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Chambres extraordinaires au sein des tribunaux cambodgiens

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Judge Marcel LEMONDE
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We, **You Bunleng (ឃុំ ប៊ុនហ្គុន)** and **Marcel Lemonde**, Co-Investigating Judges of the Extraordinary Chambers in the Courts of Cambodia (the “ECCC”);

Noting the Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia, dated 27 October 2004 (the “ECCC Law”);

Noting Rules 55, 66 and 67 of the ECCC Internal Rules (the “Internal Rules”);

Noting the judicial investigation relating to charges of **Crimes against humanity, Grave breaches of the Geneva Conventions dated 12 August 1949, Genocide, Murder, Torture and Religious persecution**, offences defined and punishable under Articles 3, 4, 5, 6, 29 (new) and 39 (new) of the ECCC Law, and 209, 210, 500, 501, 503 to 508 of the 1956 Penal Code, against:

- **Nuon Chea**, male, born on 7 July 1926,
In detention (Provisional Detention Order dated 19 September 2007 (C9); Orders on Extension of Provisional Detention, dated 16 September 2008 (C9/3) and 15 September 2009 (C9/6);
- **Ieng Sary**, male, born on 24 October 1925,
In detention (Provisional Detention Order dated 14 November 2007 (C22); Orders on Extension of Provisional Detention, dated 10 November 2008 (C22/4) and 10 November 2009 (C22/8);
- **Ieng Thirith**, female, born on 10 March 1932,
In detention (Provisional Detention Order dated 14 November 2007 (C20); Orders on Extension of Provisional Detention, dated 10 November 2008 (C20/4) and 10 November 2009 (C20/8);
- **Khieu Samphan**, male, born on 27 July 1931,
In detention (Provisional Detention Order dated 19 November 2007 (C26); Orders on Extension of Provisional Detention, dated 18 November 2008 (C26/4) and 18 November 2009 (C26/8);

Noting the Co-Prosecutors’ Introductory Submission dated 18 July 2007 (D3);

Noting the Separation Order dated 19 September 2007 (D18);

Noting the Co-Prosecutors’ Supplementary Submissions dated 26 March 2008 (D83); 13 August 2008 (D98/I); 30 April 2009 (D146/3); 31 July 2009 (D196); 5 November 2009 (D146/4); 26

November 2009 (D146/5) and the “Clarification of Allegations Regarding Five Security Centres and Execution Sites Described in the Introductory Submission”, dated 11 September 2009 (D202);

Noting the Notice of Conclusion of Judicial Investigation dated 14 January 2010 (D317);

Noting the Forwarding Order dated 19 July 2010 (D385);

Noting the Co-Prosecutors’ Final Submission dated 16 August 2010 (D390);

Noting Ieng Sary's Response to the Co-Prosecutors' Rule 66 Final Submission and Additional Observations dated 1st September 2010 (D390/1/2/1.3);

Noting the Dismissal Order issued on 14 September 2010 in respect of KAING Guek Eav alias Duch (D420);

Considering that the judicial investigation reveals the following facts:

INTRODUCTION

I. CREATION OF THE ECCC

1. Following an official request for assistance by the Kingdom of Cambodia on 21 June 1997,¹ the United Nations and the Royal Government of Cambodia signed an Agreement on 6 June 2003 with a view to the trial of senior leaders of Democratic Kampuchea and those most responsible for the national and international crimes committed in Democratic Kampuchea between 17 April 1975 and 6 January 1979 (“ECCC Agreement”).²
2. The ECCC was established within the Cambodian judicial system following the promulgation of the “Law on the Establishment of Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed During the Period of Democratic Kampuchea” (“ECCC Law”).³ It was officially inaugurated on 3 July 2006.

II. PROCEDURAL BACKGROUND

3. On 10 July 2006, the Co-Prosecutors initiated a preliminary investigation into the crimes that may have been committed by the leaders of Democratic Kampuchea and those most responsible, during the period from 17 April 1975 and 6 January 1979. On 18 July 2007, they filed an Introductory Submission pursuant to Internal Rule 53 containing allegations against five suspects (**Nuon Chea**, **Ieng Sary**, **Ieng Thirith**, **Khieu Samphan** and Kaing Guek Eav alias Duch)⁴ for alleged criminal acts committed in numerous locations. The Case File was then transferred to the Office of the Co-Investigating Judges (OCIJ) to undertake a judicial investigation under Internal Rule 55.
4. On 31 July 2007, Duch was detained by order of the Co-Investigating Judges and transferred to the ECCC Detention Centre. In the course of the judicial investigation he was charged with crimes against humanity and grave breaches of the Geneva Conventions of 12 August 1949.⁵
5. On 19 September 2007, the Co-Investigating Judges ordered the separation of the Case File concerning Duch’s responsibility in respect to S-21.⁶
6. Also on 19 September 2007, **Nuon Chea** was detained by order of the Co-Investigating Judges and transferred to the ECCC detention facility. In the course of the judicial investigation he was charged with crimes against humanity, grave breaches of the Geneva

Conventions of 12 August 1949, genocide and crimes under the 1956 Penal Code of Cambodia.⁷

7. On 14 November 2007, **Ieng Sary** was detained by order of the Co-Investigating Judges and transferred to the ECCC detention facility. In the course of the judicial investigation he was charged with crimes against humanity, grave breaches of the Geneva Conventions of 12 August 1949, genocide and crimes under the 1956 Penal Code of Cambodia.⁸
8. On 14 November 2007, **Ieng Thirith** was detained by order of the Co-Investigating Judges and transferred to the ECCC detention facility. In the course of the judicial investigation she was charged with crimes against humanity, grave breaches of the Geneva Conventions of 12 August 1949, genocide and violations of the 1956 Penal Code of Cambodia.⁹
9. On 19 November 2007, **Khieu Samphan** was detained by order of the Co-Investigating Judges and transferred to the ECCC detention facility. In the course of the judicial investigation he was charged with crimes against humanity, grave breaches of the Geneva Conventions of 12 August 1949, genocide and violations of the 1956 Penal Code of Cambodia.¹⁰
10. In the course of the judicial investigation, the Victims Support Section submitted 4,128 Civil Party applications to the Co-Investigating Judges. Later, one hundred and four (104) Civil Party applicants requested to change their mode of participation to that of complainants; 11 applicants withdrew their applications; 19 duplicate Civil Party applications were found to have been filed; and 6 Civil Party applications were re-submitted at the victims' request. Accordingly, the Co-Investigating Judges have issued orders in respect of the admissibility of a total of 3,988 applications pursuant to Internal Rules 23 and 23 *bis*¹¹. In so doing, they noted that 18 applicants had deceased after having filed their application.
11. Nearly 40% of the applicants live in the provinces of Kampot, Kampong Cham, Kandal and Kampong Speu. In addition to those in Cambodia, 133 applicants reside abroad, mainly in the United States and France. More than 60% of all the Civil Party applicants are women. Half of the applicants were between the ages of 18 and 35 on 17 April 1975; more than one third were minors at the relevant time, and 24 were born after the fall of the Democratic Kampuchea regime.¹² 82 per cent of the Civil Party applications were filed with the assistance of intermediaries, including associations and non-governmental organizations; more than half of these were filed by the *Association des droits de l'homme au Cambodge* (ADHOC).¹³

12. 2,123 Civil Parties were admitted by the Co-Investigating Judges¹⁴. Certain applications were declared inadmissible, essentially for the reason that the victims had suffered harm that was not directly related to the factual circumstances set out in the Introductory and Supplementary Submissions. All of the inadmissible applications were, however, kept on the Case File in the form of Complaints, where they join the 4,151 victims' complaints already placed on the Case File by the Co-Prosecutors. Thus, there are 6,274 Complaints at the disposal of the parties, for their information. This figure is provisional, as a number of the Co-Investigating Judge's admissibility orders are under appeal.
13. On 14 January 2010, the Co-Investigating Judges informed the parties that they considered the judicial investigation had been concluded.¹⁵ The parties then filed a number of requests under Internal Rule 66(1). The Co-Investigating Judges undertook the action requested, or rejected the requests by issuing Rule 66(2) orders. On 15 July 2010, the Pre-Trial Chamber advised that it had disposed of all the appeals filed with the Pre-Trial Chamber against orders by the Co-Investigating Judges.¹⁶ By order dated 19 July 2010, the Case File was transferred to the Office of the Co-Prosecutors (OCP) for the purpose of their final submission under Internal Rule 66(4).¹⁷
14. On 16 August 2010, the Co-Prosecutors filed their Final Submission, in which they requested the Co-Investigating Judges to indict **Nuon Chea, Ieng Sary, Ieng Thirith** and **Khieu Samphan** and send them for trial for genocide, crimes against humanity, grave breaches of the Geneva Conventions of 12 August 1949 and crimes under the 1956 Penal Code of Cambodia.¹⁸
15. In an Additional Submission filed the same day, the Co-Prosecutors requested the Co-Investigating Judges to issue a dismissal order in respect of Duch.¹⁹ The Co-Investigating Judges issued a separate order on this issue on 14 September 2010.²⁰
16. Finally on 1 September 2010, **Ieng Sary** filed a Response to the Co-Prosecutors' Final Submission.²¹ Since this response exceeded the permissible number of pages, it was rejected by the Co-Investigating Judges pursuant to Article 5(1) of the Practice Direction on Filing Documents before the ECCC²². **Ieng Sary** then filed an appeal,²³ decided upon by the Pre-Trial Chamber on 10 September 2010, which ordered the placement of the Response on the Case File, indicating that "*a reasoned decision in respect of the Appeal shall follow in due course*".²⁴

*

17. In addition to the documents the Prosecutors filed in support of their Introductory Submission, the records on the Case File include: 46 written records of interview of the Charged Persons, more than 1,000 written records of interview of witnesses and civil parties, 36 site identification reports, one demographic expert report, numerous medical expertise reports, and more than 11,600 substantive documents placed on the Case File by the Co-Investigating Judges, the Co-Prosecutors, the Charged Persons, the Civil Parties and their lawyers, representing a total of more than 350,000 pages, including 223,000 pages relating to the facts of the cause.

PART ONE: FACTUAL FINDINGS

I. HISTORICAL BACKGROUND

18. The existence of the Communist Party of Kampuchea (CPK) was not officially announced until September 1977, when the party had already been in power for more than two years (it appears that the term “*Angkar*”, which had been in use since the 1940s meant “*Organization*”, and described the Party as a whole but also the leaders at different levels, without further specificity). However, groups espousing communist ideology had been in existence in Cambodia for many years beforehand. Despite the fact that the party has had a tendency to re-write its own history,²⁵ it is possible to ascertain its development through a number of key dates of relevance to the judicial investigation.²⁶
19. One of the first communist organizations in the region was the Indochinese Communist Party (ICP), which was strongly influenced by Vietnamese communists and founded in 1930. The party was officially dissolved in 1951 and its former members were supposed to establish separate revolutionary organizations for each country. The new party created in Cambodia was the Khmer People’s Revolutionary Party (“KPRP”), which tried to dominate the *Issarak* groups fighting for independence.²⁷ Independence was finally proclaimed in 1953 and recognized at the 1954 Geneva Conference.
20. Official CPK documents and statements, post-17 April 1975, identify the 1960 Congress, at which the KPRP became a “Workers Party”,²⁸ as the real starting point of the Cambodian communist movement. Around 20 people are believed to have participated in this Congress, including **Nuon Chea** (elected Deputy Secretary of the Party), Saloth Sar alias Pol Pot (Member of the Standing Committee), **Ieng Sary** and Sao Phim (alternate members of the Standing Committee), and Vorn Vet.²⁹ The August 1975 issue of *Revolutionary Flag* (an official Party magazine) states that “*the strategic and tactical lines of the Communist Party of Kampuchea were clearly and fundamentally correctly drawn-up in 1960 during the First Party General Assembly (even though it is true that our Party was created in 1951)*”.³⁰ On 30 March 1976, the Central Committee decided to “*Designate the birth of the Party back to 1960, not using 1951, in order to not let it get attached to others-to be clearly separate*”.³¹ **Nuon Chea** states that without himself and Pol Pot, the CPK would have been dominated by the Vietnamese.³²

21. Immediately after the 1954 Conference, the communist movement initially created a public group, the *Pracheachon*, and sought socialist reform through the democratic process. However, facing the repression by the authorities, the leaders of the Workers Party increasingly considered armed struggle necessary for victory and began preparations for it.³³ Already in 1960, the Workers Party established a “Secret Defense Unit”³⁴ to protect its cadres and political activities, as well as to “smash” the enemy. Duch states that this policy was adopted at the first Congress “to entice the forces that can be lured; to neutralize the forces that can be neutralized; to isolate and smash the isolated forces”.³⁵
22. After the disappearance in 1962 of the Secretary of the Workers Party, Tou Samouth, (whose disappearance was never elucidated), a Second Party Congress was held in late February 1963. Saloth Sar became the new secretary and **Nuon Chea** remained deputy secretary.³⁶ This Congress was held in Phnom Penh, and the participants were again a small group that included **Ieng Sary** and Sao Phim (both of whom were elected full rights members of the Standing Committee), Ta Mok, Vorn Vet, Son Sen, Ruos Nheum and Kung Sophal.³⁷ A few months later, after the government published a list of 34 known “leftists,”³⁸ Pol Pot and a number of the other named Party leaders, including **Ieng Sary** and Son Sen, fled the capital. They took refuge at a Vietnamese base on the border, where they later established an office known as Office 100.³⁹ By 1965, they were joined by their spouses Khieu Ponnary, **Ieng Thirith** and Yun Yat.⁴⁰ **Nuon Chea**, whose identity had remained secret and hence was not on the “list of 34”, stayed in Phnom Penh and assumed responsibility for Party operations in the capital and most of the zones.⁴¹
23. In January 1965, the Workers Party approved a resolution that rejected the possibility of a “peaceful transition” to socialism, and confirmed that it was “absolutely necessary to use revolutionary violence” in the struggle against the imperialists.⁴² In a Central Committee meeting held in September or October 1966, the leaders decided to change the name of the Party to CPK (although that decision was kept secret until the next Party Congress), to relocate Office 100 to Ratanakiri province, and that each zone would begin preparations for armed struggle.⁴³ In 1967, several Party leaders agreed to launch a general uprising in 1968.⁴⁴ Shortly thereafter, a new Central Committee headquarters (also called Office 100) was established in Ratanakiri, a few kilometres away from Office-102, the Northeast Zone Office used by **Ieng Sary** (who had been appointed Zone Secretary).⁴⁵
24. On 17 January 1968, pursuant to orders conveyed by **Nuon Chea**, CPK forces attacked a government army post at Bay Damran village, south of Battambang city and siezed a number of weapons.⁴⁶ This date was later marked by the CPK as the birth of the Revolutionary Army

- of Kampuchea (“RAK”).⁴⁷ In the following months, guerrilla attacks continued by CPK forces throughout the country.⁴⁸
25. On 18 March 1970, Prince Norodom Sihanouk was overthrown by General Lon Nol and Prince Sirik Matak, who established a regime which was later called the “Khmer Republic”.⁴⁹ On 23 March 1970, Sihanouk announced the formation of the National United Front of Kampuchea (“FUNK”), and called on his countrymen to rise up against the new government.⁵⁰ Prince Sihanouk and the CPK formed an alliance as well as a government-in-exile based in Beijing called the Royal Government of National Union of Kampuchea (“GRUNK”). It was officially announced on 5 May 1970.⁵¹ Norodom Sihanouk was President of the FUNK, the Prime Minister of the GRUNK was the non-communist Penn Nouth,⁵² and **Khieu Samphan** was Deputy Prime Minister and Minister of Defence. **Ieng Thirith** was appointed Vice-Minister for Culture, Education and Youth in the GRUNK by August 1970.⁵³
 26. Around this time, the CPK leaders left Ratanakiri. A several month trip began, south of the Steung Chinit River on the border of Kampong Cham and Kampong Thom provinces, the location of the headquarters of North Zone Secretary Koy Thuon.⁵⁴ Pol Pot and **Nuon Chea** first stayed at a base code-named K-1, located in Dangkada village northeast of Speu Subdistrict.⁵⁵ At the end of 1970, they moved to a larger base close by on the northern side of the Chinit River code-named S-71.⁵⁶ The Party leaders based at this site included Pol Pot, **Nuon Chea**, **Khieu Samphan**, and Chhim Sam Aok alias Pang.⁵⁷
 27. **Ieng Sary** went to Hanoi in December 1970 to organise the radio (the “Voice of the FUNK”), which was placed under the authority and control of **Ieng Thirith**⁵⁸ until May 1975. Thereafter, in April 1971, he travelled to Beijing to stay with Sihanouk and to serve as the “*special emissary of the resistance movement*”.⁵⁹ At his villa in Beijing, **Ieng Sary** had a direct telegraph link to S-71.⁶⁰
 28. In early 1971, the CPK Central Committee met for the first time since October 1966 for a three-day meeting at S-71. 27 of its members attended the meeting, including Pol Pot, **Nuon Chea**, Sao Phim, Vorn Vet, Ta Mok, Ruos Nheum, Kung Sophal, Chou Chet, Kang Chap, Koy Thuon, Ke Pork, Sua Vasi alias Doeun and Pang.⁶¹
 29. Following a training session conducted by Pol Pot at the North Zone headquarters in 1971 that was attended by 200 zone, sector and district cadres, selected participants were taken 15 miles away to a camp in the jungle, where the Third Party Congress was held.⁶² This Congress was attended by approximately 60 delegates, including **Khieu Samphan**, all of the

zone secretaries, and military commanders such as Ke Pork.⁶³ The Congress officially ratified the CPK name that had been adopted five years earlier, and elected a new Central Committee that included **Khieu Samphan** as an “alternate” or “candidate” member.⁶⁴

30. In May 1972, the new Central Committee met and issued a directive to Party members to intensify the struggle against the “*various oppressive classes*” and approved plans for the collectivisation of agriculture.⁶⁵ Cooperatives were officially imposed by the CPK in the areas they controlled one year later on 20 May 1973.⁶⁶
31. Later in 1973, the CPK established a new forward base near Chrok Sdech village west of Oudong in Kampong Tralach Leu District, close to the location of Vorn Vet’s Special Zone headquarters and the command post of Son Sen.⁶⁷ 25 CPK battalions took up positions around Oudong, and attacked the former royal capital on 3 March 1974.⁶⁸
32. In June 1974, the Central Committee met in Prek Kok Subdistrict, close to the former location of K-1, and “*resolved to mount the decisive offensive to liberate Phnom Penh and the entire country*”.⁶⁹ The final assault on Phnom Penh began in January 1975.⁷⁰ In early March 1975, Pol Pot established a command base in Sdok Taol village in Oudong or Ponhea Leu District, only 20 kilometres from the capital.⁷¹ On 1 April 1975, after CPK forces “*liberated Neak Loeung*,” Lon Nol resigned and went into exile in Hawaii.⁷² On the morning of 17 April 1975, CPK forces entered Phnom Penh.⁷³

II. ADMINISTRATIVE STRUCTURES (CENTRE)

A. THE COMMUNIST PARTY OF KAMPUCHEA (CPK)

33. As of 17 April 1975, the CPK was governed by a Statute which had been initially adopted at the Party’s first Congress, in September 1960.⁷⁴ In January 1976, a new Statute⁷⁵ was adopted at the Party’s Fourth Congress⁷⁶ that outlined the ideology, membership, structure and organization of the Party. Within the Statute a number of state bodies were particularized: the Revolutionary Army of Kampuchea,⁷⁷ the national system of Party Committees,⁷⁸ the Party Central Committee,⁷⁹ and “*various offices and ministries surrounding the Central Committee*”.⁸⁰ The Party itself was governed by a Central Committee and a Standing Committee.⁸¹

34. The Statute further states that the CPK was to be lead by the system of “*collective leadership*”⁸² based on the principle of “*democratic centralism*”.⁸³ Applied to the Committee system, this meant that individual members could not make decisions by themselves, but only in concert with other members,⁸⁴ with specific persons holding specific thematic responsibilities. This is echoed in a Standing Committee Meeting dated 9 October 1975: “*When a telegram comes in, immediately when it is received the office must hand it to the responsible section immediately, so they can examine and consider it and make proposals to the Standing Committee*”.⁸⁵
35. Both the Central Committee and the Standing Committee were comprised of “full-rights” and “candidate” (or “reserve” members). Candidate status was a lower ranking than full-rights.⁸⁶ Being a full-rights member meant having the rights “*to consider and discuss and join in decision making*” with regard to all matters.⁸⁷ A candidate member was allowed to participate in meetings, without the right of decision-making.⁸⁸ At the Central Committee level, not being a full-rights member meant not having “*the decision-making power to eliminate people,*”⁸⁹ a power stated by Duch to be officially enjoyed only by certain members of the Central Committee.⁹⁰ “Assistants” to the Central Committee, although not members as such, enjoyed a status similar to some form of membership, to the extent that they could participate alongside full-rights and candidate members in political training organized at the Party Centre level.⁹¹
36. Other bodies characterized by the Central Committee as totally belonging to the Party were the People’s Representative Assembly (see the section of the Closing Order regarding the Roles and Function of **Nuon Chea**, said to have been elected on 20 March 1976)⁹², the State Presidium (see the section of the Closing Order regarding the Roles and Functions **Khieu Samphan**), and the Organization Committee of the Party Central Committee (headed by **Nuon Chea**) which was empowered to monitor and inspect Party members and oversee their integration in offices and ministries.⁹³

B. CENTRAL COMMITTEE

37. The Central Committee was given responsibility in the Statute of the CPK to “*implement the Party political line and Statute throughout the Party*”, as well as to “*instruct all the Zone and Sector*” and to “*Govern and arrange cadres and Party members throughout the entire Party*”.⁹⁴

38. Members of the Central Committee⁹⁵ included Pol Pot (referred to in official media as the Secretary of the Central Committee⁹⁶), **Nuon Chea** (Deputy Secretary of the Central Committee⁹⁷), **Ieng Sary**, **Khieu Samphan**, Koy Thuon (later arrested and executed⁹⁸), Ta Mok, Ney Saran alias Ya (later arrested and executed⁹⁹), Soeung and Ke Pork. In addition, Soeu Vasy alias Doeun, Chairman of Political Office 870 (later arrested and executed¹⁰⁰) was a member of the Central Committee.¹⁰¹ Chhim Sam Aok alias Pang was described as either a member of the Central Committee or as assistant to the Committee.¹⁰² Furthermore, other zone secretaries and at least some sector secretaries were also members of the Central Committee, along with some additional military cadres.¹⁰³ Some witnesses also state that **Ieng Thirith** would attend Central Committee meetings.¹⁰⁴
39. Furthermore, there was a “Specialist Military Committee”,¹⁰⁵ or “High-Level Military Committee”,¹⁰⁶ of the Central Committee originally comprised of Pol Pot, **Nuon Chea**, Son Sen,¹⁰⁷ Sao Phim, and Ta Mok.¹⁰⁸ Vorn Vet¹⁰⁹ and Ke Pork became members of the Military Committee at a later date.¹¹⁰ Duch states that also attached to the Central Committee were assistants with military responsibilities, namely [REDACTED], [REDACTED], Sam Bit and Soeung.¹¹¹ The Central Committee and Military Committee would sometimes meet jointly to discuss military matters.¹¹² Ultimately, the Revolutionary Army of Kampuchea, and all local military units were subordinated to the Military Committee and the Central Committee, the army being described in one edition of *Revolutionary Flag* as the “*pure dictatorial instrument of the Party*”.¹¹³
40. In total, though membership evolved over the course of the DK regime, the Central Committee was comprised of over 30 members, whose statutory obligation was to lead the close implementation of CPK policies down through all levels of society and to report back up the hierarchy to the Central Committee, meeting in accordance with the Statute with a frequency of approximately once every six months.¹¹⁴

C. STANDING COMMITTEE

41. The Standing Committee was a smaller body than the Central Committee comprised of the highest tier of CPK cadre. According to **Khieu Samphan**, whilst the Central Committee was, in principle, statutorily the highest decision making body, it was within the Standing Committee where effective power was exercised and the day-to-day affairs of the CPK were conducted.¹¹⁵ For example, one aspect of the Standing Committee’s superior position was that it had the authority to order the arrest of Central Committee members.¹¹⁶

42. **Khieu Samphan** confirms in an interview that Pol Pot was the highest authority in the CPK as Secretary of the Standing Committee, stating that “*When we talk to Pol Pot it was the same as talking to the party because he was the party secretary*”.¹¹⁷ He further states, “*All the decisions were circulated to the level of the standing committee so that they could be implemented at the local level*”.¹¹⁸
43. This primacy of the Standing Committee is corroborated by Duch who further confirms that after Pol Pot, **Nuon Chea** was second in the Standing Committee hierarchy followed by Ta Mok.¹¹⁹ A meeting minutes suggests that in Pol Pot’s absence, **Nuon Chea** would preside over meetings of the Standing Committee.¹²⁰ Other members of the Standing Committee included Sao Yann alias Sao Phim (committed suicide 1978),¹²¹ **Ieng Sary**, Vorn Vet (later arrested and executed¹²²), Ruos Nheum (later arrested and executed¹²³) and Son Sen.¹²⁴ Of these seven members, five were based permanently in Phnom Penh, namely: Pol Pot, **Nuon Chea**, **Ieng Sary**, Vorn Vet and Son Sen (until his relocation in August 1977 to the East Zone to oversee the conflict with Vietnam).¹²⁵
44. In addition to Pol Pot, **Nuon Chea** and Ta Mok, **Ieng Sary** enjoyed full-rights status as a member of the Standing Committee.¹²⁶ Vorn Vet and Son Sen were likely either full-right or candidate members of the Standing Committee.¹²⁷
45. Although it is clear from the evidence that **Khieu Samphan** was not a formal member of the Standing Committee whilst the CPK was in power, there is evidence of **Khieu Samphan** contributing to or assisting in the work of the Standing Committee, as outlined in the section of the Closing Order regarding **Khieu Samphan**.¹²⁸
46. In a meeting on 9 October 1975 the Standing Committee exercised its authority to assign operational responsibility of various fields of governmental work to high-level CPK cadres, including members of the Central Committee. This included the military, the economy, security, foreign affairs and social action.¹²⁹ They were required to report to the Standing Committee and real decision-making authority remained with the Standing Committee, the Minutes of Meeting stating, “*In bringing up projects, we must ask the Standing Committee’s opinion so it may decide and approve*”.¹³⁰ The same minutes, requiring that records be kept of Standing Committee decisions, state that “*The important objective is that minutes/records must be clear, what is asked must be known from decisions of the Centre, of the Standing Committee, minutes documenting meetings of the Centre, what day, what month, whatever needs to be done to make it clear is what must be done*”.

47. The Standing Committee would meet frequently; **Khieu Samphan** stating approximately every seven to ten days.¹³¹ In addition, one witness states that whenever there was an important matter requiring discussion, a meeting of the Standing Committee would be called immediately in order to make a decision.¹³²

D. OFFICES OF “870”

48. Existing at the CPK Party Centre level were a series of entities associated with the number “870”; a code which alluded to the highest level of the CPK Centre,¹³³ including sometimes as a reference individually to Pol Pot.¹³⁴ They are generally described as servicing or supporting the Standing Committee with regard to various political, administrative, communications, security and military tasks; answering in particular to the members of the Standing Committee located in Phnom Penh.¹³⁵
49. The official names of the two most important of these entities were the “Political Office of 870”¹³⁶ and the “Government Office”,¹³⁷ also designated by the Standing Committee as “Office S-71” or “Ministry S-71”.¹³⁸ Minutes of meetings of the Standing Committee also refer to an entity called “Bureau 870” headed by Sim Son alias Yem, which the minutes suggest is endowed with responsibility for the taking of minutes during Standing and Central Committee meetings.¹³⁹
50. The first Chairman of Political Office 870 was Soeu Vasy alias Doeun, who remained in this position until his arrest in 1977.¹⁴⁰ **Khieu Samphan** was also assigned to work in this office, but has categorically denied having been, at any time, the chairman.¹⁴¹ The Government Office (Office S-71) was chaired by Chhim Sam Aok alias Pang¹⁴² from 17 April 1975 until 1978, when he was arrested.¹⁴³ He was replaced by Ken alias Lin,¹⁴⁴ who remained in charge through to 6 January 1979. Although one witness states that Pang’s office was controlled by Pol Pot himself, with Pang under his direct authority,¹⁴⁵ the evidence shows that Pang’s office also, more generally, “*report(ed) to The Centre*”.¹⁴⁶
51. The distinction between these two offices was that Political Office 870, headed by Doeun, was tasked with matters of policy whilst Office S-71, headed by Pang, was responsible for more administrative and support tasks.¹⁴⁷ Both Political Office 870 and Office S-71, as well as other entities associated with them, were often referred to by the unspecific term “Office

- 870” or the “Organization’s Office” without clarity about which particular office was being referred to.
52. Political Office 870 was principally tasked with ensuring the flow of communication between the decision-makers in the CPK Centre, and for monitoring the implementation of decisions through a system of regular reporting directly to Political Office 870.¹⁴⁸ According to the minutes of the 9 October 1975 meeting of the Standing Committee, referring to the office headed by Doeun, it is stated the “*Office of the Standing Committee makes contacts back and forth with each section. The Standing Committee monitors each section’s implementation of the line. The Office has the task of monitoring implementation*”.¹⁴⁹
 53. The functions of Office S-71, as described by Duch, were the “*protection of the central office and cadre, welcoming guests, communications, logistics, food, transport*”.¹⁵⁰ Office S-71 was however also tasked on behalf of the Standing Committee to monitor suspected members of the CPK, the Ministries, the Central Committee and the Standing Committee itself, and to effect arrests of those perceived to be traitors and their transfer to S-21.¹⁵¹
 54. Contained within the structure of S-71 was a series of sub-offices, code-named with the prefix “K”, that performed a variety of administrative or logistical functions to support the work of the Centre. These K offices reported directly to Pang.¹⁵² Those of particular significance included K-1, K-3, K-7 and K-18.
 55. The evidence shows that K-1 was a housing compound containing both the residence and working place of Pol Pot,¹⁵³ though some witnesses state that K-1 was only the working place of Pol Pot.¹⁵⁴ Furthermore, a number of witnesses state that **Nuon Chea** and **Khieu Samphan** would also reside and/or work at times with Pol Pot at K-1.¹⁵⁵
 56. There is further evidence that the location known as K-3 was a residence and working place of **Nuon Chea** and/or **Khieu Samphan** and/or **Ieng Sary** and/or Son Sen and/or Vorn Vet at various times.¹⁵⁶ Nonetheless, a number of witnesses attest to seeing Pol Pot arrive to conduct meetings at either K-1 or K-3 with **Nuon Chea**, **Ieng Sary**, Son Sen, Vorn Vet and **Khieu Samphan**,¹⁵⁷ as well as with **Ieng Thirith** on occasion if the meeting concerned Social Action.¹⁵⁸
 57. K-7 was a messenger unit through which written communications addressed to “*Committee 870*” or “*Office 870*” were routed before being directed to Pol Pot at K-1 as well as to the members of Committee 870 or its appropriate member depending on thematic

responsibility.¹⁵⁹ K-18 was a telegraph unit through which radio communications were received and then directed to K-1.¹⁶⁰

58. It is not fully clear from the evidence as to precisely which individuals would be considered recipients to messages addressed to “*Committee 870*”, or to “*Office 870*”. Some witnesses state that these terms were a direct reference to the Central Committee,¹⁶¹ whilst conversely, other witnesses state it would have been the Standing Committee¹⁶² or even Pol Pot individually.¹⁶³ Nonetheless, a number of witnesses, including Duch, state that their understanding is that “*Committee 870*” or “*Office 870*” could include any of Pol Pot, **Nuon Chea, Ieng Sary, Vorn Vet, Son Sen** and other senior leaders,¹⁶⁴ including **Khieu Samphan**, depending on the content.¹⁶⁵
59. Evidence of other K offices shows that K-6 was a meeting place known as “*Borei Keila*”,¹⁶⁶ K-8 was responsible for growing vegetables,¹⁶⁷ K-11 was a medical clinic¹⁶⁸ and that K-12 was a unit organizing vehicles and drivers for the Party Centre.¹⁶⁹
60. Though the evidence clearly demonstrates that **Khieu Samphan** had a role within the Offices of 870, the evidence concerning his exact role is not clear. Duch and two other witnesses state that in or around 1977, **Khieu Samphan** became the Chairman of the Political Office 870 previously headed by Doeun,¹⁷⁰ whilst another witness states only that **Khieu Samphan** would meet with Pang of Office S-71 to discuss matters and that Pang would receive his orders from **Khieu Samphan** as well as from other senior leaders.¹⁷¹ **Khieu Samphan** himself denies taking over as Chairman of Doeun’s office, stating that he was merely responsible within it for a number of national logistical matters, such as distribution amongst the zones of salt, rice, grain, clothes, materials and supplies, as well as for maintaining relations with King Sihanouk.¹⁷² The performance of this role is confirmed to some extent by witnesses who confirm that telegrams sent to or received from Office 870 regarding equipment or logistics would bear the name of **Khieu Samphan** on behalf of Office 870,¹⁷³ as well as within Minutes of the Standing Committee.¹⁷⁴ However, **Khieu Samphan** made a statement in 1980 admitting involvement in following up and investigating allegations against cadres in the zones, a function previously performed by Doeun.¹⁷⁵
61. Finally **Khieu Samphan, Duch**, and numerous other witnesses, confirm that the terms “*Office 870*”, “*Organization 870*”, “*Committee 870*” or “*Angkar*” were used indifferently to designate the leading bodies of the Party Centre.¹⁷⁶ Duch states, “*Office 870, what I can say is that it was the headquarters of the Party leading bodies*”.¹⁷⁷

E. MINISTRIES (GOVERNMENT) OF DEMOCRATIC KAMPUCHEA

62. By a decision of 30 March 1976, the Central Committee decided the composition of the organs of state called to replace, as the official government, the Royal Government of National Union of Kampuchea.¹⁷⁸ It was said that the government "*must be a proper party organ. It must be our own state*". The ministers were publicly announced on 14 April 1976.¹⁷⁹
63. Though this composition was subject to changes during the course of the DK regime, the government was broadly structured along the following lines:¹⁸⁰ Pol Pot as Prime Minister with general responsibility of the military and the economy; **Ieng Sary** as Deputy Prime Minister for Foreign Affairs; Son Sen as Deputy Prime Minister for National Defence; Vorn Vet as Deputy Prime Minister for Economics; **Nuon Chea** as Chairman of the People's Representative Assembly;¹⁸¹ Hu Nim as Minister for Propaganda; Yun Yat as Minister for Education; Touch Phoeun as Minister for Public Works, Transport and Post; Koy Thuon as Minister for Commerce; Cheng An as Minister of Industry;¹⁸² **Ieng Thirith** as Minister for Social Affairs; Thioun Thioeun as Minister for Health; and **Khieu Samphan** as Chairman of the State Presidium and responsible for commercial tasks relating to accounting and pricing.¹⁸³

III. ADMINISTRATIVE STRUCTURES (NATIONAL)

64. Below the level of the Centre, Democratic Kampuchea was sub-divided into a series of hierarchical administrative entities, all reporting up a vertical chain-of-command, culminating at the Centre. Immediately below the Centre were a number of large "zones". They were sub-divided into "sectors" with each of these containing a number of "districts" within which were a series of "subdistricts" and "cooperatives".¹⁸⁴ At each level, the zone, sector, district and subdistrict tiers of this national structure were each governed by a committee, each of which was headed by a secretary.¹⁸⁵
65. Immediately after April 1975 there were six zones; North Zone, Northwest Zone, Northeast Zone, Southwest Zone, West Zone and East Zone.¹⁸⁶ In 1977, the North Zone was renamed the Central Zone¹⁸⁷ and a new North Zone was created.
66. In addition to the zones which reported directly to the Centre, the CPK created a number of "autonomous sectors" which bypassed the zone level to report directly to the Centre. These were Autonomous Sector 103 (Preah Vihear), Autonomous Sector 105 (Mondulkiri),

Autonomous Sector 106 (Siem Reap), Autonomous Sector 505 (Kratie) and the Kampong Som Autonomous City (Cambodia's principal Seaport).¹⁸⁸ In addition, Phnom Penh itself was categorized as a distinct territory not within the formal national administrative structures, which reported directly to the Centre.¹⁸⁹ Autonomous Sector 106 (Siem Reap) was merged with Autonomous Sector 103 (Preah Vihear) to create the New North Zone in 1977.¹⁹⁰

67. The facts of which the Co-Investigating Judges have been seized of were located in all of the zones of the CPK national structure and two of the autonomous sectors. Sang Security Centre, Kraing Ta Chan Security Centre, the Tram Kok Cooperatives, the Srae Ambel Worksite and the Prey Sar (S-24) Worksite were located in the Southwest Zone. Wat Kirirum Security Centre, Tuol Po Chrey Execution Site and the Trapeang Thma Worksite were all located in the Northwest Zone. The Steung Tauch Execution Site and the Wat Tlork Security Centre were located in the East Zone. The North Zone Security Centre was located in the New North Zone. The 1st January Dam Worksite was located in the Central Zone (Old North Zone). The Au Kanseng Security Centre was located in the Northeast Zone. Prey Damrei Srot Security Centre, Koh Kyang Security Centre, the Execution Sites in District 12 and the Kampong Chhnang Airport Construction Site were all located in the West Zone. The S-21 Security Centre was located in the territory of Phnom Penh. Finally, the Phnom Kraol Security Centre was located in Autonomous Sector 105 and the Kok Kduoch Security Centre was in Autonomous Sector 505.
68. The appointment of zone secretaries would typically be made by the Centre.¹⁹¹ Implementation of decisions of the Central and Standing Committees was performed by the secretaries of the zones and the autonomous sectors.¹⁹² Policies and instructions of the Central and Standing Committees were disseminated to the zone and autonomous sector secretaries who, in turn, would disseminate them amongst sector and district level secretaries for implementation.¹⁹³ Conversely, the subdistricts reported back up to the district committees, which reported to the sector committees, which in turn reported to the zone committees.
69. The Statute of the CPK states that the tasks and functions of the zone committees were to “*lead the implementation of tasks*”, according to CPK policies, in the sectors, districts and subdistricts. As such, they were empowered to “*designate new work according to the Party line*”,¹⁹⁴ meaning that the party line should be implemented “*according to the political lines of national defense and the construction of Democratic Kampuchea*”,¹⁹⁵ in other words that the zones were responsible for the internal security situation within their territories. Further to this, the zone committees were authorized to “*administer discipline in the zone framework*”.¹⁹⁶ Furthermore, the zone committees were empowered to select new members

for the zone level leadership, subject to the approval of the Central Committee.¹⁹⁷ They were also statutorily required to maintain a “*system of reporting to the Central Committee on the situation and work of the Zone*”.¹⁹⁸

70. The Statute of the CPK gave similar tasks and functions upon the sector committees,¹⁹⁹ the district committees²⁰⁰ and the subdistrict committees²⁰¹ providing for the implementation of instructions and the reporting back to the administrative tier above.
71. In addition to the six monthly meetings of the Central Committee,²⁰² there was an annual meeting in Phnom Penh between the secretaries of the zones and the CPK Centre²⁰³ as well as frequent meetings in Phnom Penh between the Centre and members of the zones, sectors and districts.²⁰⁴ In addition, direct meetings would be held between the zones and the sectors; the sectors then inviting the secretaries of the districts and subdistricts to meetings who would in turn disseminate instructions to their units.²⁰⁵

IV. COMMUNICATION STRUCTURE

72. The CPK Standing Committee was at the top of the Party’s nation-wide communications. It was at the centre of a system of constant information between each part of the administrative hierarchy. It issued the instructions: “*Send general reports through various spearheads. Propose short reports by telegram, (all this so) the Standing Committee knows the situation in order to provide timely instructions*”.²⁰⁶

A. CHANNELS OF COMMUNICATION

73. The channels of communication were meticulously organized at the level of the Centre (among ministries and offices around the Centre, within the Centre armed forces and within the Centre’s S-21 security apparatus); between the Centre and the zones (with no inter-zone communication allowed); and between zones and sectors. Communication between sectors and districts depended on available means, but was less formalized.

Communication Within the Centre

74. The distribution of messages that arrived at the Centre from outside entities was coordinated by Office K-1, where it was decided which of the leaders were to receive copies of messages which were subsequently delivered to them.²⁰⁷ This decision was taken by Pol Pot and his

staff, who for this purpose received ingoing messages several times per day.²⁰⁸ According to one witness, **Nuon Chea** always received a copy of the messages Pol Pot had read.²⁰⁹

75. There was also frequent written communication between individual CPK leaders, most notably between Pol Pot and **Nuon Chea**, who used to exchange letters every one or two days.²¹⁰

Zone to Centre Communication

76. Zones and autonomous sectors reported to the Standing Committee primarily on the agricultural situation, such as the rice harvest and on irrigation systems, the livelihood of the people and the enemy and military situation.²¹¹ One witness (the Secretary of Autonomous Sector 105) mentions that he sent telegrams to the Centre and that Pol Pot would send comments back to him about the arrests of cadres and about confessions.²¹²
77. Surviving telegrams reported matters such as desertion and lawlessness,²¹³ the conflict with Vietnam (detailing enemy numbers killed and equipment captured and advising Office 870 of planned offensives and enemy movements),²¹⁴ questions on internal security activities in general terms²¹⁵ or in detail, sometimes referring to those under suspicion,²¹⁶ Vietnamese “spies” and their interrogations (mentioning the use of torture)²¹⁷ or “traitors” (while mentioning them by name).²¹⁸
78. The Zone sent and received between one and several telegrams per day on an irregular basis from the sectors.²¹⁹ Communication was only established between the Centre and the sectors but not between the Centre and the districts.²²⁰
79. A Zone Secretary had a schedule table prepared by the Centre, that indicted the times to make contact with the Centre.²²¹ Telegrams were sent out from the zone at least once a day²²² sometimes twice a day (morning and evening),²²³ or in special occasions, telegrams were sent at other hours of the day.²²⁴ One of the sector telegram operators in Central Zone (fomer North Zone) mentions that he received about four to five messages a day from the Centre (870).²²⁵
80. The schedule for telegram activity in the sectors was developed by the zone, thus making it easier to distinguish between telegrams that came in from the Centre and those that were received from different sectors.²²⁶ The receipt of a telegram was confirmed by a code word

from the other side.²²⁷ In 1978, communication between the Centre and the zones increased due to technical improvements.²²⁸

81. Witnesses indicate that there was a strict policy of no communication between the zones: the communication between the zones would be sent via the Centre.²²⁹ No contact schedule table or decoding table existed for telegram communication from zone to zone, thus making such contact impossible.²³⁰ However one telegram operator states that zone to zone communication took place by letter sent by messengers and had to be stamped with the seal of the zone.²³¹

Zone to Sector and District Communication

82. Each sector had its own telegram office but any outgoing communication had to go through the Zone²³²
83. Only the Autonomous Sectors communicated directly with the Centre and not via the zone.²³³ One witness, who worked as a telegram operator in Autonomous Sector 105, states that the district offices mostly reported on irrigation projects, healthcare, the monitoring of forces and on “*good or bad elements, traitorous or peaceful alliance elements*”.²³⁴ The Sector Secretary’s Office would prepare a district performance report and send it back to the Centre on a daily basis.²³⁵
84. Messengers were mainly used for communication within the sectors and districts, as indicated by American sources (Stoney Beach report): “*Each District and Sector within the Eastern Region (Zone) had a messenger network. The networks followed a rigid structure that mirrored the region (Zone) chain of command. For example, even if a district messenger unit was stationed near a regional unit, the district unit would first send messages to their headquarters, then on to the region messenger office. The message would then enter the region (Zone) network. The messengers carried high priority military, party and security messages, as well as personal correspondence for deployed personnel*”.²³⁶

External Communication

85. Democratic Kampuchea had the technical means to communicate with foreign countries. CPK senior leaders sent telegrams to other, mostly socialist friendly, states throughout the duration of the regime to comment or congratulate them on events in their respective countries,²³⁷ or to explain that everything was going fine.²³⁸

86. According to [REDACTED], external communication was channeled through the embassy in Beijing and communication could either come from the party or the government or directly from Pol Pot to the party cell in Beijing.²³⁹ Inside the country, there was no access to any foreign information service.²⁴⁰ However, the Ministry of Propaganda was instructed to give senior leaders daily briefings about world news.²⁴¹ Furthermore, [REDACTED] states that **Ieng Sary** had charged [REDACTED] with listening to the news from foreign broadcast services.²⁴²

Meetings to “Study at the Centre”

87. Cadres from the Zone Committee and Sector level, including the military, were invited to “study meetings” in Phnom Penh²⁴³ or at “the Centre”.²⁴⁴ Witnesses name **Nuon Chea**²⁴⁵ or Office 870²⁴⁶ or 870²⁴⁷ or Pol Pot²⁴⁸ as the sender of such invitations.
88. In several cases, when cadres were called to the Centre, they would be arrested and never returned back to their zones.²⁴⁹
89. Monthly meetings at the Centre were held at K-1 to which various leading cadre of District Committees, Sector Committees and Zone Committees were invited.²⁵⁰ These meetings were regularly headed and attended by senior Party cadre.²⁵¹ Military meetings, gathering military commanders were held at the Olympic Stadium and were chaired by Pol Pot and Son Sen.²⁵² Sometimes special meetings were held with only a few attendees and these meetings took place on an irregular basis.²⁵³

B. MEANS OF COMMUNICATION

90. Based on reports from lower-ranking officials to their superiors, directives from superiors to subordinates, and requests for assistance of information that were discovered, among other evidence,²⁵⁴ it appears that the main inter-personal or inter-office communication was by letter, telegram and messenger. Official communication also took place in meetings and at gatherings at each administrative level as well as at larger rallies in Phnom Penh.²⁵⁵ Invitations to such official meetings were generally distributed by messenger or telegram. Furthermore, the CPK disseminated a number of directives and political education material throughout the country. Such material was sent from the centre to lower administrative ranks.

Lower ranks would, in turn, disseminate the material among the population in the zones and sectors.²⁵⁶

Letters

91. Letters were sent from senior CPK leaders such as POL Pot, Nuon Chea, Khieu Samphan and Ieng Sary.²⁵⁷ Letters were reportedly delivered through messengers to zone and sector secretaries.²⁵⁸ One of the telegrams sent from the Central Zone (former North Zone) indicates that letters were sometimes carried in person by higher officials such as Zone Secretary Ke Pork himself.²⁵⁹

Messengers

92. Messengers were primarily used to deliver reports and telegrams from the radio telegraphic unit to ministries²⁶⁰ or for communicating information about arrests.²⁶¹ Within the different zones, *“Messengers carried correspondence by hand on bicycles and motorcycles. Messengers were very busy and spent only a short time in each location before returning to their home base. Messengers were not tied to one single link but worked all the different links serviced by their station”*.²⁶² One witness states that messengers from the Centre would use a speed boat to get to Kratie in Autonomous Sector 505.²⁶³

Telegram Communication

93. After the fall of Phnom Penh in 1975, the central telegram unit that had operated in the “liberated areas” was moved to Phnom Penh.²⁶⁴ About 40 children were recruited from the provinces and were taught the basic working techniques of telegram communication (coding, typing, etc.) as well as sometimes French and English.²⁶⁵ On 9 October 1975 the Standing Committee decided on the functioning of the telegram unit.²⁶⁶
94. The telegram unit, which was divided into two sections (one responsible for transmitting and receiving the telegram, and the other for the encoding and decoding)²⁶⁷ was code named K-18 and was located in Phnom Penh at the old United States Embassy (now the Fishery Administration).²⁶⁸ Office K-18 was composed of an internal communications section with Oeun in charge and an external communications section with Rim in charge.²⁶⁹ Approximately 20 to 30 persons worked in each of the two sections.²⁷⁰ Subsequent chairmen of the telegram unit were Yos²⁷¹ (also mentioned as deputy chief²⁷²) and [REDACTED].²⁷³

95. Within the zones, a telegram unit consisted of a telegram coder, a transmitter or operator and a typist or secretary.²⁷⁴
96. Outgoing messages from the Centre were first sent to the telegram coding unit which was located at the Party Centre office K-1 to be encoded into number codes.²⁷⁵ The encoded message was then forwarded to the operation group at K-18 that transmitted the messages to the recipients in coded form, where they decoded it into plain text.²⁷⁶ Incoming telegrams from the zones arrived at K-18 and were written down by the typist group. The encoded message was then sent to K-1 for decoding and transmitted to the receiving Party cadre.²⁷⁷ Incoming telegrams were forwarded to other cadre upon the decision of Pol Pot and his staff, who received copies of all messages.²⁷⁸ Where the word “document” was attributed to a message, this implied that it was to be kept in the archive of the respective telegram translator.²⁷⁹ Copies of the coded and the text versions of the telegram had to be kept for six months before they were burnt.²⁸⁰
97. The following recipient code names were frequently used in telegrams: “Grand Uncle” for Pol Pot;²⁸¹ “Grand Uncle Nuon” for **Nuon Chea**;²⁸² “Grand Uncle Vann” for **Ieng Sary**;²⁸³ “Grand Uncle Vorn” for Vorn Vet;²⁸⁴ “Uncle Hem” for **Khieu Samphan**;²⁸⁵ “Respected Brother” for Pol Pot;²⁸⁶ “K-3” for Office of **Khieu Samphan** and **Nuon Chea**;²⁸⁷ and “K-1” for Office of Pol Pot.²⁸⁸
98. The number “870” was identified by several witnesses as the code number of the Centre.²⁸⁹ Charged person **Khieu Samphan** states in this regard: “*Pol Pot signed documents by writing 870*”.²⁹⁰ The word “M-870” was identified by witnesses as the code number for the Central Committee Office²⁹¹ or for **Nuon Chea** and Pol Pot interchangeably.²⁹² The word *Committee 870* referred to the Central Committee.²⁹³ According to Charged person Duch: “*Any fax or letter with the name “Pol” “870” or “Office 870” referred to Pol Pot*”.²⁹⁴

Political and Education Material

Print Media

99. The *Revolutionary Flag* and *Revolutionary Youth* magazines were the most important CPK propaganda magazines and reflected the views of the senior Party leaders, in particular the views of the Standing committee, although there were also other magazines produced during

the regime. They were produced in office K-25²⁹⁵ by the Ministry of Propaganda.²⁹⁶ From April 1975 until his arrest in 1977, Hou Nim was the Minister of Propaganda.²⁹⁷ Following his arrest Yun Yat took control of the Ministry of Propaganda.²⁹⁸

100. *Revolutionary Flag* had existed as an underground “*secret magazine*” during the struggle prior to 1975,²⁹⁹ and remained the official Party publication during the CPK era.³⁰⁰
101. The *Revolutionary Flag* and *Revolutionary Youth* Magazines were a propaganda tool used to reflect the Party policy on a monthly basis.³⁰¹ Only Party members had access to the magazines themselves³⁰² and they were used to educate political and military cadres.³⁰³ They had to study the magazine, disseminate its policies to those under their charge and then implement them.³⁰⁴ They also had to attend study sessions on them. *Revolutionary Youth* was distributed among the members of the Youth League.³⁰⁵
102. The magazines influenced all channels of government public communication. The contents of radio broadcasts, for example, were drawn from articles.³⁰⁶ Copies of *Revolutionary Flag* were found in S-21 and at surrounding houses.³⁰⁷ Duch himself stated that he used *Revolutionary Flag* for information on the “*general policy line of the Party*”.³⁰⁸ Evidence also suggests that the magazines were received by 870 offices³⁰⁹ as well as being disseminated abroad to the Cambodian embassy in China.³¹⁰
103. The magazines were also used for teaching purposes, in particular, by **Nuon Chea**³¹¹ and **Ieng Sary**.³¹² More general study sessions were held to rally the people and called for “*young men and women to join the revolution*”.³¹³ According to some witnesses, “*the guidelines in the magazines were illustrated in a very sharp way and if a person would not adapt himself or herself to that, then this person automatically would be considered as an enemy*”³¹⁴ and a core message was that opponents to the Party would be considered as enemies.³¹⁵
104. A witness states that in one incident, leaflets that were published at K-25 were dropped from planes in the East Zone and contained allegations against Sao Phim and appealed to the people to stay calm.³¹⁶

Film and Photography

105. The CPK had a stringent policy on filming. The aim of the film was to present the success of the agricultural community. With this aim, film crews were established and clear directions were given: “*What we should shoot? (We) must capture the movement of building up the*

country, country defense, especially building up of country's rural areas. We shoot (films) of their activities from start to finish".³¹⁷

106. Filming was seen as an important way to involve the public in the policies of the Party as explained at a working meeting on 1 June 1976: "*Generally speaking, filming is an important matter. The public really demand it. If they see the updated situation, they are happy because they show their masterpiece and they represent their own story*".³¹⁸
107. Photography was seen as second to filming and the only guidance given was to take pictures of ceremonies, or foreign guests for documentary purpose.³¹⁹ There was a photography and cinematography section at the Soviet Technological School under the Ministry of Propaganda.³²⁰

Public Radio

108. Radio was seen as the principal method to disseminate the revolutionary idea among the people by the leadership.³²¹ In this regard, guidelines were given on interviewing people in the zones, on how news would be announced, and on what other programs would be aired.³²² Chinese experts were consulted for the technical establishment of radio broadcasting.³²³
109. Prior to 1975, the CPK possessed a mobile broadcast radio in Steung Trang District.³²⁴ Songs were taped in Steung Trang and then sent to the main radio station of FUNK in Hanoi,³²⁵ which was headed by **Ieng Thirith** in 1973,³²⁶ while the technical work was provided by the Vietnamese.³²⁷ The mobile radio unit, which was in place and broadcasting during the evacuation of Phnom Phnom, was transferred to the capital and became the only broadcast unit in the country.³²⁸
110. The Ministry of Propaganda there was a group of writers, the interview section, the writing section and the editing section.³²⁹ Radio broadcasts featured international news extracted from the international radio and domestic news published by the Ministry which circulated mainly around the praise of rural cooperatives and the achievements of the regime the Party line, the leadership of the Party and speeches, the defence of the country and followed an educational purpose.³³⁰
111. News was also extracted from radio channels from Vietnam, China, Laos and Thailand. No news criticizing Democratic Kampuchea was broadcasted.³³¹ Broadcasts also featured English and Vietnamese speaking programs and there were preparations to broadcast in Thai.³³²

Special programming intended for Khmer in Vietnam – what the CPK called Kampuchea Krom – was broadcast about the Khmer-Vietnamese border conflict, the relocation of Khmer Krom to Phnom Den in Cambodia and the alleged persecution of Khmer Krom by Vietnam.³³³

112. Confessions of Vietnamese prisoners of war, who had been interrogated at S-21, were broadcasted over the radio,³³⁴ in an attempt to show that the Vietnamese had entered Cambodian territory.³³⁵ One witness states that Vietnamese prisoners of war were interrogated in the battlefield and the taped interviews were sent to the radio for broadcast.³³⁶

V. MILITARY STRUCTURE

A. ESTABLISHMENT OF THE REVOLUTIONARY ARMY OF KAMPUCHEA

113. The Revolutionary Army of Kampuchea (“RAK”) was a core institution within the CPK governed Democratic Kampuchea.³³⁷ CPK policy relied heavily on the implementation of its goals by forceful means, making the military an important part of its government apparatus. From the outset, the CPK considered that *“for self-defense and self-liberation it is imperative to use violence, whether political violence or armed violence. It is imperative that the people be armed, that is, there must be an army ... in order to defend the people, to defend the revolution, and to go on the offensive to counter-attack the enemy”*.³³⁸
114. The CPK asserted that its armed forces originated in “a Secret Defence Unit.”³³⁹ By 1968 these forces had been upgraded into “armed guerrilla units”.³⁴⁰ 17 January 1968 marks the official launch of an armed struggle and the birth of the CPK “revolutionary army”.³⁴¹ According to the official line of the Party, by 1969 *“the preconditions for an army were already there ... In some locations, in the major Zones, there were already companies, many units, platoons, squads, teams. Other locations had just platoons, squads, and teams. However, those forces were the ranks of a Revolutionary Army!”*.³⁴² In March 1970, the latter was officially designated as the “Cambodian People’s National Liberation Armed Forces” (CPNLAF).
115. The formal reorganization of the armed forces was proclaimed in July 1975, at a gathering that was officially described as an *“important political conference of the CPK Centre for approximately 3,000 representatives of every unit of the Revolutionary Army,”* which was addressed by “the comrade chairman of the High-Level Military Committee of the Party”.³⁴³

RAK received expert assistance³⁴⁴ and military equipment³⁴⁵ from other countries, most prominently from China.

B. ROLE OF RAK

116. The role of the RAK is defined in two central documents on the organization of Democratic Kampuchea. Article 19 of the Constitution of Democratic Kampuchea describes the two goals of the Revolutionary Army of Kampuchea (RAK): “*defend the State power of the Kampuchean people ... and at the same time help to build a country*”.³⁴⁶ According to Article 27 of the Communist Party of Kampuchea Statute, the RAK was responsible for both external and internal security, as well as generally participating in “building the country”.³⁴⁷ This understanding of the RAK’s role was repeated and reiterated in various CPK publications and Party committee meetings.³⁴⁸
117. External security or national defence was the core task of the RAK, in particular in the context of the armed conflict with SRV and in relation to border disputes.³⁴⁹ Internal security comprised of the defence of the CPK rule against perceived enemies and spies within the armed forces, the Party and the country as a whole.
118. With the term “*building the country*”, the Party imposed upon the RAK a responsibility for furthering prosperity and increasing the people’s living standards,³⁵⁰ and also committing the armed forces to strive for the achievement of the four-year-plan’s goal of a rice paddy yield of three tons per hectare.³⁵¹ In addition, each military unit was supposed to support itself, with the exception of troops at the border.³⁵²

C. CPK CENTRE MILITARY ORGANS

Military Committee of the Central Committee

119. The Military Committee,³⁵³ or High-Level Military Committee,³⁵⁴ was a CPK Central Committee organ set up since at least 1970 and the existence of which was reaffirmed at the Fourth Party Congress.³⁵⁵ In line with the original functions of the CPK’s armed forces, combining security with purely military tasks, the Military Committee has also been described as the “Security Committee”³⁵⁶ or “Military and Security Committee”.³⁵⁷ Also attached to the Central Committee were assistants with military responsibilities.³⁵⁸

120. The Military Committee acted as an organ of the Party Centre and thus ensured control of the RAK by the Party Centre.³⁵⁹ The Central Committee and Military Committee sometimes met in joint session to decide on military matters,³⁶⁰ effecting a unified strategic command over the armed forces.³⁶¹
121. **Ieng Sary** claims that the Military and Security Committee was comprised of Pol Pot, **Nuon Chea** and Son Sen.³⁶² Other members of the Military Committee included Sao Phim and Ta Mok,³⁶³ although they may have had less formal responsibility.³⁶⁴ Witnesses also name Vorn Vet³⁶⁵ and Ke Pork as members of the Military Committee.³⁶⁶ After 17 April 1975, Pol Pot continued to chair the Military Committee.³⁶⁷ Although **Nuon Chea** recognized that such an organ existed during the CPK era, he denies being a part of it.³⁶⁸ Several witnesses however, including **Ieng Sary**, mention him as a member of the Committee.³⁶⁹
122. The Military and Security Committee decided on military and security matters, including “killing”, “operation of S-21”, “other secret locations”, “secret agents”, and “general matters”. **Ieng Sary** states that this committee reported to the Standing Committee after receiving reports from the zones and that he personally heard reports on security.³⁷⁰
123. Apparently in connection with their positions on the Military Committee,³⁷¹ Pol Pot, **Nuon Chea** and Son Sen were in overall charge of S-21 and the security policy in general.³⁷² Son Sen frequently met and coordinated with the other members of the Standing Committee, ensuring that the CPK leadership had constant knowledge and control over RAK activities.³⁷³

General Staff

124. The central body of the RAK was the General Staff. During a CPK Standing Committee meeting on 9 October 1975, Son Sen was designated as “Responsible for General Staff and Security”³⁷⁴ while Pol Pot was assigned the general responsibility over the military.³⁷⁵ Son Sen subsequently headed the General Staff; reports were submitted to him, and he issued orders.³⁷⁶
125. The General Staff was assigned with the command and administration of the armed forces. It centrally coordinated various tasks such as the setting up of divisions, organization matters, intelligence, military installations, policy, logistics, weapons, ammunitions, food supplies, uniforms, transport, and medicine,³⁷⁷ and issued movement orders to the divisions.³⁷⁸ The General Staff also removed secretaries and other cadre at Centre divisions,³⁷⁹ while appointments to leading positions in the Centre divisions were made in the name of the

Central Committee or by Pol Pot, Nuon Chea, Ieng Sary and Son Sen.³⁸⁰ To implement the party's line and policy the General Staff organized study sessions for selected cadre,³⁸¹ as well as regular meetings of the leaders of Centre Divisions and Independent Regiments for reporting and issuing orders on various matters.³⁸²

D. COMPOSITION OF THE RAK

126. Article 19 of the Constitution of Democratic Kampuchea describes the three branches of the RAK - regular, regional, and guerrilla forces.³⁸³ All of the three categories were “*under the absolute leadership monopoly of the Communist Party of Kampuchea*”.³⁸⁴ The Revolutionary Armed Forces included the “Regular Army of the Centre” and all local military units,³⁸⁵ which were all ultimately under the command of the Central Committee and its Military Committee.³⁸⁶ Similar to other state organs, the Revolutionary Army was described as “the pure dictatorial instrument of the Party”.³⁸⁷

The Regular army

127. The “regular” army was composed of Divisions³⁸⁸ and Independent Regiments. Divisions were separated into Centre Divisions, reporting directly to the Centre,³⁸⁹ and Regional Divisions. In most cases, a division consisted of three regiments,³⁹⁰ each regiment of three battalions and each battalion of three companies.³⁹¹

Centre Divisions

128. The Centre Divisions were commanded directly by the Centre, as were the Independent Regiments. They constituted the main military force of RAK and, as such, carried out the bulk of military operations against external enemies.
129. Centre Divisions were frequently re-designated, dissolved, or merged into each other during the CPK era. As of March 1977, the Centre forces included Divisions 801, 703, 310, 450, 170, 290, 502, 920 and 164, and Independent Regiments 152, 377 and 488.³⁹²
130. The RAK also established two combined field commands that each exercised command over several divisions. Both were established in the East Zone. The first of these field commands was located on Route 1 in Sector 23. It was commanded by Son Sen³⁹³ and comprised of Divisions 703, 340, 221, 460, and 805, 210, 230, 250 and 270.³⁹⁴ The second field command

was located on Route 7, also in the East Zone. It included Division 207 (ex-Division 310), Division 603 (ex-Division 450),³⁹⁵ Division 280³⁹⁶ and Division 175,³⁹⁷ plus elements of Division 502³⁹⁸ and forces of the Central Zone (former North Zone).³⁹⁹ Originally, Route 7 field command was commanded by Sao Phim with Ke Pork as deputy; Sao Phim was replaced by Son Sen after the purge and suicide of Sao Phim.

131. Centre Divisions were severely purged, which lead to their subsequent re-designation or merging into other divisions. Notably Divisions 310, 450 and 920, were purged as part of the purges in the North Zone, from where these units originated. As a result of this purge process, Division 310 and Division 450 were re-designated Division 207⁴⁰⁰ and 603,⁴⁰¹ respectively.
132. Reorganization of divisions also occurred due to the intensification of the armed conflict with Vietnam from late 1977,⁴⁰² which was accompanied by the creation of a number of new Centre divisions formed out of an expansion and reorganization of units originating in the Southwest Zone. These included Divisions 340, 221, 440, 460, 210, 230, 250 and 270.⁴⁰³

Zone Armies

133. The second primary branch of RAK was the Zone Armies, usually organized as divisions.⁴⁰⁴ Despite being ultimately under the command of the Centre, they were integrated into the Zone administration.⁴⁰⁵ Their tasks were closely connected to their zone, including territorial defence as well as internal security. Zone armies of zones bordering Thailand and Vietnam were heavily involved in the fighting occurring at these borders.⁴⁰⁶ Below division level, districts also maintained local forces on battalion level.

Militia

134. The third pillar of the armed forces was the local militia, also referred to as the guerilla forces.
135. Militia troops lived among the people in the villages and performed duties related to local security.⁴⁰⁷ Among these duties were arrests⁴⁰⁸ and killings,⁴⁰⁹ but also more clearly military-related duties such as preparations for the defence of the villages and cooperatives.⁴¹⁰ The militias directly reported to the village, subdistrict or district committees⁴¹¹ and were called on by the civil administration to perform security tasks.⁴¹²

E. COMMUNICATION / REPORTING

136. RAK had a hierarchical command structure that was reflected by its communication structure. Reports were collected inside the divisions and then transmitted to the Centre level command bodies, these being the General Staff. Commands were issued via the same lines of communication. Central command transmitted its orders to the divisions, where they were further sent to lower level commanders that carried them out.

Communication Between Divisions and Centre

137. Communication between the divisions and the Centre was continuous, with several contacts every day.⁴¹³ The Centre command level regularly communicated with divisions⁴¹⁴ and relied on the divisions to forward its commands to lower-level units. Important decisions on the division level were to be taken by the Centre command bodies.⁴¹⁵ Divisions sent reports to the Centre command bodies on a regular basis, usually reporting on military engagements, discoveries of internal enemies and other matters.⁴¹⁶
138. Communication was facilitated by various means. One of the most common communication lines was via radio and telegraph lines, including oral communication as well as messages.⁴¹⁷ To this end, the General Staff⁴¹⁸ as well as the individual divisions⁴¹⁹ maintained radio and telegraph units. Messages sent and received by RAK were encoded.⁴²⁰
139. Messengers were also frequently used to transport messages.⁴²¹ Individual divisions had messenger units to provide these services.⁴²²
140. Communication between the General Staff or the Military Committee on the one side, and individual divisions on the other side, was frequently forwarded to members of the Central Committee.⁴²³
141. Another common means to communicate between the Centre command bodies and the divisions was via in-person meetings.⁴²⁴ Meetings ranged from smaller gatherings⁴²⁵ to large rallies.⁴²⁶ Examples for larger meetings are the meetings conducted before the final attack on Phnom Penh,⁴²⁷ and before the purge of the Eastern Zone.⁴²⁸ Large rallies often included speeches by senior CPK functionaries.⁴²⁹ Some witnesses report that military meetings were held at the Olympic Stadium of Phnom Penh for commanders of units from the battalion level upwards, chaired by Son Sen.⁴³⁰

Communication Inside the Divisions

142. Inside the divisions, communication followed the command structure, with commanders usually communicating with their direct superiors and subordinates. Commanders reported to their superiors on various matters and received orders from them.⁴³¹ Everyday communication was often carried out through the use of portable radios,⁴³² although messengers,⁴³³ telegrams,⁴³⁴ and meetings⁴³⁵ were also used.

F. DISCIPLINE

143. RAK imposed upon its troops and commanders a disciplinary regime that provided for different means of monitoring and punishment.
144. Criticizing and self-criticizing sessions were held in military units where troops were expected to criticize their mistakes and also implicate their comrades.⁴³⁶ This technique of control and discipline was also used in meetings organized by the General Staff.⁴³⁷
145. When bad conduct was detected, several forms of punishment were used to discipline troops. Besides punishments inside the military units themselves,⁴³⁸ troops would be sent to reeducation⁴³⁹ or worksites⁴⁴⁰ or were killed.⁴⁴¹ Commanders that disobeyed orders or were considered traitors were arrested and subsequently killed.⁴⁴² For purposes of interrogation and arrest of alleged traitors, RAK units either used installations of the Centre like S-21⁴⁴³ or their own security offices.⁴⁴⁴

G. PARTICIPATION OF RAK IN PURGES

146. As part of its responsibility for internal security, RAK carried out purges under the orders of the CPK Centre.
147. During the official July 1975 RAK gathering the Chairman of the High-Level Military Committee of the Party declared that the Revolutionary Army must defend the country against “*internal enemies*”, whom he instructed it was the Revolutionary Army’s duty “*to continue to smash*”.⁴⁴⁵ During RAK meetings of secretaries and deputy secretaries of divisions and independent RAK regiments the measures discussed included purges of “*no-good elements*”.⁴⁴⁶

148. Duch explains that in the period immediately after 17 April 1975 - in the absence of any centre security organ – orders to execute ex-Khmer Republic officers and others who were considered enemies - were carried out by military personnel answering to zone secretaries, who received their orders from the Standing Committee.⁴⁴⁷ Zone units entering Phnom Penh⁴⁴⁸ and by zone and subordinate units entering other towns, such as Pursat in the Northwest Zone⁴⁴⁹ carried out executionzs.⁴⁵⁰ Involvement by zone, sector and district military forces in local executions continued in some parts of the country throughout the regime. This was the case at the West Zone Sector 37 and Prey Nup District security complex at Koh Kyang,⁴⁵¹ the autonomous Sector 105 security complex at Phnom Kraol in Koh Nhek,⁴⁵² and the Prey Damrei Srot district security complex in Kampong Tralach Leu District (12) of West Zone Sector 31.⁴⁵³
149. According to one witness, the decision to carry out purges within the military ranks was made by the Standing Committee, with Son Sen acting on the orders of Pol Pot, **Nuon Chea** and Ta Mok”.⁴⁵⁴ He also referred to the existence of a purge “*planning meeting of the Standing Committee which comprised Pol Pot, Nuon Chea and Ieng Sary*”.⁴⁵⁵ The same witness reports that the purge orders were conveyed at a meeting of military commanders convened by Pol Pot, **Nuon Chea**, Ta Mok and Son Sen.⁴⁵⁶

VI. ARMED CONFLICT

150. Almost immediately following the entry into Phnom Penh of the Cambodian People’s National Liberation Armed Forces (CPNLAF) on 17 April 1975, a state of international armed conflict came into existence between the Socialist Republic of Vietnam and Democratic Kampuchea. Protracted armed hostilities continued until the capture of Phnom Penh on 7 January 1979 by Vietnamese forces and beyond.
151. Although the existence of the international armed conflict between Democratic Kampuchea and the Socialist Republic of Vietnam was not officially recognised until 31 December 1977 with a statement by the Cambodian Ministry of Foreign Affairs severing diplomatic ties between the two States,⁴⁵⁷ it may be concluded that from mid-April 1975 there were ongoing, frequent and escalating armed hostilities between the two States at all times leading up to the fall of the CPK.
152. In fact, there is clear evidence demonstrating that Democratic Kampuchea and the Socialist Republic of Vietnam were engaging in armed hostilities in 1975,⁴⁵⁸ 1976,⁴⁵⁹ 1977⁴⁶⁰ and

1978-January 1979.⁴⁶¹ Despite there being a number of lulls in the fighting (particularly prior to 1977) at no point had a general conclusion of peace been reached between the two States, such that the international armed conflict would cease to exist.

153. The CPNLAF, later renamed the Revolutionary Army of Kampuchea (RAK), engaged in armed hostilities with the Vietnam People's Army during various Vietnamese attacks and incursions into Democratic Kampuchea territory⁴⁶² as well by the RAK into the territory of the Socialist Republic of Vietnam.⁴⁶³ Furthermore, invasions and fighting took place on various islands in the Gulf of Thailand disputed by the two States.⁴⁶⁴
154. The scope and intensity of the international armed conflict increased steadily and eventually resulted in two large-scale incursions of Democratic Kampuchea by Vietnamese forces in December 1977 and December 1978. The later invasion led Democratic Kampuchea to seize the United Nations Security Council of the matter on 31 December 1978.⁴⁶⁵ By 7 January 1979, the RAK had been forced to flee Phnom Penh and, from that point forward, the CPK regime rapidly lost effective control of the greater part of Cambodian territory.
155. In its 26 July 2010 Judgement in the Duch case, the Trial Chamber confirmed that at all times from April 1975 to 7 January 1979, there existed an international armed conflict between the two States that was subject to the provisions of the Geneva Conventions 1949.⁴⁶⁶

VII. FACTUAL FINDINGS OF JOINT CRIMINAL ENTERPRISE

156. The common purpose of the CPK leaders was to implement rapid socialist revolution in Cambodia through a "great leap forward" and defend the Party against internal and external enemies, by whatever means necessary.
157. To achieve this common purpose, the CPK leaders *inter alia* designed and implemented the five following policies:
- The repeated movement of the population from towns and cities to rural areas, as well as from one rural area to another;
 - The establishment and operation of cooperatives and worksites;
 - The reeducation of "bad-elements" and killing of "enemies", both inside and outside the Party ranks;

- The targeting of specific groups, in particular the Cham, Vietnamese, Buddhists and former officials of the Khmer Republic, including both civil servants and former military personnel and their families; and
 - The regulation of marriage.
158. The common purpose came into existence on or before 17 April 1975 and continued until at least 6 January 1979. The five policies designed to achieve this common purpose were implemented within or before these dates. These policies evolved and increased in scale and intensity throughout the regime. One of the consequences of these policies was the collectivisation of all aspects of society. This collectivisation involved the suppression of markets, currency and private property,⁴⁶⁷ the prohibition of peoples' freedom of movement, and generally forcing everyone to live in communal units according to their categorisation. This resulted in the implementation of a system which Cambodians have subsequently described in the following way: the entire country had become a "prison without walls".
159. The persons who shared this common purpose included, but were not limited to: members of the Standing Committee, including **Nuon Chea** and **Ieng Sary**; members of the Central Committee, including **Khieu Samphan**; heads of CPK ministries, including **Ieng Thirith**; zone and autonomous sector secretaries; and heads of the Party Centre military divisions.

A. MOVEMENT OF THE POPULATION

160. One of the five policies was to implement and defend the CPK socialist revolution through the movement of the population from towns and cities to rural areas, as well as from one rural area to another, by whatever means necessary. The movement by the CPK of people began prior to 17 April 1975 and continued until at least 6 January 1979. The Co-Investigating Judges were specifically seized of three major phases of movement: the movement of people out of Phnom Penh (Phase 1); the Central (Old North), Southwest, West and East Zones (Phase 2); and the East Zone (Phase 3).
161. One of the objectives of the population movements was to fulfil the labour requirements of the cooperatives and worksites.⁴⁶⁸ The CPK declared that it also had the objectives of providing food supplies to the population and protecting it from security threats. A CPK Party document dated September 1975 reflects another major objective: to deprive city dwellers and former civil servants of their economic and political status and transform them into peasants,⁴⁶⁹ thus "*preserving the revolutionary achievements*".⁴⁷⁰ Population movements

were therefore a key means used by the CPK to achieve “*whatever can be done that is a gain for the revolution*”.⁴⁷¹

Dates and Participation

162. Prior to 1975, the CPK had implemented a policy of removing people from the towns and cities that came under their control: people were moved totally or partially from urban areas in Steung Treng, Kratie, Banam and Udong in the Northeast, North and East Zones and Sector 505.⁴⁷² Publications of the *Revolutionary Flag* reflect that the CPK deliberately moved the population from urban to rural areas.⁴⁷³
163. This policy was implemented, in particular, on or around 17 April 1975 (Phase 1); from the latter part of 1975 until some time in 1977 (Phase 2); and from late 1977 throughout 1978 (Phase 3).
164. With respect to Phase 1, Pol Pot played a key role in the decision to move the entire population out of Phnom Penh.⁴⁷⁴ The plans to prepare the reception of the residents of Phnom Penh were disseminated before its implementation.⁴⁷⁵ There was further involvement of members of the Party Centre⁴⁷⁶ in the development of this plan during meetings in late March or early April 1975.⁴⁷⁷ These were followed by meetings during which lower level cadre were informed of the decision.⁴⁷⁸ Some CPK soldiers were informed of the attack on Phnom Penh in advance, generally via their military superiors in accordance with the command structure,⁴⁷⁹ however others only received the order to remove people from the capital shortly after their arrival.⁴⁸⁰ The evacuation of the population of Phnom Penh was not a singular phenomenon but constituted part of a wider pattern of population movements from cities after 17 April 1975.⁴⁸¹
165. With respect to Phase 2, the plan to send people to the North and North West Zones is evidenced from a visit of the CPK Standing Committee to that area before or around August 1975.⁴⁸² This visit gave rise to the following report: “*the labour force must be increased. Three or four hundred thousand more would not be enough. The current strength of one million persons can only work 50 per cent. It’s imperative to add four or five hundred thousand more*”.⁴⁸³ A September 1975 Party document stated that “new people” needed to be relocated out of areas where temporary over-concentrations of them had resulted in food shortages. The document specifies that a permanent solution to this problem had to be effected starting in November 1975 and adjusted to production requirements.⁴⁸⁴ Witnesses⁴⁸⁵ and documents⁴⁸⁶ provide further evidence as to how the CPK Centre was involved in these

movements. Telegram #15 dated November 1975 sent to Pol Pot⁴⁸⁷ describes a decision of the CPK Centre regarding Phase 2 of the movement of population.⁴⁸⁸ The former head of the Central Zone Telegram Unit (formerly the North Zone) explains that the East Zone “*had to send the report from the Zone to Pol Pot of the Centre level first, and then waited for Pol Pot instruction. KE Pauk [Secretary of the Central Zone (formerly the North Zone)] received this telegram from the Centre, not directly from the East Zone*”.⁴⁸⁹

166. With respect to Phase 3, although the CPK may have displaced part of the population of the East Zone within the zone or to other zones for reasons relating to food production⁴⁹⁰ or the conflict with Vietnam,⁴⁹¹ there is also evidence of massive displacements during the East Zone purge, as set out below.⁴⁹²
167. Between 1976 and 1978, following the phases 2 and 3 of the movement of population, the Northwest Zone had problems of overpopulation and famine, as set out in the section of this Closing Order regarding Factual Findings of Crimes. The Centre was informed of this situation by visits to the field of its representatives⁴⁹³ and by reports from the secretaries of the zone in which this problem was discussed.⁴⁹⁴

B. COOPERATIVES AND WORKSITES

168. One of the five policies was to implement and defend the socialist revolution through the establishment and operation of cooperatives and worksites by whatever means necessary. Cooperatives and worksites were set up throughout Cambodia before 1975, from the early stages of the CPK control over certain parts of the territory. These cooperatives and worksites continued until at least 6 January 1979. The Co-Investigating Judges were specifically seized of six worksites and cooperatives: Trapeang Thma Dam worksite, Kampong Chhang Airport construction site, 1st January Dam worksite, Srae Ambel government worksite, the Tram Kok Cooperatives and Prey Sar worksite (S-24).
169. One of the objectives in establishing cooperatives and worksites was to put the population to work in order to provide food for internal consumption and for export.⁴⁹⁵ This involved, amongst other activities: rapidly increasing the production of paddy to three tons per hectare per crop;⁴⁹⁶ creating a country-wide irrigation network;⁴⁹⁷ increasing production of other products such as rubber⁴⁹⁸ and salt,⁴⁹⁹ and building infrastructure such as airfields or dams.⁵⁰⁰ These matters were to be achieved regardless of their impact on the population; in some cases, such as where the land was not able to support the three tons per hectare target for rice

production, it was physically impossible to implement the CPK objectives.⁵⁰¹ Another objective of this policy was to further the policy relating to detecting, defending against, reeducating and “smashing” the enemy as set out below.⁵⁰² For example, a February 1976 broadcast cited military functions as one of the six tasks of cooperatives.⁵⁰³ The January 1976 DK Constitution formally established that the populations in cooperatives were duty-bound to defend the country.⁵⁰⁴ From 1978, cooperatives were increasingly tasked with smashing the “enemies”, whom the CPK believed to be hidden within them.⁵⁰⁵ A further objective of the cooperatives and worksites was to eliminate the private sphere,⁵⁰⁶ thus destroying the existing social structure and replacing it with a collectivism regime⁵⁰⁷ in which there was no allowance for individual or family interests.⁵⁰⁸ Cooperatives and worksites were therefore a key means used by the CPK to achieve and to do “*whatever must be done to serve production*”.⁵⁰⁹

Dates and Participation

170. The establishment of collective agricultural production by the CPK began around 1970, expanding as the CPK strengthened its control over Cambodian territory.⁵¹⁰ By 1973 a number of cooperatives had been established.⁵¹¹ In May 1975, a conference was held with CPK representatives from throughout the country, at which Pol Pot and other senior leaders decided that the establishment of socialist revolution in Cambodia required a focus on agriculture and industry, which was to be achieved through continued establishment of cooperatives and the construction of canals and dams. The latter project was to be launched in 1976.⁵¹²
171. The Standing Committee formulated this policy, as reflected in a series of meetings at which they gave instructions on matters such as rice rations,⁵¹³ targets for production of rice and other products⁵¹⁴ or the construction of water systems.⁵¹⁵ On 26 August 1975, the CPK Standing Committee reported on a visit to the Northwest Zone where it became aware of the poor living and working conditions, including food shortages, starvation,⁵¹⁶ and lack of medicine,⁵¹⁷ concluding that “*it’s imperative to strengthen and expand the cooperatives*”⁵¹⁸ and that the Southwest had “*little hope (little land, little water, no good paddy)*”.⁵¹⁹ On 2 November 1975, the Standing Committee considered training for agricultural machinery⁵²⁰ and salt production.⁵²¹ On 22 February 1976, the Standing Committee gave instructions relating to the transport and distribution of rice, increasing salt production, the construction of railroads and hydroelectric facilities⁵²² and the building of Kampong Chhnang Airport.⁵²³ During a meeting from 19 to 21 April 1976, the Standing Committee stated that it would go down to the bases in May 1976,⁵²⁴ and stressed that the Standing Committee must work with the ministries to “*explain about the general stances of the Party and to provide timely*

- instructions*".⁵²⁵ At the same meeting, the Standing Committee established a number of committees surrounding Office 870,⁵²⁶ with responsibilities in relation to agriculture, commerce and economics,⁵²⁷ and gave instructions on matters such as foreign trade negotiations with North Korea and China,⁵²⁸ the expansion of rubber production and early season rice yields,⁵²⁹ and building and distributing water pumps.⁵³⁰ On 30 May 1976, the Standing Committee established guidelines for the agricultural production action of the army, which was considered as having the *"joint duty to build the country"*.⁵³¹ Finally, in August 1976, the Standing Committee developed a four-year plan to build socialism in all fields including rapid agricultural development.⁵³²
172. The Council of Ministers also affirmed the need to *"do whatever we possibly could to produce 3 tons of crops per hectare"*,⁵³³ which required that *"the Standing Committee must make sure it goes down to the rice fields frequently, at least 15 days each month"*.⁵³⁴ At a Council of Ministers meeting on 22 April 1976, it was noted that the task of the Cambodian government was to *"build the country in every sector, economics, agriculture, industry, communication, social affairs, health, etc ... in concert, according to Party objectives. Do whatever is necessary so that each ministry, each office, each unit makes sure it fulfils its tasks well, in quantity, in the momentum of the great miraculous leap"*.⁵³⁵ At a meeting on 31 May 1976, details from visits to *"many bases"* were reported, including progress on dike systems,⁵³⁶ rice production from specific districts,⁵³⁷ and matters relating to canals and fertilizer.⁵³⁸ At this meeting, the Council of Ministers noted a shortage of rice rations and *"human diseases"*, but stated that they would be able to resolve the issue.⁵³⁹
173. The People's Representative Assembly similarly endorsed this policy on 11-13 April 1976, which called for *"the entire people to be on the offensive on every battlefield of production in every sector, especially in agriculture, aiming to produce the maximum amount of rice ... to push the building of our country even faster in a great and miraculous leap"*.⁵⁴⁰ Purported representatives of the workers,⁵⁴¹ peasants,⁵⁴² and army⁵⁴³ expressed their resolve to support this policy. A major Party gathering elaborated the three tons per hectare objective in early November 1975 and, thereafter, it became *"the common resolution for the entire Party, the whole population and the whole Revolutionary Army"*.⁵⁴⁴ Army units regularly held meetings at which this policy was discussed and details of its implementation were reported.⁵⁴⁵
174. CPK directives⁵⁴⁶ and CPK meetings also addressed this policy.⁵⁴⁷ For example, minutes from a meeting on 8 March 1976 note that instructions were issued regarding the agricultural situation in Sectors 106 and 103, and the goal of exporting rice from Sector 106 by 1977,⁵⁴⁸ requiring regular reporting on all details of its implementation.⁵⁴⁹ Rice shortages and disease,

and the serious adverse effects on the working strength of people in worksites, were also reported at this meeting.⁵⁵⁰ Instructions were issued that people were to be issued a ration of two cans of rice per day, but it was noted that, “*at the end of the season when there are many shortages, those shortages will impact their health and labour strength*”.⁵⁵¹ Telegrams were also sent to the Centre reporting on the policy relating to cooperatives and worksites, including the working conditions such as food shortages and starvation.⁵⁵²

175. A number of specific problems related to health and their adverse effect on this policy were discussed at an *ad hoc* CPK meeting dated 10 June 1976. People’s living standards, resulting diseases, significant shortfalls of medicine throughout the country were noted; the Ministry of Health and Social Affairs was reminded of its duties with respect to this policy; and instructions were issued to address these problems.⁵⁵³ Health issues were further discussed by Pol Pot with medical workers from the zone, sectors and military gathered at the first National Medical Conference held in October 1978.⁵⁵⁴
176. The policy of forming cooperatives and worksites was also disseminated through radio broadcasts⁵⁵⁵ and the *Revolutionary Flag* magazines.⁵⁵⁶ A 1975 issue of *Revolutionary Flag* stated that “*the Party has to rebuild a new economy in the most rapid manner that is mainly depending on agriculture*”⁵⁵⁷ and that “*the labour forces shall be organized for consecutive projects*”.⁵⁵⁸ In 1976, *Revolutionary Flag* magazines stated that the Party assessed the economic situation monthly⁵⁵⁹ and that food shortages and diseases had persisted during that year, but that problems had been resolved and “*the majority of districts*” had enough to eat.⁵⁶⁰ Later in 1978, however, it was recorded that the previous assertions of agricultural success had been exaggerated, the failures being blamed on internal enemies.⁵⁶¹
177. Although serious health⁵⁶² and food problems⁵⁶³ arose following the establishment of the CPK regime, the CPK leaders had not provided for adequate systems to respond to these problems⁵⁶⁴ and did not accept international aid,⁵⁶⁵ except for the limited support primarily available from China.⁵⁶⁶ On the contrary, the CPK policies were focused on isolation and the self-sufficiency of the national economy.⁵⁶⁷

C. SECURITY CENTRES AND EXECUTION SITES

178. One of these five policies was to implement and defend the CPK socialist revolution through the reeducation of “bad-elements” and the killing of “enemies”, both inside and outside the Party ranks, by whatever means necessary.⁵⁶⁸ As it took power, the CPK destroyed the existing legal and judicial structures.⁵⁶⁹ By 17 April 1975, the CPK had replaced these

structures with a network of security centres and execution sites in the areas over which it had taken control, in order to detain and reeducate or kill those who were suspected of engaging in activities against the State.⁵⁷⁰ By the end of the CPK regime, approximately 200 security centres and countless execution sites had been established, located in every Zone throughout Cambodia and at all levels of the CPK administration structure, including at the Party Centre.⁵⁷¹ Of these, the Co-Investigating Judges were seized of eleven security centres (S-21 security centre, Au Kanseng security centre, Koh Kyang security centre, Kok Kduoch security centre, Kraing Ta Chan security centre, North Zone security centre, Prey Damrei Srot security centre, Phnom Kraol security centre, Sang security centre, Wat Kirirum security centre, Wat TlorK security centre) and three execution sites, in addition to Choeng Ek, related to S-21: (Execution Sites in District 12, Steung Tauch and Tuol Po Chrey execution sites).

179. The two key objectives of security centres and execution sites were to reeducate bad-elements and “smash” enemies. In its common usage, to “smash” meant to “kill”.⁵⁷² However, in the context of a security centre, it meant to secretly arrest, interrogate, torture, and execute.⁵⁷³ Similarly, “sweep” was a term used to describe arrests,⁵⁷⁴ usually followed by executions.⁵⁷⁵ Chapter VII of the Constitution of Democratic Kampuchea entitled “Justice” illustrates the CPK’s concern to protect the State from subversion.⁵⁷⁶ Article 10 of this chapter refers to two forms of activity that posed a threat to the State and their corresponding penalties: “[d]angerous activities in opposition to the people’s State must be condemned to the highest degree”, whereas “[o]ther cases are subject to constructive reeducation in the framework of the State’s or people’s organizations”.⁵⁷⁷ A person suspected of the former category of activity was deemed to be an “enemy” who had to be “smashed”,⁵⁷⁸ whereas a person falling within the latter category was considered a “bad-element” who would be reeducated as prescribed by the Constitution.⁵⁷⁹ Security centres detained both “enemies” and “bad-elements” and usually labelled them “serious” and “light” prisoners respectively.⁵⁸⁰
180. The CPK used several methods to identify those who had carried out “activities against the State”, including requiring people to write biographies and attend self-criticism meetings. Persons arrested and interrogated at a security centre were required to name other members of their alleged “network”, routinely under torture, which was practiced in security centres nationwide, even prior to 17 April 1975.⁵⁸¹ The methods of interrogation were given different labels ranging from “cold”, “chewing” to “hot”.⁵⁸² These methods appear to have been taught to security centre cadres by the sector and district cadres and were commonly understood terms.⁵⁸³ Further, interrogators routinely asked detainees the same questions at different security centres, such as whether they were agents of the CIA. The order to interrogate along these lines originated from the Centre and Zone levels⁵⁸⁴ and reflected the Party Centre’s fear

that the CIA was conspiring with the Vietnamese to overthrow the CPK regime.⁵⁸⁵ The establishment of security centres and execution sites was therefore a key means by which the CPK did “whatever it [took] to cause the oppressed classes to be victorious over the oppressor classes”.⁵⁸⁶

181. As set out below, the list of those whom the Party suspected of engaging in activities against the State broadened and evolved over time as a result of domestic developments and the international armed conflict between Cambodia and Vietnam. The CPK considered itself under constant threat of invasion and annexation by Vietnamese forces and entered into the international armed conflict with Vietnam in pursuance of its policy to defend itself from external enemies.

Dates & Participation

182. This policy was primarily carried out by members of the military and security forces (Santebal) of the CPK.⁵⁸⁷ It evolved before and throughout the regime. By the 1970s, security centres and execution sites had been established in “liberated” zones and were reeducating bad-elements and killing enemies.⁵⁸⁸ This policy was widely disseminated from 1971 and songs encouraging the “smashing” of people were used as a tool of implementation.⁵⁸⁹
183. In July 1975, at a RAK gathering, the “*Chairman of the High-Level Military Committee of the Party*” declared that the Revolutionary Army had to defend the country against “*internal enemies*” and continue “*smashings*”.⁵⁹⁰ During various other RAK meetings, the methods to be employed against bad elements were discussed.⁵⁹¹
184. The Standing Committee addressed this policy during a series of meetings held between August 1975 and August 1976,⁵⁹² including methods of surveillance,⁵⁹³ the situation of specific individuals such as Sihanouk or cadres identified as potential “*traitors*,”⁵⁹⁴ and the situation of national defence⁵⁹⁵ and enemies.⁵⁹⁶
185. Two Party documents, both dating from September 1975, discuss those whom the CPK suspected of engaging in activities against the State, both inside and outside Cambodia, and in some cases they propose an appropriate sanction.⁵⁹⁷ For example, it was decided that intellectuals living abroad would be reeducated through labour upon their return to the country.⁵⁹⁸

186. On 30 March 1976, the Central Committee reported the following, regarding the power to decide on “*smashing within and outside the ranks*”: “*If in the base framework, to be decided by the Zone Standing Committee. Surrounding the Centre Office, to be decided by the Central Office Committee. Independent Sectors, to be decided by the Standing Committee. The Centre Military, to be decided by the General Staff*”.⁵⁹⁹ In the following months, internal CPK documents required heightened “*revolutionary vigilance*” with a view to “*ensuring that the enemy is unable to bore from within*” the Party and the army.⁶⁰⁰ In practice, some sectors subordinated to zones made the decisions to “smash”⁶⁰¹ or oversaw decisions to “smash” at the district level.⁶⁰² Elsewhere, it appears that districts made such decisions on their own authority.⁶⁰³ In addition, the Central Committee delegated this authority to at least some cooperatives. Some cooperatives retained the power to smash as evidenced by witness statements,⁶⁰⁴ official media reports,⁶⁰⁵ and telegrams.⁶⁰⁶ At the same time, authorities at some cooperatives nominated prisoners to district security offices for execution, as was the case in Tram Kok district, as set out in the section of the Closing Order relating to the Factual Findings of Crimes for Tram Kok Cooperatives and the Kraing Ta Chan security centre.
187. The People’s Representative Assembly articulated this policy in meetings held from 11 to 13 April 1976, at which it approved the need to “*raise revolutionary vigilance to a high level at all times*”.⁶⁰⁷
188. At a Council of Ministers meeting on 22 April 1976,⁶⁰⁸ Pol Pot stated that the policies of the CPK had to be correctly implemented in every sector and ministry, emphasizing that “*only when we fulfil our duties ... the enemy will respect us and be apprehensive about us*”.⁶⁰⁹ In particular, talking about the dangers of the imperialists and the CIA, he stated that “*no matter how well we do things, if the imperialists are alive, if their CIA is alive, if their reactionary groups are not yet eliminated from the face of the world, they will continue opposing the revolution, opposing us opposing any progressive both overtly and clandestinely*”.⁶¹⁰ He also insisted on the importance of “*revolutionary vigilance*” against “*every form of enemy activity*” and on the reeducation of the masses “*in every ministry and office and in the Army, in the cooperatives, the unions, etc*”.⁶¹¹ On 31 May 1976, Pol Pot reported to the Council of Ministers that difficulties were being encountered at the eastern border, from a “*military group and a small number of students that the contemptible assigned to be CIA network*”.⁶¹²
189. This policy was also discussed in four *ad hoc* CPK meetings held in 1976: two on propaganda, one regarding base work, and one addressing health and social affairs.⁶¹³ Surviving minutes of meetings on propaganda dated March 1976 insist on the importance of radio broadcasting “*to prevent the enemy from attacking us,*” or to ensure “*reeducation and*

training on the constitution".⁶¹⁴ In the second meeting on propaganda held in June 1976, a series of precise instructions regarding these matters were issued in the name of the Standing Committee, including the need to *"have more revolutionary vigilance especially the enemies burrowing within"*.⁶¹⁵ The enemy situation at the base was also discussed at the third meeting dated March 1976, where the need for a *"dictatorship of our proletariat class ... to prevent the enemy from seizing the opportunity [to attack]"* was discussed.⁶¹⁶ In the fourth meeting, in June 1976, political and consciousness work, and the need for further indoctrination was discussed with the Ministry of Social Affairs.⁶¹⁷

190. In June 1978, the Party's line towards enemies and bad elements appears to have altered, when a Central Committee directive was issued entitled *"Guidance of the Central Committee of the Communist Party of Kampuchea on the Party's Policy towards Mised Persons who have joined the CIA, served as Yuon agents or joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea"*.⁶¹⁸ This directive appears to prescribe reeducation for those who allegedly joined the CIA, KGB and Vietnamese before July 1978, and orders the Party and the general population to eliminate networks that continued to oppose the Party.⁶¹⁹ One witness states that this June 1978 directive gave authority to the CPK Central Committee for implementing "smashing" which had previously been delegated outside the CPK centre by the 30 March 1976 directive.⁶²⁰ The June 1978 directive was disseminated in an issue of *Revolutionary Flag*.⁶²¹ Another issue of *Revolutionary Flag* dating from July 1978, further declares that the former delineation between "full-rights" people, "candidates" and "depositees" within cooperatives had been abolished.⁶²² The July 1978 issue of *Revolutionary Flag* itself also urged Party members to *"continue constantly to powerfully impel further forward the mass movement to sweep cleanly away the concealed enemies"*.⁶²³ In September 1978, Pol Pot disseminated this new policy at a large assembly which gathered Party cadre from the whole country.⁶²⁴ However, Duch gave evidence that this purported change in the CPK policy was only a deception designed to calm the population.⁶²⁵

"Morality"

191. Intimate relationships outside of marriage were considered to be against the collectivist approach of the CPK⁶²⁶ and therefore deemed *"immoral"*⁶²⁷ and associated with behaviours from the old regime.⁶²⁸ To this extent the Party's Moral Code stated *"Do not take liberties with women"*⁶²⁹ and the Armed Force's Moral Code stated *"We must not do anything detrimental to women"*.⁶³⁰ These Moral Codes were also reported to be studied by *"the youth"*⁶³¹ and the population was encouraged to adhere to the rules therein.⁶³² Those people who were suspected of *"immoral"* behaviour were categorized as *"bad-elements"* or

“enemies”, and were often either reeducated or killed.⁶³³ Additionally, it appears that detainees were routinely questioned about “immorality” during interrogation at security centres.⁶³⁴ Occurrences of “immorality” and their punishments were reported to superiors by CPK cadre.⁶³⁵ However, around mid-1978, Office 870 issued a circular to the zone level “instructing that light and medium-level prisoners be released” and “moral turpitude” prisoners were indeed released.⁶³⁶

“Purges”

192. Internal “purges” occurred increasingly in parallel with the evolution of this policy. To “purge” meant to politically purify by means of a range of sanctions, from being demoted or reeducated, to being smashed.⁶³⁷ This applied to both members of the Party and non-members. A number of situations under investigation may be described factually as purges. In particular, the Co-Investigating Judges were seized of two specific purge phenomena which occurred during the CPK regime: the purge of the Old and New North Zones; and the purge of the East Zone.

Purge of the Old and New North Zones

193. Following the decision of 30 March 1976 to conduct “smashings” inside the revolutionary ranks,⁶³⁸ purges were implemented *inter alia* by mass killings of Party members in the North Zone and in Sector 106, from the end of 1976. This escalated dramatically in early 1977 and continued until the end of that year.
194. Until April 1975, the North Zone (then coded Zone 304)⁶³⁹ comprised the post-April 1975 Sectors 41, 42, 43 and 106.⁶⁴⁰ It was then under the control of Secretary Koy Thuon, and Ke Pork⁶⁴¹ as Deputy Secretary (both were members of the Central Committee).⁶⁴² After April 1975, the North Zone (re-designated Zone 303) included only Sectors 41, 42 and 43, as Sector 106 became autonomous.⁶⁴³ Koy Thuon was transferred to the Centre and became Minister of Commerce⁶⁴⁴ at which time Ke Pork replaced him as North Zone Secretary.⁶⁴⁵ This remained the situation until the intensification of purges in 1977. In the context of these purges, Ke Pork initially became Secretary of a re-enlarged North Zone, reincorporating Sector 106,⁶⁴⁶ and Chan Sam alias Kang Chap alias Se was transferred from his previous posts in the Southwest Zone⁶⁴⁷ to become Zone Deputy Secretary and concurrently Secretary of Sector 106.⁶⁴⁸ Later in the year, a new North Zone (coded 801)⁶⁴⁹ was created. It was comprised of Sector 106 and the hitherto autonomous Sector 103,⁶⁵⁰ with Se as Secretary.⁶⁵¹ Sectors 41, 42 and 43 were renamed the Central Zone, with Ke Pork as Secretary.⁶⁵²

195. Within days of the 30 March 1976 Central Committee decision, Ke Pork, North Zone Secretary, notified Pol Pot and **Nuon Chea** of his willingness to take measures against alleged traitors within the revolutionary ranks.⁶⁵³ Shortly thereafter, Koy Thuon, former North Zone Secretary and then Minister of Commerce,⁶⁵⁴ was placed under house arrest⁶⁵⁵ for alleged offences (falling short of accusing him of being an enemy agent)⁶⁵⁶ and he appears to have been treated as an element in need of political reeducation, pursuant to provisions of the Democratic Kampuchea Constitution.⁶⁵⁷ He was also expelled from the Party pursuant to its Statute.⁶⁵⁸
196. Inside the North Zone, the implementation of this 30 March 1976 decision led to the first arrest of a high-level cadre in late 1976, whereby Chheum Meas alias Hah (Secretary of a regiment of North Zone Division 117) was sent to S-21⁶⁵⁹ where he was made to produce a confession implicating Koy Thuon.⁶⁶⁰ Around the same time, S-21 cadre arrested the first major Commerce Ministry cadre closely associated with Koy Thuon: Tit Son alias Nhem,⁶⁶¹ who was the number two-ranked member of the Centre Commerce Committee⁶⁶² and who began confessing under torture around November 1976.⁶⁶³
197. As a result of being implicated in these initial confessions, Koy Thuon was deemed to be a traitor, at which time he was arrested on a decision of the Standing Committee⁶⁶⁴ and sent to S-21, where part of his questioning was conducted by Duch personally.⁶⁶⁵ Koy Thuon confessed to having been a member of a massive network of traitors, encompassing a large number of administrative and military cadres in the North Zone.⁶⁶⁶ This led to a sharp increase in the scope of the purges, with truckloads of arrestees being sent to S-21.⁶⁶⁷ Duch states that the initial confession of Koy Thuon triggered a massive purge, leading to the arrest of many North Zone cadres.⁶⁶⁸ Ke Pork supervised the purges of Sector 106 and reported on the situation to Committee 870.⁶⁶⁹ A large number of alleged traitors from Sector 106 arrived at S-21 beginning early 1977.⁶⁷⁰ Lower-ranking victims of the purge were executed locally and replaced by Southwest Zone cadre that had been sent to assist in the purge⁶⁷¹ by relatives of Ke Pork.⁶⁷²
198. The purges of the North Zone continued until 1978. Besides Sector 106, the purges severely affected Zone Division 174,⁶⁷³ Sector 103,⁶⁷⁴ Centre Division 920 and Sector 105,⁶⁷⁵ Centre Divisions 310 and 450,⁶⁷⁶ the Centre's 870 offices,⁶⁷⁷ former North Zone cadre; and Ministry of Commerce personnel.⁶⁷⁸ More details on purges in the new North Zone are set out in the section of the Closing Order regarding the North Zone security centre.

Purge of the East Zone

199. The purges of the East zone started from mid-1976 with the arrests of Suos Nov alias Chhouk, former secretary of Sector 24, and Chan Chakrei alias Nov Mean, former cadre of East Zone Division 170.⁶⁷⁹ Both were arrested pursuant to a decision of the Standing Committee.⁶⁸⁰ Interrogated and tortured, they produced confessions in which they implicated a number of cadre from Sector 24.⁶⁸¹ These confessions were analysed and by mid-September 1976, Son Sen and S-21 staff intensified their pursuit of alleged traitors with regard to cadres and former cadres of the East Zone supposedly implicated as CIA, KGB or Vietnamese agents.⁶⁸² This launched a series of arrests of East Zone cadre, many of whom were sent to S-21 through 1977.⁶⁸³ For example, on 30 April 1977, Seat Chhae alias Tum, former Secretary of Sector 22, was arrested, whose S-21 confession dated 5 June 1977 was followed by a major purge of sector 22.⁶⁸⁴
200. From mid-August 1977, arrests and transfers in the East Zone were orchestrated by Son Sen and Ke Pork,⁶⁸⁵ using regular forces from the Centre, Central Zone units and former Southwest Zone troops placed under Centre command.⁶⁸⁶ In March 1978, a massive escalation of purges of East Zone cadre and combatants occurred in Svay Rieng in Sector 23.⁶⁸⁷ This was followed by even more arrests and executions in May-June 1978 in other parts of the East Zone.⁶⁸⁸ During this time Sao Phim, East Zone Secretary, committed suicide to avoid arrest.⁶⁸⁹
201. Purges of remaining East Zone cadres, and of cadre who, although operating outside the East Zone were originally from the East Zone, including in various Ministries such as the Ministry of Social Affairs,⁶⁹⁰ continued through to the end of the CPK regime.⁶⁹¹ Some of these cadres were sent from the East Zone to S-21⁶⁹² while others were killed on the spot⁶⁹³ or moved to other parts of the country.⁶⁹⁴ Many other East Zone or ex-East Zone cadre and combatants were sent for “reeducation” at worksites such as the Kampong Chhnang Airport construction site.⁶⁹⁵
202. As was the case with the North Zone and related purges, CPK senior leaders used the Party publication *Revolutionary Flag* in order to justify the ongoing East zone purges, to convince cadres that the Party had been infiltrated by internal enemies, and to encourage them to search out and “smash” such enemies.⁶⁹⁶

203. Further facts relating to the East Zone purges are set out the section of the Closing Order regarding S-21, Kampong Chhnang airport, Steung Tauch execution site and the movement of people from the East Zone (Phase 3).

204. **One hundred and sixteen (116)** civil parties were declared admissible in the context of the “purges” conducted by the Democratic Kampuchea regime in the (Old and/or New) North Zone in 1976 and (New) North Zone in late 1976 and early 1977 and in the East Zone in 1978⁶⁹⁷, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes of “purges” conducted by the Democratic Kampuchea regime in the (Old and/or New) North Zone in 1976 and (New) North Zone in late 1976 and early 1977 and in the East Zone in 1978.

D. TREATMENT OF TARGETED GROUPS

205. One of the five policies was to implement and defend the CPK socialist revolution through the targeting of specific groups by whatever means necessary. This measure adversely affected many groups of people within Cambodia at that time, directly or indirectly. The Co-Investigating Judges have been specifically seized of acts of the CPK targeting the Cham, Vietnamese and Buddhist groups, and the targeting of former officials of the Khmer Republic (including both civil servants and former military personnel and their families), occurring throughout Cambodia from the early stages of CPK control over certain parts of the territory before 1975 and continuing until at least 6 January 1979.
206. The Co-Investigating Judges are seized of treatment of the Cham in the Central, East and Northwest Zones; of the Vietnamese in Prey Veng and Svay Rieng Provinces in the East Zone and during incursions into Vietnam; of Buddhists throughout Democratic Kampuchea; and of former officials of the Khmer Republic during the movement of the population from Phnom Penh. This last incident constitutes only one of several occurrences of a pattern of targeting former officials of the Khmer Republic.⁶⁹⁸
207. An objective of this policy was to establish an atheistic and homogenous society without class divisions, abolishing all ethnic, national, religious, racial, class and cultural differences. This is evidenced through Party documents relating to class. In 1974, an article written by Pol Pot

in *Revolutionary Flag* set forth the notion that a “*special class*” existed in Cambodian society, comprised of “*soldiers, police and Buddhist monks*”.⁶⁹⁹ The notebooks of cadre that appear to refer to this article state that all national minorities were also considered to be part of this “*separate special class type*”.⁷⁰⁰ Other classes such as the feudalists, capitalists and bourgeois were described as opponents of the revolution.⁷⁰¹ In September 1975, the implementation of this objective evolved when the CPK proclaimed these classes and the special separate class types abolished, declaring that the only classes that existed were workers and peasants, and that all of the other classes had been melded into these two groups.⁷⁰² At this time, or shortly thereafter, Phnom Penh radio made its last references to Buddhist monks,⁷⁰³ Cham⁷⁰⁴ and other “national minorities”.⁷⁰⁵ Although senior Party authorities continued to talk about a Cambodian population incorporating non-Khmer nationalities into 1976,⁷⁰⁶ by August 1977, the national minorities’ *de facto* abolition and assimilation was officially stated to have advanced to the point where the country was described as “99 per cent” Khmer.⁷⁰⁷ Another objective of this policy was to eliminate enemies and to destroy certain groups, as such, in whole or in part. The targeting of specific groups was a key means by which the CPK did “*whatever can be done that is a gain for the revolution*”.⁷⁰⁸

Dates and Participation

208. With respect to the targeting of former officials of the Khmer Republic, this policy came into existence before 1975 and continued until at least 6 January 1979. Public declarations of intent in February 1975 to execute the most senior Khmer Republic figures upon victory were followed after 17 April 1975 by a secret decision to kill many other members of the Khmer Republic elite⁷⁰⁹ on the basis that “*it was decided to do whatever had to be done in order to make it impossible for them to stage a counter-revolutionary comeback*”.⁷¹⁰
209. During the evacuation of the population of Phnom Penh, former officials of the Khmer Republic, especially high-ranking officials,⁷¹¹ were targeted to be arrested and killed.⁷¹² There is also evidence that this group was targeted during the movement of people from other urban centres and subsequently throughout Cambodia, in particular in the Northwest Zone⁷¹³ and the Southwest Zone⁷¹⁴ as set out in the section of the Closing Order regarding Factual Findings of Crimes.
210. With respect to Buddhists, this policy began on or before 17 April 1975 and continued until at least 6 January 1979. High figures in the Buddhist hierarchy were executed during the evacuation of Phnom Penh, according to what Duch says he was told by those who carried out the killings.⁷¹⁵ Chapter 15, Article 20 of the DK Constitution purported to regulate religion by

stating “Every citizen of Kampuchea has the right to worship according to any religion and the right not to worship according to any religion. Reactionary religions which are detrimental to Democratic Kampuchea and Kampuchean people are absolutely forbidden”.⁷¹⁶ However, it appears that the purported freedom of religion in this article was a deception and that all religions were deemed to be reactionary.⁷¹⁷ All religion was prohibited by the CPK⁷¹⁸ including Buddhism.⁷¹⁹ Pagodas were destroyed,⁷²⁰ virtually all Buddhist monks and nuns were disrobed,⁷²¹ and some monks were threatened with death or killed if they did not comply.⁷²² People were told to follow, and put their faith in, *Angkar* rather than in religion.⁷²³ The abolition of Buddhism and the Buddhist monkhood was justified locally by reference to the notion that they were members of the “*special class*” which was said by local cadre to be an exploitative and oppressor class.⁷²⁴ This policy was implemented throughout Cambodia during the entire CPK regime.

