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EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA**

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I. OVERVIEW OF THE EVIDENCE

This movement committed more violence than any revolutionary movement the world has ever known, leading to many deaths and unprecedented sufferings.¹

– Khieu Samphan

I have feelings for both the nation and the individual ... But if the individual becomes a problem, then they must be solved.

Q: Are you sorry for those who were killed?

A: I have no regrets.²

– Nuon Chea

1. What can justify government leaders treating their own people as expendable commodities to be used to labour, fed only when convenient, bred to increase the population, and disposed of whenever suspected of lacking loyalty to the leadership that inflicted such suffering?
2. The Accused in this case, **Nuon Chea** — “Brother Number Two” — and **Khieu Samphan** - the public face of the Khmer Rouge and Head of State in their “Democratic Kampuchea” government - have sought to evade responsibility for the crimes of the regime. Each, but particularly **Nuon Chea**, has claimed that extrajudicial killings were necessary to protect the country from foreign enemies and therefore justified. Each, but particularly **Khieu Samphan**, has claimed to have been unaware of what was happening to the Cambodian people and too powerless to have played any role in the crimes.
3. However, the evidence has shown that **Nuon Chea** and **Khieu Samphan** played knowing and critical roles in a campaign of crimes that can never be justified. They were the two closest associates of Pol Pot, the Communist Party of Kampuchea (“CPK”) leader, and were among a small group of CPK leaders that entered into a plan to use criminal policies to maintain their own grip on power and hide the failures of their governance. These men sought to impose on the Cambodian people a society where there would be no religion to compete for the loyalty of the people; and no class,

¹ **E3/592** DC-Cam Searching for the Truth, *Second “Open Letter” of Khieu Samphan*, 29 Dec 2003, EN 00002802.

² **E3/7209R** Video *Enemies of the People* additional footage: interview by Thet Sambath, “Nuon Chea on the Nation”, 2010, 0:14-0:49.

ethnic, or language distinctions — but rather one colourless mass of people serving the leadership without questioning its policies.

4. To further this political programme, the regime devised a series of criminal policies that were implemented throughout the country. The regime defrocked monks, persecuted Buddhists, and prohibited the practice of all religions. Cities were emptied and their inhabitants were forcibly transferred to the countryside. Most of the population was sent to labour at worksites and cooperatives in conditions that amounted to enslavement. Ordinary people worked without wages and were provided inadequate food, hygiene and medical care. These workers were forced to eat collectively, denied the freedoms of speech and movement, forced to marry spouses chosen by Khmer Rouge cadres, and coerced to have sexual relations in order to breed children for the regime. If they were seen as more of a burden than an asset, they were killed. All people considered by the regime as potential opponents were targeted for increased scrutiny and persecution, and several categories of people, including Vietnamese and Cham, were targeted for annihilation.
5. The evidence detailed in this brief shows that **Khieu Samphan** and **Nuon Chea** worked daily with Pol Pot, each travelled around the country, and, as evidenced by their own statements, were aware of the regime's murderous campaign against "enemies." Each played a key role in the criminal campaign.
6. In multiple interviews before this trial began, **Nuon Chea** acknowledged that he was the number two leader in the regime and supported all of its policies. He defended the regime's torture and killing policies as justified by threats of internal rebellion. In legal submissions during the trial, he argued that torture was not an international crime by 1975 and that the many thousands of extrajudicial executions were permissible because the regime held a "suspicion" that these persons were a threat and "capital punishment" is not against international law. His legal arguments are untenable and his factual arguments are unsupported by the evidence. International law does not permit extrajudicial detention, torture or execution — even spies captured out of uniform are entitled to a trial. Governments cannot kill opponents or critics without judicial process. The Khmer Rouge arrested and killed with no legal process, established no courts and never even bothered to pass any criminal laws. Executions in such a lawless system are simply murder.

7. Further, nothing in the evidence supports **Nuon Chea**'s claim that the thousands he acknowledges were summarily executed by the regime were conspiring with foreigners to overthrow Pol Pot. Rather, the evidence in this trial, including **Nuon Chea**'s own statements, has shown that it was the leadership's paranoia and ruthlessness that led to mass killings of innocent Cambodians. Not only were people arrested with no evidence and presumed guilty, but all of their "string" — as **Nuon Chea** termed relatives or associates of anyone suspected — met a similar fate.³ The fact that scattered groups resisted the terror campaign is neither a moral nor legal justification for the extrajudicial murders of civilians and prisoners.

ENSLAVEMENT OF THE POPULATION

In the cooperative people were not free⁴

— **Khieu Samphan**

8. The crime against humanity of "enslavement" is committed when a perpetrator exercises any or all of the powers attaching to the right of ownership over one or more persons.⁵ Millions of Cambodians were treated as the property of the regime to be used to serve the regime and disposed of when no longer an advantage to the owners — "*Angkar*" or the Party. This was a fundamental *modus operandi* of DK governance; individuals were "cast aside" as **Nuon Chea** said,⁶ whenever it served the interests of the leadership.
9. Millions were compelled to labour long hours in cooperatives and at worksites where they were given no salary and worked under inhumane conditions. The late King Father Norodom Sihanouk was taken by **Khieu Samphan** on visits to the countryside between September 1975 and April 1976 and, based on the harsh conditions imposed on the people, Sihanouk described the cooperatives as "concentration camps."⁷ As detailed below in descriptions of the trial segments on cooperatives and worksites, workers were often malnourished, denied basic accommodation, hygiene and medical care, and many perished. While the leaders hoped to achieve glory by restoring Cambodia's prosperity

³ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757534.

⁴ E3/122 Khieu Samphan Interview, 9 June 2006, EN 00000928.

⁵ Case 001-F28 *Duch* AJ, paras 152-153; Case 001-E188 *Duch* TJ, para. 342; D427 Closing Order, para. 1392; *Kunarac* AJ, paras 116-117; *Sesay* TJ, paras 197-198; ICC Statute, Art. 7(2)(c); ICC Elements of Crimes, Art. 7(1)(c).

⁶ E3/4001R Video *Enemies of the People*, 2010, 1:05:11.

⁷ D299.1.42R Video *Jungle War*, 1 Aug 2000, 00:29:54-00:29:56.

through a radical revolution, they were indifferent to the suffering their policies inflicted upon ordinary Cambodians. Only the top leadership had to be preserved and all others were expendable assets who could be sacrificed for the revolution.

10. The Khmer Rouge further exercised the powers of ownership over individuals by denying fundamental rights. The regime forcibly separated children from their parents and husbands from wives, denying the basic right of living in the family unit. Anyone who criticised the regime risked severe punishment or even death. **Khieu Samphan** later acknowledged in his writings that the regime was a “dictatorship, which would not tolerate even the most innocuous question about the directives of *Angkar*”⁸ and “did not allow any independence of thought at all.”⁹ Cambodians could not live or travel where they wished. Millions were forcibly relocated and a pass was needed even to leave one’s village. People were prohibited from practicing their religion and told how to dress, when and what to eat, and with whom they could eat.
11. The regime even denied Cambodians the right to normal family relations. Norodom Sihanouk recounted that once during the period in which the DK regime had confined him to his home, his request to have his children and grandchildren visit for his birthday was denied by **Khieu Samphan**, who told him:

[P]lease, don’t have a family life anymore, because now is our new Communist -- Communism. We will have to think of the country, the homeland only. No more family life.¹⁰
12. Perhaps no aspect of CPK policy better exemplifies the exercise of the power of ownership over the Cambodian people than the regime’s policy to force men and women to marry and to engage in non-consensual sexual intercourse (which constitutes the crime of rape).

THE DK BREEDING PROGRAMME

*The man always wants to choose a beautiful girl, so that’s why we forced them to get married and Angka chose the wife.*¹¹

– **Nuon Chea**

⁸ **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103779.

⁹ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 00498250.

¹⁰ **D108/32.2R** Video *Cambodge 1ère Partie*, 44:00–44:20.

¹¹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496.

13. Khmer Rouge leaders sought to rapidly increase the population of Cambodia by arranging marriages of people without their consent. Couples who often did not even know each other were forced to wed and consummate marriages against their will.
14. Both **Nuon Chea** and **Khieu Samphan** promoted the policy, stressing to cadres the need for rapid population growth whilst in fact, the starvation and killings imposed by the Khmer Rouge were leading to rapid population decline. **Nuon Chea** stated in an interview in China that Democratic Kampuchea “pursued a policy of increasing its population” and that while the population was estimated at 7,760,000 in 1971, “the four-year plan of 1977-1980 aimed at increasing our population to at least 15,000,000 within five to 10 years.”¹²
15. In his writing, **Khieu Samphan** acknowledged that Pol Pot’s goal was to increase Cambodia’s population by a factor of two or three within ten years.¹³ **Khieu Samphan** actively worked to promote this policy. In 1978, he spoke to 20,000 individuals, including representatives of the DK Army, to celebrate the 17 April victory, imploring the cadres “To grasp firmly and implement well the plan to increase the size of the population to its maximum, so as to have 15-20,000,000 people in the next 10-15 years” and “To grasp firmly and implement well the plans to maximize the size of the population within one year, three years, five years, 10 years and 15 years.”¹⁴
16. Generally, due to the massively coercive environment created by Khmer Rouge rule, those chosen to marry found it impossible to refuse *Angkar*’s direction as they feared this could lead to starvation, arrest or execution. For example, Nop Ngim was a trusted Khmer Rouge cadre who was sent from the Southwest to the Northwest Zone in 1978 by Ta Mok. There, Ta Mok appointed her to a powerful position, Deputy Secretary of Samlaut District, but still she was forced by Mok, a member of the Standing Committee, to marry a handicapped soldier. Nop Ngim testified that there were 38 couples that were forced to marry in the same ceremony and some of them cried, adding:

I also cried. I was disappointed, very disappointed since I had never seen my would-be husband before the marriage day, although we

¹² **E3/686** Kampuchea Samingen, *Interviews with DK Leader on Population Policy and Struggle Against Vietnam*, 27 Oct 1981, EN S 00030349.

¹³ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 000498284.

¹⁴ **E3/562** Khieu Samphan Statement, 15 Apr 1978, EN S 00010558-65.

were in the army. But if I had ... refused, I would have been killed, so I had to bear the situation.¹⁵

17. Nop Ngim never testified that she had been explicitly warned of the consequences of refusal. But in a regime where breaking a spoon, failing to follow instructions, or criticising conditions could lead to execution, even a relatively high-ranking cadre dared not refuse, believing her survival depended upon accepting the regime's decision.
18. Other persons chosen to marry were directly threatened should they refuse to marry or to consummate the marriage. Pen Sochan testified that "The phrases used at the time were ... 'If we did not love each other, we did not consummate the marriage, then we would be tortured and killed.'"¹⁶ She further related that after she resisted the sexual advances of the man she was forced to wed, a Khmer Rouge cadre told her "that I could refuse on the first night and the second night, but if it happened again on the third night, I would be dead."¹⁷ Similarly, another civil party testified that she consummated her marriage arranged by *Angkar* with a husband she did not like because she was afraid, explaining:

I had a cousin named Heng Vanny, alias Vocun. She was forced to marry a husband. She refused for one or two times, and she was taken away and killed.¹⁸

POLITICAL PERSECUTION OF "NEW PEOPLE"

It is imperative to clearly distinguish the elements in the cooperatives and to not allow any further confusion:

- Full-rights members of the cooperative
- Candidate members of the cooperative
- Deposittee members of the cooperatives¹⁹

– *CPK Revolutionary Flag magazine, April 1977*

19. The DK regime called ordinary civilians who had lived in areas controlled for most of the war by Lon Nol forces "New People", viewed them with suspicion and persecuted the group. The regime's intent to deny New People equal rights is manifested by the above order requiring cooperatives to establish a category of "full-rights" members. If only some have "full rights", others by definition must be denied equal rights.

¹⁵ E1/469.1 Nop Ngim, T. 5 Sept 2016, 10.41.32-10.43.35.

¹⁶ E1/482.1 Pen Sochan, T. 12 Oct 2016, 14.30.45-14.32.06.

¹⁷ E1/482.1 Pen Sochan, T. 12 Oct 2016, 14.35.42-14.37.22.

¹⁸ E1/462.1 2-TCCP-274, T. 23 Aug 2016, 09.15.51-09.18.26.

¹⁹ E3/742 *Revolutionary Flag*, Apr 1977, EN 00478505.

20. "New People", sometimes called "17 April people" or "depositees", were distrusted by the DK regime, denied the rights and benefits given to "Base People",²⁰ and were more likely to be arrested²¹ or executed.²²

PERSECUTION OF BUDDHISTS

Pagodas which are the core foundations for the existence of the monkhood were abandoned. People have no longer gone to pagoda. They no longer offer alms ... So, this special layer [of the society] will no longer cause any worry.²³

– CPK document dated 22 September 1975

21. Buddhism teaches its followers to treat all people with kindness and compassion, and proscribes killing and violence – making its teachings fundamentally opposed to Khmer Rouge propaganda inciting class hatred and violence towards "enemies." The Khmer Rouge opposed all religious practice, but aware of the fundamental importance of Buddhism in Khmer culture, intently focused on the gradual destruction of Buddhism in Cambodia. Given the devotion of Khmers towards Buddhism and its importance to Khmer society and culture, the regime tried to avoid publicly acknowledging its policy

²⁰ E1/309.1 Uth Seng, T. 3 June 2015, 11.16.57-11.20.16 ["If they were wearing old torn clothes, then it was more likely that they were 17 April People"]; E1/252.1 Chou Koemlan, T. 26 Jan 2015, 11.18.25-11.19.58 ["Yes, we were considered New People, and we did not have a right to gather or to walk freely. For the Base People, they had good rice to eat. As for us, we did not have the same rice"]; E1/259.1 Elizabeth Becker, T. 9 Feb 2015, 14.25.00-14.26.38 ["I was seeing the difference between what was generally called Old People and New People; that there were -- there was something resembling a cast[e] system there. And the people who were trusted, the Old People of the Revolution were cared for better and fed better"]; E1/308.1 Seang Sovida, T. 2 June 2015, 11.21.13-11.22.57 ["We worked under the same conditions, but the New People didn't have any rights. We worked as we were prisoners. We were considered their enemies and only the Base People who were poor had the position to control us"]; E1/260.1 Elizabeth Becker, T. 10 Feb 2015, 09.41.41-09.43.32 ["it was a system of privileges and the New People were -- were treated much more poorly than the old people, in terms of the food, the amount of labour. All sorts of ways. It was a hierarchy"].

²¹ E1/409.1 Chan Bun Leath alias Bun Loeng Chauly, T. 28 Mar 2016, 09.51.14-09.53.54 ["Those who were the target of arrest included different categories. New People, that is number one"]; E1/252.1 Chou Koemlan, T. 26 Jan 2015, 14.36.37-14.38.44 ["New People were the primary target for the arrest"]; E1/346.1 Seng Srun, T. 14 Sept 2015, 11.27.48- 11.30.20 ["But, the first targeted enemies of the Khmer Rouge were New People or 17 April People and those who had served in the Khmer Republic and royalist regimes"].

²² E1/307.1 Un Ron, T. 28 May 2015, 09.48.32-09.50.50 ["And as for us New People, we were afraid of our life, and would not risk our lives asking others of their origin"]; E1/252.1 Chou Koemlan, T. 26 Jan 2015, 11.53.11-11.56.00 ["Base People truly ate together with us. But in their shelter or their house, they had their own rice to have additional meal in the morning. ... As for New People, we did not have such latitude. We did not have extra rice. We could eat only in the communal eating. That is why some people complained that they did not have enough food and as a result, they would be taken away to be killed"], 14.13.42-14.15.48 ["New People would be taken away and killed, as for Base People, I never saw Base People disappear"].

²³ E3/99 CPK Publication, Document No. 6: *Concerning the Grasp and Implementation of the Political Line in Mobilizing the National Democratic Front Forces of the Party*, 22 Sept 1975, EN 00244275.

of destruction, instead trying to propagandise that it was the Khmer people themselves who voluntarily abandoned their religion. However, the evidence in this trial has shown a consistent pattern of DK authorities applying a policy of persecuting those who practiced Buddhism throughout the country. Monks were forced to disrobe, statues were destroyed, pagodas were demolished or converted into warehouses, detention centres or facilities for other uses, and individuals could only practice their religion in secret.

22. Article 20 of the Constitution of Democratic Kampuchea stated that:

Every citizen of Kampuchea has the right to worship according to any religion and the right not to worship according to any religion. Reactionary religions which are detrimental to Democratic Kampuchea and Kampuchean people are absolutely forbidden.²⁴

In practice, all religions were deemed to be reactionary and were to be eliminated. Buddhism was to be disbanded because it was viewed as an “exploitative” social institution and, more importantly, was seen by Khmer Rouge leaders as a competitor for the loyalty of the Cambodian people. Yun Yat, the Minister of Propaganda, told a Yugoslav journalist during his visit in 1978 that “Buddhism is incompatible with the revolution”.²⁵

GENOCIDE OF CHAM

*It was in 1977. There was an order from the sector level to us to purge the Cham. And I, myself, was also wondering why the Cham ... But the order came from the upper echelon, so I simply implemented it.*²⁶

– *Prak Yut, former Secretary of Kampong Siem District*

23. DK leaders refused to recognise or tolerate the diversity of the Cambodian population. In one propaganda publication they stated that the people of Cambodia were 99 percent Khmer,²⁷ when all reputable demographic studies put the percentage of ethnic minorities, including Chinese, Cham and Khmer Muslims, Vietnamese, highland tribal minorities, and other smaller groups, much higher. One scholar estimated that minorities constituted almost 20 percent of the pre-DK population.²⁸

²⁴ E3/259 *Constitution of Democratic Kampuchea*, 6 Jan 1976, Art 20, EN 00184838.

²⁵ E3/1593 Ben Kiernan, *The Pol Pot Regime*, EN 01150132.

²⁶ E1/377.1 Prak Yut, T. 18 Jan 2016, 14.43.10-14.47.13.

²⁷ E3/1593 Ben Kiernan, *The Pol Pot Regime*, EN 01150132.

²⁸ E3/1593 Ben Kiernan, *The Pol Pot Regime*, EN 01150132.

24. The Cham people, an ethnic and religious minority, resisted efforts of the regime to prohibit the practice of their religion and destroy their distinct identity. The regime then killed Cham religious leaders and all those who refused to obey the orders to give up their identity. Khmer Rouge forces broke up communities along the Mekong river where Cham had resisted the regime's anti-religious policies, and carried out campaigns to exterminate Cham in areas where they were most concentrated.
25. The DK campaign against the Cham constitutes genocide under international law. Genocide is defined as any of five types of acts, including killing members of a group, when committed with the intent to destroy a national, religious, racial or ethnic group, "as such". The regime instituted policies towards the Cham with the intent to destroy the long-term survival of Cham as a distinct ethnic and religious group in Cambodia. The regime prohibited all expressions of Cham identity, including the practice of Islam, speaking the Cham language, dressing in traditional Cham clothing, and following traditional dietary practices such as refusing to eat pork. To further ensure the loss of group identity, the regime used forcible transfers and mass killings to extinguish the communities where the Cham population was concentrated.²⁹ Those who insisted on maintaining their Cham identity were killed. Killing members of the group with the intent to destroy the group "as such" is one of the five prohibited genocidal acts. It is not required that the perpetrators intend to kill every single member of the group, so long as it is shown that they intend to kill a sufficiently important portion of group members so that it will affect the survival of the group.³⁰
26. Areas where the Cham population was concentrated and where Cham culture was strongest were either broken up, the leadership killed, and the population scattered (e.g. Kroch Chhmar District), or subjected to mass killings with the intent to eliminate all the Cham in the area (e.g. Kampong Siem District and Kang Meas District). Cham religious leaders were particularly targeted and most were killed. The number of *Hakim* (Cham village leaders) declined from 113 to 20 during the DK period, and the number of *Tuon* (teachers of Islam) from 300 to 38.³¹

²⁹ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150237 ["When asked whether Muslim Chams had been forced to eat pork, forty-one interviewees said yes, and only six said no. Similarly, when asked whether use of the Cham language had been prohibited by the DK authorities, thirty-six said yes, and only one said no. When asked whether Cham populations had been dispersed or broken up, fifty-one interviewees said yes, and none said no"].

³⁰ *Krstić AJ*, paras 8-12.

³¹ **E3/1822** Ysa Osman, *Oukoubah*, EN 00078567; **E3/9681** Ben Kiernan, *Orphans of Genocide: The Cham*

27. A religious group is not defined by DNA or parental lines but rather consists of those with a shared faith and manner of worship. If those in power successfully end the practice of a particular religion by killing those of the faith who refuse to give up their shared religious practices, they will destroy the religious group “as such”. A religious group will not survive if all those who practice the religion are killed, and an ethnic group will not survive if its population is dispersed and its members forbidden to speak the group’s language and maintain the customs that set the individuals of this group apart from the general population. Those who maintain the group’s identity are essential for the group’s survival. As the ICTY Appeals Chamber has explained:

In addition to the numeric size of the targeted portion, its prominence within the group can be a useful consideration. If a specific part of the group is emblematic of the overall group, or is essential to its survival, that may support a finding that the part qualifies as substantial within the meaning of Article 4.³²

28. The effect of the DK regime’s policies against the Cham was mitigated only because the regime was overthrown after less than four years in power. Had the policies continued for many years, with Cham communities scattered, all expressions of Cham identity prohibited, and those who insisted on maintaining the Cham identity killed, there can be no doubt that the result would have been the destruction of the Cham “as such” — as a distinct ethnic and religious group within Cambodia. Younger Chams who survived would eventually stop identifying as Cham, and the group would have eventually disappeared.
29. Sos Romly was working as a clerk in the Trea Commune office in Krouch Chhmar District during the DK period.³³ A regional security officer who visited the office in 1978 was unaware that Sos Romly was Cham and asked him where the Cham had gone. After Sos Romly explained that the majority of Cham had been transferred to the Central Zone and only about 15 percent remained in the village, the regional security officer told him “those Cham people would be smashed.”³⁴ Sos Kamri testified about a

Muslims of Kampuchea under Pol Pot, EN 01199574. See also **E3/1822** Ysa Osman, *Oukoubah*, EN 00078570-72.

³² *Krstić AJ*, para. 12.

³³ **E1/371.1** Sos Romly, T. 6 Jan 2016, 15.46.55-15.49.00 [“Q: What was the commune that you were appointed to be the clerk? A: I was the clerk in the Trea commune”].

³⁴ **E1/372.1** Sos Romly, T. 8 Jan 2016, 9.42.50-09.45.13 [“There was a sector security guard who came to meet Chhean, and Chhean was not there at that time because he went to supervise people digging the canals. I was on duty in the commune office. So the security guard spent the afternoon with me, and he asked me where those people had gone. I told him that the Cham were evacuated to Central Zone. And then he asked me if any Cham were still living in the village and then I told him that about only 80 to 85

meeting he attended in Chamkar Leu District in 1977 where enemies and a plan to smash the Cham were discussed.³⁵ He later saw a booklet at the Ou Nong Commune office that described Cham as the “biggest enemy who must be totally smashed before 1980”.³⁶ Van Mat testified that he drove a commune boss to a meeting, at the Kampong Thma worksite in the Central Zone where cadres were instructed on a policy to kill all East Zone “enemies” and that “new chiefs assigned to the East Zone needed to implement the policy of the *Angkar* regarding the smashing of the Cham”.³⁷

30. Prak Yut, the former Secretary of Kampong Siem District, testified that she received an order in 1977 to purge the Cham and passed that on to her subordinates.³⁸ An investigator from OCIJ spoke to people from 12 villages in Trean Commune in Kampong Siem District. These persons estimated that there were about 292 Cham families in these 12 villages that were taken away and “disappeared”, with many of their corpses dropped in water wells or a bomb crater, leaving only three known survivors.³⁹ Using a conservative estimate of five individuals per family,⁴⁰

per cent were evacuated. There were around 15 or 20 per cent left in the village. And he told me that those Cham people would be smashed. None of them would be spared”].

³⁵ **E1/415.1** Sos Kamri, T. 6 Apr 2016, 10.11.58-10.14.15 [“Q: So sir, the book goes on to say that you said that the agenda for the meeting was to specify a plan called ‘The plan to smash the enemy’ and that you reported that, during the meeting, you heard the chairman declare – quote: ‘The enemies of the revolution are many, but our biggest enemies are the Cham, so the plan calls for the destruction of all the Cham people before 1980.’ So sir, I realize that 1977 was 39 years ago, but do you recall having heard that? Do you recall anything about this meeting? A: Yes, I recall that”].

³⁶ **E1/415.1** Sos Kamri, T. 6 Apr 2016, 14.11.05-14.13.52 [“Q: And according to your WRI you remember reading, ‘Cham is the biggest enemy who must be totally smashed before 1980?’ And you say, ‘I was scared and not dared to read any further so I took it back to its original place’. Is that what you said to the investigators and to Ysa Osman? A: I was not sure about the year that you quoted but I’m sure about the plans to kill the Cham people”].

³⁷ **E1/398.1** Van Mat alias Sales Ahmat, T. 9 Mar 2016, 10.43.15-10.45.40 [“I heard from the loudspeaker that the new chiefs assigned to the East Zone needed to implement the policy of the *Angkar* regarding the smashing of the Cham, and some of them answered that they had implemented 50 per cent of the policies. Some said they had implemented 30 per cent of the policy because *Angkar* gave the instruction to smash 100 per cent of the Cham and the targeted group that needed to be smashed needed to be the ones who betray the *Angkar*, regardless of their ethnicity, whether Cham or Khmer. And another thing, for instance, nothing was left from what *Angkar* had provided, because they, the East Zone cadres, sold it to the ‘Yvon’. So those cadres and the people who were accused of betraying *Angkar* were collected and smashed”].

³⁸ **E1/377.1** Prak Yut, T. 18 Jan 2016, 14.40.10-14.45.30.

³⁹ **E3/9735** Written Record of Acts of Investigations, 7 Sept 2015, EN 01138984-87. There was one reported survivor from Trean village and two from Ta Khong village. Where witnesses gave a range for their estimate of the number of families, such as Trapeang Ampil, the lower number was used for the total for the commune.

⁴⁰ **E3/9735** Written Record of Acts of Investigations, 7 Sept 2015, EN 01138987 [The OCIJ report for the commune calculated 1800 victims assuming at least 6 members of each family]; **E1/388.1** Ysa Osman, T. 9 Feb 2016, 15.17.23-15.19.56 [Expert witness Ysa Osman estimated each family “consists of five or six members”]; **E1/415.1** Sos Kamri, T. 6 Apr 2016, 09.43.25-09.44.19.

approximately 1,465 individuals were killed in these 12 villages alone. Trean is only one of eleven communes in Kampong Siem District.⁴¹

GENOCIDE OF VIETNAMESE IN CAMBODIA

Q: Now, what exactly did the ... instructors say about the hereditary enemy, the Vietnamese?

A: We were instructed to kill, even if it was a baby, because they are our hereditary enemy, so we must kill them. So it [the killing of Vietnamese] was the responsibility of each battalion that received exact instructions.⁴²

– Pak Sok, Khmer Rouge cadre from Kampong Som

31. CPK policy towards ethnic Vietnamese living in Cambodia evolved over time. Immediately after the 17 April victory, the regime deported the majority of the Vietnamese living within Cambodia's borders to Vietnam. Many of those that remained in Cambodia were married to Khmer or were persons of mixed Khmer-Vietnamese blood. The Hanoi communist government had nurtured the Khmer Rouge in its infancy and aided in the overthrow of the Khmer Republic. However, as the DK leadership's fear of its powerful neighbour grew over time, so did its hostility towards those ethnic Vietnamese that remained in Cambodia. By about 1977, the regime adopted a policy to kill any Vietnamese that remained within its borders, even spouses of Khmer. The paranoia against Vietnamese eventually extended to a campaign to target Khmer Krom people simply because they originally came from territory now within the borders of Vietnam, and therefore were deemed to be "Khmer bodies with Vietnamese minds."
32. Meas Voeun was a former Khmer Rouge regiment commander who served as security for **Khieu Samphan** and remains unrepentant about the Khmer Rouge crimes. His trial testimony in this case included this remarkable admission:

Q: Did you hear that there was a plan to eliminate the Vietnamese who were living in Cambodia between 1975 and 1979?

A: Yes, I heard about that ... Initially, from -- starting from 1970, they were peacefully sent to -- sent back to their country by the Cambodian government, and that continued until 1975. So then for us, later on we were instructed that Vietnamese had to be smashed because they did not return to their country.⁴³

⁴¹ E3/9735 Written Record of Acts of Investigations, 7 Sept 2015, EN 01138987.

⁴² E1/369.1 Pak Sok, T. 16 Dec 2015, 13.35.23-13:36:35.

⁴³ E1/386.1 Meas Voeun, T. 2 Feb 2016, 15.54.15-15:58:47.

33. The fact that the policy came from the Centre leadership is further corroborated by a telegram that Ros Nhim, the Northwest Zone commander, sent to Office 870, the executive arm of the Standing Committee,⁴⁴ shortly before his June 1978 arrest. Nhim asked:

Yuons with Khmer spouses and the half-breed [Khmer-Yuon]?
Regarding this issue, the meeting would like to ask *Angkar* 870 what to do with them? Whatever *Angkar* decides, please give instruction.⁴⁵

34. The CPK's *Revolutionary Flag* magazine reported in April 1978 on the success of the programme to destroy the Vietnamese community within Cambodia:

And now, how about the Yuon? There are no Yuon in Kampuchean territory. Formerly there were nearly 1,000,000 of them. Now there is not one seed of them to be found.⁴⁶

PURGES — THE REVOLUTION DEVOURS ITS OWN CHILDREN

*The leadership apparatus must be defended at any price ... There can be no comparison between losing two or three leading cadres and 200-300 members. Rather the latter than the former.*⁴⁷

– *Nuon Chea, July 1978*

35. With increasing frequency, the regime's top leaders sought to blame internal enemies for their own failures and engaged in an ever-escalating purge of the CPK's own cadres. Veteran Khmer Rouge leaders were arrested, tortured, and forced to confess to wild conspiracies involving the CIA, KGB, and Vietnamese agents and to name all of their associates. Anyone connected to such an arrestee by work or family relations was considered part of the "string" and were themselves likely to be arrested as the regime spiralled into self-destructive violence.

POL POT'S DOUBLE SHADOW: NUON CHEA AND KHIEU SAMPHAN

*As for daily life, Pol Pot and Nuon Chea had meals with me, and we had meals together. We did nothing separately.*⁴⁸

– *Khieu Samphan*

⁴⁴ E1/189.1 Philip Short, T. 6 May 2013, 13.51.57- 13.53.30.

⁴⁵ E3/863 Telegram 09 from Nhim to Committee 870, 17 May 1978, EN 00321962.

⁴⁶ E3/4604 *Revolutionary Flag*, Apr 1978, EN 00519836.

⁴⁷ E3/196 Nuon Chea, *Statement of the Communist Party of Kampuchea to the Communist Workers' Party of Denmark*, July 1978, EN 00762403.

⁴⁸ E3/3198 Khieu Samphan Interview, EN 00815884. See also D313.11R Video *Video of Interview Khieu Samphan (Part 3)*, 38:48-39:04.

36. **Nuon Chea** and **Khieu Samphan** were not just Pol Pot loyalists, they were his two closest confidants and collaborators. **Nuon Chea** has corroborated **Khieu Samphan's** admission that during the DK regime the three regularly ate their meals together⁴⁹ and **Nuon Chea** has stated that they also attended self-criticism sessions together.⁵⁰
37. Pol Pot, **Nuon Chea** and **Khieu Samphan** shared common backgrounds as intellectuals, each praising and promoting their party's ideology, which espoused a radical socialist agrarian revolution. All three studied abroad, Pol Pot and **Khieu Samphan** in France; **Nuon Chea** in Thailand. While responsible for thousands of arrests, tortures and executions, each was a behind-the-lines leader. Unlike other senior Khmer Rouge leaders such as Sao Phim, Ta Mok, Vorn Vet, Son Sen, Koy Thuon, and Rhos Nhim who had much experience directly commanding combat forces, Pol Pot, **Nuon Chea**, and **Khieu Samphan** stayed removed from the battlefield.
38. Both **Nuon Chea** and **Khieu Samphan** remained loyal to Pol Pot throughout his life and continued to defend Pol Pot's actions long after his death. Despite the fact that he blamed Pol Pot for S-21,⁵¹ **Khieu Samphan** wrote in one of his books that "Pol Pot represented the historical leader who was never wrong when it came to making important decisions."⁵² **Nuon Chea** described Pol Pot as a "friend and compatriot" and a "good man" who "sacrificed himself for his nation."⁵³
39. In the early days of the Party, when **Nuon Chea** was Secretary of Phnom Penh, Pol Pot had been his deputy.⁵⁴ At the 1960 Party Congress, **Nuon Chea** assumed the second most powerful position in the party, Deputy Secretary, while Pol Pot was a member of the Standing Committee.⁵⁵ When the then Party Secretary Tou Samouth disappeared in 1962, **Nuon Chea** claims he convinced Pol Pot to take over this top position⁵⁶ and they agreed that whenever there were problems, they would discuss them together. Thet Sambath, who interviewed **Nuon Chea** over many years, wrote of Pol Pot and **Nuon Chea's** relationship:

⁴⁹ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757526.

⁵⁰ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757494.

⁵¹ E109/2.3R Video *Facing Genocide*, 2007, 54:10-54:57.

⁵² E3/18 Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103754.

⁵³ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757547.

⁵⁴ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757505.

⁵⁵ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757507.

⁵⁶ E186.1R Video *Enemies of the People*, 2010, 00:09.17-00:10:00.

During their years in power, the two were nearly inseparable, spending much more time with each other than they did with their families or other leaders. Before any new initiatives were presented, Pol Pot and Nuon Chea always discussed them together to hammer out the ideas and make sure they agreed on every point.⁵⁷

40. **Nuon Chea** stated that he and Pol Pot had no disputes or problems during the DK regime⁵⁸ and has stated:

They just called him and me Brother Number One and Two ... I was not the right arm or the left arm of Pol Pot ... We were equal. Pol Pot did not serve me and I did not serve him. We both served the way of the Party.⁵⁹

41. **Nuon Chea** has stated that when they attended self-criticism sessions together, Pol Pot criticised him for being “too hardline”.⁶⁰ Despite all the killings and misery of the regime, the only criticism that **Nuon Chea** had for Pol Pot was to tell him he was working too hard and not paying enough attention to his wife.⁶¹
42. **Khieu Samphan** was by far the best known of the senior Khmer Rouge leaders, both among Cambodians and in the international community despite joining the CPK armed struggle later than other senior party leaders. He worked openly in the 1960s while most CPK leaders worked underground. **Khieu Samphan** founded his own newspaper, was elected to Parliament, and served in Sihanouk’s government where he attained widespread respect for being incorruptible. It was only in 1967 that he joined other CPK leaders in the *maquis*.
43. **Khieu Samphan**’s relationship with Pol Pot can be traced back to 1943 when they attended the same college in Kampong Cham. **Khieu Samphan** told a researcher that he and Pol Pot joined a theatre troupe and travelled together for one month to Siem Reap in 1945.⁶² **Khieu Samphan** also had a long history with the communist party in Cambodia in its various iterations. Like Pol Pot, **Khieu Samphan** studied in France

⁵⁷ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757546.

⁵⁸ E186.1R Video *Enemies of the People* additional footage: interview by Thet Sambath, “Nuon Chea Interview”, 2010, 17:14-17:43.

⁵⁹ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757546.

⁶⁰ E186.1R Video *Enemies of the People*, additional footage: interview by Thet Sambath, “Nuon Chea Interview”, 2010, 14:15-14:56; E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757494.

⁶¹ E186.1R Video *Enemies of the People*, additional footage: interview by Thet Sambath, “Nuon Chea Interview”, 2010, 15:05-17:13.

⁶² E3/9 Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396224-25. See also E1/189.1 Philip Short, T. 6 May 2013, 09:24.24-09:26.54 [“We talked about his school days, when he was at school with Pol Pot in I think Kampong Cham”].

where he joined the communist party in 1955. **Khieu Samphan**'s close relationship with Pol Pot and **Nuon Chea**, his very public positions, and enviable public reputation guaranteed that his influence far exceeded his party rank. Such was his celebrity, in comparison with the secretive Khmer Rouge, that many Cambodians, and for a long time even Prince Sihanouk, thought that **Khieu Samphan** was the leader of the movement.

44. During the 1970-75 civil war, **Khieu Samphan** served as the Deputy Prime Minister and Minister of Defence of the Royal Government of National Union of Cambodia (RGNUC, more commonly referred to by its French acronym "GRUNK"),⁶³ making him the highest-ranking Khmer Rouge leader within the government nominally headed by Prince Sihanouk. **Khieu Samphan** has bragged that he played an "important, if not an indispensable" role in the Khmer Rouge victory, with his principal contribution being to "establish the liaison" between the CPK and Norodom Sihanouk, who did not know Pol Pot.⁶⁴ In 1976, **Khieu Samphan** replaced Norodom Sihanouk as the Head of State for Democratic Kampuchea, and was again the public face of the CPK. As he boasted in a documentary interview with foreign journalists, "My image and my name represented Cambodia."⁶⁵ While **Khieu Samphan** was made a Candidate Member of the Central Committee in 1971 and a full-rights member in 1976,⁶⁶ his contributions to furthering policy exceeded his formal standing in the Party, as demonstrated by his attendance at Standing Committee meetings.
45. Both **Nuon Chea** and **Khieu Samphan** have repeatedly expressed their devotion to Pol Pot, even long after his death. In the documentary *Facing Genocide*, made shortly before his 2007 arrest, **Khieu Samphan** said that he respected Pol Pot,⁶⁷ called him a "great leader"⁶⁸ and said, "I followed him all the time, like a shadow."⁶⁹ He grew

⁶³ **E3/28** Royal Government of National Union of Cambodia Publication, *Cambodia's Seat in the United Nations*, 19 June 1973, EN 00068116, 00068119; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396401.

⁶⁴ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745; **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.47.49-15.49.35 ["I was tasked to be a bridge between the CPK and the king"]; **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103744; **E3/9** Philip Short, *Pol Pot, The History of a Nightmare*, EN 00396413.

⁶⁵ **E109/2.3R** Video *Facing Genocide*, 2007, 29:35-29:43.

⁶⁶ **E3/3198** Khieu Samphan Transcript of Interview, 1998, EN 00815893 ["I worked, they had me join as a Candidate Member of the Central Committee in 1971, and, after the liberation in 1976, I was appointed a Full Member of the Central Committee after the Meeting of the Central Committee and the Party Congress"]. See also **D313.11R** Video *Video of Interview Khieu Samphan (Part 3)* [Khmer only].

⁶⁷ **E109/2.3R** Video *Facing Genocide*, 2007, 23:35-23:43.

⁶⁸ **E109/2.3R** Video *Facing Genocide*, 2007, 01:17:32-01:17:40.

⁶⁹ **E109/2.3R** Video *Facing Genocide*, 2007, 41:35-41:40.

emotional speaking of Pol Pot, telling the filmmaker, “I can still see him in the Cardamon Mountains, here and there. I always keep a clear image of him in my head.”⁷⁰ When asked by the filmmaker if he missed Pol Pot, **Khieu Samphan** answered, “Yes, because he had such an exceptional mind.”⁷¹

46. Like Pol Pot and **Nuon Chea**, **Khieu Samphan** was an intellectual who used his positions of influence to incite violence against others while always keeping himself far from the battlefield. **Khieu Samphan** used his titles and fame to defend the policies of Pol Pot and **Nuon Chea**. Despite his “notorious timidity”,⁷² it was **Khieu Samphan** who, in the dying days of the Khmer Republic, called for the execution of the “Seven Traitors” and implied similar fates would befall all Khmer Republic officers who failed to heed the Khmer Rouge’s demand for their surrender. During the DK regime, it was **Khieu Samphan** who often incited Khmer Rouge cadres to pursue the paranoid and brutal policy of targeting “enemies” of the regime. For the April 1977 anniversary of the Khmer Rouge victory, **Khieu Samphan** implored cadres to “uphold our spirit of revolutionary vigilance at all times against the enemy from all quarters, both at home and abroad”.⁷³ For the 1978 anniversary he demanded that cadres pledge:

To exterminate resolutely, all agents of the expansionist, annexationist Vietnamese aggressors from our units and from Cambodian territory forever ... To exterminate resolutely all CIA agents ... to exterminate the enemies of all stripes.⁷⁴

47. Those who were branded traitors collaborating with the CIA, KGB, and/or Vietnam included well over half of the top CPK political and military leaders who sat on the Central Committee: the secretaries of six of the seven Zones — old North (Koy Thuon), new North (Kang Chap), Northeast (Ya), Northwest (Ros Nhim), West (Chou Chet) and East (Sao Phim); the secretaries of the autonomous sectors in Siem Reap (Sot), Preah Vihear (Hang) and Kratie (Yi); the commanders of five of the nine RAK Divisions - 170 (Chakrei), 290 (Tal), 310 (Oeun), 450 (Suong) and 920 (Chhin); and Standing Committee Member Vorn Vet.⁷⁵

⁷⁰ **E109/2.3R** Video *Facing Genocide*, 2007, 43:45-44:00.

⁷¹ **E109/2.3R** Video *Facing Genocide*, 2007, 44:05-44:25.

⁷² **E3/190** Ieng Sary Interview, 4 Jan 1999, EN 00081572.

⁷³ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419517.

⁷⁴ **E3/562** Khieu Samphan Statement, 16 Apr 1978, EN S 00010563.

⁷⁵ **E3/10604** OCJ S-21 Prisoner List, Nos 14027 (Koy Thuon alias Khuon, Secretary of State Commerce - former Secretary of old North Zone), 528 (Chann Sam alias Se, Secretary of new North Zone - commonly known as Kang Chap), 14037 (Achar Men San alias Nai Sarann alias Ya, Secretary of

48. Pol Pot, **Nuon Chea** and **Khieu Samphan** would certainly have known that it would never have been possible for the CPK to have defeated the Lon Nol government nor to resist Vietnam's 1977 punitive invasion if half the Party leadership were traitors in collusion with the enemy they were fighting. Had all these men been conspiring against the leadership, they could have easily removed Pol Pot from power as together they controlled the vast majority of the Khmer Rouge armed forces. The fact that these men, rather than using their superior forces to attack Pol Pot's regime, failed to even resist their own arrests, confirms that the purges were a paranoid reaction of the Pol Pot faction to prevent any challenge to their brutal and unpopular leadership.
49. **Khieu Samphan's** special status as the trusted disciple of Pol Pot ensured his survival. This was most clearly manifested in one incident in late 1978, towards the end of the regime. By this time, the revolution was well into the process of "eating its own children". Thousands of cadres had been taken to S-21. **Nuon Chea** has corroborated Duch's testimony that in this atmosphere of wholesale purges, Duch informed **Nuon Chea** of a confession from S-21 implicating **Khieu Samphan**. **Nuon Chea** responded angrily to Duch saying, "Don't report this again and don't say it again. I don't believe people's confession that lay blame on **Khieu Samphan**."⁷⁶ While thousands of others were condemned to be arrested, tortured and executed based on evidence from confessions, **Nuon Chea** made sure that the same fate could not befall **Khieu Samphan**, his daily companion and fellow trusted acolyte of Pol Pot.

KILLING KHMER REPUBLIC OFFICIALS

*The same thing applied to Base People. If they have any relatives who held senior positions in the previous regime, they would be arrested and killed as well. They used a phrase at that time. If they dig out the grass, they had to dig out the root as well.*⁷⁷

– Witness Cheang Sreimom from Tram Kak District

50. Immediately following the surrender of the Khmer Republic Army, formerly led by Lon Nol, the regime targeted its officers and senior civil servants for execution.

Northeast Zone), 14398 (Moul Un alias Sambatt alias Nhim, Secretary of Northwest Zone), 14142 (Chou Chet alias Sy, Secretary of West Zone), 6557 (Pa Phal alias Sot, Secretary of Sector 106), 120 (Bou Phatt alias Hang, Secretary of Sector 103), 150 (Born Nan alias Yy, Secretary of Sector 505), 14024 (Chann Chakrei alias Mean, Secretary of Division 170), 8226 (Sam Huoy alias Meas Tall, Secretary of Division 290), 8135 (Sbauv Him alias Oeun, Secretary of Division 310), 433 (Chea Non alias Suong, Secretary of Division 450), 4835 (Men Meng alias Chhin, Secretary of Division 920), 14514 (Penh Thuok alias Sok alias Vorn Vet, Deputy Prime Minister of Economy Ministry).

⁷⁶ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757520.

⁷⁷ E1/254.1 Cheang Sreimom, T. 29 Jan 2015, 11.14.22-11.16.37.

Ordinary conscripts and those related to former Khmer Republic soldiers were viewed with suspicion and persecuted, with many eventually detained and/or executed. Even veteran Khmer Rouge cadres, some in positions of considerable authority, testified that they were fearful and felt vulnerable because they had a family member who had been part of the Lon Nol regime.⁷⁸

51. Witness evidence and surviving documents prove that the regime targeted those who were Lon Nol officers or held high-ranking civilian positions in the Khmer Republic. Documents recovered from the Kraing Ta Chan Security Centre in Tram Kak show that cadres were instructed to seek out those with ranks from the former regime. One document reported, "We are having the Subdistrict militia bring in those who held officer ranks."⁷⁹
52. Popel Commune reported in April 1977 to the Tram Kak District "*Angkar*" that "after having received successive instructions from *Angkar* on vigilant against enemies and purges of ranking enemy soldiers, I have examined and identified the following persons". Popel Commune then claimed to have identified a 2nd Lieutenant and a former employee of the Social Development Ministry.⁸⁰
53. In April 1977 cadres reported, "We, in the Ta Phem Communal Cooperative Base, have examined and purged ranking enemies. Upon instructions from the Party, we went to the field to examine them and found that there were still six more ranking persons who changed their names every month."⁸¹
54. A military order, issued in June 1975 by the commander of a Special Zone brigade seconded to the Party Centre, ordered the execution of 16 Khmer Republic military officers. The officers ranged in rank from 2nd Lieutenant to Colonel, and the order stated that all "have been examined by the Party and the Party has decided that they are to be smashed."⁸²

⁷⁸ F1/I.1 Sao Van, T. 2 July 2015, 11.48.40-11.50.46 ["my elder brother, Sao Sum alias Chrun was a third deputy chief of Quarter 6 under the Lon Nol administration. And due to his affiliation, he was sent to be re-educated. And I was not doubtful at all about the demotion that I received, because I knew about my involvements and my personal background, and I tried to adapt myself to survive the regime"].

⁷⁹ E3/2048 Commune Report, 4 March, EN 00276566.

⁸⁰ E3/2048 Report between Subdistrict and District Offices and Kraing Ta Chan Security Office, 30 Apr 1977, EN 01454945.

⁸¹ E3/2048 Report between Subdistrict and District Offices and Kraing Ta Chan Security Office, 28 Apr 1977, EN 01454947.

⁸² E3/832 DK Order, 4 June 1975, EN 00068918.

55. The distinction that DK policy made between high-ranking officers, who were to be executed, and ordinary Khmer Republic soldiers, who were viewed with suspicion that often led to execution, is demonstrated in an April 1977 report from Popel Commune to Tram Kak District authorities:

For those people who hold a ranking position, we will send them out [to you] consecutively and for soldiers and some teachers who attempted to destroy ... our revolution, could you please give us advice what to do or let us decide⁸³

56. According to Ieng Sary, the DK Minister of Foreign Affairs, the decision to kill ranking officers occurred shortly after the Khmer Rouge's victory on 17 April 1975. Steve Heder in an interview with Ieng Sary in 1996 noted that documentation made it clear that "those to be executed included military officers, senior officials, 'secret agents,' and a number of other categories, but there is nothing about ordinary soldiers and lower-ranking civil servants like school teachers."⁸⁴ Ieng Sary responded that after the Khmer Rouge had entered Phnom Penh they had searched the homes of military officers and found weapons, so the decision was made around the 20th of April to "do whatever was required to keep that group from being able to rise up and oppose the revolution."⁸⁵
57. One left-wing intellectual who stopped in Hanoi in December 1976 was told by the DK embassy there that "only officers from the rank of major upwards" and police "secret agents" were targets for execution.⁸⁶
58. Entire families were slaughtered due to connections with ranking Khmer Republic officers and officials. The four children of former Ministry of Education official Thach Chea were murdered at S-21 and his wife killed after being subjected to live surgical experiments.⁸⁷ In May 1977, Popel commune confirmed to Tram Kak District that "106 military families" had been "smashed by Angkar".⁸⁸

⁸³ **E3/4103** Request for Advice from Chorn, Popel Commune, to District Office, 11 Apr 1977, EN 00322133.

⁸⁴ **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417605.

⁸⁵ **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417606.

⁸⁶ **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00396991.

⁸⁷ **E3/1539** S-21 List of Prisoners Who Died at Office S-21C, No. 159 [recording execution of "four children of Thach Chea" on 30 March 1976]; **E3/5800** Kaing Guek Eav, T. 16 Jun 2009, 15.59.42-16.10.58.

⁸⁸ **E3/2048** DK Report from Chun (Popel commune) to District Angkar, 8 May 1977, EN 01454946.

DELEGATING MURDER*The Right To Smash, Inside And Outside The Ranks**Objective:*

1. That there is a framework in absolute implementation of our revolution,

2. To strengthen our socialist democracy,

All this to strengthen our State authority.

- If in the base framework, to be decided by the Zone Standing Committee.

- Surrounding the Center Office, to be decided by the Central Office Committee.

- Independent Sectors, to be decided by the Standing Committee.

- The Center Military, to be decided by the General Staff

– *Decision of the CPK Central Committee, 30 March 1976*⁸⁹

59. In a regime without laws or courts, decisions over the life or death of citizens were delegated by the regime leaders to lower level cadres. Now facing the prospect of being held accountable for their roles in the mass killings of the Khmer Rouge regime, **Nuon Chea** and **Khieu Samphan** seek to deflect blame to those below their top leadership level, including leaders later purged by the regime. However, the evidence shows that the DK leadership did nothing to prevent crimes committed by local authorities and punished no one for these killings. Rather, the Centre leadership explicitly granted zone and military leaders the right to “smash” — to kill with no legal process. Further, Centre leaders including **Nuon Chea** and **Khieu Samphan**, as detailed below in this brief, incited the killings with constant exhortations to frightened cadres to root out and smash the enemy. Any doubts as to the level of brutality expected were dispelled by the Centre’s own merciless campaign of killings, from the execution of the “seven traitors” and other ranking Lon Nol officials in the immediate aftermath of the Khmer Rouge victory, to the constant purging of even the most senior cadres working closest to the Centre leaders and the brutal killing machine established at the Centre’s own S-21 prison. The example was set of the brutality expected, and any local cadre who failed to show equal enthusiasm for the killing campaign risked being suspected of disloyalty and executed.
60. Contrary to **Nuon Chea** and **Khieu Samphan**’s late attempts to deflect the blame for all the killings to some of their own victims, no evidence indicates that cadres, such as the six zone leaders purged by the regime (Ya, Koy Thuon, Kang Chap, Chou Chet,

⁸⁹ E3/12 CPK Central Committee Decision, 30 Mar 1976, EN 00182809.

Rhos Nhim and Sao Phim), were targeted because of their roles in killing innocent Cambodians. Rather, these senior leaders were targeted because they were seen as a threat to the absolute dictatorship of Pol Pot and his acolytes and they were replaced by even more murderous cadres. **Nuon Chea** himself has given his reason for the killing of many of these “friends”, some of whom he claims he “loved”,⁹⁰ and none of his explanations mention any motivation to punish those responsible for killing innocent Cambodians. Rather, **Nuon Chea**’s “friends”, including Northeast Secretary Ya (Ney Saran), longtime party leader Keo Meas, Northwest Zone leader Rhos Nhim, Industry Minister Koy Thuon, Deputy Prime Minister Vorn Vet, West Zone leader Chou Chet, and East Zone leader Sao Phim, were accused of conspiring with Vietnam and plotting against Pol Pot and **Nuon Chea**.⁹¹

61. The Prosecution has never alleged that **Nuon Chea** and **Khieu Samphan** ordered or were even aware of each individual killing. What the evidence does establish is that they were aware that mass killings were ongoing and continued to incite cadres to smash “enemies,” a clear signal that their intention was to promote the campaign to seek out and kill without any due process whole categories of people based on mere suspicion that they might oppose the regime. **Nuon Chea**’s attempts to justify the killings only highlight the arbitrary nature of the decisions to kill. In an interview he said, “We would investigate someone gradually until we knew his background. Then we would solve him.”⁹² He claimed to have been unaware of the killings of “ordinary people”⁹³ then immediately acknowledged the vast numbers saying, “Pol Pot and I knew nothing about the ordinary people. But there were so many of them being brought in.”⁹⁴ When asked, “When did you realize that villagers were being killed?” his indifference was blatant. Nuon Chea answered, “I can’t really remember the exact moment. I just went on with my work” — then he laughed.⁹⁵
62. **Khieu Samphan** has acknowledged that in the middle of 1978, “I did hear of massive arrests and atrocities committed in Preah Vihear province.”⁹⁶ In response, he arranged

⁹⁰ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757535.

⁹¹ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757530-37. See also EN 00757532 [Nuon Chea says that Rhos Nhim was taken to S-21 because he was accused of killing seven Thai pilots during Sihanouk’s rule].

⁹² E3/4001R Video *Enemies of the People*, 2010, 01:02:59-01:03:09.

⁹³ E3/4001R Video *Enemies of the People*, 2010, 01:03:16-01:03:22.

⁹⁴ E3/4001R Video *Enemies of the People*, 2010, 01:03:16-01:03:27.

⁹⁵ E3/4001R Video *Enemies of the People*, 2010, 01:03:38-01:03:49.

⁹⁶ E3/18 Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN

to transfer his own in-laws from Preah Vihear to Siem Reap, but did nothing for other victims of the purge there.⁹⁷

FEIGNING IGNORANCE TO DODGE RESPONSIBILITY

I must confess that I discovered the systematic nature of the repression only very recently. To be frank, it wasn't until I saw the movie 'S-21: The Khmer Rouge Death Machine' by director Rithy Panh.⁹⁸

– **Khieu Samphan**

I never met, never supervised, or ordered Duch to mistreat or kill anyone. Everyone should be aware that soldiers or security personnel would never listen to anyone besides their own commanders. Therefore, there is no reason that Duch should listen to me. Frankly speaking, I heard the name of Duch only after 1979.⁹⁹

– **Nuon Chea**

63. Since it became apparent that there would be a tribunal to judge those most responsible for the crimes of Democratic Kampuchea, **Khieu Samphan** has tried to convince the world that he was an innocent bystander who, though Head of State, had no power and knew nothing of the crimes that were being perpetrated by the regime he represented. While hundreds of ordinary Cambodians and lower-level cadres have testified about the inhumane conditions, disappearances, torture, and killings that created an atmosphere of terror, **Khieu Samphan** - who had travelled around the country; who was a member of the Central Committee and regularly attended Standing Committee meetings; who had access to reports from foreign media and governments about the ongoing human rights violations; and who lived, worked, and ate in constant proximity to Pol Pot and **Nuon Chea** - claims to have been totally unaware of the ongoing crimes. This claim is highly implausible, and **Khieu Samphan's** own inconsistent statements make it clear that his denials entirely lack credibility.
64. In a radio interview in 2007, **Khieu Samphan** was asked about “the killing fields policy” and said that “Pol Pot hunted down and made arrests with the participation from the Standing Committee; he never did anything alone.”¹⁰⁰ The only way that

00103793.

⁹⁷ E1/130.1 Meas Voeun, T. 4 Oct 2012, 14.13.35-14.17.15.

⁹⁸ E3/18 Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103781.

⁹⁹ E1/237.1 Nuon Chea, T. 31 Oct 2013, 09.35.03-09.37.16.

¹⁰⁰ E3/587 Khieu Samphan Interview, 15 Oct 2007, EN 00680031.

Khieu Samphan could know of Pol Pot's role and know of the Standing Committee's role is if he was aware not only of the arrests but also of the whole process of decision-making that led to the arrests. **Khieu Samphan** went on to say that in villages, "the arrests were conducted when they found the family history of those to be arrested, because the suspects were the relatives of those in power" adding that "they executed those who had not been respectful to them, those with whom they had not been satisfied, and those who had disappointed them with their ideas or thoughts as in 'no gain in keeping, no loss in weeding out!'"'.¹⁰¹ Again, **Khieu Samphan's** statements demonstrate that he was well aware of the Khmer Rouge leadership's policy of targeting all those related to or associated with any of its rivals - the "string" - and executing people solely on the basis of this association.

65. **Khieu Samphan's** claims that he was ignorant of the brutality of the regime are patently incredible. The evidence detailed *infra* in this brief proves that he visited cooperatives and worksites, first accompanying Prince Sihanouk to the Central and Northwest Zones and later conducting a "study-tour" of the West and Southwest Zones.¹⁰² Certainly if Norodom Sihanouk, who was generally confined to his home and treated like a prisoner by the Khmer Rouge, was able to observe the inhumane conditions of those labouring at the worksites they visited together, **Khieu Samphan** could not have been unaware.¹⁰³
66. **Khieu Samphan** claimed in his book that he only learned of S-21, the execution and torture centre at Tuol Sleng, when he saw the movie *S-21: The Khmer Rouge Killing Machine*, which was not released until 2003. However, his lawyers recently quoted from an Ieng Thirith interview in which she said she saw reports on Tuol Sleng when she was with **Khieu Samphan** in Havana and claims they were both surprised.¹⁰⁴ The conference in Havana was in September 1979, more than two decades before **Khieu Samphan** now claims to have learned of S-21.

¹⁰¹ E3/587 Khieu Samphan Interview, 15 Oct 2007, EN 00680032.

¹⁰² E3/18 Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103788.

¹⁰³ D299.1.42R Video *Jungle War*, 2000, 00:29:33-00:30:26 ["At the beginning, from September 1975 until April 1976, I, as head of state, travelled through my country, through Cambodia, together with Khieu Samphan. I saw that the communes were concentration camps. I saw how work went on day and night. When the moon shone, people could not sleep. Sleep was not allowed. People had to work. I saw what people ate, for there was no rice. The rice was mixed with maize and other things, beans, even leaves, the chopped up stalks of banana plants. The diet was very, very bad"].

¹⁰⁴ E3/659 Ieng Thirith Interview, Oct-Nov 1980, EN 00182323.

67. No one who lived through the DK regime was unaware of the disappearances and the atmosphere of terror these created. **Khieu Samphan**, who worked at the centre of the regime, worked and dined daily with Pol Pot and **Nuon Chea**, travelled the country, and regularly attended the meetings of the “Expanded Standing Committee”, would obviously be much more informed than most about these crimes. Many of those purged were close associates of **Khieu Samphan**, including: Hou Yuon and Hou Nim, long-time friends of **Khieu Samphan** who had served as ministers with him in the GRUNK government; Doeun, Chairman of Office 870 Committee, whose only other member was **Khieu Samphan**; Pang, who worked with the central leadership as head of the administrative Office S-71; and Vorn Vet, Deputy Prime Minister for the Economy (who shared responsibilities with **Khieu Samphan** regarding DK exports and other commerce matters). In 1976, **Khieu Samphan** dismissed foreign reports of atrocities in Cambodia as “irritating and meaningless noise”.¹⁰⁵
68. **Khieu Samphan**’s claims of ignorance are also contradicted by statements that show he knew of arrests and executions at the time they occurred and continued to try to justify them long afterwards. For example, in an interview in August 1980,¹⁰⁶ **Khieu Samphan** claimed that Vietnamese agents had obtained important positions in the Khmer Rouge movement in 1975, that “some of them were in charge of major zones” and “this was an attack on us from the inside out.” **Khieu Samphan** said “we fought constantly against these attempts and defeated them” and “we managed to deal with those people completely”.¹⁰⁷ When asked what percentage of these enemy agents were in the senior ranks of the Party, **Khieu Samphan** said, “Less than half in the Central Committee, but nearly half in the Standing Committee.”¹⁰⁸ **Khieu Samphan** acknowledged to the Co-Investigating Judges that “I observed that some members of the central committee disappeared one after another.”¹⁰⁹ He demonstrated his knowledge of the purge campaign by discussing at length the reasons for Chan Chakrei’s arrest, explaining it was based on the confessions of persons alleged to have thrown a grenade behind the palace, who had implicated military officers and who had in turn implicated Chakrei. **Khieu Samphan** emphasised that “Pol Pot did not just

¹⁰⁵ E3/275 Khieu Samphan Speech, 15 Apr 1976, EN 00167634.

¹⁰⁶ E3/203 Khieu Samphan Interview, 4 Aug 1980, EN 00424013. See also E1/222.1 Stephen Heder, T. 11 July 2013, 15.42.13-15.46.54 and E1/226.1 T.18 July 2013 10.30.11-10.32.12.

¹⁰⁷ E3/203 Khieu Samphan Interview, 4 Aug 1980, EN 00424013 (*emphasis added*).

¹⁰⁸ E3/203 Khieu Samphan Interview, 4 Aug 1980, EN 00424014.

¹⁰⁹ E3/210 Khieu Samphan WRI, 14 Dec 2007, EN 00156949.

arrest cadres randomly. These were matters that had to be investigated, monitored, and seen clearly.”¹¹⁰ When an interviewer mentioned the killing of **Khieu Samphan’s** friends Hou Yuon and Hou Nim along with many other long-serving cadres and then asked, “As far as you know, there weren’t any cases where somebody innocent was accused?” **Khieu Samphan’s** answer was definitive: “No, none.”¹¹¹

69. What were Hou Nim and Hou Yuon guilty of? **Khieu Samphan** was aware that they were killed for merely criticising Pol Pot’s policies. He told the Co-Investigating Judges, “I would not have survived if I dared to reveal any disagreement or objection to anything. The obvious example of that was the case of Hou Nim and Hou Yun.”¹¹²
70. Before his arrest, **Nuon Chea** acknowledged the regime’s killing policies and defended them, indicating that he would explain all at this trial.¹¹³ However, in his statement at the close of the Case 002/01 trial, **Nuon Chea**, like **Khieu Samphan**, sought to understate his powers and role in the regime and cast all blame on others. Despite previous statements acknowledging that he was number two in the regime and that he discussed and agreed upon all policies with Pol Pot, **Nuon Chea** told the Court that during the DK regime “I did not have any authority”.¹¹⁴ **Nuon Chea** further claimed that he had never given any orders to Duch, had never met Duch and only heard Duch’s name after 1979.¹¹⁵ Yet in prior interviews, **Nuon Chea** talked about having extensive discussions with Duch during the DK regime and having discussed Duch with Ta Mok.¹¹⁶ **Nuon Chea** had previously corroborated Duch’s account that they specifically discussed an S-21 confession implicating **Khieu Samphan** which he had ordered Duch to ignore and had claimed, “Duch was not happy with me because I always blamed him for making mistakes.”¹¹⁷

JUSTIFYING MASS MURDER

Nuon Chea said he was not particularly disturbed when his former comrades and friends were executed: “The Party decided to kill them because they were betraying the party and the nation. I was not

¹¹⁰ E3/4035 Khieu Samphan Interview, 22 Feb 2012, EN 00789052.

¹¹¹ E3/3169 Stephen Heder, *Working Papers: Pol Pot and Khieu Samphan*, EN 00002771.

¹¹² E3/37 Khieu Samphan WRI, 14 Dec 2007, EN 00156757.

¹¹³ E3/81 Video *Pol Pot’s Shadow*, 2002, 21:20-24:09.

¹¹⁴ E1/237.1 Nuon Chea, T. 31 Oct 2013, 9.08.13-09:10.33.

¹¹⁵ E1/237.1 Nuon Chea, T. 31 Oct 2013, 9.35.03-09:37.16.

¹¹⁶ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757538.

¹¹⁷ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757520.

*scared or sad when they were killed. They had done wrong and betrayed us, so they received the kind of treatment they deserved.*¹¹⁸

– *Thet Sambath, Behind the Killing Fields*

71. **Nuon Chea** has argued that:

Evidence of preparation and attempts to foment treasonous rebellion against the CPK and the DK government ... absolves **Nuon Chea** of criminal responsibility for the charges of the crimes against humanity of murder, torture and extermination ... at the various security centres[.]¹¹⁹

72. These arguments are legally baseless and morally abhorrent. It follows from **Nuon Chea's** arguments that any totalitarian regime is free to torture and summarily kill any of its perceived critics simply on the suspicion that they are disloyal to the leadership of the regime. One does not need to speculate as to what dreadful consequence could result from such a principle; we need only look at what in fact happened under the DK regime.
73. There is no credible evidence that the thousands of victims detained, tortured and killed at DK security centres, many of whom were children, were planning a rebellion. Rather, the evidence shows that the regime indiscriminately detained and executed tens or hundreds of thousands of men, women, and children based only on the fact that they had been implicated in "confessions" obtained by torture; the fact that they were former Lon Nol officers or were soldiers from units whose commanders the regime suspected of disloyalty; the basis that they were of Cham or Vietnamese ethnicity; the fact that they had criticised Khmer Rouge rule; or the fact that they were somehow related or connected to a person in one of these categories. The more the regime killed, the greater the discontent with its policies and the more justified the top leaders felt in their paranoia.
74. The Khmer Rouge leadership abolished all courts in Cambodia and took no steps to create new ones. The People's Representative Assembly (PRA), which was headed by **Nuon Chea** and had exclusive law-making power according to the Constitution, met only once and, even he admits, never passed any laws.¹²⁰ In this lawless environment,

¹¹⁸ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757531.

¹¹⁹ E395/2 Nuon Chea's Submissions on the Relevance of Evidence of Treasonous Rebellion to His Individual Criminal Responsibility in Case 002/02, 10 June 2016, para. 30.

¹²⁰ E1/220.1 Nuon Chea, T. 9 July 2013, 10.12.37-10.14.35.

there was no possibility of due process and the regime did not even try to pretend that there was.

75. **Nuon Chea**, who has ironically complained that in these ECCC proceedings he has been denied a fair trial and “rights guaranteed under national and international laws”, claims that the arrests and detentions at S-21 were lawful,¹²¹ and that the regime had the right to execute thousands of people without a trial, without any judicial review, and without any credible proof of wrongdoing.
76. **Nuon Chea** has argued that any evidence that people fought back and resisted a purge or opposed Pol Pot’s rule justifies the regime’s campaign of extrajudicial killings of its “enemies”. Certainly, not all of those targeted waited passively to be arrested and murdered; there were groups and individuals who resisted. Some simply attempted to escape with their lives,¹²² while others sought to liberate their own communities from the cruel rule of the Pol Pot regime. Witnesses in this trial have described the Cham rebellions at Koh Phal and Svay Khleang villages, where men and boys armed with knives and swords fought against automatic weapons and artillery in a desperate attempt to preserve their religion. Others have described the resistance of former Khmer Rouge soldiers who fought in the forests in mid-1978 to escape the regime’s mass executions of East Zone forces.¹²³ Other evidence shows that the populace in Chikreng District in Sector 106 revolted in April 1977 after a rumour spread of the return of Sihanouk and the imminent demise of the DK regime; it is estimated that this revolt resulted in the loss of eight to ten thousand lives.¹²⁴ One Kuy village (a generally favored ethnic minority) revolted and the entire population of 700 was killed.¹²⁵
77. It is also true that some individuals went to Vietnam and cooperated with the Vietnamese invasion that brought an end to the Democratic Kampuchea regime. **Nuon Chea** has labeled anyone who cooperated with the Vietnamese to free Cambodia from the yoke of Khmer Rouge rule that was enslaving and killing millions of Cambodians a traitor. Yet, **Nuon Chea** himself was recruited by a Vietnamese cadre to join the

¹²¹ E395/2 Nuon Chea’s Submissions on the Relevance of Evidence of Treasonous Rebellion to His Individual Criminal Responsibility in Case 002/02, 10 June 2016, para. 19.

¹²² F1/3.1 Toat Thoeun, T. 6 July 2015, 11.39.53-11.42.15[“Q: Mr. Witness, after your arrest, how many men did you lead into the forest to start openly an armed conflict with the Centre’s troops? When exactly was that? A: At first, nine of us went to the cooperative. We considered ourselves thieves, to steal rice to eat”].

¹²³ E1/493.1 Long Sat, T. 1 Nov 2016, 13.48.34-14.00.33.

¹²⁴ E3/1757 Michael Vickery, *Cambodia 1975-1982*, EN 00397051.

¹²⁵ E3/1757 Michael Vickery, *Cambodia 1975-1982*, EN 00397050.

Vietnamese-led Indochinese Communist party (ICP),¹²⁶ trained for two years in Vietnam,¹²⁷ and then helped lead a movement nurtured and directed by Vietnamese aiming to overthrow the elected government and monarchy of Cambodia. After the Lon Nol coup, a Vietnamese diplomat explained the presence of large numbers of their troops in Cambodia saying, “**Nuon Chea** has asked for help and we have liberated five provinces of Cambodia in ten days.”¹²⁸

78. **Nuon Chea**’s claim that those killed at S-21 and other execution centres were tools of Vietnam finds no support in the evidence. Many top-level leaders who were purged commanded significant armed forces, yet none led any military operation against the Pol Pot regime. If these commanders had in fact been agents of Vietnam, one would expect they would have aided the large-scale Vietnamese incursion into Cambodia in late 1977, but this did not happen. Rather, Sao Phim and his East Zone forces in particular led the DK’s resistance to the incursion.¹²⁹
79. None of the zone leaders resisted arrest or made any attempt to escape. As confirmed by eyewitnesses at this trial, in late May 1978 when Centre forces carried out large-scale arrests of Sao Phim’s East Zone commanders, Sao Phim did not flee across the nearby border to Vietnam, but rather went to Phnom Penh with only a few bodyguards to speak to Pol Pot and sort things out. Despite this demonstration of loyalty, when Sao Phim arrived across the river from the Royal Palace, Pol Pot’s forces attacked him and Sao Phim eventually committed suicide as Centre forces closed in on him.¹³⁰
80. Contemporaneous documents which survive in the Soviet and East German archives make it clear that Vietnam had no agents penetrating the higher levels of the CPK. Ironically, these documents prove that the Vietnamese government thought its main supporter within the DK government was **Nuon Chea** himself.¹³¹ Vietnam’s mistaken

¹²⁶ **E1/16.1** Nuon Chea, T. 5 Dec 2011, 13.51.19-13.53.32 [“When I arrived in Cambodia in 1951, there was a Vietnamese person who persuaded me to join the Indochinese Communist Party”].

¹²⁷ **E1/16.1** Nuon Chea, T. 5 Dec 2011, 15.08.45-15.11.29 [“Q: So how long did you live in Vietnam for your political training? A: It was more than a year”].

¹²⁸ **E3/9644** Dmitry Mosyakov, *The Khmer Rouge and the Vietnamese Communists*, EN 01085975.

¹²⁹ **E1/494.1** Long Sat, T. 2 Nov 2016, 14.24.45-14.30.28.

¹³⁰ **E1/506.1** Sin Oeng, T. 5 Dec 2016, 10.43.09-10.49.27; **E1/505.1** Sin Oeng, T. 1 Dec 2016, 15.55.34-15.57.46. See also **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150203-07.

¹³¹ **E3/10722** Reports from Ministry of Foreign Affairs of the German Democratic Republic, EN 01331573; **E3/9644** Dmitry Mosyakov, *The Khmer Rouge and the Vietnamese Communists: A History of Their Relations as Told in the Soviet Archives*, EN 01085974-75 [“Le Duan, leader of the Vietnamese communists, in a conversation with the Soviet ambassador, called a politician of ‘pro-Vietnam orientation’ as the occupant of the second most important post in the party. Speaking of Nuon Chea, Le Duan literally emphasised ‘he is our man indeed and my personal friend’”].

confidence in the friendship of **Nuon Chea** is perhaps understandable given the time **Nuon Chea** spent training in Vietnam, his fluency in Vietnamese, his own boasts about being able to obtain military assistance from Hanoi, and his long cooperation with Vietnam to overthrow Cambodia's government.¹³² In reality, **Nuon Chea** was no friend of Vietnam and the failure of the Hanoi government to realise this confirms that they had no insights into the inner workings of the CPK or DK government. Had the Vietnamese government had any agents within the CPK, they would have surely realised that **Nuon Chea** was not their supporter.

81. CPK policies, particularly the Khmer Rouge attacks which targeted civilians inside Vietnam, encouraged the Vietnamese to invade. Mass malnutrition and overwork at cooperatives and worksites, and the mass execution of thousands of East Zone forces who had fought on the front line to resist the Vietnamese invasion in 1977, weakened any chance of military resistance. As **Khieu Samphan** would only acknowledge many years later, Pol Pot's "ultra radical policy and his brutal methods were bleeding the nation dry and making it a weak defendant against Vietnam."¹³³
82. **Nuon Chea**'s attempts to justify his purge campaigns fail. There was nothing patriotic about summarily executing many thousands of Cambodian men, women and children without legal process in an attempt to preserve the rule of Pol Pot and his shadows. These killings cannot be morally or legally justified, they were simply mass murder.

THE CO-PROSECUTORS' CLOSING BRIEF IN CASE 002-02

83. This Overview is a very short summary of the vast evidence in this case, which is discussed in more detail in the remainder of this almost 800 page brief. Over the course of Case 002, during 499 days of trial,¹³⁴ 278 individuals have appeared before the Chamber, including 172 witnesses, 11 experts, and 95 Civil Parties.¹³⁵ The Chamber has admitted 16,591 documents, including contemporaneous DK materials, analytical works, audio and video recordings, and interviews by the Co-Investigating Judges and DC-Cam. These documents range in size from single-page DK telegrams or photographs to books of several hundred pages. Given its volume, it is not possible to

¹³² **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757513.

¹³³ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103782.

¹³⁴ Case 002/01 lasted 224 trial days, with Case 002/02 lasting the remaining 275 trial days.

¹³⁵ In Case 002/01, 92 individuals appeared before the Chamber, including 58 witnesses, three experts and 31 Civil Parties. In Case 002/02, 186 individuals testified, including 114 witnesses, 8 experts and 64 Civil Parties.

discuss all of the evidence.¹³⁶ Therefore what follows is an examination of the most important testimonies and documents and a discussion of how this evidence proves beyond any reasonable doubt that **Nuon Chea** and **Khieu Samphan** are guilty of the charges in Case 002/02.

II. LAW

A. CRIMES

84. The Accused are charged with crimes set out under articles 4, 5, and 6 of the ECCC Law which confer jurisdiction on the ECCC over genocide, crimes against humanity (“CAH”) and grave breaches of the Geneva Conventions 1949 (“GC” or “GCs”) respectively.
85. The commission of any of these crimes may occur through act or omission¹³⁷, and is not limited to direct physical perpetration.¹³⁸ Unless otherwise provided, the perpetrator must have acted with intent, encompassing both direct intent that the crime be committed (*dolus directus* of the first degree), and awareness that the crime will occur in the ordinary course of events, or phrased another way, awareness of a substantial likelihood that it will occur (*dolus directus* of the second degree).¹³⁹

GENOCIDE

86. Article 4 of the ECCC Law confers jurisdiction on the Court over the crime of genocide as defined in the 1948 Genocide Convention. The *actus reus* of genocide consists of the commission¹⁴⁰ of at least one of the listed categories of acts of genocide (detailed below).¹⁴¹ The *mens rea* comprises both the requisite intent to commit the listed act and the specific intent (*dolus specialis*) of genocide: “the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such”.¹⁴²

¹³⁶ This brief also contains a set of Annexes relating to various issues discussed in this brief which are listed in **Annex 1 Index to Annexes to Co-Prosecutors’ Closing Brief in Case 002/02**.

¹³⁷ Case 001-E188 *Duch* TJ, para. 480; *Tadić* AJ, para. 188; *Nahimana* AJ, para. 478.

¹³⁸ **D427** Closing Order, para. 1431; *Gacumbitsi* AJ, para. 60; *Seromba* AJ, para. 161. See also ICC Statute, art. 25(3)(a) confirming that a perpetrator may commit crimes “through another person”. The concept of perpetrator-by-means is recognised by the world’s major legal systems. See e.g. Model Penal Code (US, 1962), section 2.06(1)-(2); Archbold: Criminal Pleading, Evidence and Practice (UK, 2007), §18-7.

¹³⁹ Case 001-E188 *Duch* TJ, para. 481; **F36** Case 002/01 AJ, para. 1054; *Lukić* TJ, para. 900; *Limaj* TJ, para. 509; *Kvočka* TJ, para. 251. See also ICC Statute, art. 30(2)(b).

¹⁴⁰ As set out below, under ECCC Law, art. 4, “attempts to commit acts of genocide; conspiracy to commit acts of genocide; [and] participation in acts of genocide” are punishable at the ECCC.

¹⁴¹ See section **Genocide – Actus Reus** below.

¹⁴² *Krstić* AJ, para. 20; *Croatia v Serbia*, para. 132; *Al Bashir*, First Arrest Warrant Decision, para. 139; Darfur Commission Report, para. 491.

The Protected Group

87. Consistent with the Genocide Convention, the ECCC Law prescribes four categories of protected group: national, ethnical,¹⁴³ racial, and religious. The protected group must be defined positively, by reference to a common identity, not negatively, by reference to its lack of any particular identity.¹⁴⁴ Where more than one group is targeted, the elements of genocide must be considered in relation to each group separately.¹⁴⁵
88. Any attempt to differentiate each of the group categories on the basis of scientific criteria would be inconsistent with the object and purpose of the Genocide Convention.¹⁴⁶ In its Resolution 96(I), the UN General Assembly defined genocide as “a denial of the right of existence of entire *human groups*.”¹⁴⁷ This was followed by the UN Secretariat (1948),¹⁴⁸ and the ICJ (1951),¹⁴⁹ and later reconfirmed by the ICJ,¹⁵⁰ ICTY¹⁵¹ and ICTR.¹⁵² The ICTY Trial Chamber in *Krstić* noted:
- [t]he preparatory work of the Convention shows that setting out such a list was designed more to describe a single phenomenon, roughly corresponding to what was recognised, before the second world war, as ‘national minorities’, rather than to refer to several distinct prototypes of human groups.¹⁵³
89. As such, tribunals and commissions implementing the Convention have largely avoided providing concrete definitions or delineating precise boundaries of the protected groups, and have emphasised their preference for a flexible interpretation of the categories. The ICTY,¹⁵⁴ ICTR,¹⁵⁵ and Darfur Commission¹⁵⁶ have all confirmed that it

¹⁴³ Although the Genocide Convention and ECCC Law use the term “ethnical”, much of the jurisprudence refers to “ethnic” groups, in keeping with modern linguistic usage.

¹⁴⁴ *Stakić* AJ, paras 16-28; *Karadžić* TJ, para. 541; *Brđanin* TJ, para. 685; *Al Bashir* First Arrest Warrant Decision, para. 135; *Bosnia v. Serbia*, paras 193-196.

¹⁴⁵ *Stakić* AJ, para. 28; *Karadžić* TJ, para. 541; *Brđanin* TJ, para. 686.

¹⁴⁶ *Krstić* TJ, para. 556; *Brđanin* TJ, para. 682.

¹⁴⁷ UNGA Resolution 96(I), 11 December 1946, UN doc. A/RES/96(I), p. 188 (*emphasis added*).

¹⁴⁸ The Relations between the Convention on Genocide on the one hand and the Formulation of the Nurnberg Principles and the Preparation of a Draft Code of Offences against Peace and Security on the Other, 12 April 1948, E/AC.25/3/Rev.1, p. 6 [“[genocide] aims at the systematic extermination of human groups. ... The victim of the crime of genocide is a human group”].

¹⁴⁹ *ICJ Genocide Advisory Opinion*, p. 23 [“The origins of the Convention show that it was the intention of the United Nations to condemn and punish genocide as ‘a crime under international law’ involving a denial of the right of existence of entire human groups.” (*emphasis added*)].

¹⁵⁰ *Croatia v. Serbia*, paras 87, 504; *Bosnia v. Serbia*, paras 161, 194, 422.

¹⁵¹ See e.g. *Krstić* AJ, para. 36 [“its perpetrators identify entire human groups for extinction”].

¹⁵² See e.g. *Akayesu* TJ, para. 522; *Kayishema* TJ, para. 99.

¹⁵³ *Krstić* TJ, para. 556.

¹⁵⁴ *Jelisić* TJ, para. 69.

¹⁵⁵ *Akayesu* TJ, paras 511, 516, 702; *Musema* TJ, para. 162.

¹⁵⁶ Darfur Commission Report, paras 498, 501.

falls within the Genocide Convention and CIL to punish as genocide acts intended to destroy stable and permanent human groups, to which individuals belong regardless of their own desires, even if they do not fit neatly into one of the four group titles named in the Convention.

90. The determination of what constitutes a protected group in any given case is conducted on the basis of both objective and subjective criteria.¹⁵⁷ The objective criteria include the relevant political, social, historical and cultural context.¹⁵⁸ The subjective criteria include the stigmatisation or singling out of a group by the perpetrator(s) on the basis of the group's perceived characteristics,¹⁵⁹ including by the use of derogatory epithets.¹⁶⁰ In some instances, the victim may perceive herself to belong to the group.¹⁶¹ As the ICTR pointed out in *Bagilishema*:

A group may not have precisely defined boundaries and there may be occasions when it is difficult to give a definitive answer as to whether or not a victim was a member of a protected group. Moreover, the perpetrators of genocide may characterize the targeted group in ways that do not fully correspond to conceptions of the group shared generally, or by other segments of society. In such a case, the Chamber is of the opinion that, on the evidence, if a victim was perceived by a perpetrator as belonging to a protected group, the victim could be considered by the Chamber as a member of the protected group, for the purposes of genocide.¹⁶²

91. International courts have consistently adopted a flexible approach to fitting targeted populations into the Convention's four group categories. In *Akayesu*, the ICTR Trial Chamber defined a **national** group as "a collection of people who are perceived to share a legal bond based on common citizenship, coupled with reciprocity of rights and duties."¹⁶³ However, the Co-Prosecutors submit that this definition is unduly narrow and incomplete. When espousing this jurisdictional definition, the ICTR expressly relied on a *dictum* of the ICJ in the *Nottebohm* Judgment, yet in this context, the ICJ was

¹⁵⁷ *Gacumbitsi* TJ, para. 254; *Semanza* TJ, para. 317; *Blagojević* TJ, para. 667; ISIS-Yazidi Report, para. 105; Darfur Commission Report, paras 499-501.

¹⁵⁸ *Kamuhanda* TJ, para. 630; *Semanza* TJ, para. 317; *Rutaganda* TJ, para. 373; *Musema* TJ, para. 163; *Krstić* TJ, para. 557.

¹⁵⁹ *Stakić* AJ, para. 25; *Musema* TJ, para. 161; *Rutaganda* TJ, para. 56; *Brđanin* TJ, para. 683; *Krstić* TJ, para. 557; *Jelisić* TJ, para. 70; *Kayishema* TJ, para. 98; ISIS-Yazidi Report, para. 104; Darfur Commission Report, para. 499.

¹⁶⁰ ISIS-Yazidi Report, para. 104; Darfur Commission Report, para. 511.

¹⁶¹ *Brđanin* TJ, para. 683; *Musema* TJ, para. 161; *Rutaganda* TJ, para. 56; *Kayishema* TJ, para. 98; *Krstić* TJ, para. 559.

¹⁶² *Bagilishema* TJ, para. 65.

¹⁶³ *Akayesu* TJ, para. 512.

interested in defining the meaning of “nationality” in the context of the right of a state to exercise diplomatic protection. It had no concern with the meaning of “national group” within the meaning of the Genocide Convention. “Nations” are not founded purely on common citizenship; nationality is not synonymous with a “national group”, some of whom may actually hold the nationality of another State or who may be stateless.¹⁶⁴ As Oppenheim cautioned, “nationality” in the sense of citizenship of a state must not be confused with membership in a certain nation in the sense of “race”.¹⁶⁵

92. Indeed, the ICTY, when applying the “national group” concept in *Krstić* and later cases, has been reluctant to analyse group citizenship or clearly distinguish the targeted group’s nationality from other groups. Despite the lack of a unique citizenship, it held that the Bosnian Muslims were a “national group” based on their recognition as a “nation” by the Yugoslav Constitution of 1963, and the fact that the Bosnian Serb political and military authorities viewed the Bosnian Muslims as a specific national group.¹⁶⁶ The finding that the Bosnian Muslims constituted a “protected group” was then followed without further analysis in *Blagojević*,¹⁶⁷ *Brđanin*,¹⁶⁸ *Popović*,¹⁶⁹ *Karadžić*,¹⁷⁰ and *Tolimir*.¹⁷¹ In fact, in the majority of these subsequent cases, there is no reference to the “national group” designation made in *Krstić* and many of them devote more time discussing Bosnian Muslims, Bosnian Croats, and Bosnian Serbs in terms of distinct ethnicities.¹⁷² The ICJ also accepted Bosnian Muslims as a “targeted group”

¹⁶⁴ Schabas, *Genocide in International Law* (2000), 115; Shaw, *Genocide and International Law*, in Yoram Dinstein, ed, *International Law at a Time of Perplexity* (Essays in Honour of Shabtai Rosenne), pp. 797-820 at p. 807.

¹⁶⁵ Oppenheim’s *International Law*, Vol 1, p. 857 (Robert Jennings & Arthur Watts eds., 9th ed. 1992).

¹⁶⁶ *Krstić* TJ, paras 559-560. The finding that Bosnian Muslims were a protected group was not disturbed on appeal. See *Krstić* AJ, paras 6, 15.

¹⁶⁷ *Blagojević* TJ, para. 667. The Trial Chamber did not specify that the Bosnian Muslims constituted a national group. Rather, it found them to simply be a ‘protected group’, citing the *Krstić* Trial Judgment in support.

¹⁶⁸ *Brđanin* TJ, paras 734-736. The Trial Chamber found there to be two protected groups: Bosnian Muslims and Bosnian Croats but provided no conclusion or analysis as to which of the four groups the Bosnian Croats fell under. At fn. 1784, the Trial Chamber confirmed that the Bosnian Croats “didn’t have a motherland. They didn’t have any prospect to be supported by other communities outside Bosnia-Herzegovina and its own nationality as Bosnian Muslims”.

¹⁶⁹ *Popović* TJ, para. 840.

¹⁷⁰ *Karadžić* TJ, para. 2574.

¹⁷¹ *Tolimir* TJ, para. 750, confirmed on appeal: *Tolimir* AJ, para. 185.

¹⁷² See e.g. *Blagojević* TJ, paras 94, 155, 674; *Popović* TJ, paras 991, 995, 1193, 1194, 1331, 1398, 1426; *Tadić* TJ, paras 56-57, 83; *Brđanin* TJ, paras 58, 80, fn. 93; *Tolimir* TJ, paras 159, 813, 1190; *Karadžić* TJ, paras 32, fn. 60 [the Chamber acknowledging that the term “ethnic” may not comprehensively describe the distinguishing features of Bosnian Muslims, Bosnian Croats and Bosnian Serbs, since other factors such as religion and nationality were relevant to the definitions of the groups, but confirming that it would use the term “ethnic” throughout the judgment “for the sake of brevity”], 603, 2598.

without confirming which, if any, of the four categories it considered them to fall into.¹⁷³

93. An *ethnic* group has been characterised as one “whose members share a common language or culture.”¹⁷⁴ However, in *Akayesu*, the same Trial Chamber that posited this definition found the Tutsi to be a distinct “ethnic group” even though the Tutsi and Hutu cannot be distinguished on the basis of either language or culture. It based its decision on identity cards referencing Rwandans’ ethnic group, various mentions of these ethnic groups in national and international instruments, and the fact that trial witnesses “answered spontaneously and without hesitation” regarding their ethnic identity (self-perception).¹⁷⁵ In the *Al Bashir* case, the ICC has found the Fur, Masalit, and Zaghawa to constitute distinct ethnic groups for the purposes of the Genocide Convention, as each has its own language, tribal customs and traditional links to their lands.¹⁷⁶
94. A *racial* group has been defined as being “based on the hereditary physical traits often identified with a geographical region, irrespective of linguistic, cultural, national or religious factors.”¹⁷⁷ However, “race” has proved difficult to characterise. The IMT referred to the Jewish people as a “racial group” rather than a “religious group” without any meaningful analysis.¹⁷⁸ Highlighting both this definitional challenge and the interrelationship between the protected groups, the International Convention on the Elimination of All Forms of Racial Discrimination (“ICEAFRD”) defines the term “racial” discrimination, partly in terms of other group designations, as:

¹⁷³ *Bosnia v. Serbia*, para. 196.

¹⁷⁴ *Akayesu* TJ, para. 513; *Kayishema* TJ, para. 98. To describe the intangible term “culture”, the UN Committee on Economic, Social and Cultural Rights has provided: “The Committee considers culture ... encompasses, inter alia, ways of life, language, oral and written literature, music and song, non-verbal communication, religion or belief systems, rites and ceremonies, sport and games, methods of production or technology, natural and man-made environments, food, clothing and shelter and the arts customs and traditions through which individuals, groups of individuals and communities express their humanity and the meaning they give to their existence.” See UNESCO, Committee on Economic, Social and Cultural Rights, General comment No. 21 – Right of everyone to take part in cultural life, E/C.12/GC/21, paras 12-13. The Universal Declaration on Cultural Diversity, 2 November 2001 defines culture as “the set of distinctive spiritual, material, intellectual and emotional features of society or a social group, and that it encompasses, in addition to art and literature, lifestyles, ways of living together, value systems, traditions and beliefs”.

¹⁷⁵ *Akayesu* TJ, paras 170-171, 702.

¹⁷⁶ *Al Bashir* First Arrest Warrant Decision, para. 137.

¹⁷⁷ *Akayesu* TJ, para. 514; *Kayishema* TJ, para. 98.

¹⁷⁸ IMT Judgment, p. 304.

any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin¹⁷⁹

95. A **religious** group is “one whose members share the same religion, denomination or mode of worship.”¹⁸⁰ The recent Syria Commission Report classified the Yazidis as a religious group, based on both objective and subjective criteria.¹⁸¹

ACTUS REUS

96. Article 4 of the ECCC Law, reflecting the Genocide Convention, lists the following acts of genocide: (1) killing members of the group; (2) causing serious bodily or mental harm to members of the group; (3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (4) imposing measures intended to prevent births within the group; and (5) forcibly transferring children from one group to another group.
97. As the Closing Order charges only killings, the Co-Prosecutors confine their analysis accordingly, noting the Chamber’s power to recharacterise facts under Internal Rule 98(2).

Killing Members of the Group

98. The material elements of killing as an act of genocide are the same as those of murder as a CAH.¹⁸² Numeric assessment of the number of people killed is not required for the *actus reus* to be established.¹⁸³ The victim must have belonged to a protected group,¹⁸⁴ or the perpetrator of the crime believed that she did.¹⁸⁵ Killing in the context of genocide does not need to have been premeditated.¹⁸⁶

¹⁷⁹ ICEAFRD, art. 1(1).

¹⁸⁰ *Akayesu* TJ, para. 515; *Kayishema* TJ, para. 98.

¹⁸¹ ISIS-Yazidi Report, paras 103-105.

¹⁸² *Karadžić* TJ, para. 542.

¹⁸³ *Karadžić* Rule 98bis AJ, para. 23, referred to in *Karadžić* TJ, para. 542. However, the scale of atrocities is relevant to the assessment of the *mens rea* of genocide.

¹⁸⁴ *Nahimana* AJ, para. 496; *Muhimana* TJ, para. 500; *Brdanin*, TJ, paras 689-690, 692. See also ICC Elements of Crimes, art. 6(a)-(e), Element 2, as applied in *Al Bashir* Second Arrest Warrant Decision, paras 10-12.

¹⁸⁵ *Bagilishema* TJ, para. 65; *Gacumbitsi* TJ, para. 255; *Muhimana* TJ, para. 500; *Ndindabahizi* TJ, paras 468-9; *Kajelijeli* TJ, para. 813; *Seromba* TJ, para. 318; *Rutaganda* TJ, para. 56.

¹⁸⁶ *Kayishema* AJ, para. 151; *Stakić* TJ, para. 515; *Muvunyi I* TJ, para. 486; *Kajelijeli* TJ, para. 813; *Krstić* TJ, paras 572, 711 (see also *Krstić* AJ, paras 256-259); *Seromba* TJ, para. 317; *Semanza* TJ, para. 319.

MENS REA

Intent To Destroy the Group “As Such”

99. It is the intent “to destroy, in whole or in part, a [protected group] as such¹⁸⁷” that distinguishes genocide from other crimes.¹⁸⁸ As set out above,¹⁸⁹ the Genocide Convention was enacted with the object and purpose of promoting the survival of human groups and punishing those who seek to eradicate them. The crime of genocide was not conceived because otherwise mistreatment or murders of members of a group would go unpunished – these crimes were already criminalised and punishable as murder, extermination and/or persecution. Rather, the Convention recognises the particular harm suffered when an entire group is targeted:

the *ultimate victim of genocide is the group*, although its destruction necessarily requires the commission of crimes against its members, that is, against individuals belonging to that group.¹⁹⁰

100. Consonant with genocide’s underlying rationale, the requirement that the perpetrator intend to destroy a group “as such” means to destroy it as a “*separate and distinct entity*”,¹⁹¹ such that even where members of the group or their descendants live on, they cannot be identified and do not identify themselves as belonging to the group. It has been posited that the wording “as such” signifies the requirement that a prohibited act will only amount to genocide if it was committed against a victim “specifically because” of her membership in a protected group,¹⁹² with the “*effet utile*” of drawing a clear distinction between mass murder and crimes in which the perpetrator targets a specific group because of its nationality, race, ethnicity or religion.”¹⁹³ Yet this interpretation would render the wording “as such” otiose, since the intention to destroy the group in whole or part already encompasses the notion of the victim’s perceived membership in the targeted group. At the same time, it falls short of capturing the

¹⁸⁷ The definition of genocide in Article II of the Genocide Convention, and in the Statutes of the ICTY, the ICTR and the ICC (ICTY Statute, art. 4; ICTR Statute, art. 2; ICC Statute, art. 6) contain the phrase “as such” immediately following the words “national, ethnical, racial or religious group”. This is also reflected in the French version of the ECCC Law [“On entend par crime de génocide, qui est imprescriptible l’un quelconque des actes ci-après, commis dans l’intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, *comme tel* ...” (emphasis added)].

¹⁸⁸ *Jelisić* TJ, para. 66; *Kayishema* TJ, para. 91; *Croatia v. Serbia*, paras 132, 139.

¹⁸⁹ See para. 88.

¹⁹⁰ *Brđanin* TJ, para. 698; *Sikirica* Acquittal Judgment, para. 89; *Stakić* TJ, para. 521.

¹⁹¹ *Bagilishema* TJ, para. 64; *Jelisić* TJ, para. 79; ILC 1996 Draft Code (with commentaries), p. 45. See further *Blagojević* TJ, para. 665; *Brđanin* TJ, para. 698.

¹⁹² See e.g. *Nyitegeka* AJ, para. 50; *Akayesu* TJ, para. 521.

¹⁹³ *Nyitegeka* AJ, para. 53.

essence of genocide. As the ICJ explained, the *mens rea* for genocide goes beyond the targeting of some individuals merely because of their membership in a particular group.¹⁹⁴ Such discriminatory intent suffices for the CAH of persecution, but not for genocide in which the perpetrator must seek to destroy the distinguishable community as such.¹⁹⁵

101. The requirement of genocidal intent — to destroy the group in whole or in part as a separate and distinct entity — is analytically distinct from the requirement for an underlying prohibited act, or *actus reus*, of genocide.¹⁹⁶ As Judge Shahabuddeen noted in *Krstić*, one must not “overlook a distinction between the nature of the listed ‘acts’ and the ‘intent’ with which they are done.”¹⁹⁷ Therefore, while the perpetrator’s “intent to destroy” the protected group will often be manifested through his participation in one of the listed acts constituting the *actus reus*, and indeed, participation in one of those acts is required in order to fulfil the material elements of genocide, nothing in the Convention requires the perpetrator to plan the destruction of the group, in whole or in part, solely through one or more of those acts.
102. Some international jurisprudence has found that the intended “destruction” of a group must be “physical or biological”.¹⁹⁸ Yet, a group’s existence is a separate issue from the mere survival of its individual members; a group is a unit, which exists both physically and socially. It is indeed comprised of its people, but also of, *inter alia*, its history, traditions, the relationship between its members, the relationship with other groups, and the relationship with the land that binds the individual members of the group.¹⁹⁹ The destruction of a group identifiable as a separate and distinct entity may thus take many other forms, which may involve neither the physical destruction (death) of its individual members, nor even of their individual ability to produce future generations. A group can be deprived of its existence through the destruction of its specific traits, or dispersal of its members, leading to the dissolution of its unity and/or collective identity in a fundamental and irremediable manner. Judge Shahabuddeen articulated this in *Krstić*:

The stress placed in the literature on the need for physical or biological destruction implies, correctly, that a group can be

¹⁹⁴ *Bosnia v. Serbia*, para. 187. See also *Jelić TJ*, para. 79; *Akayesu TJ*, para. 522.

¹⁹⁵ *Jelić TJ*, para. 79;

¹⁹⁶ *Karadžić Rule 98bis AJ*, para. 22; *Stakić AJ*, paras 33-35; *Croatia v. Serbia*, para. 130.

¹⁹⁷ *Krstić AJ*, Part Diss Op Shahabuddeen, para. 48.

¹⁹⁸ See e.g. *Krstić AJ*, para. 25; *Karadžić TJ*, para. 553; *Croatia v. Serbia*, para. 136.

¹⁹⁹ *Blagojević TJ*, para. 666.

destroyed in non-physical or non-biological ways. It is not apparent why an intent to destroy a group in a non-physical or non-biological way should be outside the ordinary reach of the Convention ..., provided that that intent attached to a listed act ...²⁰⁰

It is the group which is protected. A group is constituted by characteristics – often intangible - binding together a collection of people as a social unit. If those characteristics have been destroyed in pursuance of the intent with which a listed act ... was done, it is not convincing to say that the destruction, though effectively obliterating the group, is not genocide because the obliteration was not physical or biological.²⁰¹

103. Indeed, the Convention itself reflects this viewpoint, given that the acts of genocide listed in the Convention do not themselves necessarily involve physical or biological destruction. For example, “forcibly transferring children of the group to another group” is considered a genocidal act.²⁰² Where the children are transferred without physical harm, and even where they are provided a higher standard of material life in the new group,²⁰³ transferring children is an effective method to destroy the group characteristics “binding together a collection of people as a social unit.”²⁰⁴ If a government were to transfer all of the children from families belonging to an isolated minority group to state institutions or families outside the group, within a generation or two the group “as such” would disappear. Drafters of the Genocide Convention themselves acknowledged that forcibly indoctrinating children into the customs, language, religion, and values of a foreign group was “tantamount to the destruction of the [children’s] group, whose future depended on that generation of children.”²⁰⁵ This is precisely what a recent report of the Commission of Inquiry on Syria warning of an ongoing genocide of Yazidis by

²⁰⁰ Krstić AJ, Part Diss Op Shahabuddeen, para. 49.

²⁰¹ Krstić AJ, Part Diss Op Shahabuddeen, para. 50. See further *Düsseldorf 1999 Judgment*, para. 38. “[D]er Tatbestand [des Gesetzes] [setzt] nicht zwingend voraus, daß der Täter die körperliche Vernichtung, die physische Zerstörung der Gruppe anstrebt. Es reicht aus, daß er handelt um die Gruppe in ihrer sozialen Existenz (“als solche”), als soziale Einheit in ihrer Besonderheit und Eigenart und in ihrem Zusammengehörigkeitsgefühl zu zerstören.” Unofficial translation: “It is not necessary that the perpetrator seeks the physical destruction of the group. It suffices that he acts to destroy the social existence of the group (“as such”), in its capacity as a social unit with its peculiarities and feeling of belonging together.”]; *Jorgić Judgment*, paras 20, 22, 28, 33; *Nazi and Nazi Collaborators (Punishment Law) 1950*, art. 1(b)(6) [considering “destroying or desecrating Jewish religious or cultural assets or values” to be genocidal acts, if performed with the requisite intent].

²⁰² Genocide Convention, art. II(c).

²⁰³ 3 Official Records of the General Assembly Summary of the 6th Committee (1948) (83rd Meeting), p. 195 (Venezuela).

²⁰⁴ Krstić AJ, Part Diss Op Shahabuddeen, para. 50. See also *Düsseldorf 1999 Judgment*, para. 38.

²⁰⁵ 3 Official Records of the General Assembly Summary of the 6th Committee (1948) (83rd Meeting), p. 195 (Venezuela). See also p. 186 (Greece and France) (classifying the forced transfer of children as cultural genocide).

ISIS has found is happening to the Yazidi children: by removing the children from their families, “ISIS intentionally seeks to destroy Yazidi children’s concept of themselves as Yazidi, erasing their attachment to the Yazidi religion. Whereas Yazidi girls are prevented from practising their religion, Yazidi boys are fully indoctrinated into ISIS ideology.”²⁰⁶ So, while the transfer of children does nothing to “physically or biologically” destroy the group given that the children live on, it does destroy the group “as such” in that the transferred children will no longer identify themselves with the group.

104. Similarly, acts like deportation/forced transfer of a particular group, which does not fall within the listed acts constituting the *actus reus* of genocide, can bring about the destruction of the group “as such”, and therefore be probative of *mens rea*, demonstrating the perpetrator’s intent to destroy the group. As the *Blagojević* Trial Chamber explained:

physical or biological destruction of the group is the likely outcome of a forcible transfer of a population when this transfer is conducted in such a way that the group can no longer reconstitute itself — particularly when it involves the separation of its members. In such cases, ... the forcible transfer of individuals could lead to the material destruction of the group, since the group ceases to exist as a group, or at least as the group it was.²⁰⁷

Here, the *Blagojević* Trial Chamber accepted prior ICTY jurisprudence that “physical or biological” destruction was required, but interpreted physical destruction to include situations where the members of the group live on but are so dispersed as to destroy the possibility of the continued existence of the group.

105. In this vein, the *Krstić* Appeals Chamber held that the transfer of women, children and elderly from the Srebrenica enclave to Bosnian government controlled territory unharmed “could be an additional means by which to ensure the physical destruction of the Bosnian Muslim community in Srebrenica” as it eliminated “even the residual possibility that the Muslim community in the area could reconstitute itself.”²⁰⁸ Indeed,

²⁰⁶ ISIS-Yazidi Report, para. 148.

²⁰⁷ *Blagojević* TJ, para. 666; *Krstić* AJ, Part Diss Op Shahabuddeen, paras 45-58; *Tolimir* AJ, para. 254; *Düsseldorf 1999* Judgment, para. 38.

²⁰⁸ *Krstić* AJ, para. 31.

before 1975, some States had listed the forced transfer of adults, in addition to children, as genocidal acts.²⁰⁹

106. Likewise, forced conversions, or forced renunciation of religion, demonstrate an intent to destroy the religious group “as such.” If no one practises a religion, the group ceases to exist as a religious group. The Syria Commission found that “Yazidi men and older boys were forced to convert or die, in either case leading to their destruction as Yazidis.”²¹⁰ Of course, conversions through philosophical, moral or economic persuasion, or even through forms of discrimination outside of the listed genocidal acts, will not amount to genocide by itself. Genocide can only occur when the destruction of the group is undertaken, at least in part, through one of the five genocidal acts, the necessary *actus reus*. However, when the conversions are accomplished by, for example, killing those who refuse to convert, however few in number, with the intent to destroy the religious group, this is clearly genocide.
107. Additionally, non-listed acts may be considered evidence confirming the intent to destroy the group.²¹¹ As Judge Shahabuddeen noted, “[t]he destruction of cultural property may serve evidentially to confirm an intent, to be gathered from other circumstances, to destroy the group, as such.”²¹² The ICJ endorsed the *Krstić* Trial Judgment statement that “where there is physical or biological destruction there are often simultaneous attacks on the cultural and religious property and symbols of the targeted group as well, attacks which may legitimately be considered as evidence of an intent to physically destroy the group.”²¹³
108. In sum, the Genocide Convention and ECCC Law is to be read to mean that, provided that the perpetrator has committed a listed act (*actus reus*), the intent to destroy the group “as such” is capable of being proved by evidence of an intent to cause the destruction of the group through acts not listed in the Genocide Convention or ECCC Law. It therefore behoves the Court to look at the complete matrix of acts against the

²⁰⁹ See **Bolivia**: Penal Code - promulgated by Decree Law No. 10426 of August 23, 1972, art. 138; **El Salvador**: Penal Code Of The Republic Of El Salvador (Decree N° 1030) – 1973, art. 361; **Ethiopia**: Penal Code of the Empire of Ethiopia of 1957, art. 281; **Guatemala**: Penal Code of Guatemala, Decree No. 17-73 (1973), Chapter IV, art. 376; **Nicaragua**: Penal Code of the Republic of Nicaragua (1974), art. 549.

²¹⁰ ISIS-Yazidi Report, para. 159.

²¹¹ *Tolimir* AJ, para. 254; *Karadžić* TJ, para. 553; *Krstić* AJ, paras 33, 133; *Krstić* TJ, para. 580; *Blagojević* AJ, para. 123;

²¹² *Krstić* AJ, Part Diss Op Shahabuddeen, para. 53.

²¹³ *Bosnia v. Serbia*, para. 344, quoting *Krstić* TJ, para. 580.

protected group in considering the accused's *mens rea*. In this way, the transfer of women and children at Srebrenica could not be overlooked since it "was part – an integral part – of one single scheme to commit genocide, involving killings, forcible transfer and destruction of homes."²¹⁴

In Whole or in Part

109. A person committing a prohibited act will be guilty of genocide if he intended the destruction of the targeted group in whole, *or* in part. There is no numeric threshold of victims necessary to establish genocide.²¹⁵
110. As for the intent to destroy a group in part, the accused must be shown to have intended to destroy a *substantial* part of the protected group.²¹⁶ Numbers alone are "not in all cases the ending point of the inquiry".²¹⁷ The determination of whether the targeted part is substantial will depend on a number of quantitative and qualitative factors. Size should be assessed not only in absolute terms, but also relative to the total population of the group: if the part is sufficiently large in relative terms, is emblematic of or prominent in the group, or essential to its survival, it may be deemed a substantial part.²¹⁸ These criteria are not exhaustive.²¹⁹ The part must be significant enough that its destruction will have an impact on, or threaten, the survival of the group as a whole.²²⁰ This requirement may be established where, for example, the leadership of a group is targeted for destruction.²²¹
111. The intent to destroy a group in part may extend only to a limited geographical area such as the region of a country or a municipality.²²² The area of the perpetrators' activity, control, and the possible extent of their reach are each factors relevant to the assessment of intent to destroy a substantial part of a protected group.²²³ The

²¹⁴ Krstić AJ, Part Diss Op Shahabuddeen, para. 35. See further Final Report of the Commission of Experts, Established Pursuant to Security Council Resolution 780 (1992), UN Doc. S/1994/674, 27 May 1994, para. 94.

²¹⁵ Seromba TJ, para. 319; Semanza TJ, para. 316; Bagosora TJ, para. 2115.

²¹⁶ Karadžić TJ, para. 555; Krstić AJ, para. 8; Bagosora TJ, para. 2115; Gacumbitsi AJ, para. 44; Bosnia v. Serbia, paras 198, 200-201; Croatia v. Serbia, para. 142.

²¹⁷ Krstić AJ, para. 12; Karadžić Rule 98bis AJ, para. 66.

²¹⁸ Krstić AJ, paras 8, 12, 28-29; Karadžić TJ, para. 555; Bosnia v. Serbia, para. 200; Croatia v. Serbia, para. 142.

²¹⁹ Krstić AJ, para. 14; Bosnia v. Serbia, para. 201.

²²⁰ Karadžić TJ, para. 555; Krstić AJ, paras 8, 12; Tolimir TJ, para. 749; Jelisić TJ, para. 82; Bosnia v. Serbia, paras 193, 198; Karadžić Rule 98bis AJ, para. 66.

²²¹ Jelisić TJ, para. 82; Sikirica Acquittal Judgment, para. 77; Milošević Acquittal Decision, para. 132.

²²² Jelisić TJ, paras 80, 83; Krstić TJ, paras 589-590; Bosnia v. Serbia, para. 199.

²²³ Krstić AJ, para. 13; Karadžić TJ, para. 555; Tolimir TJ, para. 749; Bosnia v. Serbia, para. 199; Croatia v. Serbia, para. 142.

applicability of these factors and their relative weight will vary depending on the circumstances of a particular case.²²⁴

Establishing Intent

112. In *Krstić*, the ICTY Appeals Chamber noted that genocidal intent is not usually susceptible to direct proof, but could often be inferred from the facts and circumstances of the case.²²⁵ Such facts need not form part of the *actus reus* of the crime.²²⁶
113. Factors relevant to this analysis may include the general context; the perpetration of other culpable acts systematically directed against the same group (whether committed by the same offender or others); the scale of atrocities committed, the weapons employed and the extent of bodily injuries inflicted; the systematic targeting of victims on account of their membership of a particular group; the repetition of destructive and discriminatory acts, the use of derogatory language towards members of the targeted group; the methodical planning of systematic killings;²²⁷ speeches or projects laying the groundwork for and justifying the acts aimed at undermining the foundation of the targeted group;²²⁸ and the political doctrine which gave rise to the acts referred to.²²⁹ In assessing evidence of genocidal intent, the court should consider whether all of the evidence, taken together, demonstrates a genocidal mental state, instead of considering separately whether an accused intended to destroy a protected group through each of the relevant acts of genocide.²³⁰
114. The crime of genocide does not require the existence of a policy or plan,²³¹ although the existence of either may facilitate proof of intent and of the crime itself.²³² Provided it can be shown that there was intent to destroy the group as such in whole or in part, the motive that led to the decision to commit the crime (such as political, military or

²²⁴ *Karadžić* TJ, para. 555; *Krstić* AJ, para. 14.

²²⁵ *Karadžić* Rule 98bis AJ, para. 80, citing *Gacumbitsi* AJ, para. 40; *Rutaganda* AJ, para. 525; *Kayishema* AJ, para. 159.

²²⁶ *Tolimir* AJ, para. 254; *Krstić* AJ, para. 33. See also *Croatia v. Serbia*, paras 162-163, 478; *Bosnia v. Serbia*, para. 190.

²²⁷ *Karadžić* TJ, para. 550; *Karadžić* Rule 98bis AJ, para. 80; *Tolimir* AJ, para. 246; *Popović* AJ, para. 468; *Hategekimana* AJ, para. 133; *Jelisić* AJ, para. 47; *Seromba* AJ, para. 176; *Gacumbitsi* AJ, paras 40-41; *ISIS-Yazidi* Report, para. 152.

²²⁸ *Gacumbitsi* AJ, para. 43; *Kamuhanda* AJ, paras 81-82; *Karadžić* TJ, para. 550; *Tolimir* TJ, para. 745.

²²⁹ *Seromba* AJ, para. 176.

²³⁰ *Karadžić* TJ, para. 550; *Stakić* AJ, para. 55; *Karadžić* Rule 98bis AJ, para. 56; *Tolimir* AJ, paras 246-247; *Mpambara* TJ, para. 121. See further *Croatia v. Serbia*, para. 419. See also section **Law – Genocide – Mens Rea – Intent to Destroy the Group “As Such”**.

²³¹ *Popović* AJ, para. 430; *Jelisić* AJ, para. 48; *Kayishema* AJ, para. 138; *Simba* AJ, para. 260.

²³² *Jelisić* AJ, para. 48; *Semanza* AJ, para. 260; *Rutaganda* AJ, para. 525; *Bosnia v. Serbia*, para. 373.

economic gain, fear, hatred, or revenge) is irrelevant.²³³ Making exceptions for certain individuals or sub-populations within the protected group does not necessarily preclude the existence of genocidal intent, as long as the protected group is still targeted for destruction, in substantial part.²³⁴

115. The actual destruction of the group, or even of a large number of persons, is not a prerequisite to a finding of genocidal intent; a single killing, if committed with the requisite intent to destroy the group in whole or in part, can amount to a genocidal act.²³⁵ Similarly, a perpetrator's failure to implement his intent to the fullest, leaving the act of destruction incomplete, does not preclude a finding of genocidal intent.²³⁶ There is no requirement that the perpetrator chose the most efficient method to accomplish the objective of destroying the targeted group or part thereof.²³⁷

Applicable Modes of Responsibility

116. Article 4 of the ECCC Law states that attempts and conspiracy to commit acts of genocide, as well as participation in acts of genocide may be punished at the ECCC. As neither attempts nor conspiracy have been charged in the Closing Order, the Co-Prosecutors confine their analysis to the meaning of "participation in acts of genocide".
117. Read together with article 29^{new} of the ECCC Law, the phrase "participation in acts of genocide" indicates that the common forms of criminal participation listed in article 29^{new} (committing, planning, instigating, ordering, aiding and abetting, and superior responsibility) are equally applicable to article 4.
118. The term "participation" is not a term of art; its ordinary meaning is "the act of taking part in something, such as ... a crime ...".²³⁸ "Participation" has been used to refer collectively to the modes of liability of committing, planning, ordering, instigating, and aiding and abetting, including in relation to acts of genocide.²³⁹ Moreover, article 29^{new} of the ECCC Law expressly makes these forms of criminal participation applicable to the crime of genocide: "Any Suspect who planned, instigated, ordered, aided and

²³³ Karadžić TJ, para. 554; Simba AJ, paras 88, 269; Kayishema AJ, para. 161; Stakić AJ, para. 45; Jelisić AJ, para. 49.

²³⁴ Kayishema AJ, para. 149; Akayesu TJ, paras 192-193; Muhimana AJ, para. 32; Rutaganda AJ, para. 537; Ntabakuze AJ, para. 241.

²³⁵ Ndindabahizi AJ, para. 135; Mpambara TJ, para. 8.

²³⁶ Krstić AJ, para. 32.

²³⁷ Krstić AJ, para. 32.

²³⁸ Black's Law Dictionary, 9th ed. (2009).

²³⁹ See e.g. Kayishema AJ, para. 185; Musema TJ, para. 114; Kamuhanda TJ, para. 588; Čelebići AJ, para. 351.

abetted, or committed the crimes referred to in article ... 4 ... of this law shall be individually responsible for the crime.”²⁴⁰ Under the same provision, an accused may be responsible as a superior for genocide.²⁴¹

119. The statutes of the *ad hoc* tribunals similarly contain, in addition to a list of punishable acts in their genocide provisions (in the case of the ICTY, article 4(3)), forms of criminal participation similar to those found in article 29*new* (ICTY Statute, articles 7(1) and 7(3)) which the ICTY Statute expressly states are applicable to genocide. In dealing with this “overlap,” the ICTY Appeals Chamber has held that the “modes of participation” should be “read into” the ICTY Statute’s genocide provision, “because the Statute must be interpreted with the utmost respect to the language used by the legislator”.²⁴²
120. Accordingly, the Accused may be responsible for genocide under all the modes of criminal participation listed in article 29*new*.²⁴³ The Co-Prosecutors note that participation in a joint criminal enterprise (“JCE”) amounts to “commission” within the scope of article 29*new* of the ECCC Law,²⁴⁴ and responsibility for participation in a JCE is a form of responsibility relevant to genocide.²⁴⁵ Indeed, a number of ICTY and ICTR defendants have been convicted of genocide pursuant to the basic form, JCE I.²⁴⁶

CRIMES AGAINST HUMANITY

121. Article 5 of the ECCC Law confers jurisdiction on the ECCC over CAH. CAH formed part of CIL during the period of the ECCC’s temporal jurisdiction.²⁴⁷ The specific offences include murder, extermination, enslavement, imprisonment, torture, deportations, persecutions on political, racial and religious grounds, and other inhumane acts. The elements of each of these offences are discussed below.

²⁴⁰ ECCC Law, art. 29*new*.

²⁴¹ ECCC Law, art. 29*new* [“The fact that any of the acts referred to in Article[] 4 ... of this law were committed by a subordinate does not relieve the superior of personal criminal responsibility”].

²⁴² *Krstić* AJ, paras 138-139.

²⁴³ General discussion of those modes of responsibility is found below. See section **Law – Individual Criminal Responsibility**.

²⁴⁴ **D97/15/9** PTC JCE Decision, para. 49; Case 001-**E188** *Duch* TJ, para. 511; **E100/6** TC JCE Decision, para. 22; **E313** Case 002/01 TJ, para. 690.

²⁴⁵ *Tadić* AJ, para. 188; *Rwamakuba* JCE Genocide Decision, para. 31.

²⁴⁶ See e.g. *Karadžić* TJ, para. 5831; *Karemera* TJ, paras 1616-1617, 1623, 1628, 1634, 1639, 1644, 1648, 1653, 1657-1658.

²⁴⁷ Case 001-**F28** *Duch* AJ, paras 101-104; **D427/2/15** NC and IT Closing Order Appeal Decision, para. 133; **E313** Case 002/01 TJ, para. 176; Case 001-**E188** *Duch* TJ, paras 283-296; **D427** Closing Order, paras 1299, 1306, 1313.

GENERAL REQUIREMENTS

122. CAH under Article 5 of the ECCC Law are distinguished by the general requirement that they are committed “as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds.”²⁴⁸ Under CIL in 1975, the definition of CAH did not require a nexus to an armed conflict, war crimes, or crimes against peace.²⁴⁹ The individual components of the *chapeau* requirement are addressed in turn below.

1. Attack

123. An “attack” is a course of conduct involving the multiple commission of acts of violence, or any mistreatment of the civilian population, including that reflected by the underlying offences in Article 5 of the ECCC Law.²⁵⁰ The acts which constitute an attack need not themselves be punishable as CAH, and are not limited to the use of armed force.²⁵¹ Moreover, an “attack” on a civilian population is a separate concept from an armed conflict. If there is an armed conflict, an attack may precede, outlast or continue through it, without necessarily being part of it.²⁵²

2. Widespread or Systematic

124. The attack must be widespread *or* systematic; either is sufficient.²⁵³ The term “widespread” refers to “the large-scale nature of the attack and the number of victims”²⁵⁴ and may be established by the “cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude.”²⁵⁵ The term “systematic” does not require the attack to be large-scale but relates to the “organised nature of the acts of violence and the improbability of their random occurrence.”²⁵⁶

²⁴⁸ ECCC Law, art. 5; Case 001-F28 *Duch* AJ, para. 106.

²⁴⁹ F36 Case 002/01 AJ, paras 711-721; Case 003-D87/2/1.7/1/1/7 PTC Nexus Decision; E95/8 TC Nexus Decision; Case 003-D87/2/1.7/1 OCIJ Nexus Decision.

²⁵⁰ Case 001-E188 *Duch* TJ, para. 298; E313 Case 002/01 TJ, para. 178; *Kordić* AJ, para. 666; *Kunarac* AJ, para. 86; *Nahimana* AJ, paras 916-918; *Taylor* TJ, para. 506.

²⁵¹ Case 001-E188 *Duch* TJ, para. 298; E313 Case 002/01 TJ, para. 178; *Nahimana* AJ, paras 916, 918; *Kordić* AJ, para. 666; *Taylor* TJ, para. 506.

²⁵² Case 001-E188 *Duch* TJ, para. 299; E313 Case 002/01 TJ, para. 178; *Kunarac* AJ, para. 86; *Tadić* AJ, para. 251; *Sesay* TJ, para. 77.

²⁵³ Case 001-E188 *Duch* TJ, para. 300; E313 Case 002/01 TJ, para. 179; *Kunarac* AJ, para. 93.

²⁵⁴ Case 001-E188 *Duch* TJ, para. 300; E313 Case 002/01 TJ, para. 179; *Kordić* AJ, para. 94; *Nahimana* AJ, para. 920; *Taylor* TJ, para. 511.

²⁵⁵ Case 001-E188 *Duch* TJ, para. 300; E313 Case 002/01 TJ, para. 179; *Blagojević* TJ, para. 545.

²⁵⁶ Case 001-E188 *Duch* TJ, para. 300; E313 Case 002/01 TJ, para. 179; *Kordić* AJ, para. 94; *Nahimana* AJ, para. 920; *Sesay* TJ, para. 78.

Systematicity may be established by evidence of a “non-accidental repetition of similar criminal conduct.”²⁵⁷

3. Directed Against any Civilian Population

125. The attack must be “directed against any civilian population”. This requires that the civilian population be the primary object, rather than an incidental victim, of the attack.²⁵⁸
126. The notion of “civilian” for the purposes of this element refers to all persons who are not members of any enemy armed forces taking an active part in hostilities and therefore includes persons such as members of the armed forces who have laid down their arms and those persons placed *hors de combat* by sickness, wounds, detention or any other cause.²⁵⁹ As noted by the *Blaškić* Trial Chamber, “the specific situation of the victim at the moment the crimes were committed, rather than his status, must be taken into account in determining his standing as a civilian.”²⁶⁰ As the laws of war recognise the legitimacy of targeting one’s enemies in a conflict, it is logical that the lawful killing of enemy combatants who have not been rendered *hors de combat* is excluded from the scope of CAH. In all other instances, those entitled to protection should be regarded as “civilian” for the purposes of article 5. The Co-Prosecutors therefore respectfully disagree with the jurisprudence of this Chamber and SCC, in which both Chambers found that civilian should be defined so as to exclude soldiers *hors de combat*.²⁶¹ The term “any” ensures that CAH are not restricted in their application to a particular group of civilians, distinguished by their nationality, ethnicity or any other factor.²⁶²
127. CAH may include a state’s attack on its own population.²⁶³ This includes a state or organisation’s *own* armed forces, who qualify as civilians for the purposes of CAH.²⁶⁴

²⁵⁷ **E313** Case 002/01 TJ, para. 179; *Kordić* AJ, para. 94.

²⁵⁸ Case 001-**E188** *Duch* TJ, paras 305, 308; **E313** Case 002/01 TJ, para. 182; *Kunarac* AJ, para. 91; *Taylor* TJ, para. 507.

²⁵⁹ *Akayesu* TJ, para. 582; *Bisengimana* TJ, para. 48; *Tadić* TJ, para. 639; *Limaj* TJ, para. 186; *Blaškić* TJ, para. 214; *Kordić* AJ, para. 421.

²⁶⁰ *Blaškić* TJ, para. 214.

²⁶¹ **F36** Case 002/01 AJ, para. 738; Case 001-**E188** *Duch* TJ, para. 304; **E313** Case 002/01 TJ, paras 185-186.

²⁶² **E313** Case 002/01 TJ, para. 187; Case 001-**E188** *Duch* TJ, para. 312; *Vasiljević* TJ, para. 33; *Semanza* TJ, para. 330.

²⁶³ Case 001-**E188** *Duch* TJ, para. 312; **E313** Case 002/01 TJ, para. 187; *Mrkšić* TJ, para. 441; *Kunarac* TJ, para. 423.

²⁶⁴ Case 003-**D191/18** ICJ Decision on Status of State’s Own Armed Forces. The Co-Prosecutors adopt the position set out by the International Co-Prosecutor in his recent filing on this issue: Case 003-**D191/1**

This position accords with the pre-WWII evolution of CAH,²⁶⁵ all post-WWII jurisprudence,²⁶⁶ pre-1975 international instruments dealing with CAH,²⁶⁷ and pre-1975 international human rights norms protecting the same fundamental rights as CAH,²⁶⁸ which apply to all of a State's subjects, irrespective of their occupation.²⁶⁹ The result is a logical imperative. Where the victims belong to the perpetrator's own armed forces, their combatant quality is entirely irrelevant. The IHL definitions of "combatant" and "civilian" were written to regulate armed conflicts, whether international or non-international, between opposing forces to establish their rights and duties with regard to each other, primarily to determine which persons may be legitimately targeted and who must be protected. Where the perpetrators and victims are not engaged in armed conflict with each other, whether or not this takes place in the context of an armed conflict, mechanically transferring the terms "combatant" and "civilian" as they are defined in IHL into the law of CAH is wholly inapposite. Moreover, this approach would produce the absurd result of permitting a government or organisation to commit

Submissions on Status of State's Own Armed Forces.

²⁶⁵ From their inception, CAH were intended to protect the human rights of every national of a state, including military personnel, against the widespread or systematic brutality of governmental or other organisations. In the 1919 Commission Report on the responsibility of Germany and its allies for crimes committed during World War I, the Commission recognised a species of international crime "against the laws of humanity" (See e.g. 1919 Commission Report, pp. 113, 115) applicable to the attacks by Turkey against its own nationals, chiefly Armenians, on its own territory. In formulating those conclusions, the Commission relied on evidence that the Turks had targeted Armenians *within the Ottoman army* by disarming Armenian soldiers, transferring many to labour brigades and subjecting many to eventual execution. See 1919 Commission Report, pp. 112-113 and Annex I, p. 30, referring to the report of the British Commission under Viscount Bryce on the Treatment of Armenians in the Ottoman Empire, in particular "A Summary of Armenian History Part VI: Deportation of 1915-Procedure", paras 3, 4, 7.

²⁶⁶ Case 003-D191/18 ICIJ Decision on Status of State's Own Armed Forces, paras 35-43; Case 003-D191/1 Submissions on Status of State's Own Armed Forces, para. 8.

²⁶⁷ Case 003-D191/18 ICIJ Decision on Status of State's Own Armed Forces, paras 44-45; Case 003-D191/1 Submissions on Status of State's Own Armed Forces, para. 9.

²⁶⁸ **Right to life:** ICCPR, art. 6(1); ECHR, art. 2; UDHR, art. 3; **Freedom from torture:** ICCPR, art. 7; UDHR, art. 5(2); ECHR, art. 3; **Freedom from cruel, inhuman or degrading treatment:** UDHR, art. 5; ECHR, art. 3; ICCPR, art. 10; **Freedom of choice in marriage:** UDHR, art. 16; ICCPR, art. 23(3); **Freedom from forced labour:** ICCPR, art. 8(3); ECHR, art. 4; **Freedom from slavery:** ICCPR, art. 8(1); UDHR, art. 4; ECHR, art. 4; **Freedom from arbitrary arrest or imprisonment:** UDHR, arts 9, 10; ICCPR, arts 9, 14; UDHR, art. 3; ECHR, arts 5, 7; **Freedom of thought, conscience and religion:** ICCPR, arts 18, 27; UDHR, art. 18; ECHR, art. 9; **Freedom from discrimination:** ICCPR, art. 26; UDHR, arts 2, 7; ECHR, art. 14; ICEAFRD.

²⁶⁹ UDHR, preamble (recital 1) ["recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world" (*emphasis added*)], art. 2 ["Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (*emphasis added*)]; ICCPR, preamble (recital 1); ICEAFRD, preamble (recital 3) ("all human beings are equal before the law and are entitled to equal protection of the law against any discrimination"); ECHR, arts 1, 14 (*see also Engel Judgment*, para. 54 ["the Convention applies in principle to members of the armed forces and not only to civilians"]; *Grigoriades Judgment*, para. 45 ["Article 10 does not stop at the gates of army barracks. It applies to military personnel as to all other persons within the jurisdiction of the Contracting States"]).

mass atrocities with impunity simply by conscripting those among its subjects it is targeting into its armed forces; it would also mean that armed civilian police would be protected, while unarmed soldiers would not.

128. It is not necessary to show that the entire population of the relevant geographical entity was subject to the attack. A “civilian population” may also include non-civilians without forfeiting its civilian character, as long as the population is predominantly civilian.²⁷⁰
129. Where it is established that a widespread or systematic attack on a civilian population has taken place, it is not necessary to show that individual victims of CAH themselves were “civilians”.²⁷¹ Soldiers *hors de combat* can also be victims of CAH.²⁷²

4. Jurisdictional Restriction

130. Article 5 of the ECCC Law requires that the attack against a civilian population be based on national, political, ethnical, racial or religious grounds.²⁷³ This requirement is a jurisdictional one that narrows the scope of the ECCC’s jurisdiction over CAH when compared with CIL applicable between 1975 and 1979.²⁷⁴ Whilst the broader attack must therefore be committed on one of these grounds, there is no requirement that it be discriminatory.²⁷⁵ Indeed, except in the case of persecution, discriminatory intent is not required by CIL as a legal ingredient for CAH.²⁷⁶

5. Nexus between Acts of the Perpetrator and the Attack

131. The acts of the perpetrator must constitute part of the attack. The required nexus between the acts of the perpetrator and the attack consists of two elements: the

²⁷⁰ F36 Case 002/01 AJ, paras 738, 740; E313 Case 002/01 TJ, para. 183; Case 001-E188 *Duch* TJ, paras 305-306; Milošević (*Dragomir*) AJ, paras 50-51, 58; Blaškić AJ, para. 113; Mrkšić AJ, para. 31; Taylor TJ, para. 507.

²⁷¹ F36 Case 002/01 AJ, para. 740; Case 001-E188 *Duch* TJ, para. 311; E313 Case 002/01 Judgment, paras 187, 194; Popović AJ, para. 569; Martić AJ, paras 307-314; Mrkšić AJ, paras 28-29, 32-33; Tolimir AJ, paras 141-143; Taylor TJ, para. 507.

²⁷² Case 001-E188 *Duch* TJ, para. 311; E313 Case 002/01 Judgment, paras 187, 194; Mrkšić AJ, paras 28-29; Martić AJ, paras 311, 313-314.

²⁷³ ECCC Law, art. 5.

²⁷⁴ F36 Case 002/01 AJ, paras 744-745; Case 001-E188 *Duch* TJ, paras 313-314; E313 Case 002/01 TJ, para. 188. Despite differences in wording, Article 3 of the ICTR Statute provides for a similar requirement, adjudged by the Tribunal to be a jurisdictional requirement, and not one required by CIL: *Akayesu* AJ, paras 464-465. Although the ICTR made reference to these grounds as “discriminatory”, the SCC has held that it is not bound by the ICTR’s characterisation of its own jurisdictional requirement. See F36 Case 002/01 AJ, para. 748.

²⁷⁵ F36 Case 002/01 AJ, paras 745, 748.

²⁷⁶ F36 Case 002/01 AJ, paras 746; Case 001-F28 *Duch* AJ, para. 238; Case 001-E188 *Duch* TJ, paras 313-314; E313 Case 002/01 TJ, para. 188; *Tadić* AJ, para. 305; *Akayesu* AJ, paras 461, 464-466; ICC Statute, art. 7(1), in particular art. 7(1)(h) concerning persecution.

commission of an act which, by its nature or consequences, is objectively part of the attack;²⁷⁷ coupled with the knowledge on the part of the perpetrator that there is an attack on the civilian population and that his act is part thereof.²⁷⁸

132. In relation to the first element, the act need not be committed in the midst of the attack to be sufficiently connected to it. An act committed before or after the main attack, or away from it, could still, if sufficiently connected, be considered to be part of it. The crime must not, however, be an isolated act. A crime would be regarded as an isolated act when it is so far removed from that attack that, having considered the context and circumstances in which it was committed, it cannot reasonably be said to have been part of the attack.²⁷⁹ The acts of the accused persons – even where they are not the direct perpetrators — must form part of the attack.²⁸⁰
133. As for the second element, knowledge of the details of the attack is not required;²⁸¹ it is sufficient that the perpetrator knows of the overall context within which his acts take place.²⁸² The motive of the perpetrator is irrelevant,²⁸³ and it is not necessary for the perpetrator to share the purpose or goal behind the attack.²⁸⁴ It is also irrelevant whether the perpetrator intends his acts to be directed against the targeted population or merely against his victim.²⁸⁵

SPECIFIC OFFENCES

1. Murder

134. Murder was well-established as a CAH under CIL by 1975.²⁸⁶ Moreover, it was foreseeable and accessible to the Accused that they could be prosecuted for murder as a CAH.²⁸⁷

²⁷⁷ **F36** Case 002/01 AJ, paras 752-753; Case 001-**E188** Duch TJ, para. 318; **E313** Case 002/01 TJ, para. 190; *Kunarac* AJ, paras 85, 99; *Martić* AJ, para. 316.

²⁷⁸ **F36** Case 002/01 AJ, para. 752; Case 001-**E188** Duch TJ, para. 319; **E313** Case 002/01 TJ, para. 191; *Kunarac* AJ, paras 85, 99; *Taylor* TJ, paras 513, 515.

²⁷⁹ Case 001-**E188** Duch TJ, para. 318; **E313** Case 002/01 TJ, para. 190; *Kunarac* AJ, para. 100; *Mrkšić* AJ, para. 41; *Semanza* TJ, para. 326.

²⁸⁰ **F36** Case 002/01 AJ, para. 754.

²⁸¹ Case 001-**E188** Duch TJ, para. 319; **E313** Case 002/01 TJ, para. 191; *Kunarac* AJ, para. 102; *Taylor* TJ, para. 513.

²⁸² Case 001-**E188** Duch TJ, para. 319; *Limaj* TJ, para. 190; *Taylor* TJ, para. 513.

²⁸³ *Kordić* AJ, para. 99; *Tadić* AJ, paras 248, 252.

²⁸⁴ Case 001-**E188** Duch TJ, para. 319; **E313** Case 002/01 TJ, para. 191; *Kunarac* AJ, para. 103; *Sesay* TJ, para. 90.

²⁸⁵ Case 001-**E188** Duch TJ, para. 319; *Kunarac* AJ, para. 103.

²⁸⁶ See **E313** Case 002/01 TJ, para. 411, and citations therein; Case 001-**E188** Duch TJ, para. 331; **D427** Closing Order, para. 1314, fn. 5186. Murder was also criminalised under Cambodian Law in 1975: 1956

135. The actus reus of murder as a CAH requires proof of two elements: (1) the death of the victim and (2) that the death was caused by an act or omission of the perpetrator.²⁸⁸ The victim's body is not required as evidence to prove death.²⁸⁹ With regard to the causation requirement, the specification that the victim's death was "caused by" the perpetrator's act or omission does not mean that it needs to be the sole cause of death; it is sufficient that the perpetrator's conduct contributed substantially to the death of the person.²⁹⁰ Both the fact of the victim's death and the causation element may be inferred from the circumstances of the case, provided it is established that the only reasonable inference is that the victim is dead as a result of acts or omissions of the perpetrator.²⁹¹ A conviction for murder is not precluded because of the impossibility to accurately establish the total number of deaths or to identify, case-by-case, the direct perpetrators and their victims.²⁹² The suicide of a person may amount to his murder where the perpetrator's acts or omissions "induced the victim to take action which resulted in his death".²⁹³
136. Contrary to Nuon Chea's claims,²⁹⁴ execution without legal process or compliance with due process guarantees constitutes murder, not capital punishment.²⁹⁵ The right not to be

Penal Code, Articles 501, 503-508.

²⁸⁷ See **E313** Case 002/01 TJ, para. 411; **F36** Case 002/01 AJ, para. 765.

²⁸⁸ **E313** Case 002/01 TJ, para. 412; Case 001-**E188** *Duch* TJ, para. 331; **D427** Closing Order, para. 1374; *Milošević (Dragomir)* AJ, para. 108; *Taylor* TJ, para. 412; ICC Elements of Crimes, art. 7(1)(a), Element 1; *Bemba* TJ, para. 87.

²⁸⁹ **F36** Case 002/01 AJ, para. 420; **E313** Case 002/01 TJ, para. 413; Case 001-**E188** *Duch* TJ, para. 332; *Lukić* AJ, paras 149, 208, 249, 316; *Bemba* TJ, para. 88.

²⁹⁰ Case 001-**E188** *Duch* TJ, para. 331; *Milutinović* TJ (Vol 1), para. 137; *Čelebići* TJ, para. 424, fn. 435; *Taylor* TJ, para. 413.

²⁹¹ **E313** Case 002/01 TJ, para. 413; Case 001-**E188** *Duch* TJ, para. 332; **F36** Case 002/01 AJ, para. 420; *Šainović* AJ, para. 545; *Dorđević* AJ, para. 763; *Bemba* TJ, para. 88. Circumstances from which deaths can be inferred include (i) incidents of mistreatment directed against the victim; (ii) patterns of mistreatment and disappearances of other individuals; (iii) a general climate of lawlessness at the place where the acts were allegedly committed; (iv) the length of time that has elapsed since the person disappeared; and (v) the fact that the victim has failed to contact other persons that he or she might have been expected to contact, such as family members. See Case 001-**E188** *Duch* TJ, para. 332; *Krnjelac* TJ, para. 327; *Brima* TJ, para. 689.

²⁹² **F36** Case 002/01 AJ, para. 420 citing *Stakić* TJ, para. 201. See also **F36** Case 002/01 AJ, para. 421.

²⁹³ *Krnjelac* TJ, para. 329.

²⁹⁴ **E395/2** Rebellion Filing, para. 28.

²⁹⁵ ICCPR, art. 6(2) ["In countries which have not abolished the death penalty, sentence of death may be imposed *only for the most serious crimes* in accordance with the law in force at the time of the commission of the crime and *not contrary to the provisions of the present Covenant* and to the [Genocide Convention]. *This penalty can only be carried out pursuant to a final judgement rendered by a competent court.* (Emphasis added)]. The Human Rights Committee has confirmed that executions carried out in breach of the fair trial guarantees contained in the ICCPR will breach ICCPR, art. 6(2). See *Mbenge v. Zaire*, para. 17 ["the failure of the State party to respect the relevant requirements of article 14(3) leads to the conclusion that the death sentences pronounced against [Mbenge] were imposed contrary to the provisions of the Covenant, and therefore in violation of article 6 (2)."]; ECHR, art. 2(1) ["Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save

arbitrarily deprived of one's life may not be derogated from in any circumstances, including national emergency,²⁹⁶ and may never be imposed to effect genocide.²⁹⁷

137. As to *mens rea*, there is no requirement that the killing be premeditated.²⁹⁸ The mental element includes direct intent to kill as well as killing with *dolus eventualis*.²⁹⁹

2. Extermination

138. Extermination was recognised as a CAH by 1975.³⁰⁰ It was foreseeable and accessible to the Accused that they could be prosecuted for extermination as a CAH.³⁰¹
139. The crime of extermination is the act of killing on a large scale.³⁰² The *actus reus* of extermination as a CAH consists of an act or omission, or a combination of each, which contributes to the death of persons on a massive scale.³⁰³ The perpetrator's role may be remote or indirect,³⁰⁴ and may include creating conditions of life aimed at destroying part of a population, such as withholding food or medicine.³⁰⁵ There is no requirement that the victims "must have been subjected to conditions *inevitably leading to death*".³⁰⁶

in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law" (emphasis added)]; ACHR, art. 4(2); GCs Common Article 3 ["the following acts are and shall remain prohibited at any time and in any place whatsoever ... the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilised peoples" (emphasis added)].

²⁹⁶ ICCPR, arts 6(1) ["Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life"], 4(2) ["No derogation from [art. 6] ... may be made under this provision"]; ECHR, arts 2(1), 15(2) ["No derogation from Article 2, except in respect of deaths resulting from lawful acts of war"]; ACHR, arts 4, 27(2) ["The foregoing provision [regarding derogation of obligations in times of war, public danger, or other emergency that threatens the independence or security of a State Party] does not authorize any suspension of ... Article 4 (Right to Life)"].

²⁹⁷ ICCPR, art. 6(2).

²⁹⁸ E313 Case 002/01 TJ, para. 412; *Dorđević* AJ, paras 551-552; *Akayesu* TJ, para. 588; *Brima* TJ, para. 690.

²⁹⁹ F36 Case 002/01 AJ, paras 409-410. See further E313 Case 002/01 TJ, para. 412; Case 001-E188 *Duch* TJ, para. 333; D427 Closing Order, para. 1379; *Kvočka* AJ, paras 259, 261; *Milošević (Dragomir)* AJ, para. 108; *Semanza* AJ, para. 320; *Brima* TJ, paras 688, 690.

³⁰⁰ E313 Case 002/01 TJ, para. 415 and citations therein; Case 001-E188 *Duch* TJ, para. 334; D427 Closing Order, para. 1314, fn. 5187.

³⁰¹ See E313 Case 002/01 TJ, para. 415.

³⁰² F36 Case 002/01 AJ, para. 525; *Seromba* AJ, para. 189; *Ntakirutimana* AJ, para. 516.

³⁰³ Case 001-E188 *Duch* TJ, para. 334; E313 Case 002/01 TJ, para. 416; D427 Closing Order, para. 1382; *Seromba* AJ, para. 189; ICC Elements of Crimes, art. 7(1)(b), Elements 1-2.

³⁰⁴ E313 Case 002/01 TJ, para. 416; Case 001-E188 *Duch* TJ, para. 335; D427 Closing Order, para. 1382; *Seromba* AJ, para. 189; *Ndindabahizi* AJ, fn. 268; *Brđanin* TJ, para. 389.

³⁰⁵ E313 Case 002/01 TJ, para. 416; Case 001-E188 *Duch* TJ, para. 335; D427 Closing Order, para. 1382; *Brđanin* TJ, para. 389; *Krstić* TJ, paras 498, 503; ICC Statute, art. 7(2)(b); ICC Elements of Crimes, art. 7(1)(b), Element 1.

³⁰⁶ E313 Case 002/01 TJ, paras 421-424.

140. A conviction for extermination requires satisfaction beyond reasonable doubt of the occurrence of mass killings.³⁰⁷ There is no requirement that each individual killing be proved beyond reasonable doubt, so long as on the totality of the evidence it is established beyond a reasonable doubt that killing on a massive scale took place.³⁰⁸ Precise identification, description or designation by name of the victims is not an element of the crime of extermination.³⁰⁹ As the *Ntakirutimana* Appeals Chamber pointed out, “[t]o require greater identification of those victims would ... increase the burden of proof to such an extent that it hinders a large number of prosecutions for extermination.” Nor is a determination of the specific number of deaths required.³¹⁰
141. There is no minimum number of victims required to satisfy the requirement that the scale of deaths must be “massive”.³¹¹ While extermination as a CAH has been found in relation to the killing of thousands,³¹² it has also been found in relation to fewer killings.³¹³ A particularly large number of victims can be an aggravating circumstance in relation to the sentence if the extent of the killings exceeds that required for extermination.³¹⁴ The existence of a “vast murderous enterprise” is not an element of extermination.³¹⁵
142. The requirement of scale must be assessed on a case-by-case basis taking into account the circumstances in which the killings occurred.³¹⁶ Relevant factors include, *inter alia*,

³⁰⁷ **F36** Case 002/01 AJ, para. 421; *Ntakirutimana* AJ, para. 521; *Gacumbitsi* AJ, para. 89; *Sesay* TJ, para. 132.

³⁰⁸ **F36** Case 002/01 AJ, para. 421. See further *Justice Judgment*, pp. 1046, 1053-1054, 1079 (the accused were found guilty of CAH including extermination even though there were no findings beyond a reasonable doubt of each individual unlawful killing.); *Gacumbitsi* AJ, para. 89 (finding that there was no need to prove the deaths of individuals named in the indictment to secure a conviction for extermination, rather that a finding beyond reasonable doubt that “many refugees were killed” suffices); *Kajelijeli* TJ, para. 886.

³⁰⁹ **F36** Case 002/01 AJ, para. 421; *Ntakirutimana* AJ, paras 518, 521, cited with approval in *Stakić* AJ, fn. 552; *Sesay* TJ, para. 132; **D427** Closing Order, para. 1382.

³¹⁰ *Rukundo* AJ, paras 187, 189; *Stakić* TJ, paras 654-655; **D427** Closing Order, para. 1382.

³¹¹ **F36** Case 002/01 AJ, para. 551; **E313** Case 002/01 TJ, para. 416; Case 001-**E188** *Duch* TJ, para. 336; **D427** Closing Order, para. 1383; *Lukić* AJ, para. 537; *Ndindabahizi* AJ, para. 135.

³¹² *Lukić* AJ, para. 537; *Krstić* TJ, paras 79, 84, 426, 505; *Ntakirutimana* AJ, para. 521.

³¹³ For example, in *Lukić* AJ, paras 540-544, the killings of “59 persons” and “at least 60 persons” were sufficiently large-scale to constitute extermination. In *Brđanin*, the killing of between 68 and 300 individuals “in light of the circumstances in which they occurred, [met] the required threshold of massiveness for the purposes of extermination” (*Brđanin* AJ, para. 472). Similarly, the ICTR has found the killing of about 30-40 individuals to be sufficiently large-scale to amount to extermination (*Setako* TJ, para. 481 (this finding was upheld on appeal, *Setako* AJ, para. 301)).

³¹⁴ *Ndindabahizi* AJ, para. 135.

³¹⁵ **F36** Case 002/01 AJ, paras 527-528.

³¹⁶ **E313** Case 002/01 TJ, para. 416; Case 001-**E188** *Duch* TJ, para. 336; *Lukić* AJ, para. 538; *Sesay* TJ, para. 132.

the time and place of the killings,³¹⁷ the selection of the victims and the manner in which they were targeted,³¹⁸ and whether the killings were aimed at the collective group rather than victims in their individual capacity.³¹⁹ However, there is no requirement that the group or (part of the) population of people killed share any common characteristics,³²⁰ or that the perpetrator intend to destroy a group or part of a group to which the victims belong.³²¹ The preparation and organisation of the crime may also be considered when determining the *actus reus* of extermination.³²²

143. The scale element of the crime of extermination may be established on an aggregated basis, so long as the killings derive from the same course of conduct of the accused,³²³ such as killings taking place in a system of state-run security centres. Where killings on a large scale are the result of a single policy, devised and co-ordinated from central government, by the same individuals, who intended that killings take place on a massive scale, it would be absurd to determine that those individuals were not responsible for extermination, simply because the killings took place at multiple sites.
144. According to the SCC, the *mens rea* consists of the intent to kill persons on a large scale or to create conditions of life calculated to bring about the death of a large number of people.³²⁴ Knowledge of certain death is not required.³²⁵ Neither intent to kill a certain threshold number of victims,³²⁶ nor knowledge of a “vast murderous enterprise”³²⁷ are elements of extermination.

³¹⁷ **F36** Case 002/01 AJ, para. 551; **E313** Case 002/01 TJ, para. 416; *Lukić* AJ, para. 538.

³¹⁸ **F36** Case 002/01 AJ, para. 551; **E313** Case 002/01 TJ, para. 416; Case 001-E188 *Duch* TJ, para. 337; *Lukić* AJ, para. 538; *Nahimana* TJ, para. 1061.

³¹⁹ **F36** Case 002/01 AJ, para. 551; **E313** Case 002/01 TJ, para. 416; Case 001-E188 *Duch* TJ, para. 337; *Lukić* AJ, para. 538; *Stakić* TJ, paras 639, 653.

³²⁰ See **F36** Case 002/01 AJ, paras 519-520, citing ILC 1996 Draft Code (with commentaries), p. 48.

³²¹ Case 001-E188 *Duch* TJ, para. 337; *Musema* AJ, para. 366; *Stakić* TJ, para. 639.

³²² *Lukić* AJ, para. 538, citing *Krstić* TJ, para. 501.

³²³ **F36** Case 002/01 AJ, para. 552 [“The events that form the basis for the accused’s responsibility must be found to “constitute one and the same crime sharing the same *actus reus*”].

³²⁴ **F36** Case 002/01 AJ, paras 521-522, 525, relying on *Krstić* TJ, para. 503; *Ntakirutimana* AJ, para. 522; *Gacumbitsi* AJ, para. 86.

³²⁵ **F36** Case 002/01 AJ, para. 520.

³²⁶ *Stakić* AJ, paras 260-261.

³²⁷ **F36** Case 002/01 AJ, paras 527-528; **E313** Case 002/01 TJ, para. 419; Case 001-E188 *Duch* TJ, para. 337; *Stakić* AJ, para. 259.

3. Enslavement

145. It is undisputed that enslavement was recognised under CIL as a CAH by 1975.³²⁸ Moreover, it was foreseeable and accessible to the Accused that they could be prosecuted for enslavement as a CAH.³²⁹
146. Enslavement is defined as the exercise over a person of any or all powers attaching to the right of ownership.³³⁰ Indicia of enslavement include: “the control of someone’s movement, control of physical environment, psychological control, measures taken to prevent or deter escape, force, threat of force or coercion, duration, assertion of exclusivity, subjection to cruel treatment and abuse, control of sexuality and forced labour.”³³¹ The elements of enslavement may be satisfied without evidence of additional ill-treatment.³³²
147. In examining these indicia, one must above all identify the indicia of “ownership”,³³³ that is, facts pointing to the victim being reduced to a commodity, such that the person is an object of “enjoyment of possession”; that he or she can be used (for example, for sexual or other purposes), economically exploited, and/or ultimately disposed of.³³⁴ Implicit in the ownership powers is an effort to accrue some gain through the exercise of those powers, though this is not an additional element of the crime.³³⁵ The period of duration of enslavement is not an element of the crime, but duration may be relevant in determining the nature of the relationship.³³⁶
148. Forced or involuntary labour may also constitute enslavement.³³⁷ It must be established that the relevant person had no real choice as to whether they would work, which is a factual determination that must be made in light of the indicia of enslavement

³²⁸ Case 001-F28 *Duch* AJ, paras 131-132, 139, 144, 152, 161-162 and citations therein; Case 001-E188 *Duch* TJ, para. 342; D427 Closing Order, para. 1314, fn. 5188.

³²⁹ Case 001-F28 *Duch* AJ, paras 161-162.

³³⁰ Case 001-F28 *Duch* AJ, paras 152-153; Case 001-E188 *Duch* TJ, para. 342; D427 Closing Order, para. 1392; *Kunarac* AJ, paras 116-117; *Sesay* TJ, paras 197-198; ICC Statute, art. 7(2)(c); ICC Elements of Crimes, art. 7(1)(c), Element 1.

³³¹ Case 001-F28 *Duch* AJ, para. 154; Case 001-E188 *Duch* TJ, para. 342; *Kunarac* AJ, para. 119; *Sesay* TJ, para. 199.

³³² Case 001-E188 *Duch* TJ, para. 344; *Kunarac* AJ, para. 123; *Sesay* TJ, para. 203.

³³³ Case 001-F28 *Duch* AJ, paras 155-156. Although the notion of enslavement centred on ownership is not coterminous with “chattel slavery”: Case 001-F28 *Duch* AJ, para. 155; *Kunarac* AJ, para. 117.

³³⁴ Case 001-F28 *Duch* AJ, para. 156.

³³⁵ Case 001-F28 *Duch* AJ, paras 157-158.

³³⁶ *Kunarac* AJ, paras 121, 356; *Taylor* TJ, para. 447.

³³⁷ Case 001-E188 *Duch* TJ, paras 342, 344; *Kunarac* AJ, para. 119; *Krnjelac* TJ, para. 359; *Simić* TJ, para. 85; *Sesay* TJ, paras 199, 202.

identified.³³⁸ The absence of remuneration is not an element of enslavement, but may constitute a relevant evidentiary factor in determining whether the labour was forced.³³⁹

149. Lack of consent is also not an element of the crime of enslavement, as enslavement is characterised by the perpetrator's exercise of power, but it may be evidentially relevant to proof of the exercise of powers of ownership.³⁴⁰ The absence of consent may be presumed where the expression of consent is impossible,³⁴¹ such as where victims live in "a climate of fear".³⁴² In these circumstances, lack of resistance or the absence of clear and constant lack of consent will not be interpreted as a sign of consent.³⁴³ It has been found that severely overcrowded conditions, deplorable sanitation, lack of sleep, insufficient food, locked doors, frequent beatings, psychological abuse and brutal living conditions rendered it impossible for detainees to consent to work and that their labour was forced.³⁴⁴
150. As to the *mens rea*, it must be shown that the perpetrator intentionally exercised any or all of the powers attaching to the right of ownership.³⁴⁵

4. Deportation

151. Deportation as a CAH existed under CIL by 1975.³⁴⁶ Having regard to its express inclusion, as a CAH, in a plethora of post-WWII legal instruments and jurisprudence, it was foreseeable and accessible to the Accused, as members of Cambodia's governing authority, that they could be prosecuted for deportation as a CAH.³⁴⁷
152. Whilst a distinction has been drawn between "deportation" and "forcible transfer" on

³³⁸ Case 001-E188 *Duch* TJ, para. 344; *Krnjelac* AJ, paras 194-195; *Sesay* TJ, para. 202; *Taylor* TJ, para. 448.

³³⁹ *Sesay* AJ, para. 1082; *Kunarac* AJ, para. 119; D427 Closing Order, para. 1394.

³⁴⁰ Case 001-E188 *Duch* TJ, para. 343; *Kunarac* AJ, para. 120; *Sesay* AJ, para. 734; *Taylor* TJ, para. 447.

³⁴¹ Case 001-E188 *Duch* TJ, para. 343; *Kunarac* AJ, para. 120.

³⁴² *Krnjelac* AJ, para. 194.

³⁴³ *Kunarac* AJ, para. 120; *Krnjelac* AJ, paras 194-195.

³⁴⁴ *Krnjelac* AJ, paras 193-195.

³⁴⁵ Case 001-F28 *Duch* AJ, paras 152-153; Case 001-E188 *Duch* TJ, para. 345; D427 Closing Order, para. 1395; *Kunarac* AJ, paras 116, 122; *Taylor* TJ, para. 446.

³⁴⁶ D427 Closing Order, para. 1314, fn. 5189; Lieber Code, art. 23; 1919 Commission Report, p. 114; IMT Charter, art. 6(c); IMT Judgment, pp. 227, 244, 295-296 (Rosenberg), 319-320 (Von Schirach), 319, 329; CCL 10, art. II(1)(c); *Milch* Judgment, 773, 790-791, Conc. Op. Philips, 865; *Krupp* Judgment, 1373, 1429-1433, 1449; *Hostages* Judgment, 1301-1305; *Flick* Judgment, 1190-1191, 1194, 1202; *High Command* Judgment, 465, 495-496, 569-577, 580, 603-609, 614, 629, 679-680; Tokyo Charter, art. 5(c); *Takashi Sakai*, 1-7 (China, 1946); *In re Zimmermann*, p. 552 (Netherlands, 1949); *Eichmann* Judgment, paras 73, 75, 137, 141, 207-213 (Israel, 1961); Nuremberg Principles, Principle VI(c); ILC 1954 Draft Code, art. 2(11). See also GC IV, arts 49, 147; API, art. 85(4)(a).

³⁴⁷ The prohibition on deportation in times of peace (and the protection of related rights) is also contained in a number of pre-1975 regional and international instruments. See UDHR, arts 3, 5, 12, 13(1); ECHR, arts 2, 3, 5, 8; ICCPR, arts 7, 12, 13; Refugee Convention, art. 32; ACHR, arts 22(1), 22(5), 22(9).

the basis of the former's requirement that the transfer be across a State boundary (*de jure* or *de facto*),³⁴⁸ the two crimes "have the same elements, except in relation to destination."³⁴⁹

153. The *actus reus* of forcible displacement, being either deportation or forcible transfer, is (1) the forced displacement of persons by expulsion or other coercive acts, (2) from an area in which they are lawfully present, (3) without grounds permitted under international law.³⁵⁰ There is no minimum number of individuals that must be affected by the forced displacement in order for liability to attach.³⁵¹ The words "lawfully present" should not be equated to the concept of lawful residence.³⁵² "Legal" residents include refugees and stateless persons.³⁵³
154. The term "forcible" is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.³⁵⁴ It requires that the displacement be involuntary in nature, meaning that the relevant persons had no genuine choice in their displacement.³⁵⁵ Where persons consent to, or even request, their removal, that consent must be real in the sense that it is given voluntarily and as a result of the individual's free will, assessed in the light of the surrounding circumstances.³⁵⁶ If a group flees to escape deliberate violence and persecution,³⁵⁷ or detainees request a transfer to seek freedom from inhumane living conditions or a coercive prison regime,³⁵⁸ they would not be exercising a genuine choice.
155. International law permits involuntary removal under certain very limited circumstances, namely if it is carried out for the security of the persons involved, or for imperative

³⁴⁸ *Milošević* Acquittal Decision, para. 68; *Krstić* TJ, para. 521; *Krajišnik* TJ, para. 723; *Blagojević* TJ, para. 595; *Brđanin* TJ, paras 540, 544. See further *Stakić* AJ, para. 300.

³⁴⁹ *Milošević* Acquittal Decision, para. 79; *Krnojelac* AJ, para. 218. See further ICC Statute, para. 7(2)(d).

³⁵⁰ **E313** Case 002/01 TJ, para. 450 and citations therein; *Stakić* AJ, para. 278; *Krajišnik* AJ, para. 304.

³⁵¹ *Krajišnik* AJ, paras 309, 333; *Stakić* TJ, para. 685.

³⁵² *Popović* TJ, para. 900.

³⁵³ *Ministries* Judgment, pp. 480, 496, 500, 654; *High Command* Judgment, p. 572; *Eichmann* Judgment, paras 100, 111.

³⁵⁴ *Šainović* AJ, para. 366; *Krajišnik* AJ, paras 319, 333; *Stakić* AJ, paras 279, 281-282; *Naletilić* TJ, para. 519; ICC Elements of Crimes, art. 7(1)(d), Element 1 and fn. 12; GC IV, art. 31; *ICRC Commentary to GC IV*, pp. 219-220.

³⁵⁵ *Krnojelac* AJ, paras 229, 233; *Stakić* AJ, para. 279.

³⁵⁶ *Stakić* AJ, para. 279; *Krnojelac* AJ, para. 229.

³⁵⁷ *Krstić* TJ, para. 530.

³⁵⁸ *Krnojelac* AJ, paras 229, 233.

military reasons, i.e. on grounds of “military necessity”.³⁵⁹ However, even permissible justifications for evacuation are only allowable in the strictest and narrowest of circumstances: “in view of the drastic nature of a forced displacement of persons, recourse to such measures would only be lawful in the gravest of circumstances and only as measures of last resort.”³⁶⁰ Whether an act was permissible under international law requires an assessment of the factual context on a case-by-case basis, viewed from the time at which the decision to undertake the displacement was made.³⁶¹

156. To justify a forcible displacement on the basis of “military necessity”, overriding military considerations must make it *imperative*; mere military advantage does not suffice.³⁶² Moreover, not every possibly beneficial objective is a permissible justification. For example, transfers for the purposes of “the military necessity of preventing espionage and depriving the enemy of manpower” will not be justified.³⁶³ Evidence that the displacement was carried out pursuant to a plan or policy formulated a considerable time in advance may indicate that a transfer was carried out irrespective of any question of military necessity.³⁶⁴ Consideration should be given as to whether other actions by the authority indicate the same military necessity.³⁶⁵
157. Any legitimate evacuation undertaken in the interest of civilian security or military necessity must conform to the principle of proportionality: it must be appropriate to achieve its protective function, be the least intrusive instrument to achieve the desired result and be proportionate to the interest to be protected.³⁶⁶ Therefore, even when an evacuation is carried out on permissible grounds, that evacuation *becomes* illegal when the population is not allowed to return as soon as possible.³⁶⁷ During any legitimate evacuation, the evacuating party must ensure that the evacuees are properly provided

³⁵⁹ *Stakić* AJ, paras 284-285; *Krajišnik* TJ, para. 725; GC IV, art. 49.

³⁶⁰ *Simić* TJ, para. 125, fn. 218; *ICRC Commentary to GC IV*, pp. 280-281.

³⁶¹ **E313** Case 002/01 TJ, para. 451.

³⁶² *Blagojević* TJ, para. 598; *ICRC Commentary to GC IV*, p. 280; *In re von Lewinski*, p. 522 [“For a retreating army to leave devastation in its wake may afford many obvious disadvantages to the enemy and corresponding advantages to those in retreat. That fact alone, if the words in the article mean anything at all, cannot afford a justification. Were it to do so, the article would become meaningless”].

³⁶³ *Krstić* TJ, para. 526.

³⁶⁴ **E313** Case 002/01, para. 451; *Krstić* TJ, para. 526; *Von Manstein* Judgment, pp. 522-523.

³⁶⁵ *Naletilić* TJ, para. 526 [Holding the transfer was not a lawful evacuation because the civilians were held in the town for a number of days before being transferred, indicating “[n]o imperative military reasons existed”].

³⁶⁶ **E313** Case 002/01 TJ, para. 450.

³⁶⁷ **E313** Case 002/01 TJ, para. 450; *Stakić* AJ, para. 284; *Krajišnik* TJ, para. 725; *Blagojević* TJ, para. 597; GC IV, art. 49; *ICRC Commentary to GC IV*, pp. 280-281.

for in terms of accommodation, hygiene, health, safety and nutrition, and to the greatest practical extent, families should not be separated.³⁶⁸

158. The *mens rea* requires only that the forced displacement be intentional.³⁶⁹ It does not require an intention to displace the persons across the border on a permanent basis.³⁷⁰

5. Imprisonment

159. Imprisonment was recognised as a CAH by CIL by 1975.³⁷¹ Moreover, it was foreseeable and accessible to the Accused that they could be prosecuted for imprisonment as a CAH.³⁷²
160. The *actus reus* of imprisonment³⁷³ requires that an individual be deprived of his or her liberty arbitrarily, *i.e.* without a justifiable legal basis and without due process of law.³⁷⁴ If national law is relied upon, the relevant provisions must not violate international law.³⁷⁵ In determining whether the grounds and procedure for the initial deprivation of liberty were lawful, the court may take into account factors including whether: (i) the arrest was based on a valid warrant;³⁷⁶ (ii) the detainee was informed at the time of the arrest of the reasons for the arrest;³⁷⁷ (iii) the detainee was promptly informed, in detail, of any charges against him and/or formally charged;³⁷⁸ (iv) the detainee was informed of his procedural rights,³⁷⁹ including access to legal counsel;³⁸⁰ and (v) the detainee was brought promptly before a person authorised by law to exercise judicial power (and that person was independent, impartial and objective).³⁸¹ The detainee is entitled to proceedings by which the lawfulness of his detention is decided speedily by a court,

³⁶⁸ E313 Case 002/01 TJ, para. 450; *Blagojević* TJ, para. 599.

³⁶⁹ *Krajišnik* TJ, para. 726 upheld in *Krajišnik* AJ, para. 304. As noted above (*see* para. 85) this entails both *dolus directus* of the first and second degree. *See further* *Milošević* Acquittal Decision, para. 78.

³⁷⁰ *Stakić* AJ, paras 278, 306-307; *Krajišnik* AJ, para. 304; *Brđanin* AJ, para. 206. The Co-Prosecutors note, as the *Stakić* Appeals Chamber did (para. 306), that there is nothing in GC IV, art. 49 to suggest that the transfer must be undertaken with the intention that the deportees will not return.

³⁷¹ Case 001-E188 *Duch* TJ, para. 347; D427/1/30 IS Closing Order Decision, paras 317-327, 332 and citations therein; D427 Closing Order, para. 1314, fn. 5190; *Krnjelac* TJ, para. 109 and citations therein.

³⁷² D427/1/30 IS Closing Order Decision, paras 328-332.

³⁷³ A more descriptive name for the crime would be “imprisonment without due process” or, as the ICTY Trial Chamber in *Karadžić* articulated, “arbitrary imprisonment”; *Karadžić* TJ, para. 519.

³⁷⁴ Case 001-E188 *Duch* TJ, paras 347-348; D427 Closing Order, para. 1403; *Kordić* AJ, para. 116; *Krnjelac* TJ, paras 113-115.

³⁷⁵ Case 001-E188 *Duch* TJ, para. 348; *Krnjelac* TJ, para. 114; *Ntagerura* TJ, para. 702.

³⁷⁶ *Ntagerura* TJ, para. 702.

³⁷⁷ *Ntagerura* TJ, para. 702; ICCPR, art. 9(2); ECHR, art. 5(2).

³⁷⁸ *Krnjelac* TJ, para. 121; *Ntagerura* TJ, para. 702; ICCPR, art. 9(2); ECHR, arts 5(2), 6(3)(a).

³⁷⁹ *Krnjelac* TJ, para. 121; *Ntagerura* TJ, para. 702.

³⁸⁰ ECHR, art. 6(3)(c).

