



## **Cambodia: Judges Investigating Khmer Rouge Crimes Should Resign October 3, 2011**

### *UN Office of Legal Affairs Fails to Act Despite Judicial Misconduct*

(New York) – The two investigating judges at the hybrid Extraordinary Chambers in the Courts of Cambodia (ECCC), created to try Khmer Rouge mass crimes and to bring justice to the Cambodian people, have egregiously violated their legal and judicial duties and should resign, Human Rights Watch said today.

The co-investigating judges, You Bunleng (Cambodia) and United Nations-nominated Siegfried Blunk (Germany), have failed to conduct genuine, impartial, and effective investigations into ECCC cases 003 and 004. It appears likely that both cases will be dropped without a serious investigation having taken place, Human Rights Watch said.

The two cases comprise five suspects and were submitted by the international co-prosecutor to the Office of the Co-Investigating Judges in 2009. In April 2011, the co-investigating judges declared that they had concluded their investigation into case 003. A formal “closing order” not to send the suspects for trial is expected soon. Current and former ECCC personnel allege that the judges also plan to close and dismiss case 004 without a genuine, impartial, and effective investigation.

“The investigating judges concluded their investigation into case 003 without notifying the suspects, interviewing key witnesses, or conducting crime site investigations,” said Brad Adams, Asia director at Human Rights Watch. “This would be shocking for an ordinary crime, but it’s unbelievable when it involves some of the 20th century’s worst atrocities. The Cambodian people have no hope of seeing justice for mass murder as long as these judges are involved.”

Since its establishment, the ECCC has been subject to frequent politically motivated interference from the ruling Cambodian People’s Party. Many of the government’s current leaders are former Khmer Rouge officials. Prime Minister Hun Sen, who controls the Cambodian judiciary, in which the ECCC is embedded, has repeatedly said that he objects to cases 003 and 004 proceeding. ECCC sources have told Human Rights Watch that this political interference is responsible for the judges’

failure to investigate the cases properly and has led to staff resignations at the Office of the Co-Investigating Judges.

“We have long expressed concern that Cambodian judges on the Khmer Rouge tribunal would have no choice but to do what Hun Sen and other senior officials wanted,” Adams said. “The ECCC was only going to be as strong as its weakest international link. Judge Blunk is that link.”

Should the co-investigating judges file a closing order in either case, the international co-prosecutor can appeal to the pretrial chamber. However, given the politicized nature of the ECCC, the cases will almost certainly be dismissed.

The law establishing the ECCC says that the tribunal was created “to bring to trial senior leaders of Democratic Kampuchea [the Khmer Rouge regime] 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.” As many as two million people in Cambodia were killed or died from disease or starvation during this period, when the Khmer Rouge were in power.

Thus far, the ECCC has only tried one person, Kaing Guek Eav (known as Duch), the director of the infamous S-21 (“Tuol Sleng”) torture center. He was convicted of crimes against humanity and war crimes in case 001 and sentenced to 35 years in prison, reduced by time served and mitigation to 19 years. The case and sentence are on appeal to the Supreme Court chamber of the ECCC. Case 002, in which the aging Khmer Rouge senior leaders Nuon Chea, Khieu Samphan, Ieng Sary, and Ieng Thirith have been charged with genocide, crimes against humanity, and war crimes, is scheduled to begin substantive hearings in 2012.

Human Rights Watch said that the failure by Judges Blunk and Bunleng to conduct proper and good-faith investigations violates their responsibilities to act impartially. Under the ECCC law, its internal rules, and international law, the co-investigating judges have an obligation to investigate the facts alleged in the cases submitted by the prosecutor. Among other requirements, international jurisprudence requires these investigations to be independent, prompt, and effective in being able to identify and punish those responsible, and open to public scrutiny [2].

While Kofi Annan, UN secretary-general at the time the ECCC was established in 2003, recognized the essential oversight role of the UN in ensuring that the ECCC successfully prosecuted Khmer Rouge mass crimes, current UN officials have failed in that responsibility. The OLA should initiate an independent investigation into the conduct of the co-investigating judges and UN oversight of the ECCC so that lessons can be learned from the experience.

The language in the agreement between the UN and Cambodia calling for the prosecution of those “most responsible” for Khmer Rouge crimes was written precisely for the kind of people facing charges in cases 003 and 004, Human Rights Watch said. If the court only investigates cases involving the top leadership of the Khmer Rouge, lower-ranking mass murderers will continue to remain at liberty, often in the same villages as the families of their victims.