211. With respect to the Cham, this policy began as early as 1970 in some areas⁷²⁵ and escalated throughout the CPK regime until at least 6 January 1979. Forced displacement of Cham villages began in approximately 1973⁷²⁶ and escalated after 1975,⁷²⁷ with some Cham being dispersed through ethnic Khmer villages.⁷²⁸ Telegram #15 dated November 1975 describes a decision of the CPK Centre regarding the policy to “*break up*”⁷²⁹ the Cham through displacement.⁷³⁰ Throughout the CPK regime, the CPK prohibited the Cham from practising their religion.⁷³¹ The CPK imprisoned or killed Cham religious leaders and elders⁷³² and Cham people who protested or continued to practice their religion.⁷³³ The CPK also prohibited the Cham culture, language and dress.⁷³⁴
212. Beyond religious persecution, beginning in 1977 and generally from mid-1978, the CPK adopted a policy of destroying the Cham as a group in those parts of Cambodia where most Cham then lived. Mass executions of Cham occurred in 1977 and 1978⁷³⁵ in the Central (Old North) Zone and East Zone. Witnesses gave evidence that the Cham were considered to be an enemy of the revolution⁷³⁶ and that the CPK intended to destroy the group⁷³⁷ by 1980.⁷³⁸ There is evidence that Ke Pork, Secretary of the Central Zone⁷³⁹ and a member of the Central Committee and Centre Military Committee,⁷⁴⁰ and the district secretaries of the East and Central Zones personally participated in the destruction of the Cham along with Centre and other military units.⁷⁴¹
213. With respect to the Vietnamese, this policy came into existence before 1975 and continued to escalate throughout the CPK regime until at least 6 January 1979. From 1973,⁷⁴² the CPK expelled Vietnamese people from Cambodian territory and sent them back to Vietnam, a policy that had been first implemented by the Lon Nol government since 1970. Expulsions

continued in 1975 and 1976.⁷⁴³ The April 1976 issue of *Revolutionary Flag* addresses the expulsion of Vietnamese people from Cambodian territory and states that “*the great typhoon of our democratic revolution swept hundreds of thousands of these foreigners clean and expelled them from our country, got them permanently out of our territory*”.⁷⁴⁴

214. From April 1977, the CPK intended to further this policy by destroying in whole or in part the Vietnamese group as such. This is evidenced by the April 1977 issue of the *Revolutionary Flag* magazine, which contains a direct call to kill all members of the Vietnamese community remaining in Cambodia. It called for the masses to “*seek out*” and “*smash*” them⁷⁴⁵ and stated, “*as for their old roots, some of whom still remain after we have smashed them to bits, it is imperative to whip-up the people to sweep more of them clean and make things permanently clean*.”⁷⁴⁶ Evidence of implementation of the policy is contained in communications from the zone level to the Centre.⁷⁴⁷ Former cadres also confirm the policy: wherever there were Vietnamese, “*everyone had to be careful and to find them and to “sweep them up*”.”⁷⁴⁸ Indeed, from 1977 onwards,⁷⁴⁹ mass targeted killings of Vietnamese civilians occurred throughout Prey Veng⁷⁵⁰ and Svay Rieng⁷⁵¹ in the East Zone. There is also evidence that Vietnamese civilians were targeted and killed throughout Cambodia as set out in the section of the Closing Order regarding Factual Findings of Crimes, in particular for the Northeast Zone⁷⁵² and the North Zone.⁷⁵³
215. The CPK based their policy to destroy the Vietnamese group on the theory of matrilineal descent. If a Vietnamese man was married to a Cambodian woman, only the man would be killed and the woman and any children would be spared. However, if a Vietnamese woman was married to a Cambodian man, the woman and any children of the marriage would be killed, while the man would be spared. This practice seems to have been applied throughout Prey Veng⁷⁵⁴ and Svay Rieng⁷⁵⁵ as well as in other parts of the country.⁷⁵⁶

E. THE REGULATION OF MARRIAGE

216. One of the five policies was to implement and defend the CPK socialist revolution was through the regulation of marriage by whatever means necessary. The CPK forced couples to marry as it took control progressively over parts of Cambodian territory before 1975 and continued to do so until at least 6 January 1979. The Co-Investigating Judges are seized of such facts occurring throughout the Cambodian territory.
217. One of several objectives of this policy was to control the interaction between individuals, such that they were only permitted to marry and have sexual relations in accordance with

CPK policy. The concept of marriage was reconstructed under the CPK regime in order for the CPK to replace the role of parents⁷⁵⁷ and to enable the mothers to go to work.⁷⁵⁸ The CPK had the objective of increasing population growth⁷⁵⁹ and “*building up a family*”.⁷⁶⁰ This objective was achieved by matching people with similar political status⁷⁶¹ and marrying soldiers.⁷⁶² Marriage was therefore a key means by which the CPK did “*whatever can be done that is a gain for the revolution*”.⁷⁶³

Dates & Participation

218. There is evidence that the CPK forced people to marry as early as 1974.⁷⁶⁴ In September 1977, Pol Pot articulated a CPK objective of increasing Cambodia’s population to 20 million within ten to fifteen years.⁷⁶⁵ He also stated that marriage ceremonies were to be held for groups of couples at the same time.⁷⁶⁶ The policy relating to population growth was reaffirmed at a national medical conference opened by Pol Pot and attended by representatives of the CPK government ministries and offices, zones and sectors and the armed forces.⁷⁶⁷ The implementation of a system of marriages arranged by the Party authorities among the population and within the Party itself was disseminated through CPK publications⁷⁶⁸ and reported to superiors through CPK telegrams.⁷⁶⁹ A report from the West Zone to *Angkar* provides information about marriage statistics and birth statistics.⁷⁷⁰
219. Official documents and statements refer to the supposed voluntary basis of such marriages: Pol Pot stated that “*young men and young women [were to] build up families on a voluntary basis*”⁷⁷¹ and marriages were said to be based upon a person’s proposal of a spouse according to the decision of the command committee.⁷⁷² Numerous witnesses state that they were forced to marry.⁷⁷³ Even those officials who stated that individuals freely agreed to marriage note that, in practice, people were not able to assert their opposition for fear of violence or death.⁷⁷⁴
220. In furtherance of this policy, single people in their twenties or early thirties⁷⁷⁵ were forced to marry⁷⁷⁶ by CPK authorities,⁷⁷⁷ usually in official buildings or in public places.⁷⁷⁸ After being made to spend a short period of time together, couples were required to return to their daily work and were brought together only when the CPK regime required⁷⁷⁹ including in some cases to ensure consummation of the marriage.⁷⁸⁰ Some persons who did not agree to marriage in accordance with the Party line were deemed to be “enemies”⁷⁸¹ however this was not applied in all instances of refusal.⁷⁸²

VIII. FACTUAL FINDINGS OF CRIMES

A. MOVEMENT OF THE POPULATION

Movement of the Population from Phnom Penh (Phase 1)⁷⁸³

ការផ្លាស់ប្តូរជនរស់នៅពីភ្នំពេញ៖ ដំណាក់កាលទី១

Pre-1975 Situation

221. Between 1970-1975 the population of Phnom Penh greatly increased to several million due to internally displaced people coming to the city from the countryside seeking protection from the conflict.⁷⁸⁴
222. Health service personnel⁷⁸⁵ and facilities⁷⁸⁶ were of decreased capacity during this period and services were less available in the countryside than in the cities, largely due to the on-going conflict between CPK forces and the Lon Nol regime.⁷⁸⁷ Hospitals in the capital were overcrowded⁷⁸⁸ and of varying quality.⁷⁸⁹ Health represented under 3% of the national budget at the end of 1974, compared to 5.7% in 1968.⁷⁹⁰
223. Although hunger and malnutrition were matters of concern during the conflict period prior to 1975,⁷⁹¹ there are no reports of widespread famine or epidemic risks.⁷⁹² This was largely due to foreign agencies supporting the population,⁷⁹³ although the ability to assist affected communities decreased as the insecurity grew.⁷⁹⁴

Departure

224. With the entry of CPK troops in the capital,⁷⁹⁵ the population of Phnom Penh was made to depart the city,⁷⁹⁶ from the morning of 17 April 1975,⁷⁹⁷ continuing for several weeks,⁷⁹⁸ including during the evening hours.⁷⁹⁹ Persons generally departed from their family homes located throughout the city.⁸⁰⁰

People Moved

225. The persons made to leave Phnom Penh were predominantly civilians⁸⁰¹ including men, women, the elderly, children,⁸⁰² and monks.⁸⁰³ Doctors and nurses were also made to leave,⁸⁰⁴ as well as hospital patients, wounded and sick people,⁸⁰⁵ and mothers who had just given

birth.⁸⁰⁶ Entire families were made to leave Phnom Penh⁸⁰⁷ although frequently family members were separated from each other.⁸⁰⁸

226. The precise number of persons who were made to leave Phnom Penh is unclear, although the total figure is likely to be 1.5 to 2.6 million people.⁸⁰⁹ Witnesses refer to seeing masses of people travelling in the streets⁸¹⁰ and that the entire city was emptied of people.⁸¹¹ Before 17 April 1975, the CPK claimed that the population in Phnom Penh and other areas controlled by the enemy was around one million.⁸¹² After 17 April 1975, the CPK officially estimated that the total number of persons moved from Phnom Penh was two million.⁸¹³ Later the CPK put the number of persons moved from Phnom Penh and provincial capitals at around three million⁸¹⁴ (although the same figure of three million was sometimes also cited for the population moved from Phnom Penh alone, including by **Ieng Sary**).⁸¹⁵ In 1977, the CPK changed their estimation of total number of people moved to four million.⁸¹⁶

Initial Destination

227. The civilian population left Phnom Penh by the national roads in all directions: north, south, east and west of the city.⁸¹⁷ In general, people were not provided with directions⁸¹⁸ nor informed of the final destination⁸¹⁹ other than to go to rural areas⁸²⁰ or to their birth place or home village.⁸²¹ On occasion CPK troops made people change their route.⁸²² The evidence shows that the people left Phnom Penh for most of the zones in Cambodia.⁸²³ The local communities were often instructed to receive the newly arriving population and provide food and shelter, although it was generally not sufficient for the number of arrivals.⁸²⁴ In other cases, the civilian population from Phnom Penh was either housed in halls⁸²⁵ or had to establish their own accommodation.⁸²⁶ Some people became ill from the journey from Phnom Penh or from the conditions on arrival.⁸²⁷ People who had originated from Phnom Penh were identified as “new people” or “17 April people” or “depositee people” and were often targeted on arrival based on this identity.⁸²⁸

Means and Method of the Movement

Means

228. The persons enforcing the movement of the population from Phnom Penh were identified by witnesses as “Khmer Rouge” troops.⁸²⁹ They were described as wearing black⁸³⁰ or khaki⁸³¹ clothes, some with scarves⁸³² or kramas around their necks.⁸³³ The “Khmer Rouge” troops were often armed.⁸³⁴

229. The troops made announcements⁸³⁵ generally over loudspeakers or megaphones⁸³⁶ that the population had a limited time period to leave Phnom Penh.⁸³⁷ In some instances the CPK troops were reported to have had lists of names⁸³⁸ and were allocated specific areas of the capital to supervise the movement of the population.⁸³⁹
230. Various contingents of the CPK army were identified as implementing the Phnom Penh population movement,⁸⁴⁰ namely the North Zone forces⁸⁴¹ (including Division 1 under Commander Oeun),⁸⁴² the Southwest Zone forces,⁸⁴³ the Special Zone forces,⁸⁴⁴ and the East Zone army,⁸⁴⁵ and witnesses report that the units had differing attitudes towards the population.⁸⁴⁶
231. People did not resist the instruction to leave Phnom Penh.⁸⁴⁷ According to certain witnesses there was no particular violence on the part of certain CPK troops.⁸⁴⁸ However, most witnesses state that the CPK troops engaged in threats⁸⁴⁹ and the use of force to ensure people left their homes.⁸⁵⁰ Witnesses reported hearing gunshots.⁸⁵¹
232. Other witnesses state that the CPK troops shot people dead if they refused to leave their homes.⁸⁵² Civilians were also shot in the cross-fire targeting Lon Nol soldiers.⁸⁵³ Some witnesses reported seeing dead bodies in the streets of Phnom Penh.⁸⁵⁴ Others stated that the CPK troops were instructed to do whatever was needed to ensure people left Phnom Penh.⁸⁵⁵
233. Ill treatment and acts of violence, such as beating and shooting in the air, were also reported against the civilian population.⁸⁵⁶ There are reports that personal property was taken by the CPK troops from Phnom Penh inhabitants.⁸⁵⁷
234. With respect to Lon Nol soldiers, some were reportedly disarmed by CPK troops⁸⁵⁸ and in some instances made to leave the city with the civilian population.⁸⁵⁹ On other occasions it is reported that Lon Nol soldiers were identified by questioning and taken away separately from the people leaving the city.⁸⁶⁰ There was an announcement in advance that “*Angkar*” would forgive all the people from the former regime except seven high level officials⁸⁶¹ and that the CPK soldiers requested former Lon Nol soldiers, governmental officials and police officers to report for work for the Party, however these individuals were then taken away to an unknown location before disappearing.⁸⁶²
235. Some Lon Nol soldiers were shot if they refused to lay down their arms or showed any resistance.⁸⁶³ In particular there is a written order signed by Comrade Pin ordering a list of

Lon Nol officers be “*smashed*”⁸⁶⁴ and one witness states that Son Sen ordered the arrest of high-ranking civil servants of the Lon Nol regime, including those in hospital. These people were later killed and thrown into a well in the Tuol Kork area.⁸⁶⁵ Witnesses refer to seeing executions of Lon Nol soldiers⁸⁶⁶ and seeing dead bodies of Lon Nol soldiers in the streets.⁸⁶⁷

Methods

236. Witnesses do not refer to being provided with transport⁸⁶⁸ other than limited reference to the use of military trucks.⁸⁶⁹ Most people travelled on foot,⁸⁷⁰ others drove or pushed their cars or other vehicles,⁸⁷¹ including scooters or motorbikes⁸⁷² and bicycles or cyclos.⁸⁷³ In some instances boats were used.⁸⁷⁴
237. The CPK troops told people not to take many personal belongings⁸⁷⁵ in some cases specifying it was not necessary⁸⁷⁶ because they would be leaving for a short period of time, and in others specifying that it was not possible to take items with them since people had to leave quickly.⁸⁷⁷ Most people left their personal belonging inside their houses.⁸⁷⁸ For people who were carrying their personal belongings, there was no evidence of assistance provided to them.⁸⁷⁹ People carried items on their heads or shoulders, in carts or in their vehicles.⁸⁸⁰ People took with them items such as rice,⁸⁸¹ money, medicine, school books or clothing,⁸⁸² and they were also assisting those who were sick and elderly.⁸⁸³
238. There is some evidence that food or other forms of support were provided to the population during the journey from Phnom Penh.⁸⁸⁴ There is evidence that certain CPK troops provided some rice for the people to eat⁸⁸⁵ although some of these witnesses also report having to drink dirty water from ponds along the way⁸⁸⁶ and that the CPK cadre noted the names of those who received food and the names of those who did not want to continue travelling.⁸⁸⁷ Two witnesses state that they did not see people starving during the population movement from Phnom Penh.⁸⁸⁸
239. There is no evidence of CPK troops providing security or protection to the population along the way.⁸⁸⁹ People had no shelter along the way⁸⁹⁰ and slept on mattresses on the road,⁸⁹¹ in empty houses or under trees.⁸⁹² People were not provided with food or water.⁸⁹³ One witness refers to being denied permission by the “Khmer Rouge” to obtain food.⁸⁹⁴ Otherwise, the only food available was steamed rice.⁸⁹⁵ Some people had to travel through the night with no rest⁸⁹⁶ for several days.⁸⁹⁷ People developed swollen limbs from the long walk⁸⁹⁸ and there are reports of deaths attributable to the conditions.⁸⁹⁹ There is no evidence of the population

receiving any medicine.⁹⁰⁰ Some CPK troops took property from people as they travelled from Phnom Penh.⁹⁰¹

240. Witnesses refer to seeing corpses along the road⁹⁰² of people who had been shot dead.⁹⁰³ People were killed along the road for small things such as not wanting to abandon their bicycles.⁹⁰⁴ Although some witnesses state that they did not see any mistreatment by CPK soldiers against civilians⁹⁰⁵ or that they did not see anyone die along the road,⁹⁰⁶ **Ieng Sary** states that 2,000 to 3,000 people died during the evacuation of Phnom Penh.⁹⁰⁷

Return to Phnom Penh

241. One witness states the CPK would threaten people that they would be shot if they returned to Phnom Penh.⁹⁰⁸ **Nuon Chea** stated that the intention was to permit people to return to Phnom Penh⁹⁰⁹ and **Ieng Sary** stated in May 1977 that the cities were re-populated after the initial population movement to the countryside,⁹¹⁰ and that people could choose to return to the city if they wished or could remain in the countryside.⁹¹¹ However, although there was indication that in rare circumstances some people were sent back to Phnom Penh to work,⁹¹² the city was largely empty of people except for limited numbers of soldiers and cadres⁹¹³ until the fall of the CPK regime.⁹¹⁴ According a statement by Pol Pot at a meeting on 6 June 1976, the population of Phnom Penh was then “*more than 100,000*”.⁹¹⁵ As of April 1977, this included 43,810 provided rations by the General Staff.⁹¹⁶

Reasons Given to the Population for the Movement

242. During the movement of the population from Phnom Penh, the people were often told by the CPK troops that they would only be away from their homes for a short time of two⁹¹⁷ or three days,⁹¹⁸ or up to a week or two.⁹¹⁹
243. In addition, several witnesses state that the CPK troops told them that it was necessary to leave Phnom Penh for their personal security⁹²⁰ and so that the troops could identify⁹²¹ or eliminate⁹²² Lon Nol soldiers, or otherwise find the enemy.⁹²³ There was also reference to the anticipated American bombing of the city,⁹²⁴ although there are also indications that some people present did not believe this.⁹²⁵ There is also reference to justifications for the movement of people from the city because CIA agents intended to deploy spies to launch a counterattack.⁹²⁶

244. Witnesses were further told that it was necessary to remove people from Phnom Penh to organise⁹²⁷ and clean up the city⁹²⁸ such as clearing away the ammunition.⁹²⁹
245. Certain political justifications were also provided: some witnesses state that they were told that “*Angkar*” was waiting⁹³⁰ for them; that they were needed to build the rural economy,⁹³¹ to build dams, canals, and work in the rice fields;⁹³² and that the only persons authorised to remain in the city were members of the military working there.⁹³³ Others have also referred to the food shortage in Phnom Penh as a reason for the population movement and that food was supposedly more plentiful in the countryside.⁹³⁴
246. These justifications referred to in the evidence of witnesses have been echoed in statements made by the Charged Persons. **Ieng Thirith** has referred generally in an interview she gave to a journalist in 1980 to the economic, political and military reasons for the movement of people from Phnom Penh.⁹³⁵
247. **Ieng Sary** has stated in an interview with a journalist in 1975, as reiterated at a conference in 1978, that the primary reason for the population movement was food. He states that initially it was thought that there were two million people in Phnom Penh, however it was later discovered that the population of the city was actually three million. He states that prior to the CPK regime, Cambodia had received between 30 to 40,000 tons of food a month from the United States and that the CPK did not wish to ask the international community for aid, but that the CPK would have been unable to transport food from the countryside into the cities.⁹³⁶ **Khieu Samphan** has also stated in a radio interview in 2007 that the population was starving at the time, but conceded that there was not enough food in the countryside either; so people ate bananas with rice or manioc and only limited food aid was delivered from the allies of the CPK.⁹³⁷ However, in a prior statement, **Khieu Samphan** asserted that any government recently out of war would have faced the problem of starvation and he asserted that after moving people out of Phnom Penh, people had enough food in cooperatives.⁹³⁸
248. The Charged Persons have also referred to the ideology of the regime as a justification for the population movement. In the face of the food crisis, **Nuon Chea** has asserted that the objective of the regime was to remain independent and sovereign.⁹³⁹ **Khieu Samphan** has also stated that Pol Pot did not want to live under the control of foreigners.⁹⁴⁰ The movement of people from the cities into the countryside has also been referred to by **Nuon Chea** as a component of the socialist revolution.⁹⁴¹ **Ieng Sary** has stated that the objective was to transform the uninhabited quarters of the city into industrial sites.⁹⁴² He also stated that it was necessary to train the people from the cities to endure moral and physical sufferings through

hard labour.⁹⁴³ One witness refers to Ta Mok stating that it was viewed as not necessary to have markets or cities and that all the city population were to go to rural areas to build the rural economy.⁹⁴⁴ Duch states in interview that the CPK objectives were to turn the whole country into peasants, abolish privatisation, and to force the technicians to do farming so as to make them powerless and dependent on peasants.⁹⁴⁵ CPK-era documents state that reeducation was not deemed possible on a large scale and so it was necessary to “evacuate” people to the rural areas⁹⁴⁶ to stop “*uncontrollable ideological contamination of the revolutionary ranks*”;⁹⁴⁷ and to participate in the movement to increase production, sustain the population, and contribute to defending and building the country.⁹⁴⁸

249. Finally, with respect to security concerns, **Nuon Chea** has stated that it was necessary to move the people from Phnom Penh to facilitate the military defence of the country from Vietnam⁹⁴⁹ to protect the people from war.⁹⁵⁰ **Ieng Sary** referred to a secret document allegedly obtained from the CIA concerning plans to infiltrate the city.⁹⁵¹ **Khieu Samphan** referred to the perceived need to make the country strong to fight the enemy.⁹⁵² CPK-era documents state that if the population had not left the cities, the enemies might have been able to launch surprise attacks from behind.⁹⁵³

Planning

250. Prior to 1975, the CPK had implemented a policy of removing people from the towns and cities that came under their control: people were moved totally or partially from urban areas in Steung Treng, Kratie, Banam and Udong.⁹⁵⁴
251. According to some witnesses, the decision to move the population from Phnom Penh was made in February 1975⁹⁵⁵ and was a deliberate plan of the CPK senior leaders.⁹⁵⁶ According to a former East Zone cadre, this decision was followed in February 1975 by orders from Pol Pot that all districts and sectors should prepare by building houses to receive people from Phnom Penh.⁹⁵⁷
252. One witness explained that in early April 1975 a meeting took place at Pol Pot’s office in Tang Poun Village, Kampong Tralach (Leu) District, Kampong Chhnang Province which was focused on the plan to move the population from Phnom Penh.⁹⁵⁸ Although there was no official record taken of the meeting, **Nuon Chea** and **Khieu Samphan** each participated in the meeting⁹⁵⁹ and took their own notes.⁹⁶⁰ The commanders were told to “*set up meetings when they returned to their sectors and make plans to evacuate the people from the cities under their responsibilities. This information was subsequently published in the*

Revolutionary Flag and the [Kampuchean] Front Flag and was issued to all Party members” (although there is no known existing record of such publications).⁹⁶¹

253. An additional witness refers to a coordination meeting prior to 17 April 1975 to which all CPK commanders of his unit (then the North Zone Division 1, later Centre Division 310) were invited as reported to him by Et, the commander of his Battalion.⁹⁶² Another witness states that about one month before the entry into Phnom Penh, a meeting was held in Phnom Sar (the headquarters of the CPK military command of Kampot). Sek, the Chief of Staff of Southwest Zone Sector 35, chaired the meeting. Southwest Zone Secretary Ta Mok stated that it was not necessary to have markets or cities and that all people must be evacuated from the cities to the rural areas in order to build the rural economy in two days after occupying the city.⁹⁶³
254. Some witnesses state that Sam Bit, Commander of Division 2 of the Southwest Zone, attended a meeting with upper-echelon CPK members where it was said that Phnom Penh had to be evacuated to find Lon Nol elements.⁹⁶⁴ This information was then disseminated from this meeting down to regimental and battalion levels.⁹⁶⁵
255. Former low-level CPK cadres also state that they were informed in advance of the plan to remove the people from Phnom Penh. One CPK soldier was told that “*Angkar*” had a plan to evacuate the people to their birth districts.⁹⁶⁶ Another witness states that North Zone Division 1 Secretary Oeun made an order to his group regarding the movement of the population about three days before “*liberation*”,⁹⁶⁷ whereas another former soldier also refers to being informed by [REDACTED] three days before the attack on Phnom Penh.⁹⁶⁸
256. However, other low-level CPK cadres also state that there were no prior instructions.⁹⁶⁹ Furthermore, some soldiers were only told to commence moving the population after being in the city for several days.⁹⁷⁰
257. CPK soldiers also received instructions from their superiors to move people from Phnom Penh through the military chain of command.⁹⁷¹ Division 310 (North Zone Division 1) 2nd regiment (later 723rd) received the order to evacuate people from the Commander named Chheang⁹⁷² and also from the Commander Oeun.⁹⁷³ CPK soldiers also referred to the “*upper-echelon*” or “*Angkar*” as issuing the instruction to leave the city.⁹⁷⁴
258. With respect to the involvement of the Charged Persons in the decision-making process, **Nuon Chea** was involved in the military planning of the CPK regarding the attack on Phnom

Penh as witnessed by his participation in meetings with military leaders.⁹⁷⁵ In a statement to a journalist **Nuon Chea** stated that the decision to evacuate people from cities was made by “the Party Centre... At the time, individuals each helped a little to originate ideas, it was combining this with that”.⁹⁷⁶ **Nuon Chea** further stated that “we attacked and we took military bases inside. So by 17 April 75, liberation, the army went in and completely liberated Phnom Penh”.⁹⁷⁷ **Ieng Sary** stated in a written statement in 1996 that the decision was made by Pol Pot without his knowledge⁹⁷⁸ although he states he attempted to dissuade Pol Pot, stating that “in 1974 I talked with Pol Pot that taking people out of Stung Treng and Kratie was easy because there weren’t many people, but evacuating people out of Phnom Penh would not be so easy, everything must be thoroughly arranged because there were millions of people”.⁹⁷⁹ **Ieng Sary** has also stated that “all decisions were made by the committee of the four [including himself and **Nuon Chea**]. The evacuation of people from the cities did not involve my participation in the decision ... [upon return from Peking on 23 of April] I saw that the town had already been deserted of its inhabitants”.⁹⁸⁰ According to **Ieng Sary**, the authoritative decision to “evacuate” Phnom Penh was made in late March or early April 1975.⁹⁸¹ **Khieu Samphan** stated in a radio interview that he was against the population movement but that it had to be done for the good of the city dwellers,⁹⁸² and he stated in another interview that such steps were “thought and planned by the Standing Committee”.⁹⁸³ **Ieng Thirith** stated in an interview with Elizabeth Becker in 1980 that she did not know when the Phnom Penh evacuation decision was made because she was elsewhere at the time.⁹⁸⁴

259. With respect to the presence of the Charged Persons in Phnom Penh, **Nuon Chea** left the former CPK headquarters on 17th April and arrived at Phnom Penh on or around 20th April.⁹⁸⁵ **Ieng Sary** stated that he arrived in Phnom Penh on 23 April 1975 from Peking,⁹⁸⁶ **Ieng Thirith** stated in an interview with Elizabeth Becker that she arrived in Phnom Penh around June, but that she knew of the evacuation before she arrived,⁹⁸⁷ and **Khieu Samphan** stated that he entered Phnom Penh 7-10 days after 17 April 1975.⁹⁸⁸
260. Based on the foregoing evidence, the decision to move people from Phnom Penh was made largely by Pol Pot in February 1975⁹⁸⁹ with plans already disseminated to prepare the reception of persons from Phnom Penh that same month.⁹⁹⁰ Further involvement in the development of this plan by members of the Party Centre⁹⁹¹ also took place through meetings in late March or early April 1975,⁹⁹² including the participation of **Nuon Chea**, **Khieu Samphan** and **Ieng Sary**.⁹⁹³ Although **Ieng Sary** was out of the country at the time, there is evidence that he received communications of decisions and that he had already discussed the matter with Pol Pot in 1974.⁹⁹⁴ There were then meetings with lower level cadre to

disseminate this decision⁹⁹⁵ and some CPK troops were told in advance of the attack on Phnom Penh,⁹⁹⁶ however others were not informed until they received the order to remove people from the city.⁹⁹⁷

261. **Six hundred and sixty four (664)** civil parties were declared admissible in the context of the movement of the population from Phnom Penh (Phase 1)⁹⁹⁸, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed in the context of the movement of the population from Phnom Penh (Phase 1).

**Movement of the Population from the Central (Old North), Southwest, West and East Zones
(Phase 2)⁹⁹⁹**

ការផ្លាស់ទីលំនៅប្រជាជន ពីភូមិភាគកណ្តាល (ឧត្តរចាស់), និរតី, បស្ចឹម និងបូព៌ា៖ ដំណាក់កាលទី២

Time and Location¹⁰⁰⁰

262. Around September 1975¹⁰⁰¹ and continuing into 1976¹⁰⁰² and 1977,¹⁰⁰³ a large number of persons were moved from the central and southwestern parts of the country, which applying the CPK's system of identifying administrative boundaries, encompassed the Central and Southwest Zones and parts of the West and East Zones: the provinces of Kandal, Kampong Thom, Takeo, Kampong Speu, Kampong Chhnang and Kampong Cham.¹⁰⁰⁴ Most of them were sent to what the CPK then designated Sector 106 (Siem Reap Sector), Sector 103 (Preah Vihear) and the Northwest Zone (including locations in today's provinces of Battambang, Pursat and Banteay Meanchey)¹⁰⁰⁵ or sent to what the CPK designated the Central (Old North) Zone (today's Kampong Thom and parts of Kampong Cham provinces).¹⁰⁰⁶
263. Furthermore, there is also evidence of other movements of population over the same period of time, such as from¹⁰⁰⁷ or within¹⁰⁰⁸ the East Zone (Prey Veng and Svay Rieng), to Kratie (Sector 505),¹⁰⁰⁹ within the Central (Old North) Zone¹⁰¹⁰ or within Battambang Province.¹⁰¹¹ Most witnesses state that people were moved several times¹⁰¹² before reaching their final destination, including a number of the persons who had initially been moved from Phnom Penh.¹⁰¹³

People Moved

264. It is difficult to estimate the number of people moved from central and southwestern Cambodia to the North and Northwest Zones between late 1975 and 1976. A document of the Standing Committee dated August 1975 refers to the need to add 400,000 or 500,000 people to the population of the Northwest Zone and also to relocate an unspecified number of people to the then North Zone.¹⁰¹⁴ According to a September 1975 Party document 500,000 people were to be relocated to the Northwest, 20,000 to Preah Vihear and others to Kampong Thom in the North Zone and certain sectors of the East.¹⁰¹⁵ A telegram dated November 1975 (“Telegram #15”) indicated that 50,000 people were to be moved from the East Zone.¹⁰¹⁶ According to the evidence of former railway operators it appears that thousands were sent by train through Phnom Penh to their destinations in Pursat and Battambang in the Northwest Zone.¹⁰¹⁷
265. According to most of the witnesses (some of whom were moved),¹⁰¹⁸ children, women, elderly, and entire families were moved.¹⁰¹⁹ Some were connected to the Lon Nol regime.¹⁰²⁰ Others were considered as “new people”¹⁰²¹ including people who had previously been moved from Phnom Penh.¹⁰²² Some witnesses state that only “new people” were told to leave.¹⁰²³ One witness refers to the movement of the Chinese and Kampuchea Krom minorities.¹⁰²⁴
266. A number of Cham people were also amongst the persons moved.¹⁰²⁵ This occurred in late 1975,¹⁰²⁶ after the Cham rebellion in two East Zone locations.¹⁰²⁷ Many Cham people were moved from their home villages in Kampong Cham Province¹⁰²⁸ and sent to other various villages within the same province.¹⁰²⁹ Some were sent further to villages in the provinces of Kratie,¹⁰³⁰ Kampong Thom¹⁰³¹ and Battambang.¹⁰³² Telegram #15¹⁰³³ and other evidence¹⁰³⁴ suggests that a decision was made by the CPK Central Committee and subsequently implemented to relocate thousands of Cham people to the North and Northwest Zones.

Means and Method of the Population Movement

267. People were moved by military or civilian truck,¹⁰³⁵ train,¹⁰³⁶ boat,¹⁰³⁷ oxcart,¹⁰³⁸ tractor,¹⁰³⁹ or had to walk.¹⁰⁴⁰ In many cases it was a combination of these various means, depending on the destination.¹⁰⁴¹ Most witnesses felt threatened or forced to leave.¹⁰⁴² People who thought they were being given a choice would still leave for fear of being arrested¹⁰⁴³ or executed.¹⁰⁴⁴ There is evidence that some people were tied up¹⁰⁴⁵ or had a gun pointed at them¹⁰⁴⁶ whilst others state they were neither tied up,¹⁰⁴⁷ nor mistreated or beaten.¹⁰⁴⁸ Some witnesses state that they were permitted to pack some belongings or a little food before departing.¹⁰⁴⁹

268. The people who were moved,¹⁰⁵⁰ including Chams,¹⁰⁵¹ were organised into groups. Some people were separated either when departing,¹⁰⁵² during the journey,¹⁰⁵³ or upon arrival.¹⁰⁵⁴ A former local cadre states “*we did not have a policy that prohibited the new people from living with their relatives who were the base people*”.¹⁰⁵⁵ A number of witnesses declare that the Cham people were dispersed through Khmer villages¹⁰⁵⁶ with only a minority of Cham people allowed in each village.¹⁰⁵⁷ There is evidence that Cham men, women and children were split up and moved to different places.¹⁰⁵⁸ Some Cham witnesses, however, state that they remained with their families throughout the movements of population¹⁰⁵⁹ or that they were subsequently allowed to join their families.¹⁰⁶⁰ Others indicate that whilst the majority of Cham people were moved, a small number were required to remain in their home villages.¹⁰⁶¹ Three witnesses explain that they were made to live in the open spaces under the houses of Khmer people.¹⁰⁶² Two others state that the elders and religious leaders in their village were arrested and killed before the movement of the population occurred.¹⁰⁶³
269. Travel time could take one¹⁰⁶⁴ or several days,¹⁰⁶⁵ with stops on the way. People could rest a few minutes,¹⁰⁶⁶ overnight¹⁰⁶⁷ or a few days to one week,¹⁰⁶⁸ depending on the distance and the journey. People would travel during day and/or at night,¹⁰⁶⁹ the vast majority in very poor physical condition.¹⁰⁷⁰ Many witnesses explain that people were packed into crowded train carriages, onto trucks or boats.¹⁰⁷¹ People were given little or nothing to eat or drink¹⁰⁷² during the movement of population¹⁰⁷³ or upon arrival;¹⁰⁷⁴ although one witness said that CPK soldiers provided bread before people were put on the boat.¹⁰⁷⁵ Medicine also was lacking.¹⁰⁷⁶ People would die before, on the way,¹⁰⁷⁷ or after the journey from starvation¹⁰⁷⁸ because they were too old or too weak,¹⁰⁷⁹ or from disease.¹⁰⁸⁰ Witnesses also state that arrests¹⁰⁸¹ occurred in the context of these movements of population.
270. Some people disappeared during the movements.¹⁰⁸² One witness explains having been told at a meeting that those who would refuse to leave would be sent for reeducation from where people never returned.¹⁰⁸³
271. There is consistent evidence that local leading CPK cadre were in charge of the implementation at both departure and reception stages.¹⁰⁸⁴ At departure, they would receive instructions from the upper echelon¹⁰⁸⁵ although one witness states that the decisions to select villagers to be moved were made in secret by the platoon leaders.¹⁰⁸⁶ People who would ask questions would be threatened.¹⁰⁸⁷ According to some witnesses, local CPK cadre were given lists of names¹⁰⁸⁸ and would call meetings where these names would be read out¹⁰⁸⁹ and would also determine how people would be transported.¹⁰⁹⁰

272. Troops, militiamen or security personnel supervised the movements of population. Most witnesses report their presence at all stages of the movement: at departure;¹⁰⁹¹ during the movement of population;¹⁰⁹² guarding people on boats;¹⁰⁹³ trucks;¹⁰⁹⁴ trains¹⁰⁹⁵ or oxcarts;¹⁰⁹⁶ and upon arrival.¹⁰⁹⁷ Conversely, a few witnesses state that they were not always escorted by armed forces.¹⁰⁹⁸
273. In Battambang or Pursat, most moved persons would arrive by train. The organization of the railway network was clearly and hierarchically defined with the Phnom Penh Railway Unit at the top of the hierarchy.¹⁰⁹⁹ A former railway operator in Battambang reports that the trains were escorted by armed soldiers and that militiamen were in charge after the arrival of train. His impression was that “*all the transportation was organised by the higher level*”.¹¹⁰⁰ Two former railway operators explain that three soldiers managed the stations’ communication network in both Pursat¹¹⁰¹ and Battambang.¹¹⁰² According to the witnesses who operated the railways in Battambang¹¹⁰³ and Pursat,¹¹⁰⁴ the CPK cadre in charge of the railway stations reported directly to the Phnom Penh Railway Unit. Further, confirming that the CPK Centre was kept informed of these movements of population, one of these witnesses explains that as a Party member, the cadre in charge of Pursat station would attend study sessions in Phnom Penh.¹¹⁰⁵
274. Local leading CPK cadre would receive people¹¹⁰⁶ and assign them to cooperatives.¹¹⁰⁷ Some witnesses state that they were questioned by CPK cadres about their biographies upon arrival.¹¹⁰⁸ One civil party explains that at one point, she was given the opportunity to choose the cooperative where she wanted to go,¹¹⁰⁹ and she was subsequently sent for reeducation further to the arrest of her husband.¹¹¹⁰ Regarding people sent to central parts of the country¹¹¹¹ or to Kratie,¹¹¹² relevant witnesses gave similar accounts.

Return

275. Most of the people who were moved and survived the DK regime returned to their homes or native villages as soon as they could.¹¹¹³ Some witnesses found that their old villages were deserted,¹¹¹⁴ houses destroyed and that grave pits had been dug.¹¹¹⁵ Witnesses state that it was not possible for the population to return to their home villages during the DK regime.¹¹¹⁶

Reasons Given to the Population for the Movement

276. A document of the Standing Committee dated August 1975 pertains to the visit of the Standing Committee to the Northwest Zone.¹¹¹⁷ The report insists on the need to develop rice production in the whole of the Northwest Zone, with “*Angkar*” delivering its directions regarding *inter alia* economic and crop diversification and stating that the North and the Northwest Zones had “*good qualities*” such as better paddy land and rice to sustain “*new people*”.¹¹¹⁸ A meeting minute of the Standing Committee dated July/August 1976 and containing the CPK 4-year plan¹¹¹⁹ insists on the need to focus efforts on rice production.
277. A number of the witnesses who were moved were told that they were being sent to an area where there was more food¹¹²⁰ and fertile land¹¹²¹ or because there was a shortage of labour.¹¹²² One witness states that people were being told that they had to work for the socialist regime.¹¹²³ Upon arrival, people were sent to work in cooperatives¹¹²⁴ on building dams and canals¹¹²⁵ or on rice farming.¹¹²⁶
278. A former local CPK cadre explained that “*the central policy was to remove the new people from the East when the war broke with Vietnam in late 1975 or early 1976 ... the new people had to be evacuated because the war broke out at the border*”.¹¹²⁷

Planning

279. Witnesses¹¹²⁸ and documents¹¹²⁹ provide evidence as to how the Centre was involved in these movements of the population. The decision to send people to the North and North West Zones of the country appears to have been made following the visit of the CPK Standing Committee to this area around August 1975¹¹³⁰ and a Party document dated September 1975 discusses its implementation.¹¹³¹
280. Telegram #15 dated November 1975¹¹³² describes a high-level decision of the Party regarding movements of population, which, according to numerous and consistent witness testimonies, was subsequently carried out. This telegram was sent by Chhon to Pol Pot and copied to **Nuon Chea**, Brother Doeun (Secretary of the 870 Political Office) and Brother Yem (Office 870). One witness who translated telegrams for Office K-1 during the DK regime states that the Chairman of the Telegram Unit made the decision to copy this telegram to **Nuon Chea**, indicating that “*this telegram was originally sent to Pol Pot alone, but the person in charge of the telegram knew that this matter must also be sent to the person who was in charge of the people like Nuon Chea in order to find a solution*”.¹¹³³ This witness also refers to the involvement of the Standing Committee in the resolution of the problem.¹¹³⁴ Another witness, former chairman of the Central (Old North) Zone Telegram Unit explains that “[the East

Zone] had to send the report from the Zone to Pol Pot of the Centre level first, and then waited for Pol Pot instruction. Ke Pork [Secretary of the Central (Old North) Zone] received this telegram about this matter from the Centre, not directly from the East Zone”.¹¹³⁵

281. Telegram #15 specifically refers to a problem raised by the movement of Cham people from the East Zone and reads “more than 100,000 more Islamic people remain in the East Zone ... In principle their removal was to break them up, in accordance with your views in your discussions with us already. But if the North refuses to accept them, we will continue to strive to persevere in grasping the Islamic people”.¹¹³⁶ This happened a few weeks after the rebellion of Cham people in Koh Phal and Svay Kleang.¹¹³⁷ When read in that context, this document suggests that the underlying reason for the movement and planned separation of the Cham people was to address the security concern they represented, illustration of the CPK policy to “break up” the Cham.

282. Three **hundred and fifty four (354)** civil parties were declared admissible in the context of the Movement of the Population from the Central (Old North), Southwest, West and East Zones (Phase 2)¹¹³⁸, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed during the Movement of the Population from the Central (Old North), Southwest, West and East Zones (Phase 2).

Movement of Population from the East Zone (Phase 3)¹¹³⁹

ការផ្លាស់ទីលំនៅប្រជាជនពីភូមិភាគបូព៌ា៖ ដំណាក់កាលទី៣

Time and Location

283. From late 1977¹¹⁴⁰ and continuing throughout 1978,¹¹⁴¹ large numbers of people residing in the East Zone, as defined by the CPK system of identifying administrative boundaries, were transferred out of this Zone. In light of the many witness statements, it appears that the displacement process commenced within the context of an escalating purge of the East Zone.¹¹⁴²

284. The witness statements and evidentiary material relate, in particular, to the population movement from the Provinces of Prey Veng,¹¹⁴³ Svay Rieng,¹¹⁴⁴ and Kampong Cham (Kroch Chhmar¹¹⁴⁵ and Ponhea Krek¹¹⁴⁶ Districts). A significant number of those people moved from Prey Veng and Svay Rieng Provinces were sent either to Pursat¹¹⁴⁷ or Battambang Province, both in the Northwest Zone,¹¹⁴⁸ whereas many of those moved from Kampong Cham appear to have been sent to Kampong Thom Province, in the Central (Old North) Zone.¹¹⁴⁹ According to certain witnesses, there was movement of East Zone military personnel to Kampong Chhnang Province in the West Zone, during the same period.¹¹⁵⁰ In the final days of the CPK regime, there is evidence of a final movement of remaining civilians from some locations in the East Zone, especially to the Northwest Zone.¹¹⁵¹

People Moved

285. Concerning the categories of persons displaced, a large part of the testimony refers to either CPK cadres and soldiers,¹¹⁵² or people accused of being traitors/bad elements,¹¹⁵³ connected with the Vietnamese (“*Yuon*”),¹¹⁵⁴ or linked with the purged East Zone Secretary, Sao Phim.¹¹⁵⁵ There is also evidence concerning people linked with the former Sihanouk regime¹¹⁵⁶ or the regime of the Khmer Republic¹¹⁵⁷ and those considered to be “new people”¹¹⁵⁸ who had previously been moved from Phnom Penh and other towns such as Svay Rieng,¹¹⁵⁹ as well as Buddhists monks,¹¹⁶⁰ Cham,¹¹⁶¹ ethnic Chinese¹¹⁶² and people of Vietnamese origin.¹¹⁶³ There were young people, the elderly, men, women, and children amongst those displaced.¹¹⁶⁴

Means and Method of Movement

286. People were generally first called to meetings (often by newly appointed local cadre)¹¹⁶⁵ where they were told that they had to leave or that “*Angkar*” had decided to move them.¹¹⁶⁶ Witnesses generally state that, despite some exceptions,¹¹⁶⁷ people were not tied up.¹¹⁶⁸ Some state that they were able to pack some belongings before departure.¹¹⁶⁹ Most of them describe being forced to leave,¹¹⁷⁰ and some state that those who tried to escape would be shot.¹¹⁷¹

287. Witnesses note that, after the replacement of local East Zone cadre, not everyone was displaced; some witnesses describe successive waves of displacement,¹¹⁷² others state that sometimes people were able to stay in their villages or cooperatives. Among them were “base people” or members of mobile units,¹¹⁷³ as well as “*people who had relatives in the village or the subdistrict militia*”.¹¹⁷⁴ At least one Cham family from Kroch Chhmar District was able to stay.¹¹⁷⁵

288. Most people were moved using a combination of means, depending on the final destination: transport via military or civilian truck;¹¹⁷⁶ oxcart;¹¹⁷⁷ boat;¹¹⁷⁸ train;¹¹⁷⁹ or walking.¹¹⁸⁰ The transportation was generally organised in advance and ready to receive the persons being moved.¹¹⁸¹
289. As set out in the testimony, people who were moved from Prey Veng and Svay Rieng Provinces were made to follow the same general itinerary. People first walked,¹¹⁸² or were transported by oxcart,¹¹⁸³ from their villages to Neak Loeung,¹¹⁸⁴ where National Road 1 meets the Mekong River in Prey Veng Province, Sector 24. They then boarded a motorboat¹¹⁸⁵ which took them up the Mekong River to Phnom Penh. Most of the people disembarked at or near Chbar Ampeou, in southern Phnom Penh.¹¹⁸⁶ Several witnesses note that, upon arrival in Phnom Penh, they were given food¹¹⁸⁷ and/or a blue and white krama.¹¹⁸⁸ A former CPK cadre from the Ministry of Propaganda and Education states that, whilst transiting through Phnom Penh, people were shown “*films about the battlefields and Chinese films relating to the struggle*”.¹¹⁸⁹ This is confirmed by one witness displaced from Prey Veng to Pursat Province, who mentions that he was shown propaganda films whilst in Phnom Penh.¹¹⁹⁰ The people were then transported by truck¹¹⁹¹ to the main Phnom Penh railway station, whereupon they were made to board a train leaving for various stops along the line towards Pursat and Battambang Provinces.¹¹⁹²
290. Similarly, during the same period, many East Zone soldiers were moved. In particular, 5,000 disarmed soldiers were transported from Svay Rieng by military truck via Phnom Penh to the Kampong Chhnang airport construction site.¹¹⁹³
291. A significant number of the persons moved from the East Zone disappeared¹¹⁹⁴ or died during the displacement as a result of the poor travelling conditions.¹¹⁹⁵ One witness also states that “*stubborn people (those who opposed the Khmer Rouge soldiers) were shot dead by the Khmer Rouge soldiers*”.¹¹⁹⁶ Other witnesses add that people who were moved were not provided with food or water during the journey.¹¹⁹⁷
292. As regards the people transported by train to Pursat and Battambang Provinces, one witness states that “*once they arrived at the provinces, their biographies were made. According to their personal history, they were transferred to different locations*”.¹¹⁹⁸ Most of them were sent to cooperatives or worksites.¹¹⁹⁹ They were required to conduct work such as digging water reservoirs¹²⁰⁰ and/or assisting in rice production.¹²⁰¹ All describe harsh working and living conditions.¹²⁰² Most people who were moved recall that they were made to live and

work separately from the local “base people”¹²⁰³ (although one witness from Pursat Province states that they “lived, worked and ate like the people at the worksite”).¹²⁰⁴ Finally, there is evidence that, just before the arrival of the Vietnamese troops, people moved from Prey Veng and Svay Rieng Provinces were gathered from all the surrounding working sites and sent to Rumlech Pagoda, Bakan Leu District (Sector 2 in the Northwest Zone)¹²⁰⁵ where they were shot.¹²⁰⁶

293. Some persons who had been moved were sent to security centres,¹²⁰⁷ where they were imprisoned¹²⁰⁸ and suffered serious mistreatment,¹²⁰⁹ or were sent directly to execution sites.¹²¹⁰ One witness describes how his father was killed in Pursat Province and how he would also have been killed, had his mother not protested, saying “*I have siblings working as cadre in the Southwest Zone*”, which saved his family, together with “*approximately more than 30 families*”.¹²¹¹ Another witness saw persons who had been made to move, still carrying their belongings, shot by CPK forces near Pursat River.¹²¹²

Return

294. Most of the persons who survived the voyage from the East Zone returned to their villages as soon as they could.¹²¹³ One witness was imprisoned by the Vietnamese for two months before he returned to his home village.¹²¹⁴ Some returning witnesses saw dead bodies scattered along the national road,¹²¹⁵ or graves full of decomposed bodies, bones and skulls.¹²¹⁶

Reasons Given to the Population for the Movement

295. At the meetings held prior to the population movement, people were generally told that they were being sent to an area where there was more food and fertile land for cultivation.¹²¹⁷ One witness states that he was told he had to go to Pursat Province as part of the “*great leap forward*”.¹²¹⁸ Another witness reports a speech by a cooperative chairman, who said that “*Battambang Province needs people to work the rice fields in order to sort out the national interests*”.¹²¹⁹
296. Ta Mok is said to have indicated, during a meeting with Northwest Zone cadre in Pursat town, that the population movement was due to Vietnamese aggression against Cambodia and the betrayal of the East Zone leader, Sao Phim. The former chairman of Rumlech cooperative (in Bakan Leu District, Sector 2 of the Northwest Zone) who attended this meeting, states that Ta Mok referred to Sao Phim as a traitor, and stated that “*Angkar*” was going to move the population from the East Zone to the Northwest Zone. Ta Mok added that it was necessary to

“examine them closely to see if they would oppose the Party's guideline because when those people were evacuated and located at the sugar refinery factory in Phnom Penh they were found with guns. So they might have a string with the Yuon (Vietnamese)”.¹²²⁰

297. Two former CPK cadres explain that the purpose of the displacement was to remove people from the combat zone with the Vietnamese.¹²²¹ This appears to be the case as regards the final transfer of civilians shortly before the collapse of the regime in late 1978 or early 1979.¹²²² A former cook at Kroch Chhmar Commerce Office states that the displacement was to avoid the *“fighting between the North Zone and the East Zone groups”*.¹²²³ It appears that this population movement had the dual aim of taking people near the border to safer areas, whilst removing politically suspect people from the Zone.¹²²⁴

Management and Supervision

298. Most witnesses indicate that cadres from the Southwest and Central (Old North) Zones (who had previously purged the local East Zone cadre) managed and supervised the transfer.¹²²⁵ Others state that there were cadres involved who spoke with an accent¹²²⁶ and/or militiamen.¹²²⁷ Some state that local cadres would escort them as far as Neak Loeng.¹²²⁸
299. As regards the management of arrivals in the Northwest Zone, one witness relates how a meeting was organised in Pursat town to discuss organization.¹²²⁹ It was chaired by Ta Mok (Northwest Zone Committee), with Sarun (Sector Committee) and [REDACTED] (District Committee) present.
300. A former railway worker reports that in Pursat, there were armed soldiers guarding the people in the trains, who told them *“when and where to leave the train at the different locations”* and/or transported them by truck to a cooperative.¹²³⁰ Local CPK cadres would then assign people to work in the cooperatives in Pursat and Battambang Provinces.¹²³¹

301. **Two hundred and nineteen (219)** civil parties were declared admissible in the context of the Movement of the Population from the East Zone (Phase 3),¹²³² since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed during the Movement of the Population from the East Zone (Phase 3).

B. WORKSITES AND COOPERATIVES

Tram Kok Cooperatives¹²³³

សហគមន៍ត្រាំកក់

Location and Establishment

302. The eight subdistricts of Kus, Samrong, Trapeang Thom Tboung, Trapeang Thom Cheung, Tram Kok, Nheng Nhang, Sre Ronong and Ta Phem were part of Tram Kok District, Takeo Province. Applying the CPK's system of identifying administrative boundaries, they were located in District 105, Sector 13, Southwest Zone.¹²³⁴
303. Not long after 1970, the CPK progressively organised those who were responsible for agricultural production in areas it controlled into small group cooperatives, which were later expanded into village cooperatives and ultimately subdistrict level cooperatives.¹²³⁵ In a cooperative, private property, such as rice paddy fields, was placed under the collective ownership of the State.¹²³⁶ The process of collectivisation occurred incrementally. For example, a witness who lived in Samrong subdistrict recalls that in 1975 the CPK started collecting private property and instituted communal eating. But it was not until 1976 that people were divided into different working units.¹²³⁷ In any event, it appears that by April 1977 all the subdistricts in Tram Kok District had been organised into cooperatives and appear to have remained in this state until the end of the CPK regime.¹²³⁸

Functioning

Structure and Personnel

304. Prior to 1975, the subdistricts of Tram Kok District were for the most part populated by local villagers. However, after the movement of the population from Phnom Penh, many former city residents were settled in Tram Kok District. Former Tram Kok District Chairman, [REDACTED], remembers being instructed by the Sector to prepare to receive the influx of people. He recalls sending approximately 3,500 to 4,000 families to the villages and subdistricts where they were organised into local cooperatives.¹²³⁹ As time went on, those

people who settled in Tram Kok were occasionally moved *en masse* from area to area within the District.¹²⁴⁰

305. The precise organization of the population in each cooperative depended on its leadership.¹²⁴¹ However, in accordance with CPK policy nationwide, members were officially divided into three categories: full-rights, candidate and depositee members. These categories determined the degree of their involvement in the functioning of the cooperatives.¹²⁴² The depositee category seems to have been broadly synonymous with the people moved from Phnom Penh and other locations which were under Khmer Republic administration up until 17 April 1975. This group was widely known as “new people”¹²⁴³ or “17 April people”.¹²⁴⁴ “New people” lacked political rights and could not be unit chiefs within the cooperatives.¹²⁴⁵ Cooperative members known as “base people”¹²⁴⁶ could hold either full-rights or candidate status. The candidate category was for those with alleged family or other connections or links to the enemy.¹²⁴⁷ In mid-1978, this three-fold categorization was proclaimed abolished.¹²⁴⁸ However, this abolition may have been mere pretence.¹²⁴⁹
306. Several witnesses recall that in their cooperatives full-rights, candidate and depositee people were separated into different labour units designated one, two and three, respectively.¹²⁵⁰ In which unit people were placed depended on what facts they revealed about themselves in their biographies.¹²⁵¹ The depositee unit was controlled by members of the full-rights and candidate units pursuant to the original policy that “new people” were not permitted to be unit chiefs.¹²⁵² In the Nheng Nhang Subdistrict, these three groups lived and worked apart until 1978, at which time they were integrated.¹²⁵³ This may have been in accordance with the CPK’s nationwide abolition of the three categories.¹²⁵⁴ Each unit had several sub-units such as a carpenter unit, canal digging unit and cart unit.¹²⁵⁵ The head of each unit was a chairman who reported to the secretary of the subdistrict committee. In turn, the subdistrict committee reported to and received its orders from the district committee.¹²⁵⁶ Usually, messengers carried communications between the different levels, including invitations to meetings.¹²⁵⁷
307. Every two weeks subdistrict committees met to discuss the “*work plan*”. These meetings were led by District Committee cadre.¹²⁵⁸ Following these meetings, the subdistrict chief would verbally disseminate the work plan to the cooperative members and urged them to strive towards three to four tons of rice, per hectare, per year.¹²⁵⁹ One former cooperative member recalls attending small unit meetings three times a month. At these meetings members criticised each other and admitted what they had done wrong.¹²⁶⁰

308. The subdistrict made regular verbal and written reports to the district regarding the implementation of the work plan.¹²⁶¹ Similarly, the district made monthly reports about the implementation of the work plan to the sector.¹²⁶² This vertical chain of reporting on the implementation of the work plan at the bases extended all the way up to the Party Centre.¹²⁶³ Further, at least two witnesses recall the Zone Secretary, Ta Mok, visiting their cooperatives.¹²⁶⁴
309. A former member of the Sre Ronong subdistrict Committee recalls attending a meeting in 1977 or 1978 at which he was given instructions on “*the purges of enemies within and outside the ranks, who had tendency for the Lon Nol people and as for the people in the party rank if they did not have good tendency, they were also purged...The enemies in the rank included cadres; as for the enemies outside the rank, they were ordinary civilians*”.¹²⁶⁵ He also recalls reading copies of the magazine *Revolutionary Flag* which were distributed by the district to certain people in the subdistrict. The Number 6, June 1977 edition of this magazine contained a letter from the Central Committee to various districts, including Tram Kok, awarding them the Red Flag Award for “*achieving the tasks of defending the country and continuing and building socialist revolution with the speed of the great leap forwards in consecutive years*”.¹²⁶⁶ In this letter, the Central Committee sets out a comprehensive and detailed work plan for the latter half of 1977 and includes instructions on defending the country, building socialism and achieving three to six tons of rice per hectare, per year.

Working and Living Conditions

310. Cooperative members were not free to travel without permission.¹²⁶⁷ One witness states that he was only allowed to meet his family every ten days.¹²⁶⁸ Another witness states that he was permitted to see his family once every 20 days.¹²⁶⁹ Children who worked in the Pen Meas cooperative, Samrong subdistrict, were rarely permitted to see their parents and siblings.¹²⁷⁰ People were unable to speak freely to each other.¹²⁷¹ Further, CPK cadre sometimes moved base people and new people out of their houses to live in different areas within the same district.¹²⁷²
311. Witnesses performed a variety of labour depending on the sub-units in which they were placed. Working hours generally appear to have been approximately 7am to midday and 1pm to 5pm, except during harvest when people worked longer hours. However, at least three witnesses from Trapeang Thom Tboung, Samrong, and Nheng Nhang subdistricts recall working a third shift from 6pm until 10pm at night.¹²⁷³ Pregnant women were also made to work.¹²⁷⁴ Those working in rice paddy fields were given a certain number of hectares to

complete. If they did not finish on time they would be lectured and accused of being enemies.¹²⁷⁵ Those who were not able to work were accused of pretending to be sick and sent for reeducation.¹²⁷⁶ Others who resisted were arrested and disappeared.¹²⁷⁷ One witness recalls *“we were forced to work every day. We dared not refuse to work because we were afraid of getting killed”*.¹²⁷⁸

312. The rice harvested by the cooperatives was not automatically distributed to members of the subdistricts. Rather, each subdistrict reported to the district on rice yield. The district would then decide how much rice was to be collected from each subdistrict.¹²⁷⁹ It appears that some of this rice would then be sent for milling.¹²⁸⁰ Some subdistricts would under-report yields and stored the surplus rice to secretly distribute amongst its members.¹²⁸¹ Nearly all witnesses describe a lack of food in the cooperatives.¹²⁸² Some witnesses recall people dying of starvation,¹²⁸³ while others either did not see or deny that people died of starvation.¹²⁸⁴ Several witnesses attest that people were afraid to complain about the lack of food because they could have been punished or killed.¹²⁸⁵ Several District 105 documents also record the arrest of people who had complained about work and living conditions in the cooperatives.¹²⁸⁶
313. Many people living in the cooperatives had health problems, particularly the “new people” who were not used to living in rural areas.¹²⁸⁷ Those who were sick were treated by subdistrict medics. However, treatment was rudimentary and the medicine used was locally produced. Patients were given intravenous medicine prepared from tree roots and herbal medicine.¹²⁸⁸ Patients were also injected with coconut juice mixed with penicillin.¹²⁸⁹ The medics were female CPK cadre who had not received any formal training.¹²⁹⁰ Many of them were only twelve to thirteen years old.¹²⁹¹ When people died they were buried without the family being informed.¹²⁹²
314. Group weddings were carried out in the subdistricts with as many as ten to twenty couples.¹²⁹³ Some of the couples knew each other, while others did not.¹²⁹⁴ Only people of the same political category (full-right, candidate or deposittee members) could marry, with the consent of the unit chief. Weddings were held at night with the participation of the subdistrict committee and the chairmen of the cooperatives and units.¹²⁹⁵ One witness, [REDACTED], describes how another witness, [REDACTED], chairperson of the women’s unit and marriage coordinator at Nheng Nhang Subdistrict, arranged for her to marry a man whom she hated. She states that [REDACTED] told her that she had to marry, and consequently she felt she did not have a choice. On her wedding night she had sexual intercourse with her husband despite not consenting. She recalls that there were militia men under the house eavesdropping at the time.¹²⁹⁶ Another witness recalls the presence of militia men eavesdropping on a

couple's wedding night to check if they "got on well or not".¹²⁹⁷ Conversely, two other witnesses, including [REDACTED], deny this ever occurred.¹²⁹⁸ Other witnesses recall that if a woman was not happy with her marriage she would be reeducated or counselled that it "was normal for a man to marry a woman and vice versa".¹²⁹⁹ [REDACTED] denies that anyone was coerced into marriage while she was marriage coordinator.¹³⁰⁰ In addition, women from Tram Kok District were sent to Kampong Som to marry "handicapped" soldiers at the army's request.¹³⁰¹

Security

315. The process by which people were identified as enemies and subsequently reeducated or arrested is explained by former District Secretary, [REDACTED].¹³⁰² He states that when people in the subdistricts were accused of wrongdoing they would first be reeducated by the village and subdistrict. If they continued to disobey, the subdistrict would ask for the opinion of the District Committee. The District Committee would then hold a meeting to discuss the matter and make a decision. For example, a report from Nheng Nhang Subdistrict to the district sets out the biography of an "enemy" listing various alleged offences. A return note on the bottom of the document from the District Secretary to the subdistrict instructs that he is to be arrested.¹³⁰³ [REDACTED] states that before any specific action could be taken, the Sector Committee would first be consulted. The Sector Committee's decision would then be implemented by the District. If the decision was to reeducate, notwithstanding whether the individual was a CPK cadre or a civilian, he or she was arrested by the subdistrict militia and sent to Kraing Ta Chan Security Centre.¹³⁰⁴
316. Several witnesses recall that "immoral acts" were punished.¹³⁰⁵ This is further confirmed by documentary evidence.¹³⁰⁶ One witness who attended Sector 13 Committee meetings recalls being told about a "one-husband-one-wife" policy where anyone committing immoral acts would be "smashed".¹³⁰⁷
317. The militia at the subdistrict level arrested, detained and interrogated people. According to some witnesses the militia did not have authority to carry out executions, which would be decided at the district level.¹³⁰⁸ One witness who lived in Samrong subdistrict recalls meetings at which people were accused of misconduct and he saw cadre shaving "X" shapes into the heads of men and women before parading them in front of the meeting: these people were then placed in a detention facility run by the subdistrict militia.¹³⁰⁹ Several District 105 documents confirm that the subdistrict militia would interrogate prisoners, using both "hot" and "cold" methods, before involving the district.¹³¹⁰ For example, in a document which

appears to be from one of the subdistricts to the district, the writer reports that in respect to one youth who was accused of repeatedly stealing, *“I have even held (collective) meetings for judging him 3 times so far. Moreover, I have let the youths in the group and unit wrap his face up with a plastic sheet, shackle and interrogate him, but still he was not deterred”*.¹³¹¹

318. Prior to 1975, a witness who lived in Tram Kok subdistrict remembers cadre arresting people who were accused of being wealthy or having lots of paddy land. They were told that they were being sent away to study. After 1975 some of them returned to the subdistrict while others did not.¹³¹² During the CPK regime, cooperative residents continued to disappear.¹³¹³ Often people were taken away at night.¹³¹⁴ Former District Secretary [REDACTED] recalls in interview, *“some people came to ask me, who was then the District secretary, for help with the disappearance of their relatives and children. I told them that I was not able to help with that. People came to make complaints to me about the disappearance of their relatives and children because their relatives had conflict about politics and were accused of being the traitors”*.¹³¹⁵

Treatment of Specific Groups

319. The subdistrict militia kept a close eye on the persons who arrived from Phnom Penh. If they said anything against the CPK they were arrested and taken away.¹³¹⁶ Former members of the Khmer Republic armed forces and the police of the Khmer Republic, especially those who had held the rank of officer, were closely monitored. Lists of former Lon Nol officers who arrived in the subdistricts were drawn-up and sent to the district. For example, a District 105 document from Nheng Nhang Subdistrict records the names of 11 former Lon Nol officers who had been placed in the subdistrict.¹³¹⁷
320. Two witnesses recall that Cham people in Tram Kok district were treated like everyone else.¹³¹⁸ On the other hand, the Vietnamese appear to have been treated differently. One witness recalls that all the Vietnamese eventually disappeared from his village.¹³¹⁹ A former teacher in the children’s unit in Nheng Nhang Subdistrict recalls that in 1976, the Subdistrict chief announced that Subdistrict members of Vietnamese ethnicity would be sent back to Vietnam. She remembers the arrest and execution of people who had lied about their ethnicity hoping to escape. She says that there were two phases in the treatment of the Vietnamese. In the first phase, the Vietnamese were in fact sent home. However, in the second phase, ethnic Vietnamese were taken away and executed.¹³²⁰ Several District 105 documents record the arrest of ethnic Vietnamese.¹³²¹ A report from the Ang Ta Soam Subdistrict dated 26 April 1977 requests guidance from *“Angkar”* on what to do about the registration of Khmer Krom

people. It appears that in several couples, only one person was Vietnamese, but both asked to be sent to Vietnam.¹³²² Another report records that pursuant to a decision of “*Angkar*”, seven Khmer Kraom persons were sent back to Vietnam.¹³²³

321. In parts of Tram Kok, the CPK banned religion and disrobed monks from as early as 1972.¹³²⁴ By April 1975 this policy was instituted district-wide. One witness, a former monk, recalls that after April 1975 all monks who had been born in Takeo or Phnom Penh were instructed to stay at Ang Rakar Pagoda in Tram Kok. CPK cadre later came and told them all to disrobe.¹³²⁵ Witnesses recall the destruction of Buddhist statues and the conversion of monasteries into meeting halls, detention centres, dining halls, pig farms and warehouses.¹³²⁶ People were not permitted to burn incense.¹³²⁷ Those monks who had been disrobed were sent to join the army or made to work.¹³²⁸ In addition, family members were not allowed to cremate bodies or hold funeral ceremonies.¹³²⁹

322. **Fifty one (51)** civil parties were declared admissible with regards to Tram Kok Cooperatives,¹³³⁰ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Tram Kok Cooperatives.

Trapeang Thma Dam Worksite¹³³¹

ការដ្ឋានទំនប់ត្រពាំងថ្ម

Location and Establishment of Trapeang Thma Dam

323. The Trapeang Thma Dam worksite was located at Trapeang Thma Kandal Village and Paoy Char Village, Paoy Char Subdistrict,¹³³² Phnom Srok District¹³³³ in the current Banteay Meanchey Province (formerly part of Battambang Province).¹³³⁴ Using the CPK’s system of identifying administrative boundaries, Trapeang Thma was located in Sector 5 of the Northwest Zone.¹³³⁵ The main part of the dam was located approximately 50 kilometres north east of the town of Sisophon.¹³³⁶

324. It is not clear as to the precise date that construction commenced. Witness testimony varies, some stating that construction commenced in early 1976,¹³³⁷ others that it commenced between late 1976 and early 1977,¹³³⁸ whilst other witnesses state that the dam was constructed entirely in 1977.¹³³⁹ Nevertheless, almost all evidence supports that the completion of the dam had largely taken place by the end of 1977,¹³⁴⁰ or at the latest by May 1978.¹³⁴¹ It was officially described by the CPK in October 1977 as the result of a nation-wide labour offensive to fulfill the CPK's 1977 economic plan, pursuant to a policy according to which the workers had "*sacrificed everything for maximum rice production*".¹³⁴²
325. An inauguration ceremony was held at the dam in December 1977 which was attended by various senior level CPK cadres. It was presided over by Pol Pot accompanied by a Chinese delegation as reported in the Chinese press.¹³⁴³ Heng Rin alias Mei alias Neou Rin, Sector Secretary, and Cheal from the Sector Committee,¹³⁴⁴ were the other CPK cadres from the Sector 5 Committee attending this ceremony.
326. Upon completion, the size of the dam was approximately 10 metres wide at the top, 18 metres wide at the base and between three to five metres high.¹³⁴⁵ The water contained by the dam extended approximately 10km in length by seven km in width.¹³⁴⁶

Functioning

Structure and Personnel

327. The construction of Trapeang Thma was organised and controlled by CPK cadres who divided and supervised the workers into working units, assigned unit tasks and individual tasks, issued working plans, appointed unit leaders,¹³⁴⁷ and collected biographies of people working at the site.¹³⁴⁸ There were unit chairmen, company chairmen and platoon chairmen within the reporting structure.¹³⁴⁹
328. The unit chiefs had to report on progress of construction on a regular basis to receive their orders from their superiors and to set the working plans for the coming days.¹³⁵⁰ Val, Pheng, Thoang and Hang were those responsible to develop the work plans.¹³⁵¹ Reports would be sent to "*Angkar 870*"¹³⁵² to report on progress, such as one copied to "*Uncle [sic], Uncle Nuon, Brother Van, Brother Vorn, Office, Documentation*" reporting on a visit of Yugoslavian journalists to the dam.¹³⁵³

329. Overall responsibility for construction of Trapeang Thma was that of Val alias Aok Haun,¹³⁵⁴ a Sector 5 CPK cadre of the Northwest Zone¹³⁵⁵ who would frequently visit the worksite to inspect progress.¹³⁵⁶ Val was the Chief of the Sector 5 Mobile Work Unit¹³⁵⁷ and as stated by witness testimony, it was him “*who adopted the plan to choose the forces from the district to go to build the Trapeang Thma Dam*”.¹³⁵⁸
330. Assisting Val in the supervision was Hat, Phnom Srok District Committee,¹³⁵⁹ with whom Val would liaise and communicate. Val was arrested and transferred to S-21 in June 1977¹³⁶⁰ as well as Hat in September 1977 after accusations of being traitors,¹³⁶¹ prior to the completion of the dam.
331. The Secretary of Sector 5 of the Northwest Zone was Man Chun alias Hoeng,¹³⁶² He was arrested in September 1977¹³⁶³ and replaced by Heng Rin alias Mei alias Noeov Rin until his arrest on 16 November 1978,¹³⁶⁴ which was followed by his execution on 15 December 1978.¹³⁶⁵
332. Others supervising the construction of the dam were Muol Sambat alias Ta Nhim alias Ruos Nheum alias Moul Un, Secretary of the Northwest Zone Committee who visited the dam construction site several times before its completion¹³⁶⁶ and Cheal, a member of the Sector 5 Committee,¹³⁶⁷ both of whom would later be arrested in 1978 and 1977 respectively.¹³⁶⁸
333. The construction site was visited several times by CPK leaders.¹³⁶⁹ There is evidence that Pol Pot and **Khieu Samphan** visited Trapeang Thma at various points during its construction.¹³⁷⁰ One witness refers to **Ieng Sary** visiting Trapeang Thma with Pol Pot. However, the witness’ knowledge of this is only by way of hearsay and he did not personally see the Charged Person at the worksite.¹³⁷¹

Working and Living Conditions

334. Thousands of people were made to participate in the construction of Trapeang Thma.¹³⁷² One former worker estimates the figure at approximately 15,000¹³⁷³ whilst another states “*it was the entire Sector 5, combined with people in the cooperatives*”.¹³⁷⁴ Other witnesses talk of “thousands” or of “tens of thousands” of workers participating in the construction of the dam.¹³⁷⁵ The Chinese press report on the visit of a Chinese delegation puts the figure at 20,000 workers¹³⁷⁶ and similarly a CPK Telegram (reporting on a visit to the dam by Yugoslavian journalists) also puts the figure at 20,000.¹³⁷⁷

335. The people working at Trapeang Thma came from the villages of the districts of Sector 5 of the Northwest Zone, including Thma Puok District, Phnom Srok District, Serei Saophan District and Preah Net Preah District.¹³⁷⁸ The workers also included “new people” who had been moved from Phnom Penh¹³⁷⁹ and from Siem Reap.¹³⁸⁰
336. Workers comprised men, women and children;¹³⁸¹ and were organised into work units. The working units each comprised approximately 10 people forming part of larger platoons, companies and battalions, comprising 30, 100 and 300 people respectively.¹³⁸² The “mobile units” contained “middle aged people”.¹³⁸³ Certain units were of mixed sex; in others, the workers were organised by sex but there were no differences in the assigned tasks.¹³⁸⁴ Workers in the mobile units were required to build the dam, dig canals, build irrigation systems, grow and transplant rice.¹³⁸⁵ The “children’s units” comprised 13 to 17 year olds.¹³⁸⁶ The children in the children’s units were separated from their families and made to live together with their unit members.¹³⁸⁷ Furthermore, there were “Special Case Units” where those considered to be avoiding work or of having an “ideological disease” were placed for observation and reeducation.¹³⁸⁸ The “Special Case Unit” had the highest work quotas¹³⁸⁹ and those whom it was considered could not be reeducated in the Unit would disappear and never be seen again.¹³⁹⁰
337. The dam was built almost exclusively by manual labour,¹³⁹¹ with quotas from 1 cubic metre up to 3.5 cubic metres of earth to dig per day per worker.¹³⁹² Some machinery appears to have been used, but only for secondary tasks, such as tractors to assist in leveling the ground.¹³⁹³
338. Although it may have varied in different working units, working hours at Trapeang Thma were approximately 7am to 11am and then from 1pm until 5pm.¹³⁹⁴ Some witnesses also refer to working hours during the nighttime, from about 7pm until 10pm or later especially when quotas had not been met.¹³⁹⁵ Some units started work earlier in the morning with one witness stating that they started at dawn.¹³⁹⁶ No rest or breaks were allowed before the assigned task was completed.¹³⁹⁷ Workers who completed their quotas would then be given extra quotas to complete.¹³⁹⁸ Although some witnesses state that there was no punishment inflicted for those who could not meet their quotas,¹³⁹⁹ it is more likely that workers were punished,¹⁴⁰⁰ either physically¹⁴⁰¹ or with the reduction of food rations.¹⁴⁰² Other workers who did not meet their quotas would be sent to reeducation or refashioning meetings¹⁴⁰³ or to the “Special Case Unit”.¹⁴⁰⁴
339. Workers were not allowed to stop and rest during working hours.¹⁴⁰⁵ Most of the witnesses say they were forbidden to talk with each other.¹⁴⁰⁶ Short breaks to drink or urinate were

- allowed,¹⁴⁰⁷ but monitors and spies¹⁴⁰⁸ at the site would note and report every “lazy” worker, thus people did not dare to ask for breaks.¹⁴⁰⁹ Leave days were conceded only when children’s parents were sick.¹⁴¹⁰
340. Workers had to live close to the site in communal halls, some sleeping up to 600 people.¹⁴¹¹ They were not provided with sleeping mats, blankets, pillows or hammocks, which they had to make by themselves from rice sacks and were often required to sleep on the ground.¹⁴¹² Men and women who were not married had to live separately.¹⁴¹³
341. Although a small number of witnesses state that there was enough to eat,¹⁴¹⁴ food was generally insufficient.¹⁴¹⁵ Some witnesses state they “*drank water to fill ourselves*” or “*walked around looking for leaves to eat in place of food*”.¹⁴¹⁶ Occasionally dried fish or meat were provided,¹⁴¹⁷ nonetheless, even when this food was provided it was insufficient for the workers.¹⁴¹⁸ Water for the workers came from nearby muddy ponds.¹⁴¹⁹ No one dared complain about the food rations for fear of being killed.¹⁴²⁰ Workers at the dam died of starvation¹⁴²¹ and of exhaustion directly at the work place while carrying the earth.¹⁴²²
342. Hygiene was totally lacking.¹⁴²³ The muddy water that was taken from the ponds was not boiled.¹⁴²⁴ These appalling unhygienic conditions caused many of the workers to become ill with dysentery,¹⁴²⁵ cholera, malaria, etc. Food rations for sick people were reduced.¹⁴²⁶ There were untrained medics who had no knowledge and who had been chosen at random.¹⁴²⁷ They walked around the site providing sick persons with the same herbal medicine, which resembled rabbit droppings.¹⁴²⁸ Children would be recruited to be sent to the social affairs department for two weeks to return to Trapeang Thma as medics for their respective units.¹⁴²⁹ Given these conditions, many people died due to illness¹⁴³⁰ with some family lines almost dying out entirely.¹⁴³¹
343. “New people” were subjected to harsher working conditions, such as larger working quotas or unjustified punishments.¹⁴³² CPK soldiers and cadres would collect biographies of workers at the site in order to identify those to be later arrested or killed.¹⁴³³
344. Some witnesses give evidence of witnessing or participating in marriage ceremonies at Trapeang Thma, often with scores of couples being married in mass ceremonies.¹⁴³⁴ One witness states that the couples were forced to marry,¹⁴³⁵ and others that marriages would have to be approved by unit chairmen, and workers would be killed for failing to seek permission.¹⁴³⁶

345. The evidence of the majority of the witnesses, with two exceptions,¹⁴³⁷ also strongly supports that there was no schooling for the children.¹⁴³⁸

Security

346. Some workers, especially “new people”,¹⁴³⁹ would be arrested by CPK cadres for “reeducation meetings”¹⁴⁴⁰ and subsequently disappear and never be seen again.¹⁴⁴¹ Informants would be placed amongst the units to enquire about biographies and backgrounds of the workers and identify individuals for arrest, even those who were nonetheless meeting work quotas.¹⁴⁴² They would be accused of “*being American CIA agent*” or linked to “*Yuon*”.¹⁴⁴³ These workers would be tied and escorted by soldiers or militia to the execution place.¹⁴⁴⁴

347. Workers who did not meet work quotas were considered to have ideological problems and would be labeled as traitors and transferred to the “Special Case Unit” where quotas were higher (between 3 and 3.5 cubic metres of soil).¹⁴⁴⁵ Any worker failing to meet these quotas would be taken away at night and killed.¹⁴⁴⁶

348. No witnesses report of any security centre being located at the working site. Witnesses do attest to people being taken for execution on a nightly basis in groups ranging from two or three up to 15 to 20 people at once.¹⁴⁴⁷ None of the arrestees were ever seen returning.¹⁴⁴⁸ One witness states that these disappearances were the direct consequence of “*orders from the upper echelon*”.¹⁴⁴⁹ Unit chairmen were to be informed before any arrests could be made.¹⁴⁵⁰

349. Many were killed by being beaten and thrown into the reservoir basin. Others would be made to dig their own graves and then clubbed to death.¹⁴⁵¹ Witnesses report of pregnant women being beaten, killed and thrown into the reservoir basin, as the CPK cadre would say that “*the dam would hold firmly only if pregnant women were killed and placed at the sluice gate*”.¹⁴⁵² The “Bridge 1” or “sluice gate 1” was a common execution location.¹⁴⁵³ The bodies would then be dumped at the bottom.¹⁴⁵⁴

350. **Ninety nine (99)** civil parties were declared admissible with regards to Trapeang Thma Dam Worksite¹⁴⁵⁵, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have

provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Trapeang Thma Worksite.

1st January Dam Worksite¹⁴⁵⁶

ការដ្ឋានទំនប់ ១-មករា

Location and Establishment

351. The 1st January Dam worksite was established to construct an irrigation system.¹⁴⁵⁷ The dam was built in order to form a reservoir blocking the river Stoeung Chinit, covering areas in Baray District and Santuk Districts of the current Kampong Thom Province,¹⁴⁵⁸ which according to the CPK system of identifying administrative boundaries were in Sectors 42 and 43 of the North Zone,¹⁴⁵⁹ subsequently redesignated Central (Old North) Zone, most likely whilst the dam was under construction.¹⁴⁶⁰
352. A series of canals were dug to irrigate the rice fields. The main artery was 20 metres wide leading to smaller canals of two to three metres wide.¹⁴⁶¹ The 1st January Dam was linked by the main artery to a second dam known as the “6th January Dam”.¹⁴⁶² The construction of the 1st January Dam started in late 1976 or early 1977¹⁴⁶³ and was completed by the time the construction of the 6th January Dam started in early 1978.¹⁴⁶⁴

Functioning

Structure and Personnel

353. The construction of the 1st January Dam was under the responsibility of the Central (Old North) Zone Committee, the Secretary of which was Ke Pork,¹⁴⁶⁵ also a member of the CPK Central Committee.¹⁴⁶⁶ As a result, communication between the Zone and the Centre went through Ke Pork. Duch states that Ke Pork would go to Phnom Penh to attend the annual meeting of the heads of the Zones or when summoned by Pol Pot.¹⁴⁶⁷ A number of witnesses mention the importance of communicating by telegram.¹⁴⁶⁸
354. The overall plan for the 1st January Dam was given by the Zone Secretary Ke Pork¹⁴⁶⁹ to the Zone Public Works Office, which was initially headed by Sao.¹⁴⁷⁰ Sao was assisted by a group of technicians that included [REDACTED] and Pech Sokha.¹⁴⁷¹ Both [REDACTED] and

Pech Sokha had previously studied irrigation and hydroelectricity in Phnom Penh at Russei Keo School in Phnom Penh.¹⁴⁷² [REDACTED] became the Zone Public Work Office Chairman¹⁴⁷³ further to Sao's disappearance.¹⁴⁷⁴ [REDACTED] said he reported to Ke Pork, or to his forces when they would come to check the worksite.¹⁴⁷⁵ Some witnesses observed that these visits would happen regularly.¹⁴⁷⁶ Oeun, a senior cadre significantly involved in the construction,¹⁴⁷⁷ was eventually appointed Secretary of Sector 42,¹⁴⁷⁸ where the worksite was located.

355. The construction of the 1st January Dam and its supervision involved all levels of the Party hierarchy. Each level was assigned specific responsibilities and occupied a place in the formal chain of command from the unit chiefs to the subdistrict, district, and sector cadres up to the zone.¹⁴⁷⁹ Between one to two times a year a Zone Meeting was held, presided by Ke Pork and attended by subdistrict, district and sector committee members where work results were reported.¹⁴⁸⁰
356. The composition of the Central (Old North) Zone sectors, districts and other committees changed overtime as some of their members were arrested and disappeared during the construction of 1st January Dam.¹⁴⁸¹ The Secretaries of Sectors 41, 42 and 43 and some of their replacing cadres disappeared.¹⁴⁸² Some were sent to S-21.¹⁴⁸³ The committees of the three sectors – 41, 42 and 43 – were in charge of gathering work forces from all districts to participate in the construction of the 1st January Dam.¹⁴⁸⁴ Sectors communicated to districts through meetings and reports.¹⁴⁸⁵ It was the same for districts and subdistricts, to whom they distributed work and gave orders as to the implementation of the plans.¹⁴⁸⁶ Workers were divided into units under the authority of a chief¹⁴⁸⁷ appointed by Subdistrict cadre and village chiefs.¹⁴⁸⁸ Meetings were the occasion to control whether quotas were met, whether orders were respected and people had to confess wrongdoings.¹⁴⁸⁹ “Lower echelon” had to report to the “upper echelon” about issues such as shortages of food or medicine,¹⁴⁹⁰ or construction and security matters.¹⁴⁹¹ One former village Chairman explained that when work was not progressing according to plan members of the “lower level” were accused of treason, sometimes by their team leaders, and killed.¹⁴⁹² Other witnesses report that unit chiefs and team leaders were involved in the decision making process leading to some of the workers being taken away¹⁴⁹³ or otherwise punished.¹⁴⁹⁴ Certain members of the local militia were seen carrying clubs, hoes, guns or knives¹⁴⁹⁵ and were known to perform killings.¹⁴⁹⁶ Some witnesses indicate that security people and some local cadres¹⁴⁹⁷ were from the Southwest Zone.¹⁴⁹⁸

357. Pol Pot visited the 1st January Dam worksite at least once on its inauguration¹⁴⁹⁹ together with foreign visitors.¹⁵⁰⁰ **Ieng Sary**¹⁵⁰¹ and **Khieu Samphan**,¹⁵⁰² Ta Mok¹⁵⁰³ and Son Sen¹⁵⁰⁴ were also seen at the 1st January Dam worksite. **Nuon Chea**¹⁵⁰⁵ also went to the worksite and “encouraged people to try hard to preserve water for planting rice”.¹⁵⁰⁶ **Ieng Thirith** visited the 1st January Dam along with a Laotian delegation in April 1977.¹⁵⁰⁷ According to one witness, on that occasion, those who were to greet **Ieng Thirith** were given enough food and smart clothes and she was made aware of the shortages of medicine while visiting a hospital.¹⁵⁰⁸

Working and Living Conditions

358. According to most of the former workers¹⁵⁰⁹ and former local cadres,¹⁵¹⁰ tens of thousands of people participated in the construction of the 1st January Dam.¹⁵¹¹ They were generally sent from the surrounding districts¹⁵¹² and sectors 41, 42 and 43.¹⁵¹³ Workers were mostly young and middle aged men and women.¹⁵¹⁴ Some of the workers were “new people”¹⁵¹⁵ (some had been moved from Phnom Penh),¹⁵¹⁶ Cham,¹⁵¹⁷ or according to at least one witness, Vietnamese and Chinese.¹⁵¹⁸

359. People could not speak¹⁵¹⁹ or move freely.¹⁵²⁰ Whistles or loud speakers¹⁵²¹ were used to gather the workers, who worked according to set times without rest or with strictly controlled periods of rest.¹⁵²² Most teams worked night shifts.¹⁵²³ There was a fixed quota of soil to dig and carry per day and those who could not meet the quota were punished.¹⁵²⁴ Witnesses give account of the daily quota being between one to three cubic metres of earth per day.¹⁵²⁵ One former village Chairman explained he sometimes lied to the upper echelon and reported that his team had met its quota.¹⁵²⁶ Most of the hard labour was performed by hand but machines were also used.¹⁵²⁷ In most cases, food was insufficient.¹⁵²⁸ Men and women lived separately,¹⁵²⁹ in shacks or basic shelters.¹⁵³⁰ No mosquito nets, blankets or mats were provided and most workers slept on the ground.¹⁵³¹

360. Workers were treated differently depending on their unit and/or on whether they were “new people” or Cham.¹⁵³² Cham and Buddhists were not allowed to practice their religion.¹⁵³³ Working times, quotas and discipline varied from teams to teams.¹⁵³⁴ Whilst two witnesses assert that food was sufficient¹⁵³⁵ another states that “new people” had less food than others.¹⁵³⁶ Other witnesses indicate that “base people” and CPK cadre had better clothing¹⁵³⁷ and better housing.¹⁵³⁸ Certain positions such as cooks, team chiefs or communication operatives were not accessible to “new people,” or to Cham or Sino Khmer.¹⁵³⁹ This and the unhygienic conditions¹⁵⁴⁰ resulted in many people becoming sick with various diseases.¹⁵⁴¹

Medical care was not adequate; most hospitals were a long distance away, medics were not properly trained and not always stationed at the worksite. Medicine was insufficient and ineffective;¹⁵⁴² traditional medicine such as “*Ach Tunsay*”, a tablet that resembled rabbit droppings, or liquid medicine was used.¹⁵⁴³

361. Village chiefs¹⁵⁴⁴ or “*Angkar*”¹⁵⁴⁵ arranged the marriage of workers¹⁵⁴⁶ or of cadres such as [REDACTED] in 1976.¹⁵⁴⁷ Witnesses report that they were married in a ceremony with many other couples¹⁵⁴⁸ and one former village chief states “*I arranged marriages for them. Sometimes 30 to 40 couples at the same time*”.¹⁵⁴⁹ Most witnesses report that people were not free to marry whom they wanted and that people did not dare to reject the arranged marriage and protest for fear of being sent for refashioning.¹⁵⁵⁰ Although one former cadre explains that “*if one of the two sides did not agree, a marriage would not be arranged, and they would leave the two persons aside*” she adds “*some couples did not get along after the marriage but both the man and the girl dared not complain*”.¹⁵⁵¹
362. The 1st January Dam worksite was closely monitored. Supervisors walked around to inspect whether the quotas were being met and whether work was going according to plan. Construction was supervised at all levels, by unit chiefs, chief of group, subdistrict, district,¹⁵⁵² and sometimes even by sector or zone cadre.¹⁵⁵³ They also had security personnel monitor¹⁵⁵⁴ the worksite and some witnesses report that spies infiltrated their teams.¹⁵⁵⁵ Any “mistakes” or “misconduct” had to be raised in the criticism/self-criticism meetings held in the evenings. Reeducation also applied to people who did not follow instructions.¹⁵⁵⁶ Some people were beaten or seriously mistreated.¹⁵⁵⁷ Everyone, workers and cadres, lived in a constant state of fear of being arrested and taken away to be killed.¹⁵⁵⁸
363. Some people committed suicide, others died from diseases,¹⁵⁵⁹ starvation, and/or overwork.¹⁵⁶⁰ Accidents such as collapsing stones or soil killed others.¹⁵⁶¹ However, one witness asserts that at least in his unit, no one died from starvation or overwork.¹⁵⁶²

Security

364. As Zone Secretary, Ke Pork was delegated the authority to make decisions with regard to executions in his Zone, and seems to have exercised such authority arbitrarily,¹⁵⁶³ at least as regards ordinary people, since it appears that he had to consult with higher Party authorities for the purges and killings of Party members and other cadre.¹⁵⁶⁴ Two witnesses report that measures were taken against people who had committed “moral offences” (although they were not necessarily killed).¹⁵⁶⁵

365. People knew they would be arrested if they did anything wrong or did not follow orders,¹⁵⁶⁶ such as “stealing” potatoes,¹⁵⁶⁷ not meeting work quotas, being sick, “lazy” or complaining.¹⁵⁶⁸
366. Most witnesses knew people who disappeared from the 1st January Dam worksite or heard of disappearances.¹⁵⁶⁹ Disappearances happened mainly at night.¹⁵⁷⁰ Workers would be called to attend meetings or to study,¹⁵⁷¹ or were tied up¹⁵⁷² and taken away into trucks or oxcarts, in effect disappearing.¹⁵⁷³ The reasons for the disappearances were not always known¹⁵⁷⁴ and people did not dare to ask since they were afraid of exposing themselves.¹⁵⁷⁵ Loudspeakers were played during the killings, in an attempt to cover the screams of the victims and thus to conceal the fate of persons disappeared.¹⁵⁷⁶ Many of the people who disappeared had perceived links to the former Khmer Republic regime,¹⁵⁷⁷ were Vietnamese or were people accused of having Vietnamese tendencies,¹⁵⁷⁸ being “new people”,¹⁵⁷⁹ or being Cham.¹⁵⁸⁰ “Base people” were also amongst those who disappeared.¹⁵⁸¹
367. Some witnesses saw the arrests,¹⁵⁸² others heard of people being killed or sent to Security Centres.¹⁵⁸³ One witness saw one person being killed.¹⁵⁸⁴ The nearby Wat Baray Choan Dek Pagoda¹⁵⁸⁵ was known as a place where people were taken to be killed,¹⁵⁸⁶ but people were also killed in other locations.¹⁵⁸⁷

368. **Forty five (45)** civil parties were declared admissible with regards to the 1st January Dam Worksite,¹⁵⁸⁸ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at the 1st January Dam Worksite.

Srae Ambel Worksite¹⁵⁸⁹

ការដ្ឋានស្រែអំបិល

Location and Establishment

369. Srae Ambel Worksite is a complex of salt fields located on the coast of Kampot District in Kampot Province. Applying the CPK's system of identifying administrative boundaries it was in Kampot District, Sector 35 of the Southwest Zone.¹⁵⁹⁰ Witnesses interviewed were all working in the fields of Kampong Kandal (now call Boeung Rong 1 and 2, with an area of 1400 hectares), Ses Sar (314 hectares), Traey Koh (796 hectares) and Boeung Touk (200 hectares).¹⁵⁹¹ It appears that other locations were also part of Srae Ambel Worksite including Chrey Yul, Kbal Romeas, Kampong Nung, Kep, Kep Thmei, Lok, Angkaol Rey and Sre Koh.¹⁵⁹²
370. The salt fields existed prior to 17 April 1975¹⁵⁹³ and were placed under the authority of the CPK before that date.¹⁵⁹⁴ Their surface was significantly extended during the DK era.¹⁵⁹⁵ Most of the witnesses arrived at Srae Ambel in the months following 17 April 1975¹⁵⁹⁶ and the site was still in operation until January 1979.¹⁵⁹⁷ The salt fields are still active today.

Functioning

Structure and Personnel

371. Srae Ambel Worksite was officially referred as "State" salt fields and was under the direct authority of the CPK Party Centre and especially the Ministry or Committee of Industry¹⁵⁹⁸ headed by its Chairman Cheng An alias An until his arrest in early November 1978.¹⁵⁹⁹ The Ministry or Committee of Industry was under the supervision of Vorn Vet, a member of the Standing Committee and Deputy Prime Minister for economic affairs.¹⁶⁰⁰
372. Salt production was a direct concern of the Party Centre.¹⁶⁰¹ During the meeting of the Standing Committee dated 22 February 1976, which **Nuon Chea**, **Ieng Sary** and **Khieu Samphan** attended, the increase in national salt production from 50,000 to 60,000 tons was instructed by "*Angkar*".¹⁶⁰² Increasing production for the years 1977 to 1980 was also planned by the Standing Committee's "Party's Four Year plan to build socialism in all fields".¹⁶⁰³ It appears that the salt produced was transported and distributed throughout Cambodia.¹⁶⁰⁴ [REDACTED] explains that **Khieu Samphan** was responsible for allocating the various material items produced to the population and that he would periodically exchange telegrams with one unit or another regarding the distribution of salt, rice, clothes and other material items.¹⁶⁰⁵
373. Srae Ambel was visited by high level party members, which reflects its importance to the central authorities. Witnesses state that Ta Mok (Southwest Zone Secretary and member of

the Standing Committee, deceased), Vorn Vet (Deputy Premier in Charge of the Economy, deceased) and Chou Chet alias Sy (West Zone Secretary, deceased) went there.¹⁶⁰⁶ One former cadre states that **Nuon Chea** inspected the worksite in late 1977. During his visit he convened a meeting in one of the salt fields with a battalion and instructed the workers “to strive to work [so that] in the future the country would be prosperous and make a great leap”.¹⁶⁰⁷ It also appears that foreign delegations visited the worksite in 1978.¹⁶⁰⁸

374. Srae Ambel was presented by the CPK as a model of success of the revolution and was regularly lauded for over fulfilling all assigned objectives.¹⁶⁰⁹ Its cadres and its masses of workers were characterised as particularly strong politically, a unit about which there were “no worries” regarding security.¹⁶¹⁰ During the speeches in 1977 and 1978 commemorating the 17 April victory, **Khieu Samphan** congratulated the salt production units and described them as advanced model units and examples to be followed by the entire country.¹⁶¹¹
375. Although it is not entirely clear from the evidence, it seems that the first Chairman of the worksite was Pon alias Sin Keum Ean until his arrest and transfer to S-21 on 26 February 1978.¹⁶¹² Choeun, originally Pon’s Deputy, subsequently replaced him.¹⁶¹³ According to a former cadre, [REDACTED] governed Kampong Kandal, Ry (a female) governed a battalion at Ses Sor and [REDACTED] controlled the site of Trauy Koh¹⁶¹⁴ after the arrest of Veng.¹⁶¹⁵ Workers were organised into battalions, companies and platoons.¹⁶¹⁶ Technicians from the salt fields explain that they had no right to give orders to the workers and that they themselves were monitored closely by Team or Unit Chairmen.¹⁶¹⁷ Workers and technicians were told during meetings organised by the leadership of the worksite that production increases and goals were to be achieved by hard work.¹⁶¹⁸

Living and Working Conditions

376. Official Party sources state that approximately 5000 women and 500 former male combatants (mainly technicians) were working at Srae Ambel; this figure is confirmed by witnesses.¹⁶¹⁹ In Kampong Kandal, there were around 3000 female workers,¹⁶²⁰ with about 1000 female workers at Trauy Koh.¹⁶²¹ Twelve witnesses were former female workers.¹⁶²² The vast majority of the workers were base people coming from Kampot Province¹⁶²³ and Takeo Province.¹⁶²⁴ Some workers also came from the provinces of Kampong Speue, Kampong Chhnang, Svay Rieng, Kampong Thom and Koh Kong.¹⁶²⁵ It appears that some CPK cadres originally from the East Zone were sent to work at Srae Ambel when Soa Phim was accused of treason and arrested; these East Zone cadres had been working in hospitals in Phnom Penh up until this point.¹⁶²⁶ Furthermore, witnesses explain that there were regular transfers of

workers between Srae Ambel and Office K-2 of the Ministry of Social Affairs and other related hospitals of this Ministry, especially the 6 January Hospital and Po-1 Hospital, as well as laboratories, from late 1977 to late 1978.¹⁶²⁷

377. Workers lived together in common houses that were guarded at night by unarmed guards.¹⁶²⁸ During the dry season workers undertook tasks such as erecting dykes in the salt fields, shovelling dirt, compressing the ground, farrowing the earth by hand instead of by ox in the salt water and carrying bags of salt into the warehouses or into vehicles.¹⁶²⁹ During the rainy season they had to make, prepare and improve tools for the following salt production and were sent to work in the rice fields in the cooperatives throughout Kampot Sector.¹⁶³⁰ Work started at 4 am or 6 am.¹⁶³¹ Sometimes workers had to continue working at night if they had not completed their work or to avoid the salt melting.¹⁶³² Workers had to work hard without complaint, so as not to be accused of being lazy.¹⁶³³ For this reason, they worked even when they became very sick.¹⁶³⁴
378. Accusations of laziness or of being a traitor, illness and lack of food all resulted in some workers committing suicide.¹⁶³⁵ Workers were not allowed to leave without permission. They worked and lived under the strict control of the CPK cadres.¹⁶³⁶ Trey Koh salt field was surrounded by the sea, preventing people from escaping.¹⁶³⁷ Regular criticism/self-criticism meetings were also convened¹⁶³⁸ and biographies of workers were taken.¹⁶³⁹
379. Guards and technicians received larger food rations than regular workers.¹⁶⁴⁰ Witnesses state that if someone was late or sick, his or her ration would be cut down or deprived as punishment.¹⁶⁴¹ One of them states that some workers caught stealing food were deprived of food for two days.¹⁶⁴² Workers were taken for bathing one or twice a week and, as a result, many suffered from poor hygiene.¹⁶⁴³ They were treated using locally produced medicines, which were ineffective. Severely ill or injured workers were sent for medical treatment at Chhum Kreal Pagoda located in Chhum Kreal Subdistrict next to Kampong Kandal, whilst less sick workers were treated at the worksite itself.¹⁶⁴⁴ Several witnesses saw many workers die of exhaustion or illness at either the Chhum Kreal Pagoda or at the worksite.¹⁶⁴⁵ During this time, Phnom Penh radio broadcasts stated that the CPK paid attention to the living conditions and health of the salt field workers.¹⁶⁴⁶

Security

380. Some witnesses state that workers were arrested or taken away, in effect disappearing.¹⁶⁴⁷ Most of the witnesses did not know where they were sent whilst others state that they were

sent to Phnom Salong Security Centre in Traing District, Takeo Province in the Southwest Zone.¹⁶⁴⁸ One witness states that people disappeared after they were called for “carrying baskets”.¹⁶⁴⁹ Arrests regularly took place during the night.¹⁶⁵⁰ Witnesses did not know who carried out these arrests.¹⁶⁵¹ Some understood that these workers were arrested because of their alleged connections to the former Khmer Republic regime¹⁶⁵² or because they had committed immoral acts.¹⁶⁵³ Workers were frightened to be taken away as well.¹⁶⁵⁴

381. Finally, some workers attempted to escape by crossing the sea or by taking advantage of assignments that were supervised by fewer guards, for example when chopping firewood. Those who were arrested were brought back and presented, during meetings, as bad examples, sent for reeducation at another site or disappeared.¹⁶⁵⁵ Other workers died during their escape attempts.¹⁶⁵⁶

382. **Seventeen (17)** civil parties were declared admissible with regards to the *Srae Ambel Salt Worksite*¹⁶⁵⁷, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at the *Srae Ambel Salt Worksite*.

Kampong Chhnang Airport Construction Site¹⁶⁵⁸

ការដ្ឋានសាងសង់ព្រលានយន្តហោះកំពង់ឆ្នាំង

Location and Establishment

383. Kampong Chhnang Airport Construction Site was located in Patlang Village, Kraing Leav Subdistrict, Rolea Pier District, Kampong Chhnang Province. Applying the CPK’s system of identifying administrative boundaries, it was situated in District 20, Sector 31 in the West Zone (Zone 401). The airfield is still present and covers 300 hectares. It is composed of two 2400 metre-long runways, a control tower and an administration block. The site was in total seven kilometres long and included the house of the site supervisor and the site kitchen (both of which were two kilometres southwest of the runway), as well as a tunnel which was under construction in the adjacent hill.¹⁶⁵⁹

384. The need to build a new military airfield was discussed by the CPK Standing Committee at meetings in late 1975 and early 1976; the choice of Kampong Chhnang became official during the meeting of 19-21 April 1976.¹⁶⁶⁰ Witnesses place early 1976 as the starting point of construction.¹⁶⁶¹ Standing Committee minutes of a meeting show that, in any case, construction was already underway by May 1976.¹⁶⁶² The site was still under construction in January 1979 and was never completed.¹⁶⁶³

Functioning

Structure and Personnel

385. The CPK Standing Committee took the decision to build an airport at Kampong Chhnang. The minutes of this meeting show that **Nuon Chea**, **Khieu Samphan** and **Ieng Sary** were in attendance at this meeting.¹⁶⁶⁴ In May 1976, Son Sen, the Chairman of the General Staff reported at another CPK Standing Committee meeting, attended by **Nuon Chea** and **Khieu Samphan**, on the progress of construction.¹⁶⁶⁵
386. The construction of the Kampong Chhnang Airport was under the control of Centre Division 502.¹⁶⁶⁶ This Division was created shortly after 17 April 1975, merging personnel from pre-existing units.¹⁶⁶⁷ Like the other Centre Divisions, it reported directly to the General Staff and its Chairman Son Sen.¹⁶⁶⁸ Division 502 was notably in charge of the RAK air force and responsible for all airports in Cambodia.¹⁶⁶⁹ The Secretary of the Committee of Division 502 was **[REDACTED]**¹⁶⁷⁰ who visited Kampong Chhnang Airport Construction Site on a regular basis.¹⁶⁷¹ Despite his denial in an interview, it appears that **[REDACTED]** was a leading cadre within Division 502.¹⁶⁷² Witnesses have identified Lvey (deceased) as **[REDACTED]**'s Deputy for at least part of the time that Kampong Chhnang Airport was under construction. He was in charge of the direct supervision of Kampong Chhnang Airport Construction Site.¹⁶⁷³ Lvey held meetings about construction of Kampong Chhnang Airport every day and gave orders to his assistants and would visit the site daily. Furthermore, criticism/self-criticism meetings were held for cadres.¹⁶⁷⁴ Regular meetings between the Chief of the General Staff Secretary and the senior cadres from the Centre Divisions and Independent Regiments were attended by the Secretary of the Committee of Division 502. During these meetings the cadres reported to Son Sen on various topics including the internal and external enemy situation and sought instructions for implementation at the Division level.¹⁶⁷⁵
387. Kampong Chhnang Airport Construction Site functioned as one of the means of implementation of the purge process of RAK members as it was used as a tempering site for

RAK members considered as “bad elements” from Division 502 itself¹⁶⁷⁶ or from other divisions or military units. It appears from these minutes of meetings and from letters and reports exchanged between Division 502 and S-21¹⁶⁷⁷ that Division 502 actively participated in the purge of the RAK members. For example, at one of these military meetings on 9 October 1976, the Secretary of the Committee of Division 502 stated *“it can be stipulated that the enemies have been basically eliminated, but it is imperative to take further measures to prevent this from happening a second, a third and a fourth and so on again time. The enemy will not be able to do anything to us so long as our military is politically hard and clean. It is imperative to strengthen the party politically, ideologically and organisationally. It is imperative to dare absolutely to conduct purges”*.¹⁶⁷⁸ At another meeting in March 1977 he stated *“it’s obvious that number of elements whom we had previously arrested really are enemy elements. More than 50 no-goods have been sent to S-21. There can only be reliability if five more platoon secretaries are removed”*.¹⁶⁷⁹

388. Several witnesses attest to the Charged Persons visiting Kampong Chhnang Airport Construction Site. One former cadre explains that in early 1977 **Khieu Samphan** and **Ieng Sary** visited Kampong Chhnang Airport Construction Site and that they met with the leadership of Kampong Chhnang Airport Construction Site.¹⁶⁸⁰ One former worker states that he saw **Ieng Sary**, **Nuon Chea** and Ke Pork visiting the site, watching the workers and meeting with the leadership of Kampong Chhnang Airport Construction Site on several occasions between 1978 and the end of the DK period.¹⁶⁸¹ Another worker saw **Khieu Samphan** visiting the worksite in late 1977.¹⁶⁸² Similarly, a fourth witness explained that he saw **Khieu Samphan** coming to Kampong Chhnang Airport Construction Site by helicopter in late 1977 to observe the labourers’ work.¹⁶⁸³ **Khieu Samphan’s** driver from 1978 until the end of the regime states that **Khieu Samphan** never went to Kampong Chhnang Airport Construction Site during that period.¹⁶⁸⁴ Several witnesses also mention the presence of Ta Mok on several occasions at the site.¹⁶⁸⁵

Living and Working Conditions

389. The number of workers at Kampong Chhnang Airport Construction Site varied over time from a few hundred in early 1976 to more than 10,000 workers by 1977.¹⁶⁸⁶ It was a military construction site and almost all the workers, men and women,¹⁶⁸⁷ had been RAK members.¹⁶⁸⁸ 14 former workers at Kampong Chhnang Airport Construction Site were heard as witnesses.¹⁶⁸⁹ Their testimony reveals that workers were sent to Kampong Chhnang Airport Construction Site for tempering or refashioning because of their perceived bad biographies or supposed links with traitorous networks.¹⁶⁹⁰ In addition to the “bad elements” from Division

502 itself¹⁶⁹¹ most of the workers at Kampong Chhnang Airport Construction Site were sent there because they were considered to be associated with the cadre of RAK units who had been arrested and sent to S-21, including from Centre Division 170 (a former East Zone unit),¹⁶⁹² Centre Division 310,¹⁶⁹³ Centre Division 450¹⁶⁹⁴ (former North Zone units)¹⁶⁹⁵ and Centre Division 703, a former Special Zone unit.¹⁶⁹⁶ From 1978 most of the soldiers sent to Kampong Chhnang Airport Construction Site were sent because their leaders came from or were associated with the East Zone. They generally arrived by trucks in groups from the same military unit.¹⁶⁹⁷ However, there were also soldiers from the Southwest Zone and the West Zone.¹⁶⁹⁸ Furthermore, according to a witness working for the Ministry of Foreign Affairs (B-1) at the time, some workers were also sent from B-1 to Kampong Chhnang Airport Construction Site.¹⁶⁹⁹ Finally, some workers or employees were first tempered at other locations,¹⁷⁰⁰ including Prey Sar (S-24),¹⁷⁰¹ before working at Kampong Chhnang Airport Construction Site.

390. The living and working conditions varied depending on how much of a “traitor” the worker was perceived to be. Several witnesses explain that work took place from 7am to 5pm, with a break from 11am to 1pm. Other workers would work night shifts only,¹⁷⁰² whilst those workers perceived to be the biggest traitors would be made to work day and night.¹⁷⁰³ People worked seven days a week.¹⁷⁰⁴
391. For the construction of the runway, workers had to cut trees, pull out the tree stumps and collect all the plant roots to prepare the ground, as well as dig, bulldoze, break rocks, compress and compact the earth, carry and mix cement and sand, fill the tarmac with concrete and level the ground surface.¹⁷⁰⁵ Other soldiers were working on the hill alongside the runway either in a quarry or drilling a tunnel.¹⁷⁰⁶ Several witnesses state that workers were regularly injured or killed by rocks.¹⁷⁰⁷ One witness saw the death of a person who was hit by fragments projected by a rock explosion.¹⁷⁰⁸ Although the vast majority of the work was done by hand, there was some Chinese machinery on the site.¹⁷⁰⁹ Numerous Chinese technicians provided technical assistance at Kampong Chhnang Airport Construction Site throughout the period of construction.¹⁷¹⁰ Workers were under strict guard control.¹⁷¹¹
392. For some groups of workers, the food rations were insufficient.¹⁷¹² Cadres¹⁷¹³ and other workers, notably those working with the Chinese experts, had better food rations.¹⁷¹⁴ Ill workers were transported to Kampong Chhnang hospital by ambulance.¹⁷¹⁵ Witnesses explain that a number of workers died from starvation, illness, overwork and exhaustion.¹⁷¹⁶ A cadre also explained that the suicide of workers occurred on a weekly basis.¹⁷¹⁷ One cadre states that

the corpses of those who died at Kampong Chhnang Airport Construction Site were buried in the forest near Steung Pagoda.¹⁷¹⁸

Security

393. Witnesses observed the disappearance of numerous workers at Kampong Chhnang Airport Construction Site.¹⁷¹⁹ They noted a correlation between the daily criticism/self-criticism meetings and the disappearances.¹⁷²⁰ During those meetings workers were criticised for being sick or lazy, for work mistakes, for minor offences such as stealing tobacco or for having alleged connections with the Vietnamese.¹⁷²¹ Several witnesses saw trucks transporting workers outside of the airport who never came back.¹⁷²² Many witnesses said they could not be sure about the real fate of the disappeared persons as they did not see the execution.¹⁷²³
394. A worker states that he saw people arrested when he visited Lvey's office, specifying that Lvey was always present when people would be arrested.¹⁷²⁴
395. Several witnesses understood that the prisoners who had disappeared had been killed; they indicate that it was mainly workers from or associated with the East Zone.¹⁷²⁵ One witness heard that people were taken to be killed west of the airport.¹⁷²⁶ Another states that he saw dead bodies in pits at Piem Lok Mountain, approximately five kilometres from the airport; he presumed that those bodies were those of workers from Kampong Chhnang Airport Construction Site but he could not state so definitively.¹⁷²⁷ One former cadre from identified a pit containing workers who had been executed in 1977; he had seen trucks carrying people stop at this pit site. A short while after the truck stopped he heard screams from the location and, seven days later, he smelled the odour of decomposing corpses. However, there are no human remains currently visible at the surface at this site.¹⁷²⁸ None of the witnesses personally observed the execution of workers from Kampong Chhnang Airport Construction Site.¹⁷²⁹ There is no evidence of any executions taking place at Kampong Chhnang Airport Construction Site itself.
396. It appears that some of the workers were sent from Kampong Chhnang Airport Construction Site to Phnom Penh. Some witnesses understood that workers taken into the trucks would potentially be sent to Phnom Penh, Prey Sar (S-24) or S-21.¹⁷³⁰ One witness states that he saw 30 workers from the East Zone tied up and transported by truck along National Road 5.¹⁷³¹ A former guard at S-21 explains that he believed he was sent to S-24 to be refashioned because his brother, [REDACTED], who used to be at Kampong Chhnang Airport Construction Site, was arrested and sent to S-21 in late 1978.¹⁷³² Other witnesses corroborate that some workers

from Kampong Chhnang Airport Construction Site were sent to S-21,¹⁷³³ as were some Kampong Chhnang Airport Construction Site cadres. It appears that Yim Sam Ol alias Nha, mentioned as one of the people who disappeared from Kampong Chhnang Airport Construction Site, was sent to S-21 in late 1978.¹⁷³⁴ Duch also explained during his trial that his brother in law, a cadre at Kampong Chhnang Airport Construction Site, was transferred to S-21.¹⁷³⁵ Notwithstanding the above evidence, some witnesses state that to their knowledge there were no disappearances, arrests or killings of workers.¹⁷³⁶

397. Numerous workers (including a number of witnesses) were subsequently reintegrated into RAK and sent to fight in the conflict between Democratic Kampuchea and Vietnam.¹⁷³⁷
398. The construction of Kampong Chhnang Airport Construction Site was still ongoing when the Vietnamese reached Kampong Chhnang Province in early 1979. At that point work ceased and workers were moved from the area.¹⁷³⁸ The majority of workers went 20 kilometres south to the Romeas train station in Teuk Phos District (District 14).¹⁷³⁹ Workers were told they were to be armed to fight the Vietnamese. However, soldiers from the East Zone were separated from the rest and executed at Mongol Khan Pagoda in Tuol Kpos Village and at the former French fort in Kbal Lan Village (Aphivoat Subdistrict, Teuk Phos District).¹⁷⁴⁰ These mass killings of East Zone soldiers occurred after 6 January 1979.¹⁷⁴¹

399. **Nine (9)** civil parties were declared admissible with regards to Kampong Chhnang Airport Worksite¹⁷⁴², since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at the Kampong Chhnang Airport Worksite.

