process due to his position as Sector 41 Secretary and Zone Deputy Secretary.

#### 6.4.2.5 Cham killings in Sector 41

##### *Kampong Siem District*

638. In Kampong Siem District, Cham were targeted in at least six communes encompassing at least 24 villages. These include eight villages in Au Svay Commune,<sup>2177</sup> Kampong Krabei Village,<sup>2178</sup> Kokor Commune;<sup>2179</sup> Ou Chhleung Village, Koah Roka Commune,<sup>2180</sup> Trapeang Chrey Village,<sup>2181</sup> Trapeang

<sup>2175</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438515, l. 3-12, 01438517, l. 10-15.

<sup>2176</sup> **D219/138**, Written Record of Interview of YOU Vann, 8 January 2015, ERN 01059286, A58, 01059298, A102; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438512-01438517.

<sup>2177</sup> **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7.

<sup>2178</sup> **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01216001, A34.

<sup>2179</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275-01059276, A18.

<sup>2180</sup> **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A8.

<sup>2181</sup> **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067862, A84.





Ruessei,<sup>2182</sup> Adoung Pou,<sup>2183</sup> Trapeang Tras,<sup>2184</sup> and Tuol Beng Villages,<sup>2185</sup> Krala Commune; Tuol Chambak,<sup>2186</sup> Veal Kriel,<sup>2187</sup> Chrak Sdao,<sup>2188</sup> and Trean Villages, Trean Commune;<sup>2189</sup> and Kong Moha,<sup>2190</sup> Vihear,<sup>2191</sup> Kdei Boeng,<sup>2192</sup> Prasat<sup>2193</sup> and Kouk Totea Villages, Vihear Thum Commune.<sup>2194</sup>

639. The major operation to arrest and kill the Cham in Kampong Siem District occurred in 1977,<sup>2195</sup> while there may have been some smaller-scale arrests continuing into 1978.<sup>2196</sup>

<sup>2182</sup> **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A5, A6; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152376, A31; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067862, A84.

<sup>2183</sup> **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072507, A12.

<sup>2184</sup> **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178455, A64; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032988, A2; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090001, A21.

<sup>2185</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A105-A106.

<sup>2186</sup> **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A25-A40.

<sup>2187</sup> **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A21.

<sup>2188</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216008, A35.

<sup>2189</sup> **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A29.

<sup>2190</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031717, A85-A87.

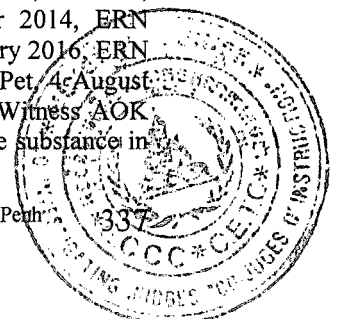
<sup>2191</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044592-01044593, A47-A52.

<sup>2192</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072518, A23.

<sup>2193</sup> **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A48, A50.

<sup>2194</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.

<sup>2195</sup> **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 18 January 2016, ERN 01431667, l. 17-20; **D219/171**, Written Record of Interview of Witness NHIM Kol, 11 February 2015, ERN 01076946, A22; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059284, A51; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A5; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanythol, 24 August 2015, ERN 01178451, A15; **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076884, A9; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A29; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044582, A3, 01044592, A47; **D117/47**, Written Record of Interview of Witness AOK Chanty, 10 May 2014, ERN 01032988, A2; **D219/702.1.95**, Transcript of hearing on the substance in



640. Prak Yut delegated the order to arrest the Cham to her deputy Sy<sup>2197</sup> and her subordinate commune chiefs.<sup>2198</sup> The commune leaders, including Chea in Vihear Thum Commune,<sup>2199</sup> Nim and Nan in Trean Commune,<sup>2200</sup> and Rom<sup>2201</sup> and Loeung<sup>2202</sup> in Krala Commune, subsequently ordered and oversaw the arrests and executions.<sup>2203</sup> The commander of the Trean Commune militia was also identified as responsible for arrests and killings.<sup>2204</sup>

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Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441015, l. 9-10, 01441023, l. 24-25, 01441024, l. 1-5; *cf.* **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031717, A85; **D219/119.1.2**, Written Record of Interview of Civil Party Applicant PHLONG Han, 23 March 2012, ERN 00797011.

<sup>2196</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787202-00787203; **D219/709**, Written Record of Interview of Witness TES Roun, 25 February 2016, ERN 01216002, A53; **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152375, A26; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A23; **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936; **D219/702.1.85**, Transcript of hearing on the substance in Case 002/02 [SAY Doeun], 12 January 2016, ERN 01474986, l. 1-11; **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9; **D6.1.176**, Interview of EL Sam alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00204427, *as confirmed in* **D6.1.175**, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled "The Cham Rebellion", 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D6.1.443**, Written Record of Interview of Witness UT Seng, 14 January 2009, ERN 00282357-00282358.

<sup>2197</sup> **D117/71**, Written Record of Interview of Witness PRAK Yut, 19 June 2013, ERN 01056229, A52; **D117/72**, Written Record of Interview of Witness PRAK Yut, 21 June 2013, ERN 01056234, A3; **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238, A6, 01056239, A9, A10.

<sup>2198</sup> **D117/73**, Written Record of Interview of Witness PRAK Yut, 27 October 2013, ERN 01056238-01056239, A6, A10; **D219/120**, Written Record of Interview of Witness PRAK Yut, 30 September 2014, ERN 01063608, A14, 01063609, A18; **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441047, l. 14; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787204.

<sup>2199</sup> **D117/52**, Written Record of Interview of Civil Party Applicant BUM Ser, 27 May 2014, ERN 01076887, A26; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031717, A84, 01031719, A102; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18.

<sup>2200</sup> **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A24-A27, 01215992, A42; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A20, A22; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A30, A32.

<sup>2201</sup> **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032995, A4, 01032997, A21.

<sup>2202</sup> **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072507, A12; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373606, A13, 01373607, A20.

<sup>2203</sup> **D117/37**, Written Record of Interview of Civil Party Applicant LENG Ra, 23 April 2014, ERN 01072507, A12; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373607, A20; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A32; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A22; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031719, A103; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D117/51**, Written Record of Interview of



641. In Krala Commune, arrests were carried out by commune militia<sup>2205</sup> or “*security guards*” from Tuol Beng Security Centre.<sup>2206</sup> In Au Svay Commune, a witness states that the Cham were arrested by “*district militiamen*”,<sup>2207</sup> though the basis of knowledge is unclear. In Trean Commune the killers were identified as militiamen or soldiers.<sup>2208</sup> In Vihear Thum Commune the arrests and killings were carried out by Em, Khem (alternate spelling Khen), Phan, Muon and Im,<sup>2209</sup> variously described as “*unit chairpersons*” in charge of security affairs,<sup>2210</sup> or special militiamen and company chairpersons.<sup>2211</sup>
642. Witnesses and civil party applicants from Kampong Siem District consistently state that all the Cham people in their villages were arrested and/or killed,<sup>2212</sup>

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Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A21; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A24-A25, 01215992, A42.

<sup>2204</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A26; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A34, A46.

<sup>2205</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373607, A20; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031714, A53, 01031715, A65; **D117/51**, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032997, A19-A22.

<sup>2206</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8.

<sup>2207</sup> **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7.

<sup>2208</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216008, A37; **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A33-A37.

<sup>2209</sup> **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031719, A102-A105; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072515, A10, 01072516, A11-A13, 01072517, A18; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203 (while the witness refers to Khem as “*Khen*” in the WRI, it is clear this is a reference to the individual Khem who, as the witness notes, worked alongside Phan).

<sup>2210</sup> **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072515, A10, 01072516, A11-A13, 01072517, A18.

<sup>2211</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.

<sup>2212</sup> **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeueng, 11 November 2014, ERN 01053869, A8, **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216008, A36; **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215995, A24-A25; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A34-A37; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A5; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373605, A3-A4, 01373607, A23; **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031713, A46; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046936, A7; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A48; **D107/3**, Written Record of Interview of Witness KAK Sroeun, 16 February 2012, ERN 00787203.



usually at night.<sup>2213</sup> In Chrak Sdao, and Trean Villages, Trean Commune, the Cham families attended meetings where they were tied up and walked away,<sup>2214</sup> while in Kouk Totea Village, Vihear Thum Commune and Trapeang Ruessei Village, Krala Commune only the the men's hands were tied.<sup>2215</sup> The Toul Beng Village Chief saw “*security guards*” arresting groups of around 30 Cham at 7:00 PM; they were tied together and sometimes beaten with whips.<sup>2216</sup>

643. Several witnesses noticed their Cham neighbours had disappeared,<sup>2217</sup> and in Krala Commune, some were told that the Cham were being moved to a “*new village*”,<sup>2218</sup> “*new land*”,<sup>2219</sup> or “*another commune*”.<sup>2220</sup>

644. One witness in Kampong Siem District saw the killing of Cham people first-hand, while several other witnesses provide evidence corroborating that the

<sup>2213</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A33; **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A39; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373607, A21, A23; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A8; **D117/38**, Written Record of Interview of Civil Party Applicant KRUCH Kim, 24 April 2014, ERN 01056736, A9; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044593, A53; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22; **D219/378**, Written Record of Interview of Witness TEAM Chheng, 24 June 2015, ERN 01132629, A7; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2009, ERN 01031717, A87; **D117/53**, Written Record of Interview of Civil Party Applicant SUN Chean, 28 May 2014, ERN 01072517, A18; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A6; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072528, A22.

<sup>2214</sup> **D219/712**, Written Record of Interview of Witness SOK Horn, 29 February 2016, ERN 01216018, A34-A37; **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A28.

<sup>2215</sup> **D107/3**, Written Record of Interview of Witness KAK Sroeurng, 16 February 2012, ERN 00787203; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057759, A6.

<sup>2216</sup> **D117/43**, Written Record of Interview of Witness SBONG Yann, 7 May 2014, ERN 01034899, A8.

<sup>2217</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044592; **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373612, A86; **D117/46**, Written Record of Interview of Civil Party Applicant IEM Channy, 9 May 2014, ERN 01032982, A22; **D219/159**, Written Record of Interview of Civil Party Applicant NY Huon, 29 January 2015, ERN 01067862, A84; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356214, A48, A50; **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053869, A8; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059275-01059276, A18.

<sup>2218</sup> **D219/502**, Written Record of Interview of Civil Party Applicant MUOK Sengly, 4 September 2015, ERN 01152375, A26.

<sup>2219</sup> **D219/472**, Written Record of Interview of Civil Party Applicant, SUM Chanythol, 24 August 2015, ERN 01178455, A62.

<sup>2220</sup> **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373607, A23.



arrested Cham were subsequently killed. The witness saw 68 Cham people from Chrak Sdao Village, Trean Commune being arrested and then saw the Cham women beaten to death and thrown into a well and the Cham children thrown against “coconut stalks” until they died.<sup>2221</sup> A witness from Tuol Chambak Village in the same commune was ordered by “soldiers” to bury the bodies of 15 Cham families the morning after they had been killed.<sup>2222</sup> Two other witnesses describe seeing the bodies of Cham, who had been arrested in Veal Kriel and Chrak Sdao Villages, Trean Commune, buried in wells.<sup>2223</sup>

645. A civil party applicant from Kaoh Roka Commune saw the clothes of arrested Cham later being redistributed at the cooperative.<sup>2224</sup>
646. The killing of Cham at the Kok Pring Execution Site and Tuol Beng Security Centre in Kampong Siem District are discussed under the relevant sections above.
647. It can be concluded that a minimum of **1027** Cham were killed in Kampong Siem District after the arrival of the Southwest Zone cadres.

#### *Kang Meas District*

648. In Kang Meas District, Cham were targeted in at least four communes encompassing nine villages: Angkor Ban Ti Muoy<sup>2225</sup> (Antong Sar) and Angkor Ban Ti Pir Villages,<sup>2226</sup> Angkor Ban Commune; Sambour Meas Ka,<sup>2227</sup> Sambour

<sup>2221</sup> **D219/710**, Written Record of Interview of Witness THAN Im, 25 February 2016, ERN 01216007, A28-A30.

<sup>2222</sup> **D219/707**, Written Record of Interview of Witness TOEM Thim, 24 February 2016, ERN 01215991, A33-A37.

<sup>2223</sup> **D219/708**, Written Record of Interview of Witness DIN Sreav, 24 February 2016, ERN 01215996, A34; **D219/711**, Written Record of Interview of Witness CHHORN Pech, 28 February 2016, ERN 01216012, A37-A38.

<sup>2224</sup> **D219/59**, Written Record of Interview of Civil Party Applicant MOM Sroeurng, 11 November 2014, ERN 01053868, A5, 01053869, A8.

<sup>2225</sup> **D6.1.191**, Interview of HIM Man, 2 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00218503, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409244, I. 10-25, 01409245, I. 1-22, 01409279, I. 20-25, 01409280, I. 1-7; **D219/862**, Written Record of Interview of Witness LOEP Srul, 8 November 2016, ERN 01373622, A53-55.

<sup>2226</sup> **D219/702.1.81** Transcript of hearing on the substance in Case 002/02 [SENG Kuy], 09 September 2015, ERN 01430885, 01430891, I. 3-11; **D1.3.11.46**, OCP Interview of Witness SENG Kuy, August 2008, ERN 00210481, *as confirmed in* **D38**, Written Record of Interview of Witness SENG Khuy, 14 July 2011, ERN 00722236.



Meas Kha,<sup>2228</sup> Sach Sau,<sup>2229</sup> and Peam Chikang Villages,<sup>2230</sup> Peam Chi Kang Commune; Sdau Village,<sup>2231</sup> Sdau Commune; Roka Koy<sup>2232</sup> and Pongro Villages, Roka Koy Commune.<sup>2233</sup> Most of the evidence of Cham being targeted in Kang Meas District can be linked to Wat Au Trakuon Security Centre and is discussed in the section about that crime site above. The present section only focuses on the additional evidence of Cham being targeted in Kang Meas District that cannot be directly linked to that security centre.

649. One witness from Pongro Village states that, in 1978, Cham men were sent to cut bamboo in Phnom Chi in Kampong Thom. Each night, while the heads of the families were gone, cadres “*rounded up the families in the villages and the children from the mobile units, and killed them.*” Though the witness does not specify where they were killed or how she knew this, it is clear from her evidence that they disappeared and were never seen again. Out of the 2000 Cham families from the village, only 19 families survived, including the

<sup>2227</sup> **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, ERN 00251305-00251306; **D6.1.399**, Written Record of Interview of Witness SĒNG Srun, 20 October 2008, ERN 00235517; **D6.1.414**, Written Record of Interview of Witness TAY Kimhuon, 24 November 2008, ERN 00251018-00251019.

<sup>2228</sup> **D6.1.399**, Written Record of Interview of Witness SĒNG Srun, 20 October 2008, ERN 00235517.

<sup>2229</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044607-01044608, A9; **D6.1.400**, Written Record of Interview of Witness SÂMRET Muy, 20 October 2008, ERN 00235508; **D219/702.1.89**, Transcript of hearing on the substance of Case 002/02 [SAMRIT Muy], 15 September 2015, ERN 01431097, l. 2-25, 01431098, l. 1-24, 01431141, l. 9-12, 01431173, l. 5-6, 01431174, l. 13-17; **D6.1.413**, Written Record of Interview of Witness HOK Hoeun, 23 November 2008, 00251305-00251306; **D6.1.191**, Interview of HIM Man, 2 May 2004 in book by Ysa Osman entitled “The Cham Rebellion”, 2006, *as confirmed in* **D6.1.190**, Written Record of Interview of Witness HIM Man, 11 August 2008, ERN 00242091; **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409244, l. 10-25, 01409245, l. 1-22, 01409279, l. 20-25, 01409280, l. 1-7; **D6.1.399**, Written Record of Interview of Witness SĒNG Srun, 20 October 2008, ERN 00235517.

<sup>2230</sup> **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740716, A31; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 25 August 2011, ERN 01088551.

<sup>2231</sup> **D117/58**, Written Record of Interview of Witness MUY Vanny, 3 July 2014, ERN 01035850-01035851, A73.

<sup>2232</sup> **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607226, A12.

<sup>2233</sup> **D6.1.176**, Interview of EL Sam Alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204427, *as confirmed in* **D6.1.175**, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148860-01148861, A70.



witness' family.<sup>2234</sup> It is possible that these Cham victims are the same as those who were sent to Wat Au Trakuon and killed there.

650. A member of the Sector 41 textile unit was told by a neighbour that Phai, a commune security office chairperson had brought 25 Cham from “*other places*” to be killed along the Mekong River in Roka Koy Commune, and recalls finding a pair of gold earrings at the site.<sup>2235</sup> Likely describing the same event, another witness from Roka Koy states that seven to eight Cham families were brought there and killed at the riverside in 1977 and that this event is known by the old people in the commune.<sup>2236</sup>
651. It can be concluded that a minimum of **6443** Cham from Kang Meas District were killed after the arrival of the Southwest Zone. This estimate is based on the evidence of two witnesses, one from Pongro Village, Roka Koy Commune who states that in 1978 all but 19 of the village’s original 2000 Cham families disappeared,<sup>2237</sup> excluding the family members who were killed in Kampong Thom Province and are thus considered in the section on Sector 43. Since the witness states that this village’s Cham population were forcibly transferred to other villages in the Kang Meas District, it is possible that these victims overlap with the descriptions by several witnesses of mass arrests of Cham throughout the district, providing figures in the hundreds,<sup>2238</sup> so these other witness’ evidence has been excluded from the calculation in order to prevent double counting. The figure for Kang Meas District is also based on the evidence of a

<sup>2234</sup> **D6.1.176**, Interview of EL Sam Alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204427, *as confirmed in D6.1.175*, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110.

<sup>2235</sup> **D219/289**, Written Record of Interview of Civil Party Applicant PENH Va, 25 April 2015, ERN 01111782, A13-A14; *see also D219/290*, Written Record of Interview of Witness SOR Chheang, 28 April 2015, ERN 01111790, A32 (former Wat Au Trakuon Security Centre detainee who explains that because there were too many prisoners at the security centre, some had to be killed elsewhere, citing the example of 20 Cham who were killed at the riverside, which he heard about after the end of DK).

<sup>2236</sup> **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210430, *as confirmed by D3/5*, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.

<sup>2237</sup> **D6.1.176**, Interview of EL Sam Alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled “The Cham Rebellion”, 2006, ERN 00204427, *as confirmed in D6.1.175*, Written Record of Interview of Witness EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110.