³⁸¹ ICCPR, art. 9(3); ECHR, arts 5(3)-(4); *Kulomin v. Hungary*, para. 11.3.

and to release if the detention is found to be unlawful.³⁸² He is also entitled to a fair and public trial within a reasonable time, or to release;³⁸³ and to the presumption of innocence until proven guilty.³⁸⁴ Therefore, mere “suspicion” that a person may be involved in treason is insufficient as a legal basis to justify detaining individuals without due process –without charges, with no judicial review of evidence, no defence counsel, and with no right to any trial.

161. As to *mens rea*, it must be shown that the perpetrator intended to arbitrarily deprive the individual of liberty, or that he acted in the reasonable knowledge that his actions were likely to cause the arbitrary deprivation of physical liberty.³⁸⁵

6. Torture

162. The crime of torture was recognised as a CAH by 1975,³⁸⁶ and was also a crime under Cambodian law at that time.³⁸⁷ It was foreseeable and accessible to the Accused that they could be prosecuted for torture as a CAH.³⁸⁸
163. Both the PTC and SCC have determined that the definition and elements of torture contained in the 1975 Declaration on Torture reflected CIL in 1975.³⁸⁹ Moreover, by 1975, the prohibition on torture was a norm of *jus cogens*,³⁹⁰ from which derogations were therefore not permitted under any circumstances, including public emergency or in the name of national security.³⁹¹
164. The *actus reus* of torture requires an act or omission inflicting severe pain or suffering, whether physical or mental.³⁹² In determining whether an act or omission constitutes

³⁸² ICCPR, art. 9(4); ECHR, art. 5(4).

³⁸³ ECHR, arts 5(3), 6(1); ICCPR, art. 9(3).

³⁸⁴ ICCPR, art. 14(2); ECHR, art. 6(2).

³⁸⁵ Case 001-E188 *Duch* TJ, para. 350; *Simić* TJ, para. 64; *Krnjelac* TJ, para. 115.

³⁸⁶ Case 001-F28 *Duch* AJ, paras 188, 196, 205-206; **D427/1/30** IS Closing Order Decision, paras 342-351 and citations therein; **D427** Closing Order, para. 1314, fn. 5191.

³⁸⁷ 1956 Penal Code, art. 500.

³⁸⁸ Case 001-F28 *Duch* AJ, paras 211-212; **D427/1/30** IS Closing Order Decision, paras 352-356.

³⁸⁹ **D427/1/30** IS Closing Order Decision, para. 355; Case 001-F28 *Duch* AJ, paras 196, 205.

³⁹⁰ *Belgium v. Senegal* Judgment, para. 99, citing exclusively human rights and IHL instruments concluded before 1975. See UDHR (1948), art. 5; GC I (1949), arts 3, 12, 50; GC II (1949), arts 3, 12, 51; GC III (1949), arts 3, 17, 87, 130; GC IV (1949), arts 3, 32, 147; ICCPR (1966), art. 7; 1975 Declaration on Torture. See also ECHR (1950), art. 3; ACHR (1969), art. 5(2); *Furundžija* TJ, paras 143-146.

³⁹¹ International instruments expressly proscribing derogations from the prohibition against torture include ICCPR, arts 7, 4(2); ECHR, arts 3, 15(2). See also *Ireland v. United Kingdom* Judgment, para. 163 [“The Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment, irrespective of the victim’s conduct. Unlike most of the substantive clauses ..., Article 3 ... makes no provision for exceptions and, under Article 15 para. 2 ..., there can be no derogation therefrom even in the event of a public emergency threatening the life of the nation.” (Emphasis added)]

³⁹² Case 001-F28 *Duch* AJ, paras 191-192, 195-196, 201, 205; Case 001-E188 *Duch* TJ, paras 353-354;

severe pain or suffering, it is necessary to consider all subjective and objective factors.³⁹³ Objective factors include the severity of the harm inflicted. Subjective criteria may include the age, sex, state of health of the victim, or the physical or mental effect of treatment on a particular victim.³⁹⁴ In addition, the nature and context of the infliction of pain, the premeditation and institutionalisation of the ill-treatment, the physical condition of the victim, the manner and method used, and the position of inferiority of the victim are all relevant factors.³⁹⁵ To the extent that an individual has been mistreated over a prolonged period of time, or that he has been subjected to repeated or various forms of mistreatment, the severity of the acts should be assessed as a whole.³⁹⁶

165. There is no exhaustive classification of the acts that may constitute torture.³⁹⁷ The consequences of the act or omission need not be visible on the victim,³⁹⁸ there is no minimum level of pain that must be inflicted,³⁹⁹ nor is there a requirement that the injury be permanent.⁴⁰⁰
166. Acts that are sufficiently severe to constitute torture may arise from conditions imposed upon prisoners and have included beating, sexual violence, prolonged denial of sleep, food, hygiene and medical assistance, being kept in constant uncertainty, simulated executions, and threats to torture, to rape, or to kill relatives.⁴⁰¹ Living in a constant state of anxiety and uncertainty as a result of physical abuse and confinement constitutes mental suffering amounting to torture.⁴⁰² Similarly, the credible threat of physical torture constitutes psychological torture.⁴⁰³ Moreover, a person may suffer serious mental harm by witnessing acts against others.⁴⁰⁴ Certain acts are considered by

D427 Closing Order, para. 1409; 1975 Declaration on Torture, art. 1; *Kunarac* AJ, paras 142-144, 149; *Čelebići* TJ, para. 468; *Ntagerura* TJ, para. 703; ICC Elements of Crimes, art. 7(1)(f), Element 1. See also 1984 Torture Convention, art. 1.

³⁹³ Case 001-E188 *Duch* TJ, para. 355; *Kvočka* TJ, para. 143.

³⁹⁴ Case 001-E188 *Duch* TJ, para. 355; *Kvočka* TJ, para. 143.

³⁹⁵ Case 001-E188 *Duch* TJ, para. 355; *Krnjelac* TJ, para. 182.

³⁹⁶ *Krnjelac* TJ, para. 182.

³⁹⁷ Case 001-E188 *Duch* TJ, para. 355; *Kunarac* AJ, para. 149.

³⁹⁸ Case 001-E188 *Duch* TJ, para. 355; *Kunarac* AJ, para. 150.

³⁹⁹ *Kunarac* AJ, para. 149; *Kvočka* TJ, para. 143; *Brdanin* TJ, para. 483.

⁴⁰⁰ Case 001-E188 *Duch* TJ, para. 355; *Kvočka* TJ, para. 148; *Brdanin* TJ, para. 484.

⁴⁰¹ Case 001-E188 *Duch* TJ, para. 355, *Čelebići* TJ, para. 467; *Kvočka* TJ, para. 151; *Krnjelac* TJ, para. 255.

⁴⁰² *Hajrulahu* Judgment, paras 101-102.

⁴⁰³ See e.g. *Estrella v Uruguay*, paras 1.6, 8.3, 10; *Maritza Urrutia v. Guatemala*, paras 58.6, 85, 94.

⁴⁰⁴ *Kayishema* TJ, para. 153.

their nature to constitute severe pain and suffering. These include rape,⁴⁰⁵ sexual violence,⁴⁰⁶ and mutilation of body parts.⁴⁰⁷

167. Although, under ICTY/ICTR jurisprudence, the perpetrator need not have acted in an official capacity,⁴⁰⁸ the SCC has found the definition of torture found in the 1975 Declaration on Torture, including the public official requirement, to be declarative of CIL in 1975.⁴⁰⁹ Pursuant to that definition, the act or omission must have been carried out “by or at the instigation of a public official”.⁴¹⁰
168. As regards *mens rea*, the pain and suffering amounting to torture must be inflicted intentionally.⁴¹¹ The act or omission must also have been done or made in order to attain a certain result or purpose. Such purposes include obtaining information or a confession, punishment, coercion or intimidation, or discriminating, on any ground, against the victim or a third person.⁴¹² These purposes do not constitute an exhaustive list under CIL and are instead representative.⁴¹³ There is no requirement that the act is committed exclusively for a particular prohibited purpose: that purpose must be “part of the motivation behind the conduct, and it need not be the predominant or sole purpose”.⁴¹⁴

⁴⁰⁵ Case 001-E188 *Duch* TJ, para. 355; *Kunarac* AJ, paras 150-151.

⁴⁰⁶ *Kunarac* AJ, para. 150.

⁴⁰⁷ Case 001-E188 *Duch* TJ, para. 355; *Kvočka* TJ, para. 144.

⁴⁰⁸ *Kunarac* AJ, para. 148; *Kvočka* AJ, para. 284; *Semanza* AJ, paras 248, 286.

⁴⁰⁹ Case 001-F28 *Duch* AJ, paras 191-192, 195-197, 205; 1975 Declaration on Torture, art. 1.

⁴¹⁰ This issue is irrelevant to the adjudication on the current trial as all of the acts of torture alleged were committed by officials or foot soldiers of the regime. However, as a point of law, the Co-Prosecutors submit that, while the reference to torturers being officials of a state reflects CIL as far as the obligation of States is concerned, the ICTY and ICTR have correctly rejected the public official requirement in customary international criminal law. The 1975 Declaration on Torture, and later 1984 Torture Convention, were addressed to States and sought to regulate their conduct. In that context, it is understandable that they deal with the acts of individuals acting in an official capacity, however, as a CAH it is illogical to distinguish individuals who are public officials from others who are not but who commit the same acts, with the same intent and with the same consequence for victims whose suffering is hardly relieved by the knowledge that the individual is not a public official.

⁴¹¹ Case 001-F28 *Duch* AJ, paras 191-192, 195-196, 201, 205; Case 001-E188 *Duch* TJ, para. 358; **D427** Closing Order, para. 1413; 1975 Declaration on Torture, art. 1; *Krnjelac* TJ, para. 179; *Furundžija* TJ, para. 162.

⁴¹² Case 001-F28 *Duch* AJ, paras 192, 205; Case 001-E188 *Duch* TJ, para. 356; **D427/1/30** IS Closing Order Decision, para. 355; 1975 Declaration on Torture, art. 1; 1984 Torture Convention, art. 1; *Kunarac* AJ, paras 142, 144; *Ntagerura* TJ, para. 703. Although the SCC has held that the definition of torture contained in the 1975 Declaration on Torture is reflective of CIL in 1975, and highlighted the narrower purpose stipulation that omits express reference to the discriminatory reasons contained in the 1984 Torture Convention (Case 001-F28 *Duch* AJ, para. 192), the Co-Prosecutors note that the purpose stipulation contained in the 1975 Declaration on Torture is representative rather than exhaustive (*Čelebići* TJ, paras 470-472) and does not therefore preclude acts or omissions conducted on discriminatory grounds.

⁴¹³ Case 001-E188 *Duch* TJ, para. 356; *Čelebići* TJ, paras 470-472.

⁴¹⁴ Case 001-E188 *Duch* TJ, para. 356; *Kunarac* TJ, para. 486.

7. Persecution on Political, Racial or Religious Grounds

169. Persecution as a CAH existed under CIL by 1975.⁴¹⁵ It was foreseeable and accessible to the Accused that they could be prosecuted for persecution as a CAH.⁴¹⁶

170. The *actus reus* of persecution is an act or omission which discriminates in fact and which denies or infringes upon a fundamental right laid down in international customary or treaty law.⁴¹⁷

a) An Act or Omission that Denies or Infringes upon a Fundamental Right

171. “Persecutory acts” can include the other underlying offences for CAH, as well as other acts or omissions that are of equal gravity or seriousness, whether in isolation or in conjunction with other acts.⁴¹⁸ These other acts or omissions may be,⁴¹⁹ but need not necessarily be⁴²⁰ international crimes in and of themselves. Whether the acts actually constitute persecution is a fact-specific inquiry.⁴²¹

172. The context in which an act or omission takes place is important for the purpose of assessing its gravity or severity.⁴²² Other factors that should be considered in that assessment include (i) whether it was committed in the context of, or as part of a chain of events in a larger persecutory campaign, the ultimate goal and end result of which was extremely grave, resulting in gross violation of fundamental rights;⁴²³ and (ii) the discriminatory effect it seeks to encourage within the general populace against a targeted group.⁴²⁴

173. Following an extensive review of jurisprudence from the IMT and tribunals acting pursuant to CCL 10, the SCC held that “the other acts not found in the instruments constituted a broad range of breaches of individual rights including rights to property, a

⁴¹⁵ Case 001-F28 *Duch* AJ, paras 216-225 and citations therein; E313 Case 002/01 TJ, para. 426; Case 001-E188 *Duch* TJ, para. 374; D427 Closing Order, para. 1314, fn. 5193.

⁴¹⁶ Case 001-F28 *Duch* AJ, paras 261, 279-280; E313 Case 002/01 TJ, para. 426. Religious persecution was a crime under Cambodian Law in 1975. See 1956 Penal Code, arts 209-210.

⁴¹⁷ Case 001-F28 *Duch* AJ, paras 257, 261-262, 271; Case 001-E188 *Duch* TJ, para. 376; E313 Case 002/01 TJ, para. 427; D427 Closing Order, para. 1415; *Stakić* AJ, para. 327; *Nahimana* AJ, para. 985.

⁴¹⁸ Case 001-F28 *Duch* AJ, paras 244-245, 253-254, 257-259, 261; E313 Case 002/01 TJ, paras 432-433; Case 001-E188 *Duch* TJ, para. 378; *Kordić* AJ, paras 102, 671; *Blaškić* AJ, paras 135, 138; *Popović* AJ, para. 766; *Nahimana* AJ, para. 987 [confirming that it is the cumulative effect of all the underlying acts of persecution that must reach a level of gravity equivalent to that for other CAH].

⁴¹⁹ Case 001-F28 *Duch* AJ, paras 258, 260; *Krnjelac* AJ, para. 219; *Brđanin* AJ, para. 296.

⁴²⁰ Case 001-F28 *Duch* AJ, paras 244-245, 261; E313 Case 002/01 TJ, para. 433; *Nahimana* AJ, para. 985; *Brđanin* AJ, para. 296.

⁴²¹ *Brđanin* AJ, para. 295.

⁴²² E313 Case 002/01 TJ, para. 433; *Nahimana* AJ, para. 987.

⁴²³ Case 001-F28 *Duch* AJ, para. 259.

⁴²⁴ Case 001-F28 *Duch* AJ, para. 259.

fair trial, equal protection of the law, citizenship, work, education, marriage, privacy and freedom of movement".⁴²⁵ In the same vein, the following acts not explicitly listed in article 5 of the ECCC Law have been considered acts of persecution at the ICTY and ICTR:⁴²⁶ the destruction of religious buildings;⁴²⁷ acts of harassment, humiliation, degradation and psychological abuse, including forcing a victim to witness or hear torture, interrogation and random brutality in a prison camp;⁴²⁸ wanton destruction of private and public property, including cultural monuments and sacred sites;⁴²⁹ forced labour;⁴³⁰ forced displacement;⁴³¹ inhumane living conditions;⁴³² enforced disappearances;⁴³³ the denial of the rights to employment, freedom of movement, proper judicial process and proper medical care;⁴³⁴ and hate speech and calls to violence.⁴³⁵ Denying the practice of religion would clearly violate the fundamental right to freedom of thought, conscience and religion.⁴³⁶

b) Discrimination in Fact

174. The act or omission must "discriminate in fact",⁴³⁷ that is, it must have actual discriminatory consequences.⁴³⁸ The SCC has held that "discrimination in fact" occurs where a victim is targeted because of his real or perceived membership in a group *defined by the perpetrator* on specific grounds, namely on a political, racial or religious basis,⁴³⁹ and the victim belongs to a sufficiently discernible political, racial or religious group.⁴⁴⁰ The group may be defined broadly by the perpetrator. This can be in negative terms and can include affiliates and sympathisers as well as suspects.⁴⁴¹ Persecution might target aggregated groups without any common identity or agenda.⁴⁴²

⁴²⁵ Case 001-F28 *Duch* AJ, para. 254, following a review of jurisprudence at paras 242-253.

⁴²⁶ Some of which have been cited with approval by the ECCC Trial Chamber. See Case 001-E188 *Duch* TJ, para. 378.

⁴²⁷ *Kordić* TJ, para. 206.

⁴²⁸ *Kvočka* AJ, paras 323-325; *Kvočka* TJ, paras 190-192; *Stakić* TJ, paras 758-760, 807-808.

⁴²⁹ *Karadžić* TJ, paras 530-534; *Blaškić* AJ, paras 146, 149.

⁴³⁰ *Krnjelac* AJ, paras 198-203.

⁴³¹ *Krnjelac* AJ, para. 222; *Blaškić* AJ, para. 153.

⁴³² *Karadžić* TJ, para. 514; *Krajišnik* TJ, paras 755-756; *Nikolić (Dragan)* SJ, para. 69.

⁴³³ *Gotovina* TJ, para. 1839.

⁴³⁴ *Brđanin* AJ, paras 294-297; *Stanišić & Župljanin* TJ, Vol. I, paras 91-92.

⁴³⁵ *Nahimana* AJ, paras 986-988.

⁴³⁶ ICCPR, arts 18, 27; UDHR, art. 18; ECHR, art. 9.

⁴³⁷ Case 001-F28 *Duch* AJ, para. 267; F36 Case 002/01 AJ, para. 667; E313 Case 002/01 TJ, para. 427.

⁴³⁸ Case 001-F28 *Duch* AJ, para. 267; Case 001-E188 *Duch* TJ, para. 377.

⁴³⁹ Case 001-F28 *Duch* AJ, paras 272-273; F36 Case 002/01, paras 667, 669, 690; E313 Case 002/01 TJ, para. 428; Case 001-E188 *Duch* TJ, para. 377; D427 Closing Order, para. 1415; *Karadžić* TJ, para. 498; *Kvočka* AJ, paras 363, 366, 455; *Blagojević* TJ, para. 583.

⁴⁴⁰ Case 001-F28 *Duch* AJ, paras 274-276; F36 Case 002/01 AJ, para. 667; E313 Case 002/01 TJ, para. 428.

⁴⁴¹ Case 001-F28 *Duch* AJ, paras 272-273; *Kvočka* AJ, paras 363, 366, 455; *Simić* TJ, para. 49; *Stakić* TJ,

175. With regard to persecution on political grounds, there is no requirement that the targeted group actually hold a particular political view at all.⁴⁴³ Political persecution may occur where the discrimination is effected according to political motivations or agenda *against* a group based on a subjective assessment as to the group's political threat or danger to the perpetrator.⁴⁴⁴ The group or groups persecuted on political grounds may include various categories of persons, such as: officials and political activists; persons of certain opinions, convictions or beliefs; persons of certain ethnicity or nationality; or persons representing certain social strata (e.g. "intelligentsia", clergy or bourgeoisie).⁴⁴⁵

c) *Mens Rea*

176. As to *mens rea*, persecution requires deliberate perpetration of an act or omission with the specific intent to discriminate on political, racial or religious grounds.⁴⁴⁶ Discriminatory intent requires that the perpetrator acted with the specific intent to harm the victim because she belongs to a particular community or group.⁴⁴⁷ There is no requirement that perpetrator possess a persecutory intent — that is, intent to remove targeted persons from society or humanity — over and above a discriminatory intent.⁴⁴⁸

177. Intent has been inferred "through a perpetrator's knowing participation in a system or enterprise that discriminated on political, racial or religious grounds."⁴⁴⁹ However, the existence of a discriminatory policy is not a requirement for proving persecution.⁴⁵⁰ Evidence of some affiliations between the perpetrator and the target group does not necessarily preclude a trier of fact from reasonably finding the requisite intent to commit persecution.⁴⁵¹

8. Other Inhumane Acts

178. "Other inhumane acts" was established as a CAH under CIL before 1975.⁴⁵² Moreover,

para. 734.

⁴⁴² F36 Case 002/01 AJ, para. 678.

⁴⁴³ F36 Case 002/01 AJ, para. 669.

⁴⁴⁴ F36 Case 002/01 AJ, para. 669; Case 001-F28 *Duch* AJ, para. 272; E313 Case 002/01 TJ, para. 430, fn. 1290 and citations therein.

⁴⁴⁵ Case 001-F28 *Duch* AJ, para. 272; F36 Case 002/01 AJ, para. 669.

⁴⁴⁶ Case 001-F28 *Duch* AJ, paras 236-240; E313 Case 002/01 TJ, para. 427; Case 001-E188 *Duch* TJ, para. 379; D427 Closing Order, para. 1423; *See also, e.g. Stakić* AJ, paras 327-328; *Nahimana* AJ, para. 985.

⁴⁴⁷ Case 001-E188 *Duch* TJ, para. 379; *Kordić* AJ, para. 111; *Blaškić* AJ, para. 165; *Karadžić* TJ, para. 500.

⁴⁴⁸ Case 001-E188 *Duch* TJ, para. 379; *Kordić* AJ, para. 111; *Blaškić* AJ, para. 165.

⁴⁴⁹ *Šimić* TJ, para. 51.

⁴⁵⁰ *Karadžić* TJ, para. 500; *Popović* TJ, para. 967.

⁴⁵¹ *Kvočka* AJ, paras 232-233.

⁴⁵² F36 Case 002/01 AJ, para. 576; D427/1/30 IS Closing Order Decision, paras 371, 379-385, 395-396, 398

it was foreseeable and accessible to the Accused that conduct rising to the level of “other inhumane acts” could be prosecuted as a CAH.⁴⁵³ “Other inhumane acts” is *in itself* a crime under international law.⁴⁵⁴ There is no requirement that each sub-category be criminalised as a distinct CAH from 1975-1979. To require this would be to render the category of “other inhumane acts” meaningless.⁴⁵⁵ Rather, “other inhumane acts” is a residual category of CAH that criminalises conduct which meets the criteria of a CAH but does not fit within one of the other specified underlying crimes.⁴⁵⁶ The act or omission must be sufficiently similar in nature and gravity to other enumerated CAH.⁴⁵⁷

179. The SCC has recently held that to qualify as an other inhumane act, the following elements must be satisfied: (i) there was an act or omission of similar seriousness to the other acts enumerated as [CAH]; (ii) the act or omission caused serious mental or physical suffering or injury or constituted a serious attack on human dignity; and (iii) the act or omission was performed intentionally.⁴⁵⁸
180. Whether conduct meets the criteria for characterisation as an “other inhumane act” is therefore a mixed question of law and fact.⁴⁵⁹ The seriousness of the act is to be assessed on a case-by-case basis, taking account of the individual circumstances of the case,⁴⁶⁰ and the facts must be assessed for their gravity holistically.⁴⁶¹ The individual circumstances may include the nature of the act or omission; the context in which it occurred; the personal circumstances of the victim including age, sex and health; and

and citations therein; **D427/2/15** NC and IT Closing Order Decision, paras 156-157, 165; **E313** Case 002/01 TJ, para. 435; Case 001-**E188** *Duch* TJ, para. 367; **D427** Closing Order, para. 1314, fn. 5194. See also *Stakić* AJ, paras 315-316, fn. 649; *Brima* AJ, para. 183, fn. 275.

⁴⁵³ **F36** Case 002/01 AJ, paras 577-586; **D427/2/15** NC and IT Closing Order Decision, para. 165; **D427/1/30** IS Closing Order Decision, paras 396, 398; **E313** Case 002/01 TJ, para. 435; *Stakić* AJ, para. 315.

⁴⁵⁴ **F36** Case 002/01 AJ, para. 576.

⁴⁵⁵ **F36** Case 002/01 AJ, para. 584; **E313** Case 002/01 TJ, para. 436; **D427/1/30** IS Closing Order Decision, paras 371, 378; **D427/2/15** NC and IT Closing Order Decision, para. 156; *Stakić* AJ, paras 315-316.

⁴⁵⁶ **F36** Case 002/01 AJ, paras 576, 578; **E313** Case 002/01 TJ, para. 437; Case 001-**E188** *Duch* TJ, para. 367; *Stakić* AJ, paras 315-316; *Kordić* AJ, para. 117; *Brima* AJ, paras 183, 198.

⁴⁵⁷ **D427/1/30** IS Closing Order Decision, paras 395-396; Case 001-**E188** *Duch* TJ, para. 367; **E313** Case 002/01 TJ, paras 438, 440; **D257/1/8** Forced Marriage Considerations: International Judges, para. 15; *Krajišnik* AJ, para. 331; *Brima* AJ, para. 198; *Lukić* TJ, para. 960; ICC Elements of Crimes, art. 7(1)(k), Element 2.

⁴⁵⁸ **F36** Case 002/01 AJ, para. 580.

⁴⁵⁹ See e.g. **D427/1/30** IS Closing Order Decision, para. 397; **D427/2/15** NC and IT Closing Order Decision, para. 166. See also Case 004-**D257/1/8** Forced Marriage Considerations: International Judges, para. 18.

⁴⁶⁰ Case 001-**E188** *Duch* TJ, para. 369; **E313** Case 002/01 TJ, para. 438; Case 004-**D257/1/8** Forced Marriage Considerations: International Judges, para. 16; *Kordić* AJ, para. 117; *Lukić* TJ, para. 961.

⁴⁶¹ **F36** Case 002/01 AJ, para. 590.

the physical, mental and moral effects of the act upon the victim.⁴⁶² There is no requirement that the victim suffer long-term effects, although this may be relevant to the seriousness of the acts.⁴⁶³ The gravity requirement can be fulfilled by showing that analogous rights and prohibitions were contained in international human rights instruments applicable at the relevant time.⁴⁶⁴ The emergence, after 1975, of new, more specific human rights norms, including those of international criminal law, may serve to provide additional confirmation of the unlawfulness of the prior specific conduct charged as “other inhumane acts” and be used as a tool to assess whether the conduct in question reaches the requisite level of gravity.⁴⁶⁵

181. The underlying acts do not therefore require “specific *legal* definitions and elements”.⁴⁶⁶ The SCC recently explained that “the guiding issue ... was whether the conduct in question, in light of all the specific circumstances of the case at hand, actually fulfilled the definition of other inhumane acts.”⁴⁶⁷ It is therefore not necessary to test the facts against purported elements of crimes underlying other inhumane acts, but solely whether the facts taken together in their “nature and gravity [were] similar to that of enumerated crimes against humanity.”⁴⁶⁸
182. In addition to the acts surveyed in more detail below, “other inhumane acts” have been found to include: cruel, humiliating, inhumane or degrading treatment;⁴⁶⁹ forced prostitution;⁴⁷⁰ serious physical and mental injury;⁴⁷¹ mutilation, beatings and other types of severe bodily harm;⁴⁷² deplorable detention conditions;⁴⁷³ sexual violence;⁴⁷⁴ using detainees as human shields;⁴⁷⁵ the witnessing of criminal acts against family or

⁴⁶² Case 001-E188 *Duch* TJ, para. 369; E313 Case 002/01 TJ, para. 438; *Vasiljević* AJ, para. 165; D257/1/8 Forced Marriage Considerations: International Judges, para. 16 quoting Case 001-E188 *Duch* TJ, para. 369.

⁴⁶³ Case 001-E188 *Duch* TJ, para. 369; E313 Case 002/01 TJ, para. 439; *Vasiljević* AJ, para. 165; *Lukić* TJ, para. 961, fn. 2887.

⁴⁶⁴ F36 Case 002/01 AJ, paras 584-585.

⁴⁶⁵ F36 Case 002/01 AJ, para. 585.

⁴⁶⁶ F36 Case 002/01 AJ, para. 589 (emphasis in original).

⁴⁶⁷ F36 Case 002/01 AJ, para. 589

⁴⁶⁸ F36 Case 002/01 AJ, para. 590.

⁴⁶⁹ *Kupreškić* TJ, para. 566; *Kvočka* TJ, para. 208.

⁴⁷⁰ *Kupreškić* TJ, para. 566; *Kvočka* TJ, para. 208.

⁴⁷¹ *Blaškić* TJ, para. 239; *Kayishema* TJ, para. 151.

⁴⁷² Case 001-E188 *Duch* TJ, para. 370; *Muvunyi I* TJ, para. 528; *Kvočka* TJ, para. 208; *Tadić* TJ, para. 730.

⁴⁷³ F36 Case 002/01 AJ, para. 581 citing *Krnjelac* TJ, para. 133.

⁴⁷⁴ *Muvunyi I* TJ, para. 528; *Brima* AJ, paras 184, 186.

⁴⁷⁵ F36 Case 002/01 AJ, para. 581 citing *Naletilić* TJ, para. 245; *Blaškić* TJ; *Kordić* TJ, para. 773.

friends;⁴⁷⁶ forcible circumcision or castration;⁴⁷⁷ killings in front of children;⁴⁷⁸ injuries to demonstrators;⁴⁷⁹ and forced nudity.⁴⁸⁰

183. In the Case 002 Closing Order, the Accused are charged with Other Inhumane Acts based on enforced disappearances, forced marriages and rapes that occurred as the authorities required consummation of those marriages, forced transfer, and attacks against human dignity. How the conduct involved in each of these satisfies the legal elements of “other inhumane acts” as a CAH is discussed below.

a) Forced Transfer

184. This Chamber⁴⁸¹ and other international tribunals⁴⁸² have already found that forced transfer—being the forced displacement within national boundaries of individuals from an area in which they are lawfully present, which is not justified by concerns regarding the security of the civilian population or military necessity⁴⁸³—may be considered to be of similar gravity to the enumerated CAH and thus fall within the purview of “other inhumane acts”. Indeed, the conduct of forced transfer is the same as deportation, a CAH enumerated in the ECCC Law,⁴⁸⁴ and the distinction as to destination of the forced displacement “has no bearing on the condemnation of such practices”.⁴⁸⁵ The ICC now recognises forced transfer as a discrete CAH.⁴⁸⁶

185. Forced transfer has also been found to rise to the level of gravity of other enumerated CAH and amount to persecution as a CAH,⁴⁸⁷ as well as constituting the offence of unlawful deportation or transfer of civilians as a grave breach.⁴⁸⁸ The gravity requirement for the classification of facts constituting forced transfer as “other inhumane acts” is therefore clearly met.

b) Attacks against Human Dignity

186. As relevant to Case 002/02, the Closing Order alleges that attacks against human

⁴⁷⁶ **F36** Case 002/01 AJ, para. 581 citing *Kupreškić* TJ, para. 819; *Kayishema* TJ, para. 153; *Brima* AJ, para. 199.

⁴⁷⁷ **F36** Case 002/01 AJ, para. 581 citing *Kenyatta* Confirmation of Charges Decision, paras 270-273.

⁴⁷⁸ **F36** Case 002/01 AJ, para. 581 citing *Kenyatta* Confirmation of Charges Decision, paras 276-277.

⁴⁷⁹ **F36** Case 002/01 AJ, para. 581 citing *Kenyatta* Confirmation of Charges Decision, para. 280.

⁴⁸⁰ *Akayesu* TJ, para. 697; *Brđanin* TJ, para. 1013.

⁴⁸¹ **E313** Case 002/01 TJ, paras 454-455 and citations therein.

⁴⁸² *Stakić* AJ, para. 317; *Krstić* TJ, para. 523; *Kupreškić* TJ, para. 566;

⁴⁸³ **E313** Case 002/01 TJ, para. 450; *Blagojević* TJ, para. 595.

⁴⁸⁴ *Milošević* Acquittal Decision, para. 79; *Krnojelac* AJ, para. 218. See further ICC Statute, para. 7(2)(d).

⁴⁸⁵ *Krstić* TJ, para. 522.

⁴⁸⁶ ICC Statute, art. 7(1)(d).

⁴⁸⁷ *Krnojelac* AJ, para. 222; *Blaškić* AJ, para. 153.

⁴⁸⁸ GC IV, art. 147; *Naletilić* TJ, paras 513-527.

dignity resulted from deprivations of adequate food, water, shelter, medical assistance and minimum sanitary conditions.⁴⁸⁹ This Chamber has held that such deprivations may, depending on the facts, be of similar gravity to the enumerated CAH and thus fall within the ambit of “other inhumane acts”.⁴⁹⁰ According to ECCC and international jurisprudence, similar deprivations in the context of detention can constitute other inhumane acts as CAH.⁴⁹¹ They have been found to rise to the level of gravity of the other crimes enumerated in Article 5 of the ECCC Law and amount to persecution as a CAH,⁴⁹² as well as constituting the offence of cruel treatment as a violation of the laws or customs of war under the ICTY Statute.⁴⁹³ In the context of genocide, the same deprivations have been considered to evidence conditions of life that would bring about a group’s physical destruction.⁴⁹⁴

187. Such deprivations may therefore be of similar gravity to the enumerated CAH and thus may fall within the ambit of “other inhumane acts”.

c) Forced Marriage

188. The OCIJ and SCSL have recognised that forced marriage may be of similar gravity to the enumerated CAH and thus fall within the purview of “other inhumane acts”.⁴⁹⁵ The right to be free of a coerced marriage is so fundamental that it was recognised in the Universal Declaration of Human Rights adopted by the UN General Assembly on 10 December 1948.⁴⁹⁶ Numerous other instruments in place by 1975 also recognise the importance of consent before entering into marriage.⁴⁹⁷

⁴⁸⁹ **D427** Closing Order, paras 1434-1440.

⁴⁹⁰ **E313** Case 002/01 TJ, paras 456-458.

⁴⁹¹ Case 001-**E188** *Duch* TJ, para. 370; *Krnjelac* TJ, para. 133; *Kvočka* TJ, para. 209.

⁴⁹² *Blaskić* AJ, para. 155; *Karadžić* TJ, para. 514; *Krajišnik* TJ, paras 745-747, 755-756; *Stanišić and Župljanin* TJ, paras 203, 226-227, 678-679, 681, 683, 701; *Kvočka* TJ, para. 209.

⁴⁹³ *Prlić* TJ, Vol 3, paras 1159, 1161, 1164, 1167-1168, 1170-1172, 1176-1178, 1181-1182, 1184, 1192-1194, 1197-1199, 1201-1202, 1204-1205; *Limaj* TJ, paras 288-289, 333, 652; *Čelebići* TJ, para. 1119. See further, *Prlić* TJ, Vol 3, paras 1102-1111, 1114-1116, 1118-1120, 1124-1126, 1129-1130, 1132-1133, 1135-1137, 1140-1142, 1145-1147, 1149-1150, 1152-1153 [finding the treatment also constituted the offence of inhuman treatment as a grave breach of the Geneva Conventions].

⁴⁹⁴ *Karadžić* Rule 98bis AJ, paras 48-49; *Brđanin* TJ, para. 691; *Kayishema* TJ, paras 115-116.

⁴⁹⁵ *Brima* AJ, paras 198-201; *Sesay* TJ, paras 2306-07; **D427** Closing Order, paras 1314, 1442-1443, fn. 5195.

⁴⁹⁶ UDHR, art 16(2) [“Marriage shall be entered into only with the free and full consent of the intending spouses”].

⁴⁹⁷ See e.g. 1964 Convention on Consent to Marriage (the Preamble of the Convention recalls article 16 of the UDHR). Article 1 states that “[n]o marriage shall be legally entered into without the full and free consent of both parties”; ICCPR, art. 23(3) [“[n]o marriage shall be entered into without the free and full consent of the intending spouses”]; ECHR, arts 8 [details the “right to respect for private and family life”, stating that “[e]veryone has the right to respect for his private and family life”, and “[t]here shall be no interference by a public authority with the exercise of this right except such as in accordance with the

189. Forced marriage occurs when the perpetrator compels a person by force, threat of force, or coercion to serve as a conjugal partner.⁴⁹⁸ 'Marriage' implies a relationship of exclusivity between the 'husband' and 'wife'.⁴⁹⁹ The 'marriage' may, depending on the circumstances, involve a variety of duties such as sexual intercourse, domestic labour, enduring pregnancy and caring for the children of the 'marriage',⁵⁰⁰ and may involve the commission of one or more international crimes such as enslavement, rape, sexual assault or sexual slavery, among others.⁵⁰¹ However, forced marriage is not predominantly a sexual crime, and forced marriage occurs regardless of whether the 'husband' and 'wife' engage in sexual relations.⁵⁰²
190. Force used to compel a person to marry is not limited to physical force, but includes the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or by taking advantage of a coercive environment.⁵⁰³ Where it is shown that the environment is so coercive that the free exercise of choice is impossible, the parties cannot have consented to a marriage. Circumstances prevailing in most cases charged as war crimes or CAH "will be almost universally coercive," thus rendering genuine consent impossible.⁵⁰⁴ Similarly, a climate of fear⁵⁰⁵ or situations of captivity or detention⁵⁰⁶ have been recognised as vitiating genuine consent. In an environment of coercion, any relative benefits that victims of forced marriage may receive from perpetrators neither signifies consent to the forced conjugal association, nor vitiates the criminal nature of the perpetrator's conduct.⁵⁰⁷

d) Rape

191. Although rape is enumerated as a CAH in its own right under article 5 of the ECCC Law, both the PTC and SCC have held that rape was not a distinct CAH during the ECCC's temporal jurisdiction.⁵⁰⁸ However, the PTC has confirmed that facts

law"], 12 [deals with the "right to marry", providing that "[m]en and women of marriageable age have the right to marry and to found a family"].

⁴⁹⁸ *Brima* AJ, para. 196; *Sesay* AJ, paras 735-736.

⁴⁹⁹ *Brima* AJ, para. 195.

⁵⁰⁰ *Brima* AJ, para. 190.

⁵⁰¹ *Brima* AJ, para. 201.

⁵⁰² *Brima* AJ, para. 195.

⁵⁰³ *Sesay* AJ, para. 736; *Stakić* AJ, para. 281.

⁵⁰⁴ Case 001-E188 *Duch* TJ, para. 363; *Gacumbitsi* AJ, para. 151; *Taylor* TJ, para. 416. Although this finding relates to rape, it is equally applicable in the context of forced marriage.

⁵⁰⁵ *Krnjelac* AJ, para. 194.

⁵⁰⁶ *Sesay* AJ, para. 736; See also *Kvočka* AJ, para. 396; *Kunarac* AJ, paras 132-133; *Muhimana* TJ, para. 545; *Krnjelac* AJ, paras 194-195, 226-233.

⁵⁰⁷ *Brima* AJ, para. 190.

⁵⁰⁸ Case 001-F28 *Duch* AJ, paras 183, 213; **D427/2/15** NC and IT Closing Order Decision, para. 154;

characterised as CAH in the form of rape can additionally be categorised as the CAH of “other inhumane acts”.⁵⁰⁹ Moreover, the ICTY, ICTR, SCSL and ICC have all recognised rape as a discrete CAH.⁵¹⁰ Rape may also constitute torture where the elements of torture are established.⁵¹¹ The gravity requirement for classification of facts constituting rape as “other inhumane acts” is therefore clearly met.

192. As to what is meant by “rape”, there has been some divergence in its definition among the ECCC Chambers and international tribunals. In the Case 002 Closing Order, the OCIJ largely adopted the broad definition adopted by the ICTR Trial Chamber in *Akayesu*,⁵¹² finding that “by imposing the consummation of forced marriages,⁵¹³ the perpetrators committed a physical invasion of a sexual nature against a victim in coercive circumstances in which the consent of the victim was absent.”⁵¹⁴ Both men and women can be subject to physical invasion,⁵¹⁵ and the Accused are charged with acts of sexual violence constituting rape, through enforced consummation of forced marriage, against both men and women.
193. Other narrower definitions of rape have been posited. In Case 001, this Chamber followed the ICTY in defining the physical element more narrowly as the sexual penetration, however slight of: (a) the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator; or (b) the mouth of the victim by the penis of the perpetrator; where such sexual penetration occurs without the consent of the victim.⁵¹⁶ The ICC definition falls between the two, requiring that “the perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.”⁵¹⁷

D427/1/30 IS Closing Order Decision, paras 364-365, 371.

⁵⁰⁹ **D427/1/30** IS Closing Order Decision, para. 372; **D427/2/15** NC and IT Closing Order Decision, para. 154.

⁵¹⁰ **ICTY**: ICTY Statute, art. 5(g); *Kunarac* AJ, para. 179; **ICTR**: ICTR Statute, art. 3(g); *Akayesu* TJ, para. 596; **SCSL**: SCSL Statute, art. 2(g); *Sesay* TJ, para. 144; **ICC**: ICC Statute, art. 7(1)(g).

⁵¹¹ Case 001-**F28** *Duch* AJ, paras 207-208, 211; Case 001-**E188** *Duch* TJ, paras 355, 366; *Akayesu* TJ, para. 687.

⁵¹² *Akayesu* TJ, para. 598 [defining rape as “a physical invasion of a sexual nature, committed on a person under circumstances which are coercive”].

⁵¹³ Referring to the factual findings in **D427** Closing Order, para. 858.

⁵¹⁴ **D427** Closing Order, para. 1431; see also para. 1427.

⁵¹⁵ As reflected in the ICC Elements of Crimes, fn. 15. See fn. 517 below.

⁵¹⁶ Case 001-**E188** *Duch* TJ, para. 362; *Kunarac* AJ, para. 127.

⁵¹⁷ ICC Elements of Crimes, art. 7(1)(g)-1, Element 1. At fn. 15, it is clarified that “the concept of ‘invasion’

194. The Co-Prosecutors submit that the definitions used at the ICTY, ICC and by this Chamber in Case 001 are unduly narrow as they were written to fit the specific facts where a perpetrator was penetrating, or (at the ICC only) was being penetrated by, a body part of the victim without the victim's consent. A more enlightened, inclusive and gender-neutral definition of rape would require the penetration, however slight, of the vagina or anus of one individual by any object or a body part of another person, or any touching of a sexual organ of a person by any part of the mouth of another person, without the consent of either one or both participants in the sexual act. In any event, regardless of whether or not it fits prior legal definitions of the crime of rape, forcing any person or couple to engage in sexual relations without their consent is clearly a crime of equal seriousness to other CAH.⁵¹⁸ This conduct manifestly fits within the definition of "other inhumane acts" as a CAH, having caused serious mental or physical suffering to the victim and constituted a serious attack on his and/or her human dignity.
195. Consent for this purpose must be given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances.⁵¹⁹ Force, or threat of force, may provide evidence of non-consent, but force is not an element of rape, and there are factors other than force which would render an act of sexual penetration non-consensual or non-voluntary on the part of the victim.⁵²⁰ Proof of resistance (or continuous resistance) by the victim is also not required.⁵²¹ A person may be incapable of giving genuine consent if affected by natural, induced or age-related incapacity.⁵²² The circumstances prevailing in most cases charged as war crimes or CAH "will be almost universally coercive," thus rendering genuine consent impossible.⁵²³ Circumstantial evidence may be used to demonstrate rape.⁵²⁴

e) Enforced Disappearances

196. The OCIJ, the ECCC Trial Chamber, the ICTY, and the SCSL have all recognised that enforced disappearance may be of the requisite gravity to constitute "other inhumane

⁵¹⁸ is intended to be broad enough to be gender-neutral".
 Requiring others to have sexual intercourse with one another has also been found to constitute sexual assault punishable as an underlying act of persecution as a CAH. See *Brđanin* TJ, paras 1012-1013.
⁵¹⁹ *Kunarac* AJ, paras 127-128; *Taylor* TJ, para. 416.
⁵²⁰ Case 001-E188 *Duch* TJ, para. 363; *Kunarac* AJ, paras 129-130; *Taylor* TJ, para. 416; *Brima* TJ, para. 694.
⁵²¹ Case 001-E188 *Duch* TJ, para. 363; *Kunarac* AJ, para. 128; *Gacumbitsi* AJ, para. 155; *Taylor* TJ, para. 416.
⁵²² *Sesay* TJ, para. 148; *Taylor* TJ, para. 416. See also ICC Elements of Crimes, art. 7(1)(g)-1, Element 2, fn. 16.
⁵²³ Case 001-E188 *Duch* TJ, para. 363; *Gacumbitsi* AJ, para. 151; *Taylor* TJ, para. 416.
⁵²⁴ Case 001-E188 *Duch* TJ, para. 364; *Muhimana* AJ, paras 48-49; *Sesay* TJ, para. 149.

acts”, all other conditions being satisfied.⁵²⁵ The ICC also recognises enforced disappearance as a discrete crime underlying CAH.⁵²⁶

197. Enforced disappearance has been found to occur when (i) an individual is deprived of his liberty, such as through arrest, detention or abduction; and (ii) the deprivation of liberty is accompanied or followed by the refusal to disclose information regarding the fate or whereabouts of the person concerned, or to acknowledge the deprivation of liberty, and thereby deny the individual recourse to the applicable legal remedies and procedural guarantees; and (iii) the first and second elements were carried out by state agents, or with the authorisation, support or acquiescence of a State or political organisation.⁵²⁷

GRAVE BREACHES OF THE GENEVA CONVENTIONS

198. Article 6 of the ECCC Law gives the ECCC jurisdiction over grave breaches of the GCs. Grave breaches were crimes under international law during the period of the ECCC’s temporal jurisdiction, which were foreseeable and accessible to the Accused.⁵²⁸ The specific offences listed in Article 6 include wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body or health, wilfully depriving a prisoner of war or a civilian the rights of fair and regular trial, and unlawful deportation or transfer or confinement of a civilian. The elements of these offences are discussed below.
199. For the commission of these offences to constitute grave breaches, certain general requirements must be met: 1) the specific offences must be committed in the context of an international armed conflict (“IAC”); 2) the perpetrator must be aware of the factual circumstances that established the existence of an armed conflict; 3) the acts must be committed against persons or property protected under one or more of the Geneva Conventions of 1949; and 4) the perpetrator must be aware of the factual circumstances that established this protected status.⁵²⁹

⁵²⁵ **E313** Case 002/01 TJ, paras 444-448 and citations therein; **D427** Closing Order, paras 1314, 1470-1471, 1476, fn. 5197; *Brima* AJ, para. 184; *Kupreškić* TJ, para. 566; *Kvočka* TJ, paras 206-209; *Gotovina* TJ, para. 1838. In *Gotovina* TJ, paras 1838-1839, the ICTY Trial Chamber found that enforced disappearances, carried out on discriminatory grounds, and for which the general elements of CAH are fulfilled, constitute the crime of persecution.

⁵²⁶ ICC Statute, art. 7(1)(i).

⁵²⁷ **E313** Case 002/01 TJ, para. 448; **D427** Closing Order, para. 1471; *Gotovina* TJ, para. 1837; ICC Statute, art. 7(2)(i); ICC Elements of Crimes, art. 7(1)(i), Elements 1-4; ICPPED, art. 2.

⁵²⁸ Case 001-**E188** *Duch* TJ, paras 402-408; **D427/2/15** NC and IT Closing Order Decision, para. 124.

⁵²⁹ Case 001-**E188** *Duch* TJ, paras 409-410; *Naletilić* AJ, paras 110, 116-121.

GENERAL REQUIREMENTS

1. International Armed Conflict

200. The requirement of an IAC contains two elements: 1) there must be an IAC; and 2) there must be a nexus between the conflict and the crimes alleged.
201. An IAC must exist in fact.⁵³⁰ An armed conflict exists “whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organised armed groups or between such groups within a State.”⁵³¹ An armed conflict assumes an international character when it involves two or more States.⁵³² The geographic and temporal application of the GCs extends beyond the vicinity of the actual hostilities and the cessation of fighting:⁵³³ once it is established that an IAC existed at the place and time relevant to the charges, IHL will apply to the whole territory of the relevant States, whether or not actual combat takes place there, and will continue to apply beyond the cessation of hostilities until a general conclusion of peace is achieved.⁵³⁴
202. There must be a nexus between the IAC and the crimes alleged.⁵³⁵ The nexus requirement is met when it is shown that the alleged crimes were “closely related” to the armed conflict as a whole.⁵³⁶ To this effect, “[t]he armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have played a substantial part in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed.”⁵³⁷ It is not necessary to establish that there were actual combat activities in the area where the acts are alleged to have occurred or that they were part of a policy or practice tolerated by one of the parties to the armed conflict.

⁵³⁰ GCs’ common Article 2; Case 001-E188 *Duch* TJ, paras 411-413; *Tadić* Jurisdiction Decision, para. 79; *Naletilić* AJ, para. 117.

⁵³¹ Case 001-E188 *Duch* TJ, para. 412; *Tadić* Jurisdiction Decision, para. 70; *Prlić* TJ (Vol 1), para. 84.

⁵³² Case 001-E188 *Duch* TJ, para. 414; *Kordić* AJ, para. 373; *Bemba* PTC Decision on the Charges, para. 220.

⁵³³ Case 001-E188 *Duch* TJ, para. 415; *Prlić* TJ (Vol 1), para. 85.

⁵³⁴ Case 001-E188 *Duch* TJ, para. 415; *Tadić* Jurisdiction Decision, para. 70; *Kordić* AJ, para. 321.

⁵³⁵ Case 001-E188 *Duch* TJ, para. 416; *Halilović* TJ, para. 28; *Brđanin* TJ, para. 128.

⁵³⁶ Case 001-E188 *Duch* TJ, para. 416; *Halilović* TJ, para. 28; *Tadić* Jurisdiction Decision, para. 70; *Vasiljević* TJ, para. 24.

⁵³⁷ *Kunarac* AJ, para. 58.

2. Protected Persons

203. Article 6 of the ECCC Law grants the ECCC jurisdiction over “acts against persons ... protected under provisions” of the GCs.⁵³⁸ This reference covers “protected persons” as defined pursuant to article 4 of GC IV (as regards civilian persons) and article 4A of GC III (as regards prisoners of war).
204. GC III extends protection to, *inter alia*, “members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces” who have “fallen into the power of the enemy”.⁵³⁹ There is no requirement that such persons are captured during combat.⁵⁴⁰
205. As to civilians, GC IV extends “protected person” status to civilians who are “in the hands of a Party to the conflict or Occupying Power of which they are not nationals.”⁵⁴¹ This protects, *inter alia*, civilians who find themselves on territory controlled by an enemy state or in a combat zone, or who are stateless persons.⁵⁴² However, a person may be accorded protected status notwithstanding the fact that he is of the same nationality as a party to the conflict.⁵⁴³ The protected status of an individual does not depend on formal bonds and purely legal relations, but on the substance of relations that exist between the individual and the State.⁵⁴⁴ The crucial consideration when analysing these substantive relations is the allegiance — or lack thereof — that an individual has to a party to the conflict,⁵⁴⁵ which may depend more on ethnic identity than nationality.⁵⁴⁶ Civilians may thus be considered as protected persons for the purpose of GC IV where they are viewed by the State whose hands they are in “as belonging to the opposing party in an armed conflict and as posing a threat to [that] State.”⁵⁴⁷ Protected persons would thus include ethnic Vietnamese who were Cambodian nationals but viewed as enemies allied with Vietnam by the DK authorities.

⁵³⁸ ECCC Law, art. 6. See also Case 001-E188 Duch TJ, para. 417.

⁵³⁹ GC III, art. 4A.

⁵⁴⁰ ICRC Commentary to GC III, p. 50.

⁵⁴¹ GC IV, art. 4(1); Case 001-E188 Duch TJ, para. 418.

⁵⁴² Tadić AJ, para. 164; Naletilić TJ, para. 208; ICRC Commentary to GC IV, pp. 46-47.

⁵⁴³ Case 001-E188 Duch TJ, para. 419; Tadić AJ, para. 166; Aleksovski AJ, para. 151; Čelebići AJ, para. 58.

⁵⁴⁴ Case 001-E188 Duch TJ, para. 419; Tadić AJ, paras 166, 168; Čelebići AJ, para. 84.

⁵⁴⁵ Case 001-E188 Duch TJ, para. 419; Tadić AJ, para. 166; Kordić AJ, paras 328-331; Aleksovski AJ, paras 151-152.

⁵⁴⁶ Prlić TJ (Vol 1), para. 100.

⁵⁴⁷ Case 001-E188 Duch TJ, para. 419; Čelebići AJ, para. 98.

3. Awareness of Factual Circumstances

206. The perpetrator, in addition to having the requisite *mens rea* for the specific crimes, must be aware of the factual circumstances establishing: 1) the existence of an IAC; and 2) the victim's protected status.⁵⁴⁸ Knowledge that a foreign State was involved in the armed conflict will satisfy the first element.⁵⁴⁹ Knowledge that the victim belonged to an adverse party to the conflict will satisfy the second element⁵⁵⁰ (although, as noted above, this is not the only scenario covered under CIL).

SPECIFIC OFFENCES

1. Wilful Killing

207. The elements of the offence of wilful killing⁵⁵¹ under Article 6 of the ECCC Law (grave breaches) are the same as those of murder under Article 5 of the ECCC Law (CAH).⁵⁵²

2. Torture or Inhuman Treatment

208. The grave breach of "torture or inhuman treatment"⁵⁵³ comprises two distinct sub-offences: (a) torture; and (b) inhuman treatment. The elements of the offence of torture under Article 6 of the ECCC Law (grave breaches) are the same as those of torture under Article 5 of the ECCC Law (CAH).⁵⁵⁴ Inhuman treatment is defined as an intentional act or omission which causes serious physical or mental harm or suffering, or constitutes a serious attack on human dignity.⁵⁵⁵ This category is an umbrella clause under which those violations of sufficient seriousness that are not expressly enumerated in Article 6 may be considered to be grave breaches.⁵⁵⁶ Whether any particular act constitutes inhuman treatment is a question of fact to be judged in light of all the circumstances.⁵⁵⁷
209. Acts which constitute torture or wilfully causing great suffering or serious injury to body or health will simultaneously constitute inhuman treatment. The offence extends

⁵⁴⁸ Case 001-E188 *Duch* TJ, paras 420-422; *Naletilić* AJ, paras 110-121; *Kordić* AJ, para. 311. See also ICC Elements of Crimes, art. 8(2)(a)(i)-(viii).

⁵⁴⁹ Case 001-E188 *Duch* TJ, para. 422; *Kordić* AJ, para. 311.

⁵⁵⁰ Case 001-E188 *Duch* TJ, para. 422.

⁵⁵¹ GC III, art. 130; GC IV, art. 147.

⁵⁵² Case 001-E188 *Duch* TJ, para. 431; *Brđanin* TJ, para. 380.

⁵⁵³ GC III, art. 130; GC IV, art. 147.

⁵⁵⁴ Case 001-E188 *Duch* TJ, para. 439; *Brđanin* TJ, para. 482; *Krnjelac* TJ, para. 178.

⁵⁵⁵ Case 001-E188 *Duch* TJ, paras 440-441; *Čelebići* AJ, para. 426; *Prlić* TJ (Vol 1), para. 113. See also *ICRC Commentary to GC IV*, p. 598; ICC Elements of Crimes, art. 8(2)(a)(ii)-2, Element 1.

⁵⁵⁶ *Čelebići* TJ, para. 543.

⁵⁵⁷ Case 001-E188 *Duch* TJ, para. 442; *Čelebići* TJ, para. 544; *Blaškić* TJ, para. 155.

also to encompass other acts which violate the principle of humane treatment, in particular respect for human dignity.⁵⁵⁸ Acts not meeting the threshold of torture because of the failure to prove that they were carried out for a prohibited purpose may also constitute inhuman treatment.⁵⁵⁹ The inhumane treatment of detainees has been deemed to fall within the scope of this category of grave breaches.⁵⁶⁰ Acts such as mutilation and other types of severe bodily harm, beatings and other acts of violence,⁵⁶¹ rape and sexual violence,⁵⁶² and serious physical and mental injury⁵⁶³ have been considered inhuman treatment.

210. As to *mens rea*, the perpetrator must intend the act or omission, acting with intent or *dolus eventualis* with regard to the infliction of the serious physical or mental suffering or serious attack on human dignity as a result of his act or omission.⁵⁶⁴

3. Wilfully Causing Great Suffering or Serious Injury to Body or Health

211. This crime is defined as an intentional act or omission causing great mental or physical suffering or serious injury to body or health, including mental health.⁵⁶⁵ This offence includes acts which do not fulfil the requirements of torture — for example, by requiring a particular purpose — although all acts of torture could fall within the scope of this offence.⁵⁶⁶ Although the victim must be “seriously” harmed, there is no need to prove that the physical or mental injury is permanent or irremediable,⁵⁶⁷ but it must go beyond temporary unhappiness, embarrassment or humiliation,⁵⁶⁸ and beyond harm relating solely to the victim’s human dignity.⁵⁶⁹ As with inhuman treatment, the *mens rea* incorporates intent and *dolus eventualis* regarding the injury or suffering inflicted.⁵⁷⁰

4. Wilful Deprivation of a Fair and Regular Trial

212. Wilfully depriving a civilian of the rights to a fair and regular trial by denying judicial

⁵⁵⁸ Case 001-E188 *Duch* TJ, para. 442; *Čelebići* TJ, para. 544; *ICRC Commentary to GC IV*, p. 598.

⁵⁵⁹ Case 001-E188 *Duch* TJ, para. 443; *Čelebići* TJ, para. 542.

⁵⁶⁰ *Kordić* TJ, para. 256; *Prlić* TJ (Vol 1), paras 115, 117-118. See further GC III, arts 13, 25-26, 29, 30, 37; GC IV, arts 27, 82-98.

⁵⁶¹ Case 001-E188 *Duch* TJ, para. 442; *Tadić* TJ, para. 730; *Prlić* TJ (Vol 1), paras 114-115.

⁵⁶² *Prlić* TJ (Vol 1), para. 116.

⁵⁶³ Case 001-E188 *Duch* TJ, para. 442; *Blaškić* TJ, para. 239.

⁵⁶⁴ Case 001-E188 *Duch* TJ, para. 444, *Prlić* TJ (Vol 1), para. 120; *Aleksovski* TJ, para. 56; *Blaškić* TJ, para. 152.

⁵⁶⁵ GC III, art. 130; GC IV, art. 147; Case 001-E188 *Duch* TJ, para. 450; *Čelebići* AJ, para. 424; ICC Elements of Crimes, art. 8(2)(a)(iii), Element 1.

⁵⁶⁶ Case 001-E188 *Duch* TJ, para. 453; *Čelebići* TJ, paras 508, 511; *Blaškić* TJ, para. 156.

⁵⁶⁷ Case 001-E188 *Duch* TJ, para. 454; *Naletilić* TJ, paras 340-342.

⁵⁶⁸ Case 001-E188 *Duch* TJ, para. 454; *Krstić* TJ, para. 513.

⁵⁶⁹ Case 001-E188 *Duch* TJ, para. 453; *Čelebići* AJ, para. 424; *Kordić* TJ, paras 244-245.

⁵⁷⁰ Case 001-E188 *Duch* TJ, para. 455.

guarantees as defined in GC III and GC IV is a grave breach of those conventions.⁵⁷¹ These judicial guarantees include: (1) the right of the accused to be judged by an independent and impartial court;⁵⁷² (2) the right to be promptly informed of the offences with which the accused is charged;⁵⁷³ (3) the protection against collective penalty;⁵⁷⁴ (4) the right to protection under the principle of legality;⁵⁷⁵ (5) the freedom from moral or physical coercion to enforce a confession to the charged offence;⁵⁷⁶ (6) the rights and means of defence;⁵⁷⁷ (7) the right not to be punished more than once for the same act or on the same charge (*ne bis in idem*);⁵⁷⁸ (8) the right to be informed of the right to appeal;⁵⁷⁹ and (9) the right not to be sentenced or executed without previous judgment pronounced by a regularly constituted court.⁵⁸⁰

5. Unlawful Deportation or Transfer or Unlawful Confinement of a Civilian

213. This crime comprises two distinct sub-offences: (a) unlawful deportation or transfer; and (b) unlawful confinement. The elements of the offence of unlawful deportation or transfer under Article 6 of the ECCC Law (grave breaches) are the same as those of deportation or forced transfer under Article 5 of the ECCC Law (CAH),⁵⁸¹ with the additional requirement that the civilians be transferred from or within occupied territory.⁵⁸² The elements of unlawful confinement as a grave breach of the GCs are analogous to the elements of imprisonment as a CAH.⁵⁸³ The confinement of a civilian in armed conflict may be lawful in some limited circumstances, but “only in the conditions prescribed by Article 42 [of GC IV]” and “where the provisions of Article 43 [of GC IV] are complied with.”⁵⁸⁴

214. Thus, confinement of a civilian is lawful only where there are *reasonable grounds* to

⁵⁷¹ GC III, art. 130; GC IV, art. 147; Case 001-E188 *Duch* TJ, paras 458-459; ICC Elements, art. 8(2)(a)(vi), Element 1.

⁵⁷² GC III, art. 84.

⁵⁷³ GC III, art. 104; GC IV, art. 71.

⁵⁷⁴ GC III, art. 87; GC IV, art. 33.

⁵⁷⁵ GC III, art. 99; GC IV, art. 67.

⁵⁷⁶ GC III, art. 99; GC IV, art. 31.

⁵⁷⁷ GC III, arts 96, 99, 105; GC IV, art. 72.

⁵⁷⁸ GC III, art. 86; GC IV, art. 117.

⁵⁷⁹ GC III, art. 106; GC IV, art. 73.

⁵⁸⁰ GC III, arts 3, 84; GC IV, arts 64-71, 74-75.

⁵⁸¹ *Prlić* TJ (Vol 1), para. 132; *Krnojelac* TJ, para. 473.

⁵⁸² GC IV, arts 49, 147; *ICRC Commentary to GC IV*, p. 599; *Naletilić* TJ, paras 210, 516-518.

⁵⁸³ Case 001-E188 *Duch* TJ, para. 464; *Simić* TJ, para. 63; *Kordić* TJ, para. 301. Although, as the *Krnojelac* Trial Chamber made clear, imprisonment as a CAH is not restricted by the provisions of the Geneva Conventions. See *Krnojelac* TJ, para. 111.

⁵⁸⁴ *Čelebići* AJ, para. 322; Case 001-E188 *Duch* TJ, para. 465.

believe that the security of the detaining power “makes it *absolutely necessary*”.⁵⁸⁵ Such a decision must be made only after careful consideration of each individual case, and never on a collective basis.⁵⁸⁶ The mere fact that a person is a national of, or aligned with, the enemy cannot be considered as threatening the security of the country where he lives,⁵⁸⁷ nor can the fact that a person is of military age alone justify confinement.⁵⁸⁸ An initially lawful internment becomes unlawful if the detaining party fails to respect the detainee’s basic procedural rights and does not establish an appropriate court or administrative board to conduct detention reviews as prescribed in Article 43 of GC IV.⁵⁸⁹

B. MODES OF RESPONSIBILITY

215. Article 29^{new} of the ECCC Law provides for individual criminal liability of accused who: 1) planned, instigated, ordered, aided and abetted, or committed crimes within the jurisdiction of the ECCC; and 2) superiors who failed to prevent or punish the commission of crimes enumerated in the ECCC Law by their subordinates. These forms of criminal responsibility are described in more detail below.

B. INDIVIDUAL CRIMINAL RESPONSIBILITY

1. COMMITTED

JOINT CRIMINAL ENTERPRISE

216. JCE is a mode of responsibility that imposes criminal responsibility on individuals for actions perpetrated by a group of persons in furtherance of a common criminal design. Participation in a JCE amounts to commission within the scope of article 29^{new} of the ECCC Law.⁵⁹⁰ International jurisprudence has identified three different but interrelated forms of JCE: the **Basic** form (“JCE I”) where all participants act pursuant to a common criminal purpose, and share the necessary intent for a crime within the

⁵⁸⁵ GC IV, art. 42 (*emphasis added*); Case 001-E188 *Duch* TJ, para. 465; *Čelebići* AJ, paras 320-321; *Kordić* AJ, paras 70, 72-73; *Kordić* TJ, para. 284. As the ICTY Appeals Chamber has explained, GC IV, art. 5 reinforces the principle that the principle behind Article 42, that restrictions on the rights of civilian protected persons, such as deprivation of their liberty by confinement, are permissible only where there are reasonable grounds to believe that the security of the State is at risk. See *Čelebići* AJ, para. 321; *Kordić* AJ, para. 72.

⁵⁸⁶ *Kordić* TJ, para. 285; *Prlić* TJ (Vol 1), para. 135.

⁵⁸⁷ *Kordić* TJ, para. 284; *Čelebići* AJ, para. 327; *ICRC Commentary to GC IV*, p. 258.

⁵⁸⁸ *Kordić* TJ, para. 284; *Prlić* TJ (Vol 1), para. 134.

⁵⁸⁹ GC IV, art. 43; Case 001-E188 *Duch* TJ, para. 465; *Kordić* AJ, paras 70, 73; *Čelebići* AJ, para. 320.

⁵⁹⁰ *D97/15/9* PTC JCE Decision, para. 49; Case 001-E188 *Duch* TJ, para. 511; *E100/6* TC JCE Decision, para. 22; *E313* Case 002/01 TJ, para. 690.

ECCC's jurisdiction when doing so;⁵⁹¹ the *Systematic* form ("JCE II") which is a variant of the basic form, characterised by the existence of an organised system of ill-treatment, such as internment or concentration camps;⁵⁹² and the *Extended* form ("JCE III") which has been held to be inapplicable to ECCC proceedings.

217. The SCC, PTC, and TC have all found that, by 1975, both JCE I and JCE II were recognised as modes of responsibility under CIL,⁵⁹³ and that criminal responsibility pursuant to these modes was both foreseeable and accessible.⁵⁹⁴ The same chambers have held that JCE III did not exist in CIL by 1975.⁵⁹⁵

1. Actus Reus

218. JCE I is the only form of JCE charged in the Case 002/02 Closing Order and squarely fits the facts of Case 002/02. The *actus reus* is comprised of three elements. First, a "plurality of persons" is required.⁵⁹⁶ The group of people need not be organised in a military, political, or administrative structure.⁵⁹⁷ Whilst it is necessary to identify the plurality of persons participating in the JCE, the participants may be identified by category and need not be named individually.⁵⁹⁸
219. Second, there must be a common⁵⁹⁹ purpose that amounts to⁶⁰⁰ or involves⁶⁰¹ the commission of a crime over which the ECCC has jurisdiction.⁶⁰² The SCC recently held that

⁵⁹¹ Case 001-D99/3/42 Case 001 Closing Order Decision, para. 132; Case 001-E188 *Duch* TJ, para. 507; D97/15/9 PTC JCE Decision, para. 37; E313 Case 002/01 TJ, para. 690; *Tadić* AJ, paras 196-201; *Vasiljević* AJ, para. 97; *Gacumbitsi* AJ, para. 158.

⁵⁹² Case 001-D99/3/42 Case 001 Closing Order Decision, para. 132; Case 001-E188 *Duch* TJ, para. 507; D97/15/9 PTC JCE Decision, para. 37; E313 Case 002/01 TJ, para. 690; *Tadić* AJ, paras 202-203; *Vasiljević* AJ, para. 98.

⁵⁹³ D97/15/9 PTC JCE Decision, paras 57-72; Case 001-E188 *Duch* TJ, paras 511-512; E100/6 TC JCE Decision, para. 22; E313 Case 002/01 TJ, para. 691; F36 Case 002/01 AJ, paras 779-789, 807-810.

⁵⁹⁴ F36 Case 002/01 AJ, para. 1093; D97/15/9 PTC JCE Decision, para. 72; Case 001-E188 *Duch* TJ, para. 512; E313 Case 002/01 TJ, para. 691.

⁵⁹⁵ F36 Case 002/01 AJ, paras 791-807; D97/15/9 PTC JCE Decision, paras 77, 83, 87-88; E100/6 TC JCE Decision, para. 38.

⁵⁹⁶ Case 001-E188 *Duch* TJ, para. 508; D97/15/9 PTC JCE Decision, para. 38; E313 Case 002/01 TJ, para. 692; *Tadić* AJ, para. 227; *Brdanin* AJ, para. 430; *Munyakazi* AJ, para. 160; *Brima* AJ, para. 75.

⁵⁹⁷ Case 001-E188 *Duch* TJ, para. 508; *Tadić* AJ, para. 227; *Vasiljević* AJ, para. 100.

⁵⁹⁸ Case 001-E188 *Duch* TJ, para. 508; E313 Case 002/01 TJ, para. 692; *Brdanin* AJ, para. 430; *Nizeyimana* AJ, para. 318.

⁵⁹⁹ I.e. this purpose must be shared. It is not sufficient that the alleged members of the plurality separately have the same purpose. See *Brdanin* AJ, para. 430; *Sesay* AJ, paras 1034, 1140.

⁶⁰⁰ F36 Case 002/01 AJ, para. 807 ["the common purpose 'amounts to' the commission of a crime if the commission of the crime is the, or among the, primary objective(s) of the common purpose"].

⁶⁰¹ F36 Case 002/01 AJ, para. 808 ["the common purpose 'involves' the commission of a crime if the crime is a means to achieve an ulterior objective (which itself may not be criminal)"] citing *Brima* AJ, para. 80.

⁶⁰² F36 Case 002/01 AJ, paras 789, 814; D97/15/9 PTC JCE Decision, para. 38; Case 001-E188 *Duch* TJ,

it is not necessary that those who agree on the common purpose actually *desire* that the crime be committed, as long as they recognise that the crime is to be committed to achieve an ulterior objective. This may include crimes that are foreseen as means to achieve a given common purpose, *even if their commission is not certain*. ... Thus, if attaining the objective of the common purpose may bring about the commission of crimes, but it is agreed to pursue this objective regardless, these crimes are encompassed by the common purpose because, even though they are not directly intended, they are contemplated by it. Whether a crime was contemplated by the common purpose is primarily a question of fact that – absent an express agreement – has to be assessed taking into account all relevant circumstances, including the overall objective of the common purpose and the likelihood that it may be attained only at the cost of the commission of crimes. *What is of note is that the common purpose may encompass crimes in which the commission is neither desired nor certain ...*⁶⁰³

What deserves emphasising is that in all the scenarios described above, there is a meeting of minds – express or implicit – in respect of this of those who agree on the common purpose. *Thus, the members of the JCE must accept the commission of the crime either as a goal, as an inevitable consequence of the primary purpose or as an eventuality treated with indifference.*⁶⁰⁴

220. It is therefore not necessary that the ultimate objective of the common plan be a crime, as long as the participants anticipate that the plan will be implemented through criminal means; both the objective and means contemplated to achieve the objective constitute the common design or plan.⁶⁰⁵ A common purpose will thus be criminal where it was intrinsically linked to policies the implementation of which amount to the commission of crimes.⁶⁰⁶ There is no limit to the scope of a JCE, geographically or otherwise; an accused's liability "may be as narrow or as broad as the plan in which he willingly participated".⁶⁰⁷ Finally, the purpose need not have been previously arranged or formulated. It may materialise extemporaneously and be inferred from the facts.⁶⁰⁸
221. Third, the accused must participate in the common purpose.⁶⁰⁹ The accused need not

para. 508; **E100/6** TC JCE Decision, para. 17; **E313** Case 002/01 TJ, para. 692; *Tadić* AJ, para. 227; *Vasiljević* AJ, para. 100; *Munyakazi* AJ, para. 160; *Brima* AJ, para. 75.

⁶⁰³ **F36** Case 002/01 AJ, para. 808 (*emphasis added*).

⁶⁰⁴ **F36** Case 002/01 AJ, para. 809 (*emphasis added*).

⁶⁰⁵ **F36** Case 002/01 AJ, para. 789; **E100/6** TC JCE Decision, para. 17; **E313** Case 002/01 TJ, para. 696; *Sesay* AJ, para. 300. See also *Taylor* JCE Appeal Decision, para. 15, fn. 63; *Brima* AJ, paras 76, 80.

⁶⁰⁶ **F36** Case 002/01 AJ, para. 1075.

⁶⁰⁷ *Rwamakuba* JCE Genocide Decision, para. 25. See also *Brđanin* AJ, para. 425; *Sesay* AJ, paras 106, 316. ⁶⁰⁸ Case 001-E188 *Duch* TJ, para. 508; *Tadić* AJ, para. 227; *Brđanin* AJ, paras 417-419; *Šainović* AJ, para. 609.

⁶⁰⁹ **D97/15/9** PTC JCE Decision, para. 38; Case 001-E188 *Duch* TJ, para. 508; **E313** Case 002/01 TJ, paras

have been involved in the formulation of the common plan⁶¹⁰ or the commission of a crime.⁶¹¹ Neither the accused's position of authority,⁶¹² nor his presence at the time when a crime is committed,⁶¹³ are required. Moreover, the fact that the accused's participation amounted to no more than his "routine duties" will not exculpate him.⁶¹⁴ All that is required is that he participate in some way in the furtherance of the common purpose,⁶¹⁵ which in turn has a direct or indirect effect on the commission of the crimes.⁶¹⁶ That contribution may be in whole or in part by way of omission.⁶¹⁷ As the SCSL Appeals Chamber explained, "the manner in which the members of the JCE interact and cooperate can take as many forms as conceived by the participants to pursue the realisation of their shared common criminal purpose."⁶¹⁸

222. The accused's contribution must be significant,⁶¹⁹ but it is not required to be necessary or substantial.⁶²⁰ As such, it need not be a *sine qua non* for the commission of any crime.⁶²¹ The significance of the contribution to the JCE is to be determined on a case-by-case basis, taking into account a variety of factors, including: the size, seriousness and scope of the criminal plan and crimes committed; the *de jure* or *de facto* position of the accused; the level and efficiency of his participation; any relevant public comments made by him; and any efforts to prevent crimes.⁶²² In making this assessment, a Chamber should consider the totality of the accused's activities; particular contributions

692-693; *Tadić* AJ, para. 227; *Stakić* AJ, para. 64; *Munyakazi* AJ, para. 160.

⁶¹⁰ *Simba* AJ, para. 250.

⁶¹¹ Case 001-E188 *Duch* TJ, para. 508; E313 Case 002/01 TJ, para. 693; *Tadić* AJ, paras 227, 229; *Šainović* AJ, para. 985; *Sesay* AJ, para. 611.

⁶¹² *Šainović* AJ, para. 1823; *Kvočka* AJ, para. 192.

⁶¹³ *Kvočka* AJ, paras 112-113, 276; *Krnjelac* AJ, para. 81; *Simba* AJ, para. 296. Although it may be an indicator of a co-perpetrator's contribution.

⁶¹⁴ *Popović* AJ, para. 1615.

⁶¹⁵ D97/15/9 PTC JCE Decision, para. 38; Case 001-E188 *Duch* TJ, para. 508; E313 Case 002/01 TJ, para. 693; *Tadić* AJ, para. 229(iii); *Brđanin* AJ, para. 427; *Popović* AJ, para. 1378; *Krajišnik* AJ, para. 218; *Simba* AJ, para. 250; *Sesay* AJ, paras 611, 1034.

⁶¹⁶ F36 Case 002/01 AJ, paras 983-984.

⁶¹⁷ *Kvočka* AJ, paras 187, 421. See also E313 Case 002/01 TJ, para. 693.

⁶¹⁸ *Sesay* AJ, paras 1035, 1063.

⁶¹⁹ F36 Case 002/01 AJ, para. 980; E313 Case 002/01 TJ, para. 692; Case 001-E188 *Duch* TJ, para. 508; D97/15/9 PTC JCE Decision, para. 38; *Brđanin* AJ, paras 427, 430, 432; *Simba* AJ, para. 303; *Sesay* AJ, para. 611.

⁶²⁰ F36 Case 002/01 AJ, para. 810 ["it is sufficient to establish that accused were held criminally liable for crimes committed in the course of the implementation of a common purpose to which they had made some kind of contribution beyond being a bystander"]; para. 980; Case 001-E188 *Duch* TJ, para. 508; E313 Case 002/01 TJ, para. 692; *Brđanin* AJ, para. 430; *Popović* AJ, para. 1378; *Simba* AJ, para. 303.

⁶²¹ Case 001-E188 *Duch* TJ, para. 508; F36 Case 002/01 AJ, para. 980; *Kvočka* AJ, para. 98; *Sesay* AJ, para. 401.

⁶²² E313 Case 002/01 TJ, para. 693; F36 Case 002/01 AJ, para. 980; *Kvočka* TJ, paras 292, 311; *Kvočka* AJ, paras 101, 192; *Krstić* TJ, para. 642.

should not be assessed in isolation.⁶²³ The contribution must be made to the commission of crimes, but need only further and support the commission of those crimes *indirectly*. As such, even activities that are on their face unrelated to the commission of crimes may be taken into account when determining whether the accused made a significant contribution thereto.⁶²⁴

223. The SCC has held⁶²⁵ the following types of conduct to constitute significant contributions to a JCE:

(a) Formulating, initiating, promoting, participating in, and/or encouraging the development and implementation of ... governmental policies intended to advance the objective of the joint criminal enterprise;

(b) Participating in the establishment, support or maintenance of ... government bodies at the [national], regional, municipal, and local levels ... through which [he] could implement the objective of the joint criminal enterprise;

(c) Supporting, encouraging, facilitating or participating in the dissemination of information to ... win support for and participation in achieving the objective of the joint criminal enterprise;

(d) Directing, instigating, encouraging and authorizing ... [f]orces to carry out acts in order to further the objective of the joint criminal enterprise;

...

(f) Engaging in, supporting or facilitating efforts directed at representatives of the international community, non-governmental organizations and the public denying or providing misleading information about crimes.

224. Participants in a JCE can incur liability for crimes committed by direct perpetrators who were not JCE members, provided that it has been established that the crimes can be imputed to at least one JCE participant, and that this participant, when using a direct perpetrator, acted to further the common purpose.⁶²⁶ The establishment of the link between the crime in question and the JCE member is to be assessed on a case-by-case

⁶²³ F36 Case 002/01 AJ, para. 980 citing *Kvočka* AJ, para. 95; *Šainović* AJ, paras 920, 970-972; *Krajišnik* AJ, para. 217.

⁶²⁴ F36 Case 002/01 AJ, para. 984.

⁶²⁵ F36 Case 002/01 AJ, para. 982 citing *Krajišnik* AJ, paras 216-217.

⁶²⁶ F36 Case 002/01 AJ, para. 1040; E313 Case 002/01 TJ, para. 225; *Brđanin* AJ, paras 410-414, 418, 430; *Krajišnik* AJ, para. 225; *Dorđević* AJ, para. 165; *Sesay* AJ, paras 398-400.

basis.⁶²⁷ The link may be established on showing that the JCE member (i) closely cooperated with the physical perpetrator or intermediary perpetrator in order to further the common purpose,⁶²⁸ (ii) explicitly or implicitly requested the non-JCE member to commit a crime,⁶²⁹ or (iii) instigated, ordered, encouraged, or otherwise availed himself of the non-JCE member to commit the crime.⁶³⁰ It may also be relevant whether the crimes were committed by forces under the control of the JCE member,⁶³¹ or acting in coordination with forces under the control of the JCE member.⁶³²

225. It is, however, not required that the JCE member exercised effective control,⁶³³ or indeed any “control and influence”⁶³⁴ over the perpetrator. Nor do the perpetrator of the crime and the accused need to have an express understanding or agreement between them as regards the commission of the crime.⁶³⁵ The relevant question in the context of JCE I liability is whether the JCE member used the non-JCE member to commit the *actus reus* of the crime forming part of the common purpose. The SCC has characterised this as a form of delegated authority for the direct perpetrator to make a decision as to the ultimate implementation of the *actus reus*, noting that this bears resemblance to the concept of *dolus eventualis*.⁶³⁶ It is not determinative whether the non-JCE member shared the *mens rea* of the JCE member, or that he knew of the existence of the JCE.⁶³⁷ For example, it is not necessary for the direct perpetrators of the crime to possess genocidal intent in order for members of the JCE linked to the crime who do have such intent to be held responsible for genocide.⁶³⁸
226. Conflicts among leaders in a large organisation do not impact on the question of criminal responsibility under JCE as long as all elements for this mode of liability have been established.⁶³⁹ It is inherent in the very notion of JCE that its members make various contributions to the implementation of the common purpose; the fact that some

⁶²⁷ *Brđanin* AJ, para. 413; *Martić* AJ, para. 169; *Sesay* AJ, para. 414.

⁶²⁸ *Brđanin* AJ, para. 410; *Sesay* AJ, para. 414.

⁶²⁹ *Krajišnik* AJ, para. 226; *Popović* AJ, para. 1414; *Sesay* AJ, para. 414.

⁶³⁰ *Ibid.*

⁶³¹ *Martić* AJ, paras 169, 195; *Stakić* AJ, paras 79-85; *Sesay* AJ, para. 414.

⁶³² *Martić* AJ, paras 195, 205; *Sesay* AJ, para. 414.

⁶³³ *Šainović* AJ, para. 1368; *Kvočka* AJ, para. 144.

⁶³⁴ *Sesay* AJ, paras 414, 907.

⁶³⁵ *Brđanin* AJ, paras 415, 418.

⁶³⁶ **F36** Case 002/01 AJ, para. 809.

⁶³⁷ *Karadžić* Rule 98bis AJ, para. 79; *Krajišnik* AJ, para. 226. See also *Brđanin* AJ, para. 410.

⁶³⁸ *Karadžić* Rule 98bis AJ, para. 79.

⁶³⁹ **F36** Case 002/01 AJ, para. 1042.

members have a degree of autonomy as to the implementation of aspects of the common purpose does not extinguish the responsibility of other members of the JCE.⁶⁴⁰

2. Mens Rea

227. To incur responsibility pursuant to JCE I, the accused must share with the other JCE participants both the relevant *mens rea* to commit the crimes within the common purpose⁶⁴¹ at the time of their commission,⁶⁴² and the intent to participate in a common plan aimed at its commission.⁶⁴³ For specific intent crimes, such as persecution or genocide, the accused must also share the relevant specific intent.⁶⁴⁴ Shared criminal intent does not require the accused's personal satisfaction or enthusiasm or his personal initiative in contributing to the JCE.⁶⁴⁵ Moreover, the accused is not required to know about the specific criminal incidents in question.⁶⁴⁶ Intent can be inferred from a person's knowledge, combined with continuing participation in the crimes.⁶⁴⁷ The significance and scope of the material participation of an individual in a JCE may also be relevant in determining whether that individual possessed the requisite *mens rea*.⁶⁴⁸

2. PLANNED

228. The *actus reus* of "planning" requires that one or more persons participate in the design of an act or omission and thereby have a substantial effect on the commission of a crime that is in fact perpetrated.⁶⁴⁹ An accused need not therefore design the conduct alone.⁶⁵⁰ Nor need he be the originator of the design or plan;⁶⁵¹ it is sufficient to endorse

⁶⁴⁰ F36 Case 002/01 AJ, para. 1042.

⁶⁴¹ Intent for JCE I, a form of committing, encompasses both (i) direct intent that the crime be committed (*dolus directus* of the first degree), and (ii) awareness that the crime will occur in the ordinary course of events, or phrased another way, awareness of a substantial likelihood that it will occur (*dolus directus* of the second degree). See F36 Case 002/01 AJ, para. 1054; Lukić TJ, para. 900; Limaj TJ, para. 509; Kvočka TJ, para. 251. See also ICC Statute, art. 30(2)(b). This definition of intent is consistent with the *mens rea* requirements of the other direct modes of responsibility: planning, instigating and ordering.

⁶⁴² F36 Case 002/01 AJ, para. 1082.

⁶⁴³ F36 Case 002/01 AJ, para. 1053; D97/15/9 PTC JCE Decision, paras 37, 39; Case 001-E188 Duch TJ, para. 509; E313 Case 002/01 TJ, paras 690, 694; Tadić AJ, paras 196, 220, 228; Brdanin AJ, para. 365; Šainović AJ, para. 1470; Popović AJ, para. 1369; Munyakazi AJ, para. 160; Sesay AJ, paras 474-475.

⁶⁴⁴ Case 001-E188 Duch TJ, fn. 897; E100/6 TC JCE Decision, para. 16; E313 Case 002/01 TJ, para. 694; Kvočka AJ, para. 110; Krnojelac AJ, para. 111.

⁶⁴⁵ Popović AJ, fn. 2971; Krnojelac AJ, para. 100.

⁶⁴⁶ Šainović AJ, para. 1491; Kvočka AJ, para. 276; Sesay AJ, para. 906.

⁶⁴⁷ Popović AJ, para. 1369; Dorđević AJ, para. 512; Krajišnik AJ, paras 202, 697.

⁶⁴⁸ E313 Case 002/01 TJ, para. 694; Kvočka AJ, paras 97, 188.

⁶⁴⁹ E313 Case 002/01 TJ, para. 698; Case 001-E188 Duch TJ, para. 518; Taylor AJ, paras 368, 494; Kordić AJ, para. 26; Milošević (Dragomir) AJ, para. 268; Nahimana AJ, para. 479.

⁶⁵⁰ Taylor AJ, para. 494; Bošković AJ, para. 154.

⁶⁵¹ Bošković AJ, fn. 418; Taylor AJ, para. 494.

a plan proposed by another.⁶⁵² Circumstantial evidence may provide proof of the existence of the plan.⁶⁵³ A conviction for planning does not require a finding of a position of authority.⁶⁵⁴

229. The plan must precede and substantially contribute to the criminal conduct.⁶⁵⁵ Whether particular acts amount to a substantial contribution is to be assessed on a case-by-case basis in light of the evidence as a whole.⁶⁵⁶
230. As to the content of the plan, it need not necessarily devise the commission of a particular crime; the planning can be of an objective that is to be achieved by the commission of crimes. As such, the legitimate character of an operation does not exclude an accused's criminal responsibility for planning crimes committed in its course if the goal is to be achieved by the commission of crimes.⁶⁵⁷ Where an accused plans conduct that has the predominant purpose of indiscriminately attacking civilians, he plans conduct that constitutes crimes.⁶⁵⁸
231. As to *mens rea*, the accused must intend, or be aware of the substantial likelihood of, the commission of a crime upon the execution of the plan.⁶⁵⁹ The accused's *mens rea* may be inferred from the circumstances.⁶⁶⁰ Where it has been determined that the principal perpetrators were aware of the factual circumstances establishing the status of the victims (e.g. civilian, soldiers *hors de combat*, etc.), such findings are not necessary for a conviction for planning.⁶⁶¹

3. INSTIGATED

232. To be held responsible for instigating, an accused must, by way of an act or omission, prompt another person to act in particular way that has a substantial effect on the commission of the crime.⁶⁶² This mode of liability has also been described as "urging or

⁶⁵² *Bagilishema* TJ, para. 30; *Semanza* TJ, para. 380.

⁶⁵³ *Nahimana* AJ, paras 958-959; *Brima* AJ, para. 301; *Blaškić* TJ, para. 279.

⁶⁵⁴ *Kanyarukiga* AJ, para. 258.

⁶⁵⁵ Case 001-E188 *Duch* TJ, para. 518; E313 Case 002/01 TJ, para. 698; *Kordić* AJ, para. 26; *Nahimana* AJ, paras 479, 492, fn. 2116; *Sesay* AJ, paras 687, 1170.

⁶⁵⁶ *Sesay* AJ, para. 769; *Taylor* AJ, para. 494.

⁶⁵⁷ *Boškoski* AJ, para. 172; *Taylor* AJ, paras 493-494.

⁶⁵⁸ *Taylor* AJ, para. 493; *Boškoski* AJ, para. 171.

⁶⁵⁹ Case 001-E188 *Duch* TJ, para. 519; E313 Case 002/01 TJ, para. 698; *Kordić* AJ, paras 29, 31, 112; *Boškoski* AJ, paras 68, 174; *Milošević (Dragomir)* AJ, para. 268; *Nahimana* AJ, para. 479; *Taylor* AJ, para. 494.

⁶⁶⁰ *Galić* TJ, para. 172; *Čelebići* TJ, para. 328.

⁶⁶¹ *Boškoski* AJ, para. 67.

⁶⁶² Case 001-E188 *Duch* TJ, para. 522; E313 Case 002/01 TJ, para. 700; *Kordić* AJ, paras 27, 32; *Taylor* AJ, paras 368, 589; *Nzabonimana* AJ, para. 146.

encouraging.”⁶⁶³ There is no requirement for the instigation to be “direct and public”.⁶⁶⁴ Both positive acts and omissions can constitute instigation,⁶⁶⁵ which may ensue through implicit, written, or other non-verbal prompting by the accused.⁶⁶⁶ It is not necessary to prove the exact instigating language or conduct used by an accused.⁶⁶⁷

233. For an accused to be criminally liable on the basis of instigation, a crime must be shown to have actually been committed,⁶⁶⁸ although the specific identification of the principal perpetrators of the particular crime is not required.⁶⁶⁹ Further, the act of instigation must precede and substantially contribute to the commission of the crime.⁶⁷⁰ However, it is not necessary to prove that the crime would not have occurred without the accused’s involvement.⁶⁷¹ Indeed, the accused need only prompt another to act in a particular way, and not necessarily to commit a crime or underlying offence *per se*.⁶⁷²
234. The *mens rea* for responsibility on the basis of instigation is intent to instigate the commission of the crime, or awareness of the substantial likelihood that the crime will be committed as a result of the instigation.⁶⁷³ Where it has been determined that the principal perpetrators were aware of the status of the victims (e.g. civilian, soldiers *hors de combat*, etc.), such findings are not necessary for a conviction for instigating.⁶⁷⁴

4. ORDERED

235. The act of ordering occurs when a person in a position of authority instructs another person to carry out an act or engage in an omission that has a substantial effect on the commission of the crime.⁶⁷⁵ There is no requirement that the person issuing the order and the direct perpetrator be in a formal superior-subordinate relationship,⁶⁷⁶ or that the

⁶⁶³ *Seromba TJ*, para. 304; *Mpambara TJ*, para. 18.

⁶⁶⁴ *Akayesu AJ*, paras 478-483.

⁶⁶⁵ *Nahimana AJ*, para. 595; *Taylor AJ*, para. 589 upholding *Taylor TJ*, para. 472; *Brđanin TJ*, para. 269.

⁶⁶⁶ Case 001-E188 *Duch TJ*, para. 522; E313 Case 002/01 *TJ*, para. 700; *Taylor AJ*, para. 589 upholding *Taylor TJ*, para. 472; *Brđanin TJ*, para. 269.

⁶⁶⁷ *Semanza AJ*, para. 296.

⁶⁶⁸ Case 001-E188 *Duch TJ*, para. 522; *Mpambara TJ*, para. 18; *Galić TJ*, para. 168.

⁶⁶⁹ *Karera AJ*, para. 318; *Boškoski AJ*, para. 75.

⁶⁷⁰ Case 001-E188 *Duch TJ*, para. 522; E313 Case 002/01 *TJ*, para. 700; *Kordić AJ*, para. 27; *Karera AJ*, para. 317; *Taylor AJ*, para. 589.

⁶⁷¹ *Kordić AJ*, para. 27; *Nyiramasuhuko AJ*, para. 3327; *Nahimana AJ*, paras 480, 502, 660.

⁶⁷² *Boškoski AJ*, para. 172; *Taylor AJ*, para. 493.

⁶⁷³ Case 001-E188 *Duch TJ*, para. 524; E313 Case 002/01 *TJ*, para. 700; *Kordić AJ*, paras 29, 32; *Boškoski AJ*, paras 68, 174; *Nahimana AJ*, para. 480; *Taylor AJ*, para. 589.

⁶⁷⁴ *Boškoski AJ*, para. 67.

⁶⁷⁵ Case 001-E188 *Duch TJ*, paras 527-528; E313 Case 002/01 *TJ*, para. 702; *Kordić AJ*, paras 28, 32; *Milošević (Dragomir) AJ*, para. 267; *Nahimana AJ*, para. 481; *Renzaho AJ*, para. 315; *Taylor AJ*, para. 589.

⁶⁷⁶ Case 001-E188 *Duch TJ*, para. 527; E313 Case 002/01 *TJ*, para. 702 and citations therein; *Kordić AJ*,

accused exercise effective control over him,⁶⁷⁷ but there must be proof of a position of authority on the part of the accused in law or in fact that would compel another person to commit a crime.⁶⁷⁸ That authority may be informal or of a purely temporary nature.⁶⁷⁹

236. The order need not be given in writing or in a particular form.⁶⁸⁰ The order can be either explicit or implicit, and can be proved circumstantially.⁶⁸¹ The existence of an order may be inferred from a variety of factors, including the number of illegal acts, the number and type of personnel involved, the effective control and command exerted over these personnel, the logistics involved, the widespread occurrence of similar illegal acts, the tactical tempo of operations, the *modus operandi* of similar acts, the location of the superior at the time and his knowledge of criminal acts committed under his command.⁶⁸²
237. The accused need not give the order directly to the physical perpetrator. Liability for ordering may ensue where the accused issues, passes down, or otherwise transmits the order, including through intermediaries.⁶⁸³ The order must precede and substantially contribute to the commission of a crime that is later perpetrated.⁶⁸⁴ But it is not necessary to prove that the crime or underlying offence would not have been perpetrated but for the accused's order.⁶⁸⁵
238. As to the content of the order, it need only order an act or omission; it is not necessary to prove that the order was illegal on its face,⁶⁸⁶ or explicit in relation to the consequences it would have.⁶⁸⁷ The legitimate character of an operation does not

para. 28; *Galić* AJ, para. 176; *Renzaho* AJ, para. 315; *Sesay* AJ, para. 164.

⁶⁷⁷ *Seromba* AJ, para. 202; *Kamuhanda* AJ, para. 75.

⁶⁷⁸ Case 001-E188 *Duch* TJ, para. 527; *Boškoski* AJ, para. 164; *Setako* AJ, para. 240. Whether such authority exists is a question of fact: *Semanza* AJ, para. 363. See also *Gacumbitsi* AJ, para. 182 [ordering "requires merely authority to order, a more subjective criterion that depends on the circumstances and the perceptions of the listener"].

⁶⁷⁹ *Semanza* AJ, para. 363; *Setako* AJ, para. 240.

⁶⁸⁰ Case 001-E188 *Duch* TJ, para. 527; E313 Case 002/01 TJ, para. 702; *Boškoski* AJ, para. 160; *Kamuhanda* AJ, para. 76.

⁶⁸¹ Case 001-E188 *Duch* TJ, para. 527; E313 Case 002/01 TJ, para. 702; *Galić* AJ, para. 178; *Kamuhanda* AJ, para. 76; *Ndindiliyimana* AJ, para. 291; *Sesay* AJ, para. 164.

⁶⁸² *Galić* TJ, paras 171, 741; *Milošević (Dragomir)* AJ, paras 272-273.

⁶⁸³ Case 001-E188 *Duch* TJ, para. 527; E313 Case 002/01 TJ, para. 702; *Milutinović* TJ (Vol 1), para. 87; *Blaškić* TJ, para. 282; *Taylor* AJ, para. 589, upholding *Taylor* TJ, para. 476.

⁶⁸⁴ Case 001-E188 *Duch* TJ, para. 527; E313 Case 002/01 TJ, para. 702; *Boškoski* AJ, para. 160; *Hategekimana* AJ, para. 67; *Taylor* AJ, paras 368, 589.

⁶⁸⁵ *Taylor* AJ, para. 589, upholding *Taylor* TJ, para. 477; *Milutinović* TJ (Vol 1), para. 88.

⁶⁸⁶ *Kordić* AJ, paras 28, 32; *Blaškić* AJ, para. 42; *Milošević (Dragomir)* AJ, para. 267; *Nahimana* AJ, para. 481; *Nyiramasuhuko* AJ, para. 1895; fn. 4448; *Taylor* AJ, para. 589.

⁶⁸⁷ *Milošević (Dragomir)* AJ, para. 267.

exclude an accused's criminal responsibility for ordering crimes committed in the course of that operation if the goal is to be achieved by the commission of crimes.⁶⁸⁸

239. As to *mens rea*, the accused must intend, or be aware of the substantial likelihood, that the execution or implementation of the order will result in the commission of the crime.⁶⁸⁹

5. AIDED AND ABETTED

240. Aiding and abetting⁶⁹⁰ consists of practical assistance, encouragement, or moral support that has a substantial effect on the commission of the perpetrated crime.⁶⁹¹ 'Specific direction' is not an element of aiding and abetting liability under CIL.⁶⁹²
241. An aiding and abetting conviction does not require proof that the perpetrator of the crime has been tried or even identified.⁶⁹³ No plan or agreement between the aider and abettor and the principal perpetrator is required for responsibility on the basis of aiding and abetting;⁶⁹⁴ indeed, it is unnecessary for a principal perpetrator to even be aware of the aider and abettor's contribution.⁶⁹⁵
242. Although the aiding and abetting must have a substantial effect on the commission of the crime,⁶⁹⁶ there is no requirement for a cause and effect relationship, or that such conduct was a condition precedent to the commission of the crime.⁶⁹⁷ Whether a particular contribution qualifies as "substantial" is a fact-based inquiry.⁶⁹⁸ The conduct constituting aiding and abetting can occur before, during or after⁶⁹⁹ the commission of the crime, and in a different place from the crime.⁷⁰⁰

⁶⁸⁸ *Bošković* AJ, para. 172; *Taylor* AJ, para. 493.

⁶⁸⁹ Case 001-E188 *Duch* TJ, para. 528; E313 Case 002/01 TJ, para. 702; *Kordić* AJ, paras 29-30; *Martić* AJ, paras 221-222; *Bošković* AJ, para. 68; *Renzaho* AJ, para. 315; *Taylor* AJ, para. 589.

⁶⁹⁰ Aiding and abetting are not synonymous; aiding involves the provision of assistance, while abetting involves facilitating, encouraging, advising on or providing moral support to the commission of a crime (Case 001-E188 *Duch* TJ, para. 533; *Milutinović* TJ (Vol 1), fn. 107; *Akayesu* TJ, para. 484; *Gacumbitsi* TJ, para. 286).

⁶⁹¹ Case 001-E188 *Duch* TJ, para. 533; E313 Case 002/01 TJ, para. 704; *Blaškić* AJ, para. 46; *Šainović* AJ, para. 1649; *Popović* AJ, paras 1732, 1783; *Taylor* AJ, para. 368.

⁶⁹² E313 Case 002/01 TJ, paras 707-710; *Taylor* AJ, para. 481; *Šainović* AJ, paras 1649, 1663; *Popović* AJ, para. 1758; *Stanišić & Simatović* AJ, paras 106, 108.

⁶⁹³ Case 001-E188 *Duch* TJ, para. 534; *Krstić* AJ, para. 143; *Brđanin* AJ, para. 355.

⁶⁹⁴ Case 001-E188 *Duch* TJ, para. 534; E313 Case 002/01 TJ, para. 704; *Tadić* AJ, para. 229(ii); *Brđanin* AJ, para. 263; *Seromba* AJ, para. 57.

⁶⁹⁵ *Tadić* AJ, para. 229(ii); *Kalimanzira* AJ, para. 87; *Brđanin* AJ, para. 263.

⁶⁹⁶ See e.g. *Tadić* AJ, para. 229(iii); *Gotovina* AJ, para. 127; *Ntawukulilyayo* AJ, para. 214; *Taylor* AJ, para. 481.

⁶⁹⁷ *Popović* AJ, paras 1740, 1783; *Ndahimana* AJ, para. 149; *Taylor* AJ, para. 522.

⁶⁹⁸ *Lukić* AJ, para. 438; *Kalimanzira* AJ, para. 86; *Taylor* AJ, para. 475.

⁶⁹⁹ Given the overarching requirement that assistance, encouragement or moral support must have a

243. An individual can be found liable for aiding and abetting a crime when it is established that his conduct amounted to tacit approval and encouragement of the crime and that such conduct substantially contributed to the crime.⁷⁰¹ While in such cases the authority of the accused is a factor,⁷⁰² it is not otherwise necessary to show the accused had authority over the direct perpetrator.⁷⁰³
244. An accused may also aid and abet by omission, in which case, the *actus reus* and *mens rea* requirements are the same as for aiding and abetting by a positive act.⁷⁰⁴ It must be demonstrated that the accused has “the ability to act, or in other words, that there were means available to the accused to fulfil this duty”.⁷⁰⁵ This aspect of aiding and abetting by omission has been interpreted to mean that had the accused acted, the commission of the crime would have been substantially less likely.⁷⁰⁶
245. As to *mens rea*, an accused must know, at the time he provides the assistance,⁷⁰⁷ that a crime will probably be committed, and that his conduct assists or facilitates the commission of a crime.⁷⁰⁸ It is unnecessary for the aider and abettor to know the precise crime to be committed by the principal. It suffices that he is aware that one of a number of crimes will probably be committed, and one of those crimes is in fact committed.⁷⁰⁹ The accused must also be aware of the essential elements of the crime, including the perpetrator’s state of mind, but need not share the perpetrator’s intent to commit the crime.⁷¹⁰ Specific intent crimes, such as persecution or genocide, require that the aider

substantial effect on the commission of the crime, the necessary causal link cannot exist where assistance is provided *exclusively* after the time of perpetration. However, as long as the requirement of substantial effect is fulfilled, conduct such as an agreement made *before or during* the commission of a crime, of assistance to be provided after the fact, may suffice. See **E313** Case 002/01 TJ, paras 712-713; *Blagojević* TJ, para. 731; *Furundžija* TJ, para. 230; *Aleksovski* TJ, para. 62; *Brđanin* AJ, para. 277.

⁷⁰⁰ *Mrkšić* AJ, para. 81; *Ntagerura* AJ, para. 372; *Fofana* AJ, para. 72.

⁷⁰¹ *Šainović* AJ, para. 1687; *Brđanin* AJ, paras 273, 277 [referring to the ‘silent spectator’]; *Ndahimana* AJ, para. 147; *Kayishema* AJ, paras 201-202 [referring to the ‘approving spectator’]; *Sesay* AJ, para. 541.

⁷⁰² *Ibid.* See also e.g. *Muvunyi* I AJ, para. 80.

⁷⁰³ *Blagojević* AJ, para. 195; *Nahimana* AJ, para. 672; *Sesay* AJ, para. 541.

⁷⁰⁴ *Popović* AJ, para. 1812; *Mrkšić* AJ, paras 49, 146; *Nahimana* AJ, para. 482.

⁷⁰⁵ *Šainović* AJ, para. 1677; *Nyiramasuhuko* AJ, para. 2205.

⁷⁰⁶ *Popović* AJ, para. 1741; *Šainović* AJ, paras 1679, 1682, fn. 5510; *Mrkšić* AJ, paras 97, 100.

⁷⁰⁷ *Krstić* AJ, para. 140; *Seromba* AJ, paras 57-58.

⁷⁰⁸ Case 001-E188 *Duch* TJ, para. 535; **E313** Case 002/01 TJ, para. 704; *Blaškić* AJ, paras 45-46, 49-50; *Popović* AJ, para. 1732; *Nahimana* AJ, para. 482.

⁷⁰⁹ *Blaškić* AJ, para. 50; *Šainović* AJ, para. 1772; *Nahimana* AJ, para. 482; *Sesay* AJ, para. 546.

⁷¹⁰ **E313** Case 002/01 TJ, para. 704; *Šainović* AJ, para. 1772; *Ndahimana* AJ, para. 157; *Brima* AJ, para. 244. As the ICTY Appeals Chamber explained in *Šainović*, “[t]he degree of knowledge pertaining to the details of the crime required to satisfy the *mens rea* of aiding and abetting will depend on the circumstances of the case, including the scale of the crimes and the type of assistance provided”: *Šainović* AJ, para. 1773.

and abettor must know of, but need not share, the principal perpetrator's specific intent.⁷¹¹ This knowledge can be inferred from the circumstances.⁷¹²

6. SUPERIOR RESPONSIBILITY

246. Superior responsibility, applicable to both military and civilian superiors, was recognised in CIL by 1975.⁷¹³ Under article 29^{new} of the ECCC Law and CIL, superior responsibility is based on the existence of the following three elements:

- (1) a superior-subordinate relationship between the accused and the person who committed the crime. The superior must have had effective control over the subordinate;⁷¹⁴
- (2) that the superior knew, or had reason to know, that the subordinate had committed or was about to commit a crime; and
- (3) that the superior failed to take the necessary and reasonable measures to prevent the commission of the crime or to punish the perpetrators.⁷¹⁵

SUPERIOR-SUBORDINATE RELATIONSHIP

247. Regardless of whether an accused is a civilian or military superior,⁷¹⁶ the superior-subordinate relationship between the accused and the perpetrator of the crime can exist either formally or informally, i.e. *de jure* or *de facto*.⁷¹⁷ It must be shown that the superior had "effective control" over his subordinate,⁷¹⁸ or in other words, the "material

⁷¹¹ Case 001-E188 *Duch* TJ, para. 535; E313 Case 002/01 TJ, para. 704; *Popović* AJ, para. 1830; *Krnjelac* AJ, para. 52; *Blagojević* AJ, para. 127; *Ndahimana* AJ, para. 157; *Fofana* AJ, para. 367; *Vasiljević* AJ, para. 142; *Krstić* AJ, para. 140; *Ntakirutimana* AJ, paras 500-501.

⁷¹² Case 001-E188 *Duch* TJ, para. 535; *Milutinović* TJ (Vol I), para. 94.

⁷¹³ Case 001-E188 *Duch* TJ, paras 476-478; E313 Case 002/01 TJ, paras 714, 718-719; D427/2/15 NC and IT Closing Order Decision, paras 190-232; D427/1/30 IS Closing Order Decision, paras 413-460; D427 Closing Order, paras 1307, 1318-1319, 1558.

⁷¹⁴ ECCC Law, art. 29^{new} contains the specific requirement that the superior must have "effective command and control or authority and control over the subordinate." This is consistent with the case law of the *ad hoc* Tribunals where it has been held that, for criminal liability to arise on the basis of a superior-subordinate relationship, it must be shown that the superior had effective control over the perpetrators. This same interpretation has been used by the ECCC Trial Chamber. See Case 001-E188 *Duch* TJ, para. 540; E313 Case 002/01 TJ, para. 715.

⁷¹⁵ ECCC Law, art. 29^{new}; D427/2/15 NC and IT Closing Order Decision, para. 191; Case 001-E188 *Duch* TJ, para. 538; E313 Case 002/01 TJ, paras 715-716 and e.g. *Gotovina* AJ, para. 128; *Gacumbitsi* AJ, para. 143; *Sesay* AJ, paras 842, 873.

⁷¹⁶ Case 001-E188 *Duch* TJ, para. 477; E313 Case 002/01 TJ, para. 720; D427/2/15 NC and IT Closing Order Decision, paras 230, 232; D427/1/30 IS Closing Order Decision, paras 418, 459-460; D427 Closing Order, paras 1319, 1558; *Čelebići* AJ, para. 195; *Kajelijeli* AJ, para. 85; *Brima* AJ, para. 257.

⁷¹⁷ Case 001-E188 *Duch* TJ, paras 477, 540; *Čelebići* AJ, paras 193-197, 303; *Halilović* AJ, paras 59, 210; *Nyiramasuhuko* AJ, para. 995; *Brima* AJ, paras 257, 289.

⁷¹⁸ ECCC Law, art. 29; Case 001-E188 *Duch* TJ, para. 540; E313 Case 002/01 TJ, para. 720; *Čelebići* AJ, paras 196-197, 303; *Blaskić* AJ, para. 69; *Gacumbitsi* AJ, paras 143-144; *Fofana* AJ, para. 175.

ability” to prevent or punish the subordinate’s commission of a crime.⁷¹⁹ The superior-subordinate relationship can be direct or indirect, and need not be exclusive.

248. The test of effective control is the same for both military and civilian superiors.⁷²⁰ When superior responsibility is applied to a civilian, there is no requirement that the control exercised by him be of the same nature as that exercised by a military commander; it need only be of the same degree.⁷²¹
249. The indicators of effective control are a question more of fact than of law, and should be assessed on a case-by-case basis.⁷²² Factors that would demonstrate that an accused exercised effective control over a subordinate include: the nature of the accused’s position, including his position within the military or political structure;⁷²³ the procedure for appointment and the actual tasks performed;⁷²⁴ the accused’s capacity to issue orders and whether or not such orders are actually executed;⁷²⁵ the authority to invoke disciplinary measures;⁷²⁶ and the authority to release or transfer prisoners.⁷²⁷ The concept of material ability necessarily also takes into account all factors that might impede a superior’s ability to prevent and punish.⁷²⁸

KNEW OR HAD REASON TO KNOW

250. As for the knowledge requirement, the term “knew” refers to actual knowledge that the relevant crimes had been committed or were about to be committed, which may be established through direct or circumstantial evidence.⁷²⁹ A superior need not know the precise identity of the subordinates who perpetrate(d) the crimes.

⁷¹⁹ Case 001-E188 *Duch* TJ, para. 540; E313 Case 002/01 TJ, para. 715; *Popović* AJ, para. 1857; *Nahimana* AJ, para. 625; *Brima* AJ, para. 257.

⁷²⁰ E313 Case 002/01 TJ, para. 720; *Aleksovski* AJ, para. 76; *Bagilishema* AJ, para. 50; *Brima* AJ, para. 257.

⁷²¹ *Čelebići* AJ, paras 197-198; *Bagilishema* AJ, paras 50, 52, 55; *Kajelijeli* AJ, para. 87; *Nahimana* AJ, paras 605, 785.

⁷²² E313 Case 002/01 TJ, para. 720; D427/1/30 IS Closing Order Decision, para. 459; *Strugar* AJ, para. 254; *Bizimungu (Augustin)* AJ, para. 115.

⁷²³ Case 001-E188 *Duch* TJ, para. 541; *Halilović* AJ, para. 66. Although *de jure* control is neither necessary nor sufficient to prove effective control, it constitutes *prima facie* a reasonable basis for assuming that an accused has effective control over his subordinates. See e.g. *Čelebići* AJ, para. 197; *Hadžihasanović* AJ, paras 20-21; *Nahimana* AJ, para. 625; *Ntabakuze* AJ, para. 169.

⁷²⁴ Case 001-E188 *Duch* TJ, para. 541; *Halilović* AJ, para. 66.

⁷²⁵ Case 001-E188 *Duch* TJ, para. 541; *Strugar* AJ, paras 253-254, 256; *Nyiramasuhuko* AJ, paras 1000, 2109. However, the absence of proof of orders is not demonstrative of a lack of effective control, and the fact that subordinates might perpetrate crimes independently of orders does not show that a superior lacks the ability to prevent or punish those crimes. See *Bagosora* AJ, para. 472.

⁷²⁶ Case 001-E188 *Duch* TJ, para. 541; *Strugar* AJ, paras 260-262.

⁷²⁷ Case 001-E188 *Duch* TJ, para. 541; *Čelebići* AJ, para. 206.

⁷²⁸ *Popović* AJ, para. 1857.

⁷²⁹ Case 001-E188 *Duch* TJ, para. 543; *Bagilishema* AJ, para. 37; *Kordić* TJ, para. 427; *Taylor* TJ, para. 497.

251. The “reason to know” test requires that the superior had general information available to him that would put him on notice of possible unlawful acts by his subordinates.⁷³⁰ The standard is met if the information was sufficiently alarming to justify further inquiry.⁷³¹ There is no requirement that there be a “substantial likelihood” or the “clear and strong risk” of subsequent crimes.⁷³² The “reason to know” standard does not impose a duty to obtain information; it is not the same as “should have known”, i.e. a negligence standard. A superior cannot be held criminally responsible for failing to seek out the relevant knowledge.⁷³³ However, criminal responsibility will be imposed on an accused who *deliberately* refrains from finding out the relevant information.⁷³⁴
252. The information received does not need to provide specific information about unlawful acts committed or about to be committed.⁷³⁵ For the purposes of showing that the information was in the superior’s possession, it is not necessary to show that he actually acquainted himself with the information, it needs only to have been provided or available.⁷³⁶ An accused’s position of command can be a factor demonstrating his knowledge of the crimes committed by his subordinates.⁷³⁷ The superior need not share his subordinate’s intent.⁷³⁸

FAILURE TO PREVENT OR PUNISH

253. A superior’s duty is discharged when he has taken “necessary and reasonable” measures to prevent or punish the commission of a crime by a subordinate in the context of a particular situation. Hence, liability arises when he fails to do so.⁷³⁹ The existence of a separate legal obligation to act under domestic law is not required.⁷⁴⁰ The duties to prevent and punish are distinct and separately entail criminal responsibility. The duty to prevent a crime arises prior to its commission, as soon as the superior knew

⁷³⁰ Case 001-E188 *Duch* TJ, para. 544; *Blaškić* AJ, para. 62; *Popović* AJ, paras 1910, 1912; *Nahimana* AJ, para. 791; *Sesay* AJ, paras 852-853.

⁷³¹ E313 Case 002/01 TJ, para. 715; Case 001-E188 *Duch* TJ, para. 544; *Popović* AJ, para. 1910; *Strugar* AJ, para. 298.

⁷³² *Strugar* AJ, para. 304.

⁷³³ Case 001-E188 *Duch* TJ, para. 544; *Čelebići* AJ, para. 226; *Blaškić* AJ, paras 62-64; *Bagilishema* AJ, paras 34-35; *Taylor* TJ, paras 498-499.

⁷³⁴ Case 001-E188 *Duch* TJ, para. 544; *Čelebići* AJ, para. 226; *Blaškić* AJ, para. 406; *Taylor* TJ, para. 499.

⁷³⁵ Case 001-E188 *Duch* TJ, para. 544; *Čelebići* AJ, para. 238; *Bagilishema* AJ, para. 42; *Nahimana* AJ, para. 791.

⁷³⁶ *Čelebići* AJ, para. 239.

⁷³⁷ *Blaškić* AJ, paras 56-57.

⁷³⁸ *Nahimana* AJ, para. 865; *Bagosora* AJ, paras 384, 399.

⁷³⁹ ECCC Law, art. 29new; Case 001-E188 *Duch* TJ, paras 545-547; E313 Case 002/01 TJ, para. 716; *Boškoski* AJ, para. 230; *Popović* AJ, para. 1943; *Nahimana* AJ, para. 484; *Sesay* AJ, paras 502, 842.

⁷⁴⁰ E313 Case 002/01 TJ, para. 720.

or had reason to know of the crimes about to be committed. There is no need to show a causal link between the superior's failure to prevent his subordinate's crimes and their occurrence.⁷⁴¹ The failure to prevent or punish crimes may be inferred from factors such as the continuing or widespread nature of the violations committed by the subordinates.⁷⁴²

254. The determination of what constitutes necessary and reasonable measures must be made on a case-by-case basis.⁷⁴³ The determination of what is materially possible in terms of fulfilling the duty should be assessed in light of the degree of the superior's effective control.⁷⁴⁴ The existence of a crisis situation does not relieve the superior of his duty.⁷⁴⁵
255. A superior's duty to punish the perpetrator of a crime includes at least an obligation to investigate possible crimes, to establish the facts, and either sanction the perpetrator personally, or report him to the competent authorities, as appropriate.⁷⁴⁶

III. FACTS

A. JOINT CRIMINAL ENTERPRISE

256. Each of the crimes charged in this case were committed in order to further a joint criminal enterprise ("JCE") by a group of persons constituting the leadership of the CPK, including **Nuon Chea** and **Khieu Samphan**. The evidence proves that the members of this joint criminal enterprise joined in a common plan to use criminal means to achieve their objectives, including through the commission of extrajudicial imprisonment and killings, exterminations, forced transfers, enslavement of the population in worksites and cooperatives, persecution of groups of persons they perceived as potential political opponents, including officials and soldiers of the Khmer Republic, Cham and Vietnamese persons, persecution of those practicing religion, particularly Buddhists and Muslims, and forcing couples to wed and consummate their marriages. The members of the JCE engaged in these crimes in order to achieve their

⁷⁴¹ *Blaškić* AJ, para. 77; *Hadžihasanović* AJ, paras 38-40.

⁷⁴² *Bizimungu (Augustin)* AJ, para. 104; *Bagosora* AJ, para. 685.

⁷⁴³ Case 001-E188 *Duch* TJ, para. 545; E313 Case 002/01 TJ, para. 716; *Blaškić* AJ, paras 72, 417; *Halilović* AJ, para. 63; *Orić* AJ, para. 177; *Hadžihasanović* AJ, para. 33; *Kayishema* AJ, para. 302; *Bagosora* AJ, paras 672, 683.

⁷⁴⁴ *Boškoski* AJ, para. 231; *Popović* AJ, para. 1928; *Bagosora* AJ, para. 672.

⁷⁴⁵ *Bagosora* AJ, para. 672.

⁷⁴⁶ *Halilović* AJ, para. 182; *Boškoski* AJ, paras 230, 234-235; *Hadžihasanović* AJ, para. 154; *Popović* AJ, para. 1932; *Bagosora* AJ, para. 510.

political goals, particularly maintaining the leadership in power and furthering their plans to radically alter Cambodian society to achieve an atheist, classless society with a single national and ethnic identity. The criminal plan sought to eliminate the practice of Buddhism in Cambodia, to destroy the ethnic Vietnamese community within Cambodia, and to destroy the Cham people as a distinct group within Cambodia with their own ethnic and religious identity.

257. The evidence shows that all of the crimes charged in Case 002/02 were intentional and part of the CPK's efforts to further the common purpose described above. **Nuon Chea** and **Khieu Samphan** held the applicable *mens rea* for each of the crimes charged and each made significant contributions to further the JCE as discussed in the sections of this brief on the roles of the Accused.
258. The members of this joint criminal enterprise included, *inter alia*, Pol Pot, Nuon Chea, Khieu Samphan, and Ieng Sary, members of the Standing and Central Committees of the Party, the military leadership of the DK regime, including Son Sen, Sou Met and Meas Muth, Ministers of the DK government including Ieng Thirith and Van Rith, Zone Secretaries, including Ta Mok, Sao Phim, Ke Pauk, Ruos Nhim, Ya, and Chou Chet and Sector and District Secretaries. Each of these individuals contributed to the joint criminal enterprise, even while some of these individuals themselves eventually became victims of the paranoid leadership's efforts to eliminate all possible opposition through brutal extrajudicial internal purges.⁷⁴⁷
259. Where multiple modes of liability are applicable to the same crime, a Trial Chamber has the discretion to choose the one that best describes the criminality of the Accused

⁷⁴⁷ The Co-Prosecutors recognize that this articulation of the JCE differs somewhat from how the JCE was described in the Closing Order. While the Closing Order explicitly stated that Nuon Chea and Khieu Samphan intended each of the crimes charged, its description of the JCE grouped the crimes under five general policies, each of which by the language used in the closing order included both crimes and conduct that was not necessarily criminal. In the view of the Co-Prosecutors, the two-step analysis of the common purpose as consisting of five policies that each led to a series of crimes unnecessarily complicates the analysis and the description of the criminality of the common purpose. The Closing Order makes it clear that Nuon Chea and Khieu Samphan each intended each of the crimes charged as a means of furthering the common purpose (See para. 1540: "The Co- Investigating Judges find there is sufficient evidence that the Charged Persons, Nuon Chea, Ieng Sary, Khieu Samphan, and Ieng Thirith committed the crimes listed in this Closing Order through their membership in the Joint Criminal Enterprise and their contribution to the common purpose described above. Further, the Charged Persons not only shared with the other members of the Joint Criminal Enterprise the intent that these crimes be committed as part of the common purpose, they were the driving force behind it.") Therefore, the Co-Prosecutors believe it is unnecessary to group the crimes within policies that also include non-criminal aspects. However, the Co-Prosecutors understand that many of the crimes are best understood as part of a broader but still purely criminal policy set by the regime leaders, and therefore in various sections have grouped several crimes under a single criminal policy.

conduct.⁷⁴⁸ While other modes of liability have been proven in relation to specific crimes in this case, in the view of the Co-Prosecutors, the basic form of joint criminal enterprise, or JCE I, best describes the liability of Nuon Chea and Khieu Samphan for all of the crimes within the scope of Case 002-02. As senior leaders of the regime, Nuon Chea and Khieu Samphan were among the group of leaders who formulated the JCE and each made unique and critical contributions to the joint criminal enterprise that led to all of the crimes charged. Therefore, in this brief, the Co-Prosecutors will not discuss the Accuseds' liability under each mode of liability charged, but rather will concentrate on their liability under the basic form of joint criminal enterprise.

260. The Co-Prosecutors believe that many of the individual crimes are best understood as part of broader criminal policies set by the regime leaders as part of the JCE. Therefore, we analyse below the JCE's enslavement policy and enemies policy. We discuss the crimes of forced marriage and rape in a single section, as they were each related to the regime's aspiration to increase the population. Genocide and other crimes directed against the Vietnamese are discussed together as all were part of a single genocidal policy towards the group, and the same is done with genocide and other crimes against the Cham.

B. COMMON CRIMINAL PLAN

INSTITUTIONALIZING THE POLICY

261. Every state seeks to assert a monopoly on the legitimate use of force within society through an institution generally known as the "police". Likewise, every state operates intelligence and counter-intelligence organisations in order to guard against subversion and foreign infiltration. In Democratic Kampuchea, these two distinct functions — policing and counter-intelligence — were merged in an organisation known as the *Santebal*,⁷⁴⁹ with a key difference from other states being that *Santebal* operated in an

⁷⁴⁸ Taylor AJ, paras 591-595; F36 Case 002/01 AJ, para. 1099.

⁷⁴⁹ E3/5794 Kaing Guek Eav, T. 28 Apr 2009, 11.15.34-11.20.07 ["My superiors always said the duty of S-21 is not the duties to collect espionage but it is the anti-espionage duty"]; E3/5798 Kaing Guek Eav, T. 9 June 2009, 09.16.40- 09.21.05 ["Son Sen said that S-21 should be conducted in the manner of the French intelligence organization" [*Direction générale de la sécurité extérieure*, Directorate General on Exterior Security, or "DGSE"]]; E1/58.1 Kaing Guek Eav, T. 3 Apr 2012, 09.26.02-09.28.40 ["S-21 was the counter-espionage unit – in French, 'contre-espionnage'"]; E1/433.1 Kaing Guek Eav, T. 7 June 2016, 13.56.39 ["Nat and I were called to be informed about the establishment of Santebal"]; E1/435.1 Kaing Guek Eav, T. 9 June 2016, 14.28.10 ["The word Santebal does not refer exactly to a prison as prisons existed in France or as prisons existed in Cambodia in the time before that ... the role played by Santebal offices in Cambodia at the time, that is, people were kept there, interrogated and later on they were smashed"]; E1/438.1 Kaing Guek Eav, T. 15 June 2016, 09.39.17-09.41.18 ["The Santebal at the

utterly lawless environment.⁷⁵⁰ Reflecting this dual function, the term “*Santebal*” was a CPK neologism, a contraction of the Khmer words *santesok* (“security”) and *norkorbal* (“police”).⁷⁵¹ Hence, *Santebal* was the *security police*, sometimes also referred to internally as the “Special Branch”⁷⁵² or the “political police”.⁷⁵³ *Santebal* units across the country were based at, and best known by, facilities that were designated as “security offices”.

262. In order to understand how **Noun Chea** and **Khieu Samphan** would have understood and used the term “enemies” and the likely consequences of any decision to “arrest” or “re-educate” someone during the DK regime, it is important to understand that the CPK had well-established and well-known practices that pre-date 17 April 1975. The earliest known CPK security office was called Beung Kanseng Prison.⁷⁵⁴ It began operations at least by 1966 in the revolution’s base area, La Ban Siek commune, Banlung district, Rattanakiri province.⁷⁵⁵ Bun Van Tha was arrested in 1966 and held by the CPK in Beung Kanseng Prison for thirteen years.⁷⁵⁶ “They mistreated the people very badly in 1965 ... at that time they started arresting and killing some people”, Bun Van Tha explained.⁷⁵⁷ During his long detention at Beung Kanseng, the number of prisoners

district level would report to the district secretaries, the *Santebal* in the sectors would report to the secretaries of the sectors and *Santebals* within the zones would report to the secretaries of the zones”]; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 11.20.33-11.21.51 [“S-21 Office, as well as all the police offices under the Communist Party of Kampuchea, were under the leadership of the Communist Party of Kampuchea; that is, under the orders of the CPK”]; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 11.32.31-11.33.37 [“normal people would call it the Central Police Office because it received instructions from the Standing Committee, or to be more specific, the Politburo of the Party Centre or the 870 Committee”].

⁷⁵⁰ **E3/455** Kaing Guek Eav WRI, EN 00149915 [“The CPK’s Special Branch was utterly unique. It did not employ any laws whatsoever”].

⁷⁵¹ **E3/448** Kaing Guek Eav WRI, EN 00154908 [“At the time of Prince Sihanouk and Lon Nol, the Khmer word for “police” was *Norkorbal* (“*Guards of the Country*”). The Khmer Rouge called the police *Santebal* (“*Security Guards*”) ... *Santebal* was the term used for all security centres”]; **E3/524** Kaing Guek Eav, T. 22 Apr 2009, 15.28.37 [“The word *Santebal* means those who looked after the peace, who preserved the peace in the country”].

⁷⁵² **E3/8368** Statistics List of Special Branch S-21, EN 00225379; **E3/834** S-21 Notebook of S-21 interrogator Pon or Tuy, EN 00184522 [“We apply absolute special-branch methods completely and totally permanently”]; **E3/1560** Kaing Guek Eav WRI, EN 00327326-27 [“In principle, throughout the country the prisoners were handed over to Special Branch and Special Branch interrogated them and they were smashed”]; **E3/359** Kaing Guek Eav WRI, EN 00434339 [“It is the sole Zone 801 Special Branch document that I have seen”], 00434343 [“The core work of Special Branch in that era was sending confessions to upper echelon”].

⁷⁵³ **E1/423.1** Prak Khan, T. 27 Apr 2016, 10.55.22 [Q: “Did they talk to you using that term ‘political police’ to characterize those who worked as interrogators to bring to light the networks?” A: “Yes”]; **E3/833** Notebook of senior S-21 cadre Mam Nai alias Chan, EN 00242263 [“We are the political police”].

⁷⁵⁴ **E3/7953** Bun Van Tha Statement, EN 00843456.

⁷⁵⁵ **E3/7953** Bun Van Tha Statement, EN 00843456; Tha believes the prison may have been established as early as 1962; **E3/7953** Bun Van Tha Statement, EN 00843481 [“It might have been 1963, 1962, 1963”].

⁷⁵⁶ **E3/7953** Bun Van Tha Statement, EN 00843458 [“I was imprisoned from 1966 to 1979”].

⁷⁵⁷ **E3/7953** Bun Van Tha Statement, EN 00843455-56.

grew from 600 to some 2,000.⁷⁵⁸ “Some prisoners were workers of the rubber plantation, others were just ordinary people, and some others were from the [CPK military] division.”⁷⁵⁹ Prison guards came at night to call out the names of certain prisoners, taking them away, killing them and burying them in bomb craters.⁷⁶⁰

263. As the revolution moved into a new phase in 1970, the Party began to institutionalize its internal security operations by establishing more so-called “security offices” in areas they controlled. A security office in Sector 32 of the Southwest Zone was established early on during the civil war period.⁷⁶¹ **Nuon Chea** has also described how a security office designated “S-39” was “created by Pol Pot in 1971 to root out traitors” and “detect spies who had infiltrated their movement.”⁷⁶² S-39 was “charged with investigating and following suspected enemies,” but was soon closed because Pol Pot did not believe the reports and confessions generated by the security office which “accused many cadre of betrayal, spying and plotting” against the Party,⁷⁶³ and perhaps recognized that it was damaging the war effort. Under the direction of CPK Standing Committee member Vorn Vet, in July 1971, Kaing Guek Eav alias Duch established the M-13 security office in Amleang commune of Kampong Speu province.⁷⁶⁴ The task of M-13 was to unmask and kill suspected spies.⁷⁶⁵ In Ta Mok’s home base of Tram Kak District, Takeo province, the Kraing Ta Chan Security Centre began operations in 1972.⁷⁶⁶ Also during 1972, in Sector 25 the “M-15 Security Office under the supervision of Teng was established”.⁷⁶⁷ The Kok Kduoch security office in Kratie province was up and running by 1973.⁷⁶⁸ Elsewhere in Kompong Speu, the M-99 security office began operations in 1974.⁷⁶⁹ As new categories of enemies were identified by the Party leadership, the network of security offices would grow inexorably.

⁷⁵⁸ **E3/7953** Bun Van Tha Statement, EN 00843457, 00843467.

⁷⁵⁹ **E3/7953** Bun Van Tha Statement, EN 00843457.

⁷⁶⁰ **E3/7953** Bun Van Tha Statement, EN 00843464.

⁷⁶¹ **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.22.26.

⁷⁶² **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757526.

⁷⁶³ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757526.

⁷⁶⁴ **E1/50.1** Kaing Guek Eav, T. 19 Mar 2012, 15.42.43 to 15.45.30; **E3/1569** Kaing Guek Eav WRI, EN 00185475; **E3/504** Kaing Guek Eav WRI, EN 00147525.

⁷⁶⁵ **E1/50.1** Kaing Guek Eav, T. 19 Mar 2012, 15.37.43-15.42.43; **E1/190.1** Philip Short, T. 7 May 2013, 11.53.23 to 11.57.10; **E3/785** *Revolutionary Flag*, July 1973, EN 00713998-99.

⁷⁶⁶ **E3/72** Phan Chhen WRI, EN 00490542; **E3/4626** Pech Chim WRI, EN 00380132-33.

⁷⁶⁷ **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.22.26.

⁷⁶⁸ **E3/5176** Uon Rim WRI, EN 00478731.

⁷⁶⁹ **E3/2817** Nic Dunlop, *The Lost Executioner*, EN 00370027-28; **E3/5792** Kaing Guek Eav, T. 23 Apr 2009, 09.58.06; **E3/5795** Kaing Guek Eav, T. 29 Apr 2009, 11.55.36; **E3/8618** Ham Im DC-Cam Statement, EN 00289744.

264. An integrated network of so-called “security offices” was soon established across the entire country.⁷⁷⁰ Shortly after seizing Phnom Penh on 17 April 1975, the CPK Centre organized the country into six zones,⁷⁷¹ each of which was further subdivided into sectors, which in turn were composed of districts, then communes, and finally villages.⁷⁷² At each node in this administrative network, a security office was set up.⁷⁷³ Each office reported to and took instructions from the next higher echelon in the network⁷⁷⁴ all the way up to the highest node in the network, S-21 in Phnom Penh,⁷⁷⁵ which was overseen by the Standing Committee.⁷⁷⁶ The function of the security offices was to detain “bad elements” for reeducation,⁷⁷⁷ and to “smash” or kill those designated as enemies of the revolution.⁷⁷⁸ More than 260 security offices have been identified by

⁷⁷⁰ See **Annex C.1 Map of DK Zone and Sector Security Offices**; **E3/3199** Map of Zone and Sector Security Offices, EN 00417948-49. See also **E3/457** Kaing Guek Eav Diagram of Security Office Network, EN 00198898; **E1/451.1** Henri Locard, T. 29 Jul 2016, 15.24.58.

⁷⁷¹ See **Annex C.2 Map of DK Zone and Sector (1976)**.

⁷⁷² Initially, there were also several “independent sectors” [103 (Siem Reap), 106 (Preah Vihear) and 505 (Kratie)], as well as “autonomous” municipalities such as Kampong Som, which reported directly to the Standing Committee. This administrative map evolved over the course of the regime, with communes and villages eventually reorganized into cooperatives: **E3/345** Craig Etcheson, T. 18 May 2009, 15.26.46-15.41.08; **E3/494** Craig Etcheson, Written Record of Analysis, 18 July 2007, EN 00142830.

⁷⁷³ **E1/450.1** Henri Locard, T. 28 July 2016, 11.04.03 [“There was not a single region, province, district, where there was no major prison in Democratic Kampuchea”], 14.11.10-14.17.05 [“There were prisons ‘phumipheak’ (zone). ... there were ‘damban’ (sector) prisons. ... every district had a district prison and in some districts ... there were several district prisons ... every people’s commune ... had a police – a police center in which the people who are accused, who are tied, were first brought”]; **E3/345** Craig Etcheson, T. 18 May 2009, 15.53.21-16.11.08; **E3/442** Accused’s Final Written Submission, EN 00412111-12; **E3/457** Kaing Guek Eav Diagram of Security Office Network, EN 00198898.

⁷⁷⁴ **E3/130** Communist Party of Kampuchea Statute, EN 00184037 [Chapter III, Article 6: “Lower echelon must report to upper echelon on the situation and on work done ... Upper echelon must report to lower echelons ... regarding instructions which they must carry out”]; **E3/494** Craig Etcheson, Written Record of Analysis, 18 July 2007, EN 00142830.

⁷⁷⁵ **E3/5794** Kaing Guek Eav, T. 28 Apr 2009, 09.40.21 [“On the 15th of August 1975, the superior ordered me to organize the police office at Kab Srov in the north of Phnom Penh ... I could not find the place then”]; **E3/5810** Kaing Guek Eav, T. 25 Nov 2009, 11.41.56 [“On the 15th of August, 1975, Son Sen presented and suggested the establishment of S-21”].

⁷⁷⁶ **E3/5796** Kaing Guek Eav, T. 30 Apr 2009, 16.01.05-16.07.25 [“S-21 ... is just a Santebal organization under the supervision of the central committee as the other security offices”], 16.07.25 [“S-21 ... was a security office under the supervision of the central committee”]; **E1/326.1** Om Chy, T. 30 July 2015, 13.23.59-13.25.33 [“Regarding the Baray Choan Dek security office: “there was a directive from Office 870... The security centre [was] relocated from that pagoda and the location was given back to the cooperative where meetings were held.... I saw bloodstains on the walls of the main hall and the eating hall”]

⁷⁷⁷ **E3/797** Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 18 Aug 1976, EN 00234458 [“No good elements must definitely be screened [purged]”]; **E3/798** Minutes of the Meetings of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 30 Aug 1976, EN 01362642 [“We were able to arrest more than 100 persons during the unrest, and before that, in Sector 25, it had been possible to arrest more than 60 persons”]; **E3/76** FBIS, 26 Sept 1978, EN 00170425-26 [“Bad elements are consigned to production labor ... Those committing repeated or vicious offenses are consigned to production labor in separate worksites or farms in order to reorient themselves through labor”].

⁷⁷⁸ **E1/326.1** Om Chy, T. 30 July 2015, 13.09.32-13.20.36 [“It was the sector committee and district committee who spoke about the notion of enemy during meetings ... they would be smashed ... In Tras

researchers,⁷⁷⁹ four of which are part of Case 002/02.⁷⁸⁰

265. An example that illustrates how the security offices were integrated into a national system is found in the testimony of the painter and S-21 survivor, Vann Nath. Vann Nath was assigned to work as a farmer in O Mony Pir Village, Sangke Commune, in District 41 of the Northwest Zone's Sector 4.⁷⁸¹ On 29 December 1977, Nath was arrested at Balatt Cooperative, about five kilometres from his home village, for reasons that were never explained to him.⁷⁸² "In the cooperative there was a prison and I was sent there. It was a rice barn, and they shackled my legs, the same type of shackles used at S-21".⁷⁸³ Very early the next morning, he was transferred to a district echelon security office at Samrong Pagoda in nearby Samrong Knong Commune, Ek Phnom District.⁷⁸⁴ "The Samrong Pagoda was a very popular detention site in Sector 4", Nath

village there was a security centre; it was located at Baray Choan Dek pagoda"; **E3/5794** Kaing Guek Eav, T. 28 Apr 2009, 11.20.07 ["When a decision was made to smash, then other security offices or units had to make the arrest and send to the security office to arrest, to detain, to torture, and to smash"]; **E3/345** Kaing Guek Eav, T. 18 May 2009, 10.03.35-10.17.08; **E3/1560** Kaing Guek Eav WRI, EN 00327327 ["In principle, throughout the country the prisoners were handed over to Special Branch and Special Branch interrogated them and they were smashed"]; **E3/65** Kaing Guek Eav WRI, EN00147524; **E3/453** Kaing Guek Eav WRI, EN 00147581; **E3/449** Kaing Guek Eav WRI, EN 00159558; **E3/451** Kaing Guek Eav WRI, EN 00204354; **E3/5265** Um Chi WRI, EN 00282346-47 ["If we did not respect their orders, they would smash us ... [Baray Choan Dek Pagoda] was a detention and killing site"].

⁷⁷⁹ **E3/2378** Documentation Center of Cambodia, *DK Prison*, EN 00379116-19; **E3/2765** Documentation Center of Cambodia, *Memorials*, EN 00194821-29; **E3/2763** Documentation Center of Cambodia, *Burials*, EN 00379092-115; **E3/2764** Documentation Center of Cambodia, *DK Prisons*, EN 00347406-13; **E3/2366** Documentation Center of Cambodia, *Genocide Sites in Cambodia, 1975-1979*, EN 00188708-34; **E3/2365** Documentation Center of Cambodia, *Map entitled Killing Fields of Cambodia*, EN 00188695; **E3/1807** Craig Etcheson, *'The Number' - Quantifying Crimes Against Humanity in Cambodia*, 2000, EN 00089458-75; **E3/3237** Henri Locard, *Democratic Kampuchea Prison Network in West Region*, EN 00087333-68; **E3/2071** Henri Locard, *Research Notes on Democratic Kampuchea Prison Network: Northwest Region*, EN 00087303-32; **E3/3214 (E3/3215)** Henri Locard, *S-21 & Phnom Penh under DK*, EN 00403279-87; **E3/3244** Henri Locard, *Preah Vihear: Sector or Zone 103*, EN 00403276-78; **E3/3219** Henri Locard, *Northeast: Eisan Region - Zone-Sector 105, Mondulkiri*, EN 00403253-62; **E3/3255** Henri Locard, *Northeast: Eisan Region - Zones-Sectors 101, 102, 104, 105, 107, 505, Provinces of Ratanakiri, Mondulkiri, Stung Treng and Kratie*, EN 00403192-242; **E3/3265** Henri Locard, *Stung Treng: Dambon 104 & 103*, EN 00403263-75; **E3/3274** Henri Locard, *Kratie - 505: Special Zone*, EN 00403243-52; **E3/3218** Henri Locard, *Kompong Thom-Uddor Region Sector or Zone 43*, EN 00208411-38; **E3/3209** Henri Locard, *Bophea Region: Dambon 20-24*, EN 00403131-91; **E3/3232** Henri Locard, *Niredey Region*, EN 00217621-89; **E3/2649** Henri Locard, *Kompong Cham: West Bank of the Mekong, Old North Region, Zone or Sectors 41 & 42*, EN 00208385-410; **E3/3863** Henri Locard, *Siem Reap Province: New North Region*, EN 00164149-207.

⁷⁸⁰ See sections: **S-21 Security Centre, Kraing Ta Chan Security Centre, Au Kanseng Security Centre, and Phnom Kraol Security Complex**.

⁷⁸¹ O Mony Pir is located in present day Battambang Province, Sangkae District, Anlong Vil Commune.

⁷⁸² Balatt is located in present day Battambang Province, Sangkae District, Norea Commune. **E3/7450** Vann Nath, T. 29 June 2009, 09.38.28; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396799-800.

⁷⁸³ **E3/7450** Vann Nath, T. 29 June 2009, 09.41.49; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396799-800.

⁷⁸⁴ **E3/2378** Documentation Center of Cambodia, *DK Prison*, EN 00194821; **E3/2071** Henri Locard, *Research Notes on Democratic Kampuchea Prison Network, Northwest Region*, EN 00087307-08.

recalled.⁷⁸⁵ The next day, he was transferred yet again, this time to the zone echelon security office in Battambang provincial town at Wat Kandal.⁷⁸⁶ “I did not know that Kandal Pagoda was also a prison”.⁷⁸⁷ That first night in the Wat Kandal Security Office,⁷⁸⁸ on the banks of the Sangke River, Nath was removed from his cell and taken for interrogation, where he was hooked up to electrical wires.⁷⁸⁹ “Then they turned on the electricity. After that, I became unconscious”.⁷⁹⁰ After a week at the Wat Kandal Security Office, on 7 January 1978, Nath was put on a truck with others and driven off.⁷⁹¹ Late that night, Nath was delivered to S-21.⁷⁹² Nath’s journey of terror from O Mony Pir village in Battambang to S-21 in Phnom Penh vividly illustrates the fact that DK’s security offices functioned as a tightly integrated network.

266. The Trial Chamber heard extensive witness testimony about security offices in every zone of Democratic Kampuchea. In *Phnom Penh*, witnesses testified about S-21,⁷⁹³ S-24 (Prey Sar),⁷⁹⁴ B-1,⁷⁹⁵ K-7,⁷⁹⁶ the Division 310 prison near Wat Phnom,⁷⁹⁷ and another

⁷⁸⁵ **E3/7450** Vann Nath, T. 29 June 2009, 09.41.49; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396802-03.

⁷⁸⁶ **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396806.

⁷⁸⁷ **E3/7450** Vann Nath, T. 29 June 2009, 09.46.46.

⁷⁸⁸ **E319.1.27** Toat Thoeun WRI, EN 00974019.

⁷⁸⁹ **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396807-08. See also **E3/7674** Vann Nath Sketch of His Torture at Wat Kandal, EN 00163743.

⁷⁹⁰ **E3/7450** Vann Nath, T. 29 June 2009, 09.49.17.

⁷⁹¹ **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396811.

⁷⁹² **E3/7450** Vann Nath, T. 29 June 2009, 09.59.13; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396813-14. See also **E3/7674** Vann Nath Sketch of His Arrival at S-21, EN 00163746.

⁷⁹³ **E1/84.1** Khoem Ngorn, T. 11 June 2013, 13.49.18-13.51.19 [“Those accused enemies were Chroeung and Thoeun. Chroeung was arrested and sent to S-21, while Thoeun successfully escaped ... do you confirm what you told the Co-Investigating Judges ...? A. Yes, I do”]; **E1/105.1** Ong Thong Hoeung, T. 9 Aug 2012, 13.46.09 [“I went to work at Tuol Sleng for about two to three months”], 13.46.09, [“I organized the files, in particular the confessions of those people who were killed there. Also I organized the list of those prisoners who were taken out and killed”]; **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.51.44-15.54.41 [“I went to...S-21, and I worked there...And there - where I learned that those comrades who disappeared had their names at Tuol Sleng...those friends were sent to be killed at Prey Kong, or Kong Forest”]; **E1/104.1** Ong Thong Hoeung, T. 8 Aug 2012, 15.26.09-15.28.24 [“When we left Dei Kraham we came to work in Tuol Sleng office. We found some names of the Cambodian returnee from overseas...”]; **E3/34** Long Norin WRI, EN 00223558 [“The orders came from the Center or from Pol Pot to S21, and S21 security came right inside...and told them that Angkar called them to study, and after they were arrested they were never seen to return”]; **E3/97** Ong Thong Hoeung WRI, EN 00287107 [“...it is safe to assume that he was tortured and executed. I worked at Tuol Sleng from August to November 1979”]; **E3/420** Prum Sou WRI, EN 00422379 [“Bang Hang was arrested and sent to upper level, probably Tuol Sleng, and many other cadres of the Sector’s office were arrested to Zone Security Centres in Siem Reap province”]; **E3/361** Chhouk Rin WRI, EN 00766452-56; **E3/362** Chhouk Rin WRI, EN 00268895-96 [“Son Sen sent me to the East Zone along with others in late 1977 to arrest all the cadres there who were traitors ... the military commanders were sent to a reeducation site, probably meaning S-21, I imagine”]; **E3/1647** Khoem Ngorn WRI, EN 00375678-79 [“There were purges against those alleged as enemies, CIA or KGB. Chroeung and Thoeun were alleged as enemies. Chroeung was arrested and sent to S-21”]; **E3/3959** Kung Kim WRI, EN 00278683 [“Those prisoners were only at my location for two or three nights before they were taken to Tuol Sleng”].

⁷⁹⁴ **E1/83.1** Khoem Ngorn, T. 7 June 2012, 14.26.03-14.28.20 [“I heard from others that those who worked

security office on Monivong Boulevard across the street from Calmette Hospital.⁷⁹⁸ In the *West Zone*, the court heard evidence on the the Ta Ney security office,⁷⁹⁹ the Koh Khyang security office,⁸⁰⁰ and the Damrei Srot prison and its associated worksite, Trapaing Pring.⁸⁰¹ Witnesses testified about *East Zone* security offices including Trapeang Leak Kbal, Tuol Prasrey,⁸⁰² Samraong village security office,⁸⁰³ Toek Thla

as a spy or those who was lazy or those who stole the cooperative's property, for example potatoes or so. So those people were considered enemies"; **E3/1648** Khoem Ngorn WRI, EN 00183607 ["Pheuang beat people ... and arrested people who were sent to Prey Sar... Prey Sar was the only prison Ngon knew existed for sure ... Those sent to Prey Sar were accused of being lazy or were reported by those engaged in surveillance"].

⁷⁹⁵ **E1/83.1** Khoem Ngorn, T. 7 June 2012, 15.32.27 ["It was the Ministry of Foreign Affairs and it was, of course, B-1, but amongst them there were other houses for guest"]; **E3/1647** Khoem Ngorn, WRI, EN 00375676 ["There were purges against those alleged as enemies ... Many people went missing at B-1; and it is unknown to where they were taken or transferred"].

⁷⁹⁶ **E1/71.1** Pean Khean, T. 2 May 2012, 14.10.43-14.13.32 ["After Phnom Penh was liberated, I recall K-1, K-3 and K-7. K-7 was at the riverfront. K-3 and K-1 were at the riverfront to the south of the Independence Monument"]; **E3/435** Pean Khean WRI, EN 00375889 ["I knew that K -7 was located in the north of the Independence Monument, along the riverside, near Unnalaum pagoda"].

⁷⁹⁷ **E1/138.1** Kung Kim, T. 24 Oct 2012, 15.41.50-15.43.41 ["Q: When was that prison of Division 310 established? A... in late 1975 and 23 early 1976"], 15.49.50-15.52.00 ["As the guards providing security at the prison, we noted that the interrogators were not members of our division ... they were in a higher command than our division"]; **E1/139.1** Kung Kim, T. 25 Oct 2012, 09.37.14-09.39.06 ["This prison was located to the east of - to the southeast of Wat Phnom"]; **E3/3959** Kung Kim WRI, EN 00278683 ["In late 1975 or early 1976, I was assigned to guard a prison north of Watt Phnom ... I saw prisoners being tortured by the Khmer Rouge in that prison ... Those prisoners ... were taken to Tuol Sleng"].

⁷⁹⁸ **E1/319.1** Sem Hocun, T. 22 June 2015, 10.06.31-10.32.19 ["People from the cooperatives or from the sector, the rear battlefield, were arrested, and put into the security office ... Male and female people and children were put and tortured in that security office ... It was opposite Calmette Hospital"].

⁷⁹⁹ **E1/452.1** Henri Locard, T. 1 Aug 2016, 09.13.42, 09.22.39, 14.24.50. See also **E3/2419** Henri Locard and Moeung Sonn, *Prisoner of the Khmer Rouge*, EN 00293632-82.

⁸⁰⁰ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 11.22.49-11.25.17 ["I never went there, but I was told by my combatants that there was a security centre at Kaoh Khyang, and it was quite a fair distance between Prey Nob and Kaoh Khyang"]; **E3/80** Meas Voeun WRI, EN 00491655 ["there was a security centre in Prey Nob district (Kampong Som province); it was Koh Khyang Security Centre ... some ... Division 1 soldiers were arrested and sent to Koh Khyang security centre"]; **E1/183.1** Chuon Thi, T. 24 Apr 2013, 15.23.07 ["When I arrived in Koh Khyang Prison, they shackled my ankles and tied up my arms for 24 hours. In that prison, once every two days, they took me out to be interrogated"]; **E1/451.1** Henri Locard, T. 29 July 2016, 09.31.24; **E1/452.1** Henri Locard, T. 1 Aug 2016, 09.13.42; **E3/4593** Chuon Thi WRI, EN 00513318 ["I used to hear when soldiers said that they knew about a security centre in Koh Kyang (in Koh Kong) but I never went there. Koh Kyang Prison was established in 1978 for detaining the lazy, the stealer who were civilians"]. See also **E3/2419** Henri Locard and Moeung Sonn, *Prisoner of the Khmer Rouge*, EN 00293744-91.

⁸⁰¹ **E1/216.1** Lev Lam, T. 2 July 2013, 09.18.19-09.20.00 ["I walked near the Damrei Srot prison and I saw they buried the dead bodies"], 09.41.19-09.43.40 ["There were about 200 families; some still alive, some had disappeared"], 10.04.52-10.07.29 ["During the sorting of the people I was not aware of it. But would be put to one side. And for the other people, they would be put to another group. And later on, those people in the latter group disappeared"], 10.13.25-10.15.55 ["After the meeting and after the sorting out of the biographies, some of those people disappeared; they were smashed"], 11.03.00-11.04.40 ["Q. Are you able to provide an estimate to the Court of the total number of people who were killed at that execution site? A. In total, there could be six - 70 to 80 people who were killed"]; **E3/4630** Lev Lam WRI, EN 00274645 ["I knew another place [prison camp] called Trapaing Pring which was also located in Svay Chuk commune. Trapaing Pring was a worksite for only cadre prisoners"], 00274647 ["At that time, there was an order to kill approximately 100 families in early rainy season in 1975; this order was immediately implemented"].

⁸⁰² **E3/5788** Chum Sokha WRI, EN 00380712-16 ["I was tortured only once during the interrogation. It was

village security office,⁸⁰⁴ and O Reang Ov district security office.⁸⁰⁵ Southwest Zone security offices featured in witness testimony were the Sector 35 security office,⁸⁰⁶ the Kraing Ta Chan Security Centre,⁸⁰⁷ Tbaung Kdei,⁸⁰⁸ Krang Chheh,⁸⁰⁹ the Angk Roka security office,⁸¹⁰ the Sanlung reeducation office⁸¹¹ and Office 15 in Po Ban village.⁸¹²

called the Tuol Prasrey security centre, north of Chhae Kach Mountain”].

⁸⁰³ **E1/136.1** Chum Sokha, T. 22 Oct 2012, 13.49.57-13.52.35 [“Uncle Meak had been arrested ... So, he was detained at the security centre at Samraong village”], 13.54.06 [“And later on I learned that because of his connection as a military officer, he was tempered and forced to work hard in a security centre in Trapeang Leak Kbal, to the east of my Kdei village”]; **E3/5788** Chum Sokha WRI, EN 00380712, 00380716 [“Men Meak was imprisoned in the security centre in Samraong Village, Samraong Commune, Prey Veng District, Prey Veng Province”].

⁸⁰⁴ **E1/136.1** Chum Sokha, T. 22 Oct 2012, 16.05.24 [“I had suffered dearly when I was arrested and detained at a security centre in Ba Phnum district ... I was interrogated”]; **E3/5788** Chum Sokha WRI, EN 00380712, 00380716 [“I was brought by a Khmer Rouge soldier to the security centre called Sae...west of Toek Thla Village”].

⁸⁰⁵ **E1/451.1** Henri Locard, T. 29 Jul 2016, 09.36.14.

⁸⁰⁶ **E1/181.1** Chhouk Rin, T. 22 Apr 2013, 14.09.26 [“...I know that people have been arrested to put in the security centre. Numbers of soldiers were arrested and sent to Kampot, but I did not know the whereabouts of that security centre”]; **E3/361** Chhouk Rin WRI, EN 00766452, 00766456; **E3/362** Chhouk Rin WRI, EN 00268895-96.

⁸⁰⁷ **E1/451.1** Henri Locard, T. 29 July 2016, 09.27.14, 09.43.54, 15.28.05-15.40.08; **E1/452.1** Henri Locard, T. 1 Aug 2016, 14.18.42-14.30.48; **E1/215.1** Pech Chim, T. 1 July 2013, 09.25.20-09.27.24 [“It could have been established earlier than 1972. It was the affairs of the sector, not the district. It was for the purpose of re-educating people, that is, those bad people, so that they would become good people”], 12.08.48 [“Kraing Ta Chan Security Centre was in District 105, but it was under the supervision of the Sector”], 15.33.50-15.35.55 [“The existence of the Kraing Ta Chan Security Centre, after the arrival of the Vietnamese in 1979”]; **E3/4609** Sou Sotheavy WRI, EN 00434882 [“I heard from the chairman of Sanlung prison that there was another prison called Kraing Ta Chan prison located in Tram Kak district, Takeo province”]; **E3/4626** Pech Chim WRI, EN 00380132-33 [“As I knew about it at that time, they called that Center the educational center (Kraing Ta Chan Security Center). That Center was created since 1972 by the Sector party and the District party”], 00380133 [“That Security Center located in Kraing Ta Chan village, Kous (11M) commune, District 105 (Tram Kak district), Takeo province”].

⁸⁰⁸ **E1/136.1** Chum Sokha, T. 22 Oct 2012, 13.49.57-13.52.35 [“Uncle Meak had been arrested and put in the detention facility to the south of the village ... he was one of the many prisoners who were forced to work in the rice field. So, he was detained at the security centre at Samraong village”], 13.54.06 [“And later on I learned that because of his connection as a military officer, he was tempered and forced to work hard in a security centre in Trapeang Leak Kbal, to the east of my Kdei village”], 16.05.24 [“On top of this, I had suffered dearly when I was arrested and detained at a security centre in Ba Phnum district. In captivity, I was shackled and my hands were bound behind my back and I was interrogated”]; **E3/5788** Chum Sokha WRI, EN 00380712, 00380716 [“Other villagers told me that my father was taken to a prison in the pagoda building in Tbaung Kdei Village”].

⁸⁰⁹ **E1/197.1** Sou Sotheavy, T. 27 May 2013, 09.59.00-10.01.20 [“And, second: The Khmer people who died during the three years period as in Tuol Sleng, Krang Chheh, Krang Ta Chan and Choeung Ek; do you acknowledge the deaths of those people at those prisons? That’s all I have”]; **E3/4609** Sou Sotheavy WRI, EN 00434881 [“That prison was called Krang Chheh ... When I first entered, I saw a blackboard on the wall, and there were many torturing tools such as pincers and whips. When I arrived at that prison, I did not hope to survive”].

⁸¹⁰ **E1/289.1** Thann Thim, T. 21 Apr 2015, 10.43.38-11.28.36.

⁸¹¹ **E1/197.1** Sou Sotheavy, T. 27 May 2013, 09.59.00-10.01.20 [“And, second: The Khmer people who died during the three years period as in Tuol Sleng, Krang Chheh, Krang Ta Chan and Choeung Ek; do you acknowledge the deaths of those people at those prisons? That’s all I have”]; **E3/4609** Sou Sotheavy WRI, EN 00434882 [“Sanlung Re-education Office was for detaining prisoners in general ... This prison was the district prison located in Angkor Chey district in Khmer Rouge regime”].

⁸¹² **E1/135.1** Yim Sovann, T. 19 Oct 2012, 15.44.20-15.46.24 [“They took my father to Banteay Yuon, where the office -- Security Office 07 was located, and it was the prison centre”], 15.48.35-15.51.00 [“My mother refused to give the ring to them, so they escorted -- they frog-marched my sister to Security

Witnesses also testified before the Trial Chamber on *Northwest Zone* security offices including the Tuk Thkoul reeducation office,⁸¹³ the Mortar Fort security office⁸¹⁴ near Tuol Po Chrey, Thkaul prison,⁸¹⁵ Tuol Tapev security office, Charoek security office,⁸¹⁶ Trapeang Chong security office,⁸¹⁷ Tuol Kaun Ngar,⁸¹⁸ Tuol Watp,⁸¹⁹ the Northwest Zone security office at Wat Kandal,⁸²⁰ the Wat Samraong security office,⁸²¹ and the

Office 07 and then they were -- she were transfer to Security Office 08, and then she disappear from that time onward", 15.56.31-15.58.55 ["I think that from 1975 to late 1976, those who were tied with their hands behind their backs were either the 17 April People or the Lon Nol soldiers because they were considered enemies ... Those who were taken to Security Office 15 disappeared; they never returned"], 15.56.31-15.58.55 ["It was Village 1 and 2, where we went to harvest crops over there ... when we were staying there before we were re-evicted to Pursat province. The security centre was located in either Village 1 or 2; I do not recall"], 16.01.20-16.03.33 ["I saw people from the Eastern Zone were tied up with both hands behind their backs and transported along the rice paddy ... And I realized that those people were sent to Security Centre Number 8"]; **E3/5787** Yim Sovann WRI, EN 00379313 ["There was a security centre there; it was called Munti 15... These people were accused of being enemy and taken to the security centre with no hope to survive. People who were taken there always disappeared"].

⁸¹³ **E1/138.1** Lay Bony, T. 24 Oct 2012, 12.03.44-12.05.38 ["When they frogmarched us from Tuk Thkoul (phonetic) Prison to Boeng Kol Re-education Centre, there were many members in our team disappeared"]; **E3/3958** Lay Bony WRI, EN 00379161-62 ["Finally, we reached a place called the Thkaol refashion centre at 02.00 p.m. Thkaol was located in Sector 23 under Trapeang Chong Commune, Bakan District, Pursat Province"].

⁸¹⁴ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["Artillery security office known as mortar fort office (currently, military operation sub-region of Pursat province). I know it was a security office because I saw people being detained in the cells and the military told me they were prisoners"].

⁸¹⁵ **E1/187.1** Lim Sat, T. 2 May 2013, 11.02.5-11.05.37 ["if they could find them they could bring them there. I don't know where they would be taken to, but wherever these people were brought to, they just disappeared"]; **E3/4601** Lim Sat WRI, EN 00412159 ["I was also in Thkaul prison in Bakan district at that time... I was in Thkaul security centre for about one year"].

⁸¹⁶ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["Charoek security office located on Charoek village, Kanchor commune, Kandieng district. Artillery security office known as mortar fort office (currently, military operation sub-region of Pursat province)"].

⁸¹⁷ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["I have a friend who was arrested and taken to security office 07 also known as Trapeang Chong security office in Bakan district. He disappeared until today"].

⁸¹⁸ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["During the period, I knew about the existence of the following security offices ... Pits at Tuol Kaun Ngar. It was a hill in the jungle where corpses were buried"].

⁸¹⁹ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["I knew about the existence of the following security offices ... From 1975 through 1979, Tuol Watp (was an economic building for rice ration distribution)"].

⁸²⁰ **E3/7450** Vann Nath, T. 29 June 2009, 09.46.46.

⁸²¹ **E3/7450** Vann Nath, T. 29 June 2009, 09.41.49; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396802-03.

Balatt Cooperative security office.⁸²² In the *Northeast Zone*, Au Kansang security office was described by witnesses in considerable detail.⁸²³ In the *New North Zone*, witnesses presented evidence on the North Zone security office,⁸²⁴ the Pongro security office,⁸²⁵ the Prey Sloek security office (also known as Kraing Tasam),⁸²⁶ and the Rovieng district security office.⁸²⁷ In the *Central Zone*, extensive witness evidence was heard on the Wat Au Trakuon security office,⁸²⁸ the Phnom Pros district security office,⁸²⁹ the Chamkar

⁸²² **E3/7450** Vann Nath, T. 29 June 2009, 09.38.28-09.41.49; **E3/2126** Vann Nath, *A Cambodian Prison Portrait*, EN 00396799-800.

⁸²³ **E1/159.1** Chhaom Se, T. 11 Jan 2013, 15.03.24-15.05.25 ["Q: ...why the re-education centre or the Au Kanseng Security Centre was created within Division 801? A: ... the bad elements --irregular elements could be contained and detained at the centre"]; **E1/177.1** Chhaom Se, T. 8 Apr 2013, 09.45.48 ["Normally it was in the form of education and re correction. We received - we had to try to provide orientation to them ... That's what we did when we were working at Au Kanseng Security Centre"], 11.23.11 ["They were sent from a unit; a person by the name of Nau who was assigned to work at the Au Kanseng Re-education Centre because he would like to understand the enemy communication line"]; **E1/157.1** Ung Ren, T. 9 Jan 2013, 15.30.00-15.32.38 ["I knew that there was a security or prison in the Boeng Kanseng area - was through the people who live near the prison or the security centre"]; **E3/402** Ung Ren WRI, EN 00381035 ["I knew that there was a security office somewhere in Au Kanseng because I knew and heard someone who had said that prisoners had broken out of the prison"]; **E3/5784** Partial Transcript of Recorded Interview with Ung Ren, 17 Sept 2009, EN 00877219-20; **E3/405** Chhaom Se WRI, EN 0040612-13, 0040616 ["Division 801 Re-education and corrections office at Au Kanseng. Created in late 1976 and early 1977. This office was created during the situation of the internal enemy movement occurring throughout the country"].

⁸²⁴ **E1/194.1** Prum Sou, T. 21 May 2013, 10.25.28-10.27.44 ["After his arrest, he was placed at the Security Centre. And after the report, that person, Phean, disappeared"]; **E1/451.1** Henri Locard, T. 29 Jul 2016, 09.43.54; **E3/420** Prum Sou WRI, EN 00422379 ["Bang Hang was arrested and sent to upper level, probably Tuol Sleng, and many other cadres of the Sector's office were arrested to Zone Security Centres in Siem Reap province"].

⁸²⁵ **E1/143.1** Pe Chuy Chip Se, T. 12 Nov 2012, 13.35.06-13.37.19 ["People who had to be detained at Pongro Security Office ... crimes as indicated"], 13.46.57-13.49.35 ["The Mkak execution site is to the northwest of Pongro Security Centre"], 14.27.19-14.32.24 ["As for Lon Nol soldiers who were evacuated in 1975, they were not captured and sent to Pongro Security Office"]; **E1/144.1** Pe Chuy Chip Se, T. 14 Nov 2012, 09.08.47-09.10.48 ["The Pongro Security Centre was located in Chi Kraeng district"], 09.39.33-09.41.00 ["The report concerning the killing in 1974 -- I witnessed it myself. They frog marched -- the prisoners whom they accused of being the bandits were placed in security office - Pongro Security Office"], 10.27.40-10.30.30 ["I knew the reason for the shutdown. The people who worked in that security centre were accused of betrayal by the Khmer Rouge and that was not only for the Pongro Security Centre. The accusation was nationwide, because ... betrayal"]; **E3/3964** Pe Chuy Chip Se WRI, EN 00225210-00225211 ["In 1972, I walked up the wrong road by mistake to the Pongro Security Office and was arrested by the Khmer Rouge there"], 00225214 ["There were approximately over 100 prisoners in the security office; sometimes they took prisoners away and new prisoners were brought in"].

⁸²⁶ **E1/218.1** Sum Alat, T. 4 July 2013, 11.52.01-11.54.58 ["So far as I know, there were plenty of places where people were detained. I already made it clear in my statement regarding the security centres where people had been detained"]; **E3/4637** Sum Alat WRI, EN 00242126 ["I knew about the existence of the following security offices: Prey Sloek security office also known as Kraing Tasam located in Krakor district which was 7 or 8 kilometres from the place where I lived"].

⁸²⁷ **E1/131.1** Meas Voeum, T. 8 Oct 2012, 09.44.28-09.46.18 ["When I was at Preah Vihear, Bong Soeung, in Siem Reap, [I] released people at Rovieng district. Indeed, these 500 people were kept. They were not merely detained, they were kept in a location without any fences or wall, but in solitary confinement, but later on they were all released."]; **E3/424** Meas Voeum WRI, EN 00421072 ["Approximately 500 people were arrested and detained in the security centre in Rovieng District"].

⁸²⁸ **E1/344.1** Seng Kuy, T. 9 Sept 2015, 14.38.58-15.50.12; **E1/345.1** Seng Kuy, T. 10 Sept 2015, 09.08.28-10.26.48; **E1/346.1** Seng Srun, T. 14 Sept 2015, 09.33.55-15.36.25; **E1/347.1** Seng Srun, T. 15 Sept 2015, 09.10.08-09.29.47; **E1/347.1** Samrit Muy, T. 15 Sept 2015, 10.21.13-15.28.35; **E1/348.1** Tay

Leu district security centre,⁸³⁰ the Met Sop security centre,⁸³¹ and the Wat Baray Choan Dek security office.⁸³² Finally, for *Kratie Special Sector 505*, witness testimony covered Phnom Kraol,⁸³³ Prasral⁸³⁴ and Kok Kduoch security offices.⁸³⁵ This extensive witness testimony shows remarkable consistency in how these far-flung security offices operated, further corroborating the fact that the security office system was a national

Koemhun, T. 16 Sept 2015, 09.21.32-15.46.56 ["Everybody knew that if people were called to go to Au Trakuon pagoda, it means their fate would be sealed there"]; **E1/349.1** Him Man, T. 17 Sept 2015, 11.02.49-15.04.21; **E1/350.1** Him Man, T. 18 Sept 2015, 09.41.11-10.06.34; **E1/373.1** Muy Vanny, T. 11 Jan 2016, 10.03.29-15.56.00; **E1/374.1** Muy Vanny, T. 12 Jan 2016, 09.20.45-09.48.53; **E1/374.1** Say Doeun, T. 12 Jan 2016, 10.46.48-15.24.09; **E1/388.1** Ysa Osman, T. 9 Feb 2016, 16.05.51; **E1/389.1** Ysa Osman, T. 10 Feb 2016, 09.48.56-09.53.38, 10.51.54-10.54.00; **E1/450.1** Henri Locard, T. 28 July 2016, 15.21.58.