Prey Sar Worksite (S-24)¹⁷⁴³

ការដ្ឋានព្រៃស (ស-២៤)

Location and creation

400. The Prey Sar (S-24) labour camp was located outside of Phnom Penh, in the area of Wat Kdol, in the Dangkao district of Kandal province.¹⁷⁴⁴ According to the CPK system for

demarcating administrative boundaries, Prey Sar came under Phnom Penh. Based on testimony collected, the main premises of S-24 extended from Prey Sar prison to the village of Chek. However, the whole S-24 centre covered a larger area.¹⁷⁴⁵ S-24 came into operation as a work site for S-21 when In Lorn alias Nat was Chairman of S-21, that is, before March 1976¹⁷⁴⁶ and remained in operation until 7 January 1979.¹⁷⁴⁷

Functioning

Structure and Personnel

401. The function of the S-24 worksite was to reform and reeducate combatants¹⁷⁴⁸ and to provide food to supply S-21 and its branches.¹⁷⁴⁹ Duch explained that Prey Sar was part of S-21¹⁷⁵⁰ and that when he was appointed Chairman of S-21, this site came under his authority.¹⁷⁵¹ Nun Huy alias Huy Sre (also a member of the S-21 Committee) was responsible for the day-to-day operation of S-24¹⁷⁵² until his arrest in December 1978. [REDACTED] was then appointed as his replacement.¹⁷⁵³
402. Duch received regular reports informing him of its operation, the detainees' work regimes and the identities of those who were sent from S-24 to S-21 or to Choeng Ek. He also stated that he visited Prey Sar on four occasions.¹⁷⁵⁴ According to Duch, in the same manner as for S-21, the decision to send people to S-24 was taken by his superiors Son Sen and **Nuon Chea**, while the specific decision to send members of S-21's staff to S-24 for reeducation was taken by the S-21 Committee.¹⁷⁵⁵

Living and Working Conditions

403. With regard to S-24, it is not possible to state with precision the number of people detained there on the basis of the existing evidence relating to lists of people. However, it clearly emerges that several hundred people were held there at one time,¹⁷⁵⁶ a figure that was confirmed by Duch.¹⁷⁵⁷ In the Duch judgment in Case File 001, the Trial Chamber noted that *"the isolated and fragmentary documentation placed before it presents an incomplete picture of the numbers of those held, sent for execution, or surviving detention at S-24. for these reasons, the Chamber finds that the cumulative total detained at S-24 was no fewer than 1,300"*.¹⁷⁵⁸
404. Several witnesses stated that men, women,¹⁷⁵⁹ and children were detained at S-24.¹⁷⁶⁰ According to Duch, the detainees fell into two main categories: firstly, persons whose

- relatives were considered suspects, and secondly, subordinates of arrested cadres.¹⁷⁶¹ Combatants from various units and civil servants from many ministries and departments around Phnom Penh were held there, along with members of their families.¹⁷⁶² Moreover, former staff members of S-21 were sent to S-24 to be reeducated.¹⁷⁶³ Duch stated that no foreigners (Vietnamese or Western) were sent to Prey Sar.¹⁷⁶⁴
405. People sent to S-24 were first registered at a location along Street 360, near S-21. They were then taken to Prey Sar, where they were photographed and asked to provide a biography.¹⁷⁶⁵ S-24 was divided into three “groups”: the first group was for the “better elements”; the second group was for fair elements; while the third unit was for “bad elements”, who were considered guilty of the worst behaviour and required the harshest tempering.¹⁷⁶⁶
406. In S-24, detainees were forced to work in order to be reeducated. There were imprisoned and closely watched, both at work¹⁷⁶⁷ and at night.¹⁷⁶⁸ The detention conditions were harsher for detainees of third group, who were shackled at night and could not live in ordinary houses.¹⁷⁶⁹ As for those lodged in houses,¹⁷⁷⁰ it appears that some of them were locked up at night.¹⁷⁷¹ Duch maintained that those who were there were not “*in prison*” as it can be understood about those who were detained in S-21,¹⁷⁷² but admitted that the term “*element*” or “*component*” as used to describe people working in S-24 meant “*detained and put to work*” so that these people could no longer oppose the Party.¹⁷⁷³
407. People detained in S-24, including women and children, worked in rice fields, fished, grew vegetables, carried out rice planting, built dykes and dug canals and ponds.¹⁷⁷⁴ Several witnesses stated that they worked day and night,¹⁷⁷⁵ seven days a week, and were not authorised to rest during working hours.¹⁷⁷⁶ A normal workday at S-24 began at dawn – between 4 am and 7 am – and ended between 10 pm and midnight,¹⁷⁷⁷ with two one-hour breaks for meals.¹⁷⁷⁸
408. Former detainees indicated that they received two meals per day, at midday and in the evening.¹⁷⁷⁹ Barring a few exceptions,¹⁷⁸⁰ the prisoners stated that the food rations at S-24 were insufficient¹⁷⁸¹ even though Duch explained that he would hand over surplus rice to the Central Committee.¹⁷⁸² Duch stated that he could not change the rations as fixed and that, in his view, the practice of depriving the prisoners of food was part of a deliberate policy.¹⁷⁸³ A number of detainees died as a result of the living and working conditions in Prey Sar.¹⁷⁸⁴
409. Work was performed under the watchful eyes of guards¹⁷⁸⁵ for whom efficiency was imperative and who did not tolerate slowness on the part of the detainees.¹⁷⁸⁶ Prisoners who

were ill or who arrived late, or those whose work was considered unsatisfactory, were beaten and insulted.¹⁷⁸⁷ They were also punished when they were accused of “*sexual misconduct*”, “*being ill*” or of “*theft*”.¹⁷⁸⁸ Fear of being transferred¹⁷⁸⁹ or executed¹⁷⁹⁰ always loomed large.

410. Regular reeducation sessions were held at S-24. During these sessions, the detainees, who were exhorted to work with speed and efficiency,¹⁷⁹¹ were subjected to political training and indoctrination,¹⁷⁹² and to self-assessment sessions.¹⁷⁹³

Interrogations

411. Several witnesses described how interrogations were conducted and that some detainees were treated very badly by the staff during interrogations.¹⁷⁹⁴ Duch stated that, in general, S-24 was not a centre where prisoners were interrogated or tortured.¹⁷⁹⁵ However, while he recognised that interrogations may have taken place and that detainees might have been ill-treated during interrogations, he stated that he never instructed the staff of S-24 to carry out interrogations in order to extract confessions.¹⁷⁹⁶

Security

412. Disappearances of prisoners during the night were common¹⁷⁹⁷ and those who disappeared never returned.¹⁷⁹⁸
413. Some S-24 detainees were transferred to Choeng Ek for execution,¹⁷⁹⁹ including children.¹⁸⁰⁰ Some prisoners were also transferred from S-24 to S-21.¹⁸⁰¹ Duch admitted that at least 571 of them were transferred.¹⁸⁰² In the Duch judgment of Case File 001, the Trial Chamber notes:¹⁸⁰³ “*According to Expert David CHANDLER, one of the characteristics that distinguished S-24 from S-21 was that individuals held at the former had the possibility of release. The Accused stated, however, that S-24 detainees were seldom released and that all were generally destined for execution regardless of their classification. The Accused testified that he provided those running S-24 with a standing order to execute its detainees in accordance with CPK policy. S-24 detainees slated for execution whose confessions were needed were first sent to S-21, while those whose confessions were not required were sent directly to Choeng Ek for execution. The Accused typically made this decision, though his subordinates could send detainees directly to Choeng Ek when their confessions were clearly unnecessary, as was the case with children. [internal citations omitted]*”.

414. **Eleven (11)** civil parties were declared admissible with regards to S24 Prey Sar,¹⁸⁰⁴ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at S24 Prey Sar.

C. SECURITY CENTRES AND EXECUTION SITES

S-21 Security Centre¹⁸⁰⁵

មន្ទីរសុវត្ថិសុខ ស-២១

Location and creation

415. The S-21 security centre (S-21) was composed of a detention centre in Phnom Penh and an execution site (Choeng Ek) located some 15 kilometres to the south-west of Phnom Penh, in Kandal province.¹⁸⁰⁶ Prey Sar (S-24) was a labour camp under S-21 and is discussed in a separate section of the Closing Order.
416. On 15 August 1975, Son Sen summoned Duch and In Lorn alias Nat, of Division 703 of the RAK, to a meeting at the Phnom Penh railway station. The purpose of the meeting was to establish S-21.¹⁸⁰⁷ S-21 became fully operational in October 1975¹⁸⁰⁸ and remained in operation until 7 January 1979, when Duch, the staff and detainees working in S-21 fled.¹⁸⁰⁹
417. The detention centre was originally located in Boeng Keng Kang 3 Subdistrict at the junction of streets 163 and 360.¹⁸¹⁰ Late in November 1975, S-21 was transferred to the headquarters of the national police, and then, in January 1976, it was moved back to its original location.¹⁸¹¹ In April 1976, the detainees were finally relocated – at Duch’s behest and with Son Sen’s approval – to the premises of Pohnea Yat Lycée,¹⁸¹² which is now the site of the Tuol Sleng Genocide Museum. The main building (Building E) was used for the reception, registration and photographing of prisoners.¹⁸¹³ A room in this building was set up for producing paintings and sculptures to glorify the regime. Buildings B, C and D housed the general prison population, either in tiny individual cells built of wood or brick, or in larger collective cells.¹⁸¹⁴ The block to the south of the former lycée and later building A, was called the “Special Prison” and was used to hold important detainees.¹⁸¹⁵ The whole compound was surrounded by a fence and protected by armed guards.¹⁸¹⁶ Many other

buildings were also part of S-21¹⁸¹⁷ and were located in a second outer perimeter, which was also protected by armed guards.¹⁸¹⁸ They included, for example, the houses for interrogators, execution sites and mass graves, messes, a “medical centre”, several offices and houses for Duch and a house for receiving prisoners.¹⁸¹⁹

418. At the beginning, executions were carried out either inside or near S-21.¹⁸²⁰ On an unknown date between 1976 and mid-1977, Duch decided that prisoners would henceforth be executed in Choeng Ek.¹⁸²¹ However, even after Choeng Ek became the main execution site, some prisoners were still executed and buried within the confines of S-21 or nearby.¹⁸²²

Operation

Organization and personnel

419. During the meeting of 15 August 1975, Son Sen appointed Nat as Chairman of S-21 and Secretary of its Committee¹⁸²³ and Duch as Vice-Chairman in charge of the group of interrogators.¹⁸²⁴ The detainees were brought to the S-21 interrogation unit from the Ta Kmao Psychiatry Hospital, which In Lorn alias Nat, with his Division 703 staff, used as a detention centre.¹⁸²⁵ In March 1976, Nat was appointed to a position at the General Staff and Duch replaced him as Chairman of S-21 and Secretary of the S-21 Committee.¹⁸²⁶ Duch maintained Khim Vat alias Hor in the position of deputy in charge of the daily management of S-21. Nun Huy alias Huy Sre was the third member of the S-21 Committee; he was also in charge of S-24.¹⁸²⁷ As chairman, Duch was in charge of choosing personnel¹⁸²⁸ and provided training, particularly political training, for the staff.¹⁸²⁹ Duch also taught S-21 personnel interrogation methods and techniques for executing detainees.¹⁸³⁰
420. Duch ran S-21 on the basis of a hierarchy and set up a system for transmitting information at all levels, thereby ensuring that his orders were immediately and precisely followed.¹⁸³¹ S-21 was divided into several units:¹⁸³² the Interrogation Unit;¹⁸³³ the Documentation Unit (responsible for registering and maintaining records);¹⁸³⁴ the Defence Unit, which had two sub-units, the Guard Unit (responsible for guarding the detainees within the prison complex) and the Special Unit. The Special Unit had several duties: it received people who were sent to S-21 or, in some cases, made arrests or transferred prisoners; it intervened in emergencies and escorted prisoners to Choeng Ek and carried out executions.¹⁸³⁵
421. S-21 was both a political and military establishment. Duch states that S-21 was an independent military regiment under the direct control of the General Staff as regards

administrative functions, and other matters such as food production, personnel, and training, but was also under the control of the Standing Committee for its duties in regard to security.¹⁸³⁶ Duch reiterated on numerous occasions that from March 1976 to 15 August 1977, his superior was Son Sen, who was replaced by **Nuon Chea** from that date until the regime ended. Relations between Duch and his superiors are set out in detail in the section of the Closing Order regarding **Nuon Chea**.

422. S-21 was a very important security centre in Democratic Kampuchea: it was considered to be an organ of the Communist Party of Kampuchea (“CPK”); its management reported to the highest echelons of the Party; it conducted activities on a national scale, and senior-level cadres and important prisoners were held there.¹⁸³⁷

Arrests and detentions

Composition of the Incarcerated Population

423. According to the revised prisoners list, at least¹⁸³⁸ 12,273 persons are known to have been detained at S-21.¹⁸³⁹ 5,994 were reported to be male, 1,698 female and 89 children.¹⁸⁴⁰
424. The majority of prisoners were Cambodian. The most prominent group was former RAK members (5,609 entries in the revised prisoners list). The purges within the military often led to RAK members of all ranks being sent to S-21. Former RAK members detained at S-21 originated from Divisions 164, 170, 174, 290, 310, 450, 502, 503, 801 and 920, as well as from independent regiments 152, 377 and 488. Personnel from the General Staff were likewise sent to S-21.¹⁸⁴¹ The evidence also shows that 156 S-21 personnel were imprisoned at S-21. Furthermore, it appears that at least 47 S-24 personnel were sent to S-21.¹⁸⁴²
425. The second largest group of detainees was composed of CPK cadres (4,371 entries in the revised prisoners list).¹⁸⁴³ It appears that the following zone secretaries were detained at S-21: Ruos Nheum (June 1978);¹⁸⁴⁴ Men San alias Ya (September 1976);¹⁸⁴⁵ and Klang Chap alias Se (August 1978). Members of the Standing Committee included: Vorn Vet (November 1978);¹⁸⁴⁶ and Kung Sophal alias Keu alias Kan (November 1978).¹⁸⁴⁷ Finally, secretaries of autonomous sectors included: Bou Phat alias Hang (June 1978);¹⁸⁴⁸ Born Nan alias Yi (June 1978);¹⁸⁴⁹ Pa Phal alias Sot (February 1977);¹⁸⁵⁰ and the former Minister of Propaganda, Hu Nim (April 1977).¹⁸⁵¹

426. Within the group of former CPK cadres, at least 209 persons detained at S-21 came from Office 870 and S-71, as well as from the following sub-ordinate offices: the telegram operation unit, the Offices under S-71 with the code numbers K-1 to K-18 (and particularly from Ta Lei village, part of K-13), Yo10 (the military unit in charge of protecting CPK leaders) and Stoeng Meanchey and the former B-20. The first arrest was reported on 27 July 1976 and the last was reported on 19 December 1978.¹⁸⁵²
427. Before their arrest, at least 113 prisoners were directly under the authority of the Ministry of Foreign Affairs, including those who were at its M-1 Office at Chraing Chamres after having been recalled from DK embassies abroad¹⁸⁵³ (the first arrest was dated September 1976 and the last on December 1978). At least 16 prisoners were arrested from Boeng Trabek and associated offices K-15 and K-17 (the first arrest was dated December 1975 and the last on June 1978¹⁸⁵⁴).
428. Throughout the DK era, at least 482 prisoners were arrested from the Ministry of Commerce or from local or central commercial units attached to it, such as fisheries, clothing, government warehouses, transport and the Kampong Som Seaport.¹⁸⁵⁵ The first reported arrest was on October 1975 and the last was reported on March 1978.
429. 116 detainees were former personnel of the Ministry of Social Affairs or its hospitals and sub-units, including Pha-1, Pha-2 at Chroy Changva, Pha-3 (Psah Cha), Pha 4, Po-17 (17 April Hospital), Po-1 (Calmette), Po-2, Po-3, Po-4 (later Po-6), Ph-5 and the Malaria eradication office. The first arrest was recorded in September 1976, and the last was recorded at the end of December 1978, with a peak in arrests in 1978.¹⁸⁵⁶
430. At least 84 detainees were arrested from the Ministry of Propaganda and Education and its sub-units, including offices codes K-25 to K-38, which designated printing presses, the DK radio station, performing arts troupes and journalist groups. The first recorded arrest was on 21 September 1976, and the last was dated 23 May 1978, with an increase in the number of arrests between February and May 1978.¹⁸⁵⁷
431. The CPK cadres and the members of the RAK who were arrested came from all zones and autonomous sectors of Cambodia. The numbers increased with the waves of purges, as arrests increasingly targeted higher-level cadres and military commanders. Thus, the number of prisoners coming from the former Central (Old North) Zone rose to 360 prisoners for the whole period, with more than 80 arrests in February 1977¹⁸⁵⁸ (the month after Koy Thuon's arrest¹⁸⁵⁹). Sector 106 accounted for 75 arrests with a peak in March 1977.¹⁸⁶⁰ Some of those

arrested were mentioned by Koy Thuon in his confession in which he listed his “traitorous network”.¹⁸⁶¹ Finally, for the East Zone, the number rose to 1,165 arrests with close to 500 arrests in the month of June 1978,¹⁸⁶² which corresponds to the suicide of Sao Phim.

432. In addition to the former members of the RAK and the former CPK cadres, other Cambodians appeared in the lists, in particular, former soldiers and cadres of the Khmer Republic or of FUNK (National United Front of Cambodia) 328 entries in the revised list,¹⁸⁶³ teachers, professors, students, doctors, lawyers or engineers (279 entries),¹⁸⁶⁴ people detained because of family ties (876 entries),¹⁸⁶⁵ and a certain number of people whose origin could not be established.¹⁸⁶⁶
433. A certain number of foreign nationals¹⁸⁶⁷ were also detained at S-21, such as Thais, Laotians, Indians and “Westerners”.¹⁸⁶⁸ Amongst the foreigners, Vietnamese were the majority. The revised prisoners list mentions the names of at least 345 detainees described as Vietnamese, listing 122 soldiers and 144 “spies” (civilians or combatants). For the remaining 79 detainees (including women and children), who were probably civilians, there is no indication of their status.¹⁸⁶⁹ The presence of Vietnamese at S-21 is similarly confirmed by witnesses,¹⁸⁷⁰ confessions,¹⁸⁷¹ and photographs.¹⁸⁷² The first arrest of a person described as Vietnamese appears in the registers on 7 February 1976. Duch states, however, that a small number of Vietnamese were sent to S-21 as early as 1975,¹⁸⁷³ and specified that their numbers grew as the conflict with Vietnam escalated.

Arrest and transfer to S-21

434. For the arrest and transfer of CPK cadres and RAK members from autonomous regions or zones, two methods were used. In some cases, S-21 personnel would go to the zones and make arrests, or collect prisoners arrested by the zone units, and then return to Phnom Penh.¹⁸⁷⁴ In other cases, CPK cadres and RAK members were summoned to Phnom Penh by Office 870 and in particular by **Nuon Chea** (officially for a meeting), and they disappeared, never to be seen again.¹⁸⁷⁵ In the vast majority of cases, cadres passed through K-7 before being taken to S-21 by members of units under S-71.¹⁸⁷⁶ For the Phnom Penh units, and particularly ministries and units of the Centre, it appears that beyond those cases where arrests were carried out by S-21, members of S-71 units were also responsible for the arrests.¹⁸⁷⁷ In some instances, they also passed through K-7.¹⁸⁷⁸ Sometimes, the ministries were charged with transporting prisoners from their own departments to S-21.¹⁸⁷⁹ Duch confirms that as a rule, “S-21 [did not] have the right to arrest people”, adding that, in most cases, he was simply informed of an arrest by the higher echelon so that he could organize the reception of

the prisoners.¹⁸⁸⁰ Apart from cases in which S-21 made arrests as described below, Duch was notified that prisoners were due to arrive through lists, which were prepared and sent by Son Sen, **Nuon Chea** or Ken alias Lin.¹⁸⁸¹

435. S-21 personnel themselves sometimes made arrests.¹⁸⁸² According to Him Huy, where S-21 made arrests outside its premises, but within Phnom Penh, there were two possible scenarios: either his unit made the arrest, or, if the arrest had already been made, his unit was only responsible for the transfer of the prisoners to S-21.¹⁸⁸³ Him Huy states that he was dispatched from Phnom Penh on several occasions to bring prisoners to S-21, and in each of these cases, Duch gave him a list of the people to be arrested.¹⁸⁸⁴ Duch states that whenever necessary, a special S-21 unit left Phnom Penh bearing an order issued by the Central Committee and a special pass signed by Son Sen, authorising it to bring prisoners back to S-21. However, he adds that this system was subsequently discontinued.¹⁸⁸⁵ Furthermore, Duch explains that he was sometimes consulted and was involved in the planning of arrests, particularly when it involved arresting a large number of people within one unit, or when the persons to be arrested were prominent members of the Party.¹⁸⁸⁶ Lastly, the arrests of some important persons, such as Koy Thuon and Pang, took place in Duch's house.¹⁸⁸⁷
436. Duch indicates that when the decision to make an arrest was made, secrecy and trickery were mandatory in order to avoid leaks, and prevent any attempts to resist, especially when a large number of people had to be arrested in the same location.¹⁸⁸⁸ In such cases, according to Duch, he asked Hor to speak to the head of the unit and urged him to "*calm the staff*" and make sure that he was methodical in making the arrests.¹⁸⁸⁹

Arrest of Vietnamese civilians and soldiers

437. The Arrest of Vietnamese civilians and soldiers generally took place in the main conflict zone (along the border with Vietnam) or nearby.¹⁸⁹⁰ Former military commander [REDACTED] says: "*all of the Vietnamese soldiers who were captured along the border near Svay Rieng and Prey Veng Provinces were sent to Phnom Penh. Initially, they were sent to Rèn At the decision headquarters, and he decided what was to be done with them ... I think this group was sent to Duch at S-21, but I am not certain, because at that time we seemed to be in a dark world; many things happened that we did not know about, and movement was extremely strict*".¹⁸⁹¹
438. It appears that at least some, if not all,¹⁸⁹² of the Vietnamese civilians and soldiers arrested in the main conflict zone were detained at S-21. Duch explains that he was only informed of

their arrival in the same way that he was informed of the arrival of the other prisoners, namely by way of lists,¹⁸⁹³ and that S-21 was never required to organise the transportation of the Vietnamese from the theatre of operations.¹⁸⁹⁴ This claim is contradicted by Him Huy, who states that on two occasions, in 1977 and 1978, Duch sent him to the battlefield in Svay Rieng to escort Vietnamese soldiers to S-21¹⁸⁹⁵ Furthermore, [REDACTED] states that he was sent to work on the border in 1977 and saw S-21 personnel transporting Vietnamese prisoners of war in S-21 trucks from the theatre of operations.¹⁸⁹⁶

Arrests of S-21 personnel

439. S-21 personnel were also arrested and either sent to S-24 for reeducation,¹⁸⁹⁷ or imprisoned in S-21.¹⁸⁹⁸ Cadres could be sent to S-24 for minor offences, especially when someone they knew was detained at S-21.¹⁸⁹⁹ For more serious offences, such as allowing a prisoner's escape, death or suicide before interrogation,¹⁹⁰⁰ the person responsible was considered as a traitor to the revolution, and was arrested.¹⁹⁰¹ However, some witnesses suggest that the majority of S-21 staff members who were arrested, specifically those from Division 703, had not actually committed a serious offence.¹⁹⁰²
440. A former guard states that only Duch could order the arrest of S-21 personnel.¹⁹⁰³ However, Duch maintains that *"The S-21 Committee was competent for the first form of purge (sending a staff member to S-24). Conversely, Son Sen, and later Nuon Chea, were competent for the second form of purge (imprisoning a staff member in S-21)"*.¹⁹⁰⁴

Detention conditions

441. Prisoners arrived in S-21 almost daily in groups and at all times of the day or night.¹⁹⁰⁵ The Special Unit escorted them into the prison, usually handcuffed and blindfolded.¹⁹⁰⁶ The prisoners were then registered by the Documentation Unit.¹⁹⁰⁷ They then had to provide biographical information¹⁹⁰⁸ and a summary of their answers was prepared.¹⁹⁰⁹ Generally, they were not informed of the reasons for their arrest. Upon arrival, the prisoners were also photographed.¹⁹¹⁰ They were then escorted to their cells by the guards.¹⁹¹¹
442. The prisoners were locked up practically 24 hours per day.¹⁹¹² The detention centre had small individual cells¹⁹¹³ and collective cells holding 20 to 30 detainees, and possibly more. In the collective cells, the prisoners were shackled and chained to one another by their feet.¹⁹¹⁴ Women detainees were not shackled,¹⁹¹⁵ except for those who were resisted.¹⁹¹⁶ Couples and families, including children, were separated.¹⁹¹⁷ All of the prisoners were under constant

- watch by armed guards¹⁹¹⁸ and received very strict instructions to avoid any escape attempts.¹⁹¹⁹ Although a number of former guards have stated that they were not allowed to strike detainees,¹⁹²⁰ this rule was not always followed.¹⁹²¹
443. Prisoners were not allowed to talk amongst themselves¹⁹²² or to the guards.¹⁹²³ Upon arrival at S-21, they were forced to strip to their underwear.¹⁹²⁴ They were prohibited from exercising, or from leaving their cells.¹⁹²⁵ The prisoners had no beds,¹⁹²⁶ and most of them had to sleep on the bare concrete floor.¹⁹²⁷ Many detainees suffered greatly from mosquito bites.¹⁹²⁸ The detainees were not authorized to wash themselves under adequate conditions of hygiene,¹⁹²⁹ and “washing up” consisted of spraying the room with water, using a hosepipe from the doorway.¹⁹³⁰ Confined to their cells, detainees urinated and defecated in the jerry-cans and ammunition boxes provided.¹⁹³¹
444. Food was insufficient and inadequate,¹⁹³² and the prisoners were malnourished.¹⁹³³ Only guards and important prisoners were better fed than the others.¹⁹³⁴ These conditions caused significant physical deterioration¹⁹³⁵ and a number of prisoners died as a result.¹⁹³⁶ Duch explains that decisions regarding food were made by the “*higher echelon*” and that he was not allowed to change the set rations. According to him, the practice of denying the detainees food was based on deliberate CPK policy.¹⁹³⁷
445. Many of the prisoners suffered from illnesses and wounds. Basic medical care¹⁹³⁸ was provided by a small “medical” team,¹⁹³⁹ which had not studied medicine, and worked without the supervision of doctors.¹⁹⁴⁰ Many prisoners who needed urgent medical assistance were left uncared for, or were given inadequate treatment.¹⁹⁴¹ Medicine stocks were extremely limited, and when there were any at all, the medicines were manufactured locally by unqualified persons.¹⁹⁴² S-21 employees also conducted medical experiments on prisoners.¹⁹⁴³
446. A small number of detainees were forced to work within the S-21 premises. They were employed in the mechanics’ and artists’ workshops, working long hours, under the constant watch of guards, without freedom of movement and under the threat of punishment if they failed to produce what was considered satisfactory work.¹⁹⁴⁴ Witnesses state that there was a slight improvement in their food, and their general detention conditions, once they began to work.¹⁹⁴⁵
447. Prisoners lived in constant fear of being punished, taken away, beaten, interrogated and executed.¹⁹⁴⁶ The living conditions described above led to the death of detainees in many

instances.¹⁹⁴⁷ Some prisoners also attempted to commit suicide because of these conditions.¹⁹⁴⁸

Interrogations

448. Most S-21 prisoners were systematically interrogated.¹⁹⁴⁹ These interrogations were carried out by S-21 personnel in their official capacity.¹⁹⁵⁰ Once the prisoners had been allocated cells,¹⁹⁵¹ the interrogators would take them from their cells and escort them, blindfolded, to the interrogation rooms.¹⁹⁵² The prisoners were required to provide biographies to the interrogators and respond to the accusations that had led to their arrest.¹⁹⁵³ Not all interrogations were recorded in the form of written confessions,¹⁹⁵⁴ and there was no general rule about the number of times a detainee could be interrogated, or on the duration of the interrogations.¹⁹⁵⁵ Interrogation sessions did not end until the confessions made by the prisoner were considered to be “satisfactory”,¹⁹⁵⁶ and prisoners could be interrogated repeatedly and ordered to rewrite their confessions several times.¹⁹⁵⁷
449. In general, Duch or the S-21 personnel had the autonomy to decide whether to use violence and ill treatment,¹⁹⁵⁸ except for important prisoners or those in whom the superiors had a special interest, in which case they would issue specific instructions.¹⁹⁵⁹
450. Duch explains that he had introduced three interrogation methods to be used by the interrogation teams: the “*cold*” method, the “*hot*” method, and the “*chewing*” method.¹⁹⁶⁰ The cold method consisted of interrogating a prisoner by use of propaganda, without using ill-treatment or insults. The hot method explicitly included “*insults, beatings and other torture authorized by the regulations*”.¹⁹⁶¹ The chewing method was an intermediate technique consisting of “*gentle explanations in order to establish trust/confidence, followed by prayers to the interrogated person, continually inviting her or him to write*”.¹⁹⁶² Ill treatment was also allowed.¹⁹⁶³
451. The use of ill treatment during interrogations was frequent and has been acknowledged by Duch¹⁹⁶⁴ and the interrogators;¹⁹⁶⁵ it is also confirmed by many documentary records from S-21.¹⁹⁶⁶ Two former S-21 prisoners, Chum Mey and Bou Meng, explain that they suffered serious ill-treatment during their interrogation, which they described both during the judicial investigation and in detail before the Trial Chamber.¹⁹⁶⁷ It was shown that ill-treatment increased when detainees did not provide confessions as anticipated. Additionally, any confession that was not sufficiently precise, or did not mention the name of another “*traitor*”, was considered unacceptable.¹⁹⁶⁸

452. The interrogators used several forms of torture to extract confessions from the detainees. According to Duch, four methods were authorized: blows, electric shocks, a plastic bag over the head, and pouring water into the nose.¹⁹⁶⁹ However, it appears that other forms of ill-treatment were used in addition to these four methods, including some which, according to Duch, were forbidden at S-21. Thus, fingers and toenails of persons undergoing interrogation were punctured and removed,¹⁹⁷⁰ at least one prisoner was allegedly fed excrement and others were forced to drink their urine,¹⁹⁷¹ a cold water and fan technique was used,¹⁹⁷² as well as a technique consisting of undressing prisoners and applying an electric current to their genitals and ears.¹⁹⁷³ The practice of forcing detainees to pay homage to dogs with the head of Ho Chi Minh or of Lyndon B. Johnson¹⁹⁷⁴ was considered by the Trial Chamber in Case 001 as having caused deep humiliation and severe mental distress in the Cambodian cultural context.¹⁹⁷⁵ Furthermore, Vann Nath remembers seeing a guard take a prisoner to a crossbeam, hang him from a rope and immerse his head in a water jar.¹⁹⁷⁶ Duch and the interrogators also used propaganda, scorn, bluffing and threats in order to obtain confessions.¹⁹⁷⁷
453. The physical consequences of torture and ill-treatment during interrogations (lacerations, bleeding, contusions, bruising, loss of consciousness, removal of fingernails and toenails) were so visible that almost all former employees of S-21 who were interrogated admitted that, even though they were not personally present at torture sessions, they knew that such acts were being committed.¹⁹⁷⁸ In some instances, physical suffering was such that it resulted in the prisoners' death.¹⁹⁷⁹ Duch acknowledges that such extreme cases did happen, adding that he organised a study session to address the situation.¹⁹⁸⁰
454. The use of ill treatment during interrogations was aimed at obtaining a "complete" answer, including the crimes of which the prisoner was accused and the names of other presumed enemies of the regime.¹⁹⁸¹ With regard to Vietnamese prisoners, Duch adds that the objective was to obtain confessions to prove that "*Vietnam had invaded Cambodia with a view to integrating it into an Indochinese federation*".¹⁹⁸² Unlike interrogations of Cambodian prisoners, interrogations of Vietnamese prisoners were often tape-recorded and were then broadcast over the radio for propaganda purposes.¹⁹⁸³ The interrogation of Vietnamese prisoners was also aimed at obtaining military information.¹⁹⁸⁴
455. The primary function of S-21 was to extract confessions from detainees that would help uncover other networks of potential traitors. Duch states that "*the content of the confession [was] the most important work of S-21*".¹⁹⁸⁵ Most often, these confessions were in the form

of a political autobiography written by the detainee who, under duress, ended up confessing to treason and implicating other traitors working for the secret services of foreign powers considered to be enemies of the Cambodian revolution.¹⁹⁸⁶ The ‘truth’ that these confessions were supposed to reveal was, in many respects, defined beforehand, since the interrogators, who had been instructed by Duch to establish the existence of links with the CIA, the KGB and/or the Vietnamese, forced detainees to provide pre-determined answers.¹⁹⁸⁷

456. Written confessions obtained by the interrogators were transmitted to Duch accompanied by their interrogation reports.¹⁹⁸⁸ Duch read, analyzed, annotated¹⁹⁸⁹ and meticulously summarised¹⁹⁹⁰ most of these confessions, in order to report them to his superiors.¹⁹⁹¹

Rape at S-21

457. In the Judgment in the Duch Case, the Trial Chamber found that one incident of rape occurred at S-21.¹⁹⁹² An S-21 staff member inserted a stick into the vagina of a detainee during interrogation.¹⁹⁹³ According to Duch, when the rape incident was reported to him, he discussed it with Hor. He states that he ordered Hor to reprimand the offender. Duch added that he reported the incident to his superiors, but received no response. He therefore did not punish the perpetrator, but merely assigned him to interrogate someone else. He also subsequently gave instructions that interrogations of female prisoners were to be conducted by the wives of cadres. Although this measure was implemented,¹⁹⁹⁴ according to Prak Khan, the female interrogators were all ultimately arrested, and by 1977, female prisoners were again interrogated by men.¹⁹⁹⁵
458. Furthermore, civil party [REDACTED] states that she was raped during her detention at S-21 in 1977 by a guard whom she recognised during the Duch trial before the ECCC. The rape took place in an individual cell while she was in chains, and led to vaginal bleeding which lasted for several days. The guard in question also threatened to kill her if she mentioned the rape to anyone.¹⁹⁹⁶ In its Judgment in the Duch case, the Trial Chamber rejected [REDACTED] Civil Party application, finding that the evidence she submitted was not sufficient to establish notably that she was detained at S-21.¹⁹⁹⁷ Following this rejection, the facts set out above, which are distinct from the ones put forward at the hearing, have now come to light, and led the Co-Investigating Judges to conduct a second interview in Case No.002. After this new investigative action, the Co-Investigative Judges consider that the clarification provided by this Civil Party appears credible and sufficient according to the requirements at this stage of the proceedings.

459. There is evidence indicating that other cases of rape occurred at S-21, in particular that of a female detainee by an interrogator named [REDACTED].¹⁹⁹⁸ However, the Duch Judgment stated that the Trial Chamber is “*not satisfied that this allegation has been proved to the required standard*”.¹⁹⁹⁹

Execution of prisoners

460. More than 12,273 S-21 detainees were executed at Choeng Ek, within the S-21 complex or nearby, or died as a result of the detention conditions at S-21.²⁰⁰⁰
461. In the Duch Judgement, the Trial Chamber noted that “*none of the detainees held within the S-21 complex were to be released as they were all due to be executed in accordance with the CPK policy to “smash” all enemies*”.²⁰⁰¹ Duch states that prisoners could be executed either on the orders of his superiors, in particular for mass executions,²⁰⁰² or on the basis of a decision by Duch pursuant to the general Party line, which was that all prisoners were to be executed.²⁰⁰³
462. Several witnesses testified that at S-21, the decision to execute prisoners was either made by Duch or conveyed by him.²⁰⁰⁴ Duch explains that he initially delegated responsibility for executions to Hor,²⁰⁰⁵ but that following an incident that resulted in the death of a prisoner before his interrogation could be completed, Son Sen insisted that Duch approve every execution.²⁰⁰⁶ In general, the detainees were executed when Duch considered that their confessions had been completed.²⁰⁰⁷ Duch admitted, however, that he had the power to delay the execution of some prisoners if they were skilled workers.²⁰⁰⁸

Executions at Choeng Ek

463. The prisoners were transferred by truck to Choeng Ek²⁰⁰⁹ by the Special Unit²⁰¹⁰ in groups of 30 to 40. They were escorted, handcuffed and blindfolded, to the trucks²⁰¹¹ and were under the strict control of the guards during the journey.²⁰¹² The actual destination was concealed from the prisoners and they were told that they were being transferred to another office.²⁰¹³
464. A small number of guards were stationed permanently at Choeng Ek; their mission was to maintain the secrecy of the site, dig pits and bury the bodies of the detainees.²⁰¹⁴ These guards were joined by those who escorted the prisoners to Choeng Ek.²⁰¹⁵ When the trucks

- arrived at Choeng Ek,²⁰¹⁶ the prisoners were herded into a house.²⁰¹⁷ The guards then took them out one by one and told them that they were being transferred to another house. Him Huy recorded the names of the prisoners in a register before they were taken to the pits for summary execution.²⁰¹⁸
465. Several witnesses state that the prisoners were struck on the neck with an iron bar, oxcart axle or water pipe.²⁰¹⁹ The guards disemboweled them or slit their throats.²⁰²⁰ The detainees were then kicked into one of the pits, after which the handcuffs and blindfolds were removed.²⁰²¹ Once the executions were over, the guards covered the pits.²⁰²²
466. Although some witnesses deny seeing children at the site,²⁰²³ at least one of the pits discovered allegedly contained the remains of children.²⁰²⁴ During the on-site re-enactment, Duch stated that he did not know how children were killed at Choeng Ek, but he did not deny that children were executed there.²⁰²⁵
467. Son Sen and **Nuon Chea** ordered the mass execution of prisoners on several occasions. These executions took place successively in Choeng Ek over a period of several days. Often, the prisoners were executed immediately upon arrival at S-21, without being interrogated.²⁰²⁶ Some of these mass executions were the result of purges within the CPK and the RAK. According to Duch, early in 1977, a large number of cadres from the Central (Old North) Zone, Phnom Penh and the RAK were executed following the arrest of Koy Thuon.²⁰²⁷ Early in 1978, there were executions of cadres from the West Zone, followed by executions of cadres from the Northwest Zone.²⁰²⁸ Later, in December 1978, some 300 prisoners from the East Zone who had been accused of rebellion were sent directly to Choeng Ek and executed.²⁰²⁹ Duch added that on 2 or 3 January 1979, **Nuon Chea** ordered him to execute all of the prisoners who were detained at S-21.²⁰³⁰ About 200 detainees (Cambodians and Vietnamese) were therefore transferred to Choeng Ek and executed.²⁰³¹

Executions on or near the S-21 premises

468. Duch and several witnesses indicate that even after Choeng Ek had become the main execution site, the execution of some detainees, particularly children, former members of S-21 staff, important prisoners and foreigners, continued on or near the S-21 premises.²⁰³²
469. In some instances, Duch asked that some of the corpses of important prisoners be photographed after execution. These photographs, expressly requested by Son Sen or **Nuon Chea**, were intended to prove that these prisoners had actually been executed.²⁰³³

470. Some of the foreign prisoners detained at S-21 were executed near the S-24 compound. Thus, in 1978, somewhere between Mao Tse Tung Boulevard and the Boeng Tumpung neighbourhood, four foreigners were executed and their bodies burned with tyres on **Nuon Chea's** specific instructions, in order to ensure that the bodies would not be found.²⁰³⁴
471. Some of the children who were taken to S-21 were executed on its premises. Young children were generally executed immediately after they were separated from their parents, although some of them were allowed a brief respite before their execution. Duch indicates that Peng, a member of the S-21 staff, was in charge of their execution.²⁰³⁵
472. Four combatants from a military unit, which, as Duch recalls, was referred to by code name Yo8, were also killed during the mass executions which took place on 2 or 3 January 1979. Duch states that these men were killed with a bayonet by the interrogator [REDACTED] on 7 January 1979, and it was their bodies, still chained to beds, that the Vietnamese soldiers discovered when they arrived in S-21.²⁰³⁶

Blood drawing

473. Some S-21 prisoners died after S-21 doctors drew a large quantity of their blood.²⁰³⁷ Duch admits that at least 100 prisoners were killed in this way.²⁰³⁸ Prak Khan states that prisoners were made to lie on their backs on a bed and then their handcuffs were removed, while their feet were shackled and they were blindfolded. A needle was then inserted into their veins and their blood drawn until they died,²⁰³⁹ after which a vehicle took their bodies to Choeng Ek.²⁰⁴⁰ The blood drawn from the prisoners was then sent to hospitals, and used in particular for transfusions for RAK soldiers who were wounded while fighting Vietnamese forces.²⁰⁴¹
474. At first, Duch denied playing any role in the practice of drawing detainees' blood. He states that if such a method was indeed applied at S-21, it "*was a continuation from when Nath was Chairman*".²⁰⁴² In subsequent hearings, he stated that he could not deny that the blood was drawn from some S-21 prisoners, but maintained that he was never aware of this practice.²⁰⁴³ Finally, before the Trial Chamber, he stated that this practice was instituted on the orders of Son Sen and that it was discontinued once all of the members of the medical team had been executed.²⁰⁴⁴

475. **One hundred and twenty eight (128)** civil parties were declared admissible with regards to S-21 Security Center²⁰⁴⁵, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 bis (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at S-21 Security Center.

Sang Security Centre²⁰⁴⁶

មន្ទីរសុវត្ថិសុខ សង់

Location and Establishment

476. Sang security centre was a district level security centre located in Trapeang Sva Village, Trea Commune, Kandal Steung District, Kandal Province.²⁰⁴⁷ Applying the CPK's system of identifying administrative boundaries, it was located in district 154 (code-number for Kandal Steung), Sector 25, Southwest Zone. It appears to have commenced operation as a security centre sometime during 1976 or 1977²⁰⁴⁸ and was operational until the end of the CPK regime.²⁰⁴⁹ Originally a teacher training centre, Sang was ringed by barbed wire and comprised of several concrete structures, including a number of detention buildings, a blacksmith's shack, a kitchen, and a separate house for the prison chairman.²⁰⁵⁰ There were also a number of special detention cells for CPK cadres who had committed serious offences.²⁰⁵¹

Functioning

Structure and Personnel

477. As a district level security centre, Sang was controlled by the district 154 Committee.²⁰⁵² The District Committee would regularly meet with the prison chairman at the Committee's headquarters in Siem Reap Kantuot and one of its successive secretaries, Yann (deceased), would personally visit Sang every two to three months.²⁰⁵³ South West Zone Secretary, Ta Mok (deceased), may have also visited Sang on a number of occasions.²⁰⁵⁴
478. Up to 20 cadres worked at Sang at any one time.²⁰⁵⁵ There were several different chairmen in charge of Sang during its operation.²⁰⁵⁶ After the first chairman, Mong, was arrested in

1977 or 1978, it appears that other cadres took control of Sang.²⁰⁵⁷ The last chairman, Nev, was in charge of Sang for only a few months before the fall of the CPK regime in January 1979.²⁰⁵⁸ Two former Sang cadres recall that conditions improved after Nev took over. One goes as far as to say that under Nev, no new prisoners arrived, prisoners were not shackled, and no one was killed.²⁰⁵⁹

Arrest and Detention

479. Seven witnesses and two civil parties who were detained at Sang were interviewed.²⁰⁶⁰ Men, women, and children were all imprisoned there.²⁰⁶¹ At any one time there would be approximately 100 to 300 people in detention²⁰⁶² and prisoners would arrive and leave on a regular basis.²⁰⁶³ However, it appears that under Mong, no-one was released to go back home.²⁰⁶⁴ Those arrested appear to have come mainly from Kandal Steung district.²⁰⁶⁵ Often whole families were brought in together.²⁰⁶⁶ They were a mixture of base people, including CPK cadres, and new people, including former Khmer Republic soldiers.²⁰⁶⁷ A former guard who participated in interrogations recalls that the majority of prisoners were Khmer Republic soldiers. He attests that if someone was accused of being a Lon Nol soldier, CPK cadre would arrest him and bring in the entire family, including children.²⁰⁶⁸ People were arrested for being “enemies” which meant anything from actual or perceived sympathies towards the Khmer Republic regime, the Khmer Sar, feudalism, capitalism, the CIA or the KGB, not following orders, breaking ploughs or stealing food.²⁰⁶⁹ Sometimes people were arrested because others who had been interrogated at Sang Security Centre had implicated them.²⁰⁷⁰
480. Group leaders, village chiefs, and Subdistrict chairmen all brought prisoners to Sang.²⁰⁷¹ Often the prisoners were not told the truth about where they were being taken.²⁰⁷² People arrived by truck, bicycle, ox-cart or on foot. After arriving, they were ordered at gunpoint to get on the ground where their hands were tied. They were then escorted to their cells.²⁰⁷³ It appears that prisoners were put into different categories, as either light or serious prisoners, which determined the conditions of their detention and where they could work.²⁰⁷⁴ One former guard (and later light prisoner) states that those in the most serious category had their legs shackled and were ultimately executed, whereas light prisoners could work outside.²⁰⁷⁵ Those who had committed more serious offences slept in rows of twenty with one leg locked to a long rod or log.²⁰⁷⁶ These prisoners urinated, defecated and slept in the same place.²⁰⁷⁷ However, not everyone was shackled, in particular women.²⁰⁷⁸ Men and women were kept separately in different buildings.²⁰⁷⁹ They slept naked as the prison chief was afraid they could use their clothing to hang themselves.²⁰⁸⁰ One former prisoner recalls

- a guard coming into his cell and beating his knees with a hammer for no apparent reason.²⁰⁸¹ The food was insufficient and many people died from starvation.²⁰⁸² In addition, prisoners also died from disease and from the injuries they sustained from beatings.²⁰⁸³
481. Prisoners, including children, were forced to work.²⁰⁸⁴ Guards and former prisoners recall that when serious offence prisoners went outside to work they were chained in pairs by their feet.²⁰⁸⁵ A former prisoner recalls farming whilst shackled and having to wrap the chain around his waist.²⁰⁸⁶ Light prisoners would work without being restrained.²⁰⁸⁷ Labour included planting vegetables, rice farming, carrying water, breaking up tree stumps and minding cattle.²⁰⁸⁸ A former guard recalls seeing prisoners being beaten with whips and clubs as they were escorted to work.²⁰⁸⁹ Former prisoners attest to seeing guards beating prisoners to death for minor infractions.²⁰⁹⁰ Sick prisoners who could still work were treated with medicine, whereas those who could not were neglected and sometimes died.²⁰⁹¹
482. Two former cadres recall that sometime in 1978 the Deputy Chairman of Sang, Meng, was imprisoned himself for being “immoral” with a female prisoner.²⁰⁹² Two former detainees heard from others that a female prisoner had been raped by her interrogators, who were themselves subsequently detained.²⁰⁹³ A civil party’s nephew states that he eyewitnessed the rape of her sister at Sang.²⁰⁹⁴

Interrogation

483. Three witnesses and two civil parties were interrogated at Sang.²⁰⁹⁵ Only one was seriously mistreated during interrogations.²⁰⁹⁶ Two former cadres admit to participating in or observing interrogations.²⁰⁹⁷ One admits witnessing prisoners being seriously mistreated.²⁰⁹⁸ He recalls that prisoners were asked about matters of immorality and whether they were Lon Nol soldiers, CIA, or KGB agents. If prisoners did not admit to being enemies they would be hit with a rattan cane or suffocated with a plastic bag until they lost consciousness.²⁰⁹⁹ During an interrogation, a guard would record the prisoner’s confession in writing before taking it to another cadre to type up.²¹⁰⁰
484. Sang’s former typist confirms that he typed up confessions which usually outlined a prisoner’s sympathies toward the Lon Nol regime, capitalism, feudalism, the CIA or the KGB. Once such a confession was typed, it was handed to Mong who would sign it.²¹⁰¹ A former guard who worked as Mong’s messenger recalls that once a file on a prisoner had been finalised, he would be asked to deliver an envelope to a particular prison, cooperative or mobile unit. He believed that the purpose was to inform the recipient of those people in

their unit who had been implicated, so that they could search out enemy networks. Sometime later, those who had been implicated were observed arriving at Sang.²¹⁰²

Disappearances and Executions

485. A number of witnesses recall prisoners leaving the compound in trucks who, in effect, disappeared.²¹⁰³ Many of these disappearances occurred during the night.²¹⁰⁴ According to one witness, this happened once a week or once a month.²¹⁰⁵ Another said prisoners disappeared every single day.²¹⁰⁶

486. Some of these trucks were transferring prisoners to another prison due to overcrowding at Sang.²¹⁰⁷ Others were taking people away to be executed.²¹⁰⁸ Those who were taken away to be executed were told they were being sent to the cooperatives.²¹⁰⁹ Some people were killed inside the main compound of Sang Security Centre, but the principal execution site was a bamboo forest approximately one kilometre away.²¹¹⁰ One witness, a former guard, saw executions taking place on three different occasions.²¹¹¹ He witnessed between 30 and 80 prisoners being tied together and blindfolded before guards walked them away to be killed. Prisoners were stripped of their clothing, ordered to squat at the edge of a pit, and were killed by having their throats slit and their abdomens cut open.²¹¹² Children were killed by being swung against a tree.²¹¹³ Gall bladders were removed to be consumed by local cadre.²¹¹⁴

487. Two witnesses say that approximately 5,000 people were executed at Sang.²¹¹⁵ A number of witnesses participated in the exhumation of pits near Sang after the fall of the CPK regime, including both former victims and perpetrators.²¹¹⁶ One witness who was on the exhumation committee states that approximately 112 graves were exhumed with each containing 30 to 120 corpses. In total 2,600 skulls were counted. However it appears that not all the graves in the area were exhumed.²¹¹⁷ In addition to corpses, clothing (including womens'), shackles and ox cart axles were uncovered.²¹¹⁸

488. Twenty seven (27) civil parties were declared admissible with regards to Sang Security Center²¹¹⁹, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 bis (4). These civil parties have provided sufficient elements tending to establish prima facie personal harm as a direct consequence of the crimes committed at Sang Security Center.

Kraing Ta Chan Security Centre²¹²⁰

មន្ទីរសន្តិសុខ ក្រាំងតាចាន់

Location and Establishment

489. Kraing Ta Chan was located in Kus Subdistrict, Tram Kok District, Takeo Province.²¹²¹ Applying the CPK's system of identifying administrative boundaries, it was located in District 105, Sector 13, Southwest Zone.²¹²² The former Chairman of Kus Subdistrict (and former Chairman of Kraing Ta Chan), [REDACTED], recalls that Kraing Ta Chan was originally a CPK meeting site. In mid-1973 it was converted by the Sector Committee into a detention office under the control of the District 105 committee.²¹²³ It was operational for the duration of the CPK regime.²¹²⁴ There is some discrepancy between witnesses as to the exact appearance of the site. However, they generally agree that after the district took control, it evolved into a fenced-in compound containing several wooden buildings used for prisoner incarceration, cadre accommodation, interrogation, and dining.²¹²⁵

Functioning

Structure and Personnel

490. Witnesses and District 105 documents demonstrate that the chain of command implemented by the CPK nationwide operated in Sector 13 even prior to April 1975. The subdistricts reported to the District Committee, which reported to the Sector Committee, which in turn reported to the zone. If the tier above gave an order, ordinarily the tiers below had to obey.²¹²⁶ If lower tier cadres acted contrary to orders from above or did not seek their consent to a course of action, they were arrested and killed.²¹²⁷ However, it appears that in special cases a level could be circumvented. For example, if the sector sent a summons directly to the subdistrict, then the subdistrict could respond without having to go through the district.²¹²⁸ Orders travelled down the ranks, from the centre to the subdistrict, through a variety of means.

491. Meetings were the most common method of conveying orders and receiving reports, as paper was scarce.²¹²⁹ One witness who was based at the 'Southwest Zone Commerce' building in Phnom Penh recalls seeing many senior Southwest Zone leaders including the

- Zone Secretary, Ta Mok, and the Sector 13 Secretary, Ta Soam, attending meetings with *Angkar* in Phnom Penh.²¹³⁰ Once every three to six months, the zone would meet with the sector committee. Following these meetings, the sector would meet with the district and subdistrict to convey the work plan and to give instructions on how the people under their authority should be controlled and educated. The situation both within and outside the country was also discussed.²¹³¹ Former District Youth Chairman, [REDACTED], remembers attending such meetings at which the Sector Secretary Ta Soam would read out documents containing instructions from 870 (a code number which [REDACTED] understood to mean the office at the Centre) including *Revolutionary Youth* and *Revolutionary Flag*. He says these meetings would take place two to three times a month, not including special circumstances when 870 would issue a circular requiring everyone to meet at the sector office. The sector invited the chairmen of the districts and subdistricts to these meetings, who would in turn disseminate instructions to their units.²¹³²
492. Former Secretary of District 105, [REDACTED], recalls being present at a Sector Committee meeting at which Ta Soam reported to Ta Mok on matters relating to Kraing Ta Chan.²¹³³ After the meeting had ended, Ta Mok and Ta Soam discussed the fate of a group of 60 people living in Tram Kok District who had been implicated in confessions. Ta Mok ordered the district secretary to monitor and examine these people.²¹³⁴ [REDACTED] also recalls attending several Party anniversary meetings presided over by Ta Mok. These meetings were initially held at secret sites, but later moved to the sector headquarters. The meetings were attended by senior members of the zone to discuss politics and the revolution. Ta Mok lectured on how to recognise CIA and KGB agents and their activities. [REDACTED] understood from Ta Mok that these enemies were to be identified and smashed.²¹³⁵ [REDACTED] also remembers attending a Sector level meeting presided over by Ta Soam. He states that, in relation to politics, Ta Soam told those present to observe if there were hidden enemies burrowing from inside. He ordered them to report such cases to the upper echelon, and said that such observations could only be carried out by the cooperatives.²¹³⁶
493. The chairman of Kraing Ta Chan would usually report and send confessions to the district committee, which would in turn send them to the sector. However, if the matter only concerned the Sector, he would report to the sector committee directly.²¹³⁷ At the end of every month, the district secretary would send a written report on its activities to the sector.²¹³⁸ [REDACTED] recalls, and District 105 documents from July and November 1977 show, that the Chairman of Kraing Ta Chan would also make a monthly report to the

- District. The report would include the total prisoner intake, numbers of prisoner deaths due to illness and executions, total population, economic expenditure, and food production.²¹³⁹
494. The precise composition of each committee changed over time as individuals were relocated, arrested or passed away. However, it appears that the following individuals were secretaries of District 105 at different times: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and Kit.²¹⁴⁰ The secretaries of Sector 13 included Ta Soam and Prak.²¹⁴¹ The Southwest Zone Secretary was Ta Mok.²¹⁴²
495. Some witnesses, including [REDACTED], describe the witness [REDACTED] as the first Chairman of Kraing Ta Chan. However, [REDACTED] denies ever formally holding this position, and states that he merely assisted at Kraing Ta Chan in his capacity as Chairman of Kus Subdistrict.²¹⁴³ In any event, by April 1975 [REDACTED] had been relocated, and his deputy, [REDACTED], had become chairman with twelve soldiers working beneath him.²¹⁴⁴ [REDACTED] was chairman at least until September 1978.²¹⁴⁵ It appears that [REDACTED], and later, [REDACTED] reported directly to [REDACTED], who was a member of the district committee and likely tasked with district security.²¹⁴⁶
496. It appears that senior cadres visited Kraing Ta Chan. Though some evidence suggests that Ta Mok inspected the prisoners on several occasions, former District 105 Youth Chairman, [REDACTED], [REDACTED], and [REDACTED] either dispute or do not recall this.²¹⁴⁷ However, none of these three witnesses were present at Kraing Ta Chan during the whole of the relevant time. Further, one witness believes he saw Nuon Chea visit Kraing Ta Chan and talk to [REDACTED]. However, [REDACTED] denies this event ever took place.²¹⁴⁸ Witnesses state that successive district chairmen including [REDACTED], Kit, and [REDACTED], would regularly visit Kraing Ta Chan.²¹⁴⁹

Arrest and Detention

497. [REDACTED], [REDACTED], and various District 105 documents reveal the way in which the process of arrest, imprisonment, and execution or release operated in Sector 13. First, the subdistrict would report its concerns about various civilians and CPK cadres to the district. For example, a report from Nheng Nhang subdistrict to the district sets out the biography of an *enemy* listing various alleged offences. A return note on the bottom of the document from the district secretary to the subdistrict instructs that he is to be arrested.²¹⁵⁰ Once arrested, individuals were sent to the district. The district would then consult with the district secretary before sending those concerned to Kraing Ta Chan accompanied by a

report.²¹⁵¹ For example, a report from Trapeang Thom Tboung commune addressed to the Kraing Ta Chan Chairman sets out the offences of three people who the Party had decided to arrest and send to Kraing Ta Chan.²¹⁵² At the same time, a report would be sent to the sector committee. These reports were the basis for detainee interrogation.²¹⁵³ Later, the chairman of Kraing Ta Chan would send the prisoners' confessions to the district secretary who would forward them to the sector committee.²¹⁵⁴ The sector secretary would then advise the district committee of which individuals were to be killed and those who were to be released. The names of these individuals would be sent to Kraing Ta Chan for implementation.²¹⁵⁵ Therefore, it appears that the sector decided upon the fate of those held at Kraing Ta Chan based almost exclusively on confessions and other information produced by the district office. The district, for its part, relied on information provided to it by the subdistrict, including allegations made by subdistrict militia and denunciations coming from members of the population.

498. A Tram Kok District resident recalls that before evacuees from Phnom Penh arrived in the area, the secretaries of the districts and subdistricts attended a meeting at which they were advised that there would be a purge of the evacuees. Anyone who had been a soldier holding the rank of Corporal Sergeant or above in the Khmer Republic regime, and anyone from the Khmer Republic administration who had been a first deputy chief or higher, would be purged. This is confirmed by three witnesses, including the former district youth chairman who recalls that when *new people* arrived at Tram Kok they were made to write biographies. He also states that anyone who admitted to being a soldier would subsequently disappear.²¹⁵⁶ One witness recalls arriving in Tram Kok in April 1975 and being ordered to write his biography. He was told specifically to speak the truth about whether he was a soldier or government official.²¹⁵⁷ A committee member of a sub-district in Tram Kok recalls the commune secretary being ordered to gather together all the evacuees who held the rank of Second Lieutenant or higher. Once assembled, the upper echelon would send a truck to take them away. These people disappeared forever.²¹⁵⁸ The Kraing Ta Chan prisoner lists and the increase in the number of prisoners at Kraing Ta Chan after April 1975 suggests many of those who disappeared were sent to Kraing Ta Chan.²¹⁵⁹ Several reports from the subdistrict to the district in 1977 reveal that the purge of former Khmer Republic soldiers and officials continued after 1975.²¹⁶⁰
499. Many of those who were sent to Kraing Ta Chan were arrested by subdistrict militia.²¹⁶¹ A former guard recalls that the subdistrict militia would bring people to Kraing Ta Chan day and night, sometimes as many as ten tied together.²¹⁶² Another guard states that when prisoners arrived, he saw them tied together with their hands and biceps restrained.²¹⁶³ The

people who had escorted the prisoners to Kraing Ta Chan were not permitted to enter the compound.²¹⁶⁴

500. Men, women, and children were all detained at Kraing Ta Chan, including whole families.²¹⁶⁵ Eight witnesses were former detainees.²¹⁶⁶ Witnesses remember that most of the detainees were new people originating from Phnom Penh.²¹⁶⁷ However, “base people”, former Khmer Republic soldiers, CPK cadre, Chinese, Vietnamese and Cham also contributed to the population.²¹⁶⁸ With regard to the Chams, witnesses who lived in Tram Kok District said that Chams were treated like everyone else.²¹⁶⁹ On the other hand, Vietnamese who lived in the area were initially sent back to Vietnam but those who remained were later arrested and executed, probably at Kraing Ta Chan.²¹⁷⁰ It is unclear how many prisoners were detained at Kraing Ta Chan between April 1975 and January 1979. The capacity of the prison is also unknown. However, estimates can be made from various sources. A report from Kraing Ta Chan to the district committee for the month of July 1977 states that 18 new prisoners arrived that month, making a total of 81 detainees. Of these detainees, two died of disease and 39 were executed, leaving a total prisoner population of 40.²¹⁷¹ A similar report for the month of November 1977 puts the total prisoner population at 85.²¹⁷² Another report from [REDACTED] to the district committee advises that up until the date of the report [date unknown], 15,000 detainees had been executed.²¹⁷³
501. The evidence suggests that prisoners were divided into two categories: serious and light offenders.²¹⁷⁴ However, a former guard states that there was no such distinction.²¹⁷⁵ Everyone was shackled day and night unless they were put to work.²¹⁷⁶ When prisoners wanted to relieve themselves they would use a coconut shell which would be passed from person to person to the end of the row. If someone spilled faeces or urine, they would be beaten with a bamboo club. In each detention house there were two rows of people, approximately 20 to 25 per row.²¹⁷⁷ Men, women and children were all detained in the same room in different rows.²¹⁷⁸ Any child over ten years of age was shackled.²¹⁷⁹ Small children were placed on the belly of their mothers.²¹⁸⁰ Prisoners were not permitted to move about freely.²¹⁸¹
502. Between one and three prisoners died every day in each building.²¹⁸² Reasons included starvation, disease, vermin or being beaten.²¹⁸³ A former guard attests that there was no medical facility at Kraing Ta Chan and that sick prisoners were simply left to die.²¹⁸⁴ Several District 105 documents record prisoners dying of illness.²¹⁸⁵

503. Some prisoners recall being forced to work inside the prison compound performing a variety of labour.²¹⁸⁶ Those who worked were given more food than those who remained shackled in the detention buildings. Those who worked on the rice fields were not shackled, but were under guard.²¹⁸⁷ Some of those who worked outside returned at night to be shackled in the main detention buildings.²¹⁸⁸
504. Two witnesses recall the rape of detainees by cadres at Kraing Ta Chan.²¹⁸⁹ A former detainee states that a particular guard often raped and killed prisoners. Sometimes this witness would find the victims naked with ammunition inserted into their genitals.²¹⁹⁰ A former guard denies there were ever any cases of rape at Kraing Ta Chan, saying that if there had been, both the victim and the perpetrator would have been killed for committing immoral conduct.²¹⁹¹ The former district youth chairman states he was ordered by the zone or sector to investigate the alleged rape of a woman by CPK cadres at the site.²¹⁹²
505. Six witnesses were released from Kraing Ta Chan during its operation.²¹⁹³ One states that after 29 days of detention, he was personally released by Ta Mok.²¹⁹⁴ Two former prison guards state that very few people were ever released.²¹⁹⁵

Interrogation

506. Seven former detainees recall being interrogated at Kraing Ta Chan.²¹⁹⁶ Some were interrogated within hours of arriving at the site.²¹⁹⁷ Interrogations were conducted every day.²¹⁹⁸ Prisoners were accused of being enemies and were asked to identify their leaders.²¹⁹⁹ One former detainee recalls being asked where he was from, whether he was American or Yuon CIA and which rank he held during the Lon Nol era.²²⁰⁰ Another was accused of sexual immorality.²²⁰¹ Others remembered being asked why there was not enough food in the cooperatives, or about simple things such as conflicts while driving carts.²²⁰² At one point, it appears that people were being questioned about their links to Prum San, leader of the Front in the forest.²²⁰³ During the interrogation, a handwritten record of the prisoners' confessions would be taken and later typed up.²²⁰⁴
507. Detainees were sometimes seriously mistreated during interrogation. The CPK used the language "hot" and "cold" to describe the different methods employed when questioning a prisoner. Hot meant beating and other physical methods whilst cold meant pleading, trickery, ruses and coaxing. Cadre learned these techniques from the sector and district.²²⁰⁵ District 105 documents show this language being used by the subdistrict when reporting to the Party about people they had interrogated.²²⁰⁶ Similarly, Kit, in a letter to [REDACTED]

regarding prisoners who had newly arrived, ordered him to: *“interrogate harshly and thoroughly”*.²²⁰⁷

508. Of those former detainees who recall being interrogated at Kraing Ta Chan, two claim they were seriously mistreated during their interrogation.²²⁰⁸ Others state that although they were interrogated, they were never beaten.²²⁰⁹ Former Kraing Ta Chan prisoners and guards witnessed a variety of methods being used to mistreat prisoners during interrogation, including using plastic bags to suffocate, beatings with whips and clubs, the use of pincers to pull noses and earlobes, dousing with acid, pouring water into victims, hanging from the feet, and hanging using ropes tied around the neck.²²¹⁰ Two former detainees recall seeing prisoners die from injuries suffered during interrogation.²²¹¹ Furthermore, another former detainee recalls that he would have to dispose of the bodies of those who had died from injuries sustained during interrogation, insufficient food, and illness.²²¹²
509. A former detainee remembers being interrogated for three days after he arrived at Kraing Ta Chan. He said *“During those interrogations they asked us who the traitor leaders were, and when we said that we did not know, we did not know, they beat our thighs and backbones at the shoulders with a rattan stick, and they tied our arms behind us to a small wooden post. Then when we said we did not know, we did not know, they used a plastic cloth and tightly wrapped our heads, faces and ears. That made me unable to breathe and I passed out. Next they took off the plastic cloth and once again [interrogated] looking for the leaders. Then they charged that if no one is your leader, then you must be the leader yourself. They said they would keep me for three more days and then they might interrogate again”*.²²¹³ A number of former detainees and cadres remember hearing screams coming from the interrogation room.²²¹⁴

Disappearances and Executions

510. Orders to kill were sent from the sector secretary to the district secretary who would inform the chairman of Kraing Ta Chan. These orders were handwritten on confessions which had originally been sent from Kraing Ta Chan to the district secretary.²²¹⁵
511. Some witnesses say that prisoners were taken away during the night²²¹⁶ in trucks,²²¹⁷ in effect disappearing.²²¹⁸ Guards told them that they were being returned to the cooperatives.²²¹⁹ Their fate was hidden from others by the playing of a loudspeaker that drowned out their screams.²²²⁰ One former prisoner was told that he could not reveal that people were being executed to the other prisoners.²²²¹

512. Many of the witnesses interviewed by investigators remember either witnessing executions carried out at Kraing Ta Chan, or seeing the bodies of the victims.²²²² Executions were carried out in many different locations in and around Kraing Ta Chan, including in the detention buildings, in the interrogation room, and at the side of graves that victims had been forced to dig moments before their execution.²²²³ One witness recalls that there were so many bodies buried in the region of the prison that he would sometimes uncover bodies while planting coconut trees.²²²⁴
513. Three witnesses give detailed accounts of seeing executions being carried out. Prisoners were blindfolded and then hit at the base of the neck with a blunt weapon such as a cart axel or digging hoe. When they fell over, a sword was used to cut their throat. Young children were killed by having their heads bashed against the trunk of a tree.²²²⁵
514. Victims' bodies were buried in and around the Kraing Ta Chan compound.²²²⁶ Either those who were about to be executed dug their own pits, or other prisoners were ordered to dig them.²²²⁷ One former prisoner was made to dig one to two 3m long x 1.5m deep pits per day. Each pit would hold between 30 and 60 bodies.²²²⁸ In 1979, one witness, a subdistrict chairman, took part in the exhumation of graves in the area. He stated that eight pits were exhumed out of which 10,045 skulls were recovered. He recalls that many other pits were left untouched.²²²⁹ Another witness says that approximately 17,000 skulls were counted.²²³⁰ A DK-era report from Kraing Ta Chan's chairman to the district notes that until that date [unknown], they had smashed 15,000 enemies. This suggests that the total number of those killed at Kraing Ta Chan was greater than 15,000.²²³¹

515. **Eleven (11)** civil parties were declared admissible with regards to Kraing Ta Chan Security Center,²²³² since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Kraing Ta Chan Security Center.

Koh Kyang Security Centre²²³³

មន្ទីរសុវត្ថិសុខ កោះឡុង

Location and Establishment

516. According to the CPK's system of identifying administrative boundaries Koh Kyang security centre was located in Koh Kyang Village, Prey Nup District, Sector 37, West Zone, Khum O Chrov Subdistrict, Sihanouk Province.²²³⁴ Koh Kyang security centre operated as the security centre for both Sector 37²²³⁵ and the West Zone.²²³⁶ It appears to have been operational since 1976.²²³⁷
517. Koh Kyang security centre was divided into three prison compounds.²²³⁸ The first compound was composed of a prisoner house measuring 40 metres by 6 metres, a guard house and Sector 37 regiment military base.²²³⁹ In the second compound, prisoners were detained and interrogated.²²⁴⁰ The third compound was a work site²²⁴¹ and was composed of two prisoner houses and a kitchen.²²⁴²

Functioning

Structure and Personnel

518. In the immediate post-17 April 1975 period, Sector 37 of the West Zone was under the leadership of Sao Kang alias Nheuk²²⁴³ (arrested and transferred to S-21 in December 1976)²²⁴⁴ and [REDACTED] was his deputy.²²⁴⁵ From late-1976 through to 1977, the West Zone and particularly Sector 37 was subjected to purges due to purported enemy activities which led to the arrests of large numbers of the cadre.²²⁴⁶ This is further corroborated by reports after 1978, concerning the activities in the Zones.²²⁴⁷ The new secretary of Sector 37 became [REDACTED] with [REDACTED] as deputy secretary.²²⁴⁸ The secretary of Prey Nup District was Ta Phlorn alias Plang, who was arrested in 1977 and imprisoned at Koh Kyang security centre.²²⁴⁹
519. During the purges in 1977, Sector 37 was taken over by military forces of Division 1 of the West Zone, and troops arriving from Kampong Chhnang supervised the local administration and disbanded local military units.²²⁵⁰ While Koh Kyang security centre remained the Sector 37 security centre,²²⁵¹ it was supervised by military forces²²⁵² under the command of Soueng (deceased) and later [REDACTED].²²⁵³
520. The chairman of Koh Kyang security centre was Vooun alias Savooun (deceased).²²⁵⁴ [REDACTED] was the deputy chairman and responsible for operations.²²⁵⁵ After Vooun

committed suicide he was replaced as chairman by [REDACTED].²²⁵⁶ In total, between 20-30 cadres worked at Koh Kyang Security Centre.²²⁵⁷

Arrest and Detention

521. Koh Kyang Security Centre held prisoners coming from Kampong Saom, Koh Kong Province and parts of Kampot Province, such as Prey Nup District and Sre Ambel Village, all in Sector 37.²²⁵⁸
522. Prisoners were generally arrested by military Division 1.²²⁵⁹ Additionally, a special force of Division 1 was tasked to conduct investigations into the biographies of its own combatants.²²⁶⁰
523. Both “new” and “base people” were detained at Koh Kyang security centre.²²⁶¹ From at least mid-1977 onwards, most of the prisoners brought in were CPK cadres, the “new people” detainees had already been killed.²²⁶²
524. Prisoners were categorized into serious and light offence prisoners. Serious offenders were detained because they were considered to be traitors and were either former CPK cadre, former Khmer Republic officers or had confessed to having been linked to the CIA.²²⁶³ Light offence prisoners included individuals who had been accused of stealing food, being lazy at work or of having engaged in acts of immorality.²²⁶⁴
525. There were approximately 100-200 prisoners detained at Koh Kyang security centre at any given time.²²⁶⁵ Women, men and children were separated into different houses.²²⁶⁶ Some children were born in the prison,²²⁶⁷ or were brought in with their parents²²⁶⁸ or were arrested whilst secretly visiting their parents.²²⁶⁹
526. Upon arrival at Koh Kyang security centre, prisoners were shackled together in rows.²²⁷⁰ Light offenders would be unshackled in the morning in order to undertake work and then re-shackled in the evening.²²⁷¹ Serious offenders remained shackled day and night, until they were taken to be executed.²²⁷²
527. Living conditions at Koh Kyang security centre were particularly harsh: Witnesses state that prisoners were forced to lie in their own excrement, that they were not allowed to bathe, that they had no cover against mosquito bites and that the food provided to prisoners was inadequate.²²⁷³ One witness states that prisoners did not receive any food or drink for the

first ten days of their detention.²²⁷⁴ Every week, prisoners, especially women and children, died from starvation.²²⁷⁵ Light offenders were given more food than serious offenders.²²⁷⁶ Prisoners were made to perform labour in the prison compound and its surroundings, such as digging pits, farming or watering plants.²²⁷⁷ There was no medical treatment at Koh Kyang security centre and many prisoners died of disease or overwork.²²⁷⁸

Interrogation

528. Interrogations were typically conducted outside of the prison or in a separate interrogation house.²²⁷⁹ Prisoners were asked for their biographies and for the reason for their arrests and were accused of being members of the CIA or of supporting the Lon Nol regime.²²⁸⁰ Former prisoners recall that their confessions during interrogation were taken down in writing.²²⁸¹ One witness recalls: *“Once in three, four days they took the documents to the upper and when the documents returned back, they transferred the people to be killed at night, ten, twenty at a time”*.²²⁸²
529. Prisoners were regularly subjected to serious mistreatment including being beaten, covered with plastic sheets and/or bags until suffocation as well as electrocution.²²⁸³ As a result of this, prisoners often died during interrogation.²²⁸⁴ One female prisoner states that a man touched her breast and her vagina and stripped off her clothes in order to inspect her body while one soldier was watching.²²⁸⁵ Iron shackles and electric generators were found inside Koh Kyang security centre shortly after the fall of the CPK regime in 1979.²²⁸⁶

Executions

530. Serious offenders who were to be executed would often be killed after two or three days of imprisonment²²⁸⁷ or, as one of the prisoners states, *“those who would be executed were immediately taken out”*.²²⁸⁸ Other prisoners were taken away, never to be seen again.²²⁸⁹ Some witnesses report that sick prisoners were sent to a “hospital” but that these people never returned their understanding being that they had been killed.²²⁹⁰ CPK cadres who were detained at Koh Kyang security centre included subdistrict chiefs and unit chiefs who had been accused of treason and who would be executed or disappeared.²²⁹¹ One witness states that ethnic Vietnamese were also arrested, sent to Koh Kyang security centre, and killed.²²⁹²
531. Executions were common at Koh Kyang security centre and CPK cadre would intentionally execute prisoners in front of others in order to deter them from trying to escape or engage in

any other misbehaviour.²²⁹³ Execution methods included beating prisoners to death, killing them with axes, tying them together and drowning them (including entire families) or throwing them into a well.²²⁹⁴ Furthermore, prisoners were often disembowelled to serve as a warning to others.²²⁹⁵ Witnesses recall seeing human livers and gallbladders being dried on a large tree in the Koh Kyang security centre compound.²²⁹⁶ According to one witness, soldiers mixed gallbladders with wine and drank it and also cooked and ate livers.²²⁹⁷ Children were executed if they tried to escape or had secretly come to visit their parents.²²⁹⁸

532. Several witnesses state that during their detention they saw graves in the detention centre grounds, under coconut and mango trees.²²⁹⁹ Witnesses saw freshly dug pits, where bodies had been buried in order to serve as fertilizer and noticed the stench of decay emanating from the ground.²³⁰⁰ One witness, who was detained in 1977, was asked to excavate a mass grave in order to transfer the corpses to a new mass grave as there was a fear that the fluid from the corpses might have flowed into the well nearby.²³⁰¹ He was also, along with other prisoners, required to dig three to four graves in advance of executions, each grave containing two executed prisoners.²³⁰²

533. One witness, who lived close to Koh Kyang security centre and went to the prison compound in 1979 to release the prisoners and find his relatives, states that the graves had been disturbed by people looking for gold and that skulls and human remains were found alongside the graves.²³⁰³ The witness recalls that the Pagoda Committee collected the remains of more than 200 people and placed them at Ou Chrov Pagoda. He estimates that in total 1,000 prisoners had been killed at Koh Kyang security centre.²³⁰⁴

534. **Thirty six (36)** civil parties were declared admissible with regards to Koh Kyang Security Center,²³⁰⁵ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Koh Kyang Security Center.

Prey Damrei Srot Security Centre²³⁰⁶

មន្ទីរសន្តិសុខ ព្រៃដំរីស្រុត

Location and Establishment

535. Prey Damrei Srot was located in Chrak Sangke Village, Svay Chuck Subdistrict, Samaki Meanchey District (originally Kampong Tralach Leu District), Kampong Chhnang Province. Applying the CPK's system of identification, it was the District 12 security centre located in Sector 31 in the West Zone (Zone 401). Prey Damrei Srot was located around 2.5 kilometres outside of the village in what is now a deep forest. With the passage of time no building remains and ruins are no longer visible. Prey Damrei Srot was a compound of around 150 metres by 100 metres.²³⁰⁷ It was created in late 1976 or early 1977²³⁰⁸ and was still in operation by the end of the CPK regime.²³⁰⁹

*Functioning**Structure and Personnel*

536. The Chairman of Prey Damrei Srot was [REDACTED], Commander of Platoon 403 of Company 308.²³¹⁰ The leadership of Prey Damrei Srot also included Suon (deceased),²³¹¹ Soeun (deceased)²³¹² and [REDACTED]²³¹³ (despite his denial in interview).²³¹⁴ All personnel were young soldiers from Platoon 403.²³¹⁵ Former guards recall that the leaders of Prey Damrei Srot explained to them that they had to follow orders otherwise they would be considered enemies. Loudspeaker announcements were made by the chairman of Prey Damrei Srot regarding the orders coming from *Angkar* to eliminate all traitors including spies, CIA and people associated with Vietnamese and Khmer Sa.²³¹⁶ Suon, Soeun and [REDACTED] recorded the confessions of the prisoners²³¹⁷ and submitted reports about them to the Chairman.²³¹⁸

537. Prey Damrei Srot was under the authority of the District 12 Committee but answered to the committee via the district military. Meas Yeum was the Secretary of the District 12 Committee before being promoted to the sector level and replaced by Koeun (deceased).²³¹⁹ According to [REDACTED], the military commander of Company 308 in charge of Prey Damrei Srot was [REDACTED], but he stated that he was demobilised from the military by the District 12 Secretary before the creation of Prey Damrei Srot.²³²⁰ Sarun (deceased) was the secretary of Sector 31 Committee and later replaced by Ta Yeum²³²¹. Prey Damrei Srot leaders and cadres attended meetings and study sessions at the district office but also at the Sector 31 level.²³²² [REDACTED] indicated that he attended study sessions at the

district and sector level, some chaired by the Sector 31 Secretary Ta Yoem; these meetings were about military affairs, rice production and prisoner offences.²³²³

538. Sector 31 was part of the West Zone (401) whose Secretary was Chou Chet alias Si until his arrest in March 1978.²³²⁴ The West zone committee would regularly report to Office 870 on the situation of the internal and external enemies in particular in Sector 31.²³²⁵ On the other direction the Party centre instructed the leadership of the zone, its sectors and districts on the CPK policy to be implemented in the zone in respect of the enemies and notably at the annual zone conference of 1977. District 12 was presented as a model district of the CPK revolution.²³²⁶
539. [REDACTED] explains that he sent the reports and confessions to his military commander and to the district committee.²³²⁷ Witnesses confirm the authority of the district over Prey Damrei Srot.²³²⁸ The district committee decided who would be arrested based on reports submitted by village and subdistrict committees (including Chouk Sa, Svay Chuck, Tbeng Khpuos, Peam and Th'lorik Vien subdistricts). Prisoners were then arrested by the district militia and sent to Prey Damrei Srot together with a report indicating the offence they had committed.²³²⁹ [REDACTED] also explained that in 1977 he received a letter from Koeun the district secretary ordering him to kill a man called Phan, a former political commissioner accused of being Vietnamese.²³³⁰ Former cadres explain that, in their view, the decision to kill prisoners came from “*Angkar*” or “above” without specifying what level exactly.²³³¹
540. CPK cadres at the district or sector level, including the Secretary of Sector 31 Committee Sarun²³³² and the Sector 31 Military Commander, [REDACTED], visited Prey Damrei Srot.²³³³ There is no evidence that any of the Charged Persons visited Prey Damrei Srot.²³³⁴

Arrest and Detention

541. Men, women, children and even entire families were detained at Prey Damrei Srot.²³³⁵ Four of the witnesses interviewed were detained there.²³³⁶ Detainees included people evacuated from Phnom Penh to District 12,²³³⁷ people accused of being former Khmer Republic soldiers or officials,²³³⁸ CPK cadres,²³³⁹ residents of surrounding subdistricts,²³⁴⁰ and half Vietnamese.²³⁴¹ According to [REDACTED] there were only ten prisoners at most at Prey Damrei Srot at any one time²³⁴² but witness statements suggest that in reality between 30 to 50 prisoners were permanently held there.²³⁴³

542. Some prisoners were transferred from other subdistrict level security offices to Prey Damrei Srot²³⁴⁴ whilst others were sent there directly after having been arrested by district level militia.²³⁴⁵ Former detainees and guards recall that prisoners were escorted to Prey Damrei Srot on foot with their arms tied behind their backs.²³⁴⁶ Witnesses understood that people were arrested for moral offences,²³⁴⁷ because they were political enemies²³⁴⁸ or for minor offences, such as stealing food.²³⁴⁹ There were some degrees as to the gravity of the offences committed that led to prisoners being treated differently according to whether they had committed light or serious offences.²³⁵⁰
543. The detention facility was a long hall with a roof of palm leaves and prisoners slept on long boards on both side of the aisles.²³⁵¹ Men, women and children were all detained in the same room.²³⁵² Prisoners were kept under strict guard control,²³⁵³ shackled and not permitted to move freely²³⁵⁴. Witnesses state that the food was insufficient and that some detainees were emaciated.²³⁵⁵ Former guards and prisoners confirmed that many detainees died because of starvation, disease or exhaustion.²³⁵⁶ A military medic came on a regular basis to examine the prisoners.²³⁵⁷
544. According to [REDACTED] and another witness only light prisoners were taken out to work during the day.²³⁵⁸ However, several former guards and prisoners state that all of the detainees worked but that the heavy offenders worked whilst in chains whilst the light prisoners worked with only guard supervision.²³⁵⁹ Prisoners worked inside and outside the prison compound constructing dams and digging canals.²³⁶⁰ Daily working hours were from 6 am to 11 am and from 1 pm to 5 pm and sometimes at night.²³⁶¹ Guards beat and ill-treated the prisoners when they were considered too slow and some were beaten to death.²³⁶² Two witnesses state that prisoners were executed by the guards whilst working.²³⁶³

Interrogation

545. Some of the prisoners were interrogated during their detention at Prey Damrei Srot.²³⁶⁴ Prisoners were interrogated on allegations of being enemies such as CIA or KGB, former officials of the Khmer Republic regime, moral offenders or of being connected to the Vietnamese.²³⁶⁵ Some of the detainees interrogated were not subjected to any mistreatment.²³⁶⁶ However, both former detainees and guards attest that the prisoners were seriously mistreated during interrogation; they were beaten with clubs and whips, they were suffocated with plastic bags until unconscious; or they had their nails pulled out and their fingers broken.²³⁶⁷ Some died during interrogation as a result of this mistreatment.²³⁶⁸

Disappearances and Executions

546. Prisoners were blindfolded and taken away at night with their arms tied behind their backs, in effect disappearing.²³⁶⁹ The fate of prisoners who disappeared was hidden by several means including offering vague explanations such as telling the victim to go “to see *Angkar*”,²³⁷⁰ to study²³⁷¹ or to go back home.²³⁷² According to one witness, guards never talked about the killings in front of the prisoners and made people dig pits without telling that they would be used as graves.²³⁷³
547. Orders to kill prisoners came from the chairman or from the other three cadres in the Prey Damrei Srot leadership.²³⁷⁴ It appears that the leadership of the prison not only ordered but also carried out executions themselves on several occasions.²³⁷⁵ A former guard who carried out executions attests that all serious offence prisoners had to be killed; as for light prisoners, it depended on whether they could be reeducated or not.²³⁷⁶
548. Some witnesses recall observing executions and seeing dead bodies in grave pits.²³⁷⁷ Detainees were struck with bamboo clubs or trunks and once dead were pushed into pits.²³⁷⁸ Executions took place close to the prison at the coconut and banana plantation and bodies were put into pits that had been dug by the prisoners during the day. After execution, some bodies were cut into two or three parts before being put into the pits to be used as fertiliser for the plantations.²³⁷⁹ A former guard who took part in the execution process states “*During the period [1978] I was at the Damrei Srot Prison, I saw many burial pits, but I only dug three of them myself. Each pit held about ten to fifteen persons. I estimate there were eight to ten pits*”.²³⁸⁰ A villager who dug up 10 coconut trees in 1979 states that he saw corpses underneath all of them and added “*there were hundreds of coconut trees and there were corpses underneath all coconut trees*”.²³⁸¹ According to [REDACTED], 20 prisoners were executed at Prey Damrei Srot,²³⁸² however given the entirety of the evidence described above the number was without a doubt much higher.
549. Finally, a former guard attests to hearing from other soldiers that female prisoners were raped by cadres before being killed.²³⁸³ [REDACTED] denied these allegations in his interview²³⁸⁴ and when prisoners were asked they stated that no rapes took place at Prey Damrei Srot.²³⁸⁵

550. **Four (4)** civil parties were declared admissible with regards to Prey Damrei Srot Security Center,²³⁸⁶ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Prey Damrei Srot Security Center.

Wat Kirirum Security Centre²³⁸⁷

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Location and Establishment

551. Wat Kirirum security centre was located at Phnom Sampeou Mountain,²³⁸⁸ in Phnom Sampeou Subdistrict, Battambang Province.²³⁸⁹ Using the CPK's system of identifying administrative boundaries, Wat Kirirum security centre was located in Phnum Sampeou District, Sector 3, Northwest Zone.²³⁹⁰
552. Wat Kirirum security centre was comprised of a number of distinct sections; the Chanlaoh Kdaong prison, known as the “police site”²³⁹¹ or the “warehouse prison”²³⁹², where detainees were held, the pagoda at the top of the mountain (reached by the “White Stairs”) where detainees were executed²³⁹³ and the La-ang Teng Khluon, La-ang Lakhaon and La-ang Kangkep caves up the mountain where victims were killed and their bodies dumped.²³⁹⁴
553. The Chanlaoh Kdaong prison was approximately 200 metres to the west of the White Stairs leading to the pagoda.²³⁹⁵ It was approximately 200 metres by 500 metres in area and detained between 50 to 200 people at any one time.²³⁹⁶ It was surrounded by a brick wall with barbed wire fencing enclosing the top of the wall.²³⁹⁷
554. Some evidence suggests that the prison was built in approximately 1976²³⁹⁸ and other suggesting it was built between 1977 and 1978.²³⁹⁹ Prior to the construction of the Chanlaoh Kdaong Office, prisoners were arrested and placed in a temporary detention building at Andaung Pring Village²⁴⁰⁰ or at the Samdech Au Samdech Me Elementary School²⁴⁰¹ whilst the site where Chanlaoh Kdaong prison was to be built was used only as an execution site.²⁴⁰²

555. In 1975 the monks and nuns resident in the monastery were disrobed and sent to live in the villages.²⁴⁰³ The pagoda was then converted into part of the Wat Kirirum security centre.²⁴⁰⁴ The security centre appears to have been fully operational by 1976 and continued to function until the arrival of Vietnamese troops in January 1979.²⁴⁰⁵

Functioning

Structure and Personnel

556. During the entire period of Wat Kirirum security centre's functioning, the Subdistrict Committee Secretary was [REDACTED].²⁴⁰⁶ [REDACTED] deputies were [REDACTED] [REDACTED] and [REDACTED].²⁴⁰⁷
557. [REDACTED] received his orders directly from Ta Chham,²⁴⁰⁸ though there is some inconsistency in the evidence as to Ta Chham's exact rank; be it at the district, sector or zone level.²⁴⁰⁹ Despite these inconsistencies, the evidence strongly supports that Ta Chham was a senior-level CPK cadre in the Phnom Sampeou area from 17 April 1975 onwards who was actively involved in supervising the work of the cooperatives and worksites and in implementing the CPK policy of arresting and executing perceived enemies. Ta Chham was arrested and sent to S-21 in January 1978.²⁴¹⁰
558. The Northwest Zone Committee Secretary was Muol Sambat alias Ta Nhim alias Ruos Nheum alias Moul Un alias Ta Kao until his arrest by Southwest Zone cadre in May 1978²⁴¹¹ and his replacement as Northwest Zone Secretary by Ta Mok.²⁴¹² Witness evidence supports that Moul Sambat visited Phnom Sampeou a number of times where he would speak with the subdistrict cadres and conduct education meetings for the local population.²⁴¹³

Arrest and Detention

559. Men, women and children were all detained at Wat Kirirum security centre.²⁴¹⁴ Most of the victims arrested were those working in the local cooperatives or were local CPK cadre who had been branded as traitors.²⁴¹⁵ Senior CPK cadre would inspect the work in the cooperatives, including [REDACTED].²⁴¹⁶ Reports on the activities of the people in the cooperatives were completed in writing at the subdistrict level and were sent to [REDACTED],²⁴¹⁷ who would meet with representatives of the villages every 10 days.²⁴¹⁸ Biographies were also created (listing the names and activities of former ranking Khmer

- Republic soldiers) which were sent to the battalion chairman to transmit to the “upper echelon”.²⁴¹⁹ [REDACTED] had the authority to arrest any person from the cooperatives or the nearby Kamping Puoy worksite, who were deemed to be enemies as well as to decide whether individuals would be killed or not.²⁴²⁰
560. People were arrested for being lazy,²⁴²¹ were often threatened to be “sent to Wat Kirirum by the white stairs”.²⁴²² Those who were arrested on these grounds were sent for reeducation.²⁴²³ People were also arrested because it was believed they were planning to overthrow *Angkar* and that “volunteers had assembled forces”.²⁴²⁴ One witness recalls, for example, that 20 people who were in the cooperatives in Phnom Sampeou Lich were arrested by Ta Chham, who, on their release had stated “do not be afraid, if I had not arrested everyone, I could not have found the enemy”.²⁴²⁵ Other reasons for arresting people included alleged immorality,²⁴²⁶ stealing fruit²⁴²⁷ or stealing animals.²⁴²⁸
561. According to some witnesses the prisoners of the Chanlaoh Kdaong prison were forced to work in the area around the prison; made to break rocks, perform various construction work,²⁴²⁹ dig canals, build fences, raise pigs and cattle,²⁴³⁰ grow vegetables,²⁴³¹ cut grass and wood,²⁴³² or carry heavy loads.²⁴³³ Moreover children of the CPK cadre guarding the prison kicked prisoners in their heads and beat them with gun butts while they were working.²⁴³⁴
562. Criticism meetings were held at Phnom Sampeou village where cadre would speak about “smashing people” who were immoral, lazy at work, sick a lot and traitors of the regime and that the Party or *Angkar* had ordered them to smash people who were immoral, lazy at work or sick a lot.²⁴³⁵ These meetings would often be chaired by Ta Chham or [REDACTED] and those branded as enemies would either be arrested or killed on the spot.²⁴³⁶ One witness was present when Ta Chham announced “Don’t follow the examples of enemies who create rebel groups. If you dare do so, you will be smashed”.²⁴³⁷

Interrogation

563. The biographies of prisoners would be researched at the Chanlaoh Kdaong prison. Those deemed to be serious offence prisoners would be taken up the White Stairs to the Kirirum Pagoda²⁴³⁸ and the light offense prisoners would be kept in the Chanlaoh Kdaong prison.²⁴³⁹
564. Though, prior to the construction of Chanlaoh Kdaong prison, one witness attests to being detained at the temporary detention building at Andaung Pring wherein he was seriously mistreated (his feet being slashed with a bayonet on suspicion that he had stolen weapons)

there is no other eyewitness testimony of any interrogation at Wat Kirirum security centre, and indeed none from the Chanlaoh Kdaong prison or from the Kirirum Pagoda.²⁴⁴⁰

Executions and Disappearances

565. Wat Kirirum security centre was a “*secret place*” that people did not dare go near.²⁴⁴¹ Witnesses attest to groups of prisoners (ranging from two or three up to approximately 20) being led in shackles by soldiers from the prison up the White Stairs to the pagoda at the top of the mountain.²⁴⁴² Though two witnesses speak of seeing prisoners being brought back down from the mountain,²⁴⁴³ the vast majority of the evidence supports that groups of prisoners taken up the mountain would not return.²⁴⁴⁴ One witness states, “*I saw the soldiers who had escorted the prisoners return, but none of the prisoners returned*”.²⁴⁴⁵ The CPK cadre would openly state, “*When you reach Wat Kirirum, you will have it easy and not have to work anymore*”.²⁴⁴⁶
566. According to one witness, everyone in the surrounding villages knew that they took people to Phnom Sampeou to kill them.²⁴⁴⁷ Witnesses interviewed did not eyewitness the killings (being prohibited from ascending the stairs) but rather observed the bodies of the victims upon venturing up the mountain after the fall of the CPK regime, discovering numerous dead bodies in a number of locations, including the system of caves at the top of Phnom Sampeou,²⁴⁴⁸ and inside the pagoda where bodies were still shackled to the walls,²⁴⁴⁹ bodies hanging from the trees along the road to the caves (including children),²⁴⁵⁰ as well as in the forest,²⁴⁵¹ and in the rice fields between Phnom Kdaong and Phnom Sampoeu.²⁴⁵² A number of witnesses attest to discovering bodies with their hands still tied behind their backs.²⁴⁵³
567. Witnesses state that inside the caves they saw “*hundreds of bodies*”²⁴⁵⁴ and one witness specifies that there were “*countless bodies... which were recognizable as the bodies of men, women and children*”.²⁴⁵⁵ Inside the Kirirum Pagoda and scattered alongside the caves witnesses found various execution instruments, some bloodstained, such as wooden clubs, knives, hatchets, long pieces of iron, round steel bars about 60-70 centimetres, bamboo trunks, pieces of wood, handcuffs, wooden shackles and ropes.²⁴⁵⁶
568. Bodies of victims were deposited in the three caves on Phnom Sampoeu. The caves were the La-ang Teng Khluon or the “*Make Up Room*”²⁴⁵⁷ and nearby the La-ang Lakhaon²⁴⁵⁸ and the La-ang Kang Kep.²⁴⁵⁹ Typically, the bodies found in the caves were face down and with the rear of their skulls broken.²⁴⁶⁰

569. Furthermore, witnesses recall discovering an installation of metallic bowls or basins at the height of a kneeling person connected to drilled holes in the wall designed to carry blood out and away from the pagoda,²⁴⁶¹ collecting outside in vats of coagulated blood.²⁴⁶² This device was used to drain the blood from prisoners whose throats had been cut,²⁴⁶³ and has since been removed.²⁴⁶⁴ Inside the pagoda were chains that were used to prevent prisoners from escaping.²⁴⁶⁵
570. Whilst it is unclear as to the exact number of victims that were executed at Wat Kirirum security centre, it is likely that it was very high; taking into account the various locations at which bodies were deposited and the evidence of witnesses, it is likely that the victims numbered in the thousands.

571. **One (1)** civil party was declared admissible with regards to Wat Kirirum Security Center,²⁴⁶⁶ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). This civil party has provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Wat Kirirum Security Center.

North Zone Security Centre²⁴⁶⁷

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Location and Establishment

572. The North Zone security centre was located in Siem Reap town, Siem Reap, Oddar Meanchey Province which according to the CPK's system of identifying administrative boundaries was in Sector 106 New North Zone (801).²⁴⁶⁸ In February and March 1977 cadre from the Southwest Zone arrived to replace the Sector 106 leadership including Secretary [REDACTED] and Chief of sector security Yang Peou.²⁴⁶⁹ This led to the creation of the New North Zone.²⁴⁷⁰ The creation of the New North Zone was announced by **Nuon Chea** during a meeting in Sector 103 in late 1977.²⁴⁷¹ Whilst North Zone security centre was originally the security centre for former autonomous Sector 106, sometime after 17 April 1975, it functioned, once the zone was established, as the security centre for the whole

zone, including both former autonomous Sector 106 and Sector 103.²⁴⁷² It was in operation until at least December 1978.²⁴⁷³

573. North Zone security centre was located in a former French colonial prison, at the current site of the Sokha Angkor Hotel. Interrogations took place in Kesararam pagoda (also known as Dharmayudhi or Thaomyuth Pagoda), to the west of the prison premises. Execution of prisoners took place at Trinh Vine Plantation located approximately 500 metres North of the current Angkor Wat Ticket booth. Some of the prisoners who died in the North Zone security centre were buried in Kesararam primary school, to the west of Kesararam Pagoda.²⁴⁷⁴

Functioning

Structure and Personnel

574. The leadership of the North Zone security centre changed within the temporal period. The North Zone security centre chairman was Run alias Srun from the Southwest Zone (deceased).²⁴⁷⁵ From June 1978 he was replaced by Song from the West Zone.²⁴⁷⁶ Deputy Chairman Pronh (deceased),²⁴⁷⁷ was in charge of managing the day-to-day operations of the security centre, including the arrival, interrogation, execution and burial of prisoners.²⁴⁷⁸ It has not been established that any of the Charged Persons ever visited the security centre.²⁴⁷⁹
575. Kang Chap alias Se, the New North Zone Secretary who was sent to S-21 in August 1978 and replaced by Paet Soeung,²⁴⁸⁰ would regularly report by telegrams to Office 870 (some of them were copied to **Nuon Chea** and **Ieng Sary**), in particular about the internal enemies' situation and the arrests in both Sector 106 and Sector 103.²⁴⁸¹ He would also send confessions directly to the CPK Centre in particular the confession of San Eap alias Khon member of the Phnom Penh Branch of Sector 103 Commerce Committee. In the letter accompanying this Confession Kang Chap alias Se wrote that he is sending this confession and the one of Saey alias Phang from Sector 103 Security in order for the Committee 870 to examine them and to find further network of internal "traitors". It appears that this confession was annotated with "19/04/1978 follow up" by **Nuon Chea**.²⁴⁸²

Arrest and Detention

576. Nine of the witnesses and civil parties interviewed were detained at North Zone security centre.²⁴⁸³ They mention that other individuals they knew were also imprisoned there.²⁴⁸⁴

- Men, women (sometimes pregnant),²⁴⁸⁵ children and babies²⁴⁸⁶ were all detained at the North Zone security centre. The detainees were all Cambodians and included ‘new people’,²⁴⁸⁷ ‘base people’,²⁴⁸⁸ CPK cadre and soldiers from Sectors 106 and 103,²⁴⁸⁹ and people linked to the former Khmer Republic regime.²⁴⁹⁰ The prison was surrounded by concrete walls and there were two main detention rooms, each with a capacity of 200 inmates. To the north of the prison there were individual cells and two other detention rooms with a capacity of 50 to 70 inmates, one of which held female prisoners. The total capacity of the prison was more than 500 prisoners.²⁴⁹¹
577. People who were arrested were either sent directly to the North Zone security centres or first transited through one of the district level security centres.²⁴⁹² People were arrested generally in groups from the same geographical area or military unit and their arrest was decided by the chief of the unit.²⁴⁹³ A former prisoner, a former cadre from Sector 103, states that he was arrested in February 1978 on the direct orders of Kang Chap alias Se, Secretary of the New North Zone.²⁴⁹⁴ Prisoners were tied up, blindfolded and transported by truck to the North Zone security centre.²⁴⁹⁵ One witness states that he and his brother-in-law were severely beaten when arrested.²⁴⁹⁶ Not all of the people arrested were aware of the reason for their arrest, but some were told that they were accused of being political traitors or of having been immoral.²⁴⁹⁷
578. In the detention facilities, prisoners were separated between men and women and categorized as either serious or light offenders. The former were treated the most harshly with their legs shackled day and night, whilst light prisoners were authorised to work and were shackled only at night, sleeping in different barracks.²⁴⁹⁸ Prisoners were under strict control and guards regularly mistreated them, even children, by threatening, humiliating and beating them (sometimes to death).²⁴⁹⁹ Some witnesses saw prisoners who tried to flee or steal food being killed by guards in the compound of the prison.²⁵⁰⁰ One witness recalls the rape and killing of a cook by guards because she had stolen food.²⁵⁰¹
579. Prisoners suffered from the lack of food.²⁵⁰² No medical treatment was provided to those that became ill²⁵⁰³ and witnesses describe deplorable hygiene conditions.²⁵⁰⁴ Between one and ten prisoners died per day due to illness or lack of food and were buried in the compound of the Kesararam pagoda.²⁵⁰⁵ A civil party states that her child died in the North Zone security centre one month after their arrival because of beatings and lack of food and medicine.²⁵⁰⁶ Guards and light offence prisoners received more food.²⁵⁰⁷

580. Some witnesses state that prisoners were released, sent to cooperatives, work sites or transferred to other security centres.²⁵⁰⁸

Interrogation

581. The vast majority of the prisoners were interrogated at the North Zone security centre. Five witnesses and civil parties gave evidence on this subject.²⁵⁰⁹ It emerges from their accounts that prisoners were questioned about their support of Vietnam or about being a CIA agent. The interrogations took place south of the prison at Kesararam pagoda.²⁵¹⁰ Prisoners (numbering eight to ten per session) were unshackled from their cells, handcuffed and walked to the pagoda. Each session lasted for three hours.²⁵¹¹
582. During interrogations some prisoners were seriously mistreated by different means: beating with a stick (sometimes until unconscious), electric shocks administered by placing a live wire on the prisoner's ear, suffocation, removing fingernails and toenails, and even throwing prisoners into a bonfire.²⁵¹² One of the former detainees explains that he saw a woman sent for interrogation two or three days after the delivery of her baby, who had to be carried back to the prison by the guards because she could not walk.²⁵¹³ Three of the former detainees state that they were not subjected to mistreatment during their interrogations,²⁵¹⁴ but this was clearly the exception.
583. On some occasions, once interrogation was complete, prisoners were transported by truck. A former prisoner explained that he was taken for interrogation together with 17 other prisoners and was the only one who was not transported afterwards by truck on the road to Angkor Wat.²⁵¹⁵

Executions and disappearances

584. The majority of the prisoners in the North Zone security centre, including children²⁵¹⁶, were executed. Prisoners were transported by trucks to the execution sites located at Trinh Vine plantation, south of Angkor Wat Temple.²⁵¹⁷ Executions occurred on a regular basis. A former guard explains that each time around ten prisoners would be taken for execution²⁵¹⁸ but former detainees recall seeing trucks transporting up to 60 prisoners.²⁵¹⁹ Witnesses explain further that prisoners were transported by trucks every week or two.²⁵²⁰ One former detainee personally witnessed the execution of approximately 60 prisoners. He describes how these 60 men and women were taken handcuffed out of the truck and killed "by

chopping one after another and they were dropped into trenches or wells".²⁵²¹ A guard who regularly carried out executions corroborates this execution process.²⁵²²

585. Witnesses (who did not observe executions) explained that they saw prisoners transported away from the North Zone security centre by truck and never saw them again. Some saw the trucks coming back empty.²⁵²³ Generally no one knew where the prisoners were taken,²⁵²⁴ and attempts to conceal their fate included ordering the doors and windows to be closed so that no one could see the trucks leaving.²⁵²⁵ Witnesses were told that these prisoners were released.²⁵²⁶ One eyewitness was threatened with death if he revealed the real fate of the disappeared persons.²⁵²⁷
586. One civil party recalls that when Song replaced Run in 1978 the number of executions diminished.²⁵²⁸ This is consistent with other statements explaining that in late 1978 some prisoners from the North Zone security centre were released to be tempered in other locations.²⁵²⁹
587. Whilst it is difficult to estimate the number of executions, the evidence suggests it may reach several thousand. Investigations revealed that Trinh Vine Plantation site has been partially exhumed and that human bones found there have been placed in a stupa at Thmei pagoda.²⁵³⁰ The Chairman of a working group established by the Ministry of Culture in the early 1980's to collect human remains in Siem Reap explains "*my group went around to collect skeleton remains, put them in salt-bags, and carried them to be kept in Watt Thmei, which was built in 1983. It was until about 1984 when a stupa was built for keeping the skeleton remains. Places where we collected skeleton remains from were Watt Thaomyuth, Watt Thmei, and [along] the road to the zoo. Not all corpses were collected. The total number of corpses from those three places was about 5,000-6,000. The victims dressed in black clothes, and some had a spoon tied to the waist. There were marks of crack on some skulls, which looked like the impact of clubbing, their arms were tied up to the back by nylon and hammock ropes, and there were also some skulls of little children*".²⁵³¹

588. **Thirty one (31)** civil parties were declared admissible with regards to North Zone Security Center,²⁵³² since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at the North Zone Security Center.

Au Kanseng Security Centre²⁵³³

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Location and Establishment

589. The security centre designated as “Au Kanseng Reeducation and Corrections Office”²⁵³⁴ (also called Au Kanseng Security Centre²⁵³⁵, Reeducation School 801²⁵³⁶, or Military Prison 801²⁵³⁷) was established between the end of 1976 and early 1977²⁵³⁸ as part of Military Division 801²⁵³⁹ of the Revolutionary Army of Kampuchea (“RAK”). It was operational until the arrival of Vietnamese forces²⁵⁴⁰. It was located in Phum (village) 6 (not Phum 3 as is sometimes mistakenly indicated) Labansiek Subdistrict, Banlung District, Ratanakiri Province in the vicinity of the Au Kanseng stream²⁵⁴¹ near the current provincial hospital of Ratanakiri Province.²⁵⁴² Applying the CPK’s system of identifying administrative boundaries, it was located in Sector 102 of the Northeast Zone.²⁵⁴³
590. Centre Division 801²⁵⁴⁴ was created with cadre and combatants from Division 11 and Division 14, two of the three divisions of the Special Military Zone²⁵⁴⁵ that, via Son Sen²⁵⁴⁶, the CPK armed forces General Staff Chairman, answered to the Military Committee of the CPK Central Committee.²⁵⁴⁷ The commander of Division 801 was Sau Saroeun alias 05 alias Saroeun,²⁵⁴⁸ with San alias 06 as his deputy,²⁵⁴⁹ and was in 1976 replaced by Kev Saroeun.²⁵⁵⁰ End of 1975, Division 801 was deployed in the Ratanakiri Province, Northeast Zone.²⁵⁵¹ The policy of Division 801 was issued from the Centre²⁵⁵² at General Staff meetings attended by Sau Saroeun during which he reported to Son Sen.²⁵⁵³ Sau Saroeun exchanged telegrams from Division 801 headquarters with the General Staff Office in Phnom Penh²⁵⁵⁴ and in return, Son Sen instructed the actions of Division 801.²⁵⁵⁵
591. The establishment of Au Kanseng coincided with or followed the arrest and execution of Men San alias Ya who entered S-21 on 20 September 1976.²⁵⁵⁶ This is corroborated by communication between Son Sen and Division 801. On 30 August 1976, Saroeun attended a meeting convened by Son Sen of the Centre Divisions and independent regiments, at which Son Sen ordered that it was “*imperative to conduct further purges of no-good elements,*” including by concentrating them in one location for reeducation.²⁵⁵⁷ At another such gathering on 19 September 1976, Son Sen stressed the threat from “*enemies inside the country and inside our ranks,*” declaring that “*we must have an absolute stance to screen out counter-*

revolutionary elements".²⁵⁵⁸ On 23 September 1976, Son Sen addressed a "view instructing 801" to Saroeun, ordering him to take action against purported enemies attempting "to go undercover and bore from within our army and grassroots".²⁵⁵⁹ On 25 November 1976, Saroeun reported back to Son Sen that "as for anyone implicated in the enemies' responses, it is imperative to scrutinize the documentation and propose their provisional arrest," whereas "those who move about freely or violate discipline and who have been reeducated already but do not obey must be subjected to the measure of removal and being placed in concentration for surveillance". He added he was "standing by for the Party's guiding views".²⁵⁶⁰

592. The prison consisted of an unfenced yard²⁵⁶¹ with sides measuring about 200 metres long.²⁵⁶² It was divided into separate buildings²⁵⁶³ including 4 to 5 houses for detainees. Amongst these, two were reserved for serious offenders.²⁵⁶⁴ The centre also served as an execution site: inside the security compound, about 150 metres from the prison, there were about 10 burial pits.²⁵⁶⁵ However, most of the dead bodies were buried in B52 bomb craters²⁵⁶⁶ outside the compound.²⁵⁶⁷

Functioning

Structure and Personnel

593. Cadres from the Division 801 headquarters at Veun Sai were assigned to Au Kanseng.²⁵⁶⁸ [REDACTED] was appointed Chairman of the centre by Ta Saroeun²⁵⁶⁹ commander of Division 801.²⁵⁷⁰ [REDACTED] was the Deputy Chairman²⁵⁷¹ in charge of interrogation and preparation of prisoner documents. [REDACTED]²⁵⁷² was in charge of security guard management and supervision. There were also a number of other security personnel and guards.²⁵⁷³
594. Au Kanseng was subordinated to Military Unit 806²⁵⁷⁴ under Division 801 which was responsible for transport, logistics, warehouses and the Au Kanseng complex.²⁵⁷⁵ Unit 806 chairman was Ta Smien with Deputy [REDACTED] and [REDACTED] in charge of logistics.²⁵⁷⁶ In late 1978, Ta Smien was arrested and sent to Phnom Penh.²⁵⁷⁷ He was replaced by [REDACTED].²⁵⁷⁸
595. The leadership of Au Kanseng had working meetings with Sau Saroeun every three or four months except when urgent meetings were necessary. There was also an annual Zone assembly.²⁵⁷⁹ The working communication between Au Kanseng and Division 801

leadership went from [REDACTED] to the Chairman of Unit 806²⁵⁸⁰ although on some important matters it was presented directly to the Division.²⁵⁸¹ As Battalion Secretary, Smien attended the first General Staff study session convened on 20 October 1976 as part of a group of 31 Division 801 cadres.²⁵⁸²

596. The reporting back of instructions followed the same chain²⁵⁸³ except during the last year of operation when the Chairman of Au Kanseng was instructed by 801 leading cadre Son, who had become number three in the Division, to stop reporting via the 806, and to only report direct to the Division instead.²⁵⁸⁴
597. Whilst Sau Saroeun rarely visited Au Kanseng²⁵⁸⁵, [REDACTED], Chairman of Military Unit 806 often visited,²⁵⁸⁶ and received reports from it destined for the Division.²⁵⁸⁷ There is no evidence that any of the Charged Persons visited Au Kanseng.²⁵⁸⁸

Arrests

598. The leadership of Au Kanseng had no power to arrest,²⁵⁸⁹ nor to release prisoners. They were only authorised to take prisoners into custody,²⁵⁹⁰ examine the reports that were sent and monitor their activities in the prison.²⁵⁹¹
599. The entry and exist dates of the detainees were recorded and notes were taken on incoming and outgoing prisoners.²⁵⁹² Between late 1976 and early 1977, there were between 10 and 40²⁵⁹³ prisoners at the centre, all soldiers, sent from units subordinated to Division 801.²⁵⁹⁴ In 1978, the number of prisoners increased to more than 100.²⁵⁹⁵ One witness asserts that there were 400-600 detainees.²⁵⁹⁶ By late 1978, Au Kanseng had a mixed population of soldiers,²⁵⁹⁷ prisoners from cooperatives,²⁵⁹⁸ rubber plantation workers and civilians from sector 101.²⁵⁹⁹
600. The military prisoners were arrested from Division 801 regiments 81, 82 and 83.²⁶⁰⁰ They were arrested by their regiments upon the order of Sau Saroeun.²⁶⁰¹ The soldiers of Division 801 who were arrested were considered to be free elements because they had disobeyed military discipline,²⁶⁰² used critical words regarding the Party²⁶⁰³ or had been implicated in confessions from Phnom Penh.²⁶⁰⁴ These confessions would first be sent to Sau Saroeun, who would then forward the information to the military units for arrest and transport of those implicated to Au Kanseng.²⁶⁰⁵ These confessions were delivered along with the prisoners.

