



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា
Extraordinary Chambers in the
Courts of Cambodia

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ
Kingdom of Cambodia
Nation Religion King
Royaume du Cambodge
Nation Religion Roi

ការិយាល័យសហចៅក្រមស៊ើបអង្កេត
Office of the Co-Investigating Judges
Bureau des Co-Juges d’Instruction
សំណុំរឿងព្រហ្មទណ្ឌ
Criminal Case File / Dossier pénal
លេខ/No: 004/07-09-2009-ECCC-OCIJ

កំណត់ហេតុនៃការបង្ហាញ
ខ្លួនលើកដំបូង
Written Record of Initial
Appearance
Procès-Verbal d’Interrogatoire
de Première Comparution

On 9 December 2015, at 12.57 p.m., the Initial Appearance of Mr YIM Tith took place at the premises of the Extraordinary Chambers in the Courts of Cambodia (“ECCC”) in Phnom Penh, in the presence of the following:

Judge Michael Bohlander, International Co-Investigating Judge (“ICIJ”)
Chhay Chanlyda, Greffier

The suspect:
Mr YIM Tith

For the defence of YIM Tith:
Mr SO Mosseny, National Co-Lawyer
Ms Suzana Tomanović, International Co-Lawyer
Ms Kirsty Sutherland, Senior Legal Consultant
Ms SENG Chantho, Defence Case Manager

For the Office of the Co-Investigating Judges:
Ms Kerryn Beaton, Legal Officer
Ms Anna Katulu, Legal Officer

ឯកសារដើម	
ORIGINAL DOCUMENT/DOCUMENT ORIGINAL	
ថ្ងៃ ខែ ឆ្នាំ ទទួល (Date of receipt/date de reception):	
.....01...../.....03...../.....2016.....	
ម៉ោង (Time/Heure) :.....10:30.....	
បង្គំទទួលបន្ទុកសំណុំរឿង (Case File Officer/L'agent chargé	
du dossier: <u>Sann Rada</u>	

Mr SAUR Sokhalay, sworn Interpreter at the ECCC
 Mr NGOUN Kimly, sworn Interpreter at the ECCC
 Mr Khlok Soussolalin, Technical Assistant at the ECCC
 Ms Vidya Kumar, IT Officer at the ECCC

Those present were informed that the Initial Appearance was being audio/video recorded.

YIM Tith advised his personal information as follows:

Name:	YIM Tith
Date of birth:	30 December 1936
Place of birth:	Trapeang Kol village, Trapeang Thom commune, Tramkak district, Takeo province
Nationality:	Cambodian
Occupation:	Retired
Father's name:	YIM Nhem (deceased)
Mother's name:	NEANG Seng (deceased)
Name of spouse:	UNG Ken (living)
Number of children:	Four

YIM Tith declared that he is able to read, write, and understand Khmer, but that he is not able to read, write, or understand English or French. Therefore, the original of this Written Record of Initial Appearance was transcribed in Khmer by Greffier Chhay Chanlyda.

The ICIJ advised YIM Tith that:

- he had the right to remain silent and that no adverse inference may be drawn from his exercise of that right,
- he was free to make a statement before or after the notification of the charges,
- he had the right to legal representation, and
- he could consult with his co-lawyers before making any such statement.

Neither the suspect nor his co-lawyers elected to make a statement or to submit observations at this time.

The ICIJ advised the suspect of the alleged criminal acts of which the ICIJ has been seized by the Office of the Co-Prosecutors ("OCP") through the Third Introductory Submission dated 20 November 2008 ("3IS"), the Supplementary Submission regarding Sector 1 Crime Sites and Persecution of Khmer Krom dated 18 July 2011 ("1SS"), the Supplementary Submission regarding Forced Marriage and Sexual or Gender-Based Violence dated 24 April 2014 ("2SS"), the Response to a Forwarding Order and

Supplementary Submission regarding Wat Ta Meak dated 4 August 2015 (“3SS”), and the Response to Forwarding Order dated 5 November 2015 and Supplementary Submission regarding the Scope of Investigation into Forced Marriage in Sectors 1 and 4 dated 20 November 2015 (“4SS”) (collectively “the Submissions”), and for which he is alleged to be responsible either as a senior leader of Democratic Kampuchea or as one of those most responsible for these alleged crimes.