<sup>2238</sup> **D6.1.363**, Written Record of Interview of Witness LEAV Loas, 9 April 2009, ERN 00339936-00339937; **D6.1.399**, Written Record of Interview of Witness SENG Srun, 20 October 2008, ERN 00235517; **D76**, Written Record of Interview of Witness SENG Srun, 25 August 2011, ERN 00740716, A31; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406836, l. 6-11 **D219/702.1.93**, Transcript of hearing on the substance in Case 002/02 [HIM Man], 17 September 2015, ERN 01409246, l. 23-25, 01409247, l. 1-5, 01409248, 3-14.



second witness who saw “*about 500 Cham*” being led into Wat Au Trakuon Security Centre from a boat anchored on the bank of the Mekong River in 1978.<sup>2239</sup> He describes these Cham as having come from “*different locales in Kampong Cham Province*”,<sup>2240</sup> which suggests that they had come from areas outside of Kang Meas District, and can be included without the risk of overlapping with the numbers from the first witness.

### *Prey Chhor District*

652. The targeting of Cham at the Anlong Chrey Dam Worksite and at Wat Ta Meak Security Centre is discussed under the relevant sections above. In addition, one other witness describes arrests of the Cham in Prey Chhor District. This witness lived in Trapeang Preah Commune and states that an unspecified number of Cham in his mobile unit were “*taken away*”.<sup>2241</sup> Though the witness states this occurred in 1976, he states that it happened after the arrest of the Sector Secretary Sreng,<sup>2242</sup> so it is more likely that this occurred during the mass arrests of Cham in 1977.

653. It can be concluded that a minimum of **200** Cham were killed in Prey Chhor District after the arrival of the Southwest Zone. This estimate is based on the evidence that there were “*hundreds*” of Cham working at at Anlong Chrey Dam,<sup>2243</sup> and that the Cham at the site were taken away and killed.<sup>2244</sup>

<sup>2239</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9.

<sup>2240</sup> **D117/64**, Written Record of Interview of Witness THONG Kim Khun, 4 August 2014, ERN 01044609, A9.

<sup>2241</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 November 2015, ERN 01174565, A76.

<sup>2242</sup> **D219/544**, Written Record of Interview of Witness CHUN Heng, 9 November 2015, ERN 01174558, A16-A17, 01174565, A78-A79.

<sup>2243</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A15.

<sup>2244</sup> **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100842, A19; **D219/285**, Written Record of Interview of Witness HO Hoeun, 21 April 2015, ERN 01116058, A9; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A45-A46; **D219/462**, Written Record of Interview of Witness PENH Chantha, 10 August 2015, ERN 01148861, A11; **D3/5.1**, Annex: Interview Note of BAO Troab, 5 August 2008, ERN 00210430, as confirmed by **D3/5**, Written Record of Interview of Witness BAO Troab, 18 August 2010, ERN 00607225, A3.





*Cheung Prey District*

654. According to a witness who participated in arresting Cham in Kang Meas District, all the Cham from worksites in Cheung Prey District were arrested at the same time as the operation in Kang Meas (approximately March or April 1977).<sup>2245</sup> Since the witness' basis of knowledge is not stated, this account has not been included in the total calculation of victim numbers.

*Batheay District*

655. All the evidence of Cham being targeted in Batheay District is related to Wat Batheay Security Centre and discussed under the section on that crime site above. It can be concluded that a minimum of **240** Cham were killed in Batheay District after the arrival of the Southwest Zone.

**6.4.2.6 Cham killings in Sector 42***Stueng Trang District*

656. Cham were killed in Stueng Trang District in two operations. The first operation was to kill the Cham inhabitants of the area in 1977 after the arrival of the Southwest Zone cadres.<sup>2246</sup> The second operation involved the killing of Cham people brought from the East Zone in 1978.<sup>2247</sup>

657. Witnesses from Stueng Trang District state that the Cham were arrested or killed in at least two communes, encompassing four villages: Angkaol,<sup>2248</sup>

<sup>2245</sup> **D6.1.700**, Written Record of Interview of SENG Srun, 9 December 2009, ERN 00423723, A8; **D219/702.1.88**, Transcript of hearing on the substance in Case 002/02 [SEN Srun], 14 September 2015, ERN 01406831-01406834.

<sup>2246</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308584-01308585, A45-A51.

<sup>2247</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068-00242069, as confirmed in **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216607, 1. 5-10; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A27-30; **D6.1.179** Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled "The Cham Rebellion" 2006, ERN 00204453, as confirmed in **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703; **D6.1.112**, Written Record of Interview of SOK Proeung, 18 August 2008, ERN 00275390-00275391.

<sup>2248</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309823/A14, ERN 01309824, A24.



Soupheas,<sup>2249</sup> and Dei Kraham Villages,<sup>2250</sup> Soupheas Commune, and Srae Veal Village, Me Sar Chrey Commune.<sup>2251</sup>

658. Cadres informed the Cham, among others, that they would be taken to new villages.<sup>2252</sup> The witness from Soupheas Village states that 40 to 50 Cham families<sup>2253</sup> were transported away in carts.<sup>2254</sup> Another witness explains that, though the Cham were not tied up, “*they arrested people*”<sup>2255</sup> and the cooperative chairperson sent them away in ox-carts or buffalo carts.<sup>2256</sup>
659. Though no witnesses saw the killing of these Cham firsthand, two witnesses saw the carts that had carried the people away return to the village within the same day.<sup>2257</sup> The carts returning to Soupheas Village carried “*nothing but clothing*”,<sup>2258</sup> and the people who had arrested the Cham in Angkaol Village returned wearing clothes that belonged to the people they had led away.<sup>2259</sup> Both witnesses found pits filled with dead bodies near their villages, though they did not comment on whether or not the people in the pits included the arrested Cham.<sup>2260</sup> One witness found an unspecified number of pits two kilometres from Angkol Village and describes them as “*very big and full*”.<sup>2261</sup> In the forest in

<sup>2249</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308586, A54, A57-A58.

<sup>2250</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A8, A9.

<sup>2251</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377994, A8-A10.

<sup>2252</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585, A51; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309824-01309825, A24-A25, A27; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377996, A17.

<sup>2253</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308583, A38, 01308586-01308587, A58-A61.

<sup>2254</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585, A51, A48.

<sup>2255</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309824-01309825, A24-A25.

<sup>2256</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309825, A28, A31.

<sup>2257</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309825, A30; **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585, A52.

<sup>2258</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308585, A51.

<sup>2259</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309825, A29.

<sup>2260</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308586, A54, A55, A57; **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309826, A33, A35, A36.

<sup>2261</sup> **D219/769**, Written Record of Interview of Witness HIM Veut, 25 May 2016, ERN 01309826, A36.



Soupheas Village, the second witness saw pits and wooden cudgels “for clubbing” left near the graves, as well as skulls.<sup>2262</sup>

660. During the mass transfer of Cham from the East Zone in late 1978, thousands<sup>2263</sup> of residents of Krouch Chhmar District<sup>2264</sup> in the East Zone were evacuated to Stueng Trang District<sup>2265</sup> in large boats.<sup>2266</sup> A fisherman working on the Mekong River between Trea Commune, Krouch Chhmar District and Stueng Trang District, states that the boats were also known as “salang” or ferries, and were made of wood; another witness also described them as “motorboats”.<sup>2267</sup> The boats are described as being able to carry 100 to 300 people,<sup>2268</sup> and the

<sup>2262</sup> **D219/768**, Written Record of Interview of Witness LY Hak, 25 May 2016, ERN 01308586, A54-A55, A57.

<sup>2263</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068-00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216612, l. 25-26, 01216619, l. 4-6.

<sup>2264</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068-00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216607, l. 5-10, 19-22; **D6.1.179** ‘Interview of No Satas, 5 December 2000, in book by Ysa Osman entitled “The Cham Rebellion” 2006, ERN 00204453, as confirmed in **D6.1.178**, Written Record of Interview of Witness NO Satas, 8 July 2008, ERN 00274703, as confirmed in **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 28 September 2015, ERN 01403685, l. 6-10, 01403715, l. 14-23; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A27-A30; **D219/355**, Written Record of Interview of Witness BAN Siek, 26 May 2015, ERN 01116324, A8; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435830, l. 4-8, l. 14-16; **D6.1.112**, Written Record of Interview of Witness SOK Proeung, 18 August 2008, ERN 00275390-00275391.

<sup>2265</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216608, l. 7-19; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [NO Satas], 28 September 2015, ERN 01403685, l. 6-10, 01403715, l. 14-23; **D219/355**, Written Record of Interview of Witness BAN Siek, 26 May 2015, ERN 01116324, A5-A6, A8; **D219/702.1.76**, Transcript of hearing on the substance in Case 002/02 [BAN Seak], 6 October 2015, ERN 01435830, l. 4-8; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A28, 01377999 A37; **D6.1.112**, Written Record of Interview of SOK Proeung, 18 August 2008, ERN 00275391.

<sup>2266</sup> **D6.1.106**, Written Record of Interview of Witness SALES Ahmat, 15 August 2008, ERN 00242068-00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216607; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [No Satas], 28 September 2015, ERN 01403685; **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377996, A21, 01377998, A32.

<sup>2267</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377996, A21, 01377998, A28, A32; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216613, l.1.

<sup>2268</sup> **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216613, l. 1-2, l. 15-16; **D219/702.1.109**, Transcript of hearing on the substance in Case 002/02 [No Satas], 28 September 2015, ERN 01403717, l.1-3.



fisherman noted that the same “*huge*” boats were previously used to transport rice and that “*a thousand sacks of milled rice could not fill up such vessel*”.<sup>2269</sup>

661. Two witnesses provide evidence that large numbers of Cham evacuees from Krouch Chhmar District were killed near the Stueng Trang District Office. The fisherman states that he saw “*flocks*” of mostly Cham people, on “*large ferries*” docked by the Stueng Trang District Office, disembarking “*the vessel through a wooden plank at three different stops*”.<sup>2270</sup> He states that this occurred daily, for three to four hours, for approximately two months.<sup>2271</sup> Several Cham evacuees escaped the killing site and swam across the Mekong to flee, and the fisherman learned from them that the Cham people on the boats were being killed.<sup>2272</sup> Local Stueng Trang District residents also informed the fisherman that the evacuees had been killed at Wat Stueng Trang, a half kilometre away from the district office.<sup>2273</sup> The fisherman later saw two pits behind Wat Stueng Trang containing human remains.<sup>2274</sup> The fisherman’s account is corroborated by a Cham who escaped as the boats were being unloaded. During his transfer, there were four to five boats that could each carry between 100 and 200 people, and “*98%*” of those transferred were Cham. There were armed soldiers on each boat, and cadres in military uniforms carrying AK-47s met them on arrival. He saw the Cham being tied up when they reached Stueng Trang District, and that people who slipped and fell while disembarking were immediately shot. When he jumped into the river, he saw many floating corpses. The escapee saw that the belongings of the women and children evacuated were left piled up in Stueng Trang, and stated that those who were evacuated never returned.<sup>2275</sup>

<sup>2269</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A32, 01378000, A41.

<sup>2270</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377996, A21, 01377999, A37, A39, 01378000, A42.

<sup>2271</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377999-01378000, A40-A43.

<sup>2272</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 013780001, A48.

<sup>2273</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01377998, A30-A31, 01378005, A77.

<sup>2274</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01378002, A60, 01378005, A80-A81.

<sup>2275</sup> **D6.1.106**, Written Record of Interview of SALES Ahmat, 15 August 2008, ERN 00242069; **D219/792.1.5**, Transcript of hearing on the substance in Case 002/02 [Sales Ahmat], 9 March 2016, ERN 01216607-01216609, 01216612-01216615, 01216618.



662. The fisherman also describes another incident ten days before the arrival of the Vietnamese, when Cham and Khmer people were killed at Boeng Kachauth, Preaek Kak Commune. He saw these people being transported to the area on small boats.<sup>2276</sup> One month after the end of DK, he saw two pits, 50 metres from where the boats had docked. The pits were two metres deep, 30 meters wide and “full of dead bodies”, which had swollen up, and included bodies of male and female children.<sup>2277</sup> The witness states that the bodies in the pits included both Khmer and Cham people, which he determined by seeing their clothes and Korans in the pits.<sup>2278</sup> The killing of Cham at Boeng Kachauth is corroborated by hearsay evidence from another Cham witness from Krouch Chhmar District, who had been sent to work in the Central Zone and later tried to visit his relatives in Roka Khnaor Commune, Krouch Chhmar District. Other villagers told him that his relatives had been taken to Stueng Trang District and killed at Boeng Kachaut.<sup>2279</sup>

663. It can be concluded that a minimum of **3160** Cham were killed in Stueng Trang District after the arrival of the Southwest Zone cadres.

#### *Chamkar Leu District*

664. The Chairman for Islamic Affairs, who was a teacher during the DK period, provides evidence of the arrests, killing and disappearance of Cham in the two villages where he taught, Spueu Village<sup>2280</sup> and Cheyyou Village,<sup>2281</sup> as well as in Trapeang Ruessei Village.<sup>2282</sup>

<sup>2276</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01378002, A61, 01378003, A66-A68.

<sup>2277</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01378002-01378003, A61-A62, A65, 01378005, A79.

<sup>2278</sup> **D219/816**, Written Record of Interview of Witness YA Matly, 23 August 2016, ERN 01378003, A63.

<sup>2279</sup> **D219/792.1.4**, Transcript of hearing on the substance in Case 002/02 [MAN Sles], 29 February 2016, ERN 01452742, 01452758-01452758.

<sup>2280</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496, 00225498; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246654.

<sup>2281</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496-002254967, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246605-01246607.

<sup>2282</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246652, l. 21-25.



665. Between 1977 and early 1978, 14 Cham families in Spueu Village, along with other Cham people from a plantation, were arrested and killed at night.<sup>2283</sup> Between early 1977 and early 1978, 68 families, the majority of which were Cham, were arrested at Cheyyou Village and taken to a killing site to the west of the village at Ta Pom farm.<sup>2284</sup> The witness saw people being called out and taken away and noticed that people disappeared, but he did not see them being killed firsthand.<sup>2285</sup> He later saw the bodies of those arrested in a two-metre deep freshly dug pit.<sup>2286</sup> He recognised some of the corpses and recalls that some still wore their clothes; the corpses included both Cham and Khmer people.<sup>2287</sup> His younger sibling, who was transferred to Trapeang Ruessei Village, Chor-yo Commune, was also killed, however it is not clear when he died.<sup>2288</sup>
666. The Chairman for Islamic Affairs also states that, of the more than 1,250 Cham families transferred from Spueu Village to other communes, only 20-25 percent survived till the end of DK.<sup>2289</sup> Though he does not state precisely when these Cham families disappeared, he states that the arrests of the Cham occurred on a massive scale in 1977.<sup>2290</sup> Expert Ysa Osman also places the arrest of the Cham in Chamkar Leu District in 1977.<sup>2291</sup> Therefore, on balance, it can be concluded that these Cham families were most likely killed in 1977 as part of the larger

<sup>2283</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496, 00225498; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246654.

<sup>2284</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225496-00225497, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246593, 01246606-01246607, 01246621, l. 2.

<sup>2285</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497; **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246605.

<sup>2286</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497, as confirmed in **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246606, l. 8-13.

<sup>2287</sup> **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225497.

<sup>2288</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246622, l. 10-18, 01246652, l. 21-25.

<sup>2289</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246586-01246589; cf. **D6.1.120**, Written Record of Interview of Witness SOH Kâmrei, 10 September 2008, ERN 00225498 (stating, that by the end of the regime, 1,007 families out of 1882 evacuated Cham families had been killed).

<sup>2290</sup> **D219/792.1.12**, Transcript of hearing on the substance in Case 002/02 [SOS Kamri], 6 April 2016, ERN 01246606, l. 5-7.

<sup>2291</sup> **D219/792.1.11**, Transcript of hearing on the substance in Case 002/02 [YSA Osman], 24 March 2016, ERN 01236661, l. 20-25, 01236662, l. 1-4.



operation to purge the Cham of Kampong Cham after the arrival of **Ao An** and the Southwest Zone cadres.

667. It can be concluded that a minimum of **3806** Cham were killed in Chamkar Leu District after the arrival of the Southwest Zone.

*Baray District*

668. Cham were targeted in at least three communes in Baray District, encompassing at least five villages: Sralau Toung Village, Ballang Commune;<sup>2292</sup> Serei Sokhom Village, Chhouk Khsach Commune;<sup>2293</sup> and Preaek Chrey, Banteay Chas and Kang Meas Villages, Tnaot Chum Commune.<sup>2294</sup>

669. Arrests and killings of Cham in Baray District occurred in 1977 and 1978.<sup>2295</sup> Though one witness states that the killing of Cham took place in Serei Sokhom Village prior to the arrival of the Southwest Zone cadres,<sup>2296</sup> this is consistent with evidence that the Southwest Zone cadres arrived in some parts of Baray District significantly later than their arrival in Sector 41, specifically in late 1977 or 1978.<sup>2297</sup> It is therefore reasonable to conclude that the arrest and killing of Cham in Baray District occurred during the larger operation to purge the Cham of Kampong Cham Province in 1977, after the arrival of **Ao An** in the Central Zone.

<sup>2292</sup> **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147845, A14; **D219/403**, Written Record of Interview of Witness VENG Vuthy, 7 July 2015, ERN 01148823, A14, A15.

<sup>2293</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309813, A14, 01309815, A35, A39.

<sup>2294</sup> **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313250-01313252, A18, A28.

<sup>2295</sup> **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313252, A31; **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A31-A32; **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147846, A16.

<sup>2296</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A33.

<sup>2297</sup> **D219/353**, Written Record of Interview of Witness SARAY Hean, 22 May 2015, ERN 01117709, A1, as confirmed in **D219/762**, Written Record of Interview of Witness SARAY Hean, 19 May 2016, ERN 01309789, A1, 01309790, A6; **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351701; **D6.1.369**, Written Record of Interview of Witness MEN Le, 22 April 2009, ERN 00330776; **D219/403**, Written Record of Interview of Witness VENG Vuthy, 7 July 2015, ERN 01148822, A12.



670. A witness who was amongst those arrested states that the arrests were ordered by the district level<sup>2298</sup> and carried out by the chairman of the Serei Sokhom Village militia and six to seven young militiamen.<sup>2299</sup>
671. Another witness states that commune militiamen accompanied the Cham as they were transported by ox-cart out of Banteay Chas and Kang Meas Villages, Tnaot Chum Commune.<sup>2300</sup> When he asked them where they were going, they replied that they had attended a meeting where they were told to go live on new land.<sup>2301</sup> He was then told by unidentified “*base people*” that those people were beaten to death at a mountain far from Banteay Chas Village.<sup>2302</sup>
672. Cham were killed at the Sralau Tong Security Office, a district-level security centre in Sralau Tong Village.<sup>2303</sup> Three to four Cham people were seen being transported there per day over an unspecified period.<sup>2304</sup> Cham arrested in Serei Sokhom Village and other villages were gathered at Wat Chroum Pagoda in Daun Tom Village and then killed at a pit 10 to 20 meters from the pagoda, during which their screams could be heard by local villagers.<sup>2305</sup>
673. An unknown number of Cham were taken to Wat Baray Chan Dek,<sup>2306</sup> a district-level security centre in Tras Village, Ballang Commune, Baray District,

<sup>2298</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309816, A52.