601. On 15 June 1977, Northeast Zone Secretary Vy sent a telegram to “Respected Brother,” copied to **Nuon Chea, Ieng Sary** and Son Sen, among others,²⁶⁰⁶ informing them that “*it had been decided that [REDACTED]*” a Division 801 cadre,²⁶⁰⁷ “*would find a way secretly to take away the contemptible undercovers at the rubber and cotton plantations and in the mobile units*”. Consequently, the rubber plantation union workers were arrested and sent to Au Kanseng on the order of the Chairman of the Northeast Zone Rubber Plantations [REDACTED]²⁶⁰⁸ also concurrently on the Zone Committee.²⁶⁰⁹ Workers were arrested for a number of reasons including immorality in daily life, speaking in defence of an arrested pregnant wife,²⁶¹⁰ being critical of the Party²⁶¹¹ or were accused of using “*techniques of the feudal class, not farmer’s techniques*”²⁶¹². In the 15 June 1977 telegram Northeast Zone Secretary Vy added that “*once responses have been obtained from all of them and clearly-tape recorded, the quest is made for a decision for the highest level for all of them*”.²⁶¹³
602. Prisoners arrested from the cooperatives were sent by their chief along with reports of the faults attributed to them.²⁶¹⁴ They were mostly arrested for minor offences such as stealing food.²⁶¹⁵
603. Former detainees of Au Kanseng further state that between 100²⁶¹⁶ and 250²⁶¹⁷ prisoners from the Jarai minority had been arrested.
604. Prisoners were often transported by truck to the prison.²⁶¹⁸ While some prisoners remained without cuffs at the moment of their arrest,²⁶¹⁹ they were held at gunpoint and led in single file to their rooms.²⁶²⁰ Arrests of the Union workers happened in groups.²⁶²¹

Detention

605. Some prisoners were shackled either separately or collectively in rows of five to ten on a single steel bar.²⁶²² Civilians, woman and children were neither shackled nor chained²⁶²³. Female and male prisoners were detained separately.²⁶²⁴ Most prisoners were taken to go work during the day and then locked in their cells at night with soldiers guarding from the outside²⁶²⁵ while some were kept shackled in their cells permanently.²⁶²⁶ The prisoners worked, under the supervision of guards,²⁶²⁷ performing a variety of activities such as clearing grass, working in the rice paddies, planting and tending food, and building dams and dikes.²⁶²⁸ Periodically, the prisoners would be brought to reeducation meetings which were led by the Chairman who had previously met with Division chief Ta Saroeun.²⁶²⁹

606. Living conditions were very harsh in particular for those chained or shackled.²⁶³⁰ When prisoners were not shackled they could bathe in a stream near the prison under the guard of soldiers.²⁶³¹
607. According to the deputy Chairman of Au Kanseng, prisoners who were not chained had enough food.²⁶³² However, except for one witness who worked in the kitchen, most witnesses state that the food was insufficient²⁶³³. One detainee witnessed a case of cannibalism.²⁶³⁴
608. The health of the prisoners deteriorated as time went by in detention.²⁶³⁵ According to some witnesses, there was no medicine²⁶³⁶ whilst others report that in some cases, a medic named [REDACTED] administered some medicine for the sick.²⁶³⁷ In one instance, a prisoner was sent to pick leaves to boil with rice bran for another sick prisoner to eat.²⁶³⁸ Many prisoners died from illness and malnutrition.²⁶³⁹
609. Sau Saroeun ordered that if there were any prisoners who were considered as minor offenders or as having been successfully reeducated, that they could be sent from Au Kanseng to the 809 Reeducation Office²⁶⁴⁰ in Phnom Kach Changkeh²⁶⁴¹ near Au Tang, which reported regularly to Division 801.²⁶⁴²

Interrogations

610. There was a separate interrogation building inside the prison compound.²⁶⁴³ The interrogations would be led by Deputy Chairman [REDACTED].²⁶⁴⁴ Most prisoners were not interrogated upon their arrival at the prison²⁶⁴⁵; they would be left in their cells to allow staff from the centre to read their files and familiarized themselves with the charges against them²⁶⁴⁶ or called to give their biographies and asked about the reasons for their arrest.²⁶⁴⁷
611. [REDACTED], the Deputy Chairman, explained that he “*never tortured the prisoners, but there may have been some torture of prisoners done by the security personnel*”.²⁶⁴⁸ [REDACTED] describes that “*there was some torture; but not all of them were tortured*”²⁶⁴⁹. [REDACTED] reports that some prisoners were beaten with whips and electrically shocked because they were suspected of lying.²⁶⁵⁰ According to some detainees there were no prevalent incidents of serious mistreatment during interrogations²⁶⁵¹ however some did witness serious mistreatment of prisoners during interrogation.²⁶⁵² For most, the serious mistreatment was from the famine, the workload and the restriction of movement.²⁶⁵³

612. [REDACTED] made the reports of the interrogations and sent them to [REDACTED]²⁶⁵⁴, who would send both the confessions and the results from the additional interrogation through the Commander of Unit 806 to Sau Saroeun at the division level²⁶⁵⁵ for instruction.²⁶⁵⁶
613. An interrogator named [REDACTED] from Phnom Penh came to work at Au Kanseng in mid-1977 for about two or three months.²⁶⁵⁷ Sau Saroeun personally told [REDACTED] that [REDACTED] was from the General Staff with Unit 703 under the command of Pin²⁶⁵⁸ and came to “[REDACTED] [i.e. [REDACTED]] *in order to track down the activity background of the prisoners who had been implicated in the confessions from Phnom Penh*”²⁶⁵⁹. Sau Saroeun personally told [REDACTED] that someone would come from Phnom Penh to work at Au Kanseng.²⁶⁶⁰ [REDACTED] had a permission letter from Phnom Penh²⁶⁶¹ and arrived with confessions with annotations indicating that the relevant prisoners must be questioned on their networks and activities.²⁶⁶² [REDACTED] himself told [REDACTED] that, prior to coming to Au Kanseng, he worked with Division 12²⁶⁶³ and “*his unit was an interrogation place or a security place located at a former school of Tuol Svay Prey*”.²⁶⁶⁴ The Deputy Chairman understood that [REDACTED] came from S-21,²⁶⁶⁵ although Duch states he remembers no such person.²⁶⁶⁶
614. According to [REDACTED] it was two or three months after the arrest of a group of Division 801 cadres and intellectuals that [REDACTED] arrived at Au Kanseng.²⁶⁶⁷ From December 1976, there were discussions between Son Sen and Saroeun and other Division 801 cadre about the purging of leading 801 cadre and cadre in the Northeast Zone.²⁶⁶⁸ In 1977, Division 801 was indeed subjected to severe purges, with some regimental and battalion cadre, among others being arrested and sent to S-21,²⁶⁶⁹ whilst lower-ranking cadre and ordinary combatants were sent to Au Kanseng.
615. After [REDACTED]’s arrival, many cadres of Lay Sarim’s Unit, were arrested and brought to Au Kanseng.²⁶⁷⁰ [REDACTED] participated in the interrogations of four prisoners who were high rank officers of Division 801²⁶⁷¹ including cadres from former Division 11 in which Lay Sarim²⁶⁷² (who was sent to S-21 in January 1977²⁶⁷³) had been active before becoming Chairman of Hospital 805 of Division 801. [REDACTED] arranged the interrogation together with [REDACTED]²⁶⁷⁴ of a company-level cadre name Pheng Phay, in the regiment of Lay Sarim²⁶⁷⁵ and three platoon-level cadre named Port, Sàmriñ and Thea.²⁶⁷⁶ During the interrogations [REDACTED] would refer to the confessions he

brought from Phnom Penh implicating them.²⁶⁷⁷ [REDACTED], himself made his own reports and brought them back with him to the General Staff in Phnom Penh.²⁶⁷⁸

Executions and Disappearances

616. The leadership of Au Kanseng did not have the authority to make the decision to execute a prisoner²⁶⁷⁹. The date the prisoner was taken to be executed was recorded and daily statistics reports were sent to the Division.²⁶⁸⁰
617. From December 1976, Saroeun began reporting the capture of “Yuon” by units of Division 801,²⁶⁸¹ as did Northeast Zone Secretary Vy.²⁶⁸²
618. A telegram dated 15 June 1977 addressed by Vy alias Um Neng, in his capacity as Secretary of the Northeast Zone, to "Respected Brother" and copied *inter alia* to **Nuon Chea** and **Ieng Sary** reports the arrest of 209 Vietnamese Jarai by Division 801: “... *on this 14 June, while on patrol, the production unit of 801 stationed in 107 captured 209 Yuon troops, among whom there were nine women, in the vicinity of Au L'ik, at a distance of 4 kilometres south of Route 19 [?]. All of them are of Jarai nationality and speak Khmer with an accent. They have been transferred to holding ... According to the proposal of the 801 production unit, a request was made for a decision for the highest level straightaway. I awaited the responses before being being agreeable to such as decision*”.²⁶⁸³
619. Sau Saroeun called [REDACTED] and [REDACTED] for a meeting where, according to the latter, they were told to “*sort out those Jarai*” ... *the term ‘sort out’ [literally, to sort out or resolve] meant to ‘kill and get rid of’*”.²⁶⁸⁴
620. According to [REDACTED] “*the Jarai were captured and brought in from the Vietnamese border because the Vietnamese had driven these Jarai from the Vietnamese territory*”.²⁶⁸⁵ [REDACTED] further explains that they were charged with being Khieu-Ky soldiers²⁶⁸⁶ and were called the “ethnic FULRO”.²⁶⁸⁷
621. The execution of the Jarai people followed. Men, woman and children²⁶⁸⁸ were brought to Au kanseng Security Centre²⁶⁸⁹ until they were tied in line and taken away by truck²⁶⁹⁰ by a combination of forces, including a security unit from the sector, troops of artillery Battalion 803²⁶⁹¹ and personnel of Au Kanseng itself,²⁶⁹² to be killed in three B-52 bomb carters less than a kilometre away from the prison.²⁶⁹³

622. In late 1978,²⁶⁹⁴ also in the Au Ya Dav area, a group of six ethnic Vietnamese²⁶⁹⁵, including one woman, were captured and, upon the instructions of Sau Saroeun,²⁶⁹⁶ escorted by the capturing units to be executed.²⁶⁹⁷
623. According to the Deputy Chairman, there was only one mass killing at Au Kanseng.²⁶⁹⁸ that of the Jarai people. According to the leaders of the Centre, if several hundreds of people died at Au Kanseng, most of the workers or people from the cooperatives died from disease and not from execution.²⁶⁹⁹ Some witnesses assert nevertheless that individual killings took place,²⁷⁰⁰ mostly in late 1978. For example, Sau Saroeun directly ordered [REDACTED] to kill some prisoners who were not considered reformed after reeducation and correction.²⁷⁰¹ Any prisoners who had escaped and were recaptured were executed.²⁷⁰² Two witnesses report that a female prisoner accused of immorality had her back cut open and her bile bladder extracted and put on display in the kitchen²⁷⁰³. However, this is contested by the Chairman of Au Kanseng.²⁷⁰⁴ Some other witnesses attest to never having seen nor heard of killings.²⁷⁰⁵ Finally, three prisoners are reported to have hung themselves.²⁷⁰⁶

624. Five (5) civil parties were declared admissible with regards to Au Kanseng Security Center²⁷⁰⁷, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Au Kanseng Security Center.

Phnom Kraol Security Centre²⁷⁰⁸

មន្ទីរសន្តិសុខ ភ្នំក្រោល

Location and Establishment

625. Phnom Kraol was located in Koh Nhek District, Sre Sangkum Subdistrict, Mondulkiri Province.²⁷⁰⁹ Phnom Kraol was a Sector 105 Security Office containing Phnom Kraol Prison and related to the nearby Sector 105 Office K-11²⁷¹⁰ and to the Sector 105 Secretary, headquartered Office K-17.²⁷¹¹ Applying the CPK's system of identifying administrative boundaries, Phnom Kraol was located in Sector 105 also known as Mondulkiri Sector.²⁷¹² The security centre already existed in 1975.²⁷¹³ Mondulkiri was under the control of the

Northeast Zone until the end of 1976²⁷¹⁴ when it became autonomous and thereafter reported directly to the CPK Centre.²⁷¹⁵

626. Phnom Kraol prison was a one-room complex constructed of wooden pillars, a bamboo lattice floor and a thatched roof.²⁷¹⁶ K-17 consisted of a two storey building with wooden walls and a zinc roof and functioned as both the Office of the Secretary of Sector 105 and, briefly as a detention centre itself.²⁷¹⁷ K-11 was located approximately 1 kilometre Northeast of Phnom Kraol prison,²⁷¹⁸ and served as both a detention centre and as the military office.²⁷¹⁹ It consisted of a wooden building with bamboo walls, a thatched roof and a plywood floor.²⁷²⁰
627. Trapeang Pring (also known as Tuol Khmaoch), the security centre's execution site, was located about 4 kilometres from Koh Nhek on the road towards Kratie Province.²⁷²¹

Functioning

Structure and Personnel

628. Successive secretaries of Sector 105 were based at K-17, including Ham alias Laing later alias Chhan²⁷²² (died under unclear circumstance in 1977),²⁷²³ and in September 1978 [REDACTED].²⁷²⁴ After Laing's death, the sector was extensively purged, with some of those arrested being sent to Phnom Kraol.²⁷²⁵ Deputy secretaries included Sau Kim An alias Mey²⁷²⁶ (arrested on 8 December 1977)²⁷²⁷ Cham²⁷²⁸, Phak²⁷²⁹ and Lork.²⁷³⁰ The Member in charge of economic affairs was Kham Phoun (died under unclear circumstances in 1977).²⁷³¹ Sophea was a member of the Sector 105 Committee in charge of military and security²⁷³² until his arrest in November or December 1978.²⁷³³
629. Centre Division 920, which had been deployed to Mondulkiri in late 1975²⁷³⁴ was instructed to cooperate closely with the local authorities there reporting simultaneously to them and the General Staff.²⁷³⁵ Division 920 was purged in 1976²⁷³⁶ and cadre were sent cadre were also sent to the Centre, and the Centre sent Division 920 "confessions" implicating grassroots authorities back to the sector.²⁷³⁷
630. Phnom Kraol was under military control. The sector military comprised two battalions, known as Battalion 1 and Battalion 2.²⁷³⁸ The latter had a contingent in the Phnom Kraol area²⁷³⁹, with Leng as the commander of battalion until his arrest in February 1978.²⁷⁴⁰ The battalion deputy was [REDACTED]²⁷⁴¹ and the member [REDACTED].²⁷⁴²

631. The Chairman of Phnom Kraol was Leng²⁷⁴³, [REDACTED], serving as deputy chairman.²⁷⁴⁴ [REDACTED] served as a member of the committee and according to several witnesses as head of Phnom Kraol following the arrest of Leng.²⁷⁴⁵ The sector committee and the military reported directly to the CPK Centre.²⁷⁴⁶
632. A constant flow of information existed between the Centre and Sector 105 and coded typewritten messages were sent from the district level via K-17 to and from the Centre authorities.²⁷⁴⁷ While K-17 sent instructions to the districts, it also prepared district performance reports on a daily basis.²⁷⁴⁸ The Sector 105 Secretary reported directly to the Centre and asked for opinions, notably on suspects.²⁷⁴⁹ The interrogations of “Vietnamese” “spies” were reported to the Centre.²⁷⁵⁰ Typewritten documents were mostly sent to Centre Office 870 and K-3.²⁷⁵¹ Messages concerning healthcare or social affairs were typed in non coded language and were sent to **Khieu Samphan** who would send instructions back.²⁷⁵² Messages about security matters were sent to **Nuon Chea**, according to one witness: “*Nuon Chea regularly instructed on security matters such as to be vigilant of Vietnamese enemy or insider enemy, the ambition of Vietnam, and ideological tasks for education to the district level*”.²⁷⁵³
633. One witness states that monthly meetings were held at K-11 and that they were attended by the sector committee, the sector army and the districts committees.²⁷⁵⁴ Other witnesses state that meetings were held in the sector and district education halls²⁷⁵⁵ and that “*the Sector Com brought the word from the Centre-level and explained [to us] . . . to track down the imbedded enemies (who contacted the Vietnamese) and the enemy traitors*”.²⁷⁵⁶

Arrest and detention

634. All the former prisoners of Phnom Kraol who were interviewed, attest that they were arrested on suspicion of being traitors to the revolution either because of associations with the Vietnamese²⁷⁵⁷ or because of alleged connections to the CIA.²⁷⁵⁸ Such accusations were generally made during meetings of criticism/auto-criticism²⁷⁵⁹: “*Every single afternoon after the meal, they always held a meeting and accused all of us of being CIA*”.²⁷⁶⁰ After their arrest, prisoners had to write down their biographies.²⁷⁶¹
635. Prisoners were either arrested by CPK cadre and forcibly taken to Phnom Kraol²⁷⁶² or were arrested at K-17 after having been called to a meeting.²⁷⁶³ Some arrests were ordered by the sector secretary and carried out by sector member for military affairs, with the help of

sector military and security cadre with Division 920 having the the right to make arrests of both sector cadre, civilians and military, with its secretary [REDACTED] having lists of persons to be detained²⁷⁶⁴ Some prisoners were first detained at the district or cooperative authorities and transferred to Phnom Kraol.²⁷⁶⁵

636. One former prisoner states being hung upside down by his ankles for 24 hours upon arriving at Phnom Kraol.²⁷⁶⁶ Another recalls having his legs tied to a bench and his hands tied behind his back,²⁷⁶⁷ whilst other prisoners report being placed in wooden leg shackles upon arriving at Phnom Kraol.²⁷⁶⁸ The shackles ranged in size from holding one prisoner, to holding four or five²⁷⁶⁹ and some up to 20 prisoners.²⁷⁷⁰ Whilst all prisoners were shackled at night,²⁷⁷¹ there are reports of light offenders being unshackled and taken out to work during the day.²⁷⁷²
637. Within K-11, prisoners were held temporarily under the same conditions.²⁷⁷³ As of November 1977, 40 prisoners were held, tied-up on the ground floor of K-17 and five were held on the first floor.²⁷⁷⁴ Concerning the number of prisoners Phnom Kraol was holding, one witness states to have seen 80²⁷⁷⁵, whilst another witness mentions that the Phnom Kraol could hold up to 385.²⁷⁷⁶
638. At Phnom Kraol some prisoners were made to work during the day;²⁷⁷⁷ their hands remained tied whilst doing so.²⁷⁷⁸ Prisoners were under guard at all times.²⁷⁷⁹ Food at Phnom Kraol was insufficient and as a result prisoners were generally in a weakened state and emaciated.²⁷⁸⁰

Interrogations

639. Several witnesses state that detainees were seriously mistreated during interrogations at Phnom Kraol. One witness recounts being hung upside down and interrogated.²⁷⁸¹ Another former prisoner witnessed an eight year old son of a female prisoner being hung upside down by the guards until he was bleeding from the eyes.²⁷⁸² Other witnesses state that serious mistreatment was not commonplace, if done at all.²⁷⁸³ One witness states that “*there was no torture during the interrogations, but there were strong threats*”.²⁷⁸⁴ This is corroborated by a former soldier working at Phnom Kraol.²⁷⁸⁵
640. Interrogations included questioning the prisoners about their alleged links to the CIA and/or Vietnamese networks.²⁷⁸⁶

Executions and Disappearances

641. According to one witness, the prisoners who were sent to Phnom Kraol had little chance to survival.²⁷⁸⁷ Former prisoners recall how fellow prisoners were beaten to death²⁷⁸⁸ and witnessed people being taken away at night who were never seen again.²⁷⁸⁹ One witness, when referring to K-11 states: “[w]hen I was at the worksite, I saw about 30 people transported in and out every two or three days. The victims were transported out for execution”.²⁷⁹⁰ One witness states that a prison guard from K-11 told him that prisoners were only kept for two or three days before they were being executed.²⁷⁹¹
642. Executions were usually carried out at Trapeang Pring,²⁷⁹² an execution site located about 4 kilometres from Phnom Kraol on the road towards Kratie Province.²⁷⁹³ Prisoners were driven in groups to the execution site.²⁷⁹⁴ One witness, who lived closely to the killing site, confirms that about 200 male and female victims were buried at a pit at Trapeang Pring.²⁷⁹⁵ On other occasions, prisoners would be killed within the prison vicinity.²⁷⁹⁶

643. **Eight (8)** civil parties were declared admissible with regards to Phnom Kraol Security Center²⁷⁹⁷, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Phnom Kraol Security Center.

Wat Tlork Security Centre²⁷⁹⁸

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Location and Establishment of Wat Tlork Security Centre

644. Wat Tlork was located approximately 28 kilometres northwest of Svay Rieng Town in Tlork Village, Tlork Subdistrict, Meanchey Thmei District (now named Svay Chrum District)²⁷⁹⁹, Svay Rieng Province.²⁸⁰⁰ Applying the CPK system of identifying administrative boundaries, it was located in Sector 23²⁸⁰¹ of the East Zone (203).²⁸⁰² Wat Tlork was comprised of an office located in Tlork Village proper,²⁸⁰³ a detention centre

located in the vicinity of Tlork Pagoda,²⁸⁰⁴ and a series of burial pits.²⁸⁰⁵ A memorial stupa containing human remains exhumed from the burial pits is located in the village.²⁸⁰⁶ In response to a Civil Party request, it was established that when Wat Tlork was closed the remaining prisoners were transferred to another Meanchey Thmei District security centre located at Boeung Rai Village in Kraol Ko Subdistrict, 10 kilometres to the west.²⁸⁰⁷

645. The CPK expelled the monks from Wat Tlork Pagoda before 17 April 1975.²⁸⁰⁸ Witnesses also state that Wat Tlork was established shortly after this date,²⁸⁰⁹ through relocation of the population and staff of a pre-1975 security centre located at Meun Say Village (Angk Ta Sau Subdistrict) 6 km northwest of Tlork Village.²⁸¹⁰ Wat Tlork appears to have remained in operation²⁸¹¹ as the Meanchey Thmei District security centre,²⁸¹² until its functions,²⁸¹³ and the last remaining prisoners were transferred to Boeung Rai in early 1978,²⁸¹⁴ following Vietnamese incursions in the area.²⁸¹⁵

Functioning of Wat Tlork

Structure and Personnel

646. Witness evidence confirms that the chain of command implemented by the CPK nationwide operated in Sector 23 during the DK period. The subdistricts reported to the district committee, which reported to the sector committee.²⁸¹⁶ The composition of these committees varied over time, particularly after the purge of Meanchey Thmei District in late 1977 / mid-1978. It appears that Uk Savan alias Sau was Sector 23 Secretary (arrested and sent to S-21 on 18 March 1978), and appears to have been replaced by Chan alias Seng Hong,²⁸¹⁷ and that there was a sector security office, whose leading cadre were also purged by mid-1978.²⁸¹⁸
647. During the CPK period, Svay Rieng District was divided and Wat Tlork became located in the new Meanchey Thmei District (later renamed Svay Chrum District).²⁸¹⁹ Witnesses²⁸²⁰ and documents²⁸²¹ identify two apparently successive Meanchey Thmei District Secretaries, Khieu Samith and Phoeng Son alias Say, both apparently purged (Phoeng Son alias Say entered S-21 on 27 March 1978); and Ath, the Tlork Subdistrict Secretary.
648. Witnesses state that the Chairman of Wat Tlork supervised the Subdistrict security centre secretaries and made decisions about arrests.²⁸²² One witness stated that communication was by messenger,²⁸²³ and at the lower level, orders were received orally.²⁸²⁴

649. Wat Tlork originally functioned under the command of cadre of East Zone origin. The precise composition of its committee changed over time and the timing of these changes is not always clear.²⁸²⁵ However, one cadre who has been clearly identified as having chaired Wat Tlork is Vung Ao.²⁸²⁶ Ao appears to have continued as chairman when the security office was relocated to Boeung Rai, where other district level authorities also seem to have been located.²⁸²⁷ One detainee from Wat Tlork clearly remembers that Ao only transferred to Boeung Rai in early 1978, along with all the personnel and the 30 remaining prisoners, when Wat Tlork was closed definitively.²⁸²⁸
650. A number of witnesses,²⁸²⁹ corroborated in some cases by S-21 arrest and detention lists,²⁸³⁰ confirm that, in May 1978, Meanchey Thmei cadre (including District Security Office Chairman Vung Ao, and Tlork Subdistrict leading cadre Sok Saret), were arrested by Centre cadre under the command of Son Sen,²⁸³¹ and that some, at least, were sent to S-21 (Tuol Sleng), perhaps via Tlork Pagoda. Thereafter, one witness states that the District, including Wat Tlork and Boeung Rai, passed under the control of the Centre forces.²⁸³²
651. Witnesses confirm that approximately 20 to 30 subordinate security personnel worked at the Wat Tlork office and detention centre, residing either in the office in the village or at the pagoda,²⁸³³ although the number may have fallen to less than 10 in 1978.²⁸³⁴
652. There is no evidence that any of the Charged Persons personally visited Wat Tlork.²⁸³⁵

Arrest and Detention

653. One witness interviewed was detained at Wat Tlork (along with his family), commencing in late 1977.²⁸³⁶ Witness statements affirm that the Wat Tlork prison population was essentially composed of civilian Cambodians, mostly Khmer (as opposed to foreigners or ethnic minorities),²⁸³⁷ arrested for reasons including stealing food and immoral behaviour.²⁸³⁸ People evacuated from Phnom Penh in 1975 and former Khmer Republic civil and military personnel appear to have been detained in subdistrict prison facilities such as Wat Boeng Rai, rather than Wat Tlork itself.²⁸³⁹ Nevertheless, the witness who was detained understood that his family had been arrested in late 1977, “because my father was an Officer in the LON Nol army, or my mother was the Chinese descendant, or we were classified as the new-people”, and noted that other people were detained from around the district after the Vietnamese incursion in 1977.²⁸⁴⁰ Witnesses state that prisoners were sent to Wat Tlork from other security centres in the district,²⁸⁴¹ or were brought directly to Wat Tlork from surrounding villages and subdistricts of Meanchey Thmei District.²⁸⁴² Although

- men, women and children were held at Wat Tlork,²⁸⁴³ one witness with regular access to the detention facility stated that the detention centre near the pagoda held essentially men.²⁸⁴⁴
654. Some prisoners were first brought to the office in Tlork Village for interrogation.²⁸⁴⁵ One witness observed security officers “*walking people whose arms were tied toward the security office, with a security person riding a bicycle and hitting the prisoners with a whip*”.²⁸⁴⁶ Later, they were led on foot from the office to the detention centre near Tlork Pagoda, and were sometimes beaten along the way.²⁸⁴⁷ In other cases, they were taken directly to the detention centre.²⁸⁴⁸
655. The detention centre near the pagoda was surrounded by barbed wire, and security personnel guarded the three wooden prison buildings.²⁸⁴⁹ Strict discipline was imposed.²⁸⁵⁰ There is evidence that some prisoners were shackled or had their hands tied behind their backs, and prisoners categorised as “serious” offenders were not allowed to work outside the prison compound.²⁸⁵¹ The former prisoner states that all but the youngest children were shackled upon arrival in the detention facility and in the evenings.²⁸⁵²
656. The former prisoner adds that there was not enough food,²⁸⁵³ and another witness observes that the prisoners were in a weakened state and were pale.²⁸⁵⁴ The only medicine available was home-made and ineffective.²⁸⁵⁵ The prisoners were made to work whilst in detention. “Light” offenders, including children,²⁸⁵⁶ were made to work outside the detention centre, under guard, including dragging fishing nets, tending to beasts, collecting buffalo manure and pulling carts to repair dykes; they were worked harder than non-prisoners and had wooden shackles on both legs.²⁸⁵⁷ One witness saw beatings of prisoners who worked outside the compound, because they did not work well.²⁸⁵⁸
657. In the absence of any CPK documents relating to Wat Tlork, it is difficult to estimate the total number of prisoners held there between 1975 and 1978. The detention centre could hold two to three hundred prisoners at any one time²⁸⁵⁹ and one witness who observed the daily activities over the years in question, confirms that prisoners were brought in on foot “*two or three times a day, with a total of five to six persons being arrested*”.²⁸⁶⁰

Interrogation

658. A number of witnesses refer to detainees being brought for interrogation at the office in Tlork Village, though none of them say they were present during interrogations.²⁸⁶¹ One witness states that those interrogated were leg-shackled and that they “*heard screams*

during interrogations” while tending cattle near that area.²⁸⁶² One witness affirms the the Tlork Pagoda building was also used for interrogations.²⁸⁶³ Another witness states that he was arrested, blindfolded, interrogated and accused of being linked with Lon Nol (white head) in late 1977, but it is not certain from the written record whether this occurred at Wat Tlork.²⁸⁶⁴

Executions

659. One witness states that there were no killings perpetrated at the office in the village, but only after transfer to the detention facility, in the vicinity of which he continuously saw fresh graves.²⁸⁶⁵ The former detainee states that prisoners who assisted the guards in killings told him *“Tlork was the place for killing people arrested from other villages and communes”*.²⁸⁶⁶ Witnesses also provide accounts of a number of incidents of the killing of detainees working outside the detention centre, either by being buried alive,²⁸⁶⁷ or by being beaten to death by security personnel.²⁸⁶⁸
660. One witness saw her brother, a detainee, digging a hole, who told her *“they are having me dig a pit to bury me and make me into fertilizer”* and, on another occasion, saw three security personnel washing blood from their hands and knives, one of whom told her *“Sister, do not be afraid, I killed only bad people, not good people”*.²⁸⁶⁹ One detainee witnessed a mentally ill patient being beaten up and taken away to be killed for failing to correctly insert the rod into all prisoner shackles in the evening.²⁸⁷⁰
661. One witness saw the mass executions of *“30 to 40 prisoners”* east of Tlork Pagoda on three successive days in late 1975, and was able to identify the burial pits.²⁸⁷¹ The witness states that *“the majority were men 20 or more years old”*. The killings were conducted by a group of *“security personnel”*, dressed in black and armed with rifles, who ordered other prisoners to dig pits before bringing out the detainees, bound and blindfolded, to be killed. The executioners used *“hoes and approximately half-metre long iron crowbars... to hit them two or three times, sometimes at the nape of the neck or at the rear of the skull, before they kicked them down into the pits”*. The witness surmised that *“some prisoners were not yet dead”*. Others struggled and, on one occasion, two managed to escape, *“but the security personnel surrounded them and shot and killed them nearby”*. After the killings were finished, the witness notes that the security personnel walked back toward the detention facility and prisoners came to fill in the pits.²⁸⁷²

662. One witness states that she saw six female prisoners held in the office in Tlork Village where the security staff lived.²⁸⁷³ Another witness states, though it is hearsay, that attractive young women whose parents were of different ethnicities, “*Chinese, Vietnamese, Cambodian, were rounded up by the security personnel to work in the office where the security personnel lived, and the Khmer Rouge troops raped those women, cut off their sexual organs and hung them to dry under a krasaing tree, and killed them*”.²⁸⁷⁴ The former detainee identified the *krasaing* tree near the detention centre from which he had seen human sexual organs hanging in 1978.²⁸⁷⁵
663. The detainee who arrived at Wat Tlork in late 1977 found the detention centre empty and saw thirty to forty “*open graves full of decomposed human bodies*” near the detention hall. Later, he saw many more graves when working outside the compound.²⁸⁷⁶ Witnesses returning to Tlork Village after 1979 discovered burial sites throughout the area around Tlork Pagoda, although there were no bodies found within the detention facility compound.²⁸⁷⁷ Documents relating to the 1982 exhumation project corroborate the presence of at least 41 burial pits associated with the detention facility.²⁸⁷⁸ According to one witness, who participated in the exhumation project at Tlork Pagoda, there may have been as many as 200 pits in the area, although the majority of them were small, containing no more than two or three bodies.²⁸⁷⁹
664. Most of the witnesses’ evidence suggests a death toll of between 745 and 1,500.²⁸⁸⁰ This is corroborated by the documentary evidence from the 1982 exhumation statistics.²⁸⁸¹ A witness having coordinated the exhumation project confirms the accuracy of the statistics for the whole province, including Wat Tlork.²⁸⁸² One witness, the subdistrict chief since 1983, who participate in construction of the memorial Stupa in Tlork Village, confirms that only remains from pits around Tlork Pagoda were placed in the Stupa,²⁸⁸³ numbering no more than 1,500 in total.²⁸⁸⁴
665. As regards executions at Boeung Rai, the limited nature of the judicial investigation concerning links with Wat Tlork did not allow verification of the overall number of alleged victims, however, one witness transferred there from Wat Tlork notes that, during the few months he was held there in 1978, “*many prisoners were brought in there and then taken away to be killed*”, including his own mother and other detainees transferred from Wat Tlork, with only five inmates remaining alive when he was released.²⁸⁸⁵

666. **Three (3)** civil parties were declared admissible with regards to Wat Tlorc Security Center²⁸⁸⁶, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Wat Tlorc Security Center.

Kok Kduoch Security Centre²⁸⁸⁷

មន្ទីរសុវត្ថិភាព គោកក្ដួច

Location and Establishment

667. Kok Kduoch security centre was located in Keng Prasat Village, Sambo Subdistrict, Sambo District, Kratie Province.²⁸⁸⁸ Applying the CPK's system of identifying administrative boundaries, it was located in Sector 505, Northeast Zone.²⁸⁸⁹ In late 1976 or early 1977, Sector 505 was removed from the Northeast Zone and became an autonomous sector.²⁸⁹⁰ Kok Kduoch was created in 1970²⁸⁹¹ and appears to have been operational as early as 1971 or 1972;²⁸⁹² it was fully operational from 1975-1979.²⁸⁹³ The security Centre was related to Prasral, a worksite where prisoners who were considered light offenders were sent to.²⁸⁹⁴ Further associated to Kok Kduoch were Koh Sam Tauch Island security centre located on an island in the middle of the Mekong River²⁸⁹⁵ and Sre Thnaot women's prison located west of Kok Kduoch.²⁸⁹⁶ Prior to coming to Kok Kduoch, prisoners were sometimes taken to Ahar Office, which was located approximately one kilometre from Kok Kduoch, for interrogation.²⁸⁹⁷

668. Kok Kduoch consisted of two long bamboo buildings with thatched roofs that each housed between 20 to 30 prisoners.²⁸⁹⁸ At Prasral, prisoners were housed in more than 10 huts, with two long shelters of about 30 to 35 metres, and several smaller shelters.²⁸⁹⁹

Functioning

Structure and Personnel

669. Ta Yem was Sector 505 Secretary from 1971. Some time not long after 17 April 1975, he was transferred to another post in Phnom Penh.²⁹⁰⁰ Yi alias Born Nan followed as secretary until 1978, when he was arrested.²⁹⁰¹ The next sector secretary was Moeun.²⁹⁰² The last

- sector secretary was [REDACTED].²⁹⁰³ Successive Deputy Secretaries of Sector 505 included Kang (arrested in Phnom Penh on 19 April 1977)²⁹⁰⁴, Kuon (arrested on 21 March 1978)²⁹⁰⁵ and Khon.²⁹⁰⁶
670. Sambo District was governed through a committee consisting of a district secretary, a deputy secretary and others responsible for areas such as economics, security, politics and the military.²⁹⁰⁷ District security in Sambo was run by a three-man committee which oversaw Kok Kduoch and Prasral²⁹⁰⁸ and was sometimes referred to as Security Unit 32²⁹⁰⁹.
671. A number of persons have been identified as secretary of Sambo District successively including Phan, Ny, and [REDACTED].²⁹¹⁰ Moreover, a witness²⁹¹¹ states that Cheth alias Chhun Yaung alias Chhoem Young, who was a member of Sector 505 Committee in charge of Sambo District²⁹¹² and was later arrested by the sector committee for allegedly raping a woman in approximately 1976,²⁹¹³ also oversaw Sambo District Committee as the district secretary. Cadre supervising the security situation in the district and the prison sites, included Ung Samon²⁹¹⁴ (arrested in 1977)²⁹¹⁵, Phang Ny (arrested on 9 April 1978)²⁹¹⁶, and [REDACTED]²⁹¹⁷. [REDACTED], who stayed in office until late 1978 was the last head of the District Security Committee and the Chairman of Kok Kduoch prison according to several guards and prisoners.²⁹¹⁸ Purges in Sector 505 were carried out by troops sent in from the West Zone, and the victims were replaced by cadre from the West and Southwest Zones.²⁹¹⁹
672. **Nuon Chea** was often seen visiting Kratie Sector.²⁹²⁰ After the sector cadre would receive orders from the Centre in Phnom Penh, they would call meetings at the lower level, to implement the orders.²⁹²¹ Weekly meetings about the enemy situation, production and health of the people, were held at the district level.²⁹²² Furthermore, weekly meetings between the subdistrict and the district and the district and subdistrict were organized.²⁹²³ If a person in the village was indentified as an enemy, the district level would subsequently arrest that person in the subdistrict.²⁹²⁴ The *Revolutionary Flag* magazine was generally distributed among the youth in the sector although it does not appear from the interviews whether all guidelines that were mentioned in the magazine were followed.²⁹²⁵

Arrest and Detention

673. Although not all prisoners were told the reason for their arrest,²⁹²⁶ most were accused of being enemies,²⁹²⁷ or Khmer Republic soldiers,²⁹²⁸ or connected to the Vietnamese or for being bad elements including “*Khmer Să*”.²⁹²⁹ The prisoners were either new people²⁹³⁰ or

persons belonging to ethnic minorities such as Krol, Phnong, Cham, Khmuon and Mil.²⁹³¹ In 1977-1978, the prison population increased because of the arrest of many East Zone soldiers.²⁹³² CPK cadre from the subdistrict level were arrested when attending a meeting at the district office.²⁹³³ A former guard at Kok Kduoch states that he witnessed how Vietnamese were selected: *“At that time they rounded up only pure Vietnamese families (husband-wife were ethnic Vietnamese) to put in the building ... Later they put them in vehicle and took them downward without knowing where they went to”*.²⁹³⁴

674. There are varying accounts as to the number of prisoners, but it seems that there were approximately 40 to 100 prisoners at Kok Kduoch at any given time including men, women and children.²⁹³⁵ According to a former guard, in 1977-1978, the number of prisoners increased to approximately 200 to 300 at any given time, with about 50 considered as serious offenders.²⁹³⁶ 100-200 prisoners were detained at Prasral, most of them sent from Kok Kduoch.²⁹³⁷
675. Prisoners at Kok Kduoch were categorised as either serious or light offenders.²⁹³⁸ Prisoners considered as serious or political prisoners or traitors of the regime were kept shackled.²⁹³⁹ Light offences included not performing work correctly, speaking incorrectly, immorality, or eating food which was forbidden.²⁹⁴⁰ Light prisoners were left unshackled and allowed to move freely within the prison compound.²⁹⁴¹ Some witnesses state that an additional “middle” offence group would be restrained with one shackle.²⁹⁴² At Prasral, light-offense prisoners who were sent from Kok Kduoch and Ahar Office after interrogation were held unshackled.²⁹⁴³
676. Many witnesses state that the living conditions at Kok Kduoch and Prasral were very harsh²⁹⁴⁴ and that the food was insufficient.²⁹⁴⁵ Former prisoners state that there was no medical treatment,²⁹⁴⁶ and that many prisoners died of disease, exhaustion and starvation.²⁹⁴⁷
677. Prisoners at Kok Kduoch and Prasral were sometimes mobilised to work together, and went back and forth between the sites.²⁹⁴⁸ The prisoners were ordered to farm, plant rice, potatoes or corn, or work on dams or waterwheels.²⁹⁴⁹ Whilst working, prisoners were guarded at all times.²⁹⁵⁰ Those who escaped, stole food or broke the rules were beaten or put in shackles or deprived of their food rations.²⁹⁵¹ Prisoners had to work all day with a break during noon and sometimes had to work at night.²⁹⁵²

678. One witness who worked at Kok Kduoch security centre states that in Sector 505 prisoners detained for “*moral offences*” who were widows or single persons were married based upon a policy of the upper echelon.²⁹⁵³
679. One of the last persons responsible for the Sambo District Committee, states that he released prisoners who were held for light offences from Kok Kduoch after his arrival, but this was not corroborated by any other witness.²⁹⁵⁴

Interrogation

680. Interrogations at Kok Kduoch were conducted through three interrogators and one secretary and lasted approximately one hour to one hour and a half.²⁹⁵⁵ Prisoners were asked about their biographies and their alleged links to Vietnamese networks.²⁹⁵⁶ Confessions would be taken down in writing and sent to the district committee whilst one copy remained at Kok Kduoch.²⁹⁵⁷ Members from the district office were occasionally seen to be present during the interrogations.²⁹⁵⁸ At Prasral, witnesses report that prisoners were not generally interrogated: many had come from Kok Kduoch where they had already been interrogated.²⁹⁵⁹
681. Both former prisoners and guards at Kok Kduoch state that during interrogations serious mistreatment²⁹⁶⁰ was used regularly, including: beatings, the use of electric wire and whips.²⁹⁶¹ One witness states that during interrogations he attended prisoners urinated or defecated themselves and bled or even fell into a state of coma²⁹⁶²

Executions

682. Witnesses state that prisoners were taken away and subsequently never seen again.²⁹⁶³ Prisoners who were taken away were the serious offenders.²⁹⁶⁴ One witness states that members of the Sambo District Committee who were accused of treason were executed at Kok Kduoch.²⁹⁶⁵ Several corroborating accounts state that prisoners were taken away by security guards at night²⁹⁶⁶ sometimes using trucks.²⁹⁶⁷
683. Witnesses assert that there was a killing site on the grounds of Kok Kduoch.²⁹⁶⁸ One saw the bodies of executed individuals, and had to then bury them in a site 500 metres from the security Centre.²⁹⁶⁹ The same witness was later transferred to Prasral where he had to bury another 89 bodies mostly bodies of new people who had either been shot or had been beaten to death.²⁹⁷⁰

684. Three pits were discovered in 1979 at the Kok Kduoch site, each measuring approximately 2 metres by 5 metres.²⁹⁷¹ Clothing was found under the trees near the north end pit as well as two clubs and two hoes under the trees next to the two pits at the south end of the security Centre.²⁹⁷²

685. Six (6) civil parties were declared admissible with regards to Kok Kduoch Security Center²⁹⁷³, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 bis (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Kok Kduoch Security Center.

Execution Sites In District 12 (West Zone)

កន្លែងសម្លាប់មនុស្សក្នុងស្រុក ១២ (ភូមិភាគបស្ចឹម)

*Prey Trapeang Ampil Execution Site*²⁹⁷⁴

Location and Establishment

686. Prey Trapeang Ampil and Prey Trapeang Pring are two related and immediately adjacent execution sites in a forested area located about three kilometres south of Kraing Lvea Village in Kraing Lvea Subdistrict, Samaki Meanchey District (originally Kampong Tralach Leu District until 1985), Kampong Chhnang Province.²⁹⁷⁵ Applying the CPK's system of identifying administrative boundaries, they were located in District 12, Sector 31 in the West Zone (Zone 401).

Functioning

Structure and Personnel

687. The CPK took control of Kampong Tralach Leu District in 1972 or 1973.²⁹⁷⁶ At the time Chum Teav Chreng security centre was established in Chum Teav Chreng Village (now abandoned)²⁹⁷⁷ which was one of the headquarters of the CPK before 1975.²⁹⁷⁸ The security

centre operated until the death of its chairman, Sarin,²⁹⁷⁹ which occurred before 17 April 1975.²⁹⁸⁰ This security centre was later replaced by the District 12 security centre known as Prey Damrei Srot.²⁹⁸¹

688. After 1975, Meas Yoem (Ta Yeum) was the Secretary of the District 12 Committee before being promoted to the sector level and replaced by Koeun (deceased).²⁹⁸² Sarun was the Secretary of Sector 31 Committee (deceased and later replaced by Ta Yoem).²⁹⁸³

Disappearances and Executions

689. Witnesses state that some people who lived in Chumteav Chreng Village or were sent there disappeared,²⁹⁸⁴ being called “to study,”²⁹⁸⁵ taken away because they “made a mistake,”²⁹⁸⁶ or arrested without any reason being given.²⁹⁸⁷

690. Witnesses also consistently state that detainees from Chum Teav Chreng were sent to Prey Trapeang Ampil and Prey Trapeang Pring to be executed.²⁹⁸⁸ Two of them, one working at the dam located between the security centre and the execution sites and the other a villager, state that they saw on a number of occasions detainees from the centre being walked by the local militia to the execution sites with their hands tied behind their backs. Only the local militia came back carrying strings and bags.²⁹⁸⁹ Other witnesses interviewed describe events preceding the ECCC’s temporal jurisdiction.²⁹⁹⁰

691. As the security centre closed before 17 April 1975 it is possible to conclude that all the executions linked to the security centre occurred outside of the ECCC’s temporal jurisdiction. Nonetheless, some witnesses state that after Chum Teav Chreng security centre closed, some people continued to be executed at Prey Trapeang Ampil and Prey Trapeang Pring.²⁹⁹¹ Thus, the Deputy Chairman of the militia of Kraing Lvea Subdistrict explains that upon the arrival of the people who had been evacuated from Phnom Penh, many meetings were held and that deportees who were identified as former Khmer Republic soldiers would be sent for execution at Prey Trapeang Ampil and Prey Trapeang Pring. He specifies that these people were killed with sticks and that he saw bamboo sticks remaining at the site.²⁹⁹² Another witness who was working in Chumteav Chreng Village in 1978 states that he saw seven or eight people being walked to the sites on two occasions and that the guards returned without the prisoners.²⁹⁹³

692. A Site Identification Report shows that today no structures can be made out other than traces of pits in several spots in the forest. However the pits themselves can be clearly

identified. On the surface of the soil in some locations there is some small human bone debris indicating the presence of corpses. Other findings include dental prosthesis (human teeth having had dental work), remains of clothing such as buttons, zippers and cords, and personal items such as jewellery or amulets.²⁹⁹⁴ Several witnesses visited Prey Trapeang Ampil and Prey Trapeang Pring just after 1979 and they saw pits and bones.²⁹⁹⁵ Beyond the conclusions drawn from the witness statements and the Site Identification Report, it is not possible to determine the precise number of victims at these sites, in particular during the temporal jurisdiction of the ECCC, but, given the number and size of the pits identified, many people were buried in this area.²⁹⁹⁶

*Evacuees In District 12 After 17 April*²⁹⁹⁷

693. In the months following 17 April 1975, people evacuated from Phnom Penh and Kampong Chhnang Town arrived in Samaki Meanchey District (originally Kampong Tralach Leu District until 1985), Kampong Chhnang Province.²⁹⁹⁸ Applying the CPK's system of identifying administrative boundaries this was District 12 in Sector 31 of the West Zone (401).
694. In Trapeang Tmes Village, Svay Chuck Subdistrict, just after the fall of Kampong Chhnang Town,²⁹⁹⁹ numerous "new people" (men, women and children)³⁰⁰⁰ evacuated from this town³⁰⁰¹ reassembled at the local temple. Two witnesses state that they saw the people being walked away from the temple two days after their arrival. One them states that he saw them being tied up at the Chrlong Ta Puth dam at a location called Ta Kuch and that he was told by a member of the local militia who took part to the execution that they were all executed by being hit with clubs and hatchets.³⁰⁰² The other witness saw grave pits, corpses and skulls at the same location in 1976.³⁰⁰³
695. A former member of the militia states that, just after 17 April 1975, in Chrak Sangke Village, Svay Chuck Subdistrict just after 17 April 1975, he attended a meeting where the Chairman of Svay Chuck Subdistrict, [REDACTED], had asked all the village chiefs to record the biographies of all the new people evacuated from Phnom Penh. The people were then classified into two categories: "*the ordinary people such as rice farmers and the non ordinary people such as soldiers such as soldiers, civil servants of Lon Nol and capitalist*". Those falling in the second category (around 700) were tied up, killed by being hit on the neck with pieces of wood, and buried at a site called Prey Toteong located half a kilometre west of PDS. The witness specifies that he was responsible for bringing the prisoners to the execution site.³⁰⁰⁴ No human bones are visible, but the investigation at the site found that the surface of

the soil was heavily disturbed over an area of a few hundred square metres, indicating previous digging and pits at this site.³⁰⁰⁵

696. In late April 1975 or early May 1975³⁰⁰⁶ families evacuated from Phnom Penh that arrived in Thmei Khmer Village in Tbeng Khpous Subdistrict³⁰⁰⁷ were taken to Prey Sre Val forest³⁰⁰⁸ and killed by subdistrict cadres acting on orders given by the upper level during a meeting of the leadership of Svay Chuck Subdistrict.³⁰⁰⁹ Witnesses state that the men were tied up and that men, women and children were killed by being hit on the neck with pieces of wood and cart axles.³⁰¹⁰ The executions occurred over three to five days.³⁰¹¹ One witness estimates that 200 people were killed at Prey Se Val.³⁰¹² It appears that the location described by witnesses as Prey Se Val was dug up after 1979 and now contains no visible traces of its use as an execution site.³⁰¹³
697. Some witnesses described similar mass killings in late April or early May 1975 in District 12, including at other locations in Tbeng Khpous, Peam and Kraing Lvea Subdistricts, of new people who were considered to be Khmer Republic officials and soldiers.³⁰¹⁴ A witness explains that “*Angkar*” then stopped taking people evacuated from the cities for execution and that those who arrived after the first few months of the Democratic Kampuchea regime were able to survive.³⁰¹⁵

Tuol Po Chrey Execution Site³⁰¹⁶

កន្លែងសម្លាប់មនុស្ស ទួលពោធិ៍ជ្រៃ

Location and Establishment

698. The Tuol Po Chrey execution site was operational intermittently from late April 1975 to approximately 1977 during³⁰¹⁷ which large-scale killings of the ex-military and civilian population were carried out.³⁰¹⁸
699. Located on an area of elevated ground,³⁰¹⁹ the site was close to the western moving shores of Boeng Tonle Sap,³⁰²⁰ close to Kdei Chhvut Village, Sre Dok Subdistrict of Kandieng District in Pursat Province.³⁰²¹ According to the CPK’s system of identifying administrative boundaries, Tuol Po Chrey was located in Kandieng District, Sector 7, Northwest Zone.³⁰²²

700. The Tuol Po Chrey execution site included a former Khmer Republic military fort (also known as the Po Village Fort).³⁰²³ Located approximately 4 kilometres from Tuol Po Chrey was a smaller lake which was also a killing site into which bodies were dumped.³⁰²⁴

Functioning

Structure and Personnel

701. The Northwest Zone Committee Secretary was Muol Sambat (alias Ta Nhim alias Ruos Nheum alias Moul Un) until his arrest by Southwest Zone cadre in mid 1978³⁰²⁵ and replacement as Northwest Zone Secretary by Ta Mok.³⁰²⁶ Vice Chairman of the Northwest Zone was Kung Sophal alias Ta Keu,³⁰²⁷ himself arrested and transferred to S-21 in November 1978.³⁰²⁸
702. A Northwest Zone Military Division Commander was Ta Khleng whose division captured the town of Pursat³⁰²⁹ Ta Khi was the Secretary of Kandieng District and the Deputy Secretary was Ta San.³⁰³⁰ Ta Mao was on the Committee for Kandieng District.³⁰³¹ Ta Sot alias Ke Kim Huot was the Secretary of Sector 7 and Ta Tuoy was Deputy Secretary.³⁰³² Ta Sot would later be arrested and transferred to S-21 in July 1977,³⁰³³ as was Ta Tuoy.³⁰³⁴
703. As reported by witnesses, regular meetings were held in 1976 between high ranking CPK cadre including the zone, district and sector committee secretaries as well as the unit chiefs in the subdistricts and the chiefs of the cooperatives.³⁰³⁵ Witness evidence supports that **Nuon Chea** convened two or three times these meetings and prepared the plans to purge internal enemies,³⁰³⁶ which included placing spies inside the districts to report to the District and Sector Committees.³⁰³⁷ Based on these reports, the Sector Committees would make arrests in the Districts and Subdistricts.³⁰³⁸ Witness testimony supports the personal attendance of **Nuon Chea** at these meetings.³⁰³⁹

Arrest, Transfer and Execution at Tuol Po Chrey Execution Site

704. Tuol Po Chrey functioned from 1975 through to 1977, and there appear to have been a number of killings through this period.³⁰⁴⁰

Former Lon Nol Officers and Officials

705. Immediately following the fall of Phnom Penh, CPK cadre moved in and took full control of Pursat Province and the regional area where Tuol Po Chrey was located.³⁰⁴¹ Pursat Province fell to the CPK on 19 April 1975 and in the days shortly thereafter a meeting was called summoning the Pursat provincial governor, soldiers and civil servants of the former Khmer Republic government to the Pursat provincial office; the subject of which was an “*invitation to receive the Angkar at Tuol Po Chrey*”.³⁰⁴² CPK soldiers were deployed around the provincial headquarters to prevent attendees from escaping.³⁰⁴³
706. Witness testimony supports that “*all former officers*” of the regime were summoned to the meeting.³⁰⁴⁴
707. Present at this meeting were Ta Nhim and Ta Kan (from the Northwest Zone Committee), Ta Sot (from the Sector 7 Committee).³⁰⁴⁵ Also present was Ta Tuoy (the Deputy Secretary of Sector 7), [REDACTED] (the Deputy Secretary of Kandieng District), and Ta Mao (from the Kandieng District Committee).³⁰⁴⁶ According to one former CPK cadre, Ta Nhim and Ta Sot had given the orders that “*all dignitaries, both military and policemen, from Lon Nol regime had to be killed. If we kept them [alive], there would be resistance in the later time so they all had to be executed. The soldiers who took the [Lon Nol] military and policemen to be killed were only soldiers from Zone and Sector*”.³⁰⁴⁷
708. The victims arrived at the provincial headquarters compound by their own accord.³⁰⁴⁸ It was estimated that approximately three thousand were gathered in the compound to attend this meeting.³⁰⁴⁹
709. The victims were deceived, being told that they were going to undergo study to be then reintegrated into the army at their previous ranks or higher.³⁰⁵⁰ This was announced to the assembled crowd via loudspeakers.³⁰⁵¹ As a consequence, the former Khmer Republic participants left the meeting happy and undisturbed having been made this promise and that they would be given an opportunity to meet King Sihanouk.³⁰⁵² The victims were then transported by large trucks to the fort at the Tuol Po Chrey execution site.³⁰⁵³ Each truck carried approximately 30-40 people and witnesses estimate there were approximately 30-40 trucks making the trip.³⁰⁵⁴ There were not enough trucks to transport all the victims at once so a number of round-trips had to be made.³⁰⁵⁵ This operation was carried out by troops of Sector Battalion 201 and Northwest Zone Battalion 24. Ta Khleng, is said to have personally participated in this operation.³⁰⁵⁶

710. Victims were killed immediately upon arrival.³⁰⁵⁷ The CPK soldiers spent the whole day shooting the victims, lasting from morning to evening.³⁰⁵⁸
711. The victims were buried in a series of large pits, each containing numerous bodies³⁰⁵⁹ and were 10 square metres.³⁰⁶⁰ Bulldozers were used to bury the victims and corpses were piled on top of each other.³⁰⁶¹ Khmer Republic army uniforms were found next to the pits.³⁰⁶² The victims had their hands tied behind their backs and were tied together in lines.³⁰⁶³ The bodies were covered in blood and gunshot wounds were seen on the bodies with some being shot in the head and others in the chest.³⁰⁶⁴ Witness estimates as to the number of victims range from 2,000³⁰⁶⁵ up to approximately 3,000 corpses.

Base People and New People from the Cooperatives

712. Witness testimony further supports that in addition to the large-scale killing of former Khmer Republic soldiers and officials, there were ongoing smaller scale killings at Tuol Po Chrey, between 1976 and 1977, of individuals from the local cooperatives who were considered either to have undesirable biographies or who were deemed to be lazy and not fulfilling their work criteria.³⁰⁶⁶ One witness states that people would be arrested on an ongoing basis and when the number of arrestees reached one hundred they would be taken to Tuol Po Chrey for execution.³⁰⁶⁷
713. Prisoners were also transported to a smaller lake 4 kilometres from Tuol Po Chrey to be executed. One witness states that the lake was full of corpses, estimating that approximately five thousand corpses had been dumped into it.³⁰⁶⁸

714. **Twenty (20)** civil parties were declared admissible with regards to Tuol Po Chrey Execution Site,³⁰⁶⁹ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Tuol Po Chrey Execution Site.

Steung Tauch Execution Site³⁰⁷⁰

កន្លែងសម្លាប់មនុស្ស ស្ទឹងត្នោត

Location and Establishment

715. The Steung Tauch execution site³⁰⁷¹ was situated east of the Mekong River, approximately 7 kilometres south of a town on Highway 7 called Ta Hiev Kraom, and 10 kilometres north of the Vietnamese border³⁰⁷² in an area that was heavily forested at the time³⁰⁷³ in Kak Subdistrict, Ponhea Krek District, Kampong Cham Province (a village called Steung Tauch has since grown up in the same area).³⁰⁷⁴ Applying the CPK's system of identifying administrative boundaries, it was located in Sector 20 of the East Zone (Zone 203).³⁰⁷⁵
716. The judicial investigation did not reveal any link between Steung Tauch and the execution of prisoners from local security centres under East Zone control.³⁰⁷⁶ The balance of the evidence concerns a relatively short period, starting in late May 1978, when CPK Centre-led forces seized control of Ponhea Krek District during the purge of the East Zone.³⁰⁷⁷ Indeed, many arrests and killings at Steung Tauch and in the surrounding area may be dated to within a month of this takeover.³⁰⁷⁸ One witness heard of the killing of Bos villagers (discussed below) shortly after the seizure of the district.³⁰⁷⁹ Killings appear to have continued until late in 1978, since residents returning in 1979 saw mass graves "*full of fresh, swollen corpses*".³⁰⁸⁰ Nevertheless, it cannot be excluded that some of the bodies found at Steung Tauch may have been victims of executions that occurred before May 1978, or combat victims.³⁰⁸¹

Functioning

Structure and Personnel

717. The forested location of Steung Tauch, long an area of military activity pocked with a large number of B52 craters,³⁰⁸² made it an ideal place for concealed mass executions.³⁰⁸³ The site consists of an undetermined number of burial pits discovered progressively by local residents returning to the district after 1979.³⁰⁸⁴ Investigators specifically identified four distinct sets of burial pits during the judicial investigation.³⁰⁸⁵
718. There is consistent evidence that the killings in Ponhea Krek District were conducted by forces under the immediate command of Ke Pork, Secretary of the Central Zone (Old North Zone) and, from 1977, Vice Chairman of the Route 7 battlefield against the Vietnamese (initially under the Secretary of the East Zone, Sao Phim).³⁰⁸⁶ There is also evidence that, during the events at Steung Tauch, Ke Pork was acting under the command of Son Sen, also stationed in the East Zone at that time,³⁰⁸⁷ and **Nuon Chea**.³⁰⁸⁸ Another witness states that the

Central Zone Military Chairman responsible for collecting the population for execution was called [REDACTED].³⁰⁸⁹

719. The witnesses describe the purge process, one explaining how “*Sao Phim was accused of being a traitor of the State*” with the result that those who worked under his supervision were all executed. Another witness notes that, after the first phase of arrest of military cadre, the “*coup d'état*” became general, through the successive arrest of the cadre of the sectors, zone, commune com., district com., sector com. and finally the cooperative chairmen.³⁰⁹⁰
720. The ‘purge forces’ included both Centre divisions (integrating some elements originating from the Southwest Zone),³⁰⁹¹ and Central Zone divisions.³⁰⁹² Survivors of the mass execution of Bos villagers recall that their execution detachment, dressed in black, was relieved by other soldiers in green uniforms, whom they were told “*would not have spared them*”.³⁰⁹³
721. There is evidence to suggest that Son Sen and Ke Pork’s forces were quartered at a number of locations along Route 7 west of Steung Tauch, extending from the main East Zone office at Suong to the west,³⁰⁹⁴ through a joint command post at Steung Village,³⁰⁹⁵ to Sras Pagoda,³⁰⁹⁶ just west of the Steung Tauch turnoff. An office called “*Mai Sak*” (teak grove), situated at a former military Division 4 command base south of Route 7 and east of the turnoff to Steung Tauch,³⁰⁹⁷ appears to have been a base for the soldiers who conducted the execution operations at Steung Tauch, since reprieved witnesses were taken there from the execution site.³⁰⁹⁸ A number of witnesses refer to the use of large Chinese military trucks during such arrests.³⁰⁹⁹

Target population

722. There were a number of categories of victims at Steung Tauch, in particular, lower level cadre, related civilians and military personnel. Moreover, the specific case of Prey Tumnob (“*Bos*”) village requires further development.

Lower Level Cadre and Related Civilians

723. Immediately following the purge of the senior East Zone military and political cadre,³¹⁰⁰ and subject to the specific case of Bos Village (detailed below), arrests in the area surrounding Steung Tauch appear to have been limited to lower level cadre such as village chiefs or subdistrict chairmen,³¹⁰¹ and persons associated with them, such as family members³¹⁰² (although they may also have extended to new people).³¹⁰³ One witness provided investigators

with a list of 105 names of Kak Subdistrict or cooperative cadre who disappeared at that time.³¹⁰⁴ Various means appear to have been used in order to separate the intended victims from the rest of the population: being called to meetings or study sessions, such as a district office at Kandaol Chrum,³¹⁰⁵ followed by arrests and disappearances;³¹⁰⁶ or receiving a leaflet calling everyone from the cooperative to gather at the local pagoda, where “*the group of the chairmen was then told to go to study and to receive new work plan, and has disappeared since then*”.³¹⁰⁷

724. There is consistent, corroborated witness evidence that ‘ordinary’ people wearing civilian clothing were executed and buried at Steung Tauch.³¹⁰⁸ One witness explains that his brother (a survivor) and a number of other people from Bos Roka Village (Doun Tei Subdistrict) were transferred by truck to Kandaol Chrum, arrested and then sent for execution at Steung Tauch.³¹⁰⁹ Other witnesses indicate that the local cadre and associated civilians arrested in surrounding villages (Reus Rokha Thom, Ponley Village and Teuk Yung) were killed at Steung Tauch.³¹¹⁰ Moreover, some witnesses state that low level cadre and civilians were also killed at other sites in the District.³¹¹¹

Military Personnel

725. There is also evidence that military personnel were buried at Steung Tauch.³¹¹² One witness notes that some pits, “*contained male bodies, apparently soldiers, because [he] saw bullets, military clothing and army boots made in China*”.³¹¹³ Witnesses also identified elements leading them to believe that some of the corpses they discovered were Cambodian forces.³¹¹⁴
726. Nevertheless some doubt remains. Thus, although witnesses note that East Zone soldiers were arrested and disappeared during the time when Steung Tauch was being used,³¹¹⁵ there is no evidence linking these arrested soldiers to the bodies found there.³¹¹⁶ Moreover, it should be noted that some soldiers may have been killed whilst resisting the East Zone takeover,³¹¹⁷ that many escaped the purges and joined forces in the jungle,³¹¹⁸ and that, some CPK soldiers or Vietnamese military personnel³¹¹⁹ may have died at Steung Tauch during the armed conflict with Vietnam.³¹²⁰

The Specific Case of Prey Tumnob (“Bos”) Village

727. There is very precise testimony of the execution of a large part of the population of Prey Tumnob Village (also known as “Bos” or “Bo” village, Doun Tei Subdistrict, Ponhea Krek District) at Steung Tauch in June 1978.³¹²¹ Numerous surviving witnesses confirm that

hundreds at villagers were taken there and killed in one night.³¹²² One survivor provided investigators with a list, from memory, of the names, ages and positions of 140 people transported to Steung Tauch, noting that "*the people on the trucks consisted of all categories, such as collective cadres, civilians, children, old people, the chief of the Subdistrict (REDACTED) ... but there were not any soldiers*".³¹²³

728. This, significantly more severe treatment, compared with other villages in the area, may be explained by the close relationship between purged East Zone Secretary Sao Phim and the village of Prey Tumnob.³¹²⁴ One survivor of the massacre, corroborated by other witnesses, relates how, as they were getting off the trucks at Steung Tauch, their guards said "*all of you are the contemptible Phim's children*".³¹²⁵
729. The witnesses describe the chain of events as follows. One day, a group of around ten soldiers wearing black uniforms, silk scarves and cloth caps³¹²⁶ arrived in Bos Village with three or four large military trucks. The Bos Village committee chairman called a meeting at the village school compound.³¹²⁷ The inhabitants were told that "*upper Angkar*"³¹²⁸ wanted them to move to Suong, on Route 7 to the west of Ponhea Krek, where there were concrete houses, to work in the rubber plantation.³¹²⁹ They were told to bring just the clothes they were wearing, without any dishes or mats.³¹³⁰
730. The inhabitants then returned home to collect their families, and children working in the fields were brought in by the soldiers.³¹³¹ Around 4pm that day, women, men, families, the young and the old were brought together herded under armed supervision onto the military trucks, with a capacity estimated at between 30 and 40 persons each, (there was not enough room for the entire population).³¹³² However, the trucks did not go to the announced destination, instead turning east along Route 7, via Kandaol Chrum and Ta Hiev Kraom villages.³¹³³
731. The trucks had CPK military guards, one cadre armed with an automatic rifle riding in the back of the truck to guard the occupants, whilst others rode in the cab. Witnesses make no mention of having been shackled or subjected to any violence during transfer.³¹³⁴
732. Upon arrival at Steung Tauch, at around 6pm, the trucks stopped by the side of the road and a group of soldiers came out of the jungle.³¹³⁵ The soldiers cocked their guns and ordered the people to get off the trucks, tied their arms behind their backs, with krama and used hammock ropes to tie the arms of five people together at a time.³¹³⁶ The men were segregated from the women and children.³¹³⁷ An old man with mental problems who argued with the soldiers was hit on his forehead with a gun butt and died.³¹³⁸

733. The men were taken away for execution first,³¹³⁹ about 50-60 metres from the road, south of the present Kak Subdistrict police station.³¹⁴⁰ Two of the eleven survivors are direct eyewitnesses to the killings.³¹⁴¹ Once inside the forest, the men were ordered to halt. Then, one person at a time, they were separated from their ropes and brought to a pit that had already been prepared, possibly in an old B-52 crater.³¹⁴² One survivor explains that "*[t]wo soldiers escorted an individual with his arms tied with a scarf, one at a time, to the edge of the pit, where rifles were pointed at each individual's ears with a warning not to shout or try to escape. The soldiers simultaneously hit each individual with wooden poles into the pit*".³¹⁴³ Another survivor, who was in line to be executed and witnessed numerous killings during the night, corroborates and provides further details: after having been hit and pushed into the pit "*If they saw any victim still moved, they stabbed him more with a bayonet of the CKC rifle*".³¹⁴⁴ Other witnesses who could not see the pit from where they were being held, recall hearing the sounds of striking blows and the screaming of victims³¹⁴⁵ and stated that the troops collected victims' clothing³¹⁴⁶
734. One survivor recalls that, when his turn came, he was given a blow to the back of the head and over the left eyebrow,³¹⁴⁷ before falling onto eight or ten dead bodies already in the pit. Thinking the victim was dead, the guards climbed down into the hole to untie the scarf.³¹⁴⁸ Some time later, when his pit was full, the witness managed to slip out from under the bodies that had been piled on top of him and hide.³¹⁴⁹ After daylight, he fled through a number of villages looking for refuge. During his flight, he warned a number of local officials about the executions. He discovered from the population of these villages that the military was planning to transfer the population of Ponley, another Sao Phim model village in Kak Subdistrict, and so ran to warn them to flee, before escaping to the forest and, some months later, to Vietnam.³¹⁵⁰ Witnesses from Ponley Village confirm that they met the survivor when he came to warn them, then fled also.³¹⁵¹
735. The women and children, who had been waiting near the road throughout the night, were bound together in turn and taken into the forest to be executed.³¹⁵² However, one woman and her family, totaling ten people, five of whom were interviewed during the judicial investigation,³¹⁵³ were reprieved because she convinced the executioners that her son was a "Centre" soldier. In the morning, her family was transferred by truck to the "Mai Sak" office (near the Route 7 junction) and kept there for five days while their story was verified with Centre commanders (apparently including one named "Pork"), before being sent to a cooperative.³¹⁵⁴

736. Witnesses estimate the number of people transferred by truck from Prey Tumnob to Steung Tauch that day at between 160 and 300 people.³¹⁵⁵ All agree that among the people transferred, there were only ten or eleven survivors.³¹⁵⁶ One witness believes that, after the news was leaked that the population was not being transported to Suong, the remaining people in Bos Village fled to the forest and a second rotation of trucks that returned to Steung Tauch in the morning was nearly empty.³¹⁵⁷

Overall Number of Deaths

737. Beyond the case “Bos”, in the absence of any official exhumations, it is not possible to state the exact number of persons who were killed and buried at Steung Tauch. In 1975, Kak Subdistrict (the main source of victims at Steung Tauch along with Doun Tei Subdistrict) was composed of ten villages/cooperatives with a total population of around 1,000.³¹⁵⁸ One witness provided investigators with a list of 105 names of fellow Kak Subdistrict or cooperative cadre who disappeared, but was not able to confirm whether they had been killed at Steung Tauch.³¹⁵⁹ Another witness, who states that the Bos Roka villagers were killed at this site, does not provide exact numbers.³¹⁶⁰
738. The Ponhea Krek District Office of Culture came to do research based on the bodies in the graves in 1981, and apparently collected statistical information concerning disappearances at Steung Tauch,³¹⁶¹ but one witness expresses some doubt as to its accuracy,³¹⁶² and no related documents were obtained during the judicial investigation. In 1997, DC-Cam conducted a mapping mission, which identified three burial sites and quoted an un-sourced figure of 1,803 deaths at Steung Tauch,³¹⁶³ which may have been taken from the government statistics. Although a preliminary forensic investigation was conducted at Steung Tauch in 2004,³¹⁶⁴ there is no evidence that the site was ever officially exhumed and there is no memorial at Steung Tauch containing human remains.³¹⁶⁵ Since 1979 there has been opportunistic exhumation of remains,³¹⁶⁶ massive de-forestation and significant importation of surface soil for farming.³¹⁶⁷

739. **Four (4)** civil parties were declared admissible with regards to Steung Tauch Execution Site³¹⁶⁸, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed at Steung Tauch Execution Site.

D. TREATMENT OF SPECIFIC GROUPS

Treatment of Buddhists³¹⁶⁹

ការប្រព្រឹត្តលើពុទ្ធសាសនិក

740. The CPK adopted a policy of prohibiting Buddhism and the practice of Buddhism.³¹⁷⁰ Many pagodas and sanctuaries were destroyed,³¹⁷¹ or converted for other purposes such as security centres, pig pens, dining halls, hospitals or warehouses.³¹⁷² Images of Buddha were destroyed.³¹⁷³ Even lighting incense was prohibited.³¹⁷⁴ The CPK incited hatred of monks and nuns and disseminated propaganda about monks being parasites, blood-sucking parasitic worms, tapeworms and leeches.³¹⁷⁵ One witness states: *“Immediately after the Khmer Rouge took control of this area, they forbid religions. They did not allow ceremonies or alms giving. The monks were all forced to leave the monkhood. The unit chiefs, the village chiefs, and the subdistrict chiefs announced that religious beliefs were not permitted ... They said the monks in their big robes were feudalists who sucked the blood of the people”*.³¹⁷⁶
741. Virtually all Buddhist monks and nuns were disrobed.³¹⁷⁷ Some monks were threatened with death or killed if they did not comply.³¹⁷⁸ After the monks were disrobed, they were forced to do manual labour and farming.³¹⁷⁹ One former monk states that he was forced to marry and that if he objected he would have been taken to a *“grave pit”*.³¹⁸⁰
742. Witnesses provide varying accounts as to which level of the CPK regime the orders to disrobe and persecute Buddhist monks originated from. Some witnesses describe the orders as coming from the *“upper echelon”*³¹⁸¹ or from the *“Party Centre”*.³¹⁸² Other witnesses describe meetings of the district committee in their area,³¹⁸³ or receiving orders directly from the district and subdistrict secretaries.³¹⁸⁴
743. The abolition of religion, destruction of pagodas and use of pagodas for other purposes occurred throughout every area of Cambodia during the CPK regime: the Southwest Zone³¹⁸⁵ (including Wat Damnak Trayoeng in Touk Meas District, Kampot Province),³¹⁸⁶ the Northwest Zone³¹⁸⁷ (including Wat Samrong in Ek Phnom District, Battambang Province³¹⁸⁸ and Wat Kirirum in Phnom Sampov District, Battambang Province³¹⁸⁹), the Central (Old North) Zone,³¹⁹⁰ the (New) North Zone,³¹⁹¹ the East Zone³¹⁹² (including Wat Chambak, Chantrea District, Svay Rieng Province³¹⁹³ and Wat Ta Kut and Wat Me in Ksach Kandal

District, Kandal Province³¹⁹⁴ and Wat Thlok in Svay Chrum District, Svay Rieng Province³¹⁹⁵), the West Zone,³¹⁹⁶ the Northeast Zone³¹⁹⁷ (including Wat Chey Mongkul in Se San District, Stung Treng Province)³¹⁹⁸ and in the autonomous sector of Kratie (Sector 505,³¹⁹⁹ including Wat Antung Vien in Kratie District, Kratie Province).³²⁰⁰

744. **Eighty seven (87)** civil parties were declared admissible in the context of the “treatment of Buddhists”³²⁰¹ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 bis (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes in the context of the “treatment of Buddhists”.

Treatment of the Cham³²⁰²

ការប្រព្រឹត្តលើជនជាតិចាម

745. The Cham are an ethnic minority within Cambodia who share a common language, a common culture and Islam as a common religion.³²⁰³ The Cham people self-identify as Cham and are identified as such by others outside the group.³²⁰⁴
746. Prior to 1975, many Cham lived along the Mekong River in Kampong Cham Province. Large communities of Cham lived in Kroch Chhmar District and Kang Meas District.³²⁰⁵
747. The Demographic Expert Report: *CPK Victims in Cambodia, April 1975 – January 1979, A Critical Assessment of Major Estimates* concludes that 36% of the Cham population in Cambodia perished during the regime (compared to a death rate of 18.7% for Khmers).³²⁰⁶

Pre-1975 Policy Towards Cham

748. From around 1970, the CPK exerted control over increasingly large parts of Kampong Cham Province, including many areas inhabited by Cham.³²⁰⁷
749. At first the CPK appeared to support Islam.³²⁰⁸ Before 1975, some Cham joined the CPK, for example, [REDACTED], a Cham man, was a member of the Tboung Khmum District Committee in Kampong Cham³²⁰⁹ and a Member of the Standing Committee of the People’s

Representative Assembly of Kampuchea³²¹⁰ (he fled Cambodia and crossed the border into Vietnam in May 1978).³²¹¹ Some other Cham people were cadre at S-21 (though all were killed in 1977 and 1978).³²¹²

750. The CPK began to indoctrinate the Cham against the values of religious practice in general and curtail their freedom to practice Islam in particular.³²¹³ One witness states that in 1974, the Cham were announced by the CPK to be “enemy number one”.³²¹⁴
751. The CPK appears to have begun targeted expulsions of Cham villages in approximately 1973. Sometimes only the religious leaders and those well-educated in Islam were expelled,³²¹⁵ on other occasions the majority of the village was evacuated, leaving only a few Cham families in each village.³²¹⁶ The Cham were expelled to various provinces in Cambodia.³²¹⁷
752. Prior to 1975, some Cham were arrested, detained, tortured and killed.³²¹⁸ In 1970 or 1971, a security centre was established in Kroch Chhmar, which had a particular role with respect to Cham as set out below.³²¹⁹ The CPK targeted Cham religious leaders for arrest³²²⁰ as well as Cham who protested about the curtailment of their religious freedom.³²²¹ Witnesses from Kroch Chhmar District, Kampong Cham stated that between 100³²²² and 200³²²³ Cham people were arrested and had disappeared from their villages by around 1975 and that the decision to arrest them was made at provincial level or higher.³²²⁴

Treatment of the Cham 1975-1977

753. At a conference of political and military cadre ranging from the Centre down to the lower levels (until the district level) in May 1975, Pol Pot and **Nuon Chea** effectively called for the abolition of the Cham religion, presenting policies which included the abolition of all religions that were deemed reactionary.³²²⁵ Nevertheless the CPK continued via public radio broadcasts to formally treat the Cham as “*Moslem Cambodians*” and proclaiming their freedom of religion.³²²⁶ However, after October 1975, all public mention of them by the radio ceased in the context of a wider denial of the existence of any national minority groups in Cambodia. Although senior Party leaders³²²⁷ and official publications continued³²²⁸ to speak of a Cambodian people as “*the Kampuchean nation and the Kampuchean people that included both ethnic Khmer and other nationalities*”, such talk evidently ceased at some point in 1976. This followed the promulgation of the Democratic Kampuchea constitution of January 1976 which was silent about the existence of minority groups.³²²⁹

754. Chapter 15, Article 20 of the Constitution of Democratic Kampuchea purported to regulate religion by stating “[e]very citizen of Kampuchea has the right to worship according to any religion and the right not to worship according to any religion. Reactionary religions which are detrimental to Democratic Kampuchea and Kampuchean people are absolutely forbidden”.³²³⁰ Duch gave evidence to the Co-Investigating Judges that the CPK Constitution was “deceitfully written” and that this article was “a lie”.³²³¹ This is corroborated by [REDACTED], who states “when they issued the Constitution they said that all religions were reactionary”.³²³²
755. The Cham sometimes attempted to complain about the prohibition on their religion by invoking the Constitution. According to weekly report from CPK Sector 5 in the Northwest Zone, which was sent to Brother Zone Secretary, M-560 and Archives, the “17 April elements from Phnom Penh who were Cham nationals” protested against the food which was imposed on them by the cooperative kitchen and referred to the Constitution. The author of the report states that: “for this situation, we have taken special measures, that is, look for their string, look for the head of their movement in order to sweep clean”.³²³³
756. Witnesses (Cham and non-Cham) from throughout Cambodia consistently state that the CPK banned the practice of Islam and forbade the Cham from praying,³²³⁴ seized and burned Qurans,³²³⁵ closed or destroyed mosques,³²³⁶ or used them for other purposes such as communal dining halls,³²³⁷ store houses,³²³⁸ or facilities for pigs.³²³⁹ Many witnesses (with the exception of three amongst them)³²⁴⁰ state that Cham were forced to eat pork.³²⁴¹ Religious leaders and learned Islamic scholars were arrested and/or killed.³²⁴² Cham women were forced to cut their hair and were prohibited from covering their heads.³²⁴³ The Cham language was prohibited.³²⁴⁴ Cham traditional dress was prohibited.³²⁴⁵
757. According to some witnesses, the orders to attack the Cham culture came from “Angkar”,³²⁴⁶ from “the highest organization”,³²⁴⁷ from “village and section leader”,³²⁴⁸ and from “the village leader and quarter leader”,³²⁴⁹ and any Cham who refused to follow the directives of the CPK would be beaten,³²⁵⁰ arrested and/or killed.³²⁵¹
758. In September and October 1975, two Cham rebellions occurred within weeks of each other in two villages in the Kroch Chhmar District of Kampong Cham Province: in Koh Phal Village (an island in the Mekong River, Peus I Subdistrict), and in Svay Khleang Village (Svay Khleang Subdistrict).³²⁵² Witnesses state that after the rebellions, the persecution towards the Cham significantly increased.³²⁵³ Many people were arrested,³²⁵⁴ whole villages were moved away,³²⁵⁵ dispersed amongst ethnically Khmer villages³²⁵⁶ and the male heads of many

households were killed.³²⁵⁷ The Koh Phal Village Chairman estimates that out of the 1,864 original residents of Koh Phal, only 183 survived the regime.³²⁵⁸ Another witness estimated that out of 1,306 original residents, 267 survived.³²⁵⁹

759. One witness states that in 1972 he had been asked to prepare population statistics of Villages 5 and 6 of Svay Khleang Subdistrict. He explains that in 1972 there were 1,242 families in these villages, but in 1979 only 170 families remained.³²⁶⁰
760. It appears that district and subdistrict CPK cadres were involved in the suppression of the rebellions.³²⁶¹
761. A number of documents from this period suggest that there were lines of communication from the lower levels to the upper echelon and that the activities of Cham people at the grassroots level were communicated to the upper echelon, including to **Nuon Chea**.³²⁶² A telegram entitled “Telegram 15” dated 30 November 1975 outlines the CPK upper echelon’s policy to “*break up*” the Cham and forcibly transfer them from the East Zone to the North Zone.³²⁶³ This telegram was sent to Pol Pot and copied to, amongst others, **Nuon Chea**. The authenticity of Telegram 15 was confirmed by a witness who worked translating telegrams for Centre Office K-1 during the regime, who states that the Chairman of the Telegram Unit made the decision to copy this telegram to **Nuon Chea**, adding that the Standing Committee may have been involved in solving this problem.³²⁶⁴

Treatment of the Cham 1977-1979

762. Some witnesses state that they observed that Cham people were treated much the same as everybody else,³²⁶⁵ or that they were not arrested or killed³²⁶⁶ or that the prohibition on religion was the only mistreatment of the Cham.³²⁶⁷ In particular, at the 1st January Dam worksite, three witnesses stated that Cham lived in the same conditions as the Khmer workers.³²⁶⁸ However, one of these witnesses qualified their evidence by stating that if they were seen to practice Islam “*they would take them away and kill them*” and that most of the people killed were “*new people or Cham*”.³²⁶⁹ Other witnesses from this site stated that Cham were considered to be even lower than the 17 April people.³²⁷⁰ Three witnesses from this site stated that the Cham religion was prohibited.³²⁷¹
763. During 1977 and 1978 many witnesses describe seeing waves of killings of Cham people in the Central (Old North) Zone and East Zone.³²⁷²

764. These events appear to have been coordinated by the Centre authorities. Ke Pork was the Secretary of the Central (Old North) Zone³²⁷³ and a member of the Central Committee and of its Military Committee.³²⁷⁴ With respect to security matters, he was under Son Sen, Pol Pot and Nuon Chea's supervision.³²⁷⁵ Duch gave evidence that Pork came "*many times to Phnom Penh*" in 1977.³²⁷⁶ A witness who worked as Pork's telegraph cadre gave evidence that liaisons between Pork and the Centre increased in frequency in 1978, specifying in particular that he received more telegrams than had previously been usual.³²⁷⁷ This witness further recalls that at this time the Centre installed special new telegraph machinery making it possible for the Central (Old North) Zone to communicate to the Centre from six in the morning until midnight.³²⁷⁸ At the same time, he says, telegrams were sent more often from the sectors to the zone.³²⁷⁹
765. One witness states that he was called to a meeting in 1977 in Bos Khnor Village, Chamkar Leu District, Kampong Cham Province, Sector 41, Central (Old North) Zone. He states that the agenda for the meeting was to specify a plan called "The Plan to Smash the Enemy" and that the chairman of the meeting declared "*the enemies of the revolution are many, but our biggest enemy are Cham. So the Plan calls for the destruction of all the Cham people before 1980*".³²⁸⁰ This same witness states that he was subsequently assigned to meet with the Chairman of O-Nung Subdistrict, Chamkar Leu District. Whilst waiting for the Chairman to arrive he saw a small 16 page book with a light yellow cover called "The Plan for Progressive Cooperation" which read "*Cham are the biggest enemy who must be totally smashed by 1980*".³²⁸¹
766. Another witness gives evidence that, in 1977, he was told by a security cadre from Sector 21 of the East Zone that "*the remaining Cham people would soon be killed*".³²⁸² Other witnesses observed that "*measures were taken against those who were not Khmer, and the Chams in particular*"³²⁸³ or that there were orders to "*gather up all the believers in Islam*".³²⁸⁴ Another witness states that he woke up one day and that "*all the Cham of his village had suddenly disappeared*". Out of the 10 Cham families in his village, only one person survived, only because she had been out of the village in a district mobile unit, when the attack took place.³²⁸⁵
767. [REDACTED], District Secretary of Kroch Chhmar District since 1978 (and as such, presented, as being responsible for the mass killings of Cham people in the Kroch Chhmar District)³²⁸⁶ gives evidence that in 1978 there was a "*rebellion*" of Cham and Khmer in Kroch Chhmar. The Subdistrict Committee reported the rebellion to the District Committee, who in turn, reported to the Sector Committee. The Sector Committee gave initial orders to arrest and

detain the “rebels”. [REDACTED] states “[l]ater on, the upper echelon made one annotation to the district in red ink reading: ‘all of the rebels must be smashed’”.³²⁸⁷ The witness states that he travelled by boat to where the rebels were being detained and gave the upper echelon’s order to the military commander in charge, and that the rebels were hit with clubs and buried in mass graves, with between 20 – 30 people in each pit.³²⁸⁸

768. Another witness states that, “they searched out the Cham so they could wipe out every last one of us. The eight members of my family were all killed I was the sole exception because I disguised myself as being of another race”.³²⁸⁹ Another witness, who states that there were approximately 100 Cham families in his subdistrict, describes the situation as follows: “I did not see the killings, just saw the Khmer Rouge coming to call one family away at a time, and the Cham population became less and less. Later on, they gathered them all. The Cham people were arrested in 1978”.³²⁹⁰
769. Another witness states that he overheard a meeting in late 1978, between Ke Pork and the district secretaries of the East and Central (Old North) Zones. The meeting was held in the Sandan District of Kampong Thom Province. The witness states he could also hear what was being said during the meeting because they were using a public address system inside. At one point during the meeting, Ke Pork asked the District Secretary of Kroch Chhmar, “the plan set out by the Party, what percentage has been completed? ... You must destroy the Cham [in the] mobile forces first; they are all traitors”.³²⁹¹
770. [REDACTED] confirms that the Cham were targeted for killing in 1978 but denies that the Central (Old North) Zone cadre were involved in the killings.³²⁹² The evidence of this witness is inconsistent with witnesses who implicate the Central (Old North) Zone cadre in the killings of Cham in Kroch Chhmar District.³²⁹³

Kroch Chhmar Security Centre, East Zone

771. Kroch Chhmar Security Centre was a district level security centre.³²⁹⁴ It was located close to Prek Ta Duong Village, Kroch Chhmar District, Kampong Cham Province.³²⁹⁵ Applying the CPK’s system of identifying administrative boundaries, this prison was within Sector 21 of the East Zone. Kroch Chhmar Prison was approximately 15 metres long and 10 metres wide,³²⁹⁶ with two levels.³²⁹⁷ It was surrounded by a fence.³²⁹⁸ It was established in 1970 or in 1971³²⁹⁹ and was operational until at least 1978.³³⁰⁰

772. There are varying accounts of the personnel at Kroch Chhmar Security Centre.³³⁰¹ [REDACTED], the Sector 21 Security Chairman, visited Kroch Chhmar regularly, “*every month or two*”.³³⁰² A reporting structure existed to regulate communications from Kroch Chhmar Security Centre to the CPK upper echelon. The former interrogation team chief at Kroch Chhmar states that “*confessions were transmitted to the [district] security chairman, who in turn would send them up to the regional level, and then they would go up to the level of the [East] zone*”.³³⁰³ A line of communication also existed back down from the zone authorities to the prison. Once a confession was transmitted up to zone level, the prisoner remained detained until a decision was communicated.³³⁰⁴ Some prisoners were released and some were killed.³³⁰⁵ This practice is in line with the March 1976 decision by the Standing Committee giving power to the zone level to smash enemies.³³⁰⁶
773. Estimations of how many prisoners Kroch Chhmar held vary: some witness speak of 30 to 40³³⁰⁷ prisoners, others speak of 120 prisoners³³⁰⁸ or even several hundreds³³⁰⁹ at differing times. Most of the prisoners held at Kroch Chhmar Security Centre were Cham people from the villages of Kroch Chhmar District³³¹⁰ including Cham women and children.³³¹¹ The arrest and detention of the Cham escalated after the Cham rebellions in 1975.³³¹² The people who were arrested were considered to be affiliated with the rebellions.³³¹³ Cham were often arrested on Fridays, when the males worshipped at the Cham mosque.³³¹⁴
774. Both former detainees and interrogators give evidence about the methods of interrogation used at Kroch Chhmar Security Centre. Three people would attend each interrogation “*the interrogator, who was in charge and who posed the questions; and assistant interrogator; and a note taker*”.³³¹⁵ After the third interrogation a final confession would be written, to be reported up the line of command.³³¹⁶ During interrogation detainees would be seriously mistreated including by: beating; pulling out fingernails and toenails and pulling out teeth by the roots.³³¹⁷ Initially, interrogations were conducted in open fields.³³¹⁸ Later, the upper echelon ordered the interrogators to dig pits approximately two metres deep, and conduct the interrogation in those pits.³³¹⁹
775. One witness, who lived close to the security centre, saw killings occur. He states that the prisoner would be blindfolded and sat down at the edge of a grave pit, then struck from behind with a hoe.³³²⁰ After the interrogation sites changed into the pit system, he states that he did not see any more executions but regularly saw cadre carrying bodies out of the pits to bury them in a bamboo grove along the banks of Prek Ta Duong Creek.³³²¹ After 1979, he saw ten grave pits at that site.³³²² Another witness states that corpses were buried at that location.³³²³

Wat Au Trakuon Security Centre, Central (Old North) Zone

776. Wat Au Trakuon was the Kang Meas District Security Centre and execution site, situated in Sambaur Meas Village, Peam Chikang Subdistrict, Kang Meas District, Kampong Cham Province.³³²⁴ Applying the CPK's system of identifying administrative boundaries, this security centre was within Sector 41 of the Central (Old North) Zone.
777. The pagoda compound was approximately 170m by 200m and was bounded by a barbed wire fence. The area of three hectares immediately to the east of the compound was used as an execution and burial site for prisoners from the security centre.³³²⁵ It appears to have been established in 1975³³²⁶ or 1976³³²⁷ and operational at a minimum through 1977.
778. The chairmen of the security centre were [REDACTED]³³²⁸ and [REDACTED], who was a member of the Kang Meas District Committee.³³²⁹ Other witnesses identify [REDACTED] as being a member of the leadership of the security centre.³³³⁰ [REDACTED], who was the District Committee Secretary, and his wife [REDACTED], who was his Deputy Secretary were also involved with the security centre.³³³¹
779. The detainees included new people, base people and Cham.³³³² In around 1977, CPK cadre arrested all the Cham people throughout the Kang Meas District and took them to Wat Au Trakuon; done with the assistance of the "Long Sword Militia". One witness assisted the Long Sword Militia (a militia group created by cadre of the Southwest Zone),³³³³ to arrest all the Cham in Sambuor Meas (Ka) Village, Sambuor Meas (Kha) Village and Sach Sau Village in Kang Meas District.³³³⁴ This witness states that he and three other men assisted the militia group to arrest approximately 300 Cham men, women and children. After the arrests were complete, the militia group left the witness and his team to march the Cham prisoners to the security centre at Wat Au Trakuon where these Cham were all killed.³³³⁵ The witness states that these arrests and killings were conducted on the orders of the District Secretary.³³³⁶
780. This account is corroborated by two witnesses who state that in late 1976 or early 1977, all the Cham in Sach Sau Village, Kang Meas District were arrested and taken to Wat Au Trakuon.³³³⁷ These witnesses did not see any killings³³³⁸ but one witness was told by militia coming out of the pagoda that all the Cham were killed.³³³⁹ Another witness states that there were between 20 and 30 Cham from Sach Sau Village in his mobile unit, but in early 1977 they were all arrested by district security personnel from Au Trakuon and none are still alive.³³⁴⁰

781. Another witness, who was a member of the Long Sword Militia, saw prisoners with their arms tied behind them being marched from Sambuor Meas Ka Village.³³⁴¹ This witness states that all of the Cham in this village were targeted and arrested.³³⁴² This is corroborated by a witness who states that all the Cham in Sambuor Meas were arrested, taken to Wat Au Trakuon and killed.³³⁴³
782. Another witness was personally involved in transporting over a thousand people by boat to Wat Au Trakuon. He states that these people, including 600 male adolescents and 400 female adolescents from the mobile units, were tied up, driven to a dock around 500 metres from Wat Au Trakuon, and then walked in groups to be killed at the site.³³⁴⁴ When this witness was asked whether these people included Cham, he replied that he “*could not distinguish between the Cham and the Khmer*” despite the fact that this witness is Cham himself.³³⁴⁵ When asked where the people were taken from to be killed at the site, this witness stated that in his village, all Cham people were killed.³³⁴⁶
783. It appears that, when arrested, Cham people were not detained at all, but killed immediately.³³⁴⁷ One witness states that the site did not have cells to detain prisoners, but that they were all “*killed right away at night*”.³³⁴⁸ Other witnesses noted that the killings were done at night time³³⁴⁹ and a loudspeaker played revolutionary songs whilst the killings took place.³³⁵⁰ Witnesses heard the sounds of people being hit with clubs³³⁵¹ and screaming coming from the site.³³⁵² In 1979, witnesses saw corpses³³⁵³ and grave pits³³⁵⁴ at the site. One witness who saw grave pits in 1979 estimates that approximately 10,000 people had been killed there.³³⁵⁵ Another witness, who states that he had seen the prisoner lists for Wat Au Trakuon, estimates that approximately 30,000 people had been killed there.³³⁵⁶

Trea Village Security Centre, Kroch Chhmar District, East Zone

784. Trea Village Security Centre was situated in Trea Village, Trea Subdistrict, Kroch Chhmar District, Kampong Cham Province, applying the CPK’s system of identifying administrative boundaries, the security centre was located in Sector 21 of the East Zone. A converted residential wooden house used to detain prisoners, and the execution and burial site consisted of a field to the west of the security centre, adjacent to the Mekong River.³³⁵⁷
785. In mid-1978, many Cham were taken in groups from around Kroch Chhmar and the mobile labour units to the Trea Village Security Centre.³³⁵⁸ Once at the security centre each person in the group was asked to identify if they were Cham, Khmer or “*mixed race*”.³³⁵⁹ One Cham

witness, who was arrested in July 1978,³³⁶⁰ describes the situation as follows: *“Then a cadre shouted the order, ‘Cham to one side, Khmer to the other, and mixed race to another.’ I had already lied and said I was Khmer, so I had to go to the Khmer side. Fifteen others who had given the same answer were standing with me. Besides us there were twenty girls separated into two other groups, those self-declared “Cham” and all others, who were [supposedly] of ‘mixed race.’ My first cousin Teicheu was with the mixed race group. In fact all thirty-six girls were good friends of mine and we were all pure Cham. The lying was done for the sake of survival. Four or five minutes later, the ‘mixed race’ girls were taken from the house one at a time. The cadres said they were being taken to be given food to eat. I looked out through the cracks in the wall boards to see where they were going. The sun was already down, but I could still see in the light of the moon. I saw a cadre walking one girl to a pit only 8 metres from the house. A plank stretched across the pit. The cadre laid the girl face down on the board and cut her throat from behind with a shiny blade and dropped the body into the pit. The pit was not very deep. I could see the girl’s hands and feet twitching up and down. Then another girl was killed the same way. One after another they died”*.³³⁶¹ This witness also states that some girls might have been raped before they were killed because she heard some girls scream out *“do not rape me”*.³³⁶²

786. This account is corroborated by other witnesses who were taken to the same security centre in 1978. Speaking with reference to the Kroch Chhmar District Secretary mentioned above, one witness stated: *“then [REDACTED] asked each one of us, ‘What is your race?’ The first to answer admitted the truth that she was Cham, and others followed her response. Then my turn came, toward the end. I lied and said I was Khmer. [REDACTED] pulled me off to one wall. Seeing that, the next ten girls after me also claimed ‘Khmer’ and were put alongside me”*. The witness states that all those who had answered that they were Cham were taken away by CPK militias, each of them carrying AK-47 rifle and a hooked knife.³³⁶³
787. Another witness, who had been sent to Trea Village with his family states that CPK cadres demanded to know who was Khmer and who was Cham. *“Some claimed they were Khmer, and they were beaten with gun stocks. When they could not stand the beating any more, they admitted they were Cham. The cadres were only testing us; they had known we were Cham all along”*.³³⁶⁴ This witness watched CPK cadres drowning groups of Cham men in the river adjacent to the security centre.³³⁶⁵ He states that they were drowned in groups of 30 by being tied to a boat and pulled into the river and that the boat *“kept repeating this over and over throughout the entire day”*.³³⁶⁶

788. One witness, who was a native of Trea Village, states that when he returned to Trea Village about one month after the fall of the CPK regime, he found several grave pits at a location near the river bank. He states that he and other villagers dug up the graves to look for valuable objects and that he saw “*more than 20 pits. The biggest pit was about three metres in square, in which it contained from 20 to 30 corpses; the smaller pit contained less than 20 corpses*”.³³⁶⁷ Another witness states that there were “*hundreds*” of bodies found in the pits in 1979.³³⁶⁸
789. Two witnesses give evidence that the arrests and killings at Trea Village were conducted on the orders of the Kroch Chhmar District Secretary, [REDACTED].³³⁶⁹

790. **Forty six (46) civil parties were declared admissible in the context of the “treatment of Chams”³³⁷⁰** since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes **in the context of the “treatment of Chams”**.

Treatment of Vietnamese³³⁷¹

ការប្រព្រឹត្តលើជនជាតិវៀតណាម

Introduction

791. The Vietnamese may be considered to be an ethnic group³³⁷² as they share a common language and culture and because they identify and distinguish themselves as Vietnamese and are identified and distinguished by others as such.³³⁷³ The CPK also referred to the Vietnamese being a national group³³⁷⁴ in a number of public statements.³³⁷⁵ Furthermore, CPK cadre also considered Vietnamese to be a racial group³³⁷⁶ based on biological and particularly matrilineal descent, treating them as a group based on the hereditary physical traits identified with the geographical region of Vietnam.³³⁷⁷

Demographic Evidence

792. The Demographic Expert Report, dated 30 September 2009, concluded that there were approximately 400,000 Vietnamese in Cambodia in 1970. Almost half of them were either expelled to Vietnam or killed by the Lon Nol regime that same year and another 150-200,000 left Cambodia after the CPK took power in April 1975. The report states that around 20,000 Vietnamese were still living in Cambodia in April 1975 and “*all 20,000 of them died from the hands of the Khmer Rouge during the years from April 1975 to January 1979*”.³³⁷⁸
793. There appears to have been a very small number of Vietnamese people who remained in Cambodia throughout the CPK regime and were not killed. Two witnesses give evidence that they knew of a Vietnamese person who avoided being killed by physically hiding or by disguising him or herself as Khmer.³³⁷⁹ Another three witnesses state that they were aware of one or two Vietnamese people who were not killed but did not know why they had not been killed.³³⁸⁰ One witness who had a part-Vietnamese mother states that although the majority of her family was killed, including her mother, she was kept alive because “*there were not many Vietnamese in my village and ... my husband knew how to sew, particularly the beret caps and uniforms of the Khmer Rouge*”.³³⁸¹

Movement of Vietnamese Civilians From Cambodia To Vietnam

794. Initially the CPK focused on expelling all Vietnamese people from Cambodian territory and sending them to Vietnam. This policy commenced as early as 1973³³⁸² and was further applied in 1975 and 1976.³³⁸³ It was applied in Prey Veng and Svay Rieng³³⁸⁴ and throughout Cambodia.³³⁸⁵ Vietnamese people were transported by foot, train and boat to Vietnam.³³⁸⁶ It appears that only Vietnamese people were permitted to return to Vietnam³³⁸⁷ and there may have been language tests to establish their supposed Vietnamese citizenship.³³⁸⁸ Some witnesses state that they were made to go to Vietnam³³⁸⁹ and some state that Vietnamese people could choose to accept an invitation to go to Vietnam.³³⁹⁰ Some witnesses suspected that it was a trap and that people were actually being taken to be killed.³³⁹¹ The Cambodian spouses and families of Vietnamese people were not permitted to go to Vietnam, so it appears that many Vietnamese people who had Cambodian spouses or one Cambodian parent chose to remain in Cambodia.³³⁹²
795. One witness states that the CPK authorities gathered the Vietnamese to transport them by boats to their country and that those who did not leave were searched for and taken away for execution”.³³⁹³ Another witness corroborates this, describing what happened as follows: “*As for the ethnic Vietnamese, even if they had struggled and worked in the units or were ordinary people, they were sent back to Vietnam. Later on, any ethnic Vietnamese who had refused to*

go or who had disguised themselves as ethnic Khmer were arrested, taken away, and killed.³³⁹⁴

796. The April 1976 *Revolutionary Flag Magazine* appears to address the expulsion of Vietnamese. It refers to the “*one type of foreigner that was very strongly poisonous and dangerous to our people. These people have what is called a poisonous composition since they came to wolf us down, came to nibble at us, came to swallow us, came to confiscate and take away everything, and came to endanger our nation and our people, and they have caused us to lose much territory in the past*”. The magazine goes on to state “[h]owever, our revolution, in particular on 17 April 1975, sorted this issue out cleanly and sorted it out entirely. We assume that we sorted it out permanently. For thousands of years we were unable to resolve this issue and did not resolve it. The exploiting classes did not only not sort this out, they sold whole sections of land to these foreigners. Now, we have sorted out this issue. Our revolutionary workers and our revolutionary peasants and our people, our Revolutionary Army, sorted this issue out completely and permanently. The dimensions of this victory are huge, very profound, very magnificent ... That is, the great typhoon of the national movement and the great typhoon of our democratic revolution swept hundreds of thousands of these foreigners clean and expelled them from our country, got them permanently out of our territory”.³³⁹⁵

Killings of Vietnamese Civilians in Prey Veng and Svay Rieng

797. Numerous witnesses give evidence that waves of killings of Vietnamese civilians occurred in Prey Veng Province³³⁹⁶ and in Svay Rieng Province³³⁹⁷ in 1977, 1978 and 1979.³³⁹⁸ Using the CPK’s system of identifying administrative boundaries, Prey Veng and Svay Rieng Provinces encompassed part or all of the East Zone Sectors 20, 22, 23 and 24.
798. CPK cadre approached the arrest and killing of these Vietnamese people in a methodical way, going from house to house or calling meetings to register ethnic Vietnamese people.³³⁹⁹ Prepared lists of Vietnamese were used when conducting arrests,³⁴⁰⁰ which one witness states was part of orders from the “*upper level*”.³⁴⁰¹
799. Sometimes Vietnamese people would be told that they were being taken away for study,³⁴⁰² to a meeting,³⁴⁰³ or to cut rattan vine,³⁴⁰⁴ would be put into horse carts and taken away. Often the father of the family would be taken away first and then, within a short period of time, the mother and children also taken away.³⁴⁰⁵ One witness, whose Vietnamese mother was arrested, states that the only reason she survived is because the villagers told the CPK cadre

that she had “*Khmer blood*”.³⁴⁰⁶ Many of the witnesses gave evidence that all the Vietnamese in their village were taken away, or that they knew of Vietnamese people who had disappeared forever, but did not know where they were being taken.³⁴⁰⁷ Some witnesses give evidence that the killings took place in Veal Tauch, Chamkar Kuoy Village, Prey Veng District.³⁴⁰⁸

800. Witnesses identify village,³⁴⁰⁹ subdistrict³⁴¹⁰ and district³⁴¹¹ cadre as being involved in the arrest of the Vietnamese in Prey Veng. Some witnesses give evidence that the arrests were upon orders of the Sector 20 Committee³⁴¹² or the upper echelon³⁴¹³ and identify that the killings occurred both before³⁴¹⁴ and after³⁴¹⁵ the purge of the East Zone which was implemented mainly by cadre from the Southwest Zone.
801. A similar pattern of arrests and killings of Vietnamese people occurred in Svay Rieng Province.³⁴¹⁶ In 1977³⁴¹⁷ and 1978,³⁴¹⁸ witnesses saw Vietnamese people in Svay Rieng being arrested and taken away by subdistrict³⁴¹⁹ and district³⁴²⁰ CPK cadre. None of the witnesses knew where they were being taken to but give evidence that they knew they were taken to be killed.³⁴²¹ One witness, who gives evidence that the “*Vietnamese line*” was arrested, states that “*I do not know where they took them: they took them away and they disappeared. They killed them; they did not take them anywhere*”.³⁴²²

Killings of Vietnamese Civilians outside of Prey Veng and Svay Rieng

802. The killing of Vietnamese civilians was not limited to Prey Veng and Svay Rieng Provinces, thus demonstrating that it was organised as a national policy. A mass execution of Vietnamese people occurred in mid-to-late 1978³⁴²³ at Wat Khsach, in Yeang Village, Russei-Lok Subdistrict, Siem Reap Province.³⁴²⁴ Vietnamese people were arrested from Svay Leu District³⁴²⁵ and Chikreng District³⁴²⁶ (Siem Reap Province, North Zone) and taken to Wat Khsach. The CPK took measures to ensure that only Vietnamese people were targeted. Arrests were conducted with the use of a statistical list of Vietnamese people.³⁴²⁷ One witness states that he heard a CPK cadre ask the people who had been arrested “*[a]re all of you Vietnamese?*”³⁴²⁸ Another witness heard the CPK cadre asking “*[a]re you Yuon or Chinese?*” and stated that those who replied they were Vietnamese were killed and those who were Chinese were released.³⁴²⁹ This is corroborated by a further witness who met a woman who had been released from Wat Khsach because she claimed to be Chinese.³⁴³⁰ The Vietnamese people were not interrogated or detained for long in Wat Khsach. They were killed within 24 hours of being arrested,³⁴³¹ by bamboo clubs, and the bodies were put in grave pits and a well.³⁴³² Some witnesses saw the killings³⁴³³ and another heard the sounds of them striking the

people and heard screaming.³⁴³⁴ One witness stated that approximately 100 Vietnamese people were killed within the three hours he watched and estimated that around 600-700 were killed in total.³⁴³⁵ Another witness stated that approximately 25 people were killed in the one hour he watched and estimated that approximately 100 people were killed over two or three successive occasions.³⁴³⁶ Vietnamese men, women and children were killed.³⁴³⁷

803. Other witness statements describe that Vietnamese civilians were targeted and killed throughout Cambodia, including in the following places: Battambang³⁴³⁸ and Pursat³⁴³⁹ in the Northwest Zone; Monduliri³⁴⁴⁰ in Autonomous Sector 105 in the North East Zone; Kampot,³⁴⁴¹ Takeo³⁴⁴² in the Southwest Zone; Kratie³⁴⁴³ in Autonomous Sector 505; Koh Kong³⁴⁴⁴ in the West Zone; and Kroch Chhmar and Khsach Kandal³⁴⁴⁵ in the East Zone.³⁴⁴⁶
804. There is also evidence that Vietnamese people were detained and killed at a number of security centres under investigation by the Co-Investigating Judges, including: S-21 in Phnom Penh;³⁴⁴⁷ Kraing Ta Chan Security Office in the Southwest Zone;³⁴⁴⁸ Prey Damrei Srot Security Centre and Koh Kyang Security Centre in the West Zone;³⁴⁴⁹ Kok Kduoch Security Centre (Kok Kduoch) in Autonomous Sector 505,³⁴⁵⁰ and Au Kanseng Security Centre in the Northeast Zone.³⁴⁵¹ In June 1977, 209 Vietnamese troops of Jarai nationality were captured³⁴⁵² and later executed *en masse* at the Au Kanseng Security Centre.³⁴⁵³ The arrest of these people had been reported by the Secretary of the Northeast Zone to “Respected Brother” and copied to **Nuon Chea** and **Ieng Sary**.³⁴⁵⁴

Treatment of Cambodian People with Vietnamese Spouses and Children with one Vietnamese Parent

805. Pursuant to the early CPK policy, those Vietnamese with Cambodian spouses were not permitted to return to Vietnam with their spouses.³⁴⁵⁵ This resulted in a situation where many of the remaining Vietnamese in Cambodia in 1977 were those who had married Cambodians and had children.
806. A large number of witnesses gave evidence that there was a particular practice of how to treat Cambodian people in such a situation, which was applied on many occasions not only throughout Prey Veng³⁴⁵⁶ and Svay Rieng³⁴⁵⁷ but also in Kampong Cham (Kang Meas District in Central (Old North) Zone Sector 41)³⁴⁵⁸ and Siem Reap province.³⁴⁵⁹
807. The practice was as follows: if a Vietnamese man was married to a Cambodian woman, only the man would be killed and the woman and any children would be spared. But, if a

Vietnamese woman was married to a Cambodian man, the woman and children of the marriage would be killed, while the man would be spared.³⁴⁶⁰

808. The reasoning behind this policy is referenced by a number of witnesses. One witness states that *“if the mother was Vietnamese, they would take the mother and all the children and kill them because the children suck the milk of the mother”*.³⁴⁶¹ Other witnesses states that they were told that the children of Vietnamese mothers were killed because *“the umbilical or the blood comes from the mother and not from the father”*³⁴⁶² or because the policy consisted of *“killing the Vietnamese genes or the Vietnamese blood line”*³⁴⁶³ and that *“the Vietnamese race should neither exist anymore, nor should it be allowed to reproduce”*.³⁴⁶⁴
809. The children of Cambodian mothers and Vietnamese fathers were not always spared. On some occasions, it appears these children were also killed.³⁴⁶⁵ On some occasions, the Cambodian spouse of a Vietnamese person was also arrested³⁴⁶⁶ or killed.³⁴⁶⁷
810. A telegram from Ruos Nhim dated 17 May 1978 requests advice from “Angkar 870”, about what to do with *“[no-good] elements like soldiers, Vietnamese people – a Khmer husband with a Vietnamese wife or a Vietnamese husband with a Khmer wife – and half-bred Cambodian-Vietnamese people”*.³⁴⁶⁸ Nhim notes that there has been no opposition from these people *“as yet”* but if anyone *“acts something, let him/her be swept off. As for the others, it is requested that they be put aside in one place. With this matter, I think it is not difficult to collect [them], though we have to control them continually. If they come us with phenomena [aspects] we can master [control] them immediately”*. Although Nhim suggests a course of action to collect, control and if necessary kill these people, he also states that *“the meeting would like to pose this question to Angkar 870. It is up to Angkar to decide. Please let us know if there is any decision made by Angkar”*.³⁴⁶⁹
811. During an interview, Duch commented on this document and states *“there is nothing surprising in this document, Ruos Nhim wrote to Pol Pot (“Angkar 870”) in order to explain that regarding former soldiers, Cambodians married to Vietnamese and mixed blood children, the situation was under control and that these people were not likely to damage Angkar in any way. It should be understand that the regime was particularly attentive to this population category, in which they had no trust. This was more for political than “racial” reasons. In fact, there was agreement between the higher and lower echelons that these people should be unable to take action. I don't know if Pol Pot answered Ruos Nhim, but it was not really necessary”*.³⁴⁷⁰ Duch also states that although he did not believe there was a clearly established policy about Vietnamese civilians living in Cambodia,³⁴⁷¹ all those who

remained in Cambodia after 17 April 1975 were “*eliminated*”.³⁴⁷² He further states, “*I remember seeing S-21 lists carrying the names of Vietnamese who were still living in Cambodia. Civilians and the military were treated in the same way: they were interrogated and sent to execution*”.³⁴⁷³ Finally, Duch further states that he was sometimes informed by **Nuon Chea** of the arrival of Vietnamese civilians and soldiers at S-21.³⁴⁷⁴

812. Similarly, a letter from Ang Ta Saom Subdistrict Chief to Tram Kak District Party dated 26 April 1977 reports on the existence of married Cambodian and Vietnamese couples who had requested to go to Vietnam and asks what “*Angkar*” would like to do with them. The letter states that they have all been registered, and that if both the husband and wife were had been Vietnamese they would have just been sent to “*Angkar*”.³⁴⁷⁵ Another report from the chief of Khal Pou Village requests advice from “*Angkar*” about what to do with a “*half-breed Vietnamese*” who had allegedly complained and claimed to be too sick to work.³⁴⁷⁶
813. Witnesses also observed that particular treatment of the spouses of Vietnamese people and people with one Vietnamese parent appeared to the result of a decision that was taken by the upper echelon. Several witnesses were informed of the practice by CPK cadre, such as the “*village chief*”³⁴⁷⁷ and whilst attending a “*self-criticism meeting*”.³⁴⁷⁸ One witness explains that “*I knew there were orders from the top downward because I noticed that there were meetings in the morning and in the afternoons the arrests occurred*”.³⁴⁷⁹ Another witness states that “*I know that the subdistrict militia ... made the arrests following orders from the upper echelon*”.³⁴⁸⁰

Intention to Destroy the Vietnamese as a Group

814. In the April 1977 issue of the *Revolutionary Flag Magazine*, the CPK called for the masses to “*seek out ... assess ... analyze ... track ... pressure ... capture ... smash the enemy*”.³⁴⁸¹ It states, “*[o]ne very important issue that has to be concentrated on is clearly unmasking again and again the CIA and their agents, the KGB and their agents, the territory-swallowing Yuon and the running dogs throughout the whole Party, throughout the whole army and throughout the people and attacking and breaking the enemy politically and preventing them forever from sneaking into our Party, our army and our people. As for their old roots, some of whom still remain after we have smashed them to bits, it is imperative to whip-up the people to sweep more of them clean and make things permanently clean*”.³⁴⁸² This can be considered to constitute a direct call to kill all members of the Vietnamese community remaining in Cambodia.

