

BEFORE THE OFFICE OF THE CO-INVESTIGATING JUDGES**EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA****FILING DETAILS****Case No:** 004/07-09-2009-ECCC/OCIJ **Party Filing:** Civil Party Lawyers**Filed to:** Co-Investigating Judges**Original Language:** English**Date of Document:** 04 March, 2016**CLASSIFICATION****Classification of the document**

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**CIVIL PARTY LAWYERS' REQUEST FOR INVESTIGATIVE ACTION AGAINST
AO AN AND ██████████ CONCERNING THE CRIME OF FORCED PREGNANCY**

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I. INTRODUCTION

1. The undersigned Civil Party Lawyers (CPL) respectfully submit this request for supplementary investigative action pursuant to Rule 55(10) of the Internal Rules (IR) of the Extraordinary Chambers in the Courts of Cambodia (ECCC).
2. In the Co-Prosecutor s Supplementary Submission regarding Forced Marriage and Sexual or Gender-Based Violence (2014 Supplementary Submission), the International Co-Prosecutor (ICP) presented evidence of forced marriage and sexual or gender-based crimes in districts under the control or authority of the Case 004 suspects.¹ It is our view that the factual allegations presented therein can amount to the distinct crime of forced pregnancy as a crime against humanity in the form of other inhumane act . In order to establish all elements of the crime of forced pregnancy, additional investigative actions are required.
3. The undersigned CPL therefore respectfully request the Office of the Co-Investigating Judges (OCJI) to conduct supplementary investigations to determine the intent of the Case 004 suspects AO An and █████ █████ to carry out grave violations of international law through the confinement of one or more women made forcibly pregnant.

II. PROCEDURAL HISTORY

4. On 20 November 2008, the ICP filed the Third Introductory Submission, opening a judicial investigation that named AO An (*alias* TA An), █████ █████ (*alias* █████) and IM Chaem as the suspects of the investigations into Case File 004.² Subsequently, the Co-Investigating Judges opened an investigation into the alleged crimes specified

¹ Office of the Co-Prosecutors, Case File 004/07-09-2009-ECCC/OCIJ, **D191**, *Co-Prosecutors' Supplementary Submission Regarding Forced Marriage and Sexual or Gender-Based Violence*, 24 April 2014 [hereinafter 2014 Supplementary Submission], para 1.

² Office of the Co-Prosecutors, Case File 004/07-09-2009-ECCC/OCIJ, **D1**, *Co-Prosecutors Third Introductory Submission*, 20 November 2008 [hereinafter Third Introductory Submission]

in that submission. On 24 April 2014, the ICP filed a supplementary submission regarding forced marriage and sexual or gender-based violence.³

5. On 3 March 2015, the International Co-Investigating Judge (ICIJ) charged IM Chaem in absentia.⁴ On 27 March 2015, the ICIJ advised AO An in his presence about the charged offences against him, including crimes against humanity and violations of Articles 501 and 506 of the 1956 Cambodian Penal Code.⁵ On 9 December 2015, the ICIJ charged █████ █████ with the crimes of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949 and violations of the 1956 Cambodian Penal Code.⁶
6. On 18 December 2015, the Co-Investigating Judges (CIJs) notified the parties and their lawyers of the conclusion of the judicial investigation against IM Chaem and issued a notice that they were inclined to dismiss the charges against IM Chaem.⁷ On 05 February 2016, the CIJs ordered the severance of IM Chaem from Case 004.⁸

III. REQUEST FOR PAGE EXTENSION AND FILING IN ONE LANGUAGE

7. Article 5.1 of the Practice Direction on Filings generally limits documents filed to the OCIJ to 15 pages in English language. Article 5.4, however, allows the OCIJ to grant an extension in exceptional circumstances.
8. The undersigned CPL submit that the present filing concerns a complex matter as it requires an in-depth analysis of the crime of forced pregnancy which has not been

³ 2014 Supplementary Submission, **D191**.

⁴ International Co-Investigating Judge, Case File 004/07-09-2009-ECCC/OCIJ, **D239**, *The Decision to Charge IM Chaem in Absentia*, 3 March 2015.

⁵ International Co-Investigating Judge, Case File 004/07-09-2009-ECCC/OCIJ, **D242**, *Written Record of Initial Appearance*, 27 March 2015.

⁶ International Co-Investigating Judges, Case File 004/07-09-2009-ECCC/OCIJ, **D281**, *Written Record of Initial Appearance*, 09 December 2015.

⁷ Office of the Co-Investigating Judges, Case File 004/07-09-2009-ECCC/OCIJ, **D285**, *Notice of Conclusion of Judicial Investigation Against Im Chaem*, 18 December 2015; Office of the Co-Investigating Judges, Case File 004/07-09-2009-ECCC/OCIJ, **D286**, *Notice of Intent to Dismiss the Charges Against Im Chaem and to Sever the Proceedings Against Her*, 18 December 2015.

⁸ Office of the Co-Investigating Judges, Case File 004/07-09-2009-ECCC/OCIJ, **D286/7**, *Order for Severance of Im Chaem from Case 004*, 05 February 2016.

addressed in any of the proceedings at the ECCC before. This involves not only the consideration of several national and international legal sources and the discussion of a broad array of legal arguments, but also the presentation and analysis of the relevant facts. Therefore, we respectfully request the OCIJ to extend the page limit to 25 pages.

9. This request is filed in English with a Khmer translation to be filed at the earliest opportunity. Article 7.1 of the Practice Direction on Filing of Documents before the ECCC⁹ sets out the general rule that documents are to be filed in Khmer language and either English or French, but Article 7.2 provides that, in exceptional circumstances, the OCIJ may authorize a filing in English in the first instance, with the Khmer translation to be filed at the first opportunity. The undersigned CPL submit that this filing should be treated as such an exceptional case. The request for investigative action on forced pregnancy may result in the need for a substantial number of additional witnesses to be interviewed and other investigative action to be undertaken. Since the investigations in Case 004 are moving expeditiously towards their conclusion, it is essential for this filing to be considered by OCJI, at least in English language, as soon as possible.