“The UN is burying its head in the sand by failing to respond to the numerous credible allegations of judicial misconduct,” Adams said. “If the UN doesn’t act quickly to ensure that these cases are fully investigated, the tribunal’s final shreds of credibility will be lost and the UN will have some hard questions to answer about its own actions.”

### **Failure to Investigate Cases 003 and 004 Properly**

ECCC cases 003 and 004 are aimed not at the Khmer Rouge’s very top leadership, who are charged in case 002, but at other leaders also most responsible for serious crimes during the Khmer Rouge period. In 2008, the international co-prosecutor accused the Khmer Rouge air force commander, Sou Met, and navy commander, Meas Muth, of committing crimes against humanity and war crimes in case 003. The international co-prosecutor accused three Khmer Rouge regional officials – Aom An, Yim Tith, and Im Chem – of committing genocide and crimes against humanity in case 004. Documents filed in the two cases allege a total of 40 distinct crime bases. (See below summaries of the allegations against the five suspects.)

Hun Sen has made many statements opposing cases 003 and 004. In 1999, before the tribunal was even established, he stated that he did not want any more than four or five Khmer Rouge suspects put on trial. After an October 2010 meeting in Cambodia between Hun Sen and United Nations Secretary-General Ban Ki-moon, Foreign Minister Hor Namhong announced that the prime minister “clearly affirmed” that no further cases would be allowed. The prime minister has no legal authority to make such a decision for the court, but that has not stopped Hun Sen and other officials from giving instructions to Cambodian personnel at the ECCC, Human Rights Watch said.

The decision to investigate cases 003 and 004 has been mired in controversy from the outset. The first international co-prosecutor, Robert Petit, conducted an investigation and decided there was sufficient evidence to submit the cases to the co-investigating judges. In a politically motivated decision reflecting Hun Sen’s views, the Cambodian co-prosecutor, Chea Leang, tried to block the filing of charges, claiming that the suspects did not fit the definition of “most responsible” under the ECCC law. However, in the Duch case, the trial chamber concluded that although Duch was not a senior leader, he was “one of those most responsible” – meaning those at lower levels who were directly implicated in the most serious atrocities – for Khmer Rouge crimes.

The ECCC's pretrial chamber, made up of three Cambodian and two international judges, ruled that there was sufficient evidence to proceed. While all three Cambodian judges voted to block the case, both international judges voted in favor of referring the case to the co-investigating judges. The votes of four of the five judges in the pretrial chamber are required to block a case at this stage under the ECCC's supermajority formula. The formula was created out of concerns from the Cambodian public, the UN and international donors that the government would give political instructions to Cambodian judges. Because only the three Cambodian judges voted to block the case, it was therefore allowed to proceed and was sent to the co-investigating judges.

The international co-prosecutor on September 7, 2009, submitted the five suspects' cases to the co-investigating judges. The UN prosecutor's "Introductory Submissions," which outlined the evidence against the five, ran to more than 200 pages, with thousands of pages of supporting information. No serious investigative action took place before the co-investigating judges filed their notice on April 29, 2011, that they had closed their investigation into case 003. The co-investigating judges offered no explanation and claimed that they did not need to provide any.

A week later, Stephen Heder, a leading expert on the Khmer Rouge, wrote to Blunk saying that he was resigning as a consultant from the Office of the Co-Investigating Judges, in part because of "the judges' decision to close the investigation into case file 003, effectively without investigating it, which I, like others, believe was unreasonable." The investigating judges' entire UN legal team and many of their other UN staff have also quit.

On May 9, the international co-prosecutor, Andrew Cayley, challenged the co-investigating judges' decision and made a formal request for further investigation. Cayley laid out a road map for a serious and effective investigation, asking Bunleng and Blunk to:

Summon and question the suspects named in the Case File 003 Introductory Submission, and notify them that they are under investigation;  
Interview additional individuals who have been identified as potential witnesses thus far;  
Interview or re-interview witnesses identified in Case File 002, focusing on the specific allegations contained in the Case File 003 Introductory Submission;  
Examine further the crime sites (including by searching for mass grave locations);  
Place additional evidence on the Case File, including by transferring further evidence from Case File 002 to Case File 003; and  
Further investigate the involvement of the Case 003 suspects in the crimes, including the transfer of prisoners under their control to S-21, their receipt of "confessions" taken from prisoners murdered at S-21, and their involvement in further arrests.  
Referring to the original submission to the investigating judges, Cayley identified possible crime sites and episodes, including the S-21 torture center presided over

by Duch; the Kampong Chhnang airport construction site, where forced labor reportedly occurred on a mass and deadly scale; purges of Khmer Rouge cadres; and Khmer Rouge incursions into Vietnam. Cayley specifically suggested investigating other crime sites and episodes, including:

S-22 Security Center in the Phnom Penh area;  
Wat Eng Tea Nhlen Security Center in Kampong Som province;  
Stung Hav rock quarry forced labor site in Kampong Som;  
The capture of foreign nationals off the coast of Cambodia and their unlawful imprisonment, transfer to S-21 or murder; and  
Security centers operated in Rattanakiri Province.  
Cayley explained his request, saying:

The International Co-Prosecutor will request these actions as he is of the view that the crimes alleged in the Introductory Submission have not been fully investigated. He [Cayley] has a legal obligation under the Internal Rules and the Law of the ECCC to identify and request all reasonable investigative actions which should be taken by the Co-Investigating Judges before a decision is made as to the whether or not any individuals should be indicted and sent for trial.

Blunk and Bunleng did not act on this information, but instead, on June 7, refused Cayley's request. They demanded that he retract his request and, in an extraordinary step, suggested that he could be held in contempt of court on the specious grounds that by outlining the steps necessary to conduct a serious investigation he had breached judicial confidentiality. Cayley refused.

Blunk and Bunleng's attempts to censor the prosecutor and threaten him with legal action show the lengths to which they are prepared to go to prevent cases from being investigated, Human Rights Watch said.

Government-appointed court officials have made it clear both publicly and privately that cases 003 and 004 will not be allowed to proceed. On March 17, Chan Dararasmey, deputy national co-prosecutor at the ECCC, told a conference on victim participation in the ECCC that there would be no further prosecutions. "There will be no case 003 and 004," he said.

On August 8, Blunk and Bunleng publicly announced that they had "serious doubts" about whether any 004 suspects would be sent for trial, claiming that none would fall under the court's jurisdiction as "most responsible." The basis for these doubts is unclear, given that the ECCC in the verdict against Duch, who was not a high-ranking Khmer Rouge official, indicated that those "most responsible" includes those at lower levels who are directly implicated in the most serious atrocities. A final closing order dismissing case 003 is expected soon on the same basis. But as the case summaries below show, the available evidence against all the suspects in

cases 003 and 004 suggests involvement in genocide, war crimes, and crimes against humanity involving the deaths of very large numbers of people.

Although Cayley can appeal to the pretrial chamber if the co-investigating judges file a closing order in either case, the cases will almost certainly be dismissed, given the political nature of the ECCC. On this appeal the supermajority rule does not apply, meaning that the decision of the Cambodian judges, who have a three-to-two majority in the chamber, would stand on its own. Since the ECCC was established, the Cambodian judges in the five member pretrial chamber have consistently toed the government's line.

### **Mistreatment of Civil Parties and Victims**

Human Rights Watch is also concerned about the co-investigating judges' outrageous treatment of civil parties. The ECCC law broke new ground by allowing victims of Khmer Rouge crimes and their families to participate in cases to present evidence, request investigative acts, and seek compensation. But in a blatant effort to ensure closure and dismissal of the cases by excluding evidence generated through victim participation, the co-investigating judges have rejected civil party applications on flimsy grounds, contrary to Cambodian law and international jurisprudence, including that of the ECCC itself in cases 001 and 002.

From everything that Human Rights Watch has been able to ascertain, none of the hundreds of civil party applications in cases 003 and 004 have been accepted by the co-investigating judges, effectively denying victim participation rights and obstructing investigations. The judges have rejected the petitions of at least three people seeking to participate as victims. One is a Cambodian woman whose husband was made to engage in forced labor and was later killed by the Khmer Rouge. The judges said her claimed psychological harm was "highly unlikely to be true." They also defined the requirement of "direct" harm so narrowly as to exclude anyone other than the actual victim, which means no surviving family members could file a case.

### **UN Failure to Respond**

While the UN has sent two fact-finding teams to Phnom Penh, it has taken no meaningful action in response to the failure of the co-investigating judges in cases 003 and 004, Human Rights Watch said. This is particularly troubling in that the involvement of the UN with the ECCC was intended to be the foundation for the tribunal's success in prosecuting mass crimes during Khmer Rouge rule. In 2002, then-Secretary-General Annan and Hans Corell, the chief of the UN Office of Legal Affairs, withdrew from negotiations with Cambodia to set up a court to try Khmer Rouge atrocities, citing fears about a lack of judicial independence, competence, and corruption. UN officials insisted on the need for an independent, international prosecutor instead of co-prosecutors, and a majority of international judges to insulate the court from interference by the Cambodian government.