815. The existence of such a policy is corroborated by notebooks of S-21 cadres, which contain evidence that cadre knew they were required to find and kill all Vietnamese people throughout Cambodia. One notebook states, “[f]ind the Yuon: We find them scattered everywhere. We know there are hidden Yuon in the East, in the Northwest, in Phnom Penh which we have not found. But they do in fact exist”.³⁴⁸³ Another states “[h]ave we found the Yuon or not? Maximum victory = finding the Yuon. Minimum victory = Finding additional traitor connections who are Yuon agents”.³⁴⁸⁴ The same passage goes on to further note that those Vietnamese are hidden throughout Cambodia.³⁴⁸⁵
816. Evidence of implementation of the policy is contained in communications from the zones to the Centre. A report dated 4 August 1978 from West Zone Office 401 reports to “Angkar” of “smashing 100 Vietnamese nationals, small and big, young and old”.³⁴⁸⁶ This report adds that “our measures against the above enemy elements” consisted of “continuing to follow up with research to find all kinds of enemy links who are undercover burrowing from within and to sweep more of them cleanly away, to absolutely cleanse them from the grassroots and various units, offices and ministries”. According to a military report from 1 April 1978, [REDACTED], [REDACTED] of Centre Division 164, reported in a secret telephone message to Nuon Chea and Ieng Sary that 120 Vietnamese had been captured and shot in the three days between 27 and 30 March 1978.³⁴⁸⁷
817. Former cadre also corroborate that the policy was that wherever there were Vietnamese, “everyone had to be careful and to find them and to “sweep them up”.³⁴⁸⁸
818. In 2006, Norodom Sihanouk published a handwritten letter in which he gave details of a meeting with Pol Pot in the later stages of the CPK regime.³⁴⁸⁹ Although this letter does not have the weight as a declaration made as a Written Record of Interview within a judicial investigation, it is considered to be of sufficient weight to be included in the matrix of facts within the Closing Order. This letter states that Pol Pot told Norodom Sihanouk the following:
- “Our Kampuchea will not be at peace as long as we Kampuchean have not overcome the evil Yuon race. I started by sending our army to Kampuchea Krom (Cochin-China) with the mission to kill as many men, women and children as possible of the evil race. However, it was not possible to kill them all in their territory. In Annam and Tonkin, tens of millions of them are still alive and kicking. So I have decided to change strategy and tactics. Entirely. It is to lure them to our country, give them the impression that they have won military victory. And once they are inside Democratic Kampuchea, we the men and women of Kampuchea will hack them to pieces. We will chop them up. Back home in Vietnam, when they (the Yuon),*

*realize that their soldiers are not returning, they will send us more divisions. We the people of Kampuchea will continue to chop them up. And, in the final phase, we will enter their territory, Annam and Tonkin, after liberating our Kampuchea Krom, and kill their women and children (boys, girls and infants). That way, the evil Yuon race will be wiped off the face of the earth”.*³⁴⁹⁰

Anti-Vietnamese War and Purge Propaganda

819. Anti-Vietnamese propaganda aimed at the Vietnamese armed forces pursuant to the armed conflict with Vietnam and allegations that the Vietnamese had Khmer agents hidden among the Cambodian people alongside agents of the American CIA and Soviet KGB,³⁴⁹¹ while not specifically and expressly targeting remnants of the Vietnamese community in Cambodia, accompanied and greatly encouraged killing those Vietnamese civilians. So did killings of Vietnamese civilians in Vietnam or captured off the coast of Cambodia.
820. From 1977, the CPK escalated its use of propaganda against the Vietnamese inciting Cambodian hatred of the Vietnamese. The CPK disseminated propaganda that the Vietnamese were expansionist, aggressive, evil, savage, land-grabbing, territory-swallowing annexationists³⁴⁹² who intended to take over Cambodia “*eradicating the race and the territory*” of Cambodia.³⁴⁹³ The CPK incited a “*raging, painful hatred*” of the Vietnamese and encouraged cadre to continuously incite this hatred amongst the population.³⁴⁹⁴ Forced “*confessions*” of captured Vietnamese soldiers were played on the radio which contained incendiary statements to the effect that Vietnam was planning to swallow Cambodia and destroy the Cambodian people.³⁴⁹⁵ **Khieu Samphan**,³⁴⁹⁶ **Ieng Sary**,³⁴⁹⁷ **Ieng Thirith**³⁴⁹⁸ and **Nuon Chea**³⁴⁹⁹ all participated in the dissemination of such propaganda about the Vietnamese.
821. In the December 1977-January 1978 issue of the *Revolutionary Flag Magazine*, the CPK publically congratulated the country for the internal purges during 1977 of “Vietnamese agents” hidden in the revolutionary ranks. It states, “[w]e seized great and systematic victories in 1977 by being able systematically to purge and sweep enemies cleanly away and basically to dig out their main roots ... Arriving at the present, Yuon and Soviet hidden forces boring from within basically no longer exist”.³⁵⁰⁰ The magazine called for further killings, stating “[t]urning to organising, our important virtue this year is that we have purged and clean out bad elements and hidden enemy elements boring from within, making our Party maximally clean ... In the days to come, however, we must pay attention to continuing to

conduct further purges ... It is necessary to continue to conduct further purges because enemy elements are not yet thoroughly gone".³⁵⁰¹

822. The July 1978 edition of the *Revolutionary Flag Magazine* contains further calls for the killings of Vietnamese people. It states "*the Yuon enemy ... have been our national enemy from the beginning up through the present, and will be our enemy in the protracted future as well ... The national duty of all of us is to struggle to fight to eliminate our aggressive, expansionist, territory-swallowing and genocidal Yuon enemy. Just like the Kampuchians of our current generation, absolutely no Kampuchians of any subsequent generation will lay down arms and stop fighting the aggressive and expansionist/territory-swallowing and genocidal Yuon enemy of the Kampuchian race*".³⁵⁰² The magazine goes on to congratulate the cooperatives for their role in the killings, stating "[e]ven more particularly, in the great mass movement to attack and smash the aggressive, expansionist, territory-swallowing, genocidal Yuon enemy and in the great mass movement to sweep cleanly away the concealed enemies boring from within who are CIA agents, Yuon running dog agents and KGB agents, cooperatives throughout the country have played an important leading role in carrying out activities fulfilling their missions, bringing about a strategic victory for the nation, the people, the Party and the revolution".³⁵⁰³ These instructions were coupled with a description of past purges of alleged traitors within the Party ranks and the people.³⁵⁰⁴
823. On 15 May 1978, the CPK broadcast a policy over the Phnom Penh home radio service stating that because Cambodia was a smaller nation than Vietnam, "*in terms of numbers, one of us must kill 30 Vietnamese*". The broadcast states: "*Using these figures, one Cambodian soldier is equal to 30 Vietnamese soldiers. Then how many Vietnamese are equal to 10 Cambodian soldiers? The answer must be 300. And 100 Cambodians are equal to 3,000 Vietnamese. And 1,000,000 Cambodians are equal to 30,000,000 Vietnamese. We should have 2,000,000 troops for 60,000,000 Vietnamese. However 2,000,000 troops would be more than enough to fight the Vietnamese, because Vietnam has only 50,000,000 inhabitants. We don't have to engage 8,000,000 people. We need only 2,000,000 troops to crush the 50,000,000 Vietnamese, and we would still have 6,000,000 people left*".³⁵⁰⁵
824. The broadcast goes on to state, "[t]his matter does not concern the armed forces alone. The entire Party, army and people must be made fully aware of these lines, views and stand".³⁵⁰⁶ Indeed, the policy was broadcast over the radio to the Cambodian people and was further communicated to CPK cadre. In the notebook of Mam Nai alias Chan, a senior S-21 interrogator who took notes during lessons given by Duch,³⁵⁰⁷ he notes that the "*principle designated by the Party*" is generally one against 30 but went up to one against 90 in Svay

- Rieng.³⁵⁰⁸ He states that this policy must be implemented by “[s]weep[ing] clean all the enemies, accurately”.³⁵⁰⁹ The notebooks of Pon and Tuy, two other S-21 interrogators also refers to the “party principles” of one against 30 and one against 90 in Svay Rieng.³⁵¹⁰
825. Other CPK radio broadcasts demanded “high revolutionary vigilance” to “protect the Party and defend the revolutionary administration of the worker-peasant class by eliminating both the enemy remnants planted with and the enemy aggressors coming from without”³⁵¹¹ with specific attention given to the need for “completely eliminating from all our cooperatives and Cambodian territory both the enemy remnants planted within and the enemy aggressors from without, as well as all their activities”³⁵¹² and for government offices and departments to do the same.³⁵¹³ The army vowed “to fight and exterminate the annexationist enemy and other enemies of all stripes so that they will be completely wiped out from our Cambodian territory”.³⁵¹⁴ The Ministry of Information and Propaganda stated “should Vietnam refuse to withdraw its forces from the sacred territory of Cambodia, there is only one solution left for the Cambodian Revolutionary Army and people: that is to crush and exterminate to the last man the aggressor Vietnamese enemy who has come to swallow up Vietnamese territory”.³⁵¹⁵
826. Other instances of killing, “smashing” and attacking Vietnamese civilians and destruction of Vietnamese property were communicated to Office 870, **Nuon Chea** and **Ieng Sary**.³⁵¹⁶
827. **Nuon Chea**, **Ieng Sary** and Office 870 were also kept informed by detailed reporting from lower-level cadre on mass killings of Vietnamese civilians in Vietnam. On 14 August 1977, a telegram sent to Mo-81 and copied to **Nuon Chea** and **Ieng Sary** reports that “the Kampuchean army has committed mass killings of 1,000 ordinary Vietnamese people at Ha Tien in Kien Giang province”.³⁵¹⁷
828. A CPK Directive from Office 870, dated 1 January 1979 contains instructions on fighting “the aggressive and expansionist land-grabbing Yuon enemy”.³⁵¹⁸ The Directive was addressed to “the entire Kampuchean people, the entire Revolutionary Army of Kampuchea, and all the combatants male and female, all the cadres in every office and ministry”. The directive orders the people to “raise the spirit of revolutionary vigilance to always be high to track down and search out Yuon enemy agents and not allow them to hide anywhere at all, to eliminate them and gain timely mastery”.³⁵¹⁹
829. Two days later, Office 870 gave further instructions about how to effectively attack the “aggressor Yuon”, both on the battlefield and within the party. These instructions ordered that “the Zone, Sector, and District Command Committees at all levels and the military

*cadres and the bases concentrate on studying over and over the line of attack laid out above so that it will be its most effective, and [propose they] fire up our cadres and combatants to defend the Party and the Revolution of Democratic Kampuchea, defend our people, our cooperatives, and all of our rice, farms, crops and produce”.*³⁵²⁰ It goes on to order that every level of the Party and military units, ministries, and offices must: “[t]ake careful and firm measures to eradicate espionage, pacifist agents, and the various types of psychological warfare used by the enemy, regardless of form. Be most vigilant on the individual battlefields and near the battlefields among the military, the people, the male and female combatants, the ministries and offices, and the cadres”.³⁵²¹

830. Committee 870 gave orders on how to attack the invading Vietnamese troops. A directive dated 3 January 1979 demonstrates the intention of the members of Committee 870 to “*push away enemy, destroy enemy, and surely Yuon will cry like monkey and scream all over the forests before they are completely abolished [destroyed] from our sacred land*”.³⁵²² The directive also contains orders on how it was to be disseminated through the party: “[t]his advice must be disseminated and studied by party [cadres] at zone, regions, and districts, cooperatives, by battle fields commanders, division commanders, regiment commanders, battalion commanders, company commanders, platoon commanders, unit commanders, and soldiers, commanders at each target, many times until it is fully understood”.³⁵²³
831. The killings may also have been linked to a purge of the East Zone of alleged traitors, whom **Nuon Chea** identified as “*embedded enemies boring holes in side, enemies that were the arms and legs of the Yuon*”,³⁵²⁴ but also extended to Vietnamese outside the East Zone.

Crimes committed by the Revolutionary Army of Kampuchea on Vietnamese territory

832. The Co-Investigating Judges are seized of crimes allegedly committed against Vietnamese civilians during incursions into the territory of Vietnam by the RAK.³⁵²⁵
833. During the course of the investigation, the Co-Investigating Judges issued an International Rogatory Letter to the Government of Vietnam, requesting Vietnam’s cooperation and assistance in their judicial investigation regarding this country.³⁵²⁶ Such Rogatory Letter was delivered to the Embassy of Vietnam in Phnom Penh on 19 June 2008. A significant number of the documents requested in this International Rogatory Letter related to the international armed conflict with Vietnam and/or RAK incursions into Vietnamese territory as well as CPK military matters.³⁵²⁷

834. The Co-Investigating Judges received no formal response from the Vietnamese authorities. Six months after the delivery of the request for assistance, a follow-up letter was sent to the Embassy of Vietnam but again no formal response was received.³⁵²⁸ During this time, an investigator of the Office of the Co-Investigating Judges mandated to contact the Vietnamese authorities liaised a number of times (via telephone and in person) with a representative of the Embassy with a view to receiving the requested documents. However, such contacts did not result in any formal response. Full details of the extent of the communications are particularized in the Rogatory Letter Completion Report.³⁵²⁹
835. In the absence of any formal response from the Embassy of Vietnam to these repeated communications, the Co-Investigating Judges concluded that the likelihood of the Vietnamese authorities cooperating and providing access to potential crime sites within the territory of Vietnam was low. It was thus considered futile to issue new international rogatory letters. As such, any investigation into alleged crimes committed on the territory of Vietnam was necessarily limited as it has not been possible during the investigation to visit the sites of any alleged attacks nor interview any witnesses from the local areas.
836. Nevertheless, the Co-Investigating Judges have conducted an investigation within these limitations and have determined that it appears that the RAK carried out incursions into Vietnamese territory in mid-to-late 1977.³⁵³⁰ During the course of these incursions, the RAK killed civilians, burned houses and destroyed property. The CPK Centre received regular military telegrams from RAK commanders from the various battle fronts reporting on the progress of military operations and seeking instructions. Furthermore, the Vietnamese government petitioned the ambassador of Democratic Kampuchea to Vietnam, Heng Sokh-Kheng alias Chhean regarding crimes being committed by RAK forces against Vietnamese civilians in a number of locations. Chhean then reported these discussions to the CPK Centre and requested instructions. The developments below demonstrate that civilians were killed in Ha Tien in Kien Giang Province, An Giang Province and in Phsar Kradas and other locations in Tay Ninh Province.
837. A telegram dated 4 August 1977, copied to **Nuon Chea** and **Ieng Sary** reports that “*the Kampuchean army has committed mass killings of 1,000 ordinary Vietnamese people at Ha Tien in Kien Giang province*”.³⁵³¹ A telegram dated 15 June 1977 also copied to **Nuon Chea** and **Ieng Sary** refers to an attack by RAK forces on Ha Tien, “*slaughtering and torching of residences, bringing about enormous casualties*”. The telegram further states that “*the fact that the Kampuchean army committed such transgressions, slaughtering, burning and*

smashing, is not something they are raising according to reports, but something for which there can be clear and irrefutable evidence".³⁵³²

838. Another telegram states that *"our troops had invaded into Tay Ninh during September 1977, massacring and killing more than 1,000 people"*.³⁵³³ During proceedings of Case File 001 before the Trial Chamber, Nayan Chanda gave expert witness testimony about personally witnessing the aftermath of RAK attacks in Tay Ninh and Ha Tien and seeing dead civilians, including women and children.³⁵³⁴
839. Additionally, the killing of Vietnamese people in An Giang Province by RAK mortars was reported to the Centre, including **Nuon Chea** and **Ieng Sary**.³⁵³⁵ In addition, Civil Parties provide information on RAK attacks in An Giang Province.³⁵³⁶ Finally, one former RAK combatant gives evidence that while fighting in Phsar Kradas in Tay Ninh Province in early 1977, he was given orders to shoot and kill Vietnamese right away *"even if they raised their arms"* adding *"as for the Vietnamese soldiers and people, hundreds were probably killed"*.³⁵³⁷
840. There is evidence that RAK burned houses and destroyed property during incursions into Vietnamese territory.³⁵³⁸ Attacks were reported to the CPK Centre through military telegrams from RAK commanders from the various battle fronts.³⁵³⁹ One former RAK combatant describes in an interview with investigators an attack in Tay Ninh province in mid-1978. He states that his group of 200 combatants was ordered to enter the village and *"destroy and burn up everything"* and that in response to this order he *"threw the grenades, burned houses, military hospitals, ammunition storages and sawmills"*.³⁵⁴⁰ Another former RAK combatant states that he was also given orders to *"burn and destroy the houses and building, both civilians and military"* while fighting in Phsar Kradas.³⁵⁴¹ Civilians were also killed in the course of the destruction of property.³⁵⁴²

841. **Sixty eight (68)** civil parties were declared admissible in the context of the "treatment of the Vietnamese"³⁵⁴³ since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 *bis* (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crimes committed in the context of the "treatment of the Vietnamese".

Regulation of Marriage³⁵⁴⁴

Profile of Persons Married

842. Both men³⁵⁴⁵ and women³⁵⁴⁶ were forcibly married under the CPK regime. Most were in their twenties at the time of the marriage,³⁵⁴⁷ however there were also occasions where the spouses were younger³⁵⁴⁸ or older,³⁵⁴⁹ although former CPK cadre state that persons were deemed eligible for and assigned to be married from the age of 20 for women and 25 for men.³⁵⁵⁰ Several witnesses who were forcibly married were former monks who had been disrobed.³⁵⁵¹ Others were remarried after their former spouse disappeared.³⁵⁵²

Prevalence of Marriage

843. Of the marriages whose date can clearly be asserted, there is evidence that forced marriage occurred before 17 April 1975 in areas under the control of the CPK.³⁵⁵³ For the period following this, witnesses testify to forced marriage occurring during the entire period of the regime³⁵⁵⁴ in nearly every zone.³⁵⁵⁵

844. Throughout the country, people were typically married in mass ceremonies³⁵⁵⁶ ranging from two couples³⁵⁵⁷ to over 100 couples,³⁵⁵⁸ with the majority of witnesses in ceremonies between 10 to 60 couples.³⁵⁵⁹ Duch states that his wedding was not the norm at that time since his ceremony was without other couples present.³⁵⁶⁰ One witness states that weddings were held jointly in order to avoid any waste of resources.³⁵⁶¹

Role of the Authorities

845. A former sector secretary states that the policy of group marriages was pronounced at the highest level, and further detailed that he attended a meeting during which Pol Pot stated: “*marry them in couples, two or three couples could be married, to not make it too difficult*”.³⁵⁶² One witness’ marriage was arranged by their direct supervisor within the Ministry of Social Affairs, although the witness was told by **Ieng Thirith** that she had wanted to arrange for the witness to marry somebody else.³⁵⁶³ A former district cadre states that in prisoners detained for “*moral offences*” who were widows or single persons were married based upon a policy of the upper echelon.³⁵⁶⁴ A former district cadre affirms that people could refuse to be married, and that although marriages took place pursuant to decisions made by his superior sector, this “*was not forced marriage*”. However, he states that in practice, he decided who was to be married to whom based on his appraisal of their “*personal histories*” after which his decision was announced by the District Committee, and couples did not dare

object to his choices for fear of execution. Similarly, he states that it was pronounced that they were free to divorce, but in reality anyone who split up a marriage “*would have problems*” and be sent to labour at a worksite.³⁵⁶⁵

846. Most witnesses attest to marriages being arranged by persons other than the individuals concerned or their families. Many witness state that marriages were arranged by “*Angkar*”³⁵⁶⁶ or by “*Pol Pot*”³⁵⁶⁷ or the “*Khmer Rouge*”.³⁵⁶⁸ More specifically, some witnesses state that marriages were arranged by representatives of the administrative authority such as the unit chief, the district secretary, the district committee or chairman, the village chief, or the cooperative chief.³⁵⁶⁹

Rationale for Spouse Selection

847. Duch states that there existed a policy that marriages should follow the equation of “*1+1=2*” meaning that only individuals of the same standing, especially in terms of party membership and social status, should be married.³⁵⁷⁰ This is corroborated by several witnesses across different zones.³⁵⁷¹ One witness also referred to a rationale that persons who were married to foreigners were re-married to Cambodian nationals.³⁵⁷²
848. There is also evidence that when the army wanted their soldiers to marry, they would pick women from the villages³⁵⁷³ or that marriages of soldiers were arranged through the use of numbers where groom with the number one was supposed to be married with the bride holding number one etc.³⁵⁷⁴ Some witnesses refer to the marriage of women to “*disabled*” soldiers.³⁵⁷⁵ Another witness states that if persons refused to marry, they would be married “*to a Khmer Rouge handicapped soldier*”.³⁵⁷⁶

Coercive Circumstances

849. Most witnesses state that they were forced to marry³⁵⁷⁷ and/or feared to oppose the will of “*Angkar*”.³⁵⁷⁸ It appears people generally did not know their future spouses before the ceremony³⁵⁷⁹ and had no influence on the decision.³⁵⁸⁰ Witnesses state that they were told to marry the person identified for marriage regardless of whether they liked it or not.³⁵⁸¹ one civil party specified that she could not oppose the wedding because she did not know to where she could escape;³⁵⁸² another witness had been sent to reeducation after she refused a previous marriage proposal, and thus she was afraid to not agree to get married, etc.³⁵⁸³ Although some attempted to refuse,³⁵⁸⁴ other witnesses state that if marriage was refused, the person would be sent to a mobile unit³⁵⁸⁵ or worksite,³⁵⁸⁶ “*removed*” from the unit³⁵⁸⁷ or sent to be

- reeducated³⁵⁸⁸ or “*disappeared meaning that taken to be killed*”³⁵⁸⁹ or they would be accused of being “*traitors*”³⁵⁹⁰ or would be “*smashed or killed by Angkar*”.³⁵⁹¹ Others state they did not dare to object³⁵⁹² specifying that some people committed suicide either by drowning into the water or poisoning themselves.³⁵⁹³
850. Several witnesses have confirmed this fear of being killed.³⁵⁹⁴ One civil party states that her sisters were forced to marry CPK cadre despite attempting to avoid the marriage by faking illness and they were later killed, along with other women who had refused to marry.³⁵⁹⁵ Another witness states that if people made decisions on who to marry on their initiative, they would be taken away to be killed.³⁵⁹⁶
851. However, there are some instances where individuals successfully objected to the marriage.³⁵⁹⁷ One witness states that in her unit, the women collectively denied marriage requests by a men’s unit and subsequently were not forced to be married.³⁵⁹⁸ Another witness states that women refusing to marry were left in their working battalions and not forced to marry.³⁵⁹⁹ A disrobed former monk repeatedly refused to be married and was not punished for his refusal.³⁶⁰⁰
852. Similarly, some witnesses state that their spouse had some degree of influence on the choice of their future spouse as a result of a request made to the authorities.³⁶⁰¹ One witness specified that he protested against his match because he loved another woman and was then allowed to marry the woman he preferred.³⁶⁰²
853. Duch states in interview that although a party cadre would propose marriage, proposals were made to couples known to want to marry.³⁶⁰³ Another witness who himself arranged marriages states that most couples were satisfied and that those who were not were given “*imagination counseling*” after which they agreed to their marriage.³⁶⁰⁴ Several other witnesses stated future spouses had some degree of choice in the marriage.³⁶⁰⁵

Marriage Ceremony

854. Witnesses refer to marriages taking place in diverse locations: in official buildings (the district office,³⁶⁰⁶ the Party office,³⁶⁰⁷ the military unit,³⁶⁰⁸ the communal kitchen,³⁶⁰⁹ a hospital,³⁶¹⁰ or at a meeting place,³⁶¹¹ etc); or in public places (a vehicle parking area,³⁶¹² a rice field,³⁶¹³ or at worksites,³⁶¹⁴ or cooperatives,³⁶¹⁵ etc). Some witnesses give evidence of marriages taking place in pagodas.³⁶¹⁶

855. The marriage ceremony followed a similar pattern. Witnesses state that they were provided with new black clothing and krama scarves.³⁶¹⁷ Witnesses state that couples were brought together either sitting³⁶¹⁸ or standing³⁶¹⁹ next to each other or holding hands³⁶²⁰ and being made to make vows³⁶²¹ to accept each other³⁶²² and to work to achieve the objectives of “*Angkar*”³⁶²³ and the revolution.³⁶²⁴ Others refer to spouses walking under a flag³⁶²⁵ and reading out their spouses’ biographies.³⁶²⁶ Witnesses give evidence of the absence of traditional Cambodian ritual³⁶²⁷ such as the participation of monks.³⁶²⁸
856. With respect to who was present at the ceremony, most witnesses state that it was simply the other couples and the persons who arranged the ceremony, and that family members were not present, in particular the mother and father.³⁶²⁹ Although one civil party gives contrary evidence of staying with their parents for three days after the wedding ceremony.³⁶³⁰ Another witness states there was no celebration, the couples simply walked to their respective houses afterwards.³⁶³¹
857. One witness who denies that forced marriage or mass ceremonies took place states that families participated in wedding ceremonies.³⁶³² According to another witness, Pol Pot had said that parents should attend marriages.³⁶³³ Some witnesses state that weddings were followed by a shared meal.³⁶³⁴ Duch states that for him, his family and the family of his spouse (whom he had authority to choose himself) were allowed to participate in his own wedding. He received preferential treatment due to his superior position, however he recognises that he was not able to express his wish to have his mother give him her best wishes during the ceremony.³⁶³⁵

Following the Marriage Ceremony

858. With respect to the consummation of marriage, one civil party interviewed stated that she did not dare to refuse to have sexual intercourse with her husband because the unit chief would have beaten her if she did because she saw this happen to another woman in her unit.³⁶³⁶ Several witness stated that consummation of marriage was monitored by militias.³⁶³⁷ One witness stated that a cadre told her that couples who refused would be sent to prison.³⁶³⁸ Some people committed suicide because of these reasons.³⁶³⁹ Another states that three days after the ceremony the unit chief told her to stay with her husband. She was very scared of her husband and there were militiamen eavesdropping below the house so she was forced to have sex with her husband.³⁶⁴⁰ Another witness stated that couples were not monitored³⁶⁴¹ and Duch further stated that “*[t]o my knowledge there were no measures to organise surveillance but some immoral cadre spied on the married people to find out whether they were sleeping together*”

(this was independent of the problem of forced marriages). I remember in particular, the case of Comrade Pang, regimental secretary and later secretary of the Military Hospital 98 Committee, who asked his subordinates to spy on married people to see if they were sleeping together. He was punished for this: he was first made to apologize to the married couples in question and then, as there were other allegations against him, he was arrested, transferred to S-21 and executed³⁶⁴².

859. With respect to whether people were made to stay together after the marriage ceremony, some witnesses state they were made to spend time together immediately after the ceremony³⁶⁴³ before being separated.³⁶⁴⁴ Other witnesses state that they were together for some time after the ceremony and then were made to meet³⁶⁴⁵ more or less frequently³⁶⁴⁶ (sometimes around once a week, sometimes once a month); some appear to have remained together after the ceremony;³⁶⁴⁷ some witnesses state that they are still with their spouses³⁶⁴⁸ whereas others state they separated.³⁶⁴⁹
860. Some witnesses refer to children born as a result of the marriage.³⁶⁵⁰

861. **Six hundred and sixty four (664)** civil parties were declared admissible with regards to the policy of the regulation of marriage³⁶⁵¹, since the alleged crimes described in the application were considered as being more likely than not to be true, pursuant to Internal Rule 23 bis (4). These civil parties have provided sufficient elements tending to establish *prima facie* personal harm as a direct consequence of the crime of forced marriage.

IX. ROLES OF THE CHARGED PERSONS

A. NUON CHEA³⁶⁵²

Background

862. **Nuon Chea** became politically active in the late 1940s while working in Thailand and was a part of Youth for Democracy, an offshoot of the Communist Party of Thailand, of which he was a member.³⁶⁵³
863. He then moved back to Cambodia and joined the *maquis* of the Indochinese Communist Party in the Samlaut area and he was in charge of propaganda within the Party.³⁶⁵⁴ At that time, he

was actively involved with the Vietnamese communists and communist elements of the Issarak movement (1950-1953).³⁶⁵⁵ He continued as an active member of the communist movement after the formation of the Khmer People's Revolutionary Party ("KPRP") in 1951.³⁶⁵⁶ Between 1951 and 1953, he underwent political training in both South and North Vietnam. Following the signing of the Geneva Agreement, he posed as a businessman while as he was in fact a member of the underground communist movement in Phnom Penh.³⁶⁵⁷

864. In September 1960, **Nuon Chea** was elected Deputy Secretary of the KPRP, which was renamed the Kampuchea Workers Party, and later, the Communist Party of Kampuchea (CPK), alongside Saloth Sar and Tou Samouth.³⁶⁵⁸ When Saloth Sar became Secretary of the CPK following the death of Tou Samouth in 1962, **Nuon Chea** remained the Deputy Secretary.³⁶⁵⁹
865. On 18 March 1970, after the overthrow of Sihanouk, **Nuon Chea** left Phnom Penh to join the underground movement alongside Saloth Sar, Son Sen, Ta Mok and Sao Phim. The CPK leaders set up camp successively in various provinces, including Kampong Thom³⁶⁶⁰, Kampong Cham³⁶⁶¹ and Kampong Chhnang.³⁶⁶²
866. Between 1970 and 1975, **Nuon Chea** held office as Vice-President of the High Military Command of the People's Armed Forces for the National Liberation of Kampuchea and the Chief of the Army Political Directorate. In this role, he was in charge of liaising with the Vietnamese.³⁶⁶³
867. In early April 1975, **Nuon Chea** remained with Pol Pot and other prominent military and political figures within the CPK, such as Koy Thuon, Sao Phim, Ta Mok and Son Sen, until Phnom Penh fell.³⁶⁶⁴
868. During the CPK regime, **Nuon Chea** was variously referred to by his surname "Nuon" as in "Brother Nuon"³⁶⁶⁵ or "Uncle Nuon"³⁶⁶⁶ as well as by his Party title "(Comrade) Deputy Secretary".³⁶⁶⁷ He was also known by the alias Brother Number Two.³⁶⁶⁸

Roles and Functions

Membership of the Central and Standing Committees

869. During the CPK regime **Nuon Chea** was a full-rights member of the CPK Central Committee.³⁶⁶⁹ **Nuon Chea** had assumed the role of Central Committee Deputy Secretary

since 1960,³⁶⁷⁰ was confirmed in this role in 1963³⁶⁷¹ and held it during the entire CPK regime.³⁶⁷² Though he clearly assumed this role during the whole period, he was only identified publically as Deputy Secretary of the Central Committee as of 29 September 1977 at the same time that the existence of the Party was first made public.³⁶⁷³

870. As Central Committee Deputy Secretary, **Nuon Chea** was second-in-command in the Party structure³⁶⁷⁴ and was known as Brother Number Two³⁶⁷⁵ and Pol Pot's "right-hand man".³⁶⁷⁶ As a full-rights member of the Central Committee, **Nuon Chea** could "consider and discuss and join in the decision making" with regards to all matters.³⁶⁷⁷ Duch states that **Nuon Chea** was responsible for implementing decisions made by Pol Pot,³⁶⁷⁸ while senior B-1 cadre [REDACTED] explains that Pol Pot could not make a decision alone.³⁶⁷⁹ **Nuon Chea** states in an interview conducted after the CPK regime that "Everyone worked together. He [Pol Pot] made his contribution, we made ours".³⁶⁸⁰ In another interview however, **Nuon Chea** states "Pol Pot was the Party Secretary. I was just Deputy Secretary, and sometimes I had no influence".³⁶⁸¹
871. **Nuon Chea** was also a full-rights member of the Standing Committee of the CPK.³⁶⁸² The CPK Party Statute suggests that as the Secretary and the Deputy Secretary of a small Party organ (or branch) such as the Standing Committee, Pol Pot and **Nuon Chea** were in charge of operational direction during times between meetings of the Standing Committee.³⁶⁸³ Of the 19 surviving Standing Committee meeting minutes³⁶⁸⁴ (only 15 of which contain records of attendance³⁶⁸⁵) he is listed as having attended 14.³⁶⁸⁶ It is therefore likely that he attended numerous if not all the meetings. According to **Khieu Samphan**, the Standing Committee convened every 7 to 10 days and even more regularly in emergencies.³⁶⁸⁷ During these meetings **Nuon Chea** gave opinions, guidelines and instructions.³⁶⁸⁸ When Pol Pot was not present, it appears that **Nuon Chea** led the Standing Committee meetings.³⁶⁸⁹
872. In his roles as member of the Central and Standing Committees, **Nuon Chea** attended regular CPK high-level meetings at K-1 and K-3,³⁶⁹⁰ and monthly meetings at K-1 lasting five to six days with leading cadres from various zone, sector or district committees. Approximately 20 cadres would attend these meetings.³⁶⁹¹ He also met regularly outside of Phnom Penh with zone and autonomous sector leaders, in particular during their congresses.³⁶⁹²

Role in the CPK Security Apparatus

Member of the Military Committee of the Central Committee

873. **Nuon Chea** was a member of the Military Committee of the Central Committee. His membership of the committee is confirmed by **Ieng Sary**,³⁶⁹³ [REDACTED],³⁶⁹⁴ and the speech he gave on the occasion of the ninth anniversary of the RAK in the name of the Military Committee of the CPK.³⁶⁹⁵ Duch explains that **Nuon Chea** was part of this committee, although it is unclear whether he had knowledge of this at the time or if his understanding has evolved with his access to the Case File.³⁶⁹⁶ In any case, Duch was aware at the time that **Nuon Chea** was responsible for security and military affairs.³⁶⁹⁷ **Nuon Chea** has recognized that the Committee existed during the CPK regime and that its role was national defence and purging internal enemies, but he has firmly denied that he was a member of it.³⁶⁹⁸
874. Other evidence in the Case File supports the fact that **Nuon Chea** was responsible for security affairs. With respect to security, Duch states that “*Pol Pot decided on Security work but Nuon Chea was his representative*”.³⁶⁹⁹ A telegram operator in Autonomous Sector 105 explains “*My typewritten documents regarding Security matters were sent to Nuon Chea*”. He adds, “*Nuon Chea regularly instructed on security matters*”.³⁷⁰⁰ Other witnesses corroborate the responsibilities held by **Nuon Chea** in this area.³⁷⁰¹ In an interview with a journalist, **Nuon Chea** stated that Son Sen was responsible for the Ministry of Defense. He further stated that he did not have the capacity to interfere or issue orders on internal security, an area for which the Military Committee was responsible.³⁷⁰²
875. Regarding military matters, the central body of the RAK was the General Staff led by Son Sen, with Pol Pot having general responsibility for the military. Nevertheless, as Deputy Secretary of the Central Committee and member of the Military Committee of the Central Committee, **Nuon Chea** actively participated in military affairs together with Pol Pot and Son Sen. During an interview, Duch states “*Everything had to pass through Nuon Chea even if it was in scope of the military*”.³⁷⁰³ It appears that **Nuon Chea** participated in the military planning of the attack on Phnom Penh in April 1975.³⁷⁰⁴ Furthermore, numerous witnesses confirm that **Nuon Chea** exercised some responsibility for military matters during the CPK regime³⁷⁰⁵ including the political training of RAK members³⁷⁰⁶ and the appointment of military cadres.³⁷⁰⁷ Finally, a telephone operator for Son Sen explains that there was no telegram communication between Son Sen and **Nuon Chea** “*because they generally met and worked together every day*”. Conversely, he states **Nuon Chea** never came to the General Staff where Son Sen regularly met with the divisions.³⁷⁰⁸ This is corroborated by the fact that none of the minutes of meetings between the General Staff, Central Divisions, and Independent Regiments mention **Nuon Chea**’s attendance.³⁷⁰⁹

876. Although foreign policy was not **Nuon Chea**'s primary responsibility, he did exercise some functions with regards to international security matters. As a full-rights member of the CPK Standing Committee, **Nuon Chea** participated in the decision-making process regarding policies and strategies related to Cambodian borders and the situation with Vietnam.³⁷¹⁰ He provided opinions and precise instructions on these matters.³⁷¹¹ **Nuon Chea** negotiated with the Vietnamese authorities³⁷¹² and participated in the drafting of the *Black Paper* concerning the foreign policy of Vietnam.³⁷¹³ **Nuon Chea** was copied to the vast majority of surviving telegrams concerning the situation on the battlefields and at the border with Vietnam, and movement of troops, military attacks and casualties were frequently discussed.³⁷¹⁴ Some of the telegrams ask for instructions or materials from the CPK Centre or acknowledge having followed an instruction, or received materials.³⁷¹⁵ There is also evidence that **Nuon Chea** had the authority to send instructions to lower echelons on matters of international security and that he did so by telegram, or by letter on some occasions.³⁷¹⁶

S-21 Security Centre and S-24 Worksite (Prey Sar)

877. In interviews conducted after the CPK regime, **Nuon Chea** explains that he did not know about S-21 before 1979 and that any documents implicating him must have been fabricated. He adds that Duch was working for the Ministry of Defence and Internal Security and that Son Sen was the one accountable for that Ministry.³⁷¹⁷ Nevertheless there is strong evidence that **Nuon Chea** was in charge of the S-21 security centre and its associated worksite S-24 (Prey Sar)³⁷¹⁸ from the time of their establishment until 6 January 1979.

878. At S-21, between 15 August 1975 and 15 August 1977 first In Lorn alias Nat and then subsequently Duch³⁷¹⁹ had Son Sen as direct superior.³⁷²⁰ Duch understood that Son Sen's authority was derived from his position as member of the CPK Centre Military Committee,³⁷²¹ member of the CPK Standing Committee,³⁷²² and as Chairman of the General Staff.³⁷²³ Even if Duch did not have direct contact with **Nuon Chea** during this period, he understood from his conversations with Son Sen that **Nuon Chea**, as the Deputy Secretary and the second in the Party hierarchy, was in overall charge of S-21 as Son Sen's supervisor.³⁷²⁴ Duch states "*Son Sen [had] Nuon Chea as his superior, the latter being under Pol Pot's authority*".³⁷²⁵ It is not always clear to what extent Duch's knowledge and understanding of the hierarchical structure above him developed with his access to the Case File,³⁷²⁶ but it is clear that at the relevant time Duch was aware that **Nuon Chea** was Son Sen's superior with respect to S-21.³⁷²⁷

879. On 15 August 1977, when Son Sen left Phnom Penh to be closer to the front lines in the conflict with Vietnam and **Nuon Chea** summoned Duch to his office at the Buddhist Institute.³⁷²⁸ From this point on, Duch understood he had to report to **Nuon Chea**, who became his direct supervisor.³⁷²⁹ Duch states that **Nuon Chea** told him “*the Chairman at S-21 was not me, Duch, but he, Nuon Chea, was Chairman*”.³⁷³⁰ Although reporting directly to **Nuon Chea**, Duch maintained communication with Son Sen who would contact him once or twice a month by phone. Although Duch no longer sent confessions to Son Sen directly, Son Sen still participated in monitoring S-21 activities and, according to Duch, considered himself to be Duch’s supervisor.³⁷³¹

Member of the Centre’s Organization Committee and Responsibility for the Party’s Work, Social Welfare, Culture, Propaganda and Education programs

880. **Nuon Chea** was in charge of the Centre’s Organization Committee,³⁷³² which was empowered to monitor and inspect Party members and oversee the induction of new members in offices and ministries.³⁷³³ Duch states that **Nuon Chea** was in charge of “*the recruitment and appointment of new members, the appointment of cadre and the naming of members to various positions ... when certain persons were appointed or promoted this meant that others were excluded and therefore smashed*”.³⁷³⁴ **Nuon Chea** participated in the appointment of zone and sector secretaries in particular: the appointment of [REDACTED] as the Secretary of Autonomous Sector 105; the appointment of Kang Chap alias Se as Secretary of the New North Zone, the creation of which he also announced; and the appointment of [REDACTED] as Secretary of Sector 103.³⁷³⁵ In an interview after the CPK regime, **Nuon Chea** answered the question “*how did you deal with the bad comrades?*” by saying “*I reeducated them and did not allow them to stay in their positions*”.³⁷³⁶

881. At the Standing Committee meeting of 9 October 1975, **Nuon Chea** was tasked with responsibility for “*party work, social, welfare, culture, propaganda and formal education*”.³⁷³⁷ Duch understands that this decision effectively made **Nuon Chea** responsible for overseeing four ministries: the Ministry of Propaganda; the Ministry of Education; the Ministry of Social Affairs; and the Ministry of Culture. He explains that the reason for this was because the four ministers heading the departments were not full-rights members of the Central Committee.³⁷³⁸

882. With respect to Party work, propaganda and education, this decision meant that **Nuon Chea** had primary responsibility within the CPK for disseminating political lines decided by the Party to CPK Party members, to the military, and to the masses.

883. The first Minister of Information and Propaganda in the CPK regime was Hu Nim who was arrested and sent to S-21 in April 1977.³⁷³⁹ The Ministry was then reorganized and merged with the Ministry of Culture, Training and Education, at which time Yun Yat alias At (Son Sen's wife) who was the minister for the latter became the minister for both.³⁷⁴⁰ Furthermore while official media described Yun Yat as holding the Ministry portfolio until at least January 1979,³⁷⁴¹ two witnesses working in the Ministry recall that **Nuon Chea** served as Minister from late 1978 until the end of the regime.³⁷⁴²
884. **Nuon Chea** attended a CPK Standing Committee meeting on 9 January 1976 during which the "good qualities" and "deficiencies" of propaganda and education programs were discussed.³⁷⁴³ It also appears from remaining minutes of meetings on propaganda work that the CPK Centre followed closely and decided on matters related to the CPK methods of propaganda. On 8 March 1976, at a meeting on "propaganda work" where **Nuon Chea** was present, the question of the radio broadcast of the election of 20 March 1976 was discussed in detail, including the contents of the broadcast and its frequency. This demonstrates that **Nuon Chea** was involved in the decision-making process regarding broadcasts.³⁷⁴⁴ At another meeting on 1 June 1976, where **Nuon Chea** was also in attendance, all aspects of CPK propaganda work, such as radio broadcasts, publications and propaganda films, were discussed with cadres from the Ministry of Propaganda. During this meeting, **Nuon Chea** provided instructions and views on specific aspects of propaganda work.³⁷⁴⁵ It also appears that **Nuon Chea** had the authority to instruct subordinates on media and propaganda issues.³⁷⁴⁶
885. During an interview, **Nuon Chea** acknowledges that he was also fully aware of and involved in the production and writing of the CPK magazine *Revolutionary Flag* before 17 April 1975.³⁷⁴⁷ During the CPK regime, **Nuon Chea** made direct requests of CPK cadres to write articles for the other propaganda magazines.³⁷⁴⁸
886. At his initial appearance before the Co-Investigating Judges, **Nuon Chea** states that he was in charge of educating cadres and Party members.³⁷⁴⁹ Duch understands that **Nuon Chea's** responsibility for "party work" meant that he was in charge of "daily activities within the party. I recall that the political work of the party was focused on annual training sessions (political and psychological training and education on organizational matters)".³⁷⁵⁰ **Nuon Chea** conducted numerous mass political training in Phnom Penh where he taught the policies of the CPK. These meetings were mainly held at Borei Keila.³⁷⁵¹ They were organized for Party cadres and workers in Phnom Penh,³⁷⁵² as well as for cadres from virtually all areas of

Cambodia (zone, sector and district committee members, cooperative chairmen, and sometimes subdistrict committee chairman).³⁷⁵³ He participated in similar trainings for RAK members.³⁷⁵⁴ These mass political training sessions could involve hundreds of participants³⁷⁵⁵ and party members were supposed to attend a session at least once a year.³⁷⁵⁶ Cadres or members of the military located outside of Phnom Penh were invited to attend these political training sessions by telegrams or letters sent by **Nuon Chea**.³⁷⁵⁷ Witnesses also report that **Nuon Chea** presented the CPK lines to CPK cadres and RAK members during zone and autonomous sector conferences.³⁷⁵⁸ The former Deputy Commander of Division 1 states that “*Ta Nuon Chea or Ta Pol Pot were usually present [at] the Zone congresses*”.³⁷⁵⁹ Witnesses state that similar training sessions would then be conducted by Party members in order to instruct the people under their authority on the lines of the Party.³⁷⁶⁰

887. With respect to social affairs, **Ieng Thirith** would go to K-3 or K-1 once or twice a month to meet with leaders of the Party Centre and in particular with **Nuon Chea**.³⁷⁶¹ **Nuon Chea** was present at a meeting on Health and Social Affairs on 10 June 1976. During this meeting **Ieng Thirith** and other leading cadres in the Ministry of Social Affairs reported in detail on the activities of the ministry and its various sections and **Nuon Chea** expressed views on the topics discussed.³⁷⁶² **Nuon Chea** visited and held meetings at some of the hospitals under the authority of the Ministry of Social Affairs³⁷⁶³ and provided political training sessions to personnel of the ministry.³⁷⁶⁴

Acting Prime Minister of the DK Government

888. **Nuon Chea** was officially appointed Acting Prime Minister of the DK Government on 27 September 1976, replacing Pol Pot who, according to the official Party version of events, took temporary leave in order to take care of his health.³⁷⁶⁵ Nevertheless, from that date to December 1976, the decision does not seem to have been fully implemented. During this period, CPK media repeatedly referred to Pol Pot as Prime Minister and only described **Nuon Chea** as Acting Prime Minister³⁷⁶⁶ on very few occasions.³⁷⁶⁷ Between January and September 1977 **Nuon Chea** was publically and repeatedly identified as Acting Prime Minister,³⁷⁶⁸ in particular on the occasion of a speech he delivered to mark the 9th anniversary of the RAK on 16 January 1977.³⁷⁶⁹ The subsequent year this same anniversary speech was delivered by Pol Pot.³⁷⁷⁰ There is almost³⁷⁷¹ no public reference to Pol Pot acting in the capacity of Prime Minister during this period until 25 September 1977 when he is publically identified as Secretary of the CPK for the first time.³⁷⁷² Duch understands that when **Nuon Chea** was the Acting Prime Minister it meant that “*he was the acting secretary of the Party*”.³⁷⁷³

Chairman of the People's Representative Assembly and Chairman of the Standing Committee of the People's Representative Assembly

889. Throughout the Democratic Kampuchea regime, **Nuon Chea** served as Chairman of the People's Representative Assembly³⁷⁷⁴ and Chairman of its Standing Committee.³⁷⁷⁵ He was selected as Chairman of the Standing Committee during the legislature's first plenary session from 11 to 13 April 1976.³⁷⁷⁶
890. It is in the roles of Chairman of the People's Representative Assembly and Chairman of its Standing Committee that **Nuon Chea** was most commonly known publically. In these roles **Nuon Chea** led a CPK delegation on an official visit to China and North Korea from 2 to 16 September 1978,³⁷⁷⁷ corresponded and otherwise interacted with leaders of other countries,³⁷⁷⁸ and issued official statements.³⁷⁷⁹ However, these roles had little practical significance³⁷⁸⁰ other than for endorsing decisions such as the 31 December 1977 Statement by the Government of Democratic Kampuchea on "Cambodia's Temporary Severance of Relations with Vietnam".³⁷⁸¹

Other Roles

891. In addition to the above **Nuon Chea** became *de facto* secretary of two Zones after the arrest of their secretaries. It appears that following the arrest on 20 September 1976 of the Northeast Zone Secretary Men San alias Ya,³⁷⁸² this role was filled by Um Neng alias Vy alias Vong until mid-1978³⁷⁸³ and then by **Nuon Chea** for a short period.³⁷⁸⁴ Duch and other witnesses also state that **Nuon Chea** became Secretary of the East Zone for a period in June 1978 after Sao Phim committed suicide.³⁷⁸⁵
892. As a full-rights member of the Standing Committee, **Nuon Chea** shared responsibility for Political Office 870 and Office S-71.³⁷⁸⁶

Association with other CPK Leaders

893. **Nuon Chea** had personal and political associations with other key members of the CPK for many years.³⁷⁸⁷ In addition to his two offices at Borei Keila and Vitiyalai Preah Soramarith (Buddhist Institute),³⁷⁸⁸ **Nuon Chea** lived and worked daily with Pol Pot, **Khieu Samphan**, **Ieng Sary** and Son Sen at K-1 and K-3 for almost the entire duration of CPK regime.³⁷⁸⁹

894. Additionally, **Nuon Chea** visited a warehouse with **Khieu Samphan** and Van Rith³⁷⁹⁰ and he went to the Ministry of Foreign Affairs with Pol Pot and **Khieu Samphan**.³⁷⁹¹ **Nuon Chea** also went to the grassroots with other members of the Party including Pol Pot, **Khieu Samphan** and **Ieng Sary**.³⁷⁹² He took part in major Party gatherings together with other CPK leaders including Pol Pot, **Ieng Sary**, **Khieu Samphan** and **Ieng Thirith**.³⁷⁹³ **Nuon Chea** received foreign delegations in Phnom Penh together with other CPK leaders including Son Sen, **Khieu Samphan**, **Ieng Sary** and Pol Pot.³⁷⁹⁴ Finally, **Nuon Chea** regularly made statements to foreign governments from Phnom Penh with other CPK leaders.³⁷⁹⁵

Participation in The Common Purpose

Movement of the Population

895. Through his various roles in the CPK, **Nuon Chea** participated in the movement of the population from towns and cities to rural areas, as well as from one rural area to another.

896. The CPK moved the population from a number of cities prior to 17 April 1975 while **Nuon Chea** was on the Standing Committee. According to **Khieu Samphan**, in 1960 during the first Party Congress, at which **Nuon Chea** was present, a determination was made that the cities were likely places for enemies of the Party to assemble.³⁷⁹⁶ In a speech in July 1978, **Nuon Chea** confirmed this position stating that before 1975, there were few enemies in rural areas but many in the cities.³⁷⁹⁷ Further during the speech he gave at the 9th anniversary of the RAK on 16 January 1977, **Nuon Chea** mentioned the evacuation of Banam in the East Zone in 1973 and Udong in the Special Zone in 1974.³⁷⁹⁸

897. On several occasions during and after the regime, **Nuon Chea** endorsed and defended this policy. He explained that immediately after liberation the cities were evacuated for security reasons in order to “smash” the plan that “involved joint action on the part of the USA, the KGB and Vietnam” to seize power from the CPK.³⁷⁹⁹ After the regime, he added that the evacuation was necessary to protect the people from war³⁸⁰⁰ and that it was a temporary measure because of the lack of food and fuel in the cities.³⁸⁰¹ Talking about the people who were moved he states “Not many people died, later on yes but during the evacuation they were still physically strong”.³⁸⁰² **Nuon Chea** was also made aware of the CPK-era movements of the population through the receipt of telegrams, such as one dated 11 December 1977 which mentions the distribution of new people from Siem Reap to other districts.³⁸⁰³

Phase 1

898. **Nuon Chea** participated in the decision making process that led to the movement of people from the cities, in particular Phnom Penh, to the countryside. In an interview after the regime he stated that this decision was made by “*the Party Centre*”.³⁸⁰⁴ He nevertheless also stated that the analysis that led to the decision to evacuate the cities was taken by the CPK Military Committee, a committee he denies membership of.³⁸⁰⁵
899. **Nuon Chea** was involved in the continued planning of this policy through his participation in meetings in late March and early April 1975.³⁸⁰⁶ In early April, a meeting took place at Pol Pot’s office in Tang Poun Village, Kampong Tralach (Leu) District in Kampong Chhnang Province. The purpose of this meeting was to discuss the evacuation of Phnom Penh and the implementation of this policy. **Nuon Chea** participated in the meeting, took his own notes, and according to a witness “*Mr. Nuon Chea also provided his impressions and agreed to the plan*”.³⁸⁰⁷
900. In April 1975, **Nuon Chea** and Son Sen held a meeting with military commanders from all zones,³⁸⁰⁸ in which they planned and coordinated the attack on Phnom Penh. In an interview after the regime **Nuon Chea** stated “*we attacked and we took military bases inside. So by 17 April 75, liberation, the army went in and completely liberated Phnom Penh*”.³⁸⁰⁹ Together with other CPK leaders, **Nuon Chea** left the former CPK headquarters on 17 April 1975 and entered Phnom Penh on or around 20 April 1975.³⁸¹⁰ This is consistent with the first recorded CPK leaders’ meeting held in Phnom Penh which took place “*less than a week after the liberation*” at the train station and where **Nuon Chea** is recorded as present.³⁸¹¹

Phase 2

901. The decision to move people from the Central (Old North), Southwest, West and East Zones to the North and Northwest Zones was made by the members of the Standing Committee after they visited the Northwest Zone between 20 and 24 August 1975. It is likely that **Nuon Chea** was part of this trip and participated in the subsequent Standing Committee meeting.³⁸¹² At a minimum, he was also aware of a Party document dated September 1975 that specified the need to relocate new people to the North and Northwest Zones.³⁸¹³ This document coincided with an enlarged Standing Committee meeting in September 1975 to discuss strengthening agriculture and industry and which **Nuon Chea** attended.³⁸¹⁴ Telegram 15, dated November 1975,³⁸¹⁵ concerning problems arising in the implementation of the decision to transfer Cham and other people out of the East to the North Zone *en masse*, was sent by Chhon to Pol Pot

and copied to **Nuon Chea**. A witness in charge of telegrams for Centre Office K-1 states that the Chairman of the Telegram Unit made the decision to copy this telegram to **Nuon Chea** “because this telegram is related to the people, it had to be sent to Nuon Chea ... in order to find a solution”.³⁸¹⁶

Phase 3

902. This population movement occurred while **Nuon Chea** was a full-rights member of the Standing Committee. Further, it was linked to the East Zone purge which took place, in part, because of CPK fears that the Vietnamese had infiltrated its ranks in the East Zone in order to stage a *coup d’etat*. The decision to move the people was made by the CPK Centre. A witness states that he participated in a meeting in the Northwest Zone where Ta Mok referred to Sao Phim as a traitor, and stated that “*Angkar*” was going to move the population from the East Zone to the Northwest Zone to check whether they were against the Party line or whether they were connected to the Vietnamese.³⁸¹⁷ As described in detail in other sections of the Closing Order, **Nuon Chea** became de facto Secretary of the East Zone for a period after the suicide of Sao Phim³⁸¹⁸ and he actively participated in the purge of the East Zone to which this phase of the population movement was linked.³⁸¹⁹

Cooperatives and Worksites

903. Through his various roles within the CPK, **Nuon Chea** participated in the establishment and operation of cooperatives and worksites.

Participation in the Creation of the Policy

904. The CPK’s progressive organization of collective agricultural production into cooperatives commenced as early as 1970 while **Nuon Chea** was already Deputy Secretary and a full-rights Member of the Standing Committee. Even before 17 April 1975, **Nuon Chea** actively participated in the creation of this policy. A former subdistrict committee secretary in Kratie recalls that, in 1973 or 1974, **Nuon Chea** gave a speech in front of more than 50 CPK cadres of sector, district and subdistrict level explaining how to set up the cooperatives. He introduced two types of cooperatives, low-level and high-level, and stated that yields had to be distributed based on contribution to the cooperatives.³⁸²⁰

905. **Nuon Chea** participated in the formulation of this policy at the 20 May 1975 Conference in Phnom Penh.³⁸²¹ As a member of the Standing Committee **Nuon Chea** was also involved in

the formulation of this policy at Standing Committee meetings,³⁸²² as well as in the development of the *Four Year Plan* to build socialism in all fields.³⁸²³ It was also addressed at an enlarged Standing Committee meeting in September 1975 at which rapid strengthening of agriculture was discussed.³⁸²⁴ He also participated in a CPK Centre meeting dated 8 March 1976³⁸²⁵ and was at least aware of the development of CPK directives. **Nuon Chea** reaffirmed his support of this policy at the People's Representative Assembly Conference on 11-13 April 1976.

906. As member of the Standing Committee, **Nuon Chea** attended the Standing Committee meetings at which the decision was made to establish Kampong Chhnang Airport.³⁸²⁶

Endorsement of the Policy

907. **Nuon Chea** actively endorsed this policy publically. During and after the DK regime, in public speeches and statements, **Nuon Chea** affirmed that all the problems regarding people's living conditions had been resolved and that living conditions had improved through irrigation projects, the collectivisation of economic production and the achievement of the CPK production plan.³⁸²⁷ For instance during the visit of the Workers' Party of Denmark on 29 July 1978, **Nuon Chea** spoke on behalf of the CPK in the role of Deputy Secretary. He said "*As for living conditions, we have basically solved our problems by means of irrigation projects. We are accumulating capital for the development of our country on the basis of independence and self-reliance*".³⁸²⁸ In this same speech he also acknowledged that workers were not getting paid and that people were living collectively.³⁸²⁹
908. In an interview after the regime, **Nuon Chea**, talking about the Cambodian population, stated "*We purified their minds through education. Firstly through education at school, secondly through sending them to work in the fields. When we'd educated them, then they understood and trusted us. That made our party stronger*".³⁸³⁰

Knowledge and Implementation of this Policy

909. **Nuon Chea** was aware of the various ways in which this policy was implemented and participated in its implementation.
910. Through his participation in meetings dated 20-24 August 1975 and 8 March 1976, he was made aware of the difficult living and working conditions at worksites and cooperatives although these conditions were deemed temporary or blamed on deviations from the Party

line. The conditions reported included food shortages,³⁸³¹ lack of medicine,³⁸³² and high rates of illness.³⁸³³

911. **Nuon Chea** was also regularly copied to telegrams sent by the zones and RAK centre divisions to the Centre that reported on aspects related to cooperatives and worksites, including the working conditions of the people, the planting of rice, and the building of dams and other waterworks.³⁸³⁴ In particular, **Nuon Chea** was copied to a telegram reporting the visit of Yugoslavian journalists to Trapeang Thma Dam.³⁸³⁵ In an interview after the DK regime, **Nuon Chea** acknowledged that some Cambodians died of illness, food shortages and disease³⁸³⁶ and added “*solving the economic livelihood that was never easy. Some died, some lived*”.³⁸³⁷
912. **Nuon Chea** participated in disseminating this policy through his involvement in the creation and distribution to CPK cadres of the *Revolutionary Youth* and *Revolutionary Flag* magazines, as well as through his involvement in radio broadcasts. Former Military Commander, [REDACTED], was shown *Revolutionary Flag* number 7 dated July 1976 by investigators, which refers to the role of cooperatives in building socialism and the three-ton per hectare target for rice production. This witness explains “*this was all about agricultural works to achieve a three ton plan per hectare. It made people lose their strength and starve*”. He adds “*The persons who wrote them were those from the Central Committee such as Pol Pot, Nuon Chea and Ieng Sary ... the main ideas were theirs because as long as they agreed in the Party then the principles could be adopted and implemented throughout the country*”.³⁸³⁸
913. During the numerous political trainings he conducted for Party cadres and personnel and RAK members in Phnom Penh³⁸³⁹ and for local leadership in the zones,³⁸⁴⁰ **Nuon Chea** talked about the plan to transform the economy of Cambodia. Further, **Nuon Chea** visited numerous government facilities, dams, construction sites, warehouses and agricultural sites across Cambodia.³⁸⁴¹ In particular, **Nuon Chea** visited three of the five worksites under investigation: Srae Ambel government worksite,³⁸⁴² Kampong Chhnang Airport construction site,³⁸⁴³ and the 1st January Dam³⁸⁴⁴. Additionally, Prey Sar was under his authority. Even if some witnesses state that he might not have been made fully aware of the situation by the local leadership,³⁸⁴⁵ during those visits **Nuon Chea** saw the people’s living and working conditions.³⁸⁴⁶ Witnesses also state that during these visits **Nuon Chea** made speeches urging the workers to work hard.³⁸⁴⁷ However, another witness nevertheless states that **Nuon Chea** instructed to help build houses for the people and to provide sufficient food.³⁸⁴⁸

914. One of **Nuon Chea**'s bodyguards explains that following a visit to the Northwest Zone, he understood that *"When Ta Nuon Chea went there, he instructed people to work hard but when Ta Nuon Chea left back, the sector committees forced people to work even harder. I know that Ta Nuon Chea planned to provide people three meals a day and one dessert per week. But the cooperative chiefs and sector committees did not follow the plan. Because he saw people becoming skinny, he went to visit closely at cooperatives"*. Asked if **Nuon Chea** would then blame the cooperative chairmen or the sector committees for not following the plan, he explains that he would send them to study at his criticism meetings where he would say that *"they must produce three tons of rice per hectare"*.³⁸⁴⁹
915. In an interview after the regime, **Nuon Chea** recognised *"that some people died of starvation, but that was beyond our capacity to solve. We tried our best, but it was out of the control of our party. We didn't kill people. We didn't want people to die. We tried to find a solution to the economy and to the living standards of the people, but how many people died no one knows"*.³⁸⁵⁰

Security Centres and Execution Sites

916. Through his various roles in the CPK, **Nuon Chea** participated in the reeducation of *"bad elements"* and the killing of the *"enemies"* both inside and outside the Party ranks.

Participation in the Creation of this Policy

917. This policy existed prior to 17 April 1975, while **Nuon Chea** was already a full-rights member of the Standing Committee and Deputy Secretary of the CPK. According to witnesses, **Nuon Chea** used to lead study sessions from 1968 to 17 April 1975 related to Party building, self criticism and the need to *"eradicate the oppressive classes"*.³⁸⁵¹
918. Later, **Nuon Chea** was involved in the creation of this policy through his participation at Standing Committee meetings³⁸⁵² as well as in the development of the *Four Year Plan* to build socialism in all fields.³⁸⁵³ This policy was further discussed at other CPK Centre meetings, such as cadres meetings on propaganda,³⁸⁵⁴ and base work,³⁸⁵⁵ attended by **Nuon Chea**. Further in July 1975, **Nuon Chea** attended a RAK gathering at which this policy was discussed.³⁸⁵⁶ He participated in the reaffirmation of this policy at the People's Representative Assembly Conference of 11-13 April 1976, which he attended as Chairman of the Kampuchean People's Representative Assembly and Chairman of its Standing Committee.³⁸⁵⁷

919. As Deputy Secretary of the Central Committee, **Nuon Chea** participated in the elaboration of CPK Party documents related to this policy, including the Central Committee directive dated 30 March 1976, which delegated the power to “smash” inside and outside the ranks to the zone and autonomous sector committees.³⁸⁵⁸ **Nuon Chea** also contributed to the dissemination of the June 1978 Central Committee Directive entitled *Guidance of the Central Committee of the Communist Party of Kampuchea on the Party's Policy towards Misled Persons who have joined the CIA, served as Yuon agents or joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea*. The directive appeared to prescribe reeducation for those who joined the CIA, KGB and Vietnamese before July 1978, but ordered the Party and the Cambodian people to eliminate networks which continued to oppose the Party from July 1978 onwards.³⁸⁵⁹ Further, in September 1978, **Nuon Chea** attended a large assembly in Phnom Penh together with other senior leaders of the CPK at which Pol Pot announced to hundreds of attendees that the military and the base no longer had the right to arrest anyone. From that point, they only had the right to question people and report to the Centre.³⁸⁶⁰

Endorsement of this Policy

920. **Nuon Chea** disseminated and publically endorsed this policy during and after the CPK regime. On 29 July 1978, during the visit of the Workers' Party of Denmark,³⁸⁶¹ **Nuon Chea** spoke and answered questions on behalf of the CPK in his role as Deputy Secretary. Speaking in detail about the need for purges inside the ranks of the CPK he stated, “*We investigate life histories and class background both before and after they join the revolution. We do this to prevent infiltration by, for example, CIA, KGB or Vietnamese agents. By adopting these organizational principles, we have unity in the party and can cleanse our party of bad elements. We have not been 100 per cent successful. The enemy is still attempting to undermine the party. Consequently, we are striving to strengthen political and ideological education and to clean the party*”. He added, “*Since liberation, our experience relates to anti-party activities organized inside our party. They usually involve CIA, Vietnamese and KGB agents. Our experiences in this area are very recent, but it appears from what we have been able to learn that CIA, Vietnamese and KGB agents have been working inside the party for a long time ... The leadership apparatus must be defended at any price. If we lose members but retain the leadership, we can continue to win victories. Defending the leadership of the party is strategic. As long as the leadership is there, the party will not die. There can be no comparison between losing two to three leading cadres and 200—300 members. Rather the latter than the former. Otherwise the party has no head and cannot lead the struggle*”.³⁸⁶²

921. During his initial appearance before the Co-Investigating Judges, **Nuon Chea** stated, “*There were American CIA and Soviet KGB agents, the Free Khmer and Vietnamese secret agents who were hiding within the Party, among the population and in our cooperatives; they were the ones who caused the Party line to be ‘raw’ and ‘burnt’, and then destroyed the country, Party and people*”.³⁸⁶³
922. **Nuon Chea**, after the CPK regime, also explained “*Some of the people who were in charge of districts and provinces were our enemies. They were hidden in our party; they destroyed our rice yield. Our policy was to feed the people well and equally, but these traitors didn’t follow our policy and we couldn’t control them because there weren’t enough senior party cadres*”.³⁸⁶⁴ In an interview with a journalist, **Nuon Chea** stated “*At that time it was very confused. There were Khmer Serei, the CIA, the KGB, the Yuon, the Yuon Serei. So society was very complicated. On this matter, we do not deny responsibility. We were responsible, but it was unintentional. We had no intention of killing the people. My family, my siblings’ families, we lost 40 persons. Some were colonels, some teachers, they did many things*”. Asked if he thought the revolution was “just” he said “*I would say it was just, because it smashed and eliminated enemies, maintained an independent Kampuchea, neutral, non-aligned, that is, all the struggles prevented the nation from falling into the hands of foreigners*”.³⁸⁶⁵ In another interview responding to the statement “*Many former comrades of yours, senior members of the party, were purged and lost their lives,*” **Nuon Chea** stated “*Not many. Some didn’t admit their mistakes, but others knew and they admitted them in our meetings and they were accepted. We didn’t kill many; we killed only the bad people, not the good*”.³⁸⁶⁶ In a further interview he added “*I would show my respect for the souls of my people who gave up their lives at that time. And I would express my condolences to the people. And I would tell them that it wasn’t the Khmer Rouge that killed our people, it was the enemy – the country that was our enemy*”.³⁸⁶⁷

Knowledge and Implementation of the Policy

923. With the exception of a witness who believes **Nuon Chea** visited Kraing Ta Chan and talked to another witness (who denies this event ever took place),³⁸⁶⁸ there is no evidence in the Case File that **Nuon Chea** visited any security centres or execution sites. Duch confirms that **Nuon Chea** never entered the S-21 premises.³⁸⁶⁹
924. Nevertheless, during the mass political meetings and trainings organised in Phnom Penh for CPK cadres and RAK members from virtually all the zones in Cambodia, as well as during visits to the zones, **Nuon Chea** instructed participants to prevent hidden enemies within the

ranks from destroying the CPK, paying particular attention to those associated with the Vietnamese or CIA, to be cautious of the activities of others, and to “*cleanse*” the Party of enemies.³⁸⁷⁰ For instance, a former company commander explains that in early 1976 he participated in several meetings with CPK cadres from the Northwest Zone where **Nuon Chea** stated that “*The plan to purge internal enemies was to place spies in the units, districts, sectors, teams ... The spies reported to the districts and sector. Later the sector, after receiving information from the spies, ordered the militia to make arrests*”.³⁸⁷¹

925. **Nuon Chea** also participated in the implementation of this policy through his involvement in the creation and distribution of the *Revolutionary Youth* and *Revolutionary Flag* magazines to CPK cadres,³⁸⁷² as well as through his involvement in the programming of radio broadcasts. In particular, the speech made by “*the Party organization representative*” on the occasion of the West Zone conference on 25 July 1977 is reproduced in the August 1977 issue of *Revolutionary Flag*.³⁸⁷³ [REDACTED], former Deputy Commander of Division 1, states that he attended this Zone Congress where the zone, sector and district committees were present, as well as the Chairmen and Deputy Chairmen of the divisions of the West Zone. He has no recollection of **Nuon Chea**’s presence but acknowledges that it cannot be ruled out, as Pol Pot and **Nuon Chea** were usually present at the zone congresses. Further the witness acknowledges that he did not attend the whole congress and that and he may have been absent when **Nuon Chea** was present.³⁸⁷⁴ The long speech reprinted in *Revolutionary Flag* describes in detail the work carried out by the West Zone in “*cleaning the bad elements and traitors in the Zone*”.³⁸⁷⁵ Finally, the article proposed “*that every leadership echelon in the Party concentrate on examining, discussing, and studying this presentation conscientiously in order to take it for implementation in their respective Zones and get good results*”.³⁸⁷⁶ [REDACTED] confirms that at the conference there was discussion “*about the purges of the enemy burrowing from within*”.³⁸⁷⁷ Whether or not **Nuon Chea** delivered this particular speech he certainly participated in, or was at a minimum aware of, this edition of *Revolutionary Flag* and the arrests in the West Zone due to his role in CPK propaganda, the telegrams sent to the CPK Centre from that zone,³⁸⁷⁸ and his role as supervisor of S-21.

926. With respect to “immorality”, telegraph operator [REDACTED] explains that anything involving the “*the violation of moral codes*” had to be sent to **Nuon Chea** and that rape was a form of immorality.³⁸⁷⁹ He also explains that “*leaders had to have leadership qualities, morality, strong will, and good morals in living*” otherwise they would be “*remove[d] or take[n] for tempering at various locations*”.³⁸⁸⁰ In this regard, **Nuon Chea** himself mentioned in an interview after the CPK regime that the “*bad comrades*” were reeducated and removed from their position and adds that “*in my time girls did not stay with boys*”.³⁸⁸¹ Additionally,

Nuon Chea was copied to a telegram in which men who were accused of rape were categorized as “*enemies*”.³⁸⁸²

927. During study sessions, **Nuon Chea** instructed CPK cadres about the CPK Revolutionary Moral Code. **Nuon Chea’s** former bodyguard and messenger [REDACTED] explains that during study sessions for the bodyguards, **Nuon Chea** instructed them about the “*12 points of the ethic, including must be straightforward, must not touch women, must not steal, must not lie*” and that these points were included in the booklet he used to read. He understood that “*if I violated that ethic, I would be dead*”.³⁸⁸³ Around November 1975, civil party [REDACTED] participated as a Subdistrict Chairman in a study session at Borei Keila in Phnom Penh with **Nuon Chea**. He states that “*each participant was given a document of about 10 pages ... That document was the party statute whose content said, ‘Must [be your own] master; do not switch side; do not betray; must have morale; do not have mistresses; do not touch people’s things; do not be proud that you are the high-ranking people and act crazily’*”.³⁸⁸⁴ Duch also mentions that **Nuon Chea** taught about the 12 ethics principles during study sessions.³⁸⁸⁵

Knowledge of and Involvement in the Arrest of “Enemies”

928. **Nuon Chea** knew and played an important role in the arrest of enemies in particular within the rank of the CPK and thus at every level of the hierarchy.
929. With the secrecy surrounding the CPK Centre, Duch could only be certain of the hierarchy directly above him but did not know all the details of the decision making process for arrests. He states he only became aware of the 30 March 1976 Central Committee Decision through his access to the Case File.³⁸⁸⁶ Nevertheless, through his experience at S-21 and with the knowledge he had at the time, Duch was able to observe that the framework contained in this Central Committee decision regarding the “*right to smash inside and outside the ranks*” was implemented in practice.³⁸⁸⁷
930. Duch understands that zone committees had the authority to arrest “mid level cadre” although not higher ranking ones and that they had to report in particular to **Nuon Chea**.³⁸⁸⁸ This is corroborated by the case of San Eap alias Khon and Saey alias Phang, two such cadres of New North Zone Sector 103 who seem to have been arrested on the initiative of the Zone Secretary Se. He then sent their confessions to the CPK Centre and they appear to have been annotated by **Nuon Chea**.³⁸⁸⁹

931. Numerous telegrams from the zones, autonomous sectors and Centre divisions copied to **Nuon Chea** report on the situation of internal and external enemies and actions taken against them.³⁸⁹⁰ These telegrams state, “*We are continuing to purge the remaining group continuously*”³⁸⁹¹ and “*some have been removed, isolated and cleaned*”³⁸⁹² or contain expressions such as: “*sweep clean and screen them constantly*”;³⁸⁹³ “*internal traitors have been swept clean*”;³⁸⁹⁴ “*sweep out the underground enemy*”;³⁸⁹⁵ “*searching the enemy*”;³⁸⁹⁶ “*find more enemy apparatuses*”;³⁸⁹⁷ and “*smash all kind of enemies*”.³⁸⁹⁸ [REDACTED] authenticated some of these telegrams and stated that “*Uncle Nuon*” on the “cc:” line refers to **Nuon Chea** and means that the telegram was required to be given to him.³⁸⁹⁹ Former Sector 105 Secretary and Military Commander, [REDACTED], was asked about some of the telegrams he wrote that have survived. These telegrams reported on the situation of internal and external enemies, arrests that were made, and people implicated in confessions.³⁹⁰⁰ He explains that when he addressed the telegram to “*Respected Brother M-870*” it meant the “*Centre Committee*” including **Nuon Chea**. Asked if he received answers, he states that telegrams were always answered with instructions from either Pol Pot or **Nuon Chea**.³⁹⁰¹ [REDACTED], who worked at K-1, clarified that when a telegram or a letter arrived at Pang’s office, [REDACTED] was in charge of taking telegrams or letters to Pol Pot. After Pol Pot read them [REDACTED] would take them all to **Nuon Chea**. In return, **Nuon Chea** wrote letters to Pol Pot every day or two.³⁹⁰²
932. Concerning the arrest of people in the administrative units, including some high CPK cadres in the zones, and CPK cadres in ministries and other Centre offices, Duch believes that this was decided by someone above Son Sen. He states “*It may be Pol Pot or Nuon Chea who made that decision. And then it came down to Son Sen*”.³⁹⁰³ For arrests in the military units, Duch observed that these decisions could be made by Son Sen as he was Chief of the General Staff.³⁹⁰⁴ He nevertheless also states that Pol Pot and **Nuon Chea** played a role in the decision making process. Duch states, “*Which forces deserved to be screened first and which forces were to be last was a direction designated by the Standing Committee. Speaking precisely, Pol Pot was the person who designated this. The procedure was that Nuon Chea and Son Sen were the people who made the calculations*”.³⁹⁰⁵
933. Duch repeatedly mentions Son Sen, **Nuon Chea** and Pol Pot as the ones who made the decisions, separately or together, to arrest people. Duch understands that Pol Pot was involved in the decision making process and explains that, although he was not directly aware of the details, he noticed that **Nuon Chea** could not always make decisions alone and “*sometimes he had to raise it with Pol Pot*”.³⁹⁰⁶ He believes that when the decision to arrest was taken by Pol Pot, **Nuon Chea** was responsible for ensuring its proper implementation.³⁹⁰⁷ Nevertheless,

Duch explains that **Nuon Chea** did have some discretion in the decision to arrest people who were implicated in confessions, as he decided on certain arrests during their meetings, notably for the arrest of members of S-21 personnel.³⁹⁰⁸ Duch also states that **Nuon Chea** had the discretion to decide what should or should not appear in the confessions, including the ability to remove some names of those implicated, which he notably did when **Khieu Samphan's** name appeared.³⁹⁰⁹

934. Based on his experience at S-21, Duch understands that there were two ways to arrest people. First, a unit could report to the superior and make a proposal for arrests.³⁹¹⁰ This is corroborated by the fact that the confession of San Eap alias Khon from the Phnom Penh Branch of the Sector 103 Commerce Committee was sent from the New North Zone Secretary to “*Comrade 870*” on 17 April 1978. In the accompanying letter, Kang Chap alias Se wrote that he was sending this confession, along with one other, to be examined by the committee in order to find a network of internal “*traitors*”.³⁹¹¹ Duch believes that the annotation “*19/04/1978 follow up*” on the cover page was written by **Nuon Chea**.³⁹¹²
935. Second, Duch believes that when a person or group of people were potential candidates for arrest, **Nuon Chea** would contact the relevant unit to get further information, and a joint decision on arrest would be made.³⁹¹³ Therefore, he understands that S-21 confessions would be circulated by **Nuon Chea** and/or Pol Pot to the relevant zones, centre offices and ministries.³⁹¹⁴ Annotations on the confessions show that some of the S-21 confessions were transmitted to the relevant units.³⁹¹⁵ Duch identified **Nuon Chea's** handwriting on some of these confessions.³⁹¹⁶ Son Sen operated a similar decision-making process for the arrest of people in the military units.³⁹¹⁷

Role in the purges in the Central (Old North) Zone and Sector 106

936. Within days of the 30 March 1976 Central Committee directive, North Zone Secretary Ke Pork notified Pol Pot and **Nuon Chea** of his willingness to take measures against traitors within the revolutionary ranks.³⁹¹⁸ As set out in the section of the Closing Order regarding the Purges of the Old and New North Zone, shortly after, Koy Thuon was placed under house arrest and later arrested. **Khieu Samphan** states that the decision to arrest Koy Thuon was made by the Standing Committee.³⁹¹⁹ Koy Thuon was sent to S-21 on 25 January 1977, and at the time Son Sen instructed Duch about how he was to be interrogated and executed.³⁹²⁰ The arrest of Koy Thuon led to the arrest of numerous CPK cadres and RAK members, in particular those from or associated with the Central (Old North) Zone.³⁹²¹ Before his death, Ke Pork, the Central (Old North) Zone Secretary, stated that he met Pol Pot and **Nuon Chea**

in Phnom Penh and that they showed him documents implicating cadres and military members from the Central (Old North) Zone. He added that he understood that they had already decided on the arrests.³⁹²² **Nuon Chea** received S-21 confessions of cadres and military members from the Central (Old North) Zone in 1977³⁹²³ and visited Ke Pork in Kampong Cham during the first half of 1977.³⁹²⁴ Further, witnesses testify that they assisted in political trainings chaired by **Nuon Chea** where he played a recording of the confession of Koy Thuon and said that Koy Thuon was a traitor with CIA connections and that those connected to Koy Thuon had been arrested.³⁹²⁵ Following the arrest of Koy Thuon and his alleged network, Sector 106 was purged and replaced by cadres from the Southwest Zone, led by Sector 35 Secretary Chan Sam alias Kang Chap alias Se, who became Secretary of the newly created New North Zone (801) in mid-1977.³⁹²⁶ A witness states that **Nuon Chea** announced the establishment of the New North Zone and the appointment of Se as secretary of the zone at a meeting at the Sector 103 office in Preah Vihear Province.³⁹²⁷

Role in the Purge of the East Zone

937. **Nuon Chea** played a key role in the decision making process leading to the arrest of the “enemies inside the rank” of both CPK cadres and RAK members who were from or associated with the East Zone, as well as the implementation of this decision.
938. It appears that **Nuon Chea** played a role in the early days of the East Zone purge notably in the arrest of Sector 24 Secretary Suos Nov alias Chouk.³⁹²⁸
939. [REDACTED] recalls that the first time he heard about the plan for troops transferred from the Southwest to participate in a purge of alleged Vietnamese collaborators in the East Zone was during a meeting at Zone Secretary Ta Mok’s house in Takeo in 1977. They were also told at this meeting that they would be fighting the Vietnamese.³⁹²⁹ Together with 2400-2500 military personnel detached from the Southwest, [REDACTED] was sent to Phnom Penh where he had a meeting with Son Sen, under whose command they were now placed,³⁹³⁰ in order to prepare the execution of this mission.³⁹³¹ Son Sen reiterated that this included purging the East Zone cadres and troops on the battlefield where they were to be sent, and although Pol Pot and **Nuon Chea** were present, they did not add anything at that time.³⁹³² After this event [REDACTED] was deployed to Svay Rieng (Sector 23) in the southern part of the East Zone.³⁹³³ [REDACTED] recollects that half a month later, in early 1978, he participated in a meeting in Phnom Penh for High Military Commanders at the Military Headquarters. He states that during this meeting “*Pol Pot spoke about the plan to purge; then Nuon Chea agreed with what Pol Pot said. Nuon Chea and Pol Pot supplied detailed information on the*

plans to arrest and remove the cadres from the East Zone. He said that all of them had cooperated with Vietnam and that they would be arrested by our cadre from the southwest zone".³⁹³⁴ He adds that **Nuon Chea** spoke about "purging embedded enemies boring holes inside, enemies that were the arms and the legs of the Yuon. Nuon Chea ordered the arrests, meaning the purge. In that era the term 'purge' meant to arrest and kill".³⁹³⁵ Despite [REDACTED]'s assertion that other former Southwest Zone commanders were present at this meeting, they deny meeting **Nuon Chea** during the CPK regime.³⁹³⁶

940. [REDACTED] states that decisions about the East Zone purges were made by the Standing Committee, with Son Sen acting on the orders of Pol Pot, **Nuon Chea** and Ta Mok.³⁹³⁷ Witness [REDACTED], who worked with Son Sen for the General Staff at the Communication and Logistics Office first in Svay Rieng and later on Route 7 in the northern part of the East Zone, corroborates this, stating that the decision to purge the East Zone was made by and carried out under the control of the CPK Centre. He states that Son Sen often "personally went to report to the Central Committee, and in few cases he used the secret telephone at Svay Rieng and Suong frontlines. I understood that the decision to arrest the implicated cadres was not made by him alone, it had to be approved by the Central Committee as well".³⁹³⁸ He adds that, as far as he understood, only Pol Pot could order the purge in the East Zone.³⁹³⁹ The S-21 confession of an east zone RAK member annotated by **Nuon Chea** in late March 1978,³⁹⁴⁰ shows that **Nuon Chea** was kept apprised of the arrest of CPK cadres and RAK members in the East Zone in 1978 and followed these developments closely.
941. In June 1978, Sao Phim, the East Zone Secretary and a member of the Central Committee, committed suicide.³⁹⁴¹ Duch explains that the purge of Sao Phim was decided by the Standing Committee and that Son Sen called him from the East Zone battlefield to inform him that an agreement had been reached.³⁹⁴² Sao Phim had a long-standing and close relationship with Ponhea Krek District, and in particular "Bos" village around 10 kilometres due west of Steung Tauch. This was known to the CPK leadership, including **Nuon Chea**,³⁹⁴³ and villagers from Bos village were executed after the suicide of Sao Phim.³⁹⁴⁴ Further, a witness recalls that the people of Bos village who were later sent to Steung Tauch for execution were told that they were going to Suong in order to meet with **Nuon Chea**.³⁹⁴⁵
942. Former B-1 cadre, [REDACTED], says that in September 1978, **Nuon Chea** participated in a meeting on the drafting of the *Black Paper* which described the foreign policy between Vietnam and Cambodia. He adds that during that meeting Pol Pot was the one who talked most and "*Nuon Chea was more an observer than an active participant*".³⁹⁴⁶ The *Black*

Paper contained sections on the alleged Vietnamese strategy to create “*enemy networks*” inside the ranks of the CPK and states that the Vietnamese secretly penetrated into Cambodia and held meetings in the East Zone between February and May 1978. The paper states that “*the agents infiltrated and [were] organized for a long time by Vietnam ... in order to carry out the plan of Coup d’Etat*” but that the plan had been defeated by the CPK.³⁹⁴⁷

Role in the Arrest of Centre Party and Centre Offices Cadres (Political Office 870 and Office S-71)

943. Duch explains that the decision to arrest members of the Central Committee or high-level CPK cadres had to be made collectively by the Standing Committee.³⁹⁴⁸ As a member of the Standing Committee and supervisor of S-21, **Nuon Chea** knew of and participated in the arrest and subsequent execution (or for some of them the suicide) of: Zone Secretaries Sao Phim (June 1978) (suicide),³⁹⁴⁹ Ruos Nheum (June 1978),³⁹⁵⁰ Chou Chet alias Sy (March 1978),³⁹⁵¹ Man San alias Ya (September 1976), Um Neng alias Vy (June 1978) (suicide), and Klang Chap alias Se (August 1978); Standing Committee members Vorn Vet (November 1978), and Kung Sophal alias Keu alias Kan (November 1978); autonomous sector secretaries Bou Phat alias Hang (June 1978), Born Nan alias Yi (June 1978), and Pa Phal alias Sot (February 1977); and former Minister of Propaganda Hu Nim alias Phoas (April 1977).³⁹⁵²
944. **Nuon Chea** was involved in the arrest of cadres from the Party Centre 870 Offices. A witness working at Centre Office K-1 explains that in the office those accused of treason were mainly those who held major positions, such as Sem (Chairman of K-1), Chheum Sam-Aok alias Pang (Chairman of Office S-71) and one of his friends Yan, and that these people were taken away and disappeared. He adds, “*I feel that the Uncles, especially Pol Pot and Nuon Chea, were well aware of the arrests of these traitors*”.³⁹⁵³ **Nuon Chea** received, annotated and transmitted to Pol Pot, S-21 confessions of former secretary of Political Office 870 and note taker of the minutes of the Standing Committee Phok Chhay alias Touch.³⁹⁵⁴ With respect to the arrest of Chheum Sam-Aok alias Pang, Duch explains that Vorn Vet came to S-21 with a letter from **Nuon Chea** giving him special authorization to work with Duch on a security matter, and announced to him the Party decision to arrest Pang. He discussed with Vorn Vet the conditions of the arrest, and it was decided that the next time Pang came to S-21 to pick up confessions he would be arrested immediately. Duch believes the order to arrest came from **Nuon Chea**.³⁹⁵⁵ Between 17 April 1975 and 6 January 1979, 209 people were arrested from Political Office 870 and S-71 and their sub-units and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21.

Role in the Arrests in the Ministry of Social Affairs and in the Ministry of Propaganda and Education

945. As mentioned above, in October 1975, the Standing Committee gave **Nuon Chea** responsibility for social action, propaganda and education. In these roles, Duch understands that **Nuon Chea** oversaw the activities of the Ministry of Social Affairs, Propaganda and Education, because the ministers of these ministries “*did not have the decision making power to eliminate people*”.³⁹⁵⁶
946. Duch explains that for those who were arrested at the Ministry of Social Affairs, or under its authority, and taken to S-21, the system was the same as previously described. He says, that he would send confessions implicating personnel from a particular ministry to Son Sen, and after 15 August 1977 to **Nuon Chea**. Subsequently, “*the superior (i.e. Son Sen and then Nuon Chea) noticed that people were implicated in the confessions, he would then summon the head of the unit - in that case Ieng Thirith - to make the decision*”.³⁹⁵⁷ **Nuon Chea** received, annotated and transmitted particular S-21 confessions to the Ministry of Social Affairs, and to **Ieng Thirith**.³⁹⁵⁸ Duch believes that the documents he sent to **Nuon Chea** were used by him to conduct arrests in the Ministry of Social Affairs.³⁹⁵⁹ Between 17 April 1975 and 6 January 1979, 116 people were arrested from the Ministry of Social Affairs and sub-units and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21.
947. With respect to the Ministry of Propaganda and Education, it seems that until **Nuon Chea** became acting Minister of Propaganda and Education in late 1978, the system of arrest described above also applied. Some people working in the Ministry were considered as traitors and disappeared,³⁹⁶⁰ and the Minister and leading cadres from the ministry would attend regular meetings with the upper echelon.³⁹⁶¹ A witness explains that when **Nuon Chea** was acting as Minister “*disappearances still continued. As far as I could understand, the Southwest Zone people were considered as good revolutionaries and when the people from the East and the West were purged, mostly the Southwest people were sent to replace them*”.³⁹⁶² Between 17 April 1975 and 6 January 1979, 84 people were arrested from the Ministries of Education and Propaganda and sub-units and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21.
948. In addition to the facts set out above, **Nuon Chea** was involved in the arrest of CPK cadres and RAK members throughout Cambodia, including in: the North East Zone;³⁹⁶³ the North West Zone;³⁹⁶⁴ the Southwest Zone;³⁹⁶⁵ the New North Zone (in particular sector 103);³⁹⁶⁶ and in Autonomous Sector 105.³⁹⁶⁷ As described in the **Ieng Sary** section and following the system of arrest described above in this section, **Nuon Chea** also played a role in the arrest of

cadres in other ministries especially the Ministry of Foreign Affairs regarding the recall of overseas based Cambodians to Cambodia.³⁹⁶⁸

Knowledge and Implementation of this Policy at S-21

Establishment of S-21

949. According to Duch, **Nuon Chea** was not present at the meeting on 15 August 1975 that led to the creation of S-21. However, **Nuon Chea** may have been involved as Duch acknowledges that Son Sen “*did not decide alone. The second level must respect Number 1, and so on down the line. In the Party, they respected it like that*”.³⁹⁶⁹

Communication and Circulation of Orders

950. Before 15 August 1977, **Nuon Chea** was the hierarchical superior of Son Sen during the time Son Sen was in charge of S-21. From the creation of S-21 until March 1976, In Lorn alias Nath was the first Secretary of S-21 and reported to Son Sen.³⁹⁷⁰ In March 1976, Duch took over this position and reported to Son Sen by telephone on a daily basis until 15 August 1977. Duch explains that S-21 received direct instructions from Son Sen “*who presented himself as the representative of ‘Angkar’*”. He explains that other Standing Committee members or ministers could not contact or give instructions to S-21 directly and had to go through Son Sen.³⁹⁷¹ Over the phone, Duch reported on the progress and content of confessions and Son Sen gave him instructions in return.³⁹⁷² For example, Duch received directions from Son Sen about individuals to be transferred to S-21.³⁹⁷³ He also received orders from Son Sen regarding the arrests of certain prisoners³⁹⁷⁴ and the use of specific interrogation techniques including torture.³⁹⁷⁵ He would check with Son Sen at the conclusion of important interrogations and before sending prisoners for execution.³⁹⁷⁶

951. In addition to contact by telephone, Duch would regularly report to Son Sen in person at the Office of the General Staff upon Son Sen’s invitation.³⁹⁷⁷ Less frequently, Son Sen visited Duch at places near S-21 or at Duch’s home.³⁹⁷⁸ Although Duch and Son Sen met regularly, Duch recalls that materials related to S-21’s security functions, including confessions, cover letters, annotations, other reports and, occasionally, “confiscated property,” were transmitted through Son Sen’s messengers [REDACTED].³⁹⁷⁹ On rare occasions, Duch would receive letters from Son Sen that contained brief and urgent orders.³⁹⁸⁰

952. After 15 August 1977, when Duch began reporting directly to **Nuon Chea**, he recalls that **Nuon Chea**, unlike Son Sen, did not like to use the telephone.³⁹⁸¹ **Nuon Chea** met Duch every three to five days at **Nuon Chea**'s offices, usually at the Buddhist Institute Vitiyalai Preah Soramarith or, on two or three occasions, at Borei Keila.³⁹⁸² One of **Nuon Chea**'s messengers, [REDACTED], would call Duch for an appointment.³⁹⁸³ During these meetings Duch reported on the progress of interrogations and the content of confessions,³⁹⁸⁴ and received instructions about arrests, interrogations and executions.³⁹⁸⁵
953. From August 1977 until **Nuon Chea**'s departure for an official visit to China and North Korea on 2 September 1978,³⁹⁸⁶ the majority of the documents transmitted between Duch and **Nuon Chea** were transported via messenger. **Nuon Chea**'s messengers with respect to S-21 were [REDACTED],³⁹⁸⁷ [REDACTED] (deceased during the investigation)³⁹⁸⁸ and, on occasion, Sin (deceased).³⁹⁸⁹ [REDACTED], who originally denied his role despite Duch's formal identification of him, finally acknowledged he was indeed **Nuon Chea**'s messenger and bodyguard.³⁹⁹⁰ **Nuon Chea**'s messengers never entered the premises of the prison but met Duch at the entrance of his house.³⁹⁹¹ The only exceptions to the system described above were when **Nuon Chea** ordered confessions or messages from Duch that were delivered by Chheum Sam Aok alias Pang, the person responsible for Office S-71.³⁹⁹² Finally, after September 1978 and until the end of the CPK regime, Chhim Sam Aok alias Pang (until his arrest in May 1978) and then Ken alias Lin (Pang's replacement as S-71 Chairman), collected and delivered the confessions.³⁹⁹³
954. [REDACTED] explains that, with respect to documents, there was two-way circulation of documents between **Nuon Chea** and Duch.³⁹⁹⁴ The mail was packaged so the messenger could not see what was inside, and Duch confirms that he was not allowed to talk about the content of the documents with the messengers.³⁹⁹⁵ [REDACTED] explains that, in his experience, mail delivery occurred about once a week depending on the urgency and that he does not know about the other messengers' schedules³⁹⁹⁶ but Duch states that [REDACTED] would come "every three to five days".³⁹⁹⁷
955. [REDACTED] adds that he was sometimes assigned to go to S-21 by **Nuon Chea** himself, but that most of the time Ken alias Lin was the one who assigned him.³⁹⁹⁸ Duch states that the packages he sent to **Nuon Chea** contained annotated confessions, generally with a cover letter, and reports.³⁹⁹⁹ On rare occasions, Duch would receive letters from **Nuon Chea** that contained brief and urgent orders, although he cannot remember the content of these. In any case Duch indicates that for important matters messengers would not be used and he would be summoned by **Nuon Chea** to meet in person.⁴⁰⁰⁰ Very exceptionally, Duch may have been

contacted by Pol Pot himself, for example to check that particular individuals had been received at S-21.⁴⁰⁰¹

956. Despite Duch's statements that he only reported to and communicated with Son Sen and then **Nuon Chea**, there is evidence in the Case File that Duch received letters from Centre Military Division 502 directly.⁴⁰⁰² Asked about this point, Duch explains that this was a tactic used by Son Sen and **Nuon Chea** to conceal their names and that these documents were not exchanged directly between himself and the Centre Military Divisions but through Son Sen or **Nuon Chea**.⁴⁰⁰³ In the Judgement in Case File 001 the Trial Chamber notes that this explanation lacks credibility and that the letters came to him personally even if it was with the acquiescence of his superiors.⁴⁰⁰⁴
957. In previous interviews with journalists, **Nuon Chea** explains that he was never in charge of S-21 but that "*when Son Sen was not there they left the documents for me, and I simply passed them on to Son Sen or Pol Pot. That was all. That's how Duch communicated with them*".⁴⁰⁰⁵

Involvement in the Process of Arrest and Transfer to S-21

958. Outside of **Nuon Chea's** involvement in decisions to arrest, described generally above, for S-21 and other security centre and execution sites, Duch also states that he was aware of specific decisions made by **Nuon Chea** to arrest CPK cadres who were sent to S-21 including: Autonomous Sector Member Huot Ke alias Sophea;⁴⁰⁰⁶ Prum Phal alias Vin (Vorn Vet's wife and chairwoman at the Ministry of Industry hospital); Yang Kan alias Phoas⁴⁰⁰⁷ (the wife of Cheng An who was a subordinate of Vorn Vet and who chaired the Centre Industry Committee);⁴⁰⁰⁸ Kev Ly Thong Hout alis Thoeun (Duch brother in Law);⁴⁰⁰⁹ and Ri (from the Ministry of Industry).⁴⁰¹⁰ Duch understands that Nuon Chea was also involved in the arrest of members of his own family. He states "*Nuon Chea also had Ruos Nhim arrested, who was his brother in law and secretary of the Northwest zone. I suppose he also decided to arrest his two nieces, Lach Dara and Lach Vary, as well as Sat, the husband of Lach Dara, and the husband of Lach Vary, whose name I have forgotten*".⁴⁰¹¹
959. As the direct supervisor of S-21, **Nuon Chea** was directly and personally responsible for the decision to arrest S-21 personnel. Duch explains that when close relatives of S-21 cadres were arrested they would be sent to S-24 for reeducation. He states that this decision could be made by the S-21 Committee. However, the decision to send S-21 personnel to S-21 "*Son Sen, and later Nuon Chea, were competent*".⁴⁰¹² He acknowledges that he was the only person who could report mistakes of S-21 personnel to superiors and states "*If I remember well, there*

never were any exceptions: I always reported to the superiors and they always ordered the arrest of the persons implicated".⁴⁰¹³ As an example, Duch provides details about the arrest of Nun Huy alias Huy Sre, the cadre in charge of S-24. He explains that after Huy Sre's telephone operator escaped in late 1978, Hor drafted a report that he forwarded with a recommendation to arrest "to the Standing Committee, and Nuon Chea ordered the arrest, the interrogation, and the execution of Huy Sre".⁴⁰¹⁴

960. **Nuon Chea** was aware of and involved in the process of arrest and transfer to S-21 once the decision was made to arrest people. Numerous witnesses from across Cambodia explain that people would be called for meetings and study sessions in Phnom Penh, most of the time at **Nuon Chea**'s request.⁴⁰¹⁵ In some cases meetings did take place, but in other instances people disappeared and would never come back.⁴⁰¹⁶ A witness states that when someone disappeared he believed they went to study until a meeting with **Nuon Chea**, **Khieu Samphan** and the Centre Commerce Committee Chairman Van Rith a week before the Vietnamese arrived at which it was announced that "*calls for study sessions are no longer conducted; we have to be united to fight the enemy*". Subsequently, this witness understood that people were not being sent to study and that "*call for study*" meant "*disappearing*".⁴⁰¹⁷ Duch also states that in some instances people who were to be arrested would be summoned to **Nuon Chea**'s office before being sent to S-21.⁴⁰¹⁸ Upon their arrival in Phnom Penh, people would frequently transit via Office K-7, an office under the authority of **Nuon Chea**, before arriving at S-21. Duch explained that an annotation "S-21" on a letter sent by West Zone Deputy Secretary Pal dated 26 March 1978 stating that IM Len alias Li (wife of West Zone Secretary Chou Chet alias Si) was to be sent to *Angkar* via K-7, was made by **Nuon Chea**.⁴⁰¹⁹ This suggests that **Nuon Chea** personally ordered the arrest of this individual.
961. **Nuon Chea** also organized transfers from security centres in Cambodia to S-21. Asked about the S-79 Security Centre (East Zone) confession of CPK cadre Peou Hak, Duch confirms that this person was first detained at this security centre before being transferred to S-21. He adds, "*only Nuon Chea had the power to organize such transfers: Son Sen was not qualified to intervene and Pol Pot did not get personally involved in the organization of the transfers*".⁴⁰²⁰
962. Outside of the cases where S-21 personnel personally conducted arrests, Duch would be notified to expect prisoners through the receipt of lists of names sent by Son Sen, **Nuon Chea** or Ken alias Lin.⁴⁰²¹ Additionally, **Nuon Chea** observed the arrests of two persons named Vin and Phoas, as well as the East Zone Sector 24 Secretary Suos Neou alias Chhouk.⁴⁰²²

S-21 Confessions

963. Duch explains that he annotated confessions of S-21 detainees based on Son Sen's instructions, but that when **Nuon Chea** became his direct supervisor he reduced his annotations, as **Nuon Chea** did not pay much attention to them.⁴⁰²³ Duch would keep a copy of the S-21 confessions and transmit the original following the means of communication described above.⁴⁰²⁴ As Duch only had direct contact with Son Sen and **Nuon Chea**, he assumes that confessions were sent directly to them.⁴⁰²⁵ Although the system is not entirely clear, it appears that Duch's supervisors would sometimes receive them through Office K-1. For example, **Nuon Chea's** messenger [REDACTED] explains that "*Sometimes I handed over mails directly to Ta Nuon Chea and sometimes I gave him through Ken, who was the deputy-chairman of Office K-1*".⁴⁰²⁶
964. It therefore seems that, whoever Duch's supervisor was at a given time, the confessions would reach the CPK Centre and then be redistributed to Pol Pot, **Nuon Chea** and Son Sen. Surviving S-21 confessions on the Case File tend to support this assertion. Based on Duch's statements and the over 4,000 confessions found in and around S-21 premises at the end of the regime, it is believed that **Nuon Chea** received hundreds if not thousands of S-21 confessions. Nevertheless, it appears that **Nuon Chea** burned his personal files before the Vietnamese arrived in early 1979,⁴⁰²⁷ and that none of these S-21 confessions have survived. Outside of confessions found in and around the S-21 complex, some S-21 confessions were found in a house in Phnom Penh and are believed to have belonged to Son Sen.⁴⁰²⁸ Of these, at least 27 have annotations believed to have been made by Son Sen indicating that a copy was to be sent to **Nuon Chea**.⁴⁰²⁹ Duch explains that these annotations demonstrate that Son Sen sent confessions to **Nuon Chea**, who was his superior at the time.⁴⁰³⁰ Some of these confessions also bear annotations that Duch identified as belonging to **Nuon Chea** suggesting that he was also in possession of these confessions at some point.⁴⁰³¹
965. This evidence also demonstrates shows that confessions were exchanged back and forth between Son Sen and **Nuon Chea** before and after 15 August 1977. It is not completely clear how these confessions would circulate between **Nuon Chea** and Son Sen, as **Nuon Chea's** messenger [REDACTED] never transported documents to offices other than S-21.⁴⁰³² Nevertheless Son Sen's telephone operator in Phnom Penh explains that there were no telegram communications between Son Sen and **Nuon Chea** "*because they generally met and worked together every day*".⁴⁰³³ There is also evidence that S-21 confessions were sent from Son Sen and **Nuon Chea** to Pol Pot.⁴⁰³⁴ Duch states that he did not know how the S-21 confessions would be submitted to Pol Pot "*but it could be that this was done through **Nuon Chea's** secretary, or maybe **Nuon Chea** personally delivered the document to Pol Pot*".⁴⁰³⁵

966. Confessions were at the heart of the CPK system to kill “enemies” both inside and outside Party ranks. Duch explained that the contents of confessions were used as “*excuses to eliminate those who represented obstacles,*” and that “*even the Standing Committee, in my opinion, did not really believe in it*”.⁴⁰³⁶ Regardless of whether they contained false or fabricated assertions, the confessions are said by Duch to have been given formal weight in deciding upon the arrests of those denounced as enemies and in particular by **Nuon Chea**. A number of confessions bear the annotation of **Nuon Chea**. For example, asked about annotations on a confession that read “*19/4/78, follow-up,*” Duch stated that they were in **Nuon Chea**’s handwriting and that he must have paid attention to this confession since he underlined the name of Kham My (from Office S-71⁴⁰³⁷ and who subsequently disappeared⁴⁰³⁸) who was implicated within it. Asked about cross marks and annotations in front of names in confessions Duch explains that he believes they were made by **Nuon Chea** and he believes that he then sent a copy of the confession to Seng Hon alias Chan (Deputy Secretary of the East Zone and Central Committee member) who arrested Uy Sat alias Kem and send him to S-21 four days after the annotation.⁴⁰³⁹ Duch explains that “*normally, implication in one confession was not sufficient for a person to be arrested. It had to occur several times*”.⁴⁰⁴⁰ He adds that his superiors “*knew the confession was not correct and the people who were implicated, there were many of them. This is what we knew but we could not avoid not doing it. And after we talk about that then Uncle Nuon said they knew how to do their work*”.⁴⁰⁴¹
967. In an interview with a journalist, **Nuon Chea** was shown the S-21 confession of a cadre of the Central Zone Division 174, Nheum Sim alias Saut, and the annotation “*one copy to Brother Nuon*”. **Nuon Chea** denied he had ever seen the document and said he did not know who wrote the annotation, adding “*sometimes they wrote that, but I have never seen it*”.⁴⁰⁴² Shown the confession of Centre Division 164 Cadre Kung Kien alias Eung Vet and the annotation “*presented to Brother Nuon personally*” **Nuon Chea** stated “*I don’t know this. These documents could be forged*”.⁴⁰⁴³ **Nuon Chea** also stated that S-21 “*was established to search the enemy of the country*”. He defined “*enemy*” as “*somebody who wanted to harm people. It was set up to take care of that matter. Sadly, there were bad comrades there*”. Asked if S-21 found enemies, he stated “*They did. But S-21 comrades went too far. They sometimes did not follow the plan and sometimes they did too much*”.⁴⁰⁴⁴

Interrogation at S-21

968. **Nuon Chea** was aware of the practice of serious mistreatment during the interrogation of S-21 prisoners. It appears that **Nuon Chea** received some S-21 confessions with annotations from Duch or interrogators mentioning that torture was used.⁴⁰⁴⁵ Duch also states that he used to report to **Nuon Chea** on interrogations.⁴⁰⁴⁶ Duch says that in many cases, he was given instructions concerning the extraction and content of specific confessions.⁴⁰⁴⁷ According to Duch, **Nuon Chea** did not often give orders about the techniques to be used during interrogations as Son Sen had done.⁴⁰⁴⁸ On some occasions, **Nuon Chea** would give precise instructions to Duch not to mistreat prisoners during interrogations.⁴⁰⁴⁹
969. For one of the cases of rape that occurred at S-21, Duch states that he reported it to his superiors but that they did not say anything.⁴⁰⁵⁰ However, it is unknown whether **Nuon Chea** ever received this particular report.