IV. APPLICABLE LAW

10. As an expression of the fundamental principle of the ECCC and fair proceedings **IR 55(10)** sets forth the right of the Co-Prosecutors, a Charged Person and the Civil Parties to make requests for investigative action:

At any time during an investigation, the Co-Prosecutors, a Charged Person or a Civil Party may request the Co-Investigating Judges to make such orders or undertake such investigative action as they consider useful for the conduct of the investigation. [...]

⁹ Filing of Documents before the ECCC, Practice Direction ECCC/01/2007/Rev. 8, amended 7 March 2012 [hereinafter Practice Direction on Filings].

11. Additionally, **IR 23(1)** provides, in relevant parts:

The purpose of Civil Party action before the ECCC is to:

- a) *Participate in criminal proceedings against those responsible for crimes within the jurisdiction of the ECCC by supporting the prosecution.*

12. With regard to the merits of the present submission, **Article 5** of the Law on the Establishment of the ECCC¹⁰ states:

The Extraordinary Chambers shall have the power to bring to trial all Suspects who committed crimes against humanity during the period 17 April 1975 to 6 January 1979. Crimes against humanity, which have no statute of limitations, are any acts committed as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds, such as:

- *Murder; extermination; enslavement; deportation; imprisonment; torture; rape; persecutions on political, racial, and religious grounds; and other inhumane acts.*

V. ADMISSIBILITY

13. The present submission is timely. Pursuant to **IR 55(10)** a Civil Party is entitled to make a request for investigative action at any time during an investigation as they consider useful.

¹⁰ Law on the Establishment of the Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the period of Democratic Kampuchea, as promulgated on 27 October 2004 [hereinafter Law on the Establishment of the ECCC], Article 5.

VI. FACTS RELEVANT TO REQUEST

14. The main goal of the Communist Party of Kampuchea s (CPK) policies was to adjust all aspects of the Khmer society and culture to conform to their radical communist ideology.¹¹ This resulted in the evacuation of cities and the enslavement of virtually the entire population of Democratic Kampuchea in ruthlessly run and inhumane agricultural co-operatives, factories and worksites.¹²
15. As a part of this ideological transformation traditional family structures were destroyed and the CPK attempted to remake society in the image of one collective family headed by *Angkar*.¹³ Accordingly, the Trial Chamber found in Case 002/1 that the regulation of marriage was one of the CPK s main policies.¹⁴ Existing families were usually separated through the collectivisation of the work and living arrangements in order to ensure absolute fidelity to the revolutionary cause.¹⁵
16. Unmarried men and women were systematically forced into marriages arranged by the CPK and then coerced to consummate these marriages.¹⁶ Such marriages were forced upon the victims in the context of an oppressive regime, which sought to exercise complete control over all aspects of the life of an individual.¹⁷ In many cases sexual intercourse to consummate the marriage took place under an explicit order and the threat of punishment as shown in Civil Party evidence in Case 004.¹⁸ It was one

¹¹ Office of the Co-Investigating Judges, Case File 002/19-09-2007-ECCC-OCIJ, **D427**, *Closing Order*, para 156; María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 9, attached as Annex 1.

¹² Third Introductory Submission, **D1**, para 7; Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 Aug. 2014, paras. 112, 116, 132, attached as Annex 2.

¹³ Elizabeth Becker, *When the War Was Over*, (1986), p. 226, attached as Annex 3; Office of the Co-Investigating Judges, Case File 002/19-09-2007-ECCC-OCIJ, **D427**, *Closing Order*, para 18; Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 Aug. 2014, paras. 199, 221.

¹⁴ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 Aug. 2014, para. 130.

¹⁵ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 Aug. 2014, paras. 116, 466, 601, 609.

¹⁶ For further details and evidence see: 2014 Supplementary Submission, **D191**, paras 2, 3, 4.

¹⁷ See description in the Third Introductory Submission, **D1**, paras. 6-8.

¹⁸ CHECH Sopha, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/42**, 13 October 2014, p. 20; KEO Theary, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/113**, 14 December 2014, p. 16; LY Lonn, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D118/248**, 13 May 2014,

tool the CPK used, among others such as arbitrary detention, extrajudicial killings and forced displacement, to ensure full obedience to the regime and to instil an atmosphere of fear and mistrust among the population.¹⁹ The practice of forced marriages contributed to these goals by reinforcing submissiveness and preventing close relationships based on a love match.²⁰

17. Moreover, forced marriages were an instrument for dictating and controlling the time and place of reproduction.²¹ While implementing their ideology of an agrarian revolution, the CPK faced massive population losses caused by executions, starvation, illness or exhaustion due to harsh labour conditions, which they needed to compensate for.²² Consequently, the CPK had to increase birth rates among the Cambodian population.²³ Thus, the purpose of the marriages was not the creation of a conjugal relationship as such, but rather a means to ensure population growth and strengthen the regime's workforce.²⁴

18. This conclusion is supported by the fact that newly married couples were only allowed to live together for a few days, before they were separated again to join their respective work units.²⁵ Several witness accounts substantiate a CPK policy to increase birth rates, including a witness in Case 002²⁶ who testified that he attended a meeting with Pol Pot in June 1978 in which he discussed the need to increase the population to between 20 and 30 million in order to have enough forces to protect the

p. 22; SOEN Ban, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/306**, 8 May 2015, p. 7.

¹⁹ Office of the Co-Investigating Judges, Case File 002/19-09-2007-ECCC-OCIJ, **D427**, *Closing Order*, para 157.

²⁰ KAO Sorn, *Written Record of Witness Interview*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/101**, 29 November 2014, p. 9.

²¹ Kalyanee Mam, *Democratic Kampuchea (1976-1979): Women as Instruments for Social Change*, (2000), The Documentation Center of Cambodia, p. 35-37, attached as Annex 4.