However, the UN General Assembly, at the behest of Japan, Australia, France, and the United States, subsequently adopted a resolution calling on the secretary-general to conclude an agreement with the Cambodian government. This led to the ECCC in its current form with co-prosecutors, a majority of Cambodian judges, and the supermajority formula to resolve some legal disputes. Annan complied, but he also issued a scathing indictment of the court's structure and the role of donor countries in undermining international standards. In a March 31, 2003 report [3] to the General Assembly, Annan stated:

I cannot but recall the reports of my Special Representative for human rights in Cambodia, who has consistently found there to be little respect on the part of Cambodian courts for the most elementary features of the right to a fair trial. I consequently remain concerned that these important provisions of the draft agreement might not be fully respected by the Extraordinary Chambers and that established international standards of justice, fairness and due process might therefore not be ensured. Furthermore, in view of the clear finding of the General Assembly ... that there are continued problems related to the rule of law and the functioning of the judiciary in Cambodia resulting from interference by the executive with the independence of the judiciary, I would very much have preferred that the draft agreement provide for both of the extraordinary Chambers to be composed of a majority of international judges.

UN participation and oversight has been seen as essential to making the ECCC a fair and competent tribunal because of the UN's ability to bring professionalism and impartiality to the process. This assumption is now in question.

Recognizing the difficulty the tribunal would have ensuring fair justice, Annan in his 2003 report suggested the UN might one day have to withdraw from the ECCC:

Any deviation by the Government from the obligations undertaken could lead to the United Nations withdrawing its cooperation and assistance from the process.

Unlike their predecessors, the current secretary-general, Ban Ki-moon, and the Office of Legal Affairs have shown little inclination to ensure that the ECCC fulfills its responsibilities under Cambodian and international law. UN officials have been unwilling to undertake a serious investigation to ensure proper judicial conduct by Blunk, the UN nominee, although the matter has been raised repeatedly by ECCC officials, Human Rights Watch, and other nongovernmental organizations.

Instead of taking action to safeguard the ECCC, the secretary-general on June 14 issued a statement [4] claiming that the UN has no responsibility to address the

scandal engulfing the ECCC and made the claim that the ECCC is an “independent judicial process.” The statement said:

The announcement made by the Co-Investigating Judges on 29 April 2011 that they have decided to conclude their investigation in Case 003, is an interim procedural step. Issues related to that decision will be the subject of further consideration by the Co-Investigating judges, the Co-Prosecutors, and the Pretrial Chamber. Any other proceedings that may be initiated by the Co-Investigating Judges will also be subject to the independent judicial process.

The secretary-general’s statement ignores longstanding and blatant Cambodian government interference in the ECCC and the acquiescence of the co-investigating judges in that interference, Human Rights Watch said.

### **Summaries of Cases 003 and 004**

The information in this section is primarily from now publicly available files in cases 003 and 004, with additional material from other public and private sources, including Human Rights Watch research. The allegations in these summaries make it clear that the suspects in these cases fall into the “most responsible” category of the ECCC statute.

#### ***Sou Met, alias Sou Samet, Suspect in Case 003***

The international co-prosecutor has accused Sou Met of crimes against humanity and war crimes.

Met, the son of a Khmer Rouge senior leader who died in the late 1960s, is a longtime veteran of the movement. During the 1970-75 war between the Khmer Rouge and the Khmer Republic, Met was a leading cadre of Southwest Zone Division 1, which fought in the Kampong Chhnang and Kampong Speu areas. Elements of the division or other units under its authority were involved in the seizure of Phnom Penh and the provincial town of Kampong Chhnang on April 17, 1975, the forced relocation of urban residents to the countryside, and the mass extrajudicial executions of defeated Khmer Republic officers and officials.

After April 17, 1975, Met became secretary of one of the Khmer Rouge’s Center (main force) Divisions, designated 502, which incorporated a newly established air force and related specialized units. It was headquartered at Pochentong, Phnom Penh’s airport. He also became an assistant to the Central Committee. Division 502 reported to the Khmer Rouge General Staff and Military Committee, headed respectively by a Standing Committee member, Son Sen, and the party secretary, Pol Pot (both deceased). It comprised multiple regiments and other subordinate units totaling 5,000 to 6,000 combatants, with contingents deployed at various times throughout the country, including to the Northwest, North, West, Southwest,



East, and Northeast Zones. Met underwent political training at the Central Committee level.