Execution of Prisoners at S-21

970. Duch states that “*Nuon Chea clearly told me that all people whom were sent to S-21 had to be killed. As I was in charge of S-21, I followed implemented his orders*”.⁴⁰⁵¹ He explains that he used to receive specific orders from **Nuon Chea** only for mass and exceptional executions but that for regular or “ordinary” executions he could make the decision without any particular instructions following the general line given by **Nuon Chea**.⁴⁰⁵²
971. Duch explains that he was made aware of the June 1978 Directive, related to the change in the political line in respect to smashing the enemies, by several means: in the *Revolutionary Flag* magazine of May-June 1978;⁴⁰⁵³ in an information circular; and during a political study session in 1978 presented by Pol Pot.⁴⁰⁵⁴ Duch states that at first he believed these instructions and passed them on to S-21 personnel but that “*3 or 4 days after that, Nuon Chea summoned me as usual and I answered that I had nothing to report because I hadn't interrogated anyone. He then criticized me and said "Comrade Duch, you know the party line well". I then understood that all of this was but a ploy and that everything was to recommence as before*”.⁴⁰⁵⁵
972. On specific occasions, Duch received orders from **Nuon Chea** to execute S-21 inmates. These inmates included two members of the FULRO movement,⁴⁰⁵⁶ Vorn Vet's wife Vin and Cheng An's wife Phoas,⁴⁰⁵⁷ Nun Huy alias Huy Sre the cadre in charge of S-24,⁴⁰⁵⁸ Pha Tha Chan the Vietnamese interpreter of S-21 (spared by Duch),⁴⁰⁵⁹ Standing Committee member and government Deputy Prime Minister in charge of Economy Vorn Vet,⁴⁰⁶⁰ and returned former GRUNK Official Chao Seng.⁴⁰⁶¹ Duch also provides details on the execution of four

“Westerners” just outside the S-21 compound.⁴⁰⁶² During his trial he stated “*I still remember the words that Uncle Nuon told me. He said, for the long-nose people they had to be smashed and they had to be photographed. You have to remember, we do not spare. We do not have to have their bones in exchange for a bulldozer*”.⁴⁰⁶³ In at least one instance **Nuon Chea** gave orders not to kill a prisoner but to keep him in S-21.⁴⁰⁶⁴

973. Duch explains that he received explicit and express orders from **Nuon Chea** on several occasions to execute S-21 prisoners *en masse*.⁴⁰⁶⁵ In particular, Duch states that in December 1978 “*about 300 prisoners were executed as soon as they arrived at S-21, without interrogation and on Nuon Chea's order (the Eastern Zone had rebelled and interrogation was unnecessary because we were sure of the prisoners' betrayal)*”.⁴⁰⁶⁶ In an interview with a journalist, when asked about this specific event, **Nuon Chea** denied having given this order.⁴⁰⁶⁷ Finally Duch states “*on the 2nd or 3rd of January 1979 (I do not remember clearly), Nuon Chea called me in to receive an absolute order. That is, he required that S-21 smash (kill) all the victims*”.⁴⁰⁶⁸ According to Duch approximately 200 inmates (except four) were executed following this order and he adds “*Nuon Chea decided to smash all the prisoners, but allowed me to keep those four prisoners by telling me that ‘[you] must manage the situation by self-mastery’ which meant smash those people when necessary. I gave this order to Hor who subsequently sent the order to other interrogators. When the Vietnamese army arrived, those interrogators would have been held responsible if they did not follow the order which was to kill those prisoners*”.⁴⁰⁶⁹ Those four prisoners were subsequently executed when the Vietnamese troops arrived.⁴⁰⁷⁰

974. Duch also explains that on some occasions **Nuon Chea** and Son Sen asked him to take photographs of the executed prisoners so that the upper level could be certain that they had been killed.⁴⁰⁷¹

Targeting of Groups

975. Through his various roles and functions in the CPK, **Nuon Chea** participated in the targeting of particular groups of people.

976. As a full-rights member of the Central and Standing Committees, **Nuon Chea** would have participated in the formulation of the September 1975 Party document which specified that the only classes that remained were workers and peasants, and that all of the other classes had been melded into these two groups.⁴⁰⁷²

Treatment of Former Officials of the Khmer Republic

977. This group was targeted while **Nuon Chea** was Deputy Secretary of the Central Committee and full rights member of the Standing Committee. At the May 1975 conference in Phnom Penh, **Nuon Chea** explained that former Lon Nol soldiers and officials would not be allowed to stay in the framework of the new regime.⁴⁰⁷³ Among the S-21 confessions, is one that is believed to be from a “new person” who had served the Lon Nol government and that was sent to **Nuon Chea**.⁴⁰⁷⁴ He received at least one telegram categorizing officials of the Khmer Republic as enemies.⁴⁰⁷⁵

Treatment of Buddhists

978. This group was targeted while **Nuon Chea** was Deputy Secretary of the Central Committee and a full-rights member of the Standing Committee. During the visit of the Workers’ Party of Denmark in July 1978, **Nuon Chea** stated that during the period from 1960 to 1973 “we even worked within the movement with Buddhist monks, making them follow us by saying we would defend our country and religion. If the country were to become dominated by foreigners, there would no longer be any religion”.⁴⁰⁷⁶ Nevertheless in the early days of the regime, **Nuon Chea** lead meetings of CPK cadres and RAK members where he presented the Party policy to prohibit all religions including Buddhism, to defrock monks, to close pagodas, and to forbid Buddhist ceremonies.⁴⁰⁷⁷

Treatment of Cham

979. This group was targeted while **Nuon Chea** was Deputy Secretary and a full-rights member of the Standing Committee. In particular as Deputy Secretary, member of the Standing Committee and member of the Military Committee **Nuon Chea** was one of the superiors of Ke Pork,⁴⁰⁷⁸ who implemented the CPK policy against the Cham community in the Central (Old North) Zone between 1977 and 1979.

980. At a conference in May 1975, Pol Pot and **Nuon Chea** presented policies which included the abolition of all religions that were deemed reactionary.⁴⁰⁷⁹ Telegram 15 dated 30 November 1975 outlines the CPK upper echelon’s policy to “break up” the Cham and forcibly transfer them from the East Zone to the North Zone. As already explained earlier, this telegram was sent to Pol Pot and copied to **Nuon Chea**.⁴⁰⁸⁰ Asked about this telegram, a witness who worked translating telegrams for Centre Office K-1 during the regime explains that **Nuon Chea** was copied because “this matter must also be sent to the person who was in charge of

people like **Nuon Chea** in order to find a solution”. This witness also states that the Standing Committee may have been involved in solving this problem.⁴⁰⁸¹

981. **Nuon Chea** was copied to another telegram from Ke Pork on 2 April 1976 that stated, “*The enemies are former soldiers in combination with the Cham and former cooperative team chairmen*”.⁴⁰⁸²

Treatment of Vietnamese

982. This group was targeted while **Nuon Chea** was Deputy Secretary and a full-rights member of the Standing Committee.
983. From 1975 to 1976, **Nuon Chea** endorsed and disseminated the CPK policy to expel all the Vietnamese people in Cambodian territory and send them to Vietnam through meetings he led in the early days of the regime⁴⁰⁸³ and through his role in the production of *Revolutionary Flag* and *Revolutionary Youth* magazines.
984. In 1977 and 1978, **Nuon Chea** provided information intended to engender fear and hatred of the Vietnamese or to otherwise win support for the targeting of this group, through his continued involvement in the production of CPK propaganda magazines and radio broadcasts. The *Black Paper* which Nuon helped write also contained extracts denouncing the strategy of Vietnam to annex and swallow Cambodia together with references inciting hatred towards the Vietnamese.⁴⁰⁸⁴
985. During the visit of the Workers’ Party of Denmark in July 1978, **Nuon Chea** delivered a speech in which he stated “*The other contradiction is external, Vietnam, in particular, is trying to undermine our party by military, political, economic and ideological means*”.⁴⁰⁸⁵ At a speech at a banquet on 3 September 1978, **Nuon Chea** stated “*At present, under the correct leadership of the Communist Party of Kampuchea and Comrade Secretary Pol Pot, the people and the Revolutionary Army of Kampuchea have smashed all the acts of subversion, attempts at coups d’etat and acts of aggression, expansion, annexation and swallowing of territories cruelly, barbarously and successively perpetrated by Vietnam against Democratic Kampuchea. Through this, the people and the Revolutionary Army of Kampuchea have also crushed the Vietnamese strategy of ‘Indochina Federation’ aiming at swallowing the Kampuchea’s territory and exterminating the Kampuchea’s race, and thus inflicted an ignominious defeat on the Vietnamese strategy ‘lightning attack, lightning victory’*”.⁴⁰⁸⁶ This speech was made in the context of mass killings of Vietnamese civilians in Prey Veng and

Svay Rieng and in other parts of Cambodia, as set out in the section of the Closing Order regarding the treatment of Vietnamese.

986. **Nuon Chea** was kept apprised by the zones and military commanders of the implementation of the CPK policy to kill members of the Vietnamese community. On 1 April 1978, [REDACTED] of Centre Division 164, reported in a secret telephone message to **Nuon Chea** and **Ieng Sary** that 120 Vietnamese had been captured and shot between 27 and 30 March 1978.⁴⁰⁸⁷ Other instances of killing, “smashing” and attacking Vietnamese civilians and the destruction of Vietnamese property were also communicated to **Nuon Chea**.⁴⁰⁸⁸ **Nuon Chea** was also kept informed by detailed reporting from lower-level cadres on mass killings of Vietnamese civilians in Vietnam. On 14 August 1977, a telegram sent to Mo-81 by the Cambodian Ambassador to Vietnam and copied to **Nuon Chea**, **Ieng Sary** and Office 870 reported that *“The Kampuchean army has committed mass killings of 1,000 ordinary Vietnamese people at Ha Tien in Kien Giang province”*.⁴⁰⁸⁹
987. The killings may have been linked to the “betrayal” of the East Zone leaders, in particular Sao Phim. There is evidence that **Nuon Chea** participated actively in the purge of Sao Phim and of the East Zone⁴⁰⁹⁰ before becoming for a period de facto Secretary of the East Zone.⁴⁰⁹¹
988. Regarding Vietnamese soldiers and civilians arrested in the context of the armed conflict with Vietnam, they were generally arrested in or near the main conflict zone on the border with Vietnam. **Nuon Chea** was kept informed by telegrams of the capture, detention, interrogation or killing of some Vietnamese soldiers, civilians or spies in or near the battlefields by military commanders.⁴⁰⁹² For instance, a telegram written by witness [REDACTED] states *“We would like to report nine Yuon people fleeing from their country. According to their interrogations, they said the Yuon had assigned them to come to spy inside Kampuchea and live with the Kampuchean people in order to grasp the Kampuchean people. Now we have swept them away”*. He explains that he sent this telegram to Office 870 which he understands included **Nuon Chea**.⁴⁰⁹³ Telegram 60, dated 29 October 1977 and copied to **Nuon Chea**, requested instructions from Office 870 about arrested Vietnamese and asked *“We would like to know what M [Office] 870 is going to do with Vietnamese caught at villagers' houses in Tadev Village. If M [Office] 870 wants these Vietnamese, we will send them. Now they are kept being interrogated”*.⁴⁰⁹⁴
989. It appears that some, if not all,⁴⁰⁹⁵ of these Vietnamese soldiers and civilians were transferred to S-21 as set out in the section of the Closing Order regarding S-21. Another telegram sent to Pol Pot and **Nuon Chea** on 14 of February 1978 reads *“Comrade Tal captured 2 Yuon heads,*

ages 17 and 27. They were sent to S-21".⁴⁰⁹⁶ Duch repeatedly states that Vietnamese soldiers and Vietnamese civilians were treated like all the other detainees in S-21,⁴⁰⁹⁷ the only exception being that Vietnamese confessions were recorded for propaganda purposes and broadcast on the radio.⁴⁰⁹⁸ Duch explains that this decision was made by **Nuon Chea**.⁴⁰⁹⁹ Duch also added during his trial that "*The essence of the confessions of those Vietnamese was sent to Uncle Nuon. Therefore, whatever it is he would adjust it and then he would send it to me and I would make some changes. So the purpose of the propaganda was determined from the upper echelon*".⁴¹⁰⁰

990. Finally a telegram dated 15 June 1977 addressed by Vy alias Um Neng, in his then capacity as Secretary of the Northeast Zone to "Respected Brother" and copied to **Nuon Chea** reports of the arrest of 209 Vietnamese Jarai by Division 801.⁴¹⁰¹ As described in the section of the Closing Order regarding the Au Kanseng Security Centre, they were subsequently executed.

The Regulation of Marriage

991. Through his various roles within the CPK, **Nuon Chea** participated in the regulation of marriage in Cambodia.
992. **Nuon Chea** participated in the nationwide dissemination of instructions regulating marriage. He acknowledged on several occasions that the CPK had a Five Year Plan to increase the population of Cambodia to 15 million because "*making revolution requires people, and building the nation also requires people*".⁴¹⁰² **Nuon Chea** also participated in this aspect of the commun purpose via the dissemination of the CPK Revolutionary Moral Code, through his involvement in the creation and distribution of the *Revolutionary Youth* and *Revolutionary Flag* magazines, and through his involvement in radio programming.

Knowledge of the Existence of an International Armed Conflict

993. **Nuon Chea** was aware that an international armed conflict between Cambodia and Vietnam existed at all times from April 1975 until at least 6 January 1979. **Nuon Chea** was aware from the earliest stage of the conflict with Vietnam in the months following 17 April 1975.⁴¹⁰³ He was also kept apprised of the military situation and negotiations with Vietnam via his participation in CPK Standing Committee meetings dated 2 November 1975, 9 January 1976, 22 February 1976, 11 March 1976, 26 March 1976 and 14 May 1976.⁴¹⁰⁴ There is also evidence that **Nuon Chea** negotiated with the Vietnamese authorities.⁴¹⁰⁵ He had knowledge of the situation on the battlefields and at the border with Vietnam, including the movement of

troops, military attacks and casualties, via the telegrams that were sent from CPK troops on the ground. Some of these telegrams survive and show that he was copied on many of them between 26 January 1976 and 22 of August 1978. Their frequency increased, occasionally reaching several a day, with the escalation of the armed conflict.⁴¹⁰⁶ He also received telegrams related to international relations and diplomacy where the conflict was mentioned.⁴¹⁰⁷ Finally, **Nuon Chea** gave speeches⁴¹⁰⁸ and led political meetings including with RAK members, where he talked about the international armed conflict with Vietnam.⁴¹⁰⁹

B. IENG SARY⁴¹¹⁰

Background

994. **Ieng Sary** became politically active in the 1940s as a student at Sisowath High School.⁴¹¹¹ It was during this time that he met **Ieng Thirith**⁴¹¹² and Saloth Sar.⁴¹¹³
995. In 1950, **Ieng Sary** moved to Paris to study.⁴¹¹⁴ During this time, he became a member of the French Communist Party (PCF) with Pol Pot and **Khieu Samphan**⁴¹¹⁵ and was one of the founders of the Marxist Circle of Khmer Students.⁴¹¹⁶
996. After returning to Phnom Penh in 1957,⁴¹¹⁷ **Ieng Sary** joined the Khmer People's Revolutionary Party (KPRP).⁴¹¹⁸ He was a Professor of History and Geography at Kampuchebot Private High School⁴¹¹⁹ until he went into hiding in 1963.⁴¹²⁰
997. In 1960, **Ieng Sary** participated in the First Party Congress of the Workers Party of Kampuchea (WPK), the new name for the KPRP, and the predecessor of the CPK.⁴¹²¹ He was elected to the Central Committee and was made an alternate member of the Standing Committee, ranking fourth in the hierarchy of the Party.⁴¹²² At the Second Party Congress in 1963, he was elected a full-rights member of the Standing Committee.⁴¹²³
998. In April 1963, after being named by Sihanouk as one of 34 known "leftists," **Ieng Sary** fled to the Vietnamese border to join Son Sen and Pol Pot.⁴¹²⁴ In 1966, **Ieng Sary** and other CPK leaders moved to Ratanakiri in the Northeast, where a new Central Committee headquarters was established.⁴¹²⁵ **Ieng Sary** then became Northeast Zone Secretary.⁴¹²⁶
999. In 1970, **Ieng Sary** travelled to Hanoi where he organized the "Voice of the FUNK" radio station,⁴¹²⁷ then managed by **Ieng Thirith**. From Hanoi, **Ieng Sary** flew to Beijing to liaise

with the Chinese Communist Party. From 1971 he was given a permanent base in Beijing.⁴¹²⁸ He concurrently became “Special Envoy of the Internal Resistance in Beijing” and was placed in charge of relations with Norodom Sihanouk.⁴¹²⁹ **Ieng Sary’s** roles and functions while in Beijing are set out in the **Ieng Sary** section of the Closing Order under the heading “*Returnees*”. During this period, **Ieng Sary** returned to Cambodia twice, once in 1973 when he accompanied Norodom Sihanouk to visit the “liberated zones”⁴¹³⁰ and again in 1974.⁴¹³¹ He returned to Cambodia permanently in April 1975.⁴¹³²

1000. During the CPK regime **Ieng Sary** used the revolutionary alias “Van”.⁴¹³³

Roles and Functions

Membership of the Central and Standing Committees

1001. **Ieng Sary** joined the Central Committee of the Cambodian Communist Party in 1960,⁴¹³⁴ and its Standing Committee in 1963.⁴¹³⁵ During the CPK regime, he was a full-rights member of both committees.⁴¹³⁶ As a full-rights member of the Central Committee, **Ieng Sary** could “*consider and discuss and join in the decision making*” with regard to all matters.⁴¹³⁷
1002. Of the 19 surviving Standing Committee meeting minutes⁴¹³⁸ (only 15 of which contain records of attendance⁴¹³⁹) **Ieng Sary** is listed as having attended 10.⁴¹⁴⁰ He is also listed as having attended one *ad hoc* high-level meeting of the Centre.⁴¹⁴¹ In reality, it is likely that he would have attended significantly more meetings as **Khieu Samphan** says that the Standing Committee convened every 7-10 days, and even more regularly in emergencies.⁴¹⁴² During these meetings, there are records of **Ieng Sary** making presentations on diverse issues such as: industry, commerce and transport; participation in the Non-aligned Countries Colombo Conference; foreign aid; the conflict with Vietnam; the recall of overseas based Cambodians; and diplomatic relations with other countries.⁴¹⁴³ With regard to those meetings he did not attend, he would have had access to their minutes which appear to have been routinely taken.
1003. In his roles as member of the Central and Standing Committees, **Ieng Sary** attended regular CPK high level meetings at K-1 and K-3, including monthly meetings at K-1 lasting 5-6 days with leading cadres from various zone, sector, or district committees. Approximately 20 cadres would attend these meetings.⁴¹⁴⁴ He also attended annual meetings with the Centre and zone secretaries.⁴¹⁴⁵

1004. **Ieng Sary** remained on the Standing Committee throughout the CPK regime and when Party leadership subsequently took refuge along the Cambodia-Thailand border.⁴¹⁴⁶

Deputy Prime Minister for Foreign Affairs

1005. Steps were taken to create the Ministry of Foreign Affairs, code-named B-1, almost immediately after the CPK took control of Phnom Penh on 17 April 1975.⁴¹⁴⁷ It was officially inaugurated in December 1975.⁴¹⁴⁸ Originally, B-1 was located in two buildings on Sisowath Street on Phnom Penh's riverside. However, in 1976, it was relocated to the Soviet Federation Boulevard.⁴¹⁴⁹ B-1 also operated two visitor reception houses: House number 1, near Wat Phnom; and House number 2, at the *Hotel Le Royal*.⁴¹⁵⁰
1006. One witness claims that more than 1,000 people worked at B-1.⁴¹⁵¹ Initially, personnel were selected from a pool of suitable people that the 870 offices headed by Pang and Doeun had selected from various zones on the grounds of class, qualification, or whether they came from old revolutionary bases such as Preah Vihear or Kampong Cham.⁴¹⁵² B-1 was also staffed by a number of "intellectuals", many of whom had returned from overseas to Cambodia.⁴¹⁵³ Additionally, **Ieng Sary** recruited a number of "child cadre," who were uneducated children aged between eight and fifteen.⁴¹⁵⁴ At one point, B-1 supervised the education of "revolutionary cadres'" children who had been sent there to study.⁴¹⁵⁵
1007. Initially B-1 did not have different departments.⁴¹⁵⁶ However, cadres were given official titles whenever they met overseas guests. For example, former B-1 cadre, [REDACTED], says he was introduced at the United Nations as being a member of the "General Affairs Section," which did not exist.⁴¹⁵⁷ It appears that later B-1 became more structured. Former B-1 cadre, [REDACTED], says that B-1 was the only Ministry structured like a classic Ministry, which was not the case for the others.⁴¹⁵⁸ A document, which appears to be the 152 page handwritten notes of a senior B-1 cadre (who could not be identified), records that by July 1976, B-1 was divided up into seven sections: Education; Growing Crops; Office (including a "Secrecy Sector"); Politics; Protocol; Secretary; and Civil Aviation.⁴¹⁵⁹ This document ("B-1 diary") was shown to a number of witnesses during the investigation, none of whom disputed its authenticity.⁴¹⁶⁰
1008. On 12 August 1975, a Phnom Penh radio broadcast said that **Ieng Sary** had been appointed Deputy Prime Minister for Foreign Affairs.⁴¹⁶¹ His appointment was recorded in the Standing Committee meeting minutes of 9 October 1975 as "Foreign Affairs work, both Party and State".⁴¹⁶² On 30 March 1976, the Central Committee also recorded the appointment in its

document “*Decision of the Central Committee Regarding a Number of Matters*”.⁴¹⁶³ It was formally endorsed by the People’s Representative Assembly of Kampuchea the following month.⁴¹⁶⁴ **Ieng Sary** has admitted being Deputy Prime Minister for Foreign Affairs during the CPK regime, saying that he assumed the role in around April 1976. However, he does not recall the exact date.⁴¹⁶⁵ In this role, he also sat on the Council of Ministers.

1009. The B-1 diary records under the heading “*The Cell Congress 22 May 1976*” that **Ieng Sary** chaired the Party Section⁴¹⁶⁶ and, administratively, the General Leadership Committee and the Political Section.⁴¹⁶⁷ Later in the same document, under the heading “*The Cell Plan of 1977*” **Ieng Sary** is named as the Secretary of the Cell Committee of the Ministry with [REDACTED] as his deputy.⁴¹⁶⁸
1010. There were many different aspects to **Ieng Sary**’s role at B-1. One of his roles was to supervise the CPK’s embassies abroad. As of May 1976, CPK-appointed diplomats were assigned to four DK embassies: in China; North Korea; Vietnam; and Laos. The last residual GRUNK-appointed diplomats were present at DK embassies in Albania, Yugoslavia and Romania.⁴¹⁶⁹ According to [REDACTED], who held various senior roles within B-1 including [REDACTED] of the Propaganda and Information Department,⁴¹⁷⁰ **Ieng Sary** also chaired the Political Section which was staffed by various intellectuals including [REDACTED], [REDACTED], and Aok Sakun;⁴¹⁷¹ chaired meetings of the whole Ministry;⁴¹⁷² chaired meetings of the Party within the Ministry;⁴¹⁷³ supervised the work of the Kampuchea Information Agency and Radio Democratic Kampuchea Foreign Language Broadcast Section;⁴¹⁷⁴ and provided instructions to subordinates about the conduct of education sessions for Ministry staff based on daily broadcasts of Radio Democratic Kampuchea.⁴¹⁷⁵
1011. According to [REDACTED], who also held various senior roles at B-1 including Chief of [REDACTED],⁴¹⁷⁶ **Ieng Sary** was “*in overall charge*” of B-1⁴¹⁷⁷ which meant he headed the Ministry’s Party branch;⁴¹⁷⁸ was responsible for the Ministry’s internal affairs;⁴¹⁷⁹ disseminated orders from the upper echelon, including from Pol Pot and **Nuon Chea**,⁴¹⁸⁰ met almost daily with intellectuals on the staff;⁴¹⁸¹ supervised the Ministry’s branch reeducation offices, such as Chraing Chamres and Prek Pra;⁴¹⁸² received visitors;⁴¹⁸³ travelled abroad on official visits, including to meetings of the United Nations;⁴¹⁸⁴ and escorted foreign delegations on visits to the countryside.⁴¹⁸⁵ [REDACTED] also says that **Ieng Sary** was responsible for internal security affairs at B-1, in consultation with Political Office 870 and Pang.⁴¹⁸⁶ This fact is confirmed by Duch.⁴¹⁸⁷

1012. In his role as Deputy Prime Minister for Foreign Affairs, **Ieng Sary** regularly travelled abroad to countries such as Sri Lanka, Romania, China,⁴¹⁸⁸ Myanmar, Pakistan, Laos, France, Mexico, Cuba, Vietnam, Singapore, North Korea, Indonesia, Thailand, Philippines, Peru, Malaysia, Japan, the United States of America,⁴¹⁸⁹ Hungary, Yugoslavia, and Bulgaria.⁴¹⁹⁰ A former B-1 staff member recalls that **Ieng Sary** most often travelled to China, Vietnam, and North Korea.⁴¹⁹¹ While overseas, **Ieng Sary** retained control of B-1 through the 870 office chaired by Pang. [REDACTED] was usually appointed caretaker manager in his absence. However, [REDACTED] did not have power to make decisions and acted under the direction of “*the Centre*”.⁴¹⁹² In those instances where **Ieng Sary** and [REDACTED] were both absent, B-1 was managed by other senior members of the Ministry⁴¹⁹³ or occasionally by **Khieu Samphan**.⁴¹⁹⁴
1013. In Cambodia, **Ieng Sary** regularly received overseas delegations, entertained them at banquets, attended meetings to discuss international relations and trade, and escorted them on trips throughout Cambodia.⁴¹⁹⁵
1014. While **Ieng Sary** undoubtedly had authority over B-1, former staff members say that important decisions were made by the CPK Standing Committee.⁴¹⁹⁶

Other Roles

1015. In addition to the above, **Ieng Sary** had a number of other roles in the CPK regime. These roles included the power to induct people into the Party,⁴¹⁹⁷ chairing the CPK Central Committee Commission on Foreign Affairs,⁴¹⁹⁸ writing correspondence on behalf of Norodom Sihanouk,⁴¹⁹⁹ and sitting on various committees established to address diverse issues such as banks, the purchase of merchandise, and the Phnom Penh Warehouse.⁴²⁰⁰ He may have been involved in the preparation of CPK propaganda magazines⁴²⁰¹ however, one witness disputes this was part of his role.⁴²⁰² As a full-rights member of the Standing Committee, **Ieng Sary** also shared responsibility for Political Office 870 and Office S-71.⁴²⁰³

Association with Other CPK Senior Leaders

1016. **Ieng Sary** has had close personal and political associations with the other key members of the CPK for many years.⁴²⁰⁴ During the CPK regime, he lived and worked with Son Sen, **Khieu Samphan**, **Nuon Chea**, and Pol Pot, at K-1 and K-3.⁴²⁰⁵

1017. **Ieng Sary** associated with the senior leaders of the regime in many different capacities, including at major Party gatherings with Pol Pot, **Ieng Thirith**, **Khieu Samphan**, and **Nuon Chea**,⁴²⁰⁶ when preparing to travel to the zones;⁴²⁰⁷ when assisting them to write speeches;⁴²⁰⁸ or when receiving them at B-1.⁴²⁰⁹ **Ieng Sary** and **Khieu Samphan** received foreign delegations together⁴²¹⁰ and jointly travelled overseas.⁴²¹¹ **Ieng Sary** and **Khieu Samphan** also travelled to the countryside and inspected cooperatives and worksites together.⁴²¹²

Participation in the Common Purpose

Movement of the Population

1018. Through his various roles in the CPK, **Ieng Sary** participated in the movement of the population from towns and cities to rural areas, as well as from one rural area to another.
1019. The CPK moved the population from a number of cities prior to 17 April 1975 while **Ieng Sary** was on the Standing Committee,⁴²¹³ a fact that he admits discussing with Pol Pot near Phnom Penh in 1974.⁴²¹⁴ These discussions may have happened as part of the June 1974 Central Committee conference.⁴²¹⁵
1020. Both during and after the CPK regime, **Ieng Sary** publically endorsed and defended the CPK's policy of emptying cities and transferring their inhabitants to the countryside. In July 1978, **Ieng Sary** gave three reasons for the emptying of Cambodian cities, "*the food shortage, the presence of enemy networks, and the peoples' farming experience*".⁴²¹⁶ In the same month, he explained that once industry had been developed, people would be able to return to the cities.⁴²¹⁷ When he met foreign delegations, **Ieng Sary** said that the population movements had been planned in advance and were necessary due to the likelihood of bombings; the presence of spies; the threat of famine; and the need to send people to the countryside for agricultural production.⁴²¹⁸ He also endorsed this policy at meetings of his staff at B-1, saying that it had been done to purge the people of their town habits.⁴²¹⁹ **Ieng Sary** was made aware of CPK-era forced transfers through the receipt of telegrams. For example, one dated 11 December 1977, mentions the distribution of new people from Siem Reap to other districts.⁴²²⁰
1021. After 6 January 1979, **Ieng Sary** continued to endorse and defend the decision to empty various cities and towns. For example, in 1980, he claimed that the decision to empty the cities had been taken because the CPK was afraid that Vietnam would infiltrate and kill CPK leaders.⁴²²¹ In the same year, he claimed that when he arrived in Phnom Penh the city was

already empty and that if there had been more people in the CPK who thought like him the decision would not have been taken.⁴²²² In 1996, the Democratic National Union Movement, created by **Ieng Sary**, stated in a communiqué that the movement of people had been considered necessary to teach city people how to endure moral and physical suffering through hard labour.⁴²²³

Phase 1

1022. **Ieng Sary** participated in the movement of the general population of Phnom Penh. While he was not in Phnom Penh when the meetings that finalised the plan to evacuate the city took place⁴²²⁴ (he returned to Phnom Penh from Beijing between 22 and 23 April 1975 by which time he says the city was empty⁴²²⁵), **Ieng Sary** admits that he discussed the plan to move the population with Pol Pot in 1974 and advised him that the Chinese were interested to know what the CPK planned to do in the event of a CPK victory.⁴²²⁶ Pol Pot replied that the plan was to evacuate, and that the Chinese need not worry as they already had experience in Steung Treng and Kratie. At this stage, **Ieng Sary** says that it was not clear if Phnom Penh would be totally emptied or not. He says the plan was to evacuate and then “we” would wait and see how Cambodians and the USA would react.⁴²²⁷ In September 1996, **Ieng Sary** further admitted that in 1974 he warned Pol Pot that moving the population from Phnom Penh would not be as easy as it had been to evacuate the smaller towns of Steung Treng and Kratie. He cautioned that everything would have to be “*thoroughly arranged because there were millions of people*”.⁴²²⁸ He says that by the time he arrived in the city everything was already decided and it was not worth talking about.⁴²²⁹
1023. Over the years, **Ieng Sary** gave various reasons for moving the population out of Phnom Penh. In September 1975, he claimed that there were two reasons for the movement. First, since there was a food shortage and the CPK did not have sufficient transport to deliver food to Phnom Penh, they decided to move people to the country where there was food. This also avoided having to ask other countries for assistance. Second, they had discovered a document detailing a secret plan by the CIA and the defeated Lon Nol regime to undermine and resist the CPK victory in Phnom Penh. He also said that people were free to return to Phnom Penh from the countryside if they wished, and that 100,000 had done so already.⁴²³⁰ In October 1975, **Ieng Sary** claimed that the evacuation of Phnom Penh had been necessary to thwart an American plan to destabilise the CPK government.⁴²³¹ In May 1977, **Ieng Sary** said that after the “*initial evacuation the cities [were] being populated again,*” and that the unpopulated areas were being used for production. He also admitted that 2,000 to 3,000 people died during the evacuation of Phnom Penh.⁴²³² On 15 January 1978, **Ieng Sary** gave a detailed

explanation to the Danish Ambassador regarding the emptying of Phnom Penh. He said that it had been carried out due to the shortage of food, the security situation, and the need to increase agricultural production.⁴²³³

Phase 2

1024. The decision to move people from the Central (Old North), Southwest, West and East Zones to the North and Northwest Zones was made by the Standing Committee after it visited the Northwest Zone between 20 and 24 August 1975. While **Ieng Sary** may have been out of the country at this time,⁴²³⁴ he has stated that he attended an enlarged Standing Committee meeting in September 1975 to discuss implementing a dictatorship and strengthening agriculture and industry.⁴²³⁵ A Party document coinciding with the date of this meeting specified the need to relocate new people to the North and Northwest Zones.⁴²³⁶

Phase 3

1025. This population movement occurred while **Ieng Sary** was a full-rights member of the Standing Committee. Further, it was linked to the East Zone purge which took place, in part, because of CPK fears that the Vietnamese had infiltrated its ranks in the East Zone in order to stage a *coup d'etat*. **Ieng Sary** expressed these fears on behalf of the CPK in speeches⁴²³⁷ and through the dissemination of the *Black Paper*⁴²³⁸ to foreign officials and the press.⁴²³⁹ The *Black Paper* states that the Vietnamese penetrated Cambodia to establish contacts and hold meetings with Cambodian agents in order to plan and lead a *coup d'etat*. It goes on to state that this plan had suffered “*the most ignominious and heaviest defeat*”.⁴²⁴⁰ It also appears from several civil party applications that those who were being moved from the East Zone transited through Phnom Penh in 1978.⁴²⁴¹ Additionally, witnesses recall that **Ieng Sary** visited the East Zone during the CPK regime.⁴²⁴²

Cooperatives and Worksites

1026. Through his various roles in the CPK, **Ieng Sary** participated in the establishment and operation of cooperatives and worksites.

Participation in the Creation of this Policy

1027. The CPK's progressive organization of increasingly collective agricultural production into cooperatives commenced as early as 1970, while **Ieng Sary** was already a full-rights member of the Standing Committee.⁴²⁴³
1028. During the CPK regime, **Ieng Sary** was involved in the continued planning of this policy by his attendance at Standing Committee meetings, or through access to their minutes,⁴²⁴⁴ and in the development of the *Four Year Plan* to build socialism in all fields.⁴²⁴⁵ It was also addressed at an enlarged meeting of the Standing Committee in September 1975 at which the rapid strengthening of agriculture was discussed.⁴²⁴⁶ Additionally, he assisted with the planning of this policy in his role on the Council of Ministers.⁴²⁴⁷
1029. **Ieng Sary** attended the Standing Committee meetings at which the decision was made to establish Kampong Chhnang Airport,⁴²⁴⁸ or had access to the minutes.

Endorsement of this Policy

1030. **Ieng Sary** actively endorsed this policy both nationally and internationally. Nationally, he disseminated it at study meetings with Ministry of Foreign Affairs staff,⁴²⁴⁹ at mass assemblies,⁴²⁵⁰ and over Cambodia's national radio.⁴²⁵¹ Internationally, he explained it to foreign journalists,⁴²⁵² overseas groups and visiting delegations,⁴²⁵³ and to the United Nations.⁴²⁵⁴
1031. In January 1976, **Ieng Sary** stated that cooperatives did not only fulfil an economic function but also served the political cause to contribute "*to efforts to smash the enemy*".⁴²⁵⁵ In February 1976, he explained that cooperatives were meant to defend "*the liberated areas and the revolutionary power of the State and fighting the enemy's espionage activities and pacification campaigns*".⁴²⁵⁶
1032. On 1 March 1976, at a banquet in Siem Reap attended by B-1 cadres, visiting diplomats, and diplomats based in Cambodia, **Ieng Sary** declared "*As you can now see, the entire country has become a vast worksite. The Cambodian people are massing forces to enthusiastically build new field embankment networks with firm confidence in their bright future*".⁴²⁵⁷
1033. On 5 March 1976, at a banquet to honour a delegation from China, **Ieng Sary** announced that the country was striving to fulfil its two main tasks of building the economy and defending the country. He said "*At present, the revolutionary movement to build new field embankments and irrigation canals which also represents the spiritual struggle and the struggle to develop*

industrial and agricultural production is continuing seethingly throughout the country. There are worksites everywhere".⁴²⁵⁸

1034. On 5 October 1976, at the 31st General Assembly of the United Nations, **Ieng Sary** stated that *"Everywhere in the country, our Cambodian people have been engaged in a vast and impetuous revolutionary movement to fulfil two fundamental tasks: defend and build the country"*.⁴²⁵⁹ He also stated that as US *"stooges"* and *"other reactionary forces"* were still operating in Cambodia, the *"people and the revolutionary army will continue to fight them independently and inflict more shameful defeats on them"*.⁴²⁶⁰
1035. In January 1977, at a banquet in honour of the diplomatic corps to Cambodia, **Ieng Sary** spoke of the country's achievements in agriculture and irrigation and declared that *"the drive to restore the economy and to defend and build the country has been extremely seething. It has become a soaring nationwide mass movement, one of profound revolutionary significance and unprecedented in our history"*.⁴²⁶¹
1036. In a speech broadcast over Cambodian radio on 17 April 1977, **Ieng Sary** proclaimed the successes of the CPK's economic policy.⁴²⁶²
1037. In May 1977, **Ieng Sary** told a journalist that *"The Cambodian revolutionary experience is unprecedented. What we are trying to bring about has never occurred before ... We are reorganizing the country, taking agriculture as the basis ... Democratic Cambodia is governed by Angkar. The Angkar is the only Party and the State. The population is organised into cooperatives responsible for distributing food, clothing, and medical supplies. There is no money. The concept of private property has been abolished. There are no newspapers, only weekly sheets which circulate among the leaders. The old educational system has been abolished ... Since we do not have many models to follow, we are learning through experience. We started the agricultural cooperatives in the liberated zones in 1973. Now the cooperatives have spread to the entire country"*.⁴²⁶³
1038. In August 1977, at a banquet held by **Ieng Sary** to welcome a delegation from Burma, he announced that they would personally see the efforts of the people to build irrigation networks, canals, ditches, and reservoirs.⁴²⁶⁴
1039. On 11 October 1977, at the 32nd General Assembly of the United Nations, **Ieng Sary** spoke of the work of national construction in Cambodia and stated that *"we firmly rely on the exalted revolutionary awareness, the tremendous strength, the experience and creative spirit of our*

*people, the vast majority of whom are peasants. We take agriculture as the fundamental factor, and we make use of the capital accumulated by agriculture in order progressively to build up industry and to transform Kampuchea, which had had a backward agriculture, within a short period of time into a modern agricultural country and then into an industrial country, while firmly keeping to the path of independence and sovereignty and drawing fundamentally on our own strength". He went on to say that large reservoirs, canals, and dams had been constructed by "our workers and peasants, who depend entirely on their own strength". He also said that the widespread organization of cooperatives, in which the peasants hold power and control production, "constitutes the fundamental factor that is constantly changing the appearance of the countryside ... and transforming it".*⁴²⁶⁵

1040. On 22 April 1978, in a letter to the United Nations General Assembly, **Ieng Sary** stated that because CPK cadres were working with the people carrying out defence and national construction they were unable to represent Cambodia at the United Nations.⁴²⁶⁶ **Ieng Sary** went on to state that former government employees, simple citizens once again, were working alongside the people in the cooperatives and that *"everyone is equal"*. He also stated that, during the process of economic recovery and national construction that had taken place, the people of Cambodia, relying on their own resources, had achieved a lot in the fields of industry and agriculture.⁴²⁶⁷
1041. On 18 July 1978, **Ieng Sary** indicated in an interview that the Cambodian population was now *"overwhelmingly rural"*.⁴²⁶⁸
1042. On 12 October 1978, at the 33rd General Assembly of the United Nations, **Ieng Sary** spoke about the results achieved by Democratic Kampuchea's *"collectivist, socialist"* society through mass irrigation and the development of industry, technology, and science. He remarked that *"those who had an easy life in the old society – that is, nearly 10 per cent of the population – their material living conditions have been cut down more or less to the level of everyone in the country"*.⁴²⁶⁹

Knowledge and Implementation of this Policy

1043. **Ieng Sary** was aware of the various ways in which this policy was being implemented throughout Cambodia and participated in its implementation.
1044. **Ieng Sary** received telegrams which reported on the implementation of this policy and the living conditions of the people.⁴²⁷⁰ Some of these explicitly stated that there were food

shortages in the provinces, and that people were starving.⁴²⁷¹ Others reported on the progress at various worksites, such as dams which were under construction, including Trapeang Thma Dam.⁴²⁷²

1045. **Ieng Sary** personally inspected various worksites and cooperatives throughout Cambodia.⁴²⁷³ He inspected areas such as Siem Reap province⁴²⁷⁴ including its Saut Nikum⁴²⁷⁵ and Chik Reng districts,⁴²⁷⁶ Battambang province,⁴²⁷⁷ and Suong in the East Zone.⁴²⁷⁸ He also visited the following worksites: 1st January Dam;⁴²⁷⁹ Kampong Chhnang Airport worksite;⁴²⁸⁰ and Trapeang Thma Dam.⁴²⁸¹ Former B-1 staff member, [REDACTED], who escorted **Ieng Sary** on visits to the countryside, stated that they saw that “*people had difficulties*” but did not dare say anything because their work “*was the Foreign Ministry. If we talked about zone affairs, those were their affairs, and that would impact solidarity. Each zone had a leader, like a warlord*”.⁴²⁸² He also said that “*Foreign visitors could see the same things I did. They could write their reports, but I don’t know if upper echelon saw those reports or not*”.⁴²⁸³ Further, **Ieng Sary** may have sent underperforming B-1 cadres to the Kampong Chhnang Airport worksite to “*break rocks*”.⁴²⁸⁴
1046. **Ieng Sary**’s subordinates at B-1 regularly accompanied visiting delegations on tours of cooperatives and worksites in areas such as Siem Reap, Banteay Mean Chey, Kampong Som, Kratie, and Takeo.⁴²⁸⁵ After these trips, **Ieng Sary**’s subordinates would occasionally report to him on the harsh living conditions of the people.⁴²⁸⁶
1047. **Ieng Sary** claims that he was unaware of the harsh living conditions of people in the provinces until his daughter advised him of them at some point during the regime, which led him to raise the issue with Pol Pot saying “*Pol Pot said I was a person who attacked his own regime; he did not go to help. I did not dare say anything because the power was his ... I saw that it was not doable. To fight was to die*”.⁴²⁸⁷ He described the same discussion with his daughter and subsequent admonishment by Pol Pot in another interview, stating that from then on he feared that he would be arrested.⁴²⁸⁸ **Ieng Sary** stated that while he was aware that people were without food, he denied that he knew people were dying as a consequence.⁴²⁸⁹ On other occasions, **Ieng Sary** denied knowing about living conditions in the provinces. For example, in an interview in 1981 he said, “*We weren’t aware of life at the grassroots, that is the way murders are able to happen. But the murderers were Vietnamese agents. That’s as plain as day*”.⁴²⁹⁰

Security Centres and Execution Sites

1048. Through his various roles in the CPK, **Ieng Sary** participated in the reeducation of “*bad-elements*” and the killing of “*enemies*”, both inside and outside the Party ranks.

Participation in the Creation of this Policy

1049. This policy existed prior to 17 April 1975, while **Ieng Sary** was a full-rights member of the Standing Committee. During the CPK regime, **Ieng Sary** was involved in the continued planning of this policy by his attendance at Standing Committee meetings or through access to their minutes.⁴²⁹¹ Further, as a member of the Central Committee, **Ieng Sary** participated in the formulation and implementation of the 30 March 1976 Directive, which delegated the power to smash inside and outside the ranks to the zone and autonomous sector committees.⁴²⁹² He also addressed this policy as a member of the Council of Ministers.⁴²⁹³ Further, in July 1975, **Ieng Sary** attended a RAK gathering at which this policy was discussed.⁴²⁹⁴

1050. **Ieng Sary** would have participated in the creation and dissemination of the June 1978 Central Committee Directive entitled “*Guidance of the Central Committee of the Communist Party of Kampuchea on the Party's Policy towards Mised Persons who have joined the CIA, served as Yuon agents or joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea*” which appears to prescribe reeducation for those who joined the CIA, KGB and Vietnamese before July 1978, but orders the Party and the Cambodian people to eliminate networks which continue to oppose the Party from July 1978 onwards.⁴²⁹⁵ Further, in September 1978, **Ieng Sary** attended a large assembly in Phnom Penh together with other senior leaders of the CPK at which Pol Pot announced to hundreds of attendees that the military and the base no longer had the right to arrest anyone. From that point, they only had the right to question people and report to the Centre.⁴²⁹⁶

Endorsement of this Policy

1051. **Ieng Sary** disseminated and endorsed this policy both nationally and internationally.

1052. In April 1977, shortly after a purge inside B-1 in February and March 1977, **Ieng Sary** publically announced that the “*Cambodian people and Revolutionary Army have smashed all the enemies’ tricks, crushed their spy network and succeeded in preserving our national independence, sovereignty, territorial integrity and the sacred fruits of the revolution. In spite this fact, our Cambodian people and Revolutionary Army have constantly heightened their sense of revolutionary vigilance*”.⁴²⁹⁷

1053. On 30 August 1977, **Ieng Sary** delivered a speech at a banquet honouring a delegation from Burma. He said that *“During the past 8 months our Cambodian people and the Revolutionary Army have striven seethingly and arduously to increase production and successfully defend and protect our national independence, sovereignty and territorial integrity, as well as the fruits of the revolution and the people’s state administration of equality and justice by smashing all manoeuvres of enemies of all stripes”*.⁴²⁹⁸
1054. On 11 October 1977, at the 32nd General Assembly of the United Nations, **Ieng Sary** announced that Cambodia had defeated its internal and external enemies saying that *“despite many post war problems which still remain to be solved, our people and our Revolutionary Army - alerted to the true nature of the aggressive and annexationist, cruel and treacherous American imperialists and of their lackeys and reactionaries, who are the enemies of our people to be found on every hand, now constantly on the revolutionary alert - have shattered all their attempts at aggression, expansion, subversion and provocation, fully succeeding in the defence, consolidation and development of the achievements of the revolution and of revolutionary power, as well as safeguarding the independence, sovereignty, territorial integrity and frontiers of their own country in full independence and sovereignty, and relying entirely on their own strength”*.⁴²⁹⁹
1055. In April 1978, at a welcoming dinner for a delegation of the Marxist-Leninist Communist Party of the United States of America, amidst ongoing purges within the Ministry of Foreign Affairs, **Ieng Sary** said *“we have totally crushed all activities of spying and subversion of enemies of all kinds, including the Vietnamese and CIA activities, who are cooperating together”*.⁴³⁰⁰
1056. On 17 April 1978, at a banquet honouring members of the diplomatic corps accredited to Cambodia, **Ieng Sary** stated that in the past year the people and the RAK *“have smashed all espionage and subversive activities of enemies of all sorts as well as their attempts to topple Democratic Kampuchea through a coup d’etat”*.⁴³⁰¹
1057. On 22 April 1978, in a letter to the United Nations General Assembly, **Ieng Sary** wrote that in the three preceding years, the people of Cambodia had *“smashed”* the espionage and subversive activities of the imperialists, expansionists and annexationists and their supporters, together with their attempts to overthrow Democratic Kampuchea.⁴³⁰² He went on to write that the *“Government of Democratic Kampuchea does not murder ... However, when dealing with a handful of traitors, the agents of foreign imperialists and reactionaries, who seek to*

*destroy their own nation, their own people and their own revolution, the Government applies the dictatorship of the proletariat resolutely and rigorously”.*⁴³⁰³

1058. On 24 June 1978, at a press conference for members of diplomatic missions in Cambodia, **Ieng Sary** announced, “*At the end of May 1978, the Government of Democratic Kampuchea, the Kampuchean people and the Kampuchean Revolutionary Army, under the correct leadership of the KCP, have once again successfully smashed a coup plan of the Vietnamese Communist Party and the Government of the Socialist Republic of Vietnam aimed at toppling Democratic Kampuchea ... The aim of their coup d’etat this time was to topple Democratic Kampuchea. If they were not able to totally overthrow Democratic Kampuchea, they planned to try and occupy the Eastern region*”.⁴³⁰⁴ On the same day, the Ministry of Propaganda issued a press communiqué announcing that the CPK and the RAK had fully smashed another plan to stage a *coup d’etat* by the Vietnamese.⁴³⁰⁵ On 29 June 1978, in an interview, **Ieng Sary** again declared that the CPK had successfully frustrated a Vietnamese coup.⁴³⁰⁶
1059. In a July 1978 interview with *Le Monde*, **Ieng Sary** said that “*In Cambodia there were on the one hand CIA agents and on the other hand, Vietnamese agents. It was they who created many difficulties for us by circulating rumours that the government is incapable of improving the people’s living conditions. These agents spread a great deal of confusion about our activities and assassinated cadres and leaders. But we have stabilised the situation, which is improving more and more*”.⁴³⁰⁷
1060. **Ieng Sary**, when asked in an interview about his use of language such as “*eradicate*” and “*smash*” before the United Nations, and whether his use of these words demonstrate his contemporaneous knowledge that killings were taking place in Cambodia, said “*My using that wording at the time ... If I had not spoken like that, do you see, I would have been blamed. Each time I came back I was afraid for my safety. And translation into foreign languages was all up to [REDACTED] group, whoever. They helped a whole lot with the translation. I don't know foreign languages very well, but to smash, all of that, that was all wording used inside the country; that is what the Party used. If I had not used it, they would have charged me too*”.⁴³⁰⁸

Knowledge and Implementation of this Policy Generally

1061. While there is no evidence that **Ieng Sary** personally visited any security centres or execution sites, he knew that internal and external enemies of the CPK were being identified and killed through his position on the Standing Committee, by receiving telegrams which reported on

the “enemy situation” throughout Cambodia, his knowing of and participating in S-21, and through regular meetings with members of zone and sector committees at which the CPK identified internal and external enemies to be executed.

1062. Duch explains that the decision to arrest members of the Central Committee or high-level CPK cadres had to be made collectively by the Standing Committee.⁴³⁰⁹ As a member of the Standing Committee, **Ieng Sary** would have known of, and participated in, the arrest and subsequent execution (or in some cases suicide) of Standing Committee members, zone and autonomous sector secretaries, and ministers. It is also likely that **Ieng Sary** would have received one of the seven copies of Sector Secretary Suos Neou alias Chhouk’s confessions which Duch believes he made copies of for the Standing Committee.⁴³¹⁰ Further, **Ieng Sary** was probably present at the meeting at which it was decided to arrest Vorn Vet, and at the arrest itself.⁴³¹¹
1063. **Ieng Sary** received telegrams from the various zones reporting on the implementation of this policy.⁴³¹² For example, one telegram copied to **Ieng Sary** and received on 21 April 1978 reports on the elimination of “spies” and “internal traitors” along the eastern border.⁴³¹³ Another telegram dated 19 March 1978 addressed by Se to “Committee 870” states “*This dry season, the enemy remnants raised their heads back up and conducted activities of opposition against us in the worksites. These enemy remnants made contact with police, soldiers and civil servants, all of whom disguised themselves as new people. It was only after they conducted activities of opposition against us that we clearly recognized their faces. In conjunction with this, we systematically swept them cleanly away. As of this day, undercover enemies burrowing from within situations have gone quiet. A number of soldiers, police and civil servants fled after we had swept approximately 20 head of them cleanly away. We are continuing to take further measures to find and arrest them. As for the undercover enemies in Preah Vihear sector, they no long exist after we took and are continuing to take further measures to sweep them cleanly away*”.⁴³¹⁴ Others state “*We are continuing to purge the remaining group continuously*”⁴³¹⁵ or “*some have been removed, isolated and cleaned*”⁴³¹⁶ and contain expressions such as “*sweep clean and screen them constantly*,”⁴³¹⁷ “*internal traitors have been swept clean*,”⁴³¹⁸ “*sweep out the underground enemy*,”⁴³¹⁹ “*searching the enemy*,”⁴³²⁰ “*find more enemy apparatuses*,”⁴³²¹ and “*smash all kinds of enemies*”.⁴³²² Further, a telegram sent from Division 920 to Son Sen copying **Ieng Sary** reports that five bad elements had been arrested and were being interrogated. The telegram states that he will forward a “file” once the interrogations are complete.⁴³²³

1064. At different times, **Ieng Sary** has admitted that he was aware of the killing of “enemies” during the CPK regime. In interviews on 22 July 1981 and 17 December 1996, **Ieng Sary** claims that a Military and Security Committee, comprised of Pol Pot, **Nuon Chea**, Sao Phim, and Son Sen decided on military and security matters including “... *killing ... S-21 ... other secret locations ... secret agents ... [and] military matters*”. He says that this committee reported to the Standing Committee after receiving reports from the zones and that he personally received reports on security from this committee.⁴³²⁴ **Ieng Sary** has also admitted that Pol Pot would sometimes advise him of executions.⁴³²⁵ In an interview on 17 December 1996, **Ieng Sary** conceded that he knew killings were taking place in the different zones saying that in the East Zone “*if Sao Phim wanted to kill and wanted to do something, it was not necessary for him to ask the upper echelon. The organization was like that; each zone was independent, almost what would be called kill as you please, do as you please*”.⁴³²⁶ In an interview in January 1979, **Ieng Sary** conceded that in the early days of the CPK regime there had been a lot of killing but that the total number during the whole regime was only a few thousand.⁴³²⁷
1065. With regard to morality, the policy of the CPK was that perpetrators of rape were to be punished as set out in section of the Closing Order regarding the Factual Findings of the Joint Criminal Enterprise. There is no evidence to suggest that **Ieng Sary** was aware that perpetrators of rape were not being punished. For example, he received a telegram dated May 1978 in which perpetrators of rape were categorized as “*internal enemies*”.⁴³²⁸
1066. Former B-1 cadre, [REDACTED], says that **Ieng Sary** admitted to her that he consciously modelled Cambodia’s security centre network on the Chinese model. In 1996, she said that while in Beijing **Ieng Sary** visited Prison No 1, which is where strong opponents of the revolution were detained. At that prison, detainees were required to read ideological materials, attend self-criticism sessions, undergo brainwashing, and were locked in isolation. She says that later, in Cambodia, **Ieng Sary** said to her that “*He would do better than Prison No 1 ... This would be better ... this would be all over the country and in all sectors of society*”.⁴³²⁹

Knowledge and Implementation of this Policy at S-21

1067. **Ieng Sary** has admitted that he was aware of the existence of S-21 during the CPK regime.⁴³³⁰ However, he never visited the site⁴³³¹ nor met its chairman, Duch.⁴³³² In an interview in July 1981, **Ieng Sary** claimed that while he was aware of S-21, he did not know that detainees were being executed, adding that he simply thought that those who had been arrested were being sent to cooperatives to be reeducated.⁴³³³ In December 1996, **Ieng Sary** stated during an

interview that whenever he returned to Cambodia from an overseas visit, “*I thought to myself, ‘Will they take me to S-21?’ or ‘Will I get to meet my wife?’*”.⁴³³⁴ He expressed the same fears to an author in 1997, when he also claimed that he thought S-21 was a reeducation centre from which people would eventually return. Later, he noticed that people did not return, and learned that they “*were accused there without justification*”.⁴³³⁵

1068. Duch states that every member of the Standing Committee knew that everyone sent to S-21 had to be executed, and that torture was practised in all security centres.⁴³³⁶ Additionally, it is clear that **Ieng Sary** was aware that some of those who were detained at S-21 were Vietnamese prisoners of war, because B-1 published a collection of confessions⁴³³⁷ of captured Vietnamese soldiers and “spies” who had been interrogated at S-21.⁴³³⁸

Links to S-21 through B-1

1069. Between 17 April 1975 and 6 January 1979, approximately 113 people were arrested at B-1, including Office M-1 at Chraing Chamres, and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21.
1070. The CPK used B-1 as a facility where the Party could monitor cadres from all over the country whose loyalty was in doubt, with the result that many were eventually sent to S-21.⁴³³⁹ This fact has been admitted by **Ieng Sary**.⁴³⁴⁰ Those under suspicion were often told they were to be appointed as diplomats or ambassadors.⁴³⁴¹ [REDACTED] says that B-1 served this purpose as it was a place without weapons and that “*they*” did not know where else to send them.⁴³⁴² **Nuon Chea** once threatened Duch that the only thing left for him was to “*become a diplomat,*” which meant that a person would be arrested and smashed.⁴³⁴³
1071. With regard to the kinds of people sent from B-1 to S-21, Duch says that “*First, there were party members who served at B-1. There were also intellectuals who were supposed to be sent abroad to work as ambassadors (for example Nat, Teanh, Chhay Kim Hor). There were also party members who had worked abroad and were summoned back to the country (for example Meak Touch, Sean An). And then there were intellectuals living in foreign countries, for example students in France. Finally, there were former GRUNK ambassadors (for example Y Sob Kunthy, Huot Sambath, Chea San, etc. 23 people in all)*”.⁴³⁴⁴
1072. It appears that until 1977, in some cases, S-21 staff would collect people who had been arrested from whichever unit was holding them. However, after this time the unit concerned would be responsible for delivering its people to S-21. Regarding B-1, this was done by a

messenger named [REDACTED],⁴³⁴⁵ who is likely to be former head of security at B-1, [REDACTED]. When confronted with this allegation [REDACTED] denied its truth⁴³⁴⁶ and says that it was Office 870 that made the arrangements (apparently referring to the office chaired by Pang) saying that the Y10 military forces under it carried out the arrests.⁴³⁴⁷ There may also have been other messengers who brought people from B-1 to S-21.⁴³⁴⁸ After **Ieng Sary** had advised who was to be arrested the people were taken away in vehicles.⁴³⁴⁹ [REDACTED] also says that Pang himself took people away after contacting **Ieng Sary** personally.⁴³⁵⁰ Pang would tell those who were being arrested that they were being taken away to study.⁴³⁵¹ [REDACTED] says that people were loaded onto trucks and taken away, and that **Ieng Sary** knew it as these people had been sent to stay with him in the first place.⁴³⁵² [REDACTED] says that people “*from outside*” B-1 came and called people to “*study*”. These people would meet directly with the person to be arrested without even going through [REDACTED].⁴³⁵³ [REDACTED] recalls the arrest of one of his colleagues at B-1 who was “*invited to a meeting*” by a messenger and who never returned.⁴³⁵⁴

1073. Duch says that, with one exception, “*based on our working principles, before arrests at the Ministry of Foreign Affairs, Ieng Sary’s decision was certainly needed*”.⁴³⁵⁵ In his view, **Ieng Sary** would be “*invited to accept the decision*”.⁴³⁵⁶ [REDACTED] states that cases of the most serious alleged wrong-doing arose from people being implicated in confessions about which Duch reported to B-1 via the offices of 870. He says **Ieng Sary** ascertained who the people named were, and what section they worked in, and then decided who was to be sent in, after which the arrests were effected.⁴³⁵⁷ Further, **Ieng Sary** confided in [REDACTED] that confessions were sent to him with annotations during communal mealtimes or at his office via secret letters.⁴³⁵⁸ While former B-1 cadre [REDACTED] cannot confirm this process, he states that [REDACTED] is reliable regarding this issue as he was in charge of security.⁴³⁵⁹ Former B-1 cadre [REDACTED], when confronted with the evidence of [REDACTED] regarding the transmission of confessions via Pang’s office, affirms that “*I knew it too; Mr. Ieng Sary convened a meeting and told the leaders of the Ministry in the meeting of this issue; but I did not know about the decision of Mr. Ieng Sary*”.⁴³⁶⁰
1074. Supporting [REDACTED] contention that **Ieng Sary** received confessions in the manner described above, two S-21 confessions bear the annotation “*Comrade Van*”: Meak Touch alias Kem (arrested 20 November 1977), former North Zone cadre appointed ambassador to Laos in 1976,⁴³⁶¹ and San Pau (arrested 28 July 1978), from Phnom Penh’s State Market.⁴³⁶² Duch explains that these annotations were made by **Nuon Chea** and indicated that, in accordance with “*our working principles*,” they were to be sent to **Ieng Sary**, as he was the head of the unit from where the prisoners had originated. He says that this was done to inform

the Unit Head of enemy activities within their unit, and to allow him or her to contemplate the arrest of anyone else implicated in the confessions.⁴³⁶³ Duch says that in the case of Meak Touch, of the 60 persons implicated in his confession, none were subsequently arrested.⁴³⁶⁴ [REDACTED] says that he is aware that B-1 used to receive confessions from S-21, which were kept by [REDACTED].⁴³⁶⁵

1075. There is evidence that **Ieng Sary** received S-21 confessions in addition to the two which bear his revolutionary name. For example, [REDACTED]⁴³⁶⁶ recalls **Ieng Sary** announcing during a meeting at Boeng Trabek that he had read the S-21 confessions of Cambodians who had returned from abroad including Van Piny (arrested 20 November 1977)⁴³⁶⁷ and Lean Serevuth (arrested 12 November 1977).⁴³⁶⁸ He says that **Ieng Sary** announced that Van Piny had been mentioned in two confessions, which was the reason for his arrest.⁴³⁶⁹ With regard to the confession of Van Piny, Duch says that of the 106 people named in it, at least 19 former GRUNK or Communist Party members had already been arrested. Svay Baurei was arrested 22 days later.⁴³⁷⁰ With regard to Lean Serevuth's confession, Duch says that one of those people named by him had already been arrested and one was arrested subsequently.⁴³⁷¹ [REDACTED] says that the existence of confessions was well known and that "*It was common knowledge that persons implicated in three different confessions were arrested. Five implications were necessary for a couple*".⁴³⁷² **Ieng Sary** confirms that it originally took three people to implicate someone before they were arrested. However, after late 1977 or 1978, that number was increased to five. Later it was also decided that only those accused of post-liberation activities could be arrested.⁴³⁷³ [REDACTED] says that every once in a while B-1 staff would disappear, allegedly because there were "*documents*" about those persons.⁴³⁷⁴
1076. [REDACTED] also says that **Ieng Sary** showed her the confession of Lean Serevuth.⁴³⁷⁵ She says she knew he had been killed because of the language **Ieng Sary** used when discussing him, "*wiped out, eliminated, swept away*". She also recalls **Ieng Sary** announcing at a meeting in B-1 at the end of 1978 that all those who had been arrested in the past had been "*mistakenly killed*" because a major traitor had been identified and that he was relying on the other staff to denounce him.⁴³⁷⁶ She says that **Ieng Sary** used to say that the traitor had lived abroad or was married to a foreigner, which she took as an insinuation that it might have been either [REDACTED] or [REDACTED].⁴³⁷⁷ Additionally, [REDACTED] confirms that **Ieng Sary** showed her a folder, saying that Van Piny's confessions were inside.⁴³⁷⁸
1077. In an interview in December 1996, **Ieng Sary** admits that when the wife of one of his old revolutionary friends, Seng Keng Hun, disappeared from B-1 he asked what had happened to her. He says he was told that "*upper-echelon, the Centre, the Standing Committee had them*

come to get her and take her to the fields".⁴³⁷⁹ Both husband and wife were arrested in March 1977 and executed at S-21.⁴³⁸⁰ In the same interview, **Ieng Sary** states that when the intellectuals were being arrested the Military and Security Committee told him they were "going to the fields".⁴³⁸¹

1078. [REDACTED] says that while everyone noticed people disappearing within the Ministry, no one asked any questions – and that during meetings, no mention was made of them except to say that they had "left on transfer". He believed at the time that these people were being reeducated in the countryside.⁴³⁸² [REDACTED] also says that when people left B-1 they just said they were being sent to work at other places.⁴³⁸³ [REDACTED] recalls many people going missing in the Ministry and that it was unknown where they had been taken.⁴³⁸⁴
1079. **Ieng Sary** was in possession of S-21 confessions other than those of Cambodians who had returned from abroad and B-1 personnel. For example, at a B-1 meeting attended by senior B-1 cadres, [REDACTED] states that **Ieng Sary** read excerpts from the confessions of Koy Thuon, Minister of Commerce, and Ping Kimsea,⁴³⁸⁵ former director of the Democratic Party Journal and whose confession is annotated that he died under interrogation.⁴³⁸⁶ [REDACTED] also recalls listening to **Ieng Sary** discuss Koy Thuon's arrest at a meeting.⁴³⁸⁷
1080. One former diplomat [REDACTED], an old associate of Pol Pot, declares that she became aware that **Ieng Sary** knew of what was happening to those who disappeared from the Ministry when, on a visit to the United Nations, **Ieng Sary** said "Without the brother [Pol Pot], you ... would be gone".⁴³⁸⁸ Another staff member, [REDACTED], says that while in Beijing, **Ieng Sary** asked him when he had joined the CIA. When he responded that he did not know the CIA, **Ieng Sary** ordered [REDACTED]⁴³⁸⁹ to make [REDACTED] write his biography.⁴³⁹⁰ [REDACTED], [REDACTED],⁴³⁹¹ and [REDACTED],⁴³⁹² and others were also made to write their biographies while at B-1.⁴³⁹³ After completing his biography,⁴³⁹⁴ [REDACTED] was reeducated by working in the B-1 orchards and tending rabbits.⁴³⁹⁵
1081. [REDACTED] recalls a wave of arrests in early 1977 including the wife of Koy Thuon, Sean An, Toch Kam Doeun, and Hu Nim, after which time **Ieng Sary** made a speech announcing that all the traitors had been arrested.⁴³⁹⁶ In an interview, **Ieng Sary** admits to being aware of the arrest of Hu Nim at the time, but added he was unaware of what had happened to him.⁴³⁹⁷ In an interview in December 1996, he admitted that he knew in advance that Hu Nim was going to be arrested.⁴³⁹⁸

1082. Duch is aware of only one occasion⁴³⁹⁹ when a B-1 cadre was arrested without **Ieng Sary's** knowledge. He says that in August 1977 Son Sen telephoned and advised him of the imminent arrest of Chao Seng, former RGNUC Minister of Special Missions and close friend of **Ieng Sary**. He asked Duch to keep the information secret and to record the detainee under the name Chen Suon.⁴⁴⁰⁰ Later **Nuon Chea** told Duch that if anyone from B-1 asked for information he had to answer "*Brother Van should ask Brother number 2*". Duch believes this revealed a conflict between Pol Pot and **Ieng Sary** and that Pol Pot arrested Chao Seng as a warning,⁴⁴⁰¹ since Pol Pot saw intellectuals as potential spies and **Ieng Sary** had promoted Chao Seng from Boeng Trabek to B-1.⁴⁴⁰² [REDACTED] says that he once asked **Ieng Sary** whether he could go live in the countryside because he was tired of the constant criticism. **Ieng Sary** responded, "*You will be liquidated as soon as you arrive*". In 2007, **Ieng Sary** explained to [REDACTED] that this had been a reference to Chao Seng, who had spent time at both Chraing Chamres⁴⁴⁰³ and Boeng Trabek⁴⁴⁰⁴ before being sent to S-21.⁴⁴⁰⁵ [REDACTED] recalls Chao Seng returning from the countryside and passing through B-1 for a few days before "*continuing to an unknown destination*".⁴⁴⁰⁶ **Ieng Sary** confirms that Chao Seng was arrested without his knowledge, explaining that "*they*" did not agree about the group he had trained and intended to insert into B-1.⁴⁴⁰⁷
1083. In addition to Chao Seng, [REDACTED] believes that the arrest of Tauch Kim Doeun could not have taken place with the consent of **Ieng Sary** as they were close friends. He says it happened while **Ieng Sary** was overseas⁴⁴⁰⁸ and that **Ieng Sary** had told [REDACTED] that Tauch Kim Doeun had been arrested while he was in Malaysia.⁴⁴⁰⁹
1084. There is evidence that in some cases **Ieng Sary** prevented arrests. Duch says that in 1990 he learned that **Ieng Sary** had saved the lives of three children whose parents had been arrested at B-1 and sent to S-21, Nat, Teanh, and Toch Kham Doeun.⁴⁴¹⁰ [REDACTED] says that **Ieng Sary** had the power to guarantee the lives of at least some members of his staff, such as [REDACTED].⁴⁴¹¹ He also says that even though [REDACTED] and [REDACTED] had been implicated in many S-21 confessions they were not arrested as **Ieng Sary** said at a meeting that he had told Pol Pot "*if [they] were arrested the entire foreign ministry would have to be wiped out*".⁴⁴¹² **Ieng Sary** claimed in an interview that he told the Military and Security Committee that if they arrested intellectuals, such as [REDACTED], [REDACTED], or Aok Sokun, he would have to "*shut the doors,*" and threatened to resign. He claims that Pol Pot replied that his resignation would not be necessary, but that **Ieng Sary** would have to vouch for them.⁴⁴¹³ On the other hand, [REDACTED] explained that **Ieng Sary** told him that security had planned to arrest [REDACTED], [REDACTED], and [REDACTED], but it was the events of January 1979 that had intervened.⁴⁴¹⁴ [REDACTED]

also believes that he had been protected by **Ieng Sary**.⁴⁴¹⁵ [REDACTED] was told by senior B-1 cadre, [REDACTED] and [REDACTED], that in 1977, **Ieng Sary** called a meeting at B-1 and “issued orders that when he was absent, no matter if Pol Pot or anyone else ordered the taking of his personnel, he would not permit it”.⁴⁴¹⁶ [REDACTED] states that, while he does not know about the details of this story, it is true that **Ieng Sary** “truly defended” these people.⁴⁴¹⁷

1085. Further, **Ieng Sary** may have attempted to help B-1 personnel avoid execution by coaching them on what to say if interrogated. For example, Sun Ti alias Teanh, a former member of the General Staff, tried to write to Pol Pot from S-21 asking him to spare his life. He then sent a note to Duch saying “*These views are the substance of what Brother Van instructed me at the Office of the Ministry of Foreign Affairs. Please, comrade, don't tear this up, as it is my last voice. 15 December 1978*”.⁴⁴¹⁸ Another instance where **Ieng Sary** may have been seeking to protect someone by being uncooperative is the case of Van Piny. Duch says that Son Sen once asked him why Van Piny’s confession had not been sent to him. Duch replied that Van Piny had not yet been sent to S-21. Several days later, Son Sen again asked Duch for Van Piny’s confession insisting that he had been arrested. Consequently, Duch gathered together all of the prisoners from B-1 in order to search for someone with the revolutionary name “Van Piny,” and his wife without success. Three days after sending his findings to Son Sen, Van Piny arrived at S-21.⁴⁴¹⁹ [REDACTED] remembers Van Piny leaving Boeng Trabek after being told he had been assigned to New York. He recalls him saying: “*I’ve finished my manual labor. I can use my pen again*”.⁴⁴²⁰
1086. Internal meetings were regularly held at B-1 including daily and weekly meetings, monthly “life-view” or “self-criticism” meetings, and month-long “biography making meetings”.⁴⁴²¹ One of the functions of these meetings was to identify traitors within B-1.⁴⁴²² Notes of life-view meetings attended by **Ieng Sary** are recorded in the B-1 diary.⁴⁴²³ With regard to biography making meetings, the “Centre” ordered that they be conducted in every unit as part of the process of “screening” Party-members.⁴⁴²⁴ At B-1, they were led by **Ieng Sary**.⁴⁴²⁵ [REDACTED] recalls attending meetings at which **Ieng Sary** talked about security, defence, construction, and how to prevent the enemy from “*burrowing from within*”.⁴⁴²⁶ He says that occasionally special meetings were convened to discuss “*...the enemy who provoked antagonism among us from within*”.⁴⁴²⁷ **Ieng Sary** would be present at these meetings.⁴⁴²⁸ [REDACTED] recalls similar meetings and says that enemy activities, pro-Vietnamese agents, and those against the power of *Angkar* and the revolution, were discussed.⁴⁴²⁹ [REDACTED] recalls meetings at which **Ieng Sary** talked about the arrest of people from the bases, and the mistakes they had made, and made insinuations about B-1 cadres.⁴⁴³⁰

[REDACTED], who was also present, does not recall that these issues were discussed but accepts [REDACTED]'s account as true.⁴⁴³¹ [REDACTED] says that **Ieng Sary** never held meetings to speak to staff about the reasons for disappearances.⁴⁴³² [REDACTED], B-1 cook and cleaner, also recalls being lectured by **Ieng Sary** at B-1 on being loyal to the Party. At these lectures she also recalls some staff making commitments to work harder and never betray the Party.⁴⁴³³ [REDACTED] recalls "*the 15 members of staff*" attending regular self-criticism meetings which were occasionally attended by **Ieng Sary**.⁴⁴³⁴ [REDACTED] recalls attending meetings at which **Ieng Sary** said that the East Zone was no good.⁴⁴³⁵

1087. [REDACTED] recalls **Ieng Sary** chairing meetings of the whole Ministry and Party meetings at which circulars were read out which stated "*the truth*" according to the Party.⁴⁴³⁶ A document dated 12 September 1977 entitled "*Working with the Committees of Every Unit*" appears to be an example of a B-1 circular ("B-1 circular")⁴⁴³⁷. It contains references to the fact that the unnamed Ministry referred to had "*really a lot of contact with foreigners,*"⁴⁴³⁸ was made up of "*Political, Protocol, and Secretariat Sections,*"⁴⁴³⁹ was made up of "*10 percent...petty bourgeois intellectuals,*"⁴⁴⁴⁰ and was "*able to handle welcoming guests as many have come*".⁴⁴⁴¹ It also gave examples of the "*core duties*" of B-1 and House 2.⁴⁴⁴² The B-1 circular begins by saying: "*At our Ministry's conference, it was noted that we have basically smashed and swept cleanly away the enemies who were CIA, KGB, and Yuon territory-swallowers ... we achieved unity that the enemy is not yet completely gone from our Ministry or from any of its units of organization. We must therefore continue sweeping cleanly to make our Ministry, like each and every one of its units, immaculate*". Later in the same circular it says "*If we look inside the Ministry as a whole, we see that 98 percent in the Ministry as a whole have achieved cleanliness, that is, 98 percent are good and have an understanding of the problem of sweeping enemies cleanly away ... however another 2 percent continue to exist who are in the process of conducting activities ... we will conduct further surveillance ... we must do overcome everything and do whatever needs to be done to prevent this 2 percent from laying eggs or expanding ... we must encircle, compress, and enclose them down so that only 1.5 or 0.5 percent remains*".⁴⁴⁴³ In the opinion of [REDACTED], these references to the elimination of enemies refer to "*the global situation and not just the situation at B-1*".⁴⁴⁴⁴

1088. The B-1 diary records that at the B-1 Ministry Congress of 10 July 1976, almost certainly attended by **Ieng Sary**, the national defence situation was discussed. The notetaker records the way in which enemies had attacked the CPK since 17 April 1975 saying: "*We can see the chain connecting since the war, so it's quite complicated. It took us 3 months before we found out the chain of bad elements. Therefore we must investigate thoroughly all staff of*

both sexes in every Ministry". The notetaker goes on to record under the heading "*The Pests Buried Within*" that "*In our country, 1% to 5% are traitors [who are] boring in. So we must investigate their personal biographies clearly and carry out self-criticism, especially in the Ministry of Foreign Affairs*".⁴⁴⁴⁵ [REDACTED] considers such discussions to be "*unlikely*"⁴⁴⁴⁶ and [REDACTED] says that some of the notes appear to have been records of a meeting of the "*Office*" cell of B-1.⁴⁴⁴⁷

1089. **Ieng Sary** says that throughout the three years the CPK was in power, he feared for his life and wondered whether he would be taken to S-21.⁴⁴⁴⁸ By 1978, [REDACTED] says that the atmosphere inside B-1 had lost its serenity and an underlying tension reigned on account of all the arrests and disappearances. He says that **Ieng Sary** seemed to be suffering from an "*imperceptible torment,*" and that everyone was worried.⁴⁴⁴⁹ His ex-wife [REDACTED] has a different perspective and says that **Ieng Sary** was very keen on creating a climate of terror, which was peculiar compared with other Ministries and the countryside.⁴⁴⁵⁰

Returnees

1090. From the early 1970s and throughout the CPK regime, **Ieng Sary** played a significant role in the recall of overseas based Cambodians to Cambodia ("returnees"). A small number of returnees were placed directly into ministries, including B-1, upon their return but in most cases returnees were sent for reeducation, initially at various locations throughout Cambodia and Phnom Penh, and later at two sites in Phnom Penh: Chraing Chamres; and Boeng Trabek. Those who were sent for reeducation sometimes stayed there until the end of the regime, while others were placed within ministries after a period of monitoring. Some returnees were arrested and sent to S-21, usually after a period of reeducation. Many ended up at S-21. By 1977, at least one diplomat appears to have been arrested and taken to S-21 within days of his arrival in Cambodia. In an interview in July 1996, **Ieng Sary** said that "*I am very regretful for the deaths of the intellectuals because I was the one who gathered them to come to help build the country*".⁴⁴⁵¹
1091. In 1970, after the the deposition of Prince Sihanouk as Chief of State in Cambodia, many Cambodians joined him in exile in Beijing. Sihanouk appealed to Cambodians to join him in forming FUNK to oppose the new government in Phnom Penh, which later became the Khmer Republic with Lon Nol as President. The then still covert CPK joined and infiltrated FUNK and GRUNK.⁴⁴⁵² [REDACTED] says that by 1971 **Ieng Sary** was already using national sentiment to indoctrinate Cambodians who had joined FUNK and would arrange for them, many of whom were Paris-based intellectuals, to travel to Beijing. Subsequently, **Ieng**

Sary recruited volunteers from this group to join the “*Front*” within Cambodia.⁴⁴⁵³ Consequently, from the early 1970s,⁴⁴⁵⁴ overseas-based Cambodians began returning to Cambodia from Beijing.⁴⁴⁵⁵

1092. The CPK pursued a policy of ‘reeducating’ returnees both before and after 17 April 1975. A CPK policy document dated 22 September 1975 records that “*The external fronts have returned to the country. This means we have effectively discontinued the leadership of Angkar outside Cambodia ... In the country, we have effective control over them*”.⁴⁴⁵⁶ It specifies that the CPK welcomed all groups back to Cambodia and that it was better if those intellectuals living in Western Europe and America returned as they could politically weaken the Party while living abroad. Recalling previous policy, it also states that once these intellectuals returned “*We will make them do labour work as those who came in 1972, 1973, 1974. Those who come now will even more deserve to do labour work. This force is a peripheral one. But we must train and reeducate them [to work] in the new society and the new movement*”.⁴⁴⁵⁷ In the same month, during a mission to the United Nations, Cambodia’s delegation, including **Ieng Sary**, stopped in Paris and organised a meeting to ask intellectuals to return to Cambodia.⁴⁴⁵⁸ While overseas, **Ieng Sary** told Cambodians about the good life in Cambodia under the CPK and invited them to return.⁴⁴⁵⁹ [REDACTED] estimates that as many as 100 volunteers and invitees returned to Cambodia in this way.⁴⁴⁶⁰ Others were ordered to return.⁴⁴⁶¹ Some had doubts about whether life was indeed good under the CPK but returned anyway.⁴⁴⁶² Those who returned were met by officials of B-1 at the airport including **Ieng Sary**⁴⁴⁶³ and [REDACTED].⁴⁴⁶⁴ Their passports were confiscated either in Beijing or upon their arrival in Cambodia.⁴⁴⁶⁵
1093. By 1976, the recall of diplomats and their subsequent reeducation appears to have been placed in part under the authority of **Ieng Sary** and B-1. At a Standing Committee meeting held over 19, 20, and 21 April 1976, it is recorded that the Ministry of Foreign Affairs was to prepare a list of overseas diplomats who were to be recalled to Cambodia. It is noted that these diplomats were to be reeducated and forbidden from leaving.⁴⁴⁶⁶ At another Standing Committee meeting on 17 May 1976, **Ieng Sary** reported that “*We only have our embassies in Beijing, Korea, Vietnam and Laos. Former ambassadors and their families have returned, except in Albania, Yugoslavia and Romania where only one diplomat [ambassador] was present in each embassy in those countries*”.⁴⁴⁶⁷ Later it is recorded that “*The most important thing is loyalty. As for the old diplomats, there is a need to be careful. Do not use them yet. If it is the case, such as [REDACTED], he can be [used] to represent us occasionally, but not permanently, which is not good*”.⁴⁴⁶⁸

1094. [REDACTED] then ambassador to Cuba, remembers receiving a telegraph in early 1976 from **Ieng Sary** urgently recalling all the ambassadors to Cambodia for 10 days study. He says that he and 13 others in his study class were taught by senior B-1 cadres, [REDACTED] and [REDACTED]. Following the conclusion of the course, those in attendance were sent to worksites throughout Cambodia. He also recalls that, following his return to Cambodia, **Ieng Sary** contacted his wife requesting that she and their children return, which they subsequently did.⁴⁴⁶⁹ Others who returned to Cambodia in December 1975 apparently received political education from **Ieng Sary**.⁴⁴⁷⁰ Civil party, [REDACTED]'s⁴⁴⁷¹ husband, [REDACTED], a diplomat [REDACTED], received a letter dated 11 April 1977 from Pech Cheang of the Cambodian Embassy in China requesting his return to Cambodia for study purposes.⁴⁴⁷² Pech Cheang met those transiting through Beijing on their way to Cambodia.⁴⁴⁷³ In a postcard from Beijing dated 16 June 1977,⁴⁴⁷⁴ [REDACTED] told his wife that he would return to Cambodia on 11 June 1977. Records show that he entered S-21 four days later on 15 June 1977 and was executed in December of the same year.⁴⁴⁷⁵
1095. The fate of those who returned to Cambodia varied depending on the person's background, the time at which they returned, and whether, after period of monitoring and labour, they were perceived as being sufficiently loyal to the revolution. Some returnees who had worked with **Ieng Sary** in Beijing, including OCIJ witnesses [REDACTED],⁴⁴⁷⁶ [REDACTED],⁴⁴⁷⁷ and [REDACTED],⁴⁴⁷⁸ were assigned directly to B-1 upon their return.⁴⁴⁷⁹ In 1975 and 1976, others, including the witnesses [REDACTED],⁴⁴⁸⁰ [REDACTED],⁴⁴⁸¹ [REDACTED],⁴⁴⁸² [REDACTED],⁴⁴⁸³ and [REDACTED]⁴⁴⁸⁴ were transferred to various worksites and cooperatives throughout Phnom Penh and Cambodia. Occasionally, returnees, such as [REDACTED] and [REDACTED], were transferred to B-1 after a period of reeducation.⁴⁴⁸⁵
1096. At some point in 1976, possibly in July,⁴⁴⁸⁶ the decision was made to recall at least the former GRUNK officials from the various cooperatives and worksites throughout the country and concentrate them at Chraing Chamres in Phnom Penh.⁴⁴⁸⁷ The following year, in February 1977, these returnees were called to a meeting at B-1 where **Ieng Sary** ordered them to return to Chraing Chamres and prepare to leave. Upon their arrival at Chraing Chamres, trucks already loaded with their bags took them to Boeng Trabek.⁴⁴⁸⁸ Other returnees who were located at different sites in Phnom Penh were also transferred to Boeng Trabek at around the same time.⁴⁴⁸⁹ It appears that those returnees who returned to Cambodia after this time were sent directly to Boeng Trabek.⁴⁴⁹⁰ In an interview, **Ieng Sary** suggests that the centralisation of the returnees at Boeng Trabek appears to have been a deliberate plan by the Centre to monitor them more closely and weaken his influence.⁴⁴⁹¹

Chraing Chamres

1097. Chraing Chamres, code-named M-1 or Office 1, (later B-60⁴⁴⁹²) was an Animal Husbandry and Food Production Office located in Chraing Chamres district less than 10 kilometres out of Phnom Penh along National Road 5.⁴⁴⁹³ Those who resided there tended animals, fished, and cultivated vegetables.⁴⁴⁹⁴ Their movement was limited.⁴⁴⁹⁵ Initially M-1 was under the control of the Ministry of Commerce.⁴⁴⁹⁶ However, at some point following the house arrest of the Minister of Commerce, Koy Thuon, authority of M-1 was transferred to B-1.⁴⁴⁹⁷ B-1 only inherited part of the original site, the rest being assigned to various sectors and districts.⁴⁴⁹⁸ The precise date M-1 was placed under the authority of B-1 is unclear. However, the B-1 diary contains notes taken at a meeting called “*Objectives to direct the Work of the Ministry of Foreign Affairs From July 1976 to July 1977*” dated 14 July 1976 which establishes that M-1 was under B-1’s administration at this date.⁴⁴⁹⁹ As Koy Thuon was placed under house arrest at K-1 on 8 April 1976,⁴⁵⁰⁰ authority may have been transferred even earlier. [REDACTED] says that when M-1 was transferred to B-1 there was a meeting at which **Ieng Sary** placed him in charge, reporting directly to him.⁴⁵⁰¹ He is unclear about the precise date of the transfer, guessing it was “*perhaps*” in “*late 1976*”.⁴⁵⁰² **Ieng Sary** occasionally visited Chraing Chamres.⁴⁵⁰³
1098. The population of Chraing Chamres varied between 50 and 200 people including men and women, and children from different backgrounds.⁴⁵⁰⁴ In 1976 and 1977, various intellectuals, diplomats, and former members of GRUNK were collected together at the site.⁴⁵⁰⁵ [REDACTED] recalls being transferred from the East Zone to Chraing Chamres in July 1976.⁴⁵⁰⁶ Other returnees who resided there with him included Prince [REDACTED] and his wife; Prince [REDACTED] and his wife; [REDACTED] and his wife; [REDACTED] and his wife; [REDACTED] and his wife; [REDACTED]; [REDACTED], his wife and five children; [REDACTED], his wife and three children; [REDACTED] and his wife; [REDACTED], his wife and two children; [REDACTED], his wife and three children; [REDACTED], his wife and two children; [REDACTED] and his wife; [REDACTED]; [REDACTED], his wife and two children; [REDACTED], his wife and two children; and [REDACTED] and one child.⁴⁵⁰⁷
1099. The witness, [REDACTED], whose father was a former GRUNK diplomat reassigned to B-1, was transferred from B-1 to Chraing Chamres⁴⁵⁰⁸ in mid-1976⁴⁵⁰⁹ and recalls seeing [REDACTED],⁴⁵¹⁰ [REDACTED],⁴⁵¹¹ [REDACTED],⁴⁵¹² Prince [REDACTED],⁴⁵¹³ Prince [REDACTED],⁴⁵¹⁴ [REDACTED],⁴⁵¹⁵ [REDACTED],⁴⁵¹⁶ [REDACTED],⁴⁵¹⁷ and [REDACTED]⁴⁵¹⁸ during his time there. He also recalls seeing them being taken away in one

group in late 1976 or early 1977.⁴⁵¹⁹ This was also described by [REDACTED]⁴⁵²⁰ who, together with [REDACTED], confirms that they were taken to Boeng Trabek.⁴⁵²¹ Over time, those who left were replaced by newcomers from B-1, mainly women whose husbands had been arrested, and perceived “*bad-elements*”.⁴⁵²² [REDACTED] denies that any intellectuals were sent to Chraing Chamres. He also says he was not aware that ambassadors lived there.⁴⁵²³

1100. Between 17 April 1975 and 6 January 1979, several people were arrested at Chraing Chamres and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21. They included the former GRUNK ambassador to Yugoslavia, Huot Sambath, and the former GRUNK representative in Sweden, Y Sup Kunthy. These two people arrived at S-21 on 9 September 1976, during the time M-1 was under B-1’s authority. Apparently, these two individuals were arrested after writing to relatives abroad advising them not to return to Cambodia.⁴⁵²⁴ [REDACTED] says that whenever something out of the ordinary happened at Chraing Chamres he had to report to **Ieng Sary**. He defined “out of the ordinary” as a resident being accused of having been affiliated with the enemy network.⁴⁵²⁵ He says that when this happened, he called Chraing Chamres people to meetings at B-1. An example is when Koy Thuon was accused and his subordinates had to be questioned. After that particular meeting, [REDACTED] reported to **Ieng Sary** that Koy Thuon’s subordinates were all ignorant.⁴⁵²⁶

Boeng Trabek

1101. Initially, Boeng Trabek was a sub-office of 870 Office S-71,⁴⁵²⁷ located in Phnom Penh and used for education.⁴⁵²⁸ As a sub-office of S-71 it was under the authority of Pang,⁴⁵²⁹ who reported to **Nuon Chea**, who had overall responsibility for education and training.⁴⁵³⁰ From early 1977,⁴⁵³¹ groups of returnees who the CPK had sent to Boeng Trabek to be “*tempered*” started to replace the students who were based there.⁴⁵³² Sometime in 1978, seemingly after the arrest of Pang⁴⁵³³ (which happened by May 1978⁴⁵³⁴) the administration of Boeng Trabek was transferred to B-1.⁴⁵³⁵ [REDACTED] says that this was because the intellectuals who lived there were to be placed within B-1.⁴⁵³⁶ Of this event, **Ieng Sary** says that “*at that very time, I saw that if there were no intellectuals to help with the work in nation-building, we would be unable to make a go of it*”.⁴⁵³⁷ The exact date in 1978 when Boeng Trabek was transferred to B-1 is unclear. **Ieng Sary** and [REDACTED] both say that it was approximately a month before the Vietnamese attacked Phnom Penh.⁴⁵³⁸ However, [REDACTED] gives the precise date of May 1978.⁴⁵³⁹ In any event, [REDACTED] concedes that even before Boeng Trabek was placed under B-1 “*there was some cooperation*

in managing vicinities” due to the number of intellectuals based at Boeng Trabek.⁴⁵⁴⁰ At some point after Boeng Trabek was transferred to B-1, it was divided up into three sections: B-30 (where most of the residents lived); B-31 (for those who were preparing to work in ministries); and B-32 (where former diplomats were housed).⁴⁵⁴¹

1102. **Ieng Sary** admits that he visited Boeng Trabek on two occasions after it was transferred to his control.⁴⁵⁴² One former resident of the camp recalls **Ieng Sary** visiting in April 1978 when she asked him about the fate of her parents.⁴⁵⁴³ After the transfer, [REDACTED] recalls **Ieng Sary** introducing him to the residents as the new supervisor who had taken over from Pang.⁴⁵⁴⁴ He also says that **Ieng Sary** taught at Boeng Trabek twice, in 1978 and in 1979, when he set out the plan for when the Vietnamese arrived.⁴⁵⁴⁵ [REDACTED] and [REDACTED] remember visiting the site with **Ieng Sary** who taught the residents about politics and the general situation before they were assigned to B-1 or other ministries.⁴⁵⁴⁶ [REDACTED] says he saw **Ieng Sary** at Boeng Trabek several times when he came to chair meetings after October 1978.⁴⁵⁴⁷ He remembers that **Ieng Sary** went to great lengths to “*cajole*” those in attendance, saying that now he was in charge, and “*not the traitors*”,⁴⁵⁴⁸ the residents were being prepared to work in various ministries including B-1, the enemy networks had been eliminated,⁴⁵⁴⁹ and that he had read the confessions of two returnees, including Van Piny,⁴⁵⁵⁰ and Lean Serevuth.⁴⁵⁵¹
1103. The residents of Boeng Trabek did simple manual labour such as planting vegetables and gathering water hyacinth.⁴⁵⁵² Conditions at Boeng Trabek were difficult. Residents were urged to inform on each other and the guards were more brutal than they had been at other locations.⁴⁵⁵³ After rising at 5.30am, they performed “*socialist work*” for two hours before gathering food. After lunch, they would perform more socialist work and then return to gathering food. After dinner, they would attend self criticism sessions.⁴⁵⁵⁴ Residents were instructed to stay within the premises, and to avoid contact with anyone from outside.⁴⁵⁵⁵ However, some witnesses say that after B-1 took over Boeng Trabek living conditions improved.⁴⁵⁵⁶
1104. Between 17 April 1975 and 6 January 1979, at least 16 people were arrested at Boeng Trabek and sent to S-21, as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21. [REDACTED] recalls seeing people being driven away by the militia “*never to return*”.⁴⁵⁵⁷ In late 1978, a large meeting was held at which residents were told that there were *enemies* in the camp, and that they had to be vigilant.⁴⁵⁵⁸

Targeting of Groups

1105. Through his various roles in the CPK, **Ieng Sary** participated in the targeting of particular groups of people.
1106. As a full-rights member of the Central and Standing Committees, **Ieng Sary** participated in the formulation of the September 1975 Party document which specified that the only classes that existed were workers and peasants, and that all of the other classes had been melded into these two groups.⁴⁵⁵⁹

Treatment of Former Officials of the Khmer Republic

1107. This group was targeted while **Ieng Sary** was a full-rights member of the Standing Committee.
1108. It is unlikely that **Ieng Sary** personally attended the February 1975 Second National Congress of the FUNK chaired by **Khieu Samphan** at which the Congress called for the killing of the “seven traitors in Phnom Penh”.⁴⁵⁶⁰ However, the following month, at a banquet in Beijing, **Ieng Sary** briefed those in attendance “of the second national congress convened in Cambodia recently”. By doing this, **Ieng Sary** endorsed the Congress’ call for the killing of the “seven traitors”.⁴⁵⁶¹
1109. Through the receipt of telegrams, **Ieng Sary** was advised of the execution of former officials and soldiers of the Lon Nol regime throughout Cambodia who were accused of involvement in enemy activities. For example, in March 1978 **Ieng Sary** received a telegram advising him that “In this dry season, the remained enemies re-emerged and took actions against us in the worksites. These enemies contacted with the [former] policemen, soldiers and government officials. They mingled themselves as the ‘new people.’ After they acted against us, we knew them clearly and we systematically purged them. Right now, some policemen, soldiers, and government officials escaped after more than 20 people were purged. More actions will be taken to arrest more people”.⁴⁵⁶²
1110. In September 1975, **Ieng Sary** said in an interview that officers of the former Lon Nol regime participated in agricultural production and were being used by the CPK administration when they were “sincere”. Regarding the fate of former Prime Minister Long Boret he said: “Dead or not dead, he is a traitor and was judged by the people and Congress”.⁴⁵⁶³ Two months later, in November 1975, he admitted to foreign journalists that Long Boret and Sirik Matak had been executed.⁴⁵⁶⁴

1111. In May 1977, **Ieng Sary** said of former officials of the Lon Nol regime that only the “*dangerous criminals were put to trial,*” and suggested that the others had simply joined the masses and were now working in cooperatives throughout Cambodia. He denied that they had been placed in detention centres. He recalled visiting a cooperative where a farmer wished to kill a former Major who also worked in the cooperative, but his life was spared because he had “*behaved well after the liberation*”.⁴⁵⁶⁵
1112. In April 1978, **Ieng Sary** wrote a letter to the United Nations Secretary General in which he said that former government employees were now working alongside the people in the cooperatives and that “*everyone is equal*”.⁴⁵⁶⁶
1113. In December 1996, **Ieng Sary** said in an interview that he knew nothing at all about the plan to kill Lon Nol military officers and civil servants during the evacuation of Phnom Penh.⁴⁵⁶⁷ He says that the decision to execute officers and officials must have been taken on around 20 April 1975 when he was not present in Cambodia. He also said the decision was made to execute these groups and evacuate the city after discovering weapons in the houses of military officers, which suggested they were preparing to start a coup.⁴⁵⁶⁸

Treatment of Buddhists

1114. This group was targeted while **Ieng Sary** was a full-rights member of the Standing Committee. However, when **Ieng Sary** was asked in an interview in 1975 whether the CPK respects the Buddhist religion, he responded “*We respect the religious beliefs of everybody. People have the right to believe, but they must respect the State law. The pagodas in Cambodia are open*”.⁴⁵⁶⁹

Treatment of Cham

1115. The Chams were targeted while **Ieng Sary** was a full-rights member of the Standing Committee, and therefore he must have been aware of the policy implemented against them.

Treatment of Vietnamese

1116. This group was targeted while **Ieng Sary** was a full-rights member of the Standing Committee and Deputy Prime Minister for Foreign Affairs. **Ieng Sary** was not only aware of

the treatment of Vietnamese, he also actively contributed to the implementation of this part of the CPK policy.

1117. **Ieng Sary** made various speeches that were broadcast over the radio, in which he provided information intended to engender fear and hatred of the Vietnamese or to otherwise win support for the targeting of this group. In a speech on 22 April 1978, he stated that “*enemies,*” including Vietnamese, had been “*wiped out*”.⁴⁵⁷⁰ During a speech on 9 September 1978, he stated that the Cambodian people had “*succeeded in defeating a series of interference and subversion, coup attempts and large-scale offensives carried out by the expansionist and annexationist Vietnamese enemy aggressors*”.⁴⁵⁷¹ In a speech on 30 September 1978, he stated that the “*aggressor, expansionist and annexationist Vietnamese*” had been “*strategically defeated*”.⁴⁵⁷² In a speech on 1 December 1978, he stated that Vietnam had been “*escalating its acts of aggression, expansion and territorial annexation against Democratic Kampuchea*” and that the “*Kampuchean People and revolutionary army*” would “*continue to maintain mastery and will hand Vietnam successive defeats, dealing it more and more crippling setbacks*”.⁴⁵⁷³ These speeches were made in the context of mass killings of Vietnamese civilians in Prey Veng and Svay Rieng and in other parts of Cambodia, as set out in the section of the Closing Order regarding the Factual Findings of Crimes.
1118. Further, **Ieng Sary** was aware of the treatment of Vietnamese throughout Cambodia and during incursions into Vietnam through verbal reports and the receipt of telegrams. For example, he received several telegrams stating that units of RAK had engaged, arrested or killed Vietnamese,⁴⁵⁷⁴ including instances in which military units reported of having attacked and killed civilians.⁴⁵⁷⁵ A telegram dated 15 June 1977, sent by Vy alias Um Neng, in his then capacity as Secretary of the Northeast Zone to “Respected Brother,” and copied to **Ieng Sary**, reports of the arrest of 209 Vietnamese Jarai by Division 801.⁴⁵⁷⁶ As set out in the section of the Closing Order regarding the Factual Findings of Crimes for the Au Kanseng Security Centre, they were subsequently executed. Another telegram dated 1 April 1978 from Division 164 reported that 120 Vietnamese had been captured or shot,⁴⁵⁷⁷ while another dated 14 August 1977 advised that the Vietnamese media had reported on the mass killing of 1,000 Vietnamese civilians by Cambodian forces.⁴⁵⁷⁸ Further, **Ieng Sary** distributed, through B-1, a collection of “*confessions*”⁴⁵⁷⁹ by Vietnamese soldiers and ‘spies’ which had been extracted at S-21.⁴⁵⁸⁰

1119. **Ieng Sary** also distributed the *Black Paper*⁴⁵⁸¹ which argued that the “*true nature of the Vietnamese and Vietnam*” was “*a nature of aggressor, annexationist and swallower of other countries’ territories*”.⁴⁵⁸²

The Regulation of Marriage

1120. Through his various roles within the CPK, **Ieng Sary** participated in the regulation of marriage.
1121. The implementation of a system of marriages arranged by the Party was disseminated through CPK publications,⁴⁵⁸³ which **Ieng Sary** would have read. The implementation of the system was also reported to him in CPK telegrams.⁴⁵⁸⁴ On 11 October 1977, at the 32nd General Assembly of the United Nations, **Ieng Sary** said that the population of Cambodia was still far short of its capacity, and that the CPK’s objective was to bring about a very rapid increase in population.⁴⁵⁸⁵ On 22 April 1978, in a letter to the United Nations General Assembly, **Ieng Sary** said that one of the CPK’s goals was to increase Cambodia’s population as quickly as possible.⁴⁵⁸⁶ Within **Ieng Sary**’s own ministry, cadres were occasionally married in group ceremonies at which they were asked whether they accepted the other party.⁴⁵⁸⁷ Unmarried cadres were distrusted, and so marriages were sometimes proposed to them. However, they did not always accept.⁴⁵⁸⁸ Cadres who were married to non-Cambodians were also urged to remarry Cambodians.⁴⁵⁸⁹

Knowledge of Existence of an International Armed Conflict

1122. **Ieng Sary** was aware that an international armed conflict existed between Cambodia and Vietnam at all times from April 1975 until at least 6 January 1979.
1123. **Ieng Sary** personally visited Hanoi to negotiate the conflict.⁴⁵⁹⁰ He attended at least three Standing Committee meetings at which the status of the conflict with Vietnam was discussed.⁴⁵⁹¹ The first of these meetings was held on 22 February 1976.⁴⁵⁹² Further, **Ieng Sary** received a large number of telegrams regarding RAK military operations against Vietnamese forces along the border,⁴⁵⁹³ and communicated with Vietnamese,⁴⁵⁹⁴ Laotian,⁴⁵⁹⁵ Thai,⁴⁵⁹⁶ and French⁴⁵⁹⁷ representatives about these incidents. The first of these reports is dated 11 November 1975.⁴⁵⁹⁸ **Ieng Sary** was always informed of war-related matters due to his position as a member of the Standing Committee and Deputy Prime Minister for Foreign Affairs.⁴⁵⁹⁹

1124. In his capacity as Deputy Prime Minister of Foreign Affairs, **Ieng Sary** brought the conflict between Cambodia and Vietnam to the attention of the international community. He informed the United Nations Security Council of the conflict,⁴⁶⁰⁰ severed diplomatic relations with Vietnam due to the ongoing fighting,⁴⁶⁰¹ and made various speeches on the topic to foreign diplomats in Phnom Penh,⁴⁶⁰² at the Conference of Foreign Ministers of Non-aligned Countries in Belgrade,⁴⁶⁰³ at the Chinese embassy in Phnom Penh,⁴⁶⁰⁴ at a banquet for a delegation of the French Marxist-Leninist Communist Party,⁴⁶⁰⁵ at a press conference on a state visit to the Philippines,⁴⁶⁰⁶ in a statement on a state visit to Indonesia,⁴⁶⁰⁷ at a press conference at the 33rd session of the United Nations General Assembly,⁴⁶⁰⁸ and at the reception of the Yugoslavian ambassador to Cambodia.⁴⁶⁰⁹ **Ieng Sary** also mentioned the conflict in personal interviews with journalists.⁴⁶¹⁰
1125. To support the claim that the conflict was a result of Vietnamese aggression, **Ieng Sary**, personally and through his Ministry's officials, distributed a collection of evidence entitled the *Black Paper*⁴⁶¹¹ to foreign officials and the press.⁴⁶¹² Further, in July 1978, **Ieng Sary** was notified by telegram⁴⁶¹³ that a compilation of "confessions" of captured Vietnamese soldiers published by the "Department of Press and Information of the Ministry of Foreign Affairs of Democratic Kampuchea"⁴⁶¹⁴ had been circulated among the representatives of other nations. These same "confessions" were broadcast over the radio.⁴⁶¹⁵

C. **KHIEU SAMPHAN**⁴⁶¹⁶

Background

1126. **Khieu Samphan** alias "Haem", "Hem"⁴⁶¹⁷, "Khang"⁴⁶¹⁸ or "Nan"⁴⁶¹⁹ is a long-standing activist within the Cambodian Communist movement. Whilst studying in France in the 1950s he began engaging in political activism.⁴⁶²⁰ He joined the Marxist-Leninist Circle, which had been founded by **Ieng Sary**. Pol Pot, Son Sen and **Ieng Thirith** were also members of the Circle.⁴⁶²¹ He also joined the French Communist Party.⁴⁶²²
1127. After his return to Cambodia, **Khieu Samphan** worked as a teacher.⁴⁶²³ In 1959, he founded the French language newspaper, *L'Observateur*, supported and funded by Cambodian communist activists.⁴⁶²⁴ **Khieu Samphan** was monitored by the police and harassed (and publically humiliated) for the publication of criticism of the government in *L'Observateur*. In August 1960, he was arrested and held without charge for two months.