<sup>2299</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815, A35.

<sup>2300</sup> **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313251-01313252, A25-A32.

<sup>2301</sup> **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313252, A27.

<sup>2302</sup> **D219/770**, Written Record of Interview of Witness SOS Slamah, 26 May 2016, ERN 01313254, A42-A43.

<sup>2303</sup> **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147845-01147847, A14, A19-A21; **D219/403**, Written Record of Interview of Witness VENG Vuthy, 7 July 2015, ERN 01148823, A14-A15, A17.

<sup>2304</sup> **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147845, A14.

<sup>2305</sup> **D219/767**, Written Record of Interview of Witness SMANN Kas, 24 May 2016, ERN 01309815-01309816, A35, A40-A49.

<sup>2306</sup> **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244165, *as confirmed in* **D219/702.1.7**, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500244, l. 23, 01500297, l. 1-6; **D219/403**, Written Record of Interview of Witness VENG Vuthy, 7 July 2015, ERN 01148823, A14-A15; **D6.1.371**, Written Record of Interview of Witness YIN Daut, 25 April 2009, ERN 00333353.





Kampong Thom Province.<sup>2307</sup> In light of the evidence of killing at the site<sup>2308</sup> in can be concluded that Cham were among those killed.

674. Cham worked in mobile units at the 1<sup>st</sup> January Dam in 1977,<sup>2309</sup> a zone-level irrigation project located near the Wat Baray Chan Dek Security Centre.<sup>2310</sup> A mobile unit worker, who worked at the site for four or five months at the beginning of 1977,<sup>2311</sup> recalls that a Cham woman mobile worker was “*taken away*” and disappeared,<sup>2312</sup> while another witness who worked on the project for several months from when the construction commenced in 1977<sup>2313</sup> states that

<sup>2307</sup> **D6.1.391**, Report of the Execution of Rogatory Letter, dated 01-05-2009: Site Identification Report, ERN 00342224.

<sup>2308</sup> **D6.1.371**, Written Record of Interview of Witness YIN Daut, 25 April 2009, ERN 00333351-00333352; **D219/401**, Written Record of Interview of Witness HIN Long, 4 July 2015, ERN 01147850, A37; **D6.1.369**, Written Record of Interview of MEN Le, 22 April 2009, ERN 00330775; **D6.1.388**, Written Record of Interview of Witness KANG Ut, 8 October 2008, ERN 00233533; **D6.1.440**, Written Record of Interview of Witness UM Chi, 14 January 2009, ERN 00282347; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244163; **D6.1.405** Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158. This evidence is not discussed in detail, as facts related to Wat Baray Chan Dek Security Centre were excluded by the application of Rule 66bis.

<sup>2309</sup> **D6.1.444**, Written Record of Interview of Witness KHIEV Sokh, 15 January 2009, ERN 00282328; **D6.1.405**, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244158; **D6.1.412**, Written Record of Interview of Witness CHOEU Saing, 21 November 2008, ERN 00244151; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244163, 00244165, *as confirmed in D219/702.1.7*, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500244, l. 23; **D6.1.388** Written Record of Interview of Witness KANG Ut, 8 October 2008, ERN 00233533, *as confirmed in D219/702.1.105*, Transcript of hearing on the substance in Case 002/02 [Kong Uth], 25 June 2015, ERN 01503874, l. 3-4, 10-12; **D219/702.1.97**, Transcript of hearing on the substance in Case 002/02 [OR Ho], 20 May 2015, ERN 01501916, l. 1-4.

<sup>2310</sup> **D6.1.405**, Written Record of Interview of Witness CHUOP Non, 17 November 2008, ERN 00244156; **D6.1.440**, Written Record of Interview of Witness UM Chi, 14 January 2009, ERN 00282346; **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244163; **D6.1.443**, Written Record of Interview of Witness UT Seng, 4 May 2009, ERN 00282355-00282356; **D6.1.852**, Written Record of Interview of Witness CHHUN Sakan, 7 October 2008, ERN 00233266; **D6.1.675**, Written Record of Interview of Witness IENG Chham, 8 November 2009, ERN 00410235-00410237, 00410242; **D6.1.386**, Written Record of Interview of Witness BAN Siek, 6 July 2009, ERN 00360761; **D6.1.437**, Written Record of Interview of Witness KE Un, 13 January 2009, ERN 00283345-00283346; **D6.1.384**, Written Record of Interview of Witness TEP Poch, 4 July 2009, ERN 00351703; **D6.1.407**, Written Record of Interview of Witness AU Hau, 18 November 2008, ERN 00250044, 00250046; **D219/702.1.105**, Transcript of hearing on the substance in Case 002/02 [Kong Uth], 25 June 2015, ERN 01503886, l. 9-10.

<sup>2311</sup> **D219/702.1.105**, Transcript of hearing on the substance in Case 002/02 [Kong Uth], 25 June 2015, ERN 01503870, l. 18-23, 01503871, l. 19-20.

<sup>2312</sup> **D219/702.1.105**, Transcript of hearing on the substance in Case 002/02 [Kong Uth], 25 June 2015, ERN 01503888, l. 15-25, 01503903, l. 10-13.

<sup>2313</sup> **D219/702.1.7**, Transcript of hearing on the substance in Case 002/02 [MEAS Layhuor], 25 May 2015, ERN 01500244, l. 23, 01500270-01500271.



the Cham were killed if they were caught practicing their religion,<sup>2314</sup> although she does not state that she personally saw this occur.

675. It can be concluded that a minimum of 219 Cham in Baray District were killed after 1977.

#### 6.4.2.7 Cham killings in Sector 43

##### *Santuk District*

676. Two witnesses from Sector 43 state that Cham were killed and arrested in Kang Sao<sup>2315</sup> and Khvek Villages<sup>2316</sup> in Kampong Thma Commune, Santuk District, Kampong Thom Province. A villager from Kang Sao states that all 10 Cham families living in his village were killed.<sup>2317</sup> He noticed in 1978 that their clothing was distributed around the village, and he never saw those families again.<sup>2318</sup> Only one Cham woman survived because, at the time, she was away from the village working in the district mobile unit.<sup>2319</sup> A militiaman<sup>2320</sup> states that the “*Cham people were arrested with the order coming down from the sector and the provincial level. The commune chief went to receive those instructions, and when he returned to the commune, he implemented the*

<sup>2314</sup> **D6.1.410**, Written Record of Interview of Witness MEAS Laihuo, 20 November 2008, ERN 00244165.

<sup>2315</sup> **D6.1.443**, Written Record of Interview of Witness UT Sēng, 14 January 2009, ERN 00282357, as confirmed in **D219/702.1.72**, Transcript of hearing on the substance in Case 002/02 [UTH Seng], 3 June 2015, ERN 01498928-01498929.

<sup>2316</sup> **D6.1.370**, Written Record of Interview of Witness YEAN Lun, 23 April 2009, ERN 00330718-00330719; **D219/702.1.90**, Transcript of hearing on the substance in Case 002/02 [YEAN Lon], 16 June 2015, ERN 01430493, l. 11-14.

<sup>2317</sup> **D6.1.443**, Written Record of Interview of Witness UT Sēng, 14 January 2009, ERN 00282357-00282358.

<sup>2318</sup> **D219/702.1.72**, Transcript of hearing on the substance in Case 002/02 [UTH Seng], 3 June 2015, ERN 01498928-01498929, as confirmed in **D6.1.443**, Written Record of Interview of Witness UT Sēng, 14 January 2009, ERN 00282357-00282358.

<sup>2319</sup> **D6.1.443**, Written Record of Interview of Witness UT Sēng, 14 January 2009, ERN 00282357, as confirmed in **D219/702.1.72**, Transcript of hearing on the substance in Case 002/02 [UTH Seng], 3 June 2015, ERN 01498929, l. 3-9.

<sup>2320</sup> **D6.1.370**, Written Record of Interview of Witness YEAN Lun, 23 April 2009, ERN 00330719, as confirmed in **D219/702.1.90**, Transcript of hearing on the substance in Case 002/02 [YEAN Lon], 16 June 2015, ERN 01430494, l. 22-23, 01430519, l. 12-13; **D6.1.443**, Written Record of Interview of Witness UT Sēng, 14 January 2009, ERN 00282356, as confirmed in **D219/702.1.72**, Transcript of hearing on the substance in Case 002/02 [UTH Seng], 3 June 2015, ERN 01498920, l. 9-12, 01498921, l. 18-22, 01498926, l. 8.



*instructions*”.<sup>2321</sup> The minimum estimate for Santuk District is the 10 families, calculated as 4 persons per family, minus the survivor, resulting in a minimum estimate of **39** victims.

#### *Sandan District*

677. The husband of a Cham witness from Kang Meas District was one of 2000 Cham men who were sent to work at Phnom Chi, Sandan District, Kampong Thom Province in 1978. Only 19 of the men survived, including the Cham villager’s husband, while the rest were killed.<sup>2322</sup> The minimum estimate for Sandan District is therefore **1981** victims.

#### **6.4.3 Forced marriage in Kampong Siem and Prey Chhor Districts**

678. In both Kampong Siem and Prey Chhor Districts, people were coerced into accepting a marriage that had been arranged for them.<sup>2323</sup> Those who refused were accused of betraying Angkar, and would “*disappear*” or be “*taken away*”.<sup>2324</sup> Unit or group chiefs threatened intended couples or their family

<sup>2321</sup> **D219/702.1.90**, Transcript of hearing on the substance in Case 002/02 [YEAN Lon], 16 June 2015, ERN 01430493, l. 11-14. The reference to “*provincial level*” most likely means the zone level, given that a “*province*” was not an administrative tier in DK.

<sup>2322</sup> **D6.1.176**, Interview of EL Sam Alias ISMAEL Maisam, 1 May 2004, in book by Ysa Osman entitled “*The Cham Rebellion*”, 2006, ERN 00204427, as confirmed in **D6.1.175**, Written Record of Interview of EL Sam alias ISMAEL Maisam, 7 July 2008, ERN 00242110.

<sup>2323</sup> **Kampong Siem District: D117/59**, Written Record of Interview of Civil Party BEN Muy, 23 July 2014, ERN 01031721, A120, A122; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530, A35; **D219/846**, Written Record of Interview of Civil Party Applicant SEM Phoeun, 13 October 2016, ERN 01356216, A85; **Prey Chhor District: D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111775-01111776, A33; **D219/123**, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057810-01057811, A19-A20; **D219/752**, Written Record of Interview of Witness LOR Venghuor, 28 April 2016, ERN 01300148, A164-A165, A167-A170; **D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100843, A30.

<sup>2324</sup> **Kampong Siem District: D219/83**, Written Record of Interview Witness SUON Yim, 24 November 2014, ERN 01054031, A7; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A30; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941, A19; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057765, A30; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076951, A40-A41; **Prey Chhor District: D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56 **D219/752**, Written Record of Interview of Witness LOR Venghuor, 28 April 2016, ERN 01300148, A169; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A21; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362085, l. 15-18; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361557-01361558.



members with “*reeducation*”,<sup>2325</sup> being sent to a security centre,<sup>2326</sup> or death,<sup>2327</sup> should they refuse to marry a proposed spouse. Some witnesses state that they never heard of anyone refusing the marriage arrangements since no one dared to out of fear, even without explicit threats.<sup>2328</sup>

679. Regarding Kampong Siem District, a civil party applicant from Vihear Thum Commune recalls that her unit chief used the example of her brothers’ killing to pressure her into accepting to marry.<sup>2329</sup> According to Krala Commune Committee Member Nhim Kol, before the Southwest cadre and Prak Yut’s arrival in Kampong Siem District, people were “*tortur[ed]*” until they agreed to marry, but after her arrival “*the killing[s] began*”.<sup>2330</sup> Sometimes people agreed to get married in order to avoid hard labour or being sent to the battlefield.<sup>2331</sup>

<sup>2325</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530, A35; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076951, A40-A41.

<sup>2326</sup> **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361566, I. 19-22.

<sup>2327</sup> Kampong Siem District: D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941, A19, 01046943, A27; **D219/83**, Written Record of Interview Witness SUON Yim, 24 November 2014, ERN 01054031-01054032, A8; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057764-01057765, A29-A30; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530, A35; Prey Chhor District: D219/287, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100843, A30; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A70-A71, A75.

<sup>2328</sup> Kampong Siem District: D117/59, Written Record of Interview of Civil Party Applicant BEN MUY, 23 July 2014, ERN 01031721, A122; **D117/57**, Written Record of Interview of Witness KEAN LEY, 24 June 2014, ERN 01067913, A46; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A29-A30; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941, A23; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054032, A6-A7; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076951, A40; **D219/323**, Written Record of Interview of Witness MUT SOPHON, 15 May 2015, ERN 01113699, A28; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A111; **D219/837**, Written Record of Interview of Witness SO SAREN, 22 September 2016, ERN 01364071, A130; Prey Chhor District: D219/752, Written Record of Interview of Witness LOR VENGHUOR, 28 April 2016, ERN 01300148, A168-A170; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111822, A36; **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01143013, A226-A227; *contra*. **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059273, A7.

<sup>2329</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046934, A2, 01046941, A19, 01046943, A27.

<sup>2330</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076951, A41.

<sup>2331</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076951, A38, 01076952, A42.



680. In Prey Chhor District, one rice farmer was taken to Sector 41 by two armed men<sup>2332</sup> and instructed by **Ao An** to marry the logistics unit chief.<sup>2333</sup> He was “*not pleased*” but dared not refuse because he would have been killed.<sup>2334</sup> He felt afraid during the ceremony but did not know how his bride felt.<sup>2335</sup> One former sector craftsman describes that, after managing to avoid two arranged marriages, his group leader threatened him with death if he attempted to escape again.<sup>2336</sup> Another witness saw cadres arrest a woman in her unit who had refused to get married and attempted to flee to the cooperative.<sup>2337</sup> The woman never returned, and the witness heard that she was killed.<sup>2338</sup>
681. Some women were forced to marry disabled soldiers.<sup>2339</sup> Disabled soldiers were either allowed to select their wives, or they were matched by cadres.<sup>2340</sup> The

<sup>2332</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142987-01142988, A29-A30, 01142989, A37, A41.

<sup>2333</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142989, A38, 01142994, A78.

<sup>2334</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142994, A76, 01143013, A226-A227.

<sup>2335</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142994, A77, 01143014, A230.

<sup>2336</sup> **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A70-A78.

<sup>2337</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A21; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362085, 01362092, 01362100-01362101.

<sup>2338</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050565, A21; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362085, 01362092, 01362101.

<sup>2339</sup> Kampong Siem District: D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076952, A43; **D219/191**, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079860-01079861, A15; **D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797024; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050562, A12, ERN 01050566, A24; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820-01111821, A31; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179837, A114-A116.

<sup>2340</sup> Prey Chhor District: D219/888.1.7, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361572, 1. 5-10; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820-01111821, A31, 01111823, A45-A46; **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179837-01179838, A114-A116, 01179839, A129, 01179840, A135; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53-A54; **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167916, A137; Kampong Siem District: D191.1.112, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797024; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35-A36.



brides did not have a choice in the matter.<sup>2341</sup> Ke Pauk<sup>2342</sup> and Ao An<sup>2343</sup> both chaired weddings of disabled soldiers in Prey Chhor District.

682. Individuals' backgrounds were sometimes a consideration in determining whether the marriage arrangement was acceptable,<sup>2344</sup> and lists of candidates for marriage were prepared.<sup>2345</sup> The evidence as to whether inter-ethnic and inter-class marriages were allowed is contradictory and therefore inconclusive.<sup>2346</sup>

<sup>2341</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35.

<sup>2342</sup> **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111975, A44-A45.

<sup>2343</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179838-01179839, A122-A126.

<sup>2344</sup> Kampong Siem District: D219/232, Written Record of Interview of Witness VAN Chhunseng 19 March 2015, ERN 01090003, A38-A39; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A81; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438519, l. 4-6; Prey Chhor District: D219/287, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100843, A31; **D219/288**, Written Record of Interview of Witness CHHEUN Lai Sim, 24 April 2015, ERN 01111775-01111776, A33; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111821-01111822, A34-A35.

<sup>2345</sup> Kampong Siem District: D219/191, Written Record of Interview of Witness KEO Voeun, 19 February 2015, ERN 01079859, A8, 01079860, A11; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090003, A39; **D219/322**, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A17, A20 *cf.* **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059278, A27; Prey Chhor District: D219/123, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057810-01057811, A19.

<sup>2346</sup> Inter-ethnic marriages: D219/792.1.3, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441455-01441456; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292-01059293, A81, A83; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438518-01438519; **D219/702.1.94**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 18 January 2016, ERN 01431623, l. 5-23; **D117/38**, Written Record of Interview of Civil Party Applicant KRUCH Kim, 24 April 2014, ERN 01056737, A13; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057773, A79; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046942, A24; *contra*: **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441060, l. 15-21; **D219/792.1.3**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 21 January 2016, ERN 01441454-01441455; Inter-class marriages: D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059294, A89; **D219/232**, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090002, A37; *contra*: **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046941-01046942, A23; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057773, A78; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178450, A1, 01178459, A120-A123; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076939, A2, 01076951, A39; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111824, A34; Indecisive: D219/217, Written Record of Interview of Witness CHHEN Ham, 11 March 2015, ERN 01088550, A132-A133; **D219/123**, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057811, A22.