Met frequently attended gatherings under General Staff auspices with other center division and center military unit secretaries, at which they reported on their units' activities, received party instructions and endorsed party policies. These meetings dealt in particular with Khmer Rouge policies and practices regarding the elimination of the Khmer Rouge's purported internal and external enemies, which was characterized as "national defense work" and included the execution of internal enemies and cross-border attacks on villages in Vietnam.

Met remained in direct charge of Division 502 until late 1978, when he was promoted and given additional duties. He became a member of the General Staff, reportedly becoming a deputy to its chief, Son Sen, is believed to have been elevated to de jure Central Committee membership, and was given at least part-time responsibility over a major field command on the Cambodian border with Vietnam.

Like other military units at all levels throughout the country, Division 502 had responsibility at least for security around the perimeters of its places of deployment and conducted arrests of ordinary people deemed suspicious, such as in the vicinity of Pochentong, either detaining them for interrogation and possibly for execution, or turning them over to the S-21 interrogation center for disposition. It also had primary responsibility for identifying alleged "enemies" in its own ranks, either sending them to its own S-22 Security Office for Pochentong-Phnom Penh, elsewhere for interrogation, or to S-21. As a Center military unit, Division 502 further cooperated closely with S-21 in arresting division cadre and combatants identified as "enemies" by S-21. Such arrests started in 1975 and continued through 1978, implicating Met in the massive torture and killings committed at S-21.

From at least 1976, Division 502 was in charge of overseeing the forced labor site in Kampong Chhnang province for the construction of a strategic back-up military airfield, which was increasingly used as a re-education site for detaining and punishing military and other people purged from their units for allegedly being "no-good elements" or otherwise being supposedly problematic politically. The largest numbers were sent to the Kampong Chhnang worksite in 1978 in connection with a massive purge of the Khmer Rouge and its armed forces in the East Zone. While some of those arbitrarily consigned to punitive hard labor under extremely inhumane conditions there were eventually deemed rehabilitated enough to be reassigned to their units, many others died from the conditions to which they were exposed, were executed locally by Division 502 or at its behest at nearby civilian security offices for various supposed transgressions, or were sent to S-21, either at the division's initiative or at the request of S-21. Local executions escalated dramatically in late 1978-early 1979.

Finally, in late 1978, the newly promoted Met was dispatched to the Sector 505 battlefield on the border with Vietnam, where he was allegedly involved in a new wave of purges affecting Center military and local administrative cadre in the area, some of whom were sent to S-21 for allegedly allowing Vietnamese penetration of Cambodian territory.

### ***Meas Muth, alias Achar Nen, Suspect in Case 003***

The international co-prosecutor has accused Meas Muth of crimes against humanity and war crimes.

Muth was involved in the Cambodian Communist movement from at least the 1960s, when he was part of a revolutionary network of Buddhist monks in pagodas in Phnom Penh, most of them originating from the Southwest Zone and linked to the late Chhit Choeun, known as Ta Mok. Mok had been a monk in Phnom Penh before joining the Communist movement in the 1940s. Mok became secretary of the Southwest Zone in the late 1960s. He was also a member of the Khmer Rouge's highest leadership body, the Standing Committee, and eventually became a deputy secretary of the Khmer Rouge Central Committee, ranking third in the party hierarchy.

After the civil war between the Khmer Rouge and the Khmer Republic began in 1970, Muth became deputy secretary of Southwest Zone Sector 13, which included Mok's home province of Takeo. By this time Muth had married one of Mok's daughters, Khom, who was a party cadre in Tram Kak district, where Mok was born. In 1973, Muth was made secretary of Southwest Zone Division 3, which fought Khmer Republic forces in Takeo, Kampot, and Kampong Speu provinces. On April 17, 1975, some detachments of the division entered Phnom Penh, while others advanced on the port town of Kampong Som. Division 3 was involved in the forced relocation of urban residents of both towns to the countryside and mass extrajudicial executions of defeated Khmer Republic officers and officials.