The ICIJ provided Khmer and English copies of the submissions listed directly above to YIM Tith and his Co-Lawyers.

The ICIJ noted that advance access to the Case File was granted by order of 4 December 2015.

The ICIJ informed YIM Tith that the alleged criminal acts set out in the Submissions have been given the following legal characterisation by the OCP:

- **Violation of Articles 209, 210, 500, 501, 503, 504, 505, 506, 507, and 508 of the 1956 Penal Code** (Homicide, Torture, and Religious Persecution);
- **Violation of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948** (Genocide of the Khmer Krom and Vietnamese);
- **Crimes Against Humanity** (Murder, Extermination, Enslavement, Imprisonment, Torture, Rape, Persecution on political, racial and religious grounds, and Other Inhumane Acts); and
- **Grave Breaches of the Geneva Conventions of 1949** (Wilful Killing, Wilfully Causing Great Suffering or Serious Injury to Body or Health, Unlawful Deprivation or Transfer, and Unlawful Confinement of a Civilian).

The ICIJ advised YIM Tith that:

- these offences are defined and punishable under Articles 3 (new), 4, 5, 6, 29 and 39 of the ECCC Law,
- the alleged criminal acts are under judicial investigation, and
- that the Co-Investigating Judges are not bound by the legal characterisation as chosen by the OCP.

YIM Tith was advised that, at this time, there is clear and consistent evidence indicating that he may be criminally responsible for the commission of crimes from 17 April 1975 to 6 January 1979 at the following sites referred to in the submissions:

Sector 13, Southwest Zone

1. Wat Pratheat security centre (3IS, paras 80-81; and 1SS, paras 12-13)

2. Kraing Ta Chan security centre (ISS, para. 14)
3. Preil Village execution site (ISS, paras 12 & 14)
4. Wat Angkun execution site (ISS, para. 12)
5. Slaeng Village forest execution site (ISS, paras 12 & 14)
6. Prey Sokhon execution site and Wat Ang Srei Muny (ISS, para. 15)

Sector 1, Northwest Zone

7. Koas Krala security centre (ISS, para. 5; International Co-Prosecutor's ("ICP") Response to Forwarding Order, para. 2(c))
8. Anlong Vil Breng and related execution site (ISS, para. 7)
9. Thipakdei cooperative (including at Wat Thipakdei security centre and Tuol Mtes security centre and worksite) (ISS, paras 5-6; 2SS, para. 8)
10. Kang Hort Dam worksite (ISS, para. 6; 2SS para. 12)
11. Banan security centre (ISS, para. 9)
12. Khnang Kou security centre (ISS, para. 9; ICP Response to Forwarding Order , para. 2(d))
13. Kampong Kol sugar factory worksite (2SS, para. 8)
14. Phnom Tra Cheak Chet worksite (ISS, para. 7)
15. Banteay O Ta Krey execution site (3IS, para. 61)
16. Samlaut District (4SS, paras 10-12)

Sector 2, Northwest Zone

17. Phum Veal security centre (ISS, para. 16)
18. Svay Chrum security centre (ISS, para. 16)
19. Tuol Seh Nhauv execution site (ISS, para. 17)
20. Prey Krabau execution site (ISS, para. 17)
21. Chanreangsei pagoda execution site (ISS, paras 19-20). (Additional comment - the ICIJ noted an error in para. 4 of the ISS, which should refer to paras 5 to 20, not paras 4 to 19. The ICIJ advised that OCP will be requested to file a corrected version.)