683. There is evidence of some persons being able to choose their partners or engage in consensual weddings by making requests to their group leaders or unit chiefs, or the commune committee.<sup>2347</sup> Sometimes, the parents of the bridegroom could make such requests.<sup>2348</sup> In Prey Chhor District, people with a particularly good relationship with their superiors appear to have had some negotiating power and were able to refuse marriage arrangements.<sup>2349</sup>
684. However, even in such cases, choices of partners were not always respected. Prior engagements were broken,<sup>2350</sup> proposals were denied and criticised,<sup>2351</sup> and couples who “*loved each other*” were not allowed to marry because “*Angkar*” required them to “*obey the disciplines*”.<sup>2352</sup> Falling in love with someone amounted to moral misconduct and was frowned upon.<sup>2353</sup> In Prey

<sup>2347</sup> Kampong Siem District: D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059272-01059273, A5, 01059277, A23; D219/702.1.87, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438518, l. 1-9; D219/702.1.94, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 18 January 2016, ERN 01431637, l. 13-15; D219/191, Written Record of Interview of Witness KEO Voëun, 19 February 2015, ERN 01079861, A19; D117/42, Written Record of Interview of Civil Party Applicant KHOEM Neary, 6 May 2014, ERN 01034078, A15; D219/284, Written Record of Interview of Witness POV Sarom, 9 April 2015, ERN 01098561, A120-A122; D117/51, Written Record of Interview of Witness YIM Seng, 25 May 2014, ERN 01032999, A36; *contra*. D219/322, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A17, A19; D219/315, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53-A54; Prey Chhor District: D219/123, Written Record of Interview of Witness SAR Khim, 15 December 2014, ERN 01057810-01057811, A19; D219/293, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111821-01111822, A34; D219/286, Written Record of Interview of Witness MEN At, 22 April 2015, ERN 01100837, A21, A23.

<sup>2348</sup> Kampong Siem District: D219/232, Written Record of Interview of Witness VAN Chhunseng, 19 March 2015, ERN 01090002-01090003, A37-A38; D219/322, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A17, A19-A20; D117/57, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067913, A45.

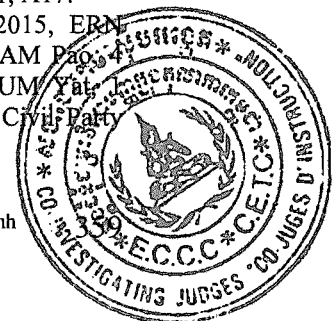
<sup>2349</sup> D219/293, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111821, A32; D219/315, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53, A58.

<sup>2350</sup> Kampong Siem District: D219/113, Written Record of Interview of Civil Party Applicant KEO Theory, 8 December 2014, ERN 01057763-01057764, A22, A25; D219/323, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; D219/472, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178457, A98.

<sup>2351</sup> D219/315, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111976, A53-A54; D219/504, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167916, A159; D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050569, A34.

<sup>2352</sup> Prey Chhor District: D219/888.1.8, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362067, l. 13-16; Kampong Siem District: D219/322, Written Record of Interview of Civil Party Applicant CHAN Sokchea, 14 May 2015, ERN 01112031, A17.

<sup>2353</sup> D219/504, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167916, A159; D219/293, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111816, A7; D219/877, Written Record of Interview of Witness AUM Yat, 18 December 2016, ERN 01362690, A37-A38; D219/113, Written Record of Interview of Civil Party Applicant KEO Theory, 8 December 2014, ERN 01057771, A68.



Chhor District, **Ao An** personally reprimanded the Chairwoman of the Sector 41 logistics office for falling in love.<sup>2354</sup>

685. Overall, the evidence supports that at least the following marriages occurred over which **Ao An** himself presided:

- a. at the Kampong Siem District Office (10 couples);<sup>2355</sup>
- b. at the Prey Chhor District Logistics Office (five women forced to marry disabled men);<sup>2356</sup>
- c. at the “*Prey Totueng District Office*” (the Sector 41 Office)<sup>2357</sup> on two different occasions (seven and 11 couples respectively);<sup>2358</sup> and
- d. at Wat Ta Meak in Prey Totueng, (one couple).<sup>2359</sup>

#### *Forced consummation*

686. In both Kampong Siem and Prey Chhor Districts, newlywed couples were specifically instructed to consummate their marriages.<sup>2360</sup> In Kampong Siem District, Prak Yut encouraged couples to “*create babies for Angkar*”,<sup>2361</sup> and in Prey Chhor District, the chief of the cotton plantations in Thma Pun Commune,

<sup>2354</sup> **D219/504**, Written Record of Interview of Witness SAT Pheap, 17 September 2015, ERN 01167916, A159.

<sup>2355</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441062, l. 5-9; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438518, l. 20-23; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059278, A26.

<sup>2356</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179838-01179839, A122-A129.

<sup>2357</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438492, l. 19-22.

<sup>2358</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059279, A31, A33.

<sup>2359</sup> **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142989, A38-A40, 01142991, A57-A58.

<sup>2360</sup> Kampong Siem District: **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072532, A43; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054035, A21-A22; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046944-01046946, A35, A37-A38, A42; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076952, A44; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057765, A32; *contra*: **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373614, A99-A100; Prey Chhor District: **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570, A36-A37, 01050571, A40; **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050698, A28, 01050699, A32-A33; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088550, A180-A182.

<sup>2361</sup> **D219/502**, Written Record of Interview of Witness MUOK Sengly, 4 September 2015, ERN 01152377, A37.





advised women that they had to sleep with their husbands.<sup>2362</sup> The women were given the same advice whenever they met during three nights each month that were allocated for couples to sleep together.<sup>2363</sup> Even when consummating the marriage was not expressly instructed, it was implied through different formulas. Various witnesses confirm that expressions like “*getting along*”<sup>2364</sup> or “*living together as husband and wife*”<sup>2365</sup> meant engaging in sexual intercourse.

687. Consummating their marriage was generally understood by couples as being mandatory and was coerced by threats.<sup>2366</sup> Such threats emanated from the

<sup>2362</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570, A36, 01050571, A40.

<sup>2363</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050571, A40.

<sup>2364</sup> **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050699, A30; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076952, A44; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054035, A20-A22; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A38; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059291, A78; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56.

<sup>2365</sup> **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076952, A44; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057766, A33, A36; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072531-01072532, A42; **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2016, ERN 01434556, A224.

<sup>2366</sup> **Kampong Siem District: D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A42; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054035, A21-A22; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057766-01057767, A40, A42, A44, 01057772, A74-A75; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072532, A43; **D219/502**, Written Record of Interview of Witness MUOK Sengly, 4 September 2015, ERN 01152376, A33; *contra*. **D219/315**, Written Record of Interview of Witness SAT Pheap, ERN 01111981, A134; **Prey Chhor District: D219/159**, Written Record of Interview of Witness NY Huon, 29 January 2015, ERN 01067868, A133-A135; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570, A36; *contra*. **D219/752**, Written Record of Interview of Witness LOR Venghuon, 28 April 2016, ERN 01300148, A173; **D219/442**, Written Record of Interview of Witness CHOM Vong alias YOUK Nhov or Ngov, 3 August 2016, ERN 01434557, A228.



reluctant couple's unit chief,<sup>2367</sup> village chief,<sup>2368</sup> militiamen<sup>2369</sup> or other CPK cadres.<sup>2370</sup>

688. Witnesses confirm that couples who refused to consummate their marriage disappeared<sup>2371</sup> or were sent for re-education.<sup>2372</sup> During "*re-education*", people were summoned to a meeting and questioned about the refusal to consummate the marriage.<sup>2373</sup> They were sometimes threatened with being killed if they did not comply with the orders,<sup>2374</sup> and their food rations were reduced until they

<sup>2367</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046940, A17, 01046946, A42; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054035, A22.

<sup>2368</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072529, A26-A30, 01072532, A42-A43; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054035, A22.

<sup>2369</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054030, A3, 01054034, A21.

<sup>2370</sup> Kampong Siem District: D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35, 01046945, A37-A38, 01076952, A44; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445921-01044592, A45; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570, A36-A39; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362094- 01362095, 01362097.

<sup>2371</sup> Kampong Siem District: D219/138, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A81; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072532, A43; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050566-01050567, A26-A27; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362094, l. 21-25; **D219/47**, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050699, A32-A33.

<sup>2372</sup> Kampong Siem District: D219/113, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057771-01057772, A69-A71, A75; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A31, 01044590, A39; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046945, A37-A38, 01046946, A42; Prey Chhor District: D219/405, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050569-010505670, A34; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362067-01362068.

<sup>2373</sup> Kampong Siem District: D219/113, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057772, A70; **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059291, A78; **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438521, l. 19-21; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050571, A39.

<sup>2374</sup> Kampong Siem District: D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A42; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034, A21-A22; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767, A43; **D219/502**, Written Record of Interview of Witness MUOK Sengly, 4 September 2015, ERN 01152376, A33; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530, A35; Prey Chhor District: D219/159, Written Record of Interview of Witness NY Huon, 29 January 2015, ERN 01067868-01067869, A133-A137.



slept together.<sup>2375</sup> There were instances of men complaining that their wives refused to have sexual intercourse.<sup>2376</sup> In such instances, the couple (or more often, just the wife) would first be sent to the village chief. If “*the first re-education by village chiefs failed*”, the couple would be sent to the commune chief “*to be re-educated in the same way*” and ultimately to Prak Yut.<sup>2377</sup> Some of those couples disappeared.<sup>2378</sup> According to Prak Yut’s messenger, it was former Lon Nol soldiers, Vietnamese people and Cham people that disappeared, whereas Khmer people “*did not disappear because after being re-educated they complied with the instructions [to consummate]*.”<sup>2379</sup> Prak Yut confirms that couples who did not consummate their marriages were taken to the district to be “*educated*”.<sup>2380</sup> However, she denies being involved in “*any mistreatment or punishment*” of such couples.<sup>2381</sup>

689. Newly married couples were monitored by militiamen to ensure that they consummated their marriage.<sup>2382</sup> The monitoring could take various forms.

<sup>2375</sup> **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057772, A70.

<sup>2376</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059291, A78; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072532, A42.

<sup>2377</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059291, A78, ERN 01059292, A81.

<sup>2378</sup> **D219/138**, Written Record of Interview of Witness YOU Vann, 8 January 2015, ERN 01059292, A81; **D219/405**, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56.

<sup>2379</sup> **D219/702.1.87**, Transcript of hearing on the substance in Case 002/02 [YOU Vann], 14 January 2016, ERN 01438521-01438522.

<sup>2380</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441064, l. 16-19.

<sup>2381</sup> **D219/702.1.95**, Transcript of hearing on the substance in Case 002/02 [PRAK Yut], 19 January 2016, ERN 01441064, l. 19-22.

<sup>2382</sup> Kampong Siem District: D219/83, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034-01054036, A19, A21-A27; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046947, A48; **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088553-01088554, A185, A187; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-01044590, A31, 010445991, A41; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767-01057768, A43-A45; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076952-01076953, A44-A45, A47-A48; **D219/472**, Written Record of Interview of Civil Party Applicant SUM Chanthol, 24 August 2015, ERN 01178458, A105-A106; *contra*. **D219/859**, Written Record of Interview of Civil Party Applicant LENG Ra, 3 November 2016, ERN 01373613-01373614, A98-A99; **D117/59**, Written Record of Interview of Civil Party Applicant BEN Muy, 23 July 2014, ERN 01031723, A136-A137; Prey Chhor District: D219/47, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050698-01050700, A27-A31, A35, A39-A40; **D219/159**, Written Record of Interview of Witness NY Huon, 29 January 2015, ERN 01067869-01067869, A135-A137; **D219/687**, Written Record of Interview of Witness MAO Saroent, February 2016, ERN 01214825-01214826, A81-A82; **D219/405**, Written Record of Interview of



Militiamen hid under couples' houses;<sup>2383</sup> children were trained to spy on newlyweds;<sup>2384</sup> and special quarters were built for new couples, with militiamen walking along the hall, listening and watching couples through windows.<sup>2385</sup> Militiamen and children were engaged to track down any couple who did not sleep with each other and report them to the unit or village chief.<sup>2386</sup>

690. The pressure laid upon couples resulted in newlyweds having sexual intercourse without consent,<sup>2387</sup> without “[*understanding*] *each others' [sic] feelings*” or without “*emotions*”.<sup>2388</sup> Some witnesses describe sleeping with their partners because they wanted to “*avoid trouble*”<sup>2389</sup> or were afraid to be killed.<sup>2390</sup> One civil party applicant slept with his wife despite feeling “*frightened and*

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Witness CHHIM Bunserey, 29 June 2015, ERN 01148845, A56; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570-01050571, A37; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361550; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362063; *cf.* **D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142994, A81; **D219/752**, Written Record of Interview of Witness LOR Venghuor, 28 April 2016, ERN 01300148, A173; *contra.* **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820, A31; **D219/315**, Written Record of Interview of Witness SAT Pheap, 18 May 2015, ERN 01111981, A134.

<sup>2383</sup> **D219/217**, Written Record of Interview of Civil Party Applicant CHHEN Ham, 11 March 2015, ERN 01088550, A143, 01088553-01088554, A185, A187; **D219/159**, Written Record of Interview of Witness NY Huon, 29 January 2015, ERN 01067868-01067869, A135-A137.

<sup>2384</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-010445990, A33-A34.

<sup>2385</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570-01050571, A37, 01050573, A45; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361550, l. 18-24.

<sup>2386</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589-01044590, A31-A34.

<sup>2387</sup> Kampong Siem District: **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054035, A25; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072531-01072532, A40, A42; Prey Chhor District: **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050572-01050573, A43.

<sup>2388</sup> Kampong Siem District: **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445991, A41; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046944, A35; Prey Chhor District: **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570-01050571, A36-A38; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362063.

<sup>2389</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445991, A41.

<sup>2390</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046944, A35; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054034, A22, 01054035, A24-A25; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767, A43.



*awkward*”,<sup>2391</sup> and another applicant states that she would not dare sleep near her husband because she was afraid that he would rape her.<sup>2392</sup>

691. Preap Sokhoeurn’s testimony is particularly relevant. She initially refused to have sexual intercourse with her husband.<sup>2393</sup> After her husband’s chairperson learnt of her resistance, he sent an ox-cart to take her from her union to her husband’s workplace.<sup>2394</sup> For the first five or six nights she was at the house, she did not agree to have sex with her husband. However, one night, her husband tore her clothes apart and told her that if she was not willing to have sexual intercourse with him, he had to use force. She states that her husband “*raped*” her that night.<sup>2395</sup> Her husband apologised by telling her that he followed the direction of “*Angkar*”<sup>2396</sup> and “*Khmer tradition*”.<sup>2397</sup> She adds that after this event, she stopped refusing to have sexual intercourse with him because she “*pitied him for his begging*” and was afraid that she would be killed if she kept refusing his advances.<sup>2398</sup>

#### *Injury, harm, and suffering*

692. The arbitrary matching,<sup>2399</sup> or separation from a preferred spouse,<sup>2400</sup> was a traumatic experience causing great mental anguish.<sup>2401</sup> Some women who were

<sup>2391</sup> **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445991, A41.

<sup>2392</sup> **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767, A42-A43.

<sup>2393</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050570-01050571, A36-A38; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362063, l. 11-13.

<sup>2394</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050571, A38, 01050572, A43; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361551, l. 15-16.

<sup>2395</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050572-01050573, A43-A44.

<sup>2396</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050572-01050573, A43, 01050574, A48; cf. **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361561, l. 14-16.

<sup>2397</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050572-01050573, A43.

<sup>2398</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050573, A46.

<sup>2399</sup> **Kampong Siem District: D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072529, A26; **Prey Chhor District: D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142994-01142993, A762-A770; **D219/888.1.8**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362064.



forced to marry disabled men in a group wedding committed suicide after the ceremony.<sup>2402</sup> Ultimately, some people gradually accepted their marital situation, for example, due to “*Khmer tradition*”<sup>2403</sup> or pregnancy.<sup>2404</sup>

693. The violation of Khmer traditions under which marriages were arranged during DK caused serious distress, as couples were deprived of their traditional engagement process and wedding ceremonies, and parents and relatives were excluded from partaking in this key life event.<sup>2405</sup> This distress was compounded by the frightening circumstances surrounding the wedding, such as, for example, believing they were being taken to be killed when they were actually being taken to their own wedding.<sup>2406</sup> The failure to follow tradition

<sup>2400</sup> Kampong Siem District: D219/113, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057763, A22; D219/323, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28.

<sup>2401</sup> D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050575, A52; D219/888.1.7, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361547, l. 18-21; D219/113, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057763, A22; D219/136, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072533, A47; D219/323, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28; D219/687, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A78.

<sup>2402</sup> D219/582, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179837, A115, 01179840, A135; D219/315, Written Record of Interview of Witness Sat Pheap, 18 May 2015, ERN 01111979-01111980, A111-A113; D219/289, Written Record of Interview of Civil Party Applicant PENH Va, 25 April 2015, ERN 01111781, A7.

<sup>2403</sup> D219/136, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072534, A54-A55.

<sup>2404</sup> D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050573, A46.

<sup>2405</sup> Kampong Siem District: D117/68, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A44; D219/83, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054032, A12; D219/113, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057774, A86; D219/171, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35; Prey Chhor District: D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050563, A13, 01050565, A22; D219/888.1.7, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361572-01361573; D219/888.1.8, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 24 October 2016, ERN 01362073-01362074, 01362089; D219/47, Written Record of Interview of Civil Party Applicant KHOV Net, 20 October 2014, ERN 01050696-01050697, A17, A19-A20; D219/293, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111822-01111823, A38-A39; D219/405, Written Record of Interview of Witness CHHIM Bunserey, 29 June 2015, ERN 01148843, A60.

<sup>2406</sup> D219/24, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050563, A13.



also caused some victims to suffer from social stigmatisation by other villagers about their flawed marriage.<sup>2407</sup>

694. Although divorce and remarriage are accepted in Khmer tradition,<sup>2408</sup> couples did not dare to separate during DK for fear of being killed, as divorce was considered an affront to *Angkar*.<sup>2409</sup> This had long-lasting effects on the couples, even after the end of DK: some couples who were forced to marry later divorced;<sup>2410</sup> many couples remain together today,<sup>2411</sup> and some describe ultimately coming to love their partner,<sup>2412</sup> and wanting to live with him or her.<sup>2413</sup> One witness from Kampong Siem District states that at the time of her

<sup>2407</sup> **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072534, A57-A58.

<sup>2408</sup> **Kampong Siem District: D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054033, A16; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057770-01057771, A62, A64; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072534, A59.

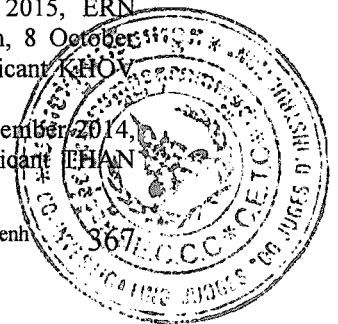
<sup>2409</sup> **Kampong Siem District: D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054037, A37; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057770, A61; **D219/502**, Written Record of Interview of Witness MUOK Sengly, 4 September 2015, ERN 01152377, A38.