After April 17, 1975, Muth became secretary of Center Division 164, which incorporated newly established maritime navy and related specialized units. It was headquartered in the Kampong Saom area, with bases in several ports along the sea coast and on islands in the Gulf of Siam. Muth had command over its 8,000 to 10,000 forces. He also became secretary of Kampong Saom municipality, which after the forced removal of its previous urban dwellers was partly repopulated by several thousand civilian port workers and other civilian workers assigned to industries in and around the town. Muth reportedly shared authority over this new worker population with various national ministries, but had primary responsibility for Kampong Saom security. He also allegedly had responsibility over some parts of the neighboring Sector 37 of the post-war West Zone, into which many previous Kampong Saom residents had been transferred as "new people" under inhumane conditions that were among the harshest in Cambodia. Like Sou Met, Muth was an assistant to the Central Committee.

Division 164 reported to the General Staff and Military Committee, headed by Standing Committee Member Son Sen and Party Secretary Pol Pot respectively. Muth underwent political training at the Central Committee level. He frequently attended gatherings under General Staff auspices with other center division and center military unit secretaries, at which they reported on their units' activities, received party instructions and endorsed party policies. These meetings dealt in particular with Khmer Rouge policies and practices regarding the elimination of the Khmer Rouge's purported internal and external enemies, characterized as "national defense work." This included the execution of internal enemies and cross-border attacks on villages in Vietnam.

Muth remained in direct charge of Division 164 until late 1978, when he was promoted and given new duties. He became a member of the General Staff, is believed to have been elevated to de jure Central Committee membership, and was given full political and military authority over part of the Cambodian border (Sector 505) with Vietnam and command of Center units deployed there.

Like other Khmer Rouge military units at all levels throughout the country, Division 164 had responsibility at least for security around the perimeters of its places of deployment in the Kampong Saom area. It arrested workers accused of being "enemies" in or around the town and also, allegedly, ordinary people deemed suspicious in nearby areas of Sector 37, either detaining them for interrogation and execution itself or turning them over to local security offices for disposition. The division reportedly took more direct charge of security vis-à-vis the civilian population of Kampong Saom in 1977 following a purge of non-Division 164 Khmer Rouge, which Muth assisted. It also had primary responsibility for identifying alleged "enemies" in its own ranks, either sending them to its own Security Office at Wat Entanhean in Kampong Saom, to its forced labor re-education site at Stung Hav, to other punitive locations under the division's own authority, or to S-21.

Muth or his immediate subordinates allegedly ordered local executions of both division personnel and ordinary people, without reference to higher levels of authority. The inhumane conditions enforced at sites like Stung Hav also led to deaths from starvation and disease among the laborers. Division 164 cooperated closely with S-21 in arresting division cadre and combatants identified as "enemies" by S-21. Such arrests started as early as 1976 and continued through 1978. Many of the early purge victims sent to S-21 were Division 164 cadre and combatants originating in the East Zone. Starting in 1976, cadre of Division 164 were transferred to other Center units to assist in purging them or to replace cadre already purged. Muth attended meetings at the General Staff in which the purge processes in other parts of Cambodia were discussed.

As the senior-most Khmer Rouge military authority involved in maritime operations after April 17, 1975, Muth was directly in charge of Division 164 detachments patrolling large parts of the Gulf of Siam, where they occasionally

engaged Vietnamese or Thai Navy vessels and more often attacked civilian Thai and Vietnamese fishing boats and boats carrying Vietnamese civilians trying to flee abroad. Thai and Vietnamese civilians were killed during these attacks. Vietnamese military personnel and civilians seized were sent to S-21 for execution, notably after the Khmer Rouge carried out attacks against Vietnam. Some captured Thai and a small number of Westerners intercepted by Division 164 off the coast were also killed at S-21.

In late 1978, Muth exercised Central Committee and General Staff authority to conduct a purge of the Khmer Rouge and local population there, with some victims sent to S-21 and others reportedly executed locally, while he appointed a new corps of cadre to posts in Sector 505 and to Center divisions deployed in areas of operation under his command.

### ***Aom An, alias Tho An, Suspect in Case 004***

The international co-prosecutor has accused Aom An of crimes against humanity and genocide.

An joined the Khmer Rouge after being a Buddhist monk in a pagoda under the movement's influence in the Khmer Rouge Southwest Zone. After the Khmer Rouge victory on April 17, 1975, An was appointed secretary of Kandal Steung district of Sector 25 of the Southwest Zone, under the authority of Zone Secretary Mok. Sector 25 comprised territories south and east of Phnom Penh, the population of which was forcibly transferred to previously Khmer Rouge-controlled zones after April 17.