⁸²⁹ **E1/34.1** Prak Yut, T. 26 Jan 2012, 14.02.32 ["It did not belong to the sector or to the zone, it was for the district. And that centre was for re-educating any people who were bad, who were found in the district. It was I who was re-educating those people at that place"]; **E1/35.1** Prak Yut, T. 30 Jan 2012, 13.45.52-13.50.20; **E1/401.1** Alexander Hinton T. 14 Mar 2016, 13.49.30-14.05.00; **E1/402.1** Alexander Hinton T. 15 Mar 2016, 10.11.03-10.13.00, 10.36.40; **E1/403.1** Alexander Hinton T. 16 Mar 2016, 15.46.42-15.51.11.

⁸³⁰ **E1/353.1** Ban Seak, T. 5 Oct 2015, 10.43.22.

⁸³¹ **E1/487.1** Preap Sokhoeun T. 20 Oct 2016, 15.04.09, 15.25.20- 15.27.07-15.06.30.

⁸³² **E1/301.1** Or Ho, T. 19 May 2015, 13.58.06 ["Q: You told an investigator, 'Born and Vut were arrested and taken to Baray Choan Dek pagoda and they were never seen to return. I knew this because I recognized the security person who worked at the Baray Choan Dek pagoda security office'... Is that correct? A: Yes, that is correct"]; **E1/304.1** Meas Layhuor, T. 25 May 2015, 15.45.41-15.49.03 ["The village chief ... told me that these people were put at Baray Choan Dek and they never came out of this security site again"]; **E1/306.1** Hun Sethany, T. 27 May 2015, 10.53.02 ["My siblings came to tell me that my father was killed at Baray Choan Dek pagoda"]; **E1/309.1** Uth Seng, T. 3 Jun 2015, 9.44.15 ["Baray Choan Dek pagoda was the place where people were killed ... people went to dig the grave in order to find gold"]; **E1/322.1** Kong Uth, T. 25 June 2015, 10.34.26 ["The pagoda was turned into a security centre ... for the people who were transferred from somewhere else into that security office, they were killed"]; **E1/326.1** Om Chy, T. 30 July 2015, 13.20.36 ["The security centre was within the compound of Baray Choan Dek pagoda"].

⁸³³ **E1/151.1** Phan Van alias Kham Phan, T. 11 Dec 2012, 14.17.23 ["At the district level, there was no education centre. There was only one education centre located in Phnom Kraol"], 13.51.39 ["At that time, I did not understand the role or functions of K 17 because my father was overly (sic) in charge of K 17 when Phnom Kraol was called '105'"], 13.55.56 ["Q: And, of those who have passed away, could you please identify who your father's close associates and collaborators were? A: There were these two people, Uncle Sophea and Phoun, and Uncle Mey"]; **E3/57** Pham Van WRI, EN 00290507-08 ["The security office of Sector 105 was in Phnom Kraol under Ta Sophea control (also called Ta Sophea's office). The prisoners were brought in from districts within Sector 105"].

⁸³⁴ **E1/88.1** Yun Kim, T. 19 June 2012, 14.16.03-14.18.46 ["in Sambour district there were two security offices, one in Kok Kduoch and Prasral"]; **E1/89.1** Yun Kim, T. 20 Jun 2012, 10.26.42-10.28.41 ["Koh Sam Tauch is a small island to the upper part of the Srae Khoean. It was not a major security centre. However, some prisoners were detained at Sam Tauch"]; **E3/410** Yun Kim WRI, EN 00412193-94 ["Another Security Centre was in Prasral which is located about 10 kilometres from Kok Kduoch. Prasral was a working site where people were punished, they were asked to work in rice farming and to build dike. They were made to perform forced labour"].

⁸³⁵ **E1/88.1** Yun Kim, T. 19 June 2012, 14.16.03-14.18.46 ["in Sambour district there were two security offices, one in Kok Kduoch and Prasral"]; **E1/89.1** Yun Kim, T. 20 June 2012, 10.26.42-10.28.41 ["Koh Sam Tauch is a small island to the upper part of the Srae Khoean. It was not a major security centre. However, some prisoners were detained at Sam Tauch..."]; **E3/410** Yun Kim WRI, EN 00412193 ["There was a Security Centre in Kok Kduoch ... Only when I moved to Sambo commune in 1977, I found out existence of KokKduoch"].

network organized and managed under a centrally-enforced policy.⁸³⁶

267. **Nuon Chea, Khieu Samphan** and the other top leaders of the CPK thus assembled all of the elements required to carry out mass murder on an historic scale. They established no court system and no procedures to prevent arbitrary arrests and killings but rather put in place policies authorizing regional and military leaders to kill people inside and outside the Party. They defined broad and constantly expanding categories of “enemies” who they insisted needed to be killed. They constantly exhorted Party members to maintain “revolutionary vigilance” to identify and target those many types of “enemies”. They encouraged torture as a means to identify “enemies” despite being well aware that these statements derived from torture were inherently unreliable. They did nothing to discourage the killing or to punish the perpetrators but rather did the opposite by purging the ranks of their own closest associates among the top-ranked and long-standing members of the CPK leadership. Finally, they put in place a nationwide institutional mechanism — security offices — to implement the process of mass killing on an industrial scale. As a result of this CPK “enemies” policy, demographers estimate that between 800,000 and 1.3 million people were violently murdered in the brief three years, eight months and twenty days of the Democratic Kampuchea regime.⁸³⁷

1. POLICY TO ENSLAVE THE POPULATION

*I witnessed that some of my colleagues were mistreated although they were really sick and these colleagues were not allowed to take rest. They verbally challenged or refused the assignment and they were beaten at that time ... I could not say anything. But it was painful in my heart. I was doing my utmost at that time. I had to work. Women had periods and they had cramps in their abdomen. They need sanitation but we were deprived of this. We were treated as animals.*⁸³⁸

– Civil Party Nuon Narom

⁸³⁶ **E3/5796** Kaing Guek Eav, T. 30 Apr 2009, 16.01.05 [“S-21... is just a Santebal organization under the supervision of the central committee as the other security offices”]; **E3/5796** Kaing Guek Eav, T. 30 Apr 2009, 16.07.25 [“S-21 ... was a security office under the supervision of the central committee”]; **E3/453** Kaing Guek Eav WRI, EN 00147583-84 [“You have asked me whether there was any hierarchy between the District, Sector and Zone security centres. In fact, the hierarchy was organized on the basis of the Party network”]; **E1/451.1** Henri Locard, T. 29 July 2016, 15.41.32-15.47.15; **E1/326.1** Om Chy, T. 30 July 2015, 13.23.59 [Regarding the Baray Choan Dek security office: “There was a directive from Office 870 regarding the pardon granted to those allegedly CIA and KGB networks. The security centre had been relocated from that pagoda, and the location was given back to the cooperative where meetings were held. I attended meetings there”].

⁸³⁷ **E3/2413** Ewa Tabeau and They Kheam, *Demographic Expertise Report*, EN 00385260-61 [“Summing up, it seems that early estimates heavily underestimated the scale of the actual killing by the Khmer Rouge. According to the latest results, the scale was about 1 million, and belonged to a broader interval of 0.7 to 1.3 millions. This interval, after the final correction, becomes 0.8 to 1.3 million”].

⁸³⁸ **E1/339.1** Nuon Narom, T. 1 Sept 2015, 09.35.58-09.38.22.

“SEIZING THE PEOPLE”

268. According to David Chandler, “seizing the people” has its origins in antiquity, and had been applied in Cambodia by Thai armies in the 19th century.⁸³⁹ Philip Short observed that it “means, simply, controlling the population”, pointing out that it was standard operating procedure for the Chinese communists.⁸⁴⁰ The idea of “seizing the people” was originally instituted by the CPK as a military strategy to deprive the enemy of population. “Whenever there were fightings, then we evacuated people”, Duch explained to the Trial Chamber.⁸⁴¹ “[W]e took those people so that ... we undermined the enemies’ strengths”.⁸⁴² After the Khmer Republic’s disastrous Chenla II offensive in 1971,⁸⁴³ Ke Pauk recalled, “the Central Committee ordered me ... to sweep and clean enemies around Kampong Thom.”⁸⁴⁴ Nuon Chea took a key lesson from the Kampong Thom operation: “This is a very important strategic line: control the people and [seize] the people.”⁸⁴⁵
269. But it was precisely *control* that initially eluded the CPK. It was only through a process of trial and error between 1970 and 1973 that the CPK gradually developed a methodology for controlling people and their economic activity. After the revolutionary forces took over Kratie in 1970, for example, CPK leaders lamented that nonetheless “the old society still remained”,⁸⁴⁶ and in the city markets, businessmen were still “the masters”.⁸⁴⁷ Consequently, in May 1972, the CPK Central Committee closed the markets in all of the CPK controlled zones.⁸⁴⁸ Meeting again one year later to assess

⁸³⁹ **E1/92.1** David Chandler, T. 19 July 2012, 11.24.52-11.27.28; **E3/17** David Chandler, *Brother Number One*, EN 00393014.

⁸⁴⁰ **E1/190.1** Philip Short, T. 7 May 2013, 13.50.07-13.52.04.

⁸⁴¹ **E1/51.1** Kaing Guek Eav alias Duch, T. 20 Mar 2012, 09.45.21-09.46.56.

⁸⁴² **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 09.45.21-09.46.56.

⁸⁴³ **E3/29** Craig Etcheson, *The Rise and Demise of Democratic Kampuchea*, EN 00393297-301.

⁸⁴⁴ **E3/2782 (E3/2783)** Ke Pauk Pauk’s Autobiography from 1949-1985, EN 0089710.

⁸⁴⁵ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491422.

⁸⁴⁶ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401478-79 [“The revolution made some changes regarding the problem of land ... but in another part the old society still remained. ... The business and the enemy were acting as masters to the point that at times the businessmen handed out paddy as a favor to make merit from the people when our people experienced shortages”], EN 00401481 [“If we continued in this fashion there was a danger that the businessmen would become our bosses”].

⁸⁴⁷ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401480 [Private persons “still played the leading role” in commerce and “still acted as the masters: rice was up to them, salt was up to them, gasoline was up to them”]. See also **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396456-57 [in Kratie during March 1971, “the town market was even more crowded than before liberation”].

⁸⁴⁸ **E3/731** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865708-09 [“In the congress of the Party Centre in May 1972 ... the Party started the process of organizing the cooperative”]; **E3/10** *Revolutionary Flag*, Sep-Oct 1976, EN 00450510 [“The Party made an assessment ... and decided to close the markets in the liberated zones in 1972”]; **E3/166** *Revolutionary Flag*, Feb-Mar 1976, EN 00517819 [“We began waging socialist revolution in 1972 ... by dissolving private commerce and then the State conducted commerce

those measures,⁸⁴⁹ the Central Committee concluded that while closing markets “was a very mighty revolutionary movement that struck right at the economic foundations of the capitalists and feudalists”,⁸⁵⁰ still, “only by organizing cooperatives could we gain control of the economy”.⁸⁵¹ On 20 May 1973,⁸⁵² the CPK decided to establish cooperatives in all the areas they held.⁸⁵³ The CPK leaders came to view this decision as a “turning point”, because after this, “the people had to depend on the revolution and the revolution was able to control them”.⁸⁵⁴

270. With the launch of the cooperative policy on 20 May 1973, the CPK practice of “seizing the people” came into full bloom. Soon after adopting this policy, the population of Kratie was forced out of the town and marched into the northeastern jungles to an uncertain fate.⁸⁵⁵ Also in 1973, in the Prey Veng river town of Banam, the brutality of “seizing the people” became manifest: “We took everyone in Banam town, expelling the ethnic Vietnamese, the ethnic Chinese, the military, the police; we took everyone, taking away the people from the enemy.”⁸⁵⁶ In early November 1973, CPK troops briefly captured portions of Kampong Cham provincial town, taking 15,000 people with them when they retreated.⁸⁵⁷ Whenever the CPK took a town or village —

by itself and dissolved the markets”].

⁸⁴⁹ **E3/731** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865709 [“in mid-1973, the Party Centre held another congress to examine the status of class struggle within the Party and the mass people”].

⁸⁵⁰ **E3/10** *Revolutionary Flag*, Sep-Oct 1976, EN 00450510.

⁸⁵¹ **E3/10** *Revolutionary Flag*, Sep-Oct 1976, EN 00450511.

⁸⁵² Hoping to exploit the enduring popular anger over DK cooperatives, in 1983 the successor regime to the DK designated 20 May as the *Tiveer Chang Kamhoeng*, or the “Day of Hatred,” a commemoration which is still observed today, 34 years later.

⁸⁵³ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636008 [“On 20 May 1973, the Party decided to organize peasant cooperatives”]; **E3/12** Decision of the Central Committee Regarding a Number of Matters, 30 Mar 1976, EN 00182811 [20 May 1973 was the “Birth of the Peasant Cooperative Organization”].

⁸⁵⁴ **E3/731** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865712. See also **E1/36.1** Nuon Chea, T. 31 Jan 2012, 09.50.54-09.52.56 [If the Party “stopped the use of money” in a liberated zone, they could “control that situation” and “expand our liberated zone”].

⁸⁵⁵ **E1/189.1** Philip Short, T. 6 May 2013, 14.31.14-14.34.21; **E1/92.1** David Chandler, T. 19 July 2012, 11.18.34-11.23.29; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396456, 00396465 [“Kratie was evacuated in the second half of 1973”].

⁸⁵⁶ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491422, EN 00491425; **E1/223.1** Stephen Heder, T. 15 July 2013, 09.52.33-10.04.01.

⁸⁵⁷ **E1/221.1** Stephen Heder, T. 10 Jul 2013, 15.14.12-15.16.36, 15.21.59-15.26.43 [describing forced transfer of people and “on the spot” executions “after the partial occupation by Khmer Rouge forces of Kampong Cham provincial town”]; **E1/222.1** Stephen Heder, T. 11 July 2013, 09.08.47-09.12.05 [the evacuation of Kampong Cham was “primarily” by “compulsion”]; **E1/92.1** David Chandler, T. 19 July 2012, 11.18.39-11.23.29; **E1/178.1** Francois Ponchaud, T. 9 April 2013, 09.44.59 [“We also learned that in 1970, people were evacuated into the forest. I was in Kampong Cham”], 13.44.46-13.50.18; **E1/99.1** Rochoem Ton alias Phy Phoun, T. 31 Jul 2012, 11.27.17-11.29.40 [the troops that attacked Kampong Cham “belonged to the Centre and the 304”]; **E3/370** Francois Ponchaud WRI, EN 00333952; **E3/17** David Chandler, *Brother Number One*, EN 00393014 [when CPK troops withdrew from Kampong Cham: “they rounded up several thousand people to take with them”]; **E3/9** Philip Short, *Pol Pot: The*

Pich Chenda, O'raing, Ch'bar,⁸⁵⁸ Bos Khnor, Damnak Chang'aeur,⁸⁵⁹ Kampot,⁸⁶⁰ Stung Treng,⁸⁶¹ everywhere — it was the same thing: the “systematic policy by the Khmer Rouge,” Francois Ponchaud explained, was to empty “all the towns or villages they had previously occupied.”⁸⁶²

271. Events at Oudong in March 1974 were an ominous portent of what “seizing the people” held in store for the future. By 1974, it was clear to all that the CPK routinely executed captured Khmer Republic soldiers and civil servants,⁸⁶³ or, as Ke Pauk succinctly put it, the CPK “annihilated the enemies.”⁸⁶⁴ But in 1973, the Party had also informed its cadres that they should not be concerned if the civilians it was seizing starved to death:

In the evacuation of people from the areas under the control of the enemy to the liberated zones, we took strong and optimistic views of mass population to successfully send them away to the countryside with no worry that people could be fraught with difficulty due to the lacks of everything ... Although we were in the situation that we were lack of rice as we are now, we dared to evacuate many more people.⁸⁶⁵

272. And starvation or execution was precisely what awaited the 20,000 people displaced from Oudong.⁸⁶⁶ Nou Mao, a CPK commune committee member from Oudong District,

History of a Nightmare, EN 00396465; **E3/88** William Shawcross, *Sideshow: Nixon, Kissinger and the Destruction of Cambodia*, EN 00430015; **E3/3328** Wilfred Deac, *Road to the Killing Fields*, EN 00430757-58 [“The K.R. took with them as they retreated ... more than fifteen thousand people, what an official report called the ‘single greatest increase in population for the Khmer Rouge in 1973’”]; **E3/2782** (E3/2783) Ke Pauk’s Autobiography from 1949-1985, EN 0089710 [the Central Committee “told me to organize zone military forces to take over Kampong Cham”].

⁸⁵⁸ **E3/5178** Chan Bun Leath (Bun Loeng Chauy) WRI, EN 00274097 [“In 1974, all people living on this mountain, at Pich Chenda, O’raing, Ch’bar were evacuated to Koh Nbek district”].

⁸⁵⁹ **E1/178.1** Francois Ponchaud, T. 9 Apr 2013, 13.44.46-13.50.18; **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 09.09.07-09.12.27.

⁸⁶⁰ **E3/3328** Wilfred Deac, *Road to the Killing Fields*, EN 00430775-76 [describing 1974 CPK attack on Kampot town in which: “half of Kampot’s fifty thousand civilians fled into the countryside as rockets and shells peppered the city”].

⁸⁶¹ **E1/92.1** David Chandler, T. 19 July 2012, 11.18.34-11.23.39.

⁸⁶² **E3/370** Francois Ponchaud WRI, EN 00333952; **E1/178.1** Francois Ponchaud, T. 9 Apr 2013, 13.44.46-13.50.18 [“when the Khmer Rouge captured a village, they set the houses in the village on fire, executed the village chief, and evacuated the people to the forest.”]. See also **E1/92.1** David Chandler, T. 19 July 2012, 11.18.34-11.23.39 [there was a “consistent pattern” of CPK evacuations of cities and towns before Phnom Penh]; **E1/98.1** Rochoem Ton, T. 30 July 2012, 14.09.32-14.14.37; **E1/209.1** Nou Mao, T. 19 Jun 2013, 11.40.20-11.41.52; **E243.1** Francois Ponchaud, *Cambodia: Year Zero*, EN 00862037.

⁸⁶³ **E1/190.1** Philip Short, T. 7 May 2013, 13.34.38-13.38.54; **E1/178.1** Francois Ponchaud, T. 9 Apr 2013, 13.44.46-13.50.18; **E1/221.1** Stephen Heder, T. 10 July 2013, 14.33.53-14.40.25, 15.12.38-15.14.12; **E1/92.1** David Chandler, T. 19 July 2012, 11.18.34-11.23.29; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396455.

⁸⁶⁴ **E3/2782** (E3/2783) Ke Pauk’s Autobiography from 1949-1985, EN 00089711.

⁸⁶⁵ **E3/785** *Revolutionary Flag*, July 1973, EN 00713996.

⁸⁶⁶ **E3/1683** David Chandler, *The Tragedy of Cambodian History*, EN 00193314 [“Twenty thousand people were led off into the countryside, where the ‘class enemies’ among them were executed and the others put to work”]; **E3/3328** Wilfred Deac, *Road to the Killing Fields*, EN 00430777 [“More than 20,000

described what happened to the former Oudong residents:

The superior at the upper level told us that we had to receive people from Udong ... they evacuated some people all the way through Amleang ... There was nothing over there. The land was barren ... We had nothing to eat but wild potatoes and some wild plants. So there were a lot of casualties. Some people died of starvation. Some died of diseases, because they did not have access to medicines ... they were not prepared for the people. People had nothing to eat. No — not sufficient rice to eat; and they ate virtually everything edible. They did not have rice stock for them to eat, or any foodstuffs to eat. So, most — some of them eventually died of starvation, and some disappeared mysteriously, and some barely survived.⁸⁶⁷

As the famous CPK slogan had it, “No gain in keeping, no loss in weeding out”.⁸⁶⁸ The same fate awaited the millions yet to be displaced from Phnom Penh, and in the second round of forced transfer from September 1975 on through 1976.

273. *Seizing the people*, first in various provincial towns before 1975, and ultimately in Phnom Penh on 17 April 1975, then relocating them to rural cooperatives, thus was a *supreme act of class warfare* by the CPK.⁸⁶⁹ In a single blow, the CPK thereby was able to dissolve the economic infrastructure of the class enemy while simultaneously destroying the political and ideological superstructure of society as it had previously existed.⁸⁷⁰ These acts of class warfare also instantaneously transformed the means of production,⁸⁷¹ converting the captured populations from groups of individuals into a collective entity, a factor of production,⁸⁷² which then could be allocated at the cooperative echelon to fuel the economic engine of the CPK’s new state power.⁸⁷³ As described by TC Expert Philip Short, “Cambodian people were no longer individual

civilians were herded into the countryside to be killed or forced to live and work in communes”].

⁸⁶⁷ **E1/209.1** Nou Mao, T. 19 June 2013, 11.31.03-11.41.52.

⁸⁶⁸ **E3/2812** Henri Locard, *Pol Pot’s Little Red Book: The Sayings of Angkar*, EN 00394618; **E1/398.1** Sales Ahmat, T. 9 Mar 2016, 14.37.36-14.39.02 [“Angkar’s slogan was like that, ‘Keeping is no gain, taking away is no loss, so smash them’”].

⁸⁶⁹ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636009; **E3/747** *Revolutionary Flag*, Aug 1978, EN 00499785; **E3/731** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865716.

⁸⁷⁰ **E3/166** *Revolutionary Flag*, Feb-Mar 1976, EN 00517819 [“By early 1975 the ... capitalist political-economic regime was attacked and liquidated”].

⁸⁷¹ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636009.

⁸⁷² **E1/191.1** Philip Short, T. 8 May 2013, 12.10.50.

⁸⁷³ **E1/35.1** Nuon Chea, T. 30 Jan 2012, 09.16.29; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 09.36.29-09.40.59; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396446-47; **E3/8** CPK, *The Party’s Four-Year Plan to Build Socialism in All Fields*, Sept 1976, EN 00104020 [“The entire production force is collective, no matter how we allocate the forces of human beings, livestock, and equipment”].

human beings, each with hopes and fears, desires and aspirations. They had become soulless instruments in the working out of a grand national design".⁸⁷⁴

274. In the final analysis, then, the CPK concept of "seizing the people" was about three key objectives. First, it was about transforming the economic basis of society by eliminating *all* private ownership,⁸⁷⁵ thus destroying the despised feudalist-capitalist-imperialist system and clearing the way for a new socialist order.⁸⁷⁶ Second, it was about gaining total control over each and every individual in Cambodia, creating a uniform class of slave labourers to produce rice for the regime, which would then be used as capital to trade for weapons and other advanced industrial goods.⁸⁷⁷ Third, it was about isolating and identifying enemies who could then be destroyed.⁸⁷⁸
275. Referring to "seizing the people", the Defence emphasised "**Nuon Chea** does not dispute that the CPK employed that terminology ... The CPK's economic rationale for the evacuation of Phnom Penh ... depended on bringing the population within its newly established economic order."⁸⁷⁹ This is true, as far as it goes. However, a crucial detail this **Nuon Chea** formulation neglects to mention is that the new "economic order" was based on mass slavery. The cooperatives were not just economic policy, but also social policy and security policy, which, by any other name, constituted enslavement. The August 1975 issue of *Revolutionary Flag* used the term "subjugated" to describe the condition of the people forcibly displaced from the cities.⁸⁸⁰ This makes it clear the CPK knew, and intended, that the "New People" were to be enslaved. Once the CPK had "seized the people" and subjected them to slavery, the CPK never let them go — except through death.

⁸⁷⁴ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396517; **E1/190.1** Philip Short, T. 7 May 2013, 15.40.53.

⁸⁷⁵ **E3/50** CPK, Third Year Anniversary of the Organization of Peasant Cooperatives, 20 May 1976, EN 00636037.

⁸⁷⁶ **E3/8** CPK, The Party's Four-Year Plan to Build Socialism in All Fields, Sept 1976, EN 00104052.

⁸⁷⁷ **E3/8** CPK, The Party's Four-Year Plan to Build Socialism in All Fields, Sept 1976, EN 00104020.

⁸⁷⁸ **E3/196** Nuon Chea, Statement of the Communist Party of Kampuchea to the Communist Workers' Party of Denmark, 30 July 1978, EN 00762402 ["We smashed the plan. Immediately after liberation, we evacuated the cities. The CIA, KGB and Vietnamese agents there left for the countryside and were unable to implement the plan"]; **E3/50** CPK, Third Year Anniversary of the Organization of Peasant Cooperatives, 20 May 1976, EN 00636011, 00636015; **E3/747** *Revolutionary Flag*, Aug 1978, EN 00499785.

⁸⁷⁹ **E295/6/3** Nuon Chea's Closing Submissions in Case 002/01, EN 00947704-05.

⁸⁸⁰ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401486.

THE INDICIA OF DK ENSLAVEMENT

276. The Trial Chamber found in Case 001 that enslavement “is characterised by the exercise of any or all powers attaching to the right of ownership over a person.”⁸⁸¹ The CPK was explicit about their claimed right of ownership over persons: “They have been subjugated to state ownership ... we had power over private persons”.⁸⁸² In the instant case, as was made entirely clear by the evidence presented before the Chamber, *all* of the indicia of enslavement are present, as is the *mens rea* of the Accused.⁸⁸³
277. *Control of everyone’s movement* was inherent in the fact that the entire population was confined to cooperatives and worksites for the duration of the DK regime.⁸⁸⁴ Nuon Chea testified that people were not permitted to leave the cooperatives;⁸⁸⁵ Khieu Samphan observed that in “the cooperatives people were not free”.⁸⁸⁶ Forced transfer also amounts to *control of movement*. The CPK leadership emphasised in *Revolutionary Flag*, “This is a very important strategic line: control the people and [seize] the people”.⁸⁸⁷ “Freedom of movement was prohibited”, Em Phuong told the Trial Chamber, explaining that he would “always stay in my village as instructed by the regime.”⁸⁸⁸
278. *Control of the physical environment* was comprehensive in the cooperatives and worksites, including housing,⁸⁸⁹ access to food,⁸⁹⁰ restrictions on association,⁸⁹¹ and

⁸⁸¹ Case 001-E188 Duch TJ, para. 342. The the Supreme Court Chamber affirmed the Trial Chamber’s definition of enslavement; Case 001-F28 Duch AJ, para. 152.

⁸⁸² E3/5 *Revolutionary Flag*, Aug 1975, EN 00401486.

⁸⁸³ Certain indicia of enslavement are treated in detail elsewhere in this brief; on the control of sexuality, see section **Forced Marriage and Rape—Repression of Sexual and Marital Freedom**.

⁸⁸⁴ E3/196 Nuon Chea, *Statement of the Communist Party of Kampuchea to the Communist Workers’ Party of Denmark*, 30 July 1978, EN 00762402; E3/729 *Revolutionary Youth*, Oct 1975, EN 00357903.

⁸⁸⁵ E1/36.1 Nuon Chea, T. 31 Jan 2012, 10.05.37 [“If they were to live in the cooperatives they could not go anywhere else”].

⁸⁸⁶ E3/108 Meng-Try Ea and Sopheak Loeng, Note takings (Khieu Samphan and Nuon Chea), 9-11 Jun 2006, EN 00000928 [“They evacuated people to live in cooperative. In the cooperative people were not free”].

⁸⁸⁷ E3/25 *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491424-25.

⁸⁸⁸ E1/263.1 Em Phoeung, T. 16 Feb 2015, 10.51.00-10.53.35. See also E1/314.1 Keo Kin, T. 11 June 2015, 09.39.52-09.42.05; E1/327.1 Kan Thorl, T. 10 Aug 2015, 14.21.53-14.23.36; E1/319.1 Sem Hoeurn alias Kim, T. 22 June 2015, 10.58.56-11.00.57; E1/360.1 Pan Chhuong, T. 1 Dec 2015, 11.04.08-11.08.32; E1/262.1 Ry Pov, T. 12 Feb 2015, 11.05.04; E1/247.1 Meas Sokha, T. 8 Jan 2015, 11.01.02-11.04.17; E1/334.1 Yi Laisov, T. 20 Aug 2015, 14.34.30-14.36.51; E1/265.1 Sao Hean, T. 18 Feb 2015, 09.26.00-09.30.35.

⁸⁸⁹ E1/77.1 Ny Kan, T. 29 May 2012, 11.27.57; E1/79.1 Sakim Lmut (Sar Kimolomouth), T. 31 May 2012, 09.24.20; E1/84.1 Sao Sarun, T. 11 June 2012, 11.44.49; E1/136.1 Chum Sokha, T. 22 Oct 2012, 15.45.52-15.50.22; E1/138.1 Lay Bony, T. 24 Oct 2012, 09.32.17; E1/146.1 Or Ry, T. 23 Nov 2012, 09.19.38-09.20.51; E1/147.1 Toeng Sokha, T. 4 Dec 2012, 13.50.05.

⁸⁹⁰ Food rations for different categories of workers were specified in the Party’s planning documents, but the operational conditions imposed by the Party ensured that the actual rations provided to the workforce

denying the freedom to live as a family.⁸⁹² In turn, the cooperatives and worksites were comprehensive nationwide.⁸⁹³ There were cooperatives everywhere, in Phnom Penh,⁸⁹⁴ the Old North/Central Zone,⁸⁹⁵ the Southwest Zone,⁸⁹⁶ the West Zone,⁸⁹⁷ the Northwest

rarely reached the mandated levels. See **E3/8 CPK, *The Party's Four-Year Plan to Build Socialism in All Fields***, EN 00104053. See also **E1/68.1** Solath Ban, 25 Apr 2012, 10.16.52; **E1/197.1** Sang Rath, 27 May 2013, 14.01.13; **E1/92.1** David Chandler, T. 19 July 2012, 13.44.28-13.46.01 ["All over the country, in all kinds of evidence you get, you've evidence of food supply going down, nutrition going down, starvation coming up, deaths from malnutrition going up, all connected, I think, to the kind of scare qualities of this 3 tons target"]; **E1/146.1** Chau Ny, T. 23 Nov 2012, 14.06.40; **E1/198.1** Huo Chantha, T. 29 May 2013, 14.21.07; **E1/200.1** Soeun Sovandy, T. 4 June 2013, 11.34.01-11.35.52; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150224 [in the Southwest Zone: "Twenty to thirty percent of the population died of starvation in 1977-78"].

⁸⁹¹ **E1/314.1** Keo Kin, T. 11 June 2015, 09.39.52-09.42.05; **E3/4095** Kraing Ta Chan Security Office Notebook, EN 00747245-46.

⁸⁹² **E1/191.1** Philip Short, T. 8 May 2013, 11.29.50-11.33.44. See also **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396553.

⁸⁹³ **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 11.16.30-11.21.24; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 09.33.14-09.35.35; **E1/73.1** Pean Khean, T. 17 May 2012, 10.16.41-10.19.39; **E1/98.1** Rochoem Ton, T. 30 July 2012, 14.27.26-14.29.22; **E3/273** FBIS, 2-29 Jan 1976, EN 00167850, EN 00167863; **E3/284** FBIS, 1-25 Feb 1977, EN 00168403, EN 00168430; **E3/1358** FBIS, 1-31 Aug 1977, EN 00168272; **E3/1362** FBIS, 17 May 1978, EN 00170040.

⁸⁹⁴ **E1/80.1** Sakim Lmut, T. 4 June 2012, 13.43.14-13.44.51 ["I do not know clearly because I only stay for a short while at the cooperative and then I was told to move to a cooperative near the vicinity of Phnom Penh near Stung Meanchey area"].

⁸⁹⁵ **E1/309.1** Uth Seng, T. 3 June 2015, 11.02.35-11.04.18; **E1/303.1** Pech Sokha, T. 21 May 2015, 11.36.29; **E1/307.1** Un Ron, T. 28 May 2015, 09.23.18-09.30.15; **E1/131.1** Meas Voeun, T. 8 Oct 2012, 09.42.34-09.44.28, 14.16.53; **E1/155.1** Suon Kanil, T. 17 Dec 2012, 10.17.23-10.19.55 ["This 1st of January Dam is located at the Kampong Thma, which is in Baray district ... The workers were brought in from various places. A lot of people were transferred to that worksite and they were placed in different cooperative"].

⁸⁹⁶ **E1/105.1** Ong Thong Hoeung, T. 9 Aug 2012, 11.29.14-11.31.12 ["Often, when I meet our peasants, as was the case last week in Chhouk in Kampot province, I questioned the members of the cooperatives to know if they do indeed eat three times a day -- if they have three meals a day"]; **E1/215.1** Pech Chim, T. 1 July 2013, 10.52.51-10.54.22 ["Q: On the 17th of April 1975, what position did you hold within District 105? A: I was ... a member of the district committee, and I received people ... from Phnom Penh for them to settle in the cooperative"]; 13.38.08-13.40.32 ["There was a meeting at Popel commune ... to receive those evacuees ... And after we organized the cooperatives, we placed them in the cooperatives"]; **E1/80.1** Sakim Lmut, T. 4 June 2012, 13.41.47-13.43.14 ["Q: ... You said yesterday that you and your family were evacuated to a cooperative in Kien Svay. ... A: Only a few weeks later, they formed the cooperative and we requested to stay in that cooperative"]; **E1/136.1** Yim Sovann, T. 22 Oct 2012, 09.52.48-09.54.29; **E1/141.1** Mom Sam Oeun, T. 06 Nov 2012, 09.43.15-09.46.45 ["Q: So, on the 20th of April 1975, where did you arrive? A: We had to go on along the riverbank, we had to go further and further, until we reached Samraong commune"]; 11.43.31-11.45.55 ["My children were ordered to build roads in Tuol Krasang. Five of them went to this worksite ... the other child was ordered to Chhoung Leap Pagoda, and the other one was ordered to work in a different worksite"]; **E1/197.1** Sou Sotheavy, T. 27 May 2013, 09.35.04-09.36.27 ["When I returned to my home village, we were forced along with the 17 of April People to live in the cooperatives"]; **E1/148.1** Pech Srey Phal, T. 5 Dec 2012, 09.38.59-09.40.36, 10.10.21-10.13.49; **E1/147.1** Toeng Sokha, T. 4 Dec 2012, 11.40.55-11.43.36 ["At Bati district, we were made to stay in that area ... My family all knew that I was a schoolteacher, and the head of the cooperative could have come to take or to write the biography of mine"]; **E1/136.1** Chum Sokha, T. 22 Oct 2012, 09.52.48-09.54.29 ["From 1975 to 1976, I was mistreated ... I worked at cooperatives; the cooperatives that I had been working after I had been evacuated by Phnom Penh. I had to work and live in Pou Ban (sic) commune, Kaoh Thum District"].

⁸⁹⁷ **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.05.42-15.13.18; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 09.33.14; **E1/209.1** Nou Mao, T. 19 June 2013, 13.39.15-13.48.17; **E1/127.1** Khiev En, T. 1 Oct 2012, 09.32.14-09.34.26, 09.38.32-09.40.50.

Zone,⁸⁹⁸ the Northeast Zone,⁸⁹⁹ the East Zone,⁹⁰⁰ and the Kratie Special Sector (505).⁹⁰¹ **Nuon Chea**⁹⁰² and **Khieu Samphan**⁹⁰³ both lauded the productive potential of the cooperatives and the control over people that the cooperatives afforded the CPK.

279. The CPK restricted freedom of thought and expression and exercised many forms of *psychological control* in order to maintain their domination of the enslaved population. Continuous “political-psychological” manipulation was an explicit part of the CPK programme for controlling people in the cooperatives.⁹⁰⁴ Regular “criticism and self-criticism” sessions for cadres, soldiers and ordinary people alike sought to forge a “revolutionary consciousness” which was meant to displace former belief systems.⁹⁰⁵ The CPK destroyed the family,⁹⁰⁶ religion,⁹⁰⁷ and the monarchy,⁹⁰⁸ all sources of loyalty,

⁸⁹⁸ **E1/148.1** Pech Srey Phal, T. 5 Dec 2012, 11.26.31-11.28.10; **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.05.42-15.13.18; **E1/146.1** Chau Ny, T. 23 Nov 2012, 12.01.27-12.09.41; **E1/135.1** Yim Sovann, T. 19 Oct 2012, 15.36.03-15.38.22, 15.39.45; **E1/138.1** Lay Bony, T. 24 Oct 2012, 09.14.09-09.15.49; **E1/199.1** Sophan Sovany, T. 30 May 2013, 11.32.20-11.34.24; **E1/199.1** Yim Ruomdoul, T. 30 May 2013, 14.24.31-14.27.41; **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 15.27.55-15.30.21.

⁸⁹⁹ **E1/17.1** Klan Fit, T. 6 Dec 2011, 13.46.56-13.49.37, 14.38.24, 15.48.31; **E1/99.1** Rochoem Ton, T. 31 July 2012, 11.33.35, 11.53.25; **E1/82.1** Sao Sarun, T. 6 June 2012, 09.20.09-09.23.01.

⁹⁰⁰ **E1/64.1** Saut Toeung, T. 19 Apr 2012, 11.28.39-11.31.01, 11.35.28; **E1/63.1** Saut Toeung, 18 April 2012, 15.05.42-15.13.18; **E1/183.1** Chuon Thi, T. 24 Apr 2013, 11.13.50-11.16.23; **E1/104.1** Ong Thong Hocung, T. 8 Aug 2012, 15.52.37-15.55.55; **E1/198.1** Chheng Eng Ly, T. 29 May 2013, 15.57.00-15.59.48 [“You also told the Court earlier that when you reached Roka Kaong, you were incorporated into a cooperative”].

⁹⁰¹ **E1/88.1** Yun Kim, T. 19 June 2012, 09.26.50-09.30.34; **E1/476.1** Heng Lai Heang, T. 19 Sept 2016, 09.18.20-09.24.55.

⁹⁰² **E1/35.1** Nuon Chea, T. 30 Jan 2012, 09.39.22-09.41.07 [“we gathered people to establish cooperatives and those cooperatives would be significant in generating foods to feed the people”].

⁹⁰³ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 00498302 [“since the cooperatives had been first organized in 1971, the CPK had been able to control rice, control the economy, control the people”].

⁹⁰⁴ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636026 [“The political-psychological, propaganda and educational affairs shall be extensive, detailed and carried out continuously”].

⁹⁰⁵ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636026 [“short term one-to-two hour indoctrination sessions shall be organized frequently. Break time shall be used for recuperation and re-education”]; **E1/401.1** Alexander Hinton, T. 14 Mar 2016, 15.16.55, 15.07.30-15.33.58.

⁹⁰⁶ **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 13.44.35 [“So Angkar would marry couples. Children would – you know, different songs that exist -- revolutionary songs speak about Angkar, how you should have gratitude towards Angkar. So again, in the sort of quasi -- quasi-religious, quasi-spiritual sense of Angkar as being the parent, as being the sort of divine being that existed, that people began to forge new relationships with. And so it took on many of the notions of personalized dependency, of gratitude that existed before, that were given to parents and families, that were given to monks”], 13.45.34-13.47.00 [“again, disbanding the family, having people work in sexually-segregated work teams, having children sometimes being kept apart from their parents, and the disbanding of the family, those were all systematic ways to mobilize and -- and take this attachment and redirect it towards Angkar”]; **E1/289.1** Thann Thim, T. 21 Apr 2015, 09.22.49-09.25.09 [“Angkar only allowed us to meet our family members every tenth day and during the day time on that day”]; **E3/8** David Chandler, Ben Kiernan and Chanthou Boua, *Pol Pot Plans the Future*, EN 00104080 [“The new cadres told us to forget about ‘family-ism’ and not to miss our wives and children, whom we were now allowed to visit for only three days every three months”].

attachment and meaning for individuals, all of which were to be replaced by loyalty to *Angkar* alone.⁹⁰⁹ Casting the CPK leadership as the anonymous,⁹¹⁰ omnipresent,⁹¹¹ all-seeing⁹¹² and all-powerful⁹¹³ *Angkar* also successfully created fear,⁹¹⁴ uncertainty⁹¹⁵ and submission.⁹¹⁶

- ⁹⁰⁷ Depriving people of familiar, comforting religious rituals was a practice that Expert Witness Peggy Levine refers to as *ritualcide*. See **E1/481.1** Peggy Levine, T. 11 Oct 2016, 11.03.48; **E1/482.1** Peggy Levine, T. 12 Oct 2016, 09.04.16-10.22.28. See also **E1/288.1** Bun Sarouen, T. 3 Apr 2015, 10.38.36; **E1/393.1** Meu Peou, T. 29 Feb 2016, 09.29.41-09.33.44.
- ⁹⁰⁸ See “To Kill Two Kings” in **E3/29** Craig Etcheson, *The Rise and Demise of Democratic Kampuchea*, EN 00393335-43.
- ⁹⁰⁹ **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 11.22.39-11.23.44 [“*Angkar*, I think for some people, suggested almost a deity, a mysterious presence. And *Angkar*, itself, could take on functions like *Angkar* as a parent. ... *Angkar* is mentioned so for some people it became almost like Buddha or a god, not Buddha in the sense of the Buddha, but as a deity or some sort of entity that’s responsible for what’s going on in their lives”]; **E1/249.1** Meas Sokha, T. 21 Jan 2015, 13.44.19-13.45.57 [“We were asked to love *Angkar* without any limitation”]; **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 15.54.42-15.57.56 [“We sacrifice ourselves to *Angkar* and *Angkar* would organise our life”].
- ⁹¹⁰ **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 13.51.48-13.53.38 [“The people who presided over the meeting as they were referred to as *Angkar*, but I didn’t know where that *Angkar* came from, we just knew that *Angkar* was from above”]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 15.17.49-15.19.52 [“Everybody talked about *Angkar*, but nobody ever saw who *Angkar* was”]; **E1/264.1** Sao Han, T. 17 Feb 2015, 15.49.07 [“Actually, I do not know where *Angkar* was. I only heard the people refer ‘*Angkar* Leu,’ ‘*Angkar* Leu’”]; **E1/302.1** Pech Sokha, T. 20 May 2015, 15.09.05 [“nobody knew who *Angkar* was”].
- ⁹¹¹ **E1/482.1** Peg Levine, T. 12 Oct 2016, 10.22.28-10.23.48 [an interviewee told Levine: “*Angkar* could come out of the ground at any time; we’re not even safe today”].
- ⁹¹² A slogan spread by the CPK had it that “*Angkar* has [the many] eyes of the pineapple”, suggesting that it could see in all directions. See **E3/2812** Henri Locard, *Pol Pot’s Little Red Book*, EN 00394743; **E1/268.1** Srei Than, T. 24 Feb 2015, 11.17.43-11.24.39 [“At that time we learnt of a saying that ‘*Angkar* has eyes everywhere’”]; **E3/1245** News from Democratic Kampuchea, May 1977, EN 00280606.
- ⁹¹³ **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 11.23.44-11.24.50 [“*Angkar* was feared in many different ways because *Angkar* could kill”]; **E1/247.1** Meas Sokha, T. 8 Jan 2015, 11.53.57-11.55.57 [“My father was arrested in the next morning ... I saw three militiamen came and they told him to go and to see *Angkar*”]; **E1/256.1** Say Sen, T. 4 Feb 2015, 15.47.43-15.51.53 [“The office chief [of Krang Ta Chan] told me and they said they will send Nop Nem to see *Angkar* and he was taken for execution”]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 11.23.28-11.26.25 [“a monk was killed by *Angkar* and was buried near the vicinity of the pagoda compound”]; **E1/301.1** Or Ho, T. 19 May 2015, 10.00.01-10.03.04 [“*Angkar* would kill all intellectuals including those who had Bachelor’s degree at that time”].
- ⁹¹⁴ **E1/482.1** Peg Levine, T. 12 Oct 2016, T. 12 Oct 2016, 09.18.44-09.20.25 [“the concept of *Angkar* ... creates yet a whole other cosmological dimension of suspicion and dread”], 09.33.35-09.35.01 [“there’s already a pre-existing foundational system by which people perceive roaming spirits, possessing spirits, transforming spirits, trickery spirits, spirits that could trick you, it made perfect sense that people would start to experience a particular kind of fear that was familiar to them when they couldn’t figure out what was going on. And the possibility of *Angkar* being some force that was hard to reckon with became larger over time”], 10.10.09-10.12.38 [“that subliminal *Angkar* fear that was omnipresent for them”].
- ⁹¹⁵ **E1/482.1** Peg Levine, T. 12 Oct 2016, 09.30.13-09.33.35 [“If deceased ancestors’ spirits roam, someone said to me, certainly *Angkar* must have the capacity to do the same”].
- ⁹¹⁶ **E1/339.1** Nuon Naron, T. 1 Sept 2015, 09.54.38-09.57.17 [“They told me to be loyal to *Angkar* to avoid any incident happening to me”]; **E1/351.1** No Sates, T. 29 Sept 2015, 14.01.21-14.03.28 [“I had to work hard because I did not want to be wrong with the *Angkar*”]; **E1/360.1** Pan Chhuong, T. 1 Dec 2015, 10.19.45-10.22.05 [“I was frightened despite the fact that I was loyal to *Angkar*”]; **E1/361.1** Prak Doeun, T. 2 Dec 2015, 11.18.16-11.20.35 [“I worked wherever I was assigned by *Angkar*. And nobody could protest that”]; **E1/370.1** Pak Sok, T. 5 Jan 2016, 11.17.10-11.18.54 [“I tried to refashion myself in order to gain trust from *Angkar*”]; **E1/393.1** Meu Peou, T. 29 Feb 2016, 09.16.51-09.18.47 [“I was at the mercy of *Angkar*”].

280. The CPK leadership ensured that “*measures taken to prevent or deter escape*” were enforced at all cooperatives and worksites. At a Standing Committee meeting on 26 March 1976 attended by **Khieu Samphan**, **Nuon Chea** demanded vigilance against escapees from cooperatives “who do not return,” observing that “the bases have taken measures on this problem already.”⁹¹⁷ Telegrams sent to the Accused from zone authorities repeatedly describe some of those “measures”, including execution, meted out to anyone who attempted to escape the cooperatives.⁹¹⁸ “When I was caught sneaking out,” Meas Sokha testified, “I was tortured and brought back to my unit.”⁹¹⁹
281. The use of *force* and the *threat of force or coercion* were ubiquitous in DK, and was a method to ensure the regime could exercise the powers of ownership over ordinary Cambodians. **Khieu Samphan** was frank, if understated, when he wrote that “some coercion was required” to “control the people” in the cooperatives.⁹²⁰ The coercive nature of the cooperatives was made plain in the CPK journal *Revolutionary Youth*, which noted that “99.9% of the Kampuchean people have been obliged to live in the countryside”.⁹²¹ “At that time everybody, including myself,” Ry Pov explained to the Trial Chamber, “tries to abide by the organisation discipline and we did not dare to violate it as we were afraid that we would be taken away and killed.”⁹²²
282. The *duration* of the CPK’s exercise of powers attaching to the right of ownership of

⁹¹⁷ E3/218 CPK, Minutes of Standing Committee on Results of Negotiations with Vietnam regarding the Eastern Border, 26 Mar 1976, EN 00182657.

⁹¹⁸ E3/1205 To Beloved and Missed M-870, [“Our soldiers stationed at Krek took into custody a man named Nhoep Norm ... This man escaped from Laak village ... May Office 870 be informed accordingly, and your advice would be appreciated”]; E3/951 Report to Angkar 870 from Nhim, EN 00185215 [“There were sort of people movements by enemies, though we smashed most of them. They could rarely make it to either escape or enter”]; E1/863 Report to Angkar 870 from Nhim, EN 00321961 [“On 5/5/78, in Sectors 1 and 4 ... a total of 60 to escape to Thailand. But we smashed 58 of them”]; E3/1222 Telegram 11 to Brother Mut (cc: Brother Nuon, Office), EN 00233660 [“Five of them fled into the forest, were pursued and arrested by us”].

⁹¹⁹ E1/247.1 Meas Sokha, T. 08 Jan 2015, 11.01.02-11.04.17; E1/287.1 Iem Yen, T. 02 Apr 2015, 09.19.50-09.22.36 [“I was with the children’s unit, and due to the hard work condition, I ran away from the unit. And then the unit chief arrested me, and I meant I was then sent back to the children’s unit. And I was tortured there”]; E3/328.1 Lat Suoy, T. 11 Aug 2015, 15.02.06 [“His order was to catch those workers who were fleeing from the mobile unit. And if we could catch them, then we would send them to the upper echelons to resolve the matters”].

⁹²⁰ E3/16 Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 00498302 [“Since the cooperatives had been first organized in 1971 the CPK had been able to ... control the people ... So then some coercion was required for a while”]; E3/4049 Khieu Samphan Interview, EN 00789058 [Elsewhere, with less understatement, Khieu Samphan observed, “There had to be coercion for a while, coercion to join cooperatives, because nobody would voluntarily take part in cooperative”].

⁹²¹ E3/729 *Revolutionary Youth*, 10 Oct 1975, EN 00357903.

⁹²² E1/262.1 Ry Pov, T. 12 Feb 2015, 11.05.04. See also E1/321.1 Him Han alias Ream, T. 24 Jun 2015, 11.20.53-11.23.04.

persons was exactly three years, eight months and twenty days — the entire period of the regime⁹²³ — but that is true only if one neglects the fact that the CPK began these practices prior to 17 April 1975,⁹²⁴ and continued them after 6 January 1979.⁹²⁵ **Khieu Samphan** has confirmed that through the end of 1978 the CPK was, “fully in control of the situation ... in various departments and in the cooperatives.”⁹²⁶ Many witnesses have testified that it was only when Vietnamese soldiers approached that they were finally able to escape their confinement in the cooperatives.⁹²⁷

283. The *assertion of exclusivity* goes to the sense of *ownership or control* exercised by the accused over the victims, and the ownership and control exercised by the CPK over people in the cooperatives and worksites was essentially total.⁹²⁸ In response to a question about the forcible displacement of the population of Phnom Penh, **Nuon Chea** told the Trial Chamber, “Those who were residing in Phnom Penh were the gangsters or others which we could not fully control.”⁹²⁹ **Nuon Chea** also explained to the Trial Chamber that the elimination of money by CPK in fact was designed to give the Party the control over the people that the Party was seeking.⁹³⁰ Similarly, **Khieu Samphan** noted that the cooperatives enabled the Party to exercise control over the population.⁹³¹

⁹²³ *Kunarac* AJ, para. 121 [The ICTY Appeals Chamber has held that “the duration of the enslavement is not an element of the crime,” but is one factor to consider in assessing “the quality of the relationship between the accused and the victim”; in the instant case, given that the duration extends across the entire temporal jurisdiction of this court, it should be considered as an indicium of enslavement].

⁹²⁴ See section **Policy to Enslave the Population – “Seizing the People”**, above, where it is shown that the CPK ordered its captives to be confined to cooperatives beginning on 20 May 1973, and before.

⁹²⁵ **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00283161-62.

⁹²⁶ **E3/703** Khieu Samphan, “What Are the Truth and Justice About the Accusations Against Democratic Kampuchea of Mass Killings from 1975 to 1978”, EN 00004004.

⁹²⁷ Note the recurring use of the word “escape” to describe their departure from the cooperatives. **E1/505.1** Preap Chhon, T. 1 Dec 2016, 10.59.26 [“The Vietnamese troop were approaching ... Militiamen and cooperative chiefs said, ‘you all have wings now, and you all want to fly away from us.’ ... they did not force us to stay with them as well”]; **E1/475.1** Noem Oem alias Nim Kimsreang, T. 16 Sept 2016, 10.36.25 [“At the time of the collapse of the regime, he escaped with me to Pursat and Battambang”]; **E1/396.1** Moeung Chandy, T. 3 Mar 2016, 16.02.08 [I decided to stay on waiting for the Vietnamese to come ... we were released, and the unit chiefs had already escaped and fled. Those who could walk, they further walked away to other destinations”]; **E1/394.1** Khouy Muoy, T. 1 Mar 2016, 15.15.53 [“After 1979, when the Vietnamese troops liberated us, she went back to Srae Cham”]. See also **E3/5544** Khouy Muoy WRI, EN 00377836 [“I lived and worked in the mobile unit at Prey Nob until the Vietnamese came. Then the unit chairperson tried to force me to flee up into the mountains, but I did not go with them. I tried to escape and return to Srae Cham”]; **E1/314.1** Keo Kin, T. 11 June 2015, 15.30.52 [“Vietnamese troops were advancing toward the area, and we didn’t have to do anything else but to pack our belonging and prepare the escape”].

⁹²⁸ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 00498302 [“The CPK had been able to ... control the people”]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401486 [“They have been subjugated to state ownership”].

⁹²⁹ **E1/35.1** Nuon Chea, T. 30 Jan 2012, 09.55.13.

⁹³⁰ **E1/36.1** Nuon Chea, T. 31 Jan 2012, 09.50.54-09.52.56 [If the Party “stopped the use of money” in a liberated zone, they could “control that situation”].

⁹³¹ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of*

This control was total. “Even if we had to relieve ourselves,” Ry Pov testified, “we had to inform our group chief or unit’s chief, to get their permission first. If we were longer than usual, then we were accused of having a psychological sickness.”⁹³²

284. The evidence of *cruel treatment and abuse* presented to the Trial Chamber is far too voluminous to recount in any detail here. The cruelty of the forced transfer of the population of Phnom Penh was covered in Case 002/01 and is outside the scope of Case 002/02, but the cruelty and abuse which awaited victims at their destinations in the cooperatives would be even worse. People were forced to work long hours without rest,⁹³³ held to grossly unrealistic production targets,⁹³⁴ provided starvation-inducing food rations,⁹³⁵ and subjected to deadly discipline.⁹³⁶ The Standing Committee was completely indifferent to the facts that those enslaved in the cooperatives were held against their will and denied essential provisions. They proved this when they wrote, “Be vigilant against no-good elements among the new people taking advantage of things, because these contemptibles would not stay with us even if we were to give them sufficiency.”⁹³⁷
285. *Forced labour*, of course, was at the centre of the CPK’s joint criminal enterprise. **Khieu Samphan** actually bragged about the fact that the Party Centre forced hundreds of thousands of people to work on infrastructure and agricultural projects,⁹³⁸ including

Democratic Kampuchea, October 2007, EN 00498302 [“Since the cooperatives had been first organized in 1971 the CPK had been able to ... control the people”].

⁹³² E1/262.1 Ry Pov, T. 12 Feb 2015, 11.02.28-11.03.24.

⁹³³ E1/314.1 Keo Kin, T. 11 June 2015, 09.39.52-09.42.05; E3/5266 Kem Nha Statement, 14 Jan 2009, EN 00282319-20.

⁹³⁴ E3/751 *Revolutionary Youth*, Feb 1976, EN 00583759 [“Do everything so that our rice yields are not just three tons per hectare, but 4-5-6-7-8 tons per hectare. Working like this is what is called going on the offensive at great leap speed”]; E3/9094 Pan Chhuong DC-Cam Interview, EN 00728655-56; E3/5266 Kem Nha Statement, 14 Jan 2009, EN 00282322.

⁹³⁵ E1/115.1 Em Ocun, T. 27 Aug 2012, 11.38.18 [recalling training from Khieu Samphan, “I still recall what he told us and the political lines at that time. They wanted to uncover the enemy burrowing from within, and in doing so, we had to assign much hard labour; we had to give them a lot of work, little food to eat so that they - so that we could uncover the enemies from within ... I was rather terrified, myself, and my colleagues were a bit terrified upon hearing that statement”]; E1/18.1 Romam Yun, T. 7 Dec 2011, 09.35.06; E1/77.1 Ny Kan, T. 29 May 2012, 15.14.24; E1/104.1 Ong Thong Hoeung, T. 8 Aug 2012, 14.24.03; E1/112.1 Sim Vun, T. 22 Aug 2012, 11.34.15; E1/136.1 Yim Sovann, T. 22 Oct 2012, 09.54.29; E1/68.1 Saloth Ban, T. 25 Apr 2012, 10.16.52; E1/170.1 Pin Yathay, T. 7 Feb 2013, 09.30.20; E1/197.1 Sang Rath, T. 27 May 2013, 14.03.58; E1/198.1 Chan Sopheap, T. 29 May 2013, 12.01.10; E1/199.1 Po Dina, T. 30 May 2013, 15.23.10; E3/1060 Report from Division 801 Committee Roeun to Uncle 89, 29 Mar 1977, EN 00574313; E3/179 Report from M-560 to Angkar, 29 May 1977, EN 00183013.

⁹³⁶ E1/247.1 Meas Sokha, T. 08 Jan 2015, 11.01.02-11.04.17.

⁹³⁷ E3/216 *Record of the Standing Committee’s Visit to the Northwest Zone, 20-24 Aug 1975*, EN 00850976.

⁹³⁸ E3/200 FBIS, Khieu Samphan Statement, 15 Apr 1977, EN 00004166 [“Each construction site of a reservoir, canal or dam is manned by as many as 10,000, 20,000 or even 30,000 workers”].

the 1st January Dam (Central Zone),⁹³⁹ the Trapeang Thma Dam (Northwest Zone),⁹⁴⁰ the Kampong Chhnang Airfield (West Zone),⁹⁴¹ and the Tram Kak Cooperatives (Southwest Zone).⁹⁴² The CPK leadership saw the entire population, including children,⁹⁴³ as a slave labour force to be used at their command.⁹⁴⁴ For example, the Standing Committee decided they desired for a half million people to be allocated to the Northwest Zone for forced labour in cooperatives,⁹⁴⁵ so they simply gave the order,⁹⁴⁶ and it was done.⁹⁴⁷ Using a simile often heard from survivors of the DK regime, Chum Samoeurn told the Trial Chamber, “I was forced to work as an animal.”⁹⁴⁸

⁹³⁹ See section **1st January Dam Worksite**. See also **E1/290.1** Pech Chim, T. 22 Apr 2015, 15.55.20-16.02.06; **E1/301.1** Or Ho, T. 19 May 2015, 10.48.17-16.00.29; **E1/302.1** Pech Sokha, T. 20 May 2015, 14.59.50-16.07.11; **E1/304.1** Meas Layhuor, T. 25 May 2015, 11.18.23-16.00.02; **E1/306.1** Hun Sethany, T. 27 May 2015, 9.05.32-15.23.16; **E3/5275** Ban Seak WRI; **E3/5264** Ke Un WRI; **E3/5287** Men Le WRI; **E3/5293** Tep Poch WRI; **E3/375** Ban Seak WRI.

⁹⁴⁰ See section **Trapeang Thma Dam Worksite**. See also **E1/323.1** Sen Sophon, T. 27 July 2015, 13.40.14-13.56.53; **E1/324.1** Mam Soeurn alias Heng Samuoth, T. 28 July 2015, 13.50.36-14.18.23; **E1/327.1** Kan Thorl, T. 10 Aug 2015, 13.51.36-14.38.44; **E1/328.1** Lat Suoy, T. 11 Aug 2015, 14.07.55-15.59.55; **E3/510** Saom Phan WRI, EN 00290355-60, 00705472, 00705460, 00705367; **E3/508** Tann Than WRI, EN 00277839-43; **E3/5600** Im Chaem Statement, EN 00217508-55.

⁹⁴¹ See section **Kampong Chhnang Airfield Construction Site**. See also **E1/312.1** Chan Morn, T. 9 June 2015, 9.39.14-16.08.30; **E1/314.1** Keo Kin, T. 11 June 2015, 9.16.00-15.50.26; **E1/315.1** Keo Loeur, T. 12 June 2015, 14.01.13-15.34.39; **E1/318.1** Kong Siek, T. 17 June 2015, 10.43.03-11.43.42; **E1/319.1** Sen Hoeurn, T. 22 June 2015, 10.40.58-13.54.33; **E3/5278** Chan Man WRI, EN 00292819-27; **E3/467** Keo Leou WRI, EN 00205071-74; **E3/5536** Seng Mon WRI, EN 00359931-36; **E3/71** Seng Mon WRI, EN 00288619-37; **E3/5307** Seng Mon WRI, EN 00651629-30; **E3/5537** Sokh Chhay WRI, EN 00404290-98; **E3/5497** Yoeun Sambau WRI, EN 00345956-62.

⁹⁴² See section **Tram Kak District Cooperatives**. See also **E1/247.1** Meas Sokha, T. 8 Jan 2015, 10.52.52-12.05.19; **E1/250.1** Oum Suphany, T. 22 Jan 2015, 14.02.24-14.38.42; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.14.18-14.44.29; **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 10.56.24-14.54.58.

⁹⁴³ **E3/200** FBIS, Khieu Samphan Statement, 19 Apr 1977, EN 00004168 [“Our children are happy ... helping to build dams and embankments and dig reservoirs and ditches”]; **E1/137.1** Sokh Chhin, T. 23 Oct 2012, 09.23.04-09.26.00 [“Children ... who were about six years old, they would be forced to work in various locations”].

⁹⁴⁴ **E3/259** Constitution of Democratic Kampuchea, EN 00184834 [“All important general means of production are the collective property of the people’s State and the common property of the people’s collectives”], 00184836 [“There is absolutely no unemployment in Democratic Kampuchea”]; **E3/214** Statute of Communist Party of Kampuchea, EN 00184024 [“Construct socialism in an absolute monopoly in every sector”], 00184025 [“Each party member must trust and depend upon the power of the popular masses, ... the worker-peasants in the unions and cooperatives”].

⁹⁴⁵ **E3/216** Standing Committee Meeting Minutes, 20-24 Aug 1975, EN 00850978 [“The labour force must be increased. Three or four hundred thousand more would not be enough... It’s imperative to add four or five hundred thousand more”].

⁹⁴⁶ **E3/781** CPK, Governing and Carrying Out Policy and Restoring all Fields of the Country, Sept 1975.

⁹⁴⁷ **E1/137.1** Sokh Chhin, T. 23 Oct 2012, 09.56.38-11.31.18; **E1/138.1** Lay Bony, T. 24 Oct 2012, 09.09.28-09.11.37; **E1/145.1** Or Ry, T. 22 Nov 2012, 11.51.28-15.53.03; **E1/146.1** Or Ry, T. 23 Nov 2012, 09.16.47-09.19.38; **E1/170.1** Pin Yathay, T. 7 Feb 2013, 09.21.32-09.23.52, 10.15.55-10.17.50; **E1/199.1** Sophan Sovany, T. 30 May 2013, 11.30.46-11.53.03; **E1/209.1** Nou Mao, T. 19 Jun 2013, 11.54.52-13.34.52.

⁹⁴⁸ **E1/321.1** Chum Samoeurn, T. 24 June 2015, 15.47.48-15.51.09. See also **E3/324.1** Sen Sophon, T. 28 Jul 2015, 09.37.40-09.40.37 [“They went around and forced us to go to work, like cattle”]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 10.01.41-10.03.52 [“At that time, the commune committee called us for a meeting ... everybody had to work based on the instructions of Angkar. Nobody would have free time anymore. Everybody had to engage in labour. Everybody, with no exceptions”]; **E3/326.1** Om Chy, T. 30

1. The Estimated Profits of Slavery

286. Why would Pol Pot, Nuon Chea and Khieu Samphan enslave an entire people? What could they possibly hope to gain by committing such a heinous crime? In fact, the leadership of the CPK envisioned many profits from the enslavement of the Cambodian people. They imagined that enslaving the entire population would enable them to eliminate a socio-economic system that they desperately desired to destroy. They imagined the enslaved masses would toil endlessly, producing more rice than ever before, which they could trade for advanced industrial goods. They imagined that reducing the people to slavery would give them control of human reproduction, so they could force ordinary Cambodians to bear children who would become cadres, soldiers and workers. And most importantly, with total control over the population, they could identify and then smash anyone and everyone that opposed their brutal rule.

2. Destroying the System

287. Seizing state power was only the first step in the CPK's plan; their ultimate aim was to completely "uproot" the existing political-economic-social system and replace it with something entirely new.⁹⁴⁹ The cooperatives, and the people enslaved within them, were the "cornerstone" of this plan.⁹⁵⁰ The cooperatives enabled the CPK to "demolish" the market economy,⁹⁵¹ "eliminate" the power, status and property of the privileged

Jul 2015, 11.16.30-11.18.25 ["Through my observation about those small units, nobody volunteered to go to work or engage in this kind of hard work"]; **E3/333.1** Tak Boy, T. 19 Aug 2015, 11.08.03-11.09.29 ["We were required. We were forced to work at that place. No one could refuse the assignment. Otherwise, we would disappear. We had to go anywhere they wanted us to go"]; **E1/467.1** Phan Him, T. 31 Aug 2016, 13.59.42-14.01.34 ["I was forced to work day and night digging dark canals and building dykes without having enough food to eat"]; **E1/137.1** Sokh Chhin, T. 23 Oct 2012, 09.23.04-09.26.00 ["Children ... who were about six years old, they would be forced to work in various locations"].

⁹⁴⁹ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636014 ["Abolishing this feudal class requires attacking the whole regime including its political, military, economic and cultural components. This attack consists of uprooting. This is the hallmark of our absolute revolution"]; **E3/165** Khieu Samphan, *Speech of Chairman of the Presidium at the Opening of First Conference of the First Legislature of the People's Representative Assembly of Kampuchea*, 11 Apr 1976, EN 00184053 ["Today is a day to forever end the black era of the sorrowful oppression of the imperialists and the colonialists both old and new in all sectors, political, military, economic, cultural, over our Kampuchean people"].

⁹⁵⁰ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636008 ["In the new phase of socialist revolution and socialist construction, peasant cooperative serves as a cornerstone in ensuring the great victory of the Great Socialist Revolution and the socialist construction at present and in future"]; **E3/216** CPK, *Record of the Standing Committee's Visit to the Northwest Zone*, EN 00850976 ["The power of the cooperatives is very mighty and indomitable"].

⁹⁵¹ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636015 ["After liberation we evacuated the people from Phnom Penh and from all provincial towns. We launched attacks to demolish markets, ownership, high-level capitalism, medium-scale capitalism, low-level capitalism, artisans and laborers"].

classes,⁹⁵² and to use the poorest peasants as a “proletarian tool” to cement their own political power.⁹⁵³ This was the transcendent prize, and the CPK leaders decided that the only way they could hold onto that prize was to continue enslaving, or to kill, anyone who did or even might oppose their plan.⁹⁵⁴

288. It turned out, however, that there was more opposition to their slave system than they had bargained for. “Among our veteran worker-peasant people in our revolutionary ranks, in the ranks of our army, in our upper- and lower-level production cooperatives, whether in greater or lesser degrees,” the Party warned in September 1975, “still carry the remnant scurf and bad influence of imperialist-feudalist-capitalist outlooks, stances, ideologies, worldviews, and credos.”⁹⁵⁵ Their concerns about the cooperatives would only grow. “Enemies still continue their activities”, they fretted in June 1976, “In the cooperatives, we must gain mastery ... it is imperative to grasp the cooperatives.”⁹⁵⁶ By August 1977, the Party leadership concluded that they had a “cooperative problem.”⁹⁵⁷ “The various oppressor classes”, they announced, “have seized power in the cooperatives.”⁹⁵⁸ The problem was that those labouring under such horrendous conditions simply were not producing the massive rice surpluses that the Party Centre had planned: “If we ... let other classes hold power in those cooperatives, there will

⁹⁵² **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636037 [“The Party’s stance in the past, at present and in future is to eliminate absolutely all forms of private ownership, eradicating it from the Party, revolutionary ranks and from national society. The elimination is to be done without compromise”], 00636019 [“In future, our peasant cooperatives will increase their real elements as an absolute proletarian tool of the Party which will eliminate other classes”]; **E3/730** *Revolutionary Youth*, Dec 1975, EN 00363425 [“Now they have gone down to increase production in the countryside in the framework of the cooperatives and are subjugated to the cooperatives economically and politically. Therefore, whether they want to or not, they must force themselves to accept the leadership of the workers/peasants”].

⁹⁵³ **E3/50** CPK, *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636014 [“If the democratic revolution is implemented thoroughly, then the poor and lower-middle-class peasant forces will be liberated as a result; we will have isolated and suppressed the feudalist, capitalist and middlemen. We will have thoroughly implemented the democratic revolution thanks to the peasant cooperatives”], 00636019 [“In future, our peasant cooperatives will increase their real elements as an absolute proletarian tool of the Party which will eliminate other classes”]; **E3/734** *Revolutionary Youth*, July 1976, EN 00360785 [“The other feudalist-capitalist individuals have been dispersed and scattered and... are totally subordinated to our peasants in the cooperatives both economically and politically”].

⁹⁵⁴ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450531 [“We give freedom to the worker-peasant people. As for the feudalist and capitalist groups, they must be in a narrow framework. Who should freedoms should be given to and who should they not be given to must be clear”].

⁹⁵⁵ **E3/729** *Revolutionary Youth*, Oct 1975, EN 00357909.

⁹⁵⁶ **E3/760** *Revolutionary Flag*, June 1976, EN 00509615.

⁹⁵⁷ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399240 [“If we do not govern well inside our cooperatives and let other classes hold power in those cooperatives, there will never be any food. None in 75. None in 76. None in 77. None in 78. None in 80... this is why we must quickly get to a resolution of the cooperative problem”].

⁹⁵⁸ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399239.

never be any food. None in 75. None in 76. None in 77. None in 78.”⁹⁵⁹ The CPK had succeeded in destroying the system, but had failed to build a new one.

3. A Super-Great Leap Propelled by the Manual Labour of Slaves

289. The CPK needed millions of slaves because their economic strategy was to industrialise rapidly from capital gained by exporting millions of tons of rice — and someone had to grow all that rice.⁹⁶⁰ The Party’s “Four-Year Plan” called for producing 5.5 million tons of rice in 1977, 6.25 million tons in 1978, and 7 million tons in 1979,⁹⁶¹ roughly tripling average annual production in the 1960s.⁹⁶² CPK leaders envisioned that this would allow them to export more than a million tons of rice in 1977, and more than two million tons by 1980,⁹⁶³ earning nearly a billion and a half dollars⁹⁶⁴ with which they would purchase weapons and other machinery.⁹⁶⁵ While they did not achieve their targets, optimistic rice production figures reported to the Party Centre — 2.2 million tons in 1975,⁹⁶⁶ 1.9 million in 1976, 2.7 million in 1977⁹⁶⁷ — persuaded CPK leaders that they could begin building capital through exports,⁹⁶⁸ and even give rice aid to other

⁹⁵⁹ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399240.

⁹⁶⁰ **E3/8** CPK, *The Party’s Four-Year Plan to Build Socialism in All Fields*, EN 00104022 [“We stand on agriculture as the basis, so as to collect agricultural capital with which to strengthen and expand industry”], 00104023 [“Objectives: ... To seek, gather, save, and increase capital from agriculture, aiming to rapidly expand our agriculture, our industry, and our defense rapidly”].

⁹⁶¹ **E3/8** CPK, *The Party’s Four-Year Plan to Build Socialism in All Fields, 1977-1980*, EN 00104025.

⁹⁶² **E3/29** Craig Etcheson, *The Rise and Demise of Democratic Kampuchea*, EN 00393208.

⁹⁶³ **E3/8** CPK, *The Party’s Four-Year Plan to Build Socialism in All Fields, 1977-1980*, EN 00104026.

⁹⁶⁴ **E3/8** CPK, *The Party’s Four-Year Plan to Build Socialism in All Fields, 1977-1980*, EN 00104026.

⁹⁶⁵ **E169/4/1.1.1** *Revolutionary Youth*, July 1975, EN 00815129 [“If we storm the attack on the production work, producing plenty of rice, fish, meat, timber, rubber, corn, bean and sesame etc ... we will be able to ... export the excess crops to other countries in exchange for the machinery for the factories, for weaponry, and for other necessary goods”]; **E3/781** CPK, Examination of Control and Implementation of the Policy Line on Restoring the Economy and Preparations to Build the Country in Every Sector, Sept 1975, EN 00523588 [“We can produce 3 million tonnes of rice. We save 1.8 million tonnes for the people to eat, 400,000 for Social Action. We still have 800,000 tonnes. This amount we will take for sale outside and gain some capital. This capital is used to build the country. This capital will be used for national construction and national defence”]; **E3/745** *Revolutionary Flag*, Mar 1978, EN 00504070 [“We export rice overseas in order to import various raw materials to serve industry and the livelihood of our people”].

⁹⁶⁶ **E3/3290** Malcolm Caldwell, *Cambodia — Rationale for a Rural Policy, Part IV*, EN 00419231 [In 1976, Pol Pot told a journalist, “The size of the 1975 wet season harvest makes exports already feasible in 1976 ... The 2.2 million tons of rice reaped in the first postwar years, less 1 million tons needed for domestic consumption and the amount needed for seed, will free for export five or six times the volume of the prewar period”].

⁹⁶⁷ **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237999 [Becker says the rice production figures Pol Pot was receiving in 1976 (1,900,000 tons) and 1977 (2,700,000) were “highly questionable”].

⁹⁶⁸ **E3/139** *Revolutionary Flag*, Nov 1976, EN 00455284-85 [“We must export hundreds of thousands of tonnes of rice during 1976. Our being able to export rice like this after a war casts a tremendous influence in the international world”]; **E3/3453** DK Ministry of Commerce Meeting Minutes, 6 December 1976, EN 00725123 [“This year, our rice yield is sufficient. We will allocate some of it for overseas sales ... We plan to supply 50,000 tons of husked rice to our Korean friends in 1977, so please inform us of your criteria”]; **E3/191** Nuon Chea Statement, 16 Jan 1977, EN S00004076 [“We have a

countries.⁹⁶⁹ **Nuon Chea** continued exhorting cadres “to produce the maximum amount of rice ... to push the building of our country even faster in a great and miraculous leap.”⁹⁷⁰

290. **Nuon Chea**’s ‘great miraculous leap’ turned out to be a great stride backwards. Lower echelon cadres exaggerated their rice output,⁹⁷¹ knowing that if they failed to meet production targets, they risked being perceived by the Centre as a problem that needed to be “resolved”.⁹⁷² The result was widespread starvation,⁹⁷³ and the Party Centre was

surplus of more than 150,000 tonnes of rice for export. This means we have fulfilled our 1976 plan”]; **E3/201** Khieu Samphan Statement, 15 Apr 1977, EN 00419513 [“We have a good crop for 1977. Now we can feed our people a sufficient ration allocated by the state. We even have a surplus of grain for export”]; **E3/213** CPK, Preliminary Explanation Before Reading the Plan, EN 00104071 [“We must export large quantities of rice. In 1977 we plan to export between 800,000 and one million tons of *padt*”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150196 [“In 1978, DK officials claim to have exported 100,000 tonnes of rice the previous year to rice-deficit countries such as Yugoslavia, Madagascar and Hong Kong”].

⁹⁶⁹ **E3/2412** Francois Ponchaud, *Kampuchea: A Revolutionary Economy*, EN 00598524-25 [“In 1975, for political reasons, the new authorities announced that they were donating 3,000 tons of rice to the People’s Republic of Laos. In early 1977, Ieng Sary donated 100,000 tons of rice to the governments of Malaysia and Singapore”]; **E3/490** French Ministry of Foreign Affairs, *Cambodia Review*, 11 May 1976, EN 00610832 [reporting a 3,000 ton rice donation to Laos in December 1975]; **E3/3290** Malcolm Caldwell, *Cambodia — Rationale for a Rural Policy*, EN 00419227 [“The Laotian newspaper *Khaosan Pathet Lao* reported on May 25, 1976, the Kampuchea had handed over the last lot, 3,000 tons, of a food present consisting of rice”]; **E3/817** CPK, *Presentation by the Comrade Party Secretary during the session of the first meeting of the Council of Ministers*, 22 April 1976, EN 00143465 [“We supplied 3,000 tons of rice as aid to the Soviets as well while in the condition of having just come out of a destructive war”].

⁹⁷⁰ **E3/165** Nuon Chea Statement to the People’s Representative Assembly of Kampuchea, 14 Apr 1976, EN 00184076.

⁹⁷¹ **E3/1797** Anne Yvonne Guillou, *The Khmer Rouge Health System*, EN 00641671 [“In order to conceal insufficient yields, the cadres massaged the figures and reduced food rations in order to send rice to the Centre at all costs. From 1976-1977, the country was truly in the grip of famine and many people died as a result”]; **E3/2312** Ben Kiernan, *Cambodia: The Eastern Zone Massacres*, EN S 00048799 [“The taxation of village produce was too high to allow for adequate rations for the producers. Huge quantities of rice were removed from the villages, and stored in army warehouses or exported in exchange for weapons and ammunition purchased in China”].

⁹⁷² **E3/791** CPK, *Views on Current Revolutionary Situation in Kampuchea*, EN 00721437-38 [“It is strange that Battambang is experiencing shortage as it is regarded as rice granary for the entire Kampuchea ... We managed to deal with the issue by first dealing with cadres”].

⁹⁷³ **E1/24.1** Romam Yun, T. 10 Jan 2012, 14.47.16 [“The food was not enough. Some people were hanging themselves because they could not really stand the situation. People at the sector zone or provincial level only pretended to say that people in the community were having decent lives, having enough food to eat but, in reality, it was not true because we could not really produce enough food, grow enough crops to feed the villagers”]; **E1/70.1** Saloth Ban, T. 30 Apr 2012, 10.01.49 [“People said they suffered from not having enough food to eat, and arrests were made in the base -- local areas”]; **E1/76.1** Ny Kan, T. 28 May 2012, 10.14.13 [“People were afraid regarding the food shortages... they could not have enough to feed the influx of evacuees”]; **E1/79.1** Sakim Lmut, T. 31 May 2012, 09.19.26 [“There was no proper arrangement for people to have proper food in the cooperative”]; **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.45.51; **E1/92.1** David Chandler, T. 19 Jul 2012, 13.44.28 [“All over the country, in all kinds of evidence you get, you’ve evidence of food supply going down, nutrition going down, starvation coming up, deaths from malnutrition going up, all connected, I think, to the kind of scare qualities of this 3 tons target”]; **E1/146.1** Chau Ny, T. 23 Nov 2012, 14.06.40 [“At that cooperative, a lot of people died of food shortages and starvation”]; **E1/149.1** Kim Vandy, T. 6 Dec 2012, 10.11.05; **E1/198.1** Huo Chanthar, T. 29 May 2013, 14.21.07; **E1/200.1** Soeuv Sovandy, T. 4 Jun 2013, 11.34.01 [“They said that it serve us

well aware of the problem.⁹⁷⁴ It was a death spiral; as starvation continued to spread,⁹⁷⁵ rice production continued to fall.⁹⁷⁶ “[B]y the middle of 1977,” David Chandler has written, “in much of the country and for the first time in Cambodian history, rice had virtually disappeared from the diet.”⁹⁷⁷ But still the CPK tried to stick to its wildly unrealistic plan for rice exports.⁹⁷⁸ The Party Centre’s priorities were clear: “We must export large quantities of rice. In 1977 we plan to export between 800,000 and one million tons of *padi*.”⁹⁷⁹ In 1978, **Khieu Samphan** demanded that the people sacrifice to meet the CPK’s rice production quotas, ordering them to “strive for the fulfilment of the 1978 rice production plan by attaining the 3.5 ton-per-hectare and 7-ton-per-hectare targets at all costs.”⁹⁸⁰ *At all costs*, he demanded; only much later did **Khieu Samphan** finally admit the deadly cost of the rice policy that he had enforced upon his slaves: “Depriving the people of rice in order to transport rice to the State to meet quotas led to a great loss of life.”⁹⁸¹

4. The Production of Children

291. Nothing more clearly reveals the CPK’s enslavement of the population than their claim

well when we came to the countryside enduring starvation. That’s what they mocked at us”].

⁹⁷⁴ **E3/213** David Chandler, *Pol Pot Plans the Future*, EN 00103997 [The Party Centre was acutely aware that the two largest zones, the North and the Northwest, were consuming more rice than they were producing, yet still delivering rice to the Centre for export]; **E3/213** CPK, *Report of Activities of the Party Center According to the General Political Tasks of 1976*, EN 00104093 [Despite starvation in the Northwest Zone, it sent 50,000 tons of rice to the Centre for export], 00104094 [The entire North Zone had a rice deficit of 12,000 tons in 1976, yet Party Centre planned to increase the rice quota for North Sector 106 by a factor of 10 for 1977]; **E3/232** Minutes of Meeting on Base Work, 8 March 1976, EN 00182632 [“The goal of 106 in 1977 is to export for sale at least 100,000 tons of rice”].

⁹⁷⁵ **E1/277.1** Nut Nuov, T. 16 Mar 2015, 11.12.30-11.16.08; **E1/302.1** Or Ho, T. 20 May 2015, 11.25.51-11.28.12; **E3/1686** David Chandler, *A History of Cambodia*, EN 00422844 [“By early 1976, food was already scarce, since the surpluses from the first harvests had been gathered up to feed the army, to be stored, or even to be exported. The situation deteriorated in 1977 and 1978, when many parts of the country were stricken with famine. Many survivors recall months of eating rice gruel without much else”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150120 [People were starving by the tens of thousands in the Northwest Zone in 1976].

⁹⁷⁶ **E1/184.1** Ruos Suy, T. 25 Apr 2013, 10.29.33-10.31.51 [“No milled rice was ever distributed to the people in the local - in Cambodia. But they were - it was destined for exporting. However, when time passed, rice production decreased, that’s why exports also decreased”]; **E3/17** David Chandler, *Brother Number One*, EN 00393031 [“By the end of 1976, most ‘new people’ in the northwest were badly undernourished. The situation deteriorated in 1977, when thousands more starved to death while others became ineffective because of illness and insufficient food”].

⁹⁷⁷ **E3/1686** David Chandler, *A History of Cambodia*, EN 00422849.

⁹⁷⁸ **E3/1362** FBIS, Phnom Penh Radio, 11 May 1978, EN 00170028 [“Since historic 17 April 1975, Democratic Kampuchea has determinedly deepened its socialist revolution ... the Kampuchean people become self-sufficient but they have even accumulated hundreds of thousands of tons of rice for export”]; **E3/2059** DK Ministry of Commerce, Export Statistics in 1978 (from January to September), EN 00583647 [Showing 29,758.145 tons exported year-to-date].

⁹⁷⁹ **E3/213** CPK, *Preliminary Explanation Before Reading the Plan*, EN 00104071.

⁹⁸⁰ **E3/562** FBIS, Khieu Samphan Statement, 15 Apr 1978, EN S 00010564.

⁹⁸¹ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia from the Early Stage to the Period of Democratic Kampuchea*, EN 00498287.

of ownership over the reproductive capacity of their slaves. “They knew that they gave birth to the children”, one survivor told the Trial Chamber, “but the children belong to *Angkar*.”⁹⁸² In late 1976, **Nuon Chea** laid out the CPK’s population goal: “We need from 15 to 20 million people to meet the needs of our land.”⁹⁸³ Two years later, **Khieu Samphan** confirmed that the CPK was still aiming to “increase the population to 15 to 20 million inhabitants in the next 10 to 15 years”.⁹⁸⁴ In order to realise this population policy,⁹⁸⁵ the CPK forced young people to get married,⁹⁸⁶ then forced them to consummate those marriages,⁹⁸⁷ and sometimes killed those who refused.⁹⁸⁸ Exactly as

⁹⁸² **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 15.57.56; **E3/9614** Theresa de Langis, *Like Ghost Changes Body*, EN 01037068 [“They said they had married us to produce children for Angkar”] (*emphasis added*). **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491436.

⁹⁸³ **E3/562** FBIS, Khieu Samphan Statement, 15 Apr 1978, EN S 00010565; **E3/1586** Ieng Sary Statement, EN 00079815 [In a speech to the UN General Assembly, Ieng Sary announced, “We need a population of 15 to 20 million in 10 years time ... our objective is to bring about a very rapid increase in our population”].

⁹⁸⁴ **E3/775** CPK, Revolutionary and Non-Revolutionary World Views Regarding the Matter of Family Building, EN 00417943 [“Building our revolutionary families is not just for our personal interest or happiness ... it is so that the revolution may achieve its highest mission to ... advance toward socialism and communism”]; **E1/410.1** Sao Sarun, T. 29 Mar 2016, 14.16.27-14.19.49 [Q. “Were you informed at study sessions or in written documents or in meetings that Angkar wanted to increase the population?” A. “Yes, I heard about that. They wanted to increase the population since the population of our country was rather small”]; **E1/277.1** Nut Nov, T. 16 Mar 2015, 14.41.19-14.43.35 [“The order from the top required us to ... increase the population among people”]; **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.05.50-15.07.11 [“I will remember it until I die ... They made an announcement that, ‘The population of Cambodia is not that great and for us, male and female youths we strive to work best.’ And for that reason Angkar required us to get married to increase the population”].

⁹⁸⁵ **E1/322.1** Kong Uth, T. 25 June 2015, 10.59.10-11.01.51 [“I did not dare to refuse the marriage and if I dared to do so I would be accused of opposing them. I would be accused of being against Angkar”]; **E1/308.1** Seang Sovida, T. 2 June 2015, 09.19.02-09.22.06 [“She was around 15 to 16 years old, and she didn’t consent to the marriage. And my mother also didn’t want my sister to get married, since she was young. But we did not have any choice, and we were afraid that we would be mistreated”], 11.11.09 [“She told me that she would not marry that man as she didn’t love him... but she was forced to and she could not refuse”]; **E1/475.1** Mom Vun, T. 16 Sept 2016, 15.49.18 [“Anyone would weep, regardless whether you were a single virgin or whether you are a widow. And there was no permission at all from our parents, they just mixed and matched us, and that’s how we all wept. All 60 of us stood together and wept”].

⁹⁸⁶ **E1/308.1** Seang Sovida, T. 02 June 2015, 11.11.09-11.14.10 [“Maybe because they monitored their activity at night, then they decided to consummate the marriage. After that, she was suffering from morning sickness. And I only heard from my mother regarding this, that later on she was deprived of food, and I asked my mother why, and that’s what she told me because she initially didn’t consummate the marriage”]; **E1/473.1** Kasumi Nakagawa, T. 14 Sept 2016, 09.18.16 [“It was not rape to the eyes of the Khmer Rouge. It was a duty and a responsibility as a part of revolution that once a man and a woman became a couple, they had to consummate a marriage”]; **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 14.32.27-14.54.58 [“They only came to spy on us on the first night whether we consummate the marriage and after that they did not come to eavesdrop anymore”]; **E1/262.1** Ry Pov, T. 12 Feb 2015, 13.52.54-13.54.40 [“We were also instructed to monitor the activities of the newlywed couples, whether they got along well or they actually consummate their marriage. And then we can inform the units nearby”]; **E1/305.1** Meas Layhur, T. 26 May 2015, 09.46.36-09.48.56 [“They came to watch over whether we got along with each other and whether we consummated our marriage. When they did not hear anything, they stopped coming. We were not the only couple being watched over by militiamen, the militiamen would come to watch over every newlywed couple”]; **E1/475.1** Mom Vun, T. 16 Sept 2016, 13.43.25-13.46.03 [“They pointed their guns at us. We were ordered to take off our clothes so that we could consummate the marriage. Militia people had a torch to shed light on us and they also had guns. We had no choice but

they did with rice, then, the CPK aimed to double or triple their “yield” of human beings in a very short time. Numerous studies have shown that this CPK population policy entailed forced marriage and forced pregnancy.⁹⁸⁹ “We could not protect our bodies,”⁹⁹⁰ remembered one rape victim. As a result of this CPK policy, “We were forced to mate like dogs and cats.”⁹⁹¹

292. And, just as with their plan for growing rice, the CPK’s plan for growing the population was also an abject failure. In 1978, Pol Pot claimed DK’s crude birth rate was 50 per 1000, with the crude death rate at 13 per 1000.⁹⁹² Studying the structure of population age cohorts, however, demographers have estimated that in fact, DK’s birth rate was 33.4 — a third lower than Pol Pot’s number — and the crude death rate 40, more than three times higher than Pol Pot claimed.⁹⁹³ The reasons for the lower birth rate include

to take off our clothes, but then I still refused to consummate the marriage. They threatened us again and they used the torch on us and they actually got hold off his penis and to insert it into my thing. It was so disgusting, but we had no choice. And those militia people were so young. And after we actually had sex, then they said, ‘Let’s move to another couple because this couple already had sex.’ To me, I can never forget what happened that night”]; **E1/480.1** Peg Levine, T. 10 Oct 2016, 15.40.59-15.45.22 [“I inquired formally during each interview, ‘Were you told to have sex at the time of your wedding?’ Forty per cent of respondents said yes... Nearly 30 percent stated that they were under surveillance”]; **E1/487.1** Preap Sokhoeurn, T. 20 Oct 2016, 14.31.22-14.33.00 [“After we got marriage, we were constantly under surveillance, they looked inside the window, they stood outside and we were told to stay together and consummate our marriage. They conducted surveillance the whole night”].

⁹⁸⁸ **E1/475.1** Mom Vun, T. 16 Sept 2016, 11.16.56-11.18.38 [“I had to marry that one because, otherwise, I would be killed and for that reason, I had to force myself to marry that man”], 15.49.18 [“It was Comrade Thol and Comrade In. They refused to get married and they would rather die. And because we saw what happened to the two couples, then the rest of us had to get married in order to survive”]; **E1/324.1** Mam Soeurn, T. 28 July 2015, 15.53.32 [“After the wedding or marriage ... if they refuse to consummate the marriage, they would risk their lives because it was against the decision of Angkar”].

⁹⁸⁹ **E3/2959** Kasumi Nakagawa, *Gender-Based Violence during the Khmer Rouge Regime*, EN 00421896 [One interviewee stated, “After the ceremony the soldiers came to observe us, ensuring that we loved each other and had sex, if not they would kill us”]; **E3/3416** Bridgette Toy-Cronin, “*I Want to Tell You*”, EN 00449490 [“The coercion was not limited to forcing people to marry but continued after the wedding ceremony... Almost all the informants reported that they believed that the *Angkar* required that they had sex with their new spouse. *Chhlop* would come and observe under the ‘honeymoon’ houses arranged by the *Angkar* to see if ... they were having sex”]; **E3/9614** Theresa De Langis *et al.*, *Like Ghost Changes Body — A Study on the Impact of Forced Marriage under the Khmer Rouge Regime*, EN 01037041 [“Married couples stayed with each other a few days following the wedding, often with Khmer Rouge spies, or *chhlop*, making sure they consummated the marriage with sexual relations”]; **E3/9240** Rochelle Braaf, *Sexual Violence against Ethnic Minorities during the Khmer Rouge Regime*, EN 00992283 [“Because the purpose of forced marriage was to produce children for Angkar, newly wed couples were almost universally pressured to engage in sex under the watchful eye of the Khmer Rouge”].

⁹⁹⁰ **E3/9614** Theresa De Langis, *et al.*, *Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime*, EN 01037076.

⁹⁹¹ **E3/9614** Theresa De Langis, *et al.*, *Like Ghost Changes Body: A Study on the Impact of Forced Marriage under the Khmer Rouge Regime*, EN 01037076; **E1/472.1** Kasumi Nakagawa, T. 13 Sept 2016, 15.55.57 [“A lot of women get angry because they could not escape from the pregnancy. They didn’t love the husband. They didn’t want that child”].

⁹⁹² **E3/215** *Revolutionary Flag*, Sept 1978, EN 00488637.

⁹⁹³ **E3/2413** Ewa Tabeau and They Kheam, *Demographic Expertise Report*, EN 00385384.

depressed fertility from stress, starvation and family separation,⁹⁹⁴ while the increased death rate was undoubtedly impacted by starvation, disease, exhaustion, executions and dramatically increased infant mortality.⁹⁹⁵ Nuon Chea once boasted that Cambodia's population grew by 620,000 between 1976 and 1978;⁹⁹⁶ in reality, under CPK rule, Cambodia's population fell by approximately 1.7 million.⁹⁹⁷

2. POLICY TO PERSECUTE AND KILL ENEMIES

*We go on the offensive against the enemy and continue to sweep them clean even more strongly. Attack the enemy, sweep clean the foreign agent enemies, the embedded enemies, the class enemies; don't let them be able to keep trying to carry out activities, even a little.*⁹⁹⁸

- Revolutionary Flag

EVOLUTION OF THE POLICY

293. The Communist Party of Kampuchea adopted an extreme line against "enemies" from its inception in 1960.⁹⁹⁹ As Nuon Chea described it, "After 1960 our Revolutionary Organisation clearly decided that political action and armed violence must be used to overthrow and crush the enemy."¹⁰⁰⁰ He explained that the CPK's Secret Defence Units were established in 1961 to provide the means to "covertly smash the enemy, the government agents and various reactionaries".¹⁰⁰¹ Nuon Chea described the CPK's revolution as "just," in part because it "smashed and eliminated enemies".¹⁰⁰²

⁹⁹⁴ E3/20 Elizabeth Becker, *When the War Was Over*, EN 00237929 ["Many women stopped menstruating entirely, partly because of malnutrition, partly because of the trauma"]; E1/306.1 Hun Sethany, T. 27 May 2015, 14.40.06-14.43.20 ["Most female workers in my village had no menstrual cycle because they did not have enough food to eat"]; E1/321.1 Chum Samoeurn, T. 24 June 2015, 15.47.48-15.51.09 ["When my menstruation was interrupted, instead I was accused of being pregnant... that affected me physically and emotionally"]; E3/16 Khieu Samphan, *The Recent History of Cambodia and My Positions On It*, EN 00498284 ["But how was this goal to be accomplished if the women's menstrual periods stopped due to hunger? The leadership saw this problem"]; E1/488.1 Kul Nem, T. 24 Oct 2016, 14.35.12-14.36.17 ["Such incident of having no children did not happen to only me, but also to other people ... we experienced miscarriages, one after another. Perhaps we were too exhausted as a result of hard work"].

⁹⁹⁵ E3/2413 Ewa Tabeau and They Kheam, *Demographic Expertise Report*, EN 00385384 [The infant mortality rate during the DK regime has been estimated 263 per thousand, more than double the already very high rate of the late 1960s].

⁹⁹⁶ E3/686 Nuon Chea Statement, EN S 00030349.

⁹⁹⁷ E3/2413 Ewa Tabeau and They Kheam, *Demographic Expertise Report*, EN 00385262.

⁹⁹⁸ E3/135 Revolutionary Flag, June 1977, EN 00446862.

⁹⁹⁹ E1/441.1 Kaing Guek Eav, T. 21 June 2016, 13.47.13.

¹⁰⁰⁰ E3/147 Nuon Chea Speech, 16 Jan 1977, EN 00168467; E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757506 [Nuon Chea studied writings of Mao Tse Tung that "talked about secret work and the people who pretended they were communists but were really spies"]; E1/22.1 Nuon Chea, T. 14 Dec 2011, 12.00.04-12.02.48.

¹⁰⁰¹ E1/21.1 Nuon Chea, T. 13 Dec 2011, 09.18.35-09.29.24; E3/147 FBIS, *Nuon Chea Speech*, 16 Jan 1977, EN 00168467.

¹⁰⁰² E3/26 Nuon Chea Interview with Japanese Journalist, 25 May 2009, EN 00329515.

294. The CPK's enemy policy was initially aimed primarily at "external enemies", that is, people associated with the regime they were attempting to overthrow, especially the hated "class enemy".¹⁰⁰³ But the policy also applied to "internal enemies" within the revolutionary organisation.¹⁰⁰⁴ As Kaing Guek Eav alias Duch testified, "After 1970, spies were regarded as the key enemies."¹⁰⁰⁵ With the revolution approaching victory in 1974, however, the CPK's youth journal refocused attention on its most despised enemies, instructing their militant youths that they must "have a blazing national anger and class anger toward the enemy who are the invasive imperialist, and toward the class-enemy who used to oppress, suck blood and chew bone of our poor people."¹⁰⁰⁶
295. From the start, the CPK had an expansive conception of "enemies", one that extended far beyond enemy soldiers. In war, targeting enemy military personnel and facilities is not prohibited under international law. Deliberate attacks against civilians, however, are always illegal, and the CPK attacked many different groups of civilians that it defined as "enemies". The categories of people and institutions that the CPK defined as "enemies" evolved and grew over time. In the pre-1975 period, the CPK targeted numerous types of civilians, including class enemies (capitalists, imperialists, feudalists, landowners, and "reactionary compradors"),¹⁰⁰⁷ government enemies (civil

¹⁰⁰³ **E3/728** *Revolutionary Youth*, Sept 1975, EN 00773404 ["If our people have a clear revolutionary awakening and national hatred and class hatred, they will join and be involved most enthusiastically in making revolution to smash the enemy"]; **E3/750** *Revolutionary Youth*, Nov 1975, EN 00522475, ["Their class-anger is blazing, and they have determined to join in the revolution rank ... to smash the class-enemy that oppressed the Kampuchean people for over 2 thousand years in the past"]; **E3/213** Summary of the Results of the 1976 Study Session, EN 00104081 ["We seized victory in the context of a fierce and uncompromising fight to the death with the class enemy, both inside the country and coming from outside the country, especially in our revolutionary ranks and even within our Party"].

¹⁰⁰⁴ **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865699; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 10.24.36-10.26.49; **E1/26.1** Nuon Chea, T. 12 Jan 2012, 09.28.48-09.31.32.

¹⁰⁰⁵ **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.15.38.

¹⁰⁰⁶ **E3/146** *Revolutionary Male and Female Youths*, Aug-Sept 1974, EN 00538736.

¹⁰⁰⁷ **E1/81.1** Sao Sarun, T. 5 Jun 2012, 15.50.43 ["We received instructions from Ta Laing to fight against the American Imperialists, the feudalists and the capitalists"]; **E1/135.1** Yim Sovann, T. 19 Oct 2012, 15.15.54 ["The 17 April people were considered as enemies, feudalists, capitalists. I didn't understand why we were treated in this manner"]; **E1/143.1** Pe Chuy Chip Se, T. 12 Nov 2012, 14.27.19 ["The person who told me that the inmates were the imperialists or capitalists were the chief of security officers"]; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486226-33; **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399240 ["The no-good classes holding power in the cooperatives, what is their true nature? They are counter-revolutionary"]; **E3/25** *Revolutionary Flag*, Dec 1976 - Jan 1977, EN 00491412 ["The strategic line of the Party that was set in 1960 when the determination was made that it was imperative to ... attack and bring down the feudalists, capitalists, and reactionaries in Kampuchea"]; **E3/135** *Revolutionary Flag*, June 1977, EN 00446861-62 ["Continue to sweep them clean even more strongly. Attack the enemy, sweep clean the foreign agent enemies, the embedded enemies, the class enemies"]; **E3/776** Strengthening and consolidating the analysis of all situations and problems based on the stance of the party's proletariat class, EN 00716394 ["We had to fight imperialism, landlord feudalism, and reactionary capitalism"]; **E3/775** *Revolutionary and Non-Revolutionary World Views regarding the Matter of Family Building*, EN 00417944 ["The enemy is the reactionary feudalists-capitalists"]; **E3/11**

servants, bureaucrats and policemen),¹⁰⁰⁸ internal enemies (spies, infiltrators, and traitors),¹⁰⁰⁹ and ordinary people (truck drivers, rubber plantation workers, factory workers, etc.).¹⁰¹⁰ In the post-17 April 1975 period, while continuing to imprison and

Revolutionary Flag, Sept 1977, EN 00486233 ["There were two enemies who had to be fought: the first was imperialism, particularly American imperialism. The second was the feudal class, the landowners, the reactionary compradors"]; 00486230 ["The contradiction between the peasants and the landowners is a life-and-death contradiction"].

¹⁰⁰⁸ **E1/138.1** Lay Bony, T. 24 Oct 2012, 10.26.54 ["As for the ordinary civilians, while I was at the tempering office, I learned that not only soldiers had been arrested, but civilians were also arrested, as they were alleged or being capitalists or feudalists"]; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529 ["In the base areas, as for the characteristics of the contradictions that we can detect, most of them are government officials, policemen, soldiers, and students"]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401483 ["Government agents, spies, and pacifist agents were eliminated"].

¹⁰⁰⁹ **E1/26.1** Nuon Chea, T. 12 Jan 2012, 09.31.32 [Q: "What happened to the people who the Secret Defence Unit determined to be spies who had infiltrated the party?" Q: "Those people later on were rounded up and sent to S-21 where their confessions or testimonies would be taken further"]; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.15.38 ["After 1970, spies were regarded as the key enemies"]; **E1/50.1** Kaing Guek Eav, T. 19 Mar 2012, 15.50.15 ["After there were no more spies sent to M-13, it was on the 1st of January 1975, the date we never received any more spies"]; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486253 ["We do not consider these traitors, these counterrevolutionary elements, to be part of the people. They are enemies of Democratic Kampuchea"]; **E3/790** Decisions of the Party Committee Conference of All Divisions, EN 00714788 ["As for the old enemy infiltration within our revolutionary army, it is eliminated by our revolutionary army on time"]; **E3/70** *Revolutionary Flag*, July 1978, EN 00184321 ["The Duties of Seeking Out, Forestalling and Eliminating the Espionage and Infiltration Activities of Enemies of All Types"]; **E3/791** Views on the Current Situation of the Revolution of Kampuchea, EN 00721439 ["We have identified and screened elements of enemy infiltration out of revolutionary tasks and duties, streamlining our nationwide leadership"]; **E3/785** Strengthening and Improving the Party's Leadership Stance and Leadership Attitude, EN 00713999 ["If the spies are arrested to be executed in the meeting before the people, some people may be frightened of us. They think that we are extremely cruel. The stance to smash the spies is correct but it is inappropriately carried out"]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401483 ["Government agents, spies, and pacifist agents were eliminated"]; **E3/776** Strengthening and consolidating the analysis of all situations and problems based on the stance of the party's proletariat class, EN 00716396 ["Once we have defeated our enemies and our traitors, we have to analyze what kind of tricks those enemies and traitors would use so that we will take action in educating the public and the revolutionary Party interiors to continue eradicating those enemies and traitors"]; **E3/734** *Revolutionary Youth*, July 1976, EN 00360789 ["In some cases our revolutionary youth nature will transformed by them into traitors to our own Party, revolution, and people"]; **E3/735** Minutes of the Meeting of the Standing Committee, 21 Jul-2 Aug 1976, EN 00104089 ["We have also expelled the hidden, buried traitors from within the Party, the army, and the people"].

¹⁰¹⁰ **E1/88.1** Yun Kim, T. 19 June 2012, 14.27.28 ["I don't know about the arrest of the ordinary people, but when it comes to the arrest of cadres, a meeting would be convened"]; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 11.32.05 ["With regard to ordinary people ... there was a young kid who was sent from the enemy zone ... he was 12 years old ... there was an order to execute this boy"]; **E1/148.1** Pech Srey Phal, T. 5 Dec 2012, 11.11.47 ["In fact, we were ordinary people, but then, they sent us for refashioning and tempering"]; **E1/138.1** Lay Bony, T. 24 Oct 2012, 10.26.54 ["As for the ordinary civilians, while I was at the tempering office, I learned that not only soldiers had been arrested, but civilians were also arrested, as they were alleged or being capitalists or feudalists"]; **E3/3440** *The Tuol Sleng Archives and the Cambodian Genocide*, EN 00002298 ["Becker describes 750 executions recorded in 1976 at Tuol Sleng: 164 factory workers, 112 people from the population at large, 61 students, 35 professors, 20 doctors and nurses, 49 engineers, 55 bureaucrats from the old regime, 209 soldiers from the old regime, and 47 students and dignitaries from overseas"]; **E3/7953** Bun Van Tha Statement, EN 00843455-57 ["They shot at the workers on the trucks when the trucks got stuck in the holes they had dug ... Some of the prisoners were workers of the rubber plantation, others were just ordinary people, and some of the others were from the [military] division"].

kill these previous categories of “enemies”¹⁰¹¹ (including doctors,¹⁰¹² medical staff,¹⁰¹³ engineers,¹⁰¹⁴ police,¹⁰¹⁵ professors,¹⁰¹⁶ teachers,¹⁰¹⁷ students,¹⁰¹⁸ relatives,¹⁰¹⁹ and ordinary people¹⁰²⁰), the CPK’s definition of enemies gradually expanded to include groups such as ethnic Vietnamese civilians,¹⁰²¹ Chams,¹⁰²² Buddhists,¹⁰²³ Khmer Krom,¹⁰²⁴ New People,¹⁰²⁵ residents of the East Zone,¹⁰²⁶ and CPK cadres and soldiers.¹⁰²⁷

296. Duch confirmed that the CPK “enemies” policy was applied outside of lawful combat

¹⁰¹¹ **E1/135.1** Yim Sovann, T. 19 Oct 2012, 16.11.42 [“The civil servants from the former regime were all gathered and sent to that site for execution”]; **E1/144.1** Pe Chuy Chip Se, T. 14 Nov 2013, 09.27.54 [“Those 17 April People or the civil servants or the former soldiers or policemen of the former regime, they would be monitored, and if they made any small mistake ... they would be killed”]; **E1/216.1** Lev Lam, T. 2 July 2013, 10.13.25 [Q: “What happened to the 17 April evacuees who had been identified as Lon Nol soldiers, civil servants or capitalists?” A: “After the meeting and after the sorting out of the biographies, some of those people disappeared; they were smashed”]; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 11.24.07-11.29.20 [“After 1975, the monarchy were to be smashed as long as they were encountered; there was no discrimination ... I believe that the royal family members were also smashed. ... The feudalist landlords were also smashed”]; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.14.42-10.18.29 [“After 1975, former soldiers and officers of the Lon Nol regime were the key enemies”]; **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.01.08 [“On the 23rd of April 1979 (sic), at 5 a.m., there was a truck coming to pick all those military officers and all the public servants, all the heads of all departments from Battambang ... they were executed there”]; **E1/148.1** Pech Srey Phal, T. 5 Dec 2012, 09.57.21-10.01.52 [“We also heard after three days people would be allowed to return to the capital city, in particular those who were former soldiers, officials, teachers, doctors, because these people were needed to work in Phnom Penh ... Most of them were teachers and professors ... those people who registered were those public servants of the old regime”]; **E1/93.1** David Chandler, T. 20 July 2012, 09.38.32 [“This was beginning ... what seemed to be a purge of intellectuals in the Party”], 15.06.26 [“‘Marginalization’ seems to be something of a euphemism because a good many of the elite and the intellectuals were killed”]; **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 09.59.00 [Intellectuals were targeted during the early stage of S-21 operation when Nat was still the chairman”]; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529 [“In the base areas, as for the characteristics of the contradictions that we can detect, most of them are government officials, policemen, soldiers, and students”]; **E3/3440** *The Tuol Sleng Archives and the Cambodian Genocide*, EN 00002298 [“Becker describes 750 executions recorded in 1976 at Tuol Sleng: 164 factory workers, 112 people from the population at large, 61 students, 35 professors, 20 doctors and nurses, 49 engineers, 55 bureaucrats from the old regime, 209 soldiers from the old regime, and 47 students and dignitaries from overseas”].

¹⁰¹² See **Annex F.49** *List of Civilians (Doctor) S-21 Prisoners*.

¹⁰¹³ See **Annex F.50** *List of Civilians (Medical Staff) S-21 Prisoners*.

¹⁰¹⁴ See **Annex F.51** *List of Civilians (Engineers) S-21 Prisoners*.

¹⁰¹⁵ See **Annex F.52** *List of Civilians (Police) S-21 Prisoners*.

¹⁰¹⁶ See **Annex F.53** *List of Civilians (Professors) S-21 Prisoners*.

¹⁰¹⁷ See **Annex F.54** *List of Civilians (Teachers) S-21 Prisoners*.

¹⁰¹⁸ See **Annex F.55** *List of Civilians (Students) S-21 Prisoners*.

¹⁰¹⁹ See **Annex F.56** *List of Civilians (Relatives) S-21 Prisoners*.

¹⁰²⁰ See **Annex F.57** *List of Civilians (Ordinary People) S-21 Prisoners*.

¹⁰²¹ See section **Crimes Against the Vietnamese**.

¹⁰²² See section **Crimes Against the Cham**.

¹⁰²³ See section **Policy to Persecute and Kill Enemies – Persecution of Buddhists**.

¹⁰²⁴ See section **Crimes against the Vietnamese – Not a Military Target: The Destruction of the Ethnic Vietnamese**.

¹⁰²⁵ See section **1st January Dam Worksite; Tram Kak District Cooperatives – Political Persecution (New People)**.

¹⁰²⁶ See section **Policy to Persecute and Kill Enemies – Internal Enemies – False Defence Narratives – East Zone Massacre**.

¹⁰²⁷ See section **Policy to Persecute and Kill Enemies – Internal Enemies**.

activities. “The policy was applied the same”, Duch explained to the Trial Chamber. “Whenever the Party regarded someone as an enemy we had to smash him or her, and we had no way to contest it. When the Party determined a person as an enemy, we had nothing but to smash that enemy for the Party.”¹⁰²⁸ Duch also testified that “smash means executed ... the ultimate goal is that the person is dead.”¹⁰²⁹ Stephen Heder confirmed this interpretation of the word “smash”.¹⁰³⁰ The term “smash” was used throughout the DK period to describe extra judicial killings.¹⁰³¹

297. In the June 1974 issue of *Revolutionary Flag*, the policy authorizing summary executions of enemies was made chillingly plain. “For example: If the spies are arrested to be executed in the meeting before the people, some people may be frightened of us. They think that we are extremely cruel. The stance to smash the spies is correct but it is inappropriately carried out. Like it or not, it is already authoritarianism. Therefore, it provides more negative impacts on politics.”¹⁰³² The only concern was with keeping the “smashing” secret, so as not to alienate the population under the control of the revolution.
298. Categories of “enemies” were pronounced by the CPK Standing Committee,¹⁰³³ and these abstract categories were subsequently disseminated to lower echelons through Party publications such as *Revolutionary Flag* and *Revolutionary Youth*, as well as through speeches and training sessions given by members of the Party Centre.¹⁰³⁴

¹⁰²⁸ **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.14.42-10.18.29 See also **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 09.43.59-09.46.27 [The Party’s policy towards the enemy is stable, as the renounced enemy would be smashed ... We had stable policies against the enemies, that is, the enemies were to be killed”].

¹⁰²⁹ **E1/50.1** Kaing Guek Eav, T. 19 Mar 2012, 15.55.05.

¹⁰³⁰ **E1/224.1** Stephen Heder, T. 16 July 2013, 15.12.04 [“Smash (*komtech*) ... Smash means kill”], 15.15.32-15.12.04 [“‘Smash’ which I agree according to many respondents was a euphemism generally used to mean ‘kill’”].

¹⁰³¹ For example, **E3/2445** DK Report, 12 June 1977-17 Sept 1977, EN 00363653-00363654; **E3/2447** DK Report, 6 Sept 1977, EN 00355473-74; **E3/918** Telegram 254 from Sae to Committee 870, 10 Jan 1978, EN 00182757-58; **E3/1077** Telegram 324 from North Zone Secretary Se to Committee 870, 10 Apr 1978, EN 00340539-42.

¹⁰³² **E3/785** *Revolutionary Flag*, June 1974, EN 00713999.

¹⁰³³ **E3/525** Instructions of 870, EN 00183999 [“We must be absolute politically, ideologically and organizationally in eradicating enemy espionage activities, pacification agents, and psychological warfare. The Zone and Sector Party echelons and the Battlefield Command Committees, and the Ministry and Office Party Committees must come up with clear measures and cooperate closely”]; The CPK leadership developed many slogans to encapsulate and popularize their many different types of enemies. See Chapter 4, “The Hunt for ‘Enemies of the People’” in **E3/2812** Henri Locard, *Pol Pot’s Little Red Book: The Sayings of Angkar*, EN 00394786-00394844.

¹⁰³⁴ For example, see **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399230-36; **E3/25** *Revolutionary Flag*, Dec 1976 - Jan 1977, EN 00491412 [“The strategic line of the Party that was set in 1960 when the determination was made that it was imperative to ... attack and bring down the feudalists, capitalists, and reactionaries in Kampuchea”]; **E1/73.1** Pean Khean, T. 17 May 2012, 10.20.56; **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.18.00-11.20.30, 11.21.47.

Individuals who might fall into one or another category of “enemies” were then identified using one of several methodologies.¹⁰³⁵ First, all Cambodians, including CPK cadres and RAK soldiers, were required to fill out elaborate personal biographies, which would then be screened by security officials seeking to discover traits associated with various enemy categories.¹⁰³⁶ Second, in cooperatives and at worksites, all Cambodians were required to participate in “criticism and self-criticism” sessions, in which people were expected to reveal their own faults, as well as those of others, frequently resulting in the “unmasking” of enemies.¹⁰³⁷ Third, the CPK engaged in the

¹⁰³⁵ **E1/452.1** Henri Locard, T. 1 Aug 2016, 13.40.33; **E1/401.1** Alexander Hinton, T. 14 Mar 2016, 14.26.30 [“In the communes you had the club that crept around at night listening to people; they were also surveillance mechanism. You had institutional mechanisms, such as giving life histories and engaging in criticism and self-criticism sessions”].

¹⁰³⁶ **E1/401.1** Alexander Hinton, T. 14 Mar 2016, 15.17.50 [“The practice of writing biographies was the same as an exercise and also looking and talking about weak points and strong points and, again, people had to be very careful in the way they couched their life histories”]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.13.42 [“Base people did not need to make biographies, only New People were asked to make biographies. Their biographies were already made in 1971 or 1972, only the 17 April people were required to make biographies”]; **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 11.14.22 [“They were researching those people and by the end they were rounded up based on the names they have from the collection of biographies. So messengers would gather those people and walk them in line. The same thing applied to Base People. If they have any relatives who held senior positions in the previous regime, they would be arrested and killed as well”]; **E1/300.1** Vong Sarun, 18 May 2015, 11.15.48 [“They instructed me to write my own biography and that it would not be long before I die”]; **E1/319.1** Sem Hoeun alias Kim, T. 22 June 2015, 15.50.28 [“I changed the biography because I want to avoid the surveillance of the village, commune and district chiefs conducted on me”]; **E3/804** Minutes of Meeting of Secretaries and Logistics Officers of Divisions and Independent Regiments, EN 00233718 [“Regarding the results of mastering the biographies ... some comrades hid their biographies. We need to be wary of those whose parents were purged or cleansed and those whose family members were cleansed”]; **E1/354.1** Ban Seak, T. 6 Oct 2015, 10.59.38 [“Even to my younger relative, if they did not have a clean biography, they were smashed”]; **E1/378.1** Prak Yut, T. 19 Jan 2016, 10.53.45 [“I examined their biographies of those who were good and who were not good and for those who were good, I, myself, re-educated them. Concerning those who were considered to oppose Angkar, I – and I could not help re-educate them; I would refer them to Angkar ... And I do not know what would happen after the reports were submitted by me and I do not know what the upper echelon would do to those who were identified by me”]; **E1/421.1** Tay Teng, T. 25 Apr 2016, 09.44.12 [“They sent me to Prey Sar because they were aware of my biography that I was related to my cousins”]; **E1/448.1** 2-TCW-1005, T. 26 July 2016, 09.36.52 [“All the biographies had to be consistent with the original draft. If the biographies were not consistent with the original one, they would not be acceptable”]; **E1/449.1** 2-TCW-1005, T. 27 July 2016, 10.50.19-10.52.30 [“We did not trust other, because of the biographies. Biographies sometimes said one particular individual betrayed or was a traitor. Later on, that individual was arrested; as a result, the rest of us were afraid”].

¹⁰³⁷ **E1/401.1** Alexander Hinton, T. 14 Mar 2016, 15.16.55 [“The idea of criticism and self-criticism sessions came from the notion that revolutionary consciousness was in some sense unstable. It constantly had to be fashioned and re-fashioned and people had to get together and talk and look at their weaknesses, how they had been led astray”]; **E1/290.1** Pech Chim, T. 22 Apr 2015, 09.15.33 [“It was necessary for us to do a bit of self-criticism and we had to say the good things we had done as well as the bad things in order to improve ourselves. So that – the struggle back then was such that we risked losing our lives at any moment if we were not honest”]; **E1/308.1** Seang Sovida, T. 2 June 2015, 10.12.30 [“The theory that they used at the time was ‘self-criticism.’ It means that we had to watch one another who were our work colleagues in order to catch the mistakes, in order to criticize during the meeting”]; **E1/314.1** Keo Kin, T. 11 June 2015, 09.33.32 [“After the criticism and if the person did not deter, he or she would disappear. And the meeting would be called later to advise and warn others not to follow the steps of the individual that disappear”]; **E1/339.1** Chao Lang, T. 1 Sept 2015, 14.08.22-14.12.20 [“I realized the mistake I made

widespread practice of direct surveillance of the population, often day and night.¹⁰³⁸ Finally, when individuals were arrested and taken away for interrogation, they would be tortured to reveal their personal “strings”, or networks of associates, who were purportedly implicated in the treasonous activities of the torture victim.¹⁰³⁹ Combined,

... In my case, I criticized the group chief, but for some reason, I did not disappear”, 15.25.15 [“People disappeared after the criticism and self-criticism meetings. People disappeared continuously; however, what we heard was that this worker or that worker was not active in carrying out the work. For that reason, he or she was sent for re-education”]; **E1/340.1** Mean Loey, T. 2 Sept 2015, 14.03.54-14.06.03 [“We were invited to be in criticism and self-criticism sessions. And if we did not deter our mistakes, we would be in trouble ... If we were criticized for a few times, and we still failed to meet the work quota, we would disappear, or we would be taken away for re-education or to be killed.”]; **E1/451.1** Henri Locard, T. 29 July 2016, 09.30.04 [“They had to confess or engage in self-criticisms during the education or re-education sessions during the evening. They would receive a warning. And if the offense was repeated several times, at that point, one could be imprisoned”].

¹⁰³⁸ **E1/453.1** Henri Locard, T. 2 Aug 2016, 09.26.15 [“There were the chlop, the militia men or the militia, and they were despised. They were the people who were watching people in the people’s communes. Basically, they were the people who would listen to conversations at night under people’s homes or who were in charge of monitoring people’s behaviour or of relating whatever so and so might have said”]; **E1/264.1** Sao Han, T. 17 Feb 2015, 15.45.51 [“Militia was created in 1970 or 1971 to control the commune and villages”]; **E1/265.1** Sao Han, T. 18 Feb 2015, 11.08.30 [“The role of the militiamen, as I experienced, was to monitor the activity of the people at their houses”]; **E1/277.1** Nut Nov, T. 16 Mar 2015, 15.30.07 [“The commune militia reported to the commune and also, they made a copy and reported to the security. And that is in relation to the security situation or matter that happened within the commune”]; **E1/299.1** Ek Hoeun, T. 8 May 2015, 14.39.08 [“[when] the district suspected someone, they would ask their men to go listen secretly to people under their beds to listen to what people would talk about for a few nights to confirm the information about them and then they would report about those people in red ink to the unit chief in the district and after that the district unit chief would deal with those people accordingly after everything was confirmed”]; **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 14.10.42 [“I saw a militiaman below my house. I was frightened with that person but I don’t know their purpose to be there. But I knew from other couples who married earlier. So, if the militiamen reported that the couple was not get along very well ... they reported and the couple was in trouble. When I saw that militiaman, I was in fear”]; **E1/264.1** Phneu Yav, T. 17 Feb 2015, 10.54.51 [“The unit chief send the chlop or the militiamen to -- to listen to them at night and they assign two militiamen per house of a couple to -- to listen to the couple”]; **E1/317.1** Yean Lon, T. 16 June 2015, 14.26.01 [“I, in fact, didn’t want to join them, but I was afraid as I was being monitored at that time”]; **E1/305.1** Meas Layhuor, T. 26 May 2015, 09.46.36 [“After my marriage, the militia came to conduct surveillance on me”]; **E1/318.1** Yean Lon, T. 17 Jun 2015, 09.37.42 [“The militia monitored our activities. And if we stole it, we would be accused of being traitorous. And if the militia would know that, they would implicate us or accuse us of betraying them or betraying the communal interest, then I would be killed instantly”]; **E1/349.1** Him Man, T. 17 Sept 2015, 11.04.48 [“That was the conclusion that we made that we were under watch by the militia and if any of us was found to pray to Allah, then we would be risking our life”]; **E1/395.1** Uch Sunlay, T. 2 Mar 2016, 09.55.38 [“We were in a situation that we were under constant monitoring by the militia group”]; **E1/289.1** Thann Thim, T. 21 Apr 2015, 10.35.16, [“They did not trust New People at all. We were watched and we were under surveillance so we were not trusted”]; **E1/320.1** Sem Hoeun, T. 23 June 2015, 11.04.56 [“We were under constant surveillance on a daily basis to make sure that our activities were not violating the principles or regulations of the Democratic Kampuchea and if we were to sabotage any of the Angkar’s activities, then it was certain that we would be detained and smashed”]; **E1/331.1** Chhum Seng, T. 17 Aug 2015, 15.12.21 [“Angkar also assigned a special force in order to oversee this surveillance activity”].

¹⁰³⁹ **E1/452.1** Henri Locard, T. 1 Aug 2016, 09.17.45; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757534 [“Nuon Chea said, matter-of-factly, that Doeun was killed because he was ‘Koy Thuon’s string’”]; **E3/1575** S-21 Confession of Long Muy alias Chuon, EN 00208755 [Son Sen annotation on the cover sheet: “This man is a string of the Cambodian-Chinese, interpreter/translator”]; **E3/345** Kaing Guek Eav, T. 18 May 2009, 14.13.18 [“He sent them because these people originally came from the city, the string, the network of Vorn Vet and my network”]; **E3/524** Kaing Guek Eav, T. 22 May 2009, 15.49.36 [“At P.J., I taught people to interrogate and also I prepared report to the superior

these methods yielded a constant stream of “enemies” to be processed through what would become a ubiquitous network of security offices. From here, all that was needed was a rhetorical spark, and the conflagration would erupt into full flame.

299. On 30 March 1976, the CPK Central Committee issued a decision authorizing various organs of the revolutionary apparatus to “smash” enemies “inside and outside the ranks” of the Party.¹⁰⁴⁰ While in one respect this policy decision simply codified practices that had existed since mid-1960s,¹⁰⁴¹ the decision to sanction the killing of enemies uncovered “inside” the Party marked a fateful passage. The killing of CPK cadres had now been formally endorsed by the most authoritative organ of the Party. In some areas, the decision to “smash” was delegated from the Zone to the Sector.¹⁰⁴² Persons nominated for killing by the district echelon were often condemned by sector authorities, but executed at district security offices.¹⁰⁴³ In some places, authorisation to kill reportedly was delegated as low as the commune echelon.¹⁰⁴⁴ Following the Central

regarding the string of traitors”]; **E3/5797** Kaing Guek Eav, T. 8 June 2009, 16.23.03 [“I was focused on looking for the traitors and the strings of traitors”]; **E3/2447** Request to Report to the Respected Party, EN 00355474 [Annotation from District Secretary Kit to Kraing Ta Chan Security Centre Chief An: “He is an organized string of the CIA”]; **E3/745** *Revolutionary Flag*, Aug 1978, EN 00504072 [“We discovered all these strings, and we fundamentally eradicated them all and renewed the face of this Zone a lot”]

¹⁰⁴⁰ **E3/12**, Decisions of the Central Committee on a Variety of Questions, EN 00103998.

¹⁰⁴¹ The killing of enemies outside the Party, as well as “spies” and “traitors” inside the Party, had a long pedigree in the CPK before 1976: **E3/2124** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396374; **E3/1815** Ben Kiernan, *How Pol Pot Came to Power*, 00487385; **E3/7953** Bun Van Tha Statement, EN 00843456-67.

¹⁰⁴² **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00143624 [“Continue to investigate and search for enemies of all kinds who have hidden and burrowed [inside the revolution], and cleanly sweep them thoroughly from inside of various bases, units, offices and ministries”]; **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368-83; **E3/1077** Telegram Number 324 entitled “Respectfully Presented to Beloved Committee 870”, 10 April 1978, EN 00340540 [“In Sector 103, we carry out the purge of the hiding-burrowing-enemy... The purge of the enemy in this Sector 103 has made people very happy”]; **E3/401** Pech Chim WRI, EN 00381024-25 [“For the decision ... that related to the people of District 105, which was sent ... If there were some names ... crossed by the red ink, it meant that the sector level had decided that these names were to be purged. To purge meant to kill”].

¹⁰⁴³ **E3/2012** Report from the Educational Office of District 105, EN 00276596 [“Concerning the issue of all the prisoners who were arrested from the Chieng Tornng commune (Iron smith commune), they are to be interrogated in order to find out their whole networks, then smash them”]; **E3/2012** Report from the Educational Office of District 105, 30 July 1977, EN 00276593-97; **E3/4098** Report to the Party on the confessions of prisoners, EN 00322114; **E3/918** Telegram 254, Respectfully Presented to Beloved Committee 870, EN 00182757-58 [“Sectors and Districts should take the measures of searching the enemy and attack the enemy at the entrance gate when we can grasp the enemy trick”]; **E3/5524** Pran Chhen WRI, EN 00426300-01.

¹⁰⁴⁴ **E3/5204** Sman At WRI, EN 00242083; **E3/5311** Mour Setha WRI, EN 00373368-69; **E3/5234** Chak Mulip WRI, EN 00288207; **E3/5265** Urn Chy WRI, EN 00282347; **E3/5527** Seng Srun WRI, EN 00423723; **E3/5543** Loeung Bunny WRI, EN 00387501.

Committee decision, the power to arrest was deemed as synonymous with the power to kill.¹⁰⁴⁵ The result was an historic spasm of slaughter.¹⁰⁴⁶

300. Though the Party warned cadres to be discreet about killing enemies in plain sight of the Cambodian people,¹⁰⁴⁷ there was nothing secret about the CPK policy to kill enemies when it came to global audiences. For example, when the CPK overran Udong in 1974, **Khieu Samphan** proudly proclaimed on the CPK's clandestine radio station that his forces had killed 5,000 enemies: "On 18 March, our People's National Liberation Armed Forces liberated another city, Udong, by annihilating all the puppet soldiers there, along with their reinforcements; in other words, over 5,000 enemies were eliminated".¹⁰⁴⁸ Many of the "enemies" **Khieu Samphan** bragged of killing were captured soldiers and innocent civilians, including Buddhist nuns.¹⁰⁴⁹ After the CPK seized power, they continued to brag about their killing prowess on their radio station.¹⁰⁵⁰ For example, in August 1977, Radio Phnom Penh announced that "the U.S. imperialists, their lackeys and all traitors have been smashed and eradicated from our soil".¹⁰⁵¹ A month later, the same station declared that the Revolutionary Army "courageously raised the banner of the struggle to smash all types of enemies".¹⁰⁵² After

¹⁰⁴⁵ **E3/357** Ban Seak WRI, EN 00242931-33 ["It was clear at that time that when someone was marked as having been arrested, this meant that the person had also been killed. Those who had the power to arrest also had the power to decide on execution"].

¹⁰⁴⁶ **E3/2413** Ewa Tabeau and They Kheam, *Demographic Expertise Report*, EN 00385262.

¹⁰⁴⁷ **E3/785** *Revolutionary Flag*, June 1974, EN 00713999 ["If the spies are arrested to be executed in the meeting before the people, some people may be frightened of us ... The stance to smash the spies is correct but it is inappropriately carried out"].

¹⁰⁴⁸ **E3/167** Khieu Samphan speech, 11 Apr 1974, EN 00280586.

¹⁰⁴⁹ **E1/221.1** Stephen Heder, 10 Jul 2013, 14.33.53-14.35.46, ["I also interviewed some people who said that there had been executions on the spot of some categories of people, including Buddhist nuns. And I have a pretty clear recollection of the state of those bodies. I certainly saw the bodies ... there were definitely bodies of women dressed as Buddhist nuns who had been killed there"], 15.12.38-15.14.12 ["There was talk about executions of military personnel, civil servants, and then there was the specific mention of the nuns and I was then taken or went to see the bodies of the nuns ... Khmer Republic civil servants and Khmer Republic military personnel"]; **E1/190.1** Philip Short, T. 7 May 2013, 13.37.35; **E1/191.1** Philip Short, T. 8 May 2013, 14.25.19-14.27.03 ["In the case of Udong, they were executed after they left"]; **E3/1683** David Chandler, *The Tragedy of Cambodian History*, EN 00193314 ["When their troops overran the former royal capitol of Udong, north of Phnom Penh, in March 1974, some twenty thousand people were led off into the countryside, where the 'class enemies' among them were executed and the others put to work"].

¹⁰⁵⁰ **E3/118** FBIS, Radio Phnom Penh, 21 Apr 1975, EN 00166994 [Khieu Samphan speech: We have "totally smashed ... and completely crushed the most traitorous, fascist and corrupt regime of traitors Lon Nol, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret and Sosthene Fernandez"]; **E3/273** FBIS, Radio Phnom Penh, 18 Jan 1976, EN 00167841 ["[Army task is to] smash the enemy including the U.S. imperialists and the traitors"]; **E3/286** FBIS, Radio Phnom Penh, 17 Apr 1977, EN 00168246 [Ieng Sary speech: "Our Cambodian people and Revolutionary Army have smashed all the enemies' tricks [and] crushed their spy network"]; **E3/1358** FBIS, Radio Phnom Penh, 7 Aug 1977, EN 00168275 ["[In Monduliri, the Army is] smashing of the enemies of all stripes"].

¹⁰⁵¹ **E3/1358** FBIS, Radio Phnom Penh, 14 Aug 1977, EN 00168282.

¹⁰⁵² **E3/143** FBIS, Radio Phnom Penh, 17 Sept 1977, EN 00168751.

the Party Centre orchestrated the East Zone massacre in mid-1978, Radio Phnom Penh proclaimed victory: "In June 1978, we smashed and crushed completely a scheme to stage a coup d'état to topple Democratic Kampuchea from within ... we have completely smashed and wiped out the enemies of all stripes who attempted to topple our Democratic Kampuchea."¹⁰⁵³

301. When it came to revolutionary cadres, however, the CPK's internal propaganda exhorting them to kill was constant and shrill.¹⁰⁵⁴ The Party Centre's obsession with "enemies" and determination to incite cadres to kill "enemies" can be gleaned from the fact that references to "smashing" the enemy appear no fewer than 471 times in the pages of *Revolutionary Flag* and *Revolutionary Youth* between 1975 and 1978, even in the limited set of surviving issues of these once-secret publications.¹⁰⁵⁵ Throughout the

¹⁰⁵³ E3/75 FBIS, Radio Phnom Penh, 15 Aug 78, EN 00168977.

¹⁰⁵⁴ E3/5 *Revolutionary Flag*, Aug 1975, EN 00401497 ["After several months of fighting and sweeping them away, the enemy was smashed. We were mighty, militarily mighty and politically mighty, both inside and outside the country"]; E3/759 *Revolutionary Flag*, Apr 1976, EN 00517853 ["Imperialist ringleaders were all expelled from our country, their servants of every type were liquidated permanently and disappeared"]; E3/742 *Revolutionary Flag*, Apr 1977, EN 00478496 ["As for the enemies ... smash them even more so they cannot raise their heads ... and we will achieve additional major victories"], 00478501 ["It is imperative to purge, to clean up, and to sweep clean the no-good elements and the enemy elements"], 00478502 ["One very important issue that has to be concentrated on is clearly unmasking again and again the 'CIA' and their agents, the 'KGB and their agents ... 'Y[uon]' and their running dogs ... permanently clean"]; E3/727 *Revolutionary Flag*, May-June 1978, EN 00185342 ["Our duty is therefore is to attack absolutely... enemy is being smashed to smithereens, scattered to the winds and liquidated"], 00185343 ["We must see the enemy's face clearly ... sweep them cleanly away, sweep, and sweep and sweep again and again ceaselessly, so that our Party forces are pure"]; E3/746 *Revolutionary Flag*, July 1978, EN 00428291 ["During the first 6 months of 1978, our Party has impelled forward the countrywide movement to sweep cleanly away the concealed enemy boring from within"], 00428296 ["In order to sweep out the concealed enemy even more absolutely cleanly... expanding the purge in the ranks of the Party, the ranks of the masses and in the army"], 00428303 ["In the great mass movement to attack and smash ... bringing about a strategic victory for the nation, the people, the Party and the revolution"].

¹⁰⁵⁵ E3/5 *Revolutionary Flag*, Aug 1975; E3/731 *Revolutionary Youth*, Aug 1975; E3/728 *Revolutionary Youth*, Sept 1975; E3/748 *Revolutionary Flag*, Oct-Nov 1975; E3/729 *Revolutionary Youth*, Oct 1975; E3/730 *Revolutionary Youth*, Dec 1975; E3/735 *Revolutionary Youth*, Jan 1976; E3/166 *Revolutionary Flag*, Feb-Mar 1976; E3/759 *Revolutionary Flag*, Apr 1976; E3/732 *Revolutionary Youth*, Apr 1976; E3/733 *Revolutionary Youth*, May 1976; E3/760 *Revolutionary Flag*, June 1976; E3/753 *Revolutionary Youth*, June 1976; E3/4 *Revolutionary Flag*, July 1976; E3/734 *Revolutionary Youth*, July 1976; E3/193 *Revolutionary Flag*, Aug 1976; E3/10 *Revolutionary Flag*, Sept-Oct 1976; E3/755 *Revolutionary Youth*, Sept 1976; E3/756 *Revolutionary Youth*, Oct 1976; E3/757 *Revolutionary Youth*, Nov 1976; E3/25 *Revolutionary Flag*, Dec 1976-Jan 1977; E3/758 *Revolutionary Youth*, Dec 1976, EN 00544861; E3/768 *Revolutionary Youth*, Mar 1977; E3/742 *Revolutionary Flag*, Apr 1977; E3/770 *Revolutionary Youth*, May 1977; E3/135 *Revolutionary Flag*, June 1977; E3/743 *Revolutionary Flag*, July 1977; E3/193 *Revolutionary Flag*, Aug 1977; E3/11 *Revolutionary Flag*, Sept 1977; E3/772 *Revolutionary Youth*, Sept 1977; E3/773 *Revolutionary Youth*, Oct-Nov 1977; E3/139 *Revolutionary Flag*, Nov 1977; E3/140 *Revolutionary Flag*, Dec 1977-Jan 1978; E3/726 *Revolutionary Youth*, Jan-Feb 1978; E3/744 *Revolutionary Flag*, Feb 1978; E3/745 *Revolutionary Flag*, Mar 1978; E3/774 *Revolutionary Youth*, Mar-Apr 1978; E3/748 *Revolutionary Flag*, May-June 1978; E3/746 *Revolutionary Flag*, July 1978; E3/749 *Revolutionary Flag*, Sept 1978; E3/765 *Revolutionary Youth*, Oct 1978; E3/766 *Revolutionary Youth*, Nov 1978.

DK regime, CPK enemies were variously characterised as “bad elements”,¹⁰⁵⁶ “cliques”,¹⁰⁵⁷ “bandits”,¹⁰⁵⁸ “contemptible”,¹⁰⁵⁹ “agents embedded inside”,¹⁰⁶⁰ “sneakily embedded”,¹⁰⁶¹ “burrowing from within”,¹⁰⁶² “traitors and traitorous strings”,¹⁰⁶³ “[causing] trouble for the people”,¹⁰⁶⁴ “human vermin”,¹⁰⁶⁵ “CIA, KGB and Yuon territory-swallowers”,¹⁰⁶⁶ “noxious to the uttermost”,¹⁰⁶⁷ “the uttermost danger”,¹⁰⁶⁸ “genocidal”,¹⁰⁶⁹ and “stink[ing] to high heaven and degradingly despised as nothing”.¹⁰⁷⁰ One torture victim went to his death as a “pacification agent”.¹⁰⁷¹ Just as often, however, “enemies” were referred to in a generic, undefined manner, without specifying precisely who, or where, or what they might be. Trial Chamber Expert David Chandler suggested that this ambiguity was deliberate, as it was “menacing and very helpful to the regime to keep everybody off balance.”¹⁰⁷²

302. Consistent with these exhortations from the CPK Party Centre for cadres to seek out and “smash” enemies, the Party constantly stressed the need for “revolutionary vigilance” against every form of enemy activity.¹⁰⁷³ The demand for “revolutionary vigilance” against enemies was thus a recurring theme in the speeches of CPK leaders at the top echelon of the Party.¹⁰⁷⁴ “Revolutionary vigilance” was constantly stressed in

¹⁰⁵⁶ **E3/1110** Report on the meeting of the Commerce Committee, 25-26 July 1976, 26 July 1976, EN 00583829.

¹⁰⁵⁷ **E3/763 (E3/764)** Guidance of the Central Committee, 20 June 1978, EN 00275219.

¹⁰⁵⁸ **E3/1061** Division 801 Secretary Roeun to Beloved Uncle 89, 24 Mar 1977, EN 00538730.

¹⁰⁵⁹ **E3/2424** Chhoeun to Lovely Comrade Elder Brother District Police, 27 July 1978, EN 00322217.

¹⁰⁶⁰ **E3/952 (E3/511 and E3/953)** Telegram 04 from Central Zone Secretary Ke Pauk to Pol Pot, 2 Apr 1976, EN 00182658.

¹⁰⁶¹ **E3/742** *Revolutionary Flag*, Apr 1977, EN 00478496.

¹⁰⁶² **E3/746** *Revolutionary Flag*, July 1978, EN 00428291; **E3/175** Letter from North Zone Secretary Se to 870 Committee, July 1978, EN 00583931.

¹⁰⁶³ **E3/970** Division 502 Secretary Met to Beloved Comrade Brother Duch, 30 May 1977, EN 00335202.

¹⁰⁶⁴ **E3/147** FBIS, *DK Media Reports for January 1977*, 3-27 Jan 1977, EN 00168467.

¹⁰⁶⁵ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396454.

¹⁰⁶⁶ **E3/857** Working with the Committees of Every Unit of Organization, 12 Sept 1977, EN 00355487.

¹⁰⁶⁷ **E3/746** *Revolutionary Flag*, July 1978, EN 00428291.

¹⁰⁶⁸ **E3/746** *Revolutionary Flag*, July 1978, EN 00428291.

¹⁰⁶⁹ **E3/746** *Revolutionary Flag*, July 1978, EN 00428289.

¹⁰⁷⁰ **E3/746** *Revolutionary Flag*, July 1978, EN 00428289.

¹⁰⁷¹ **E3/871** Telegram 21 from Chhon to Pol Pot, 21 Mar 1976, EN 00185241.

¹⁰⁷² **E1/93.1** David Chandler, T. 20 July 2012, 09.25.12-09.26.11.

¹⁰⁷³ **E3/817** Presentation by Comrade Party Secretary during the First Meeting of the Council of Ministers, 22 Apr 1976, EN 00143467 [“We must raise the spirit of revolutionary vigilance even higher”].

¹⁰⁷⁴ **E3/232** CPK Standing Committee Meeting Minutes, 8 Mar 1976, EN 00182634 [Pol Pot: “Our vigilance must be even higher”]; **E3/196** Nuon Chea, Statement of the Communist Party of Kampuchea to the Communist Workers’ Party of Denmark, July 1978, EN 00762397 [“Cadres are also instructed in revolutionary vigilance, that is, taking care to be on guard against the enemy”]; **E3/200** Khieu Samphan Speech on Radio Phnom Penh, EN S 00004165 [“We must wipe out the enemy in our capacity as masters of the situation... Everything must be done neatly and thoroughly ... We must further steel ourselves, remain alert, constantly maintain the spirit of revolutionary vigilance and continue to fight and suppress all stripes of enemy at all times”]; **E3/857** Working with the Committees of Every Unit, EN 00355487-88

CPK publications, from the CPK Statute,¹⁰⁷⁵ to *Revolutionary Flag*¹⁰⁷⁶ and *Revolutionary Youth*,¹⁰⁷⁷ and in Party study documents.¹⁰⁷⁸ The imperative to maintain “revolutionary vigilance” against enemies was emphasised in all DK units of organisation, from Office 870¹⁰⁷⁹ to S-21,¹⁰⁸⁰ in Centre military divisions,¹⁰⁸¹ and beyond.¹⁰⁸²

- [Ieng Sary: “We must raise revolutionary vigilance really high”]; **E3/810** Minutes of Meeting of Secretaries and Logistics [Chiefs] of Divisions and Regiments, 19 Sept 1976, EN 00195352 [Son Sen: “We must indoctrinate the view of revolutionary vigilance to attack enemy trickery”].
- ¹⁰⁷⁵ **E3/130** Communist Party of Kampuchea Statute, EN 001840254 [“The Party must have high-level revolutionary vigilance toward all enemy activities and trickery, direct or indirect, overt or secret, which have the intent to destroy the Party by every means”].
- ¹⁰⁷⁶ **E3/748** *Revolutionary Flag*, Oct-Nov 1975, EN 00495805 [“The high Revolutionary vigilance stance in terms of ideology shall be strengthened on a daily basis so that the Party’s worker class will never be influenced by the non-Revolutionary ideology of the feudalism, landlord, capitalist and bourgeois classes and other non-Revolutionary ideologies of other classes”]; **E3/25** *Revolutionary Flag*, Dec-Jan 1975-1976, EN 00865711 [“Lifting the vigilance spirit as high as possible for the organizational work because all kinds of enemies, inside and outside, have the plan to destroy us strategically from one generation to another”] and 00865718 [“The spirit of revolutionary vigilance must be highly promoted in all sectors included politic, ideology, and organization”]; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450534 [“raise the spirit of revolutionary vigilance at every location”]; **E3/25** *Revolutionary Flag*, Dec-Jan 1976-1977, EN 00491404 [“They are traitor forces ... We eradicated them in time because our socialist revolution was good, our revolutionary vigilance was high, and our organization was meticulous”]; **E3/768** *Revolutionary Youth*, Mar 1977, EN 00525944 [“Constantly raise high our spirit of revolutionary vigilance, assessing and monitoring every dark maneuver and activity of the enemies of all types”]; **E3/742** *Revolutionary Flag*, Apr 1977, EN 00478500 [“Continue to constantly raise high our spirit of vigilance toward the enemies inside the Party, inside the Army, and among the people”]; **E3/135** *Revolutionary Flag*, June 1977, EN 00446876 [“Our Party decided resolutely that it is imperative to continue to uphold a constant spirit of revolutionary vigilance and to assemble all forces within the Party along with the Revolutionary Army and our collective people to search out and smash all enemy remnants that furtively embedded themselves inside to bore holes from within our Party”]; **E3/743** *Revolutionary Flag*, July 1977, EN 00476168 [“We must raise high our spirit of revolutionary vigilance against both internal and external enemies and their running dogs of every type”]; **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519855 [“We indoctrinate among the people and inside the Army about this view of vigilance”], 00519859 [“Raise the spirit of vigilance throughout the country in every unit”]; **E3/727** *Revolutionary Flag*, Aug 1978, EN 00185327 [“We must have ever increasingly revolutionary vigilance, especially as regards the internal enemy”].
- ¹⁰⁷⁷ **E3/758** *Revolutionary Youth*, Dec 1976, EN 00544866 [“Our revolutionary male-female youths should not be subjective, do not underestimate the enemies, and must maintain the revolutionary vigilance and practical and serious measures for dealing with and destroying them”], 00544867 [“Our revolutionary male-female youths, who are the vanguard and leading forces on all revolutionary works, must promote the spirit of constant revolutionary vigilance highly, and have the correct, strong, firm, and practical measures for all sectors for dealing with and smashing the enemies back at all time”].
- ¹⁰⁷⁸ **E3/213** Summary of the Results of the 1976 Study Session, EN 00104081 [“Raise high the level of revolutionary consciousness and vigilance towards both internal and external enemies”], 00104083 [“A vision and standpoint of constantly high revolutionary vigilance inside the Party, the armed forces, and our collective worker-peasant people”].
- ¹⁰⁷⁹ **E3/780** Committee 870, Declaration of Constant and Absolute Fight against the Invading and Land-Swallowing *Yvon*, EN 00721189 [“Constantly lift the spirit of revolutionary vigilance, track down and identify agents of the *Yvon* enemy to prevent them from hiding anywhere”].
- ¹⁰⁸⁰ **E3/810** Minutes of Meeting of Secretaries and Logistics [Chiefs] of Divisions and Regiments, 19 Sept 1976, EN 00195344 [Huy Sre, Member of S-21 Committee: “There is not yet a high level of vigilance in the work”]; **E3/833** Notebook of senior S-21 cadre Mam Nai alias Chan, EN 00814576 [“Our measures: 1. To enforce Revolutionary vigilance inside the Party and inside the armed forces; To hotly enforce Revolutionary vigilance among the people”].

INDEFENSIBLE DEFENCES OF THE POLICY

303. **Nuon Chea** insists that the Co-Prosecutors misconstrue the literal words of the CPK policy on “enemies”, arguing that the policy was actually much more subtle. “You could not treat everyone as enemy”, **Nuon Chea** told the Trial Chamber. “Even in the royal family, in the Monarch, in particular, there were people who were nationalists”.¹⁰⁸³ Despite **Nuon Chea**’s purportedly fond memories of the royal family, the CPK murdered almost every one of them they could get their hands on.¹⁰⁸⁴ “After 1975, the monarchy were to be smashed as long as they were encountered; there was no discrimination”, Duch clarified. “I believe that the royal family members were also smashed”.¹⁰⁸⁵
304. The royal family and its millennium-old institutions were the ultimate expression of the “feudalist” society that the CPK aimed to destroy. Former King Norodom Sihanouk was clear-eyed about this, describing the “Khmer Rouge” as “mortal enemies of Sihanouk and the monarchy”.¹⁰⁸⁶ Pol Pot declared at a CPK Standing Committee meeting on 13 March 1976, with both **Nuon Chea** and **Khieu Samphan** present, that the revolution had in fact successfully exterminated feudalism in Cambodia: “We must end feudalism, just like this. The chess game has gotten to that point. The entire feudal regime has been permanently smashed and dug out by the revolution. The

¹⁰⁸¹ **E3/13** Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 9 Oct 1976, EN 00940344 [Son Sen: “Concretely operationalizing revolutionary vigilance means having a firm grip on our units of organization, ensuring that the enemy is unable to bore from within, and doing whatever needs to be done to ensure that our army is clean”]; **E3/1165** Division 703 Secretary Pin Telegram to Office 62 at RAK General Staff, 22 Dec 1976, EN 00525766 [“With the Respect of the Loftiest Revolutionary Vigilance, done on 22 December 1976 for the Division 703 Committee”]; **E3/13** Minutes of Meeting of Secretaries of Divisions and Independent Regiments, 9 Oct 1976, EN 00183990 [Division 502 Secretary Sou Met: “This experience proves that our Party has a solid grip on things and a stance of constant vigilance”], EN 00183990 [Division 164 Secretary Meas Muth: “This lesson has strengthened another degree the standpoint of revolutionary vigilance”].

¹⁰⁸² **E3/165** Speech of Chairman of the Presidium at the opening of first conference of the first legislature of the People’s Representative Assembly of Kampuchea, 11-13 Apr 1976, EN 00184054 [Khieu Samphan: “We continue to strengthen and expand the force of great solidarity of the entire nation and people and to raise revolutionary vigilance to a high level at all times”]; **E3/1094** Office 401 To Respected, Beloved and Missed Angkar, 4 Aug 1978, EN 00143623 [“Measures have already been taken by being vigilant”].

¹⁰⁸³ **E1/25.1** Nuon Chea, T. 11 Jan 2012, EN 10.05.48.

¹⁰⁸⁴ **E3/1813** Craig Etcheson, *After the Killing Fields*, EN 00078868. See also **E3/2813** Norodom Sihanouk, *Prisonnier des Khmers Rouges*, EN 00359360 [Sihanouk says all of his children and grand-children, except for two sons by Monique, nearly 20 people in all, were disappeared by the CPK].

¹⁰⁸⁵ **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 11.24.07-11.29.20. See also **E3/35** Ke Pich Vannak WRI, EN 00346158-59 [“He was a prince named Tara Depau ... there was an urgent order from the upper echelon banning a meeting between Prince Sihanouk and Tara Depau. It said that ‘the son is not allowed to see the father.’ ... After 1979 I heard people say some royal families were killed during 1976 at Prey Sos Kyal and and Phnom Ampil area in Steung Trang district ... Kry told me that Tara Depau was killed along with his two body guards”].

¹⁰⁸⁶ **E3/2813** Norodom Sihanouk, *Prisonnier des Khmers Rouges*, EN 00395359 (free translation).

kings existing over 2,000 years must, in the end, be clean. We have no way out other than this one".¹⁰⁸⁷ The CPK had appointed Sihanouk as the first DK Head of State, and when Sihanouk asked permission to resign, Pol Pot, **Nuon Chea** and their colleagues decided to let him live, but also warned: "We do not kill him. ... We will maintain him, but if he keeps on struggling to free himself, we must end it".¹⁰⁸⁸ The CPK was supremely unsentimental about their many enemies. The CPK policy on enemies was that if the Party wanted to kill someone, then that would be *ot panya ha* – no problem. And the CPK wanted to kill *very* many "enemies". We now turn to some specific instances of mass extrajudicial murder by the CPK.

FORMER KHMER REPUBLIC SOLDIERS AND OFFICIALS

*They were taken away and smashed. This was the way they did to high ranking officers. During the regime, nobody was put on trial!*¹⁰⁸⁹

– Witness Prum Sarun

305. Throughout the DK regime, the leadership instructed cadres to identify, arrest, and often execute former soldiers and officials of the Lon Nol regime. Across the country, CPK cadres lured former Khmer Republic soldiers and officials into revealing their past positions and regularly took biographies. Former soldiers and officials and their families were then subject to harsher living and working conditions, and considered enemies unless they maintained perfect compliance with *Angkar's* instructions. They were arrested for minor "offences", tortured, and executed without due process at much higher rates than civilians not associated with the Khmer Republic regime.
306. CPK policy was particularly severe regarding Khmer Republic officers and high-ranking officials of the former regime, whom the Khmer Rouge considered inherently non-reformable. From the beginning of the DK regime, the Centre's policy was to execute all Lon Nol military officers and high-ranking officials in order to eliminate any threat of a counterrevolution. While the evidence varies from time and place as to the exact level of rank above which all were to be killed, the evidence consistently shows efforts to kill all higher-ranking officers. Those few that survived did so by hiding their military background.

¹⁰⁸⁷ E3/197 Minutes of Meeting of the CPK Standing Committee Meeting, 11 March 1976, EN 00182641.

¹⁰⁸⁸ E3/197 Minutes of Meeting of the CPK Standing Committee Meeting, 11 March 1976, EN 00182641.

¹⁰⁸⁹ E1/364.1 Prum Sarun, T. 8 Dec 2015, 15.20.00-15.23.42.

307. In 1977, the CPK leadership, increasingly paranoid about the perceived sabotage of the revolution, again exhorted cadres to systematically purge the cooperatives of “elements of the former regime.” This involved mass arrests and killings of those connected to the Khmer Republic regime for any indication of opposition to the revolution, including lower-ranking soldiers, officials, and their families.

1. Evolution of the Policy

308. During the war with the Khmer Republic, the FUNK leadership took a dual approach to Khmer Republic soldiers and officials. First, they incited the killing of Khmer Republic soldiers and officials using inflammatory and indiscriminate statements.¹⁰⁹⁰ Second, they encouraged Lon Nol soldiers and officials to save themselves by defecting before it was too late. Only seven “supertraitors” were not given this option — the Khmer Rouge announced these men would be killed.¹⁰⁹¹ All others were told they could avoid

¹⁰⁹⁰ **E3/167** FUNK Publication, *Nouvelles du Cambodge No. 698*, 11 Apr 1974, EN 00280586 [“On 18 March, our People’s National Liberation Armed Forces liberated another city, Oudong, by annihilating all the puppet soldiers there along with their reinforcements; in other words over 5,000 enemies were eliminated, 1,500 of whom were captured”]; **E3/30** FBIS, *Khieu Samphan 14 Jan Message to CPNLF Fighters*, 15 Jan 1975, EN 00166709-10 [the CPNLF had “annihilated close to 20 battalions of enemy troops and liberated tens of thousands of our people from the demonic claws of the traitor Lon Nol and his clique”]; **E3/637** *Khieu Samphan, Hou Yun and Hu Nim Statement*, 17 Apr 1975, EN 00740933 [“some 1,550 heads of enemy’s military personnel and officers including hundreds colonels, captains, lieutenants and major-lieutenants have been smashed, while ten thousands of people have been liberated”], EN 00740938 [“All in all, up to mid-January 1973, the Kampuchean people’s liberation armed forces and our people have obtained great victories. We have smashed a total of 10,245 heads of the enemies and liberated dozens of bases”]; **E3/118** FBIS, *Khieu Samphan Congratulates CPNLF on Neak Luong Victories*, 3 Apr 1975, EN 00166923-25 [including the specific Khmer Republic brigades that were defeated and the number of soldiers (5,000), “field-grade officers” (20) and “general officers” (65) who were “killed, wounded [or] captured”]; **E3/116** *Khieu Samphan, Hou Yun and Hu Nim Statement*, 9 Sept 1972, EN 00485282-83 [Hou Yun and Hu Nim issued a statement appealing to people to ... “fight resistantly to eliminate the main traitors ... and their subordinates,” using “all types of weapons such as small and big guns, knives and sticks to kill the traitors”]. See also **E3/7278** Alexander Hinton, *A Head for an Eye*, EN 00993748-49 [“This class grudge facilitated a great deal of violence during DK. ... This hatred was quickly directed at the first targets of revenge, the Lon Nol government and military. Leading officials were rounded up and executed, and a concerted attempt was made to identify other potential enemies”], EN 00993753 [“The Khmer Rouge first killed off virtually the entire military and governmental leadership of the Lon Nol regime and then set out to eradicate other suspected enemies and, in many cases, part or all of their family lines. By taking ‘a head for an eye,’ ... the Khmer Rouge were attempting both to demonstrate their superiority ... and to prevent the cycle of vengeance from continuing thereafter”].

¹⁰⁹¹ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 10.59.45; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 10.23.20-10.30.03 [confirming radio broadcasts calling for the execution of the seven Lon Nol “super-traitors,” and that the CPK Standing and Central Committees took no action to renounce the call for the execution of those individuals]; **E3/4001R** Video, *Enemies of the People: One day at Po Chrey*, 2010, 22:07-22:11 [Nuon Chea confirmed that the CPK “political orders” were to “liquify” the “five top leaders”]; **E3/116** *Statement of Khieu Samphan, Hou Yun and Hu Nim*, 9 Sept 1972, EN 00485282-83 [appealing to the people to unite with the FUNK and “fight resistantly to eliminate the main traitors including the contemptible Lon Nol, Sirik Matak, Son Ngoc Thanh, In Tam, Lon Non, Hang Thun Hak, and others and their subordinates”]; **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720205; **E3/30** FBIS, *Khieu Samphan Issues Appeal to Compatriots, Monks* 22 Jan 1975, EN 00166721-22; **E3/117** *Khieu Samphan*

this fate by switching their allegiance immediately.¹⁰⁹² In the days leading up to 17 April 1975, the FUNK leadership made clear that all soldiers and officials who did not defect were part of the “traitorous clique”,¹⁰⁹³ whose lives were at risk,¹⁰⁹⁴ and warned

Chairs NUFC Congress Session, 26 Feb 1975, EN 00166772 [“the national congress declares it absolutely necessary to kill the seven traitors for their treason against the nation, and their fascist, corrupt, criminal acts unprecedented in Cambodian history”]; **E3/120** FBIS, *NUFC Radio Emphasizes 26 February Congress Appeal*, 3 Mar 1975, EN 00166791-92; **E3/120** FBIS, *NUFC Editorial Hails Decisions of 2nd National Congress*, 4 Mar 1975, EN 00166792-93; **E3/120** FBIS, *Further Appeal Urges People to Join CPNLAF Struggle*, 7 Mar 1975, EN 00166795-96; **E3/3718** Ta Kung Pao (Chinese Newspaper), *7 Top Cambodian Traitors Named*, 6 Mar 1975, EN 00001499; **E3/120** FBIS, *Cambodians In Peking Laud Second NUFC Congress*, 11 Mar 1975, EN 00168816; **E3/120** FBIS, *Civil Disturbances Urged*, 14 Mar 1975, EN 00166838-40; **E3/120** FBIS, *Khieu Samphan Appeals for Intensified Struggle*, 15 Mar 1975, EN 00166828; **E3/120** FBIS, *Urgent Appeal*, 17 Mar 1975, EN 00166842-43; **E3/120** FBIS, *RGNUC's Hou Nim Issues Appeal to Monh on Current Situation*, 22 Mar 1975, EN 00166870 [“There are only seven traitors”]; **E3/120** FBIS, *RGNUC Cabinet issues 25 Mar Communiqué Appeal*, 26 Mar 1975, EN 00166874; **E3/189** Telegram from the Minister for Foreign Affairs, 21 Mar 1975, EN 00894298; **E3/120** FBIS, *RGNUC's Hou Youn Issues Appeal to 'Enemy-Controlled' Areas*, 29 Mar 1975, EN 00166885-87 [“Conduct more vigorous uprisings against the seven traitors; try by all means to annihilate them”]; **E3/118** FBIS, *AKI: CPNLAF Continuing Offensive 'Without Compromise'*, 10 Apr 1975, EN 00166937 [noting that while five of the seven super-traitors had fled the country, Sirik Matak and Long Boret remained “in Phnom Penh,” and the “residents and youths will annihilate and put an end to [their] existence”]; **E1/56.1** Kaing Guek Eav alias Duch, T. 29 Mar 2013, 15.22.52-15.27.04, 15.35.41- 15.41.52 [describing hearing broadcasts on the radio]; **E1/201.1** Sydney Schanberg, T. 5 June 2013, 10.40.39-10.46.33; **E1/159.1** Chhaom Se, T. 11 Jan 2013, 13.33.34-13.37.07.

¹⁰⁹² **E3/117** Khieu Samphan *Chairs NUFC Congress Session*, 27 Feb 1975, EN 00166772 [“other low or high-ranking government officials ... army officers, police officers had the full right to join FUNK/GRUNK provided they “immediately cease their service to the seven traitors”]; **E3/120** FBIS, *NUFC Radio Emphasizes 26 February Congress Appeal*, 3 Mar 1975, EN 00166791-92 [“As for our compatriots in Phnom Penh and areas under temporary enemy control ... the great national congress solemnly declared that they are entirely free to join the NUFC provided they stop cooperating with the seven bigshot traitors ... all the various fraternal government employees, politicians and personalities working for all the agencies of the traitors’ regime, brother officers ... now is the time to make up their minds”]; **E3/3718** Ta Kung Pao (Chinese Newspaper), *7 Top Cambodian Traitors Named*, 6 Mar 1975, EN 00001499; **E3/3334** US State Department Telegram, *Khmer Report*, 4 Mar 1975, EN 00413052-3 [Politicians other than the seven traitors, could join FUNK if they stopped cooperating with Lon Nol “now”]; **E3/189** GRUNK Telegram to the Minister for Foreign Affairs, 18 Mar 1975, EN 00894299; **E3/3341** US State Department Telegram, *Khmer Report*, 18 Mar 1975, EN 00413196 [“The Prince [Sihanouk], apparently acquiescing in the February 2nd National Congress Decision, noted that the seven principal and former GKR leaders have been sentenced to death, but that others would be granted clemency if they were “not too late” in cooperating with GRUNK”]; EN 00413197; **E3/118** FBIS, *Khieu Samphan Issues Statement on Current Situation*, 1 Apr 1975, EN 00166897-98; **E3/118** FBIS, *Penn Nouth Greets Compatriots on Cambodian New Year*, 13 Apr 1975, EN 00166956; **E3/118** FBIS, *Sihanouk Rejects Offer*, 16 Apr 1975, EN 00166971 [“if second-rank traitors wish to save their lives, they should immediately lay down their arms, raise the white flag and rally unconditionally to NUFC, RGNUC and CPNLAF”]. See also **E1/191.1** Philip Short, T. 8 May 2013, 16.06.29; **E3/3338** US State Department Telegram, *EA Press Summary*, 12 Mar 1975, EN 00413155.

¹⁰⁹³ **E3/118** FBIS, *Khieu Samphan Issues Statement on Current Situation*, 1 Apr 1975, EN 00166897-98 [“The NUFC ... appeal to all officers, men and members of armed organizations of all categories of the traitorous clique on all battlefields, ... to lay down their weapons immediately”]; **E3/118** FBIS, *Khieu Samphan Appeals to Phnom Penh Citizens to Join NUFC*, 14 Apr 1975, EN 00166948 [“All brother officers and troops in the traitorous army are requested to immediately lay down your weapon and join in the NUFC”]; EN 00166949 [“The creation of this organisation is ... designed to continue the treachery of the last bunch of traitors”].

¹⁰⁹⁴ **E3/118** FBIS, *Sihanouk Rejects Offer*, 16 Apr 1975, EN 00166971 [“if second-rank traitors wish to save their lives, they should immediately lay down their arms, raise the white flag and rally unconditionally to NUFC”]. See also **E3/189** GRUNK Telegram Addressed to the Minister for Foreign Affairs, 18 Mar 1975, EN 00894299 [the National Congress called upon Lon Nol officials to abandon the seven traitors

their children would be “indelibly marked as the descendants of traitors.”¹⁰⁹⁵ In certain areas controlled by the Khmer Rouge, cadres arrested and killed Lon Nol civil servants, soldiers, and their families.¹⁰⁹⁶

2. Eliminating the Threat of Counter-Revolution: 1975

309. Even after the Khmer Rouge’s victory and the end of Cambodia’s civil war, the CPK considered Khmer Republic soldiers and officials to be an inherent threat to the revolution.¹⁰⁹⁷ **Nuon Chea** told the Chamber that in a 1974 meeting, the CPK leadership predicted that when Phnom Penh was captured, Lon Nol soldiers would flee to the border areas where “[t]hey would start fighting; attacking our people through means of guerrilla war and they would drag us to follow them and that there will be no peace.”¹⁰⁹⁸ In a 1996 interview, Ieng Sary stated that around 20 April 1975 the Party Centre decided to “do whatever was required to keep that group from being able to rise up and oppose the revolution” and extended orders to kill Khmer Republic military officers down the ranks.¹⁰⁹⁹ In the aftermath of the 17 April 1975 victory, the Khmer Rouge

“while there is still time”].

¹⁰⁹⁵ **E3/118** FBIS, *Penn Nouth Greets Compatriots on Cambodian New Year*, 13 Apr 1975, EN 00166956 [“Time is very short ... join the patriotic ranks of the people in order to avoid passing on a bad name to your children who will be indelibly marked as the descendants of traitors”].