²² Meng-Try Ea, *Recent Population Trends in Kampuchea* in David A. Ablin and Marlowe Hood, (eds) *The Cambodian Agony*, p. 6-7, attached as Annex 5.

²³ María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 12.

²⁴ Beini Ye *Forced Marriages as Mirrors of Conflict Transformation in Peace Review: A Journal of Social Justice*, 23:4 (2011), p. 470, attached as Annex 6.

²⁵ Kalyanee E. Mam, *Democratic Kampuchea (1975-1979): Women as Instruments for Social Change*, (2000) The Documentation Center of Cambodia, p. 35.

²⁶ CHUON Thi alias THI Ov, *Written Record of Witness Interview*, Case File 002/14-08-2006, **D117/36.1.3**, 2 March 2010, p. 4.

country. To fulfil this goal, Pol Pot instructed lower echelons to organize marriages in order to increase the population. Numerous other witness interviews confirm the implementation of this plan.²⁷ One such witness stated:

*“The chief of my village told me to have sexual intercourse with my husband. [...] If I remained stubborn, the village chief would report to upper echelon and they would come to take me away that night.”*²⁸

VII. ARGUMENTS

A. PRINCIPLE OF LEGALITY

19. The investigation and prosecution of the crime of forced pregnancy as other inhumane act does not violate the principle of legality.
20. Crimes against humanity, committed through other inhumane acts, were part of customary international law in 1975. This has been established by previous ECCC jurisprudence. In Case 002/01 the Pre-Trial Chamber (PTC) ruled that the category of other inhumane acts in Article 5 of the ECCC Law is a crime in and of itself²⁹ and subsequently the Trial Chamber upheld this finding.³⁰
21. The recognition of other inhumane acts as a distinct crime against humanity under customary international law is consistent with longstanding and well-established international jurisprudence. Starting with the Nuremberg Charter at the International Military Tribunal³¹ this crime was recognised and later adopted by the International

²⁷ SREY Soeum, *Written Record of Witness Interview*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/125**, 16 December 2014, p. 13; PREAP Sokhoeum, *Written Record of Witness Interview*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/24**, 8 October 2014, p. 11; NAKRY Meas, *Written Record of Witness Interview*, Case File 004/07-09-2009-ECCC/OCIJ, **D118/212**, 1 April 2014, p. 19.

²⁸ THAN Yang, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/136**, 22 December 2014, p. 12.

²⁹ Pre-Trial Chamber, Case File 002/19-09-2007/ECCC/OCIJ (PTC 75), **D427/1/30**, *Decision Against Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 378, attached as Annex 7.

³⁰ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, paras. 435-437.

³¹ Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis Powers and the Charter of the International Military Tribunal (the Nuremberg Charter), 82 U.N.T.S. 279, entered into force on 8 August 1945. Article 6(c) states: *Crimes against Humanity: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during*

Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), the Special Court for Sierra Leone (SCSL) and finally by the ECCC.³² The widespread recognition of other inhumane acts as a residual category deliberately aims to encompass all manner of crimes against humanity that are not specifically enumerated.

22. By 1975, there was no doubt that individual criminal responsibility had been established for other inhumane acts under customary international law. By that time the elements of other inhumane acts were sufficiently specific and it was thus foreseeable for the charged persons that the implementation of a nationwide policy that caused great harm and suffering to the civilian population could constitute a crime against humanity. In Case 002, the PTC stated on the same legal question:³³

“For the objective test of accessibility and foreseeability to be met, it is sufficient to find that the notion of the criminal act was clear in the sense ‘generally understood’ without the necessity to refer to written law. The notion of ‘other inhumane acts’ was listed in law as a crime against humanity before 1975.”

23. This judgement corresponds to the finding of the ICTY Appeals Chamber.³⁴ In the case of *Stakic* the Chamber decided with reference to the Nuremberg Charter, the Tokyo Charter and other relevant sources:³⁵

“The notion of ‘other inhumane acts’ [...] cannot be regarded as a violation of the principle of nulleum crimen sine lege as it forms part of customary international law.”

the war, or persecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of domestic law of the country where perpetrated. , attached as Annex 8.

³² **ICTY**: *Prosecutor v. Stakic*, IT-97-24-A, Judgement (Appeal Chamber), 22 March, para. 315, [hereinafter '*Stakic* Appeal Judgement'], attached as Annex 9; **ICTR**: *The Prosecutor v. Nyiramasuhuko et al.*, ICTR-98-42-T, Judgement and Sentence (Trial Chamber II), 24 June 2011, para. 6127, attached as Annex 10; **SCSL**: *Prosecutor v. Brima et al* SCSL-04-16-A, Judgment (Appeal Chamber), 3 March 2008 ("AFRC Appeal Judgment"), paras 183, 198, attached as Annex 11; **ECCC**: Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, paras. 435-437.

³³ Pre-Trial Chamber, Case File 002/19-09-2007/ECCC/OCIJ (PTC 75), **D427/1/30**, *Decision Against Ieng Sary's Appeal against the Closing Order*, 11 April 2011, para. 385.

³⁴ *Stakic* Appeal Judgement, para. 315.

³⁵ *Stakic* Appeal Judgement, fn. 649.

B. FORCED PREGNANCY AS ‘OTHER INHUMANE ACT’

24. The undersigned CPL submit that the crime of forced pregnancy constitutes a crime against humanity under Article 5 of the Law on the Establishment of the ECCC in the form of other inhumane act . It meets the required criteria for other inhumane acts and thus falls within the jurisdiction of the ECCC.

I. General Elements of Forced Pregnancy as Other Inhumane Act

25. As set forth by the Trial Chamber in the Case 002/1 Judgement³⁶, the crime against humanity of other inhumane acts requires the following general elements:

- a) *‘Other inhumane acts’ are an act or omission of the accused or his subordinate:*
 - (i) *causing serious bodily or mental harm or constituting a serious attack on human dignity; and*
 - (ii) *performed deliberately with the intent to inflict serious bodily or mental harm or commit a serious attack upon the human dignity of the victim at the time of the act or omission.*
- b) *Acts or omissions must be of a nature and gravity similar to other enumerated crimes against humanity; the severity to be assessed on a case-by-case basis with due regard for the individual circumstances of the case.*

In addition, the conduct has to meet the chapeau requirements of crimes against humanity: the inhumane act must be committed as part of a *widespread or systematic attack directed against a civilian population on national, political, ethnical, racial or religious grounds.*”³⁷

³⁶ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, paras. 437-438.