Sector 3, Northwest Zone

22. Wat Kirirum security centre (3IS, para. 60)
23. Wat Kandal security centre (3IS, paras 65-66)
24. Wat Banteay Neang security centre (3IS, para. 69)

Sector 4, Northwest Zone

25. Wat Thoamayutt security centre (3IS, paras 63-64)
26. Wat Samdech security centre (3IS, para. 67)
27. Kampong Prieng commune including Kach Roteh, Thmei and Sala Trav villages and Wat Po Laingka/Kach Roteh security centre (3IS, para. 68; 2SS, para. 8; 4SS, para. 6(c) and (d))

28. Reang Kesei commune (including Reang Kesei pagoda and Reang Kesei village) (2SS, paras 4 & 8; 4SS, para. 6(a))

Sector 5, Northwest Zone

29. Phnom Trayoung security centre and worksite (3IS, paras 74-75)
 30. Spean Sreng and Prey Roneam dam worksites (3IS, para. 79)
 31. Wat Preah Net Preah and related detention and execution sites (3IS para. 77; ICP Response to Forwarding Order para. 2(b))
 32. Phum Chakrey security centre and execution site (3IS, para. 76)
 33. Prey Taruth execution site (3IS, para 76; ICP Response to Forwarding Order, para. 2(a))
 34. Wat Chamkar Khnol execution site (3IS, para. 71)
 35. Trapeang Thma Dam worksite (3IS, para. 78)

Sector 7, Northwest Zone

36. Prison No. 8 (3IS, para. 72)
 37. Veal Bak Chunching execution site (1SS, para. 19)

The ICIJ advised YIM Tith that he is charged with the following crimes in his capacity as the member and later Secretary of Kirivong District and Sector 13 committee member in the Southwest Zone; and as Secretary of Sector 1, Secretary of Sector 3, Secretary of Sector 4 and Deputy Secretary of the Northwest Zone of Democratic Kampuchea.

The ICIJ advised YIM Tith that he is charged with the following crimes:

Genocide

The ICIJ advised YIM Tith that he may be responsible for the crime of Genocide, perpetrated against the Khmer Krom, at the following sites through the modes of liability listed below:

Sector 13, Southwest Zone

Crime Site 1: Wat Pratheath security centre

Genocide by killing members of the group

Modes of Liability: planning, ordering, instigating, superior responsibility, commission (*via* joint criminal enterprise first category “JCE 1”), and commission (*via* joint criminal enterprise second category “JCE 2”).

Crime Site 2: Kraing Ta Chan security centre

Genocide by killing members of the group

Modes of Liability: commission (*via* JCE 1).

Crime Site 3: Preil Village

Genocide by killing members of the group, and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Modes of Liability: commission (via JCE 1).

Crime Site 4: Wat Angkun

Genocide by killing members of the group and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Modes of Liability: commission (via JCE 1).

Crime Site 5: Slaeng Village forest execution site

Genocide by killing members of the group and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Modes of Liability: commission (via JCE 1).

Crime Site 6: Prey Sokhon execution site and Wat Ang Serei Muny

Genocide by killing members of the group.

Modes of Liability: commission (via JCE 1).

Sector 1, Northwest ZoneCrime Site 13: Kampong Kol sugar factory

Genocide by killing members of the group.

Modes of Liability: commission (via JCE 1).

Sector 2, Northwest ZoneCrime Site 17: Phum Veal security centre

Genocide by killing members of the group and causing serious bodily or mental harm to members of the group.

Modes of Liability: commission (via JCE 1).

Crime Site 18: Svay Chrum security centre

Genocide by killing members of the group and causing serious bodily or mental harm to members of the group.

Modes of Liability: commission (via JCE 1).

Crime Site 19: Tuol Seh Nhauv execution site

Genocide by killing members of the group.

Modes of Liability: commission (via JCE 1).

Crime Site 20: Prey Krabau execution site

Genocide by killing members of the group.

Modes of Liability: commission (via JCE 1).

Sector 4, Northwest ZoneCrime Site 27: Kampong Prieng commune including at Kach Roteh, Thmei, and Sala Trav villages and Wat Po Laingka/Kach Roteh security centre

Genocide by killing members of the group.

Modes of Liability: planning, ordering, instigating, superior responsibility, commission (via JCE 1).

Crime Site 28: Reang Kesei commune

Genocide by killing members of the group.

Modes of Liability: planning, ordering, instigating, superior responsibility, commission (via JCE 1).