¹⁰⁹⁶ **E1/256.1** Say (Sory) Sen, T. 4 Feb 2015, 13.40.28-13.42.38 [“my detention was due to my father being District Chief during the Sihanouk regime”]; **E1/258.1** Say (Sory) Sen, T. 6 Feb 2015, 10.02.22-10.04.59; **E3/4846** Say (Sory) Sen WRI, EN 00527773 [“I saw them take my father to kill when I was collecting cow dung on the west side of the prison. ... right after his execution I went to see him. In less than an hour they had transfer the body to the grave. I took my father’s cloths off, washed the blood out and kept it to wear and cover myself”]; **E3/9589** Say (Sory) Sen WRI, A11, A21-25 [he was arrested in 1973]; **E1/257.1** Say (Sory) Sen, T. 5 Feb 2015, 09.18.02-09.20.07 [“For example, one prisoner [in 1974] said he was accused of being connected with [the] former regime because his sibling or relative have a rank of a major or a captain”]; **E1/255.1** Kev Chandara alias Yav, T. 2 Feb 2015, 11.17.53-11.23.46 [“When I was detained at the Centre ... There was not less than 50 victims executed a day. It’s not only for the former Lon Nol officers or soldiers. ... No one survived”], 13.50.39, 16.03.44-16.06.27; **E1/288.1** Bun Sarouen T. 3 Apr 2015, 10.30.04-10.32.17, 11.12.56-11.25.17 [his father was a group chief under the Lon Nol regime and was arrested and detained at Kraing Ta Chan security centre in late 1973 or early 1974]; **E3/5877** Bun Sarouen CPA, EN 01067016-17. See also **E1/282.1** Saut Saing, T. 24 Mar 2015, 11.07.44-11.12.38; **E1/257.1** Saut Saing, T. 25 Mar 2015, 11.07.44-11.12.38 [prisoner was told that there were more prisoners who were former Lon Nol soldiers or civil servants previously under Phan Chhen (chief from 1973 to mid-1975)]; **E1/410.1** Chan Bun Leath alias Bun Loeng Chauy, T. 29 Mar 2016, 09.33.57-09.35.48 [noting that most Lon Nol soldiers in Sector 105 had been purged from 1970 to 1975]; **E3/7752** Phol Phai WRI, EN 00275154-57 [in 1973, the Khmer Rouge “arrested and killed people”, “accusing them of being spies for Sa Yim, the [Lon Nol] subdistrict chief”. They arrested them one by one, beating, interrogating then killing them and arresting their connections. He estimates that “they arrested two or three persons in one day, sometimes five or six, but not every day. ... They said they were taking them to study; as I understood it, they sent them to killing sites”]; **E3/3209** Henri Locard, *Bopheia Region*, 24-26 August 1993, EN 00403133, 00403167.

¹⁰⁹⁷ See e.g. **E1/187.1** Lim Sat, T. 2 May 2013, 10.14.23-10.16.45; **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.32.45-10.35.30; **E3/3327** UN ECOSOC, *Further Submission of the International Commission of Jurists under Decision 9 (XXXIV)*, EN 00075939.

¹⁰⁹⁸ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 15.22.27-15.24.03.

¹⁰⁹⁹ **E3/89** Ieng Sary Statement, 17 Dec 1996, EN 00417606 [“Q: “It was not that everyone was to be killed

immediately executed captured high-ranking officials not among the seven “great traitors”, including Ung Boung Hor¹¹⁰⁰ and Lon Non¹¹⁰¹ — a small precursor to the mass executions of officers and former officials around the country.

310. In April and May 1975, CPK leaders, including **Nuon Chea**, disseminated orders to remove or eliminate high-ranking Khmer Republic soldiers and officials.¹¹⁰² Khmer Rouge radio transmissions instructed cadres to secretly “eliminate all high-ranking

... it was not just a few bullets ... the ‘great traitors’. It went beyond that ... But there is no documentation speaking of lower-ranking soldiers or civil servants in general. A: So that decision was not made in advance. It was decided ... after 17 April, around the 20th, ... meaning they decided to do whatever was required to keep that group from being able to rise up and oppose the revolution. From what I was told, the group had post-defeat plans ... to take back power. I asked more, and they said that when they had searched the houses of military officers, they were full of grenades and all kinds of weapons.” (*emphasis added*).

¹¹⁰⁰ **E1/201.1** Sydney Schanberg, T. 5 June 2013, 11.09.13-11.10.51 *citing* **E236/1/4/3.1** Sydney Schanberg: *Cambodia Diary 1975*, EN 00898293; **E3/2702** French Ministry of Foreign Affairs Telegram, *Departure of Refugees*, 20 Apr 1975, EN 00504003; **E3/4148** US Embassy in Bangkok Telegram, *American Talks of Phnom Penh After The Fall*, 4 May 1975, EN 00413478; **E3/4679** Ung Bonavan CPA, 15 June 2008, EN 00850654.

¹¹⁰¹ **E1/201.1** Sydney Schanberg T. 5 June 2013, 10.50.17-10.58.47; **E3/604** Bangkok Post, *Relations Confirmed as Khmers Leave*, 2 Nov 1975, EN 00419043. *See also* **E3/3865** Amnesty International, *Democratic Kampuchea (Cambodia)*, May 1976, EN 00004213; **E3/1287** FBIS, *AKI Reports Sihanouk's 26 March War Criminals Statement*, 2 Apr 1975, EN 00771787.

¹¹⁰² **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.35.53-14.37.54 [assistant to training course in Phnom Penh in 1975: “Q: When Mr. Nuon Chea made his speech, what was the content of such speech after Pol Pot? A: Following Pol Pot ... he was talking about finding individuals who burrow within the Party ... we had to know people who were opposing the Party, who were infiltrating in the Party’s line...I felt that Nuon Chea was referring to people who could have been the soldiers in the previous regimes, including Norodom Sihanouk and Lon Nol regimes”]; **E3/10731** [REDACTED] WRI, A47, A53-54 [the witness, [REDACTED], attended a month long training session mid-1975 for all military divisions at Olympic stadium. Son Sen spoke there about the “screening and sorting” of enemies, where soldiers whose parents or relatives were affiliated with *inter alia* the Lon Nol government would be placed in a separate unit for those with “tendency”]; **E3/7516** Sem Hoeun alias Kim DC-Cam Statement, EN 00183598 [“As a battalion chairman in Pheng’s regiment of Division 310, he attended a series of political study sessions at the Olympic Stadium, along with battalion, regimental and division cadre from all over the country. Son Sen (Khiev) taught and spoke about the need to research to find those with connections to political tendencies, such as having relatives who had served as Republican soldiers. ... Ieng Sary also taught at these study sessions, saying that those connected to traitorous political links would have to be removed, regardless of their status”]; **E3/4527** Stephen Heder *Reassessing the Role of Senior Leaders and Local Officials*, EN 00661465 [“During a series of meetings in Phnom Penh in May, June ... Pol and Nuon refined and expanded the categories whose members must all be killed to include ‘officers, starting from the generals and working down through to the lieutenants, as well as kinh, policemen, military police personnel and reactionary civil servants,’ justifying this position by arguing that such executions were a necessary part of ‘attacking the old social regime’”]; **E3/7342** S-21 Confession of You Peng Kry alias Mon, Deputy Chief of Office 24, 21 Jan 1978, EN 00821429 [contains annotation that reads: “About smashing in accordance with the secret work of the Party that permitted the smashing of senior traitors including Touch Kim and the generals captured on 17 April 1975”]; **E3/3472** US National Security Council Memorandum, *Assessment of Developments in Indochina*, 15 July 1976, EN 00443170 [a Khmer Rouge order went out to kill all army officers and civilian officials of the Lon Nol government]; **E3/3327** UN ECOSOC, *Further Submission of the International Commission of Jurists under Decision 9 (XXXIV)*, EN 00075939 [it was a decision of the Central Committee to wipe out former Khmer Republic officers then common soldiers in 1975 and 1976 respectively to prevent forces uniting against the revolution].

military officials, government officials” from second lieutenant upward.¹¹⁰³ In June 1975, a commander of Centre Division 703, ordered the execution of 17 Lon Nol soldiers, mostly former lieutenants or lieutenant colonels, after “examination by the Party”, which had divined in one victim “a feudal, people betraying lineage,” and in another “a nature absolutely opposed to the revolution.”¹¹⁰⁴

311. Duch testified that, “after 1975, former soldiers and officers of Lon Nol regime were the key enemies”¹¹⁰⁵ and “the purges of the former regime soldiers and officers” were carried out from “17 April forward.”¹¹⁰⁶ In the aftermath of the fall of Phnom Penh,

¹¹⁰³ **E3/390** Mat Ly DC-Cam Interview, 1990, EN 00436867-68 [former East Zone DK official: “Domestic policy: ... if they had even been first lieutenants, second lieutenants or had worked in the courts, they were killed. To be able to kill them, they designated them all as enemies”]; **E3/3370** Washington Post, *Reports Hint ‘Blood Debt’ Being Paid*, 12 May 1975 [“Not long after the Communists captured Phnom Penh and consolidated their hold on Cambodia, they issued the following secret instructions: ‘Eliminate all high ranking military officials, government officials. Do this secretly. Also get provincial officers who owe the Communist Party a blood debt.’ ... U.S Intelligence intercepted the radio transmission and sent a translation to the State Department by secret cable. We have obtained a copy of the secret cable ... Other radio reports from the field indicate that the blood reprisals have started. One unit, relaying orders from Communist high command, called for the execution of all military officers from lieutenant to colonel, with their wives and their children. ... Apparently, the Khmer Rouge want to eliminate everyone who might become a threat to Communist control”]; **E3/3393** Los Angeles Times, *Massive Cambodia Bloodbath Reported*, 4 May 1975 [quoting Newsweek Magazine: “All officers down to the rank of second lieutenant were to be killed, along with their wives, the intercepts were said to indicate ... Sources have told Newsweek that the United States intercepted official Khmer Rouge radio transmissions in which the orders for the bloodbath were given, as well as the field reports saying that the initial round of executions had been carried out. The sources say the killings are not isolated cases, but part of a full-fledged campaign”]; **E3/3364** Washington Post, *Cambodian Ex-Officers, Wives Reported Slain by Khmer Rouge*, 6 May 1975 [“The White House yesterday said intercepted radio transmissions indicated that 80 or 90 Cambodian military officers and their wives have been killed since the fall of Phnom Penh. ... [Press Secretary] Nessen said that the intercepted report also indicated that executions, mostly against military officers of the Lon Nol government were continuing”].

¹¹⁰⁴ **E3/832** Execution Order, 4 June 1975, EN 00068915 [“The comrades are asked to implement the policy of the party”] *authenticated by* **E3/537** Ieng Sary Interview, 17 Dec 1996, EN 00417602; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 14.08.29 [“[Pin] said that after 17 April 1975, the situation of those soldiers was rather chaotic and Pol Pot told Khoem Pin to monitor and control the situation”]; **E3/429** Kaing Guek Eav WRI, EN 00403920-21 [“I know that, after 17 April, soldiers were systematically eliminated. This was confirmed to me by Khoem Pin (Secretary of Division 703) and by Hor, my deputy. After the liberation, soldiers were hunted down and fled. Pol Pot, Vorn Vet and Son Sen were informed of this and asked Khoem Pin to monitor the situation. He told me, for example, that Generals Chea Kim Eng and Chhim Chhuon reported to him to surrender and were liquidated afterwards. Hor told me the same thing about General Deng La Yom”]; **E3/5759** Duch’s Note on Lists in Searching for the Truth, EN 00197748.

¹¹⁰⁵ **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.15.38-10.18.29; **E3/345** Kaing Guek Eav, T. 18 May 2009, 09.52.33-09.57.43 [indicating that “people in Lon Nol’s regime” were classified into three categories, the first of which were smashed in 1975 to 1976]. *See also* **E1/71.1** Pean Khean, T. 2 May 2012, 14.27.29-14.32.17 [messenger to Koy Thuon states that Lon Nol soldiers and government officers were to be smashed because they were considered enemies].

¹¹⁰⁶ **E3/5795** Kaing Guek Eav, T. 29 Apr 2009, 09.23.01. *See also* **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 09.09.51-09.15.54, 14.01.24-14.01.14 [“The documents of Division 13 [M-13], the documents that was the heritage of S-21, mentioned that a lot of soldiers and military officials were arrested. So it is clear that those people were collected and smashed”]; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.07.51-10.15.38; **E3/5757** Duch’s Note on Document, EN 00186652 [“During ... the forced evacuation of the people, the Police Office of the 703rd Division also received orders to carry out secret crimes ... for instance, the use of trickery to arrest soldiers ... and take them to be killed”].

Duch was assigned to collect vast numbers of documents from the houses of senior Lon Nol leaders “in order to arrest the former regimes and officials”.¹¹⁰⁷ Nhem En, a former S-21 worker trained by Division 703,¹¹⁰⁸ testified that such documents were used to identify former high-ranking Khmer Republic officers, who were then sent to be killed at the Centre’s Division 703 prison in Takhmau,¹¹⁰⁹ a precursor to and component of S-21.¹¹¹⁰ He stated:¹¹¹¹

It was in December 1975, or in November, I witnessed that. They, the Khmer Rouge, wanted to search for the pilots, the former pilots, and also those who were colonels, majors during the Lon Nol regime. It didn’t take long to find them. It took about four to ten days, and those people were brought in and killed. I did not overhear it, I saw it by myself.

Nhem En further testified that he delivered letters from Pol Pot and **Nuon Chea** with

¹¹⁰⁷ **E1/433.1** Kaing Guek Eav, T. 7 Jun 2016, 13.56.39; **E3/5795** Kaing Guek Eav WRI, T. 29 Apr 2009, 09.23.01; **E3/5794** Kaing Guek Eav, T. 28 Apr 2009, 09.35.36; **E3/442** Kaing Guek Eav, EN 00412117. *Note* Chhim Sam Oeur alias Set, a medic at S-21, was later executed after destroying some of the records collected: **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 10.09.52. Duch also submitted a report to Nat in 1975 seeking a decision on whether to arrest three former civil servants in Kampong Thom who had falsified their biographies: **E3/1052** Report to Respected Brother 03, 27-29 Nov 1975 *confirmed by* **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 14.20.15; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2012, 10.57.46-10.59.31, 14.19.08-14.31.09.

¹¹⁰⁸ **E1/418.1** Nhem En, T. 19 Apr 2016, 15.41.38.

¹¹⁰⁹ **E1/419.1** Nhem En, T. 20 Apr 2016, 15.41.03-15.47.48 [“Books were collected and put onto five GMC trucks. The documents were used to research the former Lon Nol government. The arrests did happen in 1975. Those documents were collected from the library and names were noted down and ... people were arrested afterwards. At Takhmau, the psychiatric hospital, Song Sak was also killed there. Colonels, majors, captains and other Lon Nol high-ranking officers were killed”]. *See also* **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.10.43-10.14.42 [“Before I became the chief or chairman of S-21, that police office had already purged the former soldiers and officials of the former regime ... After 1975, April 1975, I was the chairman of S-21. There were lists of people arrested and I provided trainings on interrogation techniques, so I witnessed this policy. In my capacity as the chairperson, I had regular contacts with my superior, including Son Sen and Nuon Chea”]; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 15.19.40-15.22.31.

¹¹¹⁰ **E1/434.1** Kaing Guek Eav, T. 8 Jun 2016, 09.13.12-09.22.22 [“As for the Takhmau hospital that belonged to Nat, Division 703 and the previous supervision ... were part of S-21 or reintegrated into S-21”], 09.28.26 [“Regarding the closure of Takhmau prison ... it was closed around June”] *confirming* **E3/524** Kaing Guek Eav, T. 22 Apr 2009, 15.49.00; **E3/5759** Duch’s Note on Lists in Searching for the Truth, EN 00197748; **E1/418.1** Nhem En, T. 19 Apr 2016, 15.52.48 [“for Choeung Ek and Takhmau, it was under Division 703 ... this division was a special division under Son Sen, Pol Pot, Nuon Chea ... 50 per cent of staff in S-21 originated from this division”]. *See also* **E1/430.1** Suos Thy, T. 2 June 2016, 09.54.02-10.00.25 [prisoners listed as from ‘S-21C’ were held in the Takhmau premises] *discussing* **E3/1539** Names of prisoners who died at S-21C, March 1976; **E3/10568** Suos Thy Military Court Statement, EN 00326773 [“Third, 21C was also a guard section, but it guarded the prisoners in Ta Khmao ... In 1976, they moved the criminal location (the former S-21) to S-21 (Tuol Sleng)”]; **E1/422.1** Lach Mean, T. 26 Apr 2016, 11.24.50-11.29.08; **E1/421.1** Lach Mean, T. 25 Apr 2016, 14.10.10-14.12.52.

¹¹¹¹ **E1/419.1** Nhem En, T. 20 Apr 2016, 15.41.03-15.47.48. *See also* **E1/430.1** Suos Thy, T. 2 June 2016, 09.54.02-10.00.25 *discussing* **E3/1539** Names of prisoners who died at S-21C, March 1976 [lists 153 prisoners who were executed primarily within a week in 1976 and 9 who died of illness].

'handwriting in red' to the Division 703 Takhmau prison.¹¹¹² On 17 April 1975, fellow Division 703 trainee¹¹¹³ and S-21 worker Prak Khan stood guard during mass executions of two truckloads of "the remaining soldiers of the former regime" and their families at a pagoda in Takhmau.¹¹¹⁴ He testified that the executions were carried out by Oeun, a battalion commander in Division 703, pursuant to an "order to execute the prisoners of war".¹¹¹⁵ When Son Sen later sought to use the Takhmau prison as a DK Ministry office, there were so many dead bodies buried on the property, they were deemed a health risk so exhumed and burned.¹¹¹⁶

312. In Sector 13 in the Southwest Zone, witnesses described a chain of orders to monitor and purge ranking soldiers from before 17 April 1975. Tram Kak District office worker Ek Hoeun testified that District Secretary Khom repeated at mass meetings before and after 17 April 1975 that all "capitalists, feudalists and reactionaries, were the subjects to be smashed", referring to teachers, deputy chiefs, commune chiefs, and soldiers who had served prior regimes.¹¹¹⁷ The former Deputy Chief of Tram Kak Hospital, Riel Son similarly testified that both prior to April 1975 and again in 1976, the district informed commune and village chiefs that former civil servants from the first deputy chief and above, and former soldiers from the ranks of adjutant and above, were to be purged.¹¹¹⁸ District Secretary Pech Chim testified in response "that was the plan set out by the upper echelon and we had to disseminate such a plan." He stated that those people

¹¹¹² **E1/419.1** Nhem En, T. 20 Apr 2016, 10.00.27-10.02.22 [Nhem En delivered letters, some from Pol Pot, from Monivong Hospital to Takhmau "where many prisoners were executed"], 15.37.05 [he saw "the handwriting in red" on the messages, but did not dare open the envelope].

¹¹¹³ **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.55.01-10.57.07.

¹¹¹⁴ **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.08.23-10.35.30.

¹¹¹⁵ **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.53.13-10.55.01.

¹¹¹⁶ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.13.12-09.27.02 ["I told Son Sen that it should not ... since there were many bodies buried on the compound and that we needed time to exhume them ... Since it looked so bad, I requested whitewash powder to spray on those dead bodies in order to avoid spreading infections to the guards"].

¹¹¹⁷ **E1/298.1** Ek (Ul) Hoeun, T. 7 May 2015, 11.08.47.

¹¹¹⁸ **E1/278.1** Riel Son, T. 17 Mar 2015, 11.13.37-11.21.39 ["those who were in the army, they had to be purged from the adjutant up. And as for the administration side, it means from the first deputy chief and up or above"], 13.32.15; **E1/279.1** Riel Son, T. 18 Mar 2015, 14.25.39-14.32.40 [there were two meetings: one before 1975, and one after 1975 in Takeo instructing cadres to purge former military ranked adjutant and above, and former civil servants ranked deputy chief and above], 15.05.03-15.22.13 [Pech Chim instructed the chiefs of villages and communes to research whether evacuees were Lon Nol ranking officers or civil servants, and if so, they had to be purged.]; **E3/5511** Riel Son WRI, A9. *See also* **E3/9746** [REDACTED] WRI, A10-23 ["they killed those holding ranks of Second-Lieutenant and higher-ups" one or two weeks after the fall of the Lon Nol regime, and this was ordered by the "top level before arriving at the district level"].

subject to the plan had already been gathered during the forced displacement of the population of Phnom Penh and “their fate was ... a disaster”.¹¹¹⁹

313. Commune cadre Sao Van claimed he attended a Sector 13 meeting in one month after 17 April 1975 where the sector secretary told cadres not to harm former Lon Nol soldiers up to the rank of colonel.¹¹²⁰ However, the evidence in this case makes it clear this was not the policy implemented in Sector 13, the Southwest Zone, or anywhere else.¹¹²¹ Sao Van’s fundamental inconsistencies in describing the meeting and orders,¹¹²²

¹¹¹⁹ **E1/291.1** Pech Chim T. 23 Apr 2015, 11.00.37-11.02.29 [“that was the plan set out by the upper echelon and we had to disseminate such plan”], 11.05.16-11.06.56 [“people subject to the plan [to purge Lon Nol officials or officers] had already been gathered on the 17 April 1975, or while they were en route to various provinces. ... If those people indeed were gathered, it meant they had no future. It means their fate was in a disaster”]; **E1/290.1** Pech Chim, T. 22 Apr 2015, 11.15.03 [Saom gave instructions to purge enemy officers], 11.27.00 [“it was Khom who announced the plan in a meeting aiming at eliminating officers ... The communes got the instruction or the plan and executed that plan instead of me” (citing **E3/5511** Riel Son WRI, A9)], 11.30.38-11.34.30 [“They were very afraid of Lon Nol’s men, they had to be vigilant for Lon Nol’s people”]; **E1/215.1** Pech Chim, T. 1 July 2013, 11.39.20 [“Q: Is it right that Angkar gave instructions about purging enemy officers? A: Yes, it is correct”], 15.04.38-15.08.24 [the sector level gave the instructions]; **E1/292.1** Pech Chim, 24 Apr 2015, 16.02.55-16.04.55 [“When Khom convened the meeting, I knew we received the instruction from the sector. ... In that meeting, there was the record of the meeting, and then they decided along the line of the direction of the sector, targeting the officers between the ranks of second lieutenant and colonel”].

¹¹²⁰ **E1/385.1** Sao Van alias Pok, T. 1 Feb 2016, 09.50.16-10.50.42, 11.08.49-11.18.25, 14.26.00-14.37.10; **F1/1.1** Sao Van, T. 2 July 2015, 09.26.20-10.24.07; **E3/9455** Sao Van WRI, A9; **E3/9118** Sao Van DC-Cam Statement, EN 01098761. Note Sao Van stated that orders regarding killings may have changed later in the regime: **E1/385.1** Sao Van, T. 1 Feb 2016, 10.48.11-10.50.42 [referring to skulls and bones at Kraing Ta Chan]; **E3/9118** Sao Van DC-Cam Statement, EN 01098778. Sao Van stated that he served as “chief of the Front in Cheang Tong commune” from 30 September 1971, until two months after 17 April 1975, when he was reassigned to Sector 25. The “Front” was subordinate to the Party and the commune committee. He also stated that he did not attend meetings held by the Party, as they were held in secret: **E1/385.1** Sao Van T. 1 Feb 2016, 09.29.17-09.36.45, 14.00.15-14.15.26. The Cheang Tong commune chief from the Party had no recollection of any such orders: **E1/297.1** Khoem Boeun, T. 5 May 2015, 11.10.53-11.27.43 [Cheang Tong commune chief in 1975: “I do not recall that I was in the meeting, and I also do not recall the announcement that second lieutenant to colonel, were not mistreated”].

¹¹²¹ See paras 315-316 below. Indeed, whilst sector and district cadres may have been instructed not to harm those soldiers, such instructions may have taken place in the context of insisting on zone or sector approval for killings, akin to **E3/12** Decision of the Central Committee regarding a Number of Matters, 30 Mar 1976.

¹¹²² **E1/385.1** Sao Van, T. 1 Feb 2016, 09.50.16-10.15.20 [stating that the meeting was one or two months after 17 April 1975, Ta Mok was not there, and Sector Secretary Saom stated that soldiers ranking from second lieutenant to colonel were to be protected, and did not mention civil servants. Pech Chim stated Ta Mok made the announcement, mirroring what defence counsel told him, and Saom did not speak: **E1/292.1** Pech Chim, T. 24 Apr 2015, 09.40.56-10.04.33], 11.08.49 [stating that the meeting was held at Phnum Trael mountain. Pech Chim stated it was held in Takeo town: **E1/292.1** Pech Chim, T. 24 Apr 2015, 09.40.56-10.04.33], 14.35.14 [“I can say that I stand by my previous statements ... However, I’d like to add that I am getting old, and maybe my memory does not serve me well”]; **F1/1.1** Sao Van, T. 2 July 2015, 09.26.20 [stating that the meeting he described in Takeo was in a separate location to the one Pech Chim described], 10.21.51-10.24.07 [stating that the meeting took place three months after 17 April 1975 in Angkor Chey, Ta Mok was not at the meeting, and that the instruction covered foot soldiers up to the rank of colonel], 11.22.10-11.30.13 [dating the announcement to the immediate aftermath of 17 April 1975, but then giving the impression he was talking about Khieu Samphan’s radio announcements prior to 17 April 1975]; **E3/9455** Sao Van WRI, A9 [“After 1975, there was another meeting in the provincial town of Takeo, in the presence of Grandfather Mok, and Saom, who was in the Sector 13 Committee, announced that soldiers with the ranks from Second Lieutenant to Colonel were not to be harmed”];

and his inclination to minimise his knowledge of crimes¹¹²³ further cast doubt on the credibility of his recollections about this meeting. In any event, it is clear that regardless of what he heard in this meeting, Sao Van himself understood that all those associated with the former regime were endangered. He acknowledged that he felt it was imperative that he intervened with the district to save his brother, who served as a mere third assistant to the commune under Lon Nol.¹¹²⁴ Further contradicting Sao Van's evidence about instructions regarding former officers, Sector 13 cadre Seng Soeun testified that he received instructions that officials, soldiers, and policemen of the Lon Nol and Sihanouk regimes "needed to be smashed".¹¹²⁵

314. On the other side of the country, the Northwest Zone Committee ordered the killings of soldiers, resulting in the execution of at least 250 unarmed men at Tuol Po Chrey in the

¹¹²³ **E3/9118** Sao Van (Port) DC-Cam Statement, EN 01098761 [stating that the meeting took place one month after 17 April 1975 at Phnum Trael mountain. Ta Mok announced "Soldiers with the rank of colonel or higher would not be killed"].

F2/4/2/4.2 Sao Van WRI, A26-27 [stating he was not aware of any detentions or killings from 1973 to 1979, that he never sent anyone to be detained whilst in charge of Cheang Tong Commune, and "[i]f people died, they died because of the war"]. Compare **E1/170.1** Pin Yathay, T. 7 Feb 2013, 11.23.40-11.28.00 [describing disappearances at Ang Roka Pagoda, Cheang Tong Commune, of 40 people who identified themselves as senior military officials and technicians, due to promises that they would work for a new government set up by Norodom Sihanouk]; **E1/263.1** Em Phoeung T. 16 Feb 2015, 09.35.45-09.37.35, 10.46.27-10.51.00, 10.51.00-10.55.41 [Lon Nol officials, policemen, and educators were disappeared from Angk Roka Pagoda, Cheang Tong commune, after promises that Angkar needed skilled people].

¹¹²⁴ **E1/385.1** Sao Van T. 1 Feb 2016, 1 1.18.25-11.28.17 [he went to District secretary Khom on behalf of his elder brother who was sent to Office 204 from 1975 to 1979], 15.44.35 [admitting that he "could not keep calm" and intervened after the announcement that Lon Nol soldiers below certain ranks were not to be harmed]; **F1/1.1** Sao Van, 2 July 2015, 10.11.07 [his brother and his brother's family were sent to Office 204 "due to his previous position" and that he then lost contact], 11.13.05-11.15.07 ["he was sent for re-education at Office 204, and that was the typical process based on my objective assessment. Of course, when you walk under the rain, you tend to get wet. And that's what happened to him"]. **Office 204: E1/269.1** Phan Chhen, T. 25 Feb 2015, 09.24.49-09.31.36 [before he left Kraing Ta Chan, prisoners were taken to the sector Office 204, and killed at the foot of the mountain]; **E1/249.1** Meas Sokha, T. 21 Jan 2015, 11.08.44-11.09.31 ["Office 204 was a detention centre for former Lon Nol Officials who had been arrested from Angk Ta Saom or elsewhere"]; **E1/255.1** Kev Chandara, T. 2 Feb 2015, 11.07.22-11.11.45 *clarifying* **E3/5837** Kev Chandara WRI, EN 00223455; **E1/298.1** Ek (Ul) Hoeun, T. 7 May 2015, 13.38.14 [inhabitants at Office 204 died of malnutrition but were not killed]; **E3/9747** [redacted] WRI, A13, A66-81 [he was sent to Office 204 in 1978 as it was discovered that he was a chief of a 10-household unit under Lon Nol. Prisoners included Lon Nol soldiers and civil servants. They were assigned to heavy labour, died of starvation and illness, and 2-3 disappeared each day]; **E3/10569** An Sopheap and Chhaom Se Interview, EN 01079396; **E3/5579** Nhean Poek WRI, EN 00373374 [in 1973, Tep was accused of serving Lon Nol, held in Office 204 then taken to be killed]; **E3/9762** Tun Soun WRI, A12 [imprisoned at Office 204 and released]; **E3/3232** Henri Locard, *Niredey Region*, EN 00217652 [Office 204 arrestee describing massacres of Lon Nol soldiers, and children dying].

¹¹²⁵ **E1/465.1** Seng Soeun T. 29 Aug 2016, 13.43.41-13.46.29 [he received instructions at sector-level study sessions that officials, soldiers, and policemen of the Lon Nol and Sihanouk regimes "needed to be smashed"]; **E1/466.1** Seng Soeun, T. 30 Aug 2016, 10.46.34-10.54.13 [the relevant "political study sessions" occurred after 17 April 1975. One of the relevant study sessions was delivered by his battalion commander when he was in Kaoh Andet district, Takeo]; **E3/409** Seng Soeun WRI, A43-44; **E3/5643** Seng Soeun DC-Cam Statement, EN 00753896-97 [worked in Sector 13 in mid-1975].

days after the fall of Phnom Penh.¹¹²⁶ Toat Thoeun testified before the Supreme Court Chamber that, approximately one month after “liberation”, Zone Secretary Ros Nim presided over a meeting in which orders were given to “smash” all “former imperialists” and “former feudalists”.¹¹²⁷ He testified that the Zone leadership said that these orders originated from the “upper echelon”, which meant “those who were in the Centre”.¹¹²⁸

315. During and immediately after the fall of Phnom Penh, the screening of former Lon Nol soldiers and officials, and the execution of higher-ranking officers and officials, proceeded in similar ways across the country.¹¹²⁹ Evacuees were systematically interviewed and registered to determine their class background and former occupation.¹¹³⁰ CPK cadres lured former Lon Nol soldiers and civil servants to identify

¹¹²⁶ **E1/188.1** Lim Sat, T. 3 May 2013, 09.54.20-09.56.25. *See also* **E1/185.1** Ung Chhat, T. 29 Apr 2013, 15.36.47-15.38.49, 15.48.56-15.55.02; **E1/186.1** Ung Chhat, T. 30 Apr 2013, 09.12.12-09.14.48, 15.12.45-15.14.17; **E1/218.1** Sum Alat, T. 4 July 2013, 10.23.25-10.24.35, 10.28.42-10.53.01, 11.01.30-11.02.51, 11.07.13-11.11.00; **E3/4637** Sum Alat WRI, EN 00242125-26; **E3/364** Lim Sat, WRI, 23 Nov 2008, EN 00250759; **E3/4601** Lim Sat WRI, EN 00412158-59; **E3/5500** Ork Chhoeum WRI, EN 00367287-8; **E3/9471** [REDACTED] WRI, A9-11, A21; **E3/9470** [REDACTED] WRI, EN 00981978-9; **E3/5235** Siem Soeum WRI, EN 00289729; **E1/135.1** Yim Sovann, T. 19 Oct 2012, 16.06.04-16.13.38; **E3/5234** Chak Muli WRI, EN 00288200; **E3/4638** Suy Sengchhorn WRI, EN 00242119-20; **E3/9763** [REDACTED] WRI, A9, A16-18.

¹¹²⁷ **F1/3.1** Toat Thoeun, T. 6 July 2015, 16.45.52-16.47.32.

¹¹²⁸ **F1/3.1** Toat Thoeun, T. 6 July 2015, 16.49.53-16.52.19 [“It was the policy from the upper echelon. ... upper echelon here refers to those who were in the Centre”]. *See also* **E3/5540** Long Mary WRI, EN 00384416 [referring to the emptying of Phnom Penh: “The order [to kill unarmed Lon Nol soldiers] was from my superior, Sary ... Those who surrendered were made prisoners and transported away with trucks”].

¹¹²⁹ **E1/191.1** Phillip Short, T. 8 May 2013, 14.14.21-14.31.36 [“We know that Lon Nol soldiers above a certain rank, unless they were able to dissimulate their rank, ... were executed. There is abundant testimony to that effect. ... What convinced me is that it happened everywhere”] 15.53.10-15.55.06, 16.22.45-16.24.54 [“It would not have been possible for zone commanders to act against or outside the broad policy consensus which had been laid down by the Centre”]; **E1/190.1** Phillip Short, T. 7 May 2013, 14.08.23-14.09.48 [“There was a pattern all over the country of killing former Lon Nol officers whatever their level and of killing officials – former Lon Nol government officials above a certain level. I think – in the case of the officers, the military men, it was much more systematic. For the civil servants, ... it was not – if it was systematic, there were gaps in the system”]; **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 10.08.38-10.32.11 [referring to multiple incidents in Battambang, Pailin, the Centre, and Kampong Cham described in his book where Lon Nol soldiers and officials were taken away in trucks and killed: “I believe that Angkar did the same everywhere ... it was the national revolution; they killed the traitors, they killed those who served the Lon Nol regime and the Americans”].

¹¹³⁰ **Phnom Penh**: **E1/148.1** Pech Srey Phal T. 5 Dec 2012, 09.57.21-09.59.42; **E1/199.1** Nou Hoan, T. 30 May 2013, 10.03.48-10.06.32; **E1/138.1** Lay Bony T. 24 Oct 2012, 10.12.33-10.16.33; **E1/170.1** Pin Yathay T. 7 Feb 2013, 10.05.22-10.06.52; **E3/3173** Helen Penfold, *Remember Cambodia*, 27 Nov 2009, EN 00487966-67. **Southwest Zone**: **E1/136.1** Chum Sokha T. 22 Oct 2012, 10.52.30, 11.12.35-11.27.11, 11.17.15, 15.08.01; **E3/5788** Chum Sokha WRI, EN 00380712; **E1/298.1** Ek (Ul) Hoeun, T. 7 May 2015, 10.47.11-11.00.00 [“they engaged in propaganda with a view to identifying officers with ranks. ... The former soldiers, police officers and chiefs and deputy chiefs of communes revealed their past and the Khmer Rouge recorded all that information and thereafter they were sent away to different cooperatives”]; **E3/9594** Ek (Ul) Hoeun WRI, A117; **E1/296.1** Khoem Boeun, T. 4 May 2015, 10.54.15-11.04.50; **E3/9480** Koem Boeun WRI, A254; **E1/264.1** Sao Han, T. 17 Feb 2015, 15.53.38-16.02.34 referring to **E3/5518** Sao Han (Hean) WRI, A22; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.11.57;

themselves with promises that they would meet Norodom Sihanouk,¹¹³¹ would be reeducated,¹¹³² or returned to their previous careers.¹¹³³ Once identified, they were

- E1/321.1** Chum Samoeun, T. 24 Jun 2015, 15.11.14-15.20.33 [made to give a biography but concealed her father's connection to the former regime]; **E3/5857** Bin Heng WRI, A1; **E3/4627** Iep Duch WRI, EN 00223476-77 [former Tram Kak District Youth Chairman: "anyone whose biography said they had been a soldier would disappear"]; **West Zone: E1/216.1** Lev Lam, T. 2 July 2013, 10.09.37-10.15.55; **E3/4630** Lev Lam WRI, EN 00274646-48; **E3/4634** Sa Sroeung WRI, A2, A4-5; **E3/7752** Phol Phai WRI, EN 00275160. **(Old) North Zone: E1/301.1** Or Ho, T. 19 May 2015, 10.00.01-10.03.04 [village chief: "Kao was indoctrinated so that he could go and search for anyone who had ranks in the former regime"]; **E3/5255** Or Ho WRI, EN 00250044 ["17 April people were killed because of the information which originated from them"]; **Northwest Zone: E1/331.1** Chhum Seng, T. 17 Aug 2015, 14.28.40-14.30.20 [former Lon Nol soldier (bodyguard): "At the time, they took biographies, but those who was loyal to Angkar, they told the truth in their biography. But others, they actually faked their biographies or they fled"]; **E3/9568** Chhum Seng WRI, A1, A7; **E1/328.1** Lat Suoy, T. 11 Aug 2015, 13.47.52-13.52.15 [villages were screened to find relatives of former Lon Nol soldiers]. **Kampong Som: E3/5506** Sau Khon WRI, EN 00398862; **E3/1745** Moeung Sonn WRI, EN 00338385. See also **E1/369.1** Pak Sok, T. 16 Dec 2015, 14.04.29-14.23.54 [CPK soldiers were also required to regularly make biographies to separate out those with connections to Lon Nol soldiers].
- ¹¹³¹ **Northwest Zone: E1/483.1** Cheal Choeun, T. 13 Oct 2016, 15.45.08-15.59.11; **E1/484.1** Cheal Choeun T. 17 October 2016, 09.22.44-09.26.31; **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.01.08-11.05.58; **E3/2071** Henri Locard, *Research Notes on Democratic Kampuchea Prison Network*, 1991, EN 00087305; **E3/5213** Duch Phleu WRI, EN 00275432; **Tuol Po Chrey: E1/186.1** Ung Chhat, T. 30 Apr 2013, 09.10.06-09.14.48, 10.37.46-10.39.45; **E3/4598** Ung Chhat WRI, EN 00284418; **E3/4811** Tes Bopha CPA, EN 00893346; **E3/4001R** Video *Enemies of the People: One Day at Po Chrey*, 01:50, 09:25-10:40, 16:40-17:40. Sum Alat testified that former Khmer Republic soldiers and officials were invited to receive Angkar at Tuol Po Chrey: **E1/218.1** Sum Alat, T. 4 July 2013, 09.40.23-10.18.00, 15.25.05-15.28.46. **(Old) North Zone: E3/5300** Sum Rithy WRI, EN 00292998.
- ¹¹³² **Northwest Zone: Tuol Po Chrey: E1/185.1** Ung Chhat, T. 29 Apr 2013, 15.28.10-15.36.47, 15.45.23-15.47.08, 15.48.56-15.55.02; **E1/186.1** Ung Chhat, T. 30 Apr 2013, 09.12.12-09.14.48; **E1/187.1** Lim Sat, T. 2 May 2013, 10.02.16-10.08.00, 10.10.46-10.13.04; **E1/188.1** Lim Sat, T. 3 May 2013, 09.30.20-09.33.44, 10.14.52-10.16.33; **E1/218.1** Sum Alat, T. 4 July 2013, 09.47.26-09.55.10, 10.15.54-10.18.00, 15.16.50-15.19.17, 15.36.19-15.40.17; **E3/4637** Sum Alat WRI, EN 00242125; **E3/5500** Ork Chhoeun WRI, EN 00367287; **E3/9471** [REDACTED] WRI, A9-11; **E3/5235** Siem Soem WRI, EN 00289729; **E3/9470** [REDACTED] WRI, EN 00981978-9; **Trapeang Thma Dam: E1/328.1** Kan Thorl, T. 11 Aug 2015, 09.20.15-09.21.26 [mobile unit worker then Deputy Platoon Chief at Trapeang Thma Dam: "If the person was found to have a military rank in the former Lon Nol regime, that person would be called to a study session"]; **Phnom Sampeou: E3/5213** Duch Phleu WRI, EN 00275432; **E3/5211** Chuch Punlork WRI, EN 00275399. **Southwest Zone: E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.14.18-11.27.03 [her husband was arrested on the pretence that he was going for a "study session" and killed]; **E1/265.1** Sao Han, T. 18 Feb 2015, 09.08.52-09.14.37 [his brother, a former Lon Nol soldier, was invited "for re-education" and never returned. Neighbours told him he was killed at Kraing Ta Chan]; **E3/5518** Sao Han (Hean) WRI, A22-23; **E3/9747** [REDACTED] WRI, A15-50 [a member of the district committee gathered 180 former Lon Nol soldiers and officials, including himself, at Wat Soben Pagoda. Khmer Rouge cadres told them they were being sent for re-education, and instead tied them up, took them into the forest and opened fire as the witness managed to flee]. **(Old) North Zone: E1/475.1** Mom Vun, T. 16 Sept 2016, 11.13.35-11.15.02 ["By mid-1975, he [her husband] was sent for re-education since they said that he was a former Lon Nol soldier"], 14.29.11-14.32.41 ["He was sent away to attend study session, not to be re-educated, but he disappeared since then. He never returned"]. See also **E1/222.1** Stephen Heder, T. 11 July 2013, 10.22.00-10.24.55 ["The method of arrest is always to call someone in for study sessions. ... The same method was used against Lon Nol officers in 1975. They were asked to go to meet the Organization voluntarily and offered forgiveness but then just taken away and executed"].
- ¹¹³³ **Phnom Penh: E1/148.1** Pech Srey Phal, T. 5 Dec 2012, 09.57.21-09.59.42; **E1/498.1** Ou Dav, T. 10 Nov 2016, 14.19.04 -14.27.12; **E1/199.1** Nou Hoan, T. 30 May 2013, 10.03.48-10.06.32 ["there was writing on the blackboard that for those who were public servants or police officers or military officers shall register their names so that Angkar will reorganize our country and you shall be returned to Phnom Penh"]; **E1/137.1** Lay Bony, T. 23 Oct 2012, 15.50.04; **E1/138.1** Lay Bony, T. 24 Oct 2012, 10.12.33-10.16.33; **E3/5613** Seng Mardi WRI, A3, 42. **West Zone: E3/4634** Sa Sroeung WRI, A2, A4-5 [Tbaeng

arrested,¹¹³⁴ sent to security centres,¹¹³⁵ disappeared,¹¹³⁶ tortured¹¹³⁷, and killed.¹¹³⁸ Former CPK cadre Cheal Choeun testified to being ordered to gun down scores of unarmed

Khpos Village: "they selected the people with the ranks such as soldiers, teachers, medical practitioners ... to have a meeting behind the pagoda ... by saying that ... [Angkar] will let all of you resume your work, if you are a captain you will remain a captain ... After they killed all the males, they used the name list to collect the wives and children by saying that 'Angkar is taking you to meet your husbands'"; **E3/463.1** Dy Yet WRI, EN 00275128-30; **E3/9582** Ek (Ul) Hoeun WRI, A93-108 [Koh Kong: Lon Nol soldiers were gathered and told they would be sent back to their homes. His son, who was in Meas Muth's division told him they were in fact killed in the forest]. **Kampong Som: E3/1745** Moeung Sonn WRI, EN 00338385 ["The Khmer Rouge announced to and made Lon Nol ranking officers to come and report to and Angkar so that the Angkar would let [them] work in their new regime"]; **E3/5506** Sau Khon WRI, A3 ["'Everyone who was a soldier, stand in one location.' Then they said, 'Our country is independent. Persons that were soldiers will return to being soldiers. Wait for salaries to be paid this evening'"]. **Southwest Zone: E1/289.1** Thann Thim, T. 21 Apr 2015, 09.48.08-09.50.48 ["there was an announcement that those who had ranks, they would be reinstated. ... After the announcement, these people disappeared"] 14.20.03-14.24.03; **E1/136.1** Chum Sokha, T. 22 Oct 2012, 11.17.15; **E1/283.1** Oem Saroeun, T. 26 Mar 2015, 10.03.27-10.06.27 ["[At Champa Leu Pagoda] there were former teachers, soldiers, police, custom officers who were taken away under the pretext that they would be sent back to their previous offices and they disappeared since"]; **E1/276.1** Nut Nov, T. 12 Mar 2015, 13.49.35-13.56.00 ["It was announced that those who had been soldiers or had worked in the previous regime, should be faithful and tell them the truth as they would be allowed to return to their previous work"]; **E1/298.1** Ek (Ul) Hoeun, T. 7 May 2015, 10.47.11-11.00.00 ["they engaged in propaganda with a view to identifying officers with ranks. ... The former soldiers, police officers and chiefs and deputy chiefs of communes revealed their past and the Khmer Rouge recorded all that information and thereafter they were sent away to different cooperatives"] confirming **E3/9594** Ek (Ul) Hoeun WRI, A117 ["The Khmer Rouge announced that everyone would be allowed to go back to work"]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 10.51.00-10.55.41 ["They used the method saying that Angkar need anyone who used to be official during Lon Nol and during Sihanouk regime and Angkar need them to do the job for them ... a few of them had an idea, who hid their identity who could survive"]; **E1/463.1** Sou Sotheavy, T. 24 Aug 2016, 09.19.28-09.24.56 ["My father was also a former Lon Nol soldier, ... My family members, including my mother and father, were honest because they hoped he would be returned to his military function"]; 09.26.40- 09.28.25 ["I found out that some of my family members and relatives were killed there at Krang Ta Chan"]; **E1/170.1** Pin Yathay, T. 7 Feb 2013, 11.23.40-11.28.00 [describing disappearances at Ang Roka Pagoda, Chean Tong Commune, of 40 people who identified themselves as senior military officials and technicians, on promises that they would work for a new government headed by Norodom Sihanouk]; **E3/9746** [REDACTED] WRI, A10-23 ["they organized a meeting and persuaded those people to tell them what they had done, by promising that they would be assigned to their previous positions"]; **E3/5498** Bun Thien WRI, EN 00384400 ["They were informed that they would go back and do the same job. People with working experience came to meet at the commune. Then, the upper echelon sent a truck to take them away. Those who came to pick the people were military officials ranking from major lieutenants"]; **E3/5649** Bun Thean DC-Cam Interview, 25 May 2004, EN 00885246-47. **(Old)** **North Zone: E1/464.1** Yos Phal, T. 25 Aug 2016, 11.21.55-11.32.21 ["When I was in Ph'av district, there was this propaganda committee and, as I said, their words were so sweet. ... But in the end they all had been smashed. ... And, frankly, they told them about their rank, for example, a second lieutenant or a first lieutenant, etc. and that's because of the sweet propaganda that drove them, as well as because of their love for their country and to respond to the needs of the country to have soldiers"]. **Northwest Zone: E1/340.1** Mean Loeuy, T. 2 Sept 2015, 13.54.12-13.57.26 ["they announced that they will take those ranked soldiers away so that they would be reinstated"]; **E3/9765** [REDACTED] WRI, A16, A18-21 ["The Khmer Rouge asked those people to tell them truthfully if they were soldiers or what rank they were holding. They said they would take them to see Angkar. If they were a Lieutenant, they would be promoted to a higher rank"]. See also **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 10.10.49-10.12.38 ["Those who wrote their names were promised some jobs. Angkar cheated them and Angkar killed them"]; 11.40.07-11.41.48 ["Angkar used lies to actually lure people to follow them, and it was a tactic they used at the time to control the situation"].

¹¹³⁴ **E1/136.1** Chum Sokha, T. 22 Oct 2012, 11.18.45 [describing seeing Khmer Rouge forces accompany a lines of more than 20 people tied with thread. His father told him they were Lon Nol soldiers]; **E3/9775** Pen Thol WRI, A4-5 ["the people they had us arrest were people with tendencies toward the Lon Nol

- regime, such as government officials, soldiers, military police, police officers, teachers, and so on”]; A16 [“this is what happened in the beginning of the Khmer Rouge regime from 1975 to early 1976”]; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 14.59.41-15.03.20 [describing arrest and interrogation of Sar Phorn, the deputy governor of Doun Penh District under Lon Nol, due to orders from Son Sen]; **E3/7752** Phol Phai WRI, EN 00275160 [“While I was village chairman, they came and arrested people in my village. They were former teachers, soldiers, and policemen”]; **E3/2120** Meng-Try Ea, *The Chain of Terror*, EN 00416381-82.
- 1135 **E1/136.1** Chum Sokha, T. 22 Oct 2012, 13.49.57 [his uncle, was put in a detention facility upon his arrival in the village as he was a former military officer]; **E1/301.1** Or Ho, T. 19 May 2015, 09.21.05-09.26.48, 09.50.28-09.54.23 [village chief 1975-1978: “when it was known they were learned that they were former official or soldier, villagers and I who liked and used to be friend[s] with them, felt pity on these people. But, we could not help them. If the information leaked to the security personnel ... They were arrested and put into a security office”]; **E3/5788** Chum Sokha WRI, EN 00380711-12; **E3/9775** Pen Thol WRI, A10; **E3/9465** Phann Chhen WRI, EN 01053632; **E3/9832** [REDACTED] WRI, A94; **E3/3209** Henri Locard, *Bopheh Region*, 24-26 August 1993, EN 00403167, 00403170, 00403181.
- 1136 **Phnom Penh: E1/498.1** Ou Dav, T. 10 Nov 2016, 14.19.04-14.27.12, 15.26.31-15.36.01; **E3/5540** Long Mary WRI, EN 00384416. **Southwest Zone: Tram Kak District: E1/289.1** Thann Thim, T. 21 Apr 2015, 09.48.08-09.50.48 [“After the announcement, these people disappeared. I was not allowed to find any information on the matter”]; **E1/170.1** Pin Yathay, T. 7 Feb 2013, 11.23.40-11.28.00 [40 people who identified themselves as senior military officials, doctors and technicians disappeared from Ang Roka Pagoda, Cheang Tong Commune]; **E1/147.1** Toeng Sokha, T. 4 Dec 2012, 14.57.15-14.59.01, 15.02.20-15.04.49; **E1/251.1** Oum Suphany, T. 23 Jan 2015, 14.27.20-14.29.24 [her elder brother-in-law Hok Heng, a pilot and lieutenant colonel, disappeared nine days after arriving at Tram Kak District]; **E1/278.1** Riel Son, T. 17 Mar 2015, 15.44.07; **E3/5511** Riel Son WRI, A1, A3, A9; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.39.15-11.42.59 [“As for my other elder brother, he was a soldier ... he got quite high rank. When he reach Champa pagoda, he was [tied] up and I was told that he was brought to a study session and he got his gun and never return”]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 10.51.00-10.55.41 [Lon Nol officials, policemen, teachers and professors were taken away on the claim that they needed skilled workers, and disappeared]; **E1/265.1** Sao Han, T. 18 Feb 2015, 09.08.52-09.14.37 [his brother was a Lon Nol soldier and disappeared. He was told he was killed at Kraing Ta Chan]; **E3/5518** Sao Han (Hean) WRI, A22-23; **E3/4627** Iep Duch (deceased) WRI, EN 00223476-77 [“anyone whose biography said they had been a soldier would disappear” and that the Centre decided “what level had to be removed”]; **E1/276.1** Nut Nov, T. 12 Mar 2015, 13.49.35-13.56.00 [“some disappeared”]; **E3/2120** Meng-Try Ea, *The Chain of Terror*, EN 00416383 [Former Popel commune cadre Teng explained: “After the personal histories were done, Chun sent the reports to the district committee and after that, those in Popel who had been Lon Nol soldiers or policemen began regularly disappearing”]. **Kampot: E3/7749** Khem Chhoeun WRI, EN 00275041-42; **E3/9746** [REDACTED] WRI, A10-23 [“they killed those holding ranks of Second-Lieutenant and higher-ups. ... They were not seen to return, so I assumed they were taken to be killed”]; **E3/5498** Bun Thien WRI, EN 00384400 [“Only the ranked people were taken. ... as many as a truck could carry ... at least equivalent to a major lieutenant. ... I never saw them return. They disappeared forever”]; **E3/5649** Bun Thean DC-Cam Statement, EN 00885246-47. See also **E3/3232** Henri Locard, *Research Notes: Niredey Region*, EN 00217671. **(Old) North Zone: E1/197.1** Yos Phal, T. 27 May 2013, 14.16.48-14.36.10 [“I was a police in Lon Nol regime. ... Those from the rank of major-lieutenant, lieutenant, and captain were taken away one after another”]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 11.12.24-11.32.21 [“at that location there were armed Khmer Rouge soldiers who were also so friendly and smiled. So, nobody ever thought that they were sent for a re-education and they were smashed”]; **E1/301.1** Or Ho, T. 19 May 2015, 10.42.00-10.48.17 [“As for the list of families, 15 families, some of them were in the civil service, policemen and some were in the army. ... I have never seen them come back”]; **E3/5255** Or Ho WRI, EN 00250044. **East Zone: E1/136.1** Chum Sokha, T. 22 Oct 2012, 15.41.58-15.44.19 [several former members of the Khmer Republic army were arrested and disappeared in Tboung Kdei village in 1975 including his father, two uncles, his father-in-law and his father-in-law’s brother, and four other individuals]; **E3/5260** Khoem Samon WRI, EN 00327160-61 [50 people who had studied or worked “with Lon Nol” were “taken away forever”]. **Northwest Zone: E1/328.1** Lat Suoy, T. 11 Aug 2015, 13.49.42-13.54.34 [those with connections to the Lon Nol regime were arrested and disappeared]; **E3/5211** Chuch Punlork WRI, EN 00275399 [Ta Chham told former Lon Nol soldiers to assemble at Watt Phnom Sampeou. His subordinates arrested them. Among those they had arrested were the Phnom Sampeou Subdistrict chief, and the chief of Phnom Sampeou Lich Village. ... none of them returned and all news of them has been lost up until the present”]; **E3/5213** Duch Phleu WRI, 27 Aug 2008, EN 00275432 [Phnom Sampeou Subdistrict Uch Chhan was sent to

study]; **E3/9832** [REDACTED] WRI, 9 July 2014, A54-58; **E3/4590** Francois Ponchaud, *Refugee Accounts*, EN 00820331.

1137 **E1/257.1** Say (Sory) Sen, T. 5 Feb 2015, 10.07.14-10.12.52 [describing torture of prisoners alleged to be connected to the former Lon Nol regime at Kraing Ta Chan from 1975 to 1979]; **E1/256.1** Say (Sory) Sen, T. 4 Feb 2015, 14.36.30-14.40.15; **E1/499.1** Ou Dav, T. 11 Nov 2016, 09.43.20 ["I asked many survivors. I asked many of them repeatedly for clarification, and I was told that it is true that my father had been taken for torture at Kraing Ta Chan where he was also executed"] 09.56.30 [date was 1975] confirming **E3/9745** Ou Dav WRI, A165, A166, A174; **E1/316.1** Keo Loeur, T. 15 June 2015, 09.13.30-09.16.15 [discussing witnessing the torture of 30 different people, some from Division 310 and some former Lon Nol soldiers in 1975].

1138 **Phnom Penh; E1/424.1** Prak Khan, T. 28 Apr 2016, 10.08.23-10.35.30 [witness stood guard at execution of 50 Lon Nol soldiers and their families at Takhmau on 17 April 1975]; **E1/140.1** Sum Chea T. 5 Nov 2012, 09.41.17-09.45.21 [describing receiving orders to lure former Lon Nol soldiers from a fellow soldier Koeun, who also told him they would be killed], 09.41.17-09.47.46, 10.28.35-10.35.38, 16.07.27-16.09.56 [describing being told by Koeun that Lon Nol soldiers were lured by loudspeaker announcements, transported by truck and executed west of Preaek Pnov, four or five days after the takeover of Phnom Penh], 11.23.00-11.28.08 [testifying to the killing of a group of former Khmer Republic soldiers in Tuol Kork, after they were tricked by radio broadcasts into revealing their identities]; **E3/3962** Khoem Samhuon WRI, EN 00293365 [chairman of Company 3 in Division 310 describing orders from Son Sen to arrest high-ranking civil servants of the Lon Nol regime who refused to leave the city and Lon Nol soldiers being treated in a hospital. The witness heard from those who carried out the arrests that a great number were killed and thrown into a well in Tuol Kork, and was shown the blood stained clubs used to carry out the killings]. See also **E3/369** Koy Mon WRI, EN 00272719; **E3/5267** Ut Seng WRI, EN 00282352 [describing killing of two Khmer Republic soldiers by female Khmer Rouge soldiers outside Phnom Penh] corroborated by **E3/2666** French Embassy Letter, Testimony of Brigadier-General Sor Buon, EN 00517767; **Southwest Zone: Tram Kak District: E1/256.1** Say (Sory) Sen, T. 4 Feb 2015, 14.36.30-14.40.15, 15.51.53-15.54.03 [former soldiers who held ranks of captain or lieutenant were detained for no longer than one week, but then were executed. Former high ranking officials did not enter the detention building, but would be marched to the killing site]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.11.36-11.27.03, 14.09.30-14.29.28 [her husband was a military medic and policeman, and was arrested when they were together and called for a study session at 9pm at night. They found an ID card or photograph of him in uniform in searching his clothing the day before. Base people told her that night that her husband was killed behind Leay Bour pagoda]; **E1/253.1** Chou Koemlan, T. 14.19.01-14.29.28; **E1/499.1** Ou Dav, T. 11 Nov 2016, 09.43.20 [he was told by Kraing Ta Chan survivors that his father was killed there] confirming **E3/9745** Ou Dav WRI, A165; **E1/463.1** Sou Sotheavy, T. 24 Aug 2016, 09.19.28-09.24.56 ["Sixteen of my family members, relatives were killed. My father was a former soldier. I, myself, was also a soldier before 1975, but I behaved differently so I was not investigated. However, some of my family members and relatives were also soldiers. And they were all killed because they were accused of being soldiers or connected to family members who were soldiers"], 09.26.40- 09.28.25 ["And only later on when I visited Kraing Ta Chan, some of my family – I found out that some of my family members and relatives were killed there at Kraing Ta Chan"]; **Other districts: E3/9747** [REDACTED] WRI, A15-50 [Kirivong District: a member of the district committee sent him and 179 other former Lon Nol soldiers and officials to Wat Soben Pagoda in late 1975. They told them they were being sent for re-education, but the Khmer Rouge tied them up, took them to the forest and opened fire as the witness managed to break free and flee]; **E3/505** Tes Heanh WRI, EN 00275410 ["the Subdistrict militia frequently came... to arrest targeted people, like former Lon Nol officials, Lon Nol soldiers ... I would hear the sounds of gunfire, and in the morning ... would see four to five bodies of the people they had shot. I saw these events three times during the two to three months after the fall of Phnom Penh"]; **E3/3319** UK Government Report, *Human Rights Violations in Democratic Kampuchea*, 14 Jul 1978, EN 00420622; **E3/2419** Henri Locard and Moeung Sonn, *Prisoner of the Khmer Rouge*, EN 00293762-63 [account from Moeung Sonn's fellow prisoner of the slaughter of soldiers and families at Bokor Mountain]. **Northwest Zone: Tuol Po Chrey: E1/185.1** Ung Chhat, T. 29 Apr 2013, 15.36.47-15.38.49, 15.48.56-15.55.02; **E1/186.1** Ung Chhat, T. 30 Apr 2013, 09.06.55-09.10.06, 09.12.12-09.14.48, 10.33.30-10.35.32, 15.12.45-15.14.17; **E1/187.1** Lim Sat, T. 2 May 2013, 10.08.00-10.13.04, 10.18.20-10.22.22, 10.52.32-10.56.25, 10.58.05-11.02.55, 15.04.37-15.07.48; **E1/188.1** Lim Sat, T. 3 May 2013, 09.22.15-09.24.43, 09.43.29-09.45.34; **E1/218.1** Sum Alat, T. 4 July 2013, 10.23.25-10.24.35, 10.28.42-10.53.01, 11.01.30-11.02.51, 11.07.13-11.11.00; **E3/4598** Ung Chhat WRI, EN 00284418, 00284421; **E3/4637** Sum Alat WRI, EN 00242125-26; **E3/5500** Ork Choem WRI, EN 00367287-8; **E3/9471** [REDACTED] WRI, A9-11, A21; **E3/9470** [REDACTED] WRI, EN 00981978-9;

E3/5235 Siem Soem WRI, EN 00289729; **E1/135.1** Yim Sovann, T. 19 Oct 2012, 16.06.04-16.13.38; **E3/5234** Chak Muli WRI, EN 00288200; **E3/4638** Suy Sengchhorn WRI, EN 00242119-20; **E3/9763** [REDACTED] WRI, A9, A16-18. **Other sites:** **E1/364.1** Prum Sarun, T. 8 Dec 2015, 15.12.15-15.20.00 [Banan District: describing the killings of a ranking soldier, his wife who was grieving over his body, and his own unit chief], 15.20.00-15.23.42 [Prum Sarun was asked by the commander of his battalion to report former high-ranking Lon Nol officers. He states that former Lon Nol soldiers "were taken away and smashed. This was the way they did to high ranking officers. During the regime, nobody was put on trial"]; **E1/365.1** Prum Sarun, T. 9 Dec 2015, 09.15.49-09.18.02; **E1/331.1** Chhum Seng, T. 17 Aug 2015, 14.26.55-14.32.49 [former Lon Nol soldier in Phnom Srok District states that the Khmer Rouge were "determined to eradicate all Lon Nol soldiers" and executed those who were honest in their biographies]; **E1/328.1** Lat Suoy, T. 11 Aug 2015, 13.52.15-13.54.34 ["they arrested the former village chief by the name of Ream (phonetic) and his wife was also arrested together with him, and they both were executed"]; **E3/9568** Chhum Seng WRI, A1, A7; **E3/9769** Ly Lonn WRI, A104 [Bakan District: the Khmer Rouge killed senior ranking officials, and later their wives.]; **E3/9765** [REDACTED] WRI, A16, A18-21 [describing killings of former commandos and military chiefs with a rank outside Prey Roneam. He never saw those arrested return]; **E3/9490** [REDACTED] WRI, A1, A15. **West Zone: Kampong Tralach District:** **E1/216.1** Lev Lam, T. 2 July 2013, 10.09.37-10.15.55 [militiaman working in Svay Chuk commune: "My uncle was a Lon Nol soldier stationed in Longveaek. ... My uncle came to meet me in my house and I told him to flee, but he said he refused to flee and three days later he was taken away and killed"], 10.15.55-11.44.02 [describing bringing former Lon Nol soldiers and officials identified via biographies to the execution where his uncle was killed, in June 1975. District soldiers were present at the site, and the victims included children. The district soldiers tied people up and took ten away. He later learned that they were killed using clubs or ox-cart axles]; **E3/4630** Lev Lam WRI, EN 00274646-48 [giving details of the orders from the district to Svay Chuk commune to separate the people, and kill "approximately 100 families" including Lon Nol soldiers and civil servants]; **E3/4631** Dy Yet WRI, EN 00275128-30 [describing seeing more than 30 families in two military trucks being transported to be killed. States that she heard at a meeting in April 1975, "about killing the 17 April people and the Lon Nol soldiers. I heard [Svay Chuk commune chief] Yeay Phoeun say that they all had to be killed at the orders of the upper level." She heard commune and deputy chiefs tell them "Upper level Angkar is having you brothers and sisters go somewhere else because you had high ranks, and that location has support" but saw militiamen carrying bamboo clubs, rifles and axles. Two or three days later, there was a the odour of decaying bodies coming from Prey Sre Val, and she later saw human remains there]; **E3/4634** Sa Sroeng WRI, A2, A4-5 ["they selected the people with the ranks to have a meeting ... After the meeting, the militiamen took those people away first ... before leaving the place, the militiamen wrote down their names and their wives and children's names to make it easy to take their wives and children later. ... After they killed all the males, they used the name list to collect the wives and children by saying that 'Angkar is taking you to meet your husbands'. ... they also took them and hit them to death." The witness further saw dead bodies in Kok Roneam execution site different days as they were not buried and witnessed the executions of a woman and her six-year old child]; **E3/5199** Sim Tun WRI, EN 00275111-12 [the witness, a former district soldier, walked hundreds of Lon Nol soldiers and 17 April people, considered as the enemy, to be killed at Phnom Krech]; **E3/5509** Kep Moeun WRI, A2, 4-5, 9 [commune militiaman states evacuees marked as Lon Nol soldiers disappeared from the cooperative and were killed in the forest]. *See also* **E3/4633** Duk Phao WRI, A1, A3-8, A12 [Chief of Tbaeng Khpos commune: "Leng and Ta Nan hold meeting to allocate these groups of evacuees ... In fact, they sent these people to be executed. I learnt about this through the reports from three of the commune committee members. ... At Kak Roneam, while returning back to Tbaeng Khpos, I saw many corpses scattering around on the ground of the forest with a sharp stink ... [members of the commune committee] reported back to me about the killing at Kak Roneam, Trapeang Klong and Trapeang Andauang. They reported that execution was carried out under the command of the district"]; **E3/4632** Duy Dok WRI, A3-7 [witnessed mass killings of evacuees at Sre Val forest, and corroborates killings at Prey Ta Kuch and Kak Roneam]; **E3/5507** Maut Manh WRI, A5-8 [confirms execution of evacuees at Prey Sre Val]; **E3/5517** Yin Pheng WRI, A1, A4 [former District 12 battalion commander: confirming killings of evacuees gathered at Tbaeng Khpos pagoda]; **E3/5126** Ouk Yon WRI, EN 00163419-20 [estimating 1500 evacuees were killed at Prey Ta Kuch]; **E3/5174** Koem Sokh WRI, EN 00231671 ["All those evacuees might have been killed soon after the evacuation"]. **(Old) North Zone:** **E3/5256** Hok Hoeun WRI, EN 00251304 [describing the killing of evacuees and villagers who had been captains or majors in the military or had been commandos. He states "we could only hear the loudspeaker noise and the screams of the victims"]; **E3/3964** Pechuy Chipse WRI, EN 00225210-11 [hundreds of former Lon Nol officials and soldiers were detained at Chikreng Market then killed]; **E3/3863** Henri Locard, *Report*

men gathered on National Road 5 near Thipakdei mountain, who had identified themselves as former Lon Nol officers and officials on the promise of meeting the King.¹¹³⁹ He stated, “I just pulled the trigger and fired. I just followed the order. I fired the whole magazine.”¹¹⁴⁰ These killings at Thipakdei are corroborated by several witnesses, including survivors of the execution.¹¹⁴¹ CPK intelligence officer Ou Dav, assigned to the Pochentong airport “spearhead” on 17 April 1975, described urgently searching for his brother, a Lon Nol military pilot, to smuggle him from the mass gathering of military pilots overseen by Ta Mok, Sou Met, and Meas Muth.¹¹⁴² He testified that he received orders that “any pilot had to be executed upon our entry, and for that reason, I had to find a way to warn my brother.”¹¹⁴³ Other pilots who failed to heed his warning were taken away in trucks and disappeared.¹¹⁴⁴ The CPK security

on Siem Reap Province, EN 00164190-2.

¹¹³⁹ **E1/483.1** Cheal Choeun, T. 13 Oct 2016, 15.45.08-15.59.11 [participated in killings on National Road 5: “The guards ... were told they told that to guard the soldiers who were welcoming Samdech. At the time when the soldiers were on their foot, we heard the gunfire behind the lines of the soldier and there was a person who was in charge there ordered the guards to shoot. ... It occurred after the Khmer Rouge won the victory in the period of 1975 ... people said that they had ranks ... the Lon Nol soldiers were only in uniform but they were not armed. ... there were around 50 soldiers. They were walking from National Road Number 5 toward Street 64 to Thapadei Mountain [Moung Ruessei district, Battambang]”]; **E1/484.1** Cheal Choeun T. 17 Oct 2016, 09.22.50-09.26.30 [“At the time, maybe about three of them fled away, though I did not know whether they survived”].

¹¹⁴⁰ **E1/483.1** Cheal Choeun, T. 13 Oct 2016, 15.53.30- 15.55.24.

¹¹⁴¹ **F1/3.1** Toat Thoeun, T. 6 July 2015, 16.31.34-16.33.22 [“I witness these former Lon Nol soldiers were being transported in vehicles on the road from Kampong Preah to Moung and vice versa”], 15.59.07-16.01.28 [“These former soldiers were transported in CMC trucks with net cover. And they were shouting ‘bravo, the King’”], 15.53.27-15.57.45 [“Ten days later I realised that these former soldiers were taken away and killed”], 13.41.49-13.44.38, 15.51.39-15.59.07 [armed forces of Lon Nol in Battambang laid down their weapons and were invited to go and welcome the King, transported in trucks and killed], 16.43.36-16.45.52 [more than ten trucks, carrying approximately 30-40 former Khmer Republic soldiers, passed by Ros Nhim’s residence twice]; **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.01.08-11.05.58 [“As for the lower-rank soldiers below Major Lieutenant, they were transported by truck toward Pailin. ... They said that the soldiers ranking from Major Lieutenant up would be gathered to go to Phnom Penh in order to receive Prince Sihanouk. ... I learned about their fate about one month later ... through one of the drivers. He said the soldiers were transported to Thipakdei mountain and executed there”]; **E3/4966** Thach Saly CPA, EN 00891027-29 [“all of Lon Nol’s soldiers were summoned to meetings held at Iep Khut School and Net Yang School ... I saw six huge trucks, full of about 100 former soldiers each ... I suddenly heard sounds of gunfire. We were being brutally sprayed with bullets from various types of weapons, this lasting for about 20 to 30 minutes. Everyone was shot dead except me”]; **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 10.15.52-10.20.45 [“With regard to Battambang at Phnom Thipakdei, they killed 380 people. ... So I have four witnesses who survived, and two of them walked across that area at different times [and seen bodies and skeletal remains], so this is absolutely true”]; **E3/4590** Francois Ponchaud, *Refugee Accounts*, EN 00820332; **E3/2071** Henri Locard, *Research Notes on Democratic Kampuchea Prison Network*, 1991, EN 00087304-5.

¹¹⁴² **E1/498.1** Ou Dav, T. 10 Nov 2016, 14.19.04-14.27.12, **E3/9745** Ou Dav WRI, A14-41.

¹¹⁴³ **E1/498.1** Ou Dav, T. 10 Nov 2016, 15.29.31-15.31.49; **E3/9745** Ou Dav WRI, A34 [“Ta Mok himself said that those people were taken to be smashed”]. *Contra* **E1/193.1** Ieng Phan, T. 20 May 2013, 09.46.33- 09.48.53 [it was “up to the rear to do whatever they do with those people”].

¹¹⁴⁴ **E1/498.1** Ou Dav, T. 10 Nov 2016, 14.19.04-14.27.12; **E3/9745** Ou Dav WRI, A34 [“Ta Mok himself said that those people were taken to be smashed”], A38-39.

machinery used the confessions of those tortured and executed, to identify further victims.¹¹⁴⁵

316. Lower-ranking soldiers and their families, who were not swept up in executions, were sent to security centres¹¹⁴⁶ or forced to labour under heightened scrutiny.¹¹⁴⁷ There is evidence that even in 1975, the CPK slaughtered wives and children of high-ranking officials together with the officials themselves.¹¹⁴⁸

¹¹⁴⁵ **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 15.08.14-15.10.30 ["was your objective to find information on where other Lon Nol officials were? A: That was the purpose of interrogation at the time"] *discussing E3/5794* S-21 Confession of Sar Phorn, 9 Sept 1975, EN 00227633-34, 00227723.

¹¹⁴⁶ **E1/256.1** Say (Sory) Sen, T. 4 Feb 2015, 14.36.30-14.40.15 [former prisoner: "The number of prisoners increased after the country was liberated ... Those former Lon Nol soldiers were regarded as prisoners of war"]; **E1/136** Chum Sokha, T. 22 Oct 2012, 13.49.57 [his uncle, was arrested and put in a detention facility upon his arrival in the village as he was a former military officer]; **E3/5788** Chum Sokha WRI, EN 00380711-12; **E1/249.1** Meas Sokha, T. 21 Jan 2015, 11.08.44-11.09.31 ["Office 204 was a detention centre for former Lon Nol Officials"]; **E3/9775** Pen Thol WRI, A7, A16 ["One day Soeun, who was District Committee, ordered me and four other soldiers to take prisoners, former military policemen, from Prey Chakkrei Security Office to the sector-level security office 200 or 300 metres north of Prey Totueng Market"]; **E3/7709** Bun Sat WRI, EN 00243277-78 [a former Lon Nol soldier, the witness was arrested in April 1975 and transferred through various security centers: "at Chheu Teal Pagoda detention center there were about 700 youths. They were students, soldiers or teachers of Lon Nol regime"]; **E3/9775** Pen Thol, WRI, A10 ["Two former military policemen were detained in the Prey Chakkrei Security Office"]; **E3/9465** Phan Chhen WRI, EN 01053632; **E3/9832** [REDACTED] WRI, A94; **E3/3209** Henri Locard, *Bophea Region*, 24-26 August 1993, EN 00403146.

¹¹⁴⁷ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.48.48-11.50.25 ["those who had relation or were linked to civil servants in the past former regime, we would killed since we were 17 April People. We were afraid of being killed. That is why whenever we were asked to do our work, we would try to perform them"]; **E1/334.1** Tak Boy, T. 20 Aug 2015, 09.11.44-09.16.17 [witness was a former Lon Nol private and describes hard labour in the forest with other privates. Higher ranking soldiers were sent elsewhere. "They wanted to see whether we, former soldiers, were strong or hardworking in our work"]; **E1/149.1** Hun Chhunly T. 6 Dec 2012, 11.01.08-11.05.58 ["As for the lower rank soldiers below Major Lieutenant who were transferred -- transported to Pailin, they were ordered to farm the land near Ou Pong Moan"]; **E3/5857** Bin Heng WRI, A1; **E3/3173** Helen Penfold, *Remember Cambodia*, EN 00487966-67 ["2,000 of us "liberated" soldiers were pressed into labour gangs to build a dam"]; **E3/2666** Embassy of France, *Testimony of Brigadier-General Sor Buon*, 23 June 1975, EN 00517768 ["All officers are sentenced to forced agricultural labour, ... under the unwavering guard of very young armed people. ... The death rate is very high. Brigadier-General Sor Buon believes that at this rate, within a few months, the entire officer corps of the now-defunct FANK will have been eliminated"], EN 00517767 ["At the Taing Krasang camp, ... executions occur almost every day; groups of 3 to 5 officers are taken out and shot close to the camp"]; **E3/2071** Henri Locard, *Research Notes on Democratic Kampuchea Prison Network*, May 2007, EN 00087306 ["Some 6,000 people were initially regrouped and many were massacred ... The others began digging canals to construct Kamping Puoy dam. The dam started being built at the end of 1975. Others were massacred close by and some taken to Phnom Sampou"]; **E3/3209** Henri Locard, *Bophea Region*, 24-26 August 1993, EN 00403188-89; **E3/1714** Masato Matsushita and Stephen Heder, *Interviews with Kampuchean Refugees at Thai-Cambodia Border*, EN 00170755-56 ["in 1975 that a new batch came. They were mostly soldiers and civil servants and altogether number about 3000. The officers were executed almost immediately. The others were put to work at Ta Rang. ... By the time Vietnamese came in 1979, only 300 to 500 of the original 3000 were left alive"].

¹¹⁴⁸ **Phnom Penh: E3/832** Execution Order, 4 June 1975, EN 00068915 [Nos 2, 11 and 17: "all members of his family are traitors"]; **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.08.23-10.35.30 [massacre of soldiers and their families in Takhmau]; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 15.54.45 ["[i]n the real situation after 17 April, when the parents were taken away and killed, the children would be taken away and killed as well"]; **West Zong: E1/216.1** Lev Lam, T. 2 July 2013, 10.15.55-11.44.02; **E3/4630** Lev Lam WRI, EN 00274646-48; **E3/4631** Dy Yet WRI, EN 00275128-30; **E3/4634** Sa Sroeung WRI, A4-5.

3. Purging the Non-Reformable: 1976

317. Continuing into 1976, the CPK leadership warned cadres to be vigilant to the threat posed by former Lon Nol government officials and soldiers, claiming that many of them could not be “reformed.” Soldiers and police were “extreme reactionaries” and tools of the oppressors.¹¹⁴⁹ Ieng Sary stated that the CPK resolved to “separate out” all those who supported the Lon Nol regime.¹¹⁵⁰ In the September issue of *Revolutionary Flag*, the CPK warned cadres that there were “life-and-death contradictions” with government officials, policemen, soldiers, and students, who could not generally be reformed with education.¹¹⁵¹ Chillingly, they encouraged the killing of even the

See also **E3/4633** Duk Phao WRI, A1, A3-8, A12; **Central Zone: E3/5267** Ut Seng WRI, EN 00282357-58 [“they were killed along with their entire families, for example, Brother Si, who had an approximately one-year-old infant. Someone asked to keep the child, but they did not permit that. They said, ‘[When you] dig up grass, dig it out by the roots’”]; **E3/3327** UN ECOSOC, *Further Submission of the International Commission of Jurists under Decision 9 (XXXIV)*, 25 Jan 1979, EN 00075939 [Testimony of Khmer Rouge official: “in the beginning they killed only men. ... In 1975, however, we were made to change policy ... In the beginning, however, only officers’ families were killed. At the beginning of 1976, however, the family of common soldiers were also killed. One day at Choeung Prey, I cried for a whole day on seeing women and children killed. ... That was the decision of the Central Committee, just as it had been its decision to wipe out the soldiers in 1975-1976”]. **Northwest Zone: Battambang: E1/364.1** Prum Sarun, T. 8 Dec 2015, 15.12.15-15.20.00 [killing of a soldier’s wife grieving over his dead body]; **E1/365.1** Prum Sarun, T. 9 Dec 2015, 09.15.49-09.18.02; **E3/5187** Prum Sarun WRI, EN 00274178-79; **E3/3559** US State Department Telegram *Life Inside Cambodia*, 31 Mar 1976, EN 00443067. **Banteay Meanchey: E3/9564** Mun Mot WRI, A6-12 [“At that time, I saw them arrest a boy, throw him up, and also hold him up from below with a bayonet. ... He was 5 years old. That boy was Pheum’s son. At that time, I saw them kill the wife, son, and daughter, named Kasi, of the village chairman, Pheum. I saw it first-hand. The Khmer Rouge took the bayonet of a CK rifle to stab the ribs of the village chairman Phoeum’s daughter and then kick her to pull the bayonet out”]; **E3/3472** US National Security Council Memorandum *Assessment of Developments in Indochina*, 15 Jul 1976, EN 00443171 [describes the execution of ten former senior civil servants and their families]. **Southwest Zone: E3/3173** Helen Penfold, *Remember Cambodia*, EN 00487966-68 [testimony of refugee Pam Moeurn: “My wife went ahead, carrying our two-year-old son, and I followed with our two older boys, aged four and twelve. Suddenly a group of men armed with guns, bayonets and knives and carrying ropes charged out of the woods and surrounded us. ... After bayoneting the child they stripped and gagged my wife before killing her. They then yanked my two older sons away and killed them in like manner”]. **E3/2419** Henri Locard & Moeung Sonn, *Prisoner of the Khmer Rouge*, EN 00293762-63 [describing slaughter of former Lon Nol soldiers and their families at Bokor mountain].

¹¹⁴⁹ **E3/1233** DK Notebook: *Division of Class Status and Status Struggle in Cambodian Society*, undated, EN 00711618 [the police and soldier class are a “special class because they use weapons to serve the dictatorship and oppressing power; ... They are the authoritative tool of the armed forces of class enemy”]; **E3/8381** Notebook 071: *About Party*, EN 01369267 [“the special class that carries weapons and serves the ruling dictatorship tool of the class enemy. The economic and political categories connected to oppression are the extreme reactionaries”].

¹¹⁵⁰ **E3/94** Ieng Sary Interview, 22 July 1981, EN 00342504 [“In a meeting of leadership in 1976 ... At that time we divided it up ... 3) people who supported Lon Nol”].

¹¹⁵¹ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529 [“there are class contradictions with the feudalism, landowner and privileged classes (subdistrict chiefs, district governors, provincial governors, government officials, police and soldiers) ... contradictions with capitalists and feudalists that are life-and-death contradictions. ... they do not easily reform. ... In the base areas, as for the characteristics of the contradictions that we can detect, most of them are government officials, policemen, soldiers and students”]; **E3/138** CPK Circular: *Fundamental Introductory Document for Party Member*, 1977, EN 00743798-99 [“Besides this, there is still a contradiction with those in the feudalism class, including the

youngest children of these “enemies” telling cadre “when they die, they instruct their children to struggle on against the communists.”¹¹⁵²

318. At education sessions, **Nuon Chea** instructed cadres to identify and smash the enemy, defining the “enemy” as including those who had served the Lon Nol regime.¹¹⁵³ On 9 September 1976, Son Sen ordered Centre Division 164 to “round up” former Lon Nol soldiers.¹¹⁵⁴ CPK cadres in Tram Kak District disseminated the policy to eliminate ranking former officials and soldiers at meetings.¹¹⁵⁵
319. Soldiers of higher ranks were considered “non-reformable” and killed. Ordinary soldiers who had committed minor infractions were also put into this category and murdered. **Nuon Chea** told the court, “Communism only eliminates those people ... who could not be educated.”¹¹⁵⁶ CPK cadres sought to arrest Lon Nol government officials and soldiers, identified via biographies, investigations, or prior lists.¹¹⁵⁷ Higher-

landowner and aristocrat (namely commune chief, district governor, provincial governor, civil servant, police and soldier). ... Some elements might change, but most of them will not. ... if the worker-peasant class is careless, the feudal-capitalist will regain back its power”].

¹¹⁵² **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529 [“When they die, they instruct their children to struggle on against the communists”]. See also **E3/138** CPK Circular: *Fundamental Introductory Document for Party Member*, 1977, EN 00743799 [“Before they die, these elements will tell their children to keep on resisting the communist”].

¹¹⁵³ **E1/215.1** Pech Chim, T. 1 July 2013, 11.29.35-11.31.01 [“Q: Now, when Nuon Chea was teaching you ... did he ever cover subjects like internal and external enemies? A: Yes, he did. He covered all aspects. Without having covered this subject of enemies, people would never know how to identify enemies from friends”]; **E1/290.1** Pech Chim, T. 22 Apr 2015, 11.30.38-11.34.30 [“it was said ... that those who served the interests of the enemy were considered as the enemy ... They were very afraid of Lon Nol’s men, they had to be vigilant”]; **E1/187.1** Lim Sat, T. 2 May 2013, 11.20.52-11.34.28 [testifying that Nuon Chea said at meetings that all internal enemies were to be purged. The witness attended one meeting but was told about the other two by the sector] referencing **E3/364** Lim Sat WRI, EN 00250760 [“I saw Mr. Nuon Chea convene those meetings to prepare plans to purge internal enemies like the soldiers and commandos with connections to the Sangkum Reastr Niyum and Lon Nol eras. Purge meetings were held two to three times during 1976”].

¹¹⁵⁴ **E3/813** Division 164 Meeting Minutes, 9 Sept 1976, EN 00143486-87 [Division 164 reports: “The majority among these people are good, but the soldiers engage in no-good movements. Previously, we found two first lieutenants, both of whom have already been arrested.” Brother 89 [Son Sen] instructs: “Soldier elements must be rounded up”].

¹¹⁵⁵ **E1/279.1** Riel Son, T. 18 Mar 2015, 15.05.03-15.22.13 [witness attended two meetings where similar instructions regarding Lon Nol officials were given — one before 17 April 1975, and one in early 1976. Pech Chim instructed the chiefs of villages and communes to research whether evacuees were Lon Nol ranking officers or civil servants, starting from the first deputy chief. If so, they had to be purged.]. See also **E1/291.1** Pech Chim T. 23 Apr 2015, 11.00.37-11.09.41, 11.13.42-11.21.23; **E1/290.1** Pech Chim, T. 22 Apr 2015, 11.15.03-11.30.38 [“it was Khom who announced the plan in a meeting aiming at eliminating officers ... The communes got the instruction or the plan and executed that plan instead of me”] 11.30.38-11.34.30 [“They were very afraid of Lon Nol’s men, they had to be vigilant for Lon Nol’s people”]; **E1/215.1** Pech Chim, T. 1 July 2013, 11.39.20 [“Q. Is it right that Angkar gave instructions about purging enemy officers? A. Yes, it is correct”].

¹¹⁵⁶ **E1/21.1** Nuon Chea, T. 13 Dec 2011, 11.27.52-11.29.29.

¹¹⁵⁷ **Southwest Zone: E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 13.36.18-13.37.45 [“what they did was to ask questions at the unit or during our break time ... they would ask our biographies. ... that’s how they obtained the information”], 15.02.20; **E3/9598** [REDACTED] WRI, A14-15 [in late 1976 or early 1977:

ranking officers and officials were more likely to be executed,¹¹⁵⁸ whereas lower or non-ranking officers and officials were subject to heightened scrutiny,¹¹⁵⁹ and sent to security centres, where many were then killed.¹¹⁶⁰ Surviving S-21 logs from March 1976

"Uy Sim [former Lon Nol soldier] was shackled, and ordered to walk around to identify those who had served in the Lon Nol administration"; E3/4719 Beng Boeun CPA, EN 00436830 ["There was constant monitoring by the Khmer Rouge militia"]; E1/287.1 Beng Boeun, T. 2 Apr 2015, 14.12.30 [reached Tram Kak District after mid-1976]; E3/4659 But Savan SOAS Interview, EN 00351976; E3/2120 Meng-Try Ea, *The Chain of Terror*, EN 00416382-84. **Northwest Zone: E1/328.1** Lat Suoy, T. 11 Aug 2015, 14.27.03-14.31.07 [assigned to Trapeang Thma Dam in 1976: "Chhuoy disappeared. ... His implication was that he had a connection with the former Lon Nol army and he had been followed. That was the main reason for his arrest"]; E3/9800 [REDACTED] WRI, A68-70 ["In 1976, people were badly treated, and the former soldiers and their relatives were taken to be killed. ... They investigated us. If we had relatives or allegiances with Lon Nol soldiers, we would be taken to be killed"]; E3/9787 [REDACTED] WRI, A15, A29 ["In the cooperative, there were militiamen who eavesdropped on the people evacuated from Phnom Penh and the provincial town of Pursat in an attempt to identify former Lon Nol soldiers or commandos and those associated with the Lon Nol regime"]; **(Old) North Zone: E1/314.1** Keo Kin, T. 11 June 2015, 11.20.31-11.23.03 ["It was the group chief who made our biography. ... they knew that I had a tendency with the former regime, and they removed ... their confidence in me"]; E3/1692 Sreng Srun WRI, EN 00242085-86.

¹¹⁵⁸ **Phnom Penh: E3/1538** List of Prisoners Smashed on 22 March, 22 Mar 1976 [lists 47 Khmer Republic soldiers and officers and their ranks] *date confirmed by* E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 09.46.40-09.51.32; E3/1539 Names of prisoners who died at Office S-21 C, 2-30 Mar 1976 [includes at least 144 former Khmer Republic soldiers, officials, police and their relatives] *authenticated by* E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 09.51.32-09.55.59; E3/3187 Name list of prisoners killed in 1976, EN 00874237-46 [lists 49 former Lon Nol military prisoners at S-21 who arrived between June and September 1976, 46 of whom were killed or died of disease]; E3/2017 List of prisoners taken from "Ta Lei" who had died, EN 00183670-72; E3/3973 List of prisoners and the execution dates, EN 00837533 [list of 60 "civil servants of the old regime" entering between November 1975 and 7 January 1978, the majority of whom have execution dates], EN 00837571-81 [list of 206 Lon Nol military detained at S-21, entry dates from October 1975 and execution dates in 1976. Ranks range from private to colonel]; E1/433.1 Kaing Guek Eav, 7 June 2016, 15.10.30-15.19.40 ["I conducted the interrogation on those former paper factory workers from K-5 to my recollection or perhaps K-10"] *citing* E3/3652 S-21 Confession of Lang Pring alias Lang Phat, 18 Sept 1975, EN 0078083-84 [handwritten annotation in blue next to Pech Chan: 'Second Lieutenant'], EN 00780847 [titled "Soldiers in disguise at other factories"], EN 00780849 [blue notation 'Major' in the margin next to the name On Sam On]; E3/3973 List of prisoners and the execution date, EN 00837548 [11 of the 14 Paper Factory workers named in E3/3652 as former Lon Nol soldiers, including the detainee Lang Phat, were executed on 15 April 1976]. **Southwest Zone: E1/148.1** Kim Vandy T. 5 Dec 2012, 15.58.08-16.05.12 [describing arrest of his father]; E1/149.1 Kim Vandy T. 6 Dec 2012, 10.00.20-10.04.40 [his father, a former colonel, was killed]; E3/3971 Kim Vandy CPA, EN 00866008 [dating the arrest to 1976]; E3/9488 [REDACTED] WRI, A14 ["Lon Nol soldiers arrested from Kampong Saom were taken to be killed and thrown into a well ... near the mountain in Kouk Preh [Krivong District]"]; E3/9598 [REDACTED] WRI, A14-15 [late 1976 or early 1977: "Ta Tit declared Uy Sim, a former Lon Nol official as traitor. ... I have never seen Uy Sim again; he must have been taken to be killed"]; **Northwest Zone: E1/138.1** Lay Bony, T. 24 Oct 2012, 09.39.21-09.49.35 [her husband was a high-ranking military officer and was executed in 1976], 11.18.50, 11.42.06-11.44.01 [her husband was arrested after Khmer New Year 1976]; E3/3958 Lay Bony WRI, EN 00379156, 00379161-62; E3/9800 [REDACTED] WRI, A68-70, A137 ["In 1976, people were badly treated, and the former soldiers and their relatives were taken to be killed"]; E3/2071 Henri Locard *Research Notes on Democratic Kampuchea Prison Network*, EN 00087319 [Lim Eng: "more than 500 higher civil servants were chosen to be executed at the foot of Phnom Trayung at the time"], 00087317; E3/4590 Refugee Accounts, Francois Ponchaud, EN 00820535.

¹¹⁵⁹ E1/364.1 Prum Sarun, T. 8 Dec 2015, 15.33.24; E1/365.1 Prum Sarun, T. 9 Dec 2015, 09.41.25 ["the soldiers investigated and monitored me. And they kept me because they said I was good at leading people to work, and I worked hard. I ... never complained about the work ... They instructed me to make a biography once a year. ... I worked very hard to be spared"]; E3/5187 Prum Sarun WRI, EN 00274178-79.

¹¹⁶⁰ E1/281.1 Saut Saing, T. 24 Mar 2015, 11.01.32-11.06.33 [guard at Kraing Ta Chan from late 1976: "if

onward document mass executions of former Khmer Republic soldiers. These records painstakingly record the victims' ranks and date of execution.¹¹⁶¹ Scores of those

you were accused of betraying the Revolution, then you would be sent for re-education and it meant that you would be smashed. ... It included the Lon Nol regime and up to the time that the revolutionary regime took over, I do not know what kind of mistakes they had made, I just saw them brought in. Q: Did the prisoners at Kraing Ta Chan include former Lon Nol soldiers or officials or people who were relatives or otherwise connected to former Lon Nol people? A: Yes"; E1/283.1 Oem Saroeun, T. 26 Mar 2015, 09:38:50-09:51:24 [her husband, a former Lon Nol soldier, disappeared after they were separated in 1976. A guard from Angk Ta Saom prison and a former Kraing Ta Chan prisoner told her that he was sent to Angk Ta Saom then killed at Kraing Ta Chan]; E3/10732 [REDACTED] WRI, A49-54 [REDACTED] [REDACTED], 1975-1977: "The majority [of prisoners killed] were soldiers. ... Even if they had only served as militiamen for four to ten days, they were killed. ... When the interrogator saw report that a prisoner used to be a soldier, but the prisoner did not answer correctly, the prisoner was beaten. Whatever the answer was, in the end, the prisoner was killed"; E3/1745 Moeung Sonn WRI, EN 00338388-90 [prisoner who buried dead bodies at Ta Ney Prison from December 1975 to June 1976 states that he knew from Khmer Rouge soldiers that officials and soldiers were beaten to death after interrogation, and saw fresh blood, whips and sticks in the interrogation room. He buried bodies with signs of torture]; E3/7751 Vung Chhin WRI, EN 00275092 ["I was looking for my brothers, ... I was told that they were sent to Ta Ney [prison]. My brothers were arrested because they had been Lon Nol's soldiers ... [they] have disappeared up to now"]; E3/7719 Nom Saroeun WRI, EN 00347416 [Thlork Pagoda: "after 1976, the Khmer Rouge gathered up the teachers, students, and former Lon Nol soldiers. Then all the families of those soldiers had their biographies made by the Khmer Rouge soldiers so they could be sent to study. However, ... they were taken to Longeun Pagoda and killed"]; E3/3559 US State Department Telegram: *Life Inside Cambodia*, 31 Mar 1976, EN 00443063-65, 00443085-86 ["Asked why the KC are focussing on the lowest ranking soldiers of the GKR, people immediately reply that all other military have already been executed, as well as all former civil servants. Often not only the head of the family but also all family members are executed. ... KC also continue to be on the lookout for any undiscovered civil servants"]; E3/4631 Dy Yet WRI, EN 00275131-33 [district soldier at Damrei Srot prison: "During 1975-1976 and later on as well, accusations were made against people that they were former Lon Nol regime officials or CIA agents; these were serious offenses ... if they were put into the Damrei Srot prison, the great majority died"]. See also E1/276.1 Nut Nov (Nouv), T. 12 Mar 2015, 13:49:35-13:56:00 [those who opposed the revolution were sent for "re-education"].

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E3/1538 List of Prisoners Smashed on 22 March, 22 Mar 1976 [lists 47 Khmer Republic soldiers and their ranks. Includes 30 privates, 3 "three strippers" (likely Captain), 1 MP "Striper", 7 corporals, 2 NCOs, 2 sergeants, 1 military medic, 1 "Behind Chinese hospital" considered to be a spy] date confirmed by E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 09:46:40-09:50:29; E3/1539 Names of prisoners who died at Office S-21 Kor C, 2-30 Mar 1976 [lists 153 prisoners who were executed primarily within a week and 9 who died of illness. Includes at least 144 former Khmer Republic soldiers, officials, police, and their relatives. Lists four children of a former Ministry of Education official Thach Chea (No. 159)] authenticated by E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 09:51:32-09:55:59; E3/3187 Name list of prisoners killed at 1976, EN 00874237-46 [list of 49 LN Military prisoners at S-21 who arrived between June and September 1976, 46 of whom had either died of disease at S-21 or were killed, and three (including one private) who remained imprisoned. The victims range from a military cashier to a lieutenant-colonel. They include 30 from Ta Lei village]; E3/3973 List of prisoners and execution dates, EN 00837533 [list of 60 "civil servants of the old regime"], 00837571-81 [list of 206 Lon Nol military detained at S-21, with ranks specified, entry dates from October 1975 and execution dates in 1976- ranks range from private to colonel], 00837548 [11 of the 14 Paper Factory workers named in E3/3652 as former Lon Nol soldiers, including the detainee Lang Phat, were executed on 15 April 1976]. See E3/3652 S-21 Confession of Lang Pring alias Lang Phat, 18 Sept 1975, EN 00780843 [handwritten annotation in blue next to Pech Chan: "Second Lieutenant"], 00780847 [Titled "Soldiers in disguise at other factories"], 00780849 [blue notation "Major" in the margin next to the name On Sam On]; E3/8493 Daily Prisoner Control List, 11 Apr 1976, EN 00181623 [Listing 132 "Officials" and 43 "Soldiers"]; E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 09:36:30 ["Immediately after I arrived they arrested the former officers of the Lon Nol's regime and then they had a format in which the names of those officials were recorded"]. Note E3/5798 Kaing Guek Eav, T. 9 June 2009, 15:58:48-16:02:32 ["The majority of the soldiers were not interrogated"]. See also Annex F.2 Figure 4.2, *Khmer Republic Officials Arrested by Month at S-21*, p. 45, Figure 4.1 *Arrest Dates Recorded for Khmer Republic Officials at S-21*, p. 44.

executed were merely privates.¹¹⁶² The regime also executed Lon Nol soldiers and officials who had been abroad and returned to their country after 17 April 1975.¹¹⁶³ These killings or disappearances were widely reported at the time,¹¹⁶⁴ including in public letters to **Khieu Samphan**.¹¹⁶⁵

320. Ordinary civilians who merely had a connection to soldiers of the former regime were often forced to work under harsher conditions.¹¹⁶⁶ However, the regime increasingly executed not only former officers and officials but their entire families.¹¹⁶⁷ CPK leaders

¹¹⁶² **E3/1538** List of Prisoners Smashed on 22 March, 22 Mar 1976 [list includes 30 privates and 1 military medic]; **E3/1539** Names of prisoners who died at Office S-21 Kor C, 2-30 Mar 1976 [27 privates were killed, without any indication of an offence].

¹¹⁶³ **E3/1976** Consolidated Prisoner List from MFA or Abroad [dates of entry and execution ranging from 1976 to 1978 listing prisoners who returned from abroad, including Khmer Republic foreign ministry officials and military officers]; **E3/2269** List containing names of prisoners sent to Kampuchea from Thailand, 25 Nov 76 [list from Northwest Zone of 26 people, who had fled to Thailand from Sector 5, but were returned to DK by Thai authorities, mostly Khmer Republic officials and 11 year old child Hok Dara]; **E3/8447** Name of prisoners escaped from Battambang to Thailand, 27 Nov 76 [recording entry to S-21 of those 26 people listed in **E3/2269**]; **E3/3187** Name list of prisoners killed in 1976, EN 00874237-46 [list of 49 LN Military prisoners at S-21 who arrived between June and September 1976, 46 of whom had either died of disease at S-21 or were killed. They include 30 from Ta Lei village]; **E3/2017** List of prisoners taken from "Ta Lei" who had died, EN 00183670-72; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397090 ["A former Lon Nol official, Seng Chen An, was sent with his wife to the village of Talei ... He wrote that the internees there were divided into three sections: civilians who had recently returned from abroad, a group of former urban intellectuals ... and military personnel who had come back from the United States"].

¹¹⁶⁴ **E3/2742** French Foreign Ministry Telegram *Cambodian Refugees Sent Back to Their Country of Origin*, 29 Nov 1976, EN 00742298 [26 refugees, including a customs officer, gendarme, district chief and former soldiers, were turned back over to the Khmer Rouge. After their return, the refugees were paraded in public and their fate was not in doubt]; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00396991 ["One of the left-wing intellectuals who returned -from North Korea - after the end of the war, stopped for two weeks in Hanoi on his way home in December 1976, and was told by the Cambodian embassy there that only officers from the rank of major upward were targets for execution, along with civilians such as police secret agents"]; **E3/3472** US National Security Council Memorandum: *Assessment of Developments in Indochina*, 15 July 1976, EN 00443170 ["Refugee reports and other information indicate that arbitrary executions are commonplace ... machine-gunned to death over 350 soldiers who returned from Thailand where they had been in training"].

¹¹⁶⁵ **E3/3864** Letter from Amnesty International to Khieu Samphan, 28 Feb 1977, EN 00498337-38 [directly reporting allegations that 26 refugees returned to Cambodia were executed to Khieu Samphan and seeking comment]. See also **E3/3307** Amnesty International Memorandum, 3 Mar 1977.

¹¹⁶⁶ **E1/321.1** Chum Samoeurn, T. 13 Jun 2015, 13.45.54-14.07.23, 14.36.43-14.40.00 [Chum Samoeurn's father was a former soldier. She was placed in a unit of others connected with the former regime, and then sent to work at Kampong Chhnang airport under harsher conditions].

¹¹⁶⁷ **E3/1539** Names of prisoners who died at Office S-21 Kor C, 2-30 Mar 1976 [lists family of high-ranking Lon Nol officials, including four children of a former Ministry of Education official Thach Chea (No. 159) and five non-military members of Long Boret's family (Nos 45-49)] authenticated by **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 09.51.32-09.55.59; **E3/5800** Kaing Guek Eav, T. 16 Jun 2009, 15.59.42-16 10 58 [live surgical experiments were conducted on Thach Chea's wife and his children were "smashed according to the principle that even the children would not be spared"]; **E1/138.1** Lay Bony, T. 24 Oct 2012, 09.39.21-09.49.35, 09.44.38-09.47.48 [imprisoned with her husband, a former captain in the Lon Nol army]; **E3/3958** Lay Bony WRI, EN 00379156, 00379161-62; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.39.15-11.42.59 [testifying that her nephew's wife, a Khmer Rouge medic, disembowelled her nephew. Her nephew was targeted as he was the "son of an enemy", as his father held a high rank], 13.43.19-13.49.18 [it occurred in 1976 and she was told about it by her aunt], 11.42.59-11.44.30 ["I could do whatever they asked me to do. Otherwise, I would be killed because I was accused

explained the policy by teaching cadres it was necessary “to dig out the grass, dig out the root.”¹¹⁶⁸

4. The Great Mass Movement to Attack and Smash:¹¹⁶⁹1977-1979

321. By 1977, the CPK leadership was looking for a scapegoat for the failure of the cooperative policy to achieve economic goals and escalated the effort to identify and purge former Lon Nol soldiers and officials who had successfully concealed their identity. *Revolutionary Flag* reported that in a July 1977 conference for West Zone cadres, the “Party Organization Representative” lamented that “some cooperatives have [former regime] soldiers, not just soldiers as members, but soldiers in the leadership, post-liberation elements”.¹¹⁷⁰ The Representative directed zone cadres to:

attack and smash the enemy and the no-good elements embedded inside and controlling the cooperative. ... by late 1977, at least 50 percent or more of the cooperatives throughout the entire zone be sent up to be good and clean in accordance with the class line. ... and by mid 1978 at the latest, 100 percent.¹¹⁷¹

Revolutionary Flag made it clear that the instruction was intended not just for the West Zone but the entire country, printing in bold type the following “Notice”:

Notice: Propose that every leadership echelon in the Party concentrate on examining, discussing, and studying this

of being a daughter of a formal civil servant. I was a wife of an enemy”]; **E1/287.1** Beng Boeun T. 2 Apr 2015, 14.12.30-14.16.59 [former worker in the military records office in Phnom Penh: in mid-1976 he fled from his uncle’s place as the Khmer Rouge had decided to execute his family]; **E3/5300** Sum Rithy WRI, EN 00292993-94 [“Lon Nol soldiers’ spouses were also arrested if they [Khmer Rouge] knew it”]; **E3/9800** [REDACTED] WRI, A68-70 [“In 1976, ... If we had relatives or allegiances with Lon Nol soldiers, we would be taken to be killed”]; **E3/2120** Meng-Try Ea, *The Chain of Terror*, EN 00416381-82 [“the majority of those arrested in mid-1975 and 1976 were Lon Nol soldiers and policemen. After 1976, this group expanded to encompass their families”].

¹¹⁶⁸ **E1/254.1** Cheang Sreimom, T. 29 Jan 2015, 11.14.22-11.16.37 [“If they have any relatives who held senior positions in the previous regime, they would be arrested and killed as well. ... If they dig out the grass, they had to dig out the root as well”]; **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.39.23-09.52.44 [“The spouse and children of the prisoners were treated in the same way as the prisoners. That means they would be smashed ... As for the role of S-21 as well as for every security centre throughout the country, when the husbands were arrested, their spouses were also arrested”].

¹¹⁶⁹ **E3/746** *Revolutionary Flag*, July 1978, EN 00428293 [“The concealed enemies boring from within were exposed”], EN 00428303 [“Even more particularly, in the great mass movement to attack and smash ... bringing about a strategic victory for the nation, the people, the Party and the revolution”].

¹¹⁷⁰ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399232.

¹¹⁷¹ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399236, 00399246. The same claim was made in the Northwest Zone: **E3/1181** General View of Sector 5, Northwest Zone, 27 June 1977, EN 00223176 [Phniet Commune in Sisophon District described as a “newly liberated area where ranking officials, private individuals are hiding”].

presentation conscientiously in order to take it for implementation in their respective Zones and get good results.¹¹⁷²

322. These orders were part of a broader escalation against perceived enemies in 1977 continuing into 1978,¹¹⁷³ with official magazines exhorting cadres to “constantly be on the offensive against them ... to smash them even more so they cannot raise their heads”¹¹⁷⁴ and “see the enemy’s face clearly ... sweep again and again ceaselessly, so that our Party forces are pure”.¹¹⁷⁵ The Party’s exhortations for a violent purge campaign had its intended effect as such orders were implemented across the country. In the Southwest, a commune reported to the Tram Kak District in April 1977:

For those people who hold a ranking position, we will send them out [to you] consecutively and for soldiers and some teachers who attempted to destroy our revolution, could you please give us advice what to do or let us decide at some bases ... With high commitment to smash the spy of the enemy to its total extinction in order to serve the Socialist Revolution and Building Socialism for our Party and the people.¹¹⁷⁶

323. In the Central Zone, Khmer Rouge cadres gave orders to find and arrest former Lon Nol soldiers, and identify their connections.¹¹⁷⁷ Commune officials made lists noting

¹¹⁷² **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399246 (*emphasis in original*).

¹¹⁷³ See **E3/726** *Revolutionary Youth*, Feb 1978, EN 00278714.

¹¹⁷⁴ **E3/742** *Revolutionary Flag*, Apr 1977, EN 00478496. See also **E3/742** *Revolutionary Flag*, Apr 1977, EN 00478501 [“It is imperative to purge, to clean up, and to sweep clean the no-good elements and the enemy elements”], 00478502 [“their running dogs must be unmasked and permanently cleaned”]; **E3/135** *Revolutionary Flag*, June 1977, EN 00446862; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486235 [“win over those enemies who could be won ... to neutralize those who could be neutralized ... to isolate the most vicious, in order to attack them”].

¹¹⁷⁵ **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185343. See also **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185342 [“Our duty is therefore to attack absolutely... whereas the enemy is being smashed to smithereens, scattered and liquidated”].

¹¹⁷⁶ **E3/4103** Report to higher echelon from Popel Commune, 9 Apr 1977, EN 00322133.

¹¹⁷⁷ **E1/378.1** Prak Yut, T. 19 Jan 2016, 10.46.09-10.53.45 [“It was his [the sector secretary’s] order to identify the former Lon Nol soldiers ... He instructed to identify former Lon Nol soldiers who were considered not good and for those who were good, they were spared. ... I was asked to identify those who were not satisfied with us”]; **E3/9525** Prak Yut WRI, A12 [“I received orders from the sector committee to identify, for example, former Lon Nol soldiers and Cham people in my district”]; **E3/9522** Prak Yut WRI, A44 [“I received an order from ... Ta An to collect Cham people and Lon Nol soldiers”]; **E3/9539** Prak Yut WRI, A6 [“He [Sector Secretary Ao An] just told me to target Cham people and former Lon Nol soldiers and arrest them”]; **E3/9496** Prak Yut WRI, A47-56 [“During a monthly meeting Grandfather An ordered me to identify Cham people and Lon Nol soldiers in each commune ... After I reported to Grandfather An, he gave an order to me, and I ordered Sy to organize the arrests. ... People were arrested from the base to be sent to district security, and I sent them to the sector security. ... As far as I can recall, I received the order from Grandfather An to arrest people approximately three times”]; **E3/9364** Ke Pauk Autobiography, EN 00089705 [“A little later [than early 1977], there were orders from Phnom Penh to arrest Hos accused of being a major ... they got interrogation reports from Hos”]; **E3/9775** Pen Thol WRI, A20; **E3/9667** Nhim Kol alias Say WRI, A2 [“I was Rom’s [commune chief] recorder in meetings. ... sometimes after the meetings, Rom called a meeting among village chiefs and advised them to search for internal enemies such as the Yuon and Lon Nol soldiers and officials”];

each person's former rank or duties and family members, which the district level collated and forwarded up to the sector level, who then ordered arrests.¹¹⁷⁸ Family members were also arrested and killed.¹¹⁷⁹ Those with higher ranks were sent to the

E1/402.1 Alexander Hinton, T. 15 Mar 2016, 09.37.14-09.51.25 *confirming* **E3/3346** Alexander Laban Hinton, *Why do they kill?* EN 00431596 ["Teap, a cadre who worked at Rom's subdistrict office, described a letter the office had received from Grandmother Yit's district headquarters in mid 1977: 'The letter instructed us to smash internal enemies — Chams, Vietnamese, capitalists, former Lon Nol workers, intellectuals, and CIA agents'"]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 11.12.02-11.24.42 ["In my mobile unit, the unit chief himself tried to search for the background of unit members. If someone said that a person was a policeman or a former soldier then that would be noted. ... Those who were soldiers or policemen had been smashed by 1978. ... none from my village knew that I was a former policeman in Phnom Penh"].

¹¹⁷⁸ **E1/376.1** You Vann, T.14 Jan 2016, 15.00.23-15.04.43 ["It's a general list that we needed ... to record the number of soldiers from the old regimes in each village. ... if that family had soldiers' member and then we recorded only the parents. If we identified that that person was the soldier and we recorded only that individual as a soldier and his wife"], 15.25.57-15.28.23 ["Q. Who was it who instructed you to purge the people using a microphone at the meeting? A. It was Ta An and Ta Mok"]; **E3/9507** You Vann WRI, A49-54, A58 ["After I submitted the name list I had written up to Prak Yut, they called me to attend a meeting chaired by Ta An in Prey Totueng. At the time, persons responsible for lists and documentation in each district were summoned to take part in that meeting. He explained points to be recorded and emphasized the composition of the people, for example, ... former first and second lieutenants and so on"], A107 [Ta An decided who was to be sent to the upper echelon based on the detailed list she sent. Higher-ranking people were arrested first, followed by those with lower ranks]; **E1/378.1** Prak Yut T. 19 Jan 2016, 10.53.45 ["The commune did, in fact, make the report to me on those bad or good people and, after my analysis, I would send the report up the line"], 11.01.20 ["In the report, we would include the rank of those soldiers so that the upper echelon would know about it and, of course, all of this was done in writing in the report so that the upper echelon would be aware of it"]; **E3/9496** Prak Yut WRI, A47-56 ["I had a meeting with commune chiefs to tell them to identify and make a list of Cham people and former Lon Nol soldiers who took some action such as opposing communal eating and creating other problems"]; **E1/374.1** Say Docun, T. 12 Jan 2016, 10.32.55-10.36.11, 10.49.40-10.52.35 [was a member of the Long Sword Unit member in 1977], 11.10.23-11.16.47 ["Former Lon Nol soldiers, as well as the New People, were arrested ... They were sent to Au Trakuon pagoda"]; **E3/9660** Say Docun WRI, A3, A6, A17-19; **E1/346.1** Seng Srun, T. 14 Sept 2015, 10.15.34-10.32.50, 10.47.40-10.49.50, 11.27.48-11.30.20 [member of the Long Sword Group: "the first targeted enemies of the Khmer Rouge were New People ... and those who had served in the Khmer Republic and royalist regimes. Not only Cham people were smashed, but also ... the former civil servants of the monarchy and republic regimes"]; **E3/9667** Nhim Kol alias Say WRI, A2, A13, A34 ["When the Southwest group arrived, there were still former Lon Nol soldiers, police officers and officials, and other people who had been evacuated from other places. Then they investigated their backgrounds and arrested them one by one until the Khmer Rouge regime collapsed when the Vietnamese came"]; **E3/5255** Or Ho WRI, EN 00250044 ["they made a different list of names and sent it to me and told me to prepare those persons to board trucks to go live in a new village"].

¹¹⁷⁹ **E1/488.1** Preap Sokhoeurn, T. 24 Oct 2016, 09.45.00-09.48.25 ["my brother name Ol (phonetic), who was a soldier of Lon Nol regime, was arrested and taken away to be killed. ... My brother had three children and including his wife there were five of them ... they killed the whole family. They did not spare any family members if they found out that they were related"]; **E3/9820** Preap Sokhoeurn WRI, A17-18; **E1/467.1** Phan Him, T. 31 Aug 2016, 15.31.53-15.38.25 [her brother, a former Lon Nol soldier, was arrested and disappeared together with his pregnant wife]; **E3/9318** Phann Him DC-Cam Statement, EN 00679681-82; **E3/9667** Nhim Kol alias Say WRI, A2, A33; **E3/9662** Keo Theary WRI, A16-17 [children of former Lon Nol soldiers were taken away in Kampong Siem District, pursuant to "an order from the upper echelon", however she concealed her father's occupation]; **E3/2649** Henri Locard, *Kompong Cham*, EN 00208391 ["Some [people] were accused of having been Lon Nol soldiers and hanged by the feet to confess. Then, they were executed. Entire families of Lon Nol soldiers would be killed"]. See also **E1/376.1** You Vann, T. 14 Jan 2016, 15.00.23-15.04.43 ["if that family had soldiers' member and then we recorded only the parents. If we identified that that person was the soldier and we recorded only that individual as a soldier and his wife"].

sector level,¹¹⁸⁰ whilst those with lower ranks were kept at the district and executed *en masse*.¹¹⁸¹ Given that those sent to the sector were considered the “most important” enemies, the evidence would indicate they met a similar fate.¹¹⁸² Arrests were reported up the hierarchy, sometimes to **Nuon Chea**.¹¹⁸³

324. Testimony and contemporaneous records document an identical process in Tram Kak District in the Southwest Zone. The lower levels were ordered to search out concealed former Khmer Republic soldiers and officials.¹¹⁸⁴ CPK cadres collected biographies and drew up lists recording the former occupation and rank of people within their area and forwarded them to the upper echelon, who ordered arrests and killings.¹¹⁸⁵ One

¹¹⁸⁰ **E1/378.1** Prak Yut, T. 19 Jan 2016, 10.53.45-10.56.24 [“Concerning those who were considered to oppose Angkar, I I could not help re-educate them; I would refer them to the upper level, that is Uncle An”], 10.57.46-11.01.20 [“I meant [referring order to arrest the “most important people”] that they had a high ranks and they could not socialize with people”]; **E3/9539** Prak Yut WRI, A7 [“When Grandfather An ordered me to arrest people, he also ordered me to select and send important people to the sector level”]; **E3/9525** Prak Yut WRI, A12; **E3/9507** You Vann, A107; **E3/9667** Nhim Kol alias Say WRI, A12 [“As for committees and former officials or Lon Nol soldiers, the district sent them to the Sector, but for ordinary people, the district made their own decisions”].

¹¹⁸¹ **E1/378.1** Prak Yut, T. 19 Jan 2016, 10.59.08-11.01.20 [“Concerning the Kouk Pring ... I did not know, at the time, whether my subordinates or the commune chiefs executed those people and, perhaps, they did not tell me about the matter. Ta An instructed me to send the most people to the sector”], 11.02.19 *confronted with* **E3/9496** Prak Yut WRI, A66-67 [“Q: Graves with remains of hundreds of people were found at Kouk Pring at a place called Beong Thom. What did you know about that place? A66: I knew Grandfather Chea killed people there. Q: Did Grandfather Chea kill people on his own or receive an order to do so? A67: I received an order from Grandfather An and I forwarded the order to Grandfather Chea”]; **E3/9539** Prak Yut WRI, A7 [“He gave an order to kill the rest at the execution site in Kouk Pring, Vihear Thum commune”]; **E1/467.1** Phan Him, T. 31 Aug 2016, 15.31.53-15.38.25 [her brother, a former Lon Nol soldier and his pregnant wife were taken away and killed in Cheung Prey district]; **E3/9318** Phann Him DC-Cam Statement, EN 00679681-82; **E1/488.1** Preap Sokhoeun, T. 24 Oct 2016, 09.45.00-09.48.25; **E3/9820** Preap Sokhoeun WRI, A17-18; **E1/464.1** Yos Phal, T. 25 Aug 2016, 11.12.24 -11.24.42 [“Those who were soldiers or policemen had been smashed by 1978”]; **E3/2649** Henri Locard, *Kompong Cham*, EN 00208391.

¹¹⁸² **E1/378.1** Prak Yut, T. 19 Jan 2016, 10.57.46-11.01.20 *clarifying* **E3/9539** Prak Yut WRI, A7. *See also* **E1/376.1** You Vann, T. 14 Jan 2016, 15.10.50-15.12.25 [“I became so suspicious because those names on the list disappeared”]; **E3/4649** Soeng Leum WRI, EN 00222963 [all those who were connected with the old regime were taken away by truck and killed in 1977 and 1978: “The worst killings took place at Voat Phnum, that is Phnum Srei and Phnum Pros”]; **E3/3346** Alexander Hinton, *Why do they kill?*, EN 00431481-82 [describing a soldier’s account of mass killings of those “on the side of the Lon Nol regime” including soldiers and civil servants at Phnom Pros. “In just over one month in mid 1977, Reap’s troops executed somewhere between five thousand and ten thousand people at Phnom Bros”].

¹¹⁸³ **E3/952** Telegram from Central Zone Secretary Ke Pok to Brother Pol, copied to Nuon Chea and Son Sen, 2 Apr 1976, EN 00182658 [“The enemies are former soldiers ... in so tracking that activity, we captured some elements who were former cooperative team chairmen”]; **E3/9667** Nhim Kol alias Say WRI, A2 [the witness attended meetings and collected statistics on those taken to be killed, which would be used to amend rations. He forwarded the statistics to the commune, who forwarded it to the district].

¹¹⁸⁴ **E3/2048** Chean Tong Commune Report, 30 Apr 1977, EN 00276562-63 [“After having received successive instructions from Angkar about being vigilant about the enemy and purging the enemy officers, we have tracked, examined and found the following persons”]; **E1/296.1** Khoem Boeun, T. 4 May 2015, 11.20.25 [“Do you recall receiving successive recommendations from the upper echelon regarding the enemy and the sweeping clean enemy soldiers or rather sweeping clean high-ranking soldiers or officers? A: Yes. ... I received it from the district”]; **E3/5521** Nut Nov WRI, A57-58, 60.

¹¹⁸⁵ **E3/2441** Kus Commune Reports, 9 Sept 1977, EN 00369480 [report informs Angkar of 7 former Lon

particularly telling report dated 2 May 1977 referred to prior “successive instructions” from *Angkar* to “purge enemy officers.”¹¹⁸⁶ Tram Kak District officials ordered “harsh” interrogation of arrestees to find their “network.”¹¹⁸⁷ As confirmed by the testimony of

Nol soldiers who were first or 2nd lieutenants or captains], 00369481 [district prison chief Ann on that same date directs “Kus commune to arrest this [illegible] group”]; **E3/2438** Kus Commune Report, 29 Apr 77, EN 00366665-75 [identifies 35 Khmer Krom families totaling 149 people. It includes 25 former Khmer Republic soldiers and lists the ranks they held (lieutenant, cadet, warrant officer)]; **E3/4103** Popel Commune Report, 11 Apr 1977, EN 00322133 [“For those people who hold a ranking position, we will send them out [to you] consecutively and for soldiers and some teachers who attempted to destroy [and] our revolution, could you please give us advice what to do or let us decide at some bases ... With high commitment to destroy/smash the spy of the enemy to its total extinction in order to serve the Socialist Revolution ... as required”]; **E3/2048** Popel Commune Report, 2 May 1977, EN 00276565 [requesting to send “the following traitors” to the District: Sokh Say, a “soldier who wore stripes” who “fights and curses his wife”, Bien, a 2nd lieutenant who “never had conflicts”, and Sim, who worked under the provincial governor]; **E3/2433** Popel Commune Report, 3 May 1977, EN 00322121 [sending the wife and child of an alleged Free Khmer fighter to the District. The wife was a military medic]; **E3/2048** Ta Phem Commune Report, 28 Apr 1977, EN 00276564 [reporting first and second lieutenants and requesting instructions, having purged other “enemies who held rankss after having received the instructions of the Party”]; **E3/2048** Chean Tong Commune Report, 30 Apr 1977, EN 00276562-63; **E3/2048** Commune Report, 4 March, EN 00276566 [“We are having the subdistrict militia bring in those who held officer ranks. Their names: Keo Net and Chroeng”]; **E3/2432** Names of those who have military ranks in Nhaeng Nhaeng commune, 17 Apr 1977 [listing 11 former soldiers (majors, first and second lieutenants)]; **E3/2450** Letters of confirmation to Comrade Ann from Nhaeng Nhang commune, 17-19 Sept 1977, EN 00322161-63 [reporting sending several ranking soldiers, and one spouse of a Lieutenant Colonel to Kraing Ta Chan]; **E3/2052** Nhaeng Nhang Commune Report, 1977, EN 00276591-92 [request to send former soldiers]; **E1/298.1** Ek (U) Hoeun, T. 7 May 2015, 11.25.35-11.27.40 [district office worker: “While I was at the office, the military barracks were raided and the soldiers who were arrested would be sent to the district Angkar. And as for their communes; for example, once they received instructions or orders to arrest from the upper echelon for certain individuals, then their names would be bracketed in red ink and then the district soldiers would bring those people to the district”], 13.44.12-13.45.53 [“As regards the drawing up of those lists, ... he would send a report to the district Angkar and the district Angkar would forward such reports to the province Angkar and so on and so forth”]; **E1/296.1** Khoem Boeun, T. 4 May 2015, 11.00.14-11.01.55 [“the villages sent the biographies to the commune. Biographies that had been collected by the village chiefs were forwarded by the commune to the upper level”], 11.20.25-11.30.15 [confirming receiving successive instructions from the upper echelon regarding the cleaning up of enemy soldiers. The commune identified and interrogated potential enemies] discussing **E3/2048** Chean Tong Commune report, 30 Apr 1977, EN 00276562-63; **E3/2048** Popel Commune report, 8 May 1977, EN 00276565 confirmed by **E1/296.1** Khoem Boeun, T. 4 May 2015, 11.31.35-11.34.45; **E1/276.1** Nut Nov, T. 12 Mar 2015, 15.08.00 [Nhaeng Nhaeng commune official, then Sre Ronoung Commune Chief: “On the issue of purging the enemy as stated by the sector chairman, it mainly focused on those individuals who opposed the regime of Democratic Kampuchea, those people would be considered the enemy. ... The commune would make a report and the report would be forwarded to the upper echelon, who would make a decision on the matter”]; **E3/5521** Nut Nov WRI, A57 [“enemies ... who had tendency for the Lon Nol people ... were also purged”].

¹¹⁸⁶ **E3/2048** Report from Popel Commune to Tram Kak District, 30 Apr 1977, EN 00276562-63 [identifying one former second lieutenant and one former civil servant to be sent to the district for a decision].

¹¹⁸⁷ **E3/2048** Report to Tram Kak District, 24 Apr 1977, EN 00276568 [district response: “Propose that Comrade An interrogate and confirm to find the network of this Kie Kun. Where are they? Are their names in these reports?”]; **E3/2052** Khpop Trabek Commune Report, 3 June 1977, EN 00742890-91 [10 military listed for “Angkar to decide”. District annotation: “interrogate harshly and thoroughly ... interrogate to find all of their network”]; **E3/4114** Letter from Kraing Ta Chan to Comrade San, 2 Sept 1977, EN 00322156 [letter requesting decision on 27 people implicated by the contemptible Try. Contains a handwritten response directing Ann to “find out and arrest the whole network of the traitors” and to be “always cautious” and “never negligent”]. See also **E1/452.1** Henri Locard, T. 1 Aug 2016, 9.16.51-09.19.35 [asked why people were not summarily executed but taken to security centers: “according to revolutionary morality, he could not have acted alone. Individual decisions were unheard of. Therefore, he necessarily must have been part of a plot or a network of people who were conspiring

several witnesses, throughout the DK period, cadres tortured victims using bamboo clubs, pliers, plastics bags for suffocation, and whips to confirm their alleged ranks and implicate others.¹¹⁸⁸ Many lower-ranking soldiers were sent to Kraing Ta Chan Security Centre on the pretext of “minor offences,”¹¹⁸⁹ where they were killed.¹¹⁹⁰ Former

against the revolution”].

¹¹⁸⁸ **E1/257.1** Say (Sory) Sen, T. 5 Feb 2015, 10.07.14-10.12.52 [former prisoner at Kraing Ta Chan, heard interrogations as to the ranks of soldiers of the former regime, and stated that the purpose of interrogation was “in relation to CIA spies of Lon Nol”. He stated that if they were alleged to have a connection with the former Lon Nol regime they would be tortured, and that this continued from 1975 to 1979, but decreased as CPK cadres fled: “They used bamboo clubs, about 70 or 60 cm long to beat the prisoners. ... Pliers were used to extract or to hurt the breast or the nipples of female prisoners”]; **E1/249.1** Meas Sokha, T. 21 Jan 2015, 10.30.15-10.31.36 [prisoner arrested in 1976 (see **E1/247.1** Meas Sokha, T. 8 Jan 2015, 11.01.02): “Because I was nearby, I heard the interrogator ask the prisoner what they did during the Lon Nol regime, whether they were a captain or colonel or major, or whether they were an American CIA or “Yuen” CIA. And they had to answer truthfully; otherwise they would be beaten to death. ... A prisoner was suffocated with a plastic bag for five minutes, and then the prisoner confessed, and then they continued to beat that prisoner”], 15.15.05-15.38.30 [describing in detail interrogators suffocating a prisoner with a plastic bag until he was unconscious to force him to confess: “They only asked two questions. What was his position and what was his rank”], 10.31.36-10.35.03 [his mother told him that she was questioned about his father, who was accused of being an agent as he had assisted a Takeo Province governor with directions in 1967 and did not join the Revolution]; **E3/5825** Meas Sokha WRI, EN 00223500; **E1/300.1** Vong Sarun, T. 18 May 2015, 11.31.02-11.33.27 [prisoner sent to Kraing Ta Chan in 1977: “I could clearly hear what was being said in the interrogation house. ... They were asking him whether the person had held the rank of captain in the army, and the New Person responded that he had not held any position in the army. Then I heard the sound of whipping. ... The man was actually beaten almost to his death before he finally confessed that he had been a captain in order to have the beating stopped”]; **E1/287.1** Thann Thim, T. 2 Apr 2015, 10.41.46-10.52.20 [witness was called to a meeting to find four or five militiamen who tied his hands behind his back. They beat him and repeatedly accused him of having been a Lon Nol lieutenant in Phnom Penh. He insisted he had been a firewood salesman: “I was taken to be tortured. I was seriously tortured”], 10.52.20 [“I was beaten with a bamboo stick ... about the size of my lower arm ... They beat me one after another. After one tired, another man came to beat me until I passed out. After I got conscious, I was transported to Angk Roka”], 10.46.03 [He was arrested in 1977], 11.21.34-11.22.52 [“I was arrested because my elder daughter was in the unit and she ran away together with Iem Yen ... she was arrested and beaten and forced to confess that I was a former lieutenant in Phnom Penh”]; **E1/289.1** Thann Thim, T. 21 Apr 2015, 09.13.44-09.17.58, 13.35.10-13.39.41, 13.54.28 [he was interrogated twice — once by the chief of militia and then again when detained in the prison], 13.56.48-13.59.10; **E3/9468** Thann Thim WRI, A70; **E3/5826** Hun Kimseng WRI, EN 00223490 [witness detained at Kraing Ta Chan from 1976 to June 1978: “Did you ever see them beat other prisoners? A: They beat them; they screamed and bawled like cattle. I heard them beating during interrogations from a distance of about 50 meters”]. See also **E3/5541** Chak Thoeurng WRI, EN 00374818 [describing being arrested and accused in interrogation of being a Lon Nol soldier in Kandal Province]; **E3/5637** Chum Yan DC-Cam Statement, EN 00890576-79.

¹¹⁸⁹ See **Annex G.2**, Figure 1.8, *Alleged Offences of Former Khmer Republic Officials Imprisoned at KTC* [111 planned/attempted to flee; 87 complained/criticized CPK, 26 stole food]; **E3/2450** Letters of confirmation to Comrade Ann from Nhaeng Nhang commune, 17-19 Sept 1977, EN 00322162 [reporting sending two members of the air force and one second lieutenant to Kraing Ta Chan who “used to have disputes mostly about doing works, and active in stealing things, of which they have stolen the hens and eggs very often, and cooked and ate them”], 00322163 [reporting sending one woman to Kraing Ta Chan who was the former spouse of a Lieutenant-Colonel and found the revolution “difficult.” The arrest occurred “according to an advice from Angkar”]; **E1/288.1** Oum Vannak, T. 3 Apr 2015, 13.57.14-14.00.52 [“I was told that he [her brother] was accused -- one time that while he was thrashing the rice at night time, he accidentally laid his hand on the hand of another woman ... they could not find any pretext to arrest him so when they could find a pretext to arrest him, they accused him of doing that and then taken him away”]; **E3/5879** Oum (Im) Vannak SIF, EN 01069349 [her older brother was arrested at the end of 1977]; **E3/10753** Hun Kimseng WRI, A55 [some prisoners at Kraing Ta Chan were former Lon Nol soldiers].

soldiers and officials were identified, arrested, and executed together with their families.¹¹⁹¹ These arrests and killings were then faithfully reported to the upper levels.¹¹⁹² The majority of prisoners recorded in surviving Kraing Ta Chan documents were former Lon Nol officers, soldiers and policemen.¹¹⁹³ These records demonstrate that there was a particular effort to target officers holding the rank of second lieutenant and above.¹¹⁹⁴

325. Two separate reports to the Northwest Zone from May and June 1977 detail efforts to arrest ranking officers and officials “hiding” in cooperatives.¹¹⁹⁵ At Trapeang Thma Dam, worker and former Lon Nol soldier Chhum Seng testified that Ta Val called a meeting in which instructions were given to “monitor and to search out” former

¹¹⁹⁰ **E3/4083** Kraing Ta Chan Prisoner List; **E1/282.1** Saut Saing, T. 25 Mar 2015, 13.49.48-13.55.04 [former Kraing Ta Chan guard states his cousin, a former soldier, was arrested and killed at Kraing Ta Chan].

¹¹⁹¹ **E3/2048** Report of confirmation from Popel commune, 2 May 1977, EN 00276564 [“The 106 military families smashed by Angkar including those who died totalled 393 persons”]; **E3/2107** District Office 105 Prisoner List, 1977, EN 00290211 [records detention, interrogation and killing of 13 year old boy – the son of a colonel arrested for stealing coconuts to eat]; **E3/2433** Report from Popel Commune, 3 May 1977, EN 00322121 [sending the wife and child of an alleged Free Khmer fighter to the district level. The wife was a military medic]. See also **E3/5218** Saut Tha WRI, EN 00276792-93 [guard at Sang Prison, Tonle Bati from late 1977: “If someone was accused of being a Lon Nol soldier, they arrested and brought in the entire family, including the children”]; **Annex G.2** Figure 1.7, *Imprisoned Relatives of Former Khmer Republic Officials* [listing 71 relatives: including wives, sons, brothers, fathers, and husbands of former Khmer Republic officials].

¹¹⁹² **E3/2048** Report of confirmation from Popel commune, 2 May 1977, EN 00276563-64 [“106 households of military personnel equivalent to 393 individuals were smashed”]; **E3/2441** Kus commune Reports, 28 Aug 1977, EN 00369469 [“As for his older brother, Sang Naem, a lieutenant colonel, we smashed him when he was in Angtasaom commune”]; **E3/2423** Leay Bour Commune Report, 29 June 1978, EN 00322216 [“We have arrested 4 enemies and sent them over to comrade elder brother An at the Police Office of District 105.” Three of the four were former Lon Nol military, including one warrant officer and one Chief Corporal]; **E3/2435** Ang Ta Saom Commune Report, 26 Apr 1977, EN 00322141 [“for those who have their ranks as First-Lieutenant or Second Lieutenant, I am going to contact with Comrade Yom, District military, in order to take them out this evening right away”].

¹¹⁹³ See **E3/2120** Meng-Try Ea, *The Chain of Terror*, EN 00416381-82 [“The majority of those arrested in mid-1975 and 1976 were Lon Nol soldiers and policemen. After 1976, this group expanded to encompass their families and the general population”]; **E3/8299** Henri Locard, *Tram Kak District in the Grip of the Khmer Rouge*, EN 00217700 [“Among these 477 detainees [at Kraing Ta Chan], it is possible to identify 225 ex-soldiers, 15 wives one of whom has been identified as of Vietnamese origin) and 6 of their children. If one adds 27 ex-policeman or military policemen, this is a total of 273 victims connected with the forces of law and order of the previous regime”]; **E1/451.1** Henri Locard, T. 29 July 2016, 15.28.05-15.29.30 [“The archives we have, you must understand, are very partial. They date from the end of the regime only ‘77, ‘78, so at that point in time, there were not many Lon Nol soldiers left to execute”].

¹¹⁹⁴ **Annex G.2** Figure 1.6, *Ranks of Former Khmer Republic Soldiers Imprisoned at KTC* [despite the pyramid structure of the armed forces, officers second lieutenant and above comprise almost half of all soldiers listed in surviving Kraing Ta Chan records].

¹¹⁹⁵ **E3/179** Report from Office 560 of the Northwest Zone, May 1977, EN 00183012 [“As we have observed these acts actually arose from among old veteran soldiers and those with the ranks of second lieutenant, first lieutenant, captain and major who hide themselves in collectives ... We have already taken steps and arrested all of them”]; **E3/1181** General View of Sector 5, Northwest Zone, 27 June 1977, EN 00223176 [Phniet commune in Sisophon District described as a “newly liberated area where ranking officials, private individuals are hiding”].

soldiers, intellectuals, and students.¹¹⁹⁶ Chhum Seng stated that if a company chief reported an individual to Ta Val, that person would be taken and killed.¹¹⁹⁷ Two members of his company, including one lieutenant, disappeared because “they failed to conceal their backgrounds.”¹¹⁹⁸ Chhuy Huy, a unit chairman, testified that CPK cadres sought the name of a former pilot in his unit, who was then taken and likely shot.¹¹⁹⁹ In Sector 5, former Lon Nol soldiers were executed unless they could hide their background.¹²⁰⁰ Sen Sophon testified that he returned to his village to find that his entire family had been killed due to his father’s position as a former lieutenant, which he had been trying to conceal.¹²⁰¹

¹¹⁹⁶ **E1/331.1** Chhum Seng T. 17 Aug 2015, 15.41.31-15.43.27 [“There was a meeting held by Ta Val, an the meeting was held among the chiefs of companies and battalions, that we had to monitor one person per day and to search out who who was a student, an intellectual or a Lon Nol soldier in the former regime”]; **E3/9568** Chhum Seng WRI, A27-28. See also **E3/9564** Mun Mot WRI, A45 [“I would like to clarify further that, when the Southwest cadres wanted to track someone who was related to the civil servants of Lon Nol, they would assign a person to track the one they wanted to arrest”].

¹¹⁹⁷ **E1/331.1** Chhum Seng T. 17 Aug 2015, 15.41.31-15.45.41 [when a person had been identified as a former Lon Nol soldier, “[i]t depended on the immediate supervisor ... If the company chief reported on one particular individual, then that individual would be surely taken away and killed. ... During the time, if the worker who was assigned to carry the earth, and if that person protested and was hated by the company chief, the company chief could exaggerate, make a report on that person was opposed to Angkar, or was the former Lon Nol soldier. ... The report had to be submitted to Ta Val”]; **E1/332.1** Chhum Seng T. 18 Aug 2015, 15.41.21-15.43.14 [“A unit chief could execute any individual, and the order came from Ta Val. As mentioned, a unit chief was given the right to execute anyone who fell into these categories: Lon Nol soldiers”]; **E3/9010** Chhum Seng DC-Cam Statement, EN 00728623.

¹¹⁹⁸ **E1/332.1** Chhum Seng, T. 18 Aug 2015, 10.43.06-10.45.24.

¹¹⁹⁹ **E1/335.1** Chhuy Huy, T. 24 Aug 2015, 10.43.58-10.53.03, 11.01.10-11.05.53, 11.07.04-11.08.02 *clarifying E3/5283* Chhuy Huy WRI, EN 0321198-99.

¹²⁰⁰ **E1/324.1** Sen Sophon, T. 28 July 2015, 09.23.43-09.33.05; **E1/323.1** Sen Sophon, T. 27 July 2015, 13.56.53-14.10.18; **E3/9765** [REDACTED] WRI, A5-13 [his brother-in-law, who was a major sergeant, and his brother [REDACTED] a Lon Nol soldier, were killed and dropped down a dragon hole], A15-18 [“I was a Major Lieutenant ... I hid myself and did not let anyone know that I had been a Lon Nol soldier”], A85-88 [describing the “dragon hole” down which he saw three dead bodies, including his older brother –in-law [REDACTED], A51 [the killings took place in 1978]; **E3/9508** [REDACTED] WRI, A17-21 [he buried the corpses of Lon Nol soldiers and other enemies killed by the Southwest Zone cadres after 1977]; **E3/9767** [REDACTED] WRI, A22-33 [his older brother-in-law was arrested and killed in 1978 as he was a former Lon Nol soldier (without rank). He had told his brother to flee to Sector 3, but they were also aware of his position]. See also **E3/9552** [REDACTED] WRI, A3-4.

¹²⁰¹ **E1/324.1** Sen Sophon, T. 28 July 2015, 09.23.43-09.33.05; **E1/323.1** Sen Sophon, T. 27 July 2015, 13.56.53-14.10.18 [“Sra Em told me that, ‘Uncle Phon, you will be taken away and killed’. And unit chief were told about that and the message were relayed to the militiaman. She suggested I run away. At that time I was running away ... I reached Chrab village as I stated and I met an older woman by the name Troap ... [She] said that both my parents were taken away and killed. ... She said since your parents and your younger siblings had all been killed and you had nowhere else to go, then I could stay with her. ... In fact, it was my father who was taken first to be killed since he was a former soldier. But then my mother said if my father was going to be taken, then the rest of the family should be taken as well. Otherwise, it would be difficult for them to live separately...they were all killed”]. See also **E3/9759** [REDACTED] WRI, A31-46 [the witness was taken to Taing Krasang prison, as her husband was a captain in the Lon Nol military. She states that all women whose husbands worked for the Lon Nol regime detained at the office were taken to be killed, except four who survived, including herself], A67-69 [describing the stench from the killing site, and seeing a leg from a corpse on the site dragged by wolves], A81-83 [describing witnessing a man drying gallbladders, who told her that they were from the

326. Mass arrests and killings of former Lon Nol soldiers also occurred elsewhere in Battambang.¹²⁰² Commune chief Ta Chham called all residents to a meeting and publicly bludgeoned a man and his son to death, on allegations of Lon Nol connections and possessing a weapon.¹²⁰³ In Pursat, Khmer Rouge cadres gave detailed evidence of orders to search for and kill former soldiers and civil servants of the Lon Nol regime.¹²⁰⁴ One executioner stated that the District Secretary gave the same order at every meeting: "to sweep them clean until no one is left."¹²⁰⁵ These accounts are corroborated by

100 people he had killed in one night]; E3/9833 Moul Eng WRI, A147 ["Any relatives of the former Lon Nol soldiers were treated as the elements to be killed. I learned of this as I was a combatant"].

1202 E3/5228 Hun Sa WRI, EN 00250274 ["Not being reformable meant that those people still had not abandoned their old ways and still did wrong things. They were sent to upper-level. I saw them take Huy Savuth who was a former Lon Nol soldier, Ta Hen who was a Lon Nol soldier, and It Ngy who was a Lon Nol soldier, and kill them at the Boeng Roluos rice fields after they accused them of being Lon Nol soldiers. I personally saw them take those three and shoot them to death. The next morning, I went to bury all three of the bodies." The witness also describes the reporting chain in his unit]; E3/9768 [REDACTED] WRI, A16-30 [Kos Krala District: "Before the arrival of the Southwest, only senior officers of the Lon Nol soldiers had been arrested. ... I was once assigned to transport prisoners to Kos Krala security center. ... I saw there were other people coming from other areas, totalling 75 people. ... They were then arrested and walked in line to the killing site at the west of the pagoda"]; E3/9831 [REDACTED] WRI, A38-43 [Sangkae District: "One of my cousins was a Lon Nol soldier. ... during early 1977 ... I saw them tie people up and take them away in lines with their hands tied behind their backs. ... Approximately 30 to 40 people. At that time, I saw my cousin and my uncle among those people. ... They were both former Lon Nol soldiers"]; E3/5185 In Choeun WRI, 17 June 2008, EN 00274164-65 [in 1978, his nephew and others were escorted from the detention office to Wat Kirium with their arms tied behind their backs: "they had accused Leang of having been in the Military Police during the Lon Nol regime and being an intellectual. ... I never saw any prisoners survive ... Wat Kirum"]; E3/3319 UK Government Report: *Human Rights Violations in Democratic Kampuchea*, 14 July 1978, EN 00420648. See also E3/7737 Im An WRI, EN 00274161 [in late 1978 Khmer Rouge military cadres came looking for him as he had been a chief in the Lon Nol era. He fled].

1203 E1/364.1 Prum Sarun, T. 8 Dec 2015, 15.33.24-15.36.52 ["[Ta Daok] was perhaps a Lon Nol soldier. He had hidden a gun ... The whole people in the commune of Phnum Sampov went to a meeting ... One of his children was also killed along with him by being beaten to death with a roof beam. That was what I witnessed"]; E1/365.1 Prum Sarun, T. 9 Dec 2015, 09.26.38-09.31.14 ["Yesterday I actually said that he had concealed weapons and for that reason, he was smashed"]; E3/5187 Prum Sarun WRI, EN 00274178-79; E3/5212 Dy Piech WRI, EN 00275426 ["in late 1977, similar sentencing occurred against Ta Daok whom they had accused of betrayal saying he had child who had been Lon Nol soldier"]; E3/505 Tes Heanh WRI, EN 00275410-11; E3/5228 Hun Sa WRI, EN 00250274; E3/7737 Im An WRI, EN 00274159.

1204 E3/10683 [REDACTED] WRI, A16, A57, A65, A68-72, A75-109 ["[REDACTED]"; E3/9778 [REDACTED] WRI, A43, A79-87 [she attended a meeting at the District Office once a month, where they were told: "Track the activities of enemies in the villages and the cooperatives." ... Some people who were relatives of civil servants or soldiers of the Lon Nol regime were accused of being 'the enemy.' ... 'Anyone appearing to be an enemy who raised their head must be swept clean and smashed.'"]; E3/9788 [REDACTED] WRI, A107-108 [Khmer Rouge soldier: "The killing of Lon Nol soldiers were carried out by a different unit. ... They were killed in 1976 or 1977. My uncle, cousins and other relatives who were soldiers under Lon Nol regime were brought to be killed at Kandieng District. They were transported in a convoy of vehicles to be killed"].

1205 E3/10683 [REDACTED] WRI, A75-109; E3/9778 [REDACTED] WRI, A43, A79-87.

surviving villagers, many of whom lost family or colleagues.¹²⁰⁶

327. Even in the East Zone,¹²⁰⁷ former officers and officials were rounded up for “re-education”, detained, and killed at repurposed pagodas.¹²⁰⁸ Civil Party Sieng Chanthy lost two brothers in 1977. One brother — a former second-lieutenant who had accidentally wounded a cow when ploughing — was made to walk 10 kilometres to the district office, whilst being whipped until his body was covered in blood. He never returned.¹²⁰⁹ Another brother was a former policeman who suffered an illness which hindered his work.¹²¹⁰ Four militiamen took him away together with other former Lon Nol officers, returning to clean their blood-stained knife in the kitchen.¹²¹¹

¹²⁰⁶ **Bakan District: E3/9827** [REDACTED] WRI, A33–A40 [“After those people had been killed, I smelled a bad smell from a trench while I was driving a cart to meet my wife. ... I knew because 28 members of my unit had been killed. All of those 28 people had been former Lon Nol soldiers or commandos]; **E3/9471** [REDACTED] WRI, A150, A214 [“The new evacuees were treated in the same way as the previous group of evacuees. If they were former government officials, they would be taken to be killed”], A165–174 [describing the disappearance of three people who were said to be former Lon Nol officials before Yeay Rim’s arrival: “When the Khmer Rouge returned, they brought with them the belongings of all three, and there were blood stains on the hatchet(s)”; **E3/9769** Ly Lonn WRI, A103 [“I was once asked if I had been a soldier in the Lon Nol’s regime or not. And at that time, I hid my background. ... It was in mid-1978. It was the last time that they killed ex-Lon Nol’s soldiers”]; **E3/9789** [REDACTED] WRI, A69 [a large number of Khmer Krom and former Lon Nol soldiers were accused and they were taken away and killed “when the Southwest cadres arrived”]; **Kandieng District: E3/9788** [REDACTED] WRI, A107–108 [the witness’s uncle, cousins and other relatives who were soldiers under Lon Nol regime were transported in a convoy and killed]; **E3/9761** [REDACTED] WRI, A52–55 [“In my unit, six people, including my five uncles (distant relatives) and my father, were taken to be killed ... in late 1977 ... Some of them were the Lon Nol soldiers, and some others were the Lon Nol commandos”]; **E3/3319** UK Government, *Human Rights Violations in Democratic Kampuchea*, 14 July 1978, EN 00420644.

¹²⁰⁷ **E1/191.1** Philip Short, T. 8 May 2013, 15.56.38–15.57.43 [“There were places where Lon Nol soldiers were not killed but were sent for re-education, ... but under extremely harsh conditions, which very few of them survived. These are the exceptions which prove the rule”]. Note the East Zone was an area controlled by Khmer Rouge and Vietnamese communist forces almost in its entirety throughout the 1970–1975 civil war. For this reason, one would expect few Lon Nol soldiers or officers to come from the East Zone.

¹²⁰⁸ **E1/394.1** Sieng Chanthy, T. 1 Mar 2016, 10.03.28–10.07.33, 10.10.05–10.11.54; **E3/9754** Sieng Chanthy Statement, EN 00621377; **E3/5169** Chan Sokeat WRI, EN 00250081–82 [“In 1977, I personally saw the Southwest group coming to arrest Lon Nol soldiers near my village and put them in trucks until no one left. ... In early 1978 there was a chaos in my village because people who used to be involved with the Lon Nol regime (such as students) were sent to be re-educated again. They rounded up former soldiers, teachers, militias and students. After soldiers had been sent away, their clothes were brought back to the villagers; that made villagers suspecting that those soldiers had all been killed”]; **E3/7719** Nom Saroeun WRI, EN 00347416 [“after 1976, the Khmer Rouge gathered up the teachers, students, and former Lon Nol soldiers. Then all the families of those soldiers had their biographies made by the Khmer Rouge soldiers so they could be sent to study. However, after the biographies were prepared, they were taken to Longeun Pagoda and killed”]. See also **E3/5613** Seng Mardi WRI, A5, A19–20, A42, A47.

¹²⁰⁹ **E1/394.1** Sieng Chanthy, T. 1 Mar 2016, 09.17.12–09.22.14, 09.27.22–09.29.12; **E3/9754** Sieng Chanthy Statement, EN 00621377.

¹²¹⁰ **E1/394.1** Sieng Chanthy, T. 1 Mar 2016, 09.20.28–09.23.56, 10.03.28–10.08.12 [“From my recollection, it was during the harvest season in 1977. He was killed at Tuol Snuon to the east of Chey pagoda ... Of course it is related because they knew that my brother was a policeman and that my elder brother was a soldier. And if someone made a mistake, then they would combine that with their previous occupation”].

¹²¹¹ **E1/394.1** Sieng Chanthy, T. 1 Mar 2016, 09.23.56–09.29.12; **E1/393.1** Sieng Chanthy, T. 29 Feb 2016, 15.38.03–15.39.07 [in 1975, her brother had been sent for re-education but was released after 6 months]

328. In autonomous Sector 105 (Mondulkiri), ranking officers were purged early in the regime.¹²¹² Subsequently, soldiers, civil servants, and their relatives were arrested and sent to security centres.¹²¹³ In May 1977, Sector 505 Secretary Yi reported to Office 870, progress on the “enemy situation”, including the arrests of “some in the rank of First Lieutenant and others Captain.” He resolved to “take measures and investigate in collectives as well as in the forest.”¹²¹⁴
329. By 1978, the West Zone was assuring the Centre that it had “strictly followed the party’s organisational line”¹²¹⁵ to “routinely, remove, screen and sweep clean” enemies,¹²¹⁶ whilst the North Zone similarly reported.¹²¹⁷

15.43.15-15.45.29.

¹²¹² **E1/410.1** Chan Bun Leath, T. 29 Mar 2016, 09.33.57-09.35.48 [most Lon Nol soldiers in the area had been purged from 1970 until 1975]; **E1/409.1** Chan Bun Leath, T. 28 Mar 2016, 09.51.14-09.55.19 [groups subject to arrest in Sector 105 from 1975-1976 included “former soldiers in the previous regime”], 10.01.12-10.05.21 [those initially targeted for killing were those who held higher ranks in the Lon Nol regime] *referencing* **E3/5636** Chan Bun Leath DC-Cam Statement, EN 00711205; **E3/5178** Chan Bun Leath WRI, EN 00274095.

¹²¹³ **E1/399.1** Chan Toi (Tauch), T. 10 Mar 2016, 11.29.33-11.31.51 [his father-in-law, a Lon Nol soldier, was arrested because the DK regime had a policy of arresting “soldier[s] of the former regimes”]; **E3/7823** Chan Toi (Tauch) DC-Cam Statement, EN 00645455, 00645488 [arrested in 1977: “in K-11 [prison]. ... some had issues such as having a father who had worked as a soldier or a policeman during the previous regime, so they were also sent there”]; **E1/152.1** Phan Van, T. 12 Dec 2012, 09.56.11-09.58.04 [“During that era, as I stated earlier on, those who ... had the background as teacher or officials of the previous regime -- those were the targets of removal”]; **E3/7702** Sok El WRI, EN 00239509 [a former policeman detained at Phnom Kraol prison in 1978. He was told at the time of his arrest that “they were rounding up former soldiers and policemen to assemble them in Koh Nhek district”]; **E3/807** Minutes of the Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 Mar 1977, EN 00183949 [Division 920 Secretary Chhin reports: “After the studies ... the children of soldiers, subdistrict chiefs and police were purged and sent to do production in one place”].

¹²¹⁴ **E3/85** Telegram 95 from Yi to Office 870, 11 May 1977, EN 00143562.

¹²¹⁵ **E3/1092** Report from M-401 to Angkar, 16 July 1978, EN 00289923 [states that “after we finish the interrogation, we will send him as well as his confessions to Angkar,” and commits to “keep on examining, ... so that we can absolutely sweep them away by way of strictly following the party’s organizational line”].

¹²¹⁶ **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368 [“[We] screened out from various units and military, as well as the elements of the 17 April including former civil servants ... we have had plans in place to apply the Party’s assignment line to routinely remove, screen and sweep clean them”].

¹²¹⁷ **E3/995** DK Telegram 313 to Committee 870, 19 Mar 1978, EN 00185583. *See also* **E3/1144** DK Telegram 60, 5 Sept 1977, EN 00517923 [North Zone Secretary Se reported to Committee 870: “At the bases, offices, ministries and military offices, we have uncovered many enemies ... Those enemies who were former officials, policemen or soldiers of the previous regime were discovered one after another”]; **E3/9331** Chhut Daung WRI, EN 00274084 [witness a former guard at Siem Reap Security Office from 1977: “Some of them [prisoners] ... were former government officials and Khmer Rouge soldiers ... some were taken to be tempered ... others were taken to be executed near a junior high school located on the road to Angkor Wat”]; **E3/7732** Yoeum Yin WRI, EN 00272768 [witness arrested late 1976 and detained near Sautnikum District. Describes being sent with 17 other prisoners for interrogation, who were then put on a vehicle towards Angkor. They were wives of Lon Nol soldiers, doctors and teachers, and he was told they were killed]; **E3/3319** UK Government: *Human Rights Violations in Democratic Kampuchea*, 14 July 1978, EN 00420652 [former student interviewed in refugee camp: “In April 1977 the High Angkar gave orders for all cadres to kill ... any remaining Lon Nol officials. Several former ... ordinary soldiers were arrested in our village ... About 20 people were killed in public. They were accused of being enemies of the people”].

These enemy remnants made contact with police, soldiers and civil servants, all of whom disguised themselves as new people ... we systematically swept them cleanly away. ... A number of soldiers, police and civil servants fled after we had swept approximately 20 head of them cleanly away. We are continuing to take further measures to find and arrest them.

330. CPK cadres routinely interrogated arrestees in these zones as to whether they or their family members were former Lon Nol officers or officials,¹²¹⁸ and in certain cases, tortured them to death.¹²¹⁹ On 4 August 1978, the West Zone reported to the Centre that the Zone had “smashed 60 persons who had been from the ranking group as well as the CIA of the American Imperialist who were hiding in the units and cooperatives.”¹²²⁰ Duch sent an S-21 confession to Son Sen that was forwarded to **Nuon Chea** with 31 names and reported “this bears all people from the former regimes.”¹²²¹
331. By the end of the regime, thousands of former Lon Nol officials, soldiers, and their families had been executed, with hundreds recorded at S-21 alone.¹²²² It is clear that from the beginning of the regime, the Centre’s policy was to kill those who had served the Lon Nol regime in higher positions. Yet even the lowest ranking soldier was subject to increased scrutiny, harsh treatment, and at risk of sudden execution. The Centre

¹²¹⁸ **West Zone:** E3/4631 Dy Yet WRI, EN 00275131-32; E3/5174 Koem Sokh WRI, EN 00231669; E3/7885 Chap Yon WRI, EN 00404267; E3/5197 Danh Nhor WRI, EN 00275032. **North Zone:** E3/7732 Yocum Yin WRI, EN 00272768; E3/3863 Henri Locard, *Report on Siem Reap Province*, EN 00164190-2 [Keov Thi was arrested in Kampong Kdey District in May 1977 and sent to Siem Reap prison. There he was beaten and repeatedly accused of having been a soldier under the Sihanouk regime]; E3/9390 Tab Lam WRI, EN 00274694-95 [witness detained at a security office in Siem Reap from April 1978 to November 1978: “some were Khmer Rouge cadres and others were officials in the Lon Nol regime. Those prisoners were kept shackled in the detention facility for later interrogation”], EN 00274695 [“There were about 600 to 700 prisoners, but there might have been more than that”].

¹²¹⁹ E3/4631 Dy Yet WRI, EN 00275132 [district soldier at Damrei Srot: “At times the torture during interrogation continued until the prisoner died”]. See also E3/5127 Tieng Rany WRI, EN 00163432-33 [witness was imprisoned at Damrei Srot in late 1978: “At night I heard screams ... probably screaming due to torture”]; E3/5199 Sim Tun WRI, EN 00275110-12 [witness was a guard at Damrei Srot in 1978: “I heard them interrogate many times. ... ‘Were you a Lon Nol soldier, or not? Are you a CIA connection or not?’ If the prisoner answered no, Em would beat the prisoner”]; E3/9388 Hun Hat WRI, EN 00274144-45 [witness detained at Damrei Srot: “While they interrogated me, I saw an electrical wire whip connected to a battery. If I did not answer them correctly, they would have shocked me”]. See also E3/7881 Phang Ruos WRI, EN 00441623; E3/1745 Moeung Sonn WRI, EN 0038390 [describes torture by beating and suffocation at Koh Kyang prison: “In 1977 there was movement to arrest the base people who were former Khmer Rouge soldiers and had been demobilized and allowed to live with ordinary people ... I had an intention of jumping into the truck to kill myself because was afraid of the killing by torture”]; E3/7743 Pak Sam Din WRI, EN 00274667-70 [detained in Koh Kyang prison in late 1977: “those who were former Lon Nol soldiers were also executed”].

¹²²⁰ E3/1094 West Zone Monthly Report to Angkar, 4 Aug 1978, EN 00315374. See also E3/4631 Dy Yet WRI, EN 00275132-33.

¹²²¹ E3/7341 S-21 Confession of Tiv Mei alias Santephaep, 18 Sept 1977, EN 00783096-110, EN 00182838.

¹²²² See **Annex F.32** *List of Khmer Republic Officials S-21 Prisoners* [listing 471 S-21 prisoners who were recorded as former Khmer Republic prisoners, 457 with execution dates].

Chea has described Secret Defence Units which were organised in 1961 to “covertly smash the enemy, the government agents and the various reactionaries,” including spies who infiltrated the Party.¹²²⁷ The Secret Defence Units consisted of youths or children, and were “embedded inside the villages and base areas as well as in the cities.”¹²²⁸ According to **Nuon Chea**, these units would monitor “people whose activities were suspicious,” and report to superiors who would decide on the measures to take against such people.¹²²⁹ **Khieu Samphan** testified that the Secret Defense Units “had the authority to smash those spies.”¹²³⁰

333. Some 2,000 Cambodian communist cadres went for training in Hanoi after the Geneva Accords in 1954.¹²³¹ When they returned to Cambodia in 1970, the CPK decided that they were all spies and regarded them as internal enemies.¹²³² In his testimony before the court, **Nuon Chea** made it clear that he viewed those individuals as enemies: “They lived in Vietnam for 16 years and they were influenced by the views, standpoints, political line, organisational line from the Vietnamese Communist Party and they were to disseminate and implement those in Cambodia.”¹²³³ Expert David Chandler described their fate: “Hundreds of them were secretly arrested and put to death in 1973.”¹²³⁴ Indeed, Duch testified that he “smashed” some of them at M-13 in 1973.¹²³⁵ Southwest Zone Military Commander Chhouk Rin was frank about the CPK policy on Hanoi returnees: “The CPK carried out a (sic) inflexible policy of killing Khmer-Vietnamese

¹²²⁷ **E1/21.1** Nuon Chea, T. 13 Dec 2011, 09.18.35-09.29.24; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401491-92; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865697; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491412-13; **E3/147** Nuon Chea Speech, 16 Jan 1977, EN 00168467.

¹²²⁸ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491413; **E1/21.1** Nuon Chea, T. 13 Dec 2011, 09.21.34-09.25.20; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 11.45.42-11.49.40.

¹²²⁹ **E1/26.1** Nuon Chea, T. 12 Jan 2012, 09.28.48-09.33.38.

¹²³⁰ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 09.28.29-09.29.24.

¹²³¹ **E1/209.1** Nou Mao, T. 19 June 2013, 10.34.40-10.39.31, 11.02.40-11.08.30 [“The Cambodian Hanoi people ... they gathered those people. Then those people mysteriously disappeared ... I could say that the number was around, roughly, over 2,000 ... They never returned”]; **E1/438.1** Kaing Guek Eav, T. 15 June 2006, 09.15.56; **E3/1815** Ben Kiernan, *How Pol Pot Came to Power*, EN 00487438 [upon arrival in Cambodia, the Hanoi returnees were instructed to resign from the Vietnam Worker’s Party and join the CPK]; **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396427 [none of the Hanoi returnees were permitted to join the CPK Central Committee].

¹²³² **E1/438.1** Kaing Guek Eav, T. 15 June 2006, 09.18.07; **E3/1815** Ben Kiernan, *How Pol Pot Came to Power*, EN 00487479 [in 1972, the CPK compiled a list of all the Hanoi returnees]; **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396450 [“Most of the returnees would eventually be executed”].

¹²³³ **E1/14.1** Nuon Chea, 22 Nov 2011, 13.56.01.

¹²³⁴ **E1/92.1** David Chandler, T. 19 July 2012, 11.28.28-11.32.40. See also **E3/1684** David Chandler, *Voices from S-21: Terror and History in Pol Pot’s Secret Prison*, EN 00192700.

¹²³⁵ **E1/438.1** Kaing Guek Eav, T. 15 June 2006, 09.18.07.

citizens from Hanoi.”¹²³⁶ Consequently, as Duch notes, “Not many of them remained after 17 April 1975.”¹²³⁷ Say Sen, a rare survivor of Kraing Ta Chan, remembered one of his fellow prisoners there: “They beat Ta Norn to death at the Kraing Ta Chan Office. His crime was being a Hanoi person.”¹²³⁸ When the North Vietnamese asked **Khieu Samphan** what had become of all the people they had trained, **Samphan** told them that they had “possibly” fallen afoul of “plots of the CIA.”¹²³⁹

334. At a June 1974 CPK Central Committee meeting, Party members discussed concerns regarding internal enemies within the Party ranks. **Nuon Chea** admitted in his limited testimony before this Chamber that one of the meeting’s agenda items was “destructive activities by the traitors who infiltrated in the party [or] in the cooperatives.”¹²⁴⁰ As later explained in the Party’s *Revolutionary Flag* publication:

[I]n early 1974 there were many problems with the enemy conducting pacifist agent activities which damaged a number of our troops, our state authorities, our male and female combatants, and our cooperative committees. Since the proletarian stance of the Party was not yet solid, the enemy was able to bore holes from within our ranks... The Party assessed this situation and decided to close the door to the Party and the core organizations. Along with this, there were internal purges.¹²⁴¹

335. The first major purge of veteran CPK cadres occurred in Koh Kong in 1974. **Nuon Chea** accused CPK cadres in Koh Kong of “betrayal,” for allegedly having conspired with the Lon Nol regime and Thai “reactionaries.”¹²⁴² “In 1974 we sorted out this issue completely and permanently ... because we had already eradicated all the enemies.”¹²⁴³ Asked about this at trial, **Nuon Chea** claimed Southwest Zone Deputy Secretary Prasith alias Chong alias Aon Ev had been killed by bandits while visiting Ta Mok.¹²⁴⁴ Others remembered it differently. “In 1974, Ta Mok ordered Aon Ev to be killed; [he was]

¹²³⁶ **E3/362** Chhouk Rin WRI, EN 00268896.

¹²³⁷ **E1/438.1** Duch, T. 15 June 2006, 09.14.13.

¹²³⁸ **E3/5214** Say Sen WRI, EN 00225508.

¹²³⁹ **E3/1683** David Chandler, *The Tragedy of Cambodian History*, EN 00193309.

¹²⁴⁰ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 15.14.55-15.16.34, 15.26.27-15.28.03.

¹²⁴¹ **E3/166** *Revolutionary Flag*, Feb-Mar 1976, EN 00517844-45. See also **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865709 [“In mid-1974, the Party took a measure to suspend the expansion of the Party and the underground organization”]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491422 [“When we set up the plan for the decisive attack in mid 1974 to prepare for 1975, we agreed to close the doors to the Party and not expand the Party to prevent the enemy from entering”], EN 00491427 [“This was because the enemy was attacking us...they attacked and joined the militias and joined the Arts, the hospitals; they joined all units, and they attacked us. So then ... we closed the door in mid 1974”].

¹²⁴² **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399226; **E3/455** Kaing Guek Eav WRI, EN 00149916.

¹²⁴³ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399227.

¹²⁴⁴ **E1/35.1** Nuon Chea, T. 30 Jan 2012, 10.16.42-10.18.46.

accused of treason,” said Khun Kim alias Nuon Paet.¹²⁴⁵ Chong had actually been urgently summoned to a CPK Central Committee meeting (he was Number 7 on the Central Committee),¹²⁴⁶ but he failed to appear at the meeting, or anywhere else.¹²⁴⁷ Three weeks later, the entire Koh Kong Sector 37 Party committee was similarly invited to a Central Committee meeting, and likewise disappeared without a trace.¹²⁴⁸ Soon three regiments from Division 13 arrived in Koh Kong, claiming to be Party Centre troops there to help, but within weeks they carried out a massive purge of Sector 37 civilians and CPK cadres alike.¹²⁴⁹ Expert Philip Short observed that this was the first occasion on which the Party’s leadership had approved the execution of a Central Committee member,¹²⁵⁰ with the event marking a “tipping point” in the Party’s history and “the beginning of the internal purges which went on to devour” the CPK.¹²⁵¹

336. The 30 March 1976 CPK Central Committee decision authorising various organs of the revolutionary apparatus to “smash” enemies “inside and outside the ranks” of the Party was another fateful juncture in the history of the CPK.¹²⁵² **Nuon Chea** has frankly noted that Party members suspected of being internal enemies would be “categorized as criminals” then “killed and destroyed.”¹²⁵³ The Party leadership wasted no time dehumanising these “internal enemies,” making them that much easier to kill: “We do not consider these traitors, these counterrevolutionary elements, to be part of the people.”¹²⁵⁴ Having been defined as less than human, they were to be annihilated: “They are traitor forces... We eradicated them”.¹²⁵⁵ The reason for all of this killing, according to **Nuon Chea**, was simple: “We had to solve the traitor problem in the way that we did

¹²⁴⁵ **E3/360** Khun Kim WRI, EN 00268854.

¹²⁴⁶ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150031.

¹²⁴⁷ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 Jul 2012, 11.41.43-11.49.44.

¹²⁴⁸ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150033.

¹²⁴⁹ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150033-34.

¹²⁵⁰ Rumors of assassination by Party rivals swirled around the deaths of Party Secretary Tou Samouth in 1962 and Southwest Zone Secretary and Central Committee member Ma Mang alias Pang in 1968, but it appears that Samouth was killed by Sihanouk’s secret police [**E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396341; **E3/2114** Stephen Heder, *Cambodia Communism and the Vietnamese Model*, EN 00393743, 00393802. Mang fell victim to the fever: **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396375.