³⁷ Article 5 of the Law on the Establishment of the ECCC.

(1) Causing Serious Bodily or Mental Harm or Constituting a Serious Attack on Human Dignity

26. The contentious conduct must consist of an infliction of serious bodily or mental harm or constituting a serious attack on human dignity. The facts presented in the following paragraphs will demonstrate why the impregnation of women as practiced in the context of forced marriages during the Khmer Rouge regime meets this threshold.
27. As a starting point, a pregnancy under the circumstances described above must be distinguished from a pregnancy under ordinary circumstances. As a biological necessity, pregnancy and childbirth always entail a certain amount of pain, medical symptoms and temporary physical limitations for the women giving birth to a child. Therefore, the present consideration will take into account any pregnancy-related pain and suffering only if it goes beyond the consequences of an ordinary pregnancy and results from the specific circumstances under the Khmer Rouge regime.
28. Moreover, it needs to be emphasized that the children born of such pregnancies are not considered as harm or undesirable consequence. The factors to be considered for the determination of the extent of harm suffered are the conditions of the victim during to the period of the pregnancy, the circumstances of conception, childbirth, and the immediate aftermath.
- a. Harsh conditions during pregnancy
29. The reality of a pregnancy under the duress of the Khmer Rouge regime meant to endure nine months of change to one's body during a time when the vast majority of the Cambodian population was forced to perform hard physical labour and subjected to physical violence while having no access to sufficient food or medical treatment. All of these are factors amounted to an environment of torment for pregnant women.

30. In this context, falling pregnant was a constant fear for women.³⁸ A participant to Theresa de Langis Oral History Project describes the difficulties women suffered once they became pregnant:

*Pregnant women would get horribly swollen legs and feet, with open wounds and scabs, from working in the paddy. Some of the pregnant women were swelling because of lack of basic nutrition, like salt and sugar. Khmer Rouge did not care about the health of pregnant women; they focused only on forcing everyone to work, to follow the rule.*³⁹

31. All participants of an extensive research conducted by Kasumi Nakagawa on pregnancies during the Khmer Rouge regime reported that they were unhappy while pregnant during the Democratic Kampuchea (DK) regime; they did not want to be pregnant.⁴⁰ This is confirmed by the testimony of a witness in Case 002, who was forced to marry during the regime and subsequently fell pregnant:

*"It was about three or four months into my pregnancy, I was ordered to collect cow dung to use as fertilisers in the rice fields. And they would weigh the cow dung that I collected, and if there was not enough, then I would be criticised. And, due to morning sickness, I could not eat well. I became very emaciated and I was criticised very often during the meetings that I was actually pretending to be sick. And I was forced to carry dirt again. And I couldn't eat soup. I only ate rice with some pieces of salt. And, because of that morning sickness I could not work that well and I would be scolded by the unit's chief that I was psychologically sick."*⁴¹

32. Pregnant women lived under extremely difficult living conditions during their pregnancy, while giving birth and after birth. Women who became pregnant had to endure the same hard labour as other non-pregnant women.⁴² They were expected to

³⁸ Theresa de Langis, Judith Strasser, Thida Kim, Sopheap Taing, *Like Ghost Changes Body: A Study on the Impact of Forced Marriage During the Khmer Rouge Regime*, Transcultural Psychosocial Organisation (2014), p. 80, attached as Annex 12.

³⁹ Theresa de Langis, *Cambodian Women's Oral History Project: Life Stories of Survival under the Khmer Rouge Regime*, Interview with Sok Samith (26 January 2013), attached as Annex 13.

⁴⁰ Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 9, attached as Annex 14.

⁴¹ Trial Chamber, Case File No 002/19-09-2007-ECCC/TC, **E1/254.1**, *Transcript of Trial Proceedings*, 29 January 2015, Trial Day 235, p. 38, attached as Annex 15.

⁴² Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 56-57.

continue working throughout their pregnancy and then return to performing hard labour soon after delivering their children.⁴³ One Civil Party Applicant fell pregnant in 1978 and describes being unable to take leave during her pregnancy. She was forced to work without enough rest or food until delivery.⁴⁴ It was a common fate amongst women who were pregnant under the rule of Democratic Kampuchea that they were not taken care of or looked after.⁴⁵ Another Civil Party Applicant describes the hardships she had to endure as follows:

“During the pregnancy I had a hard time with persistent morning sickness. I had to work and stand to tap rubber resin without having any time to rest. At the time, I was seven months pregnant and the fetus stopped moving. I informed them about this, but they did not allow me to take leave. They made me work until the delivery day.”⁴⁶

b. Lack of Medical Treatment and Infant Mortality

33. Most pregnant women were not given access to any, or occasionally very little, medical treatment while pregnant or after their child had been born.⁴⁷ One Civil Party Applicant described what occurred when she asked for medicine for her sick child:

“Two months after I gave birth to my second child, I went to ask for medicine [...] she asked me why I needed to cure the enemy’s child. She told me to leave my child to its fate [..].”⁴⁸

34. Even after babies were born both mother and child rarely received medical treatment. Many babies would die just after birth due to sickness, lack of medicines, or the physical exhaustion of the mother who was unable to breastfeed them.⁴⁹ One mother who was in prison during her pregnancy explained the worst thing of all was that

⁴³ Peg LeVine, *Love and Dread in Cambodia. Weddings, Births, and Ritual Harm under the Khmer Rouge*, (2010), p. 72, attached as Annex 16; DOUEK Sam, *Victim Information Form of Civil Party Applicant*, **D5/1172**, p. 3; Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 55; LONG Sarin, *Victim Information Form of Civil Party Applicant*, **D5/1292**, p. 6-7.