Crimes against Humanity

The ICIJ advised YIM Tith that there is clear and consistent evidence indicating that he may be criminally responsible for Crimes against Humanity committed as part of a widespread or systematic attack directed against a civilian population on national, political, ethnical, racial or religious grounds.

The ICIJ advised YIM Tith that he is charged with the following Crimes against Humanity at the following sites:

Sector 13, Southwest ZoneCrime Site 1: Wat Pratheat security centre

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against “17 April people” and on political and racial grounds against the Khmer Krom through the underlying offences of murder, extermination, enslavement, imprisonment, torture, and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility, commission (via JCE 1), and commission (via JCE 2).

Crime Site 2: Kraing Ta Chan security centre

Crimes: murder; extermination; imprisonment; torture; persecution on political grounds against “17 April people” and on political and racial grounds against the Khmer Krom through the underlying offences of murder, extermination, imprisonment, torture, and other inhumane acts (forcible transfer and confinement in inhumane conditions); other inhumane acts (forcible transfer and confinement in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 3: Preil Village execution site

Crimes: murder; extermination; deportation, persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, extermination, deportation and other inhumane acts (forcible transfer); and other inhumane acts (forcible transfer).

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1).

Crime Site 4: Wat Angkun

Crimes: murder; extermination; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder and extermination.

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1).

Crime Site 5: Slaeng Village forest execution site

Crimes: murder; deportation; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, deportation and other inhumane acts (forcible transfer); and other inhumane acts (forcible transfer).

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1).

Crime Site 6: Prey Sokhon execution site and Wat Ang Serei Muny

Crimes: murder; extermination; imprisonment; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, extermination, and imprisonment.

Modes of Liability: commission (via JCE 1).

Sector 1, Northwest Zone

Crime Site 7: Koas Krala security centre

Crimes: murder; extermination; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination and imprisonment.

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 8: Anlong Vil Breng and related execution site

Crimes: murder; extermination; enslavement.

Modes of Liability: commission (via JCE 1).

Crime Site 9: Thipakdei cooperative (including at Wat Thipakdei security centre and Tuol Mtes security centre and worksite):

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, enslavement, imprisonment, torture, other inhumane acts (confinement/working in inhumane conditions.); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 10: Kang Hort Dam worksite

Crimes: murder; extermination; enslavement; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the

underlying offences of murder, extermination and imprisonment; other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 11: Banan security centre

Crimes: murder; extermination; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, imprisonment, torture, and other inhumane acts (confinement in inhumane conditions); other inhumane acts (confinement in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 12: Khnang Kou security centre

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, enslavement, imprisonment, torture and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 13: Kampong Kol sugar factory

Crimes: murder; extermination; persecution on political and racial grounds against the Vietnamese and the Khmer Krom through the underlying offences of murder and extermination.

Modes of Liability: commission (via JCE 1).

Crime Site 14: Phnom Tra Cheak Chet worksite

Crimes: enslavement.

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 15: Banteay O Ta Krey execution site

Crimes: murder; extermination.

Modes of Liability: commission (via JCE 1).

Crime Site 16: Samlaut District

Crimes: Other inhumane acts (forced marriage).

Modes of Liability: direct commission.

Sector 2, Northwest Zone**Crime Site 17: Phum Veal security centre**

Crimes: murder; extermination; imprisonment; torture; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, extermination and imprisonment and other inhumane acts (confinement in inhumane conditions); other inhumane acts (confinement in inhumane conditions).

Modes of Liability: commission (via JCE I).

Crime Site 18: Svay Chrum security centre

Crimes: murder; imprisonment; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, imprisonment and other inhumane acts (confinement in inhumane conditions); other inhumane acts (confinement in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 19: Tuol Seh Nhauv execution site

Crimes: murder; extermination; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder and extermination.

Modes of Liability: commission (via JCE 1).

Crime Site 20: Prey Krabau execution site

Crimes: murder; extermination; persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder and extermination.

Modes of Liability: commission (via JCE 1).

Crime Site 21: Chanreangsei pagoda execution site

Crimes: murder; extermination; persecution on political grounds against the “East Zone Evacuees” through murder and extermination.