¹²⁵¹ **E1/189.1** Philip Short, T. 6 May 2013, 09.52.13-09.58.57; **E1/190.1** Philip Short, T. 7 May 2013, 13.44.41-13.47.54 [“Once you have accepted that ‘counter-revolutionaries can worm their way into the leadership’...then you’re opening the door to endless purges”]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396468.

¹²⁵² **E3/12**, Decisions of the Central Committee on a Variety of Questions, EN 00182809.

¹²⁵³ **E3/4001R** Video *Enemies of the People*, 2010, 00.48.00.

¹²⁵⁴ **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486253.

¹²⁵⁵ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491404.

... If we had let them live, the Party line would have been hijacked. They were enemies of the people.”¹²⁵⁶

2. Roots of the Party Centre’s Paranoia

337. What sort of assassination attempt involves a single hand grenade tossed against a rear, outside wall of the palace in the dead of night, far from any conceivable assassination target?¹²⁵⁷ The answer is an “assassination attempt” that by coincidence occurs on the very morning that Head of State Prince Norodom Sihanouk is scheduled to resign and be replaced by **Khieu Samphan**.¹²⁵⁸ As Expert David Chandler noted, “while the hapless soldiers who threw the grenades were probably unaware of the coincidence, the country’s jittery leaders saw the incident as foreshadowing a coup d’etat.”¹²⁵⁹ Yim Sambath, a rank and file soldier in Division 170, was quickly arrested; an annotation on the cover of his S-21 confession states, “Participated in throwing hand grenade behind the Royal Palace at 04:35 am on 2 April 1976.”¹²⁶⁰ Duch observed that “The screening inside the ranks began to become systematic starting from the time that they ordered the arrest of Yim Sambat.”¹²⁶¹
338. Division 170 Commander Chann Chakrei alias Nov Mean tried to protect his troops,¹²⁶² but the division was quickly swept up in what would become a massive purge.¹²⁶³ The CPK Standing Committee already had suspicions about “Comrade Mean” prior to the grenade incident. Under his name in the minutes from an October 1975 Standing Committee meeting: “Must be careful about speech that he is seen as a traitor which would lead him to not see the future.”¹²⁶⁴ Two weeks after the grenade attack, Chakrei

¹²⁵⁶ **E3/4001R** Video *Enemies of the People*, 2010, 01.02.20, 00.48.00.

¹²⁵⁷ **E1/440.1** Kaing Guek Eav, T. 20 June 2016, 14.35.27 [“No one got injured from the incident ... There was only one grenade thrown there”].

¹²⁵⁸ **E3/1684** David Chandler, *Voices from S-21*, EN 00192731; **E3/197** CPK Standing Committee Minutes, 11 Mar 1976, EN 00182638-41 [Khieu Samphan discusses Sihanouk request to resign]; **E3/12** Decisions of the Central Committee on a Variety of Questions, EN 00182813 [“The Sihanouk situation is mature already. He is out of wind, cannot move further forward. Therefore, we have decided to have him retire in accordance with his request”]; **E3/165** Document on Conference I of Legislature I of the People’s Representative Assembly of Kampuchea, 11-13 April 1976, EN 00184051 [describes Sihanouk’s “personal announcement” of his resignation on 2 April 1976].

¹²⁵⁹ **E3/1684** David Chandler, *Voices from S-21*, EN 00192731.

¹²⁶⁰ **E3/7397** S-21 Confession of Yim Sambath, EN 00769665.

¹²⁶¹ **E3/5757** Kaing Guek Eav WRI, EN 00186653.

¹²⁶² **E3/356** Kaing Guek Eav WRI, EN 00242900 [“A meeting was called amongst Son Sen, Seat Chhae, Chan Chakrey and myself. Chan Chakrey said that Yim Sambath had acted on his own and that it was therefore useless to look for other associates. However, other arrests were conducted and finally Chan Chakrey was also arrested”].

¹²⁶³ See **Annex F.2** Figure 2.10, *RAK Division 170 Arrests by Month at S-21*, p. 22.

¹²⁶⁴ **E3/183** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183403.

was removed as division commander and appointed as Deputy Chief of the General Staff,¹²⁶⁵ where he was closely monitored until his arrest on 20 May 1976.¹²⁶⁶ Chakrei was then taken to S-21 and his interrogations produced a mammoth 1,858-page confession.¹²⁶⁷ From this juncture, things unraveled rapidly.

339. Following Chakrei's confession, the CPK Standing Committee ordered the arrest of East Zone Sector 24 Secretary Suos Neou alias Chhouk.¹²⁶⁸ Chhouk was taken to S-21 on 31 August 1976.¹²⁶⁹ Duch assigned his lead interrogator Pon to question Chhouk and then reported the initial results to Son Sen in a letter dated 20 September 1976.¹²⁷⁰ Perhaps the most alarming aspect of Chhouk's on-going interrogation was his story about how the plotters planned to "eliminate" Pol Pot, **Nuon Chea**, Son Sen, and other leading cadres, which Duch reported to his superior on September 26.¹²⁷¹ The next day, **Khieu Samphan** announced on DK State Radio that Prime Minister Pol Pot was taking "temporary leave from his task in order to take care of his health," and that **Nuon Chea** had been appointed to temporarily replace Pol Pot as Acting Premier, effective from 27 September 1976.¹²⁷² For the first time, suspicion was now starting to creep over members of the Standing Committee itself, and the paranoia began to spread.
340. Next to fall into the maw of S-21 was Ney Saran alias Ya, the veteran communist boss of the Northeast, who was arrested just three weeks after Chhouk.¹²⁷³ "The order was from the upper echelon for Pon and I to torture him," Duch recalled.¹²⁷⁴ The torture was effective; within days, Ya asked Pon what they wanted him to confess.¹²⁷⁵ The paranoia was further deepening: "Anyone whom we suspect must be removed," Son Sen

¹²⁶⁵ E3/1593 Ben Kiernan, *The Pol Pot Regime*, EN 01150168.

¹²⁶⁶ E3/7397 Report by Duch, 6 Aug 1976, EN 00284003-08 ["20/5/76 Arrested Chakrey"].

¹²⁶⁷ E3/2791 S-21 Confession of Chann Chakrey alias Nov Mean, EN 00827763-72.

¹²⁶⁸ E3/5790 Kaing Guek Eav WRI, EN 00414345 ["Chhouk had been implicated in many documents and Son Sen asked me to collect all of the relevant documents in preparation for a meeting of the Standing Committee ... Afterwards, Son Sen explained to me that during the meeting Pol Pot had interrogated the members of the Standing Committee on the chances of Chhouk being a traitor. Son Sen told me that he replied that the probability was 50%, and Sao Phim replied that the probability was 100%"].

¹²⁶⁹ E3/2494 S-21 Confession of Suos Neou alias Chhouk, EN 00796081.

¹²⁷⁰ E3/2990 Report by Duch to Respected Brother on responses of Suos Neou, labeled as "Letter C," 20 Sept 1976, EN 00325217-18.

¹²⁷¹ E3/2990 Duch Note to Respected Brother, EN 00284028.

¹²⁷² E3/192 Report on Pol Pot's Temporary Sick Leave from Premiership, EN S 00003883.

¹²⁷³ E3/10604 OCJ S-21 Prisoner List, No. 14037.

¹²⁷⁴ E3/5802 Kaing Guek Eav, T. 22 June 2009, 11.10.58.

¹²⁷⁵ E3/1544 Report [from Pon] to Duch on Interrogation Measures which made IX (Men San alias Ya) confess on 26-9-76 (evening), 26 Sept 1976, EN 00184020.

declared at a General Staff meeting.¹²⁷⁶ The purge of Division 170 intensified, then spread to Division 290,¹²⁷⁷ and soon began to focus on other senior leaders of DK.¹²⁷⁸

341. Less than a week after the grenade incident,¹²⁷⁹ but for unrelated reasons,¹²⁸⁰ Minister of Commerce and former North Zone Secretary Koy Thuon alias Khuon alias Thuch was expelled from the Party¹²⁸¹ and placed under house arrest at K-1.¹²⁸² He was sent to S-21 on 25 January 1977.¹²⁸³ His first two confessions were extracted by Duch, inspiring the Standing Committee to order a massive purge of the entire North Zone.¹²⁸⁴ S-21 lead interrogator Pon then took over, torturing Thuon to further implicate purported “enemies.”¹²⁸⁵ Purge targets expanded exponentially, spreading across former North Zone Divisions 174,¹²⁸⁶ 310,¹²⁸⁷ and 450,¹²⁸⁸ as well as North Zone Division 335.¹²⁸⁹

¹²⁷⁶ **E3/811** Minutes of Meeting with Office 870, Division 703 and S-21, 9 Sept 1976, EN 00933849.

¹²⁷⁷ See **Annex F.2** Figure 2.7, *RAK Division 290 Arrests by Month at S-21*, p. 19.

¹²⁷⁸ **E3/822** Minutes of Meeting with Divisions 170 and 290, 16 Sept 1976, EN 00381484-85; **E3/13** Minutes of Meeting of the Secretaries and Deputy Secretaries of the Divisions and Independent Regiments, 9 Oct 1976, EN 00183992-93.

¹²⁷⁹ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 14.15.50-14.18.50 [“He was detained ... on the 8th of April 1976”].

¹²⁸⁰ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396563; **E3/3855** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498271-73.

¹²⁸¹ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 09.23.24, 14.15.50.

¹²⁸² **E1/441.1** Kaing Guek Eav, T. 21 June 2016, 09.25.42; **E3/5810** Kaing Guek Eav, T. 25 Nov 2009, 11.09.01 *confirming* **E3/355** Kaing Guek Eav WRI, EN 00242874 [“Thoun was placed under house arrest”].

¹²⁸³ See **E3/345** Kaing Guek Eav, T. 18 May 2009, 13.53.18-13.58.1 [stating that an “arrest en masse” of the North Zone was initiated by the Standing Committee]; **E3/5800** Kaing Guek Eav, T. 16 June 2009, 10.30.06; **E3/10604** OCU S-21 Prisoner List, No. 14,027; **E3/1604** S-21 Confession of Koy Thuon alias Khuon alias Thuch, 4 Mar 1977, EN 00005999; **E3/3855** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498272-73; **E3/451** Kaing Guek Eav WRI, EN 00204355; **E3/355** Kaing Guek Eav WRI, EN 00242874-78; **E3/35** Ke Pich Vannak WRI, EN 00346160; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150169 *citing* **E3/1993** *Name List of Important Culprits Arrested from 1976 to April 9, 1978*, EN 00064838; **E3/9395** Kaing Guek Eav WRI, EN 00147584; **E3/2360** Photograph depicting Koy Thuon at S-21, EN P 00005253.

¹²⁸⁴ **E3/5796** Kaing Guek Eav, T. 30 Apr 2009, 11.31.25 [“I started to feel extremely shocked on the 31st of January 1977 when Son Sen arrested the forces -- the cadres of the North Zone en masse -- the North Zone”]; **E3/345** Kaing Guek Eav, T. 18 May 2009, 13.53.18-13.58.1 [“These confessions made him -- no, not him, the whole Standing Committee, to arrest en masse people from the north. It’s a massive arrest”]; **E3/451** Kaing Guek Eav WRI, EN 00204355; **E3/5772** Kaing Guek Eav WRI, EN 00209177.

¹²⁸⁵ **E3/1604** S-21 Confession of Koy Thuon alias Khuon alias Thuch, 19 Feb 1977, EN 00769831 [annotation indicating that “Only after [we] made a hole in one side did he answer”].

¹²⁸⁶ See **Annex F.2** Figure 2.17, *RAK North Zone Army Divisions 174 and 117 Arrests by Month at S-21*.

¹²⁸⁷ See **Annex F.2** Figure 2.4, *RAK Division 310 Arrests by Month at S-21*, p. 16.

¹²⁸⁸ See **Annex F.2** Figure 2.6 *RAK Division 450 Arrests by Month at S-21*, p. 18.

¹²⁸⁹ See **Annex D.1** *List of North Zone Division 335 Arrests S-21 Prisoners*; **E3/1604** S-21 Confession of Koy Thuon alias Khuon alias Thuch, 4 Mar 1977; **E3/342** OCP Revised S-21 Prisoner List, EN 00329884, Nou Chhan alias Hean (Secretary of Division 335, and number 18 on Koy Thuon’s list), 1 Mar 1977, No. 6646 [Nou An alias Hean]; **E3/342** OCP Revised S-21 Prisoner List, EN 00329619, Chan Thol alias Paul (Division 335 Deputy Secretary), 26 Feb 1977, No. 550. See also **E3/1949** S-21 Prisoner List, Oct 1977, EN 00937126, No. 105).

Other mass purge targets following Koy Thuon's interrogation included Office 870,¹²⁹⁰ the Ministry of Commerce,¹²⁹¹ the Ministry of Agriculture,¹²⁹² the Ministry of Propaganda,¹²⁹³ and the Ministry of Energy.¹²⁹⁴ The North and Central Zones, however,

¹²⁹⁰ **E3/183** CPK Standing Committee Minutes, 9 Oct 1975, EN 00183393; **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396563; **E3/1604** S-21 Confession of Koy Thuon alias Khuon alias Thuch, 4 Mar 1977; **E3/1625** S-21 Confession of Seua Vasi alias Deuan, 19 Feb 1977, EN 00183220-21; **E3/342** OCP Revised S-21 Prisoner List, Phok Chhay alias Touch, 14 Mar 1977, EN 00329926, No. 7600; **E3/342** OCP Revised S-21 Prisoner List, Mei Chan Bo alias Bo, 17 Feb 1977, EN 00329840, No. 5607; **E3/342** OCP Revised S-21 Prisoner List, Ket Thor alias Sem, EN 00329743, No. 3391; **E3/7393** David Chandler, S-21 Confession Database, EN 00142992; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150164.

¹²⁹¹ **E3/2005** Names of Persons Arrested from Commerce, EN 00858486-506; **E3/2090** Name List of Prisoners of Commerce Section, EN 00701336-60; **E3/835** Ministry of Commerce, 1977, EN 00766730-736; **E3/836** List of Hidden Forces at State Commerce, Kampong Som, 24 Aug 1976, EN 00796633-35; **E3/837** Phnom Penh Commerce Section, 15 Sept 1976, EN 00767911-18; **E3/962** Ministry of Commerce Decision Sending Staff for Interrogation, 17 Oct 1976, EN 00333254; **E3/174** Ministry of Commerce Decision Sending Staff to Re-education, 17 Oct 1976, EN 00548780.

¹²⁹² **E3/1753** S-21 Confession of Koy Thuon alias Khuon alias Thuch, 19 Feb 1977, EN 00178180-81; **E3/1780** S-21 Confession of Chan Chakrey alias Nov Mean, 30 Aug 1976; **E3/2494** S-21 Confession of Sous Neou alias Chhouk alias Men alias VIII, 29 July 1976; **E3/1870** S-21 Confession of Non Suon alias Chey Suon alias Saen (Minister of Agriculture), 1 Nov 1976, EN 00096835-914 (Number 4 on Thuon's list); **E3/342** OCP Revised S-21 Prisoner List, Duong Thoeun alias Seng alias Neng (Deputy Secretary of Agriculture Committee), EN 00329678, No. 1911; **E3/342** OCP Revised S-21 Prisoner List, Bin Chheang alias Ly (Member of the Agriculture Committee), EN 00329603, No. 177; **E3/342** OCP Revised S-21 Prisoner List, Sâr Thai Seng (Engineer of State Agriculture Research Section), 1 Jan 1977, EN 00329982, No. 8869; **E3/342** OCP Revised S-21 Prisoner List, Kheng Kim Chhai alias Chhay (Chief of Welding Group, State Agriculture), 8 Jan 1977, EN 00329747, No. 3478; **E3/342** OCP Revised S-21 Prisoner List, Ieng Dim alias Vann (Chief of Saw Mills, State Agriculture), 17 Mar 1977, EN 00329719, No. 2834; **E3/342** OCP Revised S-21 Prisoner List, Han Kim Huot alias Bang (Chief of Agricultural Office), 23 Mar 1977, EN 00329690, No. 2189; **E3/342** OCP Revised S-21 Prisoner List, Mao Thân alias Thun (Chief of Animal Raising Section, Ministry of Agriculture), 7 July 1977, EN 00329832, No. 5431.

¹²⁹³ **E3/1550** S-21 Confession of Hu Nim alias Phoas, Minister of Propaganda, 10 Apr-6 July 1977; **E3/1832** S-21 Confession of Tiv Ol alias Penh, Deputy Minister of Propaganda, May-Sept 1977; **E3/1827** S-21 Confession of Tauch Pheuan (or Touch Pheun or Tauch Phoen) alias Phîn, 24 Mar 1977; **E3/1878** S-21 Confession of Phok Chhay alias Touch, 14 Mar-16 Apr 1977; **E3/379** Sâ Siek WRI, EN 00323331-32; **E3/2217** S-21 Prisoner List, 2 May 1978; **E3/2218** S-21 Prisoner List, 2 May 1978; **E3/1673** S-21 Prisoner List, 7 May 1978; **E3/2221** S-21 Prisoner List, 12 May 1978; **E3/8569** S-21 Prisoner List; **E3/2267** S-21 Prisoner List; **E3/2223** S-21 Prisoner List, 16 May 1978; **E3/2194** S-21 Prisoner List, 30 Mar 1978; **E3/2199** S-21 Prisoner List, 6 Apr 1978; **E3/2200** S-21 Prisoner List, 7 Apr 1978; **E3/2201** S-21 Prisoner List, 9 Aug 1978; **E3/2202** S-21 Prisoner List, 9 Apr 1978; **E3/2203** S-21 Prisoner List, 9 Apr 1978; **E3/2211** S-21 Prisoner List, 11 May 1978; **E3/2279** S-21 Prisoner List; **E3/972** S-21 Prisoner List, 1 June 1977; **E3/2032** S-21 Prisoner List, 4 Apr 1978; **E3/1948** S-21 Prisoner List, 9 May 1978; **E3/1922** S-21 Prisoner List, 7 Apr 1978; **E3/1925** S-21 Prisoner List, 11 Apr 1978; **E3/1945** S-21 Prisoner List, 25 May 1978; **E3/1998** S-21 Prisoner List, Oct 1978; **E3/2100** S-21 Prisoner List, May 1978; **E3/1965** S-21 Prisoner List, 10 June 1978; **E3/1942** S-21 Prisoner List, 28 May 1978, EN 00183856; **E3/2034** S-21 Prisoner List, 5 Apr 1978; **E3/1926** S-21 Prisoner List, 11 Apr 1978; **E3/1953** S-21 Prisoner List, 18 May 1978, EN 00233845-46; **E3/1939** S-21 Prisoner List, 30 Apr 1978; **E3/2135** S-21 Interrogation Log, 4 May 1978, EN 00182913-14, 00182924-25, 00182929-30, 00182933; **E3/2035** S-21 Prisoner List, 6 Apr 1978, EN 00233863-70; **E3/2033** S-21 Prisoner List, 4 Apr 1978; **E3/1940** S-21 Prisoner List, 30 Apr 1978, EN 00334987; **E3/1947** S-21 Prisoner List, 5 May 1978; **E3/1952** S-21 Prisoner List, 11 May 1978; **E3/1959** S-21 Prisoner List, June 1978; **E3/1654** S-21 Prisoner List, 8 Apr 1978, EN 00234236, 00234239, 00234241-43; **E3/1997** S-21 Prisoner List, July 1978; **E3/1958** S-21 Prisoner List, 29 May 1978; **E3/1941** S-21 Prisoner List, May 1978; **E3/1951** S-21 Prisoner List, 10 May 1978, EN 00233743; **E3/1937** S-21 Prisoner List, 9 Apr 1978, EN 00233803, 00233805, 00233808; **E3/1943** S-21 Prisoner List, May 1978.

¹²⁹⁴ See **Annex D.2** List of Ministry of Energy Cadres Arrested After Koy Thuon Confession S-21 Prisoners.

would be the primary targets.¹²⁹⁵ S-21 was about to become a very busy place.¹²⁹⁶

342. The Party Centre's purge of the Central Zone was swift and brutal. Within a matter of weeks after Koy Thuon's confession, virtually all of the Central Zone's zone, sector, and district cadres had been dispatched to S-21.¹²⁹⁷ The Southwest Zone cadres who were sent to seize control of the Central Zone expanded the purges all the way down to the village echelon.¹²⁹⁸ Witness Sun Srun explained that "For the local levels, such as commune levels that were accused of being the network of Koy Thuon, they were killed at Wat Au Trakuon pagoda."¹²⁹⁹ Central Zone Secretary Ke Pauk later described his astonishment at the scope of the purge of his cadres: "By June 1977 ... there was only me left."¹³⁰⁰

¹²⁹⁵ **E3/5796** Kaing Guek Eav, T. 30 Apr 2009, 11.31.25 ["I started to feel extremely shocked on the 31st of January 1977 when Son Sen arrested the forces -- the cadres of the North Zone en masse -- the North Zone"]; **E3/345** Kaing Guek Eav, T. 18 May 2009, 13.53.18 ["These confessions made him -- no, not him, the whole Standing Committee, to arrest en masse people from the north. It's a massive arrest"]; **E3/455** Kaing Guek Eav WRI, EN 00149916; **E3/527** Kaing Guek Eav, *The Last Joint Plan*, EN 00069031-57.

¹²⁹⁶ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 14.35.46 ["they planned to arrest New People, Brother Son Sen always instructed me to take those arrested people out so that new arrestees could be brought in. He wanted to make sure that the prison had enough vacant space to receive new prisoners"]; **E3/5801** Kaing Guek Eav, T. 17 June 2009, 11.35.08; **E3/5802** Kaing Guek Eav, T. 22 June 2009, 10.21.18; **E3/440** Kaing Guek Eav WRI, 00270561 ["The internal purge of the second network started with the arrest of Koy Thuon on 25 January 1977. On 31 January, cadres of the Northern Zone were arrested en masse. These arrested were made in light of the first complete confession of Koy Thuon on 29 January"].

¹²⁹⁷ See **Annex D.3 Graph of Central Zone Arrests by Month S-21 Prisoners**; **E3/2956** S-21 Prisoner List, EN 00222966-67 (Nos 38-56); **E3/342** OCP Revised S-21 Prisoner List, Nhim Chhon alias Hang (Deputy Chief of Security for Sector 41), 20 Mar 1977, EN 00329878, No. 6501; **E3/342** OCP Revised S-21 Prisoner List, Yauk Ham alias Bun (Deputy Secretary for Sector 42), 16 Mar 1977, EN 00330114, No.11913; **E3/342** OCP Revised S-21 Prisoner List, Meas Sok alias Sao (Head of Security for Sector 42), Mar 1977, EN 00329839, No. 5582; **E3/342** OCP Revised S-21 Prisoner List, Nuon Roen alias Tieng (Deputy Secretary of Sector 42), 2 Oct 1977, EN 00329891, No. 6803; **E3/342** OCP Revised S-21 Prisoner List, Korm (Kuam) Chan (Sector 43 Secretary), 19 Sept 1977, EN 00329777, No. 4166; **E3/342** OCP Revised S-21 Prisoner List, Ruos Noeun alias Seang (Member of Sector 43), 21 June 1978, EN 00329959, No. 8336; **E3/342** OCP Revised S-21 Prisoner List, Chor Chhan alias Sreng (North Zone Deputy Secretary), EN 00329660, No. 1480; **E3/342** OCP Revised S-21 Prisoner List, Chun Chhum alias Taing (Sector 41 Secretary), 27 Mar 1977, EN 00329666, No. 1630; **E3/35** Ke Pich Vannak WRI, EN 00346151, 00346158; **E3/344** Suon Kanil WRI, EN 00384427-28; **E3/411** Suon Kanil WRI, EN 00390076; **E3/403** Pech Sokha Statement, EN 00403009; **E3/2956** S-21 Prisoner List, 27 Mar 1977, EN 00222966, No. 42; **E3/342** OCP Revised S-21 Prisoner List (Chan Mon alias Töl, Sector 42 Secretary and Zone Committee Member), EN 00329615, No. 461; **E3/2462** S-21 Confession of Chan Mon alias Töl, KH 00297662; **E3/375** Ban Seak WRI, EN 00360751-52; **E3/9364** Ke Pauk Autobiography, EN 00089713; **E3/2956** S-21 Prisoner List, EN 00222965 (Nos 2, 5, 7, 9-10, 37).

¹²⁹⁸ **E3/35** Ke Pich Vannak Statement, EN 00346151-52 [Son of Ke Pauk states that purges were carried out by Southwest cadre "down to the village" level]; **E3/411** Suon Kanil WRI, EN 00390076 ["Southwest forces [took] control of the committees from the Sector down to the cooperative...[taking] over about 90% of the Central Zone leadership"]; **E3/5252** Seng Srun WRI, EN 00235515-17; **E3/9346** Sámret Muy WRI, EN 00235508-09; **E3/375** Ban Seak Statement, EN 00360752; **E3/5529** Man Heang Statement, EN 00421084.

¹²⁹⁹ **E1/346.1** Sen Srun, T. 14 Sept 2015, 09.50.20 confirming **E3/8736** Sen Srun WRI, EN 00740714.

¹³⁰⁰ **E3/9364** Ke Pauk Autobiography, EN 00089705-06. For another translation see **E3/9364** Ke Pauk Autobiography, EN 00089713.

343. The purge of the new North Zone was, if anything, even more brutal.¹³⁰¹ Chan Sam alias Kang Chap alias Se left Sector 35 in February 1977 with a large group of Southwest cadres, arrived in Siem Reap in late March or early April 1977, and was thereafter appointed as the Secretary of the new North Zone.¹³⁰² He continued the purge of the Zone, reporting directly to the Party Centre, including **Nuon Chea** and **Khieu Samphan**.¹³⁰³ For example, on 23 August 1977, Kang Chap reported to Office 870 on the results of congresses he held in five districts in Sector 103, stating that it was “imperative to purify the cadre step by step at the district and community levels” and to continue “the storming attack to sweep clean the enemy.”¹³⁰⁴ Both **Nuon Chea** and **Khieu Samphan** visited the North Zone,¹³⁰⁵ and Meas Voeun, Secretary of North Zone Sector 103, testified that the zone reported directly to **Khieu Samphan**.¹³⁰⁶ Purges went down to the village level in the New North Zone, carried out locally by new cadres sent from the Southwest Zone.¹³⁰⁷ The North Zone purges continued through 1977 and into

¹³⁰¹ See **Annex D.4 Graph of New North Zone Arrests by Month S-21 Prisoners**.

¹³⁰² **E1/34.1** Prak Yut, T. 26 Jan 2012, 11.21.45; **E1/376.1** You Vann, T. 14 Jan 2016, 13.59.01 [“Q. And how many people made the trip with you from Kampot to Kampong Cham province? A. Ta Mok and Prak Yut also joined the trip. There were many people; I cannot remember how many people joined the trip at that time. Q. In your first OCIJ statement ... you said there were around 200 people sent to the Central Zone, at that time; does that sound accurate? ... A. Yes, there were probably around that number”]; **E3/163** Prak Yut WRI, EN 00364078-79; **E3/164** Prak Yut WRI, EN 00407796-97; **E3/400** Pech Chim WRI, EN 00379172 [Stating that Kang Chap led a force of 100 Southwest cadre to the old North Zone in February 1977]; **E3/239** Telegram from Ke Pauk to Office 870, 30 Apr 1977, EN 00069529 [stating that Brother Se had been assigned “to grasp the situation in Ampil district,” after an incident in which enemies had thrown grenades into the district office]; **E3/420** Prum Sou WRI, EN 00422380-81; **E3/71** Seng Mon WRI, EN 00288636; **E3/48** Stephen Heder and Brian Tittermore, *Seven Candidates for Prosecution*, EN 00393553; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397054; **E3/2792** S-21 Confession of Chan Sam alias Kang Chap alias Sae, 25 Oct 1978, EN 00789711-68; **E3/2799** S-21 Confession of Khoem Chhum, 11 Sept 1978, EN 00221807-13; **E3/9364** Ke Pauk Autobiography, EN 00089714.

¹³⁰³ **E3/241** Telegram from Sè to Committee 870, 23 Aug 1977, EN 00183627-28; **E3/1091** Telegram from Sè to Committee 870, 23 Aug 1977, EN 00143573-75; **E3/1144** Telegram from Sè to Committee 870, 5 Sept 1977, EN 00517923-25; **E3/984** Telegram from Sè to Committee 870, 10 Dec 1977, EN 00335210; **E3/898** Telegram from Sè to Committee 870, 11 Dec 1977, EN 00183626 [requesting approval to merge Siem Reap district, which consisted primarily of New People, with Banteay Srey district, which was mainly Base People]; **E3/918** Telegram from Sè to Committee 870, 10 Jan 1978, EN 00182757-00182758; **E3/995** Telegram from Sè to Committee 870, 19 Mar 1978, EN 00185583-84; **E3/1073** Telegram from Sè to Committee 870, 10 Apr 1978, EN 00293358-61.

¹³⁰⁴ **E3/1091** Telegram 53 from Se to Committee 870, 23 Aug 1977, EN 00143574 [“Must screen cadres from district level step by step in order to improve the quantity of leadership. At the same time, must screen each spearhead in order not to obstruct ... the movement of sweeping up enemies”].

¹³⁰⁵ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 15.11.31; **E3/424** Meas Voeun WRI, EN 00421072.

¹³⁰⁶ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.13.35 [Meas Voeun, Secretary of Sector 103, testified that Khieu Samphan “did send me a telegram instructing me so. And I reported to him the situations from Siem Reap, particularly people who were imprisoned ... To my knowledge, Sector 103 was under his supervision... the sector was known as an autonomous sector and it was supposed to report directly to Khieu Samphan”]; **E3/424** Meas Voeun WRI, EN 00421072-73.

¹³⁰⁷ **E3/1949** S-21 Prisoner List, Oct 1977, EN 00937117-56; **E3/2011** S-21 Execution Log, 20 June 1977, EN 00290177-94; **E3/8438** S-21 Prisoner List, 15 May 1977, EN 00701361-63; **E3/3860** S-21 Execution Log, 7 July 1977, EN 00655413-15; **E3/3858** S-21 Execution Log, 12 May 1977, EN 00837615-25;

1978,¹³⁰⁸ culminating in the arrest¹³⁰⁹ and execution¹³¹⁰ of Zone Secretary Kang Chap alias Se.

3. Nuon Chea Controlled the Search for Internal Enemies

344. **Nuon Chea** was the key protagonist in the unfolding nation-wide purges, leveraging the Number Two leadership role in the Party that he held from 1960 through the end of the ECCC's temporal jurisdiction in 1979.¹³¹¹ According to Khun Kim, "Ta Mok declared in a training session in Kampot that **Nuon Chea** was responsible for all aspects of security in the country."¹³¹² Other senior CPK leaders, including Ieng Sary¹³¹³ and Ieng Thirith,¹³¹⁴ also have confirmed that **Nuon Chea** controlled internal security policy during the DK regime.¹³¹⁵ **Nuon Chea** exercised authority over Office S-71, which was tasked by the Party to "monitor suspected members of the Party" and to

E3/3859 S-21 Execution Log, 3 July 1977, EN 00634835-40; **E3/342** OCP S-21 Prisoner List (prisoners from the North/Central Zones), EN 00333779-95.

¹³⁰⁸ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 15.16.07-15.18.23 ["Ta Mok ordered to remove Ta Khim from the Sector 103 by using his forces"]; **E3/1144** Telegram 60 from Sè to Committee 870, 5 Sept 1977, EN 00517923-25; **E3/918** (E3/871) Telegram 254 from Se to Committee 870, 10 Jan 1978, EN 00182758 ["I will send more crocodiles to the organization, please receive them"]; **E3/424** Meas Voeun WRI, EN 00421072-73; **E3/4606** Prum Son WRI, EN 00414069-70; **E3/420** Prum Son WRI, EN 00422379-81; **E3/342** OCP Revised S-21 Prisoner List, EN 00329605, No. 220; **E3/2470** S-21 Confession of Bou Phat alias Heng, 26 July 1978, EN 00768217-71; **E3/5781** Prum Sou Statement, 1 Oct 2005, EN 00809640-41; **E3/7393** David Chandler S-21 Confession Database, EN 00142921-43035; **E3/64** Norng Sophâng Statement, EN 00334042-64; **E3/342** OCP Revised S-21 Prisoner List, Mob Chhoeuy alias Don alias Duch (Sector 103 Deputy Secretary), 22 Apr 1978, EN 00329846, No. 5754; **E3/342** OCP Revised S-21 Prisoner List, Bou Sea and So Nguon Seng alias Kae (Sector 103 Public Works), 16 Jan 1978, EN 00329605, No. 229; **E3/1073** Telegram 324 from Sè to Committee 870, 10 Apr 1978, EN 00293358-59 ["Continuing to purge ... she will not be able to continue her traitorous activities any more"].

¹³⁰⁹ **E3/342** OCP Revised S-21 Prisoner List, EN 00329617, No. 503; **E3/2792** S-21 Confession of Chan Sam alias Kang Chap alias Sac, 25 Oct 1978, EN 00143659 [arrested on 15 Aug 1978].

¹³¹⁰ **E3/342** OCP Revised S-21 Prisoner List, EN 00329617, No. 503.

¹³¹¹ **E3/3** Nuon Chea Statement, EN 00184662, 00184665-67, 00184673; **E3/26** Nuon Chea Statement, EN 00329509; **E3/196** Nuon Chea Statement of the Communist Party of Kampuchea to the Communist Workers' Party of Denmark, 30 July 1978, EN 00762391-408; **E3/199** Nuon Chea, Speech by CPK Deputy Secretary in Beijing, 3 Sept 1978, EN 00065911; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498235-36; **E3/89** Ieng Sary Statement, 17 Dec 1996, EN 00417630-32; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396338, 00396342, 00396427; **E3/2114** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393828; **E3/49** Karl Jackson, *Cambodia 1975-1979*, EN 00105143. See also **E3/10** Revolutionary Flag, Sept-Oct 1976, EN 00450506; **E3/11** Revolutionary Flag, Sept 1977, EN 00486226; **E3/228** CPK Standing Committee Minutes, 9 Jan 1976, EN 00182614; **E3/227** CPK Standing Committee Minutes, 2 Nov 1975, EN 00183409.

¹³¹² **E3/360** Nuon Paet alias Khun Kim WRI, EN 00268857.

¹³¹³ **E3/2119** Henry Kamm, *Cambodia: Report from a Stricken Land*, EN 00394460 [Ieng Sary statement that "Nuon Chea ... was responsible in the party for security"]; **E3/190** Ieng Sary Interview, 4 Jan 1999, EN 00081571 [Confirming "key role of Nuon Chea in security matters"].

¹³¹⁴ **E3/39** Ieng Thirith Statement, Pre-Trial Chamber Appeal Hearing, 24 Feb 2009, EN 00293071-75 ["I had nothing to do with Nuon Chea, although I knew what he has done, and I knew he killed people. I knew this ... Nuon Chea killed all my students"].

¹³¹⁵ See also **E3/456** Kaing Guek Eav WRI, EN 00198883 ["The security centres in the Zones, Sectors and Districts reported to Nuon Chea"]; **E3/347**, Kaing Guek Eav UNHCHR Statement, EN 00184997 ["Nuon Chea ... decided all matters, especially regarding security where he had the role of coordinating between S-21 and the zones"].

coordinate the arrest and transfer of arrested “internal enemies” to S-21.¹³¹⁶ When it came to internal security, “everything had to pass through **Nuon Chea**.”¹³¹⁷ One of the most important ways that **Nuon Chea** exercised his security responsibilities, however, was by teaching CPK cadres how to identify and kill enemies.

a) *Teaching Cadres to Kill*

345. **Nuon Chea** has frequently claimed that he was ‘in charge of education and training.’¹³¹⁸ He told Thet Sambath, “I liked reading books about how to work in secret and Vietnamese books that talked about the torture and arrest of communist members.”¹³¹⁹ Indeed, according to Seng Lytheng, **Nuon Chea** “went down to train in the Zones ... perhaps twice a year”¹³²⁰ on how to identify and purge internal enemies. In early 1976, for example, **Nuon Chea** traveled to the Northwest Zone where a cadre recalls that he “saw Mr. **Nuon Chea** convene those meetings to prepare plans to purge internal enemies.”¹³²¹ In a 1977 West Zone training session, a transcript of which was published in *Revolutionary Flag*, **Nuon Chea** ominously warned cadres that 50% of West Zone cadres “are no good and bad,” that “15 to 20% are traitors,”¹³²² and that zone forces must “attack and smash the enemy and the no-good elements embedded inside.”¹³²³ In 1978, according to Chhouk Rin, **Nuon Chea** instructed Southwest cadres about how “We must purge ‘the internal enemy.’”¹³²⁴ In the North Zone, **Nuon Chea** trained zone and sector cadres on “the forces, like CIA and KGB, that tried to disturb the Democratic Kampuchea and to infiltrate and sap from within.”¹³²⁵
346. **Nuon Chea** and **Khieu Samphan** also conducted annual political training of cadres from districts, sectors, zones, ministries, and military divisions in Phnom Penh at Borei

¹³¹⁶ E1/55.1 Kaing Guek Eav, T. 28 Mar 2012, 13.50.23 [“Pang was the secretary of S-71”]; E1/61.1 Kaing Guek Eav, T. 9 Apr 2012, 10.03.41 to 10.06.02 [“Pang was ... assigned by Bong Nuon to come and go to the S-21”]; E1/67.1 Saloth Ban alias So Hong, T. 24 Apr 2012, 14.02.02 [“Pang ... was able to take whoever he wants and whenever he wanted”]; E1/121.1 Norng Sophang, T. 4 Sept 2012, 09.44.43-09.48.24 [“S-71 ... is under the supervision of 870 Committee”]; E3/65 Kaing Guek Eav WRI, ENG00147521-22 [Pang and Lin assigned by Nuon Chea to help with S-21’s work]; E3/456 Kaing Guek Eav WRI, EN 00198883 [S-71 was “generally responsible for the transfer of prisoners to S-21”].

¹³¹⁷ E1/54.1 Kaing Guek Eav, T. 27 Mar 2012, 11.41.56-11.43.42 [“Brother Nuon was ... in higher position than Brother Khieu”]; E1/62.1 Kaing Guek Eav, T. 10 Apr 2012, 15.45.16-15.47.49; E3/453 Kaing Guek Eav WRI, EN 00147584; E3/1579 Kaing Guek Eav WRI, EN 00398206 [Nuon Chea was “the superior of my superior”].

¹³¹⁸ E1/36.1 Nuon Chea, T. 31 Jan 2012, 10.53.38.

¹³¹⁹ E3/4202 Thet Sambath *Behind the Killing Fields*, EN 00757506.

¹³²⁰ E3/462 Seng Lytheng WRI, EN 00223564.

¹³²¹ E3/364 Lim Sat WRI, EN 00250760.

¹³²² E3/193 *Revolutionary Flag*, Aug 1977, EN 00399230.

¹³²³ E3/193 *Revolutionary Flag*, Aug 1977, EN 00399236.

¹³²⁴ E3/362 Chhouk Rin WRI, EN 00268897.

¹³²⁵ E3/420 Prum Sou aka Sun Loeun WRI, EN 00422381.

Keila. Former Tram Kak District Secretary, Pech Chim, described month-long political education sessions held each year in Phnom Penh for district and sector secretaries from across the country.¹³²⁶ In the meetings he attended at Borei Keila, the sole instructor was **Nuon Chea**.¹³²⁷ When asked whether **Nuon Chea** discussed internal and external enemies, Pech Chim replied, “Yes, he did. He covered all aspects. Without having covered the subject of enemies, people would never know how to identify enemies from friends.”¹³²⁸ Pean Khean, Koy Thuon’s bodyguard, described **Nuon Chea** and **Khieu Samphan** giving “high-level political education” at Borei Keila to ministry cadres and senior regional cadres from sector level up,¹³²⁹ including instructions to fight against enemies who had infiltrated, including CIA and KGB agents.¹³³⁰ Civil Party Em Oeun attended political training at Borei Keila¹³³¹ where approximately 2,000 zone, sector, and district committee members¹³³² were lectured by Pol Pot, **Nuon Chea**, and **Khieu Samphan**.¹³³³ **Nuon Chea** discussed the need to identify enemies burrowing within the Party, especially CIA and KGB spy networks¹³³⁴ who had betrayed the Party.¹³³⁵ **Khieu Samphan**¹³³⁶ explained that Party members¹³³⁷ should be screened to identify “infiltrated enemies,” describing how cadres should work to uncover traitors.¹³³⁸ Ek Hen, a cadre in K-9, recalled a **Khieu Samphan** lecture at Borei Keila in 1978 in which **Samphan** urged cadres not to follow the example of the “traitor” Pang, who had been arrested and sent away.¹³³⁹

347. **Nuon Chea** also disseminated training material on identifying and eliminating internal enemies in the Party journal *Revolutionary Flag*. **Nuon Chea** and Pol Pot were the principal authors of *Revolutionary Flag*,¹³⁴⁰ consistent with **Nuon Chea**’s earlier roles in the Indochinese Communist Party and the Khmer People’s Revolutionary Party.¹³⁴¹

¹³²⁶ E1/215.1 Pech Chim, T. 1 July 2013, 11.21.01-11.27.26.

¹³²⁷ E1/215.1 Pech Chim, T. 1 July 2013, 11.23.08-11.27.26.

¹³²⁸ E1/215.1 Pech Chim, T. 1 July 2013, 11.29.35.

¹³²⁹ E1/73.1 Pean Khean, T. 17 May 2012, 10.10.21-10.16.41.

¹³³⁰ E1/73.1 Pean Khean, T. 17 May 2012, 10.20.56-10.24.01.

¹³³¹ E1/113.1 Em Oeun, T. 23 Aug 2012, 14.22.12-14.24.29.

¹³³² E1/113.1 Em Oeun, T. 23 Aug 2012, 14.32.48-14.35.53, 15.37.38, 15.39.07.

¹³³³ E1/113.1 Em Oeun, T. 23 Aug 2012, 14.27.16, 14.27.16-14.30.56.

¹³³⁴ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.18.00-11.20.30.

¹³³⁵ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.08.28-11.14.22.

¹³³⁶ E1/113.1 Em Oeun, T. 23 Aug 2012, 14.27.16-14.30.56.

¹³³⁷ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.23.53-11.27.47.

¹³³⁸ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.21.47.

¹³³⁹ E1/217.1 Ek Hen, T. 3 July 2013, 11.26.06-11.33.02; E3/474 Ek Hen WRI, EN 00205049-50.

¹³⁴⁰ E1/23.1, Nuon Chea, T. 15 Dec 2011, 14.20.03.

¹³⁴¹ E1/36.1 Nuon Chea, T. 31 Jan 2012, 09.22.05; E3/131 Nuon Chea, *Past Struggle of Our Kampuchean Peasants From 1954 to 1970*, EN 00716417-18.

The exhortations from Pol Pot and **Nuon Chea** in *Revolutionary Flag* grew more incendiary with the passage of time, demanding with ever more fervor that cadres root out and exterminate internal enemies of all stripes.¹³⁴² Chhouk Rin, an RAK battalion commander, described being taught the following policy from the July 1976 *Revolutionary Flag*:¹³⁴³ “If we are unable to grasp this, we do not know, we do not understand. The hoes keep breaking, we say they were not well-made; but the enemy is destroying them and we are unable to grasp that.”¹³⁴⁴

¹³⁴² **E3/135** *Revolutionary Flag*, June 1977, EN 00446857-58 [“Whip up and educate the masses ... and have them clearly see how the internal embedded enemies carry out their activities; have them absorb this so they will become an enemy-seeking and enemy-attacking force”]; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486253 [“We do not consider these traitors, these counterrevolutionary elements, to be part of the people. They are enemies of Democratic Kampuchea”]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401482 [“We fundamentally eliminated exploitative production contacts. In type I liberated zones, they were totally eliminated. In the type II liberated zones, in general, they were fundamentally eliminated”]; **E3/139** *Revolutionary Flag*, Nov 1976, EN 00455286 [“Only when there is struggle to fight to eradicate all opposition forces inside the country can the movement to build our country gain momentum”]; **E3/746** *Revolutionary Flag*, Jul 1978, EN 00428291-97, 00428301-02 [“The concealed enemies boring from within were exposed. We were able to maintain and protect the revolutionary forces and expand the revolutionary forces, to purge the bad elements, and continue leading the masses in struggle and to gain further victories”]; **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185324 [“We have seen more ... of the noxious nature of internal enemies ... we must strengthen the class struggle ... in order to eliminate successively both internal and external enemies, but particularly internal enemies”], 00185342 [“Our duty is therefore is to attack absolutely ... enemy is being smashed to smithereens, scattered to the winds and liquidated”], 00185343 [“We must see the enemy’s face clearly ... sweep them cleanly away, sweep, and sweep and sweep again and again ceaselessly, so that our Party forces are pure, our leading forces at every level and in every sphere are clean at all times”]; **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399240 [“The no-good classes holding power in the cooperatives, what is their true nature. They are counter-revolutionary”]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491412 [“The strategic line of the Party that was set in 1960 when the determination was made that it was imperative to ... attack and bring down the feudalists, capitalists, and reactionaries in Kampuchea”]; **E3/742** *Revolutionary Flag*, Apr 1977, EN 00478496 [“As for the enemies that are “CIA”, “KGB”, and “Y[uan]” agents ... smash them even more so they cannot raise their heads. By doing this, we will create the preconditions for us to attack the enemy even stronger during 1978”], EN 00478501 [“It is imperative to indoctrinate and whip-up the masses ... make the enemy be like a rat surrounded by a crowd of people beating and smashing it ... It is imperative to purge, to clean up, and to sweep clean the no-good elements and the enemy elements”], 00478502 [“One very important issue that has to be concentrated on is clearly unmasking again and again the “CIA” and their agents, the “KGB” and their agents”]; **E3/746** *Revolutionary Flag*, July 1978, EN 00428291 [“During the first 6 months of 1978, our Party has impelled forward the countrywide movement to sweep cleanly away the concealed enemy boring from within”], 00428296 [“In order to sweep out the concealed enemy even more absolutely cleanly ... expanding the purge in the ranks of the Party, the ranks of the masses and in the army”], 00428303 [“Even more particularly, in the great mass movement to attack and smash ... bringing about a strategic victory for the nation, the people, the Party and the revolution”]; **E3/4** *Revolutionary Flag*, July 1976, EN 00268917 [“smash and scatter all opposing forces, so that the country can be defended”]; **E3/135** *Revolutionary Flag*, June 1977, EN 00446862 [“Continue to sweep them clean even more strongly. Attack the enemy, sweep clean the foreign agent enemies, the embedded enemies, the class enemies”]; **E3/744** *Revolutionary Flag*, Feb 1978, EN 00464065 [“enemies of every type continue carry out activities in various forms-aggression, espionage, pressure, threat, sabotage, boring holes from within”]; **E3/170** *Revolutionary Flag*, Oct-Nov 1977, EN 00182549 [“There are concealed enemies everywhere in our ranks, the Centre, the general staffs, the zones and the bases. It would be dangerous not to take measures in time”].

¹³⁴³ **E1/181.1** Chhouk Rin, T. 22 Apr 2013, 14.13.31-14.15.57.

¹³⁴⁴ **E3/4** *Revolutionary Flag*, July 1976, EN 00268934.

348. There is another significant aspect to **Nuon Chea**'s self-admitted role as head of "education" in DK. During the DK regime, Cambodians came to fear that being "called for education," or "sent to re-education," or "called to a study session," or "asked to attend training," meant that most likely you would never be seen again.¹³⁴⁵ Khun Kim, a battalion commander in the Southwest Zone's Division 230 during the DK regime, recalls: "The people targeted were asked to attend some training sessions in Phnom Penh, and they were arrested there. **Nuon Chea** called them for reeducation in Phnom Penh."¹³⁴⁶ The Khmer Rouge gave new meanings to many words in the Khmer language;¹³⁴⁷ "education" was one of the words to be assigned a sinister new denotation.

b) *Fragile Spoons*

349. It is important to remember that it was not just CPK cadres and RAK soldiers who were killed; countless ordinary Cambodians were condemned as "internal enemies" and executed for the most trivial of reasons, such as breaking a spoon. Southwest Zone Military Commander Chhouk Rin recalled **Nuon Chea** instructing cadres in 1977 on the issue: "**Nuon Chea** explained that those who caused the damage of ploughshare, hoe, spoon and so on were considered as enemies because they wanted to destroy the Communist Party of Kampuchea."¹³⁴⁸ The issue of broken spoons was emphasised in

¹³⁴⁵ E1/253.1 Chou Koemlan, T. 27 Jan 2015, 11.04.42 ["When someone was sent for re-education, it means that person would be sent to be killed"]; E1/262.1 Ry Pov, T. 12 Feb 2015, 10.01.34 ["They didn't use the word 'being arrested,' they told us those people were sent for re-education. And we knew what would happen to them and we were very scared"]; E1/276.1 Nut Nov, T. 12 Mar 2015, 11.19.56 ["They would be arrested and never returned. And later on, when – if people ask about them, we were told that they had been sent off for re-education"]; E1/277.1 Nut Nov, T. 16 Mar 2015, 13.38.35 ["I knew that people were sent for re-education, and they disappeared"]; E1/283.1 Oem Sarocurn, T. 26 Mar 2015, 10.04.25 ["He asked for a fish, and later on, because of that he was criticized, and then sent for re-education and disappeared since"]; E1/300.1 Vong Sarun, T. 18 May 2015, 10.41.55 ["Ta Set was arrested and sent for education. I was crying after I heard this news"]; E1/310.1 Sou Socurn, T. 4 June 2015, 14.27.18 ["When I asked about their disappearance, I was told that they had been sent for study sessions"]; E1/395.1 Uch Sunlay, T. 2 Mar 2016, 09.57.05 ["They would be sent for re-education and they would disappear forever"]; E1/411.1 Sun Vuth, T. 30 Mar 2016, 14.00.07 ["I didn't know whether they were sent for education session. They said that we betrayed Angkar and they were smashed in Phnom Penh and I heard that they were sent to Tuol Sleng Prison"]; E1/416.1 Pham Van alias Kham Phan, T. 7 Apr 2016, 11.27.39 ["They had to do whatever as suggested by Angkar. If they refused, they would be sent for re-education"]; E1/469.1 Nop Ngim, T. 5 Sept 2016, 14.14.26 ["If we were to break any rule, then we would be called for study session. If we refused to sleep with one another, we would be called for education. We were afraid of that"]; E1/475.1 Mom Vun, T. 16 Sept 2016, 11.12.37 ["The three of them were sent for re-education and never returned"]; E1/494.1 2-TCW-1065, T. 2 Nov 2016, 10.54.26 ["I know that people disappeared, but I do not know where they went to... I know that they were called for education ... I just knew they disappeared from the unit"].

¹³⁴⁶ E3/360 Nuon Paet alias Khun Kim WRI, EN 00268857.

¹³⁴⁷ E3/9 Philip Short, *Pol Pot: The History of a Nightmare*, 00396532-33; E3/29 Craig Etcheson, *The Rise and Demise of Democratic Kampuchea*, EN 00393345-46.

¹³⁴⁸ E3/421 Chhouk Rin WRI, EN 00414059. See also E1/181.1 Chhouk Rin, T. 22 Apr 2013, 14.13.31 ["If anyone would break even one spoon or one plough or so, this person's position was not certain. This person would not be inclined to follow the Party's line"].

the CPK's journal *Revolutionary Flag* in 1977,¹³⁴⁹ and then again in 1978: "Enemies of every type have gone even further to wreck the people's standard of living. ... They wreck water, wreck seed rice, ... wreck ploughs and harrows, wreck digging tools, wreck spoons, plates and pots."¹³⁵⁰ Minister of Commerce Van Rith — who reported to **Khieu Samphan** — also disseminated this line, telling a meeting of his workers, "The enemy is not yet completely gone; they are still hiding and burrowing inside the party. ... They would destroy even a spoon and not just anything significant."¹³⁵¹

350. **Nuon Chea** himself described this policy to the Trial Chamber on 13 December 2011. "There were still bad elements in some of the cooperatives. They intended to destroy the cooperatives. For example they destroyed those – the utensils, for example the pots, the spoons, they destroyed them."¹³⁵² As a result, spoon-breakers were "smashed" nationwide. People were sent to Sambour District's Kok Kdauch and Koh Sam Tauch in Special Zone 505 (Kratie) for "breaking a plow, spoon, and not complying with Angkar's assignment."¹³⁵³ In the "model district" of Tram Kak in the Southwest Zone, people "who had broken a spoon or a plough were considered to be enemies."¹³⁵⁴ That testimony is confirmed by a prisoner list from Kraing Ta Chan, the Tram Kak District security office, which identifies 4 "traitorous" female prisoners whose alleged offence was to have "broken cooperative spoons in order to destroy the cooperative and make it become private again."¹³⁵⁵ According to Sector 105 Secretary Sao Sarun, people were sent to Phnom Kraol in the Northeast Zone for "small issues such as broken spoons and stuff."¹³⁵⁶ In Phnom Penh, a witness from the Tuol Tumpung state warehouses remembered, "If we ever broke even one spoon, we would be associated as the enemy."¹³⁵⁷ Amidst these widespread executions of supposedly counter-revolutionary spoon-breakers, **Nuon Chea** and **Khieu Samphan** may not have realised that the ignorant child cadres they had assigned to handicraft shops were randomly mixing

¹³⁴⁹ **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399236.

¹³⁵⁰ **E3/746** *Revolutionary Flag*, July 1978, EN 00428297.

¹³⁵¹ **E3/363** Sim Hao WRI, EN 00239069; **E1/206.1** Sim Hao, T. 12 June 2013, 14:14.25-14.18.34.

¹³⁵² **E1/21.1** Nuon Chea, T. 13 Dec 2011, 10.35.21.

¹³⁵³ **E3/7726** Nou Sok Khen WRI, EN 00272674.

¹³⁵⁴ **E3/5518** Sao Hean WRI, A42.

¹³⁵⁵ **E1/293.1** Document Hearings, T. 27 Apr 2015, 11.31.35; **E3/4083** Kraing Ta Chan Prisoner List, EN 00323975 (Nos 24-27 on the list). See also **E3/8299** Henri Locard, Tram Kak District in the Grip of the Khmer Rouge, EN 00217710.

¹³⁵⁶ **E1/411.1** Sao Sarun, T. 30 Mar 2016, 11.26.39.

¹³⁵⁷ **E1/206.1** Sim Hao, T. 12 June 2013, 14.14.25; **E1/465.1** Seng Soeun, T. 29 Aug 2016, 14.26.19.

various metals,¹³⁵⁸ creating brittle alloys that would inevitably produce fragile spoons prone to breakage.¹³⁵⁹

4. Khieu Samphan and the Search for Internal Enemies

351. **Khieu Samphan** maintains that he saw nothing, heard nothing, and knew nothing about the countrywide mass purges until after the regime collapsed.¹³⁶⁰ This contention is risible. **Khieu Samphan** became a full-rights member of the CPK Central Committee in January 1976,¹³⁶¹ months before the Central Committee decision authorising cadres to “smash” people “inside and outside the ranks” of the Party.¹³⁶² He also attended many, if not most, Standing Committee meetings,¹³⁶³ where the search for internal enemies and mass arrests were often discussed.¹³⁶⁴ **Khieu Samphan** also had daily access to the Party Centre’s telegram traffic,¹³⁶⁵ which constantly reported the execution of internal enemies all over the country.¹³⁶⁶

¹³⁵⁸ E3/5233 Chan Loeu WRI, EN 00279260-61.

¹³⁵⁹ E3/3047R Video, *Industrial Sector under the Khmer Rouge Regime*, 00:00-2:00.

¹³⁶⁰ E1/168.1 Khieu Samphan, T. 31 Jan 2013, 15.38.44 [quoting Khieu Samphan in video E109/2.3R: “I had no idea about S-21”]; E1/197.1 Khieu Samphan, T. 27 May 2013, 14.51.38 [“Why there were killings? And as I said, I cannot answer that question since I do not have any knowledge about it”]; E3/205 Letter from Khieu Samphan, 16 Aug 2001, EN 00149527 [“I had not known any decision made by the Standing Committee of the CPK to capture or execute anyone”]; E3/592 Second Open Letter of Khieu Samphan, 29 Dec 2003, EN 00002804 [“I confess that I have just known about the systematic widespread arrests recently, particularly when I watched a documentary of Mr. Rithy Panh entitled S-21: The KR’s Killing Center”]; E3/37 Khieu Samphan WRI, EN 00156753 [regarding the arrest of Doeun, Samphan’s colleague in Office 870: “I only discovered that fact after the fall of the Khmer Rouge”]; E3/210 Khieu Samphan WRI, EN 00156948 [regarding the arrests of Hu Nim and Hou Yun, “I only learned the information about the arrest of these two people after 1979”], 00156949 [“I did not know the extent or the scope of the arrests”].

¹³⁶¹ E3/18 Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103784; E1/62.1 Kaing Guek Eav, T. 10 Apr 2012, 14.31.27 [“He was a member of the Central Committee, a full fledge member”]; E1/69.1 Saloth Ban alias Loth Nitya alias So Hong, T. 26 Apr 2012, 09.09.28 to 09.11.48; E1/221.1 Stephen Heder, T. 10 Jul 2013, 14.07.35 to 14.09.08; E1/223.1 Stephen Heder, T. 15 Jul 2013, 11.08.55. See also E3/27 Khieu Samphan WRI, EN 00156751.

¹³⁶² E3/12 CPK Central Committee Decision, 30 Mar 1976, EN 00182809-14.

¹³⁶³ Of the 19 extant Standing Committee meeting minutes that list attendees, Khieu Samphan attended 16, or roughly 85% of all fully documented Standing Committee meetings. See **Annex D.5 Chart of Khieu Samphan Standing Committee Attendance**.

¹³⁶⁴ E3/232 CPK Standing Committee Minutes, 8 Mar 1976, EN 00182630-31 [“The situation in 303 ... A-Loeun’s group ... 34 persons, whom the Zone military have all already arrested ... asked for instructions from Angkar The situation in 103 ... Since January almost 100 have been arrested], 00182633 [“The enemy situation...Must concentrate on both the East and the West ... They continue to destroy us, attack us, send in spies, and conduct various activities strongly. We must be vigilant ... 100 years”].

¹³⁶⁵ E1/151.1 Phan Van, T. 11 Dec 2012, 15.48.00-15.52.18. See also E3/198 Khieu Samphan Interview, 17 Aug 2005, EN 00184680; E1/117.1 Norng Sophang, T. 29 Aug 2012, 11.50.20-11.55.36; E1/120.1 Norng Sophang, T. 3 Sept 2012, 11.02.40-11.07.15, 11.27.38, 11.32.49-11.35.56; E1/122.1 Norng Sophang, T. 5 Sept 2012, 09.13.01-09.15.02, 09.35.27-09.37.14, 09.57.51-10.02.05; E3/355 Kaing Guek Eav WRI, EN 00242874-5; E3/58 Phan Van WRI, EN 00250089.

¹³⁶⁶ E3/952 Telegram 04 from Ke Pauk to Pol Pot, 2 Apr 1976, EN 00182658-60; E3/1222 Telegram 11 from Dim to Meas Mut, 24 Sept 1976, EN 00143521-22; E3/1223 Telegram 11 from Dim to Meas Mut, 27 Sept 1976, EN 00233658; E3/1226 Telegram 17 from Dim to Mut, 8 Oct 1976, EN 00233659;

352. As Chairman of Office 870,¹³⁶⁷ **Khieu Samphan** had a hands-on role in search for internal enemies.¹³⁶⁸ The 30 March 1976 Central Committee decision delegated to Office 870 the duty to decide on smashing individuals surrounding the Central Committee.¹³⁶⁹ **Khieu Samphan** admits that a key task of Office 870 was to search for internal enemies in the top ranks of the Party,¹³⁷⁰ and he fulfilled this duty.¹³⁷¹ He

E3/1199 Telegram 11 from San to Brother 98, 6 Apr 1977, EN 00531038; **E3/876** Telegram 43 from Leu, Division 810, Political Section to Reuan, 23 Apr 1977, EN 00183714; **E3/156** Telegram 54 from Sarun, 23 Apr 1978, EN 00296220; **E3/877** Telegram 54 from Chhan to M-870, 20 May 1977, EN 00185226; **E3/1099** Telegram 05 from San, Division 920, Political Section to Brother 89, 9 June 1977, EN 00509691; **E3/956** Telegram 14 from Mo-401 to beloved Organization, 25 June 1977, EN 00776988; **E3/241** Telegram 52 from Se, Zone 801 to Com. 870, 23 Aug 1977, EN 00183627; **E3/1204** Telegram 34 from Chhan to Respected and Beloved M-870, 27 Aug 1977, EN 00590303; **E3/1206** Telegram 29 from Yi to beloved M-870, 14 Sept 1977, EN 00519520; **E3/1120** Telegram 100 from San, Mo- 560 to Nhim, 6 Nov 1977, EN 00441627-28; **E3/1208** Telegram 21 from Nhim to Angkar 870, 21 Dec 1977, EN 00539059; **E3/995** Telegram 313 from Se, North Zone Secretary to Committee 870, 19 Mar 1978, EN 00185583; **E3/1146** Telegram 32 from Ke Pauk to Committee 870, 29 Mar 1978, EN 00208256; **E3/1078** Telegram 46 from Sarun to M-870, 9 Apr 1978, EN 00361189; **E3/1077** Telegram 324 from Se, North Zone Secretary to Committee 870, 10 Apr 1978, EN 00340539; **E3/871** Telegram 21 from Chhouk to Pol Pot, 21 Mar 1976, EN 00185241; **E3/874** Telegram 50 from Hang to Beloved and Missed Brother, 18 July 1976, EN 00185060; **E3/1023** Telegram 11 from Chhon, 10 Sept 1976, EN 00305247; **E3/1223** Telegram 12 from Deum to Meas Muth, 27 Sept 1976, EN 00897638; **E3/1225** Telegram 16 from Dim to Meas Mut, 6 Oct 1976, EN 00233657; **E3/1196** Telegram 33 from Chhan to Office 870, 26 Nov 1976, EN 00506647; **E3/1119** Telegram 84 from Nhim to Ankar 870, 20 Oct 1977, EN 00434858; **E3/918** Telegram 254 from Sae to Committee 870, 10 Jan 1978, EN 00182758; **E3/1122** Telegram 69 from Vi to Respected Brother, 11 Jan 1978, EN 00436992; **E3/995** Telegram 313 from Se, North Zone Secretary to Committee 870, 19 Mar 1978, EN 00185583; **E3/1116** Telegram 61 from Roath to Brother, 1 Apr 1978, EN 00434868-69; **E3/1077** Telegram 324 from Se, North Zone Secretary to Committee 870, 10 Apr 1978, EN 00340539-40; **E3/935** Telegram 08 from Vy, Northeast Zone Secretary to Brother, 21 Apr 1978, EN 00348086-87; **E3/950** Telegram 242 from Nhim to Ankar 870, 11 May 1978, EN 00185215-16; **E3/873** Telegram 63 from Nhim to Angkar 870, 15 June 1978, EN 00185225.

¹³⁶⁷ **E1/66.1** Saloth Ban, T. 23 Apr 2012, 14.14.04-14.19.51; **E1/69.1** Saloth Ban, T. 26 Apr 2012, 09.27.48-09.30.14, 09.34.53-09.38.12 ["When Doeun disappeared, Brother Khieu Samphan came to take Doeun's place in charge of managing staff"]; **E1/97.1** Rochoem Ton, T. 26 July 2012, 15.50.30-15.53.04, 15.57.37-16.00.28; **E1/98.1** Rochoem Ton, T. 30 July 2012, 15.12.07-15.16.46; **E1/101.1** Rochoem Ton, T. 2 Aug 2012, 11.48.16-11.50.42; **E3/456** Kaing Guek Eav WRI, EN 00198882 ["I think that from this arrest (Doeun) onwards, he effectively became the Head of Office 870...not a promotion, just an additional task...the way Nuon Chea took Son Sen's position at S-21 when Son Sen had to leave"]; **E3/355** Kaing Guek Eav WRI, EN 00242874 ["Khieu Samphan became Secretary of the Office 870 Committee when Soeu Vasi became minister of commerce"]; **E3/356** Kaing Guek Eav WRI, EN 00242904 ["Khieu Samphan was the Secretary of the Office 870 committee"]; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002760 ["In early 1977 Khieu Samphan received a promotion: he replaced Deuan as Office 870 Chairman...the Party Secretary ... could have more confidence in the conscientiousness of Khieu Samphan as regards purge work"]; **E3/24** Phy Phoun WRI, EN 00223584.

¹³⁶⁸ **E3/20** Elizabeth Becker, *When the War was Over*, EN 00238128-29 ["The head of Cambodia's rubber plantation had been ... treated to a sumptuous dinner by Khieu Samphan, the head of state, and then immediately taken off to Tuol Sleng"]; **E3/63** Phy Phoun WRI, EN 00231411.

¹³⁶⁹ **E3/12** CPK Central Committee Decision, 30 Mar 1976, EN 00182809; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.29.12 ["'Surrounding the Centre Office, to be decided by the Central Office Committee,' here, it refers to Khieu Samphan, who made such a decision as set forth in this paragraph"]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 11.52.07-11.56.35; **E3/15** Kaing Guek Eav WRI, EN 00251378; **E1/189.1** Philip Short, T. 6 May 2013, 13.56.56-14.00.09 [regarding the 30 March 1976 Central Committee document, "I'm quite sure that both Mr. Khieu Samphan and certainly Mr. Nuon Chea were very well aware of what was in this document"].

¹³⁷⁰ **E3/37** Khieu Samphan WRI, EN 00156754 ["[Office 870] had only two members, Doeun and me. Doeun was the Chairman, assisted by colleagues such as Pang and he was in charge of political affairs"],

personally investigated a dispute between West Zone Secretary Chou Chet alias Si and his deputy, Phal,¹³⁷² as a result of which Chou Chet was sent to S-21.¹³⁷³ **Khieu Samphan** was also present at the meeting where the decision was made to purge East Zone Secretary So Phim and other East Zone leaders.¹³⁷⁴

353. Another of **Khieu Samphan's** key roles during the DK regime was to exhort CPK cadres to seek out and destroy internal enemies.¹³⁷⁵ **Samphan** told a mass meeting at Borei Keila that Pang had been "arrested and taken away" as a traitor,¹³⁷⁶ and warned cadres not to follow his example.¹³⁷⁷ Also at Borei Keila, **Khieu Samphan** lectured 2,000 cadres about how Base People and New People¹³⁷⁸ as well as Party members¹³⁷⁹ should be screened to identify "infiltrated enemies," explaining how cadres should

00156756 ["At first this office was not so important, but at a later stage it gained in importance, because it was tasked to monitor suspected members of the party for the standing committee"]; **E1/326.1** Om Chy, T. 30 July 2015, 13.23.59 ["At that time there was a directive from Office 870 that the security centre had been relocated from that pagoda"]; 13.48.42 ["The directive came from ... Office 870 regarding the pardon being granted to those who had allegedly been CIA and KGB networks"]; **E1/354.1** Ban Seak, T. 6 Oct 2015, 13.44.50 [regarding the circular announcing the purported end of purges, "He told me that document was from the upper echelon perhaps Office 870"]; **E1/448.1** Moeng Vet, T. 26 July 2016, 15.43.55 ["The letter indicated that M-870 invited them to work in Phnom Penh ... they never returned"].

¹³⁷¹ **E1/191.1** Philip Short, T. 8 May 2013, 09.47.42-09.49.37 [regarding the search for internal enemies, "That is very much in Khieu Samphan's role. He was trusted. He was someone in whom Pol Pot had confidence"]; **E1/192.1** Philip Short, T. 9 May 2013, 14.08.23-14.11.34, 14.38.45-14.42.32.

¹³⁷² **E1/55.1** Kaing Guek Eav, T. 28 March 2012, 15.27.22-15.29.05 ["When Chou Chet was to be arrested, the decision was made in the meeting, and at that time Pol Pot did not ask Vorn Vet to attend the meeting but he invited Brother Hem...instead of Brother Vorn"]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 09.16.52-09.24.31 ["Pang told me that on that day Vorn was in his office, but Brother Pol, instead, asked him to invite Brother Hem"]; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002771 ["This was evidently an allusion to the investigation he conducted in the West Zone in August 1977, and Pol Pot's resulting decision to kill Zone Secretary Chou Chet"], EN 00002761 ["To assist Pol Pot in the conduct of the general purge, Office 870 Chairman Khieu Samphan was dispatched to the West Zone in August 1977 to conduct an investigation into the confused situation it had provoked there"]; **E3/453** Kaing Guek Eav WRI, EN 00147584 ["Chhim Som Aok *alia* (sic) Pang told me that Khieu Samphan attended a meeting with the Standing Committee of the Central Committee on the issue of arresting Chou Chet alias Si, Chairman of the West Zone"]; **E3/61** Kaing Guek Eav WRI, EN 00195578 ["As regards Chou Chet ... That is how I learned that Khieu Samphan had participated in the meeting"].

¹³⁷³ **E3/1682** S-21 Confession of Chou Chet alias Si, EN 00185069-182, 00818951-9084; **E3/10604** OCIJ S-21 Prisoner List, Chou Chet alias Si, EN 01222907, No. 14142.

¹³⁷⁴ **E3/48** Stephen Heder and Brian Tittmore, *Seven Candidates for Prosecution*, EN 00393581; **E3/542** Nate Thayer, *Death in Detail*, EN 00002207.

¹³⁷⁵ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419517 ["We must uphold our spirit of revolutionary vigilance at all times against the enemies from all quarters, both at home and abroad"]; **E1/205.1** So Socheat, T. 11 June 2013, 11.20.32 ["In the office they spoke about being vigilant and not to reveal secrecy because there were enemies who were attempting to destroy us and for that reason we had to be vigilant"].

¹³⁷⁶ **E1/217.1** Ek Hen T. 3 July 2013, 11.26.06-11.28.02, 11.30.15-11.33.02; **E3/474** Ek Hen WRI, EN 00205049-50.

¹³⁷⁷ **E1/217.1** Ek Hen, T. 3 July 2013, 11.30.15.

¹³⁷⁸ **E1/113.1** Em Oeun, T. 23 Aug 2012, 15.45.33-15.51.23.

¹³⁷⁹ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.23.53-11.27.47 [Khieu Samphan "emphasized strongly" that "infiltrated enemies" had to be identified.].

work to uncover traitors.¹³⁸⁰ He urged cadres to “continue to fight and suppress all stripes of enemy at all times.”¹³⁸¹ The DK Head of State took to DK state radio calling on cadres to “exterminate resolutely ... all CIA agents.”¹³⁸² He also demanded that cadres “radically eliminate forever ... all enemy.”¹³⁸³ He warned that people who were pretending to be sick were betraying the Party and should be monitored.¹³⁸⁴ Days after the arrest of his old friend, Minister of Information Hu Nim, **Khieu Samphan** called for cadres to “wipe out the enemy ... neatly and thoroughly.”¹³⁸⁵

354. **Khieu Samphan** celebrated and defended the mass extermination of internal enemies — even children who were declared to be enemies. Of the children killed at S-21, he said, “A few youngsters is not a reason to erase and reject an entire period of history!”¹³⁸⁶ Asked by Expert Stephen Heder if any innocent people had been executed, **Khieu Samphan** was categorical: “No, none.”¹³⁸⁷ **Khieu Samphan** said “less than half in the Central Committee, but nearly half in the Standing Committee” had been internal enemies.¹³⁸⁸ Even as members of the Central and Standing Committees were being arrested, **Khieu Samphan** maintained that the confidence of other members (including himself) in Pol Pot “did not waver.”¹³⁸⁹ **Khieu Samphan** trusted Pol Pot, and to hear **Khieu Samphan** tell it, that trust was mutual: “Pol Pot trusted me, I am telling you.”¹³⁹⁰

¹³⁸⁰ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.21.47 [Khieu Samphan explained how “to uncover the traitors of the Revolution and the infiltrated enemies”].

¹³⁸¹ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419513.

¹³⁸² **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563. See also **E1/120.1** Norng Sophang, T. 3 Sept 2012, 15.06.26-15.09.16 [“I used to listen to the statement made by Mr. Khieu Samphan. It was done on the 31st of December 1977 through the National Radio of Democratic Kampuchea broadcast”].

¹³⁸³ **E3/169** Khieu Samphan Speech, 17 Apr 1978, EN 00280392.

¹³⁸⁴ **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.37.54-14.40.59.

¹³⁸⁵ **E3/201** Khieu Samphan Speech, 15 April 1977, EN 00419513; **E3/3512** Ben Kiernan, *Don’t Blame Me, It Was My Prime Minister*, EN 00080475 [“Samphan was not so quiet about the fate of Hu Nim, a leftist parliamentarian, who unlike Samphan, protested DK policies and was arrested in April 1977. Nim’s torturer reported: ‘we whipped him four or five times to break his stand, before taking him to be stuffed with water’”].

¹³⁸⁶ **E3/4201R** Video, *Facing Genocide: Khieu Samphan and Pol Pot*, 01.14.15-01.14.42.

¹³⁸⁷ **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002771 [Steve Heder asked Khieu Samphan if any purged cadre were innocent – “Q: As far as you know, there weren’t any cases where somebody innocent was accused? A: No. Q: Not a single one? A: No, none. Q: So everybody who was executed was in fact a traitor? A: Yes, as far as I can grasp”].

¹³⁸⁸ **E3/203** Khieu Samphan Interview, EN 00424014.

¹³⁸⁹ **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103754-55. See also **E3/210** Khieu Samphan WRI, 14 Dec 2007, EN 00156949 [“In relation to the disappearance of the members of the central committee and the standing committee, everyone seemed to approve, but I did not know the extent or the scope of the arrests” (*emphasis added*)].

¹³⁹⁰ **E289.1.1** Khieu Samphan Interview Transcript, Aug 2007, EN 00923077; **E1/205.1** So Socheat, T. 11 June 2013, 10.59.35 to 11.02.40; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 11.36.15-11.48.30 [“Khieu Samphan headed the Central Office under the supervision of Pol Pot and he was the student of Pol Pot”]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396544 [“Pol placed growing trust in [Khieu Samphan]”].

Khieu Samphan had earned Pol Pot's trust by fully cooperating in the campaign to eliminate all possible rivals to Pol Pot's leadership.

5. False Defence Narratives

a) *Division 310*

355. On 20 September 2016, one of **Nuon Chea's** lawyers told a witness that he was going to read from the account of another Division 310 soldier to see if this "would somehow revive your memory." The portion of the WRI read to the witness stated:

One day I was called to a meeting at Wat Phnom where Ta Yim, the battalion chairman, made an announcement to the combatants of Battalion 306 regarding plans to carry out a coup. He said that at 3 a.m. we would open fire and attack and take the radio station near Wat Phnom in order to make an announcement. That night suddenly Ta Oeun, Ta Sinuon, the former battalion 306 commander, along with Oeun who was at the Ministry of Commerce at the time, Ta Ban, regimental chairman and Ta Yim, battalion chairman were called by the upper echelon of your organization to a meeting and then disappeared.¹³⁹¹

356. In fact, however, there is no evidence that there was ever a unit designated as Battalion 306 as part of Division 310.¹³⁹² Further, there is no record of any Division 310 commanders with the given names or aliases of Sinuon or Ban.¹³⁹³ There is no S-21 record of any Division 310 cadre with the given name or alias of Sinuon.¹³⁹⁴ There is no S-21 record of any Division 310 regimental commander with the given name or alias of Ban.¹³⁹⁵ There was, however, a Tep Ol alias Yim who was Secretary of Battalion 132.¹³⁹⁶ **Nuon Chea's** reliance on such implausible evidence is indicative of the fact that there is no credible evidence to support the regime's paranoid justifications for its extrajudicial execution campaign.
357. Other Defence arguments concerning Division 310 further reinforce this record of confabulation and confusion. The **Nuon Chea** Defence claims that they have ten "Division 310 combatants who say the same thing" regarding the purported coup plot

¹³⁹¹ E1/477.1 Sem Om, T. 20 Sept 2016, 14.12.22.

¹³⁹² See **Annex D.6** Chart of Division 310 Organisation Prior to Purge.

¹³⁹³ See **Annex D.6** Chart of Division 310 Organisation Prior to Purge. See also **E3/10604** OCIJ S-21 Prisoner List.

¹³⁹⁴ See **E3/10604** OCIJ S-21 Prisoner List.

¹³⁹⁵ See **E3/10604** OCIJ S-21 Prisoner List.

¹³⁹⁶ **E3/1585** List of Participants – 1st General Staff Training, 20 Oct 1976, EN 00897651 [Yim is listed at No. 31]; **E3/3858** S-21 Names of Prisoners Executed on 12 May 77, EN 00837624 [Tep Ol is listed at No. 132]; **E3/2286** Names of Prisoners Smashed on 12 May 1977, EN 00873403 [Tep Ol alias Yim is listed at No. 132]; **E3/10604** OCIJ S-21 Prisoner List, EN 01222427 [Tep Ol is listed at No. 2366].

by Division 310 Secretary Oeun.¹³⁹⁷ Former Division 310 soldier Suoy Sao told DC-Cam, regarding Oeun's supposed coup plot, "First he called us for a secret meeting and instructed us that he planned to attack Phnom Penh," and that "I took a truck full of weapons to meet him in Phnom Penh in the preparation to attack Phnom Penh."¹³⁹⁸ But then Suoy Sao told the Trial Chamber, "I did not attend the meeting," and that "I myself did not transport the weapons."¹³⁹⁹ Witness Sem Hoeun alias Kim was similarly incoherent, telling the Trial Chamber that "Oeun wanted to create a movement to fight again and liberate the Democratic Kampuchea",¹⁴⁰⁰ but that "As for Oeun, I did not know whether he had any plan to betray Angkar."¹⁴⁰¹ Witness Keo Loeur also failed to shed useful light on the matter, testifying to the Trial Chamber about Oeun's purported meeting to announce the coup plot, "I heard it during the meeting. He said that the regular force soldiers would be sent to the front battlefield ... in order for us to overthrow the DK regime by attacking Phnom Penh."¹⁴⁰² Keo Loeur then explained that in fact he did not attend any meeting with Oeun discussing a coup: "I did not know about the meeting held at the divisional level ... I only knew about the other matters after we were instructed to listen to the tape" of Oeun's S-21 forced confession.¹⁴⁰³ Sem Om alias Prum Iet testified that "The messenger told me there was a planned coup,"¹⁴⁰⁴ basing his knowledge on the claim that "I read their documents secretly."¹⁴⁰⁵ Upon further examination regarding these alleged "secret" coup plan documents, however, Sem Om revealed that in fact "I did not read it"¹⁴⁰⁶ ... I did not know of their concrete plan or whether they were involved in any traitorous plot ... They never held any meeting that information about the toppling of the government was disseminated."¹⁴⁰⁷

358. **Nuon Chea's** counsel gathered up his best evidence regarding the purported coup plot by Division 310 Secretary Oeun and others, and placed it before Witness Kaing Guek Eav alias Duch who, of course, had been in charge of uncovering anti-CPK plots during the DK regime.¹⁴⁰⁸ Duch's response after hearing all this "evidence" was to conclude,

¹³⁹⁷ E1/443.1 Kaing Guek Eav, T. 23 June 2016, 14.10.15.

¹³⁹⁸ E3/7535 Suoy Sao DC-Cam Statement, EN 00324168.

¹³⁹⁹ E1/460.1 Suoy Sao, T. 18 Aug 2016, 13.36.00.

¹⁴⁰⁰ E1/319.1 Sem Hoeun alias Kim, T. 22 June 2015, 13.58.33.

¹⁴⁰¹ E1/319.1 Sem Hoeun, T. 22 June 2015, 13.56.23.

¹⁴⁰² E1/316.1 Keo Loeur, T. 15 June 2015, 11.02.41-11.05.30.

¹⁴⁰³ E1/317.1 Keo Loeur, T. 16 June 2015, 09.20.16.

¹⁴⁰⁴ E1/478.1 Sem Om, T. 21 Sept 2016, 09.15.25.

¹⁴⁰⁵ E3/7523 Sem Om DC-Cam Statement, EN 00875575; E1/478.1 Sem Om, T. 21 Sept 2016, 11.06.45.

¹⁴⁰⁶ E1/478.1 Sem Om, T. 21 Sept 2016, 09.15.25.

¹⁴⁰⁷ E1/478.1 Sem Om, T. 21 Sept 2016, 11.09.50.

¹⁴⁰⁸ E1/443.1 Kaing Guek Eav, T. 23 June 2016, 13.53.23.

"Allow me to be frank with you. These statements are just surreal and they do not seem to be a concrete plan for a coup d'état at all. I do not believe these statements, not at all."¹⁴⁰⁹ Thus it is clear that **Nuon Chea's** counsel is correct; the witnesses upon whom he relies to demonstrate Oeun's betrayal do indeed provide similar stories of resistance to the Centre, which is not surprising since the regime made every effort to justify to Division 310 soldiers the executions of their commanders by playing tapes of Oeun's S-21 "confession" to mass meetings.¹⁴¹⁰ However, the coup accounts are incoherent and self-contradictory. Witness Sam Hoeun said that as part of a plot for a coup against the centre leadership he transported weapons from Phnom Penh to Kampong Cham. That makes no sense, since for any coup attempt weapons would be needed in Phnom Penh, and at that time Ke Pauk's Central Zone forces (which were favourites of the Centre, and used to conduct the purges) controlled Kampong Cham. It would make more sense that weapons were sent to the eastern city of Kampong Cham because this was close to the border and key battlefields with Vietnam.

359. Given the infamous reputation of Pol Pot in Cambodian society today, it is not at all surprising that former RAK soldiers would now claim that they in fact were part of a resistance force. It seems much more likely that those who claim they "knew" of Oeun's coup plan learned of it only when Son Sen played a tape of Oeun's S-21 forced confession for Division 310 troops.¹⁴¹¹
360. Oeun's actions before his arrest would hardly make sense for someone plotting against the CPK leadership. He reported to Defence Minister Son Sen at the 19 September 1976 General Staff meeting that he was engaged in a "strong internal struggle" with enemies inside Division 310. "Part of the Party members and cadres are not yet loyal and are looking to betray the Party, unsatisfied and unhappy with the Four Year Plan of the Party," Oeun told Son Sen.¹⁴¹² It makes no sense for someone planning to lead his

¹⁴⁰⁹ E1/443.1 Kaing Guek Eav, T. 23 June 2016, 14.26.44.

¹⁴¹⁰ E1/319.1 Sem Hoeun, T. 22 June 2015, 09.54.41-09.56.26.

¹⁴¹¹ E3/1891 S-21 Confession of Sbaun Him alias Oeun; E1/318.1 Sem Hoeun, T. 17 June 2015, 15.57.46 ["they said that our commanders were part of a traitorous network and they were traitors and so were the rest of us. That's what we were told"]; E1/319.1 Sem Hoeun, T. 22 June 2015, 09.54.41- 09.56.26 ["I only knew that he probably was being severely mistreated from the voice he spoke"]; E1/316.1 Keo Loeur, T. 15 June 2015, 11.00.40 ["I heard through the confession from S-21"]; E1/317.1 Keo Loeur, T. 16 June 2015, 09.20.16 ["I only knew about the other matters after we were instructed to listen to the tape"]; E3/5149 Sem Om WRI, EN 00205044 ["In about late 1976, during a meeting of about 1,000 soldiers in Phnom Penh, Ta Khieu announced, 'Your mothers and fathers have all been killed.' Then they played a tape recording of Ta Oeun. I heard the sounds of a chain, and heard the voice of Ta Oeun talking, describing his personal history when he betrayed the Party"].

¹⁴¹² E3/810 RAK General Staff Meeting Minutes, 19 Sept 2016, EN 00195344-45.

forces against the regime to notify the Centre that it should be on the lookout for enemies from this same unit. Prior to this meeting, only a handful of Division 310 personnel had been arrested by S-21.¹⁴¹³ After having been warned by Oeun, Son Sen immediately assigned his assistant, Ren, to work with Oeun on monitoring internal enemies in Division 310. "I was instructed to observe and monitor the internal activities, as well as the external activities," Ung Ren explained to the Trial Chamber, "and whether those people in the unit abided by the discipline."¹⁴¹⁴ With Ren's assistance, Oeun was able to identify numerous "internal enemies,"¹⁴¹⁵ and the number of Division 310 arrests escalated dramatically.¹⁴¹⁶ At least 177 Division 310 cadres were arrested and sent to S-21 *before* the purge of the Division leaders that began on 17 February 1977;¹⁴¹⁷ these included Regiment 12 Deputy Secretary Uk On alias Nan,¹⁴¹⁸ Regiment 13 Member Chun¹⁴¹⁹ and Division Assistant Meas Samy,¹⁴²⁰ all of whom were arrested on 10 or 11 December 1976, two months before Oeun. For someone who was supposedly planning a coup d'etat, Oeun was certainly active in assisting the Party Centre to purge "internal enemies" within his own unit of organisation. In summary, the totality of the evidence placed before the Chamber conclusively refutes the Defence allegation that Division 310 personnel led by Oeun were actively involved in plots to overthrow the DK regime. Even if the regime's paranoia were to prove justified, it still would provide no legal justification for the tortures and extrajudicial executions the regime carried out against Division 310 personnel it suspected of disloyalty.

b) Purge of the Northwest Zone

361. The evidence also does not support the Defence contention that Ros Nhim was an autonomous "warlord" who acted independently and without the knowledge of the Party Centre,¹⁴²¹ or that Nhim was conspiring against or in conflict with Pol Pot, **Nuon Chea**, and **Khieu Samphan**. The surviving telegrams and reports that were sent by Ros

¹⁴¹³ See **Annex F.2** Figure 2.4, *RAK Division 310 Arrests by Month at S-21*, p. 16.

¹⁴¹⁴ **E1/158.1** Ung Ren, T. 10 Jan 2013, 10.16.52.

¹⁴¹⁵ **E3/1131** Ung Ren, RAK General Staff Report, "Reporting about working with Bang Oeun of Division 310," 25 Nov 1976, EN 00233968.

¹⁴¹⁶ See **Annex F.2** Figure 2.4, *RAK Division 310 Arrests by Month at S-21*, p. 16. See also **E3/10604** OCIJ S-21 Prisoner List.

¹⁴¹⁷ **E3/10604** OCIJ S-21 Prisoner List.

¹⁴¹⁸ **E3/10604** OCIJ S-21 Prisoner List, EN 01222564, No. 6002.

¹⁴¹⁹ **E3/10604** OCIJ S-21 Prisoner List, EN 01222332, No. 83.

¹⁴²⁰ **E3/10604** OCIJ S-21 Prisoner List, EN 01222530, No. 5127.

¹⁴²¹ **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 15.11.54 ["Secretary of all Zones across the country were members of the Central Committee and they were under the order of the secretary and the first deputy secretary of the Central Committee"].

Nhim to the Party leaders in Phnom Penh clearly show a supervisory relationship in which the Zone leader reported in detail to the Centre on the enemy situation in his region, and sought direction and instructions on how to implement the Party lines.¹⁴²² For example, on 24 December 1977, he wrote to ask for Angkar's decision on whether or not to attack a location at which enemies associated with super-traitor In Tam were present.¹⁴²³ Alleged "warlord" Nhim wrote to Office 870 to ask if Son Sen could "recommend a few experts to teach us how to shoot aircrafts,"¹⁴²⁴ deferred to *Angkar* for a decision regarding the building of a dam¹⁴²⁵ and sent a "large van" of oranges to the leaders in Phnom Penh.¹⁴²⁶ In May 1978, following a "meeting with *Angkar*," Nhim reported that he was trying to implement "the recommendations of 870" by being "more highly vigilant" in efforts to "smash invasive enemies" and "successively sweep all destructive elements."¹⁴²⁷

362. Ros Nhim openly talked to **Nuon Chea** about killings of enemies in the Northwest Zone, including the arrest and execution of **Nuon Chea's** uncle Sieu Heng, a former leader of the Khmer People's Revolutionary Party who defected to the government in 1958 and later became a major in the Lon Nol army.¹⁴²⁸ Moreover, according to Ieng Sary and others, Ros Nhim was promoted to become an alternate member of the CPK Standing Committee.¹⁴²⁹ This demonstrates that his relationship with the Centre was becoming stronger, not strained, at least from his own perspective.

¹⁴²² **E3/179** Report from M-560 to Angkar, 29 May 1977, EN 00183010-18; **E3/1179** Report from M-560, 8 June 1977, EN 00583917-21; **E3/1183** Weekly Reports from M-560 to Angkar, Aug 1977, EN 00574570-73; **E3/570** Telegram from Nhim to Angkar 870, 12 Aug 1977, EN 00335204 ["It is up to Angkar to decide on this matter"]; **E3/883** Telegram from Nhim to Angkar 870, 27 Aug 1977, EN 00185185-86; **E3/1119** Telegram from Nhim to Angkar 870, 20 Oct 1977, EN 00434858 ["I would like to seek approval from Angkar"]; **E3/1208** Telegram from Nhim to Angkar 870, 21 Dec 1977, EN 00539059; **E3/910** Telegram from Nhim to Angkar 870, 24 Dec 1977, EN 00182781 ["How Angkar will decide if our brothers and sisters request to attack this location?"]; **E3/950** Telegram from Nhim to Angkar 870, 11 May 1978, EN 00185215-16; **E3/1013** Telegram from Nhim to Office 870, 10 Mar, EN 00337466.

¹⁴²³ **E3/910** Telegram from Nhim to Angkar 870, 24 Dec 1977, EN 00182781.

¹⁴²⁴ **E3/1013** Telegram from Nhim to Office 870, 10 Mar, EN 00337466.

¹⁴²⁵ **E3/570** Telegram from Nhim to Angkar 870, 12 Aug 1977, EN 00335204.

¹⁴²⁶ **E3/1208** Telegram from Nhim to Angkar 870, 21 Dec 1977, EN 00539059.

¹⁴²⁷ **E3/950** Telegram from Nhim to Angkar 870, 11 May 1978, EN 00185215-16.

¹⁴²⁸ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757531, 00757551-52 ["Rhos Nhim later told Nuon Chea about Sieu Heng's arrest"].

¹⁴²⁹ **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417600; **E3/459** Saloth Ban alias So Hong WRI, EN 00223595; **E3/1714** Masato Matsushita and Stephen Heder, *Interviews with Kampuchean Refugees at Thai-Cambodia Border*, EN 00170749; **E3/4** Carl Jackson, *Cambodia 1975-1979*, EN 00105141, 00105151; **E3/494** Craig Etcheson, *Written Record of Analysis*, 18 July 2007, EN 00142830; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396669.

363. The statements and testimony of Toat Thoeun establish that the rift between Ros Nhim and the Party Centre occurred in 1978, and was the result of the Party Centre's purge and arrest of the cadres from the Northwest Zone. Specifically, Toat Thoeun testifies that he fled to the jungle and organised forces to fight against Pol Pot and **Nuon Chea** in April 1978 *because* Pol Pot, **Nuon Chea**, and the Party Centre leaders were arresting and killing the cadres in his Zone.¹⁴³⁰ Pol Pot and **Nuon Chea** had begun undermining the Northwest Zone in late 1976, ordering Nhim to accept 500 to 600 armed Southwest Zone cadres who then seized control of the Northwest Zone's cooperative echelon.¹⁴³¹ S-21 records confirm that over 1,200 Northwest Zone cadres were detained and executed at the security office that reported directly to the CPK leadership in Phnom Penh,¹⁴³² with the vast majority of those arrests taking place between July 1977 and March 1978, months before Ros Nhim's arrest.¹⁴³³ Toat Thoeun also makes clear that his opposition to Pol Pot was resisted by Ros Nhim, and that it was only shortly before his own arrest that Nhim informed the witness he finally realised that "Nuon Chea had betrayed us."¹⁴³⁴ Ros Nhim never organised any resistance, never fled the country and was in the end arrested and taken to S-21 without incident. As Toat Thoeun responded to a question from Thet Sambath about whether Ros Nhim had plotted to fight against Pol Pot, "if he had the obvious idea to oppose Pol Pot, he would not stay until he was killed."¹⁴³⁵
364. In regards to the relationship that existed between Ros Nhim and the Party Centre as of 1975, Toat Thoeun's statement supports the conclusion of the Trial Chamber that Nhim reported to, received instructions from and was acting in concert with the Party Centre. Toat Thoeun described his role as a messenger who on a monthly basis delivered communications from Ros Nhim to Phnom Penh, where he would receive letters to deliver back to Nhim.¹⁴³⁶ He stated that the Party Centre's monthly publication

¹⁴³⁰ **F1/3.1** Toat Thoeun, T. 6 July 2015, 14.47.15. *See also* **E3/9610** Toat Thoeun WRI, EN 00974022 ["Pol Pot called my group the White Khmer ... I myself established this group when I knew that I would be arrested"].

¹⁴³¹ **E3/9477** Son Em WRI, A31.

¹⁴³² **F1/3.1** Toat Thoeun, T. 6 July 2015, 15.28.09; **E3/9610** Toat Thoeun WRI, A31 ["When I returned from China, I knew that there was a security centre at Wat Kandal in Battambang provincial town. That security centre was under the direct control of the Centre, not under the control of the zone"].

¹⁴³³ **E3/531** S-21 Prisoners coming from the Northwest Zone, EN 0033797-847.

¹⁴³⁴ **E3/9610** Toat Thoeun WRI, A35; **E3/3989** S-21 Confession of Muol Sambath alias Ros Nhim, 14 June 1978, EN 00780859-91 [S-21 records establish that Nhim was arrested in June 1978].

¹⁴³⁵ **E3/10665** Toat Thoeun Statement, EN 01156823, 01:51:32:18.

¹⁴³⁶ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 13.50.23-13.55.12 [Chhim Sam Aok alias Päng was the Chairman of S-71, the administrative arm of Office 870, and he reported to Pol Pot and Nuon Chea];

Revolutionary Flag was received by the zone office and distributed to the sectors.¹⁴³⁷ He also established the responsibility of the Party Centre for deportations to Vietnam in 1975, describing how he was asked by Nhim to take a group of Khmer Krom people from Battambang to Vietnam via Phnom Penh, where he was to meet S-71 Chairman Pang and follow Pang's instructions on what to do from there.¹⁴³⁸

365. Toat Thoeun's statements and testimony do not support the Defence assertion that Zone Secretary Ros Nhim acted autonomously in committing crimes in the Northwest Zone. Instead, they demonstrate that the crimes committed in that zone were directed by the Party Centre. When asked by one of the Supreme Court judges about any policy in the zone about the treatment of Lon Nol soldiers, Toat Thoeun responded, "The policy was to smash all former imperialists and was to smash the former feudalists."¹⁴³⁹ When asked if this was the policy of Ros Nhim or someone else, he responded, "It was the policy of the upper echelon."¹⁴⁴⁰
366. In relation to the purge of the Northwest Zone, Thoeun stated that arrest orders were issued by the Centre and carried out by security guards from Office 870.¹⁴⁴¹ He stated that Ta Mok's forces from the Southwest Zone were known as the "Army of the Centre."¹⁴⁴² He also described how cadres disappeared after being called to attend study sessions in Phnom Penh.¹⁴⁴³ As late as November 1977, Son Sen was still sending S-21

E1/61.1 Kaing Guek Eav, T. 9 Apr 2012, 10.03.41-10.06.02; **E1/72.1** Pean Kean, T. 3 May 2012, 09.59.12-10.02.41; **E3/9610** Toat Thoeun WRI, A125-126 ["I delivered letters from Ta Ruos Nhim to a Pang in Phnom Penh ... I delivered letters to him near the front of the Royal Palace ... When I arrived at that house, I telephoned Pang, and Pang came to receive the letters from me"]; **E3/355** Kaing Guek Eav WRI, EN 00242874; **E3/67** Norng Sophang WRI, EN 00483967-68; **E3/43** Noem Sem WRI, EN 00365659; **E3/64** Norng Sophang WRI, EN 00334047-49 [Pang resided at and oversaw K-7, the Party Centre messenger office on the riverside near the Royal Palace, to which all letters from the Zones were delivered.]; **E3/24** Rochoem Ton alias Phy Phuon WRI, EN 00223584; **E3/464** Tha Sot WRI, EN 00226110-11 [states that Pang regularly met with Khieu Samphan]; **E3/33** Oeun Tan WRI, EN 00235131; **E3/2766** Map Showing Location of K-7 Messenger Unit in Phnom Penh, EN 00429179.

¹⁴³⁷ **E3/9610** Toat Thoeun WRI, A135-138.

¹⁴³⁸ **E3/9610** Toat Thoeun WRI, A158-165 ["Nhim had told me to take the Khmer Kampuchea Krom to see Pang, and to follow what Pang told me to do"].

¹⁴³⁹ **F1/3.1** Toat Thoeun, T. 6 July 2015, 16.45.52-16.47.32.

¹⁴⁴⁰ **F1/3.1** Toat Thoeun, T. 6 July 2015, 16.49.53-16.52.19.

¹⁴⁴¹ **E3/9610** Toat Thoeun WRI, A15 ["Ruos Nhim told me that he was not aware of the arrest as the arrest had been made by the Centre"], A31 ["I asked Ta Nhim why he allowed all of his subordinates to be arrested. I told him that after all of his subordinates were arrested, it would be his turn. He told me that it was not he who issued the arrest orders, but those orders were issued from the Centre and that security guards from Office 870 were responsible for implementing the arrest orders"].

¹⁴⁴² **E3/9610** Toat Thoeun WRI, A46.

¹⁴⁴³ **E3/9610** Toat Thoeun WRI, A21 ["those committee cadres were called to attend educational sessions in Phnom Penh, and never returned; later, new cadres from the Southwest Zone came to take charge of the sector"], A31 ["Those cadres were called to attend meetings in Phnom Penh, and one week later, it was announced that those cadres had been arrested"], A32 ["All of them were called to attend educational

confessions to Ros Nhim, with Nhim responding by arresting cadres and sending them to S-21.¹⁴⁴⁴ If Ros Nhim were actually one of the leaders of a planned rebellion that had the support of other zones and members of the Centre, he certainly would not have cooperated with Pol Pot and **Nuon Chea** from mid-1977 to mid-1978, helping them arrest Northwest Zone cadres who were part of this purported plot.¹⁴⁴⁵

c) The East Zone Massacre

367. The single bloodiest frenzy of killing by the CPK Party Centre was perpetrated in the East Zone, claiming as many as a quarter million lives.¹⁴⁴⁶ “There were, as I recall,” **Nuon Chea** casually commented before the Trial Chamber, “roughly 250,000 enemies residing in the East.”¹⁴⁴⁷ In meetings to prepare for this massive purge, “Nuon Chea spoke of ‘cleansing the Party ranks.’”¹⁴⁴⁸ Using East Zone Deputy Secretary Seng Hong alias Chan,¹⁴⁴⁹ appointed by Pol Pot and **Nuon Chea** in 1977,¹⁴⁵⁰ the Centre had already seized control of Sectors 23 and 24.¹⁴⁵¹ Son Sen then decapitated the East Zone Division 3 leadership down to the company echelon in essentially one fell swoop,¹⁴⁵² sending 5,000 of the division’s rank and file soldiers to be worked to death at the Kampong Chhnang airport site.¹⁴⁵³ So many East Zone military officers were arriving at S-21 that at one point, **Nuon Chea** ordered Duch to simply execute them immediately, not

sessions in Phnom Penh and then disappeared forever. All of them were replaced with Southwest Zone cadres”, A86 [“They were called to attend meetings at the Centre, where they were arrested”].

¹⁴⁴⁴ **E3/5790** Kaing Guek Eav WRI, EN 00414341 [Duch discusses S-21 Confession of Iv Ieng, with cover page bearing Son Sen annotations dated 14 Nov 77, indicating that a copy was sent to the Northwest Zone, to assist Nhim in gathering additional prisoners for S-21; **E3/7408** S-21 Confession of Iv Ieng, EN 00769678]; **E3/10604** OCIJ S-21 Prisoner List, Iv Ieng, 22 July 1977, No. 2066. *See also* **E3/5790** Kaing Guek Eav WRI, EN 00414343; **E3/7421** S-21 Confession of An Maong, EN 00221786; Preah Net Preah District Secretary confession annotated by Son Sen, “Two copies for Angkar to deliver to the Northwest, 1/10/77”].

¹⁴⁴⁵ **E3/9477** Son Em WRI, A45-54 [arrests of cadres followed meetings in Northwest Zone between Pol Pot, Ros Nhim, Nuon Chea and NW Zone Deputy Secretary Keu]; **E3/9610** Toat Thoeun WRI, EN 00974019; **F2/4/3/6.2** Lemkin Transcript of Toat Thoeun Interview, EN 01151759, 01151772 [stating that Nhim arrested people who worked for him to send to Angkar]; **E3/9483** Pan Chhuong WRI, A4-6 [arrests of local cadres ordered by Nhim and carried out by his son Chiel]; **E3/9456** Chhit Yoeuk WRI, A14 [arrested cadres taken away in white vehicle from Zone security office].

¹⁴⁴⁶ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 00104387; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396594.

¹⁴⁴⁷ **E1/35.1** Nuon Chea, T, 30 Jan 2012, 10.12.51.

¹⁴⁴⁸ **E3/361** Chhouk Rin WRI, EN 00766452-53 [“Nuon Chea and Pol Pot supplied detailed information on the plans to arrest and remove the cadres from the East Zone”]; **E3/362** Chhouk Rin WRI, EN 00268897 [“Nuon Chea said: ‘We must purge the internal enemy’”].

¹⁴⁴⁹ **E3/4650** Nuon Saret Statement, EN 00436893.

¹⁴⁵⁰ **E3/3346** Alex Hinton, *Why Did They Kill?*, EN 00431581.

¹⁴⁵¹ **E3/387** Ouk Bunchhoeun Statement, EN 00350215-16; **E3/5531** Meas Soeun WRI, EN 00425894.

¹⁴⁵² *See Annex D.7 List of East Zone Division 3 Arrests.*

¹⁴⁵³ **E3/361** Chhouk Rin WRI, EN 00766457; **E3/421** Chhouk Rin WRI, EN 00414058-59; **E3/7894** Khvae Ni WRI, EN 00426040; **E3/7893** Um Man WRI, EN 00455252; **E3/3962** Khoem Samhuon WRI, EN 00293368.

bothering with interrogations.¹⁴⁵⁴ In May 1978, “they started the full coup d’etat by arresting the cadres sectors, zone, commune com, district com, sector com and finally the cooperative chairmen.”¹⁴⁵⁵ The final phase of the East Zone massacre involved extermination of the zone’s civilians, both New People and Base People, who were condemned as having “Khmer bodies but Vietnamese heads.”¹⁴⁵⁶ Virtually the entire population of the East Zone was removed to other zones,¹⁴⁵⁷ where most of them were killed.¹⁴⁵⁸ The Party Centre later congratulated itself in *Revolutionary Flag* for this shocking, indiscriminate massacre, calling it a “second liberation.”¹⁴⁵⁹

368. **Nuon Chea** argues that this slaughter was justified because of a purported coup plot headed by East Zone Secretary So Phim and Northwest Zone Secretary Ros Nimh, but this is just yet another false narrative. In fact, Phim – who was a full-rights member of the CPK Standing Committee¹⁴⁶⁰ – loyally cooperated with Pol Pot and **Nuon Chea**’s demands to purge one key East Zone leader after another, starting with former East Zone Division 1 Commander Chakrei,¹⁴⁶¹ then Sector 24 Secretary Chhouk,¹⁴⁶² then (former) Sector 22 Secretary Tum,¹⁴⁶³ and finally Sector 23 Secretary Sin So,¹⁴⁶⁴ all of whom were Phim’s *protégés*. Phim did not resist when the liquidated leaders’

¹⁴⁵⁴ **E3/1567** Kaing Guek Eav WRI, EN 00160724; **E3/450** Kaing Guek Eav WRI, EN 00178061.

¹⁴⁵⁵ **E1/494.1** 2-TCW-1065, T. 2 Nov 2016, 14.28.58 [“Forces from the Central Zone ... summoned division commander, regiment commanders, battalion commanders, and company commanders to a meeting at Kraek at Division 4 headquarter ... In fact, the invitation to the meeting was not real; those cadres were all arrested”]; **E1/493.1** 2-TCW-1065, T. 1 Nov 2016, 13.48.34; **E3/7716** Chhem Hoeung WRI, 00340702; **E3/35** Ke Pich Vannak WRI, EN 00346155 [“They purged ... cadres and commanders of the whole East Zone”].

¹⁴⁵⁶ **E3/5221** Block Lam WRI, EN 00239491; **E3/7783** Yim Muoy WRI, EN 00242216.

¹⁴⁵⁷ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 00104387-93.

¹⁴⁵⁸ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396594; **E3/7707** Ek Sokh WRI, EN 00250746; **E3/7706** In Savi WRI, EN 00250755-56; **E3/4525** OCP Mission Report to Batheay District, Kampong Cham Province, EN 00221804; **E3/7708** Duong Sau WRI, EN 00250741; **E3/7713** Sokh Khiek WRI, EN 00251006; **E3/5254** Sok Thul WRI, EN 00242363; **E3/5231** Chea Leng alias Ing Taing Chheng WRI, EN 00279252; **E3/7816** Prum Yan WRI, EN 00292839; **E3/5260** Khoem Samon WRI, EN 00327162-63.

¹⁴⁵⁹ **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185341 [“It can be considered a second liberation by attacking and smashing the enemies boring right from within our Communist Party of Kampuchea among whom there were those with status who had even snuck in and infiltrated themselves in leading organs”].

¹⁴⁶⁰ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396673.

¹⁴⁶¹ **E3/1780** S-21 Confession of Chan Chakrey alias Nov Mean, 30 Aug 1976; **E3/387** Ouk Bunchhoeun Statement, EN 00350215.

¹⁴⁶² **E3/5790** Kaing Guek Eav WRI, EN 00414345 [asked by Pol Pot the likelihood that Chhouk was a traitor, Phim “replied that the probability was 100%”]; **E3/2494** S-21 Confession of Sous Nov alias Chhouk alias Men alias VIII, July-Oct 1976; **E3/387** Ouk Bunchhoeun Statement, EN 00350215.

¹⁴⁶³ **E3/2490** S-21 Confession of Seat Chhae alias Tum, 27 Aug 1977, EN 00797046-69; **E3/1893** S-21 Confession of Seat Chhae alias Tum, 3 Nov 1977, EN 00182841-72; **E3/387** Ouk Bunchhoeun Statement, EN 00350215.

¹⁴⁶⁴ **E3/1813** Craig Etcheson, *After the Killing Fields*, EN 00078813. See also **E3/4650** Nuon Saret Statement, EN 00436893.

organisational units were subsequently purged down to the cooperative and company echelons.¹⁴⁶⁵ So Phim cooperated with the Centre's arrest orders for more than two hundred of his own cadres before March 1978.¹⁴⁶⁶ Near the end, when the Centre ordered the arrest of Heng Samrin, one of Phim's few remaining key deputies, Phim told Ke Pauk he would handle the arrest himself, saying "So, Pauk, you send 'A' Heng to my house."¹⁴⁶⁷ This simply was not the behaviour of a man plotting a rebellion.

369. The evidence shows that So Phim did not just cooperate with Pol Pot on purging his own cadres; he cooperated with Pol Pot on *everything*. For example, he went to Phnom Penh when summoned by the Party Centre;¹⁴⁶⁸ reported to Pol Pot on the transfer of 50,000 people to the Northwest Zone;¹⁴⁶⁹ reported on the capture of a Cambodian "pacification agent";¹⁴⁷⁰ reported on the evacuation of civilians for reeducation and screening;¹⁴⁷¹ requested instructions and advice on how to deal with Vietnamese prisoners under interrogation¹⁴⁷² and how to deal with arrestees;¹⁴⁷³ and welcomed visits from Pol Pot from 1975 to 1978.¹⁴⁷⁴ Rather than there being "outright conflict" between So Phim and the Party Centre as the Defence of **Nuon Chea** now claims,¹⁴⁷⁵ **Nuon**

¹⁴⁶⁵ **E3/387** Ouk Bunchhoeun Statement, EN 00350215; **E3/476** Map of Democratic Kampuchea, EN 00295143. The purged District Secretaries from Sector 22 and the dates of their entry into S-21 are as follows: Pearaing District Secretary Bun Kuong alias Ngim Sambok - 8 June 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 6); Mukh Kampul District Secretary Phann Phan alias Phon - 8 June 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 7); Lovea Em District Secretary Chhai Taing Leang alias Yaun - 20 June 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 8); O Reang Ov District Secretary Seng Sen alias Soeung - 4 Sept 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 12); Koh Sotin District Secretary Touch (Tuy) Pheng alias Phai - 4 Sept 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 13); Khsach Kandal District Secretary Chap Mit - 25 Sept 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 14); Sithor Kandal District Secretary Sum Son alias Chhorn - 25 Sept 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 15); Srey Santhor District Secretary Nguon Kong alias Dauch - 25 Sept 1977 (**Annex D.8 List of East Zone Cadre Decapitations**, Line 16). For documentation on the purge of other individual East Zone cadre see **E3/10604** OCJ S-21 Prisoner List; and **Annex D.8 List of East Zone Cadre Decapitations: East Zone Cadre Decapitation**.

¹⁴⁶⁶ Calculated from **E3/342** OCP S-21 Prisoner List; **E3/355** Kaing Guek Eav WRI, EN 00242880 ["Before someone was arrested, it was compulsory to consult the head of his unit"]; **E3/453** Kaing Guek Eav WRI, EN 00147583; **E3/107** Kaing Guek Eav WRI, EN 00198223; **E3/45** Kaing Guek Eav WRI, EN 00205161-62; **E3/357** Kaing Guek Eav WRI, EN 00242931-32; **E3/63** Phy Phuon WRI, EN 00231411; **E3/5762** Kaing Guek Eav WRI, EN 00164335.

¹⁴⁶⁷ **E3/35** Ke Pich Vannak WRI, EN 00346153.

¹⁴⁶⁸ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150203-04.

¹⁴⁶⁹ **E3/1680** Telegram 15 from Chhon to Brother Pol, 30 Nov 1975.

¹⁴⁷⁰ **E3/871** Telegram 21 from Chhon to Brother Pol, 21 Mar 1976.

¹⁴⁷¹ **E3/243** Telegram 15 from Chhon to Brother Pa, 19 Jan 1978, EN 00532796; **E3/244** Telegram 16 from Chhon to Brother Par, 23 Jan 1978, EN 00182755.

¹⁴⁷² **E3/892** Telegram 60 from Chhon to M-870, 29 Oct 1977.

¹⁴⁷³ **E3/1205** Telegram from Peam to M-870, 4 Sept 1977.

¹⁴⁷⁴ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150044, 01150184, 01150200.

¹⁴⁷⁵ **E395/2** Nuon Chea's Submissions on the Relevance of Evidence of Treasonous Rebellion to His Individual Criminal Responsibility in Case 002/02, EN 01251277.

Chea was so at ease with the trusted So Phim that he would sleep at the headquarters of Phim's personal bodyguards.¹⁴⁷⁶

370. On 25 May 1978, RAK divisions loyal to the Party Centre flooded up and down National Roads 1 and 7 for the final attack on the East Zone.¹⁴⁷⁷ Ever loyal, even as the Party Centre closed in for the kill,¹⁴⁷⁸ Sao Phim sent a letter to his troops that same day insisting that the attacks were a plot by Son Sen against his old friends, Pol Pot and **Nuon Chea**: "So Phim's letter also stated that it was a coup d'état to overthrow the comrade secretary and the comrade deputy secretary by armed forces led by Son Sen."¹⁴⁷⁹ So Phim "made a telephone call to Pol Pot, but Pol Pot did not answer... [so] Grandpa Rin went with Grandpa Phim to meet Pol Pot."¹⁴⁸⁰ According to Nong Nim, So Phim told his comrades, "I have done nothing wrong and I will go straight to the place where can get right to the bottom of this."¹⁴⁸¹ Arriving at the Mekong opposite Phnom Penh, Phim ordered his messenger "Chhoeun to send a letter to the Party Centre," requesting a meeting with Pol Pot, "but on the way, Chhoeun was arrested. Then after Chhoeun disappeared, he sent another messenger. The messenger was subsequently arrested."¹⁴⁸² Phim was then attacked by Centre troops, and finally, surrounded, he ended his life with a pistol.¹⁴⁸³ "If he had chosen to flee he could have done that but he was an honest person," Phim's bodyguard, Nong Nim explained. "He was loyal to Pol Pot. He said, he just wanted to see Pol Pot and to find out what had gone wrong."¹⁴⁸⁴
371. **Nuon Chea's** conspiracy theories about an anti-regime plot led by Ros Nhim and So Phim are not plausible. If Nhim and Phim had been conspiring to overthrow Pol Pot, why did they not take advantage of the Vietnamese incursion deep into DK territory between September and December 1977 to launch their purported rebellion and attack the Centre, rather than requesting assistance from the Centre to combat the invading Vietnamese forces, as they in fact did?¹⁴⁸⁵ Why, as all of the evidence shows, did both

¹⁴⁷⁶ **E1/506.1** Sin Oeng, T. 5 Dec 2016, 13.55.34-13.56.48.

¹⁴⁷⁷ See **Annex D.9** Map of East Zone 25 May 1978.

¹⁴⁷⁸ **E1/505.1** Sin Oeng, T. 1 Dec 2016, 15.45.22.

¹⁴⁷⁹ **E1/446.1** Meas Soeun WRI, EN 00425892. See also **E1/493.1** Long Sat, T. 1 Nov 2016, 15.07.40; **E3/5531** Meas Soeun WRI, EN 00425892.

¹⁴⁸⁰ **E3/7716** Chhem Hoeung WRI, EN 00340703.

¹⁴⁸¹ **E3/10717** Nong Nim Statement, EN 01355782.

¹⁴⁸² **E1/493.1** Long Sat, T. 1 Nov 2016, 15.11.01.

¹⁴⁸³ **E1/493.1** Long Sat, T. 1 Nov 2016, 15.11.01; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150206-07.

¹⁴⁸⁴ **E1/511.1** Nong Nim, T. 12 Dec 2016, 13.47.00.

¹⁴⁸⁵ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150194; **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237970 [Becker describes border clashes with the Vietnamese in 1976 and says, "After

Ros Nhim and So Phim consistently cooperate with Pol Pot and **Nuon Chea** in the purging of the cadres that they had spent their entire lives cultivating? The evidence placed before the Chamber is unambiguous that the regime's internal purges were not part of "outright conflict" between the centre and zones but rather the result of the regime's paranoid fear of any challenge to its own failed leadership.

PERSECUTION OF BUDDHISTS

[M]y own father named Uch Sunli, who was a clergyman at the pagoda, also died. He was killed because the Khmer Rouge witnessed that he practised the Buddhist religion ... I would like to tell the Chamber that even lighting the incense to pay respect to Buddha, he was arrested for that simple reason.¹⁴⁸⁶

– Witness Uch Sunlay

372. The CPK annihilated Buddhism as an institution and practice, thereby eradicating a fundamental component of Cambodian existence. Buddhism is a pillar of Cambodian life.¹⁴⁸⁷ It is "so ingrained in the Cambodian culture" as to affect "the language, the yearly calendar, the food, dance, and art, and people's attitude toward most facets of

several skirmishes, the Center rebuked So Phim, the Eastern Zone leader, for fighting the Vietnamese too zealously and warned him not to upset the tenuous balance on the border"; E3/1393 DK Government Statement, 31 Dec 1977, EN 00713102 ["Since September 1977, the armed forces of SRV, including many infantry units from Hanoi ... have launched consecutive large-scale assaults on DK"]; E3/1258 DK Government Statement, Feb 1978, EN S 00004902 ["large-scale and systematic attack of invasion ... perpetrated by the army of the 'Socialist Republic of Vietnam' against Democratic Kampuchea from September 1977 to the beginning of January 1978"]; E3/886 Telegram 41 from So Phim alias Chhon to Brother Pol, 26 Sept 1977 [detailed report on "battle field north of Route No. 1" and combat between East Zone and Vietnamese forces]; E3/889 Telegram 56 from So Phim alias Chhon to M-870, 26 Oct 1977 [reporting incursion of Vietnamese forces into Chantrea district and requesting that Centre immediately send reinforcement forces]; E3/892 Telegram 60 from Sao Phim alias Chhon to M-870, 29 Oct 1977 [requesting instructions from Office 870 on whether to send captured Vietnamese soldiers for interrogation]; E3/982 Telegram 83 from So Phim alias Chhon to Brother Pa, 6 Dec 1977 [reporting "severe" attacks and incursions by Vietnamese on National Road 1 and requesting assistance]; E3/905 Telegram from Phuong to M-870, 23 Dec 1977 [reporting Vietnamese capture of Krek rubber plantation]; E3/908 Telegram 09 from Phuong to M-870, 24 Dec 1977 [reporting incursion of Vietnamese on Highway 7 to Memot and requesting immediate military assistance from Centre]; E3/914 Telegram 14 from Phuong to M-870, 31 Dec 1977 [East Zone request for military assistance from Centre to fight Vietnamese in Krouch Chhmar and Chhlong districts].

¹⁴⁸⁶ E1/394.1 Uch Sunlay, T. 1 Mar 2016, 15.32.11-15.33.57.

¹⁴⁸⁷ E3/1391 Political Programme of the National United Front of Kampuchea, 3 May 1970, EN S00012638 ["Buddhism is and will remain to be the State religion"]; E3/659 Transcription of Ieng Thririth's 1980 Audio Interview by Elizabeth Becker, 1980, EN 00182338 ["l'influence bouddhiste reste parce que nous [Cambodgiens] sommes imprégnés depuis l'enfance"]; E3/3319 United Kingdom Government, *Human Rights Violations in Democratic Kampuchea*, 14 July 1978, EN 00420605 ["It has been estimated that at least 85% of the population of Kampuchea used to practice Buddhism, which was the state religion"]; E3/2818 Ian Harris, *Buddhism under Pol Pot*, EN 00703886-87 [prior to the DK period, Buddhism was the state religion]; E3/20 Elizabeth Becker, *When the War Was Over*, EN 00237895 ["most Cambodians consider themselves Buddhist"]; E3/3328 Wilfred Deac, *Road to the Killing Fields*, EN 00430599 ["Buddhism is the center of the rural community"].

life”.¹⁴⁸⁸ Notably, its eradication deeply disrupted the crucial relationship ordinary people had with their faith and resulted in severe negative psychological consequences for many. An essential facet of the religion is its mechanisms for coping with traumatic events through its rituals and conceptions of healing.¹⁴⁸⁹ As such, the prohibition of Buddhist ritual practices left many Cambodian believers without a fundamental way of coping with their own suffering,¹⁴⁹⁰ thereby accentuating the already enormous psychological trauma for survivors of the DK regime.¹⁴⁹¹

373. “Without ritual and access to safe spirit places, there is no protection”¹⁴⁹² for oneself, or for one’s family or deceased relatives.¹⁴⁹³ Without protection, people felt “exposed and scared”,¹⁴⁹⁴ and feared “unpredictable, vicious forces”.¹⁴⁹⁵ Being unable to perform rituals for the dead was of profound consequence.¹⁴⁹⁶ One villager testified, “As for my baby who died, I was looking for a monk to pray for the soul as well but there was no monk in any of the pagoda”.¹⁴⁹⁷ Cambodians believed such souls might otherwise remain and haunt others.¹⁴⁹⁸
374. A basic tenet of the CPK was the abolition of all religions.¹⁴⁹⁹ Expert Alexander Hinton observed that, universally, religion and religious practice do not accord with

¹⁴⁸⁸ E3/20 Elizabeth Becker, *When the War Was Over*, EN 00237894-95.

¹⁴⁸⁹ E1/402.1 Alexander Hinton, T. 15 Mar 2016, 11.16.08-11.16.51.

¹⁴⁹⁰ E1/402.1 Alexander Hinton, T. 15 Mar 2016, 11.15.21-11.21.46.

¹⁴⁹¹ E1/402.1 Alexander Hinton, T. 15 Mar 2016, 11.15.21-11.16.51.

¹⁴⁹² E3/10677 Peg Levine, *Love and Dread in Cambodia*, EN 01334897.

¹⁴⁹³ E3/10677 Peg Levine, *Love and Dread in Cambodia*, EN 01334907.

¹⁴⁹⁴ E3/10677 Peg Levine, *Love and Dread in Cambodia*, EN 01334891.

¹⁴⁹⁵ E3/10677 Peg Levine, *Love and Dread in Cambodia*, EN 01334897.

¹⁴⁹⁶ E1/402.1 Alexander Hinton, T. 15 Mar 2016, 11.20.48-11.21.46; E3/10677 Peg Levine, *Love and Dread in Cambodia*, EN 01334897 [“the more people were removed from access to traditional rituals for protection, the more their spirit-based anxiety increased. Fright was the consequence”].

¹⁴⁹⁷ E1/148.1 Pech Srey Phal, T. 5 Dec 2012, 10.13.49-10.15.52.

¹⁴⁹⁸ E1/402.1 Alexander Hinton, T. 15 Mar 2016, 11.14.24-11.15.21 [Hinton testified to the common belief that souls often remained and came back to haunt people because ceremonies were not performed for them].

¹⁴⁹⁹ E1/88.1 Yun Kim, T. 19 June 2012, 11.36.30-11.38.41 [“Regarding religion, there was education on this. We were told that the revolution shall not be done twice. First, we were advised to start the Revolution Movement and educate the people, at the same time not to believe in any religion”]; E1/398.1 Van Mat alias Sales Ahmat, T. 9 Mar 2016, 15.11.04 [“The meeting was not only about the prohibition of religious practice of Islam but also the prohibition of the practices of other religions, including Buddhism”]; E1/115.1 Em Oeun, T. 27 Aug 2012, 09.21.36-09.26.37 [“In 1972 ... leaders would say in the sessions that we should never treat pagoda’s affairs as the core tasks. So they even said that monk was a waste because, if we had to dress the monk with the robes, then we had to spend money, resources unwisely for that - for those monks. ... after 1972, the CPK had an intention to oppose religion because they never valued the importance of religion in the society”]; E3/628 TIME/CNN, *A Plea for International Support*, 10 Mar 1980, EN 00524518 [Khieu Samphan: “If we succeed in defeating the Vietnamese ... People will be free to practice religion”]; E3/3346 Alexander Hinton, *Why Did They Kill?*, EN 00431569-70; E3/3304 Ben Kiernan, *Genocide and Democracy in Cambodia*, EN 00430398; E3/2812 Henri Locard, *Pol Pot’s Little Red Book*, EN 00394744, 00394800-02; E3/2818 Ian Harris,

revolutionary ideals.¹⁵⁰⁰ The CPK leadership considered that the Buddhist religion and its leaders were a particularly critical obstacle to their goal of imposing an absolute dictatorship of radical communists over Cambodian society. This was expressed in their internal propaganda:

[T]he contradiction between the peasants and the landowners is a life-and-death contradiction. ... The contradictions generated hatred, but, in the past the contradictions were buried. Why were these contradictions buried? Because the landowner class, the mandarin holders of power, and the spiritual leaders of the exploiting classes disseminated information to bury these contradictions. The belief that bad and good deeds from another life resulted in present conditions, etc., served to deceive the peasants and prevent them from seeing the contradictions.¹⁵⁰¹

375. Buddhism was contrary to CPK ideology and policy. The principle of karma justified the existence of “natural” or social inequalities, and under the rules of Theravada Buddhism, monks were not allowed to farm, but instead were supported by alms given by Buddhist followers.¹⁵⁰² For this reason, the CPK branded Buddhist monks as “leeches”, “blood sucking parasitic worms”, and “feudalists who sucked the blood of the people”.¹⁵⁰³ As explained by Expert Elizabeth Becker: “Buddhism was derided as backward and feudal”.¹⁵⁰⁴ As such, the CPK justified their purge of Buddhist clergy under the rubric of destroying the old feudal society.¹⁵⁰⁵
376. Not only was Buddhism considered an exploitative social institution¹⁵⁰⁶ but it also represented a potentially powerful source of political opposition to the DK regime. Buddhism was considered an ideological competitor to the CPK.¹⁵⁰⁷ The CPK

Buddhism Under Pol Pot, EN 00703914.

¹⁵⁰⁰ **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 14.27.53-14.28.59.

¹⁵⁰¹ **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486230 (*emphasis added*). See also **E1/23.1** Nuon Chea, T. 15 Dec 2011, 14.21.58-14.34.54 [refusing to respond to questions on this issue].

¹⁵⁰² **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703914-15, 00703926; **E3/3346** Alexander Hinton, *Why Did They Kill?*, EN 00431570.

¹⁵⁰³ **E3/5523** Micch Ponn WRI, A4 (*SWZ*); **E3/5499** Uk Phorn WRI, EN 00372933 (*SWZ*); **E3/5132** Preab Proeun WRI, EN 00223191 (*EZ*); **E3/7818** Saing Nham WRI, EN 00290384 (*NWZ*); **E3/7988** San Kroeun WRI, EN 00165255 (*EZ*); **E3/7776** Kham Sek WRI, EN 00356580 (*EZ*); **E3/7771** Huot Robieb WRI, EN 00350257 (*NWZ*); **E1/451.1** Henri Locard, T. 29 July 2016, 10.49.06-10.52.21 [Locard comments on slogans concerning Buddhists: “The monks are parasites,” “The monks are intestinal worms gnawing into society”]; **E3/3346** Alexander Hinton, *Why Did They Kill?*, EN 00431570.

¹⁵⁰⁴ **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237858.

¹⁵⁰⁵ **E3/7522** Sao Yon DC-Cam Statement, EN 00889706, 00889782; **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237933.

¹⁵⁰⁶ **E1/316.1** Keo Loeur, T. 15 June 2015, 10.45.02-10.48.40 [“In the indoctrination session ... we were told that religions, including Buddhism, were exploitative. And at that time, they mentioned that I was a petty bourgeoisie as a monk”].

¹⁵⁰⁷ **E1/191.1** Philip Short, T. 8 May 2013, 11.55.42-11.56.58 [Philip Short testified that the CPK wanted to

leadership desired total control,¹⁵⁰⁸ and they perceived Buddhism as an implicit threat.¹⁵⁰⁹ Buddhists maintained a collective identity; they were part of an autonomous systematic community operating through a pattern of authority.¹⁵¹⁰ The loyalty of former Buddhist monks to the revolution was questioned.¹⁵¹¹ They were considered to be powerful authority figures, and were therefore removed from power so as to quell the fear that an already well-established culture of obedience might persist.¹⁵¹² In order to ensure that no collective action was taken against the new regime, the CPK sent monks out to the fields to work.¹⁵¹³ In areas that were controlled by the CPK prior to 17 April 1975, temples were closed and damaged, monks were forcibly disrobed and conscripted, and Buddhist nuns were executed.¹⁵¹⁴

377. In their 1976 DK Constitution, the CPK banned “reactionary religions”¹⁵¹⁵ — a prohibition that in practice extended to all religions.¹⁵¹⁶ **Khieu Samphan** stated “our

eliminate the Buddhist religion as it was an ideological competitor to the regime].

¹⁵⁰⁸ **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237894.

¹⁵⁰⁹ **E1/93.1** David Chandler, T. 20 July 2012, 15.56.13-15.57.27.

¹⁵¹⁰ **E1/93.1** David Chandler, T. 20 July 2012, 15.56.13-15.57.27.

¹⁵¹¹ **E1/93.1** David Chandler, T. 20 July 2012, 09.33.14-09.34.51, 15.14.06-15.15.46 [Monks were one of the special targets within the CPK regime, especially adaptable to being criticised and devalued].

¹⁵¹² **E1/93.1** David Chandler, T. 20 July 2012, 15.37.29-15.38.40, 15.39.38-15.40.36.

¹⁵¹³ **E1/93.1** David Chandler, T. 20 July 2012, 15.37.29-15.39.38.

¹⁵¹⁴ **E1/182.1** Chhouk Rin, T. 23 Apr 2013, 09.45.15-09.47.14 [“all Buddhist monks had to be conscripted as soldiers in 1973. ... In Kampot province, I can see that it was a policy implemented by leaders in Kampot province”]; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 09.43.07-09.46.04; **E1/504.1** Kheav Neab, T. 30 Nov 2016, 13.41.36-13.43.02; **E1/96.1** David Chandler, T. 25 July 2012, 09.30.32-09.31.25 [Chandler testified to the intimidation of monks occurring as early as 1973, which he considered a successful prelude to policies of this sort later introduced in DK]; **E1/221.1** Stephen Heder, T. 10 July 2013, 14.38.06-14.40.25, 14.33.53-14.36.56 [Heder testified about personally witnessing the aftermath of CPK attacks in Udong in March 1974. Heder observed the virtual destruction of the town, the severe damage to the pagoda, which no longer contained any monks, as well as to the bodies of Buddhist nuns. Heder testified to the certainty, at least in the minds of those he interviewed, of the CPK’s perpetration of the attack]; **E3/7977** Hang Thy WRI, EN 00223529-31; **E3/5499** Uk Phorn WRI, EN 00372928; **E3/7976** Suy Mok WRI, EN 00223526; **E3/7777** Prum Proeung WRI, EN 00358620; **E3/5296** Loem Savon WRI, EN 00358146; **E3/7721** Srei Saphon WRI, EN 00347712-13; **E3/9345** Keh Kan WRI, EN 00340185-86; **E3/9349** Chuop Non WRI, EN 00244160; **E3/445** Sao Phen WRI, A10; **E3/3244** Henri Locard, *Preah Vihear Sector or Zone 103*, EN 00403277.

¹⁵¹⁵ **E3/259** Democratic Kampuchea Constitution, EN 00184838 [“Article 20 ... Reactionary religions which are detrimental to Democratic Kampuchea and Kampuchean people are absolutely forbidden”], EN 00184835 [“This new culture is absolutely opposed to the corrupt, reactionary culture of the various oppressive classes and that of colonialism and imperialism in Kampuchea”].

¹⁵¹⁶ **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.50.20-11.55.17; **E1/389.1** Ysa Osman, T. 10 Feb 2016, 15.46.04-15.47.54 [Ysa Osman testified to the fact that the DK regime defined a reactionary religion as any religion, including Buddhism]; **E1/451.1** Henri Locard, T. 29 July 2016, 11.33.58-11.35.08 [Henri Locard testified to the speeches made by the Party that indicated that there was only the religion of the Party, to the exclusion of all other religions]; **E1/93.1** David Chandler, T. 20 July 2012, 15.48.38-15.49.26 [according to Chandler, the wording of the Constitution itself indirectly made clear that there was no patience or tolerance for religious activity]; **E3/5593** Heng Samrin Statement, EN 00651883; **E3/3415** United Kingdom, *Materials From the Foreign & Commonwealth Office*, 9 May 2005, EN 00075776 [“Religious persecution has been widespread”]; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703932; **E3/1822** Ysa Osman, *Oukoubah: Justice for the Cham Muslims under the Democratic*

stand is not to allow any foreign imperialists to use religion to subvert us.”¹⁵¹⁷ Continuous efforts of imperialists to “use a religious cloak to infiltrate” the country were therefore to be opposed “at all costs”.¹⁵¹⁸

378. Approximately one month after the CPK took power, on 20 May 1975, the CPK leaders held a conference in Phnom Penh attended by the secretaries of every district, sector, and zone in the country, as well as representatives of all military units.¹⁵¹⁹ The CPK cadres at the conference were instructed by **Nuon Chea** and Pol Pot on the Party lines and on policies that they were to implement in their regions, which included closing all pagodas and defrocking all monks.¹⁵²⁰ **Nuon Chea** and Pol Pot specifically instructed the CPK cadres in attendance that monks were a “special class” that were to be “wiped out”, and that Buddhist temples (*wats*) would not be allowed.¹⁵²¹ Following this meeting, district, commune, and sector secretaries returned to their respective regions throughout the country and informed local cadres and monks of the Party Centre policy requiring the monks to disrobe and leave their pagodas.¹⁵²²
379. The implementation of this policy led to the systematic persecution of Buddhist monks and Buddhist lay believers throughout all zones in DK.¹⁵²³ Immediately after the CPK takeover on 17 April 1975, “high-level” Buddhist monks that made up the religion’s

Kampuchea Regime, EN 00078543.

¹⁵¹⁷ **E3/273** FBIS, *Khieu Samphan Report*, 6 Jan 1976, EN 00167816.

¹⁵¹⁸ **E3/273** FBIS, *Khieu Samphan Report*, 6 Jan 1976, EN 00167816.

¹⁵¹⁹ **E3/367** Sao Sarun WRI, EN 00278694; **E3/5593** Chea Sim Statement, EN 00651869-70; **E3/1568** Heng Samrin Statement, EN 00651883-84; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024-26.

¹⁵²⁰ **E1/82.1** Sao Sarun, T. 6 June 2012, 11.08.03-11.09.20 confirming **E3/367** Sao Sarun WRI, EN 00278694 [“the presenters at the opening sessions were Nuon Chea and Pol Pot ... Both of them talked about ... monastery closings”]; **E1/223.1** Stephen Heder, T. 15 July 2013, 15.09.51-15.12.17 [Heder testified to a series of CPK policy dissemination meetings at the Soviet Technical Institute in 1975 where it was decided Buddhist monks would no longer be able to practice essential aspects of their religion]; **E3/1568** Chea Sim Interview, EN 00651867, and original interview notes **E3/5593** Chea Sim Interview, EN 00419371-72 [confirming that one of the eight points discussed by Pol Pot and Nuon Chea was to “Defrock all monks”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024 [the list of eight policies discussed at the meeting includes: “(4) Defrock all Buddhist monks and put them to work growing rice”].

¹⁵²¹ **E3/1568** Heng Samrin Statement, EN 00651883-84; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150025.

¹⁵²² **E3/5523** Miech Ponn WRI, A3 (*SWZ*); **E3/5586** Chhim Chhiek WRI, A9, A16 (*SWZ*); **E3/5134** Tann Iv WRI, EN 00223537 (*SWZ*); **E3/5130** Khut Un WRI, EN 00223180 (*EZ*); **E3/7988** San Kroeun WRI, EN 00165255-56 (*EZ*); **E3/7726** Nou Sok Khen WRI, EN 00272671-72 (*505S*); **E3/7814** Tea Tit WRI, EN 00284711 (*EZ*); **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703986-87 [Harris explained that the typical pattern was for the district office to order local commune cadre to begin disrobing the monks].

¹⁵²³ See **Annex E Buddhist Policy - Chart of Witness Evidence from Each DK Zone** containing testimony and statements of witnesses relating to the persecution of Buddhists which has been admitted at trial in Case 002/02. The evidence is categorized by zones specifying the sector and district where the persecution occurred. The chart demonstrates the widespread and systematic nature of the CPK policy to persecute Buddhists.

hierarchy were summarily executed,¹⁵²⁴ while others were forced from their pagodas.¹⁵²⁵

In the ensuing months, monks across the country were removed from authoritative positions,¹⁵²⁶ and forcibly defrocked,¹⁵²⁷ without following the Buddhist ceremony

- ¹⁵²⁴ **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 13.40.31-13.44.06 confirming **E3/1804** Francois Ponchaud, *Some General Indications Concerning Violations of Human Rights in Democratic Kampuchea between 1975 and 1978*, EN 00087527 [“The most influential Buddhist priests were executed a few days after the revolutionary victory”]; **E3/3400** UN ECOSOC, *Submission from the UK Government under Decision 9 (XXXIV)*, 17 Aug 1978, EN 00075972; **E3/2060** UN ECOSOC, *Analysis Prepared on Behalf of the Sub-Commission under Decision 9 (XXXIV)*, 30 Jan 1979, EN 00078662-63; **E3/4527** Stephen Heder, *Reassessing the Role of Senior Leaders and Local Officials in Democratic Kampuchea Crimes: Cambodian Accountability in Comparative Perspective*, EN 00661477; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703994 [“Although less widespread than later in the conflict, the communists felt little compunction about executing monks from the outset”], 00703999-4000.
- ¹⁵²⁵ **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.45.43-11.48.23 (NWZ); **E1/280.1** Riel Son, T. 19 Mar 2015, 09.43.20-09.46.03 (PPSZ/PPAM) [“The monks had been evacuated from Phnom Penh and from elsewhere, and there were more than 100 monks”]; **E1/340.1** Mean Locuy, T. 2 Sept 2015, 13.54.12-13.57.26 (NWZ) [“we were instructed to leave to the villages, that includes the civilians and the monks”]; **E1/170.1** Pin Yathay, T. 7 Feb 2013, 10.01.55-10.03.15 (SWZ) [“As far as I knew, everyone was asked to leave, including the monks and the laypeople”]; **E3/5130** Khut Un WRI, EN 00223180 (EZ); **E3/2144** Howard J. De Nike et al., *Genocide in Cambodia*, EN 00190293-94; **E3/4527** Stephen Heder, *Reassessing the Role of Senior Leaders and Local Officials in Democratic Kampuchea Crimes: Cambodian Accountability in Comparative Perspective*, EN 00661477.
- ¹⁵²⁶ **E1/93.1** David Chandler, T. 20 July 2012, 15.37.29-15.38.40 [the CPK systematically removed monks from authoritative positions and prohibited them from exercising their former authority].
- ¹⁵²⁷ **E1/71.1** Pean Khean, T. 2 May 2012, 14.25.40-14.30.39 (PPSZ/PPAM); 14.27.05 [“It was a kind of huge campaign in defrocking the monks by the Khmer Rouge”]; **E1/454.1** Chin Saroeun, T. 3 Aug 2016, 10.51.30-10.55.25 (IOS5) [“Yes, it was after the 17 April 1975 that I was defrocked. ... But I was told to leave the monkhood because the regime said that there would be no more monks in the regime”]; **E1/88.1** Yun Kim, T. 19 June 2012, 11.39.49-11.41.54 (5055) [“there were a few monks in Kratie province before 1976, but after 1976, there were no longer any monks”]; **E1/378.1** Prak Yut, T. 19 Jan 2016, 15.27.28-15.30.55 (NZ) [“Between 1975 and 1979 there were not Buddhist monks and there were no pagodas”]; **E1/514.1** Long Vun, T. 15 Dec 2016, 14.28.18-14.29.28 (SWZ); **E1/90.1** Khiev Neou, T. 21 June 2012, 09.23.00-09.25.30 (SWZ); **E1/182.1** Chhouk Rin, T. 23 Apr 2013, 09.43.16-09.47.14 (SWZ); **E1/366.1** Ung Sam Ean, T. 11 Dec 2015, 14.33.15-14.36.00 (EZ); **E1/344.1** Sos Min, T. 9 Sept 2015, 13.34.16-13.36.12 (EZ); **E1/89.1** Yun Kim, T. 20 June 2012, 14.02.51-14.04.50 (5055); **E1/346.1** Seng Srun, T. 14 Sept 2015, 09.36.33-09.38.40 (NZ); **E1/348.1** Tay Koemhun, T. 16 Sept 2015, 10.03.22-10.08.25 (NZ); **E1/488.1** Preap Sokhoeun, T. 24 Oct 2016, 09.31.24-09.35.05 (NZ); **E1/353.1** Ban Seak, T. 5 Oct 2015, 10.54.10-10.57.20 (NZ); **E1/306.1** Hun Sethany, T. 27 May 2015, 10.46.34-10.50.31 (NZ); **E1/301.1** Or Ho, T. 19 May 2015, 15.58.20-16.00.29 (NZ); **E1/305.1** Meas Layhuor, T. 26 May 2015, 14.07.58-14.10.03 (NZ); **E1/484.1** Cheal Choeun, T. 17 Oct 2016, 10.01.53-10.04.33 (NWZ); **E1/500.1** Son Em, T. 21 Nov 2016, 10.48.23-10.50.48 (NWZ); **E1/330.1** Chhit Yoeuk, T. 13 Aug 2015, 09.58.42-10.00.00 (NWZ); **E1/340.1** Mean Locuy, T. 2 Sept 2015, 13.54.12-14.01.06 (NWZ); **E1/127.1** Khiev En, T. 1 Oct 2012, 14.13.28-14.16.20 (WZ); **E1/209.1** Nou Mao, T. 19 June 2013, 14.25.42-14.27.05 (WZ); **E1/484.1** Cheal Choeun, T. 17 Oct 2016, 09.15.37-09.21.23 (NWZ); **E1/137.1** Sokh Chhin, T. 23 Oct 2012, 11.31.18-11.32.49 (NWZ); **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 13.40.31-13.44.06 confirming **E3/1804** Francois Ponchaud, *Some General Indications Concerning Violations of Human Rights in Democratic Kampuchea between 1975 and 1978*, EN 00087527 [those Buddhist priests that were not executed were forced to resume secular life as from 1976]; **E1/389.1** Ysa Osman, T. 10 Feb 2016, 15.46.04-15.47.54 [Osman testified to the defrocking of all monks]; **E3/5133** Em Phoeung WRI, EN 00223200 (SWZ); **E3/5498** Bun Thean WRI, EN 00384409 (SWZ); **E3/5510** Khim Pang WRI, EN 00411491 (SWZ); **E3/5515** Phneo Yav WRI, EN 00410250 (SWZ); **E3/5519** Sok Sim WRI, EN 00414079 (SWZ); **E3/507** Khiev Neou WRI, EN 00358141 (SWZ); **E3/7977** Hang Thy WRI, EN 00223529 (SWZ); **E3/7978** Ung Sok WRI, EN 00223541 (SWZ); **E3/7989** Kao Rin WRI, EN 00196731 (SWZ); **E3/5586** Chhim Chhiek WRI, EN 00434910-12 (SWZ); **E3/5560** Tes Ding WRI, EN 00377169 (SWZ); **E3/5134** Tan (Tann) Iv WRI, EN 00223537 (SWZ); **E3/375** Ban Seak WRI, EN 00360759 (EZ); **E3/5130** Khut Un WRI, EN 00223180 (EZ); **E3/5132** Preab Proeun WRI, EN 00223190 (EZ); **E3/7988** San Kroeun WRI, EN 00165255-56 (EZ); **E3/5131** Norgn Ponna WRI, EN 00223185

traditionally required of a monk wishing to leave the *Sangha*.¹⁵²⁸ After monks were disrobed, many monks were forced to engage in intensive labour as ordinary villagers.¹⁵²⁹ They were ordered to farm rice paddies, plant cotton, uproot tree stumps, clear termite mounds, and build dams, dykes and bridges.¹⁵³⁰ This required the monks to perform acts that were forbidden by the Theravada Buddhist rules of monastic discipline (*vinaya*), such as digging the ground.¹⁵³¹ Monks were told they would no longer receive support and had to work,¹⁵³² without religious or labour rights.¹⁵³³ Other

(EZ); E3/7776 Kham Sek WRI, EN 00356580 (EZ); E3/7814 Tea Tit WRI, EN 00284711 (EZ); E3/7726 Nou Sok Khen WRI, EN 00272672 (SOS); E3/7768 Chhiev Korm WRI, EN 00340167 (SOS); E3/436 Heng Lai Heang WRI, EN 00414571 (SOS); E3/7818 Saing Nham WRI, EN 00290384 (NWZ); E3/7769 Loet Khun WRI, EN 00340190 (NEZ); E3/7771 Huot Robieb WRI, EN 00350257-58 (NWZ); E3/5291 Thun Sovat WRI, EN 00375894-95 (NWZ); E3/9774 [REDACTED] WRI, EN00597439 (NWZ); E3/9763 [REDACTED] WRI, EN01079336-39 (NWZ); E3/5270 Tan Hoch WRI, EN 00284687 (NWZ); E3/5281 Peng Bunthara WRI, EN 00322939 (NWZ); E3/5283 Chhuy Huy WRI, EN 00321196-97 (NWZ); E3/9789 [REDACTED] WRI, EN 00986703 (WZ); E3/1806 UN ECOSOC, *Further Submission from Canada under Decision 9, (XXXIV)*, 8 Sept 1978, EN 00087574; E3/2545 Huot Robieb, *History of Samraong Knong Pagoda*, EN 00651706 ["there was a sudden plan to defrock all monks by force"]; E3/1757 Michael Vickery, *Cambodia 1975-1982*, EN 00397107 ["Eventually of course they [monks] realized they had no choice but to follow the official guidelines, and they gradually returned to lay life"]; E3/3218 Henri Locard, *Kompong Thom – Uddor Region Sector or Zone 43*, EN 00208419, 00208423, 00208425, 00208428.

¹⁵²⁸ E3/2818 Ian Harris, *Buddhism under Pol Pot*, EN 00703985-90.

¹⁵²⁹ E3/259 Democratic Kampuchea Constitution, EN 00184836 ["Article 12 ... There is absolutely no unemployment in Democratic Kampuchea"]; E3/659 Transcription of Ieng Thirith's 1980 Audio Interview by Elizabeth Becker, 1980, EN 00182327 [Ieng acknowledged that everyone had to work during DK]; E3/1757 Michael Vickery, *Cambodia 1975-1982*, EN 00397107 ["What the Communists did after 1975 was simply to tell the monks that henceforth they had to work like everyone else"].

¹⁵³⁰ E4/499.1 Ou Dav, T. 11 Nov 2016, 10.04.16-10.06.46 (WZ) ["After the victory on 17 April 1975, I was removed by Democratic Kampuchea from the army, and I was assigned to engage in intensive labour in Sector 11 in Koh Kong. I was imprisoned for 13 months in the wall-less prison"]; E1/340.1 Mean Loeuy, T. 2 Sept 2015, 13.59.48-14.01.06 (NWZ) ["after I left the monkhood ... I was assigned to uproot the tree stumps, to work in the rice fields, to build the rice dike, to clear the forest land or to clear termite mounds"]; E1/484.1 Cheal Choeun, T. 17 Oct 2016, 09.13.01-09.14.10 (NWZ) ["The Ministry of Religion went to hold meetings in various pagodas and instructed monks to work in the rice fields and to plant cotton for self-service since there -- we would no longer receive support"]; E1/484.1 Cheal Choeun, T. 17 Oct 2016, 09.15.37-09.21.23 (NWZ); E3/5133 Em Phoeung WRI, EN 00223200-201 (SWZ); E3/5498 Bun Thean WRI, EN 00384409 (SWZ); E3/5515 Phneu Yav WRI, EN 00410250 (SWZ); E3/7977 Hang Thy WRI, EN 00223530 (SWZ); E3/5586 Chhim Chhiek WRI, EN 00434912 (SWZ); E3/5560 Tes Ding WRI, EN 00377169 (SWZ); E3/5134 Tan (Tann) Iv WRI, EN 00223536 (SWZ); E3/5132 Preab Proeung WRI, EN 00223190 (EZ); E3/5131 Nong Punna WRI, EN 00223185 (EZ); E3/5296 Lom Savon WRI, EN 00358146 (EZ); E3/7814 Tea Tit WRI, EN 00284711-12 (EZ); E3/7726 Nou Sok Khen WRI, EN 00272672 (SOS); E3/7768 Chhiev Korm WRI, EN 00340167 (SOS); E3/7769 Loet Khun WRI, EN 00340190 (NEZ); E3/7771 Huot Robieb WRI, EN 00350257 (NWZ); E3/5291 Thun Sovat WRI, EN 00375894 (NWZ); E3/9774 [REDACTED] WRI, EN00597439 (NWZ); E3/438 Khiev En WRI, EN 00375876 (PPSZ/PPAM); E3/3559 US Department of State Airgram, *Life inside Cambodia*, 31 Mar 1976, EN 00443071 ["Monks almost everywhere are working in the fields, often forced by their KC guards to do more than the average person"]; E3/2060 UN ECOSOC, *Analysis Prepared on Behalf of the Sub-Commission under Decision 9 (XXXIV)*, 30 Jan 1979, EN 00078663; E3/2144 Howard J. De Nike et al., *Genocide in Cambodia*, EN 00190294 ["Under the Pol Pot regime, the monks had to raise pigs, tend to the cows, and make wood cases"].

¹⁵³¹ E3/2818 Ian Harris, *Buddhism under Pol Pot*, EN 00703977.

¹⁵³² E3/5133 Em Phoeung WRI, EN 00223200; E3/5560 Tes Ding WRI, EN 00377169; E3/5134 Tan (Tann) Iv WRI, EN 00223537.

monks were forced to join the RAK, notwithstanding the Buddhist precepts of pacifism and non-injury (*ahimsa*).¹⁵³⁴ Some monks were forced to marry,¹⁵³⁵ in violation of their vow of celibacy. All forms of Buddhist ritual performances were banned, especially the giving of alms to monks by believers, a practice which was necessary in order for the monks to survive.¹⁵³⁶ Even lighting incense was prohibited.¹⁵³⁷ The CPK destroyed

- ¹⁵³³ **E1/454.1** Chin Saroeun, T. 3 Aug 2016, 10.57.36-11.00.38 ["the regime did not allow us to practice religion and they used labour without respecting the labour rights as we do right now"].
- ¹⁵³⁴ **E1/483.1** Cheal Choeun, T. 13 Oct 2016, 14.12.00-14.14.38 (NWZ); **E1/366.1** Ung Sam Ean, T. 11 Dec 2015, 14.33.15-14.56.50 (EZ); **E3/5498** Bun Thean WRI, EN 00384409 (SWZ); **E3/5515** Phneu Yav WRI, EN 00410250-51 (SWZ); **E3/5519** Sok Sim WRI, EN 00414079 (SWZ); **E3/7989** Kao Rin WRI, EN 00196731-32 (SWZ); **E3/5560** Tes Ding WRI, EN 00377169 (SWZ); **E3/7814** Tea Tit WRI, EN 00284711-12 (EZ); **E3/597** Le Monde, *Interview with a Cambodian Revolutionary*, 15 Jan 1972, EN 00003964 ["In the current revolution, the clergy are playing an active role in the mobilization against the enemy. The just political line of FUNK insures that there is no contradiction between the clergy and the other revolutionary forces"]; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703927, 00703992-94.
- ¹⁵³⁵ **E1/488.1** Preap Sokhoeun, T. 24 Oct 2016, 09.31.24-09.35.05 (NZ); **E1/334.1** Yi Laisov, T. 20 Aug 2015, 14.16.03-14.18.04 (NWZ) ["I would not get married at the time but I was too afraid to be killed"]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 13.43.19-13.45.22 (SWZ) ["he was forced to disrobe and to make a resolution together with the village medic"]; **E1/484.1** Cheal Choeun, T. 17 Oct 2016, 10.01.53-10.02.38 (NWZ); **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237959; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00703990-91 ["Reports that monks, either individually or sometimes *en masse*, were coerced into taking partners are extraordinarily frequent and the practice may have been more widespread than evidence suggests"].
- ¹⁵³⁶ **E1/149.1** Kim Vandy, T. 6 Dec 2012, 09.30.40-09.32.22 (SWZ) ["I could say that death, during the regime, was very pathetic, because during the previous regime, when people died, there would be some traditional ceremonies where Buddhist monks would be there to attend the ceremonies. But during this Khmer Rouge regime, when someone died, he or she would be buried or covered with some leaves. They died like the dead animals"]; **E1/105.1** Ong Thong Hoeung, T. 9 Aug 2012, 10.19.05-10.43.40 (PPSZ/PPAM); **E1/484.1** Cheal Choeun, T. 17 Oct 2016, 09.15.37-09.21.23 (NWZ); **E1/90.1** Khiev Neou, T. 21 June 2012, 09.20.28-09.23.00 (SWZ); **E1/372.1** Sos Romly, T. 8 Jan 2016, 14.28.35-14.30.46 (SWZ); **E1/330.1** Chhit Yoeuk, T. 13 Aug 2015, 09.58.42-10.00.00 (NWZ); **E1/463.1** Sou Sotheavy, T. 24 Aug 2016, 13.43.45-13.44.35 (SWZ); **E1/273.1** Neang Ouch alias Ta San, T. 9 Mar 2015, 13.36.23-13.37.50 (SWZ); **E1/333.1** Tak Boy, T. 19 Aug 2015, 14.05.00-14.06.38 (NWZ); **E1/371.1** Thang Phal, T. 6 Jan 2016, 14.03.03-14.04.05 (EZ); **E1/446.1** Meas Soeun, T. 29 June 2016, 15.17.19-15.18.50 (EZ); **E1/398.1** Sales Ahmat, T. 9 Mar 2016, 15.11.04-15.12.06 (EZ); **E1/490.1** Chuon Thi, T. 26 Oct 2016, 14.18.01-14.25.00 (EZ); **E1/88.1** Yun Kim, T. 19 June 2012, 11.53.18-11.54.58 (505S); **E1/454.1** Chin Saroeun, T. 3 Aug 2016, 10.51.30-10.57.36 (105S); **E1/17.1** Klan Fit, T. 6 Dec 2011, 15.56.40-16.03.29 (NEZ); **E1/353.1** Ban Seak, T. 5 Oct 2015, 10.54.10-10.57.20 (NZ); **E1/308.1** Seang Sovida, T. 2 June 2015, 11.24.36-11.26.35 (NZ); **E1/322.1** Kong Uth, T. 25 June 2015, 10.42.40-10.45.30 (NZ); **E1/301.1** Or Ho, T. 19 May 2015, 14.07.11-14.09.03 (NZ); **E1/461.1** Tep Poch, T. 22 Aug 2016, 13.30.40-13.33.03 (NZ); **E1/259.1** Elizabeth Becker, T. 9 Feb 2015, 13.34.14-13.35.32 [Becker testified to the absence of monks and to the absence of worship and the ability to do so]; **E1/389.1** Ysa Osman, T. 10 Feb 2016, 15.46.04-15.47.54 [Osman testified that all parents and relatives were prohibited by the CPK from practicing any religious belief]; **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 11.13.26-11.15.21 [Hinton testified to the difficulty of Buddhists to perform ceremonies for the souls of the dead]; **E1/222.1** Stephen Heder, T. 11 July 2013, 09.25.16-09.27.04 ["Belief and religion, for both Cambodians and other ethnics, were prohibited. Buddhism and Khmer superstition were prohibited as well"]; **E1/473.1** Kasumi Nakagawa, T. 14 Sept 2016, 11.27.07-11.28.18 [Nakagawa testified to the fact that no religious practice was carried out in wedding ceremonies in DK]; **E3/5523** Miech Ponn WRI, EN 00434652 (SWZ); **E3/5586** Chhim Chhiek WRI, EN 00434911-13 (SWZ); **E3/375** Ban Seak WRI, EN 00360759 (EZ); **E3/5130** Khut Un WRI, EN 00223180-81 (EZ); **E3/5132** Preab Proeung WRI, EN 00223190 (EZ); **E3/5131** Nong Punna WRI, EN 00223185-86 (EZ); **E3/7983** Tep Dom WRI, EN 00165218-19 (EZ); **E3/7726** Nou Sok Khen WRI, EN 00272671-72 (505S); **E3/7771** Huot Robieb WRI, EN 00350257 (NWZ); **E3/5291** Thun Sovat WRI, EN 00375894-95 (NWZ); **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397107 [monks could no longer teach or carry out any

Buddhist places of worship as well as sacred artefacts of Buddhist worship such as statues, texts, and ritual objects.¹⁵³⁸ Although a significant number of Buddhist pagodas had been destroyed in combat during the 1970-75 war, the CPK itself claimed to have destroyed 90 percent of all Buddhist monasteries.¹⁵³⁹ Other pagodas and monasteries were either closed or converted to non-religious and often sacrilegious uses, such as pigsties, slaughterhouses, and torture centres.¹⁵⁴⁰

- religious activity]; **E3/2144** Howard J. De Nike et al., *Genocide in Cambodia*, EN 00190294 ["All [20,000 monks and nuns] were forced to put an end to their religious practice"].
- ¹⁵³⁷ **E1/394.1** Uch Sunlay, T. 1 Mar 2016, 15.32.11-15.33.57.
- ¹⁵³⁸ **E1/263.1** Em Phoeung, T. 16 Feb 2015, 14.15.12-14.17.20 (EZ) ["During the DK regime, under the control of Pol Pot, everything was destroyed. The Buddhist manuscript, for example ... they torn them apart and used them as hats. And I personally witnessed it being destroyed and used it. We dared not to say anything. Even the Buddhist painting was torn away and destroyed or some were used to -- to be used as hats"]; **E1/316.1** Keo Loeur, T. 15 June 2015, 10.50.10-10.53.00 (PPSZ/PPAM); **E1/361.1** Prak Doeun, T. 2 Dec 2015, 14.04.02-14.05.45 (WZ) ["I said that because I saw the Khmer Rouge actually dismantle a Buddha statue. It means that they no longer had any belief in the religion"]; **E1/206.1** Sim Hao, T. 12 June 2013, 15.31.16-15.32.40 (PPSZ/PPAM) ["there was no monk at all throughout the regime, and Buddha statues and all the pagodas were ordered to be destroyed. ... They would use some monks in order to destroy the temple"]; **E1/389.1** Ysa Osman, T. 10 Feb 2016, 15.46.04-15.47.54 [Osman testified to the destruction of all Buddhist temples by the DK regime]; **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 11.13.26-11.15.21 [Hinton testified to the destruction and damaging of pagodas and Buddhist statues]; **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 13.40.31-13.44.06 confirming **E3/1804** Francois Ponchaud, *Some General Indications Concerning Violations of Human Rights in Democratic Kampuchea between 1975 and 1978*, EN 00087527 ["Statues of the Buddha have been desecrated and most often smashed"]; **E1/366.1** Ung Sam Ean, T. 11 Dec 2015, 15.53.45-15.55.40 (EZ); **E1/344.1** Sos Min, T. 9 Sept 2015, 13.34.16-13.36.12 (EZ); **E1/88.1** Yun Kim, T. 19 June 2012, 11.47.51-11.49.56 (S05S); **E1/415.1** Sos Kamri, T. 6 Apr 2016, 15.02.25-15.06.16 (NZ); **E1/368.1** Y Vun, T. 15 Dec 2015, 09.54.45-09.59.50 (NZ); **E1/365.1** Um Suonn, T. 9 Dec 2015, 11.16.55-11.19.31 (NZ); **E3/5133** Em Phoeung WRI, EN 00223200-201 (SWZ); **E3/7976** Suy Mok WRI, EN 00223525-27 (SWZ); **E3/5523** Miech Ponn WRI, EN 00434652 (SWZ); **E3/7989** Kao Rin WRI, EN 00196731-32 (SWZ); **E3/5586** Chhim Chhiek WRI, EN 00434913 (SWZ); **E3/5134** Tan (Tann) Iv WRI, EN 00223538 (SWZ); **E3/7777** Prum Proeung WRI, EN 00358620 (EZ); **E3/7987** Prum Proeung WRI, EN 00165241 (EZ); **E3/5130** Khut Un WRI, EN 00223181 (EZ); **E3/5132** Preab Proeung WRI, EN 00223191 (EZ); **E3/5131** Nong Punna WRI, EN 00223186 (EZ); **E3/7983** Té Dom WRI, EN 00165219 (EZ); **E3/7721** Srei Saphon WRI, EN 00347712-13 (EZ); **E3/7768** Chhiev Korm WRI, EN 00340167 (S05S); **E3/7769** Loet Khun WRI, EN 00340190-91 (NEZ); **E3/9345** Keh Kan WRI, EN 00340186 (NEZ); **E3/5291** Thun Sovat WRI, EN 00375895 (NWZ); **E3/7818** Saing Nham WRI, EN 00290384 (NWZ); **E3/5283** Chhuy Huy WRI, EN 00321196 (NWZ); **E3/445** Sao Phen WRI, EN 00508574 (WZ); **E3/1806** UN ECOSOC, *Submission from Canada under Decision 9 (XXXIV)*, 8 Sept 1978, EN 00087574; **E3/2622** *Crime Report for Treang District*, 1985, EN 00725088; **E3/2621** *Report on Pol Pot Crimes in Bati District*, 7 Jan 1979, EN 00721529 ["Pol Pot destroyed 35 pagodas completely"]; **E3/3400** UN ECOSOC, *Submission from the UK Government under Decision 9 (XXXIV)*, 17 Aug 1978, EN 00075972; **E3/1805** UN ECOSOC, *Submission from Norway under Decision 9 (XXXIV)*, 18 Aug 1978, EN 00087556; **E3/3559** US Department of State Airgram, *Life inside Cambodia*, 31 Mar 1976, EN 00443071 ["Many wats have been either dismantled or used for other purposes"]; **E3/3218** Henri Locard, *Kompong Thom – Uddor Region Sector or Zone 43*, EN 00208423, 00208428; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00704018 [evidence suggests that the dismantlement of pagodas was not a purely local initiative but that orders at a higher level had been formulated]; **E3/2144** Howard J. De Nike et al., *Genocide in Cambodia*, EN 00190294 ["Several principal temples of our 26 pagodas in Phnom Penh were sacked"].
- ¹⁵³⁹ **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00704015.
- ¹⁵⁴⁰ **E1/150.1** Hun Chhunly, T. 7 Dec 2012, 10.20.25-10.22.33 (NWZ) ["certain Buddhist pagodas were transformed into prisons. And the other were transformed into the detention centre; for example, one of the pagodas ... if they would send anyone for operation experiment they would bring those people to this pagoda"]; **E1/105.1** Ong Thong Hoeung, T. 9 Aug 2012, 10.19.05-10.21.28 (PPSZ/PPAM) ["I went

380. The successful implementation of this policy was referenced in a number of contemporaneous publications, directives, or statements by the CPK leadership.¹⁵⁴¹ For

through Langka Pagoda ... my observation was that the temple at the pagoda was kind of used for pigs"; **E1/424.1** Prak Khan, T. 28 Apr 2016, 10.32.45-10.35.30 (PPSZ/PPAM) ["I was asked to bring all those people onto the vehicles to be smashed at Kouk Roluos pagoda"]; **E1/446.1** Meas Soeum, T. 29 June 2016, 14.25.12-14.27.35 (EZ); **E1/506.1** Sin Oeng, T. 5 Dec 2016, 13.39.04-13.41.53 (EZ); **E1/353.1** Ban Seak, T. 5 Oct 2015, 10.49.24-10.52.00 (EZ); **E1/371.1** Thang Phal, T. 6 Jan 2016, 13.58.51-14.03.03 (EZ); **E1/373.1** Muy Vanny, T. 11 Jan 2016, 10.18.05-10.20.43 (NZ); **E1/372.1** Sos Romly, T. 8 Jan 2016, 11.05.25-11.09.05 (EZ); **E1/346.1** Seng Srun, T. 14 Sept 2015, 09.36.33-09.38.40 (NZ); **E1/301.1** Or Ho, T. 19 May 2015, 11.27.20-11.29.21 (NZ); **E1/353.1** Ban Seak, T. 5 Oct 2015, 14.00.15-14.02.18 (EZ); **E1/88.1** Yun Kim, T. 19 June 2012, 11.41.54-11.46.01 (5055); **E1/398.1** Sales Ahmat, T. 9 Mar 2016, 11.01.05-11.04.22 (EZ); **E1/374.1** Say Doeun, T. 12 Jan 2016, 11.15.20-11.16.47, 15.21.37-15.24.09 (NZ); **E1/393.1** Man Sles, T. 29 Feb 2016, 13.45.37-13.48.34 (EZ); **E1/170.1** Pin Yathay, T. 7 Feb 2013, 10.59.34-11.01.21 (SWZ); **E1/448.1** Moeng Vet, T. 26 July 2016, 14.03.47-14.05.48 (SWZ); **E1/368.1** Y Vun, T. 15 Dec 2015, 09.27.50-09.30.10 (NZ); **E1/459.1** Mey Savoeun, T. 17 Aug 2016, 09.53.45-09.56.49 (EZ); **E1/504.1** Preap Chhon, T. 30 Nov 2016, 14.45.50-14.48.02 (EZ); **E1/415.1** Sos Kamri, T. 6 Apr 2016, 10.50.10-10.52.08 (NZ); **E1/365.1** Um Suonn, T. 9 Dec 2015, 11.16.55-11.19.31, 11.21.05-11.23.40 (NZ); **E1/362.1** Prak Doeun, T. 3 Dec 2015, 09.57.02-09.58.28 (WZ); **E1/333.1** Tak Boy, T. 19 Aug 2015, 14.05.00-14.06.38 (NWZ); **E1/358.1** Sean Song, T. 28 Oct 2015, 09.25.35-09.27.20, 11.18.10-11.20.23 (NZ); **E1/394.1** Khoy Muoy, T. 1 Mar 2016, 11.07.20-11.09.48 (WZ); **E1/259.1** Elizabeth Becker, T. 9 Feb 2015, 13.34.14-13.35.32 [Becker testified to the conversion of pagodas to granaries as well as to their unoccupied nature]; **E1/451.1** Henri Locard, T. 29 July 2016, 15.24.58-15.26.41 ["But during 1975, the network of prisons was set-up, the prisons were either located in former pagodas or schools"]; **E1/407.1** Ysa Osman, T. 23 Mar 2016, 14.32.03-14.33.59; **E1/388.1** Ysa Osman, T. 9 Feb 2016, 16.05.51-16.07.20; **E1/179.1** Francois Ponchaud, T. 10 Apr 2013, 13.40.31-13.44.06 confirming **E3/1804** Francois Ponchaud, *Some General Indications Concerning Violations of Human Rights in Democratic Kampuchea between 1975 and 1978*, EN 00087527; **E1/484.1** Cheal Choeun, T. 17 Oct 2016, 09.13.01-09.14.10 (NWZ); **E1/393.1** Meu Peou, T. 29 Feb 2016, 11.22.34-11.24.31 (NEZ); **E1/502.1** Beit Bocurn (Bit Na), T. 28 Nov 2016, 13.42.15-13.43.40 (PPSZ/PPAM); **E1/430.1** Suos Thy, T. 2 June 2016, 09.20.05-09.22.34 (PPSZ/PPAM); **E1/467.1** Phan Him, T. 31 Aug 2016, 15.55.30-15.57.34 (PPSZ/PPAM); **E3/5560** Tes Ding WRI, EN 00377169 (SWZ); **E3/7777** Prum Proeung WRI, EN 00358620 (EZ); **E3/5291** Thun Sovat WRI, EN 00375895 (NWZ); **E3/5499** Uk Phorn WRI, EN 00372928, 00372933 (SWZ); **E3/7975** Prum Proeung WRI, EN 00223216 (EZ); **E3/7983** Tep Dom WRI, EN 00165218-19 (EZ); **E3/5518** Sao Han (Hean) WRI, EN 00413902 (SWZ); **E3/5132** Preab Proeung WRI, EN 00223191 (EZ); **E3/5296** Loem Savon WRI, EN 00358146 (EZ); **E3/7976** Suy Mok WRI, EN 00223525-27 (SWZ); **E3/9345** Keh Kan WRI, EN 00340185-86 (NEZ); **E3/5130** Khut Un WRI, EN 00223181 (EZ); **E3/5133** Em Phoeung WRI, EN 00223201 (SWZ); **E3/7769** Loet Khun WRI, EN 00340190 (NEZ); **E3/445** Sao Phen WRI, EN 00508574 (WZ); **E3/7721** Srei Saphon WRI, EN 00347712-13 (EZ); **E3/7771** Huot Robieb WRI, EN 00350257 (NWZ); **E3/5515** Phneu Yav WRI, EN 00410250 (SWZ); **E3/5586** Chhim Chhiek WRI, EN 00434911 (SWZ); **E3/5131** Nong Punna WRI, EN 00223185-86 (EZ); **E3/2545** Huot Robieb, *History of Samraong Knong Pagoda*, EN 00651705-06; **E3/3400** UN ECOSOC, *Submission from the UK under Decision 9 (XXXIV)*, 17 Aug 1978, EN 00075972; **E3/4521** UN ECOSOC, *Submission from Amnesty International under Decision 9 (XXXIV)*, 15 Aug 1978, EN 00076007; **E3/1806** UN ECOSOC, *Submission from Canada under Decision 9 (XXXIV)*, 8 Sept 1978, EN 00087574; **E3/2622** Crime Report for Treang District, 1985, EN 00725088; **E3/2621** Report on Pol Pot Crimes in Bati District, 7 Jan 1979, EN 00721529 ["Pol Pot destroyed 35 pagodas completely while some were used as execution sites"]; **E3/1805** UN ECOSOC, *Submission from Norway under Decision 9 (XXXIV)*, 18 Aug 1978, EN 00087556; **E3/2060** UN ECOSOC, Analysis Prepared on Behalf of the Sub-Commission under Decision 9 (XXXIV), 30 Jan 1979, EN 00078663; **E3/3559** US Department of State Airgram, Life inside Cambodia, 31 Mar 1976, EN 00443071 ["Many wats have been either dismantled or used for other purposes"]; **E3/8049** Site Identification Report, 26 Nov 2009; **E3/3218** Henri Locard, *Kompong Thom – Uddor Region Sector or Zone 43*, EN 00208411; **E3/2818** Ian Harris, *Buddhism under Pol Pot*, EN 00704023 [Harris notes the widespread use of pagodas as workshops of torture and execution], EN 00704017 [by December 1975 nearly all monasteries still active in the country were closed]; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397107 ["temples were turned into offices, meeting halls, and militia barracks"].