A large proportion of the Phnom Penh population was initially transferred as "new people" to Kandal Steung and other districts of Sector 25, where many accused of being Khmer Republic officers or officials were soon executed in local security offices. Many others were subjected to forced labor and inhumane conditions, as a result of which they began to die of starvation and disease. Much of this "new people" population and other residents of Sector 25 were then subjected to a second wave of forced transfer in late 1975, sent in large numbers in an inhumane manner to distant parts of Cambodia, with considerable numbers dying on the way or soon after arrival.

By 1976, An was transferred to Sector 35, where he was a member of the Sector Committee. In this capacity, he oversaw forced labor, including construction of irrigation and other water-control works at the sector level and in its districts, where the inhumane working conditions imposed brought about many deaths from starvation and disease. He is also believed to have shared authority with other Sector 35 officials over the Sector Security Office and its many district security offices and lower-level detention facilities, which, like those elsewhere in Cambodia, were responsible for large-scale extrajudicial executions, torture and

other inhumane treatment of people arbitrarily detained as “traitors,” “enemies” or “no-good elements.”

Although most of those so accused in Sector 35 in this period were allegedly linked politically, socially or through family ties with the defeated Khmer Republic, from 1976 on they included people from within the ranks of the Khmer Rouge, its local administration and armed forces. They were arrested on district, sector or zone authority, on account of their supposed associations with the Khmer Republic, for purported connections to Vietnam, or because of other unsubstantiated “traitorous tendencies.” They also included members of the local Cham community, an Islamic ethnic minority targeted for repression, especially after the Cham reacted to the persecution with outbreaks of insurrection.

Sometime between March and May 1977, An was transferred and given a major promotion. He became secretary of Sector 41 in what had previously been the Khmer Rouge’s North Zone and was soon re-designated the Central Zone, of which he was made deputy secretary under Ke Pork, a member of the Khmer Rouge Central Committee. As zone deputy secretary, An is believed to have joined Zone Secretary Pork on the Central Committee, the Khmer Rouge’s second-highest leadership body, with nationwide authority and subordinate only to the Standing Committee. It normally gathered in Phnom Penh at least once every six months to report to the Standing Committee and receive its instructions.

An arrived in Sector 41 in the middle of a large-scale purge within the local Khmer Rouge ranks and an upsurge in cleansing of both “new people” relocated from former Khmer Republic areas and long-resident “veteran people.” All of this was pursuant to instructions from the Standing Committee and presided over by Pork, while An played a major role, and witnesses allege he personally gave instructions to seek out alleged “enemies” and other such elements.

Many victims of the intra-party purges in the North/Central Zone were sent to S-21 in Phnom Penh, where they were interrogated under torture and then executed. Lower-level Khmer Rouge cadre, “new people” and other members of the ordinary local population were extrajudicially executed or detained indefinitely under extremely inhumane conditions locally, mostly in district or lower-level and sector security offices in Sector 41 and elsewhere. As Sector 41 secretary, An had direct authority over that sector’s subordinate districts and lower administrative levels, ruling over territories in which increasingly inhumane practices were imposed on the population as a whole, while as zone deputy secretary, he had at least some authority in parts of its territory beyond Sector 41.

An presided over Kang Meas district, where alleged genocide was committed against the Cham from the second half of 1977, which spread nationwide in 1978. An is also implicated in a general escalation during 1978 of alleged crimes against humanity in the Central Zone and in Sector 41 in particular, with victims among all segments of the population, including members of the Khmer Rouge. As zone

deputy secretary, he was present as an authority at the major zone forced labor site to construct the “1 January Dam” and related irrigation works, a water-control project in for Sectors 42 and 43 started before his arrival but only completed once he was in place, and where many workers were extrajudicially executed or died from starvation or disease.

### ***Yim Tith, Suspect in Case 004***

The international co-prosecutor has accused Yim Tith of crimes against humanity.

Tith is a native of Tram Kak district, Takeo province. Tith was active in the Communist movement since at least the 1960s, having been a Buddhist monk first in Takeo and then in Phnom Penh. He eventually married a sister of Mok. During the 1970-75 civil war between the Khmer Rouge and the Khmer Republic, Tith became a leading cadre of Kirivong district in Southwest Zone Sector 13, Mok’s power base. By April 17, 1975, Tith was party secretary for Kirivong district, which bordered Vietnam. At some point, Tith also reportedly became at least a member of the Sector 13 Committee, which is believed to have given him at least some authority over the entire sector.