<sup>2410</sup> **Kampong Siem District: D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797024; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A29, 01044590, A39; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054031, A6; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057770, A62, 01057771, A69; **D219/323**, Written Record of Interview of Witness MUT Sophon, 15 May 2015, ERN 01113699, A28, A30; **D219/171**, Written Record of Interview of Civil Party Applicant NHIM Kol, 11 February 2015, ERN 01076950, A35, 01076952, A42; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072530-01072531, A37; **Prey Chhor District: D219/287**, Written Record of Interview of Witness HAI Taun, 23 April 2015, ERN 01100843, A28-A31; **D219/293**, Written Record of Interview of Civil Party Applicant CHEAM Pao, 4 May 2015, ERN 01111820-01111821, A31; **D219/687**, Written Record of Interview of Witness MAO Saroeun, 15 February 2016, ERN 01214825, A69.

<sup>2411</sup> **Kampong Siem District: D191.1.112**, Written Record of Interview of Civil Party Applicant NAT Hoeun, 23 March 2012, ERN 00797024; **D117/57**, Written Record of Interview of Witness KEAN Ley, 24 June 2014, ERN 01067914, A49; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 01044589, A29, 01044592, A46; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A44-A45; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054030, A3, 01054033, A14; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057770, A60; **Prey Chhor District: D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142989, A44.

<sup>2412</sup> **Kampong Siem District: D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046947, A50; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057770, A59-A60; **Prey Chhor District: D219/435**, Written Record of Interview of Witness TOUCH Chamroeun, 30 July 2015, ERN 01142989, A44; **D219/24**, Written Record of Interview of Witness PREAP Sokhoeun, 8 October 2014, ERN 01050573, A46; **D219/47**, Written Record of Interview of Civil Party Applicant KHOU Net, 20 October 2014, ERN 01050700, A38, 01050701, A43.

<sup>2413</sup> **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046946, A44-A45; **D219/136**, Written Record of Interview of Civil Party Applicant



wedding, she felt “*angry and sad*” and that “*about four or five years later, [she] felt angry once in a while*”.<sup>2414</sup> Some women made to marry disabled soldiers separated due to accident and illness;<sup>2415</sup> one couple remained together.<sup>2416</sup>

695. Being coerced into sexual intercourse caused numerous witnesses to be frightened<sup>2417</sup> and angry.<sup>2418</sup>
696. The forced consummation, apart from its physical aspect of the violation of bodily integrity and sexual self-determination, i.e. rape, caused great and lasting mental anguish, sometimes to both parties, which continued to affect most victims until long after the end of DK, although some managed to come to an arrangement or even learnt to love their partners.<sup>2419</sup>

## 7. LEGAL FINDINGS ON PERSONAL JURISDICTION

697. The ECCC have personal jurisdiction over **Ao An**. He was a Khmer Rouge official during the time of the court’s temporal jurisdiction and during the period when the alleged offences attributed to him occurred. While he was probably not yet at the rank of a senior leader, he was certainly one of the

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Yang, 22 December 2014, ERN 01072534, A54-A55; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057774, A86.

<sup>2414</sup> **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054037, A40.

<sup>2415</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179840, A136.

<sup>2416</sup> **D219/582**, Written Record of Interview of Witness TOY Meach, 2 September 2015, ERN 01179838, A119.

<sup>2417</sup> Kampong Siem District: D117/60, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445991, A41; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046945-01046946, A36, A43; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767, A42-A44, 01057771, A66; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072531, A40, 01072532-01072533, A45, A47.

<sup>2418</sup> Kampong Siem District: D219/83, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054035, A25-A26.

<sup>2419</sup> **D219/24**, Written Record of Interview of Witness PREAP Sokhoeurn, 8 October 2014, ERN 01050573, A44, 01050574, A48, 01050574-01050575, A51, A53; **D219/888.1.7**, Transcript of hearing on the substance in Case 002/02 [PREAP Sokhoeurn], 20 October 2016, ERN 01361561-01361573; **D219/83**, Written Record of Interview of Witness SUON Yim, 24 November 2014, ERN 01054037, A39-A40; **D117/60**, Written Record of Interview of Civil Party Applicant SUM Pet, 4 August 2014, ERN 010445991, A41; **D117/68**, Written Record of Interview of Civil Party Applicant VA Limhun, 15 September 2014, ERN 01046945-01046946, A36, A43-A45; **D219/113**, Written Record of Interview of Civil Party Applicant KEO Theary, 8 December 2014, ERN 01057767, A42-A44, 01057770, A59-A60, 01057771, A66-A67, 01057774, A86; **D219/136**, Written Record of Interview of Civil Party Applicant THAN Yang, 22 December 2014, ERN 01072532-01072533, A45, A47, 01072534, A58.





persons most responsible. It is thus unnecessary at this stage to resolve the issue of senior leadership fully for the purpose of determining personal jurisdiction.

698. The CIJs already explained in the Im Chaem *Closing Order (Reasons)* that in line with the SCC they do not view an ex-ante “*negotiated*” and closed number of suspects as a proper interpretation of the negotiating history of the ECCC laws.<sup>2420</sup>

699. **Ao An** is among those most responsible because of the combination of his rank and scope of authority in the hierarchy of the DK and based on the character and magnitude of his crimes. This finding bears comparison with other charged or convicted persons. His position and the nature, the geographical reach and the impact of his actions clearly surpass those attributable to Im Chaem and Duch. The latter was in effect held to be subject to the ECCC’s personal jurisdiction because of his central role as the head of the notorious S-21 prison, and not least because both parties to the negotiations around jurisdiction at the time hence saw him as one of the most odious characters in the Khmer Rouge nomenclature. In that sense, it is certainly correct to accept an influence of the political actors on the initial list of persons to be investigated at the beginning of the ECCC’s existence; however, both the OCP and the CIJs would have been at liberty to reject this political accord as in any way fettering their discretion under the applicable law.

### 7.1 **Ao An’s position in the DK hierarchy**

700. **Ao An** held an elevated role in the DK hierarchy, ultimately working at both sector and zone level, the two highest levels of the DK governmental structure below the national political leadership. Prior to that, he had been entrusted with a wide array of administrative and military positions.

701. In this context, his prior activities in the Southwest Zone must be taken into account to paint a fuller picture of his overall status in the DK structure as a highly-trusted cadre, bearing in mind that only the positions held at the time of the crimes imputed to him are of relevance for the findings on his criminal responsibility.

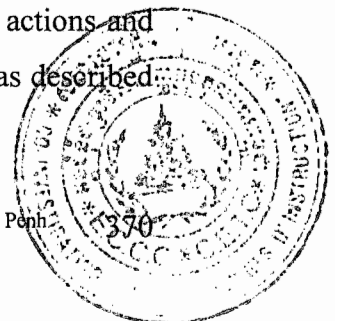
<sup>2420</sup> **Case 004/1-D308/3**, *Closing Order (Reasons)*, 10 July 2017, para. 37.



702. Very soon after the fall of Phnom Penh in 1975 he became a member of the sector committee of Sector 25 in the Southwest Zone, and the District Secretary of its Sa'ang District. In 1976 he became a committee member of Sector 35 in the Southwest Zone and was also put in charge of three districts of that sector. **Ao An** also appears to have been trusted by Ta Mok, who appointed him to his previous post in the Southwest Zone and who selected him to purge the Central Zone.
703. Immediately upon his relocation to the Central Zone, Ke Pauk appointed him Secretary of Sector 41, a position he held from early 1977 until the end of DK. As Secretary of the sector committee, he was also an *ex officio* member of the Zone Committee of the Central Zone; the evidence supports the conclusion that **Ao An** was its Deputy Secretary from late 1977. As such, he was the highest-ranking cadre sent from the ranks of the Southwest Zone to purge the Central Zone.
704. He became a member of the Zone Committee, together with Ke Pauk and Kang Chap, in February 1977; Ke Pauk publicly called **Ao An** his 2<sup>nd</sup> deputy in the Zone Committee at a meeting around this time. After Kang Chap's promotion to Secretary of the New North Zone, the exact date of which could not be verified, **Ao An** became the Deputy Secretary of the Central Zone, with the Secretaries of Sectors 42 and 43 being the other members of the Central Zone Committee.
705. It is on the preponderance of the evidence highly likely that **Ao An** held the role as Central Zone Deputy Secretary until the end of DK. There is also sufficient evidence to allow the conclusion that **Ao An** increasingly took over Ke Pauk's functions as *de facto* acting Central Zone Secretary, due in some part to Ke Pauk's engagement in the military war effort. It is, however, unclear when exactly and how long this *de facto* position was exercised; distinct instances of his use of that particular role could not be identified, either.

## 7.2. Nature and gravity of the crimes attributed

706. In addition to **Ao An**'s elevated formal position, the gravity of his actions and the severity of their impact, in particular on the Cham community, as described



above in detail, justify the conclusion that he was one of the most responsible persons.

707. The main charge that must be levelled at **Ao An**, and which alone puts him solidly within the bracket of personal jurisdiction, is that of the genocide of the Cham in the Central Zone.
708. **Ao An** had the defining role in orchestrating and implementing the annihilation of the Cham in the Central Zone across Sector 41 in particular, but also provided vital logistical support to the coordinated transfer of Cham from the East Zone to Sector 41, where they were killed, as everywhere else, purely because of their religious and ethnic affiliations. The killing of the Cham in Sector 41 was more intense and comprehensive than other parts of the Central Zone. The eradication of the Cham in **Ao An**'s sphere of influence after his installation in the Central Zone was relentless in its pace, all-encompassing in its reach, coldly methodological and merciless in its operation.
709. At a very conservative calculation, a minimum of **17,115** Cham were killed in the Central Zone during **Ao An**'s reign, but very likely many more.
710. **Ao An** is, however, also responsible for a number of international crimes against humanity and domestic crimes apart from the targeting of the Cham, as set out in detail in the preceding sections.
711. At the security centres and execution sites that **Ao An** is responsible for, a conservative minimum estimate of **12,944** people (including a minimum of 1743 Cham), and very likely many more, were killed. **Ao An** was also responsible for worksites where thousands of people were compelled to work under extremely difficult conditions and the threat of death should they make a mistake or perform their work in a manner deemed unsatisfactory.

### 7.3. Conclusion

712. In sum, both the position and conduct of **Ao An** mark him out clearly as a major player in the DK structure and as a willing and driven participant in the brutal and criminal implementation of its inhuman policies.



## 8. LEGAL FINDINGS ON CRIMES

### 8.1. Chapeau elements of crimes against humanity

713. Between approximately late 1976 and 6 January 1979, the CPK carried out an attack against the civilian population in the Central Zone of DK, including in Sector 41. The attack was carried out through four main pillars.
714. Firstly, the CPK implemented a policy to establish cooperatives and worksites throughout Cambodia and forcibly relocate the entire population to work on them. The ultimate objective was to transform Cambodia into an autarkic socialist state based on an agrarian economy. The CPK forced the civilian population to work without remuneration and under disastrous living and working conditions, which exposed workers to great physical and mental suffering. Many died from exhaustion, starvation and disease. Others were executed for minor transgressions or other arbitrary reasons.
715. The second facet of the CPK's attack on the civilian population in the Central Zone involved the re-education of "*bad elements*" and killing of "*enemies*" both inside and outside the CPK ranks. The CPK established security centres and execution sites throughout the zone, which were used to identify, monitor and re-educate or kill perceived enemies of DK. Anyone suspected of even minor wrongdoing or disloyalty was a potential target for arrest, torture and execution.
716. Thirdly, the CPK identified, targeted and systematically purged particular categories of people perceived as potential threats to the DK regime or to have views otherwise incompatible with CPK doctrine. These included Central Zone cadres, people forcibly relocated from urban areas, former soldiers and other officials of Khmer Republic, people from the East Zone, the Cham, and others with religious, ethnic, political, economic or national identities perceived to be a threat to the CPK's goal to refashion Cambodian society. At least tens of thousands of people were targeted in the systematic purge of the Central Zone; few survived.



717. The fourth aspect of the CPK's attack on the population of the Central Zone was the regulation of marriage in order to increase the population and build ideologically pure families. The CPK forced people to marry a spouse chosen by "Angkar" and, in many cases, compelled the couple to consummate their marriage.
718. The systematic nature of the attack is evident from its centralised planning, organisation, and implementation involving all levels of the civilian administration and the RAK. Furthermore, the widespread nature of the attack is reflected in its broad temporal and geographic scope, as well as the vast number of victims. The attack was directed against the civilian population of the Central Zone, practically in its entirety. It was carried out on political grounds; in essence, it was the implementation of the CPK's political agenda.
719. By virtue of his position as Secretary of Sector 41 and Deputy Secretary and Member of the Central Zone Committee, **Ao An** was a central participant in the widespread and systematic attack against the civilian population. Through regular meetings, site visits, and the CPK's rigorous reporting system, **Ao An** had full knowledge of the attack and that his acts were part of it.

## 8.2. Legal findings of crimes in Sector 41

### 8.2.1. *Anlong Chrey Dam Forced Labour Site*

#### *Crime against humanity of murder*

720. The executions of small groups of workers at places near Anlong Chrey Dam Worksite amount to murder as a crime against humanity. It can also be inferred that some of the workers who were taken away at night because of perceived transgressions, and not seen again, were subsequently killed.
721. In addition, the deaths of workers resulting from unsanitary food and water, malnutrition, and hard manual labour qualify as murder as a crime against humanity. The personnel at the worksite cannot but have foreseen the obvious result that subjecting workers to such harsh conditions may cause them to die.



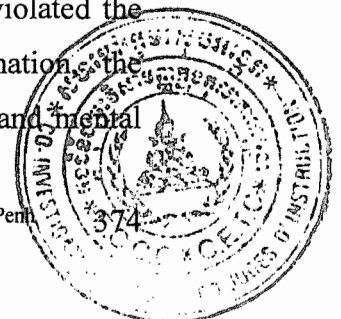
Nonetheless, they decided to enforce these abysmal living and working conditions.

*Crime against humanity of enslavement*

722. Enslavement as a crime against humanity was committed at Anlong Chrey Dam Worksite.
723. Personnel at the Anlong Chrey Dam worksite exercised powers of ownership over the workers by restricting their movement, controlling where and when they slept and what they ate, and forcing them to perform hard labour, under threat of severe punishment if they did not meet work quotas or follow specifications. It can be inferred from the organised and systematic nature of the worksite that these conditions were imposed with the intent to exercise powers of ownership over the prisoners.

*Crime against humanity of other inhumane acts*

724. The mistreatment and conditions imposed upon workers at Anlong Chrey Dam constitute other inhumane acts as a crime against humanity.
725. Workers at Anlong Chrey Dam were subjected to appalling conditions. People were forced to perform labour to the point of utter exhaustion. They were deprived of adequate food and water, sometimes as a form of punishment, and sick workers were also given less food. The workers lived under the constant fear of being physically abused or killed. Workers accused of minor transgressions, such as breaking equipment or stealing food, disappeared on a daily basis. Usually by night, individuals were deprived of their liberty and secretly taken away based on accusations of being “lazy”, “enemies”, or “having failed to follow Angkar”. There was no possible recourse to legal remedies or procedural guarantees. Imposing such circumstances on workers violated the right to liberty and security of person, the right to freedom of movement and residence, the right against forced labour, and the right against cruel, inhuman or degrading treatment. The enforced disappearances in particular violated the protection against unlawful deportation or transfer. In combination with the conditions to which workers were subjected caused serious bodily and mental



harm and amounted to an attack against human dignity of a nature and gravity similar to other crimes enumerated under Article 5 of the ECCC Law.

726. The perpetrators deliberately mistreated the workers at Anlong Chrey Dam in full knowledge that this was bound to cause serious physical or mental suffering and constitute a serious attack upon human dignity.

*Premeditated homicide*

727. The executions at Anlong Chrey Dam Worksite amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.2. Kok Pring Execution Site**

*Crime against humanity of murder*

728. The 1030 executions carried out between early 1977 and the end of DK at Kok Pring Execution Site amount to murder as a crime against humanity.

*Crime against humanity of extermination*

729. The mass executions carried out at Kok Pring Execution Site also satisfy the criterion of “*massive scale*” to qualify as extermination as a crime against humanity.

730. The mass executions were carried out consistently from early 1977 until the end of DK. They targeted various groups of the population, including Central Zone cadres, and large groups of “*17 April people*” and Cham people. Apart from a few exceptions, all people brought to the execution site were executed. Executioners used the large burial pits that had been previously dug at the execution site. The only reasonable conclusion is that the executions were carried out with full intent to kill on a massive scale.

*Crime against humanity of persecution on political grounds*

731. The crimes of murder and extermination also amount to the crime against humanity of persecution on political grounds.



732. Kok Pring Execution Site was a means to effect the efficient execution of Central Zone cadres, and “17 April people”. These groups were considered “traitors”, “bad elements” and “internal enemies”, which was essentially a characterisation reserved to those suspected of being foreign spies or whose behaviour was otherwise considered incompatible with CPK policies. They were targeted and killed on a large scale because they belonged to these categories.

733. There is insufficient evidence to conclude that former Lon Nol soldiers were killed at Kok Pring Execution Site during the period of control by the Southwest Zone cadres.

*Crime against humanity of persecution on religious grounds*

734. The crimes of murder and extermination committed against the Cham also amount to the crime against humanity of persecution on religious grounds. Cham people were targeted based on their religion and killed on a large scale at Kok Pring Execution Site.

*Premeditated homicide*

735. The executions at Kok Pring Execution Site amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.3. Met Sop Security Centre**

*Crime against humanity of imprisonment*

736. The detention of people at Met Sop Security Centre between early 1977 and the end of DK amounts to imprisonment as a crime against humanity.

737. Arrestees were selected for arbitrary reasons, including “mistakes”, being a Central or East Zone cadre or “17 April person”, or having a purged family member. The evidence establishes a pattern of arrest and detention devoid of due legal process. Authorities routinely assembled people on a false pretence in order to effect arrest. Once detained, prisoners were either shackled or forced to perform labour under supervision of armed guards. While people taken to Met





Sop were eventually killed there, prisoners were detained prior to execution for a sufficiently long period of time to satisfy the threshold of gravity required to establish the offence of imprisonment.

738. Given the systematic nature and extent of detention at the Met Sop Security Centre, the only reasonable inference is that the authorities intended to arbitrarily deprive the detainees of their liberty.

*Crime against humanity of murder*

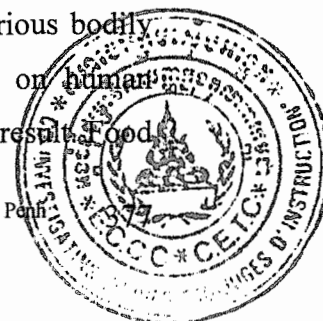
739. The killing of a minimum of 284 prisoners, either by execution or through starvation, at Met Sop Security Centre between early 1977 and the end of DK amounts to murder as a crime against humanity.