¹⁵⁴¹ **E1/222.1** Stephen Heder, T. 11 July 2013, 15.16.37-15.19.55 [In an interview with Heder, Mat Ly

example, a 22 September 1975 Party circular noted that most monks had left the monkhood, that “[p]agodas which are the core foundations for the existence of the monkhood were abandoned”, that people no longer went to pagodas or offered alms to the monks, and that religious practice had “disappeared”.¹⁵⁴² The Party concluded that, based on this trend, “90 to 95 percent of the monks and Buddhist practices will no longer exist” and “this special layer [of the society] will no longer cause any worry”.¹⁵⁴³ In the June 1977 issue of *Revolutionary Flag*, former monks were identified as the part of the “petty bourgeoisie” most likely to be enemies of the CPK.¹⁵⁴⁴ In April 1978, a senior DK official told a visiting Yugoslavian delegation that “Buddhism was incompatible with the revolution,” and that this “problem” was no longer an issue because “Buddhism is dead”.¹⁵⁴⁵

381. As a result of the implementation of this policy, Buddhism as an institution and as a practice in DK was annihilated by the CPK.¹⁵⁴⁶ Anyone who protested this state of

indicated that at a CPK Assembly meeting that he attended “they eliminated all religion”; **E3/659** Transcription of Ieng Thirith’s 1980 Audio Interview by Elizabeth Becker, 1980, EN 00182338 [“il en reste très peu [de bonzes] parce que les jeunes se sont tous défroqués depuis la guerre”].

¹⁵⁴² **E3/99** CPK, Concerning the Grasp and Implementation of the Political Line in Mobilizing the National Democratic Front Forces of the Party, 22 Sept 1975, EN 00244275.

¹⁵⁴³ **E3/99** CPK, Concerning the Grasp and Implementation of the Political Line in Mobilizing the National Democratic Front Forces of the Party, 22 Sept 1975, EN 00244275.

¹⁵⁴⁴ **E3/135** *Revolutionary Flag*, June 1977, EN 00446860.

¹⁵⁴⁵ **E3/2307** Slavko Stanic, *Kampuchea – Socialism Without a Model*, EN S 00046706; **E3/2306** Tanjug Domestic Service, A Yugoslav Journalist’s Impressions on His Visit, EN S 00010085-86.

¹⁵⁴⁶ **E1/88.1** Yun Kim, T. 19 June 2012, 11.44.00-11.46.01 (505S) [“During the Democratic Kampuchea regime ... it was an end to Buddhism”]; **E1/344.1** Sos Min, T. 9 Sept 2015, 13.34.16 (EZ) [“All religions, including Buddhism ... were abolished”]; **E1/415.1** Sos Kamri alias Kamaruttin Yusof, T. 6 Apr 2016, 15.02.25-15.06.16 (NZ) [when asked if only Cham people or all religious followers were considered enemies: ... If only the Cham people who practice Islamic religion were killed, that was a separate matter. However, for Buddhism, the pagodas, the temples, and the Buddha statues were also destroyed. So they were talking about religions”]; **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.02.08-14.05.22 (PPSZ/PPAM); **E1/350.1** No Sates, T. 28 Sept 2015, 13.42.41-13.44.26 (EZ); **E1/89.1** Yun Kim, T. 20 June 2012, 14.02.51-14.04.50 (505S); **E1/350.1** Him Man, T. 28 Sept 2015, 09.35.05-09.37.16 (NZ); **E1/373.1** Muy Vanny, T. 11 Jan 2016, 10.28.18-10.30.22 (NZ); **E1/301.1** Or Ho, T. 19 May 2015, 14.07.11-14.09.03 (NZ); **E1/417.1** Chum Mey T. 18 Apr 2016, 14.13.59-14.16.24 (PPSZ/PPAM); **E1/260.1** Elizabeth Becker, T. 10 Feb 2015, 11.11.43-11.15.20 [Becker testified to the “complete erasure of Buddhist culture” following her visit to Cambodia in December 1978]; **E1/473.1** Kasumi Nakagawa, T. 14 Sept 2016, 11.09.25-11.11.46 [Nakagawa testified to the destruction of Buddhism by the Khmer Rouge], 11.27.07-11.28.18; **E1/472.1** Kasumi Nakagawa, T. 13 Sept 2016, 13.49.55-13.51.17; **E3/375** Ban Seak WRI, EN 00360759 (EZ); **E3/7987** Prum Proeung WRI, EN 00165241 (EZ); **E3/7769** Loet Khun WRI, EN 00340190-91 (NEZ); **E3/5281** Peng Bunthara WRI, EN 00322939 (NWZ); **E3/5291** Thun Sovat WRI, EN 00375894 (NWZ); **E3/3400** UN ECOSOC, *Submission from the UK under Decision 9 (XXXIV)*, 17 Aug 1978, EN 00075972 [“This result has been achieved, as refugees have testified, by the execution of some monks, by the expulsion of the majority from their monasteries to work alongside the rest of the population in the fields or in work camps, and by the prohibition of religious observance”]; **E3/2060** UN ECOSOC, *Analysis Prepared on Behalf of the Sub-Commission under Decision 9 (XXXIV)*, 30 Jan 1979, EN 00078651 [“5. The launching of a sustained programme designed to destroy traditional religious and family life”]; **E3/3415** United Kingdom, *Materials From the Foreign & Commonwealth Office*, 9 May 2005, EN 00075811 [“There was no

affairs was liable to be summarily executed.¹⁵⁴⁷ From the trial testimony and statements provided to the Trial Chamber and to Investigative Judges, the evidence demonstrates that the persecution of Buddhists in the DK era was widespread and systematic, occurring across all zones and autonomous sectors in DK and the result of a deliberate policy emanating from the top of the CPK hierarchy.¹⁵⁴⁸

C. ROLE AND CONTRIBUTION OF ACCUSED TO COMMON CRIMINAL PLAN

1. ROLE OF NUON CHEA

PRE-1975 BACKGROUND & POSITIONS

382. **Nuon Chea** first joined the Communist Party as a student in Thailand in the 1940s.¹⁵⁴⁹

On his return to Cambodia in 1950, he transferred to the Indochinese Communist Party (ICP) and became responsible for propaganda and education of Party members in northwest Cambodia.¹⁵⁵⁰ He remained active in the communist movement over the ensuing years, attending the 1951 Congress at which the ICP was dissolved and the Kampuchean People's Revolutionary Party (KPRP) formed,¹⁵⁵¹ and studying

religious life"].

¹⁵⁴⁷ **E1/17.1** Klan Fit, T. 6 Dec 2011, 16.00.41-16.03.29 (NEZ) ["We had to really be abided by political line, or we would be killed"]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 10.09.20-10.12.07 (SWZ) ["he told me that monks were tortured and killed at the place he was, as they opposed the Angkar's instructions"]; **E3/9774** [REDACTED] WRI, EN00597439 (NWZ); **E3/7769** Loet Khun WRI, EN 00340190-91 (NEZ); **E3/436** Heng Lai Heang WRI, EN 00414571 (505S); **E3/5523** Miech Ponn WRI, EN 00434651 (SWZ); **E3/5291** Thun Sovat WRI, EN 00375894-95 (NWZ); **E3/8462**, *List of Monks and Royal Families*, EN 00786215 [list of executed Buddhist monks]; **E3/2545** Huot Robieb, *History of Samraong Knong Pagoda*, EN 00651706 ["Those who were defiant were killed"]; **E3/4527** Stephen Heder, *Reassessing the Role of Senior Leaders and Local Officials in Democratic Kampuchea Crimes: Cambodian Accountability in Comparative Perspective*, 1 Mar 2003, EN 00661477 [Monks were killed due to their unwillingness to give up Buddhism]; **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00237959 [Becker indicated that monks were either executed or ordered to defrock and work in the cooperatives in violation of their religious tenets. A refusal to follow such an order led to execution]; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397107 [those monks who adamantly refused to comply with the new style of life were executed]; **E3/2144** Howard J. De Nike et al., *Genocide in Cambodia*, EN 00190293-94.

¹⁵⁴⁸ See **Annex E CPK Buddhist Policy Chart of Witness Evidence from Each DK Zone**. The evidence demonstrates that the persecution of Buddhists occurred in the Southwest Zone in Sectors 13, 25, 32, 33, and 35; in the East Zone in Sectors 20, 21, 22, and 23; in Sector 505 (Kratie), in Sector 105, in the Northeast Zone in Sectors 101, and 104; in the North Zone in Sectors 41, 42, 43, and 106; in the Northwest Zone in Sectors 1, 2, 3, 4, 5, and 6; in the West Zone in Sectors 11, 31, 32, and 37; and in the Phnom Penh Special Zone/Phnom Penh Autonomous Municipality.

¹⁵⁴⁹ **E1/16.1** Nuon Chea, T. 5 Dec 2011, 11.11.12-11.14.06, 11.28.22-11.33.37; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.19.53-11.25.40; **E3/3** Nuon Chea Statement, May 1998, EN 00184664; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329506; **E3/17** David Chandler, *Brother Number One*, EN 00392968.

¹⁵⁵⁰ **E3/3** Nuon Chea Statement, May 1998, EN 00184664; **E1/16.1** Nuon Chea, T. 5 Dec 2011, 11.31.08; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.51.23-11.55.43; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329506-07; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757502.

¹⁵⁵¹ **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.22.55-11.25.40; **E3/3** Nuon Chea Statement, May 1998, EN

communist ideology and militia warfare at the highest-level school of the Vietnamese party from 1953 to 1954.¹⁵⁵²

383. In 1955, **Nuon Chea** moved to Phnom Penh and worked to rebuild the communist party in Cambodia, which had largely dissolved after the 1954 Geneva peace agreement.¹⁵⁵³ He first met Saloth Sar at that time,¹⁵⁵⁴ and from 1956 to 1960 the two worked closely together to re-establish Party branches and develop strategic lines for the Cambodian Party separate from those of the Vietnamese Party.¹⁵⁵⁵ During those years, **Nuon Chea** was the Secretary of the Party's Phnom Penh City Committee and Saloth Sar was a member of that Committee.¹⁵⁵⁶
384. At the 1st Party Congress held at the Phnom Penh railway station in September 1960,¹⁵⁵⁷ the Congress adopted the proposed Party Statute and political lines that had been prepared by **Nuon Chea** and Saloth Sar,¹⁵⁵⁸ and appointed Tou Samuth as Party Secretary, **Nuon Chea** as Deputy Secretary, and Saloth Sar the Member of the Party's Standing Committee.¹⁵⁵⁹ After the arrest and execution of Tou Samuth in July 1962,¹⁵⁶⁰

00184656.

¹⁵⁵² **E1/23.1** Nuon Chea, T. 15 Dec 2011, 11.05.55-11.15.34; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498226; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757503-04.

¹⁵⁵³ **E3/3** Nuon Chea Statement, May 1998, EN 00184658; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.01.20; **E1/16.1** Nuon Chea, T. 5 Dec 2011, 11.37.48-11.39.50; **E1/23.1** Nuon Chea, T. 15 Dec 2011, 11.21.29; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329507-08; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757505.

¹⁵⁵⁴ **E1/23.1** Nuon Chea, T. 15 Dec 2011, 11.24.10-11.26.31; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757505.

¹⁵⁵⁵ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.01.20-14.03.12; **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.44.21-10.01.56 ["Saloth Sar and I ... we were charged with the responsibility to devise strategic and tactical lines for the Party"]; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.56.19; **E1/23.1** Nuon Chea, T. 15 Dec 2011, 11.24.10-11.29.01; **E1/16.1** Nuon Chea, T. 5 Dec 2011, 11.37.48-11.39.50; **E3/3** Nuon Chea Statement, May 1998, EN 00184660-61 ["There was Saloth Sar and there was me playing the leading roles"]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757506-07; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498229-30; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486225, 00486231.

¹⁵⁵⁶ **E3/3** Nuon Chea Statement, May 1998, EN 00184658; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757505; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329508.

¹⁵⁵⁷ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.03.12; **E1/24.1** Nuon Chea, T. 10 Jan 2012, 11.03.10-11.11.11; **E3/3** Nuon Chea Statement, May 1998, EN 00184662 [Congress attended by 10 to 15 representatives]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417632; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486226 [Congress limited to 21 delegates]; **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396337; **E3/27** Khieu Samphan WRI, EN 00156750.

¹⁵⁵⁸ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.03.12-14.04.05; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486226-27; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757507 ["the Congress approved the political principles and statutes of the party, created by Nuon Chea and Pol Pot"]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498230-31.

¹⁵⁵⁹ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.03.12-14.04.05; **E1/16.1** Nuon Chea, T. 5 Dec 2011, 14.21.29-14.27.35; **E1/23.1** Nuon Chea, T. 15 Dec 2011, 11.46.24; **E3/3** Nuon Chea Statement, May 1998, EN 00184662; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417630-31; **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396338-39.

the 2nd Party Congress was held in February 1963.¹⁵⁶¹ While **Nuon Chea** was in line to replace Tou Samuth, he instead remained Deputy Secretary and requested Saloth Sar to become the new Party Secretary.¹⁵⁶² **Nuon Chea** and Saloth Sar agreed that while the latter would be put forward as the new Secretary, they would work together “as a team” and consult on all significant issues.¹⁵⁶³ Following the adoption of its political lines, the Party began an internal publication called *Revolutionary Flag*, which **Nuon Chea** has admitted was written by himself and Pol Pot.¹⁵⁶⁴

385. When Pol Pot, Ieng Sary, and Son Sen fled the capital for the maquis in March 1963 after they were named in a list of 34 suspected “leftists,”¹⁵⁶⁵ **Nuon Chea** stayed in Phnom Penh and assumed responsibility for Party operations in the capital and most other regions of the country,¹⁵⁶⁶ a responsibility that continued for the next seven years, even after Pol Pot established a new Party office in Ratanakiri in 1967.¹⁵⁶⁷ In early

¹⁵⁶⁰ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.09.20-14.11.01; **E1/16.1** Nuon Chea, T. 5 Dec 2011, 14.33.24-14.37.14; **E3/3** Nuon Chea Statement, May 1998, EN 00184665; **E1/93.1** David Chandler, T. 20 July 2012, 11.28.00-11.31.02; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396341.

¹⁵⁶¹ **E1/26.1** Nuon Chea, T. 12 Jan 2012, 09.35.02-09.37.55; **E3/3** Nuon Chea Statement, May 1998, EN 00184667; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417621; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396341-42; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498235-36; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865696.

¹⁵⁶² **E1/16.1** Nuon Chea, T. 5 Dec 2011, 14.29.42-14.31.16; **E3/3** Nuon Chea Statement, May 1998, EN 00184661, 00184666-67 [“Why was I not Party Secretary? Because the Pracheachon Group made the accusation that I was related to Sieu Heng ... I discussed it with Saloth Sar, and he said if it was like that he would be Secretary instead, with me as the Deputy”]; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329509; **E3/4001R** Video *Additional Footage: Nuon Chea Interview*, 09:31-11:33; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417632; **E3/17** David Chandler, *Brother Number One*, EN 00392977-78; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393746-47.

¹⁵⁶³ **E3/4001R** Video *Additional Footage: Nuon Chea Interview*, 09:26-12:52; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757546 [“Before any new initiatives were presented, Pol Pot and Nuon Chea always discussed them together to hammer out the ideas and make sure they agreed on every point”].

¹⁵⁶⁴ **E1/23.1** Nuon Chea, T. 15 Dec 2011, 14.20.03-14.21.58; **E3/3** Nuon Chea Statement, May 1998, EN 00184663 [discussing period after the 1960 Party Congress: “we put out a secret magazine, initially called *Revolutionary Flag*. We distributed it among ourselves internally both in the city and in the countryside. The aim of *Revolutionary Flag* was to write about revolutionary theory, the revolutionary line”].

¹⁵⁶⁵ **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.26.07; **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.31.01-09.38.12; **E3/3** Nuon Chea Statement, May 1998, EN 00184667-68; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417620-21; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498236-37; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396342-46; **E1/93.1** David Chandler, T. 20 July 2012, 11.36.01-11.36.58; **E3/1583** Pol Pot Interview, 17 Mar 1978, EN S 00011322.

¹⁵⁶⁶ **E3/3** Nuon Chea Statement, May 1998, EN 00184668 [“In the city and in the countryside on that side, I was responsible for everything. As for Pol Pot, he was responsible for the East”]; **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.26.07; **E1/93.1** David Chandler, T. 20 July 2012, 11.36.58-11.38.29; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393751.

¹⁵⁶⁷ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.11.42-14.14.19 [admitting he was in charge of Phnom Penh and “the northwest, southwest, east, north”]; **E1/21.1** Nuon Chea, T. 13 Dec 2011, 09.54.38; **E1/26.1** Nuon Chea, T. 12 Jan 2012, 10.25.41; **E3/3** Nuon Chea Statement, May 1998, EN 00184669 [“later Pol Pot went to Ratanakiri ... The Center there led only Mondulakiri-Ratanakiri, everything over on that other side was mine”]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417622-23; **E3/22** Stephen Heder,

1968, **Nuon Chea** convened a meeting in Phnom Penh with the zone leaders, at which the decision was made to initiate armed struggle against the Sihanouk government.¹⁵⁶⁸

386. In September 1970, **Nuon Chea** left Phnom Penh and joined Pol Pot and **Khieu Samphan** at the new Party headquarters known as S-71 that was located near the Steung Chinit River in Kampong Cham province.¹⁵⁶⁹ While based at S-71, **Nuon Chea** participated in meetings of the CPK leaders (including the 3rd Party Congress in 1971 and annual Central Committee meetings),¹⁵⁷⁰ travelled to other provinces to meet with zone leaders,¹⁵⁷¹ inspected worksites,¹⁵⁷² and chaired political education meetings in which he instructed zone, sector and district-level cadres on the Party's policies.¹⁵⁷³

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- ¹⁵⁶⁸ *Cambodian Communism and the Vietnamese Model*, EN 00393772-73, 00393887.
E1/14.1 Nuon Chea, T. 22 Nov 2011, 14.11.42-14.14.19; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 10.59.41-11.04.35; **E3/3** Nuon Chea Statement, May 1998, EN 00184669 [also noting: "At that time we had no contact with Ratanakiri"]; **E3/196** Nuon Chea Speech, 30-31 July 1978, EN 00762394; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396373; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393791-93 ["Sar, Ieng Sary and Son Sen were informed of the Phnom Penh decision to begin people's war by couriers who trekked to the Northeast, a journey that took months"].
- ¹⁵⁶⁹ **E3/27** Khieu Samphan WRI, EN 00156744-45; **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103742 [discussing 1970 trip to Stoeung Chinit: "This is where we met Saloth Sar and Nuon Chea"]; **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.22.45 [regularly stayed at "Boeng Lvea, along Chinit River" in pre-75 period]; **E3/23** DK *Black Paper*, Sept 1978, EN 00082541; **E1/86.1** Oeun Tan, T. 13 June 2012, 10.21.41-10.23.51 [witness travelled with Pol Pot from Ratanakiri to Kampong Cham, where they met Nuon Chea and Khieu Samphan]; **E3/33** Oeun Tan WRI, EN 00235126-27; **E3/24** Phy Phuon WRI, EN 00223580; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417623.
- ¹⁵⁷⁰ **E3/3** Nuon Chea Statement, May 1998, EN 00184673 ["I opened the Third Party Congress ... after the coup, during 70-71"]; **E1/26.1** Nuon Chea, T. 12 Jan 2012, 11.20.01-11.20.53 [Central Committee meetings "were held when the office moved to Stung Chinit"]; **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.42.14; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.10.28-11.11.53; **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.05.46-09.07.44; **E148** Nuon Chea notes, EN 00950529; **E1/151.1** Kham Phan alias Phan Van, T. 11 Dec 2012, 11.27.40-11.30.40, referring to **E3/57** Kham Phan WRI, EN 00290504-05; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.26.03-09.28.38; **E1/86.1** Oeun Tan, T. 13 June 2012, 10.15.54-10.21.41; **E3/35** Ke Pich Vannak WRI, EN 00346147-48; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491411; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865704 ["In 1971, the Party held the Party's 3rd Great Congress"], EN 00865708-09; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486247.
- ¹⁵⁷¹ **E1/97.1** Phy Phuon, T. 26 July 2012, 09.12.03-09.17.06 [stating that Nuon Chea "made as many trips as Pol Pot," and describing his 1972 trip to Samlaut "to meet with the Northwest Zone leaders" including Ros Nhim]; **E1/88.1** Yun Kim, T. 19 June 2012, 09.26.50-09.28.47; **E3/410** Yun Kim WRI, EN 00412192.
- ¹⁵⁷² **E1/117.1** Norng Sophang, T. 29 Aug 2012, 11.22.43-11.25.13 [Pol Pot and Nuon Chea came to B-17 to "inspect the production work to see its progress"]; **E3/18** Khieu Samphan, *Cambodia's Recent History*, EN 00103747-48 [describing 1971 "work tour" with Pol Pot and Nuon Chea].
- ¹⁵⁷³ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.54.35-14.56.09 [describing pre-75 war period: "I, myself, Nuon Chea, was at the back, near Chinit River, offering the regular educational sessions for zone cadres"]; **E1/82.1** Sao Sarun, T. 6 June 2012, 09.08.41-09.18.13; **E3/367** Sao Sarun WRI, EN 00278694 ["Nuon Chea was the presenter for political session on fighting against the American [imperialist], national liberation and the eradication of oppressive classes"]; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.28.38-09.30.50; **E3/24** Phy Phuon WRI, EN 00223580; **E1/88.1** Yun Kim, T. 19 June 2012, 09.26.50-09.28.47, 11.04.46-11.06.45 [1973 meeting led by Nuon Chea in Kratie province for 50 commune chiefs and district committee members]; **E1/89.1** Yun Kim, T. 20 June 2012, 14.06.51

387. In 1974, when Pol Pot relocated to the B-5 base west of Oudong, **Nuon Chea** remained at S-71, but traveled to B-5 from time to time for meetings with Pol Pot, **Khieu Samphan**, and the zone leaders and military commanders.¹⁵⁷⁴ He stayed at B-5 during the final weeks leading up to the capture of Phnom Penh,¹⁵⁷⁵ and traveled to the capital with Pol Pot and **Khieu Samphan** a few days after 17 April 1975.¹⁵⁷⁶

DK POSITIONS & AUTHORITY

1. Deputy Secretary of CPK Standing & Central Committees

388. **Nuon Chea** remained the Deputy Secretary of the CPK Central and Standing Committees throughout the DK period.¹⁵⁷⁷ He was present for all Standing Committee meetings for which attendance records exist.¹⁵⁷⁸ As the second highest-ranking cadre in the Party behind only Pol Pot, **Nuon Chea** was known as Brother Number Two.¹⁵⁷⁹

[“enemy situation was discussed and we were told that there were American enemies and the Vietnamese and the internal enemies”].

¹⁵⁷⁴ **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.54.35-14.56.09; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 10.18.46-10.23.20 [“once in a while ... I went [to B-5] to meet with Pol Pot”]; **E1/97.1** Phy Phoun, T. 26 July 2012, 09.38.15-09.40.28, 10.04.23-10.07.21; **E1/68.1** Saloth Ban, T. 25 Apr 2012, 11.23.53-11.28.03 [witnessed Nuon Chea come to meet Pol Pot at the Peam commune office west of Oudong “once or twice”]; **E3/2346R** Video *Cambodia Year Zero Part 15*, 01:40:21-01:40:34 [video clip showing Pol Pot, Nuon Chea and Khieu Samphan at B-5, identified by Phy Phoun in **E1/98.1** T. 30 July 2012, 13.39.57-13.45.30].

¹⁵⁷⁵ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757482; **E3/27** Khieu Samphan WRI, EN 00156743; **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 09.40.28-09.42.47, 10.09.04-10.11.01; **E3/63** Phy Phoun WRI, EN 00231409-10.

¹⁵⁷⁶ **E3/27** Khieu Samphan WRI, EN 00156745 [“Nuon Chea and Pol Pot brought me from Udong to Phnom Penh” after 17 Apr 1975]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757482-83.

¹⁵⁷⁷ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.42.13-09.45.52 [confirming he was “Deputy Secretary of the Party” and 2nd in CPK hierarchy]; **E3/54** Nuon Chea, Written Record of Initial Appearance, EN 00148817 [“I was Deputy Secretary of the Party”]; **E3/27** Khieu Samphan WRI, EN 00156750; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 14.17.01-14.19.08; **E1/433.1** Kaing Guek Eav, T. 7 June 2016, 11.25.07 [“Pou Nuon was the Deputy Secretary of the Party Centre”]; **E3/61** Kaing Guek Eav WRI, EN 00195577; **E3/24** Phy Phoun WRI, EN 00223585; **E3/199** Nuon Chea Speech, 3 Sept 1978, EN 00065911; **E3/76** FBIS, *Nuon Chea Delegation in Peking Meets with Hua Kuo-Feng*, 8 Sept 1978, EN 00170358; **E3/1714** Stephen Heder and Masato Matsushita, *Interviews with Kampuchean Refugees at Thai-Cambodia Border*, EN 00170749; **E1/189.1** Philip Short, T. 6 May 2013, 14.02.47-14.04.21.

¹⁵⁷⁸ **E295/6/1.2** Table of Attendance at Standing Committee Meetings, EN 00948358.

¹⁵⁷⁹ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.42.13-09.45.52 [denying that he used “Brother Number Two” as a name, but admitting he was second in the Party hierarchy]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757546 [quoting Nuon Chea: “They just called him and me Brother Number One and Two”]; **E1/99.1** Phy Phoun, T. 31 July 2012, 11.20.19-11.23.01 [“starting from 1974 ... Om Pol Pot was now known as Om Number One and Om Nuon Chea was known [as] Om Number Two”]; **E1/158.1** Ung Ren, T. 10 Jan 2013, 11.26.30-11.28.35; **E1/195.1** Prum Sou, T. 22 May 2013, 11.25.25-11.27.36; **E1/153.1** Kham Phan alias Phan Van, T. 13 Dec 2012, 16.14.02-16.15.53; **E3/58** Kham Phan alias Phan Van WRI, EN 00250089 [“My typewritten documents regarding security matters were sent to Nuon Chea alias Uncle Nuon or Brother Number 2”]; **E1/498.1** Ou Dav, T. 10 Nov 2016, 14.51.36-14.53.52, 15.57.10; **E3/858** List of K-Office Cadres, EN 00391725-26 [includes Toeung and Soth, identified as “Guards for Uncle II”]; **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 10.07.46-10.11.21; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2012, 11.54.17; **E1/444.1** Kaing Guek Eav, T. 27 June 2016, 10.06.26-10.10.50; **E1/423.1** Prak Khan, T. 27 Apr 2016, 10.56.52-11.00.06; **E3/79** Prak Khan WRI, EN

When Pol Pot was absent, it was **Nuon Chea** who presided over and led Standing Committee meetings.¹⁵⁸⁰ **Nuon Chea** held significant power and authority based on his senior position in the CPK, as all state and government organisations fell under the absolute control of the Party.¹⁵⁸¹ The testimony of experts on the DK regime confirmed the importance of **Nuon Chea's** position as Deputy Secretary,¹⁵⁸² and **Nuon Chea** himself has acknowledged that he and Pol Pot shared power, consulted on everything, and had no disagreements regarding policy during the DK period.¹⁵⁸³

389. **Nuon Chea** regularly participated in meetings in Phnom Penh with his fellow Centre leaders and visiting zone leaders,¹⁵⁸⁴ and frequently travelled to the provinces to meet

00161562; **E1/427.1** Him Huy, T. 4 May 2016, 13.34.00; **E3/833** Mam Nai S-21 Notebook, EN 00184608; **E3/1688** S-21 Confession of Chap Mit, EN 00284069 [Duch annotation to Pon: "Brother Number II has advised on 25 Feb 1978"]; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 10.26.28-10.29.16.
¹⁵⁸⁰ **E3/218** Minutes of Standing Committee Meeting on "Results of Negotiations with Vietnam regarding the Eastern Border," 26 Mar 1976, EN 00182651, 00182656; **E1/86.1** Oeun Tan, T. 13 June 2012, 15.55.34-15.58.13 ["It was Nuon Chea who would take over from Pol Pot when he was absent"].
¹⁵⁸¹ **E3/12** Central Committee Decision Regarding a Number of Matters, 30 Mar 1976, EN 00182813 ["The true nature of our state organizations at this time is different from before. ... They are the state organizations totally of our Party"]; EN 00182814 ["The Government: Must be totally an organization of the Party"]; **E3/818** Council of Ministers First Meeting Minutes, 22 Apr 1976, EN 00143461; **E3/27** Khieu Samphan WRI, EN 00156749 ["the party leads the state"]; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 10.20.59-10.22.45 ["the army was under absolute control by the Standing Committee of the Party, by the secretary and deputy secretary"]; **E1/121.1** Norng Sophang, T. 4 Sept 2012, 09.54.14-09.56.34.
¹⁵⁸² **E1/91.1** David Chandler, T. 18 July 2012, 10.26.07-10.28.27 [Nuon Chea was "very much on top of and ... engaged in day-to-day policy matters on all parts of the Cambodian enterprise, including military affairs ... if you want to take a capitalist equivalent, it is a parallel to calling Pol Pot the president and Nuon Chea the CEO of Cambodia"]; **E1/189.1** Philip Short, T. 6 May 2013, 13.37.45-13.39.07, 14.02.47-14.05.58 ["I remember suggesting to some former Khmer Rouge officials that Nuon Chea was the manager and Pol Pot was ... the director, and they said no, it wasn't that clear cut. It was perhaps closer to an alter ego ... they both took an interest in and responsibility for the same things"]; **E1/451.1** Henri Locard, T. 29 July 2016, 11.05.00-11.08.28.
¹⁵⁸³ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757546 ["Nuon Chea said. 'We were equal. Pol Pot did not serve me and I did not serve him. We both served the way of the Party' ... Before any new initiatives were presented, Pol Pot and Nuon Chea always discussed them together to hammer out the ideas and make sure they agreed on every point"]; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329511, EN 00329516 ["Q: Who among those in the leadership expressed ideas? A: Everyone. This one had some ideas, and that one had some ideas"]; **E3/558** Nuon Chea OCJ Adversarial Hearing, 19 Sept 2007, EN 00148699 ["Leadership in my Party was collective decision making"]; **E3/4001R** Video, *Additional footage: Nuon Chea interview*, 09:26-12:52, 17:12-17:47 ["Q: Did you and Pol Pot ever argue with each other or have disputes when you were in government? A: There was nothing. Not between '75 and '79. There was no problem between us"].
¹⁵⁸⁴ **E1/86.1** Oeun Tan, T. 13 June 2012, 11.14.15-11.18.25, 11.22.30-11.23.32 ["There were people from sectors and zones at the place of Pol Pot and there were Khieu Samphan, Ieng Sary and Nuon Chea in the meetings"], 11.39.40-11.45.28 ["the meeting was held monthly or fortnightly"]; **E3/33** Oeun Tan WRI, EN 00235127-28; **E1/63.1** Saut Toeung, T. 18 Apr 2012, 14.06.50-14.08.36, 15.18.42, 15.26.34-15.30.37 [identifying Zone leaders who regularly came to K-1 for meetings]; **E1/156.1** Sa Vi, T. 8 Jan 2013, 09.42.35-09.47.08, 10.13.11-10.19.37, 15.39.04-15.42.28; **E3/104** Sa Vi WRI, EN 00204059; **E1/83.1** Sao Sarun, T. 7 June 2012, 11.45.40-11.53.08; **E1/84/1** Sao Sarun, T. 11 June 2012, 09.12.20-09.19.10; **E3/367** Sao Sarun WRI, EN 00278695-96; **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 09.49.30-09.52.02, 09.55.33, 10.37.01-10.40.48; **E3/232** Minutes of Standing Committee Meeting on "Base Work", 8 Mar 1976 [meeting at which North Zone Deputy Secretary Sreng, Sector 106 Secretary Sot and Sector 103 Hang reported to the Centre, represented by Pol Pot, Nuon Chea, Khieu Samphan and

with zone leaders.¹⁵⁸⁵ He was also one of the Party Centre leaders who regularly received reports and telegrams from the base.¹⁵⁸⁶ Oeun Tan, the head of the K-1 guard unit, testified that all telegrams and letters from the Zones and RAK were first delivered to Pol Pot and then to **Nuon Chea**.¹⁵⁸⁷ Numerous telegrams and reports contain distribution lists¹⁵⁸⁸ recording that a copy of the document was provided to **Nuon Chea**.¹⁵⁸⁹ In response to these reports, Pol Pot and **Nuon Chea** sent telegrams and letters providing written instructions or directives for the zone or sector cadres.¹⁵⁹⁰

2. Responsibility for Party Affairs & Education

390. In the 9 October 1975 Standing Committee meeting that divided specific functions amongst the senior CPK cadres, **Nuon Chea** was assigned responsibility for “Party

Doeun].

¹⁵⁸⁵ **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.03.45-15.11.29, 15.14.59-15.34.45 [testimony of guard who accompanied Nuon Chea that he traveled to the provinces “every 2 or 3 months” and met with Sao Phim in the East Zone, Ros Nhim in Battambang, Ta Mok in Takeo and West Zone Deputy Secretary Ta Pal in Kampong Speu, which meetings would “last for one or two days”]; **E3/423** Saut Toeung WRI, A57-A61, A72-A75, A91-A96; **E3/464** Tha Sot WRI, EN 00226110; **E3/104** Sa Vi WRI, EN 00204060; **E1/194.1** Prom Sou, T. 21 May 2013, 10.55.42-10.58.45; **E3/420** Prum Sou WRI, A6.

¹⁵⁸⁶ **E1/86.1** Oeun Tan, T. 13 June 2012, 13.43.38-13.50.12, 15.55.34-15.59.15; **E3/33** Oeun Tan WRI, EN 00235132-33; **E3/64** Norng Sophang WRI, EN 00334047-49.

¹⁵⁸⁷ **E1/86.1** Oeun Tan, T. 13 June 2012, 13.43.38-13.50.12, 15.55.34-15.59.15 [“all telegrams that were sent to Pol Pot also given to Nuon Chea”]; **E3/33** Oeun Tan WRI, EN 00235132-33.

¹⁵⁸⁸ **E3/64** Norng Sophang WRI, EN 00334048, 00334054 [testimony of K-18 telegram cadre that distribution lists were added by the head of the telegram unit at K-1, pursuant to instructions from the Party leaders]; **E1/120.1** Norng Sophang, T. 3 Sept 2012, 10.58.18-11.07.15; **E1/122.1** Norng Sophang, T. 5 Sept 2012, 11.30.10-11.32.35, 13.38.20-13.46.04; **E1/123.1** Norng Sophang, T. 6 Sept 2012, 09.33.01-09.34.31.

¹⁵⁸⁹ See e.g. **E3/154** Telegram from Chhon (Sao Phim) to Brother Pol, 30 Nov 1975; **E3/1188** Telegram from Buth to Respected Brother, 29 Jan 1976; **E3/871** Telegram from Chhon to Brother Pol, 21 Mar 1976; **E3/952** Telegram from Ke Pauk to Brother Pol, 2 Apr 1976; **E3/240** Telegram from Vi, 15 June 1977; **E3/957** Telegram from M-401 to Angkar, 19 Mar 1978; **E3/883** Telegram from Nhim to Angkar 870, 27 Aug 1977; **E3/1144** Telegram from Se to Committee 870, 5 Sept 1977; **E3/1119** Telegram from Nhim to Angkar 870, 20 Oct 1977; **E3/892** Telegram from Chhon to M-870, 29 Oct 1977; **E3/1120** Telegram from Mo-560, 6 Nov 1977; **E3/898** Telegram from Se to Committee 870, 11 Dec 1977; **E3/1208** Telegram from Nhim to Angkar 870, 21 Dec 1977; **E3/915** Telegram from Division 164 Secretary Mut to Committee M-870, 31 Dec 1977; **E3/243** Telegram from Chhon to Brother Pa, 19 Jan 1978; **E3/181** Telegram from 47, 14 Feb 1978; **E3/996** Telegram from Se to Committee 870, 19 Mar 1978; **E3/867** Telegram from 47 to Brother 009, 20 Mar 1978; **E3/519** Telegram from Ke Pauk to Committee 870, 29 Mar 1978; **E3/1075** Telegram from 47, 8 Apr 1978; **E3/1117** Telegram from 47, 8 Apr 1978; **E3/1077** Telegram from Se to Committee 870, 10 Apr 1978; **E3/1008** Telegram from Roat to Brother, 12 Apr 1978; **E3/859** Report from 47 to Grand Uncle, 15 Apr 1978; **E3/935** Telegram from Ri, 21 Apr 1978; **E3/156** Telegram from Sarun to Respected Brother, 23 Apr 1978; **E3/1013** Telegram from Nhim to M-870, 10 Mar.

¹⁵⁹⁰ **E1/151.1** Phan Van, T. 11 Dec 2012, 15.16.15-15.24.14, 15.39.47-15.45.37; **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 10.42.13-10.47.37 [witness delivered letters from K-1 to So Phim]; **E3/64** Norng Sophang WRI, EN 00334051; **E1/123.1** Norng Sophang, T. 6 Sept 2012, 09.35.49-09.38.11. See e.g. **E3/254** Telegram 32 from M-870, 20 Mar 1978 [telegram from Office 870 to West Zone Secretary Si and Central Zone Secretary Pauk, in response to report **E3/1186** on enemy activity in Mukh Kampoul District, directing recipients to monitor the situation and “take any measure”]; **E1/154.1** Suon Kanil, T. 14 Dec 2012, 15.49.17-15.58.00 [testimony of Central Zone telegram cadre regarding receipt of **E3/254** from Office 870, describing how Pol Pot came to Central Zone the following day and asked if Ke Pauk had received the telegram].

Affairs, Social Action, Culture, Propaganda and Education.”¹⁵⁹¹ **Nuon Chea** admits that he was “in charge of educating cadres and party members” on the Party lines and policies.¹⁵⁹²

391. Numerous witnesses confirmed that **Nuon Chea**, sometimes joined by Pol Pot and/or **Khieu Samphan**, regularly led “political education” or “study sessions” for Party cadres at Borei Keila and other locations that lasted days or even weeks.¹⁵⁹³ Once a year, CPK district and sector secretaries were required to travel to Phnom Penh for one month of political education conducted by **Nuon Chea** and Pol Pot¹⁵⁹⁴—one of the key ways in which the CPK leaders disseminated their policies to lower-level cadres.¹⁵⁹⁵
392. As a result of his specific assignments in the 9 October 1975 Standing Committee minutes, **Nuon Chea** had oversight responsibility for the Ministries of Propaganda,

¹⁵⁹¹ **E3/182** CPK Standing Committee Minutes, 9 Oct 1975, EN 00183393.

¹⁵⁹² **E3/54** Nuon Chea, Written Record of Initial Appearance, 19 Sept 2007, EN 00148817.

¹⁵⁹³ **E1/102.1** Suong Sikoeun, T. 6 Aug 2012, 14.15.34-14.18.22 [Nuon Chea and Pol Pot spoke at political education sessions conducted in Borei Keila “for the Party’s cadres starting from the chairman or the secretary of the district or sectors committee”]; **E1/96.1** Rochoem Ton alias Phy Phoun, T. 25 July 2012, 14.31.11-14.32.17; **E1/73.1** Pean Khean, T. 17 May 2012, 10.08.24-10.19.39 [Nuon Chea provided “high-level political education” at Borei Keila to “senior” cadres from the ministries and “sector level”]; **E3/83** Kaing Guek Eav WRI, EN 00398163 [stating that Nuon Chea was responsible for “annual training sessions,” which included “political and psychological training and education on organizational matters”]; **E1/64.1** Saut Toeung, T. 19 Apr 2012, 10.11.43-10.13.22; **E3/423** Saut Toeung WRI, A53-A56; **E1/215.1** Pech Chim, T. 1 July 2013, 11.18.58-11.31.01; **E3/401** Pech Chim WRI, EN 00381028; **E1/310.1** Sou Soeun, T. 4 June 2015, 10.08.31; **E3/69** Chea Say WRI, EN 00233152 [sessions attended by hundreds of participants]; **E1/124.1** Chea Say, T. 20 Sept 2012, 10.17.55-10.30.29, 10.57.44-11.01.30, 13.59.03-14.00.35; **E3/367** Sao Sarun WRI, EN 00278694; **E1/82.1** Sao Sarun, T. 6 June 2012, 09.54.40-10.00.00; **E3/421** Chhouk Rin WRI, A4; **E1/181.1** Chhouk Rin, T. 22 Apr 2013, 13.58.05, 14.15.57-14.21.05; **E1/182.1** Chhouk Rin, T. 23 Apr 2013, 09.30.00-09.33.06, 10.55.26-11.05.19; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 11.54.27-11.59.48, 13.36.38-13.42.46; **E3/469** Ruos Suy WRI, EN 00205112-13; **E1/217.1** Ek Hen, T. 3 July 2013, 11.37.13-11.42.02, 12.10.20-12.12.22, 14.10.31-14.12.11; **E3/474** Ek Hen WRI, EN 00205049-50; **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.22.12-14.37.54; **E1/115.1** Em Oeun, T. 27 Aug 2012, 09.52.37-09.54.59, 10.10.31-10.21.42, 11.02.47-11.14.22; **E3/58** Kham Phan alias Phan Van WRI, EN 00250091; **E1/17.1** Klan Fit, T. 6 Dec 2011, 14.01.00-14.10.46; **E1/24.1** Klan Fit, T. 10 Jan 2012, 15.43.11-15.55.29; **E3/125** Klan Fit WRI, A10; **E3/374** Sao Phen WRI, EN 00336533; **E1/111.1** Kim Vun, T. 21 Aug 2012, 14.14.13-14.17.49. *See also* **E3/1189** Telegram from Laing to Beloved and Missed Two Brothers, 12 Oct 1976; **E3/1102** Telegram from Laing alias Chhan, 20 Oct 1976; **E3/1103** Telegram from Laing alias Chhan to Comrade Doeun, 7 Nov 1976; **E3/1195** Telegram from Laing to Pang, 25 Nov 1976.

¹⁵⁹⁴ **E1/215.1** Pech Chim, T. 1 July 2013, 11.18.58-11.31.01 [former Tram Kak District Secretary states that he attended annual political training for district secretaries conducted by Nuon Chea at Borei Keila which lasted “almost a month”]; **E3/401** Pech Chim WRI, EN 00381028; **E1/274.1** Neang Ouch alias Ta San, T. 10 Mar 2015, 11.05.42-11.08.00, 11.26.44-11.29.43; **E1/378.1** Prak Yut, T. 19 Jan 2016, 14.30.22-14.32.33, 15.08.18-15.17.12; **E1/353.1** Ban Seak, T. 5 Oct 2015, 13.44.00-13.47.22; **E1/461.1** Tep Poch, T. 22 Aug 2016, 11.18.32-11.20.25; **E3/9149** Tep Poch DC-Cam Statement, EN 01116149; **E1/64.1** Saut Toeung, T. 19 Apr 2012, 10.11.43-10.13.22; **E1/102.1** Suong Sikoeun, T. 6 Aug 2012, 14.15.34-14.18.22; **E3/57** Kham Phan alias Phan Van WRI, EN 00290506; **E1/82.1** Sao Sarun, T. 6 June 2012, 09.54.40-10.00.00; **E3/367** Sao Sarun WRI, EN 00278694, 00278696; **E3/1568** Chea Sim Statement, EN 00651868-70 [from 1975-77, attended “school for the secretary of all districts throughout the country” held in November each year at Borei Keila].

¹⁵⁹⁵ *See e.g.* **E1/215.1** Pech Chim, T. 1 July 2013, 11.29.35-11.31.01; **E1/378.1** Prak Yut, T. 19 Jan 2016, 15.14.20-15.17.12; **E1/353.1** Ban Seak, T. 5 Oct 2015, 13.47.00-13.49.03.

Education and Social Affairs.¹⁵⁹⁶ As part of this role, **Nuon Chea** from time to time visited and met with leaders of the Ministry of Propaganda¹⁵⁹⁷ and the Ministry of Social Affairs.¹⁵⁹⁸ **Nuon Chea's** specific responsibility for these ministries is also reflected in the minutes of the 1 June 1976 Standing Committee meeting on propaganda matters, where following the presentation of the Ministry representatives, **Nuon Chea** spoke first and before Pol Pot.¹⁵⁹⁹

3. Chairman of People's Representative Assembly

393. On 13 April 1976, it was publicly announced that **Nuon Chea** had been named Chairman of the People's Representative Assembly (PRA) by the newly elected members of what was to be the legislative body of the DK government.¹⁶⁰⁰ In reality, the CPK Central Committee had appointed **Nuon Chea** to this position on 30 March 1976, two weeks before the PRA ever met.¹⁶⁰¹ In fact, the PRA was a sham entity¹⁶⁰²

¹⁵⁹⁶ **E3/83** Kaing Guek Eav WRI, EN 00398162-63. *See also* **E3/39** Ieng Thirith Statement, PTC Appeal Hearing, 24 Feb 2009, EN 00293071-75 [stating that Nuon Chea ordered the arrest and execution of MSA students].

¹⁵⁹⁷ **E1/127.1** Khiev En, T. 1 Oct 2012, 11.02.46-11.15.12, 11.44.01-11.50.48 [describing Nuon Chea visits to Ministry of Propaganda, where he had a "separate workplace" and documents were delivered to him, and periods he "came to take charge of Office K-33"]; **E3/438** Khiev En WRI, EN 00375873-74; **E1/112.1** Kim Vun, T. 22 Aug 2012, 10.58.17-11.00.30, 13.50.30-13.55.07; **E3/381** Kim Vun WRI, EN 00365529.

¹⁵⁹⁸ **E1/500.1** Thuch Sithan, T. 21 Nov 2016, 15.15.48 [describing occasions she saw Nuon Chea: "I saw him another time while he came to the Ministry of Social Affairs ... he came to see Bong Sou"], 15.18.10-15.19.50 ["Bong Sou who was in charge of that office"], 15.21.20-15.24.42; **E1/152.1** Kham Phan alias Phan Van, T. 12 Dec 2012, 10.04.00-10.10.40; **E3/447** Kham Phan alias Phan Van WRI, EN 00486512, 00486516; **E3/57** Kham Phan alias Phan Van WRI, EN 00290509.

¹⁵⁹⁹ **E3/225** Minutes of Standing Committee Meeting on "Propaganda Works", 1 June 1976, EN 00182718 [comments of "Comrade Deputy Secretary" appear first in Section II, the "Instructional Comments from the Standing Committee"].

¹⁶⁰⁰ **E3/165** DK People's Representative Assembly Minutes, 11-13 Apr 1976, EN 00184073. *See also* **E3/54** Nuon Chea Initial Appearance, 19 Sept 2007, EN 00148817 ["I was ... President of the Assembly"]; **E3/121** Nuon Chea WRI, 26 Sept 2007, EN 00148827.

¹⁶⁰¹ **E3/12** Central Committee Decision Regarding a Number of Matters, 30 Mar 1976, EN 00182813-14.

¹⁶⁰² **E3/232** CPK Standing Committee Meeting Minutes, "Base Work," 8 Mar 1976, EN 00182630 [section I.2.D]: "If anyone asks, we must explain, not be wild and disorderly, do not let it be seen that we want to suppress. At the same time, do not speak playfully about the Assembly in front of the people to let them see that we are deceptive, and our Assembly is worthless"; **E1/192.1** Philip Short, T. 9 May 2013, 11.59.19-12.00.18 [the PRA had "no real existence" and was a "pure lie, really a pure invention"]. Two of the representatives who were purportedly elected to the PRA in March 1976, Prak Yut and Ung Ren, testified that they only learned of their "election" after the fact and that the PRA never met to deliberate upon or enact a single piece of legislation. **E3/274** FBIS, *Results of National Assembly Elections Announced*, 22 Mar 1976, EN 00167987 [Prak Yut listed as "Seng Yut," No. 1 on "Representatives of Southwestern Region Peasants"], EN 00167989 ["Ung Ren" is No. 25 on the list of "Representatives of the Cambodian Revolutionary Army"]; **E1/158.1** Ung Ren, T. 10 Jan 2013, 10.23.02-10.25.43 ["we were never called to attend any meeting"], 10.28.28-10.29.38 [never "presented with any legislation"], 10.54.39-10.58.54; **E1/34.1** Prak Yut, T. 26 Jan 2012, 14.09.40-14.11.35 [told by District Secretary Ta Noy "that I was about to become a people representative ... But this is what I was told, I never worked as a representative of the people ... I never attended any meetings"], 14.14.15-14.19.57; **E3/163** Prak Yut WRI, EN 00364085. *See also* **E3/390** Mat Ly Statement, EN 00436873-74; **E1/222.1** Stephen Heder, T.

resulting from a sham election, staged by **Khieu Samphan**.¹⁶⁰³ **Nuon Chea** admitted to Thet Sambath that even though he was head of the National Assembly, he never went to that office and “[t]here was nothing to debate because we had no laws to pass.”¹⁶⁰⁴ **Nuon Chea**’s claim to this Chamber that he was occupied with legislative responsibilities during the DK period¹⁶⁰⁵ is thus a complete fabrication—a conscious and calculated lie that **Nuon Chea** had privately admitted he intended to use in these court proceedings.¹⁶⁰⁶

4. Acting Prime Minister

394. In September 1976, Pol Pot stepped down as DK Prime Minister, purportedly for health reasons, and **Nuon Chea** was named Acting Prime Minister. **Khieu Samphan** signed this appointment in his capacity as President of the State Presidium, and it was publicly broadcast on the DK Phnom Penh Domestic Service radio on 27 September 1976.¹⁶⁰⁷ While the Accused denies holding this position, contemporaneous documents from the period, including official communiqués from the DK government, establish beyond

¹⁶⁰³ 11 July 2013, 15.15.05-15.19.55; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 13.55.29-13.58.34. **E3/232** Minutes of Standing Committee Meeting on “Base Work,” 8 Mar 1976, EN 00182628-30; **E3/274** FBIS, *Results of National Assembly Elections Announced*, 22 Mar 1976, EN 00167985-86 [official election results signed by Khieu Samphan announced by DK Interior Ministry at 6 am local time on 22 Mar 1976, less than 36 hours after the election, claiming that a total of 3,462,868 people had voted, representing “98 per cent of the eligible voters”]; **E1/158.1** Ung Ren, T. 10 Jan 2013, 10.25.43-10.28.28 [in Stung Treng province, “there was no meeting or election held there. The work was decided in a meeting, and then the instructions would be relayed in the announcement ... I did not see any gathering”]; **E1/34.1** Prak Yut, T. 26 Jan 2012, 14.11.35-14.13.06 [no knowledge of election and did not see any people voting in Kampot]; **E3/163** Prak Yut WRI, EN 00364085 [testimony of named PRA representative that “[t]here was no election” and that she was informed she had been selected as an Assembly member by the local District Secretary]; **E3/390** Mat Ly Statement, EN 00436873 [“Each center had only one ballot. For instance me, Mat Ly. So they called in the people to vote, saying that if they were dissatisfied, to erase it ... if any of the people dared to strike out the name - they were standing and watching”]; **E1/222.1** Stephen Heder, T. 11 July 2013, 15.09.27-15.15.05; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 13.51.47-13.55.29 [“there was only one polling station” in Phnom Penh and “no election in other locations”].

¹⁶⁰⁴ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757493. See also **E1/91.1** David Chandler, T. 18 July 2012, 10.22.55-10.28.27.

¹⁶⁰⁵ **E1/23.1** Nuon Chea, T. 15 Dec 2011, 10.46.10 [asserting that the review of biographies and questioning of cadres regarding political tendencies was “not my job because I was in the legislation, and the interrogation was part of the administration job”]. See also **E3/558** Nuon Chea OCIJ Adversarial Hearing, 19 Sept 2007, EN 00148699 [“As for me, I was on the legislative side”]; **E3/54** Nuon Chea Written Record of Initial Appearance, 19 Sept 2007, EN 00148817 [“As for myself, after the liberation, I was in the legislative body, so I was not involved with the executive ... So I was not involved in anything related to these charges”].

¹⁶⁰⁶ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757560 [“‘If they ask me in court who killed the people, I will say I was in charge of the legislative body and education, so the killing was the problem of government administration, which was the responsibility of Pol Pot and Son Sen,’ he said.”]

¹⁶⁰⁷ **E3/280** FBIS, *Pol Pot Takes ‘Temporary’ Leave From Post*, 27 Sept 1976, EN 00168118; **E3/192** SWB, *Pol Pot’s Temporary Sick Leave from Premiership*, 28 Sept 1976, EN S 00003883; **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 09.37.06-09.40.02; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417626.

dispute that **Nuon Chea** held the title of Acting Prime Minister for almost a one-year period from October 1976¹⁶⁰⁸ until September 1977.¹⁶⁰⁹

5. Responsibility for Security & Military

395. **Nuon Chea** shared collective responsibility for military and security issues with his fellow leaders on the CPK Standing and Central Committees. The CPK Statute placed “the Revolutionary Army of Kampuchea, the regular army, sector army and the militias ... under the absolute leadership” of the Party,¹⁶¹⁰ and **Nuon Chea** and **Khieu Samphan** participated in Standing Committee meetings that discussed key issues related to the establishment and operation of the armed forces.¹⁶¹¹ At a 26 March 1976 Standing Committee meeting that was presided over by **Nuon Chea**, he provided instructions on the need to use military force against Vietnam.¹⁶¹²
396. **Nuon Chea** was one of the CPK leaders who presided over the 1975 meeting at Olympic Stadium relating to the reorganisation of the RAK, at which he “spoke at length.”¹⁶¹³ In January 1977, he gave a speech “in the name of the Military Committee

¹⁶⁰⁸ **E3/281** FBIS, *Nuon Chea Receives Albanian Ambassador*, 17 Oct 1976, EN 00168071; **E3/269** Democratic Kampuchea News Bulletin No. 14/76, 11 Nov 1976, EN 00525825.

¹⁶⁰⁹ **E3/143** FBIS, *Cambodian Leaders Greet SRV Leaders on National Day*, 2 Sept 1977, EN 00168727-28; **E3/143** FBIS, *Burmese Foreign Minister Concludes Visit*, 2 Sept 1977, EN 00168729-30; **E3/143** FBIS, *Khieu Samphan-Nuon Chea Message*, 8 Sept 1977, EN 00168738-39; **E3/486** Report from French Embassy in Thailand to Minister of Foreign Affairs, 29 Sept 1977, EN 00658709. See **E295/6/1** Co-Prosecutors’ Final Trial Brief in Case 002/01, fn. 1772 for a complete list of the contemporaneous documents between Oct 1976 and Sept 1977 identifying Nuon Chea as “Acting Prime Minister.”

¹⁶¹⁰ **E3/130** CPK Statute, art. 27; **E1/189.1** Philip Short, T. 6 May 2013, 13.39.07-13.43.43, 14.16.24; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 11.21.52-11.24.10; **E1/60.1** Kaing Guek Eav, T. 5 Apr 2012, 10.20.44-10.22.55 [“Those who were in control of the army, according to the Party Statute and the real practice, the supreme persons were Pol Pot and Nuon Chea”]; **E1/91.1** David Chandler, T. 18 July 2012, 10.22.55.

¹⁶¹¹ Establishment of the General Staff, organization of the Army, Navy and Air Force, and deployment of forces to specific regions; **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183396-401; **E3/235** Summary of the Decisions of the Standing Committee, 19-21 Apr 1976, EN 00183419. Use of spikes and mines on the border areas; **E3/216** Record of the Standing Committee Visit to the Northwest Zone, 20-24 Aug 1975, EN 00850977; **E3/218** Minutes of Standing Committee Meeting on “Results of Negotiations with Vietnam regarding the Eastern Border,” 26 Mar 1976, EN 00182657. Construction of new airfields, acquisition and transportation of ammunition, and establishment of military hospitals; **E3/229** Minutes of Standing Committee Meeting on “National Defence Matters,” 22 Feb 1976, EN 00182627.

¹⁶¹² **E3/218** Minutes of Standing Committee Meeting on “Results of Negotiations with Vietnam regarding the Eastern Border,” 26 Mar 1976, EN 00182656-57 [“Opinions and Instructions from Comrade Deputy Secretary: ... We use military force along with politics, and have caused them many losses ... We must continue the political struggle, the diplomatic struggle, but must use military force in combination as well”].

¹⁶¹³ **E1/159.1** Chhaom Se, T. 11 Jan 2013, 11.38.49, 11.50.33-11.52.30, 13.53.49-13.58.10, 14.01.48-14.06.23, 14.11.50; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401488; **E3/5532** Him Horn WRI, EN 00425235-36 [witness attended meeting at Olympic Stadium in 1975 for “military personnel from all zones” about “the transfer of the army to the Party Center,” at which Pol Pot, Nuon Chea and Khieu Samphan were present and Nuon Chea spoke]; **E1/320.1** Him Han, T. 23 June 2015, 14.12.27-14.21.24

of our Party Centre” on the occasion of the 9th Anniversary of the RAK,¹⁶¹⁴ in which he provided a detailed history of the RAK,¹⁶¹⁵ revealed his familiarity with its leaders,¹⁶¹⁶ and instructed on “combat lines” to be used by the military.¹⁶¹⁷ His speech described the RAK as “the pure dictatorial instrument of the Party.”¹⁶¹⁸ Later in 1977, he met with and rallied 1,000 soldiers who were being sent into combat against Vietnam.¹⁶¹⁹

397. The reports and telegrams that **Nuon Chea** regularly received from the Zones and RAK Divisions included reports on security and military matters.¹⁶²⁰ Regional CPK cadres also confirm that **Nuon Chea** was one of the Party Centre representatives to whom they reported on security matters.¹⁶²¹
398. His important role on such matters is demonstrated by a series of surviving reports from RAK Division 164 that were distributed to only two people outside the division: General Staff Chairman Son Sen (“Brother Khieu”) and **Nuon Chea** (“Brother Nuon”).¹⁶²² In one report, Son Sen wrote to **Nuon Chea** to make a “request to search”

[“Pol Pot only spoke a few words, but Nuon Chea spoke at length”]; **E1/157.1** Ung Ren, T. 9 Jan 2013, 11.52.32-11.59.51; **E3/84** Ung Ren WRI, EN 00408399.

¹⁶¹⁴ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491406-07 [“Today, in the name of the Military Committee of our Party Center, I wish to give a presentation on a number of issues ... on the occasion of the celebration of the 9th anniversary of the founding of our Revolutionary Army of Kampuchea”]; **E3/147** FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168465-70; **E3/191** SWB, *Nuon Chea’s Speech at Army Anniversary Meeting*, 17 Jan 1977, EN S 00004073-76; **E3/544** Peking Review, *9th Anniversary of Founding of Revolutionary Army*, 28 Jan 1977, EN S 00005866.

¹⁶¹⁵ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491411-18.

¹⁶¹⁶ **E3/147** FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168467 [“I know that some of our comrades now in command of our larger units and who are also present here used to be in the secret defense units”]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491413.

¹⁶¹⁷ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491429-32.

¹⁶¹⁸ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491408, 00491419.

¹⁶¹⁹ **E1/498.1** Ou Dav, T. 10 Nov 2016, 14.50.11-15.19.51, 15.40.15-15.44.32.

¹⁶²⁰ *E.g.* **E3/996** Telegram from Se to Committee 870, copied *inter alia* to “Uncle Nuon,” 19 Mar 1978, EN 00436995-96 [“Situation of the enemy burrowing from within: In this dry season, the remained enemies re-emerged and took actions against us in the worksites. These enemies contacted with the [former] policemen, soldiers and government officials. They mingled themselves as the “New people”. After they acted against us, we knew them clearly and we systematically purged them. ... more than 20 people were purged. More actions will be taken to arrest more people”]; **E3/1077** Telegram from Se to Committee 870, copied *inter alia* to “Grand Uncle Nuon,” 10 Apr 1978, EN 00340539-40 [“We are continuing to purge the remaining group continuously, including those who oppose our revolution openly and secretly”]; **E3/156** Telegram from Sarun to Respected Brother, copied *inter alia* to Uncle Nuon, 23 Apr 1978; **E3/953** Telegram from Comrade Pok to Brother Pol, copied *inter alia* to Brother Nuon, 2 Apr 1976; **E3/500** Telegram from Hang to Beloved and Missed Brother, copied *inter alia* to Brother Nuon, 18 July 1976; **E3/154** Telegram from Chhon to Beloved Comrade Brother Pol, copied *inter alia* to Brother Nuon, 30 Nov 1975; **E3/1188** Telegram from Buth to Respected Brother, copied *inter alia* to Brother Nuon, 29 Jan; **E3/883** Telegram from Nhim to Angkar 870, copied *inter alia* to Uncle Nuon, 27 Aug 1977.

¹⁶²¹ **E3/58** Kham Phan alias Phan Van WRI, EN 00250089; **E3/410** Yun Kim WRI, EN 00412192; **E3/366** Ham Ansi WRI, EN 00250751. *See also* **E1/60.1** Kaing Guek Eav, T. 5 Apr 2012, 15.29.09-15.32.02 [“All documents from the zones came to Brother Nuon, and he made the decisions”].

¹⁶²² **E3/1222** Telegram from Comrade Dim to Brother Mut, 24 Sept 1976; **E3/1223** Telegram from Dim to

for certain individuals who had disappeared.¹⁶²³ This request clearly evidences that **Nuon Chea** was a superior to Son Sen, corroborating the testimony of Kaing Guek Eav alias Duch,¹⁶²⁴ who worked directly for both men and was uniquely positioned to know their working relationship.

399. The most knowledgeable insiders who have provided evidence on **Nuon Chea**'s role all confirm that he had responsibility for security matters and was a member of the Party's Military or Security Committee, and there is no credible evidence to the contrary. Fellow Standing Committee member Ieng Sary, in multiple interviews going back to 1981, stated that **Nuon Chea** was on the Party committee responsible for security.¹⁶²⁵ Ieng Sary stated that the committee "relied on regional people for reporting on security," discussed and considered issues relating to arrests and security, and then reported to the full Standing Committee.¹⁶²⁶ Kaing Guek Eav, the chairman of S-21, testified that the Standing Committee members with assigned responsibility for security were Pol Pot, **Nuon Chea**, and Son Sen.¹⁶²⁷ The evidence from Ieng Sary and Duch is consistent with the 1972 announcement of the "High Command" of the National Liberation Armed Forces, which stated that Saloth Sar was "Head of the Military Leadership of the Army," **Nuon Chea** was "Head of the Political Leadership of the

Mut, 27 Sept 1976; **E3/1224** Telegram from Dim to Mut, 6 Oct 1976; **E3/1225** Telegram from Dim to Mut, 6 Oct 1976; **E3/1226** Telegram from Dim to Mut, 8 Oct 1976.

¹⁶²³ **E3/1135** Report from Division 164 Secretary Mut to Brother 89, 19 Oct 1976 [handwritten note from Khieu to Bang Nuon dated 20 Oct 1976: "Request to search for Chheng and Ban who are related to this matter"].

¹⁶²⁴ **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 11.41.56-11.43.42 ["Brother Nuon was the -- was in higher position than Brother Khieu"]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 15.45.16-15.47.49 ["Since I went to see Son Sen when I was under his control, he said what was told to be done by Brother Nuon ... It showed that above Son Sen was Brother Nuon then Brother Pol, and that was commonly known"]; **E3/1579** Kaing Guek Eav WRI, EN 00398206 [Nuon Chea was "the superior of my superior"]; **E3/453** Kaing Guek Eav WRI, EN 00147584 ["Son Sen was the 7th person, but Nuon Chea was the 2nd person. Everything had to pass through Nuon Chea even if it was in scope of the military ... Nuon Chea was the superior of Son Sen"].

¹⁶²⁵ **E3/94** Ieng Sary Interview, 22 July 1981, EN 00342501-02; **E3/93** Ieng Sary Interview, EN 00078610 ["there was a committee which considered all questions about security, which comprised four people: Pol Pot, Nuon Chea, Son Sen, and Son Sen's advisor Yun Yat"]; **E3/86** DNUM Statement, "The True Facts about Pol Pot's Dictatorial Regime," 8 Sept 1996, EN 00081215 ["Secret Security Committee" composed of "Pol Pot, Nuon Chea, Son Sen, Yun Yat who decided all the killings and massacres"]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417606-08; **E3/190** Ieng Sary Interview, 4 Jan 1999, EN 00081571; **E3/2119** Henry Kamm, *Cambodia: Report from a Stricken Land*, EN 00394460.

¹⁶²⁶ **E3/94** Ieng Sary Interview, 22 July 1981, EN 00342501-02.

¹⁶²⁷ **E1/61.1** Kaing Guek Eav, T. 9 Apr 2012, 14.20.02-14.22.23, confirming **E3/456** Kaing Guek Eav WRI, EN 00198883; **E3/83** Kaing Guek Eav WRI, EN 00398166 ["the Secretary of the military committee was Pol Pot, the deputy secretary was Nuon Chea ... I know that Nuon Chea was aware of everything including military affairs"]; **E3/10607** Kaing Guek Eav WRI, A33 ["The high-level military committee of the Party Centre consisted of five members including Pol Pot; Nuon Chea, the deputy"].

Army” and Son Sen was “Chief of General Staff,”¹⁶²⁸ and surviving notes from the 5th Party Congress.¹⁶²⁹

400. **Nuon Chea**’s claim that he had no responsibility for security matters is a blatant and calculated lie. There is overwhelming evidence confirming his role, including his own prior statements expressing approval of the killings. His attempt to distance himself from the CPK security policies he devised, exactly as he foreshadowed in interviews with Thet Sambath, demonstrates his own awareness of the absolute criminality of those policies.¹⁶³⁰
401. As a result of his positions on the CPK Standing Committee and Security Committee, **Nuon Chea** had responsibility for the S-21 security centre throughout its existence, and in the latter part of 1977 when Son Sen was assigned to the Eastern battlefield, **Nuon Chea** took over the direct supervision of that security office. (**Nuon Chea**’s responsibility for S-21 is discussed in full detail below in the *Nuon Chea Responsibility for S-21* section.)

2. ROLE OF KHIEU SAMPHAN

PRE-1975 BACKGROUND & POSITIONS

402. **Khieu Samphan**’s involvement in the Cambodian communist movement began as a graduate student in Paris in 1953, where he first worked together with the other future leaders of the CPK, and spanned his entire adult life until his and **Nuon Chea**’s surrender and the collapse of the Khmer Rouge in 1998. From 1953 to 1958, **Khieu Samphan** was active in the Marxist Circle in France,¹⁶³¹ succeeding Ieng Sary as the group’s leader in 1957.¹⁶³² He joined the Communist Party in France in 1955.¹⁶³³

¹⁶²⁸ **E3/3709** Vietnam Courier, *NUFK and RGNUC Reinforced*, 3 Apr 1972.

¹⁶²⁹ **E3/816** Notes from 5th Party Congress, 2 Nov 1978, EN 00281339 [**“Nuon”** listed as “Vice-Chairman in charge of political affairs” of the Military Committee of the Party Central Committee].

¹⁶³⁰ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757560 [**“If they ask me in court who killed the people, I will say I was in charge of the legislative body and education, so the killing was the problem of government administration, which was the responsibility of Pol Pot and Son Sen”**]. See **E1/41.1** Nuon Chea, T. 9 Feb 2012, 10.14.14-10.17.06; **E3/558** Nuon Chea OCJ Adversarial Hearing, 19 Sept 2007, EN 00148699. This denial must be seen in the context of Nuon Chea’s other factual denials that are demonstrably false. He not only denies that he was a member of the Military Committee, but also that he had any responsibility for security or S-21, that he was ever Acting Prime Minister and even that he was referred to as Brother No. 2, all matters that are conclusively shown by contemporaneous documents.

¹⁶³¹ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.20.07-14.25.33; **E3/4201R** Video *Facing Genocide: Khieu Samphan and Pol Pot*, 00.13.45 - 00.14.08; **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000926; **E3/659** Ieng Thirith Interview, 1980, EN 00182301-02, 00182306; **E1/101.1** Suong Sikoeun, T. 2 Aug 2012, 13.58.02-13.59.34; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN

403. **Khieu Samphan** returned to Cambodia in late 1958, and in 1959 he founded the leftist newspaper *L'Observateur*,¹⁶³⁴ which was financially supported by Ieng Thirith and staffed by fellow communists such as Thiounn Prasith, Koy Thuon, and Bou Phat alias Hang (the future CPK Secretary of Sector 103).¹⁶³⁵ Expert Philip Short, who interviewed **Khieu Samphan** extensively about this time period,¹⁶³⁶ testified that he was in close contact with the Party's Phnom Penh City Committee¹⁶³⁷ (which consisted of **Nuon Chea**, Pol Pot, Ieng Sary, and Vorn Vet)¹⁶³⁸ and was assigned by the City Committee "to rally intellectual support and reach out to potential communist sympathisers in mainstream political life."¹⁶³⁹ In 1960, **Khieu Samphan** was arrested and his newspaper was shut down.¹⁶⁴⁰
404. In 1962, **Khieu Samphan** was elected to the National Assembly as a member of Sihanouk's *Sangkum Reatsr Niyum* and appointed Secretary of State for Commerce,¹⁶⁴¹

00396255-60; **E3/20** Elizabeth Becker, *When the War was Over*, EN 00237761-63, 00237767.

¹⁶³² **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.25.33-14.27.02 ["Ieng Sary handed over the role to me"]; **E1/101.1** Suong Sikoeun, T. 2 Aug 2012, 13.55.35-13.58.02, 14.23.12-14.25.42; **E1/107.1** Ong Thong Hocung, T. 14 Aug 2012, 14.05.56-14.08.19; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396312, 00396332, 00396669.

¹⁶³³ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.31.37 [admitting he joined the Communist Party in 1955]; **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103740; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417630.

¹⁶³⁴ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.34.42-14.38.51; **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103726; **E3/111** Ieng Sary Interview, 31 Jan 1972, EN 00762420; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396332; **E3/17** David Chandler, *Brother Number One: A Political Biography of Pol Pot*, EN 00392971.

¹⁶³⁵ **E3/659** Ieng Thirith Interview, 1980, EN 00182316 ["it was with my money" that Khieu Samphan published *L'Observateur*]; **E3/1697** Thiounn Prasith DK Biography, Section IV, EN 00082497-99; **E3/96** Thiounn Prasith WRI, EN 00346945; **E3/20** Elizabeth Becker, *When the War was Over*, EN 00237793, 00237797; **E3/1684** David Chandler, *Voices from S-21*, EN 00192740; **E3/1683** David Chandler, *The Tragedy of Cambodian History*, EN 00193382. See also **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.40.37-14.42.18 [acknowledging that the supporters of his newspaper included well-known communists].

¹⁶³⁶ **E1/189.1** Philip Short, T. 6 May 2013, 09.24.24.

¹⁶³⁷ **E1/189.1** Philip Short, T. 6 May 2013, 11.21.57-11.23.34 ["Khieu Samphan told me ... that he was in close touch with the Phnom Penh city organization"]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417630.

¹⁶³⁸ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396335; **E3/3** Nuon Chea Statement, May 1998, EN 00184658, 00184660; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329508 ["there was a City Party Committee, myself, Saloth Sa, Ieng Sary"]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417628-29; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757505.

¹⁶³⁹ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396332; **E1/190.1** Philip Short, T. 7 May 2013, 10.02.35-10.07.00; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002751.

¹⁶⁴⁰ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.48.19-14.50.14; **E3/713** Khieu Samphan Interview, Jan 2004, EN 00177968-72; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486226; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396333-34; **E3/1683** David Chandler, *The Tragedy of Cambodian History*, EN 00193196; **E3/20** Elizabeth Becker, *When the War was Over*, EN 00237795; **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762406.

¹⁶⁴¹ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.25.28-15.27.29; **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103726; **E3/713** Khieu Samphan Interview, Jan 2004, EN 00177964-65; **E3/111** Ieng Sary Interview, 31 Jan 1972, EN 00762420; **E3/9**, Philip Short,

though he was forced to resign as Commerce Secretary following the publication of a list of 34 known or suspected “leftists” prepared by Lon Nol in 1963.¹⁶⁴² In April 1967, after being summoned to appear before a military tribunal, **Khieu Samphan** fled Phnom Penh with the assistance of the CPK leadership.¹⁶⁴³ He spent the ensuing three years in the Southwest Zone with Ta Mok.¹⁶⁴⁴ When the armed struggle began in 1968, **Khieu Samphan** accompanied a group that attacked the government garrison in Kap Kang.¹⁶⁴⁵ He claims that he was first introduced to the Party in 1969 by Ta Mok.¹⁶⁴⁶

405. After the March 1970 coup, **Khieu Samphan** was personally “chosen by Pol Pot” to unite the communists and Norodom Sihanouk.¹⁶⁴⁷ He describes his role in the establishment of this coalition as “important, if not indispensable,” and states that “before taking on this duty, I had to agree to assume the role as an important leader of

Pol Pot: The History of a Nightmare, EN 00396340-41; **E1/221.1** Stephen Heder, T. 10 July 2013, 13.39.43-13.42.08; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393765, 00393883-84 [Khieu Samphan received assistance from the CPK during both his election campaigns, pursuant to instructions from Ta Mok]; **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762405-06.

¹⁶⁴² **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103729-30; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396342-43, 00396351; **E1/93.1** David Chandler, T. 20 July 2012, 11.36.01; **E3/17** David Chandler, *Brother Number One*, EN 00392977-78.

¹⁶⁴³ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103733-34; **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.39.19-15.42.36; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498248-50; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396367-68; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393777; **E3/3** Nuon Chea Statement, EN 00184670 [“we removed some, removed Comrade Hem, removed Hou Youn, removed Hu Nim starting in 67”]; **E3/4602** In Sopheap, *Khieu Samphan*, EN 00979191; **E3/713** Khieu Samphan Interview, Jan 2004, EN 00177977-79.

¹⁶⁴⁴ **E3/27** Khieu Samphan WRI, EN 00156743-44; **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.45.05; **E3/713** Khieu Samphan Interview, Jan 2004, EN 00177983-84; **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103734-41 [describing meetings with Ta Mok, who updated him on the situation in the country and provided CPK ideological booklets, and how he moved to Ta Mok's headquarters on Mount Aural in early 1969]; **E1/129.1** Meas Voeun, T. 3 Oct 2012, 14.17.30, 15.31.51-15.46.43; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393804, 00393813; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.38.43 [first met Khieu Samphan “somewhere around Aoral Mountain”].

¹⁶⁴⁵ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103739-40; **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156744.

¹⁶⁴⁶ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.53.17 [in 1969, “at the Phnom Aoral Mountain, I joined the party with Hu Nim, Pok Deuskomar, where Ta Mok, on behalf of the CPK, introduced us”]; **E1/40.1** Khieu Samphan, T. 8 Feb 2012, 10.00.25-10.01.42 [“I joined the Party at Aoral Mountain, in 1969”]. See also **E3/3** Nuon Chea Statement, May 1998, EN 00184667 [“By 63 ... Khieu Samphan (Uncle Hem) ... had not yet joined the Center, but he had joined the Party”].

¹⁶⁴⁷ **E3/4201R** Video *Facing Genocide: Khieu Samphan and Pol Pot*, 00:19:26 - 00:20:26; **E3/27** Khieu Samphan WRI, EN 00156745; **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.47.49-15.49.35 [“I was tasked to be a bridge between the CPK and the King”]; **E1/15.1** Khieu Samphan, T. 23 Nov 2011, 09.46.05; **E1/261.1** Elizabeth Becker, T. 11 Feb 2015, 15.53.46.

the country's internal resistance."¹⁶⁴⁸ As a result of this coalition and the popularity of Norodom Sihanouk, the CPK was able to recruit large numbers of Cambodians to join its forces.¹⁶⁴⁹

406. When the formation of a government-in-exile (the GRUNK) was announced on 5 May 1970, **Khieu Samphan** was named Deputy Prime Minister and Minister of National Defence, as well as the Commander-in-Chief of the Cambodian People's National Liberation Armed Forces ("CPNLAF").¹⁶⁵⁰ He was the highest-ranking FUNK or GRUNK official based inside Cambodia, and was "presented officially as the leader of the resistance movement."¹⁶⁵¹ While **Khieu Samphan** asserts that his roles conferred no responsibility,¹⁶⁵² he led FUNK/GRUNK delegations to foreign countries seeking military aid and recognition as the legitimate government of Cambodia, including a two-month trip in 1974 to China, North Korea, Vietnam, Laos, and eight other countries in Eastern Europe and Africa.¹⁶⁵³

¹⁶⁴⁸ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103743-44. See also **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 11.45.12-11.46.36 ["Sihanouk himself trusted Khieu Samphan. People considered him as the prophet of Buddha"].

¹⁶⁴⁹ **E1/190.1** Philip Short, T. 7 May 2013, 11.37.04-11.38.30 ["Sihanouk was immensely popular among the Cambodian peasantry...one of the reasons that the Khmer Rouge obtained recruits so easily after 1970-71 was because Sihanouk was seen as being with the Khmer Rouge"]; **E1/93.1** David Chandler, T. 20 July 2012, 11.52.17-11.54.21; **E3/22** Stephen Heder, *Cambodian Communism and the Vietnamese Model*, EN 00393823. See **E295/6/1** Co-Prosecutors' Final Trial Brief in Case 002/01, fn. 2038 [witnesses who joined the revolution because of the appeal from Sihanouk].

¹⁶⁵⁰ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.45.05-15.47.49 ["I was appointed by Saloth Sar as the Deputy Prime Minister and Minister of Defence"]; **E3/27** Khieu Samphan WRI, EN 00156745 ["My official title was deputy chairman of the National United Front of Kampuchea and commander in chief of the People's Liberation Army of Kampuchea"]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396401-02; **E3/28** GRUNK Report *Cambodia's Seat in the United Nations*, 19 June 1973, EN 00068119, 00068126; **E3/3705** New York Times, *Composition of Norodom Sihanouk's Govt in Exile*, 9 May 1970; **E3/3422** Vietnam Courier, *Seven More Vice-Ministers for Cambodian Resistance Government*, 28 Sept 1970, EN S 00021041; **E3/1717** U.S. Embassy report *New FUNK/GRUNK Personalities*, 30 Sept 1971, EN 00419034; **E3/3709** Vietnam Courier, *NUFK and RGNUC Reinforced*, 3 Apr 1972; **E3/32** Statement of Norodom Sihanouk, 5 Oct 1974, EN 00282395; **E3/30** FBIS, *Cabinet Ministers Listed*, 15 Jan 1975, EN 00166708; **E3/1239** FUNK News Bulletin No. 938, *Members of the G.R.U.N.K.*, 19-20 Jan 1975, EN 00280597; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002750.

¹⁶⁵¹ **E3/27** Khieu Samphan WRI, EN 00156745; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002750; **E1/100.1** Rochoem Ton alias Phy Phoun, T. 1 Aug 2012, 15.41.20.

¹⁶⁵² **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.49.35-15.53.17.

¹⁶⁵³ **E3/88** William Shawcross, *Sideshow*, EN 00430039; **E3/1800** Article by Qiang Zhai, *China and the Cambodian Conflict, 1970-1975*, EN 00080424 ["In Apr [1974], Khieu Samphan visited Beijing and met with Mao Zedong. He was the first Khmer Communist to be granted such an honor. In an agreement with the RGNUK, China agreed to provide military equipment and supplies"]; **E1/101.1** Suong Sikoeun, T. 2 Aug 2012, 15.20.29-15.30.39; **E3/40** Suong Sikoeun manuscript, EN 00813078-81; **E3/482** Report from Leon Triviere, Nov 1975, EN 00524007; **E3/2939** US Embassy Telegram, 27 May 1974, EN 00377049-50 ["visit of Khieu Samphan to the PRC was crowned by mutual success. The RGNUK obtained the PRC's moral and diplomatic support and an openly announced military aid agreement"]. See **E295/6/1** Co-Prosecutors' Final Trial Brief in Case 002/01, fn. 195 for a more complete list of the reports and sources describing these trips.

407. **Khieu Samphan** reunited with Pol Pot and **Nuon Chea** at the Chinit River in Kampong Cham province in September 1970, at which time they moved to the new Party headquarters known as S-71.¹⁶⁵⁴ For the ensuing three decades, these three leaders would live and work together at the same locations.¹⁶⁵⁵ Phy Phuon, who worked as Pol Pot's bodyguard and messenger during the 1970-75 period, testified that the three leaders would have breakfast together, work together in meetings from 8:30 to 11 am, lunch together, resume work in the afternoon and only go back to their respective houses at the end of the day.¹⁶⁵⁶ He testified that **Khieu Samphan** "controlled the work of the Front," and frequently observed him writing documents, whose content was broadcast on the radio, published in the FUNK magazine, and presented at study sessions.¹⁶⁵⁷ FBIS records confirm numerous such broadcasts of statements from **Khieu Samphan** on behalf of the FUNK from 1970 to 1975.¹⁶⁵⁸ As detailed in the *Contribution to Persecution and Execution of Enemies* section, many of his statements called for the execution of the political leaders of the Khmer Republic. Other broadcast statements of **Khieu Samphan**, in his capacity as CPNLAF Commander-in-Chief, prove that he received detailed reports on the battlefield situation, including specific information on the numbers of enemies captured and killed.¹⁶⁵⁹

¹⁶⁵⁴ **E3/27** Khieu Samphan WRI, EN 00156744-45; **E3/18** Khieu Samphan, *Cambodia's Recent History*, EN 00103742; **E3/713** Khieu Samphan Interview, Jan 2004, EN 00177980; **E1/96.1** Rochoem Ton alias Phy Phuon, T. 25 July 2012, 15.33.14-15.41.07; **E3/24** Phy Phuon WRI, EN 00223580; **E1/189.1** Philip Short, T. 6 May 2013, 11.30.13; **E3/33** Oeun Tan WRI, EN 00235126-27.

¹⁶⁵⁵ **E3/27** Khieu Samphan WRI, EN 00156745; **E1/205.1** So Socheat, T. 11 June 2013, 14.35.55; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.09.47; **E1/98.1** Phy Phuon, T. 30 July 2012, 14.04.37; **E1/97.1** Phy Phuon, T. 26 July 2012, 14.22.24-14.24.24; **E3/3198** Khieu Samphan Interview, EN 00815884; **E1/99.1** Phy Phuon, T. 31 July 2012, 09.35.50; **E3/33** Oeun Tan WRI, EN 00235127; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396622; **E1/156.1** Sa Vi, T. 8 Jan 2013, 13.47.06-13.50.56; **E3/3796** AFP, *Khmer Rouge Top Leadership Moved as Troops Close in on Rebel Stronghold*, 1 Mar 1996; **E3/20** Elizabeth Becker, *When the War Was Over*, EN 00238229.

¹⁶⁵⁶ **E1/98.1** Rochoem Ton alias Phy Phuon, T. 30 July 2012, 14.04.37-14.06.37. See also **E1/204.1** So Socheat, T. 10 June 2013, 13.57.36-13.59.49; **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 09.34.52-09.39.12.

¹⁶⁵⁷ **E1/96.1** Rochoem Ton alias Phy Phuon, T. 25 July 2012, 15.41.07-15.45.55; **E1/100.1** Phy Phuon, T. 1 Aug 2012, 15.38.28-15.41.20. See also **E1/111.1** Kim Vun, T. 21 Aug 2012, 11.28.03, 11.37.14-11.39.43, 11.46.52-11.50.21, 11.54.03, 13.52.09-13.56.14, 13.58.38-14.02.24; **E1/112.1** Kim Vun, T. 22 Aug 2012, 14.21.58-14.24.19.

¹⁶⁵⁸ For a detailed list of Khieu Samphan statements broadcast on the Voice of FUNK radio during the 1970-75 time period, see **E295/6/1** Co-Prosecutors' Final Trial Brief in Case 002/01, fns. 192, 264, 436, 452, 463, 465-66, 593-94, 2574-83, and 2589.

¹⁶⁵⁹ See e.g. **E3/637** Statement of Khieu Samphan, Hou Youn and Hu Nim, EN 00740938 ["up to mid-January 1973, the Kampuchean people's liberation armed forces ... have smashed a total of 10,245 heads of the enemies"], EN 00740933 [reporting smashing of 1,550 "heads" on National Road 3 front and 10 strategic villages on National Road 2 (Svay Prey) battlefield], EN 00740934 ["we have smashed, injured, killed, deserted and made prisoners of war 1,050 enemies ... along national road No.5 ... Additionally, our militia squads ... jointly smashed 120 enemies"], EN 00740935-38 [smashing of "2,105 heads of our enemies"]; **E1/129.1** Meas Voeun, T. 3 Oct 2012, 15.48.10-15.51.47; **E1/130.1** Meas Voeun, T. 4 Oct

408. **Khieu Samphan** was appointed a candidate member of the CPK Central Committee at the 1971 Party Congress, which he attended.¹⁶⁶⁰ Meetings of the new Central Committee were held in 1972,¹⁶⁶¹ 1973,¹⁶⁶² and 1974,¹⁶⁶³ at which decisions were made regarding the closing of markets, establishment of cooperatives, purges of internal enemies, and other key matters. Multiple sources witnessed **Khieu Samphan** participating in meetings with Pol Pot, **Nuon Chea** and other CPK leaders at the offices that comprised the S-71 base.¹⁶⁶⁴ Phy Phuon testified, based on meetings to which he was a “first-hand witness,” that the CPK leaders (including **Khieu Samphan**) were in “harmonious agreement.”¹⁶⁶⁵
409. Also during this period, **Khieu Samphan** was one of the Party leaders who conducted political education sessions, in which CPK cadres from “all zones, sectors, and district levels” were instructed that the Party’s enemies included persons “off the battlefield ... who opposed the revolution” or “refused to join the revolution.”¹⁶⁶⁶ He was one of the leaders at the Party headquarters who issued assignments to cadres.¹⁶⁶⁷ He travelled within the CPK-controlled areas, during which trips he met with cadres and inspected

2012, 09.05.30-09.10.40 [confirming that the descriptions of battlefield advances in Khieu Samphan’s statement **E3/637** were “accurate”]; **E3/30** FBIS, *Khieu Samphan 14 Jan Message to CPNLF Fighters*, EN 00166709-10. See also **E3/167** Khieu Samphan Speech, 10 Apr 1974, EN 00280586.

¹⁶⁶⁰ **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 15.55.23-15.58.35; **E3/27** Khieu Samphan WRI, EN 00156751; **E3/4034** Khieu Samphan Interview, EN 00793149; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498295-96; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396427, EN 00396328; **E3/1595** Photograph of 1971 Party Congress; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 11.12.13, 11.20.45-11.24.28; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865704.

¹⁶⁶¹ **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865708-09; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450510; **E3/166** *Revolutionary Flag*, Feb-Mar 1976, EN 00517844.

¹⁶⁶² **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865709; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450511; **E3/50** CPK Circular titled *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636008; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498284.

¹⁶⁶³ **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486247; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 11.26.24-11.44.36; **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.05.46-09.07.44 [“meeting by the Standing Committee and members of the Central Committee in mid-1974 deciding to evacuate the people from Phnom Penh and from other provincial towns”]; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 15.13.45-15.16.34, 15.26.27-15.28.03 [other subjects discussed at mid-74 meeting included “destructive activities by traitors who infiltrated in the party [or] in the cooperatives”]; **E3/193** *Revolutionary Flag*, Aug 1977, EN 00399226-27.

¹⁶⁶⁴ **E1/151.1** Kham Phan alias Phan Van, T. 11 Dec 2012, 11.27.40-11.30.40, referring to **E3/57** Kham Phan WRI, EN 00290504-05; **E1/86.1** Oeun Tan, T. 13 June 2012, 10.15.54-10.21.41; **E3/35** Ke Pich Vannak WRI, EN 00346147-48.

¹⁶⁶⁵ **E1/99.1** Rochoem Ton alias Phy Phuon, T. 31 July 2012, 09.18.26-09.20.56.

¹⁶⁶⁶ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.20.26, 09.23.39-09.26.03 [“all zones, sectors, and district levels were clearly educated to know about the enemies, and in the battlefield, of course, we fought against those enemies, and off the battlefield, for those who opposed the revolution”]; **E1/96.1** Phy Phuon, T. 25 July 2012, 15.43.10-15.45.55; **E1/112.1** Kim Vun, T. 22 Aug 2012, 14.30.48-14.35.59 [“Khieu Samphan talked about the Lon Nol regime ... he talked about the Front, and he asked us to be vigilant”].

¹⁶⁶⁷ **E1/18.1** Long Norin, T. 7 Dec 2011, 15.26.40-15.34.11; **E1/19.1** Long Norin, T. 8 Dec 2011, 15.36.53-15.41.01; **E3/34** Long Norin WRI, EN 00223555.

agricultural work and the construction of dams.¹⁶⁶⁸ **Khieu Samphan** admits that in the final period prior to the capture of Phnom Penh, he relocated to the CPK forward base west of Oudong, where Pol Pot was based and regular meetings were held with the military commanders.¹⁶⁶⁹

DK POSITIONS & AUTHORITY

410. During the DK regime, **Khieu Samphan** continued to live and work with Pol Pot and **Nuon Chea** on a daily basis, a reflection of his personal influence and *de facto* power, which exceeded even the considerable authority conferred by his important official positions. He became a *de facto* member of the Standing Committee and a full-rights member of the Central Committee; held a high-ranking positions in Political Office 870 and the Ministry of Commerce; and served as the head of state as President of the State Presidium.

1. Role in Standing Committee and Central Committee

411. **Khieu Samphan's** position near the pinnacle of the CPK power structure is demonstrated by his closeness to Pol Pot and **Nuon Chea**. **Khieu Samphan** has emphasised that Pol Pot trusted him¹⁶⁷⁰ and that he and Pol Pot knew each other well.¹⁶⁷¹ Kaing Guek Eav alias Duch confirms **Khieu Samphan** had a "special relationship with Pol Pot"¹⁶⁷² and that, because of Pol Pot's trust, "[a]ll documents" were in his hands.¹⁶⁷³ As Henri Locard testified, **Khieu Samphan** "was always at the heart of power."¹⁶⁷⁴

¹⁶⁶⁸ **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103747-48; **E3/637** FUNK Publication, Special Report, Jan 1973, EN 00740939-40; **E3/5263** Sreng Thi WRI, EN 00282224; **E1/278.1** Riel San, T. 17 Mar 2015, 09.20.29-09.22.24; **E1/279.1** Riel San, T. 18 Mar 2015, 09.18.57-09.21.30; **E1/478.1** Sem Om, T. 21 Sept 2016, 09.32.41-09.39.10.

¹⁶⁶⁹ **E3/18** Khieu Samphan, *Cambodia's Recent History & the Reasons Behind the Decisions I Made*, EN 00103750 ["By the end of March 1975, I was invited to the general headquarters of the [CPK] in Phoum Dong, west of Oudong, to follow the last offensive against the capital more closely"]; **E3/27** Khieu Samphan WRI, EN 00156743 [stating that he saw Southwest Zone commander Ta Mok and North Zone commander Koy Thuon or his deputy Ke Pauk frequently, and East Zone commander Sao Phim occasionally, at Pol Pot's headquarters]; **E1/68.1** Saloth Ban alias So Hong, T. 25 April 2012, 11.23.53 to 11.28.03.

¹⁶⁷⁰ **E289.1.1** Khieu Samphan Interview, Aug 2007, EN 00923077. See also **E3/4044** Khieu Samphan Interview, EN 00789478 ["Knowing each other well, we would talk as normal"]; **E1/205.1** So Socheat, T. 11 June 2013, 10.59.35-11.02.40.

¹⁶⁷¹ **E3/4044** Khieu Samphan, Interview, EN 00789478.

¹⁶⁷² **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 11.36.15-11.40.08, 11.51.52 [Khieu Samphan was "the head of Pol Pot's office. The student whom Pol Pot mentored and groomed"]; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 10.14.08; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.11.45-14.13.38; **E3/107** Kaing Guek Eav WRI, EN 00198224; **E3/355** Kaing Guek Eav WRI, EN 00242877 ["Khieu Samphan had a special relationship with Pol Pot; the latter regarded him with esteem and perhaps was planning to make him his successor"]. See also **E1/191.1** Philip Short, T. 8 May 2013, 09.47.42-09.49.37; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396544 ["Pol placed growing trust in him. He appreciated his

412. *Role in Standing Committee:* **Khieu Samphan**'s prominence in the regime is reflected by his role in the Standing Committee. Though not formally a member,¹⁶⁷⁵ he was its third-most-frequent attendee: of the 19 Standing Committee meetings for which minutes survive, **Khieu Samphan** is listed as an attendee at 16 meetings (or 84 per cent)—more than were attended by any member other than **Nuon Chea** and Pol Pot.¹⁶⁷⁶ The meetings he attended dealt with every aspect of governance, including national defence,¹⁶⁷⁷ foreign affairs,¹⁶⁷⁸ economics and commerce,¹⁶⁷⁹ propaganda,¹⁶⁸⁰ and social affairs.¹⁶⁸¹ He also personally addressed the committee on such key matters as the implementation of a sham election to give the new regime an appearance of legitimacy¹⁶⁸² and the fate of Norodom Sihanouk.¹⁶⁸³ **Khieu Samphan**'s attendance at these meetings made him part of "a very, very small group which knew what was going on" in the regime.¹⁶⁸⁴
413. *Member of Central Committee:* In addition to his role as a *de facto* member of the Standing Committee, **Khieu Samphan** became a full-rights member of the Central

patience and perseverance, and the fact that when he was given a task, he would carry it out to the letter"], EN 00396521 ["Samphan was also entrusted with missions which Pol judged too sensitive for others to handle"].

¹⁶⁷³ **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.13.38-14.18.48 ["Pol Pot would share important issues with him. In other words, he was allowed to know important information. Pol Pot entrusted him to keep documents and help him remember the issues. That was the role of the office head at that time ... All documents were in the hands of Khieu Samphan"].

¹⁶⁷⁴ **E1/451.1** Henri Locard, T. 29 July 2016, 15.07.01-15.08.06.

¹⁶⁷⁵ **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417600; **E3/24** Phy Phoun WRI, EN 00223585.

¹⁶⁷⁶ **E295/6/1.2** Table of Attendance at Standing Committee Meetings, EN 00948358.

¹⁶⁷⁷ **E3/229** Minutes of Standing Committee Meeting on "National Defense Matters," 22 Feb 1976, EN 00182625; **E3/217** Minutes of Standing Committee Meeting on "Problems on the Eastern Frontier," 11 Mar 1976, EN 00182635; **E3/222** Minutes of Standing Committee Meeting on "National Defense Matters," 15 May 1976, EN 00182665.

¹⁶⁷⁸ **E3/218** Minutes of Standing Committee Meeting on "Results of Negotiations with Vietnam regarding the Eastern Border," 26 Mar 1976, EN 00182651; **E3/219** Minutes of Standing Committee Meeting on "Foreign Affairs Work," 3 May 1976, EN 00182663; **E3/221** Minutes of Standing Committee Meeting "Examination of the Reaction of Vietnam During the Fifth Meeting," 14 May 1976, EN 00182693; **E3/223** Minutes of Standing Committee Meeting on "Foreign Affairs," 17 May 1976, EN 00182708.

¹⁶⁷⁹ **E3/230** Minutes of Standing Committee Meeting on "Economic Matters," 22 Feb 1976, EN 00182546; **E3/233** Minutes of Standing Committee Meeting on "Commerce," 13 Mar 1976, EN 00182649; **E3/220** Minutes of Standing Committee Meeting on "Commerce Matters," 7 May 1976, EN 00182706; **E3/224** Minutes of Standing Committee Meeting on "Agricultural Production Work of the Army," 30 May 1976, EN 00182667.

¹⁶⁸⁰ **E3/231** Minutes of Standing Committee Meeting on "Propaganda Work," 8 Mar 1976, EN 00183360.

¹⁶⁸¹ **E3/226** Minutes of Standing Committee Meeting on "Health and Social Affairs," 10 June 1976, EN 00183363.

¹⁶⁸² **E3/232** Minutes of Standing Committee Meeting on "Base Work," 8 Mar 1976, EN 00182628 ["The report of Comrade Hem."].

¹⁶⁸³ **E3/197** Minutes of Standing Committee Meeting on "The Front," 11 Mar 1976, EN 00182638, 00182640 ["Comrade Hem reported to the Standing Committee on the Sihanouk problem"].

¹⁶⁸⁴ **E1/189.1** Philip Short, T. 6 May 2013, 13.50.26 to 13.51.57.

Committee at the Party Congress in January 1976,¹⁶⁸⁵ though according to Ieng Sary he had already been acting as a full participant in its meetings before that.¹⁶⁸⁶ **Khieu Samphan** acknowledges the power of the Central Committee, admitting it had authority to issue directives to “correct” problems and did so at “successive meetings” during the regime’s first year.¹⁶⁸⁷ He has also asserted that the Standing Committee “could not make any decision that was contrary to ... the previous decisions of the Central Committee.”¹⁶⁸⁸

414. *K-1 and K-3 Offices*: **Khieu Samphan**’s prominent position in the regime is also demonstrated by the fact that he lived and worked together in Phnom Penh with the core party leadership throughout the DK period. He entered Phnom Penh together with Pol Pot and **Nuon Chea** on the 20th or 21st of April 1975,¹⁶⁸⁹ and remained with them (and other key leaders) as they lived and worked at various locations throughout the city, first at the railway station,¹⁶⁹⁰ then at the Ministry of Commerce,¹⁶⁹¹ and then at the Silver Pagoda.¹⁶⁹² During this time, Pol Pot, **Nuon Chea**, and **Khieu Samphan**

¹⁶⁸⁵ **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 14.31.27-14.34.25 [“Khieu Samphan was not as high as Pol Pot and Nuon Chea but he was still high that he could sign the pass. He was a member of the Central Committee, a full fledge member”]; **E1/69.1** Saloth Ban alias So Hong, T. 26 Apr 2012, 09.09.28-09.11.48; *See also* **E3/27** Khieu Samphan WRI, EN 00156751; **E1/223.1** Stephen Heder, T. 15 July 2013, 11.08.55-11.11.28; **E3/215** *Revolutionary Flag*, Sept 1978, EN 00488633; **E3/130** CPK Statute, 1976, Article 21; **E3/1607** *Statute of the Communist Youth League of Kampuchea*, EN 00574545 [“January 1976”].

¹⁶⁸⁶ **E3/573** Ieng Sary Interview, EN 00427599.

¹⁶⁸⁷ **E3/18** Khieu Samphan, *Cambodia’s Recent History*, EN 00103752.

¹⁶⁸⁸ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498298.

¹⁶⁸⁹ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745 [“Nuon Chea and Pol Pot brought me from Udong to Phnom Penh”], EN 00156748-49 [“Pol Pot took me to Phnom Penh in a jeep which was confiscated from the Lol Nol soldiers”]; **E1/189.1** Philip Short, T. 6 May 2013, 10.13.14-10.14.59; **E1/192.1** Philip Short, T. 9 May 2013, 13.50.16-14.01.10; **E3/9** Philip Short, *The History of a Nightmare*, EN 00396494; **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 14.04.18-14.06.57. Khieu Samphan’s presence in Phnom Penh at this time is corroborated by the fact that, on 22 April 1975, he issued a statement from the Phnom Penh radio station congratulating Khmer Rouge forces on their “greatest historic victory”: **E3/118** FBIS, *Khieu Samphan 21 Apr Victory Message on Phnom Penh Radio*, EN 00166994. *See also* **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 14.04.18-14.06.57; **E3/118** FBIS, *RGNUC Spokesman Describes Plans After Victory*, 15 Apr 1975, EN 00166967-68.

¹⁶⁹⁰ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745-46 [“They (Nuon Chea and Pol Pot) brought me to the buildings of the railway station and we stayed there around a month before going to the Silver Pagoda and then to the Bassac waterfront ... I was at the railway station with Pol Pot, Nuon Chea and the other persons who frequently visited the place to get instructions from Pol Pot”]; **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 13.57.03-13.58.06, 14.06.57-14.07.52, 14.19.16-14.22.24; **E3/24** Phy Phoun WRI, EN 00223582; **E1/204.1** So Socheat, T. 10 June 2013, 14.28.10-14.35.18; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396494.

¹⁶⁹¹ **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 14.07.52-14.12.57 [“we moved from the train station to the Ministry of Commerce” and “were there for about a fortnight”], 14.19.16-14.22.24; **E3/24** Phy Phoun WRI, EN 00223582; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396496.

¹⁶⁹² **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745; **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42-10.06.46 [“in April or in May, at the Silver Pagoda, that was the first time that a meeting was

continued to work together “every day and night”, meeting continually with each other as well as with military leaders and zone commanders.¹⁶⁹³ They also “lived close to one another”, whereas other leaders such as Son Sen, Ta Mok, Vorn Vet, and Koy Thuon lived separately.¹⁶⁹⁴ As Phy Phuon summarised the relationship among the three key leaders, “after the liberation, the three of them [Pol Pot, **Khieu Samphan**, and **Nuon Chea**] remained together permanently”.¹⁶⁹⁵

415. After working at the Silver Pagoda, **Khieu Samphan** and the other leaders moved to K-1, a compound located at the Tonle Bassac riverfront¹⁶⁹⁶ which became the leaders’ main workplace.¹⁶⁹⁷ **Khieu Samphan** resided there with his wife for a number of months, before moving to K-3 with **Nuon Chea**, Ieng Sary, and other leaders.¹⁶⁹⁸

held by the Central Committee”]; **E1/97.1** Phy Phuon, T. 26 July 2012, 14.24.24-14.36.42; **E3/24** Phy Phuon WRI, EN 00223582; **E1/204.1** So Socheat, T. 10 June 2013, 14.35.18-14.40.21.

¹⁶⁹³ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 14.07.52-14.12.57 [in response to a question as to what Pol Pot, Nuon Chea, Khieu Samphan and other leaders were doing during this period: “I saw them working at the train station and at the former Ministry of Commerce ... they met a lot, they met days and nights”], 14.19.16-14.22.24; **E3/24** Phy Phuon WRI, EN 00223582 [“I was with Pol Pot, Nuon Chea, Khieu Samphan, Son Sen, the Joint Leadership Committee, at the train station. ... They worked together every day; military leaders were there, zone commanders, who came to meet individually with them”].

¹⁶⁹⁴ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 14.22.24-14.24.24 [“Om Pol Pot, Nuon Chea, Khieu Samphan, Ieng Sary lived closed to one another except Son Sen and Ta Mok, Vorn Vet, and Koy Thuon, who lived separately. So Phim also had his own separate place to live”].

¹⁶⁹⁵ **E1/99.1** Rochoem Ton alias Phy Phuon, T. 31 July 2012, 09.35.50.

¹⁶⁹⁶ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745; **E3/37** Khieu Samphan WRI, EN 00156753-55 [“we moved from the Silver Pagoda” to K-1 “around June 1975”]; **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 14.40.30; **E1/204.1** So Socheat, T. 10 June 2013, 14.37.46-14.40.30.

¹⁶⁹⁷ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 14.40.30-14.43.38; **E1/101.1** Rochoem Ton alias Phy Phuon, T. 2 Aug 2012, 11.30.02-11.33.41; **E1/204.1** So Socheat, T. 10 June 2013, 14.37.46-14.43.36 [“To my understanding, K-1 was the workplace for the leaders. It was big and it was surrounded by zinc fence and the compound was huge. It was for the leaders to work there”]; **E1/86.1** Oeun Tan, T. 13 June 2012, 11.52.44-11.54.56 [“At K-1, it was the workplace for all leaders. As for K-3 -- rather everyone was to attend meetings at K-1. No meetings were held at other places”]; **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 09.49.30-09.57.09, 10.37.01-10.40.48.

¹⁶⁹⁸ **E3/37** Khieu Samphan WRI, EN 00156755 [“As for myself I lived in K3 after I had stayed at K1 for two or three months, after we moved from the Silver Pagoda in the Royal Palace. In fact, most of the leaders lived in K3, Ieng Sary, Son Sen, Nuon Chea. As for Pol Pot, Pol Pot, once in a while he stayed in K3 ... It was not uncommon for him to change his house from one place to another. He also lived in K1. The meetings of the standing committee were often held at K1 office but sometimes at K3 office, Pol Pot’s house, and it could be held in the kitchen”]; **E289.1.1** Khieu Samphan, Interview, Aug 2007, EN 00923077; **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103756; **E1/208.1** Leng Chhoeung, T. 17 June 2013, 09.56.55-09.59.32, 09.42.05-09.48.12, 14.27.44-14.31.51, 15.22.29-15.26.18; **E3/385** Leng Chhoeung WRI, EN 00360127, 00360129; **E1/86.1** Oeun Tan, T. 13 June 2012, 11.50.06-11.57.18, 11.14.15-11.17.02, 11.18.25-11.20.00, 11.44.27-11.45.28; **E3/33** Oeun Tan WRI, EN 00235127, 00235133; **E1/204.1** So Socheat, T. 10 June 2013, 14.46.01-14.48.05, 15.18.05-15.22.02, 15.39.10-15.41.14; **E1/206.1** So Socheat, T. 12 June 2013, 09.16.16-09.21.25; **E1/71.1** Pean Khean, T. 2 May 2012, 14.15.48-14.17.36, 15.57.40-16.00.46; **E1/72.1** Pean Khean, T. 3 May 2012, 10.21.25-10.26.31; **E1/73.1** Pean Khean, T. 17 May 2012, 16.32.55-16.35.09; **E1/101.1** Rochoem Ton alias Phy Phuon, T. 2 Aug 2012, 11.31.33-11.33.41; **E3/104** Sa Vi WRI, EN 00204059-60; **E1/156.1** Sa Vi, T. 8 Jan 2013, 09.42.35-09.49.27, 10.04.51-10.11.11, 11.13.56-11.18.36; **E3/57** Phan Van alias Kham Phan WRI, EN 00290506; **E3/5728** Pean Khea SOAS Interview,

According to **Khieu Samphan**, K-1 and K-3 were the place of work and residence of Standing Committee members.¹⁶⁹⁹ Pol Pot continued to reside primarily at K-1, but also stayed at K-3 from time to time.¹⁷⁰⁰ **Khieu Samphan** acknowledged that at K-3, he, Pol Pot, and **Nuon Chea** took meals together, met on a daily basis, and “did nothing separately.”¹⁷⁰¹ **Khieu Samphan** had an office at K-3, where he “prepared the documents, filed the documents and kept the meeting minutes.”¹⁷⁰² He also worked at K-1 at times.¹⁷⁰³ **Khieu Samphan** participated in regular meetings with other leaders of the Party Centre, as well as visiting zone leaders.¹⁷⁰⁴

416. *Political Education*: Like **Nuon Chea** and Pol Pot, **Khieu Samphan** also sometimes conducted education and training sessions for CPK cadres.¹⁷⁰⁵

2. Office 870 Committee

417. **Khieu Samphan** also played a key role in the Political Office 870 Committee, which was tasked with the role of monitoring the implementation of CPK policy and decisions

EN 00089701; **E3/67** Norng Sophang WRI, EN 00483967-68; **E3/103** Saut Toeung WRI, EN 00204020-21; **E3/423** Saut Toeung WRI, A182-A185; **E1/63.1** Saut Toeung, T. 18 Apr 2012, 13.54.47-13.57.35, 14.02.58-14.06.50; **E1/66.1** Saloth Ban, T. 23 Apr 2012, 14.05.53-14.09.58; **E3/446** Salot Ban WRI, EN 00503164; **E3/43** Noem Sem WRI, EN 00365660-62; **E1/126.1** Noem Sem, T. 25 Sept 2012, 13.58.38-14.06.14, 15.29.13-15.31.45; **E3/69** Chea Say WRI, EN 00233151; **E3/858** List of K-Office Cadres, EN 00391725-26 [listing bodyguards of Brother Hem]. See also **E1/208.1** Leng Chhoeung, T. 17 June 2013, 10.56.55-11.06.45.

¹⁶⁹⁹ **E3/37** Khieu Samphan WRI, EN 00156755.

¹⁷⁰⁰ **E1/71.1** Pean Khean, T. 2 May 2012, 14.15.48-14.17.36, 15.57.40-16.00.46; **E1/72.1** Pean Khean, T. 3 May 2012, 09.46.36-09.51.18; **E3/37** Khieu Samphan WRI, EN 00156755; **E3/435** Pean Khean WRI, EN 00375887; **E3/33** Oeun Tan WRI, EN 00235127.

¹⁷⁰¹ **E3/3198** Khieu Samphan Interview, EN 00815884 [“As for daily life, Pol Pot and Nuon Chea had meals with me, and we had meals together. We did nothing separately.”]; **E3/3196** Khieu Samphan Interview, EN 00815868; **E1/126.1** Noem Sem, T. 25 Sept 2012, 14.00.10-14.02.03, 14.12.38-14.14.17; **E3/43** Noem Sem WRI, EN 00365660; **E1/205.1** So Socheat, T. 11 June 2013, 15.44.38-15.46.54; **E1/55.1** Kaing Guek Eav, T. 2 Mar 2012, 13.36.52. See also **E1/72.1** Pean Khean, T. 3 May 2012, 10.18.41-10.23.38; **E3/435** Pean Khean WRI, EN 00375887; **E3/5728** Pean Khean SOAS Interview, EN 00089701; **E1/73.1** Pean Khean, T. 17 May 2012, 09.55.40-09.57.06.

¹⁷⁰² **E3/464** Tha Sot WRI, EN 00226111.

¹⁷⁰³ **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 15.48.39-15.50.30 [“The Office 870 where Khieu Samphan stayed would be both at K-3 and K-1”].

¹⁷⁰⁴ **E1/86.1** Oeun Tan, T. 13 June 2012, 11.14.15-11.18.25, 11.22.30-11.23.32 [“There were people from sectors and zones at the place of Pol Pot and there were Khieu Samphan, Ieng Sary and Nuon Chea in the meetings”], 11.39.40-11.45.28 [“In each meeting there were Mr. Khieu Samphan, Ieng Sary, Nuon Chea, and others. They were there regularly; either the meeting was held monthly or fortnightly”]; **E3/367** Sao Sarun WRI, EN 00278695-96; **E3/232** Minutes of Standing Committee Meeting on “Base Work,” 8 Mar 1976, 00182630-34. See also **E3/104** Sa Vi WRI, EN 00204059; **E1/156.1** Sa Vi, T. 8 Jan 2013, 10.13.11-10.17.32, 15.09.45-15.13.52; **E1/63.1** Saut Toeung, T. 18 Apr 2012, 13.56.28-13.57.35, 15.17.45-15.20.53, 15.26.34-15.39.02; **E3/462** Seng Lytheng WRI, EN 00223564; **E1/310.1** Sou Soeun, T. 4 June 2015, 14.12.49.

¹⁷⁰⁵ **E1/124.1** Chea Say, T. 20 Sept 2012, 10.17.55-10.30.29 [“political study sessions lasted at least three days; never one day” and were taught by Nuon Chea and Khieu Samphan, usually at Borei Keila], 13.59.03-14.00.35; **E1/498.1** Nong Net, T. 10 Nov 2016, 10.05.22-10.08.52 [witness who worked as cook at Borei Keila states that Khieu Samphan was “frequently” there to teach], 11.34.37-11.39.48.

at the Centre units falling under Office 870.¹⁷⁰⁶ Seou Vasi alias Doeun was the first chairman of the Office 870 committee.¹⁷⁰⁷ **Khieu Samphan** and Doeun were the only two members of the Office 870 committee, as the Accused himself admits.¹⁷⁰⁸ On 16 February 1977, Doeun was arrested and sent to S-21.¹⁷⁰⁹ **Khieu Samphan** remained the only member of the Political Office 870 Committee following Doeun's arrest.¹⁷¹⁰

418. Although **Khieu Samphan** denies that he became the chairman of the Office 870 committee,¹⁷¹¹ it is clear that he was understood by other CPK leaders and senior cadres to be chairman after Doeun's arrest.¹⁷¹² Expert witnesses agree that he had a prominent

¹⁷⁰⁶ **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183394-96; **E1/191.1** Philip Short, T. 8 May 2012, 09.57.29-10.04.37.

¹⁷⁰⁷ **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183393; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.36.26-15.41.25; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 09.57.27; **E1/189.1** Philip Short, T. 6 May 2013, 13.51.57; **E1/190.1** Philip Short, T. 7 May 2013, 15.56.36-15.58.10; **E1/120.1** Norng Sophang, T. 3 Sept 2012, 11.48.02-11.51.25; **E3/37** Khieu Samphan WRI, EN 00156753; **E3/456** Kaing Guek Eav WRI, EN 00198884; **E3/1684** David Chandler, *Voices from S-21*, EN 00192742.

¹⁷⁰⁸ **E3/37** Khieu Samphan WRI, EN 00156754; **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103755-56; See also **E1/68.1** Saloth Ban, T. 25 Apr 2012, 11.12.50-11.13.47; **E3/446** Saloth Ban WRI, EN 00503164; **E1/66.1** Saloth Ban, T. 23 Apr 2012, 14.15.54-14.19.51; **E3/356** Kaing Guek Eav WRI, EN 00242902.

¹⁷⁰⁹ **E3/342** S-21 Prisoner List, "Revised S-21 Prisoner List", EN 00330011; **E3/1625** S-21 Confession of Seou Vasi, 19 Feb 1977, EN 00183208-19; **E3/1684** David Chandler, *Voices from S-21*, EN 00192742-3; **E3/456** Kaing Guek Eav WRI, EN 00198884-85; **E3/355** Kaing Guek Eav WRI, EN 00242874, **E3/356** Kaing Guek Eav WRI, EN 00242903. See also **E1/101.1** Phy Phoun, T. 2 Aug 2012, 11.52.12.

¹⁷¹⁰ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.36.26-15.38.38; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.11.45-14.18.48; **E3/107** Kaing Guek Eav WRI, EN 00198224 ["I know he had Pol Pot's trust. I was told that he had been appointed Head of Office 870 after the arrest of Seou Vasi alias Doeun"]; **E3/456** Kaing Guek Eav WRI, EN 00198882 ["I think that from this arrest onwards, he effectively became the Head of Office 870, but this was not a promotion, just an additional task, similar to the way Nuon Chea took Son Sen's position at S-21 when Son Sen had to leave"], 00198885; **E3/355** Kaing Guek Eav WRI, EN 00242874 ["Khieu Samphan became Secretary of the Office 870 Committee when Seou Vasi became minister of commerce ... Seou Vasi asked ... to be appointed minister of commerce around Apr or May 1976"]; **E3/356** Kaing Guek Eav WRI, EN 00242904 ["Khieu Samphan was the Secretary of the Office 870 committee"]; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002760, 00002761; **E3/1684** David Chandler, *Voices from S-21*, EN 00192742-43; **E1/91.1** David Chandler, T. 18 July 2012, 15.14.17-15.16.09, 15.39.07-15.40.12; **E3/48** Stephen Heder and Brian Tittmore, *Seven Candidates for Prosecution*, EN 00393581. See also **E1/66.1** Saloth Ban alias So Hong, T. 23 Apr 2012, 14.15.54-14.19.51; **E1/69.1** Saloth Ban, T. 26 Apr 2012, 09.26.39-09.30.14, 09.34.53-09.38.12; **E3/446** Saloth Ban WRI, EN 00503164-65.

¹⁷¹¹ **E3/205**, Khieu Samphan Statement, 16 Aug 2001, EN 00149527; **E3/557**, Khieu Samphan Written Record of Adversarial Hearing, 19 Nov 2007, EN 00153268-69; **E3/37** Khieu Samphan WRI, EN 00156754; **E3/112** Request to send a letter by Khieu Samphan, 30 Dec 2007, EN 00170882; **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103793-4.

¹⁷¹² **Ieng Sary**: **E3/573** Ieng Sary Statement, 4 Jan 1999, EN 00427599; **E3/190** Stephen Heder, Notes of Discussion with Ieng Sary, 4 Jan 1999, EN 00081572; **E1/223.1** Stephen Heder, T. 15 July 2013, 09.10.38-09.13.10, 09.16.38; **E3/48** Stephen Heder and Brian Tittmore, *Seven Candidates for Prosecution*, EN 00393581. **Van Rith (DK Minister of Commerce)**: **E3/5699** Van Reut alias Meuan Statement, EN 00567469; **E1/223.1** Stephen Heder, T. 15 July 2013, 09.20.20-09.21.27. **Phy Phoun (Head of Security at Ministry of Foreign Affairs)**: **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 15.50.30-15.53.04, 15.57.37-16.00.28; **E1/98.1** Rochoem Ton alias Phy Phoun, T. 30 July 2012, 15.12.07-15.15.14, 15.15.14-15.16.46; **E1/101.1** Rochoem Ton alias Phy Phoun, T. 2 Aug 2012,

role.¹⁷¹³ Phy Phuon, one of Pol Pot's and Ieng Sary's most trusted cadre, testified that he personally delivered documents intended for Office 870 to **Khieu Samphan**, who he viewed as the person in charge¹⁷¹⁴ and both Phy Phuon and Duch testified that **Khieu Samphan** took over Doeun's role of issuing travel passes.¹⁷¹⁵ Duch also testified that, even before Doeun's demise, **Khieu Samphan** had greater powers than Doeun and was at no time Doeun's subordinate.¹⁷¹⁶ He described **Khieu Samphan** as a "much more important character" than Doeun.¹⁷¹⁷ Regardless of whether he ever was formally named chairman of the Political Office 870 Committee, the evidence leaves no doubt that before, and particularly after Doeun's arrest, **Khieu Samphan** played an essential leadership role in Office 870, an institution critical to the implementation of the criminal policies of the CPK.

419. This position gave **Khieu Samphan** access to confidential communications between the Party Centre and the zones.¹⁷¹⁸ Telegrams that were copied to "Office," as was the standard practice for telegrams to the Centre,¹⁷¹⁹ were delivered to Political Office 870.¹⁷²⁰ **Khieu Samphan's** centrality in the communication network is demonstrated by the fact there was a direct telephone connection between his office and the telegram

11.48.16-11.50.42; **E3/24** Phy Phuon WRI, EN 00223584; **E3/63** Phy Phuon WRI, EN 00231411. Kaing Guek Eav: **E3/356** Kaing Guek Eav WRI, EN 00242904; **E3/15** Kaing Guek Eav WRI, EN 00251376, 00251378; **E3/355** Kaing Guek Eav WRI, EN 00242874; **E3/456** Kaing Guek Eav WRI, EN 00198882; **E3/107** Kaing Guek Eav WRI, EN 00198224; **E3/448** Kaing Guek Eav WRI, EN 00154911; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 14.17.35-14.18.40, 11.29.11-11.33.43. Saloth Ban (Pol Pot's nephew and General Secretary of the Ministry of Foreign Affairs): **E1/66.1** Saloth Ban, T. 23 Apr 2012, 14.14.04-14.19.51; **E3/446** Saloth Ban WRI, EN 00503164.

¹⁷¹³ **E1/191.1** Philip Short, T. 8 May 2013, 10.00.38-10.04.37; **E1/192.1** Philip Short, T. 9 May 2013, 14.03.24-14.11.34; **E1/91.1** David Chandler, T. 18 July 2012, 14.36.33, 15.12.26-15.26.19, 15.39.07-15.40.12, 15.40.37-15.42.14; **E1/93.1** David Chandler, T. 20 July 2012, 09.44.38-09.46.19; **E3/1684** David Chandler, *Voices from S-21*, EN 00192742-43; **E1/223.1** Stephen Heder, T. 15 July 2013, 09.20.20-09.21.27; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002760-61.

¹⁷¹⁴ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 15.39.31-15.41.52, 15.46.53, 15.48.39-15.50.30.

¹⁷¹⁵ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 15.57.37-16.01.45; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.05.18-15.07.37; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 14.26.06-14.34.25.

¹⁷¹⁶ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.38.38-15.42.43; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 10.01.11, 10.14.08.

¹⁷¹⁷ **E3/456** Kaing Guek Eav WRI, EN 00198882; **E3/355** Kaing Guek Eav WRI, EN 00242874; *See also* **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.38.38-15.42.43; **E3/107** Kaing Guek Eav WRI, EN 00198224.

¹⁷¹⁸ **E1/117.1** Norng Sophang, T. 29 Aug 2012, 15.32.59-15.36.14; **E3/1739** Norng Sophang Transcription of Interview, EN 00844060.

¹⁷¹⁹ **E1/120.1** Norng Sophang, T. 3 Sept 2012, 11.43.32-11.48.02.

¹⁷²⁰ **E3/198** Khieu Samphan Interview, 17 Aug 2005, EN 00184680 ["Doeun was the chief of Office 870 ... Doeun was the person to receive zone reports that were sent to 870"]; **E1/120.1** Norng Sophang, T. 3 Sept 2012, 11.02.40-11.07.15, 11.27.38, 11.32.49-11.35.56; **E1/122.1** Norng Sophang, T. 5 Sept 2012, 09.13.01-09.15.02; **E3/64** Norng Sophang WRI, EN 00334059-60.

encryption unit, one of just three telephone lines in the encryption office.¹⁷²¹ His position in Office 870 also meant that **Khieu Samphan** was well-informed regarding cadres' transfers and removals,¹⁷²² key information during the purges which raged throughout the DK period.

420. On 6 January 1979, **Khieu Samphan** presided over a meeting attended by about seven "chiefs of units under the chairmen of the committees surrounding the Centre,"¹⁷²³ at which he informed them of the Vietnamese invasion and instructed them to carry on working as normal.¹⁷²⁴ Duch was among those selected to attend, and **Khieu Samphan** knew who he was with no introduction.¹⁷²⁵

3. Responsibility for Commerce & DK Economy

421. **Khieu Samphan** also played a key role in the Ministry of Commerce and in the DK economy generally. At the October 1975 Standing Committee meeting, he was assigned responsibility for "the Front and the Royal Government, and Commerce for accounting and pricing."¹⁷²⁶ Early the next year, his responsibilities expanded to include aspects of trade with China and banking, responsibilities that were shared in part with Koy Thuon, Ieng Sary, Vorn Vet, and Doeun.¹⁷²⁷ Doeun was put in charge of the Ministry of Commerce in March 1976, but by October 1976 **Khieu Samphan** had taken control—as reflected by the fact that the Ministry's reports which had previously been addressed to Doeun¹⁷²⁸ were from that point addressed to "Brother Hem."¹⁷²⁹ Those reports are addressed to **Khieu Samphan** as a superior, seeking his instructions and guidance.¹⁷³⁰

¹⁷²¹ **E1/120.1** Norng Sophang, T. 3 Sept 2012, 13.52.27-13.55.57; **E1/121.1** Norng Sophang, T. 4 Sept 2012, 11.37.23-11.39.20; **E1/122.1** Norng Sophang, T. 5 Sept 2012, 10.23.59-10.25.54; **E3/64** Norng Sophang WRI, EN 00334053.

¹⁷²² **E3/573** Ieng Sary Interview, EN 00427599 ["As chairman of 870, transfers and removals of cadre would cross [Khieu Samphan's] desk; he would be told, for example, that such and such was being sent to the Chamkar, so in some ways, he knew more than me"].

¹⁷²³ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 09.36.04-09.38.29.

¹⁷²⁴ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.33.30-15.38.38; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 13.36.03-13.46.01.

¹⁷²⁵ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 09.39.52-09.42.19.

¹⁷²⁶ **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183393.

¹⁷²⁷ **E3/233** Minutes of Standing Committee Meeting on "Commerce," 13 Mar 1976.

¹⁷²⁸ **E3/2036** Report from Commerce Committee to "Dear Respected Brother Doeun," 21 Aug 1976, EN 00296187; **E3/2037** Report from Commerce Committee to "Dear Respected Brother Doeun," 28 Aug 1976, EN 00323937; **E3/3568** Report from Commerce Committee to "Respected and Beloved Brother Doeun," 7 Sept 1976, EN 00709612; **E3/2038** Report from Ministry of Commerce to "Respected and Beloved Brother Doeun," 30 Sept 1976, EN 00337497.

¹⁷²⁹ **Annex J Documents Addressed to or Forwarded to Khieu Samphan**, Table 1, *Ministry of Commerce Telegrams addressed to "Brother Hem"*.

¹⁷³⁰ **E3/3514** Report from Commerce Committee to "Respected and Beloved Brother Hem", 1 Dec 1977, EN 00634427 ["Please, Brother, be informed and give instruction"]; **E3/3455** Report from Commerce

Documents not initially addressed to the Accused often contain annotations recording that copies were sent to him.¹⁷³¹ Witness testimony also confirms **Khieu Samphan's** authority over the Ministry of Commerce.¹⁷³²

422. **Khieu Samphan's** authority over the Ministry of Commerce is also confirmed by the fact he frequently visited Commerce facilities and conducted meetings there.¹⁷³³ In one of the last such meetings, on 5 January 1979, **Khieu Samphan** exhorted cadres from the Ministry to dig trenches and prepare to fight the Vietnamese.¹⁷³⁴

4. President of State Presidium

423. Following 17 April 1975, **Khieu Samphan** continued in his positions as Deputy Prime Minister and Minister of Defence of the GRUNK.¹⁷³⁵ Following the promulgation of the DK Constitution, **Khieu Samphan** was appointed President of the State Presidium, making him Democratic Kampuchea's head of state,¹⁷³⁶ succeeding Norodom Sihanouk, who resigned as chief of state four days later.¹⁷³⁷ In his capacity as head of state, **Khieu**

Committee to "Beloved and Respected Brother Hem," 24 Jan 1978, EN 00634424 ["Please be informed and give instruction"]; **E3/1615** Report from Commerce Committee to "Respected and Beloved Brother Hem", 27 Sept 1977, EN 00234312 ["Request Brothers accept this for your information and to provide instructions"]; **E3/3461** Report from Commerce Committee to "To Beloved and Respectable Brother Hem", 28 Apr 1978, EN 00711450 ["I would like you Brother to be informed and to give guiding comments"].

¹⁷³¹ **Annex J Documents Addressed to or Forwarded to Khieu Samphan**, Table 2, *Documents Containing Handwritten Annotations Indicating They Were Sent to Khieu Samphan*.

¹⁷³² **E1/79.1** Sakim Lmut (Sar Kimlomouth), T. 31 May 2012, 11.07.45-11.11.00, 11.24.00, 11.43.08-11.45.36, 14.33.10 ["Q: Did you understand why these reports were being prepared for Hem and also sent to Vorn? A: ... as routines Commerce Committee had to report to the superiors ... Bong Vorn and Bong Hem"], 15.13.48-15.22.55; **E1/80.1** Sakim Lmut (Sar Kimlomouth), T. 4 June 2012, 09.12.29-09.15.41, 09.23.57-09.29.29; **E3/439** Sakim Lmut WRI, A56; **E3/105** Sakim Lmut WRI, A4-A5; See also **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103794 ["by the end of 1976 ... I had a certain autonomy to accomplish my task, especially concerning the importation of several products"].

¹⁷³³ **E1/184.1** Ruos Suy, T. 25 Apr 2013, 10.34.07-10.36.03, 10.36.03-10.38.18 ["Q. Do you recall a time when Mr. Khieu Samphan came to visit your warehouse? A. Of course I used to see him visit the warehouse"], 11.08.08 - 11.11.45 ["It happened, when subordinates at the warehouses had to be called to attend sessions, when he would chair"], 11.18.00, 13.53.16-13.55.30; **E1/206.1** Sim Hao, T. 12 June 2013, 14.29.48-14.36.57, 15.10.30-15.12.39; **E1/207.2** Sim Hao, T. 13 June 2013, 14.10.35-14.14.21.

¹⁷³⁴ **E3/4623** Sim Hao DC-Cam Statement, EN 00679721-22; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 11.31.45-11.38.22, 11.39.29-11.48.34; **E3/4594** Ruos Suy DC-Cam Statement, EN 00710554; **E1/206.1** Sim Hao, T. 12 June 2013, 15.10.30-15.17.44; **E1/207.2** Sim Hao, T. 13 June 2013, 14.15.56-14.34.16.

¹⁷³⁵ See e.g. **E3/1106** Telegram from Norodom Sihanouk to Khieu Samphan, 17 May 1975; **E3/118** FBIS, *Khieu Samphan 21 Apr Victory Message on Phnom Penh Radio*, EN 00166994; **E3/118** FBIS, *Special National Congress Retains Sihanouk, Penn Nouth*, 25-27 Apr 1975, EN 00167012; **E3/119** FBIS, *Deputy Premier Khieu Samphan Grants Interview to AKI*, 13 Aug 1975, EN 00167385.

¹⁷³⁶ **E3/12** Decision of the Central Committee Regarding a Number of Matters, EN 00182813. See also **E1/123.1** Norng Sophang, T. 6 Sept 2012, 09.16.32-09.21.08; **E3/165** Document on Conference I of Legislature I of the People's Representative Assembly of Kampuchea, 11 - 13 Apr 1976, EN 00184068.

¹⁷³⁷ **E3/275** FBIS, *Sihanouk's Statement Requesting Retirement*, 4 Apr 1976, EN 00167603-04; **E1/149.1** Hun Chhunly, T. 6 Dec 2012, 11.48.23-11.52.16.

Samphan received foreign diplomats and represented DK at international conferences.¹⁷³⁸

3. CONTRIBUTION OF ACCUSED TO COMMON CRIMINAL PLAN

CONTRIBUTION TO ENSLAVEMENT OF POPULATION

1. Participation of Nuon Chea and Khieu Samphan in Party Centre Meetings

Establishing CPK Policy

424. As participants in Party Congresses and meetings of the Central and Standing Committees, both **Nuon Chea** and **Khieu Samphan** contributed to the establishment of the CPK policies that resulted in the enslavement and inhumane treatment of the Cambodian people in cooperatives and worksites throughout Democratic Kampuchea.
425. The political or strategic lines of the CPK were established at Party Congresses,¹⁷³⁹ which were required to be held every four years.¹⁷⁴⁰ Under the CPK Statute, the Central Committee was the “highest operational unit throughout the country” between Party Congresses,¹⁷⁴¹ and was responsible for “implement[ing] the Party political line.”¹⁷⁴² **Khieu Samphan** has stated that the Central Committee met every six months,¹⁷⁴³ as required by the CPK Statute.¹⁷⁴⁴ Decisions establishing CPK policy were made

¹⁷³⁸ **E1/77.1** Ny Kan, T. 29 May 2012, 10.55.44; **E1/78.1** Ny Kan, T. 30 May 2012, 13.56.26; **E1/102.1** Suong Sikoeun, T. 6 Aug 2012, 14.09.41 [“in his capacity as the president of the State Presidium, he received credential of foreign diplomats who have their mission in Cambodia”], 14.13.16 [“I used to accompany Khieu Samphan to attend the Non-Aligned Summit in Sri Lanka in 1976”].

¹⁷³⁹ **E3/130** CPK Statute, Article 7.1 [“The Party organization which has the highest power rights throughout the country is the General Conference”], Article 21.2 [responsibility of Party Congress to “Designate the political line”]; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 11.41.53-11.45.42 [“any changes to the Party’s political lines could have only been made during the general Party’s congresses; no other people would be allowed to do so”]; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.08.25 [“The amendment to these strategic lines could only be adopted by the general assembly”]; **E3/558** Nuon Chea OCIJ Adversarial Hearing, 19 Sept 2007, EN 00148699 [“Concerning power: it was not invested in individuals. It was in the Party Congress ... And no one could overturn the decisions of the Party Congress”].

¹⁷⁴⁰ **E3/130** CPK Statute, Article 21 [“The Central Committee must call an ordinary General Conference representing the entire country once every four years”], Article 22 [“A General Conference may be held before the designated time or can be postponed, according to the specific situation”].

¹⁷⁴¹ **E3/130** CPK Statute, Article 7.1.

¹⁷⁴² **E3/130** CPK Statute, Article 23 [“The tasks of the Central Committee are: (1) Implement the Party political line and Statute throughout the Party; (2) Instruct all Zone and Sector-City organisations and Party organisations responsible for various matters to carry out activities according to the political line ... in accordance with the Party direction of socialist revolution and building socialism”; (3) Govern and arrange cadres and Party members throughout the entire Party, along with all core organizations”].

¹⁷⁴³ **E3/27** Khieu Samphan WRI, EN 00156750.

¹⁷⁴⁴ **E3/130** CPK Statute, Article 25 [“The Central Committee must hold ordinary meetings once every six months to examine, monitor, and deliberate all old work in every field and to bring up new work in every field”].

collectively by the CPK leaders at the Party Congresses and Central Committee meetings.¹⁷⁴⁵

426. In 1972 and 1973, when the CPK began the process of establishing forced cooperatives and irrigation worksites in the liberated zones, **Nuon Chea** was the Deputy Secretary of the Party and **Khieu Samphan** was a candidate member of the Central Committee and regular participant in the meetings of the Party leadership at the S-71 base (*as discussed above*). In 1972, the CPK Central Committee decided to close markets and eliminate private ownership in the liberated zones,¹⁷⁴⁶ and in 1973 it “collect[ed] people forces vigorously and regularly”¹⁷⁴⁷ for assignment to cooperatives¹⁷⁴⁸ and irrigation worksites.¹⁷⁴⁹

¹⁷⁴⁵ **E1/23.1** Nuon Chea, 15 Dec 2011, 10.55.17-11.05.55; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329511; **E3/558** Nuon Chea OCIJ Adversarial Hearing, 19 Sept 2007, EN 00148699 [“Leadership in my Party was collective decision making”]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498298 [Standing Committee “could not make any decision that was contrary to ... the previous decisions of the Central Committee”]; **E3/130** CPK Statute, Article 3 [“Every full-rights Party member has the following rights: (A) To consider and discuss and join in decision making on all Party affairs, doing this according to the principle of democratic centralism”], Article 6.2 [“All of the various decisions of the Party must be made collectively”]; **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720211-12, 00720228 [“plans must be proposed by the collective”]; **E3/139** *Revolutionary Flag*, Nov 1976, EN 00455305-09; **E1/91.1** David Chandler, T. 18 July 2012, 10.13.51-10.16.58; **E1/92.1** David Chandler, T. 19 July 2012, 13.31.30-13.46.01, 13.50.47-13.55.22.

¹⁷⁴⁶ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450510; **E3/166** *Revolutionary Flag*, Feb-Mar 1976, EN 00517819 [“we began waging socialist revolution in 1972, in particular 1973, by dissolving private commerce”]; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865704 [“In 1972, ... the Party began promoting the struggle movement to eliminate the old production means and to establish new ones”], 00865708-09 [“In the congress of the Party Centre in May 1972, ... the Party started the process of organizing the cooperative at the beginning phase”]; **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720210 [“we released a circular prohibiting people from selling food and supplies to the enemy, ordering them to support the revolution, ... and then we issued another circular assigning them to produce crops collectively”].

¹⁷⁴⁷ **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865712.

¹⁷⁴⁸ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450511 [“Seeing that only by organizing cooperatives could we gain control of the economy, in mid-1973 the Party decided to organize cooperatives throughout the country”]; **E3/50** CPK Circular titled *Third Year Anniversary of the Organization of Peasant Cooperatives*, 20 May 1976, EN 00636008 [“On 20 May 1973, the Party decided to organize peasant cooperatives”]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498284 [“High-level cooperatives were organized in 1973” in which “land was declared to belong to the cooperatives”]; **E3/592** Khieu Samphan Statement, 29 Dec 2003, EN 00002805; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 09.16.29 [“The Party decided to form cooperatives...in order to gather the people to work collectively and not to work individually”]; **E1/34.1** Prak Yut, T. 26 Jan 2012, 10.12.34-10.15.47, 16.00.49-16.02.13 [“small cooperatives” organized in 1973 in Kampot]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401482 [starting in mid-1973, “we made progress in eliminating private ownership of land and means of production, and in general we put cooperative ownership in place”].

¹⁷⁴⁹ **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865712 [“experience [from 1972] showed us that: ... In order to collect people forces vigorously and regularly, we must constantly organize the movements, which included the dike building, dam construction, food production ... based on our slogan ‘constantly incited, constantly burned, and constantly hot’”], 00865704-05 [“in that year of 1973, the cooperativisation in the countryside was expanded extensively ... The canal, dam and pond construction movements ... were blooming everywhere”]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401482-83 [starting in mid-1973, “we carried out absolute democratic revolution. ... Production was well whipped

427. **Nuon Chea** and **Khieu Samphan** have admitted that people who lived in the cooperatives were “not free.”¹⁷⁵⁰ This loss of freedom was not an unintentional by-product but rather an essential part of the motivation for the Party’s policy to force the population into cooperatives. As explained by the CPK leaders to the cadres in the internal Party publication *Revolutionary Flag*, the organisation of cooperatives was a critical measure and “turning point” precisely because “the people had to depend on the revolution and the revolution was *able to control them*.”¹⁷⁵¹ To implement this policy of making people dependent on the Party and easily controlled, the CPK leaders “incited the people to attack the capitalist class,”¹⁷⁵² ordered them to farm collectively and “support the revolution,”¹⁷⁵³ prohibited any sales of rice,¹⁷⁵⁴ and assumed control of the distribution of rice.¹⁷⁵⁵
428. In June 1974¹⁷⁵⁶ and early April 1975,¹⁷⁵⁷ **Nuon Chea**, **Khieu Samphan**, and the other top CPK leaders unanimously agreed that, upon capturing Phnom Penh, the entire

up: dams, feeder canals, dry season rice, rainy season rice”].

¹⁷⁵⁰ **E1/36.1** Nuon Chea, T. 31 Jan 2012, 10.05.37 [“If they were to live in the cooperatives they could not go anywhere else”]; **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000928 [“In the cooperative people were not free”]. See also **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396446-47 [“collectivisation was imposed by force throughout the liberated zones” beginning in May 1973].

¹⁷⁵¹ **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865712 (*emphasis added*). See also **E1/36.1** Nuon Chea, T. 31 Jan 2012, 09.50.54-09.52.56 [by stopping the use of money, “we would be able to control that situation”]; **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons behind the Decisions I Made*, EN 00103777 [“at the outset of the movement, these cooperatives were deemed critical. Indeed, while giving the KR leadership control over the economy, in particular the production of rice, these cooperatives also were an indispensable source of power ... that could be easily mobilized”]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498302 [Pol Pot “had great faith in the cooperatives because since the cooperatives had been first organized in 1971, the CPK had been able to control rice, control the economy, control the people”]; **E1/451.1** Henri Locard, T. 29 July 2016, 11.16.06 [“Why did they do away with money? Because money is a tool of extraordinary freedom; behind that piece of paper, you can buy anything and any service. So if you don’t have this paper, you’ve lost all of your freedom and you are completely dependent on the local apparatchik who will distribute to you food, clothing, etc.”].

¹⁷⁵² **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865704.

¹⁷⁵³ **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720210.

¹⁷⁵⁴ **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720210; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450510. See also **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396447-48 [quoting witness’ account of Khieu Samphan and Hu Nim’s disapproval when he proposed establishing a “trade office to sell things to the people” after his arrival at Stung Chinit headquarters in 1973].

¹⁷⁵⁵ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498284 [at high-level cooperatives organised in 1973, “[t]he yearly harvest was declared to be under the common ownership of the cooperatives and ceased to be distributed to houses as it had been previously”]; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 09.33.14-09.35.35 [cooperatives implemented in Peam and Amleang communes in 1973 – “zone Committee was tasked to divide the produce generated by the cooperative; for example, how much is given to the front and how much is reserved for the commune”], 09.36.29-09.40.59 [at high-level cooperatives, the Party was “in full control of all production means” and determined the “working hours of the farmers”].

¹⁷⁵⁶ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.05.46-09.07.44; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 15.12.36-15.34.13, 15.28.03-15.30.10; **E1/97.1** Rochoem Ton alias Phy Phoun, T. 26 July 2012, 09.30.50-09.33.36, 11.37.50-11.44.36.

urban population of Cambodia would be forcibly moved into cooperatives and worksites in the countryside, in order for the Party to be able to “control” those people.¹⁷⁵⁸

429. After traveling together to Phnom Penh a few days after the city was captured on 17 April 1975,¹⁷⁵⁹ Pol Pot, **Nuon Chea**, and **Khieu Samphan** participated in daily meetings with Ieng Sary, Son Sen, and zone leaders (including Ta Mok, Sao Phim, Koy Thuon, and Vorn Vet), initially at the railway station and later the Commerce Ministry and Silver Pagoda, at which the CPK’s plan for implementation of “Socialist Revolution” was developed.¹⁷⁶⁰ The meetings during this period included a 10-day meeting of the Central Committee,¹⁷⁶¹ in which Pol Pot presented documents and **Nuon Chea** led the discussions with the zones.¹⁷⁶² **Khieu Samphan** attended these

¹⁷⁵⁷ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.40.28-09.45.02, 09.48.52-09.52.25 [Nuon Chea “expressed his position that he agreed with the plan” and “Khieu Samphan also agreed with the plan”], 10.09.04-10.11.01; **E3/63** Phy Phuon WRI, EN 00231409-10; **E3/24** Phy Phuon WRI, EN 00223581.

¹⁷⁵⁸ **E1/97.1** Rochoem Ton, T. 26 July 2012, 09.45.02 [“if people remained in the cities the Party would find it difficult to control them”], 10.16.11 [“So everyone...all the participants agreed to the measure and applauded it”]; **E3/4051** Khieu Samphan Interview, EN 00788872 [transcript of video **E3/4051R**: “if there had been a single voice against the evacuations, there could have been no evacuations”].

¹⁷⁵⁹ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745; **E1/189.1** Philip Short, T. 6 May 2013, 10.13.14-10.14.59; **E3/9** Philip Short, *The History of a Nightmare*, EN 00396494; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757482-83.

¹⁷⁶⁰ **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156745-46; **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42-10.06.46; **E1/97.1** Phy Phuon, T. 26 July 2012, 14.10.10-14.12.57, 14.19.16-14.22.24 [“they worked every day and night at the train station and at the Ministry of Commerce. When it was necessary, they had to continue working until late at night ... These people came to work on a regular basis including Pol Pot, Nuon Chea, Khieu Samphan, Ieng Sary, Son Sen, who worked on a daily basis. They worked together there”], 14.24.24-14.34.32 [describing May 1975 meetings with zone leaders at Silver Pagoda: “The people who led the meetings were mainly Pol Pot and Nuon Chea ... after the meeting, I saw a document which stated that now we are going to engage in socialist revolution ... the documents discussed about the construction of the socialist revolution; about building and defending the country; about building the progressive cooperatives ... Q: ...was Ieng Sary and Khieu Samphan present during these meetings? A: Yes, they were present during those meetings”]; **E3/24** Phy Phuon WRI, EN 00223582 [“they went to the Preah Kev Temple Sanctuary during May 1975, where there were large meetings for a period of nearly 10 days, attended by zone commanders like Sao Phim, Koy Thuon, Ta Mok, Vorn Vet, Ros Nim, Ya, Laing ... Ke Pauk, Doeun, Pang ... They talked about the situation inside and outside the country, the post-liberation situation and setting a new direction ... there would be what they called Socialist Revolution”]; **E3/2782 (E3/2783)** Ke Pauk Interview, EN 00089712 [“In 1975, in Phnom Penh, the Central Committee held meetings to refashion its guidelines. National democratic revolutionary way was over ... It chose revolutionary socialism ... Returning from Phnom Penh, I gathered about 500 cadres ... spreading new stance, Socialist Revolution, to them”].

¹⁷⁶¹ **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42; **E3/2782 (E3/2783)** Ke Pauk Interview, EN 00089712; **E3/24** Phy Phuon WRI, EN 00223582; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491408 [refers to May 1975 meeting of “the Central Committee of the Party and the Military Committee of the Party Center, one month after the liberation”].

¹⁷⁶² **E1/97.1** Phy Phuon, T. 26 July 2012, 14.29.46 [“The people who led the meetings were mainly Pol Pot and Nuon Chea”]; **E3/24** Phy Phuon WRI, EN 00223582 [“The only person who gave presentations on the documents was Pol Pot. The leader of the discussion group was Nuon Chea who examined and led the joint discussions by the zones”].

meetings,¹⁷⁶³ and has admitted that one of the key matters decided was the plan to “urgently rebuild” the country in order to stay ahead of Vietnam, pursuant to which “all” land would be placed under cooperatives and “dams and canals” built “in a speedier process.”¹⁷⁶⁴ While **Khieu Samphan** was still formally a candidate member of the Central Committee at this time, Ieng Sary has stated that he had already assumed a full role in the Committee as of 1975.¹⁷⁶⁵

430. The Party policies decided at the Silver Pagoda meetings were announced by Pol Pot and **Nuon Chea** at a mass meeting held from 20 to 25 May 1975 attended by CPK leaders from all zones, sectors, districts, and organisations of the country.¹⁷⁶⁶ The specific policies announced at that time included the implementation of cooperatives and communal dining, and a “big offensive” to build irrigation dams and canals throughout the country.¹⁷⁶⁷

¹⁷⁶³ **E1/97.1** Phyl Phuon, T. 26 July 2012, 14.34.32; **E3/27** Khieu Samphan WRI, 13 Dec 2007, EN 00156749 [referring to “explanations” that were given “in the meeting at the Silver Pagoda”].

¹⁷⁶⁴ **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42-10.06.46 [discussing initiation of “Socialist Revolution” after the 17 April 1975 victory: “in April or in May, at the Silver Pagoda, that was the first time that a meeting was held by the Central Committee. ... Cambodia had to urgently rebuild our country and not to let Vietnam catch up and swallow us. So the Socialist Revolution and Reconstruction were of the general concept that all the land no longer belonged to members of the cooperatives; all the land became the property of the cooperatives ... Therefore, we build dams and canals in a speedier process”]. See also **E3/735** David Chandler, Ben Kiernan & Chanthou Boua, *Pol Pot Plans the Future*, EN 00104059 [21 Aug 1976 CPK document titled “Preliminary Explanation Before Reading the Plan” refers to “May 1975 meeting” of Party Centre which decided: “socialism must be built as rapidly as possible, taking us from a backward agriculture to a modern one in from five to ten years”]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396496 [“full leadership” meeting held at Silver Pagoda in May 1975 that “decided to give absolute priority to raising farm production”].

¹⁷⁶⁵ **E3/573** Ieng Sary Interview, EN 00427599 [“Khieu Samphan became a Central Committee member 76, although already in 75 he was de facto involved in Central Committee affairs”].

¹⁷⁶⁶ **E1/82.1** Sao Sarun, T. 6 June 2012, 10.57.27-11.02.27 [“there were huge number of people from all across the country ... representatives from the sectors were present at the meeting ... there were military representatives representing the divisions”], 11.02.27 [“Q: Is it correct that both Nuon Chea and Pol Pot made presentations at this meeting? A: Yes, that is correct”], 11.04.50-11.08.03 [“I was asked to attend a meeting to understand the political situations after the liberation ... it was about the building of the country”]; **E3/367** Sao Sarun WRI, EN 00278694; **E1/151.1** Kham Phan, T. 11 Dec 2012, 15.04.28-15.08.36; **E1/152.1** Kham Phan, T. 12 Dec 2012, 10.45.37; **E1/378.1** Prak Yut, T. 19 Jan 2016, 15.40.20-15.47.25 [“perhaps Khieu Samphan was also there”]; **E1/379.1** Prak Yut, T. 20 Jan 2016, 09.55.06; **E1/380.1** Prak Yut, T. 21 Jan 2016, 14.16.33; **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651865-66 [“The meeting in Phnom Penh in May 1975, 20th May. ... It was a national meeting. The secretaries of every district, secretaries of every region, and zone ... The program lasted 5 days ... Nuon Chea spoke first, on the first day. Then Pol Pot on the second”]; **E1/291.1** Pech Chim, T. 23 Apr 2015, 14.27.10-14.31.36 [meeting was attended by Tram Kak District Secretary Khom]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024 [“All military and civilian officials of the new regime were summoned to a special meeting on 20 May 1975 ... Its purpose was ‘to receive the plan distributed by the Center’ and then return home to ‘implement the plan’”].

¹⁷⁶⁷ **E1/82.1** Sao Sarun, T. 6 June 2012, 11.28.20-11.30.45 [meeting discussed plans to build irrigation systems in the provinces], 13.31.33-13.35.26 [organisation of low-level cooperatives “encompassing 30 to 40 families” and communal dining discussed by Pol Pot], 13.42.45 [“Q: ... was there any discussion about the elimination of private property? A: Yes, that matter was discussed. Private belongings,

431. Over the ensuing months, the CPK leaders continued to work on the details and implementation of their plan to “[d]evelop the country quickly” by a “great leap forward,” a policy on which they were in “total agreement.”¹⁷⁶⁸ In the August 1975 issue of *Revolutionary Flag*, they instructed that cooperatives were to be increased in size to encompass entire villages.¹⁷⁶⁹ In September 1975, they distributed a policy document on the “implementation of the Party’s agricultural line to push agriculture to expand in a great leap to the maximum according to the instructions of the Party.”¹⁷⁷⁰ It assessed the situation “during the past 4-5 months” since “the Party disseminated the line” in May 1975, noting that there were shortages of food and medicine,¹⁷⁷¹ and that people were working “fifteen hours a day” due to the lack of machinery, which was

properties shall be put communally, and as for the cattle, the cattle shall be put communally for common use within the cooperative”]; **E3/367** Sao Sarun WRI, EN 00278694 [“In that meeting, the presenters at the opening sessions were Nuon Chea and Pol Pot ... Both of them talked about political matters, cooperative organization, currency prohibition, market and monastery closings”]; **E3/384** Sao Sarun WRI, EN 00348375 [“Q: when you talked about setting up the cooperatives, was communal dining, storing rice collectively, and working the rice fields communally spoken about? A. Yes, that was actually spoken about”]; **E1/378.1** Prak Yut, T. 19 Jan 2016, 15.48.48-15.52.26 [“The main topic was about the creation of cooperatives”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024 [list of eight policies discussed at meeting includes: “(6) Establish high-level cooperatives throughout the country, with communal eating”]; **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651866-67 [describing instructions from Nuon Chea on building socialism: “In 1976, start to build irrigation dams and canals throughout the country. This was a big offensive, concerted, simultaneous and nationwide. The concerted action was to start on 1 January 1976 the start of the offensive to raise earthworks ... immediately after the harvest”].

¹⁷⁶⁸ **E3/2782 (E3/2783)** Ke Pauk Interview, EN 00089712 [“After the new political stance had been spread throughout the country, the Central Committee held another meeting in Preah Keo Pagoda on the Four-Year Plan. The meeting agreed on all the points in the plan. The plan had two primary objectives: (1) Defend the country from the annexation of Yuon; (2) Develop the country quickly with the speed of great leap forward. In order to achieve the two objectives, the Party had to set up cooperatives using the experience of the five-year war. The meeting was in total agreement. We decided to set 100 families in one cooperative, in which they had communal eating. In so doing, they mentioned, they would have military forces to defend the country and labor forces to construct dams and irrigation systems”]. See also **E3/24** Phyu Phoun WRI, EN 00223582 [identifying Ke Pauk as one of the Zone leaders who participated in the meetings at the Silver Pagoda].

¹⁷⁶⁹ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401507 [“Before liberation we organized cooperatives in groups with each group having 15-20-30 families ... But now, in order to give impetus to the production movement and make it mightier, the Party has decided to organize the cooperatives as village cooperatives, that is, to take each village, to make it into a unit, and to organize a cooperative”].

¹⁷⁷⁰ **E3/781** CPK Circular No. 3, “Examination of Control and Implementation of the Policy Line on Restoring the Economy and Preparations to Build the Country in Every Sector,” 19 Sept 1975, EN 00523569.

¹⁷⁷¹ **E3/781** CPK Circular No. 3, 19 Sept 1975, EN 00523571 [“situation of shortages in all aspects of life, including shortages of supplies to produce food: cattle, water buffaloes, and hoes”], EN 00523590 [“deficiencies still exist. In the past, we have been short of medicines, leading to sickness and pain, malnourishment, malaria and food shortages ... The people with the greatest shortages are those who were evacuated from Phnom Penh and the surrounding areas”]. See also **E3/216** Record of the Standing Committee’s Visit to the Northwest Zone, 20-24 Aug 1975, EN 00850973 [noting that New People in the Northwest Zone were “experiencing shortages, shortages of food supplies as well as shortages of medications”].

“having an impact on the health of our people.”¹⁷⁷² The CPK leaders nonetheless continued to stress the importance of quickly building dams, paddy dikes, and canals that would “transform the rural countryside,” noting that dams could be built “in large groups” and “by hand.”¹⁷⁷³ The circular also discussed whether to establish a “rice harvest quota” of “three tons per hectare,”¹⁷⁷⁴ and the need to export rice in order to raise capital.¹⁷⁷⁵

432. In November 1975, one month after **Khieu Samphan** was assigned responsibility for Commerce matters,¹⁷⁷⁶ the Party Centre decided to establish a production quota for 1976 of three tons of rice per hectare,¹⁷⁷⁷ emphasizing the need to rapidly expand production.¹⁷⁷⁸ One year later, the Party leaders maintained the 3 ton-per-hectare quota for 1977, but called for a dramatic increase in water supply through the construction of even more dams and canals.¹⁷⁷⁹ In 1978, the CPK leaders increased the rice production quota to 3.5 tons-per-hectare, and directed that the amount of two-crop land was to be doubled.¹⁷⁸⁰ They also directed that people only eat “tubers for breakfast,” so rice could

¹⁷⁷² **E3/781** CPK Circular No. 3, 19 Sept 1975, EN 00523576.

¹⁷⁷³ **E3/781** CPK Circular No. 3, 19 Sept 1975, EN 00523573-74 [“From past experience, to master water for agriculture, the major thing is to solve paddy dikes ... Anyone can make them, make them by themselves, make them in large groups, make them by hand, by machines ... These dikes are to transform the rural countryside ... So these dikes must be high, straight and level, done in a pattern like a chessboard ... The major goal of this year is making dikes and canals”].

¹⁷⁷⁴ **E3/781** CPK Circular No. 3, 19 Sept 1975, EN 00523574 [“In 1977 we must ensure three tons per hectare”], 00523579-80 [“Should we set three tons per hectare or three and one-half? Or do we use three to four tons, or two to two and one-half?”].

¹⁷⁷⁵ **E3/781** CPK Circular No. 3, 19 Sept 1975, EN 00523575 [“Estimates are that we may be able to sell two million tons of rice during 1977-1980, even more”], 00523588 [“We can produce three million tons of rice. We save 1.8 million tons for the people to eat, 400,000 for Social Action. We still have 800,000 tons. This amount we will take for sale outside and gain some capital”].

¹⁷⁷⁶ **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183393 [“Comrade Hem: Responsible for the Front and the Royal Government, and Commerce for accounting and pricing”].

¹⁷⁷⁷ **E3/748** *Revolutionary Flag*, Oct-Nov 1975, EN 00495813 [“The Centre Party Congress has unanimously decided that the average rice harvesting across the country in 1976 shall be three tons per hectare of rice field regardless of single season or two-season cultivations. In its first countrywide economic congress in early November 1975, the Centre Party has also unanimously endorsed the entire Party’s resolution”]; **E1/92.1** David Chandler, T. 19 July 2012, 13.33.30-13.39.07, referring to **E3/1686** David Chandler, *A History of Cambodia*, EN 00422842 [CPK economic plan “proposed ever-increasing levels of rice production throughout the country, with the aim of achieving an average national yield of 3 metric tons per hectare”]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396513-14.

¹⁷⁷⁸ **E3/748** *Revolutionary Flag*, Oct-Nov 1975, EN 00495808 [section titled “Some Important Excerpts from the First Nationwide Party Economic Congress”: “The Party has to rebuild a new economy in the most rapid manner that is mainly depending on agriculture ... The country’s reconstruction needs to be accelerated”], 00495810 [“launching a storming attack to accomplish the ‘three tons per hectare’ goals”].

¹⁷⁷⁹ **E3/139** *Revolutionary Flag*, Nov 1976, EN 00455294-95 [speech of Party Secretary at 2nd Nationwide Economic Conference: “Water: For 1977, the direction is it is imperative to be 2 or 3 times stronger in comparison to 1976. First, it is imperative to keep concentrating on paddy dikes and canals, large and small ... it is imperative to build more feeder canals and canals than were built in 1976”].

¹⁷⁸⁰ **E3/170** *Revolutionary Flag*, Oct-Nov 1977, EN 00182592 [section discussing 1978 Plan: “Must, however, the amount of yield per hectare be increased? It would appear that it must be increased to 3.5

be saved “for export.”¹⁷⁸¹ **Khieu Samphan** would later admit that the rice production quota the CPK imposed on the Cambodian people was three times what China and Vietnam were able to produce.¹⁷⁸²

433. In order to achieve the CPK’s Great Leap Forward, the Cambodian people were required to work harder and build faster than was humanely conscionable.¹⁷⁸³ Important worksites were designated “hot battlefields,” such as the 1st January Dam¹⁷⁸⁴ and Trapeang Thma Dam,¹⁷⁸⁵ and workers were instructed to go on “offensives” and engage

tons per hectare ... And two-crop land must be doubled. Is it possible for us to attack in such a manner? Back in 1976 we dared to lay down 3 tons, and a good number of places made three tons. In 1977 we were better qualified for 3 tons than in 1976, because we carried out stronger shock assaults than in 1976 ... during the 1978 dry season we will be strengthening existing waterworks and expanding by making new ones”; **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185336 [“1978 plan for 3.5 tons/7 tons”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010564 [Resolution adopted at meeting: “To strive for the fulfilment of the 1978 rice production plan by attaining the 3.5 ton-per-hectare and 7 ton-per-hectare targets at all costs”].

¹⁷⁸¹ **E3/170** *Revolutionary Flag*, Oct-Nov 1977, EN 00182591 [“from 1978 our requirement is that the people must eat properly according to the ration. If we eat fresh tubers for breakfast, we can save up rice for export”].

¹⁷⁸² **E3/587** Khieu Samphan Interview, 15 Oct 2007, EN 00680029 [stating that China and Vietnam “got less than one ton of rice per hectare per year,” and “therefore, we had to work harder in order to achieve the minimum three tons of rice per hectare per year”]. See also **E1/451.1** Henri Locard, T. 29 July 2016, 13.42.20-13.48.25 [discussing 3 tons per hectare policy: “this is a completely absurd order because the fertility throughout Cambodia varies incredibly ... For most of the country, this was a completely unrealistic goal and that was the cause of the famine because locally, we could not go from one tonne to three tonnes overnight ... there was the plan established in ’76, the famous four-year plan from ’76 to ’80 which envisaged ever higher yields ... those were unrealistic plans; it was a utopia”].

¹⁷⁸³ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396501 [“to build and defend,” in Pol’s phrase – meant mobilizing the entire nation to develop at breakneck speed, in order to prevent Cambodia’s sempiternal enemies, Thailand and Vietnam, from taking advantage of its enfeebled state”]; **E1/190.1** Philip Short, T. 7 May 2013, 14.31.14-14.35.32 [“they were trying to go extremely fast. Stalin’s industrialization programme was much the same ... it meant they could push the population to do impossible things, with the results that we have discovered ... Everyone was agreed they had to go extremely rapidly”].