⁴⁴ CHUON Nary, *Victim Information Form of Civil Party Applicant*, **D5/1335**, p. 3.

⁴⁵ OAM Peov, *Victim Information Form of Civil Party Applicant*, **D5/1168**, p. 3.

⁴⁶ UM Yoeurn, *Victim Information Form of Civil Party Applicant*, **D5/1166**, p. 3.

⁴⁷ Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 58.

⁴⁸ SUM Chanthol, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/472**, 24 August 2015, p. 6.

⁴⁹ PAO Chhunleng, *Victim Information Form of Civil Party Applicant*, **D5/1165**, p. 3; LONG Sarin, *Victim Information Form of Civil Party Applicant*, **D5/1292**, p. 6-7.

there was not enough food. There was neither medical treatment nor care for the sick.⁵⁰

c. Mental Harm

35. The harm that pregnant women underwent at the time of Democratic Kampuchea was broader than visible acts of forced labour or violence.⁵¹ The pregnancies had a negative impact on the mental health of women as well. According to a survey done by Peg LeVine many women were not given adequate food or rest while pregnant, which resulted in a feeling of fear that they would be unable to properly breastfeed their children.⁵² Rituals that were traditionally performed during and after the birth of a child were prohibited. This cultural disruption has been identified as the cause of spirit-based anxiety and developmental setbacks.⁵³

36. One Civil Party Applicant describes how she and her daughter felt degraded by society due to the fact that her daughter had been born as a result of a forced marriage:⁵⁴

When we separated, I was pregnant for two months. Now my daughter is 35 years old. My daughter knew that I was forced to get married. She felt the pain of that. People looked down on both children and parents who were forced to get married.

d. Unsafe Abortions

37. The specific harm of pregnancies includes the experience of women who considered an abortion or did not carry their pregnancies to term.⁵⁵ People living during the period of Democratic Kampuchea were often living in permanent confinement, deprived of their physical liberty, including their right to access health services.⁵⁶

⁵⁰ OM Mon, *Civil Party Application*, **D5/296**, p. 2.

⁵¹ María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 16.

⁵² Peg LeVine, *Love and Dread in Cambodia. Weddings, Births, and Ritual Harm under the Khmer Rouge* (2010), p. 72.

⁵³ María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 18.

⁵⁴ THÂN Yàng, *Written Record of Interview of Civil Party Applicant*, **D219/136**, 22 December 2014, p. 14.

⁵⁵ Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 73.

⁵⁶ Office of the Co-Investigating Judges, Case File 002/19-09-2007-ECCC-OCIJ, **D427**, *Closing Order*, paras. 158, 177, 222, 313.

Under these circumstances, forcibly impregnated women had no safe means to terminate their unwanted pregnancies. One victim of forced marriage who became pregnant as a result stated:

“If I wanted to have an abortion, how could I do it? I was worried Angkar would find out, and there was no doctor, no medicine for birth control.”⁵⁷

38. As a result, some women tried to perform abortions themselves, using unsafe methods that posed a great risk to themselves and often resulted in death.⁵⁸ Some women described these dangerous procedures, such as using a branch of a palm tree to open the stomach, or jumping down from heights.⁵⁹ This harm is exemplified in the testimony of a participant of the Women s Hearings in 2012. This woman s sister was forced to marry and consummate that marriage, which resulted in pregnancy and when she was unwilling to bear the child, the woman helped her sister abort the child by punching her abdomen and rolling her down a hill.⁶⁰

e. Frequent Miscarriages

39. As a consequence of these difficult conditions, the rate of stillbirths and miscarriages was disproportionately high, imposing further trauma on pregnant women.⁶¹ One study found that out of 70 women who became pregnant in the context of forced marriage, in 11 cases babies were dead upon birth and 6 had unplanned abortions.⁶² One woman from Takeo Province was forced to marry a former monk. Following the forced consummation she experienced both an unplanned, unsafe abortion and a

⁵⁷ Theresa de Langis, Judith Strasser, Thida Kim, Sopheap Taing, *Like Ghost Changes Body: A Study on the Impact of Forced Marriage During the Khmer Rouge Regime*, Transcultural Psychosocial Organisation (2014) 80.

⁵⁸ Judith Strasser, Thida Kim, Silke Studzinsky, Sopheap Taing, *A Study about Victims’ Participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge*, Transcultural Psychosocial Organisation Cambodia (September 2015) p. 78, attached as Annex 17.

⁵⁹ Judith Strasser, Thida Kim, Silke Studzinsky, Sopheap Taing, *A Study about Victims’ Participation at the Extraordinary Chambers in the Courts of Cambodia and Gender-Based Violence under the Khmer Rouge*, Transcultural Psychosocial Organisation Cambodia (September 2015) p. 78.

⁶⁰ Theresa de Langis, *Asia-Pacific Regional Women’s Hearing on Gender-Based Violence in Conflict – Report on the Proceedings 2012*, Cambodian Defenders Project (2012), p. 16, attached as Annex 18.

⁶¹ Nakagawa Kasumi, *Motherhood at War – Pregnancy During the Khmer Rouge Regime (Oral History)*, December 2015, p. 81.

⁶² María Lobato, *‘Forced Pregnancy during the Khmer Rouge Regime’*, (March 2016), p. 18.

stillbirth without any support.⁶³ Another woman, a Civil Party Applicant, was imprisoned while pregnant and describes insufficient food and a lack of medical treatment. She was shackled with other prisoners days and nights and forced to work even when I remained shackled . She describes her miscarriage after she fell in the rice paddy field while out working one day⁶⁴:

I bled heavily. I shouted for help and walked back to the prison in pain. I [...] remained in the prison. I was not taken to the hospital for any treatment.