*Crime against humanity of torture*

740. There is sufficient evidence to find, on the balance of probabilities, that the mistreatment of prisoners at Met Sop Security Centre amounts to torture. Prison officials subjected detainees to violence during interrogations for the prohibited purpose of obtaining information and confessions. Ngov, who was in charge of the centre during the relevant time, concedes that prisoners were routinely interrogated, but claims that he did not witness the methods used by interrogators. One witness heard screams of prisoners while the centre was operational and saw “*interrogation tools*” days after it was abandoned. Based on this evidence, and that torture was used as a standard interrogation technique in DK, and particularly during the purge of the Central Zone, it must therefore be inferred that detainees suffered severe pain or suffering during interrogation.

*Crime against humanity of other inhumane acts*

741. The treatment of prisoners and conditions of detention at Met Sop Security Centre between early 1977 and the end of DK amount to the crime against humanity of other inhumane acts.
742. The conditions of detention at Met Sop Security Centre caused serious bodily and mental suffering or injury and constituted a serious attack on human dignity. Prisoners were shackled in groups, and some had scars as a result of food



rations were insufficient and prisoners were weak and emaciated. Some died of starvation. The screams of prisoners were heard from outside the compound. The hygiene and sanitary conditions were unspeakable: lice and bedbugs infested the centre. The medic had neither equipment nor medicine. When detainees were not shackled, they were forced to perform labour. The nature and gravity of these acts and omissions is similar to other crimes listed in Article 5 of the ECCC Law.

743. Soldiers and guards at Met Sop Security Centre were constantly monitoring prisoners. As direct perpetrators of the inhumane treatment of detainees, they deliberately created the conditions of detention in the knowledge that this was causing serious harm and resulted in a serious attack on human dignity.

*Crime against humanity of persecution on political grounds*

744. The crimes of imprisonment, murder, torture and other inhumane acts committed against former Central Zone cadres and “17 April people” amount to the crime against humanity of persecution on political grounds. These groups were considered “traitors”, “internal enemies” or “bad elements” and targeted throughout Sector 41 because they were perceived to behave or hold views against or incompatible with the CPK ideals and policies. At Met Sop Security Centre, they were deprived of their liberty without any due process of law, tortured, executed, and subjected to inhumane conditions of detention, physical abuse and forced labour.

745. There is insufficient evidence that former Lon Nol soldiers were at Met Sop Security Centre after the arrival of the Southwest Zone cadres.

*Premeditated homicide*

746. The killings at Met Sop Security Centre amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.



#### **8.2.4. Tuol Beng and Wat Angkuonh Dei Security Centres**

##### *Crime against humanity of imprisonment*

747. The detention of people at Tuol Beng and Wat Angkuonh Dei amounts to imprisonment as a crime against humanity.
748. As part of the purge of Sector 41, specific groups were targeted and detained at Tuol Beng and Wat Angkuonh Dei, including “17 April people”, Central Zone cadres, Cham people, and those with connections to the Lon Nol regime. Members of these groups were intentionally deprived of their liberty for arbitrary reasons and in the complete absence of any legal process. People accused of minor transgressions such as stealing or “*moral misconduct and mistakes*” were also sent to Tuol Beng and Wat Angkuonh Dei. As no proper legal basis existed to justify a deprivation of liberty on the basis of such minor allegations, they must also be considered arbitrary notwithstanding that these prisoners were suspected of wrongdoing.
749. While “*serious offenders*” or “*important people*” were transferred after one night and some prisoners may have been killed a short time after being taken to Tuol Beng and Wat Angkuonh Dei, the remaining prisoners were detained for a sufficiently long period of time to satisfy the threshold of gravity required to establish the offence of imprisonment.

##### *Crime against humanity of murder*

750. The executions of at least 200 people at Tuol Beng between the beginning of 1977 and the end of DK constitute murder as a crime against humanity.

##### *Crime against humanity of extermination*

751. These executions also satisfy the criterion of “*massive scale*” to qualify as extermination as a crime against humanity.
752. The large pits which served as mass graves at Tuol Beng give an indication of the organised and large-scale killing operation in which at least 200 people were



killed. These circumstances are sufficient evidence that the perpetrators intended to kill persons on a massive scale.

*Crime against humanity of other inhumane Acts*

753. The inhumane conditions of detention at Tuol Beng and Wat Angkuonh Dei constitute other inhumane acts as a crime against humanity. Some witnesses who attended at or near the Tuol Beng security centre gave evidence that prisoners were detained in rows facing one another, with their feet shackled to wooden beams. Some prisoners were thin due to insufficient food and crying for help. There is also hearsay evidence that some prisoners were beaten with bamboo sticks. These conditions of detention caused serious bodily and mental suffering and injury and amount to an attack on human dignity of a nature and gravity similar to other crimes listed under Article 5 of the ECCC Law.

754. The only reasonable conclusion is that the perpetrators deliberately inflicted the above described hardship on the prisoners with the intent to cause serious bodily or mental harm and a serious attack on human dignity.

*Crime against humanity of persecution on political grounds*

755. The crimes of imprisonment and other inhumane acts intentionally committed at Tuol Beng and Wat Angkuonh Dei against “17 April people”, Central Zone cadres, those with connections to the Lon Nol regime, and their families amount to the crime against humanity of persecution on political grounds. Many arrestees at Tuol Beng and Angkuonh Dei Pagoda were selected pursuant to a policy to identify and purge these groups, who were targeted and detained at Tuol Beng and Angkuonh Dei Pagoda because they were perceived to behave or hold views against or incompatible with the CPK ideals and policies, and therefore considered to be “traitors,” “internal enemies,” and “bad elements”. Those targeted were deprived of fundamental rights, such as the right to liberty and security of person, and the right to due legal process.

756. There is insufficient evidence of the category of prisoners executed at Tuol Beng and Wat Angkuonh Dei to find the crimes of murder and extermination as crimes of persecution on political grounds.



*Crime against humanity of persecution on religious grounds*

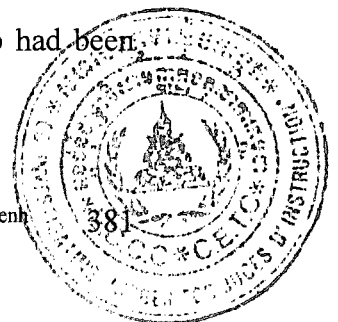
757. The crimes of murder and extermination committed against the Cham amount to the crime against humanity of persecution on religious grounds. Cham were targeted pursuant to the policy to exterminate the Cham of Kampong Cham Province and killed on a large scale at Tuol Beng and Wat Angkuonh Dei.
758. As the duration of the Cham people's detention at Tuol Beng and Wat Angkuonh Dei prior to being killed is not known, it cannot be established that they were detained for a period of time of sufficient gravity to constitute imprisonment. The crime of persecution on religious grounds through the underlying offences of imprisonment and other inhumane acts is therefore not made out and the related charge is hence dismissed.

*Premeditated homicide*

759. The previously described executions at Tuol Beng and Angkuonh Dei Security Centres amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.5. Wat Au Trakuon Security Centre***Crime against humanity of imprisonment*

760. The detention of people at Wat Au Trakuon Security Centre between the arrival of the Southwest Zone cadres to the end of DK amounts to imprisonment as a crime against humanity.
761. People detained at Wat Au Trakuon Security Centre were deprived of their liberty in the course of their arrests on arbitrary and, as described above, insufficient grounds, which included complaining about hunger, falling sick, stealing food, or growing food without permission. Specific groups were targeted, in particular: "17 April people", Cham, cadres, and former Lon Nol soldiers. Entire families, including children, were detained. Detainees were rarely, if ever, given reasons for their arrest. Routinely, people who had been



named in confessions obtained under torture were subsequently arrested and taken to Wat Au Trakuon.

762. Prisoners were shackled and not allowed to leave the premises. All prisoners were deprived of their liberty and kept in detention without any due process of law. Although some prisoners were executed very soon after arrival, a large number of prisoners spent a sufficiently long period of time in detention to satisfy the threshold of gravity required to establish the offence of imprisonment.
763. The extensive nature of the system of arbitrary arrest and detention at Wat Au Trakuon, and complete absence of any legal process, shows that the perpetrators intended to arbitrarily deprive detainees of their liberty.

*Crimes against humanity of murder*

764. The execution of at least 4924 people at Wat Au Trakuon Security Centre between early 1977 and the end of DK amounted to murder as a crime against humanity. The killing of prisoners as a result of injuries inflicted during interrogation also amounts to murder as a crime against humanity. On many occasions, the perpetrators intentionally caused serious bodily harm to prisoners despite the knowledge that this would very likely lead to the death of the victims.

*Crime against humanity of extermination*

765. These mass executions also satisfy the criterion of “*massive scale*” to qualify as extermination as a crime against humanity.
766. The routine mass executions targeted distinct groups of the population, including Cham people, “*17 April people*”, former cadres and Lon Nol soldiers. At times, the killings reached such a large scale that prisoners were ordered to assist and loud music was played to drown out the victims’ screams. These circumstances make it amply clear that the perpetrators carried out the executions with the intent to kill on a massive scale.

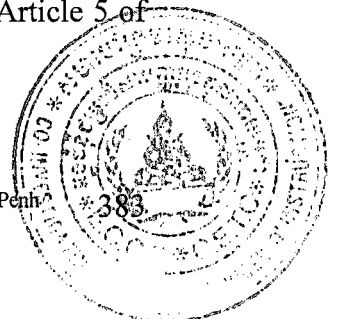


*Crime against humanity of torture*

767. The mistreatment of prisoners at Wat Au Trakuon Security Centre amounts to torture as a crime against humanity.
768. The frequent interrogations carried out by security centre personnel were accompanied by such brutality that some prisoners died as a result. Some prisoners were tied up by their feet and hung upside down. Others were subjected to electric shocks. This mistreatment caused severe pain, both physical and mental. The interrogations were carried out with intent to inflict severe pain or suffering and for the purpose of obtaining confessions and identifying "*internal enemies*".

*Crime against humanity of other inhumane acts*

769. The inhumane conditions of detention and abuse of prisoners at Wat Au Trakuon Security Centre constitute other inhumane acts as a crime against humanity.
770. Prisoners were tied up or shackled in large groups by their ankles. One group of Cham was beaten and kicked as they entered the prison. Children unable to climb the stairs to the temple on their own were thrown or pushed and then shackled with the rest of the prisoners. Prisoners were given insufficient food and denied medical treatment. People lived under constant threat of execution as they heard the sounds of people screaming for help, which became so troublesome that authorities played loud music during large-scale executions. Sometimes prisoners were even ordered to help kill other prisoners. One prisoner describes losing the will to live. At the time of charging, the charge of other inhumane acts was based in part on evidence of disappearances; further investigations showed that prisoners at Wat Au Trakuon were killed rather than taken away and disappeared. The conditions at the security centre, in combination, caused serious bodily and mental harm and also amounted to an attack against human dignity. The mistreatment of prisoners is of similar nature and gravity to the other crimes against humanity enumerated under Article 5 of the ECCC Law.



771. The perpetrators deliberately inflicted the above described hardship upon prisoners with the intent to cause serious bodily or mental harm and a serious attack upon human dignity.

*Crime against humanity of persecution on political grounds*

772. Persecution on political grounds was committed at Wat Au Trakuon through the underlying offences of imprisonment, murder, extermination, torture, and other inhumane acts.

773. Perpetrators at the security centre specifically targeted “17 April people”, former Lon Nol soldiers, Central Zone cadres, and their families. These groups were perceived to behave or hold views against or incompatible with the CPK ideals and policies and were therefore considered to be “traitors,” “internal enemies,” and “bad elements”. As a result of the discriminatory system of arrest, detention and execution at Wat Au Trakuon, members of these groups were denied the right to life, the right to liberty and security of person, the right to due legal process, and the freedom from torture or cruel, inhuman or degrading treatment. The organized and extensive nature of persecutory acts committed against these groups shows that the perpetrators acted deliberately and with intent to discriminate on political grounds.

*Crime against humanity of persecution on religious grounds*

774. Persecution was also committed against the Cham on religious grounds through the underlying offences of imprisonment, murder, extermination, and other inhumane acts. There is no evidence that Cham were tortured at Wat Au Trakuon.

775. Cham at Wat Au Trakuon Security Centre were targeted based on their religion and deprived of fundamental rights. In particular, they were denied the right to life, the right to liberty and security of person, the right to due legal process, the freedom of religion, and the freedom from cruel, inhuman or degrading treatment.





*Premeditated homicide*

776. The executions at Wat Au Trakuon Security Centre amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.6. Wat Batheay Security Centre***Crime against humanity of imprisonment*

777. The detention of people at Wat Batheay Security Centre between early 1977 and the end of DK amounts to imprisonment as a crime against humanity.

778. People detained at Wat Batheay Security Centre were arrested on arbitrary grounds, such as merely being related to someone under suspicion of wrongdoing. Entire families, including children, were detained. Prisoners were not allowed to leave the premises, and many of them were shackled. All prisoners were deprived of their liberty and kept in detention without due process of law. Although some prisoners were executed very soon after arrival, a large number of prisoners spent a sufficiently long period of time in detention to satisfy the threshold of gravity required to establish the offence of imprisonment.

779. The evidence, insofar as it shows arbitrary reasons or a lack of reasons for the arrests and detention, points to the authorities' intent to effect these without criminal process as the only reasonable conclusion.

*Crime against humanity of murder*

780. The minimum of 5000 executions carried out between early 1977 and the end of DK at Wat Batheay Security Centre amount to murder as a crime against humanity.

781. In addition, prisoners were underfed and physically abused while forced to perform hard manual labour and some prisoners died of starvation and overwork. The perpetrators knew that the impositions of hard labour on physically abused and underfed prisoners, or the deprivation of food itself, could lead to their starvation and death, and it can thus be inferred that they



intended or at the very least accepted this result. These deaths therefore also amount to murder as a crime against humanity.

*Crime against humanity of extermination*

782. The constant mass executions carried out at Wat Batheay Security Centre satisfy the criterion of “*massive scale*” to qualify as extermination as a crime against humanity.
783. The mass executions targeted distinct groups of the population, including Central Zone cadre, people with official positions under the previous government, “*17 April people*”, people from the East Zone, Cham people, and their families. Except for a small group of prisoners, all people brought to the security centre were killed. Executioners told the prisoners that they were traitors before killing them. Multiple times per day, prisoners were walked to the killing pits in a line with their hands tied behind their backs, where they were beaten or stabbed to death. The executions were thus carried out with the intent to kill on a massive scale.

*Crime against humanity of torture*

784. The mistreatment of prisoners at Wat Batheay Security Centre amounts to torture as a crime against humanity.
785. The security centre personnel beat and suffocated detainees, which caused severe pain and suffering, both physical and mental. During interrogations, such abuses were imposed for the prohibited purpose of obtaining information. The beating of detainees whose work was considered unsatisfactory was for the prohibited purpose of punishment.

*Crime against humanity of other inhumane acts*

786. The conditions of detention at Wat Batheay Security Centre amount to the crime against humanity of other inhumane acts.
787. Prisoners were subjected to appalling conditions. They were shackled, beaten, deprived of adequate food and water, and, while chained together, forced to



perform labour to the point of exhaustion, at which point they were killed. These prisoners lived under the constant fear of death and constantly had to witness shocking scenes of unimaginable violence and cruelty on a massive scale. Their treatment caused serious bodily and mental harm and was an attack against human dignity of a nature and gravity similar to other crimes in Article 5 of the ECCC Law.

788. The perpetrators deliberately imposed these conditions at Wat Batheay Security Centre either with the intent to inflict serious bodily or mental harm or to commit a serious attack upon human dignity, despite the knowledge that such conditions would cause serious physical or mental suffering and constitute a serious attack upon human dignity.

*Crime against humanity of persecution on political grounds*

789. The crimes of murder and extermination committed against East Zone people, and the crimes of imprisonment, murder, extermination, torture, and other inhumane acts committed against the other categories of people listed below, also amount to the crime against humanity of persecution on political grounds.
790. Many of the people detained and killed at Wat Batheay Security Centre were Central Zone cadres, “17 April people”, people with official positions under the previous government, East Zone people, and their families. These groups were perceived to behave or hold views against or incompatible with the CPK ideals and policies and were therefore considered to be “traitors,” “internal enemies,” and “bad elements”. They were targeted and deprived of fundamental rights, such as personal freedom, physical integrity, and their right to life, because they belonged to these categories. Unlike the rest of the named groups, people from the East Zone appear to have been killed very soon after their arrival without being interrogated, tortured, or detained for a significant period of time; the charge of persecution on political grounds against East Zone people through the underlying offences of torture, imprisonment, and other inhumane acts is therefore dismissed.



*Crime against humanity of persecution on religious grounds*

791. The crimes of murder and extermination committed against the Cham also amount to the crime against humanity of persecution on religious grounds.
792. The Cham killed at Wat Batheay Security Centre were targeted based on their religion and deprived of fundamental rights, such as personal freedom, physical integrity, and their right to life.
793. There is insufficient evidence that the crimes of imprisonment, torture and other inhumane acts were committed against Cham at Wat Batheay. It appears that the Cham brought to Wat Batheay were executed very soon after arrival. Persecution on religious grounds through the underlying offences of imprisonment, torture, and other inhumane acts is therefore not made out.

*Premeditated homicide*

794. The executions at Wat Batheay Security Centre amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.7. Wat Phnom Pros Execution Site***Crime against humanity of murder*

795. The killing of a minimum of 1500 people at Wat Phnom Pros Execution Site between early 1977 and the end of DK amounts to murder as a crime against humanity.

*Crime against humanity of extermination*

796. The mass executions carried out at Wat Phnom Pros Execution Site satisfy the criterion of “*massive scale*” to qualify as extermination as a crime against humanity.
797. The Wat Phnom Pros Execution Site was used to kill as many truckloads of prisoners as efficiently and fast as logistically possible. The executions were thus clearly carried out with the intent to kill on a massive scale.



*Premeditated homicide*

798. The executions at Wat Phnom Pros Execution Site amount to premeditated homicide under Articles 501 and 506 of the 1956 Penal Code.

**8.2.8. Wat Ta Meak Security Centre***Crime against humanity of imprisonment*

799. The detention of people at Wat Ta Meak constitutes imprisonment as a crime against humanity.

800. Many of those detained at Wat Ta Meak were intentionally targeted because of their perceived identity as “17 April people”, Central Zone cadres, and those with connections to the Lon Nol regime. Frequently, whole families were arrested. While detainees were often transferred after a short period at Wat Ta Meak, many were intentionally and arbitrarily detained for several days, weeks or months without any semblance of legal process. Their detention was sufficiently long to satisfy the threshold of gravity required to establish the offence of imprisonment.