Modes of Liability: commission (via JCE 1)

Sector 3, Northwest Zone**Crime Site 22: Wat Kirirum security centre**

Crimes: murder; extermination; enslavement; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through murder, enslavement, imprisonment and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 23: Wat Kandal security centre

Crimes: murder; extermination; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of imprisonment, torture and other inhumane acts (confinement in inhumane conditions); other inhumane acts (confinement in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 24: Wat Banteay Neang security centre

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, enslavement, imprisonment, torture, other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Sector 4, Northwest ZoneCrime Site 25: Wat Thoamayutt security centre

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds of “East Zone Evacuees” through the underlying offences of murder, extermination, enslavement, imprisonment, torture and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 26: Wat Samdech security centre

Crimes: murder; extermination; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder and extermination.

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 27: Kampong Prieng commune including Kach Roteh, Thmei and Sala Trav villages and Wat Po Laingka/Kach Roteh security centre

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, enslavement, imprisonment, torture and other inhumane acts (confinement/working in inhumane conditions); persecution on political and racial grounds against the Khmer Krom through the underlying offences of murder, and extermination; and other inhumane acts (confinement in inhumane conditions and forced marriage).

Modes of Liability: planning, ordering, instigating, superior responsibility and commission (via JCE 1).

Crime Site 28: Reang Kesei commune

Crimes: murder; extermination; persecution on political and racial grounds against Khmer Krom through the underlying offences of murder and extermination; other inhumane acts (forced marriage).

Modes of Liability: planning, ordering, instigating, superior responsibility, commission (via JCE 1).

Sector 5, Northwest ZoneCrime Site 29: Phnom Trayoung security centre and worksite

Crimes: murder; extermination; enslavement; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of enslavement, imprisonment, and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 30: Spean Sreng and Prey Roneam dam worksites

Crimes: murder; extermination; enslavement; imprisonment; other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 31: Wat Preah Net Preah and related detention and execution sites

Crimes: murder; extermination; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination and imprisonment.

Modes of Liability: commission (via JCE 1).

Crime Site 32: Phum Chakrey security centre and execution site

Crimes: murder; extermination; imprisonment.

Modes of Liability: commission (via JCE 1).

Crime Site 33: Prey Taruth execution site

Crimes: murder; extermination.

Modes of Liability: commission (via JCE 1).

Crime Site 34: Wat Chamkar Khnol execution site

Crimes: murder; extermination; imprisonment; torture.

Modes of Liability: commission (via JCE 1).

Crime Site 35: Trapeang Thma Dam worksite

Crimes: murder; extermination; enslavement; imprisonment; persecution on political grounds against Northwest Zone cadres, their families and subordinates through the underlying offences of murder, extermination, enslavement, imprisonment and other inhumane acts (confinement/working in inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Sector 7, Northwest ZoneCrime Site 36: Prison No. 8

Crimes: murder; extermination; enslavement; imprisonment; torture; persecution on political grounds against the “East Zone Evacuees” through the underlying offences of enslavement, imprisonment, torture and other inhumane acts (confinement/working in

inhumane conditions); other inhumane acts (confinement/working in inhumane conditions).

Modes of Liability: commission (via JCE 1).

Crime Site 37: Veal Bak Chunching execution site

Crimes: murder; extermination; persecution on political grounds against the “East Zone Evacuees” through the underlying offences of murder and extermination.

Modes of Liability: commission (via JCE 1).

Grave Breaches of the Geneva Conventions of 1949

The ICIJ advised YIM Tith that there is clear and consistent evidence that he may be responsible for the following Grave Breaches through the following modes of liability, committed as part of an international armed conflict between the Democratic Kampuchea and the Socialist Republic of Vietnam:

Sector 13, Southwest Zone

Crime Site 2: Kraing Ta Chan security centre

Crimes: wilful killing; unlawful transfer of civilians

Modes of Liability: commission (via JCE 1)

Crime Site 3: Preil Village execution site

Crimes: wilful killing; unlawful deportation or transfer of civilians

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1)

Crime Site 4: Wat Angkun

Crimes: wilful killing

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1)

Crime Site 5: Slaeng village execution site

Crimes: wilful killing; unlawful deportation or transfer of civilians

Modes of Liability: planning, ordering, instigating, and commission (via JCE 1)

Violation of Articles 501 and 506 of the 1956 Penal Code

The ICIJ advised YIM Tith that there is clear and consistent evidence that he may be criminally responsible for violations of Articles 501 and 506 of the 1956 Penal Code. The ICIJ advised YIM Tith that violations of Articles 501 and 506 (Premeditated Murder) of the 1956 Penal Code are defined and punishable under Articles 3 (new) and 39 of the ECCC Law.