1128. In 1962, **Khieu Samphan** joined Norodom Sihanouk's Sangkum Reatsr Niyum movement and was elected as representative for Saang district in Kandal province and appointed Secretary of State for Trade.⁴⁶²⁵ However, he was forced to resign in 1963.⁴⁶²⁶ He was re-elected as representative in 1966 but his position became untenable due to Party conflict and instability. Following accusations that he instigated the peasant uprising of Samlaut in 1966, he was summoned to appear before a military tribunal. Fearing his imminent arrest, he fled Phnom Penh on 22 April 1967.⁴⁶²⁷ He found refuge in the village of Chieng Tong, Samrong Tong District, Kampong Speu Province, under the protection of Ta Mok,⁴⁶²⁸ where he remained until 1970.⁴⁶²⁹
1129. After the overthrow of Norodom Sihanouk in 1970 when the National United Front of Kampuchea was formed, **Khieu Samphan** met with Pol Pot and **Nuon Chea** and other CPK senior leaders at the Communist Party headquarters in the region between Kampong Thom and Kampong Cham.⁴⁶³⁰ **Khieu Samphan** was appointed to a number of senior positions, including Deputy Chairman of the National United Front of Kampuchea and Commander-in-Chief of the National People's Liberation Army of Kampuchea.⁴⁶³¹ On 5 May 1970 **Khieu Samphan** was confirmed as the Deputy Prime Minister and Minister of National Defense for GRUNK⁴⁶³² and he led international delegations in this role.⁴⁶³³ Following the 1970 coup he was given the responsibility for relations with Norodom Sihanouk.⁴⁶³⁴
1130. In 1971 **Khieu Samphan** was admitted as a candidate member to the Central Committee of the CPK.⁴⁶³⁵ On 9 September 1972, **Khieu Samphan**, Hou Yun and Hu Nim made an appeal to monks and city dwellers in Phnom Penh and in other provincial towns which were under the enemy's temporary control to "*rise up to smash the enemy*".⁴⁶³⁶ Between January and April 1975, **Khieu Samphan** publically announced several times that victory was imminent, urging the people of Phnom Penh to fight to liberate the nation⁴⁶³⁷ and claiming that FUNK and GRUNK would take over Phnom Penh.⁴⁶³⁸

Roles and Functions

Membership of the Central and Standing Committees

1131. **Khieu Samphan** was admitted as a reserve or candidate member of the Central Committee of the Cambodian Communist Party in 1971 and was confirmed as a full-rights member in 1976.⁴⁶³⁹ As a full-rights member of the Central Committee, he could "*consider and discuss and join in the decision making*" with regard to all matters.⁴⁶⁴⁰

1132. **Khieu Samphan** has stated that he was not a member of the Standing Committee.⁴⁶⁴¹ Regardless of whether he was formally a member, records demonstrate that he attended and participated in many of the Standing Committee meetings. Of the 19 surviving Standing Committee meeting minutes⁴⁶⁴² (only 15 of which contain records of attendance⁴⁶⁴³) he is listed as having attended 13⁴⁶⁴⁴ as well as at least two *ad hoc* high-level meetings of the Centre.⁴⁶⁴⁵ **Khieu Samphan** has stated that “*during open meetings of the Standing Committee, as in the meetings of the Party Central Committee, I never stated any opinions*”.⁴⁶⁴⁶ However there are records of him presenting reports to the Standing Committee on two occasions.⁴⁶⁴⁷ With respect to those meetings that **Khieu Samphan** did not attend, he would have had access to their minutes which appear to have been routinely taken.
1133. Although the Case File only contains Standing Committee meeting minutes dating from mid-1975 until mid-1976, **Khieu Samphan** gave evidence that the Standing Committee convened every 7-10 days, and even more regularly in emergencies.⁴⁶⁴⁸ One witness, who was **Khieu Samphan**’s driver from 1978, stated that he drove **Khieu Samphan** from K-3 to K-1 two or three times a week and that **Nuon Chea** and **Ieng Sary** would be brought to K-1 at the same time.⁴⁶⁴⁹ Another witness confirmed that **Khieu Samphan**, **Ieng Sary** and **Nuon Chea** would have secret meetings at K-1.⁴⁶⁵⁰
1134. **Khieu Samphan** interacted with and supervised lower-level cadres by his attendance at monthly meetings at K-1 along with Pol Pot, **Nuon Chea**, **Ieng Sary** and S-71 Chairman Pang. These meetings lasted five or six days each and approximately 20 leading cadres from various zone, sector or district committees would attend.⁴⁶⁵¹

President of the State Presidium

1135. At the first session of the Cambodian People’s Representatives Assembly, held between 11 and 13 April 1976, **Khieu Samphan** was appointed as the President of the State Presidium.⁴⁶⁵² In this role, he took over from Norodom Sihanouk as the Head of State.⁴⁶⁵³
1136. Chapter 8, Article 11 of the DK Constitution states that “*the State Presidium is responsible for representing the State of Democratic Kampuchea inside and outside the country*”.⁴⁶⁵⁴ **Khieu Samphan** stated “*with regard to chapter 8 on the State Presidium, the decision to create this body is for the purpose of implementing the principle of collectivism in all fields*”.⁴⁶⁵⁵ However, **Khieu Samphan** has repeatedly declared that his role as President of the State Presidium was merely honorific and symbolic and that he had no *de facto* power.⁴⁶⁵⁶

Several witnesses have stated that they believed that **Khieu Samphan** was not a powerful figure in the CPK regime.⁴⁶⁵⁷

1137. **Khieu Samphan** has further declared that his work was only to make speeches, receive letters of accreditation from international ambassadors and participate in and preside over receptions for various Heads of State.⁴⁶⁵⁸ Even in this limited role, one of **Khieu Samphan's** primary responsibilities appears to have been promoting policies of the CPK internationally. He sent⁴⁶⁵⁹ and received⁴⁶⁶⁰ many communications and credentials from various world leaders and ambassadors. He travelled to various countries as a representative of the DK, such as China,⁴⁶⁶¹ Sri Lanka,⁴⁶⁶² the Democratic People's Republic of Korea,⁴⁶⁶³ Yugoslavia,⁴⁶⁶⁴ Romania.⁴⁶⁶⁵ He also made a speech at the Fifth Summit Conference of Non-aligned Countries in Colombo in 1976⁴⁶⁶⁶ (although he states that **Ieng Sary** wrote this speech for him).⁴⁶⁶⁷ He received many foreign delegations and ambassadors in Cambodia,⁴⁶⁶⁸ sometimes taking them on tours around Cambodia⁴⁶⁶⁹ and informing the delegations about the country's reconstruction, cooperatives and agricultural revolution.⁴⁶⁷⁰
1138. **Khieu Samphan** also conducted the following activities in his capacity as President of the State Presidium: promulgating a regulation setting out the functioning of the People's Representative Assembly of Kampuchea and the Standing Committee of the People's Representative Assembly of Kampuchea;⁴⁶⁷¹ and being sent communications by telegram about the living conditions, arrests and detentions in Preah Vihear Province.⁴⁶⁷²

The Offices of 870

1139. From 9 October 1975 until the end of the CPK regime, **Khieu Samphan** was a leading cadre of the CPK Centre unit officially designated the Political Office 870. He has stated he was one of only two cadre assigned there, the other being the office's original chairman, Soeu Vasy alias Doeun,⁴⁶⁷³ a fellow Central Committee member who also regularly attended Standing Committee meetings. Duch states that **Khieu Samphan** took over the role as Chairman of Political Office 870 in 1976 when Doeun left the role to take control of the Ministry of Commerce.⁴⁶⁷⁴ Duch further states that **Khieu Samphan's** position as Chairman was secured in 1977 when Doeun was arrested and sent to S-21.⁴⁶⁷⁵ [REDACTED], who held various senior roles in B-1⁴⁶⁷⁶ and who regularly personally delivered messages from B-1 and **Ieng Sary** to **Khieu Samphan**, corroborates that **Khieu Samphan** replaced Doeun as the Chairman in late 1977 or early 1978.⁴⁶⁷⁷ Another witness who worked within B-1 also corroborates this.⁴⁶⁷⁸ In an interview in 1999, **Ieng Sary** confirmed that **Khieu Samphan** was the head of Political Office 870⁴⁶⁷⁹ although he has recently denied making this statement.⁴⁶⁸⁰

1140. Additionally, **Khieu Samphan** may have had responsibility within Office S-71. One witness states that Pang, the head of S-71, took his orders from **Khieu Samphan** and other senior leaders according to their expertise.⁴⁶⁸¹
1141. **Khieu Samphan** has consistently denied that he was ever the Chairman of Political Office 870.⁴⁶⁸² He has stated that his duties within the offices of 870 were limited to economic matters, the distribution of goods around Cambodia, and the maintenance of relations with King Norodom Sihanouk.⁴⁶⁸³ One witness who worked as a telegram translator in Sector 105 and a courier for the Party Centre stated that he was required to send all telegrams relating to “*equipment, healthcare or social affairs and matters other than security*” directly to **Khieu Samphan** at Office 870.⁴⁶⁸⁴

Ministry Of Commerce

1142. **Khieu Samphan** was appointed to be responsible for “*commerce for accounting and pricing*” during the Standing Committee’s meeting of 9 October 1975,⁴⁶⁸⁵ apparently working alongside Central Committee member Koy Thuon who was named in charge of “*domestic and international commerce*”.⁴⁶⁸⁶ In this role, **Khieu Samphan** may have sat on the Council of Ministers.
1143. **Khieu Samphan** has publically stated that his responsibilities included working with the Department of Foreign Trade for the import and export of goods, implementing the Permanent Committee’s decisions regarding the distribution of goods around Cambodia, and setting prices for products from cooperatives.⁴⁶⁸⁷ Witnesses confirmed that he was responsible for commerce and the distribution of goods and food around Cambodia⁴⁶⁸⁸ and several witnesses state that he regularly visited the Ministry of Commerce.⁴⁶⁸⁹ The Secretary of Sector 105 recounted that “*I used to give a commerce list requesting for equipment to Khieu Samphan personally and used to talk with him about economic matters during meals time or outside official meeting*”.⁴⁶⁹⁰ Duch gave evidence that **Khieu Samphan** also had control over electrical power plants, water works and state warehouses.⁴⁶⁹¹
1144. **Khieu Samphan** received a large number of telegrams and communications from the Commercial Committee and the Phnom Penh Foreign Trade FORTRA Company, covering topics such as the import and export of food and goods, the economic relations with foreign countries and the fact that members of the Commercial Committee travelled to the Cambodian countryside to collect crops.⁴⁶⁹² One witness who worked in the Ministry of

Commerce and who was asked to comment on a telegram to **Khieu Samphan**⁴⁶⁹³ stated that Van Rith did not have the authority to make decisions about purchasing goods from overseas and that communications had to go to **Khieu Samphan** for a decision.⁴⁶⁹⁴ Although the Commerce Committee under Van Rit also answered to Vorn Vet,⁴⁶⁹⁵ Van Rit's subordination to **Khieu Samphan** is clearly evidenced by the fact that he regularly annotated copies of commerce-related reports to be sent to "Brother Hem," using the fraternal greeting which Duch has indicated was normally reserved for addressing superiors.⁴⁶⁹⁶ A witness who worked on foreign and domestic trade matters has confirmed **Khieu Samphan**'s authority over Van Rit.⁴⁶⁹⁷ In February 1977, **Khieu Samphan** received a foreign economic and trade delegation from Yugoslavia⁴⁶⁹⁸ and he states that he travelled to Yugoslavia twice.⁴⁶⁹⁹

Other Roles

1145. In addition to the above, **Khieu Samphan** also had a number of other roles during the CPK regime.

Military

1146. Both before and after 17 April 1975, **Khieu Samphan** was referred to as the Deputy Prime Minister,⁴⁷⁰⁰ Minister of National Defence and Commander in Chief of the CPNLAF.⁴⁷⁰¹ Duch has suggested that **Khieu Samphan** was merely the nominal head of the Committee for the Army, a "picture to show the world", whereas Pol Pot had the actual control of the army.⁴⁷⁰²

Foreign Affairs and Returnees

1147. There is also evidence that when **Ieng Sary** was outside of the country, **Khieu Samphan** took responsibility for the Ministry of Foreign Affairs.⁴⁷⁰³ **Khieu Samphan** was involved in the recall of overseas-based Cambodian people to Cambodia, educating them upon their return. Three witnesses recall **Khieu Samphan**'s role in giving political education sessions to the returnees.⁴⁷⁰⁴ One witness, who returned to Cambodia in late 1975 with a group of ten students, stated that **Khieu Samphan** informed them that the only two social groups existing in Cambodia were the workers and peasants and that "the country needed us to rebuild it, adding that, first, we had to go to the countryside to learn those things that we had not done before, such as how to plant rice, and experiencing what it is like to have only one bowl of rice".⁴⁷⁰⁵ Many of these returnees were sent to S-21 after a period of reeducation.

Speeches and Political Education

1148. In addition to the above, **Khieu Samphan** was responsible for making speeches on behalf of the CPK and the education of the people. **Khieu Samphan** made many speeches promoting and disseminating CPK policy throughout the period of the CPK regime. He made speeches at each of the mass CPK meetings celebrating the anniversaries of the 17 April victory⁴⁷⁰⁶ and for the Khmer New Year celebrations.⁴⁷⁰⁷ One witness who worked in the telegram office for the Party Centre stated that **Khieu Samphan** would give him directives about events marking various national ceremonies.⁴⁷⁰⁸ Many witnesses gave evidence that they listened to his speeches at mass rallies and meetings held in venues such as the Olympic Stadium and Borei Keila.⁴⁷⁰⁹ Some stated that **Khieu Samphan** addressed up to 20,000 people from around Cambodia during these rallies and meetings.⁴⁷¹⁰
1149. **Khieu Samphan** stated that he “*generally*” agreed with the content of the speeches, but that he disagreed “*on certain points ... for instance for the elimination of the currency*” but did not dare to reveal his disagreements for fear of being killed.⁴⁷¹¹ He stated that his speeches “*were not very important*” and that only Pol Pot and **Nuon Chea** gave important speeches.⁴⁷¹² **Khieu Samphan** went to B-1 to ask for material and discuss what kind of issues should be addressed in his speeches.⁴⁷¹³
1150. **Khieu Samphan** was also responsible for conducting regular political education and study sessions with workers and cadres from varying ranks from around Cambodia. Many witnesses gave evidence that they were required to attend these sessions with **Khieu Samphan**.⁴⁷¹⁴ The content of these speeches and political education sessions covered topics such as: the accomplishments of the revolution;⁴⁷¹⁵ the armed conflict with Vietnam;⁴⁷¹⁶ the agricultural and economic policies of the CPK;⁴⁷¹⁷ administrative matters such as care for supplies and equipment;⁴⁷¹⁸ the need to eliminate feudalists and capitalists;⁴⁷¹⁹ the overthrow of the traitorous Lon Nol regime and the elimination of certain members of the regime;⁴⁷²⁰ and the situation in Phnom Penh.⁴⁷²¹

Association with Other CPK Senior Leaders

1151. **Khieu Samphan** has had close personal and political associations with the other key members of the CPK for many years.⁴⁷²² During the CPK regime, he regularly associated with other senior leaders of the CPK.⁴⁷²³ He lived and worked with Son Sen, **Ieng Sary**, **Nuon Chea**, Pol Pot and Vorn Vet (until Vorn Vet was arrested and sent to S-21) at K-1 and K-3 for the majority of the regime.⁴⁷²⁴ Witnesses regularly saw **Khieu Samphan** associating, meeting

with and working with other senior leaders⁴⁷²⁵ and heard announcements on the radio about their work together.⁴⁷²⁶ Duch gave evidence that **Khieu Samphan** “*had Pol Pot’s trust*”⁴⁷²⁷ and was given “*privileged information*”.⁴⁷²⁸

1152. **Khieu Samphan** chaired, presided over and presented at major Party gatherings and study sessions with Pol Pot, **Nuon Chea**, **Ieng Sary** and **Ieng Thirith**.⁴⁷²⁹ **Khieu Samphan** and **Ieng Sary** received foreign delegations together⁴⁷³⁰ and travelled overseas together.⁴⁷³¹ **Khieu Samphan** and **Ieng Sary** also travelled to the countryside and inspected cooperatives and worksites together.⁴⁷³² **Ieng Sary** regularly communicated with **Khieu Samphan** when preparing for visitors and before travelling to the zones.⁴⁷³³

Participation in the Common Purpose

Movement of the Population

1153. Through his various roles in the CPK, **Khieu Samphan** participated in the movement of the population from towns and cities to rural areas, as well as from one rural area to another.

Phase One

1154. [REDACTED] states that **Khieu Samphan** attended a meeting to decide on the movement of the population of Phnom Penh in early April 1975.⁴⁷³⁴ The meeting was at Office B5, the office of Pol Pot, at Taing Porn Village, Kampong Tralach Subdistrict and District, Kampong Chhnang Province.⁴⁷³⁵ [REDACTED] stated that **Khieu Samphan** took notes and “*gave his opinions and impressions and agreed to the plan to evacuate the people*”.⁴⁷³⁶
1155. Another witness gave evidence that **Khieu Samphan** entered Phnom Penh on or around 20 April 1975. On 17 April 1975, this witness travelled to Phnom Ath Ros to rest and to prepare to enter Phnom Penh with a group of CPK cadres.⁴⁷³⁷ She stated that **Khieu Samphan**, Hu Nim and Son Sen travelled to meet each other at Phnom Ath Ros and were “*getting ready to enter and occupy*” Phnom Penh.⁴⁷³⁸ She stated that **Khieu Samphan**, Hu Nim and Son Sen stayed at Phnom Ath Ros for three nights before travelling to Phnom Penh.⁴⁷³⁹
1156. **Khieu Samphan** stated that he entered Phnom Penh 7-10 days after 17 April 1975.⁴⁷⁴⁰ He stated that he was not aware of the plan to move the population from Phnom Penh until he

entered Phnom Penh and overheard a group of soldiers talking about it.⁴⁷⁴¹ He has publically stated that he does not think the population of Phnom Penh should have been moved.⁴⁷⁴²

1157. **Khieu Samphan** issued a number of statements over the radio in the months leading up to the movement of the population, relating to the situation in Phnom Penh. Between January and April 1975, **Khieu Samphan** repeatedly broadcast details of what was happening in Phnom Penh, claimed that the “*traitorous Lon Nol clique*” was on the brink of collapse, and ordered and appealed to the population of Phnom Penh to fight them in order to liberate the nation.⁴⁷⁴³ He also called for all foreign embassies and foreign organizations in Phnom Penh to evacuate their personnel in order to avoid suffering casualties.⁴⁷⁴⁴ Pursuant to CPK policy, he urged the population of Phnom Penh to relocate to the countryside, calling on it to “*cross over to our liberated zone,*” declaring there was no rice in Phnom Penh⁴⁷⁴⁵ and promising them that cadres and combatants in CPK-controlled territory were standing by to assist them with their “*new lives*” in rural areas, and in particular would be provided with “*with adequate supplies and adequate means of production*” for agricultural production.⁴⁷⁴⁶
1158. He also called on Party cadres and its “*combatants*” to “*sweep the enemy pacification activities from the entire liberated zone*”⁴⁷⁴⁷ and generally further uphold their “*revolutionary vigilance against enemy schemes*”.⁴⁷⁴⁸ On 26 February 1975, **Khieu Samphan** released a communiqué on behalf of the FUNK stating that the “*seven traitors in Phnom Penh ... Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret and Sosthene Fernandez*” should be killed⁴⁷⁴⁹ and calling for the people of Phnom Penh to contribute to the nation’s liberation by “*turning your guns against them*”.⁴⁷⁵⁰ He noted that the “*traitorous Phnom Penh clique is now ... on the verge of total collapse*”⁴⁷⁵¹ and ordered the people to “*attack the enemy more vigorously and incessantly, both at the forefront and in the rear, in order to fulfill the duty of completely and permanently liberating our nation and people*”.⁴⁷⁵² On 13 April 1975, he declared in a broadcast speech that although Lon Nol and other “*super-traitors*” had fled the country, other traitors in addition to the seven he had named in February were attempting “*to continue the treachery of the last bunch of traitors,*” and called for their overthrow.⁴⁷⁵³
1159. On 13 August 1975, **Khieu Samphan** explained on the radio that “*immediately after liberation*” the FUNK was confronted with the question of how to solve the problem of having a starving population in Phnom Penh and that they “*solved*” this problem by mobilizing the people to increase production throughout the country.⁴⁷⁵⁴ He repeated these assertions during his 18 August 1976 speech at the fifth Non-aligned Summit Conference in Colombo, stating that “*we have fundamentally solved the problems of livelihood for our*

Cambodian people since liberation, notably with regard to food".⁴⁷⁵⁵ **Khieu Samphan** has subsequently given a number of statements endorsing and defending the movement of the population from Phnom Penh on the basis that the population was starving.⁴⁷⁵⁶

1160. Norodom Sihanouk has stated that **Khieu Samphan** told him by letter not to return to Phnom Penh in April 1975 as the CPK needed to evacuate the city as a precaution due to the development of a deadly contagion.⁴⁷⁵⁷ **Khieu Samphan** stated in an interview with the Co-Investigating Judges that he does not remember exactly, but that it is possible this letter may have been dictated by Pol Pot.⁴⁷⁵⁸
1161. A newspaper article dated 28 April 1975 asserts that **Khieu Samphan** had entered Phnom Penh the week before, dressed in a simple black pajama suit and a krama and "*proclaiming the triumph of his new leftist regime*".⁴⁷⁵⁹ Additionally, a New York Times Report dated 9 July 1982 details an interview with **Khieu Samphan** in Kuala Lumpur in which he purportedly admitted to participating in the collective decision to forcibly transfer the population of Phnom Penh.⁴⁷⁶⁰

Phase Two

1162. The decision to move people from the Central (Old North), Southwest, West and East Zones was made by the Standing Committee after they visited the Northwest Zone between 20 and 24 August 1975.⁴⁷⁶¹ While there is no record of who participated in this visit, even if **Khieu Samphan** was not part of this mission, **Ieng Sary** has stated that **Khieu Samphan** attended an enlarged Standing Committee meeting in September 1975 to discuss implementing a dictatorship and strengthening agriculture and industry.⁴⁷⁶² A Party document coinciding with the date of this meeting specified the need to relocate new people to the North and Northwest zones.⁴⁷⁶³

Phase Three

1163. It appears from several civil party applications that **Khieu Samphan** was involved in the movement of people from the East Zone in 1977 and 1978. These reports suggest that **Khieu Samphan** monitored the movement and distributed kramas and food to the people during the movement.⁴⁷⁶⁴

Cooperatives and Worksites

1164. Through his various roles in the CPK, **Khieu Samphan** participated in the establishment and operation of cooperatives and worksites.

Participation in the Creation of this Policy

1165. During the CPK regime, **Khieu Samphan** was involved in the continued planning of this policy by his attendance at Standing Committee meetings or through access to their minutes⁴⁷⁶⁵ and in the development of the *Four Year Plan* to build socialism in all fields.⁴⁷⁶⁶ It was also addressed at an enlarged meeting of the Standing Committee in September 1975 at which the rapid strengthening of agriculture was discussed.⁴⁷⁶⁷ He may have further assisted with the planning of this policy through involvement with the Council of Ministers.⁴⁷⁶⁸ **Khieu Samphan** also stated that this policy was decided during meetings of the Central Committee.⁴⁷⁶⁹ **Khieu Samphan** attended the Standing Committee meetings at which the decision was made to establish Kampong Chhnang Airport.⁴⁷⁷⁰

Endorsement of this Policy

1166. **Khieu Samphan** made a number of speeches between 1975 and 1979 in which he endorsed this policy, reported on achievements and progress with rice, rubber and salt production, gave details about the living and working conditions of the worksites and cooperatives, and encouraged workers to work vigorously.⁴⁷⁷¹ In a speech he delivered on 14 December 1975, **Khieu Samphan** stated that *“Our people are restoring the economy and building the country with soaring enthusiasm everywhere, both in the cities and the countryside. There are work sites everywhere where our people are making all out efforts to create, establish and improve factories, develop industry and boost agricultural production as well as to transform the outlook of the countryside ... Everybody works in the fields because our workers practice the collective system of labor”*.⁴⁷⁷²
1167. During the 15 April 1977 mass meeting celebrating the second anniversary in Phnom Penh, **Khieu Samphan** praised the child workers who were *“helping to build dams and embankments, and dig reservoirs and ditches”*.⁴⁷⁷³ Similarly at the third anniversary mass meeting, he congratulated the people who had *“fulfilled the plan of our party and Government”* with respect to agriculture and rice-growing.⁴⁷⁷⁴

Knowledge and Implementation of this Policy

1168. **Khieu Samphan** was aware of the various ways in which this policy was implemented throughout Cambodia. He travelled extensively throughout Cambodia to inspect worksites and cooperatives. He has stated that he accompanied Prince Norodom Sihanouk to the Centre and Northwest Zones and had “*witnessed the organization efforts in the countryside*” and did a further “*study-tour*” in the West and Southwest Zones.⁴⁷⁷⁵ During a tour with Prince Norodom Sihanouk between 15-17 January 1976, **Khieu Samphan** witnessed tens of thousands of workers doing manual labour in cooperatives.⁴⁷⁷⁶ **Khieu Samphan’s** driver stated that he took **Khieu Samphan** and Prince Norodom Sihanouk to visit the provinces of Siem Reap, Battambang, Kampot and Kampong Som.⁴⁷⁷⁷ Another witness also stated that he saw **Khieu Samphan** accompany Sihanouk “*many times*” to relax such as in Kandal, Takeo, Kampong Cham, and around Phnom Penh.⁴⁷⁷⁸
1169. Witnesses gave evidence that **Khieu Samphan** visited the Kampong Chhnang Airport worksite⁴⁷⁷⁹ and the 1st January Dam worksite⁴⁷⁸⁰ as well as other worksites and cooperatives,⁴⁷⁸¹ hospitals,⁴⁷⁸² an auto repair facility,⁴⁷⁸³ a garment factory,⁴⁷⁸⁴ and warehouses.⁴⁷⁸⁵ Some of these witnesses state that the purpose of **Khieu Samphan’s** visits to the sites was to specifically inspect the working conditions and the food rations being provided to the workers.⁴⁷⁸⁶ Witness also stated that **Khieu Samphan** made speeches urging the workers to work faster and more vigorously.⁴⁷⁸⁷
1170. **Khieu Samphan** was also aware that rice was being exported by the CPK during a period when the population was facing starvation. A report sent by Van Rit to **Khieu Samphan** on 4 November 1978 reported that during January-September 1978, 29,758 tons of paddy and rice were exported.⁴⁷⁸⁸ During this same period, the *Revolutionary Flag* magazine had informed all Party members that there was a rice shortage and implicitly admitted there was starvation in the country.⁴⁷⁸⁹
1171. **Khieu Samphan’s** knowledge of the creation of cooperatives and worksites, and the living and working conditions at these sites, is also demonstrated through his public letters⁴⁷⁹⁰ and books.⁴⁷⁹¹

Security Centres and Execution Sites

1172. Through his various roles within the CPK, **Khieu Samphan** participated in the reeducation of “*bad elements*” and the killing of “*enemies*”, both inside and outside the Party ranks.

Participation in the Creation of this Policy

1173. During the CPK regime, **Khieu Samphan** was involved in the continued planning of this policy by his attendance at Standing Committee meetings or through access to their minutes.⁴⁷⁹² Further, as a member of the Central Committee, **Khieu Samphan** may have participated in the formulation and implementation of the 30 March 1976 Directive, which delegated the power to smash inside and outside the ranks to the zone and autonomous sector committees.⁴⁷⁹³ He also may have addressed this policy through his involvement with the Council of Ministers.⁴⁷⁹⁴ Further, in July 1975, **Khieu Samphan** attended a RAK gathering at which this policy was discussed.⁴⁷⁹⁵ He also participated in the reaffirmation of this policy at the People's Representative Assembly conference of 11-13 April 1976, which he chaired in his role as President of the State Presidium.⁴⁷⁹⁶
1174. One witness states that **Khieu Samphan** issued a statement in February or March 1978 ordering that the persons who had been arrested should be pardoned.⁴⁷⁹⁷ This was within the context of a June 1978 Central Committee Directive entitled "*Guidance of the Central Committee of the Communist Party of Kampuchea on the Party's Policy towards Mised Persons who have joined the CIA, served as Yuon agents or joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea*". This directive appeared to prescribe reeducation for those who joined the CIA, KGB and Vietnamese before July 1978, but ordered the Party and the Kampuchean people to eliminate networks which continued to oppose the Party from July 1978 onwards.⁴⁷⁹⁸ Further, in September 1978, **Khieu Samphan** attended a large assembly in Phnom Penh together with other senior leaders of the CPK at which Pol Pot announced to hundreds of attendees that the military and the base no longer had the right to arrest anyone. From that point, they only had the right to question people and report to the Centre.⁴⁷⁹⁹

Endorsement of this Policy

1175. During the CPK regime, **Khieu Samphan** gave speeches and radio broadcasts disseminating and endorsing this policy both nationally and internationally, by appealing to the people to attack the enemies of the CPK.⁴⁸⁰⁰
1176. On 15 April 1977 during a mass rally marking the second anniversary of 17 April 1975, **Khieu Samphan** spoke of the great achievements of the revolution and declared that the army and "*cooperative peasants*" had not allowed any enemy from outside or from within to "*sabotage the revolution*". He called for the ongoing defence of the country by "*resolutely suppressing all categories of enemies, preventing them from committing aggression,*

interference or subversion against us. We must wipe out the enemy in our capacity as masters of the situation, following the lines of domestic policy, foreign policy and military policy of our revolutionary organization ... we must further steel ourselves, remain alert, constantly maintain the spirit of revolutionary vigilance and continue to fight and suppress all stripes of enemy at all times".⁴⁸⁰¹ This speech effectively endorsed the purges of the old and new North Zones and related purges in ministries and offices of the Party Centre. Furthermore, this speech was given in the context of the publication in April 1977 of a *Revolutionary Flag* magazine, which called for the smashing of the remnants of the Vietnamese community in Cambodia, as well as other enemies of the CPK.⁴⁸⁰²

1177. On 17 April 1978 during the third anniversary mass meeting **Khieu Samphan** ordered that the first task of the people was to defend the country against the Vietnamese, who were "spying and setting up cells"⁴⁸⁰³ in Cambodia by "carrying out well the line of the Party both in internal and external defence".⁴⁸⁰⁴ He stated that "our daily activities to radically and forever eliminate from the Kampuchea's territory the enemy aggressors of all kinds, especially the Vietnamese enemy aggressors, annexationists and swallows of territories".⁴⁸⁰⁵ This speech effectively endorsed the recent and ongoing purges in Cambodia, in particular in the East Zone. It further supported a speech by Pol Pot, published in the April 1978 *Revolutionary Flag* magazine, which more specifically described the purge of traitors and bad elements in the ranks, including in ministries and offices.⁴⁸⁰⁶

Knowledge and Implementation of this Policy

1178. Although there is no evidence that **Khieu Samphan** personally visited security centres or execution sites,⁴⁸⁰⁷ he was aware of and involved in the identification, arrest and elimination of real and perceived enemies, both inside and outside the CPK ranks, throughout Cambodia.
1179. **Khieu Samphan** confirmed that he was aware of arrests and detentions in Preah Vihear province because a member of his wife's family was arrested.⁴⁸⁰⁸ After the arrests were reported to **Khieu Samphan**, they were released.⁴⁸⁰⁹ Duch states that Kang Chap alias Se, the Secretary of the New North Zone, was himself arrested after he ordered the arrest of **Khieu Samphan's** family.⁴⁸¹⁰ One witness states that he regularly sent telegrams to **Khieu Samphan** from Sector 103, reporting on arrests and detentions in Preah Vihear province but that he never received a response.⁴⁸¹¹
1180. With regard to the killing of Vietnamese soldiers, on 30 December 1977, **Khieu Samphan** issued a statement on behalf of the CPK Government to the army and the people, giving

details of alleged acts of aggression by Vietnam against Cambodia⁴⁸¹² and reporting that the RAK “*have been successfully wiping them out since 1975*”.⁴⁸¹³ He further called for action, stating that “*The CPK Central Committee, the Cambodian People’s Representative Assembly and the Government of Democratic Cambodia appeal to the entire party, the entire Revolutionary Army and the entire Cambodian people to ... prevent the Vietnamese aggressor enemy from annexing and swallowing up our territory. The Cambodian Revolutionary Army and the entire Cambodian collective people, under the leadership of the CPK will certainly totally repulse the aggressive, expansionist and annexationist Vietnamese enemy from Cambodian territory*”.⁴⁸¹⁴ He explained that the CPK’s policies of the armed conflict were “*firmly adhering to tactical guerrilla warfare and full-scale warfare to smash the enemies forces*”.⁴⁸¹⁵ He gave statistics about the numbers of Vietnamese who had been killed in 1975, 1976 and 1977.⁴⁸¹⁶

1181. With regard to morality, the policy of the CPK was that perpetrators of rape were to be punished as set out in the section of the Closing Order regarding the Factual Findings of the Joint Criminal Criminal Enterprise. There is no evidence to suggest that **Khieu Samphan** was aware that perpetrators of rape were not being punished.

Knowledge and Implementation of this Policy at S-21

1182. **Khieu Samphan** has stated that he did not know about the existence of S-21 during the period of the CPK regime⁴⁸¹⁷ and it appears that he never went to S-21.⁴⁸¹⁸ **Khieu Samphan** also claims that he never met Duch during the CPK period.⁴⁸¹⁹ However, Duch gave evidence on a number of occasions during interviews with the Co-Investigating Judges and during his trial that he had a meeting with **Khieu Samphan** on the morning of 6 January 1979.⁴⁸²⁰ Duch states that **Khieu Samphan** issued instructions to him relating to the entry of Vietnamese forces into Phnom Penh, namely, that S-21 staff should “*maintain quiet and not panic*”.⁴⁸²¹ Duch states that he accepted the instructions and disseminated them in S-21.⁴⁸²²
1183. Duch has also attested that the Standing Committee knew that torture was practiced at all security centres and that every person sent to S-21 was to be executed.⁴⁸²³ As a regular attendee and participant in the Standing Committee meetings, it is likely that **Khieu Samphan** was aware of the practice of torture and execution at S-21. It is also likely that **Khieu Samphan** heard the Vietnamese confessions that were recorded for propaganda purposes at S-21 and broadcast on the radio.⁴⁸²⁴

Links to S-21 through Arrests and Killings

1184. **Khieu Samphan** stated that he never participated in any meetings where purges or arrests were decided⁴⁸²⁵ and did not know the extent of arrests before 1979.⁴⁸²⁶ He stated that Pol Pot did not involve the Standing Committee in decisions about the arrests of important cadres within the Party.⁴⁸²⁷ However, it appears that **Khieu Samphan** knew of and was involved in the purges of senior leaders of the CPK, as well as people in the 870 offices and in the Ministry of Commerce and related offices.
1185. Duch stated that **Khieu Samphan** was one of only 13 people who had the “*fully-fledged right*” to smash enemies inside and outside the ranks according to the 30 March 1976 directive.⁴⁸²⁸ With respect to the senior leaders of the CPK, Duch explains that the decision to arrest members of the Central Committee or high-level CPK cadres had to be made collectively by the Standing Committee.⁴⁸²⁹ As a regular attendee and participant in the Standing Committee, **Khieu Samphan** would have known of and participated in the arrest and subsequent execution or suicide of standing committee members, zone and autonomous sector secretaries, and ministers. Indeed, **Khieu Samphan** has acknowledged that he knew of the arrest and elimination of senior leaders and has given justifications for the purges inside the ranks of the CPK. He stated in a 1980 interview that there were many undercover Vietnamese agents in the CPK “*who obtained important positions. They exercised their power. Some of them were in charge of major zones*”.⁴⁸³⁰ He further stated that in 1975, around half of the Central Committee and the Standing Committee were Vietnamese agents.⁴⁸³¹ In an interview in 2006, he stated that Vorn Vet and Sao Phim were arrested because they were Vietnamese agents.⁴⁸³² He stated that the arrest of East Zone cadres “*led to an internal sweeping clean of a chain of persons*”.⁴⁸³³
1186. Additionally, the 870 Political Office where **Khieu Samphan** worked, was “*tasked to monitor suspected members of the party for the standing committee*”.⁴⁸³⁴ Though denying that he replaced Doeun as Chairman of Political Office 870,⁴⁸³⁵ **Khieu Samphan** admits to involvement in following up and investigating allegations that an elderly cadre of the West Zone was an agent of the Vietnamese, stating that it was concluded that the allegations were falsely made by those who were in fact themselves Vietnamese agents.⁴⁸³⁶ This may be a reference to the Deputy Secretary of the West Zone, Pal. The Zone Secretary, Chou Chet alias Sy, attempted to “*reshuffle*” Pal’s forces, but Pal was trusted by Pol Pot and **Nuon Chea**. The outcome, instead, was the arrest of Sy in March or April 1978.⁴⁸³⁷ Duch stated that this arrest occurred pursuant to a decision made at a Standing Committee meeting to which **Khieu Samphan** was specifically invited by Pol Pot in order to educate him about the purge process.⁴⁸³⁸ Duch gave evidence in 1999, and then subsequently confirmed his evidence in

two interviews with the Co-Investigating Judges, that he had been told by Chhim Som Aok alias Pang that **Khieu Samphan** attended a meeting with the Standing Committee on the issue of arresting people, including Sy.⁴⁸³⁹

1187. Pursuant to the 30 March 1976 Central Committee decision on the “*right to smash, inside and outside the ranks,*” Political Office 870, then still chaired by Doeun, was empowered to exercise this right in various units “*surrounding the Centre Office,*”⁴⁸⁴⁰ part of its wider powers to effect purges in such units.⁴⁸⁴¹ One victim was Phok Chhay alias Touch, described by Duch as “*clerk of Office 870 who we could also say was Pol Pot’s secretary*”.⁴⁸⁴² Although Duch believes this killing was ordered by Pol Pot, **Nuon Chea** and Son Sen,⁴⁸⁴³ he also states that **Khieu Samphan** can reasonably be assumed to have been aware of it.⁴⁸⁴⁴
1188. It also appears that **Khieu Samphan** witnessed the arrest of Vorn Vet on 2 November 1978⁴⁸⁴⁵ as it occurred at the headquarters of the Standing Committee (Office 870),⁴⁸⁴⁶ the office of which **Khieu Samphan** was then the leading cadre.
1189. With respect to the 870 offices, approximately 209 people were arrested from Political Office 870 and S-71 and sent to S-21 during 1975-1978 as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21. One witness, who worked in a branch of Office 870, states that **Khieu Samphan** brought up the issue of Pang’s arrest during a study session. She stated that **Khieu Samphan** told the study group that Pang “*had been arrested and taken away because he was a traitor collaborating with the Yuon*”.⁴⁸⁴⁷
1190. With respect to the Ministry of Commerce, approximately 482 people were arrested and sent to S-21 during 1975-1979 as set out in the section of the Closing Order regarding the Factual Findings of Crimes for S-21. A witness who worked at the Ministry of Commerce states that more than half of his unit were purged under the guise of being called away to study.⁴⁸⁴⁸ He states that, about one week before the Vietnamese entered Phnom Penh in January 1979, **Khieu Samphan** and **Nuon Chea** came to the Ministry of Commerce and informed the workers that “*calls for study sessions are no long conducted; we have to be united to fight the enemy*”.⁴⁸⁴⁹ This witness interpreted that statement as meaning that the workers in the Ministry of Commerce would no longer be purged.⁴⁸⁵⁰ Referring to Yuk Chuong alias Chorn, a member of the Industry Committee, Duch also states that **Khieu Samphan** was “*surely consulted before Chorn’s arrest. His confession was sent by me to the superior who was supposed to communicate it to Khieu Samphan, in order to inform the latter so that he could express his opinion on the arrest of the other persons accused in the confession*”.⁴⁸⁵¹

Targeting of Groups

1191. Through his various roles within the CPK, **Khieu Samphan** participated in the targeting of particular groups of people.
1192. As a member of the Central Committee, **Khieu Samphan** would have participated in the formulation of the September 1975 Party document that specified that the only classes that existed were workers and peasants and that all other classes had been melded into these groups. Indeed, in late-1975, **Khieu Samphan** explained to a group of returned students in Cambodia that there were only two social groups in existence in Cambodia, the workers and the peasants.⁴⁸⁵² **Khieu Samphan** expanded on this theory during a December 1975 national congress that formally adopted the Constitution of Democratic Kampuchea.⁴⁸⁵³ He delivered the keynote speech at this gathering and emphasized that the Constitution guaranteed that the country was run by a “*worker-peasant administration*” overseeing a system of collective labour in agriculture and other realms.⁴⁸⁵⁴ He endorsed the Constitution’s banning of reactionary religion, commenting that the country’s enemies were attempting to use “*a religious cloak*” against it, which must be opposed “*at all costs*”.⁴⁸⁵⁵ In this manner, he generally affirmed and contributed to the execution of this policy. Indeed, his statements were made at around the same time that the CPK affirmed its intention to abolish all national minorities and other groups.

Treatment of Former Officials of the Khmer Republic

1193. As explained above, on 26 February 1975, **Khieu Samphan** released a communiqué on behalf of the FUNK and in his position as the chairman of the national congress of the FUNK. **Khieu Samphan** reported that the FUNK had held a two-day congress and issued pronouncements on a number of policies and issues. **Khieu Samphan** stated that the “*seven traitors in Phnom Penh ... Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret and Sosthene Fernandez*” should be killed.⁴⁸⁵⁶ Out of the seven named individuals only Long Boret and Sirik Matak remained in the country.⁴⁸⁵⁷ Sirik Matak attempted to take refuge in the French embassy but was later handed over to the CPK.⁴⁸⁵⁸ They were both executed by the CPK⁴⁸⁵⁹, as confirmed by **Ieng Sary**.⁴⁸⁶⁰ **Khieu Samphan** made several additional public statements about the “*traitorous Lon Nol clique*”.⁴⁸⁶¹

Treatment of Buddhists

1194. This group was targeted while **Khieu Samphan** was a senior leader of the CPK who regularly participated in Standing Committee meetings. Through his various roles in the CPK, **Khieu Samphan** contributed to and assisted in the execution of this policy, in particular through his speeches regarding the establishment of an atheistic and homogenous society without class divisions, abolishing all ethnic, national, religious, racial, class, political and cultural differences.

Treatment of Cham

1195. This group was targeted while **Khieu Samphan** was a senior leader of the CPK who regularly participated in Standing Committee meetings. Through his various roles in the CPK, **Khieu Samphan** contributed to and assisted in the execution of this policy, in particular through his speeches regarding the establishment of an atheistic and homogenous society without class divisions, abolishing all ethnic, national, religious, racial, class, political and cultural differences.

Treatment of Vietnamese

1196. During an armed conflict, every State has the duty to protect its territory. Nevertheless, **Khieu Samphan** disseminated information to the people of Cambodia that they were in jeopardy of oppression at the hands of the Vietnamese, and provided information intended to engender fear and hatred of the Vietnamese or to otherwise win support for the targeting of this group. **Khieu Samphan** gave a number of speeches and radio broadcasts containing information about the Vietnamese being “*enemy aggressors, annexationists and swallowers of territories*”⁴⁸⁶² who were “*consumed with sinister ambition of swallowing the Kampuchea's territory in conformity with its plan of 'Indochina Federation'*”.⁴⁸⁶³ He appealed to the people to fight the Vietnamese.⁴⁸⁶⁴
1197. In particular, on 17 April 1978 during the third anniversary mass meeting he ordered that the first task of the people was to defend the country against the Vietnamese, who were “*spying and setting up cells*”⁴⁸⁶⁵ in Cambodia by “*carrying out well the line of the Party both in internal and external defence*”.⁴⁸⁶⁶ He stated that “*our daily activities to radically and forever eliminate from the Kampuchea's territory the enemy aggressors of all kinds, especially the Vietnamese enemy aggressors, annexationists and swallowers of territories*”.⁴⁸⁶⁷ This speech was made in the context of mass killings of Vietnamese civilians in Prey Veng and Svay Rieng and in other parts of Cambodia, as set out in the section of the Closing Order regarding the Factual Findings of Crimes.

1198. As set out in the sections of the Closing Order regarding the Factual Findings of Joint Criminal Enterprise and the Factual Findings of Crimes, the *Revolutionary Youth* and *Revolutionary Flag* Magazines, which **Khieu Samphan** would have read, were used by the CPK Centre to incite hatred of the Vietnamese, order the expulsion of Vietnamese from Cambodian, order the “*purging*” and “*sweeping clean*” of all Vietnamese people and those connected to the Vietnamese, and from April 1977, order the mass killings of Vietnamese civilians remaining in Cambodia.

The Regulation of Marriage

1199. Through his various roles within the CPK, **Khieu Samphan** participated in the regulation of marriage. The implementation of a system of marriages arranged by the Party was disseminated through CPK publications⁴⁸⁶⁸ which **Khieu Samphan** would have read. Furthermore, there is evidence that forced marriages occurred in offices within the Ministry of Commerce.⁴⁸⁶⁹

Knowledge of the Existence of an International Armed Conflict

1200. **Khieu Samphan** was aware that an international armed conflict between Cambodia and Vietnam existed at all times from April 1975 until at least 6 January 1979. He was kept apprised of the military situation and negotiations with Vietnam by his participation in the CPK Standing Committee meetings and his access to the meeting minutes.⁴⁸⁷⁰ **Khieu Samphan** made public speeches and statements about the international armed conflict both during the CPK regime⁴⁸⁷¹ and afterwards.⁴⁸⁷²

D. IENG THIRITH⁴⁸⁷³

Background

1201. During the CPK regime **Ieng Thirith** used or was known under the revolutionary alias “*Phea*”.⁴⁸⁷⁴
1202. **Ieng Thirith** explained that she was initiated into politics by her fellow classmate and future husband **Ieng Sary**, when she was 14 years old and she became involved in what she calls a “*revolutionary movement ... for the liberation of Kampuchea from the French colonialism*” while she was at Lycée Sisowath. The movement was lead by **Ieng Sary**.⁴⁸⁷⁵

1203. Later, upon arrival in Paris, where she was a student from 1952 until 1957,⁴⁸⁷⁶ she joined the Marxist Leninist Circle with her sister Khieu Ponnary, Pol Pot, **Ieng Sary** and **Khieu Samphan** among others.⁴⁸⁷⁷
1204. In 1960, after she returned to Cambodia, **Ieng Thirith** was active in the Communist movement, when it underwent a reorganization in which Pol Pot, **Ieng Sary** and other former Marxist-Leninist Circle members played key roles. She remained in Phnom Penh when Pol Pot and **Ieng Sary** fled to base areas along the Vietnam-Cambodia border in 1963, then followed them there in 1965, and remained with them through 1970.⁴⁸⁷⁸
1205. From 1970 to 1975, she was in charge of the radio station of the FUNK called “*La Voix du Front Uni National du Kampuchea*” in Hanoi.⁴⁸⁷⁹ At that time, she was involved in the diplomatic representation of the FUNK and GRUNK.⁴⁸⁸⁰ In March 1974, she held a meeting in Hanoi as FUNK and GRUNK Special Envoy with **Khieu Samphan**, **Ieng Sary** and other top level members of the GRUNK.⁴⁸⁸¹ In April 1974 she went to Beijing⁴⁸⁸² and North Korea⁴⁸⁸³ as part of a FUNK and GRUNK delegation. She is referred to as “Minister of Popular Education and Youth” in the GRUNK government as early as November 1974,⁴⁸⁸⁴ although the administrative authority she exercised in this capacity is unclear.
1206. It is not clear when and from where **Ieng Thirith** returned to Phnom Penh. A witness states that she returned to Cambodia from Beijing with her husband one week after 17 April 1975.⁴⁸⁸⁵ In 1980, **Ieng Thirith** said that she returned on June 1975 or later from Ratanakiri,⁴⁸⁸⁶ while in 2009 she said that Pol Pot asked her to return through China in 1975.⁴⁸⁸⁷ On 14 August 1975, **Ieng Thirith** went on an official visit to China in her capacity as Minister of Education, with **Khieu Samphan**, **Ieng Sary**, Sarin Chhak and [REDACTED].⁴⁸⁸⁸ She was in Cambodia by at least September 1975.⁴⁸⁸⁹

Roles and Functions

1207. **Ieng Thirith** was neither a member of the Standing Committee nor of the Central Committee. Of the 19 surviving Standing Committee meeting minutes,⁴⁸⁹⁰ 15 of which contain records of attendance⁴⁸⁹¹ she is not listed as having attended any. No witnesses have identified her as a member of the Standing Committee. Although one witness, [REDACTED], identifies **Ieng Thirith** as a member of the Central Committee,⁴⁸⁹² he is contradicted on this point by **Khieu Samphan**⁴⁸⁹³ and Duch.⁴⁸⁹⁴ It appears however that she did attend some Central Committee meetings.⁴⁸⁹⁵

1208. **Ieng Thirith** participated in meetings with other senior CPK leaders where CPK policies were discussed, including monthly meetings at K-1 and K-3,⁴⁸⁹⁶ meetings of the Council of Ministers,⁴⁸⁹⁷ and meetings on health and social affairs.⁴⁸⁹⁸

Minister of Social Affairs

1209. The Ministry of Social Affairs, also referred to as the Ministry of Social Action, operated from at least October 1975⁴⁸⁹⁹ through the fall of the regime and thereafter.⁴⁹⁰⁰ The precise structure of the Ministry evolved throughout the regime. Minutes of a meeting on health and social affairs show that the structure of the Ministry existed at least since October 1975.⁴⁹⁰¹ Its creation was formally endorsed in April 1976 at the People's Representative Assembly of Kampuchea.⁴⁹⁰²
1210. The Ministry of Social Affairs was in charge of a number of hospitals as well as of medicine production and distribution in Phnom Penh and throughout Cambodia.⁴⁹⁰³ In Phnom Penh, this included: Ph-1;⁴⁹⁰⁴ Ph-2 at Chroy Changva;⁴⁹⁰⁵ Ph-3 (Psah Cha);⁴⁹⁰⁶ Ph-4 (former Dumex);⁴⁹⁰⁷ Po-17/17 April Hospital;⁴⁹⁰⁸ Po-1/Calmette;⁴⁹⁰⁹ Po-2;⁴⁹¹⁰ Po-3;⁴⁹¹¹ Po-4 (later known as Po-6 or 6 January Hospital);⁴⁹¹² Ph-5;⁴⁹¹³ and the Malaria Eradication Office.⁴⁹¹⁴
1211. The Ministry of Social Affairs central office, code named Office K-2,⁴⁹¹⁵ was located near the current Ministry of Defence on Kampuchea Krom.⁴⁹¹⁶ Office K-2 employed hundreds of staff⁴⁹¹⁷ and was comprised of a number of sections, including a communication section,⁴⁹¹⁸ which only dealt with incoming and outgoing “*inter-ministerial*” communications.⁴⁹¹⁹ Office K-2 was successively headed by **Ieng Thirith**'s deputies, Sin Phal Kun alias Sou⁴⁹²⁰ (until her arrest in late 1977 or early 1978),⁴⁹²¹ Chhun,⁴⁹²² and possibly others.⁴⁹²³ Leng Pisei, alias Leng Seum Hak, alias Sei was also an initial member of the Committee of Social Affairs⁴⁹²⁴ and the head of the 17 April Hospital.⁴⁹²⁵
1212. The Ministry of Social Action held regular meetings, some at its central office, and others in hospitals and pharmaceutical factories, with the chairpersons of its subordinate units⁴⁹²⁶ or all the Ministry staff members.⁴⁹²⁷ The Ministry also organised political⁴⁹²⁸ and medical training sessions, mostly held at Ph-5 near the train station,⁴⁹²⁹ with medical staff from the country or the military.⁴⁹³⁰ This medical training was rudimentary.⁴⁹³¹
1213. Minutes of a meeting of the Standing Committee establish that **Ieng Thirith** held responsibilities for Social Action from at least 9 October 1975.⁴⁹³² She was formally

appointed to be the Minister of Social Affairs by the People's Representative Assembly of Kampuchea in April 1976.⁴⁹³³ **Ieng Thirith** has admitted that she was in charge of Social Affairs “since 1976 after the elections”,⁴⁹³⁴ which is confirmed by a number of witnesses⁴⁹³⁵ and surviving meeting minutes.⁴⁹³⁶ She held that position throughout⁴⁹³⁷ and after the fall of the regime.⁴⁹³⁸

1214. As Minister of Social Affairs, **Ieng Thirith** also sat on the Council of Ministers where the Party guidelines were issued for the Ministers to implement.⁴⁹³⁹ At the first meeting of the Council of Ministers on 22 April 1976, Pol Pot explained that the government was to meet for one day each month to agree on the views of the Party and disseminate them accordingly within each Ministry.⁴⁹⁴⁰ By that date, each ministry had already been given “its own detailed plan”.⁴⁹⁴¹ At the second meeting of the Council of Ministers on 31 May 1976, Pol Pot set out the duties of the various ministries, including duties related to social and health issues. At that meeting, **Ieng Thirith** reported to *Angkar* on the activities of the Ministry of Social Affairs.⁴⁹⁴²
1215. **Ieng Thirith** also attended meetings specifically related to health and social affairs where she reported to **Nuon Chea** and Pol Pot. For example, on 10 June 1976, **Ieng Thirith** and other leading cadres of her Ministry reported in detail on the activities of the Ministry and its various sections and Pol Pot and **Nuon Chea** expressed their views on the topics discussed.⁴⁹⁴³
1216. Witnesses assert that **Ieng Thirith** would go to K-3 or K-1 once or twice a month to meet with leaders of the Party Centre, and in particular with **Nuon Chea**.⁴⁹⁴⁴ **Ieng Thirith's** [REDACTED] [REDACTED] stated “some administrative works had to be reported to *Nuon Chea*”⁴⁹⁴⁵ and “all documents were issued from K-3. For instance, the letters to authorize medicines distribution to zones, sectors and divisions were issued from K-3”.⁴⁹⁴⁶ Further, a former servant of **Ieng Thirith** explains that she personally took some of her letters to the messengers of Pol Pot, **Nuon Chea** and Son Sen.⁴⁹⁴⁷
1217. According to Duch, both Pol Pot and **Nuon Chea** monitored **Ieng Thirith** and her Ministry. He understands that **Nuon Chea** was effectively responsible for overseeing the Ministry of Social Affairs. He explained that this was decided by the Standing Committee on 9 October 1975 because **Ieng Thirith** was not a full-rights member of the Central Committee.⁴⁹⁴⁸ [REDACTED], a witness who lived in **Ieng Thirith's** house, also states that **Nuon Chea** had authority over the Ministry.⁴⁹⁴⁹ Duch also indicated that “Pol Pot attempted to intervene in the operations of both the Ministry of Social Affairs and the Ministry of Health more than in

other Ministries, perhaps because he was not happy with their work".⁴⁹⁵⁰ This statement is supported by the fact that Pol Pot was actively involved in the first National Medical Conference held in 1978, where a number of health and social affairs resolutions were adopted.⁴⁹⁵¹

1218. Within the Ministry of Social Affairs, **Ieng Thirith** was in overall charge. Although it appears that **Ieng Thirith's** deputy played a significant role,⁴⁹⁵² **Ieng Thirith** exercised control over the Ministry and Office K-2.⁴⁹⁵³ She participated in the most important decisions.⁴⁹⁵⁴ [REDACTED], a witness who worked at Office K-2 from April or May 1976 until 1979, explains "*When a hospital telephoned to request something, we wrote down their request on a sheet of paper, and then forwarded that request to Chhun who was the chairperson of K-2. When Chhun received that request, he took it to meet with Grand aunt Phea (Ieng Thirith) in order to ask for a decision ... After Grand aunt Phea had decided, Chhun took the request back and gave it to us to deliver to the section involved. As for the less important request, Chhun would make his own decision, but if it was an important request, Grand aunt Phea was the one to decide on it*".⁴⁹⁵⁵ Further, this witness indicated that **Ieng Thirith** had her own telephone with a direct line.⁴⁹⁵⁶
1219. There were many different aspects to **Ieng Thirith's** role at the Ministry of Social Affairs. As the head of the Ministry, she was responsible for the purchase, production and distribution of medicine in Phnom Penh and throughout the country.⁴⁹⁵⁷ In these roles, she was assisted by the chairperson of Office K-2.⁴⁹⁵⁸ She also had to cooperate with the Ministry of Commerce.⁴⁹⁵⁹ She was kept apprised of the situation in hospitals and pharmaceutical factories in Phnom Penh through her regular visits and inspections.⁴⁹⁶⁰ She also occasionally visited hospitals throughout the country.⁴⁹⁶¹
1220. As Minister of Social Affairs, **Ieng Thirith** exercised control over the personnel of the hospitals and pharmaceutical factories. Her former driver [REDACTED] asserted that she "*had the authority to remove, assign, follow up and report [to superiors] on this staff*".⁴⁹⁶² The former chairpersons of Hospital P-4 (later P-6), 17 April Hospital and Ph-2 confirmed that they had been appointed by **Ieng Thirith**.⁴⁹⁶³ It is worth noting that a number of **Ieng Thirith's** daughters or their husbands were chairwomen or chairmen of the Ministry's hospitals or pharmaceutical factories. [REDACTED] and [REDACTED] successively headed various hospitals, and [REDACTED] and [REDACTED] were the Chairwomen of Ph-1 and Ph-2, respectively.⁴⁹⁶⁴

1221. **Ieng Thirith** held regular meetings and training sessions within the Ministry of Social Affairs. Meetings were held with the chairpersons of the hospitals and pharmaceutical factories. At these meetings, the chairpersons would report on the situation of their units and **Ieng Thirith** would give them her instructions.⁴⁹⁶⁵ She also chaired training sessions at Ph-5 with the personnel of the whole Ministry or some of its units⁴⁹⁶⁶ as well as medical staff and hospital chairpeople from the provinces.⁴⁹⁶⁷

Other Roles

1222. In addition to the above, **Ieng Thirith** had a number of other roles during the CPK regime. From 9 October 1975, **Ieng Thirith** held responsibilities for Culture, Social Action, and Foreign Affairs.⁴⁹⁶⁸ She shared responsibilities for Foreign Affairs with **Ieng Sary**⁴⁹⁶⁹ and she shared responsibilities for Culture, Social Action and Education with **Nuon Chea**.⁴⁹⁷⁰ She was elected Representative of the Phnom Penh factory workers by the Cambodian People's Representative Assembly in April 1976.⁴⁹⁷¹ From at least 14 February 1977 she was also a representative of the Cambodian Democratic Women's Association.⁴⁹⁷²

1223. In her many different capacities, **Ieng Thirith** hosted receptions for a number of foreign delegations, including a Laotian delegation in April 1977,⁴⁹⁷³ Algeria in June 1978,⁴⁹⁷⁴ and North Korea in July 1978.⁴⁹⁷⁵ In 1977 and 1978, she delivered speeches in the presence of local diplomats from North Korea and Egypt.⁴⁹⁷⁶ In November 1978 **Ieng Thirith**, Thioun Thieun and cadres from the Ministry of Social Affairs and the Ministry of Health joined Pol Pot and **Ieng Sary** in welcoming and accompanying a Chinese delegation on a tour of a pharmaceutical production factory.⁴⁹⁷⁷ A number of witnesses confirm that **Ieng Thirith** was involved in the reception of foreign guests.⁴⁹⁷⁸

Associations with Other CPK leaders

1224. **Ieng Thirith** has had close personal and political associations with the other senior leaders of the CPK for many years.⁴⁹⁷⁹ **Ieng Thirith** lived and worked at Office K-2, her Ministry's central office,⁴⁹⁸⁰ but she was often seen with her husband **Ieng Sary**, for example travelling to Siem Reap⁴⁹⁸¹ or arriving at meetings.⁴⁹⁸²

1225. Between 1975 and 1978, **Ieng Thirith** also attended major Party gatherings,⁴⁹⁸³ sometimes with zone secretaries, sector secretaries and military cadres.⁴⁹⁸⁴ Duch said he saw her twice a year for the 17 April and 30 September commemorations.⁴⁹⁸⁵ [REDACTED] also saw **Ieng Thirith** at meetings in Phnom Penh.⁴⁹⁸⁶

1226. Further, through her diplomatic role, **Ieng Thirith** was involved throughout the regime in the activities of senior leaders of the CPK, including **Ieng Sary**,⁴⁹⁸⁷ **Nuon Chea**,⁴⁹⁸⁸ and **Khieu Samphan**.⁴⁹⁸⁹

Participation in the Common Purpose

Movement of Population

1227. Through her various roles in the CPK, **Ieng Thirith** participated in the movement of the population from towns and cities to rural areas, as well as from one rural area to another.

1228. The movements of the population from towns and cities to rural areas were discussed in CPK publications⁴⁹⁹⁰ which **Ieng Thirith** would have read and distributed within her Ministry.⁴⁹⁹¹

Phase 1

1229. **Ieng Thirith** was not in Cambodia when the evacuation of Phnom Penh and the first movements of the population were planned and implemented.⁴⁹⁹²

1230. **Ieng Thirith** is likely to have known about the evacuation of Phnom Penh before she returned to Cambodia in around June 1975.⁴⁹⁹³ In any case, she later admitted that she was not surprised by the evacuation when she arrived “because the leaders explained about the reasons, economical, political and military reasons”.⁴⁹⁹⁴

1231. On 10 June 1976, **Ieng Thirith** attended a meeting where the adverse consequences of the evacuation of Phnom Penh on the population were discussed, in particular the fact that people carried cholera after they were moved from Phnom Penh to rural areas “making lives of our people dangerous”.⁴⁹⁹⁵

1232. After the end of the DK regime, **Ieng Thirith** endorsed and defended the movement of the population from Phnom Penh. She stated that the people who had been evacuated from Phnom Penh were “not satisfied” because nobody had explained to them the underlying “policy” and that this was “only temporarily and that after we have enough to eat they will come back and resume their old jobs”.⁴⁹⁹⁶

Phase 2

1233. **Ieng Thirith** explained that she visited the Northwest Zone in 1976.⁴⁹⁹⁷ This visit occurred after or during the movement of people from the Central (Old North), Southwest, West and East Zones to the North and Northwest Zones. It is likely that during that visit she was made aware that a large number of people had been moved throughout the country.

Phase 3

1234. This phase of the movement of the population was linked to the East Zone purge which took place, in part, because of CPK fears that the Vietnamese had infiltrated its ranks in the East Zone in order to stage a *coup d'état*. The involvement of **Ieng Thirith** in the purge of the East Zone is described below. In particular, during the time **Ieng Thirith** was Minister of Social Affairs, a number of people were transferred through her Ministry. From late 1977 to late 1978, those of her staff members who were originally from the East Zone were targeted to be removed from the Ministry and its related units⁴⁹⁹⁸ and replaced by workers from Kampong Chhnang province⁴⁹⁹⁹ or Srae Ambel salt fields.⁵⁰⁰⁰

Cooperatives and Worksites

1235. Through her various roles in the CPK, **Ieng Thirith** participated in the establishment and operation of cooperatives and worksites.

Participation in the Creation of this Policy

1236. **Ieng Thirith** assisted with the planning of this policy through her role in the Council of Ministers⁵⁰⁰¹ and as Minister of Social Affairs.⁵⁰⁰²

1237. As Minister of Social Affairs, **Ieng Thirith** attended the meetings of the Council of Ministers where this policy was planned and where instructions were given with a view to achieving it. At one of these meetings, dated 31 May 1976, after the Council of Ministers presented the situation of the revolution, **Ieng Thirith** expressed her “*total agreement with Angkar’s comments*”.⁵⁰⁰³ **Ieng Thirith** also reported the strengths and weaknesses of her Ministry, and what was needed to achieve the objective of “*making three tons [of rice per hectare]*”.⁵⁰⁰⁴ She reported on the lack of experience and training of the medical staff, the shortage of staff, and other problems related to technical shortcomings.⁵⁰⁰⁵ She also said she believed *Angkar* could “*help and solve [these] problems for the sake of the movement throughout the country*”, that training courses “*particularly in the medical field*” were organised, that

“brothers and sisters endeavour to know their respective duties in order to be with the movement of three tons [per hectare]” and that the Ministry was *“in close relations with Chinese technical experts”* for training purposes, as per the instructions from *Angkar*.⁵⁰⁰⁶

1238. The duties of the Ministry of Social Affairs with respect to this policy were also discussed at a meeting on 10 June 1976, attended by Pol Pot, **Nuon Chea** and **Khieu Samphan**. At that meeting, **Ieng Thirith** and some of her Ministry’s leading cadres reported on the activities of the Ministry and its sections, including the production and distribution of medicine, and their research on the treatment of various diseases. They were then instructed by Pol Pot and **Nuon Chea** on how to address issues related to the people’s living standards and the training of staff.⁵⁰⁰⁷
1239. The system of cooperatives and worksites was discussed in CPK publications,⁵⁰⁰⁸ which **Ieng Thirith** would have read and distributed within her Ministry.⁵⁰⁰⁹

Endorsement of this policy

1240. Given her roles, **Ieng Thirith** is likely to have attended the conference on 11-13 April 1976 where the People’s Representative Assembly reaffirmed this policy.⁵⁰¹⁰
1241. After the CPK regime, **Ieng Thirith** claimed that *“modern, traditional, preventive medicines, medicines that were never made before”* were produced during the CPK regime, including *“20 vaccines”* at Chroy Changvar laboratory, and that medicines were regularly sent to people throughout the country, but that their distribution was stopped by the local cadres.⁵⁰¹¹ She also admitted the shortcomings of this policy in an interview with a journalist in 1980 where she acknowledged that it was a mistake to apply a radical policy of self-sufficiency and to refuse international aid.⁵⁰¹²

Knowledge and Implementation of this Policy

1242. **Ieng Thirith** was kept apprised of the implementation of this policy through her roles, her family connections and her association with other CPK leaders. For example, on 30 August 1977, she attended a banquet to honour a delegation from Burma where **Ieng Sary** delivered a speech outlining that *“During the past 8 months our Cambodian people and the Revolutionary Army have striven seethingly and arduously to increase production”*.⁵⁰¹³

1243. **Ieng Thirith** personally travelled throughout Cambodia to survey cooperatives and worksites. For example, she visited the Northwest Zone in 1976. She has admitted that during her visit, she noted the living and working conditions in the rice fields. Asked about that visit in 1980, she stated, “*I was travelling to see the conditions of the people and at the time when I came back to Phnom Penh, I reported to our leaders that there was something queer in some provinces, for example in Battambang ... At the time, I told my leader there is something wrong in that province ... I saw everybody there in the rice fields in open air, nothing and with the sun, very hot sun. I saw many people ill of diarrhea and malaria so I reported it to him*”.⁵⁰¹⁴
1244. **Ieng Thirith** also travelled throughout Cambodia in April 1977. She accompanied a Laotian delegation to visit various parts of the country including Siem Reap, the Central Zone, Kampong Cham, the East Zone, and in particular the 1st January Dam.⁵⁰¹⁵ According to one witness, on the occasion of her visit to the 1st January Dam, those who were to greet **Ieng Thirith** were given food and clothes⁵⁰¹⁶ and **Ieng Thirith** visited a hospital where she was made aware of the shortages of medicine.⁵⁰¹⁷
1245. **Ieng Thirith** is likely to have known about other worksites. At least since 1978, a large number of people were sent from Kampong Chhnang province⁵⁰¹⁸ and Srae Ambel salt fields⁵⁰¹⁹ to replace people who had been removed from Office K-2 and its hospitals.
1246. As Minister of Social Affairs responsible for the production, supply, and distribution of medicine, **Ieng Thirith** was kept apprised of the serious health problems⁵⁰²⁰ which arose throughout the country, including the fact that medicine was traditional and experimental,⁵⁰²¹ was at best ineffective or of low quality,⁵⁰²² and was being administered by unqualified medical staff.⁵⁰²³ Although she raised related issues in various meetings with Pol Pot, **Nuon Chea** and other CPK leaders,⁵⁰²⁴ her Ministry continued to implement the Party line.

Security centres and execution sites

1247. Through her various roles in the CPK, **Ieng Thirith** participated in the reeducation of “bad elements” and the killing of “enemies”, both inside and outside the Party ranks.

Participation in the Creation of this Policy

1248. **Ieng Thirith** assisted with the planning of this policy through her role on the Council of Ministers⁵⁰²⁵ and as Minister of Social Affairs.⁵⁰²⁶ **Ieng Thirith** attended the meetings of

Council of Ministers where this policy was planned and instructions were given with a view to achieving it. At one of these meetings, dated 31 May 1976, after the Council of Ministers presented the situation of the revolution, **Ieng Thirith** alias Phea expressed her “*total agreement with Angkar’s comments*”.⁵⁰²⁷ At that meeting, she also declared, about people working at her Ministry, “*we educate and encourage the involvement of brothers and sisters once a month. During meetings all participants share their views and the public dare criticize ... political and consciousness stance must be strengthened*”.⁵⁰²⁸

1249. At a meeting on Health and Social Affairs dated 10 June 1976, attended by Pol Pot, **Nuon Chea** and **Khieu Samphan**, this policy was discussed. **Ieng Thirith** and some of the leading cadres from her Ministry reported on how “*the party consistently indoctrinated people*”⁵⁰²⁹ and suggested more propaganda as a solution to some of the pending issues.⁵⁰³⁰
1250. Further, in September 1978, **Ieng Thirith** attended a large assembly in Phnom Penh together with other senior leaders of the CPK at which Pol Pot announced to hundreds of attendees that the military and the base no longer had the right to arrest anyone. From that point, they only had the right to question people and report to the Centre.⁵⁰³¹ This assembly was held subsequent to the dissemination of the June 1978 Central Committee Directive entitled *Guidance of the Central Committee of the Communist Party of Kampuchea on the Party’s Policy towards Mised Persons who have joined the CIA, served as Yuon agents or joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea*. The Directive appeared to prescribe reeducation for those who joined the CIA, KGB and Vietnamese before July 1978, but orders the Party and the Kampuchean people to eliminate networks which continued to oppose the Party from July 1978 onwards.⁵⁰³²

Endorsement of this Policy

1251. In July 1975, **Ieng Thirith** attended a large RAK gathering⁵⁰³³ at which this policy was discussed and “*the comrade chairman of the High-Level Military Committee of the Party*” declared that the Revolutionary Army must defend the country against “*internal enemies*” and that it was their duty to “*continue to smash*” them.⁵⁰³⁴
1252. Given her roles, **Ieng Thirith** is likely to have attended the conference on 11-13 April 1976 where the People’s Representative Assembly approved the need to “*raise revolutionary vigilance to a high level at all times*”.⁵⁰³⁵

East Zone Purges

1253. In 1978, **Ieng Thirith** participated in the removal of ex-East Zone people employed by the Ministry of Social Affairs. A number of them were sent to reeducation camps or worksites.⁵⁰³⁶ **Ieng Thirith** ordered some of these removals, in particular at Po-4 Hospital (later Po-6 or 6 January Hospital) and Ph-2.⁵⁰³⁷
1254. [REDACTED], who was the chairwoman of Po-4 Hospital for three months in early 1978, asserted that the removal of people from the East Zone from the hospital was done following the order of the hierarchy, in this case **Ieng Thirith**, “*after Sao Phim had been accused of being a traitor. Sometimes Ieng Thirith told me directly about this matter*”.⁵⁰³⁸ This witness added “*I did not know where Ieng Thirith got that order from [but] she instructed me and subordinate units to do so. She also said that Eastern Zone had betrayed*”.⁵⁰³⁹ According to this witness these people were never seen again and might have been killed.⁵⁰⁴⁰
1255. In Ph-2, witnesses explained that hundreds of staff members were removed and subsequently replaced before and around 1978 because of their connection to Sao Phim, the Vietnamese, or the East Zone.⁵⁰⁴¹ [REDACTED], a former committee member of Ph-2 said “*in one evening there were many boats coming to take the old workers to work at other places and at the same time the new workers were sent in to take their places*”.⁵⁰⁴² [REDACTED] who was sent along with hundreds of others to replace the workers removed from Ph-2 in early 1978 confirms “*all of the former staff of some 100 members mostly from the East Zone were sent out by boat*”.⁵⁰⁴³
1256. According to [REDACTED], a Ph-2 former chairman appointed by **Ieng Thirith** in 1976, the removal of Ph-2 staff was ordered by **Ieng Thirith**.⁵⁰⁴⁴ He explained “*sometimes after the (monthly) meeting at the Ministry of Social Affairs, Ieng Thirith gave [me] a list of persons to be removed, or sometimes the messenger from the Ministry of Social Affairs delivered to me a list of those to be removed. I then told those whose names were in the list to go to the Ministry of Social Affairs, and those persons never returned*”.⁵⁰⁴⁵
1257. [REDACTED] also explained that in late 1977, **Ieng Thirith** informed him directly that he was to be removed from Ph-2 to another place. Further to that, a boat came to pick him up and he was sent to K-7 where he was joined by his wife and two children. He and his family were then taken to a reeducation camp.⁵⁰⁴⁶ Asked about the reasons of these removals and disappearances, this witness states that it was “*because those people came from the East Zone and had been trained by the Vietnamese*”.⁵⁰⁴⁷ He also said that this “*did not mean that [she]*

had the power to change those staffs, but she carried out the order from the upper echelon".⁵⁰⁴⁸

1258. [REDACTED], who was assigned to work at Ph-2 in early 1978, explained that the night following his arrival, all the former staff - about 100 people mostly from the East Zone - were sent away by boat. He also asserts that he was once requested by [REDACTED], **Ieng Thirith's** daughter and chairwoman of Ph-2, to bring a person named Vet to K-7. He heard that K-7 was a site where prisoners were received before being distributed to other places. This was confirmed by Vet, whom he met again after the end of the regime. Vet told him that after two or three nights at K-7, he had been sent to Prek Kdam where he almost died.⁵⁰⁴⁹
1259. The locations to which these people were sent included Prek Kdam,⁵⁰⁵⁰ the Centre State Salt Fields,⁵⁰⁵¹ and Wat Chey Utdam,⁵⁰⁵² a reeducation camp under the authority of Office S-71 chaired by Pang, to which persons perceived as "traitors" were sent.⁵⁰⁵³

Knowledge and Implementation of this Policy Nationwide

1260. While there is no evidence that **Ieng Thirith** personally visited any security centres or execution sites, she knew that internal and external enemies of the CPK were being identified and killed through her position as Minister of Social Affairs; her associations with other CPK leaders; her knowledge of and involvement in S-21; and her participation in meetings attended by zone secretaries, sectors secretaries and military cadres.
1261. On 30 August 1977, **Ieng Thirith** attended a banquet to honour a delegation from Burma, where **Ieng Sary** made a speech which discussed this policy, "*During the past 8 months our Cambodian people and the Revolutionary Army have striven seethingly and arduously ... to successfully defend and protect our national independence, sovereignty and territorial integrity, as well as the fruits of the revolution and the people's state administration of equality and justice by smashing all maneuvers of enemies of all stripes*".⁵⁰⁵⁴
1262. At different times, **Ieng Thirith** has admitted that she was aware of the killing of enemies during the CPK regime. In an interview in 1980, she explains that the arrest and subsequent execution Ruos Nhim (Northwest Zone Secretary and member of the Standing Committee) and the suicide of Sao Phim (East Zone Secretary and member of the Standing Committee) in June 1978 occurred as a result of her report on the situation in the Northwest to Pol Pot. In light of that report, an inquiry was made and it was found that Sao Phim was a Vietnamese agent and that Ruos Nhim was in collusion with Sao Phim.⁵⁰⁵⁵ In the same interview she

claimed that “agents were infiltrated in our ranks including high ranks”.⁵⁰⁵⁶ In 1991, in another interview with a journalist from the French newspaper *Le Nouvel Observateur*, she recognized that “there were certainly excesses like in every revolution” and that “alleged purges against alleged traitors possibly occurred” in the DK era “but not a genocide”.⁵⁰⁵⁷

1263. At least since October 1975, **Ieng Thirith** was aware of the CPK policy to recall and reeducate overseas based Cambodians to Cambodia through her diplomatic role,⁵⁰⁵⁸ family connections, and her associations with other CPK leaders, in particular with her husband **Ieng Sary**. She discussed this matter with one of the cadres of her Ministry⁵⁰⁵⁹ and some of these returnees were eventually sent to work at the Ministry of Social Affairs after their reeducation.⁵⁰⁶⁰
1264. **Ieng Thirith** was also aware of the arrests of Vietnamese soldiers, since their confessions were recorded for propaganda purposes and broadcast on the radio.⁵⁰⁶¹

Knowledge and implementation of this Policy at the Ministry of Social Affairs

1265. **Ieng Thirith** participated in the implementation of this policy within her Ministry.
1266. The reeducation of “bad-elements” and the killing of “enemies” were discussed in CPK publications⁵⁰⁶² which **Ieng Thirith** would have read and distributed within her Ministry.⁵⁰⁶³
1267. According to excerpts of a notebook compiling notes of meetings held at the Ministry of Social Affairs, **Ieng Thirith** stated in a meeting of the 17 April Hospital “*The wish of our Party is that we attack enemies so that they are prevented from being able to raise their heads back up*”.⁵⁰⁶⁴
1268. At the meetings **Ieng Thirith** held with the chairpersons of the Ministry hospitals and pharmaceutical industries, she would instruct her staff to implement this policy. For example, [REDACTED], one of the 17 April Hospital former chairpersons explained, “*She instructed us to: 1st thoroughly take care of the patients; 2nd save the medicine and avoid wasting them; 3rd work punctually; 4th spy on the enemy’s action in hospital and be cautious about enemy who want to destroy the medicine or warehouses*”.⁵⁰⁶⁵
1269. Similarly, at the larger meetings and training sessions she held with medical staff from Phnom Penh and the provinces, she also gave instructions for the implementation of this policy. According to a witness who attended one of these meetings, **Ieng Thirith** “*announced the*

name of the traitors and instructed the staff not to follow the traitors".⁵⁰⁶⁶ This is confirmed by a number of other witnesses who used to work at the Ministry of Social Affairs.⁵⁰⁶⁷ For example, [REDACTED], who worked at Office K-2, attended meetings chaired by **Ieng Thirith** where she talked about *"the arrests of senior leaders who had been accused of being traitors like Hou Yun, Hu Nim and Koy Thuon"*.⁵⁰⁶⁸

1270. As a result, during the time **Ieng Thirith** was Minister of Social Affairs, many members of the personnel of the Ministry were punitively removed on political,⁵⁰⁶⁹ disciplinary⁵⁰⁷⁰ or "moral"⁵⁰⁷¹ grounds.
1271. Nhem Seam, who worked as a surgeon with Thiounn Thieun at the 17 April Hospital was sanctioned on political grounds. She asserts that she was arrested around the same time as Leng Soem Hak alias Sei (sent to S-21 in 1976 or 1977).⁵⁰⁷² She was accused of being "CIA" and *"an enemy burrowing from within the Party"* for having placed a scissors clamp in the abdomen of a patient during surgery.⁵⁰⁷³ She was called to study and put in a truck where she was blindfolded, and sent to a detention site she identified as Wat Sleng, a reeducation camp under the authority of Office S-71 chaired by Pang.⁵⁰⁷⁴ Upon arrival, she was given a sign where her name and details had been written and her photograph was taken. During the time of her detention, she was shackled and regularly tortured. She was asked about the *"activities [she] had carried out at the hospital to destroy the Party"*.⁵⁰⁷⁵
1272. It seems that the sanctions on "moral" grounds were particularly strong at the Ministry of Social Affairs. A witness who used to work at Po-6 and the K-2 office⁵⁰⁷⁶ declared *"They forbid the medical personnel and the patients to love another as husband and wife. If they found out, they would shoot them ... I saw that Uncle Oeun [Ien] (combatant) and the girl Sa [member of the medical staff] made love to one another in the water closet. They were seen, and both were arrested and shot to death there right away. They warned, 'Do not let the others follow their example'"*. At least four witnesses said that people who were accused of committing moral offenses were arrested.⁵⁰⁷⁷

Links to S-21 through the Ministry of Social Affairs

1273. Although **Ieng Thirith** has denied that she knew Duch or that she knew of the existence of S-21,⁵⁰⁷⁸ she recently admitted that she was aware that staff members of her Ministry had been arrested, taken away in trucks, and executed during the DK regime.⁵⁰⁷⁹ There is evidence that she was involved in the arrests of staff members of the Ministry, including some of her closest associates.⁵⁰⁸⁰ Some of them were subsequently sent to S-21 where they were interrogated

and gave confessions prior to being executed. Although some of these confessions were communicated to **Ieng Thirith**,⁵⁰⁸¹ her precise role with respect to the decision of the arrest is not clear.

1274. A large number of people disappeared from the Ministry of Social Affairs or its hospitals and other subordinate units during the time when **Ieng Thirith** had authority over them. Between 17 April 1976 and 6 January 1979 at least 116 people were arrested and sent to S-21.⁵⁰⁸² The first of these arrests took place in 18 September 1976⁵⁰⁸³ and the last in 27 December 1978,⁵⁰⁸⁴ with a peak in 1978.
1275. The number of disappearances was higher in the 17 April Hospital than in other places.⁵⁰⁸⁵ This is confirmed by a number of witnesses who used to work in this hospital.⁵⁰⁸⁶ One of them, [REDACTED], witnessed the arrest of the former chairwoman of the 17 April Hospital, Leng Soem Hak alias Sei, who was sent to S-21 in 1976 or 1977.⁵⁰⁸⁷ She noted that subsequently, the members of Leng Soem Hak alias Sei's family and other personnel of the 17 April Hospital were arrested.⁵⁰⁸⁸ [REDACTED] also remembers that **Ieng Thirith** announced that Leng Soem Hak alias Sei, was a traitor in a meeting following her arrest.⁵⁰⁸⁹ [REDACTED], who replaced Leng Soem Hak alias Sei as chairman of the 17 April hospital, explained that he was appointed by **Ieng Thirith**⁵⁰⁹⁰ and that she instructed him directly to spy on the enemy's action and in particular to watch closely and report on staff members who had been "implicated" or "accused" by others.⁵⁰⁹¹
1276. Massive arrests also occurred in Office K-2. **Ieng Thirith's** deputy Sin Phal Kun alias Sou was arrested in early 78 and sent to S-21.⁵⁰⁹² This was followed by a wave of arrests in Office K-2, and hospitals and pharmaceutical factories of the Ministry.⁵⁰⁹³ [REDACTED] remembers that, like for Leng Soem Hak alias Sei, **Ieng Thirith** called a meeting to announce that Sin Phal Kun alias Sou was a traitor.⁵⁰⁹⁴ [REDACTED], **Ieng Thirith's** former driver, also recalls that **Ieng Thirith** "called staff in the ministry to come together in a meeting and informed about the arrests of those two people [Sou and Pak]. Both of them were accused of being traitors. She read the circulation from K-3".⁵⁰⁹⁵ According to [REDACTED], **Ieng Thirith** also said "we must be very careful not to cause any mistakes like those two persons".⁵⁰⁹⁶
1277. Asked to comment on prisoner lists showing names of members of the personnel from the Ministry of Social Affairs, Duch explained that they corresponded to mass arrests of people implicated in confessions and describes how the system worked. He states "the leading cadre had already been arrested for example Sin Phal Kun alias Sou (who was Ieng Thirith's

deputy), Mok Sam Ol alias Hong (who was in charge of the malaria unit). These people had been interrogated under torture and had implicated others, which led to the mass arrests. These arrests had no other justification and no prior verification was conducted".⁵⁰⁹⁷

1278. Duch explained that for specific units, there were two ways the arrests could be decided: either Son Sen or **Nuon Chea** noticed that people were implicated in the confessions and would summon the head of their units - for the Ministry of Social Affairs, **Ieng Thirith** - to make the decision; or a problem would arise in the unit, in which case the head of the unit (in this case, **Ieng Thirith**) would report to the superior who would then decide on the arrest.⁵⁰⁹⁸
1279. Duch also gave information on how people were transported to S-21. According to him, until sometime in 1977, S-21 staff would collect people who had been arrested from whichever unit was holding them. However, after 1977, the unit concerned would be responsible for delivering its people to S-21.⁵⁰⁹⁹ Regarding the Ministry of Social Affairs, Duch said that it was always Lin, Deputy Secretary of Committee S-71 and later Chairman of Office 870,⁵¹⁰⁰ who "oversaw" the arrests. He would collect prisoners from the Ministry of Social Affairs and the Ministry of Health following direct orders from Pol Pot and would inform Duch of the arrival of the prisoners.⁵¹⁰¹ He explained "Sometimes one prisoner was brought to me, such as in Mok Sam Ol's case. Sometimes there were two persons at the same time".⁵¹⁰²
1280. According to [REDACTED], people were usually sent to K-7, the messengers' office. He explains that **Ieng Thirith** asked him to drive her deputy Sin Phal Kun alias Sou and the chairwoman of Ph-1 named Pak to K-7. Their drivers were sent to K-7 as well.⁵¹⁰³
1281. As explained above, Duch's understanding is that the Ministry of Social Affairs and the Ministry of Health were watched more closely than others.⁵¹⁰⁴ He also said that Lin "was overseeing Ieng Thirith's business because he felt he had Pol Pot's support".⁵¹⁰⁵ This is further confirmed by [REDACTED], a witness who lived at K-2 who said "I think that nobody else besides Nuon Chea decided the arrests ... [Ieng Thirith] did not have the power to arrest people".⁵¹⁰⁶
1282. [REDACTED] said that "people kept disappearing for ever. The excuse was reeducation".⁵¹⁰⁷ According to him, **Ieng Thirith** was entitled to "purge staff ... and to spy upon medical staff in order to uncover enemy burrowing from within".⁵¹⁰⁸ On the other hand, asked about arrests carried out at Office K-2, [REDACTED] also said "I was not sure at that time whether Yeay Phea knew about these arrests. However, she was kind of frightened from

her facial expression ... People blamed Yeay Phea ... she did not respond and she was voiceless”.⁵¹⁰⁹

1283. While Duch has testified that he did not maintain direct relations with the Ministry of Social Affairs,⁵¹¹⁰ a number of confessions link **Ieng Thirith** directly to S-21. The confession of Mok Sam Ol, former chairman of the Malaria hospital, is annotated “*Present[ed] to the Social Affairs side, all sorted out already*”⁵¹¹¹ which confirms that the Ministry of Social Affairs was involved in the arrest.⁵¹¹²
1284. The confession of Pen Vasai, former employee of Ph-4, bears the annotation “*Phea*” on the top left of its first page.⁵¹¹³ When asked about this confession and the reason why “*Phea*” was annotated, Duch said that this meant “*the confession was sent to Ieng Thirith*”.⁵¹¹⁴ [REDACTED] wife, [REDACTED], was one of **Ieng Thirith**’s closest associates, and stated that **Ieng Thirith** read aloud excerpts of this confession to her.⁵¹¹⁵
1285. In some cases, **Ieng Thirith** prevented or at least delayed the arrests of some of those she considered were not traitors. For example, she protected her driver [REDACTED]⁵¹¹⁶ and his sister [REDACTED]. According to [REDACTED], **Ieng Thirith** believed “*in the existence of the traitors and the principle of arresting them ... Ieng Thirith surely believed that I did not betray; that’s why I was not arrested. She believed that Sou and Pak had betrayed; that was why they disappeared*”.⁵¹¹⁷ [REDACTED] asserted that she had to convince **Ieng Thirith** that she was not a traitor.⁵¹¹⁸
1286. [REDACTED] describes another example of a similar intervention of **Ieng Thirith**. She explains that her husband, [REDACTED], was suspected to be a member of the CIA from early 1977.⁵¹¹⁹ [REDACTED] reports a conversation she had with [REDACTED] who told her “*to ask [REDACTED] if he was a member of the CIA adding that if he was, she was prepared to protect him*”.⁵¹²⁰ According to [REDACTED], **Ieng Thirith**’s intervention delayed the arrest of [REDACTED] for a year. She explains that after her husband was arrested, **Ieng Thirith** told her that “[REDACTED] *was supposed to be arrested along with two people who had returned from France with him but she (Ieng Thirith) opposed the idea ... she was going to ask Bong to arrange for [REDACTED] to be released from prison and sent to a reeducation camp*”.⁵¹²¹ However, [REDACTED] S-21 confession demonstrates that he was eventually sent to S-21.⁵¹²² [REDACTED] also explains that **Ieng Thirith** protected her life when she punished her by sending her to a sugar cane plantation after she was accused of being the accomplice of [REDACTED].⁵¹²³

1287. Furthermore, it appears that **Ieng Thirith** could not always interfere, like in the case of the arrest of the chairman of Preah Kosomak Hospital where **Ieng Thirith** is reported to have said “*this person is not supposed to be a traitor*”.⁵¹²⁴

Treatment of Targeted Groups

1288. Through her various roles in the CPK, **Ieng Thirith** participated in the targeting of specific groups of people.

Treatment of Former Officials of the Khmer Republic

1289. Asked about how the personnel of 17 April Hospital were selected, a witness who worked there from 1975 explained that those who had “*tendencies*” were not selected, regardless of their skills. According to him, this referred to people who had connections to former officials of the Khmer Republic. He also explained “*if Angkar knew [about them] they would be in trouble; they would disappear, be taken to be tempered or to be executed*”.⁵¹²⁵

Treatment of Vietnamese

1290. **Ieng Thirith** was aware of the treatment of Vietnamese through her diplomatic role, her family connections, and her associations with other CPK leaders, and through the Party propaganda disseminated via the radio and films. For example, a series of speeches of **Ieng Sary** inciting hatred against Vietnamese were broadcast on the radio.⁵¹²⁶ Confessions of Vietnamese soldiers who had been arrested were also recorded and broadcast on the radio for propaganda purposes.⁵¹²⁷ Further, on 12 April 1978, **Ieng Thirith** attended a film show inciting hatred against Vietnamese.⁵¹²⁸
1291. **Ieng Thirith** appears to have given speeches inciting hatred against Vietnamese. In a meeting of the 17 April Hospital where she is reported to have said “*Comrades take party principles, give them pride of place and implement them. [Are you] [o]n the side of the Party or the side of the Yuon? ... After being defeated, the Yuon enemy came in and took command for a second round, intending to attack our Democratic Kampuchea. All they were able to unite with them was the East Zone, which was close to the Yuon ... This coup d’etat has been totally smashed ... The Yuon enemy is to be attacked really all out. ... The Revolutionary Hospital ... has contributed to attacking the coup d’etat enemy with a great victory for our revolution ... It has been and is in the process of attacking the Yuon aggressor, territory-swallowing enemy*”.⁵¹²⁹ This speech was made in the context of mass killings of Vietnamese civilians in

Prey Veng and Svay Rieng and in other parts of Cambodia, as set out in the section of the Closing Order regarding the Factual Findings of Crimes.

1292. After the end of the CPK regime, **Ieng Thirith** again made several anti-Vietnamese declarations. For example, at the International Conference for Solidarity with Kampuchea on 17-18 November 1979⁵¹³⁰ and in the interview she gave in 1980, she stated that most of the radical and controversial policies were coming from the threat of Vietnam.⁵¹³¹

The Regulation of Marriage

1293. Through her various roles in the CPK, **Ieng Thirith** participated in the regulation of marriage.
1294. The system of marriages arranged by the Party was discussed in CPK publications⁵¹³² which **Ieng Thirith** would have read and distributed within her Ministry.⁵¹³³
1295. **Ieng Thirith** arranged marriages of members of her Ministry staff. A former high-level cadre of Office K-2, [REDACTED], stated "*Ieng Thirith revealed to me that she wanted me to marry another man, who worked with her husband Ieng Sary*",⁵¹³⁴ and in another interview "*She also told me she did not want me to marry [REDACTED] in the first place, but another man who worked with my husband; but she thought I would not be interested in him because he was Khmer Leu*".⁵¹³⁵

Knowledge of the Existence of an International Armed Conflict

1296. **Ieng Thirith** was aware that an international armed conflict between Cambodia and Vietnam existed at all times from April 1975 until at least 6 January 1979.
1297. **Ieng Thirith** was aware of the military situation through her diplomatic role,⁵¹³⁶ her family connections, and her related associations with other CPK leaders. **Ieng Thirith** was copied in at least one telegram dated 11 November 1975, reporting on the military situation in Sector 23, the movement of the population from large cities on the border, and the medical situation.⁵¹³⁷ The defence situation was discussed at meetings in which she participated in 1976 and 1978,⁵¹³⁸ and there were references to the armed conflict on the radio.⁵¹³⁹
1298. **Ieng Thirith** confirmed that she knew of the existence of the conflict throughout and until the end of the regime in an interview she gave to a journalist in 1980.⁵¹⁴⁰

PART TWO: APPLICABLE LAW

I. ECCC JURISDICTION

1299. During the investigation, several matters were raised regarding the applicable law relating to both the crimes and modes of criminal responsibility provided for in the ECCC Law.⁵¹⁴¹ On the basis of the elements set out below, the Co-Investigating Judges find that the crimes and modes of responsibility defined in this section of the Closing Order comply with the legality principle.
1300. Pursuant to the ECCC Agreement, the Extraordinary Chambers were established by Law as a judicial body within the Cambodian Court system, for the purpose of 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 1979.⁵¹⁴²
1301. The question whether the ECCC are Cambodian or international “in nature” has no bearing on the ECCC’s jurisdiction to prosecute such crimes,⁵¹⁴³ provided that the principle of *nullum crimen sine lege* is respected.⁵¹⁴⁴
1302. Under this principle, as set out in Article 33(2) (new) of the ECCC Law, which references Article 15 of the International Covenant on Civil and Political Rights, no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed.⁵¹⁴⁵ Accordingly, in order to be applied before the ECCC, where a crime was not included in the applicable national criminal legislation, it must be provided for in the ECCC Law, explicitly or implicitly and it must have existed under international law applicable in Cambodia at the relevant time.⁵¹⁴⁶ Relevant sources of international law include customary and conventional international law, as well as the general principles of law recognized by the community of nations.⁵¹⁴⁷ In addition, the law must have been sufficiently accessible at the relevant time and the persons under investigation must have been able to foresee that they could be held criminally liable.⁵¹⁴⁸ The appalling nature of a crime may be taken into consideration in this respect.⁵¹⁴⁹
1303. The principles set out above also apply to the modes of criminal responsibility.⁵¹⁵⁰

1304. As to whether international law is directly applicable in Cambodia, it must be recalled that Articles 1, 2 and 29 (new) of the ECCC Law set out as Cambodian law the violations of international law within its subject matter jurisdiction (genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, the destruction of cultural property during armed conflict and crimes against internationally protected persons),⁵¹⁵¹ as well as the applicable modes of criminal responsibility (supplementing them with a sentencing regime in accordance with the principle of *nulla poena sine lege*).⁵¹⁵² By virtue of these provisions, the issue whether international law is directly applicable in Cambodian domestic law has no bearing on ECCC jurisdiction.⁵¹⁵³
1305. Furthermore, the international law provisions prohibiting genocide and grave breaches of the 1949 Geneva Conventions, which expressly provide for criminal liability,⁵¹⁵⁴ were legally binding on Cambodia as set out below,⁵¹⁵⁵ and thus can be considered to have been sufficiently accessible to the Charged Persons as members of Cambodia's governing authorities.
1306. With respect to crimes against humanity, their prohibition under customary law is considered to have been sufficiently accessible to the Charged Persons,⁵¹⁵⁶ with particular regard to the World War II trials held in Nuremberg and Tokyo.⁵¹⁵⁷
1307. The modes of criminal responsibility set out in the ECCC Law were partly incorporated in the 1956 Cambodian Penal Code as set out below,⁵¹⁵⁸ and as such these modes of liability were sufficiently accessible to the Charged Persons. The remaining modes of liability, namely joint criminal enterprise, instigation and superior responsibility, were also set out under international law through sources such as the trials following World War II and as such can be considered sufficiently accessible to the Charged Persons.⁵¹⁵⁹
1308. With this established, it remains that the principle of *nullum crimen sine lege* does not prevent the Co-Investigating Judges from interpreting the law governing their own jurisdiction,⁵¹⁶⁰ and in so doing, taking into account the case law of other international tribunals.⁵¹⁶¹ The *actus reus* and *mens rea* of each crime is further elaborated in the section of the Closing Order regarding Legal Findings.
1309. The applicable law set out herein, in accordance with Internal Rule 67(2), for the purposes of characterizing the facts of the case and determining the appropriate forms of responsibility, is preliminary in nature. It is without prejudice to the right of the parties to raise issues relating

to ECCC jurisdiction in the form of preliminary objections before the Trial Chamber under Internal Rule 88(1)(a).

II. DEFINITION OF CRIMES

A. GENOCIDE

1310. Cambodia acquired sovereign autonomy to accede to the Genocide Convention upon joining the “French Union” in 1949.⁵¹⁶² The United Nations accepted Cambodia’s accession and there is no record of any legal challenge with respect to this accession. The Genocide Convention received the twenty ratifications and accessions required for its entry into force in 1951.⁵¹⁶³ Thus, the crime of genocide was part of international law applicable in Cambodia at the relevant time.⁵¹⁶⁴
1311. It should be noted that some versions of the definition of this crime in the relevant ECCC instruments could be interpreted as creating an open-ended list of constitutive acts of genocide.⁵¹⁶⁵ In order to avoid a breach of the *nullum crimen sine lege* principle, the Co-Investigating Judges will take into consideration Article 9 of the ECCC Agreement and Article 4 of the ECCC Law which provide that “*the Extraordinary Chambers have jurisdiction to prosecute the suspects who have committed crimes of genocide, as defined in the 1948 Convention*” and apply the international definition of genocide.⁵¹⁶⁶
1312. In light of these considerations, genocide is defined as the specific intent⁵¹⁶⁷ to destroy,⁵¹⁶⁸ in whole or in part,⁵¹⁶⁹ a national⁵¹⁷⁰, ethnic,⁵¹⁷¹ racial⁵¹⁷² or religious group,⁵¹⁷³ as such,⁵¹⁷⁴ by means of any of the following acts: killing of members of the group;⁵¹⁷⁵ causing serious bodily⁵¹⁷⁶ or mental harm⁵¹⁷⁷ to members of the group; deliberately inflicting on the group conditions of life⁵¹⁷⁸ calculated to bring about its physical destruction in whole or in part,⁵¹⁷⁹ imposing measures intended to prevent births within the group⁵¹⁸⁰ or forcibly transferring children from one group to another group.⁵¹⁸¹

B. CRIMES AGAINST HUMANITY

1313. Crimes against humanity were part of the international law applicable in Cambodia at the relevant time.⁵¹⁸²

1314. The definition of crimes against humanity under customary international law is the commission of one or more of the following acts, as part of⁵¹⁸³ a widespread or systematic attack⁵¹⁸⁴ directed against a civilian population:⁵¹⁸⁵ murder;⁵¹⁸⁶ extermination;⁵¹⁸⁷ enslavement;⁵¹⁸⁸ deportation;⁵¹⁸⁹ imprisonment;⁵¹⁹⁰ torture;⁵¹⁹¹ rape;⁵¹⁹² persecution on political, racial or religious grounds;⁵¹⁹³ and other inhumane acts,⁵¹⁹⁴ including forced marriage,⁵¹⁹⁵ sexual violence,⁵¹⁹⁶ enforced disappearance⁵¹⁹⁷ and forced transfers of population.⁵¹⁹⁸
1315. However, the threshold or “chapeau” elements defining the attack for the crime against humanity under Article 5 of the ECCC Law includes the phrase “*national, political, ethnic, racial or religious grounds*”. Clearly, this aspect cannot be interpreted as adding a constitutive element to the customary definition of crimes against humanity,⁵¹⁹⁹ it only introduces a legal limitation to the jurisdiction of the ECCC.⁵²⁰⁰ Since the introduction of this additional condition results in a narrower definition of crimes against humanity (which is thereby able to be construed as more favorable to the Charged Persons), the Co-Investigating Judges will apply the narrower definition in interpreting Article 5 of the ECCC Law.

***C. GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST
1949***

1316. “Grave Breaches” of the Geneva Conventions provisions of 12 August 1949 were part of the international law applicable in Cambodia at the relevant time.⁵²⁰¹ These Conventions entered into force on 21 October 1950. Cambodia acceded thereto on 8 December 1958 as a sovereign State and there is no record of any legal challenge with respect to that accession.
1317. The definition of Grave Breaches of the Geneva Conventions of 12 August 1949 is the commission of one or more of the acts or omissions set out below, in the context of an international armed conflict,⁵²⁰² against persons or property protected under the provisions of the Conventions:⁵²⁰³ wilful killing;⁵²⁰⁴ torture⁵²⁰⁵ or inhumane treatment;⁵²⁰⁶ wilfully causing great suffering or serious injury to body or health;⁵²⁰⁷ extensive destruction and serious damage to property, not justified by military necessity and carried out unlawfully and wantonly;⁵²⁰⁸ compelling a prisoner of war or a civilian to serve in the forces of a hostile power;⁵²⁰⁹ wilfully depriving a prisoner of war or civilian the rights of fair trial,⁵²¹⁰ unlawful deportation or transfer⁵²¹¹ or unlawful confinement of a civilian;⁵²¹² taking civilians as hostages.⁵²¹³

III. MODES OF CRIMINAL RESPONSIBILITY

1318. All of the modes of criminal responsibility set out in Article 29 (new) of the ECCC Law were part of international law applicable in Cambodia at the relevant time.⁵²¹⁴ This article provides that any suspect who committed⁵²¹⁵ (including by way of a joint criminal enterprise⁵²¹⁶: JCE I or II⁵²¹⁷); ordered;⁵²¹⁸ instigated;⁵²¹⁹ planned;⁵²²⁰ or aided and abetted⁵²²¹ any of the crimes provided for in the ECCC Law shall be individually responsible for the crime.
1319. Article 29 (new) of the ECCC Law also provides that a superior is responsible for the commission of a crime within ECCC jurisdiction by a subordinate, when he or she knew or had reason to know of the commission of the crime and, having effective control over such subordinates, failed to take necessary and reasonable measures to prevent such acts or to punish them.⁵²²² This mode of responsibility applies to civilian superiors for the crimes committed by their subordinates.⁵²²³

IV. STANDARD OF EVIDENCE

1320. When deciding on the effect to be given to the judicial investigation, it is necessary to clarify the “standard of proof” required for sending a Charged Person for trial.
1321. Although the ECCC Internal Rules and Cambodian law refer to the concept of “*sufficient charges*”,⁵²²⁴ they do not offer a clear definition of its content. As there is no jurisprudence available from the Cambodian national courts concerning the question of sufficient charges, the Co-Investigating Judges were led to refer to French jurisprudence (since Cambodian law is derived directly from French law), distinguished academic writings⁵²²⁵ and the jurisprudence of the other international criminal courts, in accordance with the Internal Rule 2, Article 23 of the ECCC Law and Article 12 of the ECCC Agreement.
1322. The French Code of Criminal Procedure also refers to the threshold of “sufficient charges” (“*charges suffisantes*”),⁵²²⁶ but offers no further definition. This is also the case for French jurisprudence.⁵²²⁷ In practice, the assessment of the existence of “*sufficient charges*” is left to the “*unfettered discretion*” of the judges conducting the investigation (who are not required to apply any specific standard in determining whether sufficient charges exist), since the *Cour de Cassation* abstains from ruling upon such assessments.⁵²²⁸

1323. Despite the broad discretionary power allowed to these investigating judges under French law, an appraisal standard of proof actually required in order to issue an indictment can nonetheless be inferred from distinguished academic writings and jurisprudence. While it is obviously not required at this stage to ascertain the guilt of the Charged Person (given that only the Trial Chamber has such jurisdiction),⁵²²⁹ it is clear that “probability” of guilt is necessary (i.e. more than a mere possibility). Accordingly, the assessment of the charges at this stage must not be confused with the “*beyond a reasonable doubt*” standard at the trial stage,⁵²³⁰ yet the evidentiary material in the Case File must be sufficiently serious and corroborative to provide a certain level of probative force.⁵²³¹
1324. A review of the jurisprudence of the ICC reveals a similar approach concerning the applicable standard of proof for the Pre-Trial Chamber to confirm charges prior to trial. Since its Decision on the Confirmation of Charges in the *Lubanga* case, the ICC has consistently considered that “*for the Prosecution to meet its evidentiary burden, it must offer concrete and tangible proof demonstrating a clear line of reasoning underpinning its specific allegation*”.⁵²³²
1325. The Statutes and the Rules of the International Criminal Tribunals for the former Yugoslavia and Rwanda require “*sufficient evidence to provide reasonable grounds for believing that a suspect has committed a crime*”.⁵²³³ According to the jurisprudence of the ICTY, “*a prima facie case ... is understood to be a credible case which would (if not contradicted by the Defence) be a sufficient basis to convict the accused on the charge*”.⁵²³⁴ According to ICTR jurisprudence, “*the term reasonable grounds can be interpreted as facts and circumstances, which could justify a reasonable or ordinary prudent person in believing that a suspect has committed a crime. There must be facts which raise a clear suspicion that the suspect is guilty of committing the offence, for reasonable grounds to exist*”.⁵²³⁵
1326. It is therefore established that there is a common approach to this matter in the jurisprudence of the aforementioned national and international courts, which the Co-Investigating Judges will follow in determining whether sufficient charges exist against the Charged Persons, in light of all the inculpatory and exculpatory evidence and by taking into account the relevance and legality.

PART THREE: LEGAL FINDINGS

X. PERSONAL JURISDICTION

1327. The judicial investigation establishes that **Nuon Chea, Ieng Sary, Ieng Thirith** and **Khieu Samphan** were senior leaders of Democratic Kampuchea during the period of ECCC temporal jurisdiction, due to their *de facto* and *de jure* hierarchical authority, in the respective positions set out in the “Roles of the Charged Persons” section of this Closing Order.
1328. In addition, or in the alternative, due to their personal participation in the implementation of the CPK’s common purpose through criminal means, as set out in particular in the “Factual Findings – Joint Criminal Enterprise” section of this Closing Order, each of them may be considered as falling within the category of those most responsible for crimes and serious violations committed between 17 April 1975 and 6 January 1979.

XI. AMNESTY, PARDON, NE BIS IN IDEM

1329. When ordering the provisional detention of **Ieng Sary** on 14 November 2007, the Co-Investigating Judges noted that the Royal Decree concerning him⁵²³⁶ does not prevent prosecution by the ECCC for crimes against humanity and grave breaches of the Geneva Conventions of 12 August 1949. They noted that the purported amnesty accorded to **Ieng Sary** by the Decree only covered prosecution under the 15 July 1994 Law⁵²³⁷ and that the effects of the Royal Pardon were limited to the annulment of the sentence handed down after the conviction of the “Pol Pot-Ieng Sary Clique” in 1979, without having any effect on the Judgement convicting him, as such.⁵²³⁸ The Co-Investigating Judges thus concluded that “neither the pardon nor the amnesty currently establish any obstacles to prosecution before the ECCC for the international crimes with which IENG Sary stands charged”.⁵²³⁹ As to the application of the *ne bis in idem* principle, the Co-Investigating Judges noted: “there seems to be no impediment to the prosecution of IENG Sary for the acts covered by the 1979 Judgement under an international legal characterisation other than genocide”.⁵²⁴⁰
1330. In response to the appeal against this decision, the ECCC Pre-Trial Chamber noted that the part of the Royal Decree relating to the 1994 Law does not prevent conviction by the ECCC.⁵²⁴¹ As regards the Royal Pardon, the Chamber noted that “the validity ... is uncertain. The Pre-Trial Chamber finds that it is therefore not manifest or evident that this part of the

Royal Decree will prevent a conviction for genocide before the ECCC".⁵²⁴² Since being placed in provisional detention, the Defence for **Ieng Sary** has filed observations concerning this matter.⁵²⁴³

1331. The Co-Investigating Judges can only reaffirm their initial assessment. Accordingly, the amnesty has no effect, since it is limited to prosecution under the 15 July 1994 Law. Likewise, even if the Royal Pardon were applicable before the ECCC, it would have no effect on the proceedings as it only relates to the annulment of the sentence imposed by the 1979 Trial.
1332. At this stage of the proceedings, after a thorough analysis of the available material relating to the 1979 trial, in particular, the indictment, Decree-Law No.1 and the Judgement, the Co-Investigating Judges note, owing in particular to the serious shortcomings in the trial proceedings having regard to fair trial principles, that a great deal still remains unclear as to the crimes charged in 1979, the legal elements of the offence entitled "genocide" and the modes of responsibility underpinning the conviction of the "Pol Pot-Ieng Sary Clique". Furthermore, it is noteworthy that in the Decision on the Defence Preliminary Objection handed down on 26 July 2010 in the Duch case, the Trial Chamber judges emphasised that there was "*a severely weakened and compromised judicial system*" between 1979 and 1993⁵²⁴⁴ and, in fact, that "*from 1979 until 1982 ... the judicial system did not function at all*".⁵²⁴⁵ Therefore, it cannot be argued that the ongoing judicial proceedings bear any similarity with the 1979 prosecution.
1333. In light of all the foregoing, even assuming that the crimes prosecuted in 1979 overlap, in whole or in part, with those with which **Ieng Sary** now stands charged, the Co-Investigating Judges hold the view that the question as to whether the 1979 judgement still applies and prevents further prosecution of **Ieng Sary** for genocide warrants a public adversarial hearing before the Trial Chamber, this being the only way for the Charged Person, the Co-Prosecutors and the Civil Parties to each make their case in a comprehensive fashion.
1334. Accordingly, **Ieng Sary** may be sent for trial in relation to all the charges with which he currently stands charged.

XII. GENOCIDE

1335. In light of the facts set out in the sections of this Closing Order regarding the “Treatment of the Cham” and the “Treatment of Vietnamese”, the constitutive elements of the crime of genocide (through acts of killing, committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such) have been established.⁵²⁴⁶

A. GENOCIDE BY KILLING: CHAM

1336. As regards the *actus reus*, people who belonged to the Cham group (an ethnic and religious group that distinguishes itself as such, and is identified as such by others) were systematically killed.

1337. The principal method of this killing as an act of genocide was the deliberate and systematic identifying, targeting, gathering and killing of people due to their membership of the Cham group. A common technique was to arrest or gather all of the Cham people from a particular region and take them to be killed in groups at an execution site. The victims were targeted because of their membership of the Cham group; they were generally not detained for any length of time or made to provide confessions, instead they were killed immediately, often after being asked to confirm that they were Cham.

1338. As regards the *mens rea*,⁵²⁴⁷ the perpetrators intended to destroy, in whole or in part, the Cham group as such. Killings were committed in the context of statements commenting on the objective to physically destroy the group in its entirety; the Cham were systematically and methodically targeted and killed on account of their membership of the Cham group, and other non-Cham people were specifically and expressly excluded from the attacks.

1339. Senior leaders of the CPK shared this intent to destroy, in whole or in part, the Cham group as such. The plan to destroy the Cham as a group was a plan set out by the Party, with the order being given to district level leaders to identify and target the group and kill them *en masse*.

1340. The systematic nature, scale, pattern and repetition and timing of the killings of the Cham group in the East and Central (Old North) Zones clearly indicate that it was decided upon and coordinated by the CPK leaders within the framework of the common purpose. The fact that, in addition to the East Zone and the Central (Old North) Zone, the killings occurred across numerous zones during the same temporal period indicate that they were not unauthorized, random crimes committed by local cadres, but were centrally directed by the Party.

1341. Additionally, the intention of the senior leaders of the CPK is inferred from the fact that the genocide of the Cham occurred in the general context of an escalating persecutory attack against the Cham directed by the CPK Centre. The CPK Centre directed a country-wide suppression of Cham culture, traditions and language, and forcibly moved Cham communities in an effort to break them up.
1342. Although there is no numeric threshold of victims necessary to establish genocide, the evidence from the Case File shows that the portion of the Cham population killed during the acts of destruction targeting the Cham group is strong evidence of the intent to destroy the group, in whole or in part: following the Demographic Expert Report, 36% of the Cham people in Cambodia died during the regime, which is compared to the average rate of Khmer deaths being an estimated 18.7%.

B. GENOCIDE BY KILLING: VIETNAMESE

1343. As regards the *actus reus*, people who belonged to the Vietnamese group (an ethnic and national group, who may also have been considered as a racial group by the CPK) were systematically killed.
1344. The principal method of this killing as an act of genocide was the deliberate and systematic identifying, targeting, gathering and killing of people due to their membership of the Vietnamese group. Vietnamese people were often identified through the use of pre-prepared statistical lists or registration of those people as Vietnamese, and the perpetrators often took steps to ensure that the victims were Vietnamese before they were killed.
1345. As regards the *mens rea*,⁵²⁴⁸ the perpetrators intended to destroy, in whole or in part, the Vietnamese group as such. Killings were committed in the context of statements commenting on the objective to physically destroy the group in its entirety. In particular, the perpetrators applied a practice as to how destroy the group through a theory that lineage was through matrilineal descent. The Vietnamese were systematically and methodically targeted and killed on account of their membership of the Vietnamese group, and non-Vietnamese were specifically and expressly excluded from the attacks.
1346. Senior leaders of the CPK shared this intent to destroy, in whole or in part, the Vietnamese group as such. A direct call to kill all Vietnamese civilians remaining in Cambodia was published in the *Revolutionary Flag* magazine, which was disseminated throughout the Party. This policy to destroy the Vietnamese group was taught to cadres, as reflected in cadre

notebooks and witness evidence. Evidence of implementation of this policy and reports on mass killings of Vietnamese were communicated from the zones to the Centre, including to **Nuon Chea and Ieng Sary**.

1347. The systematic nature, scale, pattern and repetition and timing of the killings of the Vietnamese clearly indicate that it was decided upon and coordinated by the CPK leaders within the framework of the common purpose. In particular, the fact that in addition to the East Zone the killings occurred across numerous other zones during the same temporal period indicate that they were not unauthorized, random crimes committed by local cadres, but were directed centrally by the Party.
1348. Furthermore, the intention of the senior leaders of the CPK is inferred from the fact that the genocide of the Vietnamese occurred in the general context of escalating deportations, persecution, incitement of hatred and anti-Vietnamese war propaganda directed by the CPK Centre.
1349. Although there is no numeric threshold of victims necessary to establish genocide, the evidence in the Case File shows that the portion of the Vietnamese population killed is strong evidence of the intent to destroy the group, in whole or in part: following the Demographic Expert Report almost all the Vietnamese people remaining in Cambodia during the CPK regime were killed.

XIII. CRIMES AGAINST HUMANITY

A. “CHAPEAU” ELEMENTS

Existence of the Attack

1350. In light of the facts set out in the sections of this Closing Order on, *inter alia*, the “Factual Findings – Joint Criminal Enterprise” and the “Factual Findings – Crimes”, the policy implemented by the Democratic Kampuchea authorities between 17 April 1975 and 7 January 1979 consisted of a widespread and systematic attack⁵²⁴⁹ against the entire civilian population of Cambodia,⁵²⁵⁰ principally on political grounds but also, in some contexts, on national, ethnic, racial or religious grounds.⁵²⁵¹ The underlying crimes set out below were committed as part of this attack;⁵²⁵² accordingly, the “chapeau” elements of crimes against humanity, as defined at the time of the events,⁵²⁵³ have been established.