¹⁷⁸⁴ **E1/306.1** Hun Sethany, T. 27 May 2015, 14.35.56-14.38.08 [“announcement was made every day” over the loudspeakers that the 1st January Dam worksite was a “hot battlefield”]; **E3/935.1** Meas Laihuor WRI, EN 00244163 [referring to 1st January Dam as a “hot battlefield”]; **E1/304.1** Meas Laihuor, T. 25 May 2015, 11.29.23 [“hot battlefield” meant “we had to complete the work quota” and “we had to work through the night”], 14.21.25-14.23.14 [work at 6th January Dam was at “normal pace” because it was not designated a “hot battlefield”]; **E1/305.1** Meas Laihuor, T. 26 May 2015, 13.36.41-13.39.07 [“It was the hot battlefield; we had to run while carrying earth”], 13.55.55-13.58.22.

¹⁷⁸⁵ **E1/333.1** Tak Boy, T. 19 Aug 2015, 14.28.13-14.31.06 [Trapeang Thma Dam worksite “frequently mentioned” as a “hot battlefield,” which “motivated us to work very hard”]; **E1/334.1** Yi Laisov, T. 20 Aug 2015, 11.23.15-11.25.34 [unit chief referred to Trapeang Thma Dam as a “hot battlefield,” which meant they were required to “work hard”]; **E1/340.1** Sam Sak, T. 2 Sept 2015, 09.31.25 [“The Trapeang Thma dam worksite was considered a hot battlefield at that time and I had to work very hard”]; **E1/357.1** Mun Mot, T. 27 Oct 2015, 10.40.06-10.43.04 [Trapeang Thma was a the “hottest battlefield in Sector 5” that had to be completed by 1977]; **E3/9094** Pan Chhuong DC-Cam Interview, EN 00728670 [statement of former Deputy Chairman of Sector 5 Mobile Units re plan to build Trapeang Thma dam: “the Region Committee said that the plan was a hot measure to make sure each person finished 3 cubic meters”]; **E3/1783** FBIS, *Chen Yung-Kuei’s Cambodia Visit Reported* (Hsinhua), 21 Dec 77, EN 00498181 [reporting statement of Northwest Zone Secretary Ros Nhim that the Trapeang Thma reservoir was “built in less than 2 months this year ... in response to the call of the Party Central Committee to build water conservancy projects in a big way,” and that “three canals were dug in a week’s time linking the

in “storming attacks” in order to complete construction as rapidly as possible.¹⁷⁸⁶ The lengthy work hours and onerous quotas imposed to fulfil this policy inevitably led to great physical suffering for the workers forced to fulfil the Party’s demands.¹⁷⁸⁷ The former Deputy Chairman of the Sector 5 Mobile Force acknowledged the suffering imposed on the workers:

[W]e supervised the mobile unit like we were supervising troops. To fight in the battlefield in Kambor was building dams and canals ... We would determine a win over it by completing it in a certain number of months. And we had to supervise the forces to make sure it was finished as planned. It was impossible if you could not finish it ... They wanted the strong ones. Therefore, the people had to suffer extremely.¹⁷⁸⁸

Philip Short described the CPK policy as the creation of a “slave state,”¹⁷⁸⁹ in which the CPK leaders considered the economy “just another battlefield” to be conquered with no

reservoir”].

¹⁷⁸⁶ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396502 [“The economy was just another battlefield to be conquered by brute force ... In terms of development policy, this brought a militarisation of thought and language. People ‘struggled’ to catch fish or to collect fertilizer; they ‘waged continuous offensives’ to grow ‘strategic crops;’ they attacked ‘on the front lines’ (at dam and canal sites) and ‘at the rear’ (in the village rice-fields) ... It was the doctrine of the bludgeon”]; **E3/748** *Revolutionary Flag*, Oct-Nov 1975, EN 00495815 [“If we could achieve three tons per hectare in 1976, then we believe that in 1977 and 1978 we can achieve four and five tons of rice harvesting respectively and the yielding will be gradually increased. By our storming attack/offensive following the Party’s resolution, we can achieve a brilliant victory”]; **E3/753** *Revolutionary Youth*, June 1976, EN 00583795 [“The movement to strengthen and expand has been fighting on the hot battlefield of the new paddy dike and feeder canal systems ... the movement to strengthen and expand our cooperatives is on the mightiest and hottest of offensives on the battlefield fighting to work the rice fields to achieve 3 tons per hectare during 1976”]; **E3/755** *Revolutionary Youth*, Sept 1976, EN 00509647 [describing Ponhea Leu district as “a hot battlefield during the last two years” at which cooperatives made a “storming attack” to clear forests and farm rice]; **E3/178** Weekly Report of Sector 5 Committee, 21 May 1977, EN 00342721 [“front line in charge of carrying out storm attack on the strategic early rice”]; **E1/359.1** Pan Chhuong, T. 30 Nov 2015, 10.55.44 [“the worksite where a dam was being built was called a ‘battlefield’ and within that field there were chiefs of battalions and regiments”].

¹⁷⁸⁷ See e.g. **E3/9094** Pan Chhuong DC-Cam Interview, EN 00728670 [“Q: Were you the one who decided that one person had to dig up soil for 3 cubic metres? Or was it from Ta Hoeng or the Central Party? A: From the upper, from the Region Committee. Q: From the Region Committee? A: Yes because the Region Committee said that the plan was a hot measure to make sure each person finished 3 cubic meters ... Q: Do you remember what Ta Hoeng said? A: He said ‘Now we have to finish the plan as soon as possible in order not to allow the A forces, which means we have to fight to finish 3 cubic metres’”].

¹⁷⁸⁸ **E3/9094** Pan Chhuong DC-Cam Interview, EN 00728655-56. See also **E1/359.1** Pan Chhuong, T. 30 Nov 2015, 11.03.53-11.09.24 [“we all committed to achieve the work plan ahead of the time limit, for that reason we needed to work harder ... we wanted to achieve the work quota before the set time limit. So each regimental commander wanted to have the work completed before the set plan so that they could maintain their positions ... In the regime, those who were in charge to lead people to do work and when they could complete the work plan then they would be promoted, for instance from battalion to regimental level”].

¹⁷⁸⁹ **E1/189.1** Philip Short, T. 6 May 2013, 11.49.25-11.52.32 [“It was a slave state in which people had no money, had no choice over their personal lives, over anything they did”]; **E1/190.1** Philip Short, T. 7 May 2013, 14.27.37-14.31.14 [“It did emanate from the top. It could only have emanated from the top because the underlying principles were the same everywhere. ... 99 per cent of the population, the

regard for human suffering or individual values.¹⁷⁹⁰ Henri Locard described it as “the complete militarization of the entire peasant population ... a reduction to complete slavery.”¹⁷⁹¹

434. As regular attendees at Standing Committee meetings and recipients of reports sent to Office 870,¹⁷⁹² **Nuon Chea** and **Khieu Samphan** helped monitor the enforcement of the CPK policies, and received reports reflecting the enslavement and inhumane conditions imposed on the Cambodian population. For example, on 8 March 1976, **Nuon Chea** and **Khieu Samphan** attended a Standing Committee meeting at which North Zone Deputy Secretary Chor Chhan alias Sreng, Sector 106 Secretary Pa Phal alias Sot and

overwhelming mass, were all slaves, in the sense that they had no choice over any aspect of their lives ... whether the [local] leaders were lenient or harsh, the fundamentals – the existence of slaves – were the same”]; **E1/191.1** Philip Short, T. 8 May 2013, 11.29.50-11.33.44 [implementation of communal dining at cooperatives was “another step in the elimination of personal freedoms”], 11.59.01; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396499 [“What Pol and his colleagues approved that spring [May 1975] was a slave state ... where they were required to execute without payment whatever work was assigned to them for as long as the cadres ordered it, failing which they risked punishment ranging from the withholding of rations to death. ... Like true slaves, the inhabitants of Pol’s Cambodia were deprived of all control over their own destinies – unable to decide what to eat, when to sleep, where to live or even whom to marry”].

¹⁷⁹⁰ **E1/190.1** Philip Short, T. 7 May 2013, 14.21.34-14.22.49 [“the ruthlessness, and single-mindedness, and the lack of concern for human values, for human suffering, for individual values ... Later on, in the collectives, exactly the same attitude prevailed”], 14.31.14-14.35.32, referring to **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396501-02, FR 00639833-35 [“just another battlefield”].

¹⁷⁹¹ **E1/451.1** Henri Locard, T. 29 July 2016, 11.21.32-11.24.24 [“there was a dehumanization because of the fact that no one was master of anything anymore. One was no longer master of the choice of one’s spouse or one’s sentimental life, one’s family life; most of all, you had no control over your timetable, what you were going to spend your time doing. You had to obey the *chhlop*, the local Khmer Rouge. There was a gong which was sounded very early in the morning at dawn; everyone had to get up at the same time and go to work at the same time, usually without eating because the first meal was only at mid-morning and we did not choose, in any case, the type of work we would do. So this was the complete takeover, the complete militarization of the entire peasant population ... it was a reduction to complete slavery”]. See also **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150080 [“DK policies deprived peasants of three of the most cherished features of their lifestyle: land, family and religion. Cambodia’s population became unpaid indentured laborers”].

¹⁷⁹² See e.g. **E3/230** Minutes of Standing Committee Meeting on Economic Matters, 22 Feb 1976, para. 1 [“Salt production: Propose pushing additional production from 50,000 to 60,000 tons”], para. 5 [“Propose using additional adolescent children from the base areas and handing them over to Industry”]; **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976; **E3/233** Minutes of Standing Committee Meeting on Commerce, 13 Mar 1976; **E3/220** Minutes of Standing Committee Meeting on Commerce Matters, 7 May 1976; **E3/224** Minutes of Standing Committee Meeting on Agricultural Production Work of the Army, 30 May 1976, EN 00182667 [“How is the joint role of the army to build the country in the framework of building socialism with the speed of Great Leap Forward?”], 00182669 [discussing area of Phnom Penh under Division 310: “It is proposed that storm attacks should be carried out ... covering an area of 1,200 hectares. It should be done twice a year ... We will get 6 tons per hectare for a year”]; **E3/226** Minutes of Standing Committee Meeting on Health and Social Affairs, 10 June 1976, EN 00183367 [“Crop production work: We had done a lot but most of the work forces were young children aged from 12 or 13 years old”], 00183372 [discussing “shortfall of work force” in country, and noting that cooperatives did not want to even provide “young children” to work at Industry, because they were being used for “striking assault ...making fertilizer”]; **E3/2041** Report from Commerce Committee to Brother Hem, 1 Nov 1976, EN 00334994 [noting that Kampuchean people were facing a “food shortage” that year].

Sector 103 Secretary Bou Phat alias Hang reported on the situations in their regions.¹⁷⁹³ After reporting that some work sites had made “300 hectares of dikes,” Sector Secretary Sot described the “problems of many sick people in the work sites, a loss of 40 percent of the labour force,” with “outbreaks of chickenpox and cholera.”¹⁷⁹⁴ Sector Secretary Hang also reported that many men and women “in the work sites are ill and have fevers,” and talked about “groups fleeing” from various locations, reporting that 100 such escapees had been arrested since January 1976.¹⁷⁹⁵ In response, the Centre leaders provided instructions on the building of dikes, rice production,¹⁷⁹⁶ and food rations.¹⁷⁹⁷

435. At the end of the meeting, the Centre leaders ordered “reporting to the Standing Committee every week on the rice field dike situation,” including “general reports” and “short reports by telegram,” so “the Standing Committee knows the situation in order to provide timely instructions.”¹⁷⁹⁸ Later that same month, the Central Committee (of which **Khieu Samphan** was then a full-rights member) also ordered a “regime of weekly reporting” from the base, in order to monitor and achieve “the goal of three tons per hectare.”¹⁷⁹⁹
436. One of the matters regularly reported to **Nuon Chea**, **Khieu Samphan**, and the other Centre leaders was the arrest of persons who tried to flee from the cooperatives and worksites and escape to Thailand or Vietnam.¹⁸⁰⁰ For example, the 23 July 1978 report

¹⁷⁹³ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182630 [“The situation in 106: Comrade Sot reported to Angkar on the situation with the paddy dike system, on the rice harvest, on the livelihood of the people, and the enemy situation”].

¹⁷⁹⁴ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182630.

¹⁷⁹⁵ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182631 [“As for the entire sector, there is no enemy activity, just groups fleeing in from different locations, like fleeing from 303, or from Kampong Chhnang. Since January, almost 100 have been arrested”].

¹⁷⁹⁶ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182632-33 [“The goal of 106 in 1977 is to export for sale at least 100,000 tons of rice. Therefore, we must really calculate, and use all our possibilities ... In 103: There is very little land. The amount must be clearly grasped, and we must strive to expand it another 10,000 hectares during the next two years. Therefore, go ahead and make dikes, but forces to expand land must be set up. We go on the offensive to solve this problem ... previously, Angkar decided to take 1,000 tons. Now, only 500 tons will be taken”].

¹⁷⁹⁷ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182633 [“As for rice, it should be two cans or a little more. Must be careful that in August and September at the end of the season when there are many shortages, those shortages will impact their health and labor strength”].

¹⁷⁹⁸ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182634.

¹⁷⁹⁹ **E3/12** Decision of the Central Committee Regarding a Number of Matters, 30 Mar 1976, EN 00182809 [“A Regime of Weekly Reporting to Office 870 - Objective: To follow-up on plans closely and resolve problems in a timely manner in the goal of three tons per hectare”].

¹⁸⁰⁰ See e.g. **E3/178** Weekly Report of Sector 5 Committee, 21 May 1977, EN 00342708 [report on enemies includes persons who had “run away from the mobile unit”]; **E3/179** Report from M-560 to Angkar, 29 May 1977, EN 00183011 [reporting nine enemies from Sector 5: “They were the ones who escaped from the collective; and we investigate and pursue them every day. We met them once they were taking a rest,

from the West Zone on the enemy situation contains an entire section titled “Escaping from Cooperatives.”¹⁸⁰¹ Two weeks later, the West Zone reported that sector troops had found three “enemies” trying to escape from the Kampong Chhnang airport site and “fired some shots” at them, taking one of the captured workers to “the reeducation place for further interrogation.”¹⁸⁰² The Accused thus cannot claim ignorance that escapees were treated as enemies, hunted down, and subjected to arrests and executions, as they were provided reports on this practice. This is further confirmed by the minutes of the 26 March 1976 Standing Committee meeting presided over by **Nuon Chea** and attended by **Khieu Samphan**, at which **Nuon Chea** concluded the meeting by discussing the need to be vigilant about “people who flee to Vietnam and who do not return,” noting that “[t]he bases have taken measures on this problem already.”¹⁸⁰³

437. With respect to the Kampong Chhnang airport worksite, **Nuon Chea** and **Khieu Samphan** both attended meetings of the Standing Committee at which the establishment of the airfield site was discussed and decided, and reports were received from Son Sen on the status of its construction.¹⁸⁰⁴ These minutes demonstrate the Party Centre’s ultimate responsibility for the oversight of that worksite.

2. Visits of Accused to Worksites and Cooperatives

438. As members of the Central Committee, **Nuon Chea** and **Khieu Samphan** were responsible for monitoring and directing the implementation of the Party political line throughout the country by all zone, sector, and Party organisations.¹⁸⁰⁵

then fired at them ... but the number of escapers, if compared to the last month’s, is much lesser with most of them smashed by us”]; **E3/1179** Report from M-560, 8 June 1977; **E3/957** Telegram from M-401 to Angkar, 25 June 1977 [report from West Zone regarding 24 people who were arrested after “fleeing” the North Zone, asking “what kind of measures Angkar will take”]; **E3/1120** Telegram from M-560, 6 Nov 1977 [“Of the enemy situation in Sector 5, ... ordinary people are fleeing one after another”]; **E3/1093** Report from M-401 to Angkar, 23 July 1978, EN 00295169; **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368-69, 00315371.

¹⁸⁰¹ **E3/1093** Report from M-401 to Angkar, 23 July 1978, EN 00295169.

¹⁸⁰² **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368-69, 00315371 [also reporting arrest of person “who had escaped from Chan Sen cooperative,” whom security had “already taken to M-01”].

¹⁸⁰³ **E3/218** Minutes of Standing Committee Meeting on Results of Negotiations with Vietnam regarding the Eastern Border, 26 Mar 1976, EN 00182657.

¹⁸⁰⁴ **E3/182** Minutes of Standing Committee Meeting, 9 Oct 1975, EN 00183407 [“As for the military airfields, we have plans to build at different sites. We can perhaps examine Kampong Chhnang”]; **E3/229** Minutes of Standing Committee Meeting on “National Defense Matters,” 22 Feb 1976, EN 001826270 [“Airfield: Propose the examination of a new site, somewhat deep inside, for example in the vicinity of Tmat Pong or Kampong Chhang”]; **E3/235** Summary of Decisions of the Standing Committee, 19-21 Apr 1976, EN 00183419 [“Military airfields: We will set up operations in Kampong Chhnang”]; **E3/222** Minutes of Standing Committee Meeting on “National Defense Matters,” 15 May 1976, EN 00182666 [report by Son Sen on construction of airfield].

¹⁸⁰⁵ **E3/130** CPK Statute, Article 23 [“The tasks of the Central Committee are: (1) Implement the Party

a) *Joint Visit of Nuon Chea & Khieu Samphan to Tram Kak District*

439. Two civil parties testified that **Khieu Samphan**, Pol Pot, and **Nuon Chea**, accompanied by Ta Mok, visited a cooperative and canal worksite in Leay Bo Commune in early 1977.¹⁸⁰⁶ During that visit, the leaders “inspected the working conditions and production levels,”¹⁸⁰⁷ ordered that the canal be dug deeper,¹⁸⁰⁸ and held a meeting with commune and village chiefs instructing that workers were to “produce three tons of rice per hectare per year.”¹⁸⁰⁹
440. In June 1977, after this visit, the CPK Central Committee (of which both **Khieu Samphan** and **Nuon Chea** were full-rights member) recognised Tram Kak as one of three model districts in all of Democratic Kampuchea.¹⁸¹⁰ Tram Kak continued to be recognised by the CPK as a model district the following year, as shown by the resolutions adopted at the end of **Khieu Samphan**’s 15 April 1978 speech.¹⁸¹¹ The Leay

political line and Statute throughout the Party; (2) Instruct Zone and Sector-City organisations and Party organisations responsible for various matters to carry out activities according to the political line”].

¹⁸⁰⁶ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 13.35.42-13.42.05, 13.54.00 [“Ta Mok accompanied the three Khmer Rouge leaders who travelled in a vehicle, and they were Pol Pot, Khieu Samphan and Nuon Chea ... They visited the Ou Chambak canal worksite” and also visited the “K1 cooperative” in Leay Bo commune], 14.21.52-14.23.34; **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 09.11.29-09.13.01, 09.17.39-09.27.34; **E3/5635** Chou Koemlan Statement, 28 Feb 2011, para. 18-20, 29 [noting that the leaders also visited her sister’s cooperative]; **E1/283.1** Oem Saroeurn, T. 26 Mar 2015, 09.22.47-09.32.36, 10.32.11-10.41.11 [describing how the Ou Chambak canal worksite was visited in 1977 by Ta Mok and a group of three leaders who were identified by her unit chief as “Nuon Chea, Khieu Samphan and Pol Pot”].

¹⁸⁰⁷ **E3/5635** Chou Koemlan Statement, para. 20, 22 [“My Mobile Team Chief told our work group that the four leaders were going to inspect the camp and that we should work very, very hard”], para. 24 [“they got out on foot and walked up and down the paths in between the working fields. They inspected the working conditions and production levels at the cooperative. A group of Mobile Team Chiefs and Commune Chiefs followed the four leaders as they walked”]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.26.49 [leaders inspected the canal site and gave instructions to dig “deeper so that we could irrigate much water to achieve three to six tons per hectare”]; **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 14.38.55-14.42.29 [workers were digging and carrying soil when leaders arrived]; **E1/283.1** Oem Saroeurn, T. 26 Mar 2015, 10.37.27 [“When I saw them, they were standing to the right of me, and they were about 5 or 6 metres from me ... I was carrying earth at that time”].

¹⁸⁰⁸ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.26.49; **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 09.13.01 [“They said that we should start to dig the canal deeper in order to irrigate the water from Ou Chambak ... and that we should try to harvest 3 to 6 tonnes of rice produce per hectare”].

¹⁸⁰⁹ **E3/5635** Chou Koemlan Statement, paras 25-27; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.29.51. See also **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 13.56.45 [at meeting after visit of Khieu Samphan and Nuon Chea, workers were instructed to “strengthen our stance in order to follow the ‘leap forward’ movement principle”].

¹⁸¹⁰ **E3/135** *Revolutionary Flag*, June 1977, EN 00446848-52 [30 June 1977 letter from CPK Central Committee awarding Tram Kak District the *Honorary Red Flag* as a “model” in terms of “increasing production,” achieving “maximum paddy yields” and “waging strong and profound class struggle within the entire district, especially inside the Party”]; **E3/289** FBIS, *Revolutionary Organization Gives Awards to Three Districts*, 23 July 1977, EN 00168509-11 [DK Radio broadcast of award to Tram Kak, Prasaut and Kampong Tralach Leu districts]. See also **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 14.30.12-14.32.34 [“upper echelon praised Tram Kak district” as “model district” because of its labour, irrigation systems and harvest].

¹⁸¹¹ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010564 [resolution adopted after Khieu Samphan speech: “To learn from the example of progressive production corps, such as ... Prasaut, Kompong

Bo Cooperative became one of the regular stops when foreign delegations were given tours of the country by CPK leaders from late 1977 to 1978.¹⁸¹² However, at this 'model' cooperative: food and medical supplies were insufficient and work conditions harsh;¹⁸¹³ children died from malnutrition and measles;¹⁸¹⁴ hungry people who took food to eat were arrested;¹⁸¹⁵ and workers who complained about the lack of food disappeared, including several colleagues of Chou Koemlan who disappeared within days of the visit of the Accused.¹⁸¹⁶

441. Former Tram Kak District Secretary Pech Chim confirmed that both **Khieu Samphan** and **Nuon Chea** visited the cooperatives in that district.¹⁸¹⁷ **Nuon Chea's** visit to this district is also corroborated by Keo Chandara, who testified that the Accused came to

Tralach Leu and Tram Kak Districts, so that all the production corps throughout the country will become great revolutionary movements advancing by leaps and bounds"].

¹⁸¹² **E3/1339** FBIS, *Chen Yung-Kuei Visits Southwest Region*, EN 00168350-51 [describing 14 Dec 1977 visit to Leay Bo cooperative, accompanied by Pol Pot, Ieng Sary, Vorn Vet and Ta Mok]; **E3/1360** FBIS, *Continuing Coverage of Yugoslav Delegation's Visit*, EN 00169908 [7 March 1978 visit to Leay Bo]; **E3/1360** FBIS, *Romanian Delegation Tours Kampong Som, Southwest*, EN 00169968 [29 March 78 visit]; **E3/293** FBIS, *Reportage on Italian Unified CP Delegation's Visit*, EN 00169730-31 [visit to Leay Bo cooperative on 10 July 1978]; **E3/294** FBIS, *Visit of Japanese Friendship Association Delegation*, EN 00170173 [25 Sept 1978 visit to Leay Bo]; **E3/295** FBIS, *Radio Report on Continuing Tour by UK Professor, US Journalists*, EN 00169144-45 [20 Dec 1978 visit of Elizabeth Becker, Malcolm Caldwell & Richard Dudman to Leay Bo cooperative]; **E1/273.1** Neang Ouch alias Ta San, T. 9 Mar 2015, 14.15.48; **E1/259.1** Elizabeth Becker, T. 9 Feb 2015, 14.42.23-14.43.42 ["This is the cooperative where they took all the delegations"].

¹⁸¹³ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.50.25-11.56.00 ["we could have only a spoon full of rice ... I was absolutely hungry"]; **E3/5635** Chou Koemlan Statement, para. 12 ["The living conditions at the cooperative were horrible, they involved food scarcity and extremely long working days"]; **E1/283.1** Oem Saroeurn, T. 26 Mar 2015, 09.34.24-09.37.21 [stating there was "less food to eat" in Leay Bo in 1977]; **E3/5469** Chou Koemlan Victim Info Form, EN 00746218.

¹⁸¹⁴ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.27.03-11.30.21 ["my baby did not have enough to eat ... she died because of the insufficient food"]; **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 10.54.02-11.00.32 [stating that her daughter had measles and was three years old when she died]; **E1/283.1** Oem Saroeurn, T. 26 Mar 2015, 11.11.37 [stating that she knew of 7 or 8 young children who died of measles in Leay Bo].

¹⁸¹⁵ **E1/283.1** Oem Saroeurn, T. 26 Mar 2015, 09.34.24-09.37.21 [stating she was arrested and sent for re-education for stealing "cassava and maize" in 1977], 09.55.51 [describing how a 15 year old child was killed for complaining he did not have "enough food" and stealing rice or fish to eat].

¹⁸¹⁶ **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 11.56.00-12.00.30 [testifying that three of her peers who "complained that they could not have enough food" disappeared "[a] few days" after the leaders' visit].

¹⁸¹⁷ **E1/291.1** Pech Chim, T. 23 Apr 2015, 11.38.00-11.42.14 ["Mr. Nuon Chea and Mr. Khieu Samphan. They both did visit"]; **E1/292.1** Pech Chim, T. 24 Apr 2015, 14.42.00-14.43.15 ["I was told by the people at Office 105, that Khieu Samphan had come to visit the area ... He came to visit about the rice production"]. While two other Tram Kak cadres identified by Chou Koemlan and Oem Saroeurn could not confirm the visit of those leaders, their testimony on this issue was not probative or reliable, as it is not clear either of them were in Leay Bo cooperative at the relevant time: **E1/276.1** Nut Nov, T. 12 Mar 2015, 11.14.17 ["I worked at the Nhaeng Nhang commune office until 1977"], 13.46.34 ["Q: Did you remain in charge of these financial records and documents until you left the Nhaeng Nhang commune in 1977? A: Yes. Q: Can you tell us exactly when, in 1977, you returned to Srae Ronoung commune? A: ... I did not recall it exactly. Perhaps it was in late 1977 or early 1978"], 15.29.11-15.31.50 ["I left Nhaeng Nhang commune in late 1977 or early 1978"]; **E3/5521** Nut Nouv WRI, A32, A36, A45; **E1/274.1** Neang Ouch alias Ta San, T. 10 Mar 2015, 10.08.02-10.11.32 [stating he had not yet moved to Tram Kak District at the time of the event described by Chou Koemlan].

Takeo around that same time on the occasion of a performance of a visiting Chinese circus.¹⁸¹⁸

b) Nuon Chea Trips to Provinces

442. As confirmed by numerous witnesses including his personal bodyguards, **Nuon Chea** made regular trips to the provinces during which he inspected worksites and cooperatives and provided instructions to the cadres on the Party's plans and policies.
443. Saut Toeung, one the guards who accompanied **Nuon Chea** on such trips, testified that he travelled to the provinces "rather frequent, once every two or three months."¹⁸¹⁹ During those trips, **Nuon Chea** "frequently" visited dam worksites, where he would meet with the site leaders and inspect the status of the dam's construction.¹⁸²⁰ The specific dams that Saut Toeung recalled visiting with **Nuon Chea** included the 1st January Dam (Chinit River), which he may have visited on multiple occasions, and dams in "Koh Kong and Pursat provinces."¹⁸²¹ He also visited cooperatives to monitor their performance, and provided training to local cadres instructing them to increase rice production.¹⁸²²

¹⁸¹⁸ **E1/255.1** Kev (Keo) Chandara, T. 2 Feb 2015, 13.41.46-13.44.23; **E1/256.1** Kev (Keo) Chandara, T. 4 Feb 2015, 09.22.28-09.26.13; **E3/5153** Kev Chandara WRI, EN 00205090 [stating that he saw Nuon Chea in "late 1976" when he gave a 10 minute speech before the performance of a visiting Chinese circus in Takeo].

¹⁸¹⁹ **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.03.45-15.09.21 [also stating that the regions Nuon Chea visited included "Battambang, Kampong Chhnang, Kampong Speu, the East Zone"]; **E3/423** Saut Toeung WRI, A53, A57, A62-A63 ["Nuon Chea went to observe people working at rural areas and cooperatives" where there were "many people working"].

¹⁸²⁰ **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.09.21-15.11.29 ["Q: When he went to the provinces, did Nuon Chea ever visit dams or other worksites? A: Yes, he visited very frequently"], 15.13.18 ["Q: What did Nuon Chea do when he went to visit those dams...? A: He visited the status of the dam's construction ... Q: Did he meet with the leaders who were responsible for the construction of the dams in those regions? A: Yes, he met with them"]; **E3/423** Saut Toeung WRI, A89 ["Q: Did Mr. Nuon Chea always go to observe building those dams? A: Yes"], A65 ["When Ta Nuon Chea went there he instructed people to work hard"].

¹⁸²¹ **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.11.29-15.13.18; **E3/423** Saut Toeung WRI, A77-A82 ["One of the dams where I used to go with him was called 1 January Dam in Kampong Thom Province ... He encouraged people to try hard to preserve water for planting rice"].

¹⁸²² **E1/63.1** Saut Toeung, T. 18 Apr 2012, 15.07.43 ["He went to the province to preside over the meeting or to provide training to other cadres. Q: What type of meetings did he preside over? A: They were training course for the heads of cooperatives, for example on how to cultivate rice"], 15.13.18 [stating that, on these trips, Nuon Chea inspected "rice cultivation and the performance of the cooperatives"]; **E3/423** Saut Toeung WRI, A66-A67 [at study or criticism sessions, Nuon Chea told local cadres "they must produce 3 tons of rice per hectare"]. See also **E1/194.1** Prum Sou, T. 21 May 2013, 10.55.42-11.05.17 [testimony of Sector 103 Commerce Member describing meeting held by Nuon Chea at which he instructed local cadres to to increase rice production to "3.5 tonnes to 7 tonnes per hectare"]; **E1/195.1** Prum Sou, T. 22 May 2013, 11.18.20, 11.30.40-11.33.06 [Nuon Chea also "went to visit the dams" and the witness' worksite where rice was cultivated during his trip to Preah Vihear]; **E3/420** Prum Sou WRI, A10.

444. Saut Toeung's testimony is confirmed by a second guard who worked for **Nuon Chea**, Tha Sot, who provided an OCIJ interview but passed away before he was able to testify in court. Tha Sot accompanied **Nuon Chea** to numerous provinces, and stated that he visited dam sites "very often," saw the "hardship" of the people, and instructed local cadres on Party policy relating to building dams and increasing production.¹⁸²³
445. With respect to his visit to the 1st January Dam with **Nuon Chea**, Saut Toeung testified that they saw the people building the dam and carrying earth and that "the dam was not constructed very well."¹⁸²⁴ When asked whether he saw any torture inflicted on the people if they "failed to meet the work quota," he responded: "Yes, I did."¹⁸²⁵ He also testified that **Nuon Chea** "summoned" the persons responsible for the project "in order to give them advice or instruction."¹⁸²⁶ Sou Soeun, a former District Secretary and wife of Central Zone Secretary Ke Pauk, also confirmed that **Nuon Chea** visited the 1st January Dam site,¹⁸²⁷ and stated that her husband's superiors were "Pol Pot, **Nuon Chea** and **Khieu Samphan**."¹⁸²⁸
446. While there are no surviving reports relating to the 1st January Dam, a telegram operator from the Central Zone office testified at trial that "information on the activities of building" that dam was reported.¹⁸²⁹ His testimony is corroborated by a surviving

¹⁸²³ **E3/464** Tha Sot WRI, EN 00226110 ["I took Nuon Chea to the provinces of Prey Veng, Svay Rieng, Siem Reap, Kampot, Battambang, Kampong Som, Takeo, Kratie and Stoeung Treng to meet with the cadres and the soldier chiefs in order to disseminate and educate them the [Party] policy. In those meetings, he talked about the increase of the production and dam buildings. He also went down to see the dam sites very often about 5 to 6 times per month. Nuon Chea saw the hardship of and the destitute of the people ... I also drove Uncle Pol Pot to see people building dams and digging canals. Sometimes, Nuon Chea went with Pol Pot"]. See also **E3/104** Sa Vi WRI, EN 00204060 [confirming Nuon Chea was accompanied by Sot and Saut Toeung on his trips to the countryside]; **E1/419.1** Nhem En, T. 20 Apr 2016, 10.32.59-10.34.50 [photographer who accompanied Nuon Chea on trips to the "Kamping Puoy reservoir in Battambang" and "another dam in Sector 31 ... in Kampong Chhnang" to "examine the activities of building the dam and digging canal at those locations"]; **E3/68** Nhem En WRI, EN 00401820.

¹⁸²⁴ **E1/64.1** Saut Toeung, T. 19 Apr 2012, 11.38.31-11.40.39, 11.45.12.

¹⁸²⁵ **E1/64.1** Saut Toeung, T. 19 Apr 2012, 11.38.31-11.40.39.

¹⁸²⁶ **E1/64.1** Saut Toeung, T. 19 Apr 2012, 11.45.12-11.47.24.

¹⁸²⁷ **E1/310.1** Sou Soeun, T. 4 June 2015, 11.21.12-11.28.27 ["commune chiefs took some people to the worksite and later on when they returned I was told that Nuon Chea had visited the 1st January Dam worksite on that day"]; **E3/5294** Sou Soeun WRI, EN 00360117 ["I remember Nuon Chea came to visit the 1 January Dam"].

¹⁸²⁸ **E1/310.1** Sou Soeun, T. 4 June 2015, 14.12.49-14.15.10 ["Q: As a wife of Ke Pauk, did you know as to who were his superiors? A: I only knew that Pol Pot, Nuon Chea and Khieu Samphan; besides them, I did not know who else. Q: Did you know how he communicated with the upper level, for example, via his personal messenger or via telegram? A: ... the communication went through his messenger. The messenger would go between Kampong Cham and Phnom Penh to relay messages"].

¹⁸²⁹ **E1/155.1** Suon Kanil, T. 17 Dec 2012, 10.17.23 ["The building of the 1st of January Dam was known to me very well because I was stationed and I focused mainly on my task - I focused mainly on receiving or reporting information on the activities of building this dam"].

1976 telegram from Central Zone Secretary Ke Pauk, copied to “Brother Nuon,” that reported on the “offensive making the water sluice gates for the dike and canal systems” and the “offensive building the new rice field dike system according to the goals set by Angkar.”¹⁸³⁰ As one of the Party Centre leaders, **Nuon Chea** also received regular written reports from the Northwest Zone on the status of construction of the Trapeang Thma Dam.¹⁸³¹

447. In regards to the Kampong Chhnang Airfield construction site, Keo Loeur testified in his 2008 OCIJ interview that **Nuon Chea**, Ieng Sary, and Ke Pauk came to inspect the site, observed the people working “vigorously,” and met with the site supervisor Ta Lvey.¹⁸³² By the time of trial in 2015, however, the witness no longer remembered this incident.¹⁸³³ Irrespective of whether he personally visited this site, **Nuon Chea** was certainly aware of it through his participation in the meetings at which the Standing Committee decided to construct the airfield and received reports on its status.¹⁸³⁴
448. **Nuon Chea** has admitted that he made trips to the provinces to “inspect the base,” during which he discovered “bad elements” in the cooperatives and saw “flocks of people” being sent to transplant rice at 4 am.¹⁸³⁵ While he claims that he was only allowed to see “healthy people, not the skinny ones,”¹⁸³⁶ the guards who accompanied

¹⁸³⁰ **E3/952** Telegram 04 from Ke Pauk to Brother Pol, 2 Apr 1976 [also reporting that “among the people in the entire Zone there has been much fever and diarrhea” due to people “working and overheating”].

¹⁸³¹ See e.g. **E3/179** Report from M-560 to Angkar, 29 May 1977, EN 00183014-17 [reporting on status of Trapeang Thma water basin]; **E3/950** Report from Nhim to Angkar 870, 11 May 1978, EN 00185217 [reporting on status of Trapeang Thma water reservoir].

¹⁸³² **E3/467** Keo Loeur WRI, 6 Mar 2008, EN 00205074 [“I saw Ieng Sary, Nuon Chea and Ke Pok come to inspect the airfield site. I knew those three leaders since I had previously seen them at the Olympic Stadium. Each time they came, the leaders at the workplaces told us to work vigorously ... Those arriving leaders saw us working. After they had watched and inspected, they went to work meetings with their people at the work place of Ta Lvey”].

¹⁸³³ **E1/316.1** Keo Loeur, T. 15 June 2015, 09.32.06 [“I may have forgotten it because it happened long time ago”].

¹⁸³⁴ See section **Contribution to Enslavement of the Population – Participation of Nuon Chea and Khieu Samphan in Party Centre Meetings Establishing CPK Policy**.

¹⁸³⁵ **E1/21.1** Nuon Chea, T. 13 Dec 2011, 10.35.21-10.41.11 [“One day, around 4 a.m., I was on a car to Siem Reap. I saw flocks of people and I asked: Where are you going this early morning? I was told they went to transplant rice ... we instructed to screen good seedlings and seeds, but then the bad elements would only put the bad and spoil seeds for transplantation. As a result, crop cultivation is not to the higher production. This is an example and that’s what I saw while I inspected the base”]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757499 [“Nuon Chea visited the cooperatives from time to time to check on progress”], 00757514 [describing trips to Kampong Speu and Siem Reap provinces, including the incident on Road No. 6 when he saw many people “walking in a line” to work in the rice fields when it was still dark].

¹⁸³⁶ **E1/21.1** Nuon Chea, T. 13 Dec 2011, 10.37.11; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757514 [“As for the people who were skinny, they did not allow them to come close to us, only fat people came to see me. I knew that some areas had shortages, but I did not think it was so extreme that they died of hunger”].

him testified that they saw the “hardship” of the people and “destitute” conditions during those trips, including “skinny” people who were “working very hard.”¹⁸³⁷ Surviving film footage of one of **Nuon Chea**’s visits to a dam worksite shows that he was within a few feet of the workers tasked with carrying dirt.¹⁸³⁸ **Nuon Chea** was also aware from Standing Committee meetings¹⁸³⁹ and written reports received from the Zones¹⁸⁴⁰ that people in the provinces faced difficult work conditions, lacked sufficient food, and suffered from starvation and disease.

c) Khieu Samphan Trips to Provinces

449. **Khieu Samphan** also made trips to the provinces to inspect worksites and cooperatives, including the Trapeang Thma Dam and Kampong Chhnang airport, during which he was able to observe the condition of the workers at those sites.
450. **Khieu Samphan** admitted during the 002/01 trial that he visited Trapeang Thma and other “large-scale dams” during the DK period, and described the Trapeang Thma reservoir as so large “it looked like a sea in the middle of the field where there used to be dry land.”¹⁸⁴¹ The conditions faced by the workers who constructed the first phase of

¹⁸³⁷ **E3/464** Tha Sot WRI, EN 00226110 [“He also went down to see the dam sites very often ... Nuon Chea saw the hardship of and the destitute of the people”]; **E1/64.1** Saut Toeung, T. 19 Apr 2012, 13.43.54-13.55.35, affirming **E3/423** Saut Toeung WRI, A64 [“I saw them working very hard”], A65 [“Because he saw people becoming skinny, he went to visit closely at cooperatives”]; A71 [“I used to hear that people died of starvation and overwork”]. See also **E3/26** Nuon Chea Interview, Oct 2006, EN 00329513 [“There were deaths of many kinds: 1 – illness; 2 – food shortages; 3 – diseases”].

¹⁸³⁸ **E3/2350R** Video, *Pol Pot et les Khmers Rouges (Part 1)*, 33:31-33:39.

¹⁸³⁹ See e.g. **E3/216** Record of Standing Committee Visit to Northwest Zone, 20-24 Aug 1975, EN 00182998 [“new people lack both food and medicine”]; **E3/232** Minutes of Standing Committee Meeting on “Base Work,” 8 Mar 1976, EN 00182631 [report from Sector 103 Secretary Hang: “Many of the brothers and sisters of the people in the work sites are ill and have fevers”].

¹⁸⁴⁰ See e.g. **E3/952** Telegram 04 from Pok to Brother Pol, 2 Apr 1976, EN 00182658-59 [reporting that “among the people in the entire Zone there has been much fever and diarrhea” due to “working and overheating,” and proposing “reducing work hours”]; **E3/1060** Report from Division 801 Committee Rœun to Uncle 89, 29 Mar 1977, EN 00574313 [report forwarded to Angkar identifying three villages where the people “had been starving since February 1977”]; **E3/179** Report from M-560 to Angkar, 29 May 1977, EN 00183013 [reporting that “most” of the base people in the Northwest Zone were only receiving “thin rice soup”]; **E3/853** Report from Southwest Zone to Angkar, 3 June 1977, EN 00185246 [reporting that some districts and sub-districts had encountered shortages, and that people in Kampot, Kampong Speu and Takeo had cholera and some had died]; **E3/978** Telegram 46 from Thuon to Yi via Office 870, 5 Nov 1977; **E3/918** Telegram 254 from Sê to Committee 870, 10 Jan 1978, EN 00182758 [“According to the presentation of Comrades from the commune during the study session it [was] made known that this year, in Preah Vihear Sector, in the majority of places there is starvation”]; **E3/1073** Telegram 324 from Sê to Committee 870, 10 Apr 1978, EN 00293360 [reporting that dam worksite “productivity is 2 to 3 times faster than that in 77” due to screening out of “opposition group,” though “many people [had] become sick since this season is too hot”]; **E3/950** Report from Nhim to Angkar 870, 11 May 1978, EN 00185216 [reporting that rice supplied to Sector 5 had already run out, and Sectors 1 and 4 would be out by the following month].

¹⁸⁴¹ **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42-10.11.20 [“we [built] dams and canals in a speedier process ... And I, myself, witnessed that in 1976. When I had the opportunity to leave Phnom Penh, I saw canals and dams, including Trapeang Thma dam, and the one to the west of Battambang ... As for

the Trapeang Thma Dam in less than three months was well known to **Khieu Samphan** and other CPK leaders who visited the site,¹⁸⁴² as reflected in the Party's *Revolutionary Youth* publication. It described the precise parameters of the dam and canals, the date on which construction started and the plans for future expansion.¹⁸⁴³ It also acknowledged with indifference the human cost of the dam's construction, noting the "water shortage" problem faced by the "tens of thousands" who worked at the site,¹⁸⁴⁴ yet boasting how the people worked "day and night" and "endured all kinds of hardships" in order to successfully complete construction with "great leap forward speed" in accordance with "the Party's plan."¹⁸⁴⁵

the Trapeang Thma dam, it looked like a sea in the middle of the field where there used to be dry land. ... I was excited when I saw those large-scale dams"; **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons behind the Decisions I Made*, EN 00103780 ["although I did not travel inside the country much between 1975 and 1979, I saw with my own eyes some of the achievement I had wished for, especially irrigation in the countryside. Thanks to reservoirs in Trapeang Thmar (in Phnom Srok, Banteay Meanchey) and in Kamping Puoy (west of Battambang), there were rice fields for as far as the eye could see"]; EN 00103782 [describing himself as "obsessed by the dam reservoir complexes"]; **E3/592** Khieu Samphan Statement, 29 Dec 2003, EN 00002803 [stating that his visit to Trapeang Thma and Kamping Puoy made him "respect the souls of hundreds of thousands of those who had sacrificed their lives as well as all our people who were working hard in worksites"]; **E3/8110** and **E3/8113** [OCIJ photographs of Trapeang Thma reservoir].

¹⁸⁴² See e.g. **E3/1339** FBIS, *Chen Yung-Kuei, Delegation Continue Visit to Countryside – Northwest Region*, 9 Dec 1977, EN 00168341 [radio broadcast reporting that Chinese leader Chen Yung-Kuei, accompanied by Pol Pot, Vorn Vet and Ros Nimh, toured the "reservoir at Trapeang Thma"]; **E3/5657** Im Chaem DC-Cam Interview, 4 Mar 2007, EN 00089778 ["Pol Pot visited occasionally, but Khieu Samphan did often"]; **E1/329.1** Lat Suoy, T. 12 Aug 2015, 09.40.57-09.44.46 ["they told us that Angkar would visit the construction site ... I saw a long fleet of vehicles ... Once every 3 or 4 months they would come to visit the dam"]; **E1/419.1** Nhem En, T. 20 Apr 2016, 10.41.20-10.44.36 [describing trips to Trapeang Thma construction site with Ros Nimh, Son Sen and Chinese delegates].

¹⁸⁴³ **E3/771** *Revolutionary Youth*, July-Aug 1977, EN 00509686 ["Brothers began this worksite on 16 February 1977. At the beginning, brothers start the construction of the dam from Trapeang Thma in the northwest direction, building it through the field of Trapeang Thma toward Punley Mountain, which is 8,480 meters long ... In total, the Dam of the Trapeang Thma water reservoir is 20 kilometers long, 5 meters high, 40 to 70 meters wide at the bottom, and 7 to 8 to 10 meters wide on the top. Down from the Dam, brothers dig 3 big canals, each is 12 meters wide on the top, 6 meters wide at the bottom, and 1 to 2 meters deep. The first canal, starting from the 1st water gate of the reservoir down to Rumduol River, is over 20 kilometers long ... In the dry season of next year brothers will strengthen and expand this reservoir bigger and stronger by increasing the height of the Dam up to 8 meters, enlarging the bottom to 120 meters wide and the top to 25 meters wide so that it will be able to hold hundreds millions cubic meters of water"]. See also **E3/9504** Pan Chhuong WRI, A1 [testimony of Deputy Chairman of Sector 5 Mobile Units: "In the construction plan, the dam had 60-metre bottom base, 8-metre height, 20-metre top back and 8-kilometre length"].

¹⁸⁴⁴ **E3/771** *Revolutionary Youth*, July-Aug 1977, EN 00509686-87 ["Geographically, there were rarely any lakes or ponds on this plain field, and since there were tens of thousands people working at the Trapeang Thma water reservoir worksite, our male-female youths had to face and fight to solve other problems besides their daily core task. Obviously, they had to face with the problem of water shortage. That was because the carts and trucks were not able to deliver water to the worksite on time and as needed"]. See also **E3/1783** FBIS, *Chen Yung-Kuei's Cambodia Visit Reported* (Hsinhua), 21 Dec 77, EN 00498181 [statement of Northwest Zone Secretary Ros Nimh re the Trapeang Thma Dam: "Drought set in when we started to build the reservoir, and the 20,000 people engaged in construction had not enough drinking water"].

¹⁸⁴⁵ **E3/771** *Revolutionary Youth*, July-Aug 1977, EN 00509686 ["During the time of building this Trapeang

451. **Khieu Samphan** also admits visiting the Kamping Puoy Dam, which was located in Phnom Sampeou commune west of Battambang city.¹⁸⁴⁶ Like Trapeang Thma, the Kamping Puoy Dam was a massive work project built by the manual labour of over 20,000 workers who were guarded by militia and forced to work “night and day.”¹⁸⁴⁷ The workers at this site were described as “thin, their knees larger than their heads.”¹⁸⁴⁸ **Khieu Samphan** also visited the Kok Romchek Dam in Sector 5 of the Northwest Zone,¹⁸⁴⁹ which was 18 kilometres long and required to be built in only three to four

Thma reservoir, our cooperative male-female youths of the northern sector of Battambang used all of their physical and mental strength, and sacrificed everything in order to serve the collective interest and to achieve the Party’s plan totally and successfully. Brothers worked and stayed at the worksite for months like what our male-female combatants of the revolutionary army had done when they were fighting to destroy the enemy during the war. Brothers fought to dig up and carry the earth, all day and night, under the burning sun, for the entire dry season without any complaining”, EN 00509687 [“our male-female youths had fought to endure all kinds of hardship until they completed the plan and successfully constructed the Trapeang Thma water reservoir in the dry season of 1977 ... In conclusion, in order to join in and totally achieve the 1977 work plan or even to exceed it, and in order for our Kampuchea motherland to progress in the wonderful great leap forward speed, our cooperative male-female youths in the northern part of Battambang dare to sacrifice everything”].

¹⁸⁴⁶ **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons behind the Decisions I Made*, EN 00103780 [one of the dams he saw with his “own eyes” between 1975 and 1979 was “Kamping Puoy (west of Battambang)”]; **E1/198.1** Khieu Samphan, T. 29 May 2013, 10.03.42-10.08.50 [“in 1976 ... I saw canals and dams, including Trapeang Thma dam, and the one to the west of Battambang”]; **E3/592** Khieu Samphan Statement, 29 Dec 2003, EN 00002803.

¹⁸⁴⁷ **E1/364.1** Prum Sarun, T. 8 Dec 2015, 14.35.29; **E3/5187** Prum Sarun WRI, EN 00274180 [“At the Kamping Puoy worksite there were tens of thousands of people ... About 20 people died of exhaustion and disease each time I worked there. Five people committed suicide by hanging themselves out of hopelessness. There was a military unit which guarded the laborers who worked night and day. Work was from 7 until 11 a.m., in the afternoon from 1 until 5 p.m., and at night from 6 until 10 p.m.”]; **E3/9610** Toat Thoeun WRI, A113-A114 [describing Kamping Puoy Reservoir: “It was very hard work as they had to carry earth and run up to the back of the dam. ... For earth carriers at canal dam worksites, their food was rice dust mixed with porridge which was like pigswill”]; **E3/9473** Nhoek Ly WRI, A52 [“the construction of the Kamping Puoy Dam was rather difficult because people from Mobile Units were assigned to carry earth by hand in carry baskets to build that dam. Only human labour, no machinery, was used”]; **E3/5185** In Choeun WRI, EN 00274166; **E3/7737** Im An WRI, EN 00274160-61 [“This dam was 6 kilometers long, 12 meters high and 50 meters wide ... and was built entirely with hoes, earth carrying baskets and manpower ... I saw Khmer Rouge cadres riding in a jeep come to look at this work site ... I just knew that they were high level leaders because the subdistrict chief ran to welcome them. The ones who came to look at the worksite were not district or sector or zone level”]; **E3/1339** FBIS, *Battambang Province*, 10 Dec 1977, EN 00168342 [“accompanied by the Comrade Party Secretary and Comrades Ieng Sary, Vorn Vet, Mey Prang and Thieun Thieun, Comrade Chen Yunk-Kuei and the other Chinese comrades visited the ‘17 January’ reservoir in Srok Phnum Sampeou. This reservoir has a capacity of 189 million cubic meters”].

¹⁸⁴⁸ **E3/5185** In Choeun WRI, EN 00274166 [“While at the Kamping Puoy worksite the work was hard, from 6 [am] ... until 10 p.m. They had us eat one dish of thin gruel. Sometimes they gave us rice, one dish per person. They had us eat two meals per day ... I observed that there were more than 20,000 people working there, and most of those in the mobile units were thin, their knees larger than their heads. People died from overwork and exhaustion and disease. One of my nephews died from exhaustion and dysentery”].

¹⁸⁴⁹ **E3/9483** Pan Chhuong WRI, A16 [“I saw Khieu Samphan once when he came to inspect the Kok Romchek dam worksite in 1976. In fact, I did not know he was Khieu Samphan though I was standing next to him. Only after he got into a car and drove off to Phnom Srok district, Ta Val told me who he was”]; **E3/9094** Pan Chhuong DC-Cam Interview, EN 00728676-78 [“Khieu Samphan came with 2 or 3 people. I knew clearly Khieu Samphan ... Q: Did he see the people clearly, including the skinny? A: Yes

months,¹⁸⁵⁰ and the Au Buon Kraom Dam in Monduliri (Sector 105).¹⁸⁵¹ **Khieu Samphan**'s knowledge of the 1st January Dam is proven by an 15 April 1977 speech, in which he identified the dam on the Chinith River as an example of the large-scale irrigation projects being quickly built that year by the manual labour of tens of thousands of workers.¹⁸⁵²

452. With respect to the Kampong Chhnang Airfield worksite, three witnesses testified to visits by **Khieu Samphan**. A former messenger of Division 502 Deputy Secretary Lvey (who oversaw construction of the airfield)¹⁸⁵³ described a visit by leaders brought to the site by a convoy of vehicles, at a time airplanes had been brought in for flight tests. While he was too far away to identify the leaders, he was told by guards at the site that they were **Khieu Samphan** and Ieng Sary.¹⁸⁵⁴ A second witness described another visit by **Khieu Samphan** to inspect the worksite, on which occasion he arrived by helicopter with a group of Chinese visitors and walked towards the cave that was being built for

... As we were building the Kok Romchek dam, he stood on the dam's embankment and watched"; **E1/359.1** Pan Chhuong, T. 30 Nov 2015, 11.31.29 ["at the Kouk Rumchek Dam ... a man got out of the vehicle and observed us working"], 13.34.05 ["at the time, Ta Val, who was the leader, told us that the person was Khieu Samphan"], 13.46.41. Ta Val's identification of the visitor as Khieu Samphan was reliable because, as the Sector 5 Mobile Chief and highest-ranking cadre at the worksite, Ta Val would have known the CPK leaders who came to visit his worksite. By contrast, Pan Chhuong's claim at trial (**E1/359.1** at 13.46.41-13.51.45, 13.55.58-13.58.15) that the person he saw at the Kok Romchek site in 1976 ("over 1.70 metres") was taller than the Khieu Samphan he observed in the courtroom ("1.67 or 68 metres") was not a probative or reliable differentiation, as it is to be expected that an 80-year old man using a walking aid would appear significantly smaller than he did 40 years earlier.

¹⁸⁵⁰ **E1/359.1** Pan Chhuong, T. 30 Nov 2015, 11.19.36-11.27.22 [construction of Kok Romchek Dam began in January 1976 with a work force of "around 4000" - "we were told ... we had to complete the work before the Khmer new year"]; **E3/9094** Pan Chhuong DC-Cam Interview, EN 00728659 ["At Kok Romchek, its width was 18 kilometers, but there were only 4000 forces. There were about 4500 and three machines. He asked me to be determined to finish it within 3 months as well"]; **E3/9483** Pan Chhuong WRI, A2 ["In March 1976, the number of workforce in the sector mobile unit increased to 7,800"].

¹⁸⁵¹ **E1/409.1** Chan Bun Leath alias Bun Loeng Chauy, T. 28 Mar 2016, 11.03.50-11.10.48 ["the deputy chief of Office K-16 said Khieu Samphan would come to visit ... I saw the vehicles moving on the road while I was in a rice field. I saw the car convoy but I didn't see him"], 14.16.23-14.18.04; **E3/5178** Bun Loeng Chauy WRI, EN 00274104 ["In 1974, Khieu Samphan, head of State and Front Chairman, visited in Monduliri province somewhere at K-11 when I was harvesting rice ... and paid visits to [Au] Buon Kraom, Sre Huy and the dam construction. He came with a delegation of many people by 6 vehicles in total ... I knew about that because my worksite chief announced that 'Khieu Samphan is visiting'"].

¹⁸⁵² **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514.

¹⁸⁵³ **E1/312.1** Chan Morn, T. 9 June 2015, 09.27.30, 09.43.30-09.49.58, 09.59.32, 10.37.01-10.41.23 [assigned by Division 502 Secretary Met and Deputy Lvey to work as a driver and to assist Chinese technicians at the Kampong Chhnang Airport site]; **E3/5278** Chan Morn (Man) WRI, EN 00292822-24.

¹⁸⁵⁴ **E1/312.1** Chan Morn, T. 9 June 2015, 13.33.12-13.41.01; **E1/313.1** Chan Morn, T. 10 June 2015, 14.18.01-14.22.14 [stating that in total, he saw "three visits by important people while I was present at the worksite"]; **E3/5278** Chan Morn (Man) WRI, EN 00292824 ["In early 1977, I saw a convoy entering through the access road to the airport construction site. At that time, I saw Khieu Samphan and Ieng Sary visiting the airport construction site with armored vehicles and escorted many soldiers. ... I saw Lvey and other chiefs ... met with them"].

use as a secret hangar and command centre.¹⁸⁵⁵ A third witness testified to a visit by **Khieu Samphan** and Ta Mok, in which they were accompanied around the airfield site by the leaders of Division 502.¹⁸⁵⁶ The Accused also knew of this site from Standing Committee meetings he attended.

453. During some of his trips to the provinces, **Khieu Samphan** was accompanied by Norodom Sihanouk.¹⁸⁵⁷ Sihanouk described what he observed during those trips to the countryside with **Khieu Samphan** as follows:

I saw that the communes were concentration camps. I saw how work went on day and night. When the moon shone, people could not sleep. Sleep was not allowed. People had to work. I saw what people ate, for there was no rice. The rice was mixed with maize, and other things, beans, even leaves, the chopped up stocks of banana plants. The diet was very, very bad.¹⁸⁵⁸

454. During a late 1976 trip to “gigantic work sites with thousands of men and women silently digging mile-long canals,” **Khieu Samphan** stopped Sihanouk from getting out of the car to speak to the people.¹⁸⁵⁹ Sihanouk also described his “despair” and “disillusion” when he “saw the realities” of what the Cambodian people had been

¹⁸⁵⁵ **E1/319.1** Sem Hoeun, T. 22 June 2015, 11.18.12-11.22.33 [“I was going to work, and we saw a helicopter about to land and we were all standing. And we were told that it was Khieu Samphan who probably came to inspect the worksite”]; **E1/320.1** Sem Hoeun, T. 23 June 2015, 09.37.50 [“I could see him from a far distance and my peers and work colleagues told me that Ta Khieu Samphan came to visit the Kampong Chhnang airfield”]; **E3/5280** Sem Hoeun WRI, EN 00290516 [“In late 1977, ... I saw Khieu Samphan riding a helicopter to the workstation of Kompong Chhnang’s airport. ... He was wearing a black shirt and trousers accompanied by a Chinese. I was standing about 50 meters away from the landing ground. He came to observe the laborers’ work and then he walked towards the drilled cave for hiding aircrafts”].

¹⁸⁵⁶ **E1/325.1** Khin Vat, T. 29 July 2015, 15.18.32-15.22.55 [“I knew that Uncle Khieu Samphan and his colleagues, whom I did not know together with the leadership from 502 who accompanied them, paid a visit to the airport worksite”]; 15.25.20; **E1/326.1** Khin Vat, T. 30 July 2015, 10.43.25; **E3/5284** Khin Vat WRI, EN 00315915.

¹⁸⁵⁷ See e.g. **E3/273** FBIS, *Sihanouk Completes 3-Day Tour of North*, 21 Jan 1976, EN 00167844 [“From 15 to 17 January 1976 the Samdech head of state and his wife, the Samdech prime minister and his wife and Comrade Deputy Prime Minister Khieu Samphan, visited the northern region. At 09:00 on 15 January the motorcade arrived at Batheay worksite ... The Samdech was greatly moved to see the vast checkerboards of field embankments and irrigation canals. During a trip to Kompong Cham town, the Samdech stopped over at (Veal Sosaen) worksite, where tens of thousands of people were actively building field embankments and digging ditches”]; **E3/464** Tha Sot WRI, EN 00226110 [“I took Khieu Samphan who accompanied Prince Norodom Sihanouk to visit the provinces of Siem Reap, Battambang, Kampot and Kampong Som”].

¹⁸⁵⁸ **E3/3113R** Video *Jungle War*, 29:26-30:26 [Sihanouk description of trips taken “through Cambodia together with Khieu Samphan” between September 1975 and April 1976].

¹⁸⁵⁹ **E3/2376** Nayan Chanda, *Brother Enemy*, EN 00192413 [“The tour of the provinces with Khieu Samphan brought home to Sihanouk the great leap forward the Khmer Rouge was trying to achieve. He saw gigantic work sites with thousands of men and women silently digging miles-long canals, carrying soil on shoulder poles to build dikes. The landscape was being turned into a vast checkerboard dotted with antlike men dressed in black. ... An emotional Sihanouk muttered to Monique, “That’s enough, I am going to talk to them,” and started getting out of the car. Samphan, who sat next to the chauffeur, bolted out and told the prince, “Please be calm and go back to the car.”].

subjected to by the CPK during his trips to the countryside to see “irrigation work” with **Khieu Samphan**, stating that he saw the “misery” of the people and that there was “forced labour” and “no freedom.”¹⁸⁶⁰ There can be no doubt that **Khieu Samphan**, like Norodom Sihanouk and others who went to visit the large-scale irrigation worksites,¹⁸⁶¹ was readily able to observe the abhorrent and inhumane conditions to which the workers enslaved at those sites were subjected.

3. Instructions to Cadres in Speeches and Political Education Sessions

455. Knowing that the people were confined to cooperatives and worksites and forced to labour in inhumane conditions, **Nuon Chea** and **Khieu Samphan** endorsed the Party’s production plans, instructed cadres to implement those plans, and urged the people to work even harder to increase production, fulfil the plans, and achieve the Great Leap Forward.

a) *Political Education Meetings Conducted Jointly by Nuon Chea and Khieu Samphan*

456. Civil Party Em Oeun testified that he attended a week-long political education session conducted by Pol Pot, **Nuon Chea** and **Khieu Samphan**. Pol Pot began by explaining the Great Leap Forward policy that was to transform the country to communism, stating that those who were not “in line with the ‘great leap forward’ ... would be considered as enemies.”¹⁸⁶² **Nuon Chea** endorsed Pol Pot’s statements and discussed further the

¹⁸⁶⁰ **E3/2350R** Video, *Pol Pot et Les Khmer Rouges*, 40:10-40:27 [interview of Norodom Sihanouk in which he states: “I saw the misery of my people. There was no freedom and there was forced labour”], 41:10-42:10 [“From time to time Khieu Samphan accompanied me to the countryside to see some irrigation work with the people. But my disillusion, my despair came to me when I saw the realities. And after that, I was informed by the refugees that after my visit, the ones who cried ‘Long live Sihanouk’ were killed by the Khmer Rouge. Punished. That was a death penalty to be pro-Sihanouk. I did not imagine that they could be so cruel and so inhumane”], 42:16-42:45 [Sihanouk refers to CPK cooperatives, in which 5 of his children and 14 grandchildren died, as “concentration camps, small Auschwitz”]. See also **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396541 [discussing 1975-76 time period: “Sihanouk was brought face to face with the awfulness of life in Democratic Kampuchea for the first time during two provincial tours he made that winter in the company of Khieu Samphan, one to the Eastern and Northern Zones, the other to the Northwest. ‘It bowled me over,’ he wrote later. ‘My people had been transformed into cattle ... My eyes were opened to a madness which neither I nor anyone else had imagined’”].

¹⁸⁶¹ **E3/5657** Im Chaem DC-Cam Interview, EN 00089776 [description of condition of workers at Trapeang Thma Dam by Preah Net Preah District Secretary: “Upon my arrival at that place, I found it horrible to see youths at the construction site. They were ill and thin. I saw the evacuees from Phnom Penh having no food”]; **E3/5264** Ke Un WRI, EN 00283343 [description of 1st January Dam worksite by driver of Central Zone Secretary Ke Pauk: “[there] were tens of thousands of people working there. They were working hard in harsh conditions. Especially the women, when they were having a menstrual period, they didn’t have any water to clean up themselves, so their buttocks were followed and surrounded by flies. At the work site there were too many flies which looked like bees”]; **E3/464** Tha Sot WRI, EN 00226110.

¹⁸⁶² **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.22.12-14.24.29 [“during the political training [at Borei Keila], we learned how to change the mindset of the people, try to transform them to fall in line with the ‘great leap forward’ policy”], 14.25.50 [“the lecturers or speakers ... explained that the ‘great leap forward’

Great Leap Forward, stating that those who damaged equipment or were often sick were to be considered enemies.¹⁸⁶³ **Khieu Samphan**, after reiterating the points of the previous speakers,¹⁸⁶⁴ urged cadres to transform themselves in order “to achieve this goal,” and stated that “workers who pretended to be sick very often”, or were careless with materials, were to be “categorized as people who betray the Party.”¹⁸⁶⁵ He told the cadres that “whatever the Party wanted us to do, we had to.”¹⁸⁶⁶ **Khieu Samphan** also instructed that oppressive work and living conditions were to be used in order to draw out enemies:

I still recall what he told us and the political lines at that time. They wanted to uncover the enemy burrowing from within, and in doing so, we had to assign much hard labour; we had to give them a lot of work, little food to eat so that we could uncover the enemies from within. That's what he mentioned in the session. I was rather terrified, myself, and my colleagues were a bit terrified upon hearing that statement.¹⁸⁶⁷

457. Other witnesses also received political education from the Accused on the CPK's economic programme. Pean Khean, a former bodyguard of Koy Thuon who was assigned to K-1 in 1976,¹⁸⁶⁸ attended a meeting at Borei Keila organised by S-71 chairman Pang, at which **Nuon Chea** and **Khieu Samphan** gave “high-level political education” to ministry and K-office cadres.¹⁸⁶⁹ At this meeting, the cadres were

was to transform the country from a socialist to communist country”, 14.30.56-14.35.53 [“the person who started first was Pol Pot ... he also said that every one of us was expected of being in line with the ‘great leap forward’ ... if we couldn’t have this ‘great leap,’ then we would be considered as enemies”]; **E3/1729** Em Oeun CPA, EN 00751867.

¹⁸⁶³ **E3/1729** Em Oeun CPA, EN 00751867; **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.32.48-14.37.54 [“And when Nuon Chea came to the stage, he picked up a few words from Pol Pot before he began his own speech. Mr. Khieu Samphan also did the same. So, to me, these people had to repeat one another before adding further points”]; **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.05.25.

¹⁸⁶⁴ **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.32.48, 15.51.23 [“Q: ... do you recall whether Khieu Samphan discussed the affairs or things that were dealt with by the other speakers before him? A: Before they change the speakers ... normally they try to recall what the previous speaker mentioned, and they then try to link up from where they left off”]; **E1/115.1** Em Oeun, T. 27 Aug 2012, 10.18.13-10.19.58 [Nuon Chea and Khieu Samphan “remained in the meeting” during Pol Pot’s presentation], 11.02.47-11.04.32 [“One would pick up briefly from the previous speaker, and one would say ‘as the Party already indicated’”].

¹⁸⁶⁵ **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.37.54-14.40.59; **E1/116.1** Em Oeun, T. 28 Aug 2012, 10.29.10-10.33.

¹⁸⁶⁶ **E1/113.1** Em Oeun, T. 23 Aug 2012, 15.02.08-15.04.50.

¹⁸⁶⁷ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.38.18. *See also* **E3/1729** Em Oeun CPA, EN 00751867 [“Khieu Samphan clearly stressed that in order to see undercover enemies burrowing from within easily and clearly ..., we needed to assign much hard labour work; then they could no longer hide”]; **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.21.47; **E1/116.1** Em Oeun, T. 28 Aug 2012, 10.29.10-10.33.00 [“in order to find out who would be the infiltrated enemies, ... we needed to look at those people’s performance. So, to do so, one needed to allow people to work more, eat less”].

¹⁸⁶⁸ **E1/71.1**, Pean Khean, T. 2 May 2012, 14.05.07-14.08.50, 14.38.12, 15.49.00-15.52.04, 15.57.40.

¹⁸⁶⁹ **E3/5728** Pean Khean Statement; **E1/73.1** Pean Khean, T. 17 May 2012, 10.08.24-10.19.39 [“I saw some

instructed on the “political line” of the Party to “establish the cooperatives” and “build canals and dams” using the masses.¹⁸⁷⁰ Chea Say, a mechanic and driver in the K-12 office, attended political study sessions at the Technological Institute and Borei Keila lasting “at least three days” at which **Nuon Chea** and **Khieu Samphan** were the instructors.¹⁸⁷¹ He testified that the main subject the two leaders discussed was “strengthening or working hard ... in order to build the country.”¹⁸⁷² He also heard **Khieu Samphan** speeches on the radio containing “the same type of message” about “striving hard to work and to build the country.”¹⁸⁷³

458. Consistent with Em Oeun’s testimony that the CPK leaders were in agreement and reiterated each other’s points, Chea Say testified that the political message from **Nuon Chea** and **Khieu Samphan** was the same, because “the two came from the same family ... the same Party.”¹⁸⁷⁴ Henri Locard described the interaction between Pol Pot, **Nuon Chea** and **Khieu Samphan** as follows:

I believe Nuon Chea was the shadow of Pol Pot the whole time. He set to music the ideas that both of them came up with, and I think Khieu Samphan played an important role here, because during the re-education sessions, they were the keynote speakers. Pol Pot would speak for days. Then Nuon Chea would follow. Then it was Khieu Samphan ... These personalities monopolized thought. They even nationalized thought.¹⁸⁷⁵

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- senior people or leaders coming to start the session. Those people included Uncle Hem and Pang ... Om Ieng Sary was not present, but Om Nuon Chea was there”].
- ¹⁸⁷⁰ **E1/73.1** Pean Khean, T. 17 May 2012, 10.12.03-10.14.52 [“they mentioned about the political line and prospects for building a prosperous country in the future”], 10.16.41-10.19.39 [“thirdly, to establish the cooperatives and create the collective regime, and encourage the people and the popular masses to build canals and dams”].
- ¹⁸⁷¹ **E1/124.1** Chea Say, T. 20 Sept 2012, 10.10.42-10.12.48, 10.17.55-10.24.45, 10.30.29 [“Mr. Nuon Chea and Mr. Khieu Samphan talked during the three days or the four-day workshop - or, rather, training sessions”], 10.59.46 [“Besides the two, there was no other instructor”], 13.57.14; **E3/69** Chea Say WRI, EN 00233152 [“Pang opened the sessions ... Q: While learning with Nuon Chea and Khieu Samphan, how many participants were there? ... A: Hundreds of them”].
- ¹⁸⁷² **E1/124.1** Chea Say, T. 20 Sept 2012, 10.17.55-10.20.32, 10.26.16 [“Nuon Chea and Khieu Samphan taught us during the political study sessions, focusing on those themes that I said on the economization and on strengthening or working hard ... in order to build the country”], 11.41.29-11.43.59 [“As a part of political session and education, we were treated ... like children as opposed to parents who were our superiors so we were educated on how to work very well”].
- ¹⁸⁷³ **E1/124.1** Chea Say, T. 20 Sept 2012, 11.04.56-11.07.32.
- ¹⁸⁷⁴ **E1/124.1** Chea Say, T. 20 Sept 2012, 10.28.17 [“Q: ... is your memory that Nuon Chea and Khieu Samphan were covering the same sorts of subjects or different subjects? A: The two – we can say the two came from the same family; they spoke on the same subject matters ... because they are from the same team or, you can say, from members of a same family; they’re from the same party ... So the political education is the same”], 10.54.08-10.55.57 [“the main message was the same. I could not say which one was bad or which one was good. It was the same message that conveyed. Politically, they were from the same source”].
- ¹⁸⁷⁵ **E1/451.1** Henri Locard, T. 29 July 2016, 11.02.10-11.05.00.

b) Nuon Chea Speeches & Political Education

459. In Kratie province (Sector 505), **Nuon Chea** convened a meeting in 1973 at which he instructed 50 local commune chiefs and district committee members, including Yun Kim, how to implement cooperatives.¹⁸⁷⁶ **Nuon Chea** instructed the cadres that “mutual assistance groups” should be used in areas “where there were difficult people,” low-level cooperatives in areas “where people were not so difficult,” and high-level cooperatives in areas “where the people were easy.”¹⁸⁷⁷ **Nuon Chea** also instructed a large group of female cadres from the Central (old North) Zone, including District Secretary Sou Soeun (the wife of Zone Secretary Ke Pauk), on the implementation of cooperatives.¹⁸⁷⁸ During these political study sessions, **Nuon Chea** provided instruction on how to “arrange” workers so that the Party’s production quotas could be met, the digging of canals, and the need to grow multiple harvests each year.¹⁸⁷⁹
460. In a 16 January 1977 speech to the RAK that was attended by **Khieu Samphan** (discussed further in the *Contribution to Persecution* section), **Nuon Chea** spoke about the “important strategic line” of the Party to “control the people and capture the people,” and instructed that the “core work during this year of 1977 is strengthening and expanding the cooperatives,” making them “iron walls throughout the country.”¹⁸⁸⁰

¹⁸⁷⁶ **E1/88.1** Yun Kim, T. 19 June 2012, 09.25.01-09.30.34 [meeting held by Nuon Chea in Dar commune in 1973 “giving instructions regarding the cooperatives”], 10.53.56-10.56.12; **E3/410** Yun Kim WRI, EN 00412193 [“More than 50 participants attended the gathering. They were all from provincial and district committees and commune chiefs”].

¹⁸⁷⁷ **E3/410** Yun Kim WRI, EN 00412193; **E1/88.1** Yun Kim, T. 19 June 2012, 11.03.01-11.04.46 [instructing that “establishment should be based on the real situation at each base”].

¹⁸⁷⁸ **E1/310.1** Sou Soeun, T. 4 June 2015, 10.06.40-10.11.00 [“Q: What was the reason that you went with this group of female cadres to meet Nuon Chea? A: We went with a large group of cadres, hundreds of us to meet him. We went there to attend political study sessions, and be taught of ways to lead cooperative people to increase rice production to a certain quota per year, and work smoothly with the cooperative people in order to increase rice production per hectare and increase the number of harvest per year”], 15.39.27-15.43.05 [“only when Angkar invited me, asked me to come to Phnom Penh to join the study session did I come. As I stated, I came with many of my fellow cadres by a truck or two. And we came to receive the assignments to be implemented and enforced in our respective districts”].

¹⁸⁷⁹ **E1/310.1** Sou Soeun, T. 4 June 2015, 10.08.31 [“we went there to attend political study sessions, and be taught of ways to lead cooperative people to increase rice production to a certain quota per year”], 15.44.43-15.49.05 [discussing meetings with Nuon Chea: “He arranged workforces for the districts. He arranged tasks and he instructed how to dig the canals, how to work in the fields, and he also discussed how the cooperatives were to be arranged. These are the instructions I received from him ... He instructed about the cooperatives, and he also mentioned that the farming should be conducted in a number of times per year”].

¹⁸⁸⁰ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491424-26 [“This is a very important strategic line: control the people and capture the people ... So then, in the work of defending the country at present and later on, it is important to have a grasp on the people. That is why the Party concentrates on grasping the cooperatives. The core work during this year of 1977 is strengthening and expanding the cooperatives and making them strong by building the cooperatives and by building the Party Branches in the cooperatives to 100 per cent level during 1977, making the cooperatives into iron walls throughout the country. Making the cooperatives into iron walls means that the people are strong and nothing at all

He discussed the Party's plans relating to rice production, including the goal of "quickly increasing production,"¹⁸⁸¹ the imposition of food rations,¹⁸⁸² and plans to export rice.¹⁸⁸³ **Nuon Chea** also acknowledged in this speech that he and the other CPK leaders received reports from and visited "every base area."¹⁸⁸⁴

461. Two former cadres have confirmed receiving political education from **Nuon Chea** relating to the Party line to "control the people." Tram Kak District Secretary Pech Chim, who attended the annual political training conducted by the Accused for "all the district secretaries of the entire country," testified that one of the subjects on which **Nuon Chea** gave instructions was how "to control the people properly."¹⁸⁸⁵ Southwest cadre Chhouk Rin also described a political education meeting he attended in Phnom Penh conducted by **Nuon Chea** and Pol Pot, at which the Accused "talked about management of agricultural system with the requirement of producing three tons of rice per hectare," explained that "those who caused the damage of ploughshare, hoe, spoon and so on were considered as enemies," and the Party made clear "how they controlled the population."¹⁸⁸⁶

can penetrate. This is the meaning of grasping the people"]. See also **E1/190.1** Philip Short, T. 7 May 2013, 13.50.07-13.52.04 ["seizing the people" "means, simply, controlling the population" and was a "Chinese Communist [tactic]" used throughout the Chinese Revolution].

¹⁸⁸¹ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491435.

¹⁸⁸² **E3/147** FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168469 ["Did we achieve the 1976 plan? Were we able to apply the rice-rationing orders prescribed by the state? ... we have totally achieved the 1976 plan"]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491434-35.

¹⁸⁸³ **E3/147** FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168469 ["we have a surplus of more than 150,000 tons of rice for export"]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491423 ["we have enough left over to export 150,000 to 200,000 tons of paddy"], 00491433 ["some Zone armies have provided rice to Angkor and to the State for export and sale overseas too. As I recall, approximately 40,000 tons of rice"].

¹⁸⁸⁴ **E3/147** FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168469 ["According to reports received early this month from every region and according to our findings after visits to each of our bases"]; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491423 ["From the reports at the beginning of this month and our going to look at every base area, we see that all regimes have been carried out"].

¹⁸⁸⁵ **E3/401** Pech Chim WRI, EN 00381028; **E1/215.1** Pech Chim, T. 1 July 2013, 11.21.01-11.29.35 [also testifying that "the study session lasted for a little bit more than 20 days"], 14.40.06. See also **E1/291.1** Pech Chim, T. 23 Apr 2015, 09.41.41-09.46.29 [discussing organisation of work forces in Tram Kak District: "They had full grasp of forces in their respective units; for example, how many male youths, female youths and children? How was their health condition? The number of members who went to work and the number of forces who remained at their shelter and so on"].

¹⁸⁸⁶ **E3/421** Chhouk Rin WRI, A4; **E1/182.1** Chhouk Rin, T. 23 Apr 2013, 09.30.00-09.33.06 ["when I was asked to come to Phnom Penh, I was not attending a meeting but I was attending study session attended by many people from across the country. We were lectured on political lines and other matters ... ordered by Nuon Chea to cultivate rice, to grow crops ... we had to do farming as soldiers, and Nuon Chea was the one who ordered all this ... I believe that the CPK, in its statement, made it very clear about how they controlled the population"], 10.55.26-11.02.30 [study session was attended by 500 participants in 1976].

462. Other witnesses recall **Nuon Chea** stressing the importance of people working hard in order to meet the Party's plans and quotas. Ek Hen, a worker at the K-9 State Textile Factory,¹⁸⁸⁷ attended two annual political study sessions at Borei Keila, one led by **Nuon Chea** and the other by **Khieu Samphan**.¹⁸⁸⁸ She testified that 500 people attended the study session led by **Nuon Chea**.¹⁸⁸⁹ At that meeting, he provided instruction on the importance of workers "striving to work [to keep] up with the plans," and the need to reform workers who made mistakes.¹⁸⁹⁰ Sector 103 Commerce Member Prum Sou attended a late 1977 meeting presided over by **Nuon Chea** at the sector office in Preah Vihear, at which he instructed sector cadres to "work hard to build dams" and to increase rice production to between 3.5 and 7 tonnes per hectare.¹⁸⁹¹ Former District Secretary Prak Yut testified that she attended annual political education sessions conducted by **Nuon Chea** and Pol Pot, and opened by **Khieu Samphan**,¹⁸⁹² that reviewed whether districts had achieved the Party plan for rice production and construction of dams and canals, and encouraged them to "work harder."¹⁸⁹³ Commerce cadre Phan Him attended a meeting at Borei Keila at which **Nuon Chea** instructed cadres to "work hard" in order to "always" achieve "three tonnes of rice yield per

¹⁸⁸⁷ E1/217.1 Ek Hen, T. 3 July 2013, 10.15.28-10.19.49.

¹⁸⁸⁸ E1/217.1 Ek Hen, T. 3 July 2013, 12.12.22 ["I did attend sessions where Khieu Samphan and Nuon Chea chaired"], 14.12.11 ["Uncle Khieu Samphan was chairing the second session and the first session was chaired by Uncle Nuon Chea"]; E3/474 Ek Hen WRI, EN 00205049; E3/4635 Ek Hen DC-Cam Statement, EN 00662014.

¹⁸⁸⁹ E1/217.1 Ek Hen, T. 3 July 2013, 11.37.13-11.39.40, *confirming* E3/474 Ek Hen WRI, EN 00205049-50 ["Nuon Chea also led a study meeting at Borei Keila, with about 500 people attending"].

¹⁸⁹⁰ E1/217.1 Ek Hen, T. 3 July 2013, 11.37.13-11.39.40, *confirming* E3/474 Ek Hen WRI, EN 00205050 [describing Borei Keila study meeting led by Nuon Chea: "The content of the study meeting was about: having workers strive to work, and if there were mistakes made, to have the workers reform themselves; ... about striving to work keeping up with the plans; and knowing how to conserve"]; E3/4635 Ek Hen DC-Cam Statement, EN 00662014.

¹⁸⁹¹ E1/194.1 Prum Sou, T. 21 May 2013, 10.55.42-11.05.17 ["he spoke about ... the rice production of 3.5 tonnes per hectare to 7 [tonnes per] hectares, and that we all try to work hard to build dams and to raise canals, and to work on fertilizer"]; E3/420 Prum Sou WRI, A6, A10 ["Nuon Chea also talked about economy and living by instructing us to work harder to increase the harvest from three to seven tons per hectare"]. See also E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757499 [admission by Nuon Chea of trip to Preah Vihear during which he visited the cooperatives].

¹⁸⁹² E1/378.1 Prak Yut, T. 19 Jan 2016, 14.30.22-14.34.26 [Pol Pot and Nuon Chea "shared time in lecturing us," and Khieu Samphan "came in the capacity as presiding person of the study session"], 15.04.15-15.17.12.

¹⁸⁹³ E1/378.1 Prak Yut, T. 19 Jan 2016, 14.34.26-14.35.52 ["They simply focused on building dams and canals and the production of rice ... encouraging us to work harder to produce rice"], 15.14.20-15.17.12 ["we talked about our one-year plan at level of districts and communes, about dam building, the digging of canals, about the dry season rice farming ... specifically about the rice production, canal building. So we examined our plan that we implemented; how much we have achieved and how much we haven't achieved"].

hectare.”¹⁸⁹⁴ Other witnesses also confirm that **Nuon Chea** provided political education on CPK economic lines and agricultural production.¹⁸⁹⁵

c) *Khieu Samphan Speeches & Political Education*

463. **Khieu Samphan** gave major speeches and conducted political education throughout the regime in which he supported the Party’s onerous production plans and urged the people to work hard to meet or exceed those plans.
464. In April 1976, speaking at the PRA’s inaugural congress, **Khieu Samphan** instructed the representatives on the need to “accelerate our nation-building efforts by leaps and bounds,” to “advance in giant strides in all production fields” and “produce rice to the maximum.”¹⁸⁹⁶ In an April 1977 speech, **Khieu Samphan** urged workers to “struggle even harder” than the past year to “overfulfil the 1977 plan” at each “production battlefield, front, unit or base.”¹⁸⁹⁷ At the end of that speech, the representatives in attendance resolved to “strive to build dams, reservoirs, ditches and canals” and increase production “to the maximum, particularly rice production in order to fulfil and even overfulfil the 1977 plan.”¹⁸⁹⁸
465. Similarly, **Khieu Samphan** began and ended his April 1978 speech by urging the gathered cadres to “struggle and implement the Party’s 1978 tasks more actively and

¹⁸⁹⁴ **E1/467.1** Phan Him, T. 31 Aug 2016, 15.09.51-15.11.17 [“we were called for a meeting at Borei Keila and Ta Nuon Chea was the instructor on the topic of striving to work for the Party, and that we should respect the Party and the Party’s disciplines, that we should work hard to produce good products to achieve always three tonnes of rice yield per hectare”]; **E3/9318** Phan Him DC-Cam Statement, EN 00679670.

¹⁸⁹⁵ **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 11.03.02 [Pol Pot guard heard Nuon Chea discussing agricultural production over loudspeakers at Borei Keila study sessions]; **E1/82.1** Sao Sarun, T. 6 June 2012, 09.54.40-10.02.02, *affirming* **E3/367** Sao Sarun WRI, EN 00278694 [Nuon Chea presented “economic lines” at political training sessions he attended in Phnom Penh lasting “between 12 and 13 days,” at which Khieu Samphan and Pol Pot were also present]; **E1/475.1** Mom Vun 16 Sept 2016, 13.58.05-14.01.22 [1976 assembly at Phnom Kulen presided over by Nuon Chea, Khieu Samphan and Ieng Sary, at which Nuon Chea directed the people to “strive to produce more product in order to sustain the economic situation to gain surplus in order to assist the revolutionary army”], 14.11.20-14.15.27, 14.17.13; **E3/464** Tha Sot WRI, EN 00226109 [former driver of Nuon Chea attended a meeting of 200 participants chaired by the Accused at Borei Keila that discussed how to increase production].

¹⁸⁹⁶ **E3/275** FBIS, *First People’s Representative Assembly Convenes*, 13 Apr 1976, EN 00167641 [Khieu Samphan speech: “We must always maintain our revolutionary vigilance so as to advance in giant strides in all production fields and particularly in the field of agriculture in which we must produce rice to the maximum”].

¹⁸⁹⁷ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419513 [“the thrust to build our country in 1977 is more powerful than in 1976”], 00419517 [“We must ... implement and carry out our revolutionary organization’s 1977 plan 100% and even more. We must fulfil or overfulfil production plans both within the framework of the overall 1977 plan and within the framework of each production battlefield, front, unit or base ... so as to contribute along with our cooperative peasants to fulfilling and overfulfilling the 1977 rice planting plan”]. See also **E3/712** International Herald Tribune, *Cambodian Chief Vows More Toil, Discipline*, 16 Apr 1977 [article re Khieu Samphan speech].

¹⁸⁹⁸ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419518.

successfully by great leaps and bounds in all fields”¹⁸⁹⁹ and to continue building the country “in accordance with the 1978 annual plan of the Party.”¹⁹⁰⁰ The resolution made following that speech agreed to strive to attain “at all costs” the “1978 rice production plan” of 3.5 and 7 tons-per-hectare, yet at the same time to implement the “food rationing determined by the Party.”¹⁹⁰¹ It also resolved to strengthen and expand the “socialist collective system” and the “dictatorship of the proletariat” at all cooperatives, factories, and worksites,¹⁹⁰² and to “subordinate resolutely all personal and family interests to the collective interests of the nation, class, people and revolution.”¹⁹⁰³

466. The Accused gave the same message and instructions at political education meetings he conducted. As testified by witness Ek Hen, **Khieu Samphan** presided over a “large scale study session” at Borei Keila attended by 400 to 500 people.¹⁹⁰⁴ At this meeting, he discussed the “struggle” to complete work plans, including the “3 tonnes per hectare” quota for rice farmers, and instructed people to “strive harder in our work ... to fulfil the quota.”¹⁹⁰⁵ **Khieu Samphan** also conducted meetings of Commerce

¹⁸⁹⁹ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010558; **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280390 [“accomplish the tasks the Party has set for the year 1978 with more ardour ... by leaps and bounds”].

¹⁹⁰⁰ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280398 [“we have to relentlessly pursue the struggle to accomplish the tasks of the Party ... we must continue with impetuosity and dynamism to pursue the tasks of nation building in the countryside, factories ... to spur the development of the country in accordance with the 1978 annual plan of the Party”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563 [“we must struggle arduously to fulfil the Party’s tasks assigned to each unit, section and base”].

¹⁹⁰¹ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010564 [Resolutions adopted at meeting: “To strive for the fulfilment of the 1978 rice production plan by attaining the 3.5 ton-per-hectare and 7 ton-per-hectare targets at all costs ... fulfill and overfulfil the 1978 plan, the 1977-80 four-year plan, the 10-15-year plan to modernize agriculture and the 15-20-year industrialization plan ... To implement resolutely the food rationing (*robab sbieng ahar*) determined by the Party from the beginning to the end of the year”].

¹⁹⁰² **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010565 [“Increasingly to strengthen and expand the socialist collective system in all cooperatives, factories, places of work, ministries and departments in political, ideological and organizational terms; To strengthen and expand the dictatorship of the proletariat at all cooperatives, factories, places of work ... it is imperative to wage constant class struggle ... To emulate all kinds of sacrifices made by the poor people ... in fighting against nature to maximize production”].

¹⁹⁰³ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563. See also **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280392 [calling on people to “draw inspiration” from the army “by resolutely placing the interests of the nation, the class, the people and the revolution above personal and family interests and mobilizing all our efforts to accomplish all the tasks entrusted to each of us by the Party”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010559 [“resolutely uphold the collective interest of the nation, class, people and revolution above individual and family interests”].

¹⁹⁰⁴ **E1/217.1** Ek Hen, T. 3 July 2013, 11.14.35-11.18.47 [also describing how the workers in her unit rotated and “took turn[s] to attend the study sessions”].

¹⁹⁰⁵ **E1/217.1** Ek Hen, T. 3 July 2013, 11.18.47-11.21.13 [“It started with him explaining and instructing the workers to strive harder in our work in order to assist our country. Q: When you say ‘he,’ which man are you referring to? A: I refer to Uncle Khieu Samphan ... We sat down and listened to his instructions. He talked about struggle, about work ... the struggle meant for us to be patient and to strive to work to fulfil

cadres,¹⁹⁰⁶ at which they were instructed to “strive to work hard for the Party” and told that “those who were lazy to work” were enemies.¹⁹⁰⁷ The political education provided by **Khieu Samphan** to returning intellectuals at the K-17 site (discussed in detail below in the *Contribution to Persecution* section) was so intense that one woman “worked herself to her last drop of energy” until she was ill and “bedridden” for over a month.¹⁹⁰⁸

4. Statements Evidencing Knowledge and Support of CPK Policy

a) *Nuon Chea*

467. In addition to his January 1977 RAK speech (*discussed above*), **Nuon Chea** gave other speeches during the DK regime evidencing his knowledge and support of the CPK’s Great Leap Forward policy. In an April 1976 statement, he urged people to be “on the offensive on every battlefield of production in every sector, especially in agriculture, aiming to produce the maximum amount of rice ... to push the building of our country even faster in a great and miraculous leap.”¹⁹⁰⁹ In a January 1978 speech during the visit of a Chinese leader, **Nuon Chea** boasted of having “achieved 100% success in the plan to produce 3 tons per hectare and 6 tons per hectare,” and urged his fellow comrades to “keep up our revolutionary vigilance.”¹⁹¹⁰ And in a July 1978 speech, he asserted that problems in living conditions had been solved “by means of irrigation projects.”¹⁹¹¹

the quota. People at that time engage in rice farming and producing 3 tonnes per hectare. And for us, the factory workers, we had to strive to make a similar output in our work”]; E3/474 Ek Hen WRI, EN 00205049 [describing Borei Keila study meeting led by Khieu Samphan: “As for the content of the meeting, it seemed to be about striving to work, conservation, about food”]; E3/4635 Ek Hen DC-Cam Statement, EN 00662014 [“I knew Ta Khieu Samphan and Nuon Chea. I used to study with them ... They taught us to work hard, be punctual and not be lazy”].

¹⁹⁰⁶ E1/502.1 Beit Boeurn alias Bit Na, T. 28 Nov 2016, 10.52.03-10.54.50 [“Q: Did you ever see Khieu Samphan come to your ... workplace at the Tuol Tumpung area for meetings when you worked there? A: Yes, he came to attend meetings with us, who were the Party members, because he was in charge of supervising the Ministry of Commerce ... I cannot recall whether it took place once every two months or three months”]; 10.56.40-11.00.11 [other Commerce leaders present at meetings included “Ta Hong, Ta Rith, Comrade Tha”]; E3/10721 Bit Na WRI, A242.

¹⁹⁰⁷ E1/466.1 Chea Dieb, T. 30 Aug 2016, 15.06.55-15.09.18; E1/502.1 Beit Boeurn alias Bit Na, T. 28 Nov 2016, 10.54.50-10.56.40 [“Q: And what was discussed at those meetings? A: The discussions were about the work leadership, about discipline adherence and about morality. Q: Was there any discussion about enemy policy at those meetings? A: Yes, such topics were also discussed about the psychological enemy; I mean those who were lazy to work”].

¹⁹⁰⁸ E3/1713 Ong Thong Hoeung, *J’ai cru aux Khmers Rouges*, EN 00785760 [“her daughter was so enthused by the political training given by Khieu Samphan that she worked herself to her last drop of energy to become a model revolutionary. She had been ill for more than one month, bedridden”].

¹⁹⁰⁹ E3/165 Nuon Chea Statement, *Information Announcement of the 1st Conference of the People’s Representative Assembly of Kampuchea*, 14 Apr 1976, EN 00184076 [Nuon Chea statement announcing “instructions of [PRA] on policy direction”].

¹⁹¹⁰ E3/78 Nuon Chea Speech, 18 Jan 1978, EN 00290285.

¹⁹¹¹ E3/196 Nuon Chea Speech, 30 July 1978, EN 00762396 [“As for living conditions, we have basically solved our problems by means of irrigation projects”].

468. **Nuon Chea** defended the use of cooperatives in his interviews with Thet Sambath, arguing that “the cooperatives were very good to help all the people who were moved from the towns to the countryside,” and “if there was privacy and everyone did things by themselves, no one would have had anything to eat.”¹⁹¹² He also sought to justify the Party’s Great Leap Forward policy that forced people to “work long hours with little food and barely any time to rest,” admitting that he had agreed with Pol Pot on the necessity of that plan:

We agreed to go faster so our enemies could not attack us. Pol Pot said if we did not develop faster and try to make it work, we would die and Vietnam would swallow us up.¹⁹¹³

469. While denying for the first two years of those interviews that people in cooperatives had been classified into groups, **Nuon Chea** eventually admitted that the people were divided into Base People and New People, which he asserted was necessary to “make sure who they were.”¹⁹¹⁴ He acknowledged that “all the people were in the provinces to work in the cooperatives,” and that the CPK leaders had “organized cooperatives first and made them strong before we worked on the national government.”¹⁹¹⁵ And he conceded:

Our regime may have been destroyed because we walked too fast and the Great Leap Forward was very fast ... We probably walked faster than the people wanted. They wanted to eat with their families, not in the cooperatives.¹⁹¹⁶

470. Similarly, in a 2007 interview, **Nuon Chea** acknowledged that the CPK had tried to develop the country “too fast,” and that its “requirements for the people were too

¹⁹¹² E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757492.

¹⁹¹³ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757500-01 [“Nuon Chea had heard outsiders say the Khmer Rouge program was too extreme, but he did not see it that way at the time. ‘We wanted economic power, and then we would have political power against neighboring countries,’ he said ... ‘We didn’t want to make people do hard work but we had nothing at the beginning’”].

¹⁹¹⁴ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757493 [“Nuon Chea denied for the first two years of our interviews with him that the people were divided ... Later he acknowledged that the people were split into groups to ‘make sure who they were.’ ‘The base people are those who were in the struggle and the 17 April people are those who were liberated,’ Nuon Chea said ... ‘In the beginning we grouped them like that so it would be easy to recognise where they were from. We wanted to know who was working for us’”].

¹⁹¹⁵ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757493.

¹⁹¹⁶ E3/4202 Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757559 [noting that “even more than Pol Pot, the extremist policies of the Khmer Rouge, like eliminating money and banning markets, bear the fingerprints of Nuon Chea”].

high.”¹⁹¹⁷ And in his 2012 testimony in this Court, **Nuon Chea** admitted that the people who had lived in the cooperatives were not free to leave.¹⁹¹⁸

b) Khieu Samphan

471. From the time the CPK took power¹⁹¹⁹ until the end of the DK regime, **Khieu Samphan** endorsed the CPK’s Great Leap Forward plan, making statements that reflected his knowledge of the worksites across the country at which large-scale irrigation projects were being built by hand and his support of the Party plans directing the rapid construction of dams and ever-increasing levels of rice production.
472. Speaking at a mass rally in September 1975 celebrating the return of Norodom Sihanouk to Cambodia, **Khieu Samphan** endorsed the plan for a “revolution affecting water, field embankments, ditches, paddyfields” that would “rapidly” increase production and “greatly transform the entire countryside.”¹⁹²⁰ Around the same time, he declared that Cambodia had become “a big construction site,”¹⁹²¹ and told Sihanouk that “with one giant leap forward we can reach the goal of communism and not go through stages of socialism.”¹⁹²² In a December 1975 speech on the proposed DK constitution, **Khieu Samphan** endorsed the “collective ownership” regime that had been established throughout the country for “all main production facilities,”¹⁹²³ dismissed the importance of individual freedoms such as the right to “write newspaper articles and speak out,”¹⁹²⁴

¹⁹¹⁷ **E3/663** Nuon Chea Interview, Jan 2007, EN 00087608 [“Q: What lessons did you learn? A: One great lesson is that we wanted too much, too fast. We aimed too high. Our requirements for the people were too high. We thought we had to develop the country very quickly”].

¹⁹¹⁸ **E1/36.1** Nuon Chea, T. 31 Jan 2012, 10.02.38-10.05.37 [in response to question as to whether people “had the choice to leave the cooperatives and settle elsewhere,” Nuon Chea responded: “If they were to live in the cooperatives they could not go anywhere else”].

¹⁹¹⁹ **E3/118** Khieu Samphan Speech, 22 Apr 1975, EN 00166995 [praising people who “fought by building dikes, digging canals and water reservoirs, increasing production, growing rice in the dry and rainy seasons, working day and night with all their physical and moral strength without rest”]. See also **E3/30** FBIS, *Cambodians Urged to Unite in New Year’s Offensive*, 31 Dec 1974, EN 00166660-61 [Khieu Samphan statement praising the “offensive to build dams, dig canals and ponds to solve the water problem” and urging people to continue “the great offensive movement of production, harvest”].

¹⁹²⁰ **E3/271** FBIS, *Khieu Samphan Speech*, 12 Sept 1975, EN 00167454. See also **E3/119** FBIS, *Deputy Premier Khieu Samphan Grants Interview to AKI*, 13 Aug 1975, EN 00167386 [“We mobilized all of our forces – that is, the forces of all the people and the armed forces ... to increase production throughout the country”], 00167387 [“our people and revolutionary army have brandished the combat banner to restore the economy, build the country”].

¹⁹²¹ **E3/619** US State Department Telegram, “Khieu Samphan Visit to People’s Republic of China,” 16 Aug 1975, EN 00413733-34.

¹⁹²² **E3/2376** Nayan Chanda, *Brother Enemy*, EN 00192227, 00192229 [also describing Sihanouk’s account of how the CPK rejected “Zhou Enlai’s advice about slow steps to socialism,” with Son Sen and Khieu Samphan telling Sihanouk that Cambodia could “achieve total communism” in “one grand sweep”].

¹⁹²³ **E3/273** FBIS, *Khieu Samphan Report*, 14 Dec 1975, EN 00167813 [also describing a “collective system” in labor that “has been in effect for a long time,” including before 1975].

¹⁹²⁴ **E3/273** FBIS, *Khieu Samphan Report*, 14 Dec 1975, EN 00167814.

and supported the Great Leap Forward policy through which the collective forces at worksites were building dams and digging canals “at a pace never before attained in our country.”¹⁹²⁵

473. In April 1976, speaking on the first anniversary of the fall of Phnom Penh, **Khieu Samphan** stated that even though the regime had “accelerated the great movement to boost agricultural production,”¹⁹²⁶ advancing in “great leaps and bounds” at “incredible speed” and achieving in “just 1 year” as much as other countries “would in 10 years,” there was still “so much to do.”¹⁹²⁷
474. One year later, in his speech marking the 2nd anniversary of the CPK’s 17 April victory, **Khieu Samphan** spoke approvingly of the worksites across the country with tens of thousands of workers¹⁹²⁸ at which massive reservoirs, dams, and canals¹⁹²⁹ were built in extremely short periods of time¹⁹³⁰ by manual labour:

Have these achievements been made possible by machines? No, we have no machines. We do everything by mainly relying on the strength of our people ... Though barchanded, they can do everything.¹⁹³¹

He described how a dam in Kampong Speu had been built in a “single month,”¹⁹³² stated that all construction sites in the nation would fulfil the 1977 plan “by the end of May,”¹⁹³³ and boasted that the DK regime was able to build in months what “would

¹⁹²⁵ **E3/273** FBIS, *Khieu Samphan Report*, 14 Dec 1975, EN 00167817. See also EN 00167813 [“There are worksites everywhere where our people are making allout efforts to ... boost agricultural production”], EN 00167815 [“at every work site no one remains idle in the offices ... Everybody works in the fields because our workers practice the collective system of labor ... They are striving to dismantle the old field embankments and replace them with new high, tall and straight structures forming a great checkerboard network throughout the country”], 00167816 [“We are striving hard to build new embankments measuring thousands of kilometres in length”].

¹⁹²⁶ **E3/275** Khieu Samphan Speech, 15 Apr 1976, EN 00167634.

¹⁹²⁷ **E3/275** Khieu Samphan Speech, 15 Apr 1976, EN 00167635-36 [“from 17 April 1975 to the present, our advance was made with an equally incredible speed. In just 1 year we achieved in all aspects as much as one would in 10 years. Our advance is of course rapid, but we still have so much to do ... the task of striving by leaps and bounds to build our country as quickly as possible”].

¹⁹²⁸ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514 [“Each construction site of a reservoir, canal or dam is manned by as many as 10,000, 20,000 or even 30,000 workers. For this reason, the work progresses quickly”].

¹⁹²⁹ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514 [“we have built or are building large reservoirs of hundreds of millions of cubic metres”].

¹⁹³⁰ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514 [“at every construction site where dams are being built and reservoirs and ditches are dug, many corps have already finished their 1977 plans ... several canal-digging projects will be 100% completed by the end of April. Across the nation, all construction sites will fulfil the 1977 plan by the end of May”].

¹⁹³¹ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514.

¹⁹³² **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419516 [“Look at the Prek Thnot dam ... Last year, we spent only one single month to contain the Stung Prek Thnot stream”].

¹⁹³³ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514.

have taken years to finish” if “so-called agricultural experts” from Japan or France had built them.¹⁹³⁴ In a clear display of the CPK leaders’ willingness to abuse and exploit the captive workforces in the countryside for short-term gain, **Khieu Samphan** remarked that: “Whether the dams and reservoirs that we have built last only five or 10 years does not matter.”¹⁹³⁵

475. In the same April 1977 speech, **Khieu Samphan** justified the use of child labour to fulfil Party plans, asserting that children were happy “collecting natural fertilizer and helping to build dams and embankments and dig reservoirs and ditches.”¹⁹³⁶ Sot Sophal, who as a child in Democratic Kampuchea was forced to make fertilizer by mixing “cow dung and human urine,”¹⁹³⁷ refuted the Accused’s claim that children were “happy” performing work during the regime, testifying: “How could we be happy carrying dirt, carrying fertilizer? ... We could have been happy if we could go to school. But we were made to work very hard.”¹⁹³⁸ Responding to a question from a civil party in court, **Khieu Samphan** acknowledged that he was aware of the abolition of schools, and that children were expected to learn at work, “for example, in collecting fertilizer.”¹⁹³⁹
476. And in his April 1978 speech, **Khieu Samphan** again discussed the construction of dams and reservoirs and the production of “natural fertilizer,”¹⁹⁴⁰ endorsed the Great Leap Forward policy,¹⁹⁴¹ praised salt-producing units for having achieved their annual

¹⁹³⁴ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419516 [“Many reservoirs, canals and ditches that we have now completed would have taken years to finish if we had waited for the so-called agricultural experts of the previous era to build them for us”].

¹⁹³⁵ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419516. See also **E1/190.1** Philip Short, T. 7 May 2013, 15.39.20-15.42.21 [“it’s once again the idea that people are expendable ... that the goal of making Kampuchea strong and prosperous outweighs any considerations of the wellbeing of the population”], referring to **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396517 [“To Pol and his colleagues, the Cambodian people were no longer individual human beings ... They had become soulless instruments in the working out of a grand national design”].

¹⁹³⁶ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419516.

¹⁹³⁷ **E3/7755** Sot Phal WRI, EN 00293003 [“They ordered us to cut *eupatorium* to make fertilizers; some of us carried termite mound soil to mix with *eupatorium*, cow dung and human urine. We brought a plastic liquid container with us when we worked to urinate in it. When we returned, we poured the urine into the communal jar to mix with termite mound soil and carried it to put in the paddies”].

¹⁹³⁸ **E1/352.1** Sot Sophal, T. 30 Sept 2015, 10.35.43-10.38.56 [also stating: “I could have been literate if I were able to go to school. But at that [time], we only learned ... how to cut *eupatorium*, collect cattle dung, dig the soil, how to carry earth. That was what we learned as there was no school for us to study. We only saw children carrying cow dung on their heads, cutting *eupatorium* and building dams”]. See also **E1/451.1** Henri Locard, T. 29 July 2016, 13.49.43-13.55.15 [describing Khieu Samphan’s statement about children building dams as “completely monstrous” and an “abominable” effort to transform children into “beasts of burden”].

¹⁹³⁹ **E1/197.1** Khieu Samphan, T. 27 May 2013, 14.58.10-15.02.55.

¹⁹⁴⁰ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280393 [“We have constructed water reservoirs with a capacity of 100 to 200 million cubic metres in every zone ... We have also constructed a great number of small reservoirs and dams”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010560.

¹⁹⁴¹ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280393 [“our progress has, on the whole, doubled

production plan by the end of March,¹⁹⁴² and announced that because food production objectives had been met, the Party had “decided to increase our exports compared to last year.”¹⁹⁴³ He also repeated his endorsement of the CPK’s reliance on human manpower more than technology to achieve rapid development.¹⁹⁴⁴ **Khieu Samphan’s** speeches during the regime also show his knowledge and support of the imposition of food rations, which at one point he claimed were sufficient to “fatten up” the workers.¹⁹⁴⁵

477. In his statements after 1979, **Khieu Samphan** has admitted that coercion was used to force the people into cooperatives:

[T]here had to be coercion for a while, coercion to join cooperatives, because nobody would voluntarily take part in cooperatives ... Therefore, there had to be coercion first. It was this coercion that would impact some innocent peasants. However this had to be ... Our country was small, and it had to be done by coercing everyone into cooperatives.¹⁹⁴⁶

He admits that everybody had to work, “both the healthy people and the sick people.”¹⁹⁴⁷ He admits that people were pushed to work too hard, not allowed to be late “even by a day or two” and forced to “run faster,” even while facing “starvation,” in an

from April 1977 to April 1978 ... we have rapidly developed our agriculture”, 00280397 [“we have improved our economy within a short time span, rapidly build our country in every domain by leaps and bounds”].

¹⁹⁴² **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280394 [“Last year, the salt-producing unit produced salt that far exceeded the forecast production. This year, it has already attained the annual production forecast at the end of March”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010560.

¹⁹⁴³ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280393 [“This year, we have achieved the objective of our Party and Government in the domain of agriculture and rice-growing by nearly 100% ... we have attained our food crop production objective, built up enough seed stock reserves and we have now decided to increase our exports compared to last year”].

¹⁹⁴⁴ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010561 [“This is our strategic line which aims at organizing and building the country in all fields by depending upon the people’s strength ... we are not learning technology separately from practical national construction work”].

¹⁹⁴⁵ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419513 [“Now we can feed our people a sufficient ration allocated by the State”, 00419514-15 [“three, two and a half, or two small tin cans of rice is allocated daily ... they now eat dessert three times a month, which is sufficient to take care of their health and fatten them up”].

¹⁹⁴⁶ **E3/4049** Khieu Samphan Interview, EN 00789058 [transcript of video **E3/4049R**]. See also **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498303 [“some coercion was required for a while, coercion to work in a situation of lacking everything ... because time was very urgent”]; **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons behind the Decisions I Made*, EN 00103753, [“For sure, [cooperatives] had to be imposed on the population, because peasants in any country would never agree to give all the fruits of their labour to any organization”].

¹⁹⁴⁷ **E3/4050** Khieu Samphan Interview, EN 00789062 [transcript of video **E3/4050R**: “both the healthy people and the sick people had to work. Moderately sick people had to work too”]; **E3/587** Khieu Samphan Interview, Oct 2007, EN 00680029 [“Regarding the rice yield; we anticipated that we would achieve this within three or four years if we worked hard, regardless of being ill”].

effort to build quicker than Vietnam and to meet a rice production quota (three tons per hectare) that was three times what other countries had achieved.¹⁹⁴⁸ He concedes that the CPK policy to establish “large-scale cooperatives” and abolish “crop distribution” failed because “peasants could not accept the expropriations and loss of their harvests.”¹⁹⁴⁹

478. In a 2006 interview, **Khieu Samphan** admitted that the people in the cooperatives were “not free,” but sought to justify that as necessary to feed them.¹⁹⁵⁰ He defended the “radical policy” and lack of freedom during the DK regime as necessary to be independent of Vietnam.¹⁹⁵¹ He told the interviewer that Cambodians needed to learn from their history, and that the country’s “best agricultural policy” was during the Angkorian period when the King had “absolute” power and could force “anybody to do anything,” and “farmers were regarded as slaves.”¹⁹⁵²

¹⁹⁴⁸ **E3/587** Khieu Samphan Interview, 15 Oct 2007, EN 00680029 [“They (referring to China and Vietnam) got less than one ton of rice per hectare per year. Therefore, we had to work harder in order to achieve the minimum three tons of rice per hectare per year. I realised that we would not be able to reach this goal unless we fully irrigated the rice fields, and transplanted the rice seedlings three times a year ... before the war broke out they had to work harder and run faster, often reciting ‘run faster and faster.’ Liberation could not be successful if they were late even by a day or two ... Some were running with starvation, while some were running with less food. They lacked rice and medicines”]; **E3/4049** Khieu Samphan Interview, EN 00789058 [“if we ran fast, Vietnam could not catch up”]; **E3/4051** Khieu Samphan Interview, EN 00788872 [transcript of video **E3/4051R**: “the factor of Vietnam ... led Pol Pot into thinking only about being fast ... he thought that high-level cooperatives would lead to running very fast and winning against Vietnam”]; **E3/4039** Khieu Samphan Interview, EN 00789648; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498302 [“Pol Pot saw that the expansion of high-level cooperatives throughout the country had made ‘the revolution in Kampuchea 30 years faster than the revolutions in China, North Korea and Vietnam’”]. See also **E1/450.1** Henri Locard, T. 28 July 2016, 13.39.10-13.40.47 [“there was this race with Vietnam. As Khieu Samphan explained to me when I interviewed him, ‘We had to rush because we came last in the history and we did not want to be overrun, overtaken by Vietnam’”]; **E1/190.1** Philip Short, T. 7 May 2013, 14.35.32-14.38.48.

¹⁹⁴⁹ **E3/4603** Khieu Samphan Interview, 24 Jan 2004, EN 00716440 [describing the CPK policy as “total communism,” and explaining that the 17 April victory “further convinced Pol Pot that collectivisation was the only way to avoid enemy pressure”].

¹⁹⁵⁰ **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000928 [“They evacuated people to live in cooperative. In the cooperative people were not free but they had enough food to eat”].

¹⁹⁵¹ **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000929-30 [“Stop talking only about the killings which is only one side of the coin. If you want your country to gain independent and free you have to dedicate something for your nation. People may not so much freedom. Political leaders have to practice radical policy. If we did not do that we would depend on Vietnam to help us on everything”].

¹⁹⁵² **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000927 [“Cambodia was so powerful in the 13th century during the Angkorian period ... The question is why we were so strong. This is because we had the best agricultural policy. We had water for our cultivation. We had pond, river and irrigation to bring water for our plantations ... How could we do that? ... We gave all the power to the king. The king was an absolute body who controlled everything. Farmers were regarded as slaves. The king could force anybody to do anything including building the temple and fight in the battle”].

CONTRIBUTION TO PERSECUTION AND EXECUTION OF ENEMIES

1. Participation of Nuon Chea and Khieu Samphan in Party Centre Meetings

Establishing CPK Policy

479. As key members of the Party Centre leadership, **Nuon Chea** and **Khieu Samphan** helped to develop and implement the CPK policy pursuant to which persons considered to be opposed to the revolution or Party, whether because of their class, prior occupation, ethnicity, opinions, or association with other persons, were labelled enemies and arrested, imprisoned, and smashed.¹⁹⁵³
480. **Nuon Chea** admits working together with Pol Pot to draft the original Party lines,¹⁹⁵⁴ which authorised the use of violence against class enemies considered to have antagonistic or “life-and-death” contradictions with the Party.¹⁹⁵⁵ The enemies identified by the Party lines included “reactionaries,” whom **Nuon Chea** defined as “people who protest, who oppose,”¹⁹⁵⁶ and “feudalists,” who were defined to include both “landowner and aristocrat (namely commune chief, district governor, provincial

¹⁹⁵³ **E3/65** Kaing Guek Eav WRI, EN 00147524-25 [“Policy was, in general terms, the political line, the long-term main ideas of the Party ... A political line is disseminated throughout the country ... The Party political line regarding the enemy, let me use those words, was that they absolutely had to be smashed”]; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 15.24.26-15.26.27; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 14.48.51-14.50.40; **E3/35** Ke Pich Vannak WRI, EN 00346160 [describing Party policy since 1973 that “an opponent is considered as a traitor and must be smashed” and that “an individual who does not follow the Party line will be considered as an opponent of the Party”].

¹⁹⁵⁴ **E3/3** Nuon Chea Statement, EN 00184661-62; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.01.20-14.03.12; **E1/17.1** Nuon Chea, T. 6 Dec 2011, 09.44.21-10.01.56; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 11.56.19 [“Tou Samouth, Pol Pot and I were the ones who designed the Party’s political line at the beginning”]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498229-30; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757506-07.

¹⁹⁵⁵ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401491 [“[T]he Party must lead the people in the use of violence”]; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486229-30 [contradiction with “feudalist landowners” defined as an “antagonistic contradiction”], 00486231 [“solution” of “revolutionary violence”], 00486233 [“There were two enemies who had to be fought: the first was imperialism, particularly American imperialism. The second was the feudal class, the landowners, the reactionary compradors”], 00486236 [1st Party Congress resolved to use “revolutionary violence” to “strike the enemy”]; **E3/139** *Revolutionary Flag*, Nov 1976, EN 00455312 [“If they joined the revolution to embed themselves to attack the Party, that is an antagonistic contradiction and we take measures accordingly”]; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450507 [Party line that “[o]nly the use of revolutionary violence would enable us to defeat the enemy”], 00450529-30 [“Antagonistic life-and-death contradictions between the workers and peasants on one side and the capitalists and feudalists on the other side”]; **E3/138** CPK Circular *Sharpen the Ideology of the Proletarian Class*, EN 00743798-99, 00743812 [“The conflict must be solved according to its situation and type whether it is the internal conflict or the life and death one”].

¹⁹⁵⁶ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491412 [Nuon Chea speech discussing “strategic line of the Party that was set in 1960”: “It was imperative to attack and bring down the feudalists, capitalists, and reactionaries in Kampuchea ... We had to attack by using political violence and use armed violence”]; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 10.00.01-10.04.16.

governor, civil servant, police and soldier).¹⁹⁵⁷ These policies were conveyed to Party cadres through the monthly publication *Revolutionary Flag*, which **Nuon Chea** admits was written by him and Pol Pot and “examined by the Standing or Central Committee,”¹⁹⁵⁸ and at meetings led by Party Centre leaders.¹⁹⁵⁹ One issue of *Revolutionary Flag* identified the specific classes for which there were “life-and-death contradictions,” and warned cadres:

Some elements may reform, but many elements do not reform. When they die, they instruct their children to struggle on against the communists.¹⁹⁶⁰

481. **Khieu Samphan** agreed to the Party’s political lines when he joined the CPK,¹⁹⁶¹ and approved them in his role as a Central Committee member at Party Congresses.¹⁹⁶² On 30 March 1976, at which time both **Nuon Chea** and **Khieu Samphan** were full-rights members, the Central Committee assigned authority to various CPK committees to

¹⁹⁵⁷ **E3/138** CPK Circular *Sharpen the Ideology of the Proletarian Class*, EN 00743798-99; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529-30 [“there are class contradictions with the feudalist, landowner and privileged classes (subdistrict chiefs, district governors, provincial governors, government officials, police and soldiers ... There are also ... contradictions with capitalists and feudalists that are life-and-death contradictions”]; **E3/146** *Revolutionary Youth*, Aug-Sept 1974, EN 00538746; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865697; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 10.04.16-10.18.09 [stating that feudalists or aristocrats who were “nationalists” were not considered enemies].

¹⁹⁵⁸ **E1/23.1** Nuon Chea, T. 15 Dec 2011, 14.20.03-14.21.58 [“The ones who made the ‘Revolutionary Flag’ were the Standing Committee, especially the Secretary of the Party. And me, myself, were the one who wrote it”]; **E3/3** Nuon Chea Statement, May 1998, EN 00184663; **E1/220.1** Nuon Chea, T. 9 July 2013, 09.57.42-09.59.14 [asserting that *Revolutionary Flag* was written by Pol Pot and “examined by the Standing or Central Committee”].

¹⁹⁵⁹ **E1/98.1** Phy Phoun, T. 30 July 2012, 10.21.20-10.27.21 [discussing excerpt in MFA notebook **E3/522**, which witness identifies as Ieng Sary instruction that where there were “antagonistic” or “adversarial” contradiction,” such persons should be “hand[ed] over to the security sector to deal with,” because “keeping them alive means killing the revolution”]; **E3/522** Notes of 18 January 1977 Ministry of Foreign Affairs Cell Congress, EN 00003331; **E3/807** Minutes of Meeting of Secretaries and Deputy Secretaries of Divisions and Independent Regiments, 1 Mar 1977, EN 00933843-44 [“It is imperative to grasp the antagonistic contradictions to the utmost degree. In the past, we have eliminated a lot of important traitorous links, but it is imperative to continue with further revolutionary vigilance because remnants still remain, and new traitors will continue to be born”].

¹⁹⁶⁰ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450529.

¹⁹⁶¹ **E3/130** CPK Statute, Article 1.1 [1st requirement for membership in CPK includes “following the Party political line, following the ideological stances of the Party”], Article 2.2.C [duty of Party members to “implement the Party politics, ideology and organization”]; **E3/4201R** Video *Facing Genocide: Khieu Samphan and Pol Pot*, 16:45-17:43 [Khieu Samphan admission that in 1970 he accepted “the use of violence to change society”]. See also **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498231-32.

¹⁹⁶² **E3/130** CPK Statute, Article 21.2 [responsibility of Party Congress to “Designate the political line”]; **E1/25.1** Nuon Chea, T. 11 Jan 2012, 11.41.53-11.45.42; **E1/14.1** Nuon Chea, T. 22 Nov 2011, 14.08.25; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2013, 09.27.24-09.29.53 [1971 Party Statute had only “very minimal” changes]; **E169/4/1.1.2** *Revolutionary Flag*, Dec 1975-Jan 1976, EN 00865704 [3rd Congress “unanimously agreed” that “strategic line” from Party’s 1st and 2nd Congresses were “correctly decided”].

“smash” enemies “inside and outside the ranks.”¹⁹⁶³ Earlier in 1976, after having already engaged in mass killings of ranking members of the Lon Nol military and government,¹⁹⁶⁴ the CPK leaders approved the division of the survivors into three categories. The bottom category were New People who were suspected and persecuted simply because they had lived in areas controlled by the Lon Nol regime.¹⁹⁶⁵ In June 1978, the Central Committee issued a circular revising the Party policy on CIA, KGB, and “Yvon” spies.¹⁹⁶⁶

482. The 30 March 1976 Central Committee decision also reaffirmed the “regime of weekly reporting to Office 870,”¹⁹⁶⁷ a long-standing requirement from the CPK Statute.¹⁹⁶⁸ During the DK period, Office 870 received reports and telegrams from the base discussing the arrests and smashing of internal and external enemies,¹⁹⁶⁹ including persons who opposed or criticised the CPK,¹⁹⁷⁰ soldiers or officials of the former

¹⁹⁶³ **E3/12** Decision of the Central Committee Regarding a Number of Matters, 30 Mar 1976, EN 00182809 [“If in the base framework, to be decided by the Zone Standing Committee. Surrounding the Center Office, to be decided by the Central Office Committee. Independent Sectors, to be decided by the Standing Committee. The Center Military, to be decided by the General Staff”].

¹⁹⁶⁴ See discussion of evidence in **Common Criminal Plan – Policy to Persecute and Kill Enemies – Former Khmer Republic Soldiers and Officials**.

¹⁹⁶⁵ **E3/94** Ieng Sary Interview, 22 July 1981, EN 00342504 [“in a meeting of leadership in 1976, this division was accepted by the leadership. Collectively it was decided. Two or three opposed it, but we didn’t want a split. As chairman, Pol Pot summed it up collectively. At that time we divided it up: (1) people of the base; (2) poor people from the cities; (3) people who supported Lon Nol”].

¹⁹⁶⁶ **E3/763 (E3/764)** CPK Circular, “Guidance of the Central Committee of the Communist Party of Kampuchea on the Party’s Policy towards Mised Persons Who Have Joined the CIA, Served as Yu-on Agents or Joined the KGB and Opposed the Party, Revolution, People and Democratic Kampuchea,” 20 June 1978, EN 00275218 [“Regarding those who have joined the CIA, Yvon or KGB after the liberation, the Party will divide them into two categories ... First category: any person who is recalcitrant, who still continues to carry out his/her activity against the CPK ... This sort of people has made the clear marks of their own boundaries, thus the CPK must eliminate them”]; **E3/429** Kaing Guek Eav WRI, EN 00403923 [stating that it was Nuon Chea who sent this circular to him]; **E1/84.1** Sao Sarun, T. 11 June 2012, 09.48.02-09.52.48, 09.57.19-10.05.54, 10.22.31-10.31.22, *confirming* **E3/367** Sao Sarun WRI, EN 00278694, 00278697 and **E3/404** Sao Sarun WRI, EN 00403024-26 [witness attended September 1978 Congress in Phnom Penh, at which Pol Pot and Nuon Chea gave presentations and Khieu Samphan was on the stage with other members of the Central Committee, and during which Pol Pot declared that “Angkar had eliminated all enemies,” stated that further arrests required the authorisation of the Central Committee, and read and “distributed” **E3/764**].

¹⁹⁶⁷ **E3/12** Decision of the Central Committee Regarding a Number of Matters, 30 Mar 1976, EN 00182809.

¹⁹⁶⁸ **E3/130** CPK Statute, Article 6.5 [“Organizational principle” that “lower echelon must report to upper echelon”], Article 19.4 [duty of Zone Committees to maintain “system of reporting to the Central Committee on the situation and the work of the Zone”]. See also **E3/783** *Revolutionary Flag*, Sept-Oct 1972, EN 00720226, 00720229 [requiring “clear and regular reports” on “the enemy, people, all working activities”], 00720230 [“Clear and regular reports to the upper levels help them grasp and master the situations resulting in direct and timely advice”].

¹⁹⁶⁹ See e.g. **E3/1092** Report from M-401 (West Zone) to Angkar, 16 July 1978, EN 00289921-23 [committing to continue efforts to “uncover enemy burrowing from within, so that we can absolutely sweep them away by way of strictly following the party’s organizational line”]; **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368 [“Party’s assignment line to routinely remove, screen, and sweep clean” enemies].

¹⁹⁷⁰ See e.g. **E3/1077** Telegram from Se to Committee 870, 10 Apr 1978, EN 00340540 [“We are continuing

regime,¹⁹⁷¹ Vietnamese,¹⁹⁷² Cham¹⁹⁷³ and persons implicated by others as traitors.¹⁹⁷⁴ These reports establish beyond any doubt that the persecution, imprisonment, and execution of perceived enemies that was regularly reported to the Centre by all regions and organisations was the implementation of policy ordered by the Centre leaders in Phnom Penh.

483. Both **Nuon Chea** and **Khieu Samphan** participated in Standing Committee meetings at which zone and sector leaders came to K-1 to report to the Centre on the enemy situation in their regions.¹⁹⁷⁵ Sao Sarun, the sole surviving Zone or Autonomous Sector

to purge the remaining group continuously, including those who oppose our revolution openly and secretly"; **E3/1093** Report to Angkar from M-401 (West Zone), 23 July 1978, EN 00295172 ["In spite of the fact that enemies were able to perform some (opposition) activities in sectors, districts and cooperatives, we ... acted upon them and arrested enemies day by day"]; **E3/1094** Report to Angkar from M-401, 4 Aug 1978, EN 00315375 ["elements included those who were lazy, opposing Angkar, cursing at people ... and refused to work"]; **E3/1179** Report from M-560 (NW Zone) to Angkar, 8 June 1977, EN 00583917-18 ["enemies opposed to paddy dyke and dam construction by asserting that the construction was just a waste and that farming rice paddy was not for consumption"].

¹⁹⁷¹ See e.g. **E3/179** Report from M-560 (Northwest Zone) to Angkar, 29 May 1977, EN 00183011-12 [reporting "enemy activities" in Sector 3 that led to the arrest of 42 people: "these acts actually arose from among old veteran soldiers and those with the ranks of 2nd lieutenant, 1st lieutenant, captain and major who hide themselves in collectives, and whom we have never found [before] ... We have already taken steps and arrested all of them"]; **E3/952** Telegram from Ke Pauk to Brother Pol, 2 Apr 1976, EN 00182658; **E3/1144** Telegram from Sè (North Zone Secretary) to Committee 870, 5 Sept 1977 EN 00517923 ["enemies who were former officials, policemen or soldiers of the previous regime were discovered one after another"]; **E3/996** Telegram from Sè to Committee 870, 19 Mar 1978 ["These enemies contacted with the [former] policemen, soldiers and government officials. They mingled themselves as the 'New people.' After they acted against us, we knew them clearly and we systematically purged them"]; **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368 [reporting "elements of the 17 April including former civil servants," for whom the Zone planned to apply "the Party's assignment line to routinely remove, screen and sweep clean"], 00315374 ["Smashed 60 persons who had been from the ranking group"].

¹⁹⁷² See e.g. **E3/1094** Report to Angkar from M-401, 4 Aug 1978, EN 00315374 ["Smashed 100 ethnic Yuons includ[ing] small and big, adults and children"]; **E3/248** Telegram from Sarun (Sector 105 Secretary) to Office 870, 1 Jan 1978 ["We would like to report nine Yuon people fleeing from their country ... we have swept them away"]; **E3/240** Telegram 07 from Vi, 15 June 1977 [capture of 209 Vietnamese/Jarai].

¹⁹⁷³ See e.g. **E3/952** Telegram from Ke Pauk to Brother Pol, 2 Apr 1976, EN 00182658 ["The enemies are former soldiers in combination with the Cham"]; **E3/178** Weekly Report of Sector 5 Committee, 21 May 1977, EN 00342709 ["The 17 April elements from Phnom Penh who were Cham nationals conducted a protest in the common kitchen of the cooperative concerning their belief in what they eat ... we have taken special measures, that is, look for their string, look for the head of their movement in order to sweep clean"].

¹⁹⁷⁴ See e.g. **E3/1060** Report from Division 801 Secretary Roeun, 29 Mar 1977, EN 00574315 [para. 5 of report forwarded to Angkar: "targets included ... those newly and previously implicated by the enemy"]; **E3/1144** Telegram from Sè to Committee 870, 5 Sept 1977, EN 00517923 [section I: "At the bases, offices, ministries and military offices, we have uncovered many enemies who are burrowing from within either through the spying of their anti-revolution activities or through the implication"]; **E3/240** Telegram from Vy to Respected Brother, 15 June 1977, EN 00897668 ["take secret measure to take out ... [n]etworks implicated by the contemptible Lou"]; **E3/1077** Telegram from Se to Committee 870, 10 Apr 1978, EN 00340540 ["This female comrade was implicated by many enemies"]; **E3/1094** Report to Angkar from M-401, 4 Aug 1978, EN 00315375 ["elements included those ... being implicated in many confessions of the enemy"].

¹⁹⁷⁵ **E1/86.1** Oeun Tan, T. 13 June 2012, 11.14.15-11.18.25, 11.22.30-11.23.32 ["There were people from

Secretary, admitted being regularly called to Phnom Penh for meetings in which he reported to and received instructions from Pol Pot, **Nuon Chea**, **Khieu Samphan**, and Son Sen.¹⁹⁷⁶ The instructions Sarun conveyed to Sector 105 cadres when he returned from his meetings in Phnom Penh included orders to “track-down the imbedded enemies (who contacted the Vietnamese) and the enemy traitors.”¹⁹⁷⁷

484. An example of the level of detail in which the base reported to the Centre and sought instructions on enemies is the 8 March 1976 Standing Committee meeting. The minutes record that North Zone Deputy Secretary Sreng, Sector 106 Secretary Sot, and Sector 103 Secretary Hang came to Phnom Penh to report to the Centre, and met with Pol Pot, **Nuon Chea**, **Khieu Samphan**, and Docun.¹⁹⁷⁸ Sreng reported to the Centre leaders on the activities of two groups of purported enemies in his Zone, and “asked for instructions from Angkar.”¹⁹⁷⁹ He was instructed to bring the individuals in for “further questioning” and to report their responses to the “upper echelon.”¹⁹⁸⁰ In regards to the “enemy situation” in Sector 106, Secretary Sot reported on the capture of Thai “spies” and the investigation of a 24 February 1976 explosion in Siem Reap.¹⁹⁸¹ Sector 103 Secretary Hang reported on the capture of “Thai nationals” at the Preah Vihear border, and also reported that “almost 100” people trying to flee from the North Zone (303) or Kampong Chhnang had been “arrested” since January.¹⁹⁸² This meeting is further

sectors and zones at the place of Pol Pot and there were Khieu Samphan, Ieng Sary and Nuon Chea in the meetings”], 11.27.29-11.29.57, 11.42.57-11.45.28; **E1/156.1** Sa Vi, T. 8 Jan 2013, 10.13.11-10.17.32, 15.09.45-15.13.52; **E3/4044** Khieu Samphan Interview, EN 00789478-79 [transcript of video **E3/4044R**] [“as for zone chairpersons, I saw that they had nothing to fear because they came to the meetings working and laughing together ... The alleged fact that it was too fearful to report reality, I don’t believe this”].

¹⁹⁷⁶ **E1/83.1** Sao Sarun, T. 7 June 2012, 11.45.40-11.53.08, 11.54.08; **E1/84.1** Sao Sarun, T. 11 June 2012, 09.13.55-09.19.10; **E3/367** Sao Sarun WRI, EN 00278695-96.

¹⁹⁷⁷ **E3/366** Ham Ansi WRI, EN 00250751. See also **E3/506** Sao Champi WRI, EN 00244492 [policies discussed when Sector leaders returned from Phnom Penh: “they also addressed the principles for fighting and resisting Vietnamese enemy and joining an effort to prevent people from taking side with Vietnam”].

¹⁹⁷⁸ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976.

¹⁹⁷⁹ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182630 [section II.1: [“The situation in 303: Comrade Sreng reported to Angkar on the activities of: A-Loeun’s group and their associates, 34 persons, whom the Zone military have all already arrested. The group of A-Uk Moeun alias Uk Hong which attempted to flee to Southern Vietnam and 4 or 5 of their associates, and asked for instructions from Angkar”].

¹⁹⁸⁰ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182631 [section III.1: “Opinions and instructions of Angkar”].

¹⁹⁸¹ **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182630-31 [section II.2.B: “Along the border, the Thais send spies ... The ones we have captured all pure Thai, and they refused to speak. In the sectors, there are some bandits in groups of ten spying on our comrades offices. No clear roots of the events in Siem Reap on 24 February have been discovered”].

¹⁹⁸² **E3/232** Minutes of Standing Committee Meeting on Base Work, 8 Mar 1976, EN 00182631 [section II.3: “As for the entire sector, there is no enemy activity, just groups fleeing in from different locations, like

confirmation that **Khieu Samphan** brazenly lied to the CIJs when he testified that he never learned of a single arrest during the DK regime.¹⁹⁸³ Even more importantly, the evidence demonstrates the absolute authority of the Party Centre leaders in relation to arrests of enemies in the Zones and Autonomous Sectors.¹⁹⁸⁴

2. Implementation of Policy at Organisations Overseen by Accused

a) *Nuon Chea Responsibility for S-21*

485. The S-21 security office reported to and took instructions from members of the CPK Standing Committee.¹⁹⁸⁵ Duch has consistently testified that prior to 15 August 1977, S-21 was directly supervised by Son Sen, who in turn reported to **Nuon Chea** and the rest of the Standing Committee.¹⁹⁸⁶ During this period, **Nuon Chea** conveyed orders to Duch through Son Sen,¹⁹⁸⁷ including instructions on interrogations and the use of

¹⁹⁸³ fleeing from 303, or from Kampong Chhnang. Since January almost 100 have been arrested"].
^{E3/210} Khieu Samphan WRI, EN 00156948-49 ["Q: Do you still maintain that you did not learn of any arrest before 1979? A: Not any"].

¹⁹⁸⁴ See also ^{E3/218} Minutes of Standing Committee Meeting on "Results of Negotiations with Vietnam regarding Eastern Border," 26 Mar 1976, EN 00182657 [meeting presided over by Nuon Chea and attended by Khieu Samphan - section titled "Opinions and Instructions from Comrade Deputy Secretary" discusses "group of 5 or 6 Vietnamese" living in the forest, stating: "We have ordered them arrested already"].

¹⁹⁸⁵ ^{E1/435.1} Kaing Guek Eav, T. 9 June 2016, 15.56.44-15.58.32; ^{E3/5796} Kaing Guek Eav, T. 30 Apr 2009, 16.07.25-16.19.35; ^{E1/56.1} Kaing Guek Eav, T. 29 Mar 2012, 11.33.37-11.39.02; ^{E1/58.1} Kaing Guek Eav, T. 3 Apr 2012, 09.33.00; ^{E3/453} Kaing Guek Eav WRI, EN 00147583 ["S21 was managed by the Standing Committee of the Party Center"]; ^{E3/450} Kaing Guek Eav WRI, EN 00178060; ^{E3/15} Kaing Guek Eav WRI, EN 00251380; ^{E3/5763} Kaing Guek Eav WRI, EN 00164366 [Duch "report[ed] on Special Branch documents to the Centre Standing Committee," and "at the Centre Standing Committee, for its part, only Son Sen and bigger above him Nuon Chea were routinely tasked with the duty of supervising S21"]; ^{E1/95.1} David Chandler, T. 24 July 2012, 11.31.45-11.32.45; ^{E3/1684} David Chandler, *Voices from S-21*, EN 00192693-94.

¹⁹⁸⁶ ^{E1/433.1} Kaing Guek Eav, T. 7 June 2016, 11.24.03-11.29.44; ^{E1/55.1} Kaing Guek Eav, T. 28 Mar 2012, 11.21.52-11.24.10 ["The general staff was under the supervision of the Central Committee, so the report had to be filed or made to the Secretary of the Party and deputy secretary of the Party, who were Pol Pot and Nuon Chea"]; ^{E1/57.1} Kaing Guek Eav, T. 2 Apr 2012, 14.05.39-14.07.14 [Son Sen delivered letters to Duch that he described as from "Angkar"]; ^{E3/453} Kaing Guek Eav WRI, EN 00147584 ["Q: When Son Sen was in charge, did Son Sen do the same as what Nuon Chea did? A: I would like to remind you that Son Sen was the 7th person, but Nuon Chea was the 2nd person. Everything had to pass through Nuon Chea even if it was in scope of the military"]; ^{E3/1579} Kaing Guek Eav WRI, EN 00398206 [Nuon Chea was the "superior of my superior"]; ^{E1/427.1} Him Huy, T. 4 May 2016, 13.40.05-13.43.38 [Duch referenced Office 870 "in every training session," and "identified Brothers Number One and Two as Pol Pot and Nuon Chea respectively"]; ^{E3/426} Lonh Dos WRI, EN 00346072 [statement of chief of General Staff radio and telephone unit that Son Sen reported to the Party Centre, who approved decisions "to arrest the implicated cadre"]; ^{E3/70} Lonh Dos WRI, EN 00407788, 00407791 [Son Sen went to K-1 every day, and all matters reported to Son Sen and the General Office were reported to Angkar]; ^{E1/189.1} Philip Short, T. 6 May 2013, 13.42.27 [Son Sen was "not a full member, but an alternate member of the Standing Committee"].

¹⁹⁸⁷ ^{E1/62.1} Kaing Guek Eav, T. 10 Apr 2012, 15.45.16-15.47.49 ["Since I went to see Son Sen when I was under his control, he said what was told to be done by Brother Nuon. I did not just make it up. It showed that above Son Sen was Brother Nuon and then Brother Pol"]; ^{E3/454} Kaing Guek Eav WRI, EN 00147602 ["Nuon Chea was charged with implementing these lines. Initially in relation to S-21 it was via Son Sen, but later on it was direct"]; ^{E3/455} Kaing Guek Eav WRI, EN 00149910 ["Three days after this

torture.¹⁹⁸⁸ Duch states that on 15 August 1977, he was called to a meeting with **Nuon Chea** and informed that Son Sen had been assigned to the battlefield to lead troops in the escalating conflict with Vietnam, following which he reported directly to **Nuon Chea**,¹⁹⁸⁹ meeting with him every three to five days to report on S-21 and receive orders.¹⁹⁹⁰

486. **Nuon Chea** admitted his responsibility for S-21 to Thet Sambath:

For the first half of the Khmer Rouge rule, Nuon Chea didn't have direct control over S-21, but as one of the top leaders of the movement he was involved in decisions to purge top cadre. And when Khmer Rouge defense minister Son Sen was dispatched to take care of border conflicts with Vietnam and growing tension with the Eastern Zone in the fall of 1977, Nuon Chea became the de facto head of the interrogation center, according to Brother Number Two and testimony from Duch in the spring of 2009.¹⁹⁹¹

Fellow Standing Committee member Ieng Sary also confirmed that "when Son Sen went to the East," Duch "went directly up to Nuon Chea."¹⁹⁹²

487. *Corroboration of Son Sen's Assignment to Eastern Front:* Numerous witnesses and sources confirm that Son Sen was assigned to the Eastern front in the fall of 1977. The head of the General Staff Communications unit stated that Son Sen was assigned "to station at the front line when the Vietnamese attacked in Svay Rieng" in 1977. That witness was subsequently assigned to join Son Sen at his "Svay Rieng office in late

person was smashed, the body was exhumed and photographed pursuant to orders of Nuon Chea to Son Sen, and Son Sen in turn gave the orders to me"; **E3/453** Kaing Guek Eav WRI, EN 00147584 [describing Son Sen discussion of arrest decision made by Nuon Chea]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417627 ["Originally when Nuon Chea went through Son Sen"].

¹⁹⁸⁸ **E1/433.1** Kaing Guek Eav, 7 June 2016, 11.29.44 [describing how Son Sen conveyed to Duch an order from Nuon Chea to interrogate certain prisoners: "Son Sen said, 'Keep them for now' and later on, he told me that Bong Nuon or Brother Nuon instructed me to interrogate them"]; **E1/437.1** Kaing Guek Eav, 14 June 2016, 13.39.11-13.42.21; **E3/65** Kaing Guek Eav WRI, EN 00147522; **E3/60** Kaing Guek Eav WRI, EN 00195601 [interrogation and torture of S-21 detainee Mil Kavin alias Kdat ordered by Nuon Chea through Son Sen].

¹⁹⁸⁹ **E1/433.1** Kaing Guek Eav, 7 June 2016, 11.32.31, 13.51.08-13.56.39; **E1/59.1** Kaing Guek Eav, T. 4 Apr 2012, 15.17.07-15.19.58; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 11.41.56-11.43.42; **E1/60.1** Kaing Guek Eav, T. 5 Apr 2012, 10.15.49; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 15.45.16-15.47.49; **E3/60** Kaing Guek Eav WRI, EN 00195600; **E3/5763** Kaing Guek Eav WRI, EN 00164361.

¹⁹⁹⁰ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 14.28.19-14.34.51 ["I would go to see and work with Nuon Chea at Suramarit Buddhist School once every three or four days"]; **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 15.56.44-15.58.32; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2012, 15.16.43-15.18.21, 15.48.36-15.51.28; **E1/52.1** Kaing Guek Eav, T. 21 Mar 2012, 10.12.11-10.14.42; **E3/65** Kaing Guek Eav WRI, EN 00147520, 00147522; **E3/452** Kaing Guek Eav WRI, EN 00147569; **E3/5748** Kaing Guek Eav WRI, EN 00153570-71, 00153576; **E3/83** Kaing Guek Eav WRI, EN 00398164.

¹⁹⁹¹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521.

¹⁹⁹² **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417627. See also **E3/39** Ieng Thirith Statement, 24 Feb 2009, EN 00293075 ["Kaing Guek Eav received orders from Nuon Chea"].

1977.”¹⁹⁹³ A Division 164 soldier assigned to the Eastern battlefield in the “early second half of 1977” confirms that Son Sen was commanding troops there at that time, ordering incursions into Vietnamese territory.¹⁹⁹⁴ Other former RAK commanders sent to the East Zone also confirm Son Sen’s presence in that region during 1978.¹⁹⁹⁵ A number of surviving documents show Son Sen reporting by telegram from the Eastern front to the leaders in Phnom Penh at various dates in 1978.¹⁹⁹⁶

488. *Corroboration of Duch Reporting to Nuon Chea*: In addition to **Nuon Chea’s** admission to Thet Sambath and Ieng Sary’s statement, Duch’s testimony that he reported to the Accused is corroborated by multiple other sources, including an S-21 confession bearing a note from Duch to interrogator Pon stating that “Brother Number II” had advised on 25 February 1978 to remove certain names from that confession.¹⁹⁹⁷ S-21 cadres heard Duch discuss his reporting to “Brother Number Two.”¹⁹⁹⁸ Saut

¹⁹⁹³ **E3/426** Lonh Dos WRI, EN 00364071 [“Later on in 1977, the Central Committee assigned Son Sen to station at the front line when the Vietnamese attacked in Svay Rieng. Later on, Son Sen took me to work at the Communication Radio and Logistics in Svay Rieng office in late 1977”].

¹⁹⁹⁴ **E498.1** Ou Dav, T. 10 Nov 2016, 15.18.02-15.19.51, 15.40.15-15.44.32 [witness was part of a group of 1,000 soldiers who were sent to Borei Keila and then on to the Eastern battlefield in the “early second half of 1977,” where he saw Son Sen arrive on “Chinese-made vehicles”]; **E499.1** Ou Dav, T. 11 Nov 2016, 09.12.14-09.17.52 [Son Sen “arranged us into different groups and units,” and after Vietnamese troops retreated into Tay Ninh province, “some of us were reassigned by Son Sen to enter Vietnamese territory”], 10.06.46 [“by mid-1977, I was transferred to fight against the Vietnamese in the East Zone for 16 months”].

¹⁹⁹⁵ **E1/492.1** Ieng Phan, T. 31 Oct 2016, 11.35.34 [meeting with Son Sen in Svay Rieng in mid-1978]; **E3/419** Ieng Phan WRI, A8; **E1/489.1** Chuon Thi, T. 25 Oct 2016, 14.31.05; **E1/183.1** Chuon Thi, T. 24 Apr 2013, 10.07.37-10.10.30 [“Q: When at the East Zone, did you ever see Minister of the Defence, Mr. Son Sen ...? A: I met him. I met Mr. Son Sen on some occasions when we discussed plans to deal with the Vietnamese”]; **E3/4593** Chuon Thi WRI, A17; **E3/428** Sokh Chhien WRI, EN 00374948-49; **E1/353.1** Ban Seak, T. 5 Oct 2015, 13.54.29-13.56.07 [Son Sen in charge of East Zone in 1978], 14.00.15, 14.25.20; **E3/375** Ban Seak WRI, EN 00360756-57 [meetings led by Son Sen at Suong in mid-1978]. See also **E3/426** Lonh Dos WRI, EN 00364071 [“In 1978 when Son Sen was transferred from Svay Rieng to station at Suong Office”].

¹⁹⁹⁶ **E3/181** Telegram 11 from 47 (Son Sen), 14 Feb 1978; **E3/868** Telegram 16 (Band 318) from 47 (Son Sen) to Brother 09, 20 Mar 1978; **E3/867** Telegram 16 (Band 598) from 47 (Son Sen) to Brother 09, 20 Mar 1978; **E3/1075** Telegram 18 from 47 (Son Sen), 8 Apr 1978; **E3/1117** Telegram 19 from 47 (Son Sen), 8 Apr 1978; **E3/859** Report from 47 (Son Sen) to Grand Uncle, 15 Apr 1978; **E3/1011** Report from 47 (Son Sen), 22 Apr 1978; **E3/812 (E3/946)** Telegram 20 from 47 (Son Sen), 26 Apr 1978. See **E3/64** Norng Sophang WRI [statement of cadre who worked at Centre telegram office regarding telegram **E3/812**: “this telegram was a confidential telegram of the Commander in Chief Son Sen. This is based on this code number 47 which represented Son Sen. ... at that time he was in charge of the armed forces, leading the East Zone military at the Cambodia-Vietnam border during the border conflict”].

¹⁹⁹⁷ **E3/1688** S-21 Confession of Chap Mit, EN 00284069 [annotation recording instruction received by Duch from “Brother Number II” on 25 Feb 1978]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 10.36.06-10.47.34; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 10.26.28-10.29.16, 10.55.21-11.00.02.

¹⁹⁹⁸ **E1/423.1** Prak Khan, T. 27 Apr 2016, 10.56.52-11.00.06 [“He never told us the specific names of his superiors. He simply referred to those superiors as Brother Number One, Brother Number Two ... Talking about Brother Number One and Two, he talked about the reports that he sent to the two brothers, whether the two brothers accepted it or rejected it”]; **E3/79** Prak Khan WRI, EN 00161562; **E3/7468** Lach Mean, T. 4 Aug 2009, 15.40.22-15.41.40 [“I heard that Duch say sending to Brother Number One or Brother Number Two”]; **E3/68** Nhem En WRI, EN 00401826-27 [“I heard Ta Duch say to send things

Toeung, one of the personal messengers of **Nuon Chea** identified by Duch,¹⁹⁹⁹ testified at the 002/01 trial that he picked up “thick” envelopes of documents at Duch’s house and delivered those documents to **Nuon Chea**, and also was given letters by the Accused to deliver to Duch.²⁰⁰⁰

489. *Date on which Duch Began Reporting to Nuon Chea:* Duch’s testimony that Son Sen first left for the Eastern front in mid-August 1977 is corroborated by Ou Dav’s testimony, who places Son Sen at the Eastern front as of August or September 1977.²⁰⁰¹ DK forces had been engaged in incursions into Vietnamese territory from March to September of that year.²⁰⁰² In response, Vietnamese forces attacked into DK territory in September 1977.²⁰⁰³ Son Sen was not present when the Burmese Foreign Minister

to Brother Number One or Brother Number Two”].

¹⁹⁹⁹ **E1/440.1** Kaing Guek Eav, T. 20 June 2016, 09.31.13-09.36.24; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2012, 11.08.48-11.10.43 [“after 1977, Comrade Toeung, Brother Number Two’s messenger, came to take the documents”]; **E3/65** Kaing Guek Eav WRI, EN 00147521; **E3/5763** Kaing Guek Eav WRI, EN 00164361; **E3/60** Kaing Guek Eav WRI, EN 00195603; **E3/357** Kaing Guek Eav WRI, EN 00242932; **E3/431** Written Record of Confrontation, EN 00413940-41.

²⁰⁰⁰ **E1/64.1** Saut Toeung, T. 19 Apr 2012, 09.31.11-09.35.55 [“I – on some occasions, picked up letters from Nuon Chea to Duch and from Duch back to Nuon Chea”], 09.41.31-09.46.20 [testifying that the envelopes he received from Nuon Chea were “addressed to the recipient of the document, namely Duch,” and that the envelopes of documents he delivered from Duch to Nuon Chea were “thick” as a book]; **E3/423** Saut Toeung WRI, A104 [“I was a messenger delivering mails for Ta Nuon Chea. I received mails from Ta Nuon Chea and delivered them to Ta Duch”], A105 [“I used to fetch mails from Duch to deliver back to Ta Nuon Chea directly”], A106-A113, A117.

²⁰⁰¹ **E499.1** Ou Dav, T. 11 Nov 2016, 10.06.46 [“by mid-1977, I was transferred to fight against the Vietnamese in the East Zone for 16 months”]; **E498.1** Ou Dav, T. 10 Nov 2016, 15.40.15-15.44.32 [witness sent to Borei Keila in “early second half of 1977” and “shortly” after to the Eastern battlefield, where he met Son Sen]. In order to have been at the Eastern front for 16 months, the witness had to arrive by early September 1977.

²⁰⁰² **E3/18** Khieu Samphan, *Cambodia’s Recent History*, EN 00103759-60; **E1/486.1** Stephen Morris, T. 19 Oct 2016, 13.55.50-14.02.14; **E3/7338** Stephen Morris, *Why Vietnam Invaded Cambodia*, EN 01001767, 01001937; **E3/7449** Nayan Chanda, T. 25 May 2009, 11.23.00-11.25.01; **E3/2376** Nayan Chanda, *Brother Enemy*, EN 00192281-82, 00192378-79; **E3/878** Telegram 46 from Chhean (DK Ambassador to Vietnam), 15 June 1977 [reporting Vietnamese complaint of DK attack in Ha Tien causing “enormous casualties” of civilians, and referencing photographs and “irrefutable evidence”]; **E3/880** Telegram 56 from Chhean, 20 July 1977, EN 00182767; **E3/882** Telegram 62 from Chhean, 4 Aug 1977, EN 00182766 [“The Kampuchean army has committed mass killings of 1,000 ordinary Vietnamese people at Ha Tien in Kien Giang province”]; **E3/143** Bangkok Post article *Refugees Cite Major SRV-Cambodian Clashes, Reprisals*, 1 Sept 1977, EN 00168725; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150185-86 [describing DK incursions into Vietnam massacring civilians from March to June 1977], 01150193 [“On the night of 24 September [1977], elements of the reconstituted 3rd Eastern Zone Division, under the general command of Son Sen, crossed into Tay Ninh province and massacred nearly 300 civilians in 5 villages”]; **E3/3959** Kung Kim WRI, EN 00278686. See also **E3/8190** New York Times article, *Vietnam Holds Cambodian Region After Bitter Fight*, 4 Jan 78, EN 00166022 [“From mid-September to November [1977], Cambodian pressure on the frontier increased, with troops encroaching as far as 4 miles into Vietnam and inflicting heavy casualties”].

²⁰⁰³ **E3/56** Nayan Chanda, T. 26 May 2009, 10.07.11; **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391 [“fighting between us and Vietnam ... especially from September 1977, has been going on non-stop”]; **E3/8304** Khieu Samphan Speech, 31 Dec 1977, EN 00166065; **E3/1393** DK Government Statement to the Revolutionary Armed Forces and People of Cambodia, 31 Dec 1977, EN 00713102; **E3/1263** Statement of DK Ministry of Propaganda, 6 Jan 1978, EN 00337187 [“The Vietnamese army

visited the General Staff headquarters on 2 September 1977.²⁰⁰⁴ Based on interviews with **Nuon Chea**, Thet Sambath wrote that Son Sen was dispatched to the border “in the fall of 1977.”²⁰⁰⁵ There is thus significant evidence corroborating Duch’s recollection of the date Son Sen was assigned to the Eastern front.

490. It is also possible Son Sen initially went back and forth to the East and his new assignment did not become permanent until later in 1977. It was not until November or December that Vietnamese forces penetrated deep into DK territory.²⁰⁰⁶ FBIS records show that Son Sen continued to attend major events in Phnom Penh until early December 1977,²⁰⁰⁷ but was absent from most such events thereafter.²⁰⁰⁸ Ieng Sary recalled that it was “late 1977 or early 1978” when Son Sen went to the East.²⁰⁰⁹ Duch testified that the transition from Son Sen to **Nuon Chea** occurred around the time Chao

began its invasion in September 1977”]; **E3/1383** DK Government Statement to U.N., 6 Jan 1978, EN 00419866; **E3/1258** DK Government Statement, “Evidences of the Vietnamese Aggression Against Democratic Kampuchea,” Feb 1978, EN S 00004902; **E3/881** Report from Comrade Lin to M-870, 14 Aug 1977 [report on “boundary situation in Region 23”: “Yuan enemies have increased their ferocious nature of aggression”]; **E3/885** Telegram from Chhon (Sao Phim) to Brother Pol, 24 Sept 1977 [Vietnamese ambush on 16 Sept 1977]; **E3/886** Telegram from Chhon to Brother Pol, 26 Sept 1977 [report on “battlefield north of Route No. 1”].

²⁰⁰⁴ **E3/143** FBIS, *Report on Departure*, 3 Sept 1977, EN 00168731.

²⁰⁰⁵ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521.

²⁰⁰⁶ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391 [referring to “Vietnamese aggression in November and December 1977”]; **E3/8304** Khieu Samphan Speech, 31 Dec 1977, EN 00166065 [“Later, in November 1977, the SRV Armed Forces carried out an aggression offensive in Svay Rieng Province, penetrating several kilometres”]; **E3/7338** Stephen Morris, *Why Vietnam Invaded Cambodia*, EN 01001768; **E3/2376** Nayan Chanda, *Brother Enemy*, EN 00192391; **E3/8190** New York Times, *Vietnam Holds Cambodian Region After Bitter Fight*, 4 Jan 78, EN 00166022 [“In November, Vietnam built up its military units in Tay Ninh province. In the first week of December, the Vietnamese opened an offensive ... forcing Cambodian troops back and capturing positions 10 to 15 miles inside Cambodia”].

²⁰⁰⁷ See e.g. **E3/1512** FBIS, *Pol Pot, Delegation Return from PRC*, 22 Oct 1977 [Son Sen, Nuon Chea, Khieu Samphan and other leaders greet Pol Pot at airport on his return from China]; **E3/291** FBIS, November 1977, EN 00168591-94, 00168599-600, 00168603-06 [reporting Son Sen participation with other CPK leaders in events during 26-29 Nov 1977 visit of Burmese president]; **E3/1495** FBIS, *PRC Delegation Led by Chen Yung-Kuei Arrives*, 3 Dec 1977, EN 00168315-16 [Son Sen part of group of leaders to attend meeting with Chen Yung-Kuei at State Palace and banquet after his arrival in DK].

²⁰⁰⁸ See e.g. **E3/1499** & **E3/1339** FBIS, December 1977, EN 00168360-64, 00168372-77 [Son Sen not present with other CPK leaders during 17-20 Dec 1977 state visit of Lao President]; **E3/1359** FBIS, *Mass Rally Marks Revolutionary Army’s 10th Anniversary*, EN 00169608-20 [Son Sen not identified as present at 17 Jan 1978 speech celebrating 10th Anniversary of RAK – compare to prior year (**E3/147** at EN 00168464), when Son Sen gave opening remarks at same event]; **E1/440.1** Kaing Guek Eav, T. 20 June 2016, 10.38.16-10.40.17; **E3/107** Kaing Guek Eav WRI, EN 00198224 [Son Sen not part of group of leaders present at 17 April 1978 ceremony]; **E3/1363** FBIS, *Pot Pot 28 May Banquet for Romania’s Ceausescu Reported*, 29 May 1978, EN 00169785-86 [Son Sen not present with other CPK leaders during 28-30 May 1978 visit of Romanian President]; **E3/1525** FBIS, *Nuon Chea Delegation Returns Home from PRC*, 16 Sept 1978 [Son Sen not present with other CPK leaders to greet Nuon Chea on his return from China]; **E3/1523** FBIS, *PRC Ambassador Hosts Reception for Nuon Chea*, 18 Sept 1978 [Son Sen not present with other leaders]; **E3/77** FBIS, November 1978, EN 00170080-83, 00170095-96, 00170101-02 [Son Sen not present with other CPK leaders during 5-8 Nov 1978 visit of high-level Chinese delegation].

²⁰⁰⁹ **E3/89** Ieng Sary Interview, 17 December 1996, EN 00417627.

Seng was arrested and sent to S-21,²⁰¹⁰ and S-21 records indicate he entered in November 1977.²⁰¹¹ Nonetheless, irrespective of the exact date of the transition, there is no doubt that Son Sen was away from Phnom Penh and fully engaged in the conflict with Vietnam by the latter part of 1977, and that **Nuon Chea's** involvement in S-21 increased at that time.

491. *Nuon Chea Receipt of S-21 Confessions*: **Nuon Chea's** responsibility for security issues related to S-21 is also shown by his receipt of confessions from that security office. There are over 25 S-21 confessions in evidence that contain annotations by Son Sen or Duch recording that a copy of the confession was sent to "Brother Nuon."²⁰¹² In a video-recorded interview, **Nuon Chea** admitted to Thet Sambath that he received "so many" confessions he could not read them all.²⁰¹³
492. *Arrests & Imprisonment*: In addition to his role in the circulation of S-21 confessions and decisions on arrests of implicated cadres (discussed in the *S-21 – Authority Structure* section), **Nuon Chea's** responsibility for specific arrests of cadres sent to S-21 was testified to by S-21 Chairman Duch.²⁰¹⁴ Duch testified that he would report

²⁰¹⁰ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 13.56.48-13.58.27 [describing instructions received initially from Son Sen and later Nuon Chea regarding Chau Seng, who was imprisoned at S-21 under the name "Chen Suon"]; **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 14.22.17-14.28.10 ["when Chau Seng was sent to S-21, it was around August '77 and before Son Sen left, he gave me instruction for the arrangement for Chau Seng. And when Son Sen went out to the front battlefield, Son – actually Brother Nuon Chea came to be my direct superior. And I kept Chau Seng alive at the time and one day Nuon Chea asked what happened to Chau Seng. I told him I kept him alive, and Nuon Chea said, 'Smash him'"]; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 11.43.59-11.46.06; **E3/60** Kaing Guek Eav WRI, EN 00195604-05 ["Son Sen telephoned me to inform me of the imminent arrest of Chao Seng alias San (founder of *L'Institut de Pedagogie du Groupe Sud*, for the training of professors), asking me to keep this information secret and to record the detainee under the name 'Chen Suon.' ... This happened in August 1977. Three days later, I started to work with Nuon Chea"].

²⁰¹¹ **E3/10604** OCIJ S-21 Prisoner List, No. 14164 [Chen Suon alias San, "Doctor of Pedagology from France," entered in Nov 1977]; **E3/10609** S-21 Confession of Chen Suon [earliest statement dated 21 Nov 1977]; **E1/457.1** Chau Khim, T. 15 Aug 2016, 14.17.41-14.19.41 [testimony of brother of Chau Seng that he was imprisoned at S-21 from November 1977 to February 1978], 15.16.41-15.18.39 [confirming confession **E3/10609** is his brother], 15.23.31 ["the date of the arrest on this document is more accurate"].

²⁰¹² See **E295/6/1** Co-Prosecutors' Final Trial Brief in Case 002/01, EN 00948246-47, fn. 1836 [list of 25 S-21 confessions with annotations stating they were sent to Nuon Chea, covering the time period from May to November 1977].

²⁰¹³ **E93/7.3R** Video, *Nuon Chea on Confessions*, V00717048; **E1/214.1** T. 27 June 2013, 13.33.58-13.37.02 [presentation of video clip **E93/7.3R**]. See also **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757537 ["Nuon Chea said when he read these confessions, he made marks on the documents with a red pen"].

²⁰¹⁴ See e.g. **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 10.11.00, 12.02.53 [describing Nuon Chea's order to arrest S-71 Chairman Pang, which was conveyed to Duch by Vorn Vet]; **E3/5793** Kaing Guek Eav, T. 27 Apr 2009, 10.13.47 [Pang arrested "according to the order from Nuon Chea"]; **E3/5799** Kaing Guek Eav, T. 15 June 2009, 09.57.30, 15.38.03-15.43.51; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 11.26.39-11.29.46 ["The time that it became so terrified when the Party; that is, Brother Nuon Chea order the arrest of [Commerce chief] Nget You alias Hong"]; **E3/10604** OCIJ S-21 Prisoner List, No. 5490 [Nget

suspect S-21 staff members to **Nuon Chea**, and the Accused would decide whether to arrest and imprison them at S-21.²⁰¹⁵ Duch also confirmed that only the Standing Committee could approve transfers of prisoners from Zone security offices to S-21, and that it was **Nuon Chea** who organised such transfers.²⁰¹⁶

493. The prisoners sent to S-21 in 1978 included two nieces of **Nuon Chea** and their husbands.²⁰¹⁷ S-21 cadres were informed by Duch at a study session that “Brother Number Two” had approved the arrest of his nieces and nephews, as recorded in the notebook of S-21 interrogator Mam Nai,²⁰¹⁸ to show that even the CPK leaders were willing to “sacrifice” family members “for the revolutionary cause.”²⁰¹⁹ One of **Nuon**

You alias Hong, Member of Commerce Committee, entered S-21 on 13 March 1978]; **E3/1578** Kaing Guek Eav WRI, EN 00194551 [Nuon Chea ordered arrest of Duch’s brother-in-law Thoeun, a cadre from the North Zone].

²⁰¹⁵ **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 15.54.39-16.01.13 [regarding S-21 staff: “An arrest could only be made with authorization from a higher level, that is from Son Sen or Brother Nuon”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 09.42.19-09.47.10, 09.48.46 [“Q: And who was the superior that you reported to who made the decision on what to do with Huy Sre? A: Uncle Nuon. That is Nuon Chea”], 09.59.11-10.03.16 [confirming no S-21 cadres were arrested in 1978 “without the authorization from Brother Nuon”]; **E3/5799** Kaing Guek Eav, T. 15 June 2009, 10.05.25-10.07.30; **E3/60** Kaing Guek Eav WRI, EN 00195604-05 [Nuon Chea “decided on certain arrests immediately, in my presence ... for example for the arrest of S-21 cadres”]; **E3/5770** Kaing Guek Eav WRI, EN 00177611; **E3/5771** Kaing Guek Eav WRI, EN 00185499, 00185502-03; **E3/1578** Kaing Guek Eav WRI, EN 00194548, 00194552 [“Hor drafted a report that I forwarded to the Standing Committee and Nuon Chea ordered the arrest, the interrogation and the execution of Huy Sre”].

²⁰¹⁶ **E3/1578** Kaing Guek Eav WRI, EN 00194551 [“Transfers to S-21 were decided by the Standing Committee of the Central Committee”]; **E3/1564** Kaing Guek Eav WRI, EN 00403892 [regarding transfers of prisoners from Zone security centres to S-21: “only Nuon Chea had the power to organize such transfers: Son Sen was not qualified to intervene and Pol Pot did not get personally involved in the organization of transfers”]; **E1/60.1** Kaing Guek Eav, T. 5 Apr 2012, 15.29.09-15.32.02 [“All documents from the zones came to Brother Nuon, and he made the decisions”]. See e.g. **E3/1098** Letter from Pal to Angkar “Through K-7,” 26 Mar 1978 [letter from West Zone Deputy Secretary Pal requesting approval to send Udong District Secretary Im Nen alias Ly (the wife of Zone Secretary Chou Chet) to K-7 in Phnom Penh for arrest – contains handwritten annotation “S-21” in red in upper margin]; **E3/5790** Kaing Guek Eav WRI, EN 00414347-48 [identifying “S-21” annotation as handwriting of Nuon Chea]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757537 [Nuon Chea “made marks on the documents with a red pen”]; **E3/10604** OCIJ S-21 Prisoner List, No. 2123 [Im Nen alias Ly, Oudong District Secretary, entered S-21 on 26 March 1978].

²⁰¹⁷ **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 13.46.34-13.56.12 [“the Party decided to arrest four people: two nieces of Nuon Chea and two nephews-in-law. Lach Vary and Lach Dara were the nieces ... Nuon Chea’s nieces were doctors ... They worked at the 17 April Hospital ... Q: Who ordered those arrests? A: In principle, the decision was made by only two people: Pol Pot and Nuon Chea”]; **E3/10604** OCIJ S-21 Prisoner List, Nos 4425 [Lach Dara alias Than, “Technique Committee Member of General Section in P-17 and wife of Men Tol alias Sat,” entered S-21 on 1 May 78], 4885 [Men Tol alias Sat, “Committee Member of P-17,” also entered on 1 May 78], 4243 [Lach Vary alias Nan, “Combatant of B-1” and “wife of Pech Huon alias Yoeun,” entered on 9 June 1978 – execution recorded by “handwritten note”]; 6859 [Pech Huon alias Yoeun, “Chief of Office B-62” at MFA, also entered on 9 June 78, executed 20 Oct 1978]; **E3/1857** S-21 Confession of Men Tol alias Sat, 26 Aug 1978 [contains annotation “Already Reported”].

²⁰¹⁸ **E3/833** Mam Nai S-21 Notebook, EN 00184608 [notes from Duch study session: “Our Party always makes the example of socialist revolution. Brother Number Two arrested his nephew named Sat”].