Another Civil Party Applicant reports about how she was forced to cross a river while pregnant. She fell over, which killed her baby.⁶⁵ This further depicts the harm suffered by women in forced pregnancies who were not able to carry their pregnancy to term.

40. Even if women were able to give birth to their children, the dangers for mother and child due to the harsh conditions and lack of medical treatment continued. One Civil Party Applicant describes how her infant died before the age of 6 months because she did not have enough milk to breast feed it.⁶⁶

f. Conclusion

41. Based on these considerations, the policy of forced marriages as practiced under the Khmer Rouge regime resulted in pregnancies that inflicted serious bodily and mental harm on the victims.

⁶³ Peg LeVine, *Love and Dread in Cambodia. Weddings, Births, and Ritual Harm under the Khmer Rouge* (2010), p. 130.

⁶⁴ OM Mon, *Civil Party Application*, **D5/296**, 21 May 2009, p. 2.

⁶⁵ CHHIN Met, *Victim Information Form*, **D5/529**, p. 3, From the information available in this Victim Information Form, it is not clear whether the Civil Party Applicant became pregnant as a result of forced marriage. Nevertheless, her case is an instructive example to demonstrate the treatment of pregnant women under the Khmer Rouge regime.

⁶⁶ LONG Sarin, *Victim Information Form of Civil Party Applicant*, **D5/1292**, p. 6-7.

(2) Performed Deliberately with the Intent to Inflict Serious Bodily or Mental Harm or Commit a Serious Attack upon the Human Dignity of the Victim

42. The 2014 Supplementary Submission confirms that the Co-Prosecutors have reason to believe that █████ █████ and AO An committed, planned, instigate, ordered or aided and abetted the practice of forced marriage which resulted in unwanted pregnancies.⁶⁷ Therefore, the necessary intent to inflict the harm described above is given.

(3) Similar Gravity to Other Enumerated Acts

43. For an act to constitute a crime under the category of 'other inhumane act' it must be of similar gravity to the other enumerated acts, which are considered crimes against humanity. Accordingly, the Trial Chamber has established certain criteria:

*To qualify as 'other inhumane act', the nature and gravity of the conduct or omission in question must be sufficiently comparable to other enumerated crimes against humanity which can be assessed on a case-by-case basis, taking into account the nature of the act, the context, the personal circumstances of the victims and the physical, mental and moral effects on the victim, including any long-term consequences.*⁶⁸

44. The practice of forced marriage during the Khmer Rouge regime which led to unwanted pregnancies meets this threshold. When assessing the gravity of pregnancies resulting from the practice of forced marriages, it must be taken into account that they took place in the context of an oppressive regime that subjected the majority of the Cambodian people to a number of illegal and criminal policies.⁶⁹ Victims of forced pregnancies were already suffering severely from other distresses such as overwork, malnutrition or imprisonment even before they became pregnant. The harm they endured during the nine months of pregnancy was only an additional hardship to the inhumane conditions the victims lived in. The gravity of the policy of forced pregnancies must be considered severe, simply due to the context they were set in.

⁶⁷ 2014 Supplementary Submission, **D191**, para 14.

⁶⁸ Trial Chamber, Case File 001/18-07-2007/ECCC/TC, **E188**, *Judgment*, 26 July 2010, paras. 367-369, attached as Annex 19; Trial Chamber, Case File No. 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, para. 438.

⁶⁹ See description in the Third Introductory Submission, **D1**, paras. 6-8.

45. Moreover, the nature of the act causing the pregnancy constitutes a grave violation of the most intimate sphere of a woman. As a necessary precondition to the pregnancy, all victims had to have sexual intercourse, which was in the context of forced marriages mostly involuntary and took place under coercive circumstances, namely under the threat of spying Khmer Rouge cadres and the fear of retaliation if the marriage was not consummated.⁷⁰ In many cases, the newly married victims were raped by their husbands.⁷¹ The nature of forced pregnancies thus contains an inevitable component of rape which increases the gravity of this practice.
46. In addition to the grave nature of the act and the context it was set in, a wide spectrum of severe consequences that the victims of forced pregnancies had to endure were presented above. The harsh conditions during pregnancy, the lack of medical treatment and related hardships such as frequent miscarriages and unsafe abortions did not only severely affect the victims during the nine months of pregnancy; they also caused long-lasting physical and mental harms to the victim. Many of these harms continue to persist until today.⁷²
47. To assess the similarity and gravity of the disputed act, the ICTY⁷³ referred to the standards established under international human rights law. In the present context, human rights law is relevant in particular with regard to reproductive rights. As early as 1968, the Teheran International Conference on Human Rights explicitly acknowledged the basic human right to determine freely and responsibly the number

⁷⁰ See, for example: KEO Theory, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/113**, 8 December 2014, p. 11-13, 16; SOEN Ban, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/306**, 8 May, 2015, p. 7; RUOS Him, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D118/258**, 11 June, 2014, p. 12.

⁷¹ PREAP Sokhoeurn, *Written Record of Witness Interview*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/24**, 8 October 2014, p. 15-16; VAN Sang, *Written Record of Interview of Civil Party Applicant*, Case File 004/07-09-2009-ECCC/OCIJ, **D219/243**, 28 March 2015, p. 10; see also Theresa de Langis, Judith Strasser, Thida Kim, Sopheap Taing, *Like Ghost Changes Body: A Study on the Impact of Forced Marriage During the Khmer Rouge Regime*, Transcultural Psychosocial Organisation (2014), p. 81: Half of the case study interviews with women described being raped by their husbands.

⁷² PAO Chhunleng, *Victim Information Form of Civil Party Applicant*, **D5/1165**, p. 3; CHUON Nary, *Victim Information Form of Civil Party Applicant*, **D5/1335**, p. 3, 4.