1351. As regards the *actus reus*, this attack consisted of the imposition of dictatorial control over the entire population of Cambodia,⁵²⁵⁴ in line with the CPK's objective to bring about rapid socialist revolution in Cambodia and to eliminate both internal and external enemies.

Widespread or Systematic

1352. The attack was planned and gradually prevailed in the areas that came under CPK control from 1972-73, extending to the whole of Cambodia upon the CPK taking power on 17 April 1975 and continuing, at least, for the entire period falling within the *ratione temporis* jurisdiction of the ECCC.
1353. The CPK employed five main categories of means to implement its revolutionary project: repeated movements of the population from towns and cities to rural areas, as well as from one rural area to another; establishment and operation of cooperatives and worksites; reeducation of "bad elements" and "enemies", both inside and outside the Party ranks; the targeting of specific groups, in particular the Cham, Vietnamese, Buddhists and former officials of the Khmer Republic, including both civil servants and former military personnel and their families; as well as regulation of marriage.
1354. Repeated movements of the civilian population throughout the country, especially during the three main phases of which the Co-Investigating Judges were seized, targeted a very large number of civilians, who were subjected to great physical and mental suffering and whose dignity as human beings was violated in the course of these movements, which were conducted by way of compulsion, threat or physical violence.
1355. The widespread imposition of collective living conditions, and forced labour in cooperatives, "mobile brigades" and worksites, involved or led to the systematic violation of a large number of the fundamental rights of Cambodians: the obligation to live in cooperatives led to the expropriation of all property; victims were forced to perform hard labour in degrading conditions of hygiene, nutrition, health and accommodation, without being allowed to reap the fruit of their labours. As part of the attempt to transform the population, forced marriages were organized, because life and morality had become public matters controlled by "organizational methods" involving compulsion.
1356. At the same time, the CPK attempted to eradicate all potential sources of dissent by eliminating any person suspected of being, or likely to become, hostile to the Party and its

common purpose. The obligation to live in cooperatives facilitated the identification of suspects, and a surveillance programme by militia members (“*Chhlop*”) was instituted at all levels of the regime. This policy led to widespread violence.

1357. Whilst the existence of an ideological project cannot, as such, be considered to be a legal element of crimes against humanity, the implementation of the plan adopted, by criminal means in the case in point by the CPK authorities demonstrates the widespread and systematic character of the attack. In particular, the replacement of the economic, administrative and political institutions of Cambodia by the revolutionary power structure, as codified, *inter alia*, in the Constitution of Democratic Kampuchea and the Statutes of the CPK, enabled the Party to bring all State resources into play in imposing its plan on the entire population under its control, relying for this purpose on the Party’s centralized hierarchy, the administration at all levels, and on the security and armed forces.⁵²⁵⁵
1358. The basic principles governing criminal justice were abandoned by the CPK in favour of a highly centralized system of political control, which was geared towards identifying throughout society potentially subversive elements, neutralising them before they could endanger the revolution, by either detaining them for reeducation or killing them outright, as well as those alleged to have already acted against the revolution. Predicated as it was on the unrealistic quest for “zero risk”, this policy would inevitably lead to excesses. The process of identifying enemies, in which all levels of the CPK played a role, on the basis of an unverifiable determination of dangerousness largely drawn from confessions extracted under torture, fed on itself and turned against its masters. The criteria used to identify potential enemies within the population changed and extended in scope during the period under judicial investigation on account of failures in economic development and the spread of international armed conflict between Cambodia and Vietnam. The search for “enemies” was conducted by all the units of the CPK in charge of security, but in particular by a special security force, the “*Santebal*”, which was controlled by the CPK, with no provision being made for challenging the legality of arrests, detention or punishment.⁵²⁵⁶
1359. Far from being the result of an accidental replication of instances of isolated but similar conduct, the attack was designed and coordinated at the Party Centre level on the basis of directives issued by the leaders, who directly controlled its implementation. Territorial units were allowed to communicate only with their direct superiors and with the Centre. Cadre “guilty” of local initiatives counter to the party line were also considered to be enemies.⁵²⁵⁷

1360. The systematic nature of the attack was manifested in practice by generalised employment of the same means of implementation, implying a high degree of central planning. The principal mode of operation consisted of standardized methods of applying violence, dictated from above and reported on from below, carried out on a grand scale (such as the torture system set up in all security centres in order to identify and smash “enemies”), and relying on all State institutions of Democratic Kampuchea. This system resulted in millions of victims, including 1.7 to 2.2 million deaths, of which some 800,000 were violent.⁵²⁵⁸ Beyond the direct victims, enforced disappearances, carried out systematically by the authorities in order to conceal arrests, caused suffering amongst those who witnessed them as a result of the climate of fear and uncertainty that they engendered.
1361. In light of the elements set out above, the attack against the civilian population was manifestly widespread *and* systematic, bearing in mind that one of these criteria alone is legally sufficient to elevate the acts to the level of crimes against humanity.

Directed Against the Civilian Population

1362. The target of the attack was the entire population of Cambodia, which was composed mainly of civilians as defined by humanitarian law, whether they be Cambodian or foreign civilians.
1363. Although some groups of civilians within the general population considered to be more politically unreliable (such as the “new people”, the ranking officers and officials of the Khmer Republic and national minorities) were subjected to specific treatment (dealt with hereinafter), the target of the attack was indeed the population as a whole. Even people enjoying “full-rights” status, such as peasants, had been expropriated and had suffered other serious violations of their rights well before April 1975, and they continued to be victims of such violations thereafter.
1364. Furthermore, whilst members of Cambodian military and security forces were also among the targeted population, the CPK drew no distinction between soldiers and civilians in implementing its objective of societal transformation and elimination of “enemies”. Former ranking officers and officials of the Khmer Republic (as well as their subordinates and family members) were targeted because they were considered likely to be hostile to the CPK. CPK military personnel were often disarmed before being redeployed for non-military activities dictated by the regime, particularly during the purge of “bad elements” (such as, for example, during the dispatch of forces from the East Zone to the Kampong Chhnang Airport construction site); thus, they no longer exercised their functions. In any event, once it has

been established that an attack targets a civilian population, international law does not require all the victims to be civilians.

On National, Political, Racial, Ethnic or Religious Grounds

1365. Article 5 of the ECCC Law, which requires the attack to be launched “*on national, political, ethnical, racial or religious grounds*”, refers only to the nature of the attack *per se* and does not imply a specific discriminatory intent as an element of the underlying offences, such intent being required only for the crime of persecution.
1366. In the instant case, the overall attack was based primarily on political grounds.⁵²⁵⁹ Its implementation entailed dividing the population into categories, which fixed the scope of their rights, with the result that whole segments of the population, whose political or spiritual beliefs were taken to be contrary to the ideological objectives of the Party, were denied their rights.
1367. Even before it took power, the CPK decided that certain categories of persons, who were considered to be beyond redemption, were to be eliminated. These categories grew with time. At the same time, any person who did not comply with the policy of the regime, or who was considered to be an obstacle to its implementation, was categorised as an “enemy” by the CPK, even if, in fact, the person was not an opponent of the regime. All real or perceived opponents of the CPK were arrested and re-educated or eliminated in security centres and worksites.
1368. The objectives of the movements of population were fundamentally political. The purpose was to select populations viewed as potential opponents of the regime’s policy (new people in the case of **phase 1** of the movement; new people and Chams in **phase 2**; and the population of the East Zone connected with purged cadre, during **phase 3**), and to provide the regime with a labour force that it could use at will for its major economic projects.
1369. Moreover, within the purview of this general attack on political grounds, some sub-groups of the civilian population were targeted additionally on account of their real or perceived national, ethnic or racial identity (in particular, Vietnamese and Chams), or their religious identity (Buddhist and Chams).⁵²⁶⁰ As set out in the “Factual Findings – Joint Criminal Enterprise” section of this Closing Order, the implementation of the CPK’s common purpose involved the abolition of all “reactionary” religions and the deportation, persecution or destruction of ethnic minorities.

Committed “as Part of the Attack”

1370. The underlying acts of crimes against humanity set out hereinafter were committed “*as part of*” the attack in that they were in line with the violence and in that their characteristics, objectives, nature and consequences made them an integral part thereof, such that they were not just random acts. In the instant case, even where individual acts of direct perpetrators were not in themselves “*widespread or systematic*”, the acts fell within the general purview of the attack, and the perpetrators had knowledge of the broader context of the attack, even if there were not aware of all its details.
1371. As regards the *mens rea*, the evidence on the case file demonstrates that the widespread nature of the attack was known both to the **Charged Persons** and the direct perpetrators of the crime, in particular as a result of the regular issuance of directives to Party cadres and the personnel in charge of implementing the policy.⁵²⁶¹ As the requirement of “discriminatory grounds” in the “chapeau” of Article 5 of the ECCC Law implies no additional *mens rea*, it is not necessary to demonstrate that the act was committed with the intent to further the attack or ideology, policy or plan underpinning the attack.
1372. Furthermore, the link with the attack is established for each of the crimes against humanity specified in this Closing Order, as well as the knowledge of this link by the direct perpetrators and the leaders, through, *inter alia*, channels of communication, attendance at meetings and public speeches.

B. UNDERLYING OFFENCES CONSTITUTING CRIMES AGAINST HUMANITY

Murder

1373. The legal elements of the crime against humanity of murder have been established.⁵²⁶² These facts concern the persons killed at **execution sites in District 12, Steung Tauch, Tuol Po Chrey and Choeung Ek**; and in the security centres **Koh Kyang, Kok Kduoch, Kraing Ta Chan, the North Zone security centre, Phnom Kraol, Au Kanseng, Prey Damrei Srot, S-21, Sang, Wat Kirirum and Wat Tlork**. The legal elements of murder have also been established in regard to **phases 1 and 3 of the population movements**; at worksites at the 1st

January Dam, Kampong Chhnang Airport, Prey Sar, and the Trapeang Thma Dam; and the treatment of **Buddhists, Vietnamese** and the **Cham**.

1374. As regards the *actus reus*, the victims' deaths were the result of the perpetrators' acts or omissions; those acts or omissions were the main cause of the victims' deaths.
1375. The **execution sites** listed below were designed to assist in mass executions, far from the view of the population, pursuant to the CPK's policy of "smashing enemies". The victims were mainly soldiers and officials of the Lon Nol regime at **Tuol Po Chrey**, members of the "new people" who were evacuated from Kampong Chhnang and Phnom Penh to **execution sites in District 12**, and villagers who were perceived as "having links" with the purged secretary of the East Zone, Sao Phim, at **Steung Tauch**.
1376. As regards **security centres**, for the entire period of the regime, the personnel of these centres, both directly and indirectly, caused the death of a large number of detainees. In most instances, the prisoners were killed deliberately through a variety of means, including summary execution in or near the **security centres**. Moreover, many prisoners died as a result of torture and ill-treatment.
1377. Whilst the main purpose of the **population movements** and **worksites** was not to kill the persons concerned, the evidence on the Case File shows that some people were executed by CPK armed forces shortly before, during or upon arrival from **phases 1 and 3 of the population movements**. Moreover, the surveillance of individuals at the worksites was aimed at identifying "enemies", notably those who refused to be transferred or those who were unable to perform the work assigned to them. The victims were usually killed *in situ* (**Trapeang Thma Dam**) or were arrested and taken away to be killed nearby (**1st January Dam, Kampong Chhnang Airport and Prey Sar**).
1378. Murders were also perpetrated during the ill-treatment of **Buddhists** (monks who refused to be defrocked), **Vietnamese** (those who resisted deportation in 1975-1976) and **Chams** (Kroch Chhmar and Wat Au Trakuon security centres). As described in the above finding of genocide, the killing of Vietnamese and Chams became widespread beginning in 1977.
1379. As regards *mens rea*, the perpetrators of most of the killings, acting under the authority of the CPK in the implementation of its common purpose of ensuring security and "smashing enemies", had the intent to cause death. Even in instances where torture or violence resulted in death without the perpetrators having had such intent, they must have reasonably foreseen

that the injury could cause death, considering the serious its effect on the victims' physical wellbeing.

1380. These murders, perpetrated by CPK cadres, personnel, armed and security forces, were an integral part of the means used to achieve the common purpose of eliminating "enemies", notably through the implementation of the Central Committee's policy, as promulgated on 30 March 1976, pursuant to which the authority to "smash" persons "outside the ranks of the revolution" was delegated to autonomous zone and sector committees. The murders were thus an integral part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. In this instance, the fact that murders were perpetrated throughout the country, as reported by many witnesses and civil parties on situations falling outside the crime scenes included in the judicial investigation, confirms their widespread nature and clearly indicates that they were decided upon and coordinated by the CPK leaders within the framework of the common purpose.

Extermination

1381. The legal elements of the crime against humanity of extermination have been established.⁵²⁶³ These facts concern people who were killed or who died en masse at the execution sites: **Choeung Ek, execution sites in District 12, Steung Tauch and Tuol Po Chrey**; in the security centres at **Koh Kyang, Kok Kduoch, Kraing Ta Chan**, the **North Zone security centre, Phnom Kraol, Au Kanseng, Prey Damrei Srot, S-21, Sang, Wat Kirirum and Wat Tlork**; and at the worksites **1st January Dam, Kampong Chhnang Airport, Prey Sar, the Srae Ambel worksite, the Trapeang Thma Dam and the Tram Kok Cooperatives**. The legal elements of extermination have also been established in regard to **phases 1 and 2 of the population movement**, and in regard to the treatment of **Vietnamese and Chams**.
1382. As regards the *actus reus*, the perpetrators' acts and omissions, either direct or indirect, caused the deaths of a very large number people, including through the creation of conditions that were calculated to bring about the destruction of part of the population. Even in the absence of exact figures as to the number of deaths and the lack of identification of all the victims' bodies, the evidence on the Case File is enough to establish the deaths of tens of thousands of people.
1383. While there is no minimum threshold for the number of victims required to establish extermination, in each of the instances described above, taking into account the number of deaths, evidenced by documentary records, eye-witness accounts and the discovery by

witnesses of a large number of bodies in mass graves, in addition to the relevant evidence set out *infra*, the magnitude of the acts is sufficient and they were clearly of a collective nature.

1384. As regards **execution sites**, as already noted in the legal characterisation of murder above, the very rationale for such sites was to assist in the mass executions.
1385. As regards **security centres** and the **Prey Sar worksite**, in addition to individual killings, there is sufficient evidence of executions and deaths, as a result of torture and other acts of violence, of both a massive and collective character. This includes documentary records establishing the deaths of more than 12,000 people at **S-21** and more than 15,000 at **Kraing Ta Chan**.
1386. Regarding the treatment of **Vietnamese** beginning in April 1977, and that of the **Chams** beginning in 1977, the execution of members of these groups increased progressively until it reached such a scale as to qualify as extermination. The extermination of Chams was perpetrated, notably, in the security centres of **Trea Village** and **Wat Au Trakuon**.
1387. Moreover, as set out in the sections characterizing “Other Inhumane Acts” and persecution, many people died as a result of the conditions imposed during **phases 1 and 2 of the population movement** and also in **security centres**; such conditions included deprivation of food, accommodation, medical care and hygiene. This was also the case at **worksites**, with the added factor of hard labour.
1388. As regards the requisite *mens rea* for the crime of extermination, the perpetrators of the acts or omissions which resulted in deaths at the sites listed above, had the intent to cause the death of a large number of people, as did the CPK leaders.
1389. Finally, in light of the deaths as a result of the living conditions imposed during the **population movements** and in **security centres** and **worksites**, the direct perpetrators acted with the knowledge that the living conditions imposed would result in a large number of deaths. Despite being informed of the number of deaths resulting from those conditions, they still persisted in imposing them. In light of all these elements, the Co-Investigating Judges consider that extermination has been established in this instance.
1390. These exterminations, committed mostly by CPK cadres, personnel, armed or security forces, were an integral part of the means used to achieve the common purpose of eliminating “enemies”. These acts were part of the attack against the civilian population, and this was

known to the perpetrators and the **Charged Persons**. Their commission throughout the country, as reported by many witnesses and civil parties on situations falling outside the crime scenes included in the judicial investigation, demonstrates that they were widespread and clearly indicates that they were decided upon and coordinated by the CPK leaders within the framework of the common purpose.

Enslavement

1391. The legal elements of the crime against humanity of enslavement have been established.⁵²⁶⁴ These facts concern the **Tram Kok Cooperatives** and the worksites of **1st January Dam**, **Kampong Chhnang Airport**, **Prey Sar**, the **Srae Ambel production worksite** and the **Trapeang Thma Dam**. The legal elements of enslavement have also been established in regard to the security centres at **Koh Kyang**, **Kok Kduoch**, **Kraing Ta Chan**, the **North Zone security centre**, **Phnom Kraol**, **Au Kanseng**, **Prey Damrei Srot**, **S-21**, **Sang**, **Wat Kirirum** and **Wat Tlork**.
1392. As regards the *actus reus*, the personnel of these **cooperatives**, **worksites** and **security centres** deliberately exercised total control and all of the powers attaching to the right of ownership over of the persons placed there, without them being given any real right to agree.
1393. Pursuant to the CPK's revolutionary common purpose to build socialism and eliminate internal and external enemies through the establishment of a network of cooperatives, worksites and security centres, prior to 1975 in the zones under its control and throughout the period of the CPK regime, virtually all decisions concerning the victims' physical environment were taken by the local CPK authorities in order to achieve Party goals. This commenced by expropriation of property and imposition of residence in cooperatives, such as **Tram Kok**. Families were separated according to age, ability to work and productivity. Religious practices, cultural traditions and the exercise of freedom of speech and thought were abolished. The choice of spouse was imposed and responsibility for children's education was taken away from their parents. Total control was exercised over food (collectivized), accommodation, access to medical care and permission to travel, even for family events. Psychological control was exercised through constant surveillance by the *Chhlop*, self-criticism meetings, enforced disappearances, severe punishment for any attempted escape and the daily use of force, cruel treatment and abuse, threats and coercion aimed at imposing compliance with the regime's policies. A large number of people were sent to security centres simply because they sought more food or complained about their living conditions.

1394. Moreover, in all the places mentioned above, including security centres, the victims were forced to perform work without their consent, unpaid and without the opportunity to reap the direct benefits thereof. Work venues, duration and schedules were imposed. The victims could not refuse to perform any work assigned to them. The work, coupled with the constraints described above, stripped them of their free will, and amounts to enslavement.
1395. As regards the *mens rea*, the perpetrators, acting under the authority of the CPK, in imposing its common purpose of establishing socialism, had the intent to take control of the victims' lives, *inter alia*, by exercising all the powers attaching to the right of ownership over the victims. This intention can be inferred from the degree of coercive control, its exercise nationwide and the severity of the punishments meted out to those who broke the rules.
1396. The enslavement, organized largely by CPK cadres, personnel, or armed and security forces, was an integral part of the means used to achieve the common purpose of establishing socialism. It was part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. Its perpetration throughout the country, as reported by many witnesses and civil parties on situations falling outside the crime scenes included in the judicial investigation, testifies to its widespread nature and clearly indicates that it was decided upon and organized by the CPK leaders within the framework of the common purpose.

Deportation

1397. The legal elements of the crime against humanity of deportation have been established in **Prey Veng and Svay Rieng** as well as at the **Tram Kok Cooperatives**.⁵²⁶⁵
1398. As regards the *actus reus*, a large number of Vietnamese living in Cambodia were forced to leave the places where they had been residing legally and to cross the Vietnamese border. They were forced to leave through threats soon after the CPK came to power and the process continued until 1976. Some of the people who refused to leave were subsequently killed.
1399. There is no evidence to suggest that the persons thus displaced were not entitled or authorised to reside in the places from which they were displaced. There is no indication that "cleansing" Cambodia of all Vietnamese was conducted for any legitimate reason, recognised under international law, such as ensuring the security of the population or military necessity.

1400. As regards the *mens rea*, given the number of victims and the organised nature of the displacements, requiring the involvement of the authorities in all parts of Cambodia, the perpetrators of the deportation had the intent to force Vietnamese to leave the country.
1401. The deportation, organized largely by CPK cadres and personnel, or armed and security forces, was an integral part of the means used to achieve the common purpose of protecting the country from internal and external enemies. It was part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. The fact that it was perpetrated throughout the country, over several months, as reported by many witnesses and civil parties on situations falling outside the crime scenes included in the judicial investigation, testifies to its widespread nature and clearly indicates that it was decided upon and coordinated by the CPK leaders within the framework of the common purpose.

Imprisonment

1402. The legal elements of the crime against humanity of imprisonment have been established.⁵²⁶⁶ Those facts concern all the security centres included in the judicial investigation: **Koh Kyang, Kok Kduoch, Kraing Ta Chan, the North Zone security centre, Phnom Kraol, Au Kanseng, Prey Damrei Srot, S-21, Sang, Wat Kirirum and Wat Tlork**. The legal elements of imprisonment have also been established in relation to the **Prey Sar worksite, the Tram Kok Cooperatives**, and in regard to the **treatment of the Cham**.
1403. As regards the *actus reus*, the personnel of these sites intentionally imposed serious, arbitrary deprivation of liberty on the detainees, in violation of legal guarantees.
1404. Tens of thousands of people detained in security centres were intentionally and arbitrarily held without any legal basis. As set out in the “Factual Findings – Joint Criminal Enterprise” section, the network of security centres replaced the judicial system in order to facilitate detention based on the presumed dangerousness of individuals, as perceived by the CPK authorities. This was in violation of the fundamental right to liberty and security as recognized under international law. As a result, the prisoners had no procedural safeguards between 17 April 1975 and 6 January 1979 enabling them to be informed of the cause of their arrest or to challenge their detention or punishment.
1405. As regards the cooperatives and worksites, the infringements of freedom were such that they amounted to imprisonment. At the **Prey Sar worksite**, the detainees were deprived of their liberty and were closely monitored both at work and at night, in particular the so-called “bad

elements”, particularly as they were shackled at night. In the **Tram Kok Cooperatives**, the commune militiamen arrested, held and interrogated people in a detention centre which was operated by the commune militia.

1406. As regards the *mens rea*, the perpetrators acted with the intent to arbitrarily deprive the prisoners of their freedom.
1407. These instances of imprisonment, mostly by CPK cadres, personnel, or the security and armed forces, were an integral part of the means used to achieve the elimination of “enemies” as well as the Vietnamese and the Cham. They were part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. Their perpetration throughout the country, as reported by many witnesses and civil parties on situations falling outside the crime scenes included in the judicial investigation, testifies to their widespread nature and clearly indicates that they were decided upon and coordinated by the CPK leaders within the framework of the common purpose.

Torture

1408. The legal elements of the crime against humanity of torture have been established.⁵²⁶⁷ These facts concern persons who were tortured in the security centres at **Koh Kyang, Kok Kduoch, Kraing Ta Chan, the North Zone security centre, Phnom Kraol, Prey Damrei Srot, S-21, Sang, and Wat Tlork**. The legal elements of torture have also been established in regard to the **Prey Sar worksite, the Tram Kok Cooperatives**, in regard to the **treatment of the Cham**.
1409. As regards the *actus reus*, on numerous occasions, CPK cadres through their acts or omissions, deliberately inflicted severe harm and suffering, both physical and mental, during interrogations.
1410. Taking account of all the objective and subjective elements of the case, the treatment to which these people were subjected was so severe that it amounts to torture: the methods used, coupled with the inhumane conditions and the context of terror in the security centres, had very serious physical and psychological effects, and in some cases, resulted in death. Torture was both premeditated and institutionalized as the centrepiece of CPK policy against “enemies”. It took the form, *inter alia*, of beatings, applying electric shocks, asphyxiation with a plastic bag, simulated drowning, puncturing and extracting fingernails and toenails and inserting needles in them, inflicting cigarette burns, forcing detainees to pay homage to

images of dogs or other objects, force-feeding of excrement and urine, direct or indirect threats to torture or kill detainees or their family members, the use of humiliating language, plunging detainees in a water jar or suspending them by their hands tied behind their back.

1411. Such abuse was mainly aimed at obtaining information and extracting confessions from the victims concerning their subversive activities and to identify members of their “network” for arrest.
1412. Furthermore, the perpetrators of these crimes acted in an official capacity: they carried out these acts within a clear command structure, notably that of the CPK security services.
1413. As regards the *mens rea*, the facts in this case demonstrate the intentional nature of the acts or omissions through which serious harm and suffering were inflicted.
1414. The acts of torture, committed mostly by CPK cadres and security centre personnel, were an integral part of the means used to achieve the common purpose of eliminating “enemies”. They were part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. In addition to the security centres included in the judicial investigation, the practice of torture in security centres throughout the country, as reported by many witnesses and civil parties, testifies to the widespread perpetration of these crimes and clearly indicates that they were decided upon and coordinated by the CPK leaders within the framework of the common purpose.

Persecution on Political, Racial or Religious Grounds

1415. The legal elements of the crime against humanity of persecution on political, racial or religious grounds have been established.⁵²⁶⁸ In the instances set out below, the perpetrators’ acts or omissions had actual discriminatory consequences, in violation of one or more fundamental rights recognized under customary or conventional international law. Together, these acts or omissions were of extreme gravity. People were targeted on account of their real or perceived membership of a group as defined by the CPK authorities, based on political, racial or religious criteria.

Political Persecution

1416. As regards political persecution, the facts cover nearly all the sites within the scope of the investigation, namely: phases **1, 2 and 3** of the **population movements**; the worksites **1st**

January Dam, Kampong Chhnang Airport, Prey Sar, Srae Ambel, the Tram Kok Cooperatives and the Trapeang Thma Dam; the security centres at Koh Kyang, Kok Kduoch, Kraing Ta Chan, the North Zone, Phnom Kraol, Au Kanseng, Prey Damrei Srot, S-21, Sang, Wat Kirirum, and Wat Tlork; and the execution sites at Choeng Ek, execution Sites in District 12, Steung Tauch and Tuol Po Chrey.

1417. The CPK authorities identified several groups as “enemies” based on their real or perceived political beliefs or political opposition to those wielding power within the CPK. Some of these categories of people, such as former ranking civilian and military personnel of the Khmer Republic, were automatically excluded from the common purpose of building socialism. As for junior officials of the former regime, some were arrested immediately after the CPK took power, because of their allegiance to the previous government, and many were executed at security centres such as **S-21** and at **Tuol Po Chrey**. The entire population remaining in towns after the CPK came to power was labelled as “new people” or “17 April people”, and subjected to harsher treatment than the old people, with a view to reeducating them or identifying “enemies” amongst them. Intellectuals, students and diplomatic staff who were living abroad were recalled to Cambodia and, upon arrival, were sent to reeducation camps or to **S-21**. The categories of so-called “enemies” continued to expand over time. Moreover, the identification of people as targets for persecution, on the basis that anyone who disagreed with the CPK ideology was excluded, amounts to persecution on political grounds.
1418. In **cooperatives and worksites**, and during **population movements**, real or perceived enemies of the CPK were subjected to harsher treatment and living conditions than the rest of the population. Also, they were arrested *en masse* for reeducation and elimination at **security centres and execution sites**.

Religious Persecution

1419. As regards religious persecution, Buddhists and Chams were systematically targeted for persecution on a widespread basis. Buddhist and Cham people were targeted on discriminatory grounds, due to their membership of the group. The acts described below constituted violations of their fundamental rights.
1420. The elements of the crime of religious persecution of the Cham have been established (see the sections regarding “**Treatment of the Cham**”, **phase 2 of the movement of population and the “1st January Dam**”). There was a country-wide suppression of Cham culture, traditions

and language. The CPK banned the practice of Islam and forbade the Cham from praying, seized and burned Qurans, closed or destroyed mosques, and forced Cham people to eat pork. Religious leaders and learned Islamic scholars were arrested and killed. Cham women were forced to cut their hair and were prohibited from covering their heads. Cham communities were broken up and Cham people were forcibly moved throughout Cambodia and dispersed among other communities.

1421. With respect to Buddhists, religious persecution has been established throughout every zone in Cambodia, including at the following sites **Wat Damnak Trayoeng, Wat Samrong, Wat Kirirum, Wat Chambak, Wat Ta Kut and Wat Me, Wat Thlork, Wat Chey Mongkul, Wat Antung Vien** and at the **Tram Kok Cooperatives**. Buddhism was prohibited. Pagodas and sanctuaries were destroyed, or converted for other purposes, and images of Buddha were destroyed. Virtually all Buddhist monks and nuns were defrocked and some monks were threatened with death or killed if they did not comply. One former monk states that he was forced to marry.

Racial Persecution

1422. Vietnamese people were persecuted on the basis that the CPK considered the Vietnamese to be racially distinct from Cambodian people, based on biological and particularly matrilineal descent. Racial persecution has been established in **Prey Veng** and **Svay Rieng**, as well as at the security centres **Kraing Ta Chan, Kok Kduoch, Au Kanseng, S-21** and at the **Tram Kok Cooperatives**. Vietnamese people were deliberately and systematically identified and targeted due to their perceived race. In some cases, Vietnamese people were expelled from Cambodian territory and sent to Vietnam. In other cases, Vietnamese people were arrested, detained or killed. From April 1977, Vietnamese people were gathered up and killed *en masse* throughout **Prey Veng** and **Svay Rieng**. Vietnamese people were often identified through the use of pre-prepared statistical lists or registration of those people as Vietnamese, and the perpetrators often took steps to ensure that they were Vietnamese before they were killed.
1423. As regards the *mens rea*, in this instance, the intent to discriminate on political, racial or religious grounds is reflected in the context of the attack and the circumstances surrounding the commission of the acts.
1424. Indeed, as regards **persecution on political grounds**, numerous elements indicate that “enemy” groups, such as the new people and personnel of the Khmer Republic, were treated

differently. Such treatment, based on official pronouncements and documentary records concerning those groups, confirms that the perpetrators had the specific intent to cause the victims harm because they belonged to these “enemy” groups. For example, individuals that the Party Centre saw as political opponents and who were sent to **S-21**, often with their family members or close relations, were labelled as enemies in the service of the United States, the USSR or the Vietnamese, who deserved to be executed.

1425. Such persecution, perpetrated largely by CPK cadre and security centre personnel, or under their authority, was an integral part of the means used to achieve the common purpose of eliminating enemies, in that it was among the measures directed against specific groups. It was thus part of the attack against the civilian population, and this was known to the perpetrators and the **Charged Persons**. In this instance, numerous witnesses and civil parties in situations falling outside the judicial investigation reported that these crimes were widespread and clearly indicated that they were decided upon and coordinated by the CPK leaders in the framework of the common purpose.

Rape

Rape in Security Centres and Cooperatives

1426. Based on the facts set out in the “Factual Findings – Crimes” section, it is clearly established that under the Democratic Kampuchea regime crimes against humanity of rape⁵²⁶⁹ were committed in diverse circumstances, notably in the security centres of **Kraing Ta Chan**, the **North Zone security centre**, **Prey Damrei Srot**, **S-21**, and **Sang**, as well as at the **Tram Kok Cooperatives**.
1427. At each of the sites listed above, the perpetrators purposefully committed physical invasions of a sexual nature against victims in coercive circumstances or otherwise without the consent of the victim, of which the perpetrators were aware, and the contextual elements of rape as a crime against humanity are linked.
1428. As set out in the “Factual Findings – Joint Criminal Enterprise” section, intimate relationships outside of marriage were considered to be against the collectivist approach of the CPK. Those people who were suspected of “immoral” behaviour, including rape, were categorized as “bad-elements” or “enemies”, and were often either re-educated or killed. In this context, security centre cadre knew that rape was a crime for which they would be punished, for example at **Kraing Ta Chan security centre**. Security centre cadre who committed rape

were punished when superiors became aware of the crime, as at **Sang security centre**. Further, CPK cadre were sometimes ordered by superiors to investigate instances of rape at security centres, for instance at **Kraing Ta Chan security centre**. Additionally, there is evidence that CPK cadres reported instances of rape to their superiors, describing the perpetrators as “enemies” or “traitors”, as set out in the sections for **Nuon Chea** and **Ieng Sary** and the **Tram Kok Cooperatives**.

1429. Based on these facts, the Co-Investigating Judges consider that the official CPK policy regarding rape was to prevent its occurrence and to punish the perpetrators. Despite the fact that this policy did not manage to prevent rape, it cannot be considered that rape was one of the crimes used by the CPK leaders to implement the common purpose. That is not the case, however, in the context of forced marriage, which is described below.

Rape in the Context of Forced Marriage

1430. Based on the facts set out in the factual findings section “Marriage”, the legal elements of the crime against humanity of rape have been established in the context of forced marriage.⁵²⁷⁰
1431. As regards the *actus reus*, by imposing the consummation of forced marriages, the perpetrators committed a physical invasion of a sexual nature against a victim in coercive circumstances in which the consent of the victim was absent. With respect to the *mens rea*, the perpetrators intended the physical invasion of a sexual nature, with the knowledge that it occurred in coercive circumstances or otherwise without the consent of the victim. These acts of rape, by their nature or consequences, in particular through the targeting of the physical and physiological integrity of the victim, were part of the attack against the civilian population. The perpetrators knew that there was an attack on the civilian population and that their acts were part of it.
1432. Notwithstanding Duch’s recollection of a CPK cadre who was punished for asking his subordinates to spy on married couples to see if they were sleeping together, the evidence shows that this was not the rule on the contrary, consummation of marriage was regularly monitored by CPK cadre and couples who refused to consummate the marriage would be arrested. Based on these facts, the crime of rape in the context of forced marriage was one of the crimes used by the CPK leaders to implement the common purpose.

1433. The facts characterized as crimes against humanity in the form of rape can additionally be categorized as crimes against humanity of other inhumane acts in the form of sexual violence.⁵²⁷¹

Other Inhumane Acts Through “Attacks Against Human Dignity”

1434. The constitutive elements of the crime against humanity of other inhumane acts are established.⁵²⁷² These facts concern the conditions of the treatment of the population during the **phases 1 and 2 of the population movements**, the **Tram Kok cooperatives**, the working sites of the **1st January Dam, Kampong Chhang Airport, Prey Sar, Srae Ambel, and Trapeang Thma Dam**, as well as the security centres **Koh Kyang, Kok Duoch, Kraing Ta Chan**, the **North Zone security centre, Phnom Kraol, Au Kanseng, Prey Damrei Srot, S-21 and Sang**.
1435. Regarding the *actus reus*, by depriving the civilian population of adequate food, shelter, medical assistance, and minimum sanitary conditions, the CPK authorities inflicted on victims serious mental and physical suffering and injury, as well as a serious attack on human dignity of similar gravity to other crimes against humanity.
1436. The imposition of such conditions took place during the **phase 1 and 2 of the population movements**. The population was forced by CPK cadres to move from their places of residence on short notice without proper travel preparations. They were not provided with sufficient food or water during the population movement which, in many cases, was by foot or other physically exhausting or unsanitary means. Although there were cases in which evacuees were provided with provisional shelter during their transfers; this was the exception as in most cases people were left to sleep in the open. In most cases, no medical attention was available despite the presence of vulnerable groups in the populations transferred such as the sick and the elderly. As a result of the inhumane conditions during the population movement, many people developed sicknesses or injuries, exhaustion, and psychological trauma or died.
1437. The imposition of such conditions of life also constituted a recurring pattern in the **worksites and cooperatives** run by the CPK. In all worksites investigated, workers were denied proper food, medical attention, and sanitation. Food at worksites was insufficient in quantity as well as in quality, especially when taking into account the hard physical labour imposed on the workers. Workers lived and slept in provisional, dirty, overcrowded mass sleeping halls. In many cases, no preventative steps were taken for medical conditions, medical care was provided by medics with no medical training, medicine or equipment. Consequently the

treatment was often ineffective and in some cases even exacerbated illness. Additionally, workers who became ill were denied food in many cases. Sanitation was non-existent or provisional. The persons at worksites and cooperatives suffered serious physical and mental harm through these inhumane conditions.

1438. The imposition of such conditions of life at the **security centres** such as a lack of proper food, medical attention, and sanitation was a common feature of the treatment of individuals by the CPK. Food rations of the detainees were insufficient. They lived and slept in overcrowded detention cells. Some detainees had to spend night and day with their legs shackled to one another. Many detainees, weakened by poor living conditions and by mistreatment by guards and interrogators, fell sick, in which case they received no or insufficient medical treatment administered by untrained personnel without proper equipment and medicine. Sanitary facilities were wantonly insufficient, with detainees being forced to urinate and defecate in the very places they lived and slept, within close proximity fellow detainees, including persons who were ill with contagious diseases, with either insufficient or without access to facilities to clean themselves, their clothing or their detention cells. This treatment left the individuals in a state of illness, starvation and general physical deterioration as well as severe psychological harm. Some of them died from the consequences.
1439. With respect to the *mens rea*, the perpetrators were aware of the factual circumstances that established the gravity of their acts.
1440. These incidences of other inhumane acts, committed in large part by the cadres, personnel or armed forces and the security forces of the CPK, objectively formed part of the means used to achieve the common purpose aimed at instituting socialism, smashing ‘enemies’, and defending the revolution, by contributing to the creation of a climate of terror and constraint. These inhumane acts, by their nature or consequences, were part of the attack against the civilian population of which the perpetrators and the people under investigation were aware. They occurred in a systematic way throughout Cambodia during the period under investigation, as many witnesses and civil parties report, thus confirming the generalized character of this crime and clearly demonstrating that it was decided and coordinated by the leaders of the CPK within the framework of the common purpose.
1441. The Co-Investigating Judges consider that other forms of other crimes of other inhumane acts have been committed, notably: forced marriage, forced transfer and enforced disappearances.

Other Inhumane Acts Through Forced Marriage

1442. For each of the incidences listed in the sections “Marriage” and “Factual Findings Crimes”, the Co-Investigating Judges find that the constitutive elements of the crime against humanity of other inhumane acts through acts of forced marriage have been established nationwide⁵²⁷³ as well as the worksites 1st **January Dam**, **Tram Kok Cooperatives** and **Trapeang Thma Dam**, at the **Kok Kduoch security centre** and in regard to the **treatment of the Buddhists**.
1443. With respect to the *actus reus*, victims endured serious physical or mental suffering or injury or a serious attack on human dignity of a degree of gravity comparable to that of other crimes against humanity. The victims were forced to enter into conjugal relationships in coercive circumstances.
1444. As regards the *mens rea*, the perpetrators knew of the factual circumstances that established the gravity of their acts.
1445. The Co-Investigating Judges find that the incidences of forced marriage, by their nature or consequences, were part of the attack against the civilian population; in particular the imposition of sexual relations aimed at enforced procreation. The perpetrators knew that there was an attack on the civilian population and that their acts were part of it.
1446. The common purpose aimed at or included the commission of crimes against humanity and other “inhumane acts” by means of forced marriage. The implementation of the common purpose relating to forced marriage was facilitated by the imposition of conjugal relations on victims by the perpetrators of the crimes who were CPK cadres. The Co-Investigating Judges find that the forced marriages assumed a systematic character and constituted an integral part of the common project implemented between April 1975 and 6 January 1976. The widespread character of forced marriages throughout the country clearly indicates that they were decided and coordinated by the highest leadership of the CPK in the common purpose. Concerning the main *modus operandi*, witnesses from different zones report that the representatives of the CPK married people who had similar profiles. The specificity of this process and the evidence that it was applied in different locations demonstrates the existence of a common purpose formulated at the highest level of the CPK regime. Another practice demonstrating that the marriages took place in the framework of the common purpose is the fact that multiple marriages were performed at the same time involving between 20 and 60 couples
1447. In the majority of cases of forced marriage death threats were made, violence was used and people were even executed if they refused to marry. Many witnesses state that they were too

afraid to articulate their objection. Weddings took place devoid of traditional involvement of the parents. There was no respect of the traditional rituals. In some cases one party could request authorization to marry a person they determined, but this does not detract from the element of coercion or force placed on the person so identified. Some witnesses state that they were forced to consummate their union, which corroborates the existence of a common purpose established by the senior leaders of the CPK that marriages were necessary to increase the population.

Other Inhumane Acts Through Forced Transfer

1448. Considering the facts set out in the sections relating to the **three phases of the movement of the population**, the material facts of the crime against humanity of other inhumane acts through forced transfer have been established.⁵²⁷⁴ In particular relating to the movement of the population from the city of Phnom Penh following the entry of CPK troops on 17 April 1975 (**phase 1**); the movement of the population from the Central (Old North) Zone, and also the Southwest, West and East Zones in the months that followed the evacuation of Phnom Penh until 1976 and 1977 (**phase 2**); and the movement of the population from the East Zone from late 1977 until late 1978 (**phase 3**).
1449. With respect to the *actus reus*, victims endured great suffering, or serious mental or physical suffering or injury or a serious attack on human dignity of similar gravity to other crimes against humanity. The victims were forced to leave the places where they lawfully resided without grounds permitted by international law.
1450. The population movement occurred by force since the population was coerced to move by threats, physical violence, or by orders which they felt would lead to serious danger if disobeyed.
1451. There is no evidence that the population lacked legal entitlement or authorization to reside in the places from which they were moved.
1452. In their requests for investigative action, the lawyers for the **Charged Persons** submitted justifications for the movement of the population out of Phnom Penh related to the broader situation in Cambodia at the time (food and medical necessity, security, etc).⁵²⁷⁵ The Co-Investigating Judges find that neither the grounds brought forward by the **Charged Persons** nor other grounds under international law permitted the transfer of population.

*Without Grounds Permitted by International Law**Security of the Population*

1453. With respect to **phase 1**, the movement of the entire population from Phnom Penh could not be justified as being for the security of the population in response to an alleged fear of a US bombing campaign. Whilst CPK soldiers cited such bombings as the reason for the inhabitant's evacuation, the CPK leadership immediately installed themselves in Phnom Penh following the evacuation, demonstrating that they did not anticipate any such bombing. Furthermore, the USA bombing campaign against Cambodia had ceased since 15 August 1973.
1454. With respect to **phases 2 and 3**, no such justification exists on the evidence. Although certain witnesses state that **phase 3** was the result of the conflict with Vietnam, it was nonetheless of a secondary role: the necessity of protecting the security of the population was not of itself the sole justification for this population movement.

Military Necessity

1455. There is no evidence to demonstrate that the movement of the population from Phnom Penh (**phase 1**) was justified due to military necessity. Although CPK troops sending inhabitants out of the city sometimes referred to the need to fight remaining Lon Nol forces in the city, no large scale fighting or other military operations took place in Phnom Penh after 17 April 1975. The same reasoning applies to the alleged need to move the population to find and arrest CIA agents and for the alleged clearing efforts regarding mines and unexploded bombs.
1456. With respect to **phase 2**, witnesses did not cite military necessity as a justification for the movement of sections of the population, and there is no such justification on the evidence.
1457. With respect to **phase 3**, as explained above, several witnesses refer to removing people from the combat zone with Vietnam. However, the intensity of the conflict did not justify the extent of population movement.

Food Shortage

1458. Even if this justification were found to be substantiated under international law, there is no evidence to support the argument that the movement of the population was necessary for addressing food shortages.
1459. With respect to the movement of the population from Phnom Penh (**phase 1**), although food production, supply and distribution was hindered by the conflict, the city retained methods for receiving food supplies, be it by river, road or air. Despite these factors, the evidence shows that the supposed justification of a food shortage in Phnom Penh was not reflected in the steps taken by the CPK to implement the population movement: the inhabitants of Phnom Penh were generally not provided with food during the movement, there were limited or no food provisions at the place of destination, other than the requirement that the population produce their own food, despite the fact they were predominately city dwellers not accustomed to agricultural methods. As to the argument that the CPK regime had to refuse foreign aid to avoid interference into its internal affairs, a legal justification cannot be invoked when it is due to circumstances that were self-imposed.
1460. With respect to **phases 2 and 3**, although witnesses cite food and the availability of more fertile land as the reason given for the population movement, a comparison of the situations at the place of departure and place of arrival does not demonstrate that the conditions necessitated population movement in those specific contexts.

Medical Care

1461. Even if this justification were found to be substantiated under international law, there is no evidence to support the argument that the movement of the population was necessary for addressing a lack of medical care. With respect to **phase 1**, although medical supplies were reduced in Phnom Penh during the conflict, it was established over several years leading up to and continuing after 17 April 1975 that the city remained better medically equipped than other locations in the country.
1462. With respect to **phases 2 and 3**, witness did not cite medical care as a justification for the movement of sections of the population, and there is no such justification on the evidence.

Creation of a Rural Society

1463. The policy to create a society based upon rural agricultural production as it was implemented by the CPK does not constitute a ground under international law permitting population transfer.

Element of "Return"

1464. As regards the requirement of the "return" of the victims, even if there had been a legal justification for the phases of movement in question, all the facts indicates that virtually all of the population was only able to return home after the fall of the regime.
1465. As regards the *mens rea*, the perpetrators of the three waves of forced movement were aware of the factual circumstances that established the gravity of the act, especially the harm inflicted through the violent and threatening measures by which the movement took place, the haste with which it was implemented, the lack of organization and coordination to ensure families were kept together and that the population was not generally provided with food, shelter and protection. Such harm was inflicted during movement and upon arrival.
1466. The three waves of movement of the population, by their nature or consequences, constituted or were part of the attack against the civilian population. The perpetrators knew that there was an attack on the civilian population and that their acts were part of it.
1467. The common purpose included the commission of the crime against humanity of other inhumane acts in the form of forced transfers. In effect, the implementation of the objective of operating work sites and cooperatives was facilitated by the subjugation of the population, by requiring that they move close to the places where they were being sent to work by the CPK. A review of the elements shows that the forced transfers assumed a systematic character and constituted an integral part of the common purpose. The generalized character of forced transfers throughout various regions of the country clearly indicates that this was decided and coordinated by the highest leadership of Democratic Kampuchea.
1468. The main recurrent pattern is that no accommodation was made for vulnerable persons in each wave of forced movement of the population: the people moved consisted of all ages and both sexes. The underlying justification of the population movement was that the persons moved were identified as actual or potential transgressors of the objectives of the CPK common purpose. In case of **phase 1**, the inhabitants of Phnom Penh were identified as "new" people, and for such people to remain in cities was deemed to be incompatible with the common purpose objectives of construction of socialism attaining the great leap forward through

agrarian development. People from cities were also deemed suspicious through a potential association with the Lon Nol regime. With respect to **phase 2**, “new” people were targeted as well as people related to the Lon Nol regime, Chinese and Khmer Krom minorities and the Cham, particularly after the rebellions of late 1975. **Phase 3** victims were inhabitants of purged areas which the administration selected as to their suspected allegiance to the purged officials or the Vietnamese, for being suspected as bad elements or traitors, Sihanouk or Lon Nol regime supporters, “new” people, monks, Cham, and people of Chinese or Vietnamese descent. The extent to which the population movement was done in accordance with achieving the common purpose is also evidenced by the fact that during the CPK era, the population was not returned to their residences from which they were moved.

1469. All three phases were implemented by CPK soldiers, militia, or cadres through the use of force. Orders to move were issued on short notice, not providing the population time for proper travel preparations. During **phase 1**, the population was expected to provide their own means of transportation which for most people amounted to travelling by foot. In **phases 2 and 3**, the CPK regime generally provided transport although significant hardship was inflicted on the population since they were not provided with sufficient supplies and support, entailing suffering and death among the population.

Other Inhumane Acts Through Enforced Disappearances

1470. The constituent elements of the crime against humanity of other inhumane acts through acts of enforced disappearance have been established.⁵²⁷⁶ These facts concern the enforced disappearance of persons at the security centres at **Koh Kyang, Kok Kduoch, Kraing Ta Chan, the North Zone security centre, Phnom Kraol, Prey Damrei Srot, Sang and Wat Kirirum**. The legal elements of enforced disappearance have also been established in regard to the worksites at **1st January Dam, Kampong Chhnang Airport, Srae Ambel, Tram Kok Cooperatives and Trapeang Thma Dam**. The legal elements of enforced disappearance have also been established in regard to the treatment of **Vietnamese** and in regard to **Phases 2 and 3 of forced transfer**.
1471. With respect to the *actus reus*, victims endured great suffering, or serious mental suffering or injury or a serious attack on human dignity as a result, on one hand, of the arrest, detention or abduction of loved ones and others in conditions which placed them outside of the protection of the law, and on the other hand, the refusal to provide access to, or convey information on the fate or whereabouts of such persons, saying that the perpetrators acted with the authorization and the support of the State or of “*Angkar*”.

1472. The main *modus operandi* of enforced disappearances consisted of the authorities of Democratic Kampuchea putting in place measures designed to conceal the fate of individuals who had disappeared by ensuring that witnesses did not reveal information about them, for example by taking victims away at night so that others would not know how or when they disappeared and also by using loudspeakers to mask the sound of executions.
1473. None of the witnesses mentioned any system of recording or registering the personal details of the persons taken away that would have been accessible to the public, or any other procedural protections during the arrest, abduction or detention of those who disappeared, such that the families of these individuals did not know what subsequently happened to them.
1474. Aside from withholding information, the authorities provided evidently false reasons to justify the absence of those who disappeared, stating for example that they had been sent “*to see Angkar*”, sent “*to a meeting*”, or sent “*to the Ministry of Foreign Affairs to become diplomats*”, sent to “*study*” or sent for “*re-education*”.
1475. Regarding the *mens rea*, the perpetrators were aware of the factual circumstances that establish the gravity of their acts, as demonstrated by evidence which shows that intentional measures were taken in order to conceal the fate of people who had disappeared who, in most cases, were killed thereafter.
1476. These activities reached a degree of seriousness comparable to that of other crimes against humanity. The perpetrators threatened people who asked or who had information, so that people were too afraid to ask questions. The climate of uncertainty and terror that the disappearances generated facilitated other arrests.
1477. These incidences of enforced disappearance, by their widespread and systematic nature, were part of the attack against the civilian population, and this was known to the perpetrators. Moreover, many witnesses report comparable cases of enforced disappearances falling outside the crime scenes included in the judicial investigation, further confirming the widespread character of the enforced disappearances.
1478. The enforced disappearances formed an integral part of the means used to achieve the common purpose aimed at the elimination of “*enemies*”; their systematic character as well as their general commission in the whole country clearly indicates that they were decided and co-ordinated by the CPK leadership within the framework of a common purpose.

I. GRAVE BREACHES OF THE GENEVA CONVENTIONS 1949

1479. In light of the facts set out in the “Factual Findings – Crimes” section of this Closing Order, the constitutive elements of the crime of grave breaches of the Geneva Conventions of 1949, contrary to Article 6 of the ECCC law, have been established at the **S-21 security centre**, at the **Au Kanseng security centre** and during **incursions into Vietnam** by the Revolutionary Army of Kampuchea.

A. “CHAPEAU” ELEMENTS

Existence of an International Armed Conflict

1480. As has been stated in the section on “Armed Conflict”, it is established that at all times between April 1975 and at least 7 January 1979 a state of armed conflict existed between Democratic Kampuchea and the Socialist Republic of Vietnam; the armed conflict being international in character.⁵²⁷⁷

Protected Persons

1481. The Co-Investigating Judges consider the following persons, during the international conflict between the two States, to be categorised as “protected persons”:

- a. Members of the armed forces of the Socialist Republic of Vietnam, who had fallen into the power of the forces of Democratic Kampuchea (the Revolutionary Army of Kampuchea); protected as prisoners of war (“POWs”) by article 4 of Geneva Convention III.
- b. Civilians who were nationals of the Socialist Republic of Vietnam, who had fallen into the hands of the forces of Democratic Kampuchea (the Revolutionary Army of Kampuchea); protected as civilians by article 4 of Geneva Convention IV.

1482. In addition, whilst making no determination as to whether the formulation known as the “allegiance test”⁵²⁷⁸ was applicable law at the time of the international armed conflict, the Co-Investigating Judges consider that the concept would have been insufficiently accessible and foreseeable to any of the **Charged Persons**, if applied, to satisfy *nullum crimen sine lege*.

This is especially so as the concept had not been formally stated in any jurisprudence until the late 1990s, in the context of internecine armed conflicts occurring pursuant to the dissolution of a pre-existing state and in the context of the formulation of new states; and not in the context of conflicts between states which were the primary subject of the Geneva Conventions at the time of their drafting.

Nexus Between the International Armed Conflict and the Crimes

1483. All of the crimes concerned were closely related to the hostilities between Democratic Kampuchea and the Socialist Republic of Vietnam and the existence of the armed conflict played a substantial role in the commission of the crimes by the perpetrators.⁵²⁷⁹
1484. At the **S-21 security centre** all of the victims were either Vietnamese prisoners of war or Vietnamese civilians who had been captured by the RAK during armed hostilities undertaken for the purposes of the conflict. Those taken prisoner were transferred to **S-21**, typically from combat zones on or near the Vietnamese border, to be interrogated by S-21 personnel on military intelligence matters as well as (in the case of the civilians) their perceived status as Vietnamese spies, and also for the purposes of CPK war propaganda. Throughout the course of the conflict hundreds of Vietnamese POWs and civilians were brought to **S-21** for interrogation and execution, with the greatest numbers arriving during the peaks in fighting between the two States in 1977 and 1978.
1485. The Jarai victims at the **Au Kanseng security centre** were Vietnamese civilians who as a result of the fighting between the two States had been driven from Vietnamese territory into Democratic Kampuchea whereupon they were captured by RAK Division 801 forces, transferred to the **Au Kanseng security centre** and executed due to their perceived status as Vietnamese soldiers in the conflict between the two States.
1486. During **incursions into Vietnamese territory**, RAK soldiers were given explicit orders that civilians be specifically targeted to be killed. These territorial incursions were made by the forces of Democratic Kampuchea for the purposes of pursuing military objectives in the armed conflict against Vietnam.

Awareness of the Perpetrator

1487. The perpetrators of the crimes were aware at all times of both the existence of the international armed conflict⁵²⁸⁰ as well as the factual circumstances establishing the protected status of the victims.⁵²⁸¹
1488. At the **S-21 security centre** the Vietnamese prisoners had generally been arrested in or near main conflict zones on the border with Vietnam, at which point they were transported to S-21 whereupon they would be interrogated on military intelligence matters related to the armed conflict and for the purpose of publicly disseminating propaganda in the campaign against Vietnam. Vietnamese prisoners would be categorised in the records at S-21 as either, “Vietnamese Soldiers”, “Vietnamese Civilians” or as their perceived status as “Vietnamese Spies”.
1489. At the **Au Kanseng security centre** the victims were captured at the Vietnamese border by a combat Division of the RAK which was engaging in armed hostilities with the Vietnamese forces in the area. Furthermore, when the Jarai people were captured they declared themselves to the RAK forces as being both from Vietnam and civilians.
1490. Finally, during **RAK incursions into the territory of Vietnam**, the perpetrators of attacks on civilians would have been fully aware that they were in this territory for the purposes of engaging in military operations against Vietnamese forces further to the international armed conflict and that the civilians killed would, as Vietnamese nationals, have been protected persons.

***B. UNDERLYING OFFENCES CONSTITUTING GRAVE BREACHES OF THE
GENEVA CONVENTIONS 1949***

Wilful Killing

S-21 Security Centre

1491. As regards the *actus reus*, Vietnamese prisoners of war and civilians were deliberately killed at **S-21** by the personnel of the security centre who were directly engaged in the systematic extra-judicial execution of all detainees.⁵²⁸²
1492. In addition, the deaths of a number Vietnamese prisoners of war and civilians was caused indirectly as a result of the methods of interrogation they were subjected to as well as the

general conditions imposed upon them whilst detained, inflicted in the reasonable knowledge that the death of the protected person was likely.

1493. As regards the *mens rea*, the killing of these protected persons was committed by the personnel of S-21 intentionally or recklessly.

Au Kanseng Security Centre

1494. As regards the *actus reus*, the Jarai detainees at **Au Kanseng security centre** were deliberately killed by the personnel of the security centre, as well as sector and Battalion 803 personnel, who were directly engaged in the systematic extra-judicial execution of all the detainees, including women and children.

1495. As regards the *mens rea*, the killing of these protected persons was committed intentionally.

RAK Incursions into Vietnam

1496. As regards the *actus reus*, during **RAK incursions into the territory of Vietnam** by forces of Democratic Kampuchea, Vietnamese civilians were deliberately targeted to be killed; RAK soldiers being given explicit orders to this effect. Furthermore orders were given to kill all Vietnamese encountered and to spare none, even those surrendering.

1497. As regards the *mens rea*, the killing of these protected persons was committed by the forces of Democratic Kampuchea intentionally.

Torture

S-21 Security Centre

1498. As regards the *actus reus*, Vietnamese detainees at the **S-21 security centre**, both prisoners of war and civilians, were subjected to torture.⁵²⁸³ Interrogation methods were applied whereby protected persons would be subjected to the infliction of severe physical or mental pain or suffering by the personnel of S-21.

1499. This severe pain or suffering was inflicted for the specific purpose of either obtaining information from the prisoners (principally concerning military intelligence matters) or for extracting confessions (principally for the purpose of public propaganda). The personnel of S-

21 performed their official roles pursuant to well-defined CPK policies regarding the extraction of confessions.

1500. As regards the *mens rea*, the infliction of the severe pain or suffering for the purposes stated above was committed by the personnel of S-21 intentionally.

Inhumane Treatment

S-21 Security Centre

1501. As regards the *actus reus*, the personnel of S-21, through the conditions imposed upon detainees at the security centre inflicted upon the protected persons acts or omissions causing serious physical or mental pain, suffering or injury, or acts which amounted to serious attacks on human dignity, constituting inhumane treatment.⁵²⁸⁴
1502. These conditions included the general conditions of detention of the protected persons, including the overcrowded living conditions and the lack of adequate sanitation, medicine, food or clothing; which amounted to the infliction of serious physical or mental suffering or injury as well as serious attacks on the human dignity of the protected persons. These conditions individually or collectively depressed, degraded, and dehumanised detainees who were kept in a permanent climate of fear.
1503. As regards the *mens rea*, the infliction of this inhumane treatment was committed by the personnel of S-21 intentionally or recklessly.

Wilfully Causing Great Suffering or Serious Injury to Body or Health

S-21 Security Centre

1504. As regards the *actus reus*, the personnel of S-21, through the conditions imposed upon detainees at the security centre inflicted upon the protected persons acts or omissions causing great physical or mental suffering or serious injury to body or health.⁵²⁸⁵
1505. These conditions included the general conditions of detention of the protected persons, including the overcrowded living conditions and the lack of adequate sanitation, medicine or food; all of which amounted to the causing of great suffering or serious injury to body or

health. These conditions individually or collectively depressed, degraded, and dehumanised detainees who were kept in a permanent climate of fear.

1506. As regards the *mens rea*, the causing of this great suffering or serious injury was committed by the personnel of S-21 intentionally or recklessly.

Wilfully Depriving a Prisoner of War or a Civilian the Rights of Fair and Regular Trial

S-21 Security Centre

1507. As regards the *actus reus*, the personnel of **S-21**, through the procedures imposed upon all detainees at the security centre, deprived Vietnamese prisoners of war and Vietnamese civilians of the rights of fair and regular trial and other judicial guarantees, in particular those provided for in the third and fourth Geneva Conventions 1949.⁵²⁸⁶

1508. The captured Vietnamese prisoners of war and civilians were not treated any differently to any other detainee at the S-21 security centre; they were tortured during interrogation compelling them to make confessions, then were victims of extrajudicial executions. At no point were these protected persons formally charged with any offence, brought before a court, tried and had judgment pronounced.

1509. In particular, through the procedures imposed upon these protected persons they were denied:

- the right to be judged by an independent and impartial court;
- the right to be promptly informed of the offence with which they were charged;
- the rights and means of a defence;
- the protection against collective punishment;
- the presumption of innocence; and
- the right of an appeal and the right not to be sentenced without judgment pronounced by a competent court.

1510. As regards the *mens rea*, the denial of these rights of fair and regular trial was committed by the personnel of S-21 intentionally or recklessly.

Au Kanseng Security Centre

1511. As regards the *actus reus*, the personnel of **Au Kanseng security centre**, through the procedures imposed upon the captured Jarai detainees, deprived these civilians of the rights of fair and regular trial and other judicial guarantees, in particular those provided for in the fourth Geneva Convention 1949.
1512. At no point were these Jarai civilians formally charged with any offence, brought before a court, tried and had judgment pronounced. Once the personnel of Au Kanseng received instruction from the CPK Centre; these protected persons were extra-judicially executed.
1513. In particular, through the procedures imposed upon these protected persons they were denied:
- the right to be judged by an independent and impartial court;
 - the right to be promptly informed of the offence with which they were charged;
 - the rights and means of a defence;
 - the protection against collective punishment;
 - the presumption of innocence; and
 - the right of an appeal and the right not to be sentenced or executed without judgment pronounced by a competent court.
1514. As regards the *mens rea*, the denial of these rights of fair and regular trial was committed by the personnel of **Au Kanseng security centre** intentionally or recklessly.

Unlawful Deportation of a Civilian

S-21 Security Centre

1515. As regards the *actus reus*, numerous Vietnamese civilians captured by CPK forces during military incursions into Vietnam were unlawfully deported⁵²⁸⁷ from this State to that of Democratic Kampuchea where they were placed in detention at the **S-21 security centre** for interrogation and eventual execution.
1516. There is no evidence to suggest that the deportation of these protected persons was performed pursuant to the security of the population or for any imperative military reason. It was instead performed in the implementation of well-defined CPK policies regarding the transfer of Vietnamese civilians to S-21.
1517. As regards the *mens rea* this unlawful deportation was committed intentionally.

Unlawful Confinement of a Civilian

S-21 Security Centre

1518. As regards the *actus reus*, Vietnamese civilians were arbitrarily detained at the **S-21 security centre** with no evidence existing to suggest reasonable grounds for the detention or a justifiable legal basis.⁵²⁸⁸ Furthermore, the detention of these protected persons was imposed without the procedural and substantive protections afforded to them in the provisions of Geneva Convention IV.
1519. As regards the *mens rea*, the unlawful confinement of these protected persons was committed by the personnel of S-21 intentionally.
1520. Finally, all of the above enunciated grave breaches at all of the above locations were committed pursuant to well-defined CPK policies decided upon and coordinated by the CPK leaders within the framework of the common purpose.

II. LEGAL FINDINGS ON MODES OF RESPONSIBILITY

A. JOINT CRIMINAL ENTERPRISE

1521. As stated in the “Applicable Law” section of this Closing Order, under international law, Joint Criminal Enterprise (JCE) is a mode of individual criminal responsibility encompassed by the concept of commission. The *actus reus* elements are that the Charged Person, together with a plurality of persons, contributed or participated in a common purpose which resulted in and/or involved the commission of a crime within the ECCC’s jurisdiction. The *mens rea* for JCE I is a shared intent to contribute to or participate in the implementation of a common purpose.
1522. Criminal responsibility under JCE need not involve the direct commission of a crime, but it may take the form of assistance in, or contribution to, the execution of the common purpose, or aspects of it, resulting in and/or involving the commission of crimes. The contribution need not be necessary or substantial, but at least should be a significant contribution to the commission of crimes on the ground for which the **Charged Persons** are held responsible.⁵²⁸⁹

1523. JCE responsibility is a doctrine that applies to a purpose which is aimed at imposing a nationwide government organised system of cruelty and injustice as long as all the elements are established to the evidentiary standard as set out in the section of this Closing Order on “Standard of Evidence”.⁵²⁹⁰

Findings of Responsibility under the Joint Criminal Enterprise

1524. The common purpose of the CPK leaders was to implement rapid socialist revolution by in Cambodia through a “great leap forward” and to defend the Party against internal and external enemies, by whatever means necessary. The purpose itself was not entirely criminal in nature but its implementation resulted in and/or involved the commission of crimes within the jurisdiction of the ECCC.⁵²⁹¹

1525. To achieve this common purpose, the CPK leaders designed and implemented five policies. Their implementation resulted in and/or involved the commission of the following crimes which were committed by members and non-members of the JCE:⁵²⁹²

(i) Repeated movements of the population from towns and cities to rural areas;

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

- (a) murder
- (b) persecution on political grounds
- (c) other inhumane acts through “attacks against human dignity” and forced transfer

(ii) Establishment and operation of cooperatives and worksites;

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) imprisonment
- (e) torture
- (f) persecution on political grounds

- (g) persecution on racial grounds
- (h) persecution on religious grounds
- (i) other inhumane acts through “attacks against human dignity” and enforced disappearances

(iii) Reeducation of “bad elements” and “enemies”, both inside and outside the Party ranks;

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) imprisonment
- (e) torture
- (f) persecution on political grounds
- (g) persecution on racial grounds
- (h) persecution on religious grounds
- (i) other inhumane acts through “attacks against human dignity” and enforced disappearances

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

(iv) The targeting of specific groups, in particular the Cham, Vietnamese, Buddhists and former officials of the Khmer Republic, including both civil servants and former military personnel and their families;

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) Cham
- (b) Vietnamese

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

- (a) murder
- (b) extermination
- (c) deportation
- (d) imprisonment
- (e) torture
- (f) persecution on racial grounds
- (g) persecution on religious grounds
- (h) other inhumane acts through enforced disappearances

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing

(v) **Regulation of marriage**

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

- (a) rape
- (b) other inhumane acts through forced marriage

1526. These crimes increased in scale and gravity when, having taken power over the whole territory, the CPK leaders endeavoured to carry through the revolutionary project by addressing its presumed failures.

1527. With regard to the policies targeting Chams and Vietnamese, the plan to eliminate these groups may not have existed until April 1977 for the Vietnamese and from 1977 for the Cham. From that moment the members of the JCE knew that the implementation of the common purpose expanded to include the commission of genocide of these protected groups. Acceptance of this greater range of criminal means, coupled with persistence in implementation, amounted to an intention of the JCE members to pursue the common purpose through genocide.⁵²⁹³

1528. The Co-Investigating Judges find that the common purpose came into existence before 17 April 1975 and continued until at least 6 January 1979. Its five policies were implemented on or before the temporal jurisdiction of the ECCC, which demonstrate the intent of the **Charged Persons** to achieve the common purpose even prior to 1975 and establishes a pattern of conduct that continued throughout the temporal jurisdiction of the ECCC.⁵²⁹⁴

1529. The members of the common purpose included, but were not limited to, members of the Standing Committee, including **Nuon Chea** and **Ieng Sary**; members of the Central Committee including **Khieu Samphan**; heads of CPK Ministries, including **Ieng Thirith**, zone and autonomous sector secretaries, and the heads of the Party Centre military divisions, as set out in the sections of this Closing Order regarding CPK structures.
1530. The contribution of the **Charged Persons** to the JCE was not limited to setting up the CPK Party and its administration and communication structures. As demonstrated below, they also actively contributed to the furtherance of the common purpose in many different ways throughout the whole CPK regime.⁵²⁹⁵
1531. With regard to the contribution or participation of the **Charged Persons** to the Joint Criminal Enterprise and their intention to further the common purpose the Co-Investigating Judges make the following legal findings:

Nuon Chea

1532. **Nuon Chea's** membership in the Joint Criminal Enterprise has been established. As set out in the sections of this Closing Order concerning **Nuon Chea** and the "Factual Findings – Joint Criminal Enterprise", **Nuon Chea** participated or contributed to the design, implementation and control of the execution of the Common Purpose both before and during the CPK regime, which resulted in and/or involved the commission of crimes. He exercised this authority by virtue of being Deputy Secretary and member of the Military Committee of the Central Committee and full-rights member of the Central and Standing Committees, the highest decision-making bodies in the country, and through the CPK's imposition of a strict chain of command from the Centre to the base. In these roles, **Nuon Chea** attended high level meetings where policy was decided and participated in the elaboration of CPK official policy documents. By supervising S-21 and internal security throughout Cambodia, **Nuon Chea** assumed significant responsibility for the implementation of the policy issuing directives to and receiving reports from his subordinates. **Nuon Chea** publically explained, endorsed and encouraged the CPK's policies through his involvement in CPK propaganda and in speeches, by chairing mass political trainings, and by personally visiting the provinces.
1533. As set out above the implementation of the JCE common purpose resulted in and/or involved the commission of crimes. By his words, his actions and his omissions **Nuon Chea** intended this result.

Ieng Sary

1534. **Ieng Sary's** membership in the Joint Criminal Enterprise has been established. As set out in the sections of this Closing Order concerning **Ieng Sary** and the "Factual Findings – Joint Criminal Enterprise", **Ieng Sary** participated or contributed to the design, implementation and control of the execution of the common purpose both before and during the CPK regime, which resulted in and/or involved the commission of crimes. He exercised this authority by virtue of his full-rights membership of the Central and Standing Committees, the highest decision-making bodies in the country, and through the CPK's imposition of a strict chain of command from the Centre to the base. In these roles, **Ieng Sary** attended high level meetings and major Party gatherings where policy was decided and disseminated, participated in decisions on internal security, issued directives to his subordinates and received reports from them, publically explained and endorsed the CPK's policies in speeches and interviews, and personally visited the provinces. As Deputy Prime Minister, **Ieng Sary** was also responsible for the Ministry of Foreign Affairs, its embassies abroad, and the public dissemination of CPK policy. In this role he advised the Standing Committee on foreign affairs matters, explained and endorsed the CPK's policies to visiting delegations and abroad including to the United Nations, supervised internal security matters and conducted political indoctrination sessions within his Ministry, recalled overseas intellectuals and officials to Cambodia, and oversaw a number of re-education offices in Phnom Penh.
1535. As set out above the implementation of the JCE common purpose resulted in and/or involved the commission of crimes. By his words, his actions and his omissions **Ieng Sary** intended this result.

Khieu Samphan

1536. **Khieu Samphan's** membership in the Joint Criminal Enterprise has been established. As set out in the sections of this Closing Order concerning **Khieu Samphan** and the **Factual Characterizations of the Joint Criminal Enterprise**, **Khieu Samphan** participated or contributed to the design, implementation and control of the execution of the common purpose both before and during the CPK regime, which resulted in and/or involved the commission of crimes. He exercised this authority by virtue of his membership of the Central Committee and regular participation in the Standing Committee, the highest decision-making bodies in the country, and through the CPK's imposition of a strict chain of command from the Center to the base. In these roles, **Khieu Samphan**: attended and contributed to high-level

meetings and major Party gatherings where policy was decided and disseminated; attended regular meetings with zone, sector and district cadres; worked within Political Office 870 at which the common purpose of the Party was implemented and monitored; and personally travelled throughout the provinces. **Khieu Samphan** endorsed and disseminated the common purpose internationally and domestically through his speeches and radio broadcasts, his presentations at major Party gatherings, and through political indoctrination and study sessions, and his foreign trips as a member of CPK delegations.

1537. As set out above the implementation of the JCE common purpose resulted in and/or involved the commission of crimes. By his words, his actions and his omissions **Khieu Samphan** intended this result.

Ieng Thirith

1538. **Ieng Thirith's** membership in the Joint Criminal Enterprise has been established. As set out in the sections of this Closing Order concerning **Ieng Thirith** and the "Factual Findings – Joint Criminal Enterprise", **Ieng Thirith** participated or contributed to the design, implementation and control of the execution of the common purpose, both before and during the CPK regime, which resulted in and/or involved the commission of crimes. **Ieng Thirith** exercised this authority as Minister of Health and Social Affairs and through the CPK's imposition of a strict chain of command from the Center to the base. In these roles, **Ieng Thirith** participated in some meetings of the Central Committee, in the meetings of the Council of Ministers, as well as meetings in K-1 and K-3 and major Party gatherings where policy was decided and disseminated. **Ieng Thirith** was responsible for the dissemination and implementation of these policies, in particular within her Ministry. She endorsed and publically explained the CPK's policies in speeches and interviews, in political indoctrination sessions she conducted in Phnom Penh or while personally visiting the provinces. She implemented them, throughout the country in matters related to health and social affairs and within her Ministry in matters related to security.

1539. As set out above the implementation of the JCE common purpose resulted in and/or involved the commission of crimes. By her words, her actions and her omissions **Ieng Thirith** intended this result.

Joint Criminal Enterprise Conclusion

1540. The Co-Investigating Judges find there is sufficient evidence that the **Charged Persons, Nuon Chea, Ieng Sary, Khieu Samphan, and Ieng Thirith** committed the crimes listed in this Closing order through their membership in the Joint Criminal Enterprise and their contribution to the common purpose as described above. Further, the **Charged Persons** not only shared with the other members of the Joint Criminal Enterprise the intent that these crimes be committed as part of the common purpose, they were the driving force behind it.⁵²⁹⁶
1541. Having taken everything into consideration, the Co-Investigating Judges consider that the systematic form of JCE (JCE 2) need not be retained, as the basic form of JCE (JCE 1) is that most suited for characterizing the criminal responsibility of the **Charged Persons** for the crimes described above.
1542. Additionally or in the alternative, one or more of the modes of responsibility described below apply to the instant case.

B. OTHER MODES OF RESPONSIBILITY

1543. The Co-Investigating Judges will analyze in detail, for each crime examined, the nature of each **Charged Persons'** contribution and their intent with respect to the following modes of responsibility: planning; instigating; aiding and abetting; ordering and superior responsibility.

Planning

1544. Criminal responsibility for planning results as soon as one or more people form the intention to commit criminal behaviour, constituting one or more crimes. This behaviour must involve determining the commission of crimes charged and the person must have acted with the intention or the awareness of the real probability that crimes may be committed during the execution or implementation of the plan.⁵²⁹⁷
1545. Pursuant to the evidence set out in the "Roles of the Charged Persons" section of this Closing Order, there is sufficient evidence that **Nuon Chea, Ieng Sary, and Khieu Samphan**, planned through their acts of knowingly and willingly participating in designing the commission of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Cham
- (b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) persecution on religious grounds of the Cham
- (k) persecution on religious grounds of Buddhists
- (l) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

1546. With regard to **Ieng Thirith**, pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that she planned the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and

regular trial

(e) unlawful confinement of a civilian

(f) unlawful deportation of a civilian

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

(a) murder

(b) extermination

(c) enslavement

(d) deportation

(e) imprisonment

(f) torture

(g) rape in the context of forced marriage

(h) persecution on political grounds

(i) persecution on racial grounds of the Vietnamese

(j) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

Instigating

1547. Criminal responsibility for instigating a crimes results when a person, by act or omission, causes another individual to commit one or more crimes. These acts or omissions must have been determinative in the commission of the crimes charged and the person must have the intention or awareness of the real probability that crimes may be committed during the execution resulting from such instigation.⁵²⁹⁸

1548. Pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that **Nuon Chea, Ieng Sary, and Khieu Samphan** instigated others in the commission of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

(a) Cham

(b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

(a) wilful killing

(b) torture or inhumane treatment

(c) wilfully causing great suffering or serious injury to body or health

(d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial

(e) unlawful confinement of a civilian

(f) unlawful deportation of a civilian

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

(a) murder

(b) extermination

(c) enslavement

(d) deportation

(e) imprisonment

(f) torture

(g) rape in the context of forced marriage

(h) persecution on political grounds

(i) persecution on racial grounds of the Vietnamese

(j) persecution on religious grounds of the Cham

(k) persecution on religious grounds of Buddhists

(l) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

1549. With regard to **Ieng Thirith**, pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that she instigated the commission of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

(a) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

(a) wilful killing

(b) torture or inhumane treatment

(c) wilfully causing great suffering or serious injury to body or health

(d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial

(e) unlawful confinement of a civilian

(f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

Aiding and Abetting

1550. Criminal responsibility for aiding and abetting results when, by act or omission, a person gives material aid or moral support to the commission of a crime, with the intention or the awareness of the real probability that this crime may be committed. These acts or omissions must have had an important effect on the commission of the crime by the main perpetrator before, during or after the commission.⁵²⁹⁹

1551. Pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that **Nuon Chea, Ieng Sary, and Khieu Samphan**, aided and abetted the commission of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Cham
- (b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) persecution on religious grounds of the Cham
- (k) persecution on religious grounds of Buddhists
- (l) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

1552. With regard to **Ieng Thirith**, pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that she aided and abetted the commission of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation

- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

Ordering

1553. Criminal responsibility for ordering results when person in a position of authority gives or transmits implicitly or explicitly, the order to commit a crime, with the intention or the awareness of the real probability that the crime may be committed during the execution of the order. This order must have been determinative in the commission of the crime.⁵³⁰⁰
1554. Pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that **Nuon Chea, Ieng Sary, and Khieu Samphan** ordered their subordinates (the RAK; Zone, sector, district members; local militia and cadre; security office staff; and supervisors and unit chiefs of worksites and cooperatives) which contributed to the commission of the following crimes:
- GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:
- (a) Cham
 - (b) Vietnamese
- GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:
- (a) wilful killing
 - (b) torture or inhumane treatment
 - (c) wilfully causing great suffering or serious injury to body or health
 - (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
 - (e) unlawful confinement of a civilian
 - (f) unlawful deportation of a civilian
- CRIMES AGAINST HUMANITY, punishable under Articles 5, 29 (new) and 39 (new) of the ECCC Law, specifically:
- (a) murder
 - (b) extermination

- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) persecution on religious grounds of the Cham
- (k) persecution on religious grounds of Buddhists
- (l) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

1555. With regard to **Ieng Thirith**, pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that she gave orders to, in particular on matters of public health, her subordinates in the Ministry of Social Action, which contributed to the commission of the following crimes:

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

- (a) other inhumane acts through “attacks against human dignity” and forced marriage
- (b) rape in the context of forced marriage
- (c) persecution on racial grounds of the Vietnamese

1556. Conversely, pursuant to the evidence set out in the “Roles of the Charged Persons”, “Factual Findings – Crimes” and “Legal Findings” sections of this Closing Order, there has not been sufficient evidence from the investigation of the facts of which the Co-Investigating Judges have been seized, of **Ieng Thirith** having given orders (in particular as regards public health) to the perpetrators of the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Cham
- (b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and

regular trial

(e) unlawful confinement of a civilian

(f) unlawful deportation of a civilian

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

(a) murder

(b) extermination

(c) enslavement

(d) deportation

(e) imprisonment

(f) torture

(g) persecution on political grounds

(h) persecution on religious grounds of the Cham

(i) persecution on religious grounds of Buddhists

(j) other inhumane acts through forced transfer and enforced disappearances

Superior Responsibility

1557. The responsibility of the superior results from the breach of the duty to prevent the commission of, or punish participants of, the commission of a crime. Consequently, the **Charged Persons** cannot be sent for trial on the basis of this form of (indirect) responsibility and also on the basis of direct responsibility (such as to commit, plan, incite, aid and abet, or order).⁵³⁰¹
1558. The criminal responsibility of the superior applies at both to military superiors and to civilian superiors, with that a formal hierarchy not being necessary for a person to be considered responsible as a superior.⁵³⁰² Moreover, for the same crime, multiple superiors (of different levels) may be held to be responsible for having failed in their duty to prevent or punish the commission of a crime by their subordinates, if the condition of effective control is met.⁵³⁰³
1559. In the alternative to the modes of responsibility described above, and pursuant to the evidence set out in the “Roles of the Charged Person” section of this Closing Order, there is sufficient evidence that **Nuon Chea, Ieng Sary, and Khieu Samphan** are responsible by virtue of superior responsibility by their effective control over their subordinates (the RAK; Zone, Sector, District Committee members; local militia and cadre; security office staff; and supervisors and unit chiefs of worksites and co-operatives) who committed the following crimes:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Cham
- (b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) rape in the context of forced marriage
- (h) persecution on political grounds
- (i) persecution on racial grounds of the Vietnamese
- (j) persecution on religious grounds of the Cham
- (k) persecution on religious grounds of Buddhists
- (l) other inhumane acts through “attacks against human dignity”, forced marriage, forced transfer and enforced disappearances

1560. **Nuon Chea, Ieng Sary, and Khieu Samphan** knew or had reason to know that the commission of the crimes listed above, by their subordinates was imminent, and they failed in their duty to take the necessary measures to prevent the below crimes. Moreover, **Nuon Chea, Ieng Sary and Khieu Samphan** knew or had reason to know that these crimes had been effectively committed by their subordinates and they failed to fulfil their obligation to punish the perpetrators of these crimes.

1561. With regard to **Ieng Thirith**, in the alternative to the modes of responsibility described above, and pursuant to the evidence set out in the “Roles of the Charged Persons” section of this Closing Order, there is sufficient evidence that she is responsible in her capacity as a superior because of the effective control which she exercised (particularly in the area of public health) over her subordinates at the Ministry of Social Affairs who committed the following crimes:

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

- (a) other inhumane acts through “attacks against human dignity” and forced marriage
- (b) rape in the context of forced marriage
- (c) persecution on racial grounds of the Vietnamese

1562. **Ieng Thirith** knew or had reason to know of the imminent commission of the crimes listed above by her subordinates and she failed to take the necessary steps to prevent the commission of these crimes. Furthermore, **Ieng Thirith** knew or had reason to know of the actual commission of these crimes by her subordinates and she failed to punish the perpetrators.

1563. Conversely, pursuant to the evidence set out in the “Roles of the Charged Persons” and “Factual Findings – Crimes” sections of this Closing Order, there has not been sufficient evidence from the investigation of the facts of which the Co-Investigating Judges have been seized, demonstrating **Ieng Thirith** had effective control over the perpetrators of the following crimes, and consequently she cannot be held responsible for the commission of these crimes in her capacity as a superior:

GENOCIDE, by killing, punishable under Articles 4, 29 (new) and 39 (new) of the ECCC Law, specifically, genocide of:

- (a) Cham
- (b) Vietnamese

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful confinement of a civilian
- (f) unlawful deportation of a civilian

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

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture
- (g) persecution on political grounds
- (h) persecution on religious grounds of the Cham
- (i) persecution on religious grounds of Buddhists
- (j) other inhumane acts through forced transfer and enforced disappearances

III. CRIMES PUNISHABLE UNDER THE CAMBODIAN PENAL CODE 1956

1564. In the Closing Order of 8 August 2008, which they issued in the Duch case, the Co-Investigating Judges noted that some of the facts established by the investigation (namely acts of homicide and torture) could be subject to several legal classifications, as they constituted both crimes punishable under the Cambodian Penal Code 1956 and international crimes.⁵³⁰⁴ They also noted that legal proceedings exercised on the basis of national Cambodian criminal legislation raised serious legal problems, as was confirmed in the continuation of the procedure. Given the multiple legal problems arising from the charges brought based on national criminal legislation, the Co-Investigating Judges deemed it preferable to accord such acts the highest legal classification, namely crimes against humanity or grave breaches of the Geneva Conventions of 12 August 1949.

1565. The Co-Prosecutors appealed this decision, on the grounds that:

- *“There is no hierarchy between any of the crimes in the jurisdiction of the ECCC and it cannot be said that the homicide and torture contrary to the 1956 Penal Code are ‘lesser’ crimes than crimes against humanity or grave breaches”.*⁵³⁰⁵
- *“The national crimes thus cannot be subsumed by the international crimes in this Indictment because each national crime requires a material element that is not present in the international crimes and vice versa”.*⁵³⁰⁶

- *“In failing to charge national crimes, the Co-Investigating Judges have potentially created an unnecessary risk that Duch may be completely acquitted at trial”*.⁵³⁰⁷
1566. In disposing of the appeal on 3 December 2007, the Pre-Trial Chamber decided that the crimes of torture and murder, as defined under Cambodian national law *“are not subsumed by the international crimes”*⁵³⁰⁸ As the notion of multiple criminal qualifications is not defined in Cambodian law and the issue is not addressed in the Internal Rules, the Pre-Trial Chamber turned to the procedure established at the international level (whereas the Co-Investigating Judges had the tendency to draw on French jurisprudence, as Cambodian law shares the same root as French law) and the Chamber referred to the jurisprudence of the *ad hoc* international tribunals: *“The jurisprudence of the ad hoc international tribunals holds that it is permissible in international criminal proceedings to include in indictments different legal offences in relation to the same acts”*.⁵³⁰⁹ The Pre-Trial Chamber thus added to the Closing Order the crimes of torture and murder, as defined in the Penal Code 1956.⁵³¹⁰
1567. Early in the trial, the Trial Chamber was seized of a preliminary objection, in which the Defence raised the lapse of the statute for national crimes, arguing that Article 109 of the Penal Code 1956 established a limitation period of 10 years in relation to such crimes and that the prescriptive period had expired on 6 January 1989, as this period was not interrupted or suspended.⁵³¹¹
1568. The Trial Chamber decided that there was no legal or judicial system in Cambodia between 1975 and 1979, and therefore that no criminal investigations or prosecutions were possible during that period. Therefore, the limitation period applicable to the relevant crimes under national law had not started to run during that period.⁵³¹² On the other hand, the judges of the Chamber failed to reach an agreement on whether or not the applicable limitation period was interrupted or suspended between 1979 and 1993, and thus issued separate opinions.
1569. The Cambodian judges considered that while some domestic trials were conducted during this period (*“increasing from 1982 onwards”*), national judicial capacity was severely lacking in this period due to the destruction of the judicial system by the Democratic Kampuchea regime. They thus found that *“from 1979 until 1982, the judicial system of the People’s Republic of Kampuchea did not function at all and operated only to a very limited extent during the years that followed”*.⁵³¹³ They therefore agreed that limitation period applicable to the relevant national crimes, at the earliest started to run on 24 September 1993 when the Kingdom of Cambodia was created, and thus did not run before that date. Further, the Cambodian judges noted that the 2001 Constitutional Council decision in substance declared

the extension of the limitation period as provided for in Article 3 (new) of the ECCC Law to be compatible with the 1993 Constitution of the Kingdom of Cambodia⁵³¹⁴ and they noted further that they “[had] no competence to review the correctness of decisions of the Constitutional Council”.⁵³¹⁵

1570. As for the international judges, they acknowledged that the Cambodian judicial system was “severely weakened and compromised” between 1979 and 1993 but not to such a point that “no prosecution or investigation would have been possible”.⁵³¹⁶ They added that “it [was] not apparent that the promulgation of the Constitution restored to the Cambodian justice system the objective capacity to investigate or prosecute, or eradicated the various systemic weaknesses observed previously, many of which have proved enduring and continued well beyond 1993”.⁵³¹⁷ Moreover, the international judges opined that the Constitutional Council “did not unambiguously state that the ECCC Law intended to impose either a retroactive suspension of the applicable limitation period, or the reinstatement of the right to prosecute after its expiry”, and that it “merely noted that Article 3 (new) of the ECCC Law affects the “fundamental” principle of non-retroactivity of criminal law, but made no further ruling on the impact of this principle”.⁵³¹⁸ Accordingly, the international judges did not deem themselves in a position to conclude that the limitation period applicable to domestic crimes had been suspended between 1979 and 1993 and they found that prosecution was no longer possible after the promulgation of Articles 3 and 3 (new) of the ECCC Law, i.e. in 2001 and 2004 respectively.
1571. In the absence of an affirmative majority, the Chamber was unable to consider the guilt or innocence of the Accused with respect to national crimes proscribed in the Penal Code 1956.⁵³¹⁹
1572. The judges concluded “due to the substantial overlap between the elements of these domestic crimes and their international corollaries, this finding has had no impact on the Chamber’s evaluation of the totality of the Accused’s criminal culpability, or on the sentence ultimately”.⁵³²⁰
1573. Accordingly, in their Final Submission, the Co-Prosecutors requested the Co-Investigating Judges to send the Accused before the Trial Chamber to be tried for violations of the Penal Code 1956, “precisely homicide (Articles 501, 503 and 506) and torture (Article 500)”.⁵³²¹
1574. The Co-Investigating Judges note that, in view of all the foregoing elements, they find themselves in procedural stalemate, which is partly due to the hybrid structure of the ECCC.

They have endeavoured to issue a common text on the questions of being tried twice for the same facts, the limitation period for the relevant national crimes, and on the effect of the Constitutional Council decision of 12 February 2001, but have not been able to. In this context, in order to resolve the stalemate, without having recourse to the procedure contained in the rules regarding disagreements, which would put into peril the entire legal process, the Co-Investigating Judges, taking into account their obligation to make a ruling within a reasonable time under the terms of the Rule 21.4 and the waiting of the victims who wish that there be an end to the investigation as soon as possible they have decided by mutual agreement to grant the Co-Prosecutors' requests, leaving it to the Trial Chamber to decide what procedural action to take regarding crimes in the Penal Code 1956.

1575. The Co-Investigating Judges also note that, even if the two language versions of the final submission are analysed, in the part devoted to applicable law⁵³²² regarding the three offences of religious persecution, murder and torture, the English version (expressly designated as the original version) does not retain religious persecution in the dispositive, contrary to the Khmer version. The Co-Investigating Judges note that it is not necessary to distinguish between these three offences.
1576. In view of all of these elements, the Co-Investigating Judges will order the sending of the **Charged Persons** before the Trial Chamber for charges of murder, torture and religious persecution, crimes defined and punishable by the Penal Code 1956.

PART FOUR: CHARACTER INFORMATION

I. NUON CHEA

1577. **Nuon Chea** was born on 7 July 1926 in Voat Kor village, Voat Kor subdistrict, Sangke district, Battambang province.⁵³²³ At his initial appearance, he gave Lao Kim Lorn as his name at birth, adding that this name “*had not been used for a long time*”.⁵³²⁴ He is the third of nine siblings. His father, Lao Liv, who was of Han descent, was a corn trader in Battambang. His mother, Dos Peanh, was a seamstress. She too was part Chinese, but **Nuon Chea** was raised in a multi-cultural environment, speaking Khmer.⁵³²⁵
1578. **Nuon Chea** is married to Ly Kimseng and is the father of three children, and one adopted child.
1579. After completing primary school, **Nuon Chea** attended secondary school in Battambang. However, his schooling was interrupted by World War II when Thailand, an ally of Japan, occupied Battambang province in 1941. He studied Thai and moved to Bangkok⁵³²⁶ where he stayed with Khmer monks at a Buddhist temple.⁵³²⁷ He began law school (but dropped out) at Bangkok’s Thamassat University under the name Runglert Laodi,⁵³²⁸ and also worked as a part-time clerk in the Thai Ministry of Finance. Later, between 1945 and 1949, he worked in the Ministry of Foreign Affairs, before moving back to Cambodia in 1950 and becoming involved in revolutionary activities.⁵³²⁹
1580. **Nuon Chea**’s political activities until 1979 are set out in the section of the Closing Order regarding the Role of the Charged Person.
1581. When the Vietnamese arrived in January 1979, **Nuon Chea** and Pol Pot met **Ieng Sary** and **Khieu Samphan** in Pursat province.⁵³³⁰ In the Central Committee meeting of February or March 1979, **Nuon Chea** urged Pol Pot to remain Party Secretary.⁵³³¹ He toured Cambodia⁵³³² and distributed supplies to cadres and combatants.⁵³³³ In December 1979, the Standing Committee of the People’s Representative Assembly unanimously decided to maintain **Nuon Chea** as its Chairman.⁵³³⁴ He hosted a conference on 15 February 1981 with **Khieu Samphan**, where it was decided to form a united front against the Vietnamese with the Khmer People’s National Liberation Front and the Royalists.⁵³³⁵ **Nuon Chea** and **Khieu Samphan** also distributed circulars on behalf of the DK Representative Assembly urging

military, civilians, and compatriots to remain patriotic in their struggle against the Vietnamese.⁵³³⁶ In October 1981, **Nuon Chea** was the head of the DK delegation to the Asian Parliamentary Conference in Beijing.⁵³³⁷ After the official dissolution of the CPK in late 1983 or early 1984, **Nuon Chea** held a political education session in Samlaut, where he declared that “*communism was only a means towards patriotism*”.⁵³³⁸

1582. **Nuon Chea** surrendered to the Phnom Penh Government, together with **Khieu Samphan** in December 1998, about six months after **Pol Pot**’s death.⁵³³⁹ At the time of his arrest on 19 September 2007, **Nuon Chea** was living with his wife in Pruhm market village, Pailin district.⁵³⁴⁰
1583. After declaring at his initial appearance and the adversarial hearing prior to his detention that he denied all charges and that he wanted to “*enlighten the world about the truth*”, **Nuon Chea** made no substantive statements, arguing that he was in poor health.⁵³⁴¹ He also elected to exercise his right to remain silent.⁵³⁴²
1584. **Nuon Chea** refused to meet with the psychiatric experts who were supposed to examine him and offer an opinion on his fitness to stand trial. The experts therefore only observed that a review of his medical files revealed no past history of mental disorder.⁵³⁴³

II. IENG SARY

1585. **Ieng Sary** was born Kim Tran on 24 October 1925 in Tra Vinh province, Southern Vietnam (then named Cochinchine). He stated at his first appearance that he modified his birth date to 1 January 1930 in order to take the entry exam for Sisowath High School.⁵³⁴⁴ Officially, he was born on 1 January 1930 in Baray village, Prey Veng Province in Cambodia.
1586. **Ieng Sary**’s father, Kim Riem, was a Khmer Krom and his mother, Tram Thi Loi, was half Chinese and half Vietnamese. His father died when he was young, and he was sent to live with relatives in Prey Veng province, Cambodia.⁵³⁴⁵ He then changed his name from Kim Tran to **Ieng Sary**.⁵³⁴⁶
1587. Arriving in Phnom Penh in the early 1940’s, **Ieng Sary** started studying at Sisowath High School⁵³⁴⁷ (where he met his future wife, **Ieng Thirith**, a student in the same school)⁵³⁴⁸. Before leaving Cambodia to go to France⁵³⁴⁹ (he had obtained a scholarship to study there), he

- got engaged to **Ieng Thirith** and married her in Paris in 1953. They had four children (three daughters and one boy)⁵³⁵⁰.
1588. Returning to Phnom Penh in 1957⁵³⁵¹, **Ieng Sary** was a Professor of History and Geography at Kampucheabot Private High School⁵³⁵² until he went into hiding in 1963.⁵³⁵³
1589. **Ieng Sary**'s political activities between 1975 and 1979 are set out in the section of the Closing Order regarding the Role of the Charged Person.
1590. When the Vietnamese Army entered Cambodia, at the beginning of 1979, **Ieng Sary** escaped towards Thailand and joined Pol Pot and **Nuon Chea** near Pursat. It was then decided that he should travel to China in order to negotiate assistance.⁵³⁵⁴
1591. On 19 August 1979, **Ieng Sary** was found guilty *in absentia* of "genocide," together with Pol Pot, by the Phnom Penh Popular Revolutionary Court, and was sentenced to death and confiscation of his property.⁵³⁵⁵
1592. **Ieng Sary** continued to exercise official functions in the exiled DK Government, representing the Government abroad, in particular before the United Nations,⁵³⁵⁶ and was identified as a leading member of the "Khmer Rouge" ("the KR") by foreign media.⁵³⁵⁷ In 1982, **Ieng Sary** participated to the creation of the Coalition Government of DK (CGDK)⁵³⁵⁸, which was composed of members of the KR as well as partisans of Norodom Sihanouk and Son Sen. **Khieu Samphan** took over **Ieng Sary**'s position as Minister for Foreign Affairs.
1593. In his role as leader of the CGDK Economic and Financial Committee,⁵³⁵⁹ **Ieng Sary** was the exclusive interlocutor with the Chinese authorities regarding military and financial assistance provided by Beijing to the KR.⁵³⁶⁰
1594. **Ieng Sary** was progressively marginalized within the movement and was relieved of some of his responsibilities. In August 1996, he left the movement and joined the Government. Thousands of partisans joined as well. On 14 September 1996, a Royal Decree pardoned him for his 1979 conviction, and he received an amnesty from prosecution under the "Law [of 1994] to Outlaw the Democratic Kampuchea Group".⁵³⁶¹
1595. In 1997, **Ieng Sary** announced the creation of the Democratic National United Movement, which he considered presenting at the 1998 elections, but renounced.⁵³⁶²

1596. Until his arrest, **Ieng Sary** lived in Phnom Penh and Pailin with his wife.⁵³⁶³
1597. In the context of a psychiatric assessment ordered by the Co-Investigating Judges, the psychiatrists concluded as follows: “[REDACTED] *On examination we do not believe this will impair Ieng Sary to the point where he would not be fit to stand trial*”.⁵³⁶⁴

III. KHIEU SAMPHAN

1598. **Khieu Samphan** alias “Haem”, “Hem”⁵³⁶⁵, “Khang”⁵³⁶⁶ or “Nan”⁵³⁶⁷ was born on the 27 July 1931 in Svay Rieng.⁵³⁶⁸ His father’s name was Khieu Long and his mother’s name was Ly Kong.⁵³⁶⁹ His father was a civil servant and his mother, who was of Chinese origin, became a vegetable merchant when her husband died in 1947.⁵³⁷⁰
1599. In 1953 **Khieu Samphan** went to France to pursue university studies.⁵³⁷¹ In 1959, **Khieu Samphan** completed his doctoral thesis, entitled “Cambodia’s Economy and Industrial Development”.⁵³⁷² While in Paris he began to participate in political activism.⁵³⁷³
1600. In 1962, after returning to Cambodia, **Khieu Samphan** was elected to be a Member of Parliament in Kandal Province and appointed Secretary of State for Trade.⁵³⁷⁴ In April 1967, after a period of instability in the government, **Khieu Samphan** faced arrest and prosecution by a military tribunal. This prompted him to flee Phnom Penh on 22 April 1967.⁵³⁷⁵ He sought refuge in Chieng Tong village in Kampong Speu Province with Ta Mok⁵³⁷⁶, where he remained until 1970.⁵³⁷⁷
1601. **Khieu Samphan**’s political activities between 1975 and 1979 are set out in the section of the Closing Order regarding the Role of the Charged Person.
1602. Following the fall of the CPK regime in 1979, the flight of CPK leaders and the advance of Vietnamese troops, **Khieu Samphan** continued to support the activities of the CPK. **Khieu Samphan** remained in Cambodia with Pol Pot and assisted in directing the conflict with the Vietnamese.⁵³⁷⁸ His involvement included visiting and distributing supplies to troops, and representing DK as the President of the Presidium.⁵³⁷⁹ As President and Prime Minister of DK and Provisional President of the Patriotic and Democratic Front, **Khieu Samphan** instigated efforts to establish a coalition between other resistance groups, the Khmer People’s National Liberation Front and the Royalists.⁵³⁸⁰ With the formation of the CGDK in 1982, **Khieu Samphan** became Vice President in Charge of Foreign Affairs of Democratic Kampuchea.⁵³⁸¹

Between 1979 and 1986, he conducted diplomatic missions, and represented Cambodia at the United Nations, presenting KR interests.⁵³⁸² In August 1985, when it was decided to create the Party of Democratic Kampuchea, **Khieu Samphan** was named as President. In 1989 he attended the Paris International Conference representing Democratic Kampuchea, and in 1991, he was present, along with Son Sen at the signing of the Paris Peace Agreements.⁵³⁸³ As such, he carried out an official visit to Phnom Penh in 1991, during which he was attacked by a group of demonstrators.⁵³⁸⁴ He maintained political alliances with Pol Pot until his arrest in 1997 by the Khmer Rouge.⁵³⁸⁵ Although generally denying any association with the crimes committed under the regime of Democratic Kampuchea, **Khieu Samphan** admitted that the CPK “*made some mistakes*” in April 1986.⁵³⁸⁶

1603. **Khieu Samphan** lived along the Thai-Cambodian border until his inclusion in the Cambodian government together with **Nuon Chea** in December 1998. At the time of his arrest he was living in Pailin.
1604. **Khieu Samphan** refused to meet the psychiatric experts in charge of examining him to issue an opinion on his fitness to stand trial, instead he informed them that he was not suffering from any psychiatric problems and that he refused to undergo any examination. The experts were therefore only able to note that his medical records did not show any history of mental disorder.⁵³⁸⁷

IV. IENG THIRITH

1605. **Ieng Thirith**, maiden name Khieu Thirith, alias Phea⁵³⁸⁸, was born on 10 March 1932, in Phnom Penh⁵³⁸⁹. Her father, Khieu On (who was a judge in Battambang), and her mother, Ouk Ponn, had five children, four girls and a boy. **Ieng Thirith** was the youngest.⁵³⁹⁰ **Ieng Thirith** was married to **Ieng Sary** in 1953 and together they have four children, three girls and a boy.⁵³⁹¹
1606. After having obtained her baccalaureat at the Lycée Sisowath de Phnom Penh (where Son Sen was then teaching, and where she met her future husband, **Ieng Sary**, who was educated at the same place), she received a scholarship to pursue her studies in Paris. She left for Paris in 1952 with her sister Khieu Ponnary (who married Saloth Sar, alias Pol Pot, in 1956). **Ieng Sary** had already arrived there in 1951, and they were married in Paris. She obtained a diploma in Literature and English at Sorbonne University.⁵³⁹²

1607. **Ieng Thirith** returned to Cambodia in 1957, where she worked for some time as a Professor, initially in a private school and then at the Lycée Sisowath, before entirely devoting herself to her revolutionary activities from 1965 onwards.
1608. **Ieng Thirith** has explained that, because of her involvement in the revolution and operating from the jungles of Cambodia, she did not see her children for 10 years. They were entrusted to their grandmother until the coup of 1970, at which time they followed her in her underground operations.⁵³⁹³
1609. **Ieng Thirith**'s political activities between 1975 and 1979 are set out in the section of the Closing Order regarding the Role of the Charged Person.
1610. After the fall of the regime, **Ieng Thirith** was reaffirmed as the DK Minister of Social Affairs at a session of the People's Representative Assembly of Kampuchea held on 18 December 1979⁵³⁹⁴ and continued in this role until at least May 1982.⁵³⁹⁵ By September 1982, she had been named Secretary General in the Ministry of Foreign Affairs of the CGDK⁵³⁹⁶ and retained this role until at least late August 1985.⁵³⁹⁷ In this capacity, she attended a number of international conferences organized to promote the interests of the CPK,⁵³⁹⁸ including with the UN⁵³⁹⁹ and also met a number of foreign delegations⁵⁴⁰⁰ to discuss *inter alia* the formation of the CGKD.⁵⁴⁰¹ **Ieng Thirith** also met a number of foreign journalists.⁵⁴⁰² At these conferences and in her interviews with journalists, she denounced the Vietnamese occupation and advocated the restoration of the CPK.⁵⁴⁰³
1611. **Ieng Thirith** stayed with the Khmer Rouge until her husband, **Ieng Sary**, joined the Cambodian Government and received an amnesty and pardon from the King in 1996. Thereafter, they lived together with one of their daughters in Phnom Penh, until their arrest in November 2007.
1612. During a psychiatric evaluation ordered by the Co-Investigating Judges, the experts interviewed **Ieng Thirith** at length. They concluded that there was an absence of any serious mental problem. [REDACTED].⁵⁴⁰⁴

PART FIVE: DISPOSITIVE

1613. **Consequently**, as a result of the judicial investigation, there is sufficient evidence (*charges suffisantes*) that **Nuon Chea, Ieng Sary, Khieu Samphan, and Ieng Thirith**, in Phnom Penh, within the territory of Cambodia, and during incursions into Vietnam, between 17 April 1975 and 6 January 1979, through their acts or omissions, committed (via a joint criminal enterprise), planned, instigated, ordered, or aided and abetted, or are responsible by virtue of superior responsibility, for the following crimes:

CRIMES AGAINST HUMANITY, specifically:

- (a) murder
- (b) extermination
- (c) enslavement
- (d) deportation
- (e) imprisonment
- (f) torture

- (g) rape
- (h) persecution on political, racial, and religious grounds
- (i) other inhumane acts

Punishable under Articles 5, 29 (new) and 39 (new) of the ECCC Law

GENOCIDE, by killing members of the groups of Vietnamese and Cham

Punishable under Article 4, 29 (new) and 39 (new) of the ECCC Law

GRAVE BREACHES OF THE GENEVA CONVENTIONS OF 12 AUGUST 1949, specifically:

- (a) wilful killing
- (b) torture or inhumane treatment
- (c) wilfully causing great suffering or serious injury to body or health
- (d) wilfully depriving a prisoner of war or civilian the rights of fair and regular trial
- (e) unlawful deportation or unlawful confinement of a civilian

Punishable under Articles 6, 29 (new) and 39 (new) of the ECCC Law

VIOLATIONS OF THE 1956 PENAL CODE, specifically:

- (a) homicide
- (b) torture
- (c) religious persecution

Punishable under Articles 3, 29 (new) and 39 (new) of the ECCC Law, and Articles 209, 210, 500, 501, 503 and 508 of the 1956 Penal Code.

PART SIX: MAINTENANCE IN DETENTION

Noting Internal Rules 63, 64, 66, 68 and 82;

Noting the Application for Provisional Release filed by the defence for **Nuon Chea** on 8 September 2010 (C65 – the “Application for Provisional Release”);

Noting the Co-Prosecutors’ Response to **Nuon Chea**’s Application for Provisional Release dated 13 September 2010 (C65/2);

I. APPLICATION FOR PROVISIONAL RELEASE OF NUON CHEA

A. PROCEDURAL HISTORY

1614. On 8 September, the defence for **Nuon Chea** filed an Application for Provisional Release of their client, arguing that:

- “provisional detention specifically refers to the time spent in custody ‘pending a final judgement’ and the only possible endpoints of such a period are conviction, acquittal, final appellate determination or provisional release”;⁵⁴⁰⁵
- “the maximum period allowable under Cambodian law in which to provisionally detain **Nuon Chea** is three years”;⁵⁴⁰⁶
- “any extension of provisional detention by the OCIJ - including the four-months enlargement allowed under the CCP and the Rules - must be subsumed within the global three-year period”.⁵⁴⁰⁷

1615. In light of these considerations, the defence requests the Co-Investigating Judges to terminate **Nuon Chea**’s provisional detention after the expiry of the three (3) year period, being 19 September 2010.

1616. The Co-Prosecutors state that **Nuon Chea**’s Application should be rejected because: “The operative law governing the provisional detention of the Charged Person is contained in the Rules”; “the Rules do not establish a three-year maximum period of provisional detention that applies to both the judicial investigation and trial proceedings”; and “the provisional detention of the Charged Person for longer than three years would not violate international

standards of justice, given the complexity of the case, the seriousness of the charges and the diligence of the Court to date".⁵⁴⁰⁸ Accordingly, they "submit that the Charged Person's Application for Provisional Release should be denied and that, pursuant to Rule 68, the Co-Investigating Judges should continue the detention of the Charged Person and those others who may be indicted in the Closing Order until such time as they can be brought before the Trial Chamber".⁵⁴⁰⁹

B. REASONS FOR THE DECISION

1617. The Internal Rules contain clear provisions regarding provisional detention,⁵⁴¹⁰ as noted by the defence, these provisions are identical to those of the Cambodian Code of Criminal Procedure,⁵⁴¹¹ which has primacy over the previous statutory provisions dealing with provisional detention⁵⁴¹² referred to by the defence.⁵⁴¹³
1618. Contrary to the defence arguments, however, in no way do the Internal Rules establish that the maximum duration of provisional detention, as they interpret this term, is limited to three (3) years.
1619. Although Internal Rule 63(6) provides that detention during the judicial investigation may only be ordered for one year terms, renewable twice, this Rule only covers the period between opening and closure of the judicial investigation. Once the investigation has been brought to an end by the Closing Order, provisional detention comes to an end unless the accused is maintained in detention pursuant to Internal Rule 68, subject to being brought before the Trial Chamber within four months, after which Internal Rule 82 applies.
1620. Finally, and in addition, it should be noted, as recognised by the defence,⁵⁴¹⁴ that international standards relating to the maximum duration of pre-trial detention allow periods superior to those set out in the Internal Rules, taking into consideration the particular circumstances of the case, especially the complexity of the facts.⁵⁴¹⁵ Thus, far from violating minimum international standards, this period sufficiently protects the right of the Charged Persons to be tried within a reasonable time.
1621. In light of all the considerations set out above, it is clear that the Internal Rules permit the maintenance in detention of the Charged Persons, **Nuon Chea**. Therefore, the Application for Provisional Release must be dismissed (to the extent that it has not become moot as a result of the Closing Order being issued before 19 September 2010).

II. MAINTENANCE OF THE ACCUSED IN DETENTION

1622. **Considering** that, in light of the evidence set out in this Closing Order in support of sending **Nuon Chea, Ieng Sary, Ieng Thirith** and **Khieu Samphan** for trial, the conditions laid out in Internal Rule 63(3)(a) are satisfied;
1623. **Considering** further, having regard to the conditions laid down in Internal Rule 63(3)(b), that the reasons set out in our last Order on the extension of **Nuon Chea**'s provisional detention (which was not appealed),⁵⁴¹⁶ on the one hand, and the reasoning adopted by the Pre-Trial Chamber in its latest decisions on the appeals against renewal of provisional detention by **Ieng Sary**,⁵⁴¹⁷ **Ieng Thirith**⁵⁴¹⁸ and **Khieu Samphan**,⁵⁴¹⁹ on the other hand, retain their full force, the only new element being the indictment of the abovementioned persons, which only reinforces the reasons for the aforementioned decisions and renders continued detention all the more necessary;
1624. **Considering**, accordingly, that it is necessary to maintain the Accused in Provisional Detention until they appear before the Trial Chamber, pursuant to Internal Rule 68:
- Regarding **Nuon Chea**: in order to ensure the presence of the Accused at trial, protect the security of the Accused, preserve public order and avert the risk of the Accused exerting pressure on witnesses or victims or destroying evidence if released;
 - Regarding **Ieng Sary**: in order to ensure the presence of the Accused at trial, protect the security of the Accused and preserve public order;
 - Regarding **Ieng Thirith**: in order to ensure the presence of the Accused at trial, preserve public order and avert the risk of the Accused exerting pressure on witnesses or victims or destroying evidence if released; and
 - Regarding **Khieu Samphan**: in order to ensure the presence of the Accused at trial, protect the security of the Accused, preserve public order and avert the risk of the Accused exerting pressure on witnesses or victims or destroying evidence if released.

FOR THESE REASONS,

Noting Internal Rules 64, 67 and 68 of the Internal Rules;

WE HEREBY INDICT:

Nuon Chea

Ieng Sary

Ieng Thirith

Khieu Samphan

Order them to be sent for trial before the Trial Chamber of the Extraordinary Chambers in the Courts of Cambodia in accordance with the Law,

Dismiss the Application for Provisional Release filed by **Nuon Chea** and

Order that the Accused remain in Provisional Detention until they are brought before the Trial Chamber.

Done at Phnom Penh, on 15 September 2010

សហចៅក្រមស៊ើបអង្កេត

Co-Investigating Judges

co-juges d'instruction