The ICIJ advised YIM Tith that he is charged with the crime of Premeditated Murder, committed at the following sites through the following modes of liability:

Sector 13, Southwest Zone

Crime Site 1: Wat Pratheath security centre via planning, ordering, and commission (co-perpetration)

- Crime Site 2: Kraing Ta Chan security centre *via* commission (co-perpetration)
 Crime Site 3: Preil Village execution site *via* planning, ordering, and commission (co-perpetration)
 Crime Site 4: Wat Angkun *via* planning, ordering, and commission (co-perpetration)
 Crime Site 5: Slaeng Village forest execution site *via* planning, ordering, and commission (co-perpetration)
 Crime Site 6: Prey Sokhon execution site and Wat Ang Serei Muny *via* commission (co-perpetration)

Sector 1, Northwest Zone

- Crime Site 7: Koas Krala security centre *via* planning, ordering, and commission (co-perpetration)
 Crime Site 8: Anlong Vil Breng and related execution site *via* commission (co-perpetration)
 Crime Site 9: Thipakdei Cooperative (including at Wat Thipakdei security centre and Tuol Mtes security centre and worksite) *via* planning, ordering, and commission (co-perpetration)
 Crime Site 10: Kang Hort Dam worksite *via* planning, ordering, and commission (co-perpetration)
 Crime Site 11: Banan security centre *via* commission (co-perpetration)
 Crime Site 12: Khnang Kou security centre *via* planning, ordering, and commission (co-perpetration)
 Crime Site 13: Kampong Kol sugar factory *via* commission (co-perpetration)
 Crime Site 15: Banteay O Ta Krey execution site *via* commission (co-perpetration)

Sector 2, Northwest Zone

- Crime Site 17: Phum Veal security centre *via* commission (co-perpetration)
 Crime Site 18: Svay Chrum security centre *via* commission (co-perpetration)
 Crime Site 19: Tuol Seh Nhauv *via* commission (co-perpetration)
 Crime Site 20: Prey Krabau execution sites *via* commission (co-perpetration)
 Crime Site 21: Chanreangsei pagoda execution site *via* commission (co-perpetration)

Sector 3, Northwest Zone

- Crime Site 22: Wat Kirirum security centre *via* planning, ordering, and commission (co-perpetration)
 Crime Site 23: Wat Kandal security centre *via* commission (co-perpetration)
 Crime Site 24: Wat Banteay Neang security centre *via* commission (co-perpetration)

Sector 4, Northwest Zone

- Crime Site 25: Wat Thoamayutt security centre *via* planning, ordering, and commission (co-perpetration)
 Crime Site 26: Wat Samdech security centre *via* planning, ordering, and commission (co-perpetration)

Crime Site 27: Kampong Prieng commune including at Kach Roteh, Thmei, and Sala Trav villages and Wat Po Laingka/Kach Roteh security centre *via* planning, ordering, and commission (co-perpetration)

Crime Site 28: Reang Kerei commune *via* commission (co-perpetration)

Sector 5, Northwest Zone

Crime Site 29: Phnom Trayoung security centre and worksite *via* commission (co-perpetration)

Crime Site 30: Spean Sreng and Prey Roneam dam worksites *via* commission (co-perpetration)

Crime Site 31: Wat Preah Net Preah and related detention and execution sites *via* commission (co-perpetration)

Crime Site 32: Phnum Chakrey detention centre and execution site *via* commission (co-perpetration)

Crime Site 33: Prey Taruth execution site *via* commission (co-perpetration)

Crime Site 34: Wat Chamkar Khnol execution site *via* commission (co-perpetration)

Crime Site 35: Trapeang Thma Dam worksite *via* commission (co-perpetration)

Sector 7, Northwest Zone

Crime Site 36: Prison No.8 *via* commission (co-perpetration)

Crime Site 37: Veal Bak Chunching execution site *via* commission (co-perpetration)

A break was taken at 13.38. The Initial Appearance recommenced at 13.58.