⁷³ *Prosecutor v. Kupreški*, IT-95-16-T, Judgment (Trial Chamber), 14 January 2000, para 566, Attached as Annex 20.

and the spacing of children.⁷⁴ The adoption of the Rome Statute for the International Criminal Court incorporating the discrete crime of forced pregnancy in 1998⁷⁵ and the inclusion of a provision that specifically criminalises the conduct under the Statutes of the SCSL⁷⁶ and the Special Panels for Serious Crimes in East Timor (SPSC)⁷⁷ further demonstrates that forced pregnancy is a conduct comparable in gravity to the other crimes against humanity enumerated in Article 5.

(4) Chapeau requirements

48. To qualify as other inhumane act , the conduct also has to meet the chapeau requirements of crimes against humanity to ensure it is separate from domestic crimes or other international crimes. It must form part of a widespread or systematic attack directed against any civilian population conducted on national, political, ethnical, racial or religious grounds.⁷⁸

49. In his 2014 Supplementary Submission, the ICP implicitly confirmed the chapeau elements for the practice of forced marriage by stating that he had reason to believe that the crimes specified in the submission had been committed as part of a common criminal plan or joint criminal enterprise that met the requirements of crimes against humanity.⁷⁹

II. Specific Elements of Forced Pregnancy as Other Inhumane Act

50. In addition to establishing the general elements of an other inhumane act under Article 5 of the Law on the Establishment of the ECCC, it needs to be determined

⁷⁴ Chapter XVIII. of the Proclamation of Teheran, Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968, U.N. Doc. A/CONF. 32/41 (1968), Attached as Annex 21.

⁷⁵ Art. 7 para 1g), para 2 f) of the Rome Statute of the International Criminal Court, opened for signature 17 July 1998, 2187 UNTS 90, [hereinafter ICC Statute], Attached as Annex 22.

⁷⁶ Article 2 g) of the Agreement between the United Nations and the Government of Sierra Leone pursuant to Security Council Resolution 1315 (2000) establishing the Statute Special Court for Sierra Leone, signed 16 January 2002, 2178 UNTS 137 [hereinafter SCSL Statute] attached as Annex 23.

⁷⁷ Article 5.1 g) Regulation 2000/15 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offenses, UNTAET/REG/2000/15, 6 June 2000 [hereinafter SPSC Regulation] Attached as Annex 24.

⁷⁸ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, para. 177; Article 5 of the Law on the Establishment of the ECCC.

⁷⁹ 2014 Supplementary Submission, **D191**, paras. 13-14.

whether the crime of forced pregnancy requires additional specific elements to distinguish it from the enumerated acts of Article 5. Although the ECCC jurisprudence has not addressed forced pregnancies yet, the Trial Chamber Judgment of Case 002/1 provides guidance in this regard, as it has found other crimes, namely enforced disappearances, forced transfer and attacks against human dignity to fall within the category of other inhumane acts under Article 5.⁸⁰ To determine the specific elements of these crimes, the Trial Chamber has relied on definitions established by the statutes and jurisprudence of other international criminal tribunals or hybrid tribunals.

51. No international or hybrid criminal tribunal has prosecuted the crime of forced pregnancy thus far.⁸¹ But the definition of forced pregnancy under international criminal law can be found in Article 7(2) lit. (f) of the ICC Statute and in Art. 5.2 e) of the SCSL Regulation:

“Forced pregnancy’ means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy.”

52. The codification of the crime of forced pregnancy at these two tribunals confirms a common understanding of its definition in international law. The specific elements of crime contained therein thus are applicable at the ECCC.

(1) Forced impregnation

53. The systematic pattern under the DK regime of coercing men and women into marriage and forcing them to consummate the sexual intercourse is a form of forced impregnation. As demonstrated above, in many cases sexual intercourse took place under an explicit order and the threat of punishment.⁸² Furthermore, rape occurred

⁸⁰ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, **E313**, *Case 002/01 Judgment*, 7 August 2014, paras. 448, 450, 457.

⁸¹ María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 7-8.

⁸² *See* fn. 18.

commonly in forced marriages.⁸³ Under the given circumstances the lack of consent for sexual relations is obvious and even if a direct and physical threat was not present, an impregnation was implied by forced marriage. This situation in combination with a lack of access to contraceptive methods meets the requirement of forced impregnation.

(2) Unlawful confinement

54. The additional element of unlawful confinement involves compelling a woman to carry the pregnancy to term and requires an illegal deprivation of liberty and denial of access to abortion.⁸⁴ The CPK rule established policies where nearly all citizens were forced into living in cooperatives and worksites.⁸⁵ This constitutes circumstances in which the women were physically or morally restrained under threats of violence and direct force. Due to this fact and the denial of access to abortion, this requirement is met.

(3) Mens Rea

55. The crime of forced pregnancy requires the specific intent to affect the ethnic composition of any population or to carry out other grave violations of international law. Some sources cited above indicate that the purpose of the practice of forced marriage was to increase the workforce for the future.⁸⁶ Evidence of this nature could show the intention was to impose forced labour, forced conscription, restriction of movement, and other forms of serious human rights violations on the children born out of the forced marriages.

56. However, the on-going investigations have not looked into this aspect so far. The undersigned CPL therefore deem it useful for the investigation to determine in how far AO An and █████ █████ had an intent to carry out grave violations of international law through the confinement of women forcibly made pregnant.

⁸³ See fn. 71.

⁸⁴ María Lobato, *Forced Pregnancy during the Khmer Rouge Regime*, (March 2016), p. 25.

⁸⁵ Trial Chamber, Case File 002/19-09-2007/ECCC/TC, E313, Case 002/01 Judgment, 7 August 2014, paras. 102, 113.

⁸⁶ See para 17 above.