*Crime against humanity of murder*

801. At least six prisoners were executed by personnel at or near the Wat Ta Meak compound. These executions constitute murder as a crime against humanity.

*Crime against humanity of extermination*

802. Due to the low number of victims that could be established with sufficient certainty, the executions at Wat Ta Meak do not reach the threshold of killing on massive scale. The possibly more numerous executions at the nearby but separate Tuol Trapeang Lvea site were outside the scope of the judicial investigation and were consequently not charged. The charge of extermination as a crime against humanity must therefore be dismissed.



*Crime against humanity of torture*

803. The mistreatment of prisoners at Wat Ta Meak amounts to torture as a crime against humanity.
804. CPK cadres intentionally caused severe physical pain and suffering during prolonged and repeated interrogation of prisoners. Prisoners were repeatedly beaten with rods, chains and iron plates, or whips. At times the mistreatment was so severe that prisoners “*passed out*”, only to be beaten again when they awoke. The beatings were carried out for the purpose of obtaining information and confessions. The practice also caused severe mental pain and suffering.

*Crime against humanity of other inhumane acts*

805. The inhumane conditions of detention and mistreatment of prisoners at Wat Ta Meak constitute other inhumane acts as a crime against humanity.
806. Some prisoners were shackled day and night, sometimes causing severe injury. There was insufficient food. Prisoners were subjected to extreme physical abuse, particularly during interrogation. This mistreatment violated the right to liberty and security of person, the right against torture or cruel, inhuman or degrading treatment, and the right to due legal process. There is also some evidence that a small number of prisoners were forced to perform labour at Wat Ta Meak.
807. Through this mistreatment of prisoners, the perpetrators intentionally caused serious bodily or mental suffering or injury which constituted a serious attack on human dignity of a nature and gravity similar to the other crimes against humanity under Article 5.

*Crime against humanity of persecution on political grounds*

808. Persecution on political grounds was committed at Wat Ta Meak through the underlying offences of imprisonment, torture, and other inhumane acts.



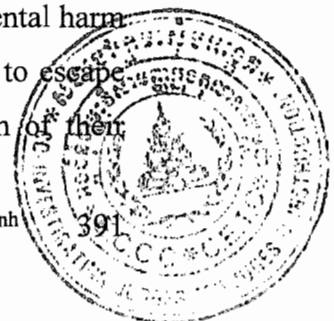
809. There is insufficient evidence regarding the circumstances of killings at Wat Ta Meak to establish persecution through murder or extermination and consequently this part of the charge is dismissed.
810. Perpetrators at the security centre specifically targeted “17 April people”, East Zone people, students and civil servants from the previous regime and families considered to have “*Sihanouk or Lon Nol tendencies*”, Central Zone cadres, and their families. These groups were perceived to behave or hold views against or incompatible with the CPK ideals and policies and were therefore considered to be “*traitors*”, “*internal enemies*”, and “*bad elements*”. As a result of the intentional and discriminatory system of arrest, detention, inhumane conditions and mistreatment, and torture at Wat Ta Meak, members of these groups were denied the right to liberty and security of person, the right to due legal process, and the freedom from torture or cruel, inhuman or degrading treatment.

*Premeditated homicide*

811. The previously described executions at Wat Ta Meak Security Centre also amount to premeditated homicide under Articles 501 and 506 of the Penal Code.

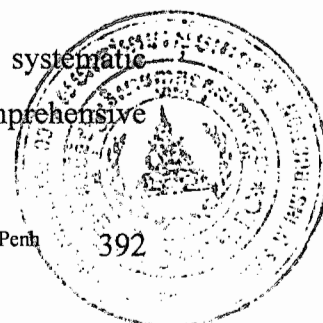
**8.3. Genocide of the Cham**

812. Genocide was committed against the Cham of Kampong Cham Province, a substantial part of the Cham of Cambodia. The Cham are a distinct ethnic and religious group protected by the Genocide Convention.
813. The Cham of Kampong Cham Province constitute a substantial part of the Cham of Cambodia. This conclusion is based on quantitative factors, such as the large proportion and concentration of Cham living in the area, as well as qualitative factors related to their historical prominence.
814. CPK cadres killed a minimum of 17,115 Cham from Kampong Cham Province between the arrival of the Southwest Zone cadres in 1977 and the end of DK.
815. Apart from the killings, CPK cadres also caused serious bodily and mental harm to those Cham who suffered through these experiences yet managed to escape and survive. Witnessing the wholesale displacement and destruction of their



communities and the slaughter of their families and loved ones, combined with the lasting and serious trauma suffered from their own ordeals, is sufficient to reach the threshold of serious bodily or mental harm.

816. It cannot however be concluded that the CPK deliberately inflicted conditions of life calculated to bring about the physical destruction of the Cham population. Like much of Cambodia's population during DK, the Cham were subjected to terrible living and working conditions including forced hard labour and a lack of sufficient food, rest, sanitation, and medical care. Additionally, under threat of death, the Cham were prohibited from practicing Islam, speaking the Cham language, or wearing their traditional clothes, and were forced to eat pork. While these conditions undoubtedly caused great suffering and sought to suppress the Cham people's cultural identity, there is insufficient evidence to support a finding that the conditions imposed upon the Cham were calculated to bring about their physical destruction.
817. The acts of genocide were carried out with the intent to destroy the Cham of Kampong Cham Province. This finding of special intent is based on the extensive evidence of an evolution in CPK policy from one of religious suppression to one of elimination and the resulting pattern and scale of the killing of the Cham population.
818. The Cham were specifically targeted because of their religious and ethnic identity. This conclusion is unavoidable when considering the restrictions that were imposed on the Cham that sought to deny them the very characteristics that defined their group. It is also relevant that members of the group were singled out from their villages and work units and then the men, women, and children were killed indiscriminately soon after capture without any steps being taken to identify who was or was not responsible for any wrongdoing or who opposed the DK regime. This finding is bolstered by the evidence of CPK cadres expressly acknowledging that there was a discriminatory policy against the Cham which ultimately entailed the aim of their physical elimination.
819. The totality of the evidence, the massive scale of the attack, the systematic manner of arrests and executions, and the indiscriminate and comprehensive





targeting of the entire Cham population, from within the context of the CPK administrative structure and its broader policy aims, make it apparent that during the Southwest Zone cadres' administration of the Central Zone, the Cham of Kampong Cham Province were targeted with the specific aim of physically destroying them.

#### **8.4. Legal findings on forced marriage**

##### *Crime against humanity of other inhumane acts through forced marriage and rape*

820. In Kampong Siem and Prey Chhor Districts in Sector 41, between early 1977 and the arrival of the Vietnamese, the CPK conducted forced marriages which in and of themselves caused serious mental harm and suffering to the victims and constituted an attack on their human dignity, amounting to the crime against humanity of other inhumane acts, while in many if not most cases the widespread obligation placed upon newly married couples to engage in sexual intercourse, enforced through direct and indirect threats and subsequent surveillance in those districts adds rape as an even more aggravating factor in the context of the attack on their human dignity.
821. By depriving victims of their fundamental human rights of autonomy and self-determination in deciding whom and when to marry, and of sexual autonomy and bodily integrity in their conjugal relationships, CPK cadres also perpetrated an attack on human dignity. These acts of forced marriage and rape were of a similar nature and gravity to other crimes enumerated under Article 5 of the ECCC Law.
822. The perpetrators carried out these acts of forced marriage and rape deliberately, aware of the severe gravity of their acts and with the knowledge, born out of the shared traditions as Khmer themselves, that these acts would cause serious mental, and in many cases, physical suffering and an attack upon the human dignity of the victims.



## 9. LEGAL FINDINGS ON MODES OF LIABILITY

### 9.1. International crimes

#### 9.1.1. *Commission as a direct perpetrator*

823. **Ao An** committed the crime against humanity of other inhumane acts (forced marriages) by personally presiding over the forced marriages of 10 couples at the Kampong Siem District Office (10 couples); of five women forced to marry disabled men at the Prey Chhor District Logistics Office; of seven couples and 11 couples, respectively, on two occasions at the Sector 41 Office; and of one couple at Wat Ta Meak.

#### 9.1.2. *Commission via joint criminal enterprise*

##### *Crimes committed to implement the JCE common purpose*

824. The evidence discussed in sections 6.1 through 6.3 establishes that, beginning in late 1976 or early 1977 and lasting until at least 6 January 1979, Ke Pauk, **Ao An** and other CPK cadres shared the common purpose of implementing four CPK policies in the Central Zone of DK. These policies were implemented through the commission of the following crimes committed in various constellations at the crime sites described in sections 6.4.1 through 6.4.3 by members of the JCE and by non-members of the JCE being used as tools:

- i. **The establishment and operation of cooperatives and worksites** was implemented through the crimes against humanity of murder, enslavement, and other inhumane acts (enforced disappearances, forced labour, and inhumane conditions of detention).
- ii. **The re-education of ‘bad elements’ and killing of ‘enemies’ both inside and outside the CPK ranks** was implemented through the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts (enforced disappearances, forced labour, physical abuse of prisoners, and inhumane conditions of detention), persecution on political grounds, and persecution on religious grounds.



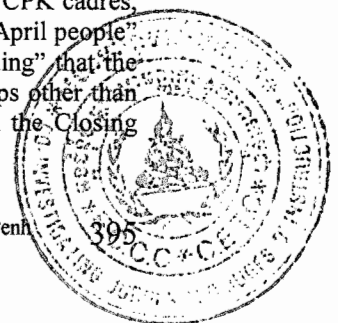
- iii. **The targeting of specific groups, including Central Zone CPK cadres, former officials of the Khmer Republic, “17 April people”, people from the East Zone, the Cham, and their families** was implemented through genocide of the Cham population of Kampong Cham Province, by killing, causing serious bodily or mental harm; and through the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts (enforced disappearances, forced labour, physical abuse of prisoners, and inhumane conditions of detention), persecution on political grounds, and persecution on religious grounds.<sup>2421</sup>
- iv. **The regulation of marriage through, *inter alia*, the forced marriage of the inhabitants of the Central Zone** was implemented through the crime against humanity of other inhumane acts (forced marriages and rape).

*Ao An’s participation in the JCE and intent to further common purpose*

825. **Ao An** became a member of this JCE no later than when he attended a meeting in Phnom Penh with senior leaders of the CPK on his way from the Southwest Zone to the Central Zone at a point in time between late 1976 and February 1977, during which he was instructed by Pol Pot to purge the Central Zone, and remained a member until 6 January 1979.

826. As Sector 41 Secretary, Deputy Central Zone Secretary, and Member of the Central Zone Committee, **Ao An** was aware of all CPK activities in his sector and zone. This knowledge was obtained through meetings and the system of communication and reporting he maintained with his superiors and subordinates. **Ao An** was the primary person responsible for implementing CPK policy in Sector 41 and thus fully aware that implementing the four CPK policies was to be achieved through the charged crimes. With that knowledge, he continued to use his authority and power to actively contribute to the implementation of each policy.

<sup>2421</sup> During the Further Appearance, Ao An was advised through his Co-Lawyers that there was clear and consistent evidence that a joint criminal enterprise existed which involved, *inter alia*, the common purpose to implement the CPK policy to target “specific groups, including Central Zone CPK cadres, former officials of the Khmer Republic, Cham ethnics, and their families.” Although “17 April people” and “East Zone people” are not specifically referred to, it is clear from the word “including” that the list was not intended to be exclusive. The defence were thus on notice that specific groups other than those listed may become part of the particularisation of the joint criminal enterprise in the Closing Order.



827. As detailed in section 6.3.4.1, **Ao An** made a significant contribution to the policy on worksites and cooperatives by, *inter alia*, convening meetings with his subordinates and instructing them on how to implement CPK economic policy, supervising and inspecting worksites, overseeing and monitoring construction and production, controlling and mobilizing the workforce and resources for the operation of worksites and cooperatives, announcing that people who failed to complete their work satisfactorily would be considered enemies and, by implication, killed, and ordering his subordinates to kill people who complained about their living and working conditions. Further, this demonstrates his intent to implement the policy on worksites and cooperatives through the crimes against humanity of enslavement, murder, and other inhumane acts (enforced disappearances, forced labour, and inhumane conditions of detention).
828. As detailed in section 6.3.4.2, **Ao An** made a significant contribution to the CPK policy on killing enemies by, *inter alia*, participating in meetings of the Central Zone Committee to plan the purge of the Central Zone; identifying enemies to be purged; ordering arrests and killings; convening meetings with his subordinates about the purge operation and ordering them to be constantly vigilant in carrying out arrests and killings; monitoring the implementation of the purge; providing logistical support to the purge operation; using the Sector 41 Office as a key operational hub for purge activities including detention, interrogation, torture, transportation and killing; and coordinating a network of security centres and killing sites through which prisoners were routinely identified, screened, interrogated, tortured, and killed. This, along with his multiple attestations expressing his commitment to carry out the plans of “*Angkar*”, demonstrates his intent to implement the policy to destroy enemies through the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts (enforced disappearances, forced labour, physical abuse of prisoners, and inhumane conditions of detention), persecution on political grounds, and persecution on religious grounds.
829. As detailed in section 6.3.4.3, **Ao An** made a significant contribution to the CPK policy targeting specific groups, including Central Zone CPK cadres, former officials of the Khmer Republic, “*17 April people*”, people from the East Zone, the Cham, and their families, by, *inter alia*, denouncing these groups as



traitors, ordering them to be identified, arrested and killed, and leading the purge of these specific groups in Sector 41. Furthermore, this demonstrates his intent to implement the policy to target these groups through the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts (enforced disappearances, forced labour, physical abuse of prisoners, and inhumane conditions of detention), persecution on political grounds, and persecution on religious grounds.

830. **Ao An** shared the special intent to destroy the Cham of Kampong Cham Province through the underlying acts of killing members of the Cham population and causing them serious bodily or mental harm. He ordered the district secretaries in Sector 41 to compile lists of the Cham population and ordered all the Cham to be arrested and killed. He ordered mass arrests of Cham people on multiple occasions and monitored the progress of the killing operation through reports provided to him. That he intended to destroy the Cham is further demonstrated by the massive scale and pattern of the killing operation carried out on his orders. Toward the end of DK, he ordered a redoubling of efforts that any remaining Cham were to be identified and listed, and required an enhanced level of diligence in preparing the lists, thus showing his continued commitment and determination to annihilate the Cham population. Although **Ao An** granted Prak Yut's request to spare a Cham girl under her care, this isolated act does not undermine his intent to destroy the Cham as a group. To the contrary, that a special exemption was needed from **Ao An** to spare the life of even a single Cham person, on the one hand, is further evidence of his intent that the Cham were otherwise to be eliminated and, on the other hand, granting personal favours and exceptions from an otherwise rigid policy of destruction is a well-known and historically settled common occurrence in authoritarian systems.
831. As detailed in section 6.3.4.4, **Ao An** made a significant contribution to the CPK policy on forced marriage by, *inter alia*, disseminating the policy on marriage and the need to increase the population through his speeches at meetings, approving and presiding over marriage ceremonies, and promulgating the rule whereby couples were required to consummate their marriages regardless of their consent. This also demonstrates his intent to implement the



policy through the crime against humanity of other inhumane acts (forced marriages and rape).

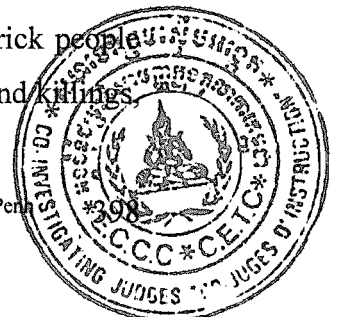
### 9.1.3. *Planning*

#### *Worksite (Anlong Chrey Dam)*

832. **Ao An** planned the crimes of murder, enslavement, and other inhumane acts at Anlong Chrey Dam between late 1977 to mid or late 1978, by organizing, overseeing, and maintaining a system of forced labour of workers under inhumane conditions at the worksite, including the killing of workers deemed to be enemies, and by, *inter alia*, mobilising the workforce and resources from various districts in Sector 41, delegating senior Sector 41 cadres to oversee its construction, giving instructions regarding production targets, and warning that those who failed to complete their task would be considered enemies. By this, **Ao An** substantially contributed to the crimes of murder, enslavement, and other inhumane acts. Given **Ao An**'s complete authority over the construction of the dam and his frequent visits to the site, the only reasonable inference is that **Ao An** intended for these crimes to be committed.

#### *Security centres and execution sites*

833. **Ao An** planned the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts, and persecution on political and religious grounds, committed in various constellations, at Kok Pring Execution Site, Met Sop Security Centre, Tuol Beng and Wat Angkuonh Dei Security Centres, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, and Wat Ta Meak Security Centre. By early 1977 and until the end of DK, **Ao An** organised, oversaw, and maintained a system of security centres and execution sites in Sector 41 for the purpose of detaining, torturing, and killing groups perceived to be enemies of the CPK, and subjecting them to inhumane conditions of confinement. **Ao An** attended zone-level and sector-level meetings to plan the purge and implementation of the CPK's policies. **Ao An** personally identified "*enemies*" to be purged, devised schemes to trick people in order to arrest them, ordered his subordinates to carry out arrests and killings,



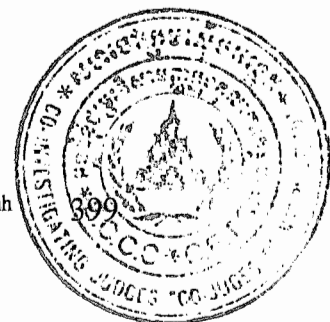
monitored the implementation of the purge, provided logistical support, and used the Sector 41 Office as a key operational hub for purge activities. Thus **Ao An** substantially contributed to the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts, and persecution on political and religious grounds and showed his intention to discriminate on political and religious grounds.

#### *Forced marriage*

834. **Ao An** planned the crime against humanity of other inhumane acts through forced marriages and rape in Kampong Siem and Prey Chhor Districts. As Central Zone Deputy Secretary and Sector 41 Secretary, **Ao An** oversaw the implementation of CPK policy to force people to marry a spouse chosen by “*Angkar*” and, in many cases, compelling the couple to consummate their marriage against their will. **Ao An** disseminated the policy on marriage and the need to increase the population through his speeches at meetings, approved and presided over marriage ceremonies, and promulgated the rule whereby couples were required to consummate their marriages regardless of their consent. **Ao An** thereby intentionally and substantially contributed to the crime against humanity of other inhumane acts.