As Kirivong party secretary, Tith exercised direct authority over the district’s population, which from April 1975 included “new people” forcibly transferred from areas previously under Khmer Republic administration. He also had authority over a district security office, eventually located at Wat Pratheath, and lower-level security operations, which were responsible for identifying and ensuring the extrajudicial execution of alleged former Khmer Republic officers and officials and others, including long-term local residents accused of being “traitors” or “enemies.” Other people, “new people” and longer-term residents accused of being “no-good elements” or having supposedly untoward political “tendencies,” were arrested and held in security or detention offices throughout the district for hard labor re-education. Many died. Tith also oversaw a Kirivong administration that imposed inhumane living conditions leading to many deaths.

In mid-1978, Tith was reassigned with a significant promotion to the Northwest Zone, where he became secretary of Sector 1. He also became an important member of the Zone Committee, of which Mok had become secretary, concurrently with many other leadership posts, after a long series of murderous purges had virtually eliminated the original leading cadre corps of the Northwest Zone. Tith directly controlled at least Sector 1 and its subordinate districts and units and is believed to have had authority over at least some other parts of the Northwest. As such, he allegedly presided over the completion of the purge of veteran cadre at the local level and an escalated “cleansing” of the population as a whole, during which many were sent for extrajudicial execution at sector and district security offices or killed in other locations.

Certain groups, notably the ethnic Khmer Krom community and the last remnants of Cambodia's resident Vietnamese and those deemed Vietnamese, were evidently targeted for total elimination, while large numbers of people forcibly transferred from the East Zone in connection with the mid-1978 purges there were also killed. Conditions of life in the Northwest became even worse, resulting in upsurges in deaths from starvation and disease.

***Im Chem, alias Srei Chem, Suspect in Case 004***

The international co-prosecutor has accused Im Chem of crimes against humanity.

Chem is a native of Mok's home district of Tram Kak in what the Khmer Rouge designated Sector 13 of its Southwest Zone. Her family became involved in the Cambodian Communist movement from at least the 1960s, and she was active as a cadre in the movement from the outbreak of the civil war in 1970.

In 1976, Chem became a representative of Southwest Zone peasants in the Khmer Rouge-appointed People's Assembly, while her husband, Nop Nhen, was a district secretary in the zone. In mid-1977, she and Nhen were sent to Sector 5 in the Northwest Zone, where she became secretary of Preah Net Preah district and her husband secretary of Sisophon district. She remained in this post through the end of 1978.

The transfer of Chem and her husband to the Northwest Zone coincided with the beginning of one of the escalating waves of purges of the original Khmer Rouge cadre there and also with the arrival in the Northwest of many new Khmer Rouge officials from other zones to replace those purged. Chem and the other new cadre allegedly participated in further purges through early 1979.

Some of those purged in Preah Net Preah district and neighboring parts of Sector 5 after Chem was put into a position of authority were sent for extrajudicial execution at S-21, while others were killed or detained for punitive forced-labor and re-education locally, including at a number of sites in Preah Net Preah over which Chem directly presided or at least had some influence, such as Phnom Trayoung. The scope of the purges greatly intensified in mid-1978 and escalated by year's end amid violent infighting among rival Khmer Rouge power networks.

Chem also allegedly presided over forced labor for the construction of auxiliary water-control works linked to the Sector 5 Trapeang Thmar dam and irrigation project. Building began before she arrived but was only completed after she was put in charge of Preah Net Preah. The very harsh conditions imposed on the laborers allegedly under her control resulted in many deaths. Some laborers were executed at the water-control work site for complaining about conditions or being unable to cope with the demands. Moreover, the general conditions imposed on the overall population of Preah Net Preah were extraordinarily difficult and worsened in many parts of the district during Chem's rule, with large numbers of deaths from

starvation and disease. Those who complained or were deemed “lazy” for failing to do the required work were subject to execution or detention at punitive forced labor and re-education sites throughout the district.

Chem allegedly presided over a wave of killings of people suspected of harboring anti-regime sentiments as Khmer Rouge rule disintegrated in late 1978-early 1979 in the face of Vietnamese military advances, such as at Phnom Trayoung. Throughout Chem’s tenure as Preah Net Preah district secretary, executions and punitive forced labor particularly targeted people purportedly associated with the defeated Khmer Republic, those linked to purged local cadre, and those deemed to be “Vietnamese.”

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