III. Distinction of forced pregnancy to other enumerated acts and forced marriage

57. To qualify as other inhumane act , the crime of forced pregnancy must contain distinct aspects and elements which are not part of the crimes already acknowledged as crimes against humanity.⁸⁷ Forced pregnancy contains several aspects that share commonalities with parts of other crimes against humanity enumerated in Art. 5 of the Law on the Establishment of the ECCC but nonetheless includes unique components which are not adequately represented by the other established crimes.
58. The crime of enslavement and imprisonment encompass the aspect of confinement that the crime of forced pregnancy requires. However, it does not address the forced impregnation. The crimes of rape and torture cover the act that led to the forced conception but does not require a pregnancy as a result thereof.
59. Moreover, forced pregnancy is a gender-specific crime that, by its very nature, only affects women. In this regard, it differs not only from the other enumerated acts, but also from the crime of forced marriage as a form of other inhumane act which in the present context targeted women as well as men. Interviews of male Civil Party Applicants in Case 004 suggest that men were subjected to forced marriages as much as women,⁸⁸ but women who became pregnant as a result of the forced marriage had to endure a distinct form of suffering due to the pregnancy and childbirth under the harsh conditions presented above. In addition, the level of control that the state exercises over a women s body through forced pregnancies constitutes an objectification of the affected woman that is unique and not reflected in the crime of forced marriage. Forced pregnancy and forced marriage hence deserve to be

⁸⁷ A similar argument was made in a recent ICP submission before the Pre-Trial Chamber: Office of the Co-Prosecutors, Case 004/07-09-2009-ECCC/OCIJ (PTC 21/004), International Co-Prosecutor s Response to Ao An s Application to Annul Investigative Action concerning Forced Marriage and his Reply to the PTC s Email of 3 September 2015, **D257/1/3**, 25 September 2015, para 25, Attached as Annex 25.

⁸⁸ SOEN Ban, Case File 004/07-09-2009-ECCC/OCIJ, *Written Record of Interview of Civil Party Applicant*, **D219/306**, 8 May 2015, p. 6-7; *Written Record of Interview of Civil Party Applicant LY Lonn*, Case File 004/07-09-2009-ECCC/OCIJ, **D118/248**, 13 May 2014, p. 21-22.

prosecuted separately in order to acknowledge the unique harms caused by each of them.

C. REQUEST FALLS WITHIN THE SCOPE OF INTRODUCTORY OR SUPPLEMENTARY SUBMISSIONS

60. According to IR 55(2) the Co-Investigating Judges can only investigate the facts set out in an Introductory Submission or a Supplementary Submission.⁸⁹ Thus, the factual allegations presented in the Third Introductory Submission and the 2014 Supplementary Submission contain the basis for the crime of forced pregnancy.

61. The Third Introductory Submission states that under the CPK the Cambodian population was subjected to an oppressive regime, which sought to exercise complete control over all aspects of the life of an individual.⁹⁰ According to the 2014 Supplementary Submission, forced marriages took place in districts under the control or authority of the Case 004 Suspects, and [v]ictims subjected to forced marriages were subsequently monitored by spies or militia to ensure that their marriage was consummated, in inherently coercive circumstances established and maintained by CPK cadre.⁹¹ These factual allegations thus establish the above-mentioned specific element of forced pregnancy which requires that women were forcibly made pregnant.

62. According to the Third Introductory Submission, the freedom of movement of the population was strictly controlled and restricted.⁹² Civilians were assigned to specific worksites and leaving their assigned workplace would require permission from CPK cadres.⁹³ As this also applied to women who became pregnant as a result of the forced

⁸⁹ ECCC Internal Rules, Rule 55(2).

⁹⁰ See description in the Third Introductory Submission, **D1**, paras. 6-8.

⁹¹ 2014 Supplementary Submission, **D191**, p. 3, paras. 1-2.

⁹² Third Introductory Submission, **D1**, paras. 7, 90 f, 98 h.

⁹³ Office of the Co-Investigating Judges, Case File 002/19-09-2007-ECCC-OCIJ, **D427**, *Closing Order*, paras 168, 310.

marriage, these allegations form the basis of the element of confinement which is necessary to element of the crime of forced marriage.

63. The present submission therefore does not intend to bring about the investigation of a whole new set of facts but merely requests the OCIJ to investigate the logical follow-up to the facts set out in the Third Introductory and Supplementary Submissions, namely the question of the motivation behind practice of forced marriage which resulted in unwanted pregnancies.

D. CONCLUSION

64. Forced pregnancy should be considered a distinct crime against humanity under the provision of other inhumane acts . Investigation and prosecution of the crime of forced pregnancy do not violate the principle of legality. The crime of forced pregnancies meets the general requirements to qualify as other inhumane act . The specific elements of the crime of forced pregnancy require the confinement of women forcibly made pregnant with the intent to affect the ethnic composition of any population or to carry out other grave violations of international law. The current investigations have not looked into the specific intent required for the crime of forced pregnancy. This aspect is encompassed by the facts set out in the Introductory and Supplementary Submissions.

VIII. REQUESTS

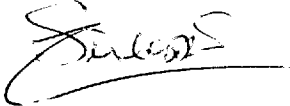
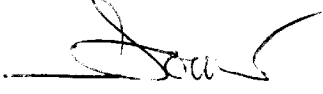
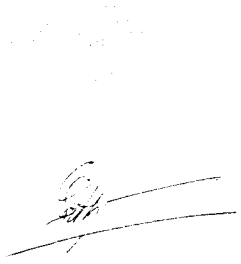
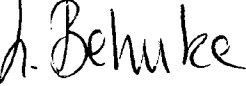
65. For these reasons, the undersigned CPL respectfully request the Co-Investigating Judges to:

- I. Grant the request for page extension to 25 pages and to file in English first with the Khmer translation to follow at the earliest opportunity;
- II. Conduct supplementary investigative actions to establish the intent of the Case 004 suspects AO An and ██████ ██████ to carry out grave violations of international law through the confinement of one or more women made forcibly pregnant; and

Civil Party Lawyers Request for Investigative Action against AO An and ██████ concerning the Crime of Forced Pregnancy

- III. Where sufficient evidence presents itself, charge forced pregnancies as a distinct crime against humanity under the provision of other inhumane acts .

Respectfully submitted,

Date	Name	Place	Signature and Stamp
	SIN Soworn Civil Party Lawyer	Phnom Penh	
	HONG Kimsuon Civil Party-Lawyer	Phnom Penh	
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