Joint Criminal Enterprise

The ICIJ advised YIM Tith that he may be responsible for the crimes against humanity listed above and occurring within Sectors 1, 2, 3, 4, 5 and 7 in the Northwest Zone of Democratic Kampuchea, through, *inter alia*, his participation in a joint criminal enterprise. The ICIJ informed him that there is clear and consistent evidence that as of early or mid-1977 until at least 6 January 1979, Ta Mok engineered, coordinated and carried out, in concert with YIM Tith, IM Chaem, Ta Chay and other trusted Southwest Zone cadres installed at the zone, sector and district level in the Northwest Zone, an operation for the successful implementation of the following policies of the Communist Party of Kampuchea (“CPK”) in the Northwest Zone:

- The establishment and operation of cooperatives and worksites, which was implemented through the enslavement of the population;
- The regulation of marriage, which was implemented through, *inter alia*, the forced marriage of the inhabitants of the Northwest Zone;
- The reeducation, through imprisonment, forced labour, and subjection to inhumane conditions of so-called ‘bad elements’ and the killing of ‘enemies’ and ‘bad elements’ both inside and outside the CPK ranks; and

- The targeting of specific groups, namely Northwest Zone CPK cadres and former officials of the Khmer Republic, including both civil servants and former military personnel and their families.

The participants in this joint criminal enterprise intended to and implemented these policies through the commission of crimes under the ECCC jurisdiction namely the crimes against humanity of imprisonment, murder, extermination, enslavement, other inhumane acts, and persecution.

In relation to the Khmer Krom, the ICIJ advised YIM Tith that he may be responsible for crimes committed in the Southwest Zone at Wat Pratheat security centre, Kraing Ta Chan security centre, Preil Village execution site, Wat Angkun execution site, Slaeng Village forest execution site, Prey Sokhon execution site and Wat Ang Serei Muny; and in the Northwest Zone at Kampong Kol sugar factory, Phum Veal security centre, Svay Chrum security centre, Tuol Seh Nhauv execution site, Prey Krabau execution site, Kampong Prieng commune (including Kach Rotch, Thmei and Sala Trav villages), and Reang Kesei commune, through his participation in a joint criminal enterprise. This joint criminal enterprise existed from at least 1976 to January 1979, and included Ta Mok, YIM Tith, KHIEU Tom, Yeay Bau, PECH Chim, SEK Sam At *alias* Yeay Rim and other Southwest Zone cadres, who shared the common objective to implement, in specific areas of Democratic Kampuchea, a nation-wide plan for the elimination, in whole or in part, of the Khmer Krom.

The participants in this joint criminal enterprise intended to and implemented the plan through the commission of crimes under the jurisdiction of the ECCC, namely genocide by killing members of the group, causing serious bodily or mental harm to members of the group, and deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; the crimes against humanity of murder, extermination, enslavement, deportation, imprisonment, torture, persecution, and other inhumane acts; and grave breaches of the Geneva Conventions.

Lastly, the ICIJ advised YIM Tith that he may be responsible for crimes committed at Wat Pratheat security centre through his participation in a joint criminal enterprise. This joint criminal enterprise existed from at least 17 April 1975 until 6 January 1979, and included YIM Tith, KHIEU Tom, Yeay Bau, Ta Pring and security centre personnel, who shared the common objective of furthering a system of ill-treatment.

The participants in this joint criminal enterprise intended to and implemented the plan through the commission of crimes under the jurisdiction of the ECCC, namely the crimes against humanity of imprisonment, enslavement, torture, murder, extermination, other inhumane acts, persecution, and genocide by killing and causing serious bodily or mental harm to the group.