#### *Genocide*

835. **Ao An** planned the genocide of the Cham of Kampong Cham Province by ordering the district secretaries in Sector 41 to compile lists of the Cham population and ordering all the Cham to be arrested and killed. **Ao An** also monitored the progress of the killing operation through reports provided to him. **Ao An** thus intentionally and substantially contributed to the crime of genocide. **Ao An** also shared the special intent to destroy the Cham of Kampong Cham Province through the underlying acts of killing members of the Cham population and causing those who survived serious bodily or mental harm.



#### 9.1.4. Ordering

##### *Worksite (Anlong Chrey Dam)*

836. The direct and complete authority which **Ao An** exercised over the Anlong Chrey Dam worksite, coupled with his regular visits and meetings at the site, strongly indicates that **Ao An** ordered his subordinates at the site to commit the crimes against humanity of enslavement and other inhumane acts, which substantially contributed to the commission of those crimes. **Ao An**'s warning that those who fail to achieve the required production targets would be considered "*enemies*", a designation typically resulting in being killed, also makes it the only reasonable inference that **Ao An** ordered the authorities at the site to commit the crime against humanity of murder.

##### *Security centres and execution sites*

837. **Ao An** ordered the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts, and persecution on political and religious grounds, committed in various constellations, at Kok Pring Execution Site, Met Sop Security Centre, Tuol Beng and Wat Angkuonh Dei Security Centres, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, and Wat Ta Meak Security Centre. Between early 1977 until the end of DK, **Ao An** ordered his subordinates to identify, arrest, and kill groups perceived to be enemies of the CPK by processing them through a system of security centres and execution sites in Sector 41 where they were detained under violent and inhumane conditions, tortured, and killed. In addition, **Ao An**'s complete control over the security apparatus in Sector 41 leaves the only reasonable inference that the perpetrators acted pursuant to orders from **Ao An** even where there is no direct evidence of a specific order related to individual incidents. Through his orders, **Ao An** intentionally and substantially contributed to the commission of the above crimes.

##### *Forced marriage*

838. **Ao An** ordered the crime against humanity of other inhumane acts through forced marriage and rape in Kampong Siem and Prey Chhor Districts. **Ao An**





ordered his subordinates to arrange marriages between inhabitants of Sector 41. Additionally, **Ao An** ordered individual forced marriages by approving lists of proposed pairings submitted by his subordinates. Finally, **Ao An** ordered his subordinates to ensure married couples consummated the marriage in order to conceive children for national progress. **Ao An** thereby intentionally and substantially contributed to the crime against humanity of other inhumane acts.

### *Genocide*

839. **Ao An** ordered the genocide of the Cham of Kampong Cham Province by ordering the district secretaries in Sector 41 to compile lists of the Cham population and then ordering all the Cham to be arrested and killed, and thus intentionally and substantially contributed to the crime of genocide. **Ao An** also shared the special intent to destroy the Cham of Kampong Cham Province through the underlying acts of killing members of the Cham population and causing serious bodily or mental harm to those who survived.

#### **9.1.5. Instigating**

##### *Worksite (Anlong Chrey Dam)*

840. **Ao An** instigated the crimes of murder, enslavement, and other inhumane acts at Anlong Chrey Dam between late 1977 to mid or late 1978 by giving instructions regarding production targets, and warning that those who failed to complete their task would be considered enemies. During **Ao An**'s frequent visits to the Anlong Chrey Dam worksite he did nothing to alleviate or address the miserable conditions to which the workers were subjected, which encouraged the authorities to continue the mistreatment of workers. By these acts and omissions, **Ao An** prompted the perpetrators to enslave the workers, forcing them to work under inhumane conditions, and to periodically kill workers at the Anlong Chrey Dam worksite, and thus substantially contributed to the crimes of murder, enslavement, and other inhumane acts. Given **Ao An**'s complete authority over the construction of the dam and his frequent visits to the site, the inference is inescapable that **Ao An** intended for these crimes to be committed.



*Security centres and execution sites*

841. **Ao An** instigated the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts, and persecution on political and religious grounds committed in various constellations at Kok Pring Execution Site, Met Sop Security Centre, Tuol Beng and Wat Angkuonh Dei Security Centres, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, and Wat Ta Meak Security Centre. In regular meetings, **Ao An** urged his subordinates to maintain constant vigilance against and arrest all enemies. **Ao An** also authorised his direct subordinates to identify, arrest, and kill “enemies” themselves. In the context of a system of security centres and execution sites in Sector 41 geared towards detaining, torturing, and executing groups perceived to be enemies of the CPK, and subjecting them to cruel conditions of confinement, as well as **Ao An**’s complete authority over and knowledge of the security centres and execution sites in Sector 41, it can be inferred that the perpetrators were substantially prompted by **Ao An**’s instigation and that **Ao An** intended the commission of the above crimes.

*Forced marriage*

842. **Ao An** instigated the crime against humanity of other inhumane acts committed through forced marriages and rape in Kampong Siem and Prey Chhor Districts. **Ao An** urged his subordinates to arrange marriages between inhabitants of Sector 41, approved lists of proposed pairings submitted by his subordinates, and told his subordinates to ensure married couples consummated the marriage in order to produce children for national progress. By his words and actions, **Ao An** intentionally prompted the perpetrators to forcibly marry people in Kampong Siem and Prey Chhor Districts and coerce them to consummate the marriage. **Ao An** thus substantially contributed to the crime against humanity of other inhumane acts.

*Genocide*

843. **Ao An** instigated the genocide of the Cham of Kampong Cham Province by instructing district secretaries in Sector 41 to compile lists of all the Cham in



their respective districts and subsequently arrest and kill them. By these acts, **Ao An** intentionally and substantially contributed to the crime of genocide. **Ao An** also shared the special intent to destroy the Cham of Kampong Cham Province through the underlying acts of killing members of the Cham population and causing serious bodily or mental harm to those who survived.

#### **9.1.6. Superior responsibility**

##### *Worksite (Anlong Chrey Dam)*

844. **Ao An** was Secretary of Sector 41 and as such had *de jure* and *de facto* authority over personnel at the Anlong Chrey Dam worksite, which gave him the material ability to prevent and punish crimes committed by perpetrators at the site. **Ao An** failed to do either. **Ao An** visited the site regularly and had full knowledge of the inhumane conditions to which the workers were exposed, a situation which he himself intentionally contributed to. **Ao An** thus knew that the crimes against humanity of murder, enslavement, and other inhumane acts were continuously being committed by his subordinates at the Anlong Chrey Dam worksite. Despite his regular visits to the site, **Ao An** took no steps to prevent the commission of the above crimes by his subordinates, nor is there any evidence that **Ao An** punished the personnel over whom he had effective control. To the contrary, **Ao An** actively contributed to the crimes carried out at the site.

##### *Security centres and execution sites*

845. **Ao An** is criminally responsible for failing to prevent or punish the crimes against humanity of imprisonment, murder, extermination, torture, other inhumane acts, and persecution on political and religious grounds, committed by his subordinates in various constellations at Kok Pring Execution Site, Met Sop Security Centre, Tuol Beng and Wat Angkuonh Dei Security Centres, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, and Wat Ta Meak Security Centre. Each of these sites was in Sector 41 with a chain of command leading to **Ao An**, who had both *de jure* and *de facto* control over the personnel. **Ao An** received regular reports appraising him of the crimes committed at these



sites, yet failed to punish the perpetrators or prevent the continued commission of crimes.

846. There is insufficient evidence to establish that **Ao An** had effective control over the personnel at Wat Phnom Pros Execution Site. **Ao An** is therefore not liable as a superior for murder and extermination at this site.

#### *Forced marriage*

847. **Ao An** is responsible as a superior for the crime against humanity of other inhumane acts through forced marriages and rape in Kampong Siem and Prey Chhor Districts. CPK cadres under the effective control of **Ao An**, both *de jure* and *de facto*, forcibly married people in Kampong Siem and Prey Chhor Districts and coerced them into consummating the marriage. **Ao An** knew of the pervasive practice of forced marriage and rape committed by CPK cadres under his control, yet failed to take any measures to prevent the commission of these crimes; nor did he punish the perpetrators.

#### *Genocide*

848. **Ao An** is responsible as a superior for the crime of genocide, committed by **Ao An**'s subordinates within Sector 4. **Ao An** failed to prevent the destruction of the Cham in Sector 41 and took no steps to punish the perpetrators, over whom he had *de facto* and *de jure* control. **Ao An** knew that his subordinates were committing genocide with the special intent to destroy the Cham of Kampong Cham Province through the underlying acts of killing members of the Cham population and causing serious bodily or mental harm to those who survived.
849. There is insufficient evidence that **Ao An** had effective control over the perpetrators of genocide in Sector 42 and Sector 43. **Ao An** is therefore not liable as a superior for acts of genocide in those sectors.



## 9.2. Domestic Crimes

### 9.2.1. Co-perpetration

850. **Ao An** is liable as a co-perpetrator for the crime of premeditated homicide committed at the Anlong Chrey Dam worksite, Kok Pring Execution Site, Met Sop Security Centre, Tuol Beng and Wat Angkuonh Dei Security Centres, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, Wat Phnom Pros Execution Site, and Wat Ta Meak Security Centre. **Ao An**, together with others, directly and intentionally participated in the perpetration of premeditated homicide by identifying enemies to be purged, ordering his subordinates to kill people who complained about their living and working conditions, and coordinating the network of security centres through which prisoners were identified, arrested and killed.

### 9.2.2. Planning and ordering

851. For the reasons set out above in sections 9.1.3 and 9.1.4, **Ao An** is also liable for planning and ordering the crime of premeditated homicide committed at Tuol Beng and Wat Angkuonh Dei, Wat Au Trakuon Security Centre, Wat Batheay Security Centre, and Wat Ta Meak Security Centre.

## 10. DURESS

852. **Ao An** allegedly told his former bodyguard that he would be killed if he did not implement the CPK plans. This statement, which raises the general issue of a possible defence of duress, is, however, no more than consistent with the general coercive environment in DK across all ranks and levels of the hierarchy, as the CIJs found in the *Closing Order (Reasons)* in Case 004/1,<sup>2422</sup> and it is so generic that, even if it was said, without further detail it would not rise to the standard required for duress as a defence, regardless of the fact that the defence

<sup>2422</sup> Case File No. 004/1-D308/3, *Closing Order (Reasons)*, 10 July 2017, para. 41.



would fail in any event because of **Ao An**'s voluntary association with the DK regime.<sup>2423</sup>

## 11.DECISION ON PRE-TRIAL DETENTION

853. Although I have found that there are sufficient charges to commit **Ao An** for trial, I do not consider his detention pending trial a necessary measure to avert any of the risk factors under IR 63(3)(b). **Ao An** has known for years that he is under investigation and has cooperated with the CIJs throughout the judicial investigation. There is no indication that he may flee the jurisdiction, exert pressure on any witnesses or victims, or interfere with the judicial process in any other way. Neither do concerns for **Ao An**'s security or the preservation of public order justify a detention order.

854. A further reason against ordering detention at this time is the procedural uncertainty resulting from the opposing closing orders, as a result of which it is unclear under Internal Rule 77(13) whether the indictment will stand should there be no super-majority upon appeal in the Pre-Trial Chamber.

## 12.TERMINATION ORDER UNDER RULE 66BIS

I **TERMINATE** the judicial investigation concerning the facts excluded in the Rule 66bis Decision, set out in paragraph 5.

<sup>2423</sup> For national crimes, duress is a defence under Articles 96 to 98 of the 1956 Penal Code. For international crimes, the Trial Chamber and SCC considered duress to be relevant only as a mitigating factor at sentencing, and applied the standard for duress set by the ICTY Trial Chamber in *Prosecutor v. Erdemović*. See Case 001-E188, *Judgement*, 26 July 2010, para. 608; Case 001-F28, *Appeal Judgement*, 3 February 2012, para. 364, citing *Prosecutor v. Erdemović*, Sentencing Judgement, ICTY Trial Chamber (IT-96-22-T), 29 November 1996, para. 18.



## 13.PARTIAL DISMISSAL ORDER

The following charges are **DISMISSED**:

1. **Deliberately inflicting conditions of life calculated to bring about physical destruction, as an underlying act of genocide against the Cham.**
2. **Crimes Against Humanity:**

### **Kok Pring Execution Site**

- persecution on political grounds against former Lon Nol soldiers through the underlying offences of extermination and murder;

### **Met Sop Security Centre**

- persecution on political grounds against former Lon Nol soldiers through the underlying offences of murder, torture, imprisonment, and other inhumane acts;

### **Tuol Beng and Wat Angkuonh Dei Security Centres**

- persecution on political grounds through the underlying offences of extermination and murder;
- persecution on religious grounds through the underlying offences of imprisonment and other inhumane acts;

### **Wat Au Trakuon Security Centre**

- persecution on religious grounds through the underlying offence of torture;

### **Wat Batheay Security Centre**

- persecution on political grounds against East Zone people through the underlying offences of torture, imprisonment, and other inhumane acts;



- persecution on religious grounds through the underlying offences of torture, imprisonment, and other inhumane acts;

**Wat Ta Meak Security Centre**

- extermination;
- persecution on political grounds through the underlying offences of extermination and murder.





## 14.INDICTMENT

### Ao An

- birth name recorded as Oam Yoeung or Ao Yoeung;
- born in 1933 in Taing Svay Village, Peam Commune, Kampong Tralach District, Kampong Chhnang Province;
- [REDACTED]:

[REDACTED],  
[REDACTED],  
[REDACTED],  
[REDACTED].

### IS INDICTED AND COMMITTED FOR TRIAL FOR THE FOLLOWING CRIMES

#### COUNT 1: GENOCIDE

Against the Cham of Kampong Cham Province by

- killing members of the group, and
- causing serious bodily or mental harm to members of the group,

through commission via Joint Criminal Enterprise (“JCE”); in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 590 through 677

punishable under Articles 4, 29 and 39 of the ECCC Law.



**COUNT 2:**  
**CRIMES AGAINST HUMANITY**

**1. Anlong Chrey Dam Forced Labour Site**

- Murder,
- enslavement,
- other inhumane acts,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paras. paragraphs 157 through 355

punishable under Articles 5, 29 and 39 of the ECCC Law.

**2. Kok Pring Execution Site**

- Extermination,
- murder,
- persecution on political grounds against Central Zone cadres and “17 April people”, through the underlying offences of extermination and murder, and
- persecution on religious grounds against the Cham, through the underlying offences of extermination and murder,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 356 through 384

punishable under Articles 5, 29 and 39 of the ECCC Law.



### 3. Met Sop Security Centre

- Murder,
- torture,
- imprisonment,
- other inhumane acts, and
- persecution on political grounds against Central Zone cadres and “17 April people”, through the underlying offences of murder, torture, imprisonment and other inhumane acts,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 385 through 411

punishable under Articles 5, 29 and 39 of the ECCC Law.

### 4. Tuol Beng and Wat Angkuonh Dei Security Centres

- Extermination,
- murder,
- imprisonment,
- other inhumane acts,
- persecution on political grounds against “17 April people”, Central Zone cadres, people with connections to the Lon Nol regime, and their families through the underlying offences of imprisonment and other inhumane acts, and
- persecution on religious grounds against the Cham, through the underlying offences of extermination and murder,



through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 412 through 455

punishable under Articles 5, 29 and 39 of the ECCC Law.

## 5. Wat Au Trakuon Security Centre

- Extermination,
- murder,
- torture,
- imprisonment,
- other inhumane acts,
- persecution on political grounds against “17 April people”, former Lon Nol soldiers, Central Zone cadres, and their families, through the underlying offences of extermination, murder, torture, imprisonment and other inhumane acts, and
- persecution on religious grounds against the Cham, through the underlying offences of extermination, murder, imprisonment and other inhumane acts,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 456 through 491

punishable under Articles 5, 29 and 39 of the ECCC Law.



## 6. Wat Batheay Security Centre

- Extermination,
- murder,
- torture,
- imprisonment,
- other inhumane acts,
- persecution on political grounds against East Zone people, through the underlying offences of extermination and murder,
- persecution on political grounds against Central Zone cadres, “17 April people”, people with official positions under the previous government, and their families, through the underlying offences of extermination, murder, torture, imprisonment and other inhumane acts, and
- persecution on religious grounds against the Cham through the underlying offences of extermination and murder,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 492 through 536

punishable under Articles 5, 29 and 39 of the ECCC Law.

## 7. Wat Phnom Pros Execution Site

- Extermination, and
- murder,

through commission via JCE,

based on the facts as set out in paragraphs 157 through 319 and 537 through 555

punishable under Articles 5, 29 and 39 of the ECCC Law.



## 8. Wat Ta Meak Security Centre

- Murder,
- torture,
- imprisonment,
- other inhumane acts, and
- persecution on political grounds against “17 April people”, Central Zone cadres, their families, East Zone people, and students and civil servants from the previous regime and families considered to have “*Sihanouk or Lon Nol tendencies*”, through the underlying offences of torture, imprisonment and other inhumane acts,

through commission via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 556 through 589

punishable under Articles 5, 29 and 39 of the ECCC Law.

## 9. Forced Marriage in Kampong Siem and Prey Chhor Districts, Sector 41

- Other inhumane acts,

through commission as a direct perpetrator and via JCE; in the alternative, through planning, ordering, or instigating; and in the further alternative, through superior responsibility,

based on the facts as set out in paragraphs 157 through 319 and 678 through 696

punishable under Articles 5, 29 and 39 of the ECCC Law.



**COUNT 3:  
VIOLATIONS OF THE 1956 PENAL CODE**

- Premeditated homicide,


committed at the following sites through the listed modes of liability:

1. Anlong Chrey Dam Forced Labour Site via commission (co-perpetration),
2. Kok Pring Execution Site via commission (co-perpetration),
3. Met Sop (Kor) Security Centre via commission (co-perpetration),
4. Tuol Beng and Wat Angkuonh Dei via commission (co-perpetration) and, in the alternative, planning or ordering,
5. Wat Au Trakuon Security Centre via commission (co-perpetration) and, in the alternative, planning or ordering,
6. Wat Batheay Security Centre via commission (co-perpetration) and, in the alternative, planning or ordering,
7. Wat Phnom Pros Execution Site via commission (co-perpetration),
8. Wat Ta Meak Security Centre via commission (co-perpetration) and, in the alternative, planning or ordering,

based on the facts as set out in paragraphs 157 through 589

punishable under Articles 3(new), 29 and 39 of the ECCC Law and Articles 501 and 506 of the 1956 Penal Code.

Dated: 16 August 2018, Phnom Penh



**Judge Michael Bohlander**  
**សម្រេងក្រុងស៊ែបអឌ្ឍតអន្តរជាតិ**

**International Co-Investigating Judge  
Co-juge d'instruction internationale**