Indication of crime sites not to be investigated further

The ICIJ announced that he was currently considering not investigating the following allegations further and will invite the parties in due course to make representations on the matter:

- all allegations relating to Wat So Ben security centre (1SS, para. 12)
- all allegations relating to Saom village (1SS, para. 12)
- allegations of targeting of Khmer Krom and Vietnamese within Thipakdei cooperative (2SS, para. 8)
- allegations relating to Wat Banteay Treng security centre (3IS, para. 62)
- allegations of mass executions at Phnom Tra Cheak Chet (1SS, para. 7)
- allegations relating to Damnak Reang execution site (1SS, para. 9)
- all allegations relating to Trach Kraol Prison also known as Boeng Bat Kandal prison (1SS, para. 16; 2SS, para. 7)
- all allegations relating to Tuol Purchrey execution site (3IS, para. 73)
- allegations of sexual violence against Khmer Krom and “East Zone Evacuees” within Bakan District, Sector 2, Northwest Zone (2SS, para. 7)
- allegations relating to La-ang Kuoy Yum caves (3IS, para. 70)
- allegations relating to the targeting of Vietnamese within Reang Kesei commune (2SS, para. 8)
- allegations of forced marriage in Krahok village, Banan commune (2SS, para 6; 4SS, para. 6)
- allegations relating to targeting of Vietnamese within Preah Net Preah district (2SS, para. 9)

The ICIJ advised YIM Tith that he may, before the end of the investigation, decide to charge him with additional crimes based on allegations in the submissions should the ICIJ become satisfied that there is clear and consistent evidence indicating that YIM Tith may be responsible for such crimes. He would then be summoned to a further appearance and given sufficient time to prepare his defence.

The ICIJ informed YIM Tith that:

- at all times during the judicial investigation, he has the right to request that the Co-Investigating Judges issue any order or undertake any investigative action that he considers useful for the conduct of the investigation as provided in Internal Rules 55(10) and 58(6);
- that he will be given a reasonable period of time to review the case file and to participate in the investigation;
- that his lawyers have the right to consult the original case file, subject to reasonable limitations to ensure the continuity of the proceedings, as provided in Internal Rule 55(11).

The ICIJ advised YIM Tith that he will not be placed in provisional detention at this time but must remain at the disposal of the ECCC.

[REDACTED]

[REDACTED]?

[REDACTED]

[REDACTED]"

[REDACTED]

[REDACTED]

YIM Tith will voluntarily surrendere his passport to his local police station in Battambang, and indicated that he may need the passport for occasional travel to Thailand for medical check-up, and he agreed to be present at home for weekly visits by the local police at dates and times to be arranged.

The ICIJ declared he would make an order to that effect to the Judicial Police of the ECCC in due course.

The ICIJ advised YIM Tith that he must notify the ICIJ of any change of address.

004/07-09-2009-ECCC-OCIJ ៀ២ / No:D281

The ICIJ advised YIM Tith that under Rule 57(3)(b) of the Internal Rules, all service or notification at the last address provided will be deemed to be valid.

YIM Tith agreed to have documents served on him by email to one or more of his Co-Lawyers.

YIM Tith waived the reading back aloud of this Written Record of Initial Appearance in Khmer.

The audio/video recording ceased at 14.22.

The original of the audio/video recording of this Initial Appearance was labeled and sealed in the presence of YIM Tith and his Co-Lawyers. YIM Tith, his Co-Lawyers, the Greffier, and the ICIJ signed the sealed original of this recording. A copy of this recording was given to YIM Tith.

A copy of this Written Record of Initial Appearance was provided to YIM Tith.

YIM Tith had no objections and agreed to place his thumbprint on it.

The Initial Appearance concluded at 14.55 on 9 December 2015.

Judge Michael Bohlander
International
Co-Investigating Judge

YIM Tith
Charged Person

CHHAY Chanlyda
Greffier

Signature

Thumbprint

Signature

SO Mosseny
National Co-Lawyer of
Yim Tith

Suzana Tomanović
International Co-Lawyer of
Yim Tith

SAUR Sokhalay
Interpreter

Signature

Signature

Signature

NGOUN Kimly
Interpreter

Signature