²⁰¹⁹ **E3/429** Kaing Guek Eav WRI, EN 00403925 [“Mam Nai’s notes were taken during a lesson I gave my subordinates. On that occasion, I used Nuon Chea as a model because he had sacrificed many members

Chea's nieces (Lach Vary alias Nan) was executed while she was pregnant.²⁰²⁰ Despite this, **Nuon Chea** still refuses to "apologize for S-21."²⁰²¹

494. *Inhumane Treatment of Prisoners*: Duch testified that **Nuon Chea** ordered him to test drugs on S-21 prisoners,²⁰²² including one incident in which the Accused instructed him to use prisoners to test whether pills that had been found in the house of a cadre accused of an assassination plot contained poison.²⁰²³
495. *Interrogations & Use of Torture*: Duch had regular meetings with **Nuon Chea** in which he reported on interrogations and confessions, particularly for prisoners "identified as important," and received instructions back from the Accused.²⁰²⁴ **Nuon Chea** ordered the removal of names from confessions, in some cases to protect trusted persons in his inner circle who had been implicated (such as **Khieu Samphan**)²⁰²⁵ and in other cases

of his family for the revolutionary cause"]; **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 11.30.56-11.33.51 ["I said in my presentation that we should look at Brother Number Two. He did not claim anything or anyone to be his. Even in the case of Lach Dara, he allowed Lach Dara to be arrested and sent to S-21 ... in Mam Nai's notebook, he used the name Sat instead"].

²⁰²⁰ **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 11.33.51 ["Sat, Nan and her husband were smashed and Than survived"], 13.31.44 ["I kept her there so that I could use her as a medic"], 13.33.30 ["The two siblings, I mean Comrade Nan and Than, were pregnant. Nan was pregnant when she was smashed at S-21"].

²⁰²¹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521 ["Nuon Chea doesn't apologize for S-21, even though his niece and others close to him were sent there"]. See also **E3/558** Nuon Chea OCIJ Adversarial Hearing, 19 Sept 2007, EN 00148699 [stating that he "lost" 40 members of his family, including his "niece/nephew"].

²⁰²² **E3/5800** Kaing Guek Eav, T. 16 June 2009, 15.25.44-15.34.56 ["they used the newly composed medicine to trial on the prisoners ... Uncle Nuon gave me some medicine to use and test on the prisoners ... only two people were aware of this. That was I, myself, and Uncle Nuon. I did it personally. Each day I gave them two pills and next day I gave them two more pills for 3 days in a row"].

²⁰²³ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.07.19-09.11.39 ["Bong Nuon gave me the pills in order to test whether the pills were poisonous or not"]; **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 16.01.56-16.03.47 ["prisoners were taken to test the poison under the instruction of Uncle Nuon"]; **E3/448** Kaing Guek Eav WRI, EN 00154912-13 ["Nuon Chea ordered me to test medicines on victims"]; **E3/5769** OCIJ Written Record of Confrontation, EN 00166567.

²⁰²⁴ **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 11.45.37-11.57.54 [describing his regular meetings with Nuon Chea: "We merely discussed the confession regarding the enemies, and I, at times, reported to him the overall situation"], 11.52.13-11.55.32 ["normally we only reported on those individuals whom the upper echelon identified as important ... he wanted the confession of the prisoner whom he identified as important. And then he also wanted to know the overall situation at S-21 and then he would provide direction or guidance"]; **E1/61.1** Kaing Guek Eav, T. 9 Apr 2012, 09.24.20 ["After we sent those confessions, ... sometime Brother Nuon would ask for clarifications of a word or of a group of words or a phrase"]; **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 15.20.13-15.22.52 ["an enemy implicated Meng and Poeun. I reported to Brother Nuon whether I should continue interrogate or extract the confessions"]; **E3/65** Kaing Guek Eav WRI, EN 00147522 ["The reason for the meetings was that I was called to report and receive instructions ... general reports regarding S-21 and summaries of interrogations. On instructions, calling them orders would be better"].

²⁰²⁵ **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 14.23.57-14.26.07; **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 14.32.36 [after detainee implicated Khieu Samphan: "Brother Nuon reprimanded me, saying that: Look, you know, in the whole country, there was only Pol Pot and I, myself, and you would like Comrade Hem to also be in trouble; and for that, would you wish to go to be assigned to work at the embassy?"]; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.00.35-14.03.31, 14.05.08-14.07.10 [describing

to maintain secrecy in relation to individuals the Party was planning to arrest.²⁰²⁶ In October 1978, a few days after a study session in which Pol Pot had discussed limiting torture and interrogations with respect to prisoners who were not “foreigners,” “Yuon,” or CIA,²⁰²⁷ **Nuon Chea** “reprimanded” Duch for “not interrogating prisoners,” and interrogations resumed as normal at S-21.²⁰²⁸

496. Duch sent to **Nuon Chea** summary reports on confessions that referenced the use of torture during prisoner interrogations,²⁰²⁹ and testified that **Nuon Chea** never instructed

how Nuon Chea threatened him after Khieu Samphan was implicated in a confession]; **E3/356** Kaing Guek Eav WRI, EN 00242899 [“Chorn had implicated Khieu Samphan, I then sought advice from Nuon Chea. Nuon Chea then threatened me, so I withdrew all the points that implicated Khieu Samphan from the confession. When members of the upper echelon were implicated in confessions, I had to seek advice from Son Sen, then Nuon Chea”]; **E3/355** Kaing Guek Eav WRI, EN 00242877; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757520 [describing Nuon Chea’s account of the confession implicating Khieu Samphan, including that Nuon Chea warned Duch “Don’t report this again and don’t say it again”].

²⁰²⁶ **E3/1688** S-21 Confession of Chap Mit, EN 00284069 [note from Duch to interrogator Pon: “Brother Number II has advised on 25 February 1978 that the names of Brother Soe (Sector 23), Brother Mon (General Staff 203), Soth (Sector 21), Chhien (Sector 22), Tat & Sokh (Division 170) and Tal (Division 290) must be withdrawn, if they appear in this confession”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 10.36.06-10.47.34; **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 10.26.28-10.29.16 [“It was Brother Nuon or Nuon Chea who issued such instruction or advice”], 10.55.21-11.00.02 [“Q: Do you know why Nuon Chea advised you of this, to withdraw the names? A: ... we removed those names because we did not want them to be aware that their names were implicated because this document was to be sent to the Eastern Zone ... Those whose names were removed were later on arrested”]; **E3/10604** OCIJ S-21 Prisoner List, Nos 2969 [Ke San alias Sokh, Division 170 Secretary, entered 4 Mar 1978, executed 11 May 1978], 5999 [Uk Savann alias So, Sector 23 Secretary, entered 17 Mar 1978], 5235 [Meas Mon, Chief of East Zone General Staff, entered 24 May 1978], 8226 [Sam Huoy alias Meas Tal, Division 290 Secretary, entered 24 May 1978], 2047 [It Man alias Tat, Division 170 Deputy Secretary, entered 25 May 1978], 12681 [Tauch Chem alias Sot, Sector 21 Secretary, entered 5 June 1978], 5246 [Meas Chhuon alias Chhean, Sector 22 Secretary, entered 12 June 1978].

²⁰²⁷ **E3/834** Pon-Tuy S-21 Interrogators Notebook, EN 00184522 [8 Oct 1978 notes: “In the near term, we have plans to interrogate all of the Khmer without beatings and getting 80% confessions. No beatings and getting very detailed confessions, 70%. As for the foreigners, the Yuon, the imperialist CIA, we apply absolute Special Branch methods, completely and totally, permanently. Also in this temporary period, the task of defense will temporarily apply the old principles, absolutely and totally”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.10.07-11.18.34 [“The content related to the instructions given by Pol Pot during the time I attended the training session where he taught ... we called the interrogators for the presentation of those documents that night”].

²⁰²⁸ **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 09.25.09-09.32.05 [“During the study session, Pol Pot advised S-21 people not to question or interrogate the enemies to extract confessions. But a few days later, Brother Nuon called me to work and I did not really interrogate prisoners but, then, Nuon Chea really reprimanded me for not interrogating prisoners ... After that, I called on the interrogators and to implement the plans to continue interrogating those prisoners”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.08.42-11.10.07, 11.18.34-11.20.19; **E3/429** Kaing Guek Eav WRI, EN 00403924.

²⁰²⁹ See e.g. **E3/1687** S-21 Confession of Chout Nhe, EN 00758196 [11 Nov 1977 annotation: “One copy for Bang Nuon”], EN 00758200 [Summary report by interrogator: “I intensively questioned him about his connection with many traitors. However, he did not confess to being a traitor until he had been tortured”]; **E3/1861 (E3/3645)** S-21 Confession of Mao Choeun, EN 00223137 [10 Nov 1977 annotation: “To Brother Nuon”], EN 00794694 [Summary by interrogator: “I later tortured him and he started to confess his traitorous records in sequence including being an agent and CIA network”]; **E3/1869** S-21 Confession of Nheum Sim alias Saut, EN 00837416, [11 Nov 1977 annotation: “Central Zone. One copy for Brother Nuon”], 00837417 [Summary Report by interrogator: “I tortured him until he confessed that he worked as a spy and a CIA network”]; **E3/1894** S-21 Confession of Sieng Pauly alias

him to stop using torture after receiving such reports.²⁰³⁰ In **Nuon Chea**'s interview with Thet Sambath, he admitted his knowledge of the use of torture, stating: "They normally confessed when they were beaten painfully and seriously tortured."²⁰³¹ Despite this knowledge, when Duch expressed concern to **Nuon Chea** that the number of people being implicated in confessions was "out of control," the Accused advised Duch to "just strive to do whatever is necessary to get their responses" and "not to worry" whether they were "true or not."²⁰³²

497. *Vietnamese Prisoners of War*: **Nuon Chea** knew that the prisoners sent to S-21 in 1978 included captured Vietnamese combatants,²⁰³³ and sometimes informed Duch in advance of the arrival of such prisoners.²⁰³⁴ In January 1978, after a state of war had been declared by the DK Government,²⁰³⁵ **Nuon Chea** provided instructions to Duch to

Sean, 28 Oct 1977, EN 00702082 [annotation: "Sent to Brother Nuon 2 copies"], EN 00702085 [Report by Interrogator: "When we started torturing, he agreed to confess by telling about his connection, activities and plans in the network from the beginning until his arrest by Angkar"]; **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 09.29.29-09.31.47, 09.42.41-09.44.52 [referring to confession summaries in **E3/1869** and **E3/1894**: "I sent this document together with the confession report to the superior ... I sent the documents to the upper echelon; that's why there is Son Sen's signature on the document to be sent further to Brother Nuon"]; 09.44.52-09.46.17 ["Q: And that's what I'm asking you about ... these very short summaries like we see in these two documents. Were they sent to your superiors? A: ... I sent all of them together that's why there are annotations on them"], 11.22.52-11.31.07 [identifying two other interrogation reports describing the use of torture, **E3/3844** and **E3/7437**, that were sent during the time he reported to Nuon Chea]; **E1/51.1** Kaing Guek Eav, T. 20 Mar 2012, 10.07.46-10.11.21 ["My common roles included reading and summarizing the confessions, and brief[ing] the superior on the confessions"]; **E1/53.1** Kaing Guek Eav, T. 26 Mar 2012, 15.38.28-15.40.15; **E3/1579** Kaing Guek Eav WRI, EN 00398206-07.

²⁰³⁰ **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 13.47.00-13.48.45 ["Q: On any occasion after you sent those documents to Nuon Chea describing the use of torture, did he ever call you and instruct you to stop torturing the prisoners at S-21? A: No, never"].

²⁰³¹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757537. See also **E1/451.1** Henri Locard, T. 29 July 2016, 14.12.56-14.13.56 [Nuon Chea learned from the Viet Minh practice of shackling and torturing political prisoners and POWs].

²⁰³² **E3/1560** Kaing Guek Eav Interview, 6 June 1999, EN 00327327 ["I also complained to Nuon Chea about the confessions that kept spreading out of control everywhere, every time. Nuon Chea convinced me not to worry, and said that clearly their units knew which ones were true and which ones were untrue. Comrade, just strive to do whatever is necessary to get their responses"]; **E3/347** Kaing Guek Eav Interview, 4-6 May 1999, EN 00185037-38 ["the CPK limited my duties as only to get confessions, true or not, they did not worry about that ... I wanted to know what was true and proper in the confessions. Seeing that I was getting no where, Nuon Chea explained to me, 'Comrade you must think about the truth of the proletarian class'"].

²⁰³³ See e.g. **E3/181** Telegram 11 from 47 (Son Sen) to Respected Brother, 14 Feb 1978, copied to "Grand Uncle Nuon" [para. 5: "Comrade Tal captured 2 Yvon heads, ages 17 and 27. They were sent to S-21"]; **E3/10604** OCIJ S-21 Prisoner List, Nos 8227 & 14893 [17-year old Le Vang Khoeung and 27-year old Troeung Yaing Nhim entered S-21 on 15 Feb 1978]; **E3/867** Telegram 16 from 47 to Brother 09, 20 Mar 78, copied to "Uncle Nuon" [para. 2: "We destroyed approximately 100 enemy combatants ... We captured three of; two were shot and killed because they jumped into the river. One of them is kept to be sent to 21 this evening"]; **E3/10604** OCIJ S-21 Prisoner List, No 8690 [Fam Yaing Ya sent from East Zone to S-21 on 20 Mar 1978].

²⁰³⁴ **E1/439.1** Kaing Guek Eav, T. 16 June 2016, 09.43.05-09.44.35 [confirming that Nuon Chea informed him that "Yvon soldiers were sent to me"]; **E3/1580** Kaing Guek Eav WRI, EN 00177588.

²⁰³⁵ **E3/1265** Statement of DK Minister of Foreign Affairs, 31 Dec 1977 [announcing that DK Government

obtain confessions from imprisoned Vietnamese soldiers on their country's "Indochina Federation" strategy,²⁰³⁶ knowing that the use of torture would be necessary.²⁰³⁷ He ordered Duch to make audio recordings of their confessions that could be broadcast on the DK radio,²⁰³⁸ and also requested a film of the Vietnamese soldiers to be used for propaganda.²⁰³⁹ S-21 records confirm the execution of Vietnamese prisoners of war.²⁰⁴⁰

498. Executions of Prisoners: In addition to the general standing order that all persons imprisoned at S-21 were to be killed,²⁰⁴¹ Duch also testified regarding specific execution orders he received from **Nuon Chea**, including mass executions of hundreds of prisoners that clearly establish the Accused's intent to kill on a massive scale. In 1978,

was breaking off diplomatic relations with Vietnam due to the invasion of its army]; **E3/1393** Communiqué of the DK Government to the Revolutionary Armed Forces and People of Cambodia, 31 Dec 1977, para. 9 [calling on the RAK to "stop the invasion of the enemy" and "defeat the territory-swallowing Vietnamese enemy"].

- ²⁰³⁶ **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 09.57.07-09.59.14 ["on the 8th of January 1978, Brother Nuon called upon me ... Brother Nuon asked me to interrogate the Vietnamese war prisoners and record the prisoners' confessions"]; **E1/436.1** Kaing Guek Eav, T. 13 June 2016, 15.00.14-15.04.30 ["There was an order from the upper echelon regarding the questioning of 'Yuon' soldiers and the purpose was for them to confess that they invaded Kampuchea and they wanted to use Kampuchea as an umbrella of Indo-China ... It was Pou Nuon who ordered me to do that"], 15.10.40-15.13.58 [confirming that Nuon Chea made changes to the Vietnamese confessions sent by Duch]; **E3/525** Kaing Guek Eav, T. 10 June 2009, 09.33.27-09.38.48 ["The essence of the confessions of those Vietnamese was sent to Uncle Nuon. Therefore, whatever it is he would adjust it and then he would send it to me"].

- ²⁰³⁷ **E1/439.1** Kaing Guek Eav, T. 16 June 2016, 09.48.34 ["Q: Were those Vietnamese prisoners tortured? A: Yes, but not seriously ... although they were told to confess what I said. Of course, prisoners of war and spies were tortured in order to get confessions. So forcing them to say what I just said was not serious torture"]; **E3/525** Kaing Guek Eav, T. 10 June 2009, 09.33.27-09.35.57 ["The objective is determined from the upper echelon and I, myself, I ordered the interrogators to do what it took in order to receive the objective of the upper echelon, that is, Vietnam invaded Cambodia in order to put Cambodia into the Chinese federation"], 10.04.15-10.07.07, 11.57.14 ["Q: So that means they were forced to confess to the way that you wanted? A: If we wanted them to say that the Vietnamese soldiers were starved and did not have any food to eat, they had to say that in their confession"].

- ²⁰³⁸ **E1/436.1** Kaing Guek Eav, T. 13 June 2016, 15.00.14-15.04.30 ["Their voices would be recorded and broadcast and that required two segments of five minutes each per week ... When Vu Dinh Ngo arrived, I received an order from Brother Nuon regarding the audio recording of the confessions"]; **E3/1580** Kaing Guek Eav WRI, EN 00177588 ["Only confessions of Vietnamese were radio broadcast. It is Nuon Chea who decided this"]. See **E3/10604** OCIJ S-21 List, No. 13474 [Vu Dinh Ngor, Major Sergeant and former Thieu Ky marine from Vietnam, entered S-21 on 3 or 9 January 1978]; **E3/1249** BBC-SWB, *Confession of a Captured SRV Sailor*, 29 Jan 1978, EN S 00008894-96 [radio broadcast of "confession by Vu Dinh Ngo, former midshipman of the Thieu-Ky puppet navy, who was captured on 3rd January 1978," described as proof of "the intention to force Cambodia into an Indochina federation headed by Vietnam"].

- ²⁰³⁹ **E1/436.1** Kaing Guek Eav, T. 13 June 2016, 15.11.42-15.17.31 [describing film of Vietnamese prisoners in their uniforms that was ordered by Nuon Chea, and made by Pol Pot's nephew Theng]; **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 14.23.48-14.31.39 [testimony of Pol Pot's nephew confirming film of Vietnamese prisoners]; **E3/351** Mam Nai WRI, EN 00162920 [regarding Vietnamese POWs: "I know they once made a film ... Filmed for upper echelon"].

- ²⁰⁴⁰ See e.g. **E3/10604** OCIJ S-21 Prisoner List, Nos 8257, 8393-8394, 8397-8400, 8403, 13485 [Vietnamese soldiers executed on 27 Mar 1978]; **E3/8463** S-21 Execution List, KH 00016256-57.

- ²⁰⁴¹ **E3/453** Kaing Guek Eav WRI, EN 00147582 ["For S21 Nuon Chea clearly told me that all people whom were sent to S21 had to be killed. As I was in charge of S21, I followed implemented his orders"]. See also **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 09.57.28 ["Sometimes Brother Nuon or Brother Son Sen asked me whether certain prisoners had been sent out"].

Nuon Chea ordered Duch to execute hundreds of East Zone cadres sent to S-21 without conducting interrogations.²⁰⁴² This included a mass execution of 582 prisoners on 27 May 1978,²⁰⁴³ carried out at the very time Centre forces were conducting widespread arrests of people in the East Zone,²⁰⁴⁴ which was ordered by **Nuon Chea** to clear space for the new incoming East Zone prisoners.²⁰⁴⁵ This was the single largest execution in the history of S-21.

499. Near the end of the regime, as Vietnamese forces were advancing towards Phnom Penh, **Nuon Chea** ordered Duch to execute all the remaining prisoners at S-21.²⁰⁴⁶ Duch testified that it took several days for S-21 cadres to kill all of those prisoners.²⁰⁴⁷ One surviving S-21 list from this period records the execution of 225 prisoners on 31 December 1978.²⁰⁴⁸

²⁰⁴² **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.04.47 ["there was one occasion when East Zoners were brought in trucks ... they were brought in the morning on that day and in the evening, they were put back on trucks and sent for execution. There were about 200 or 300 of them ... Q: And who was it that ordered you to take these people immediately out for execution without interrogation? A: The same, that is, it was Brother Nuon"]; **E3/1576** Kaing Guek Eav WRI, EN 00160724 ["about 300 prisoners were executed as soon as they arrived at S-21, without interrogation and on Nuon Chea's order (the Eastern Zone had rebelled and interrogation was unnecessary because we were sure of the prisoners' betrayal)"].

²⁰⁴³ **E3/8463** List of Prisoners Smashed on 27 May 1978, EN 01032508-36 [Nos 526-556 on the list arrived on 28 May 1978 and were immediately sent out for execution].

²⁰⁴⁴ **E1/446.1** Meas Soeun, T. 29 June 2016, 10.58.46, 14.20.30-14.27.35; **E3/5531** Meas Soeun WRI, A62 [describing mass arrests conducted by Centre army in East Zone on 25 May 1978]; **E3/390** Math Ly, EN 00436870 ["The important day was 25 May 1978"].

²⁰⁴⁵ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 10.55.33-11.01.06 [discussing mass execution of East Zone cadres on 27-28 May 1978 recorded in **E3/8463**: "Phim and members of the committee of the East Zone, together with some of his close combatants, were arrested in June 1978, so there were instructions from the upper echelon before that date that a maximum amount of prisoners had to be withdrawn or removed to reserve space for newcomers. So prisoners were sent to Choeng Ek in large numbers at that time ... Brother Nuon instructed me to do that ... So we realized that the purge of the East Zone would take place very soon"].

²⁰⁴⁶ **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 15.53.40-15.55.16; **E1/442.1** Kaing Guek Eav, T. 22 June 2016, 15.35.04-15.38.03 ["I am not quite sure about the date. The instruction was to kill all of prisoners ... The instruction may have been issued on 1 January and all the prisoners had to be killed by 3 January 1979 ... The instruction was made by Nuon, Uncle Nuon"]; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 10.24.06-10.28.14 [testifying that he received an order from Nuon Chea "on the 1st or the 2nd of January 1979" to execute all "remaining prisoners in S-21"]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 14.01.08-14.03.22 ["after I received order from Brother Nuon to destroy the remaining prisoners, I came to tell Comrade Hor to follow the order, for him to execute the order"]; **E3/5801** Kaing Guek Eav, T. 17 June 2009, 15.25.33-15.30.24; **E3/1576** Kaing Guek Eav WRI, EN 00160724; **E3/5769** Written Record of Confrontation, EN 00166563.

²⁰⁴⁷ **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 10.24.06-10.28.14 [testifying that there were still "over 500" prisoners left when he received the order from Nuon Chea to execute all "remaining prisoners in S-21," and that Hor reported back to him three days later that the order had been "carried out"]; **E1/442.1** Kaing Guek Eav, T. 22 June 2016, 15.39.10 ["all of them may have been killed by 3rd January, because there were many prisoners. It was difficult to smash all of them in just three days"]; See also **E1/424.1** Prak Khan, T. 28 Apr 2016, 09.18.53-09.21.04 [referring to late 1978 and early 1979: "we stopped interrogating any more prisoners, and I saw prisoners being transported out continuously until the 2nd or the 3rd of January when prisoners were no longer transported out to be killed"].

²⁰⁴⁸ **E3/10455** List of Prisoners Smashed on 31 December 1978. See also **E3/10640** Henri Locard, *Pourquoi*

500. With respect to the Western prisoners at S-21, **Nuon Chea** ordered that “the long nose people had to be smashed” and their bodies “burned completely so that there was no evidence left behind.”²⁰⁴⁹ S-21 records confirm that these Westerners were imprisoned at S-21 in 1978, during the period Duch reported to the Accused.²⁰⁵⁰ With respect to high-ranking important CPK leaders at S-21, and prisoners who were former S-21 staff, **Nuon Chea** ordered Duch to provide photographs confirming that such prisoners had been executed.²⁰⁵¹ S-21 records confirm that such prisoners were photographed after their execution, further corroborating Duch’s testimony.²⁰⁵²
501. The above evidence proves beyond reasonable doubt **Nuon Chea**’s participation in and significant contribution to the common criminal plan to imprison, torture, and execute perceived enemies of the CPK.

b) Khieu Samphan Responsibility for FUNK, GRUNK, Intellectuals, and Commerce

502. *FUNK/GRUNK Intellectuals*: In 1975-76, **Khieu Samphan** conducted political education at K-15 (the Khmer-Soviet Technical Institute), a “reeducation” centre at

les Khmer Rouges, FR 01303654 [“The last days of the regime, that is to say the first days of January 1979 were the most deadly. Order was then given by the top leader of the purification of society – Nuon Chea – to exterminate all of the unfortunate prisoners all over Cambodia in order for the Vietnamese not to witness the crimes of Angkar. The result was followed loyally by the very zealous Duch at S-21. Close to Pursat about 1,000 prisoners in a row were therefore exterminated between 7:00 in the evening and 5 o’clock in the morning”]; **E1/451.1** Henri Locard, T. 29 July 2016, 14.25.26-14.30.40 [“I believe that this directive was general ... I asked the same questions everywhere, over and over again, and I noticed that everywhere the same orders had been given”].

²⁰⁴⁹ **E1/435.1** Kaing Guek Eav, T. 9 June 2016, 15.08.59, 15.13.31-15.17.28; **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 10.06.52; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 09.33.00-09.35.23; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 14.29.20-14.35.52 [regarding foreigners sent to S-21: “The smash was to be conducted in a formal burning to ash ... I was following the order from Nuon Chea, and I implemented the order ... Q: And why was it necessary to burn them to ashes? A: The reason was that no one would be able to trace – to trace them so no bones were left behind”]; **E3/1570** Kaing Guek Eav WRI, EN 00154194; **E3/65** Kaing Guek Eav WRI, EN 00147526.

²⁰⁵⁰ **E3/2210** List of Prisoners Entered 21-28 April 1978, EN 00181722 - No. 13 [Jim Clark], No. 14 [Lance McNamara]; **E3/7344** S-21 Confession of Kerry George Hamill, 17 Sept 1978; **E3/7343** S-21 Confession of John Dawson Dewhurst, 13 Oct 1978; **E3/1553** S-21 List of Prisoners, 26 Nov 1978, EN 01236389 – No. 1 [Christopher Delance], No. 2 [Michael Scott Deeds].

²⁰⁵¹ **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 09.48.58-09.56.32, 10.04.16-10.06.52 [“The photos of those who were killed or those who had just been killed were photographs based on the orders of Brother Nuon”]; **E3/455** Kaing Guek Eav WRI, EN 00149910 [“this photography was only done after receiving orders from upper echelon, especially Nuon Chea, out of [their] fear of the release of some victims whom we knew”]; **E3/65** Kaing Guek Eav WRI, EN 00147526 [“I received the photographs and sent them to Nuon Chea”].

²⁰⁵² **E3/2285** List of Prisoners Who Were Smashed and Photographed on 8 December 1977, EN 00873280-81 [list includes General Staff Deputy Secretary Seat Chhae alias Tum, the Regiment 152 Secretary, Division 164 Deputy Secretary, Division 290 Deputy Chief, Sector 105 Deputy Secretary and Members of the Northwest Zone General Staff and Sector 5 Committee]; **E3/8483** List of Prisoners from General Staff, July 1978, Nos 5-7, 11 [entries for S-21 cadres contain annotation: “Removed & Photo taken”]; **E3/10604** OCJ S-21 Prisoner List, Nos 509, 1207, 1989, 2047, 2363, 2900, 4395, 4556, 5160, 5243, 5356, 5575, 6857, 11329, 11460, 11770, 12630, 13054, 14931.

which intellectuals and other Cambodians returning from abroad were detained and tempered.²⁰⁵³ **Khieu Samphan** was assigned responsibility for the FUNK by the Standing Committee,²⁰⁵⁴ and “about half” of the returnees detained at K-15 were members of the FUNK.²⁰⁵⁵ Ong Thong Hoeung, one of the surviving K-15 detainees, testified that his wife attended a study session chaired by **Khieu Samphan** at the site in early 1976, at which the Accused instructed intellectuals how to reeducate themselves “to behave like peasants.”²⁰⁵⁶ When Ong Thong Hoeung arrived at K-15 in mid-1976, his wife told him about that study session and warned him to “sit, eat, speak and rest like the peasants,” explaining: “Angkar is watching ... do not ask for anything. Do not give them any ideas. Do only as told.”²⁰⁵⁷

503. Expert Philip Short, who interviewed the Accused and surviving intellectuals from K-15, testified that **Khieu Samphan** was responsible for the political education of returning students and “did it quite a lot,” including a “month-long seminar” at K-15.²⁰⁵⁸

²⁰⁵³ **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.31.22-15.37.35 [“Q: What was the purpose of the establishment of K-15? A: It was a reeducation place, or centre ... Q: What types of people were sent to be reeducated at K-15? A: Those Cambodian people coming from overseas, like my group ... There were those Khmer students from overseas, and there were soldiers ... The majority of those people at K-15 were from France”]; **E1/455.1** Ros Chuor Siy, T. 11 Aug 2016, 15.37.33-15.39.28 [testimony of Civil Party who returned from France with her husband and 3 daughters in August 2016: “When we disembarked the plane-, we had no rights to move anywhere. We were put in Office K-15. It was like a detention centre. We had no freedom to go anywhere outside that office”]; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396523 [“Along with other returnees from Europe and America, Visalo stayed at the former Khmer-Soviet Technical Institute, which had been renamed K-15 and transformed into a holding camp for intellectuals”].

²⁰⁵⁴ **E3/182** CPK Standing Committee Minutes, 9 Oct 1975, EN 00183393 [“Delegation of work and the operational process ... Comrade Hem: Responsible for the Front and the Royal Government, and Commerce for accounting and pricing”].

²⁰⁵⁵ **E3/1713** Ong Thong Hoeung, *J'ai cru aux Khmers Rouges*, EN 00785763.

²⁰⁵⁶ **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.33.23-15.35.52 [“my wife told me upon her arrival there was a study session chaired by Khieu Samphan”]; **E1/107.1** Ong Thong Hoeung, T. 14 Aug 2012, 13.57.52-14.00.12 [“my wife saw Khieu Samphan when she first arrived in Cambodia. That was in early 1976”]; **E3/97** Ong Thong Hoeung WRI, EN 00287106 [“Before I arrived, my wife attended a meeting with Khieu Samphan; he had come to talk about how to re-educate oneself and how to behave like a peasant”]; **E3/1713** Ong Thong Hoeung, *J'ai cru aux Khmers Rouges*, EN 00785765 [“She spoke to me about political training courses, criticism and self-criticism meetings and about her seminar with Khieu Samphan, president of Democratic Kampuchea. I asked her what he said. ‘He spoke of Angkar’s grandiose endeavor and he invited us to build ourselves up’”].

²⁰⁵⁷ **E3/1713** Ong Thong Hoeung, *J'ai cru aux Khmers Rouges*, EN 00785756. See also **E3/97** Ong Thong Hoeung WRI, EN 00287105 [“She emphasized that it was prohibited to ask questions or to dissent”]; **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.29.32 [“She told me that I had to do whatever I was assigned to do”], 15.40.02-15.42.40 [“reeducation was for us to forget everything in the past. And the main point was that we shall be able to understand that if we want a freedom, freedom does not exist”].

²⁰⁵⁸ **E1/191.1** Philip Short, T. 8 May 2013, 10.12.00 [describing CPK leaders’ responsibilities for political education: “Khieu Samphan ...for the students who came back from overseas ... he certainly had an important role and I think it was something which he felt at ease doing, because he did it quite a lot”]; **E1/190.1** Philip Short, T. 7 May 2013, 09.27.20, 09.48.07-09.51.11, referencing **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396523-25 [describing “month-long seminar conducted by Khieu Samphan” for new arrivals at K-15, in which he explained how to make “communist revolution”: “To

Khieu Samphan's responsibility for political education at the Khmer-Soviet Technical Institute (K-15) is also confirmed by the trial testimony of Phy Phoun²⁰⁵⁹ and Chea Say,²⁰⁶⁰ and the research of Ben Kiernan,²⁰⁶¹ Henri Locard²⁰⁶² and Michael Vickery.²⁰⁶³

504. The K-15 site at which **Khieu Samphan** reeducated intellectuals was surrounded by barbed wire and guarded by young soldiers with rifles.²⁰⁶⁴ The returnees sent there were not free to leave,²⁰⁶⁵ and were assigned hard labour to “rebuild” or “refashion” themselves.²⁰⁶⁶ Like others who came to this site, Ong Thong Hoeung was startled by

become a true revolutionary, you must wash your mind clean. That knowledge comes from the teaching of the colonialists and imperialists and it has to be destroyed. You intellectuals who have come back from abroad bring with you the influence of Europe, what we may call the ‘sequels of colonialism.’ So the first thing you must do to make yourself fit to participate in the communist revolution, to put yourself on a par with the ordinary people of Cambodia, the peasants, is to wash your mind”].

- ²⁰⁵⁹ **E1/96.1** Rochoem Ton alias Phy Phoun, T. 25 July 2012, 14.29.38-14.31.11 [“After the liberation, the first instructor was Om Khieu Samphan. It was at the Soviet Technical School”]; **E1/100.1** Phy Phoun, T. 1 Aug 2012, 15.26.35-15.35.43 [describing study session at Soviet Technical School at which Khieu Samphan spoke for a “few days” on the “situation after the liberation,” “socialist revolution” and “revolutionary life view”].

- ²⁰⁶⁰ **E1/124.1** Chea Say, T. 20 Sept 2012, 13.59.03 [witness attended political study session conducted by Khieu Samphan held at either the Soviet Technical Institute or K-6]; **E3/69** Chea Say WRI, EN 00233152 [“Q: Did you ever participate in the political education? A: I participated many times at the technological institute and Borei Keila ... Q: Who chaired the educational courses? A: Pang opened the sessions. The uncles included Nuon (Nuon Chea) and Ta Khieu Samphan, were the teachers”].

- ²⁰⁶¹ **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150070 [“On arrival in Phnom Penh, nearly all the returnees were first put through twenty-day political education courses”], EN 0115071-72 [describing political education sessions conducted by Khieu Samphan for returning intellectuals at the former Khmer-Soviet Technical Institute in October 1975, December 1975 and February 1976, during which he would lecture for 2 to 3 days on subjects such as “building socialist revolution,” “economic reconstruction and life in revolutionary society,” “communal eating” and relations with Vietnam].

- ²⁰⁶² **E1/451.1** Henri Locard, T. 29 July 2016, 11.02.10-11.05.00 [“And Khieu Samphan, when those returning from abroad arrived at the technology institute, during re-education sessions organized for them, the main speaker was Khieu Samphan”].

- ²⁰⁶³ **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397089 [discussing returning intellectuals: “all of them were first taken to one of two reception centres, the Khmer-Soviet Technical Institute ... [or] Boeng Trabek ... In both places they were put to work at ‘unpleasant’ manual tasks – planting food, clearing swamps, preparing natural fertilizer – and at the same time were subject to political reeducation. At the technical institute the political work was often directed by Khieu Samphan himself, indicating the importance the regime, at least in the beginning, attached to these people”].

- ²⁰⁶⁴ **E3/97** Ong Thong Hoeung WRI, EN 00287104-05 [“there were some Khmer Rouge soldiers, some of them armed ... two Khmer Rouge soldiers searched our luggage. They took out books and radios”]; **E3/1713** Ong Thong Hoeung, *J’ai cru aux Khmers Rouges*, EN 00785753-54 [“I suddenly took notice in the distance of two young boys taking firm steps towards us, with their rifles slung across their shoulders. They were *Yothea*, aged 15 to 17 years at most ... They searched our bags, through and through ... They confiscated certain ‘suspicious’ objects: cameras, books”], 00785762 [“The unit was surrounded with barbed wire and it was, naturally, forbidden to go beyond it”].

- ²⁰⁶⁵ **E3/97** Ong Thong Hoeung WRI, EN 00287104 [“The camp authority, the Angkar, informed us that we could not leave the premises”]; **E3/1713** Ong Thong Hoeung, *J’ai cru aux Khmers Rouges*, EN 00785752 [“He provided us with our instructions (it was, for instance, forbidden to go beyond the walls of the building)”]; **E1/455.1** Ros Chuor Siy, T. 11 Aug 2016, 15.37.33-15.39.28 [“We were put in Office K-15. It was like a detention centre. We had no freedom to go anywhere outside that office”].

- ²⁰⁶⁶ **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.25.28-15.29.32, 15.37.35-15.40.02 [“The general situation was that we had to rebuild ourselves ... to break the rock in order to build the rice field ... as we were told, to engage in intensive labour was an effective way to rebuild oneself ... Some of us would work with fertilizer number one, which was ... the mixture of feces with urine”], 15.44.03 [“we

the condition of his friends from Paris, who had arrived at K-15 only a few months earlier:

I could not believe how much my friends had changed! It was amazing. They were as skinny as beanpoles, emaciated. We had only been apart for three months. ... Moreover, they were not only skinny; they were also filthy and covered with wounds and spots on their skin. When they smiled, we saw their black teeth. Some of them had almost none left. They looked like they had just returned from Buddhist hell or from Nazi concentration camps.²⁰⁶⁷

505. Ong Thong Hoeung testified that some of those detained with him at K-15 were “taken away,” in particular the returnees from the United States and former soldiers,²⁰⁶⁸ and he identified a fellow K-15 detainee who was taken away and sent to S-21.²⁰⁶⁹

refashioned ourselves in order to become a pure labour or peasants' class”]; **E3/1713** Ong Thong Hoeung, *J'ai cru aux Khmers Rouges*, EN 00785759 [“The next morning at 5, I was woken up by a bell. It was still dark. A half hour later the old-timers were already standing in rows, one behind the other, with their pickaxes in hand ... Shortly afterwards, the unit leader signaled the groups to head to the ‘production battlefield’”], EN 00785762 [daily schedule of “manual labour” that began at 5 am. and continued until 9:30 p.m.]. See also **E3/99** CPK Circular No. 6, *Concerning the Grasp and Implementation of the Political Line in Mobilizing the National Democratic Front Forces of the Party*, 22 Sept 1975, EN 00244277 [“Those living in the Western Europe and America have asked for a return. They are intellectuals. ... We do not want them to live outside the country because this could politically weaken us ... If they return, what will we make them do? We will make them do labour work as those who came in 1972, 1973, 1974. Those who come now will even more deserve to do labour work ... we must train and reeducate them”]

- ²⁰⁶⁷ **E3/1713** Ong Thong Hoeung, *J'ai cru aux Khmers Rouges*, EN 00785751, FR 00287920. See also **E3/97** Ong Thong Hoeung WRI, EN 00287104 [“We were taken straight to the Khmer Rouge-Soviet technical institute, called Kar 15 at the time. There, I saw most of my old friends, whom I had met in Europe or in France, and who had returned to Cambodia before I did. I immediately felt like I was in a Nazi camp ... What struck me wasn't so much the camp's structure, but rather the people's emaciated appearance”]; **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.25.28-15.29.32; **E1/455.1** Ros Chuor Siy, T. 11 Aug 2016, 14.55.55 [“At Office K-15 I saw friends, especially two elder men whom I met a few months before ... Their physical bodies were very thin and they wore old torn clothes and their appearance looked very upsetting to me”].

- ²⁰⁶⁸ **E1/103.1** Ong Thong Hoeung, T. 7 Aug 2012, 15.35.52-15.37.35 [“The majority of those people at K-15 were from France, and others from the United States or military soldiers who were later on taken away”], 15.45.51 [“I, of course, saw people who were taken out ... Some soldiers who came with me – they were taken out”]; **E1/104.1** Ong Thong Hoeung, T. 8 Aug 2012, 14.14.39 [“I witnessed that a large number of Cambodian people who stayed there were taken to Ta Lei”]. **E3/97** Ong Thong Hoeung WRI, EN 00287101-02 [witness returned on same flight as “15 officers or non-commissioned officers of the Lon Nol army” who had been “refugees in the United States”], 00287106 [“When we arrived, we stayed together. After that, the soldiers were sent to other places”], 00287107 [“Q: Did you ever attempt to resist? A: Some people tried, including soldiers; but whenever the Khmer Rouge heard that something was awry, they would whisk away the person involved, and the person was never seen after that”], 00287108 [“we did not see the Khmers from the United States. Most of them were nowhere to be seen by then”]; **E3/1757** Michael Vickery, *Cambodia 1975-1982*, EN 00397090 [Ta Lei internment site included “military personnel who had come back from the United States”]. S-21 records establish that these former soldiers were sent from Ta Lei to S-21 in August 1976 (see e.g. **E3/2017** S-21 List of Prisoners Taken from Ta Lei, EN 00183670-72).

- ²⁰⁶⁹ **E3/97** Ong Thong Hoeung WRI, EN 00287107 [“I attended the meeting where Koy Chea – who was a journalist in Moscow – talked about himself and apologized for having made his living the way he did. The next day, I realized that he had been removed from the camp. And later, when I was working at Tuol Sleng, I saw his name on the list of Tuol Sleng prisoners ... I saw more than 100 names of people I

506. *House arrest of Sihanouk*: **Khieu Samphan** was also directly responsible for the most important prisoner in all of Democratic Kampuchea, Norodom Sihanouk. During the initial phase of the DK regime, the Accused was assigned responsibility for the “Front and the Royal Government,”²⁰⁷⁰ which he admits included “maintain[ing] relations with” Sihanouk.²⁰⁷¹ In March 1976, when Sihanouk sought to resign as GRUNK head of state, **Khieu Samphan** presented the issue to the Standing Committee and took part in the deliberations on whether Sihanouk would be allowed to resign and whether to kill him.²⁰⁷² After two meetings, it was decided that Sihanouk would be kept alive, as long as he did not resist, but placed under house arrest.²⁰⁷³ However, the meeting decided to send a wire to Sihanouk’s children inviting them to come to Cambodia immediately for the “New Year’s and independence celebrations,” so that “problem” could be resolved “cleanly.”²⁰⁷⁴ Many of Sihanouk’s children and relatives were killed by the CPK,²⁰⁷⁵ including former GRUNK Minister Prince Norodom Phurissara,²⁰⁷⁶ whose fate was also

knew, people I have not seen since”]; **E3/1713** Ong Thong Hoeung, *J’ai cru aux Khmers Rouges*, FR 00287940; **E3/10604** OCU S-21 Prisoner List, No. 3993 [Koy Chea, Broadcaster in Russian Radio, entered S-21 on 23 September 1976]. The OCU S-21 Prisoner List contains others from K-15, including a number of people identified as former students from France or other countries (e.g. Nos 626, 1582, 2307, 4687, 5174, 5183, 5806, 6268).

²⁰⁷⁰ **E3/182** CPK Standing Committee Meeting Minutes, 9 Oct 1975, EN 00183393.

²⁰⁷¹ **E3/37** Khieu Samphan WRI, EN 00156754 [describing his assigned responsibilities: “I also had to maintain relations with King Norodom Sihanouk”]; **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103755-56 [“Around October 1975, I was assigned a position within an organization called ‘Office 870’ in which I was responsible for relations with Prince Norodom Sihanouk and his wife, ... who were living in the Royal Palace”]. See also **E3/9** Philip Short, *Pol Pot: History of a Nightmare*, EN 00396539 [describing threat made by the Accused after Sihanouk aide interviewed by a Western newspaper gave a “lurid description of life in revolutionary Phnom Penh”: “Khieu Samphan had responded by sending Sihanouk what the Prince later called a letter ‘of rare insolence,’ warning that ‘by choosing a wrong road, you have nothing to gain and everything to lose’”]; **E3/272** FBIS, *Sihanouk Aide Interviewed on Prince’s Prospects*, 17 Oct 1975, EN 00167514-15.

²⁰⁷² **E3/197** Minutes of Standing Committee Meeting on “The Front,” 11 & 13 Mar 1976.

²⁰⁷³ **E3/197** Minutes of Standing Committee Meeting on “The Front,” 11 & 13 Mar 1976, EN 00182640-41 [“the entire Standing Committee had already agreed, as follows: 1. Do not let Sihanouk leave the country ... In fact, Sihanouk is a tame tiger, with only skin and bones, no claws, no fangs, and his whiskers have been pulled out as well. Therefore, he is just waiting for the day of his death. But if this old tiger is released to walk along the road, the children will certainly be frightened ... We keep him as a dignitary. We do not kill him ... We will maintain him, but if he keeps on struggling to free himself, we must end it”]. See also **E1/92.1** David Chandler, T. 19 July 2012, 15.21.47-15.23.19 [“they simply wanted to get him out of the way ... they felt that it was perfectly safe to remove him from any positions of power and lock him up”].

²⁰⁷⁴ **E3/197** Minutes of Standing Committee Meeting on “The Front,” 11 & 13 Mar 1976, EN 00182641 [“Send a wire for his children to come immediately, explaining that they are coming for the New Year’s and the independence celebrations. We want to resolve this problem cleanly. We must resolve it like this to the benefit of the revolution”].

²⁰⁷⁵ **E3/2350R** Video, *Pol Pot et Les Khmers Rouges*, 42:16-42:45 [Sihanouk statement that 5 of his children and 14 grandchildren died during DK regime]; **E3/2813** Norodom Sihanouk, *Prisonnier des Khmers Rouges*, EN 00359360 [stating that all of his children and grand-children except for two sons by Monique, nearly 20 people in all, disappeared].

²⁰⁷⁶ **E3/30** FBIS, *Sihanouk Names New RGNUC Ministers*, 16 Jan 1975, EN 00166707-08 [“Prince Norodom Phurissara, Minister of Justice and Judicial Reforms”]; **E3/412** Toch Vannarith WRI, A25 [describing

discussed by **Nuon Chea** and **Khieu Samphan** at a different Standing Committee meeting.²⁰⁷⁷

507. Norodom Sihanouk remained under house arrest at the Royal Palace until the very last days of the DK regime,²⁰⁷⁸ under the supervision of **Khieu Samphan**.²⁰⁷⁹
508. *Ministry of Commerce*: Like other DK organisations, the Ministry of Commerce, an entity for which **Khieu Samphan** had oversight responsibilities, was heavily purged during the regime. The Committee of the Ministry of Commerce made decisions, memorialised in writing,²⁰⁸⁰ to arrest and send Commerce workers for interrogation or to the “re-education centre,” including: individuals “linked to” or in the “organizational line” of other persons previously purged;²⁰⁸¹ those who failed to perform work as

Chraing Chamreh (then called M-1 office, later B-60): “I saw educated people such as ... Prince Phuri Sara, a royal family member from overseas”]; **E3/1602** Toch Vannarith WRI, A68-A69, A72-A74 [“Q: You said the intellectuals and the Front cadres were all taken away at once. Did you see they were taken away? A: Yes, I did ... It was probably in late 1976 or early 1977”]; A77 [“I remember that the first family to be sent away was Sisowath Phurisara. The rest were sent later in that same year”], referring to list of people in **E3/5679** Sisowath Arayvady Statement, EN 00078082-83 [identifying former GRUNK officials and diplomats at Chraing Chamreh and later Boeng Trabek, and stating: “Under Van Piny, the following ‘departed definitively’: 1. Prince Norodom Phurissara, his wife and a son”]; **E3/1714** Interview of Ong Thong Hoeung and Sauv Him Hong, 29 Feb 1980, EN 00170699. See also **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002755, 00002759 [“how well and in what way Khieu Samphan discharged his responsibilities vis-à-vis his 16 former GRUNK and FUNK colleagues can perhaps be inferred from the fact that nine of them were eventually executed ... They are: Hou Youn, Hu Nim, Prince Norodom Phourissara, Tauch Pheuan, Van Piny, Tiv Ol, Chau Seng, Chea San and Huot Sambath”].

²⁰⁷⁷ **E3/227** CPK Standing Committee Minutes, 2 Nov 1975, EN 00183412 [“Phourissara and a number of other elements cannot be guaranteed. We must be really vigilant”].

²⁰⁷⁸ **E3/20** Elizabeth Becker, *When The War Was Over*, EN 00238146 [“Just two days before the Vietnamese captured Phnom Penh, Prince Norodom Sihanouk was freed from house arrest, apparently at the strong insistence of the Chinese”].

²⁰⁷⁹ **E3/2350R** Video, *Pol Pot et Les Khmer Rouges*, 40:27-41:00 [interview of Norodom Sihanouk: “I would like to soften the regime, but the Khmer Rouge did not listen to me. So in 1976, I resigned. Since then they put me under house arrest ... I saw only one man, Khieu Samphan, from time to time. He came to the Royal Palace”]; **E1/260.1** Elizabeth Becker, T. 10 Feb 2015, 09:52:49-09:55:39, 10.02.22; **E3/20** Elizabeth Becker, *When The War Was Over*, EN 00238146 [“He spoke of his three years of house arrest, sleeping no more than 3 hours each night, pacing the rooms of a small apartment inside the royal palace ... Sihanouk and his entourage saw no one but Khieu Samphan during the first two years”]. See also **E3/18** Khieu Samphan, *Cambodia’s Recent History and the Reasons Behind the Decisions I Made*, EN 00103800 [“My other responsibilities were to maintain contact with their Highnesses, Prince Norodom Sihanouk and Princess Norodom Monineath Sihanouk, who lived in the Royal Palace”].

²⁰⁸⁰ **E3/962** Ministry of Commerce Arrest Decision [“Committee of the Ministry of Commerce After Asking for Opinions from the Sections in the Ministry Decides: To arrest and send the following persons to security to interrogate for information: ... Measures were taken on 17 October 1976”]; **E3/174** Ministry of Commerce Arrest Decision [“After consulting with all the sections, Committee of the Ministry of Commerce Decides to: Send the people with the following names to the re-education centre of the security: ... Decide to implement on 17 October 1976”].

²⁰⁸¹ **E3/962** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00333254 [“Pi – City Market Section: In the organizational line of A Pruonh and Pin. Later on he was linked to A Oeun, Pheap and Chheng ... Chhon – Hospital: Under the organizational line of A Pruonh, Pin, Oeun, Pheap and Net in the City Market. At the hospital, he behaved like a playboy”]; **E3/174** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00548780 [“The person called Laom, the deputy group chief of the rice warehouse, an

assigned;²⁰⁸² those who criticised the CPK or DK government;²⁰⁸³ those who tried to flee or escape their worksite;²⁰⁸⁴ and those who committed moral offences.²⁰⁸⁵ The Commerce Committee submitted written reports to *Angkar* every ten days which included a section on the enemy situation detailing the arrests of workers sent to the “Reeducation Office.”²⁰⁸⁶

509. Contemporaneous documents show that in the same month extensive arrests of workers were being decided and carried out by the Commerce Committee,²⁰⁸⁷ it had stopped reporting to Doeun²⁰⁸⁸ and began reporting to **Khieu Samphan**.²⁰⁸⁹ The documentation of arrests at the Commerce Ministry proves both that the Ministry was implementing the same enemy policy as other DK organisations, and that it was doing so with the knowledge and approval of **Khieu Samphan** and other top Party leaders.
510. Arrests and disappearances of workers were widely known amongst Commerce cadres, as testified by witnesses²⁰⁹⁰ and noted in a contemporaneous report from the Ministry.²⁰⁹¹

intimate of Contemptible Eun, a traitorous leader at Thmei market who has already been arrested. The person called Than, a stubborn person who cannot be refashioned; moved freely; connected with the agriculture section ‘group of no good elements such as the person called Rum Eun’”].

²⁰⁸² **E3/174** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00548780 [“Supply Section: The person called Hai – close to Contemptible Sat and At, a child of the deputy chief; they did not do any work. The person called Thi – Contemptible Sat’s close messenger and knows Contemptible Sat’s work a lot: unruly, arrogant; He did not accept to do the work unless assigned by the person called Sat ... Municipal Market Section:... The person named Sen defecated everywhere; he pretended to be insane; he did not do any work”], 00548781 [“Hospital Section: The person called Lay ... When he was transferred from the hospital to do agriculture work, he escaped from doing work and complained that he had stomach ache”].

²⁰⁸³ **E3/174** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00548780 [“The person called Mi said that Democratic Kampuchea will collapse very soon and eats only smelly fish”].

²⁰⁸⁴ **E3/962** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00333254 [“That – Commerce Section: ... joined the ranks of Commerce in Kampong Som after the fall of Phnom Penh. He was gossipy and incited the masses to run bak home. He is complicated about Angkar not allowing him to go home”].

²⁰⁸⁵ **E3/174** Ministry of Commerce Arrest Decision, 17 Oct 1976, EN 00548781 [“Commerce Section: The person called Vat ... committed a moral offence, with a woman; he was arrested by the security; he lied a lot”].

²⁰⁸⁶ **E3/846** Commerce Committee, Ten Day Periodic Report, 24 Oct 1976, EN 00234229 [“At Land Transport, two bad combatants who intended to desert their unit were detained. During interrogation they responded that they had received a bicycle and a motorcycle supplied to them by let in the Commerce Motor Pool. The Ministry examined this one and found he was a liberal combatant with many bad contacts and he had already been warned once or twice, and decided to send him to the Reeducation Office on 17-10-76”], 00234230 [“Inside the unit: Those formerly close to bad groups whom we withdrew previously still have many signs which show that they are liberal, complicated and ignore their work. The Ministry has taken the additional measure of withdrawing them to the Reeducation Office, as listed in the report to Angkar dated 21-10”].

²⁰⁸⁷ **E3/962** Ministry of Commerce Arrest Decision, 17 Oct 1976; **E3/174** Ministry of Commerce Arrest Decision, 17 Oct 1976; **E3/846** Commerce Committee, Ten Day Periodic Report, 24 Oct 1976, EN 00234229-30.

²⁰⁸⁸ See **E3/2038** Report from Commerce Committee to Respected and Beloved Brother Doeun, 30 Sept 1976 [last report sent by Commerce Committee to Doeun].

²⁰⁸⁹ **E3/2040** Report from Commerce Committee to Respected and Beloved Brother Hem, 29 Oct 1976.

²⁰⁹⁰ **E1/467.1** Phan Him, T. 31 Aug 2016, 15.24.04-15.31.53; **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov

Arrests took place at Commerce sites that were regularly visited by **Khieu Samphan**, such as the Tuol Tumpung and Kilometre 6 warehouses.²⁰⁹² More than 500 people were arrested from the Ministry of Commerce and State Warehouses and sent to S-21.²⁰⁹³ The individuals arrested included persons connected to the North and East Zones,²⁰⁹⁴ and top cadres who worked under **Khieu Samphan**,²⁰⁹⁵ such as Deputy Minister Nhem,²⁰⁹⁶ Domestic Commerce chief Hong,²⁰⁹⁷ and a husband and wife who worked at the Ren Fung office in Hong Kong. The couple were recalled to Cambodia by the Commerce Committee on 10 December 1978²⁰⁹⁸ and sent to S-21 shortly after their arrival.²⁰⁹⁹

- 2016, 09.52.22-10.00.23 [describing arrest of her husband, Ministry Deputy Hong, and Hong's wife & grandchildren]; **E3/5647** Beit Boeurn alias Bit Na Statement, EN 00640160, 00640175; **E1/206.1** Sim Hao, T. 12 June 2013, 14.06.49-14.08.34, 14.11.06-14.14.25, 15.54.44-15.58.46; **E1/207.1** Sim Hao, T. 13 June 2013, 13.38.58-13.41.30; **E3/472** Sim Hao WRI, EN 00205031; **E3/4623** Sim Hao WRI, EN 00679709-10, 00679714, 00679716; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 15.16.15-15.17.55; **E3/4594** Ruos Suy Statement, EN 00710558-59, 00710564-65, 00710569-70; **E3/4624** Suon Ri Statement, EN 00699089, 00699091; **E3/437** Yen Kuch WRI, EN 00375485; **E3/5688** Yen Kuch Statement, EN 00662046; **E1/80.1** Sakim Lmut (Sar Kimlomouth), T. 4 June 2012, 11.10.40-11.14.21.
- ²⁰⁹¹ **E3/846** Commerce Committee, Ten Day Periodic Report, 24 Oct 1976, EN 00234231 ["Some of the masses are worried after we took measures to remove bad groups for reeducation"].
- ²⁰⁹² **E1/206.1** Sim Hao, T. 12 June 2013, 13.53.43-13.57.42, 14.11.06-14.14.25, 15.56.19-15.58.46; **E3/363** Sim Hao WRI, EN 00239067-68; **E3/4623** Sim Hao Statement, EN 00679716; **E3/472** Sim Hao WRI, EN 00205031; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 14.15.50-14.18.22, 15.54.55-15.57.05; **E3/4594** Ruos Suy Statement, EN 00710558-59, 00710565; **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov 2016, 09.54.38-09.58.11, 11.00.11-11.02.30; **E3/5647** Bit Na Statement, EN 00640146, 00640174; **E3/4624** Suon Ri Statement, EN 00699091, 00699099-100; **E1/467.1** Phan Him, T. 31 Aug 2016, 15.24.04-15.27.14.
- ²⁰⁹³ See **Annex F.24** List of Ministry of Commerce S-21 Prisoners; **Annex F.2** Figure 3.4, Ministry of Commerce Arrests by Month at S-21, p. 35.
- ²⁰⁹⁴ **E1/467.1** Phan Him, T. 31 Aug 2016, 14.01.34-14.04.55, 15.28.28-15.31.53; **E1/502.1** Bit Na, T. 28 Nov 2016, 11.02.30-11.04.04; **E3/5647** Bit Na Statement, EN 00640144, 00640146, 00640149; **E1/206.1** Sim Hao, T. 12 June 2013, 13.57.42-14.01.58; **E3/472** Sim Hao WRI, EN 00205031.
- ²⁰⁹⁵ See e.g. **E3/2040** Report from Commerce Committee to Brother Hem, 29 Oct 1976; **E3/2041** Report from Commerce Committee to Brother Hem, 1 Nov 1976; **E3/2940** Report from Commerce Committee to Brother Hem, 16 Mar 1977; **E3/334** Telegram from the Commerce Committee to Comrade Sokh, 3 Feb 1978, EN 00647721 ["Sent to Bang Hem for comments before sending to Hong Kong"]; **E3/2524** Letter from FORTRA to Ren Fung, 3 Aug 1978 ["To Brother Hem, Original to Hong Kong, Copy to Brother in person"]; **E3/2520** Letter from FORTRA to Ren Fung, 7 Dec 1978 [Annotation: "One copy was sent to Brother Hem"].
- ²⁰⁹⁶ **E3/10604** OCJ S-21 Prisoner List, No. 14623 [Tit Sun alias Nhem]; **E3/1929** S-21 List "State Commerce"; **E1/206.1** Sim Hao, T. 12 June 2013, 14.11.06-14.13.20; **E3/5223** Uong Thea WRI, EN 00239008.
- ²⁰⁹⁷ **E3/10604** OCJ S-21 Prisoner List, No. 5490 [Nget You alias Hong entered S-21 on 13 March 1978]; **E3/1833** S-21 Confession of Nget You alias Hong, 5 Apr 1978; **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov 2016, 09.52.22-10.00.23 ["[Ta Hong] was accused of being a traitor and he was arrested at his office ... Ta Hong had a wife and grandchildren, and all of them were also arrested and taken away"]; **E3/5647** Bit Na Statement, EN 00640175; **E1/206.1** Sim Hao, T. 12 June 2013, 14.11.06-14.13.20; **E3/458** Sao Run WRI, EN 00231698.
- ²⁰⁹⁸ **E3/1623** Letter from Commerce Committee to Krin and Nath, 10 Dec 1978.
- ²⁰⁹⁹ **E3/10604** OCJ S-21 Prisoner List, Nos 12795 [Oeng or Ing Sok, entered S-21 on 29 Dec 1978], 14849 [Phal Va alias Nat, entered on 30 Dec 1978]; **E3/1532** S-21 Biography of Ing Sok, 29 Dec 1978; **E3/1533** S-21 Biography of Phal Va alias Nat, 30 Dec 1978; **E1/79.1** Sakim Lmut (Sar Kimlomouth), T. 31 May 2012, 15.52.04-15.56.54.

c) Nuon Chea and Khieu Samphan Contribution to Purges of CPK Leaders, Zones, & Autonomous Sectors

511. As members of the Central Committee and regular participants in Standing Committee meetings, **Nuon Chea** and **Khieu Samphan** participated in decisions on whether to purge fellow CPK leaders and the organisations associated with them.²¹⁰⁰ **Khieu Samphan** has admitted that one of the responsibilities of the Office 870 Committee, of which he and Doeun were the only members, was to “monitor suspected members of the Party for the Standing Committee.”²¹⁰¹ When challenged by Stephen Heder on the reasons for the killings of CPK leaders with whom he was friends, **Khieu Samphan** asserted that “[n]ot a single one” of them was innocent.²¹⁰² **Nuon Chea** also admitted his agreement with the purges during his interviews with Thet Sambath:

Nuon Chea does not deny that these party members were killed in purges ordered by the leadership, and reiterates that they were traitors and needed to be “smashed.” In fact, “most of the leaders in the Center were on Vietnam’s puppet strings.” ... Nuon Chea said he was not particularly disturbed when his former comrades and friends were executed. “The Party decided to kill them because they were betraying the party and the nation. I was not scared or sad when they

²¹⁰⁰ **E3/5799** Kaing Guek Eav, T. 15 June 2009, 9.57.30-10.00.45 [describing practices pursuant to which the “Standing Committee made the decision to arrest,” including decisions to arrest “key people”]; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 09.33.00 [“the Standing Committee of the Party, in which there was Son Sen and Nuon Chea, was to decide what to do with the confessions ...once he received the confessions, he decided that those people were to be smashed”]; **E3/453** Kaing Guek Eav WRI, EN 00147583 [“it was only S-21 that received cadres of the Central Committee, and in order to arrest them the decision had to be made before hand by the Standing Committee of the Party Centre”]; **E3/450** Kaing Guek Eav WRI, EN 00178060; **E3/426** Lonh Dos WRI, EN 00346072 [stating that Son Sen reported to the Party Centre, who approved decisions “to arrest the implicated cadre”]; **E3/1870** Note from S-21 Interrogator Pon to Agriculture Minister Chey Suon alias Non Suon, 15 Nov 1976, EN 00096849 [“Your detention was decided on by the Standing Committee of the Party Centre and not be some other level or part of the Party”].

²¹⁰¹ **E3/37** Khieu Samphan WRI, EN 00156754-56; **E3/557** Khieu Samphan Adversarial Hearing, EN 00153269 [claiming he only learned of the function of the Committee on which he sat after January 1979]. See also **E3/12** Decision of the Central Committee Regarding a Number of Matters, 30 Mar 1976, EN 00182809 [“Central Office Committee” assigned authority to smash individuals “surrounding the Center Office”]; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 14.29.12 [“surrounding the Centre Office, to be decided by the Central Office Committee, here, it refers to Khieu Samphan, who made such a decision as set forth in this paragraph”]; **E3/15** Kaing Guek Eav WRI, EN 00251378; **E1/191.1** Philip Short, T. 8 May 2013, 09.47.42-09.49.37 [Pol Pot assigned Khieu Samphan to investigate matters, and made arrest decisions based on his reports]; **E1/192.1** Philip Short, T. 9 May 2013, 14.06.53-14.08.23 [Khieu Samphan assigned by Pol Pot to investigate “particularly delicate matters” in the provinces]; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002760.

²¹⁰² **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002771 [“As far as you know, there weren’t any cases where somebody innocent was accused? A: No. Q: Not a single one? A: No, none. Q: So everybody who was executed was in fact a traitor? A: Yes, as far as I can grasp”]. See also **E1/221.1** Stephen Heder, T. 10 July 2013, 10.20.53-10.23.29; **E1/222.1** Stephen Heder, T. 11 July 2013, 15.42.13-16.04.08 [confirming statements made by Khieu Samphan during his interview, which was tape-recorded and transcribed].

were killed. They had done wrong and betrayed us, so they received the kind of treatment they deserved.”²¹⁰³

As top Centre leaders, the Accused were aware of and involved in arrests of fellow CPK leaders and the purges of various regions, as demonstrated in the examples below.

512. *Sector 24 Secretary Chhouk*: In 1976, Son Sen asked Duch to prepare a dossier of the confession excerpts implicating Sector 24 Secretary Suos Neou alias Chhouk, telling Duch that the “brothers in [the] upper echelon” were going to meet within the next few days to decide whether he should be arrested.”²¹⁰⁴ Duch prepared seven copies of that dossier for the CPK leaders,²¹⁰⁵ and was informed by Son Sen after the Standing Committee meeting about the decision to arrest Chhouk.²¹⁰⁶ Chhouk was brought from the East Zone to the K-7 Office in Phnom Penh, where he was arrested and sent to S-21 at the end of August 1976.²¹⁰⁷
513. As regular attendees of Standing Committee meetings, both **Nuon Chea** and **Khieu Samphan** would have been present for the discussions about Chhouk, and in a post-79 interview **Khieu Samphan** provided a detailed account of the reasons and process that led to the decisions to arrest Chhouk and Division 170 Secretary Chan Chakrei, noting that “many documents” had been collected “before making a decision.”²¹⁰⁸ Duch was

²¹⁰³ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757530-31.

²¹⁰⁴ **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 14.23.00 [“My superior asked me through the telephone that the brothers in upper echelons were about to meet in order to decide on the Secretary of Sector 24 by the name of Chhouk”]; **E3/345** Kaing Guek Eav, T. 18 May 2009, 12.04.12-12.09.31; **E3/61** Kaing Guek Eav WRI, EN 00195577-78 [Son Sen asked him to “gather all the confessions” involving Chhouk because “the brothers were going to meet within the next 3 days to discuss the arrest”]; **E3/5790** Kaing Guek Eav WRI, EN 00414345 [“Chhouk had been implicated in many documents and Son Sen asked me to collect all of the relevant documents in preparation for a meeting of the standing committee”].

²¹⁰⁵ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.27.22; **E3/345** Kaing Guek Eav, T. 18 May 2009, 12.04.12-12.09.31; **E3/61** Kaing Guek Eav WRI, EN 00195578 [“on this occasion, I made 7 copies of the excerpts from the confessions in question”]; **E3/5790** Kaing Guek Eav WRI, EN 00414345 [“along with my team, I worked for 3 days and 3 nights on this issue. The final result was a very thick document that I reproduced in 7 copies for distribution to the members of the standing committee”].

²¹⁰⁶ **E1/54.1** Kaing Guek Eav, T. 27 Mar 2012, 15.04.54-15.05.59 [describing conversation with Son Sen about Standing Committee meeting that determined Chhouk was an “enemy”]; **E1/61.1** Kaing Guek Eav, T. 9 Apr 2012, 09.47.56-09.52.03; **E3/61** Kaing Guek Eav WRI, EN 00195578 [“Son Sen told me that he had read the confessions before the Standing Committee and that Pol Pot had asked what the chances were of Suos Neou alias Chhouk being a traitor. Son Sen replied 50%, and Sao Phim laughed, saying that for him, it was 100%”]; **E3/5790** Kaing Guek Eav WRI, EN 00414345.

²¹⁰⁷ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.12.16-15.16.28; **E3/5748** Kaing Guek Eav WRI, EN 00153571; **E3/5790** Kaing Guek Eav WRI, EN 00414348; **E3/342** OCP Revised S-21 Prisoner List, No. 10192 [Suos Nov alias Chhouk, Secretary of Sector 24, entered S-21 on 28 Aug 1976]; **E3/2494** S-21 Confession of Suos Neou alias Chhouk, 1 Sept 1976, EN 00796081 [cover page: “Arrested on 31 August 1976”].

²¹⁰⁸ **E3/4023** Khieu Samphan Interview [transcript of video **E3/4023R**: “it is imperative that we distinguish the arrests approved by Salot Sar or Pol Pot himself along with Standing Committee from those made by the respective arbitrary authority of others in the various Sectors and Zones ... Kindly be informed of two arrests – the very first of all were the arrest of Mr. Chan Chakrei, the Chairman of Division 170 in

told by a member of the special force team that arrested Chhouk that **Nuon Chea** had watched the arrest.²¹⁰⁹ Chhouk was one of the former CPK leaders who was specifically identified as a traitor in the Party's *Revolutionary Flag* magazine.²¹¹⁰ He was subjected to psychological and physical torture at S-21 in order to force his confession.²¹¹¹ His execution was personally witnessed by Duch, on orders from Son Sen.²¹¹²

514. Koy Thuon: Koy Thuon alias Thuch, who served as the Secretary of the North Zone in the pre-75 period and the Minister of Commerce after 17 April 1975, had been a regular participant in Standing Committee meetings with **Nuon Chea** and **Khieu Samphan** until his arrest in April 1976.²¹¹³ As **Khieu Samphan** has acknowledged, Koy Thuon was held under house arrest for approximately nine months at the premises of K-1,²¹¹⁴ a

the East Zone and the arrest of Mr. Chhouk, Secretary of Sector 24 ... I am familiar with Pol Pot's working style. On whatever issue, he always needed to collect many documents, to collect information, to gather a great deal on a situation before making a decision"; **E3/4024** Khieu Samphan Interview, EN 00788870 [transcript of video **E3/4024R**: "with the arrests, he collected much information; he had to assemble a lot of information. As long as I knew him, Mr. Pol Pot implemented that principle"; **E3/4035** Khieu Samphan Interview, EN 00789052 ["Standing Committee decided to arrest Chan Chakrei"]; **E3/4036** Khieu Samphan Interview, EN 00790622 [transcript of video **E3/4036R**: "to be more precise, the fighting had taken place in Chhouk's sector. So according to Pol Pot's understanding, Chhouk could have been mixed up in it with others"].

- ²¹⁰⁹ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 15.14.34-15.19.50 ["Sri, one of my special forces, said Brother Nuon ... was trying to look at the situation ... Comrade Sri saw this and he reported it to me"]; **E3/5748** Kaing Guek Eav WRI, EN 00153571 ["Sri also witnessed Nuon Chea observing the scene"]; **E3/65** Kaing Guek Eav WRI, EN 00147523 ["when the Party decided to hand Sao Chhouk, Secretary of East Zone Sector 24, over to S-21, Nuon Chea was the one who personally went to inspect and monitor at the Central Messenger Office"].

- ²¹¹⁰ **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185333 ["The despicable Chakrei, the despicable Chhouk, the despicable Thuch, the despicable Doeun, the despicable Phim, the despicable Sy, the despicable Keo Meah and the despicable Chey were all CIA. The only difference among them was that some of these CIAs were more on the American side while others were more on the Yuon side"].

- ²¹¹¹ **E3/2990** Report from Duch to Respected Brother re "the successive work of interrogating VIII," 26 Sept 76, EN 00284028-29 ["When it was proposed that he confess, VIII exploded in anger. Later VIII reacted in various ways, eating paper, for example. But after reaching a political dead-end, with us having sufficient documentation, and after being tortured twice, VIII agreed to confess ... this is why he was fighting within his own ideology and had been unable to sleep or eat for nearly one month"].

- ²¹¹² **E3/5801** Kaing Guek Eav, T. 17 June 09, 09.25.27-09.28.41; **E3/5790** Kaing Guek Eav WRI, EN 00414346.

- ²¹¹³ **E3/227** CPK Standing Committee Minutes, 2 Nov 1975; **E3/229** Minutes of Standing Committee Meeting on "National Defense Matters," 22 Feb 1976; **E3/230** Minutes of Standing Committee Meeting on "Economic Matters," 22 Feb 1976; **E3/217** Minutes of Standing Committee Meeting on "Problems on the Eastern Frontier," 11 Mar 1976; **E3/233** Minutes of Standing Committee Meeting on "Commerce," 13 Mar 1976 [last Standing Committee meeting with record of Koy Thuon's attendance].

- ²¹¹⁴ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498273 ["Even though Koy Thuon had been in custody since April 1976, ... it was not until 15 January 1977, nine months later, that the Standing Committee sent him to S-21 for interrogation"]; **E3/5810** Kaing Guek Eav, T. 25 Nov 2009, 11.11.40 ["Koy Thuon was placed under house arrest from the 8th of April 1976"]; **E3/355** Kaing Guek Eav WRI, EN 00242874 ["Koy Thuon was under house arrest for about 8 months. I remember clearly that he arrived at S-21 on 25 January 1977"]; **E3/10604** OCU S-21 Prisoner List, No. 14027 [Koy Thuon confession records note that he was "arrested from Central Market at 8 am on 8/4 for house detention"]; **E1/71.1** T. Pean Khean, 2 May 2012, 16.00.46 [testimony of former Koy Thuon messenger who later worked as guard at K-1, describing occasion he saw Koy Thuon after his arrest: "Pang asked me to bring

site visited on almost a daily basis by both Accused.²¹¹⁵ Under these circumstances, there can be no doubt that both **Khieu Samphan** and **Nuon Chea** were privy to the arrest of Koy Thuon. He was also one of the CPK leaders whose purge was openly discussed in *Revolutionary Flag*.²¹¹⁶ **Nuon Chea** spoke at length about Koy Thuon, and the reasons for his arrest, in his interviews with Thet Sambath,²¹¹⁷ stating:

Koy Thuon was the first one we found had betrayed the organization ... After we arrested him we saw that there were many people under him and we knew that our internal organization was not clean.²¹¹⁸

515. *Purge of North Zone*: Koy Thuon's interrogation at S-21 was personally conducted by Duch.²¹¹⁹ After his first confession was extracted and delivered to Son Sen, Duch was told of the impending purge of the numerous cadres implicated by Koy Thuon.²¹²⁰ Central Zone Secretary Ke Pauk described a meeting in Phnom Penh in early 1977 called by **Nuon Chea** and Pol Pot to discuss the purge of his zone, at which the "upper brothers" presented Pauk with detailed documents listing the zone cadres "accused of being CIAs."²¹²¹ Following that meeting, a massive purge of the zone began, starting in

chicken to Koy Khuon, when he was at a location to the south of Om Pol's house. He was about [300] meters from Om Pol's location"; **E1/72.1** Pean Khean, 3 May 2012, 09.24.31-09.27.38 [stating that Koy Thuon was "detained alone" in structure "surrounded by wall"].

²¹¹⁵ **E1/156.1** Sa Vi, T. 8 Jan 2013, 09.42.35-09.47.08 ["Q: Did any other senior leaders of the Khmer Rouge reside at K-1? A: I saw other leaders, including Uncle Ieng Sary, Nuon Chea, Khieu Samphan, who came and went to the office. Every time they came to the meetings and worked, they would stay there. ... I saw them almost every day. They came to the place very often"], 11.13.56-11.18.36; **E1/503.1** Seng Lytheng, 29 Nov 2016, 09.49.30-09.52.02 ["Q: And when you were sent to K-1 and when you worked there as a guard and messenger, who were the leaders who you saw who lived or worked there on a daily basis? A: K-1's leaders included Pol Pot, Nuon Chea, Khieu Samphan, Ieng Sary"]; **E3/462** Seng Lytheng WRI, EN 00223564 [witness saw Pol Pot, Khieu Samphan and Nuon Chea "everyday" at K-1]; **E3/37** Khieu Samphan WRI, EN 00156755 [Standing Committee meetings "often held at K1 office"]; **E1/86.1** Oeun Tan, T. 13 June 2012, 11.05.01 ["Pang worked with Pol Pot, Nuon Chea, and Khieu Samphan at K-1 location"], 11.52.44-11.54.56 ["At K-1, it was the workplace for all leaders"].

²¹¹⁶ **E3/170** *Revolutionary Flag*, Oct-Nov 1977, EN 00182553 ["once the contemptible Thuch was out, he just did things according to his own stance. After a period, enemies were swarming all over Zone 304. This guy was an enemy"]; **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185330 ["We see that the defence situation in 1977 is good because we are rid of the despicable Thuch, the despicable Ya and the despicable Chakrei"], 00185333 ["the despicable Thuch"].

²¹¹⁷ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757532-34 ["He spoke extensively of Koy Thuon's wrongdoings during many of our interviews"].

²¹¹⁸ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757534-35.

²¹¹⁹ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 15.12.14-15.14.58 ["There was one prisoner that I was strictly instructed from the upper echelon to interrogated myself – that is, Koy Thuon"].

²¹²⁰ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 14.35.46 ["they planned to arrest the North Zone network because there were implications in Koy Thuon's confession"], 15.44.23-15.46.30 ["Son Sen kept calling me about the result of his confessions ... I did not even finish recording it properly when the man came to collect it from me"]; **E3/394** Kaing Guek Eav WRI, EN 00398230 ["Regarding the purges in the North Zone, ... I spoke about this to Son Sen and he told me that these arrests were the result of Koy Thuon's confession"]; **E3/45** Kaing Guek Eav WRI, EN 00205162-63.

²¹²¹ **E3/2782 (E3/2783)** Ke Pauk Interview, EN 00089713 ["as I arrived in Phnom Penh, I met Pol Pot and Brother Nuon Chea. They showed me documents of all regions and ministries ... I said, 'It is difficult to

mid-February 1977 with the arrests of almost all zone, sector, and district committee members.²¹²² Southwest cadres sent to take over the Central Zone, including Tram Kak District Secretary Pech Chim, stopped on their way to Kampong Cham for a meeting in Phnom Penh with Pol Pot, **Nuon Chea**, Son Sen and other Centre leaders, and were instructed by Pol Pot to “deal with” the traitors in that zone.²¹²³ Over 500 people from the North Zone were sent to S-21,²¹²⁴ and Ke Pauk stated that by the time the purge was over: “there was only me left.”²¹²⁵

516. *Soeu Vasi* alias *Doeun*: Doeun entered S-21 on 16 February 1977.²¹²⁶ He also had been a regular attendee at Standing Committee meetings with **Khieu Samphan** and **Nuon Chea**,²¹²⁷ and he and **Khieu Samphan** were the sole members of the Political 870 Committee.²¹²⁸ **Khieu Samphan**’s wife testified that Doeun often ate meals with her husband at K-3 before he disappeared.²¹²⁹ Accordingly, **Khieu Samphan**’s claim to OCJ that he did not know Doeun was arrested, because he may have just been

say, because all comrades are life-and-death friends. However, if Angkar has decided already, I do not have any complaint.’ Some soldiers served me since 1968, but they were accused of being CIAs. I did not know what to do, except telling them, ‘I just put them forward for the higher level [upper brothers]’]. See also **E3/394** Kaing Guek Eav WRI, EN 00398230 [“I know that Ke Pauk came to Phnom Penh at the time of the purges, in early 1977, because Son Sen told me about it”].

- ²¹²² **E3/2956** S-21 List of Persons from the North Zone, 1 February 1977 to 27 March 1977 [listing 94 cadres sent to S-21 between mid-February and late March]; **E3/2782 (E3/2783)** Ke Pauk Interview, EN 00089705-06, 00089713 [describing arrests conducted by “security vehicle from Phnom Penh” of zone ministry secretaries, military committee, sector committees, district committees and “some commune chiefs”].

- ²¹²³ **E1/290.1** Pech Chim, T. 22 Apr 2015, 15.23.29-15.38.39 [“Only Pol Pot spoke at that meeting. And he simply said that there were traitors in the Central Zone”]; **E3/9587** Pech Chim WRI, A60 [“the high-ranking people included Pol Pot, Ta Mok, Nuon Chea, Ke Pauk and Son Sen”], A63 [“As for the Southwest Zone, Ta Mok, approximately 10 other people and I attended that meeting. The meeting was held to receive plans from the upper echelon”], A64-A65 [“During the meeting, Pol Pot said about betrayal in the Zones, and it was also written on blackboards ... Pol Pot did not use the word ‘purges.’ He said that ‘this zone is traitorous; I assign you Comrade to go! You are my right-hand man; deal with it. Can you do it?’”]. See also **E1/378.1** Prak Yut, T. 19 Jan 2016, 13.54.34-13.56.29 [“We left Kampot and then we stopped over in Phnom Penh. And we stopped at a location that belongs to the Central Zone and I spent overnight there”], 14.12.31-14.15.50 [admitting she heard about the meeting with Pol Pot and Nuon Chea, but claiming she did not have an “important position that allowed me to attend”]; **E3/9476** Prak Ny WRI, A10-A11.

- ²¹²⁴ See **Annex F.2** Figure 6.6, *North Zone Arrests by Month at S-21*, p. 56. See also **E3/3861** S-21 List, “List of Prisoners Smashed on 8-7-77, North Zone” [173 prisoners from the Central (old North) Zone killed at S-21 on 8 July 1977]; **E3/2957** S-21 Prisoner List, “Central Zone” [list of 59 Central Zone cadres who entered S-21 from 14-19 November 1977].

- ²¹²⁵ **E3/2782 (& E3/2783)** Ke Pauk Interview, EN 00089706, 00089713.

- ²¹²⁶ **E3/10604** OCJ S-21 Prisoner List, No. 14596.

- ²¹²⁷ **E295/6/1.2** Table of Attendance at Standing Committee Meetings [showing Doeun present for 12 of 18 surviving minutes with attendance lists, only behind Nuon Chea (18), Pol Pot (17) and Khieu Samphan (16)].

- ²¹²⁸ **E3/37** Khieu Samphan WRI, EN 00156754.

- ²¹²⁹ **E1/206.1** So Socheat, T. 12 June 2013, 09.34.24-09.38.04, 09.42.40-09.44.15.

travelling (for two years),²¹³⁰ was a blatant lie, particularly in view of the fact Doeun was named as a traitor in *Revolutionary Flag* and his arrest was no secret.²¹³¹ **Nuon Chea**, on the other hand, was bluntly honest when asked by Thet Sambath about Doeun, saying “matter-of-factly that Doeun was killed because he was ‘Koy Thuon’s string.’”²¹³²

517. *Minister of Propaganda Hu Nim*: When Hu Nim was arrested, he immediately wrote a letter expressing his innocence addressed to “Brother Pol, Brother Nuon, Brother Van, Brother Vorn, Comrades Khieu and Hem.”²¹³³ The CPK leaders to whom Hu Nim addressed his letter reflected his understanding, as an insider, on who had authority to decide his fate.²¹³⁴ **Khieu Samphan** has indicated that his close colleagues Hu Nim and Hou Youn were killed because of their disagreement with Party policy.²¹³⁵ Yet less than a week after the arrest of Hu Nim,²¹³⁶ **Khieu Samphan** continued to urge implementation of the CPK policy to “wipe out the enemy ... neatly and thoroughly.”²¹³⁷ He made such statements with full knowledge that the persons who would be killed as “enemies” included anyone who dissented, opposed or disagreed with the Party.²¹³⁸

²¹³⁰ **E3/37** Khieu Samphan WRI, EN 00156753 [discussing Soeu Vasy alias Doeun: “He was arrested in 1977, but I only discovered that fact after the fall of the Khmer Rouge, that is, after 1979. I was not surprised by his absence because, as I have said, each of us had to concentrate on his or her own tasks. He travelled quite a lot, Doeun. No one knew where he was except the members of the Standing Committee”]. See also **E3/210** Khieu Samphan WRI, EN 00156948-49.

²¹³¹ **E3/727** *Revolutionary Flag*, May-June 1978, EN 00185333. See also **E3/456** Kaing Guek Eav WRI, EN 00198883 [“everybody knew that there were disappearances and massacres. Khieu Samphan was undoubtedly all the more aware, since Pol Pot liked him and considered him as his pupil, and gave him privileged information”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 09.17.44-09.27.23; **E1/451.1** Henri Locard, T. 29 July 2016, 15.15.21-15.17.01 [in response to whether Khieu Samphan could have been ignorant of CPK’s security policies: “Unless His Excellency Khieu Samphan was completely blind and unless his ears were plugged, ... this would have been impossible”].

²¹³² **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757534 [“Soon after Koy Thuon was taken into custody, Doeun was arrested. Nuon Chea said Doeun was ‘Koy Thuon’s man, as Koy Thuon had pushed for his people to be appointed to the Center office’ ... Nuon Chea said, matter-of-factly, that Doeun was killed because he was ‘Koy Thuon’s string’”].

²¹³³ **E3/1550** Letter from Hu Nim alias Phoas, 10 Apr 1977, EN 00249844-45 [letter also indicates that Hu Nim was arrested when “Pang called me on the phone to work with Angkar”]; **E1/56.1** Kaing Guek Eav, T. 29 March 2012, 15.58.12.

²¹³⁴ **E1/93.1** David Chandler, T. 20 July 2012, 11.03.48-11.05.18 [“these are the revolutionary names of the members of the Party Centre ... Hu Nim was high enough up in the Party hierarchy to know”], 14.02.08 [“he knew exactly who the leaders were of the Party ... he was an insider”].

²¹³⁵ **E3/37** Khieu Samphan WRI, EN 00156757 [“I would not have survived if I dared to reveal any disagreement or objection to anything. The obvious example of that was the case of Hu Nim and Hou Youn”].

²¹³⁶ **E3/10604** OCU S-21 Prisoner List, No. 1959 [Hu Nim alias Phoas, Secretary of Ministry of Propaganda, entered S-21 on 10 April 1977, executed 6 July 1977].

²¹³⁷ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419513.

²¹³⁸ See also **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14, 14.58.33-15.01.24; **E1/467.1** Chea Dieb, T. 31

518. *West Zone Secretary Chou Chet*: Duch testified that Pol Pot invited **Khieu Samphan**, instead of Vorn Vet, to the meeting that decided on the arrest of West Zone Secretary Chou Chet.²¹³⁹ **Khieu Samphan** acknowledged his involvement in investigations of West Zone cadres when interviewed by Stephen Heder, describing one occasion in which they found a “comrade in the west” had been falsely accused.²¹⁴⁰ This is consistent with the evidence (discussed above) of the role of the Office 870 Committee in monitoring suspect cadres.
519. *Purge of Northwest Zone*: Civil Party Son Em, whose uncle was the chairman of the Northwest Zone Office, was brought to Phnom Penh for political reeducation after the June 1977 arrests of his uncle, father and other zone cadres.²¹⁴¹ He testified that, before the arrests of the Northwest Zone cadres, **Nuon Chea** came to Battambang for meetings with Northwest Zone Secretary Ros Nhim and Deputy Keu.²¹⁴² After his arrest, the Civil Party attended a three-day political reeducation workshop for hundreds of people from

Aug 2016, 09.06.49-09.08.31 [testifying that Khieu Samphan was present on the podium at Borei Keila at event in which Hu Nim’s messenger publicly denounced him].

²¹³⁹ **E1/55.1** Kaing Guek Eav, T. 28 Mar 2012, 14.30.27-14.32.36, 15.27.22-15.29.05 [“And when Chou Chet was to be arrested, the decision was made in the meeting, and at that time Pol Pot did not ask Vorn Vet to attend the meeting but he invited Brother Hem ... instead of Brother Vorn”]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 09.16.52-09.24.31, 11.37.45-11.43.50; **E3/453** Kaing Guek Eav WRI, EN 00147584; **E3/356** Kaing Guek Eav WRI, EN 00242901; **E3/61** Kaing Guek Eav WRI, EN 00195578.

²¹⁴⁰ **E3/203** Khieu Samphan Interview (by Stephen Heder), 4 Aug 1980, EN 00424016 [in response to whether there were people in the upper echelon falsely accused of being CIA or Yuon agents: “Yes, there was a comrade in West. ... They accused him. However, they were not successful because we investigated the case in a timely manner”]; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002771 [referring to above statement by Khieu Samphan: “This was evidently an allusion to the investigation he conducted in the West Zone in August 1977, and Pol Pot’s resulting decision to kill Zone Secretary Chou Chet, but not his deputy, Heng Pal”].

²¹⁴¹ **E1/500.1** Son Em, T. 21 Nov 2016, 10.03.02-10.10.25 [describing disappearance of his uncle Say, who was chief of the Northwest Zone Office, and his father Sau Chim alias Chet, who was chairman of a Zone factory]; **E3/9477** Son Em WRI, A47-A48, A53-A54; **E3/10604** OCIJ S-21 Prisoner List, No. 10054 [So Chim alias Chet, Chief of Textile Factory in Battambang, entered S-21 on 28 June 1977]; **E3/9996** S-21 Daily Control List of Prisoners, 30 July 1977 [handwritten note that “Sau Chim alias Chet, chief of textile factory in Battambang, died from dysentery and severe wound to the back”]; **E1/500.1** Son Em, T. 21 Nov 2016, 10.11.31 [“Q: Was your father in good health or poor health the last time you saw him before his arrest? A: My father was in good health and he did not have any disease”]; **E3/9646** S-21 List of Prisoners Entering on 26 June 1977, KH 01017054 [No. 26 - Ruoh Mao, Chief of NW Zone Office]; **E3/2285** S-21 List of Prisoners Smashed on 18 October 1977, EN 00873637 [No. 35 - Ruos Mao alias Say].

²¹⁴² **E3/9477** Son Em WRI, A49 [“Q: Did you know who ordered the arrests of your father and uncle? A: I knew that each arrest had an order issued from the Party Centre. Before each arrest, there was a meeting led by Pol Pot with Ruos Nhim, and there were other meetings led by Nuon Chea with Kân alias Keu”], A51-A52 [“I remember that Nuon Chea attended the meetings there 3 times, once in 1976 and twice in 1977 ... Q: How did you know that those meetings discussed about the arrests of people? A: My older uncle Say told me about that because he also attended those meetings”]; **E1/500.1** Son Em, T. 21 Nov 2016, 11.03.00-11.10.39 [“Nuon Chea came to chair meetings at the Battambang University, and I personally saw him there”].

the Northwest Zone, at which **Nuon Chea** spoke.²¹⁴³ During this reeducation session, **Nuon Chea** talked about the Northwest Zone cadres who had been arrested, asserting that Son Em's uncle Say was a "traitor of the Party" who had worked with the CIA.²¹⁴⁴ Some of the participants in the reeducation session conducted by **Nuon Chea** were subsequently arrested and taken away.²¹⁴⁵

520. *Preah Vihear (Sector 103 of new North Zone): Khieu Samphan* has admitted he was aware during the DK regime of mass arrests in Preah Vihear province, which arrests included relatives of his wife.²¹⁴⁶ Meas Voeun, who was appointed Secretary of Sector 103 in August 1978,²¹⁴⁷ testified that he received a telegram from **Khieu Samphan** instructing him to report on the situation in the sector and to check on the well-being of the Accused's relatives.²¹⁴⁸ Meas Voeun recalled informing the Accused that his sister-in-law (Yeat), who had been the head of women in Sector 103,²¹⁴⁹ was detained at Siem Reap.²¹⁵⁰ Following **Khieu Samphan's** intervention, his in-laws were released,²¹⁵¹ but 700 other purge victims remained imprisoned in the North Zone security office.²¹⁵²

²¹⁴³ **E1/500.1** Son Em, T. 21 Nov 2016, 09.48.18-09.56.20, 11.14.18-11.20.45 ["we were sent to attend the meeting chaired by Nuon Chea ... the total number of people including the elders, the youths, came up to hundreds ... Q: Do I understand correctly that the other people that were sent from Battambang were also people like yourself whose relatives had been arrested; is that right? A: That is correct"]; **E3/9477** Son Em WRI, A61; **E3/5000** Son Em CPA, EN 00793364.

²¹⁴⁴ **E1/500.1** Son Em, T. 21 Nov 2016, 09.45.06-09.48.18 ["In 1977, I received information from Nuon Chea, who had brought me to Phnom Penh. He said that, 'the Contemptible Say was the traitor of the Party' ... Nuon Chea said so during the gathering of hundreds of people from the Northwest Zone ... He explained to us that a number of people in the leaders of the Northwest Zone were traitors"]; **E3/9477** Son Em WRI, A54, A62 ["He said that the Party arrested Say (my uncle) who was the ringleader of traitors and the one who provided information to the American CIA"]; **E3/5000** Son Em CPA, EN 00793364 ["In the workshop, Nuon Chea had spoken about the guilt of those whom Angkar had taken to execute and told the participants that the murdered were traitors against the Party"].

²¹⁴⁵ **E1/500.1** Son Em, T. 21 Nov 2016, 11.29.58-11.35.35; **E3/5000** Son Em CPA, EN 00793364.

²¹⁴⁶ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103794 ["Near the middle of 1978, I did hear of massive arrests and atrocities committed in Preah Vihear province. It was my wife who, in tears, told me of the atrocities committed against her brothers, her relatives, and many other innocent victims"].

²¹⁴⁷ **E3/424** Meas Voeun WRI, A9-A11, A19 ["I went to control sector in Preah Vihear in August 1978"]; **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.26.30-14.28.34 ["the sector was known as autonomous sector and it was supposed to report directly to Khieu Samphan"], 15.11.31-15.16.07; **E3/420** Prum Sou WRI, EN 00422379-80.

²¹⁴⁸ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.11.45-14.15.14, 14.17.15 ["He instructed me to follow-up with the welfare of his relatives and if they were facing hardship then they should be sent to Phnom Penh"], 14.25.15-14.26.30; **E1/131.1** Meas Voeun, T. 8 Oct 2012, 14.08.50-14.13.46; **E1/132.1** Meas Voeun, T. 9 Oct 2012, 11.28.53, 14.08.31-14.10.47; **E3/424** Meas Voeun WRI, A13, A18.

²¹⁴⁹ **E3/420** Prum Sou WRI, EN 00422380 ["The survivors include ... Bang Yiet (female) who was the head of women of Sector and also was the elder sister-in-law of Ta Khieu Samphan"].

²¹⁵⁰ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.13.35, 14.17.15-14.25.15 [confirming he reported to Khieu Samphan that his sister-in-law Yeat was detained at Siem Reap]; **E3/424** Meas Voeun WRI, A14.

²¹⁵¹ **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.21.10-14.23.22 [describing release of Yeat by North Zone Secretary Ta Soeung]; **E1/132.1** Meas Voeun, T. 9 Oct 2012, 14.08.31-14.10.47 ["Ta Soeung had to make some contacts with the military there. And with some investigation and inquiries, then the release

521. **Nuon Chea** also had knowledge of and responsibility for the purge of this region. In late 1977, he presided over a meeting at the Sector 103 office in Preah Vihear province, at which he instructed sector cadres to be “vigilant” about internal enemies “burrowing inside,” such as CIA and KGB.²¹⁵³ In the days and weeks following the **Nuon Chea** meeting, there was a series of arrests of Sector 103 cadres, including the former Sector Secretary Bou Phat alias Hang and his family.²¹⁵⁴ **Nuon Chea** was also specifically aware that the purges in this region included “policemen, soldiers and government officials” from the prior regime.²¹⁵⁵
522. *Standing Committee Member Vorn Vet*: Both **Khieu Samphan** and **Nuon Chea** worked with Vorn Vet at K-3²¹⁵⁶ and attended Standing Committee meetings with him.²¹⁵⁷ Vorn

of elder sister of Mr. Khieu Samphan was made”]; **E3/424** Meas Voeun WRI, A20; **E3/420** Prum Sou WRI, EN 00422379-80 [stating that one of the other survivors of the Siem Reap Security Centre was “Bang Chhorn ... brother-in-law of Ta Khieu Samphan”].

²¹⁵² **E1/130.1** Meas Voeun, T. 4 Oct 2012, 14.19.13-14.21.10 [testifying that North Zone security office in Siem Reap had “up to 700 prisoners”], 14.28.34-14.32.40 [confirming that when he went to the Siem Reap prison, Khieu Samphan’s sister-in-law was the only prisoner released].

²¹⁵³ **E1/194.1** Prum Sou, T. 21 May 2013, 10.55.42-11.00.40 [“Q: At the meeting that you attended, did Nuon Chea talk about the enemy situation, such as presence of agents from the CIA and KGB? A: To my recollection, he spoke about that: that we, at the base, had to be vigilant because the enemy conducted their activities burrowing inside”]; **E3/420** Prum Sou WRI, A6, A10 [“Ta Nuon Chea talked about the situation in the whole country; the forces, like CIA and KGB that tried to disturb the Democratic Kampuchea and to infiltrate and sap from within”]. See also **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757499 [admission by Nuon Chea of trip to Preah Vihear during DK regime].

²¹⁵⁴ **E1/194.1** Prum Sou, T. 21 May 2013, 11.05.17-11.07.17 [“It was not long after that meeting was held; Hang disappeared, and the arrests began – that is, the arrests for cadres in all units, including the sector office. And the family, and the relatives, and the children of Hang were also arrested”]; **E3/420** Prum Sou WRI, A10; **E3/425** Seng Kimoeun WRI, EN 00421613 [Hâng and his deputies were “invited” by upper echelon to re-education in Phnom Penh, and “many cadre of Sector 103 were arrested”]; **E3/10604** OCJ S-21 Prisoner List, No. 120 [Sector 103 Secretary Bou Phat alias Hang entered S-21 on 4 Jan 1978], Nos 1932-1933 [Dom Phem alias Pin, the wife of Sector Secretary Hang, and her 65-year old father Dom Pok entered S-21 on 16 Jan 1978]; **E3/918** Telegram 254 from Sè to Committee 870, 10 Jan 1978, EN 00182758 [report from North Zone Secretary Kang Chap alias Sè, copied to “Uncle Nuon”: “I did appoint Comrade Bun Chan as Assistant at Sector 103. So when I go there I will send more crocodiles to the organization, please receive them”]; **E3/996** Telegram 313 from Sè to Committee 870, 19 Mar 1978, EN 00436996 [report copied to Uncle Nuon: “As far as the hidden enemies in Preah Vihear areas are concerned, after the enemies have been purged, no incidents are observed”]; **E3/1077** Telegram 324 from Sè to Committee 870, 10 Apr 1978, EN 00340539-40 [telegram with annotation “Uncle Nuon” references the previous arrest of “Hang and all of his henchmen in Chaom Ksan district and in Sector 103 military unit,” and reports: “We are continuing to purge the remaining group continuously, including those who oppose our revolution openly and secretly ... In Sector 103, we carry out the purge of the hiding-burrowing-enemy”].

²¹⁵⁵ **E3/1144** Telegram from Sè to Committee 870, 5 Sept 1977, EN 00517923 [telegram copied to “Uncle Nuon” states: “enemies who were former officials, policemen or soldiers of the previous regime were discovered one after another”]; **E3/996** Telegram 313 from Sè to Committee 870, 19 Mar 1978, EN 00436995-96 [telegram copied to “Uncle Nuon” that the Zone had “systematically purged” enemies associated with former “policemen, soldiers and government officials” and planned “to arrest more people”].

²¹⁵⁶ **E3/858** List of K-Office Cadres, EN 00391725-26 [identifying guards for “Uncle II,” “Brother Hèm” and “Brother Vorn” who were based at K-3]; **E1/208.1** Leng Chhoeung, T. 17 June 2013, 13.56.17-14.01.37

Vet and his deputy Cheng An were arrested on 2 November 1978 after the conclusion of the 5th Party Congress,²¹⁵⁸ in view of other members of the Central Committee.²¹⁵⁹

Nuon Chea and **Khieu Samphan** were present at this Congress, where they were reappointed to their positions on the Standing and Central Committees.²¹⁶⁰

523. In a 2006 interview, **Khieu Samphan** stated that Vorn Vet was “arrested because he also [was] one of the Vietminh bodies hidden in the Communist Party of Kampuchea.”²¹⁶¹ Ieng Sary attributed the decision to arrest Vorn Vet and Northwest Zone Deputy Secretary Kong Sopha alias Koe (or Keu) to Pol Pot, **Nuon Chea**, and Son Sen.²¹⁶² Vorn Vet was tortured using ice water and a fan during his interrogation.²¹⁶³ Duch has stated that **Nuon Chea** followed the interrogation of Vorn Vet “closely” and “needed a full confession,”²¹⁶⁴ and that after his confession was obtained, it was **Nuon**

[witness saw Vorn Vet at K-3 office “once in a while”]; **E3/385** Leng Chhoeung WRI, EN 00360131 [“Vorn Vet was also at the K-3 office”].

²¹⁵⁷ See **E295/6/1.2** Table of Attendance at Standing Committee Meetings.

²¹⁵⁸ **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 10.18.21 [“when Vorn Vet was arrested he was arrested at the Central Office”], 10.22.09 [“it was on the 2nd of November 1978”]; **E3/5799** Kaing Guek Eav, T. 15 June 2009, 10.29.32 [“Lin called me and said, ‘Duch, be ready to receive 3 packages, 3 big packages.’ Of course it included Brother Vorn, Kong Sopha, the Secretary of the Northwest, and Brother Cheng An”]; **E3/106** Kaing Guek Eav WRI, EN 00177636 [“Vorn Vet and his deputy Cheng An were arrested at the headquarters of the Standing Committee (Office 870) by Comrade Lin and his men”]; **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417617 [“After the Party Congress before the Yuon came in 1978, after the end of the Party Congress, that night Vorn Vet was arrested”]; **E3/1681** S-21 Confession of Cheng An, EN 00864642 [“Confessed on 03-11-78”]; **E3/3192** S-21 Confession of Kung Sopha alias Koe alias Keu, 4 Nov 1978, EN 00797073; **E3/10604** OCIJ S-21 Prisoner List, No. 14514 [Penh Thuok alias Sok alias Vorn Vet entered S-21 on 2 November 1978]; **E3/816** Notes from 5th Party Congress, 2 Nov 1978.

²¹⁵⁹ **E3/2782** (**E3/2783**) Ke Pauk Interview, EN 00089715 [“In 1978 before the Vietnamese invaded Cambodia, when we were conducting the 5th General Assembly ... Pol Pot told me to stay waiting to see a movie. I was wondering of what was going on. I decided to stay in the building of the Central Committee. To my amazement, at one in the morning, they captured Ta Keu and Vorn Vet”]; **E3/394** Kaing Guek Eav WRI, EN 00398234 [“Ke Pauk told to me, when we met in 1988 or 1989 in Thailand, that after a Central Committee meeting, Pol Pot has asked the participants to stay and watch a film projection; that Ta Mok had ordered the arrest of Ta Keu and Vorn Vet”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.20.19-11.24.30 [describing joke made by Nuon Chea’s wife about same incident].

²¹⁶⁰ **E3/203** Khieu Samphan Interview, 4 Aug 1980, EN 00424014; **E3/816** Notes from 5th Party Congress, 2 Nov 1978 [identifying “Nuon” as Deputy Secretary of Standing Committee and “Vice-Chairman [of Military Committee] in charge of Political Affairs,” “Hom” (believed to be Haem) as “Committee Secretary in charge of unit 870” and Member of Economic Committee, and “Sarun” as in charge of Monduliri].

²¹⁶¹ **E3/108** Khieu Samphan Interview, 9-11 June 2006, EN 00000929 [in response to question whether Vorn Vet was still alive].

²¹⁶² **E3/89** Ieng Sary Interview, 17 Dec 1996, EN 00417617 [discussing arrests of Vorn Vet and Koe near end of DK regime: “later on I learned that three people, Nuon Chea, Son Sen and Pol Pot had made the decision ... they said that that group had joined the Vietnamese”].

²¹⁶³ **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.24.30-11.30.42 [describing Pon’s interrogation of Vorn Vet: “He used torture during the interrogation ... to make Brother Vorn shiver ... ice was put into a container and water was poured into it, then they splashed that cold water on to him and then they turned on a fan”]; **E3/347** Kaing Guek Eav Interview, May 1999, EN 001850026; **E3/106** Kaing Guek Eav WRI, EN 00177637.

²¹⁶⁴ **E3/106** Kaing Guek Eav WRI, EN 00177637; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 13.33.13 [“Regarding the interrogation of Vorn, Brother Nuon followed the process of the interrogation as

Chea who ordered Vorn Vet's execution.²¹⁶⁵

524. As with other purged CPK leaders, the relatives and associates of Vorn Vet were also arrested and smashed.²¹⁶⁶ Shortly after Vorn Vet and Cheng An's arrest, their wives were summoned to **Nuon Chea**'s office at the Preah Suramarith Buddhist School, arrested and taken to S-21, on the orders of **Nuon Chea**.²¹⁶⁷ S-21 records confirm the imprisonment of the two spouses,²¹⁶⁸ the four daughters of Cheng An aged 15 to 21 years old,²¹⁶⁹ and the 75-year old mother and children of Vorn Vet (identified as "Brother 10"), including a 6-year old daughter,²¹⁷⁰ corroborating Duch's testimony that the "whole family was arrested."²¹⁷¹

normal"], 13.39.11 ["Regarding Vorn Vet's interrogation, I constantly made reports to Nuon --Uncle Nuon. After I obtained a few pages of a confession, I would go to make the report to Nuon Chea and he would also call me to brief him on how it went once every few days. At the end, the full confession was obtained, and I would send Uncle Nuon the document"].

²¹⁶⁵ **E3/106** Kaing Guek Eav WRI, EN 00177637 ["I received his confession, read it and forwarded it to the superiors. Nuon Chea then decided to have him executed"]. See also **E3/65** Kaing Guek Eav WRI, EN 00147526 [discussing photographs taken of important executed prisoners, including Vorn Vet: "I received the photographs and sent them to Nuon Chea"]; **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 10.05.24 ["The photos of ... those who had just been killed were photographs based on the orders of Brother Nuon"].

²¹⁶⁶ **E3/10586** Kaing Guek Eav Statement, 4 June 1999, EN 00326765 ["the families of Vorn Vet, Koy Thuon, Soeu Vasi and Chhim Sam Aok alias Pang were all smashed"]; **E1/451.1** Henri Locard, T. 29 July 2016, 09.41.02-09.42.45 ["The Khmer Rouge were convinced, Nuon Chea in particular, was convinced that the most absolute priority was to protect the two or three leaders of the country ... that is, those at the apex of the country, Pol Pot, Nuon Chea and Khieu Samphan; their lives had to be protected at all costs ... So they had to execute the children of traitors because they were convinced that the children would take revenge some day"].

²¹⁶⁷ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.39.23-09.41.28 ["when Brother Vorn was arrested, his spouse named Vin was also arrested"], 10.03.18-10.08.38 ["Q: Who was the superior who instructed you to arrest these wives? A: At that time, it was Brother Nuon who gave me the direct instruction ... On that day the women were called to ... work with Brother Nuon at the Buddhist school of Suramarit"]; **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 10.20.05 ["I went to arrest people ... upon order from Bong Nuon. I had to receive Cheng An's wife and Vorn Vet's wife"]; **E3/5748** Kaing Guek Eav WRI, EN 00153571 ["I can mention the arrest of two women: one was Vorn Vet's wife (Vin), chairwoman at the Ministry of Industry Hospital ... The other was the wife of ... An (deputy of Vorn Vet at the Ministry of Industry) Phoas. These two women were summoned by Nuon Chea to his office, transferred to S-21 and then smashed"].

²¹⁶⁸ **E3/10604** OCJ S-21 Prisoner List, No. 14479 [Prum Phal alias Vin, Chief of Hospital 75], 13598 [Yan Kang alias Phoas, Chief of Flour Factory and "wife of Brother 30," entered S-21 on 21 Nov 1978]; **E3/10256** S-21 List of Prisoners from State Industry, KH 01016798 [No. 38]; **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 10.33.22-10.38.15 [identifying spouses of Vorn Vet and Cheng An].

²¹⁶⁹ **E3/10256** S-21 List of Prisoners from State Industry, KH 01016798 [Nos 40-43 identified as "daughters of 30," on the same list Cheng An's wife Phoas (No. 38) is identified as "wife of Brother 30"; No. 39 on list, Soeng Boratt, Chief of West Zone Hospital and "son of 30," entered S-21 on 6 Dec 1978]; **E3/10604** OCJ S-21 Prisoner List, Nos 8154, 12771-12774; **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 10.38.15-10.42.50.

²¹⁷⁰ The same S-21 list of State Industry prisoners (**E3/10256**) that includes the wife and daughters of Cheng An ("Brother 30") also contains an 18-year old girl Sok Sry (No. 37) who is identified as the "daughter of Brother 10" and a medic at Hospital P-75, the same hospital at which Vorn Vet's wife Vin was the chairwoman. Vorn Vet's original name was Penh Thuok alias Sok. See also **E3/10604** OCJ S-21 Prisoner List, Nos 11459 [Sok Sry], 14868 [75-year old woman By Khen, identified as the "mother of 10," entered on 18 Dec 1978], 14869 [17-year old girl Prum Peou, the same family name as Vorn Vet's

525. Duch also testified that when he reported Vorn Vet's confession to **Nuon Chea**, the Accused responded that "Vorn Vet did not work alone at the Ministry of Industry" and shared power with "other persons."²¹⁷² Over the ensuing final weeks of the DK regime, from 21 November to 27 December 1978, a total of 90 people from the State Industry Ministry were sent to S-21, including Committee Members,²¹⁷³ the Chief of Construction,²¹⁷⁴ the Warehouse Chief and his wife and three daughters,²¹⁷⁵ and 23 factory chiefs.²¹⁷⁶ Many of these victims from the Ministry of Industry were killed in the mass execution of 225 S-21 prisoners on 31 December 1978.²¹⁷⁷ After Vorn Vet and the other leaders of the Ministry of Industry were purged, it was **Khieu Samphan** who provided instructions to the remaining Industry cadres when Vietnamese forces were advancing on Phnom Penh in late 1978.²¹⁷⁸

wife and identified as the "niece of 10," entered on 18 Dec 1978], 14923 [6-year old girl Nin, identified as the "daughter of 10," also entered S-21 on 18 Dec 1978]; **E3/10546** S-21 Biography of By Khen, KH 01219656; **E3/10546** S-21 Biography of Prum Peou, KH 01219657; **E3/10563** S-21 Biography of Nin, KH 01219750. The OCIJ S-21 Prisoner List contains other people believed to be children of Penh Thuok alias Sok alias Vorn Vet, including 23-year old Division 502 pilot Penh Seth alias Phen (No. 6862) who was identified by Duch, 18-year old female medic Penh Sreng alias Pheap (No. 14485), P-6 medic Say Khon alias Phy (No. 12994), 14-year old boy Sok Ly (No. 14922) and a 12-year old girl Nhor (No. 14883) who entered the same date as Vorn Vet's mother and 6-year old daughter. See **E3/1876** S-21 Confession of Vorn Vet, EN 00767763-64 [list of Vorn Vet's children]; **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 11.17.05 ["For some other children, they were arrested because their fathers had been arrested as in the case of Phen, the son of Brother Vorn, who was a war plane pilot"]; **E1/436.1** Kaing Guek Eav, T. 13 June 2016, 10.35.58 ["Phen was the son of Vorn ... After Vorn was arrested, the child was not spared"]; OCIJ's List also includes the son-in-law of Vorn Vet who was a factory chief. See **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.49.92 ["when Vorn was arrested and then Comrade Noy (phonetic), who was his son-in-law, was also arrested. Noy was the head of the iron factory"]; **E3/10604** OCIJ S-21 Prisoner List, No. 420 [Chea Hoeun alias Nay, Chief of State Industry Factory D-6, entered on 21 Nov 1978].

²¹⁷¹ **E1/434.1** Kaing Guek Eav, T. 8 June 2016, 09.49.92-09.51.20; **E3/5804** Kaing Guek Eav, T. 24 June 2009, 09.28.05 [stating that when Vorn Vet was arrested, his wife Vin and children were also arrested].

²¹⁷² **E3/106** Kaing Guek Eav WRI, EN 00177637.

²¹⁷³ **E3/10604** OCIJ S-21 Prisoner List, Nos 8724 [Svay Rum, Committee Member of Industry - 6 Dec 1978], 5539 [Nai Chhin alias Maok, Committee Member of Hospital P-75 - 6 Dec 1978].

²¹⁷⁴ **E3/10604** OCIJ S-21 Prisoner List, No. 14852 [Song Chour alias Phai, Chief of Construction]. It should be noted that No. 12762 is a duplicate entry for the same person.

²¹⁷⁵ **E3/10604** OCIJ S-21 Prisoner List, Nos 5545 [Nut Kap alias Keat, Chief of Industry Warehouse, entered 21 Nov 1978], 12759 [Nguon Duong alias Kann, wife of Nut Keat], 12757 [Keat Say, 17-year old daughter of Nut Keat], 12758 [Keat Nuon alias Ny, 16-year old daughter of Nut Keat], 14859 [Keat Na alias Nakk, 14-year old daughter]. The spouse and three daughters all entered S-21 on the same day, 6 December 1978.

²¹⁷⁶ **E3/10604** OCIJ S-21 Prisoner List, Nos 1195, 2144, 4023, 5229, 7341, 11463, 12745, 12747, 12749, 12754-12755, 12761, 12763, 12765, 12940, 12959, 13110, 13112, 13114-13115, 13121-13123.

²¹⁷⁷ **E3/10455** S-21 List of Prisoners Smashed on 31 December 1978 [Nos 117-170 identify 53 people from State Industry who were executed on that date].

²¹⁷⁸ **E1/511.1** Ma Chhoeun, T. 12 Dec 2016, 15.48.50-15.52.18 [testimony of former Division 164 battalion chief transferred to the Ministry of Industry in 1978 regarding a meeting with Khieu Samphan: "Q: Was he the one giving you the instructions - your instructions about how to carry out your work? A: Yes, it was Khieu Samphan ... Khieu Samphan told me to prepare our forces to be evacuated to the forest if Vietnamese came in"]; **E1/512.1** Ma Chhoeun, T. 13 Dec 2016, 10.56.42-10.59.10 ["I met Khieu Samphan in a meeting to discuss about the Ministry of Industry. I was requested to go and supervise the

3. Instructions to Cadres in Speeches and Political Education Sessions

526. The two Accused also contributed to the implementation of the CPK's plans and policies relating to enemies through speeches and political education sessions that instructed the Party cadres to identify and eliminate persons considered enemies by the CPK.

a) Political Education Meetings Conducted Jointly by Nuon Chea and Khieu Samphan

527. At a 1975 meeting announcing the reorganisation of the RAK at which **Nuon Chea** "spoke at length" and Pol Pot and **Khieu Samphan** spoke briefly,²¹⁷⁹ the several thousand RAK soldiers in attendance were instructed about defending against "internal and external enemies," including enemies "within the rank."²¹⁸⁰ The August 1975 *Revolutionary Flag* confirms that the presentations to the RAK cadres at this assembly discussed: the Party line to use "revolutionary violence" against "reactionaries and the oppressor classes;"²¹⁸¹ the presence of "external enemies and internal enemies," and the RAK's mission to "continue to smash the defeated enemy remnants" and "espionage groups."²¹⁸²

528. Commerce section chief Beit Boeurn alias Bit Na testified that she twice attended three-day study sessions at which Pol Pot, **Nuon Chea** and **Khieu Samphan** spoke and "taught the contents of the *Revolutionary Flag* magazines."²¹⁸³ At those study sessions,

²¹⁷⁹ workers at that factory ... by the time, the 'Yuon' almost reached Phnom Penh"], 11.09.32-11.12.12. **E1/159.1** Chhaom Se, T. 11 Jan 2013, 11.38.49, 11.50.33-11.52.30 [CPK leaders who attended Olympic Stadium assembly relating to "establishment of the army" included Pol Pot, Nuon Chea and Khieu Samphan], 13.55.39-13.58.10 [confirming that Nuon Chea gave a speech at the assembly], 14.01.48-14.06.23, 14.11.50 [confirming that the RAK conference described in the August 1975 *Revolutionary Flag* corresponds to the assembly he attended]; **E3/407** Chhaom Se WRI, A4 [Khieu Samphan also spoke "a little" at the assembly]; **E3/5532** Him Han WRI, EN 00425235-36 [describing 1975 meeting at Olympic Stadium about "the transfer of the army to the Party Center" at which Pol Pot, Nuon Chea and Khieu Samphan were present and Nuon Chea spoke]; **E1/320.1** Him Han, T. 23 June 2015, 14.12.27-14.21.24 ["Pol Pot only spoke a few words, but Nuon Chea spoke at length"]; **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401488 ["On 22 July 1975 on the occasion of the ceremony of the CPK Center to establish the Revolutionary Army, the comrade chairman of the High-Level Military Committee of the Party convened an important political conference of the CPK Center for approximately 3,000 representatives of every unit of the Revolutionary Army"].

²¹⁸⁰ **E1/159.1** Chhaom Se, T. 11 Jan 2013, 13.58.10-14.00.27 ["they talked about the enemy within the country and outside the country, and also they talked about the enemy within the rank or within the unit. However, the measures taken were depending on the real situation because the Movement kept going, and people kept being reeducated"]; **E1/320.1** Him Han, T. 23 June 2015, 14.21.24 [confirming that Nuon Chea talked about "the defence of the country against internal or external enemies"].

²¹⁸¹ **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401491 ["strategic political line" that "the Party must use revolutionary violence and must assemble the people to use revolutionary violence to oppose the reactionaries and the oppressor classes"].

²¹⁸² **E3/5** *Revolutionary Flag*, Aug 1975, EN 00401500-01 [describing 1st mission of the RAK].

²¹⁸³ **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov 2016, 10.06.40-10.14.06 [also noting that the two Accused would "comment" on and "supplement" Pol Pot's presentation].

they “spoke about the enemy activities” and instructed cadres that they had to “smash” the enemies, even if they were parents or relatives.²¹⁸⁴ In the presence of the two Accused, Pol Pot identified as enemies people connected to the Vietnamese, officials in the Lon Nol regime, and CIA or KGB spies, and instructed the cadres to “monitor and track down” such enemies.²¹⁸⁵ Witness Pean Khean described a similar political education session at Borei Keila presided over by **Nuon Chea**, **Khieu Samphan** and S-71 chief Pang, at which the CPK leaders instructed cadres to defend against enemies infiltrating the country, including the CIA, KGB, and Vietnamese, and to “watch over people who violated the political line.”²¹⁸⁶ Pang instructed the cadres that anyone affiliated with the CIA or KGB “shall be destroyed.”²¹⁸⁷

529. Civil Party Em Oeun, a Sector 20 medic and Party member,²¹⁸⁸ took part in a seven to ten day “political training” session at Borei Keila where approximately 2,000 participants (including district committee members) were lectured by Pol Pot, **Nuon Chea**, and **Khieu Samphan**.²¹⁸⁹ Pol Pot spoke first and explained revolutionary politics, including the difference between friends and enemies who had to be smashed.²¹⁹⁰ **Nuon Chea** followed, and was “very firm” about “finding individuals who burrow within the Party” and “people who were opposing the Party,” including “soldiers in the previous regimes,”²¹⁹¹ CIA, KGB, and ‘Yuan’ agents,²¹⁹² and “people who were educated abroad.”²¹⁹³ He also identified specific leaders who had purportedly betrayed the Party, including Koy Thuon, Keo Meas and Chan Chakrei, and warned cadres “not to follow

²¹⁸⁴ **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov 2016, 10.14.06 [“sometimes the enemies were our parents or our relatives and did we dare to smash those enemies if our parents were the enemies.”].

²¹⁸⁵ **E1/502.1** Beit Boeurn alias Bit Na, T. 28 Nov 2016, 10.34.33-10.38.23, 10.42.33-10.45.14 [“Q: Did they request you to search for enemies within your units? A: Yes, they also talked about that ... They said that we should strengthen our leadership and to search for the enemy embedded within our revolutions”]; **E3/5647** Bit Na DC-Cam Statement, EN 00640152 [Nuon Chea provided instructions on enemy groups].

²¹⁸⁶ **E1/73.1** Pean Khean, T. 17 May 2012, 10.19.39-10.24.01 [adding that “[a]nyone who abused the line could have been viewed as someone who did things against the Party”].

²¹⁸⁷ **E1/72.1** Pean Khean, T. 3 May 2012, 10.13.44.

²¹⁸⁸ **E1/113.1** Em Oeun, T. 23 Aug 2012, 13.36.55; **E1/115.1** Em Oeun, T. 27 Aug 2012, 09.19.35-09.21.36.

²¹⁸⁹ **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.25.50-14.35.53, 15.37.38-15.40.33; **E1/115.1** Em Oeun, T. 27 Aug 2012, 10.11.40-10.16.23 [“The committee of the political study session presented - or introduced these individuals”]; **E1/117.1** Em Oeun, T. 29 Aug 2012, 09.29.57-09.34.30.

²¹⁹⁰ **E3/1729** Em Oeun CPA, EN 00751867; **E1/115.1** Em Oeun, T. 27 Aug 2012, 10.24.40-10.28.26 [“The Party had the view that anyone who obstructs the Party’s affair or opposed the Party, this individual would be regarded as the enemy or the traitor”], 10.56.06-10.58.23 [“Pol Pot and others ... were very vigilant of the enemies burrowing from within. They said, if the external enemies, they could see them easily, but the internal enemies, the enemies burrowing from within were invisible ... any individuals who had any contradiction within their cooperative or communities ... they may be eliminated”].

²¹⁹¹ **E1/113.1** Em Oeun, T. 23 Aug 2012, 14.35.53-14.37.54.

²¹⁹² **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.18.00-11.20.30.

²¹⁹³ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.11.59-11.14.22 [“what he said about people who were educated abroad who received foreign doctrine. These individuals could pose some risk to the revolution”].

the footsteps of those individuals,” otherwise they would also “end up being executed.”²¹⁹⁴

530. Em Oeun testified that **Khieu Samphan** spoke next and urged the cadres to be vigilant and to monitor people’s activities in order to “uncover the traitors of the Revolution and the infiltrated enemies.”²¹⁹⁵ He stated that workers who broke materials or pretended to be sick should be “categorized as people who betray the Party,”²¹⁹⁶ and that New People in particular should be closely watched because they had “feudalist ideology.”²¹⁹⁷ **Khieu Samphan** also warned the cadres that if they did not “apply the policy,” they too would be considered enemies and “smashed.”²¹⁹⁸ Following the instructions from the CPK leaders, numerous arrests occurred at the Civil Party’s hospital, including the hospital chief.²¹⁹⁹

b) Nuon Chea Speeches & Political Education

531. **Nuon Chea** was responsible for political education of district and sector secretaries who implemented CPK enemy policy throughout the country, and conducted month-long training sessions for those individuals at the end of each year.²²⁰⁰ Fomer Tram Kak District Secretary Pech Chim testified that **Nuon Chea** covered “all aspects” relating to internal and external enemies, adding that: “Without having covered this subject of enemies, people would never know how to identify enemies from friends.”²²⁰¹ Ban

²¹⁹⁴ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.08.28-11.14.22.

²¹⁹⁵ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.21.47, 11.25.32-11.27.47; E1/116.1 Em Oeun, T. 28 Aug 2012, 10.29.10-10.33.

²¹⁹⁶ E1/113.1 Em Oeun, T. 23 Aug 2012, 14.37.54-14.40.59; E1/116.1 Em Oeun, T. 28 Aug 2012, 10.29.10-10.33.

²¹⁹⁷ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.31.20-11.38.18 [“Particularly, they paid attention to the 17 April People, or the New People. That was the words used in his political training session - which Mr. Khieu Samphan conducted”], referring to E3/1729 Em Oeun CPA, EN 00751867 [Khieu Samphan asked cadres “to pay attention to the New People, who he saw having feudalist ideology/trend”].

²¹⁹⁸ E1/115.1 Em Oeun, T. 27 Aug 2012, 11.31.20, referring to E3/1729 Em Oeun CPA, EN 00751867 [describing Khieu Samphan’s presentation at study session: “He addressed to those attending the course too that if any of us dared not apply the policy, that individual would also be our enemy; and we really needed to smash the enemies”].

²¹⁹⁹ E1/113.1 Em Oeun, T. 23 Aug 2012, 15.20.11-15.24.52 [“During the course of my study, ... staff members were arrested; people who came to attend study sessions were also arrested ... People would be loaded onto trucks ... I was told that these people were the enemies ... people who betrayed the Party”], 15.24.52-15.27.05 [describing arrest of hospital chief Leng Sei]; E1/116.1 Em Oeun, T. 28 Aug 2012, 10.15.14-10.16.56 [“I did see people being taken by military truck from the hospital”]; E1/117.1 Em Oeun, T. 29 Aug 2012, 09.24.27-09.25.45 [“Leng Sei was arrested in the hospital. Leng Sei was Mr. Tiv Ol’s wife and she was stripped naked when she was tossed into the truck”]; E3/10604 OCIJ S-21 Prisoner List, No. 4401 [Leng Soem Hakk alias Sei, Chief of Hospital P-17 and wife of Tiv Ol, entered S-21 on 17 December 1977].

²²⁰⁰ See section **Role and Contribution of Accused to Common Criminal Plan – Role of Nuon Chea – Responsibility for Security & Military**.

²²⁰¹ E1/215.1 Pech Chim, T. 1 July 2013, 11.29.35-11.31.01. See also E1/290.1 Pech Chim, T. 22 Apr 2015,

Seak, who served as Deputy Secretary of Chamkar Leu District of the Central Zone in 1977, testified that Sector 42 Secretary Oeun (the brother-in-law of Zone Secretary Ke Pauk) attended political study sessions conducted by the Accused in Phnom Penh,²²⁰² and that when Oeun returned he told the witness that “decisions to purge or kill” came from **Nuon Chea**.²²⁰³

532. **Nuon Chea** also provided political instruction on enemies to RAK cadres. On 16 January 1977, the Accused gave a speech to RAK cadres to mark the 9th Anniversary of the RAK. An edited version of the speech was broadcast on the DK Radio in which **Nuon Chea** was expressly identified as the speaker,²²⁰⁴ and the full speech was published in the *Revolutionary Flag*.²²⁰⁵ The other CPK leaders present during this speech included Son Sen and **Khieu Samphan**.²²⁰⁶ In the speech, **Nuon Chea** spoke

11.30.38 [in response to question whether Nuon Chea discussed former Lon Nol officials and soldiers at political education sessions: “it was said at the time in the liberated zone that those who served the interests of the enemy were considered as the enemy and those who had been in in the enemy’s zone, but served those who were in the liberated zone were considered to be friends”].

²²⁰² E1/353.1 Ban Seak, T. 5 Oct 2015, 13.42.10-13.44.00 [“I knew that Uncle Nuon Chea was the only person who chaired those study sessions attended by cadres from the sector and district levels”].

²²⁰³ E3/9517 Ban Seak WRI, A64; E3/9649 Ban Seak WRI, A10 [“Q: To your knowledge, who gave the order to purge the people in the Central Zone and to kill the Cham? A: ... I still remember what I heard from other people who said that under that regime, Pol Pot did not give all of those orders ... They said that the one who issued those orders was Nuon Chea because he was the one who developed and put into practice the policies of the Communist Party of Kampuchea”]; E1/353.1 Ban Seak, T. 5 Oct 2015, 13.45.35-13.51.11 [in response to question as to who provided the above information: “I heard it from Brother Oeun. When I went to see him, I asked him the reasons of those purges. He said that the plan came from the upper echelon. They wrote clearly in black ink that first, all the CIA, and secondly, all the KGB had to be smashed. Q: And did the sector secretary Oeun specifically talk to you about the role of Nuon Chea? A: Yes, he did”]; E1/354.1 Ban Seak, T. 6 Oct 2015, 11.07.35-11.09.55.

²²⁰⁴ E3/147 FBIS, *Nuon Chea Speaks on Cambodian Army Anniversary*, 17 Jan 1977, EN 00168465-70 [Phnom Penh Domestic Service broadcast of “Excerpts of speech by Nuon Chea, chairman of Cambodian People’s Representative Assembly Standing Committee and acting prime minister, at 16 January mass rally in Phnom Penh marking 9th anniversary of Cambodian Revolutionary Army”]. See also E3/191 BBC-SWB, *Nuon Chea’s Speech at Army Anniversary Meeting*, 17 Jan 1977, EN S 00004073-76 [same broadcast]; E3/544 Peking Review, *9th Anniversary of Founding of Revolutionary Army*, 28 Jan 1977, EN S 00005866 [describing speech given by Nuon Chea on the history of the RAK].

²²⁰⁵ E3/25 *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491406-37 [“Presentation of the Comrade Party Representative on the Occasion of the 9th Anniversary of the Founding of the Brave, Strong, Skilled and Magnificent Revolutionary Army of Kampuchea”]. While the speech published in *Revolutionary Flag* is only identified as a presentation of the “Comrade Party Representative,” it tracks the Nuon Chea speech broadcast on the radio, except that the radio version was edited to change references to the CPK or Party to “Revolutionary Organisation” and to omit other content altogether. For example, the paragraph in the published speech (E3/25 at EN 00491407) that begins “Our first impression” corresponds to the paragraph of the radio version that begins “The first point” (E3/147 at EN 00168465). The paragraph in the published speech (E3/25 at EN 00491411) that discusses the 17 January 1968 attack on Bay Damran “located along the Steung Sangkae tributary about 10 or 11 kilometers above Battambang city” matches a paragraph of the radio version (E3/147 at EN 00168466: “on the bank of Stung Sangke, 11 kilometers above Battambang town”).

²²⁰⁶ E3/147 FBIS, *Leaders Attend Meeting Celebrating Army Anniversary*, 17 Jan 1977, EN 00168464 [“Among DK leaders attending this meeting were Comrade Khieu Samphan, chairman of the State Presidium of DK ... Comrade Son Sen, deputy prime minister in charge of national defence, opened the meeting”].

extensively on the CPK policies relating to “enemies,”²²⁰⁷ including the Party line to use violence to attack class enemies and reactionaries,²²⁰⁸ and internal purges to cleanse the Party.²²⁰⁹ At the very moment a massive purge of Divisions 310 and 450 was about to begin, he told the RAK cadres that it was imperative to “purge our Army to make it clean and pure,” even if it resulted in fewer numbers in the military.²²¹⁰

533. In the same speech, **Nuon Chea** referred to Khmer Republic General Norodom Chan Raingsey as a “contemptible.”²²¹¹ DK-era documents from Tram Kak District reference efforts to identify and imprison persons associated with Chan Raingsey,²²¹² and cadres from that district received instruction from **Nuon Chea** on persons to be considered enemies.²²¹³
534. Numerous other witnesses also testified to instructions provided by **Nuon Chea** regarding enemies at political education sessions.²²¹⁴ The Accused instructed cadres on

²²⁰⁷ **E3/25 Revolutionary Flag**, Dec 1976-Jan 1977, EN 00491410 [“The names outside the country, the enemies inside the country, the imperialist enemies, the enemies of every other type, and the various exploiting class enemies all carry out activities”], 00491420 [“The line of our Party is to fight day and night, dry season and rainy season, and not let the enemy catch its breath”], 00491424 [instructing cadres to “Attack the enemy politically; attack the enemy economically; attack the enemy with a strong military movement; and attack the enemy by eradicating their war of espionage, their psychological warfare, and their pacifist agents”].

²²⁰⁸ **E3/25 Revolutionary Flag**, Dec 1976-Jan 1977, EN 00491412; **E3/147 FBIS, Nuon Chea Speaks on Cambodian Army Anniversary**, 17 Jan 1977, EN 00168467 [“after 1960 our Revolutionary Organisation clearly decided that political action and armed violence must be used to overthrow and crush the enemy”].

²²⁰⁹ **E3/25 Revolutionary Flag**, Dec 1976-Jan 1977, EN 00491423 [“When we set up the plan for the decisive attack in mid 1974 to prepare for 1975, we agreed to close the doors to the Party and not expand the Party to prevent the enemy from entering ... the first thing is having a clean Party”], 00491436.

²²¹⁰ **E3/25 Revolutionary Flag**, Dec 1976-Jan 1977, EN 00491436 [“It is imperative to ... purge our Army to make it clean and pure following the Party’s line ... As long as it is clean, even if the numbers are few it will still be strong”].

²²¹¹ **E3/25 Revolutionary Flag**, Dec 1976-Jan 1977, EN 00491425. See also **E1/417.1** Chum Mey, T. 18 Apr 2016, 14.22.28-14.25.31 [Prince Chan Raingsey was “the late King Sihanouk’s uncle” and a Brigadier General]; **E1/386.1** Sao Van, T. 2 Feb 2016, 10.40.45; **E1/381.1** Prum Sarat, T. 25 Jan 2016, 15.43.48.

²²¹² See e.g. **E3/2046** Kraing Ta Chan Prisoner List [Nos 33-35 are former soldiers connected to Chan Raingsey]; **E3/2426** List of Persons Not Yet Arrested [No. 18 is Warrant Officer from “Chan Raingsey’s force”]; **E3/2429** Report from Ta Phem Commune [identifies two persons connected to Chan Raingsey: “Kol Bau ... a major lieutenant in the military of the contemptible Chan Raingsey” and “Kol Moeun – a civilian and soldier of the contemptible Chan Raingsey”]; **E3/4095** Kraing Ta Chan notebook, EN 00747241 [listing prisoner who was a “Chan Rainsey soldier with ‘Tiger Head’ insignia”]; **E3/2107** Kraing Ta Chan notebook, EN 00290207-10 [identifying prisoners who supported or spoke favourably about Chan Raingsey].

²²¹³ **E1/215.1** Pech Chim, T. 1 July 2013, 11.29.35-11.31.01; **E1/268.1** Phan Chhen, T. 24 Feb 2015, 15.25.42-15.33.36, referencing **E3/72** Phan Chhen WRI, A17-A19 [testimony of former chief of Kus commune, who was also responsible for Kraing Ta Chan prison from 1973-75, that Tram Kak district cadres received political training from the “upper echelon,” identifying Nuon Chea and Khieu Samphan].

²²¹⁴ **E1/503.1** Seng Lytheng, T. 29 Nov 2016, 11.00.54-11.08.03, discussing **E3/462** Seng Lytheng WRI, EN 00223564 [witness guarded political study sessions conducted by Pol Pot and Nuon Chea at Borei Keila, and heard the leaders talk about enemies and the “plans to deal with them”]; **E3/423** Saut Toeung WRI, A169 [statement of Nuon Chea bodyguard that he talked about “traitors” at study sessions]; **E1/64.1**,

the importance of identifying and eliminating internal enemies, by conducting investigations within their units “to search for more traitors.”²²¹⁵ On several occasions, **Nuon Chea** discussed Koy Thuon and the purge of those connected to him,²²¹⁶ playing a recording of his confession²²¹⁷ and warning cadres to stop any association with his networks “before it’s too late.”²²¹⁸

c) Khieu Samphan Speeches & Political Education

535. At the end of February 1975, it was **Khieu Samphan** who announced that it was “absolutely necessary to kill” the seven top leaders of the Khmer Republic regime: Lon Nol, Sirik Matak, Son Ngoc Thanh, Cheng Heng, In Tam, Long Boret, and Sosthene Fernandez.²²¹⁹ This was not an isolated incident. To the contrary, the Accused made

Saut Toeung, T. 19 Apr 2012, 10.16.12-10.19.13; **E1/88.1** Yun Kim, T. 19 June 2012, 09.25.01-09.28.47 [describing 1973 meeting at which Nuon Chea instructed 50 commune chiefs and district committee members]; **E1/89.1** Yun Kim, T. 20 June 2012, 14.06.51-14.07.54 [describing subjects discussed by Nuon Chea: “enemy situation was discussed and we were told that there were American enemies and the Vietnamese and the internal enemies”]; **E1/417.1** Chum Mey, T. 18 Apr 2016, 13.36.36-13.42.27 [meeting led by Nuon Chea at Borei Keila asking garment workers who were “still attached to the old tendency” to identify themselves]. See also **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762397-98 [“Cadres are also instructed in revolutionary vigilance, that is, taking care to be on guard against the enemy ... There are also other courses held about twice a year in which party members are ... educated in our political, ideological and organizational line”].

- ²²¹⁵ **E1/184.1** Ruos Suy, T. 25 Apr 2013, 11.56.55-11.59.48 [describing Nuon Chea study sessions attended by witness at Borei Keila and Ounalom Pagoda: “he also advised us to conduct the investigation within our unit to search for more traitors”], 13.36.38-13.42.46 [Nuon Chea discussed “monitoring of the network of traitors” and taught “who were the traitors, which string and level were arrested” and that “we must keep an eye on ... strings that had infiltrated in us”]; **E3/469** Ruos Suy WRI, EN 00205112-13; **E1/182.1** Chhouk Rin, T. 23 Apr 2013, 10.59.45-11.05.19 [subjects at study sessions included “elimination of the enemy burrowing from within”], 14.14.04-14.23.34 [Nuon Chea lectured about “the purge of the enemy”]; **E3/421** Chhouk Rin WRI, A4 [Nuon Chea “taught how to follow the enemy’s trail and when we found one enemy we had to cleanse that enemy”]. See also **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651866 [“we must take care to carefully screen internal agents in the Party, in the armed forces, in the various organisations and ministries, in the government, and among the masses of the people. We have to carefully screen them. Nuon Chea said this”], EN 00651869 [“We saw that the aim at that time was the line of screening (people) ... These words ‘carefully screen’ were the killing principle”].

- ²²¹⁶ **E1/217.1** Ek Hen, T. 3 July 2013, 11.37.13-11.43.46 [Nuon Chea “referred to people being traitors in the North Zone, and that Koy Khuon was a traitor”]; **E3/474** Ek Hen WRI, EN 00205049-50 [Nuon Chea discussed “the North Zone group’s treason; about Koy Thuon’s treason; not letting workers to join in the treason ... he told us about the purge of those connected to Koy Thuon”]; **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.08.28-11.14.22 [Nuon Chea stated people “should not follow what Mr. Koy Thuon had been doing because he was the Party’s betrayer ... he showed several names in a document”]. See also **E3/9318** Phan Him DC-Cam Statement, EN 00679670; **E1/467.1** Phan Him, T. 31 Aug 2016, 15.13.28-15.20.25.

- ²²¹⁷ **E1/184.1** Ruos Suy, T. 25 Apr 2013, 14.30.38 [confirming “vivid memory” of Nuon Chea playing tape recording of Koy Thuon’s confession at study session], 15.39.08-15.46.20; **E3/469** Ruos Suy WRI, EN 00205112-13.

- ²²¹⁸ **E1/217.1** Ek Hen, T. 3 July 2013, 11.43.46-11.45.52 [“he said, if we knew that we were affiliated with these networks, we had to be mindful and then stop our association with them before it’s too late”].

- ²²¹⁹ **E3/117** FBIS, *Khieu Samphan Chairs NUFC Congress Session: Communique Issued*, 26 Feb 1975, EN 00166772; **E3/3334** US Embassy *Khmer Report*, 4 Mar 1975, EN 00413053. See also **E1/201.1** Sydney Schanberg, T. 5 June 2013, 10.40.39-10.46.33; **E1/159.1** Chhaom Se, T. 11 Jan 2013, 13.33.34-13.37.07;

repeated calls for the execution of the top civilian leaders of the Khmer Republic, both before and after February 1975.²²²⁰ Two of the seven individuals whose execution was directed by **Khieu Samphan** (Prime Minister Long Boret and Prince Sirik Matak) stayed in Phnom Penh and were ultimately executed by the CPK.²²²¹

536. Throughout the ensuing DK regime, **Khieu Samphan** continued to provide instructions to CPK cadres relating to the destruction of internal and external enemies through speeches and political education sessions, including major speeches he admits delivering during 17 April anniversary events.²²²² In a 15 April 1977 speech, **Khieu Samphan** urged cadres to “wipe out the enemy ... following the lines of domestic policy, foreign policy and military policy of our revolutionary organization,” adding:

Everything must be done neatly and thoroughly. We must not become absent-minded, careless or forgetful because of past victories. On the contrary, we must further steel ourselves, remain alert, constantly maintain the spirit of revolutionary vigilance and continue to fight and suppress all stripes of enemy at all times.²²²³

537. A year later, on the third anniversary of the 17 April victory, **Khieu Samphan** instructed the thousands of cadres in attendance for his speech as to their “1st task” from

E1/386.1 Sao Van, T. 2 Feb 2016, 09.13.52-09.20.20, 09.38.38; **E1/192.1** Philip Short, T. 9 May 2013, 09.07.33-09.11.56; **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002752; **E3/189** Telegram from GRUNK Minister for Foreign Affairs to Secretary-General of the United Nations, 18 Mar 1975, EN 00894298.

²²²⁰ **E3/116** Statement of Khieu Samphan, Hou Youn and Hu Nim, 9 Sept 1972, EN 00485282-83 [appealing to the public to “fight resolutely to eliminate the main traitors including the contemptible Lon Nol, Sirik Matak, Son Ngoc Thanh, In Tam, Lon Non, Hang Thun Hak, and others and their subordinates” using “all types of weapons such as small and big guns, knives and sticks to kill the traitors”]; **E3/120** FBIS, *RGNUC Cabinet Issues 25 March Communiqué-Appeal*, 25 Mar 1975, EN 00166874 [Khieu Samphan statement reaffirming the necessity of putting to an end the “existence of the fascist, rotten [seven] traitors”]; **E3/273** FBIS, *Khieu Samphan Report*, 14 Dec 1975, EN 00167811. See also **E1/190.1** Philip Short, T. 7 May 2013, 15.05.53-15.09.17 [testifying that Khieu Samphan “did not distance himself” and “was in agreement with” the decision to kill the Khmer Republic leaders].

²²²¹ **E3/604** Bangkok Post, *Executions Admitted*, 2 Nov 1975; **E3/4001R** Video *One Day at Po Chrey*, 22:07-22:11; **E1/203.1** Sydney Schanberg, T. 7 June 2013, 08.47.05-08.48.41. See also **E3/51** London Times, *Jon Swain’s Diary*, 11 May 1975, EN S 00003278-79, 00003281; **E1/165.1** Al Rockoff, T. 28 Jan 2013, 11.29.20-11.57.19; **E1/201.1** Sydney Schanberg, T. 5 June 2013, 10.50.17-11.02.07; **E3/2694** Telegram from French consul Jean Dyrac titled “Political Asylum,” 18 April 1975; **E3/2702** Telegram from Jean Dyrac, 20 Apr 1975.

²²²² **E3/37** Khieu Samphan WRI, 14 Dec 2007, EN 00156756-57 [“My only official role was to deliver speeches during formal ceremonies ... In reality the content of the speeches I made was dictated by Pol Pot himself. Q: Did you agree with the content of those speeches you made? ... A: Generally I agreed with the content ... I do not remember the exact number of times of making speeches. I can say that 3 or 4 times I delivered speeches during the 17 April victory anniversary”]. See also **E1/451.1** Henri Locard, T. 29 July 2016, 15.12.51 [noting that even if speeches were written by Pol Pot, Khieu Samphan “said it anyway, so therefore he is the owner”].

²²²³ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419513; see also EN 00419517 [“We must uphold our spirit of revolutionary vigilance at all times against the enemies from all quarters, both at home and abroad”]. See also **E1/451.1** Henri Locard, T. 29 July 2016, 15.14.32 [Khieu Samphan’s words signified that “anyone who was suspected of being an enemy had to be eliminated”].

the Party:

We must defend tooth and nail the country, the Revolution, the power, the people, the Army, the Party and the Kampuchean race. We can only succeed if we properly implement the Party line in external as well as internal defence. All units throughout the country must continue to increase their revolutionary vigilance.²²²⁴

He told the cadres that the Party had “assigned each of us” to “completely and forever eliminate the aggressive enemies of all stripes.”²²²⁵ At the end of **Khieu Samphan’s** speech, the cadres at the meeting resolved to “exterminate” from their units and Cambodian territory all Vietnamese agents, “CIA agents” and “enemies of all stripes, particularly the expansionist, annexationist Vietnamese enemy,”²²²⁶ and to “screen and exterminate all enemy elements planted within our ranks disguised as cadres.”²²²⁷

538. A number of witnesses testified to statements by **Khieu Samphan** regarding enemies of the CPK during political training courses and other meetings. Ek Hen attended a study session led by **Khieu Samphan** at Borei Keila in 1978, at which the Accused stated that S-71 chairman Pang had been “arrested and taken away because he was a traitor collaborating with the Yuon” and instructed cadres not to follow Pang’s example,²²²⁸ demonstrating yet again his support of the ongoing purges. Commerce cadre Ruos Suy attended a study meeting at which **Khieu Samphan** discussed the problem of internal enemies burrowing within the Party.²²²⁹ Phy Phuon testified regarding political education sessions conducted by the Accused both before and after 17 April 1975, at which cadres were instructed that the Party’s enemies included “those who opposed the revolution.”²²³⁰

²²²⁴ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280398; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563 [“Only by implementing the Party’s lines can we defend our country against both internal and external enemies”].

²²²⁵ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010559-60.

²²²⁶ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563 [also resolving: “To hold extremely high and keep extremely seething the national spirit of revolutionary vigilance in order to be ready beforehand to deal with all poisonous manoeuvres of the enemy”].

²²²⁷ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010566.

²²²⁸ **E1/217.1** Ek Hen, T. 3 July 2013, 11.26.06-11.28.02, 11.30.15, 14.32.47-14.36.29; **E3/474** Ek Hen WRI, EN 00205049. This witness had previously met and spoken to Khieu Samphan when he visited her factory; **E1/217.1** Ek Hen, T. 3 July 2013, 11.33.02-11.37.13; **E3/474** Ek Hen WRI, EN 00205049.

²²²⁹ **E1/184.1** Ruos Suy, T. 25 Apr 2013, 11.44.26-11.46.17; **E3/4594** Ruos Suy WRI, EN 00710554.

²²³⁰ **E1/97.1** Rochoem Ton alias Phy Phuon, T. 26 July 2012, 09.20.26 [“we were told ... the main enemy was the American imperialists ... And another enemy was those who opposed the revolution, who refused to join the revolution”], 09.23.39-09.26.03 [“all zones, sectors, and district levels were told the enemies were those whom we fought against on the battlefield. Off the battlefield, enemies were those who opposed the revolution. Q: [Y]ou informed the Chamber that he educated you and others about who were the enemies ... who do you refer to? A: Those senior leaders in the Party, they shared the same opinion

539. Civil Party Preap Chhon testified to a speech given by **Khieu Samphan** to a group of people being evacuated from the East Zone to the Northwest in 1978,²²³¹ as they were watched by armed guards.²²³² In his speech, the Accused stated that the revolution had eliminated capitalists, feudalists and the Lon Nol regime,²²³³ and instructed the people that:

we must respect the Party's lines and policies strictly, and not to betray the Party. If we betrayed the Party and the Party knew it, then we would be killed. He added ... 'If you are kept, no gain; if you're pulled out, no loss!'²²³⁴

540. **Khieu Samphan** distributed blue kramas to the group,²²³⁵ which were used by the CPK to mark the East Zone people being dispersed to other regions.²²³⁶ Preap Chhon testified that of the 70 families in his group at that time, only 20 survived.²²³⁷

of the enemy,, including Pol Pot, Khieu Samphan, Son Sen"]; **E1/96.1** Phy Phuon, T. 25 July 2012, 14.25.02-14.34.24 ["After the liberation, the first instructor was Om Khieu Samphan. It was at the Soviet Technical School ... they discuss about the masses movement throughout the country to oppose our common enemy"]; **E1/100.1** Phy Phuon, T. 1 Aug 2012, 15.26.35-15.35.43.

²²³¹ **E1/504.1** Preap Chhon, T. 30 Nov 2016, 14.52.55-14.57.23 ["when they evacuated me from Svay Rieng to Neak Loeang and to Chbar Ampov market ... I met Khieu Samphan. On the third day he came to distribute materials, for example clothes, rice"]; 15.12.52-15.14.34 ["Khieu Samphan came at around 8:00 in the morning. He came with some of his colleagues and there were about 10 of them ... That's why I am certain that it was Khieu Samphan. I knew him from that film that I watched"]; 15.14.34-15.17.16 ["When Khieu Samphan arrived at the market, people were instructed to line up in order to listen to his speech and to receive him"]; 15.19.01-15.23.05 ["I was in the middle row, and I was about 20 metres away from where he was ... there was someone who made the announcement that Khieu Samphan had arrived ... Khieu Samphan also used a microphone. If he did not use a microphone, we could not hear him"]; 15.52.02-15.54.43 ["Khieu Samphan made a speech for more than half-an-hour"].

²²³² **E1/504.1** Preap Chhon, T. 30 Nov 2016, 15.49.08-15.52.02 ["All the people who listened to his speech were evacuees from the East Zone ... there were armed guards who were standing outside the market, around the market, in order to prevent us from escaping back to our homeland"].

²²³³ **E1/504.1** Preap Chhon, T. 30 Nov 2016, 15.14.34-15.17.16 ["In that occasion, he said that we made a revolution in order to eliminate the Lon Nol regime. And other point was to eliminate the capitalist, the feudalism, the intellectuals. He didn't want them to exist. That's what he meant in his speech"].

²²³⁴ **E1/504.1** Preap Chhon, T. 30 Nov 2016, 15.30.00-15.32.00, 15.54.43-15.56.18 [regarding Khieu Samphan's statement that those who betrayed the Party would be killed: "At that time when I heard him say so, I was panicked. I felt afraid ... based on my observation even people who did not commit any wrongdoing were taken away and they disappeared ... each of us thought that would happen to us in the coming days"].

²²³⁵ **E1/504.1** Preap Chhon, T. 30 Nov 2016, 15.25.43-15.28.26. See also **E1/503.1** Kheav Neab, T. 29 Nov 2016, 15.37.54-15.42.57 [testimony of Civil Party whose husband worked for Office 870 that Khieu Samphan distributed food and clothes, including krama, to East Zone evacuees at Phsar Thmei in 1978]; **E1/504.1** Kheav Neab, T. 30 Nov 2016, 09.21.25-09.25.04 [kramas distributed by Khieu Samphan were blue]; **E1/417.1** Chum Mey, T. 18 Apr 2016, 09.49.50-09.51.38 [testifying he saw Khieu Samphan at the railway station when he was assigned to bring packages of rice there for the people evacuated from the East Zone].

²²³⁶ **E3/5542** In Vuthy WRI, EN 00373231 [Bakan District, NW Zone: "Those who were given the white and blue kramas were the people from East Cambodia ... The Khmer Rouge distributed these kramas to identify and recognize those people who were going to be killed"]; **E3/7708** Duong Sau WRI, EN 00250741 [statement of former chief of Rumlech commune describing site near Rumlech Pagoda where 300 East Zone people were executed: "I personally saw the bodies in the two grave pits ... There were blue scarves remaining ... from which it could be recognized that those people had come from Prey Veng

4. Statements Evidencing Knowledge and Support of CPK Policy

541. Both of the Accused have made numerous statements evidencing their knowledge of and agreement with the executions of CPK enemies that took place during the regime.

a) *Nuon Chea*

542. In a 1978 speech to a delegation from the Danish Communist Party, **Nuon Chea** revealed his knowledge of and agreement with the CPK's purge of purported internal enemies:

Since liberation, our experience relates to anti-party activities organized inside our party ... it appears from what we have been able to learn that CIA, Vietnamese and KGB agents have been working inside the party for a long time ... Where there were deviations to the left or to the right, we looked carefully into the backgrounds of the cadres ... We have thus been able to uncover enemy agents step-by-step.²²³⁸

543. In that same speech, **Nuon Chea**, Number Two in the CPK, expressed his willingness to kill hundreds of Party cadres in order to safeguard "two or three leading cadres."²²³⁹ His statements reflect both an extreme paranoia that there were spies and traitors everywhere,²²⁴⁰ and a delusional belief that at the height of the Cold War, and shortly

and Svay Rieng provinces"]; **E3/5500** Ork Chhoe WRI, EN 00367288-89 [witnessed group of people from the East Zone "wearing blue scarves" who were "shot dead by Khmer Rouge soldiers near the banks of the Pursat Stream"]; **E3/3970** Pech Srey Phal WRI, A23 [group of 400 East Zone people wearing "blue *krama*" taken away for execution].

²²³⁷ **E1/504.1** Preap Chhon, T. 30 Nov 2016, 15.59.32-16.01.21 ["for evacuees from the east to Battambang, there were 70 families who were evacuated and there were 20 families who survived"].

²²³⁸ **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762402 [also stating: "People who had infiltrated the party could not react immediately, but we discovered them later when they planned coups d'état ... we caught the traitors inside the party. Although we say plans have been crushed, we do not mean the enemy has given up. We have to continue to ... apprehend the people who have infiltrated our party"], 00762398 ["We investigate life histories and class background both before and after they join the revolution. We do this to prevent infiltration by, for example, CIA, KGB or Vietnamese agents. By adopting these organizational principles, we have unity in the party and can cleanse our party of bad elements. We have not been 100% successful. The enemy is still attempting to undermine the party. Consequently, we are striving to ... clean the party"]. See also **E3/451** Kaing Guek Eav WRI, EN 00204345 [confirming that Nuon Chea gave speech to visiting Danish delegation and made similar statements "within the Party"].

²²³⁹ **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762403 ["The leadership apparatus must be defended at any price ... There can be no comparison between losing 2 to 3 leading cadres and 200-300 members. Rather the latter than the former"].

²²⁴⁰ **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762399 ["the enemy, both the imperialists and the revisionists as well as the Vietnamese, continue to fight us ... The Vietnamese also try to infiltrate our party ... We worry most of all about the enemy inside"]. See also **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757520-21["now that Nuon Chea and his comrades had taken power, enemies abounded and conspired to destroy the regime. This belief, still held today by Nuon Chea, fueled the paranoia and delusions that led to purges, torture and murder ... By the time they took power, it seemed Khmer Rouge leaders couldn't distinguish truth from fiction, and the two often mixed. Nuon Chea lived in constant wariness not only of the enemies he knew, but also of those he didn't know. He

after its bitter defeat in Vietnam, the United States was working hand-in-hand with the Soviet Union and Vietnam to conspire against the CPK.²²⁴¹ They also show that the Accused received and carefully read the torture-induced confessions from S-21 in which long-time CPK revolutionaries were forced to state they had actually been CIA, KGB or Vietnamese spies, going back to the 1950s or 1960s, who were planning *coups d'état*.

544. The Accused continued in post-1979 interviews to acknowledge and attempt to justify the widespread purges of purported enemies.²²⁴² He admitted those enemies were killed or “smashed.”²²⁴³ In response to a question from Thet Sambath on whether it was “right to kill traitors,” **Nuon Chea** stated: “I don’t want to be accused of being brutal. But we have to consider whether it was reasonable given the threat they posed to our nation. ... So I dare to suggest our decision was the correct one. If we had shown mercy to these people, the nation would have been lost.”²²⁴⁴ When asked why the CPK leaders had to kill alleged traitors, rather than just imprison them for life, he responded:

That is an easy question to ask but a difficult one to answer. ... But at that time, we had no proper prisons. And if we kept them, they would spread and produce their eggs and many more would have been killed.²²⁴⁵

545. With respect to former Khmer Republic officials, **Nuon Chea** admitted at trial that he was aware of the FUNK radio broadcasts calling for the execution of the seven Lon Nol

said he applied that vigilance to ‘leaders around me and in the party.’ ... According to Nuon Chea, there were Americans, Thais, Vietnamese and French ... ‘We knew that there were many enemies hiding in our regime and planning to destroy our policies. So we were very busy trying to find the enemies.’ ... ‘There were many spies in Cambodia. They had been hiding in Cambodia and destroying the internal party for a long time,’ Nuon Chea said, pointing his index finger for emphasis”].

²²⁴¹ **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762402 [“We know the current plan involves not only Vietnamese agents, but has something to do with US imperialism and the KGB. All of them!”], 00762403 [“some CIA agents joined up with the Vietnamese in order to come to Kampuchea. Because the US was unable to come into Kampuchea, it had to rely upon Vietnam”].

²²⁴² **E3/108** Nuon Chea Interview, 10 June 2006, EN 00000934 [claiming U.S. and Vietnamese enemies were “hidden in the comrades” and “destroyed my regime by not following the policy”]; **E3/2357R** Video *Pol Pot, Journey to the Killing Fields*, 00:36 [asserting that the reason the purges started was that “some of the people in charge of districts and provinces were our enemies ... these traitors didn’t follow our policies”]; **E3/54** Nuon Chea OCIJ Initial Appearance, 19 Sept 2007, EN 00148817 [“[t]here were American CIA and Soviet KGB agents, the Free Khmer and Vietnamese secret agents who were hiding within the Party, among the population and in our cooperatives”].

²²⁴³ **E3/2357R** Video *Pol Pot, Journey to the Killing Fields*, 00:44:18-00:44:41 [“we killed only the bad people”]; **E3/26** Nuon Chea Interview, Oct 2006, EN 00329515 [“Q: Now how would describe your revolution, as a just one, or what? A: I would say it was just, because it smashed and eliminated enemies”]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521 [“Nuon Chea doesn’t apologize for S-21 ... He often stated that the enemies responsible for killing people in the countryside had to be smashed. Others were conspiring to overthrow Pol Pot and had to be stopped”].

²²⁴⁴ **E3/4003R** Video *Nuon Chea on Killing Traitors*, V00717048.

²²⁴⁵ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521.

“super-traitors,” and confirmed that the CPK Standing and Central Committees took no action to renounce the call for the execution of those individuals.²²⁴⁶ He admitted to Thet Sambath that the top leadership of the Lon Nol regime were “liquidated” by the CPK.²²⁴⁷

546. **Nuon Chea** admitted that S-21 was an entity “established to search for the enemy of the country,”²²⁴⁸ and told Thet Sambath that “for every person they killed, they found out through the traitors’ confessions obtained at S-21 that there were more enemies.”²²⁴⁹ In 1983, the Accused showed his knowledge of the crimes that had been committed at S-21, when he told Duch he had “smashed” all of his own documents and blamed Duch for having failed to destroy the S-21 archives before the Vietnamese seized Phnom Penh.²²⁵⁰

b) Khieu Samphan

547. **Khieu Samphan** has also made statements that revealed his knowledge of and involvement in the purges of the CPK’s enemies, as an insider who worked directly with Pol Pot and **Nuon Chea** at the Party headquarters throughout the DK regime.
548. In an April 1978 speech, the Accused announced that Vietnam’s “subversive, spying, infiltration activities and coup attempts to overthrow the CPK and the Government of Democratic Kampuchea” had been defeated.²²⁵¹ In a 30 December 1977 statement, he asserted that a “handful of traitorous forces which were Vietnam’s agents” had attempted to stage a coup d’etat in 1975 and 1976.²²⁵² In his 1980 interview with

²²⁴⁶ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 10.59.45; **E1/35.1** Nuon Chea, T. 30 Jan 2012, 10.23.20-10.30.03.

²²⁴⁷ **E3/4001R** Video *One Day at Po Chrey*, 22:07-22:11. See also **E1/14.1** Nuon Chea, T. 22 Nov 2011, 15.22.57-15.24.03 [describing conclusion of CPK leaders on what Lon Nol soldiers would do if left free after the war: “the Lon Nol soldiers – majority of whom were free Khmers – would desert the army; some would remain hiding in Phnom Penh or city while the others would be fleeing to the border areas ... They would start stealing, robbing, burning down people homes ... They would start fighting; attacking our people through means of guerilla war and they would drag us to follow them and that there will be no peace”].

²²⁴⁸ **E3/108** Nuon Chea Interview, 10 June 2006, EN 00000934 [“Q: What is S-21? A: It was established to search for the enemy of the country ... Q: Did they find the enemy? A: They did. But S-21 comrades went too far”].

²²⁴⁹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757521.

²²⁵⁰ **E1/438.1** Kaing Guek Eav, T. 15 June 2016, 10.48.52-10.50.50; **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 10.28.14; **E3/452** Kaing Guek Eav WRI, EN 00147570; **E3/357** Kaing Guek Eav WRI, EN 00242929.

²²⁵¹ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010558 [“subversion, espionage and attempts to stage a coup d’etat to overthrow the CPK and the Government of Democratic Cambodia have suffered continuous bitter defeats”].

²²⁵² **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166067 [“In 1975 and 1976 Vietnam continuously conducted aggression and carried out criminal activities in an attempt to stage a coup d’etat overturning Democratic Cambodia through a handful of traitorous forces which were Vietnam’s agents”].

Stephen Heder, **Khieu Samphan** spoke extensively about “Khmer people who were Yuon undercover agents” and over time had infiltrated the highest level of the Party as zone leaders and members of the Central and Standing Committees. He told Heder those people had been “dealt with” in 1977 and 1978,²²⁵³ and that “[n]ot a single one” of them was innocent.²²⁵⁴ These statements prove that **Khieu Samphan** was fully aware of the arrests of fellow CPK leaders accused of being traitors, and that he was privy to the purported justification for such purges derived from torture-induced S-21 confessions.

549. In 1987, **Khieu Samphan** issued a statement that those “imprisoned” during the DK regime, which he numbered at 8,000, were “mostly the organizers of the 6 coups d’état and the chief traitors who in connivance with the Vietnamese tried to take control of the Eastern Zone,” and included members of zone, sector and district committees and division commanders.²²⁵⁵ In that same statement, he conceded that:

in our measure to arrest and punish those Vietnam agents, we committed mistakes that affected the lives of minor offenders or innocent civilians. From 1975 to 1978, over 3,000 people died in this category.²²⁵⁶

EN 00166066 [accusing SRV of “inciting a handful of Cambodian traitors to create a new party as its tool in order to destroy the KCP”].

²²⁵³ **E3/203** Khieu Samphan Interview, 4 Aug 1980, EN 00424013-14 [“Khmer people who were Yuon undercover agents in our authority lines ... during the First Indochina War, there were Viet Minh cadres and army carrying out activities in Cambodia and controlling resistance movements in Cambodia. It was then when they established their agents to serve their Indochina strategies. Since then, year by year those agents had gained more and more important positions and they had worked undercover in our movements. In 1975, it was those people who obtained important positions ... Some of them were in charge of major zones ... Then it would be easy for them to stage a coup. This was an attack on us from the inside out ... we fought constantly against these attempts and defeated them. Until 1977-1978, we managed to deal with those people completely and brought order back to the country ... Q: In 1975, what percentage of them were in the senior ranks of the party, in the Central Committee, or in the Standing Committee? A: There were many. Q: Half? A: Less than half in the Central Committee, but nearly half in the Standing Committee”].

²²⁵⁴ **E3/3169** Stephen Heder, *Pol Pot and Khieu Samphan*, EN 00002771 [“Q: So what about people like Hou Youn and Hu Nim, and all the others who were executed as a result of being accused of treason? ... As far as you know, there weren’t any cases where somebody innocent was accused? A: No. Q: Not a single one? A: No, none. Q: So everybody who was executed was in fact a traitor? A: Yes, as far as I can grasp”]; **E1/221.1** Stephen Heder, T. 10 July 2013, 10.20.53; **E1/222.1** Stephen Heder, T. 11 July 2013, 15.42.13-16.04.08.

²²⁵⁵ **E3/703** DK Publication, What are the Truth and Justice about the Accusations against Democratic Kampuchea of Mass Killings from 1975 to 1978?, 15 July 1987, EN 00004002 [statement issued by Khieu Samphan as Vice-President of Democratic Kampuchea in charge of Foreign Affairs]. See also **E3/706** FBIS, Khieu Samphan Addresses ESCAP Meeting in Bangkok, 26 Apr 1987; **E3/631** FBIS, Khieu Samphan Sends New Year Message, 31 Dec 1987, EN 00442999 [statements identifying Khieu Samphan as “Democratic Kampuchea vice president in charge of foreign affairs”].

²²⁵⁶ **E3/703** DK Publication, What are the Truth and Justice about the Accusations against Democratic Kampuchea of Mass Killings from 1975 to 1978?, 15 July 1987, EN 00004002 [further asserting that: “As we were able to get rid of Vietnam’s agents infiltrated in our State organs, we were also able to progressively prevent such mistakes”].

While the number of victims acknowledged by **Khieu Samphan** was a gross understatement, this admission nonetheless confirms the Accused's knowledge that thousands of innocent people had been imprisoned and killed during the CPK purges.

550. In other interviews, **Khieu Samphan** provided detailed accounts of how Pol Pot evaluated cadres²²⁵⁷ and how decisions were made by the CPK leaders on arrests,²²⁵⁸ admitting that he was personally "familiar with Pol Pot's working style" on such matters.²²⁵⁹ He stated that arrest decisions were not made by Pol Pot alone, but "with the participation from the Standing Committee."²²⁶⁰ The only way **Khieu Samphan** would be aware of this is because he was regularly present at those meetings, including when arrests were discussed. He explained and defended the role of S-21,²²⁶¹ even speaking dismissively of the killing of children.²²⁶² He has acknowledged that torture was used to obtain S-21 confessions.²²⁶³

²²⁵⁷ **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498273 [describing Pol Pot's "3-7-8 Principle of Analysis"]; **E3/4024** Khieu Samphan Interview, EN 00788870 [transcript of video **E3/4024R**: "he was a leader who monitored his cadres very closely ... he wanted to monitor to see which cadres were good and which cadres were bad"]; **E3/4032** Khieu Samphan Interview, EN 00798304 ["He paid close attention to situations and cadres, particularly key cadres ... He often invited them to have chit-chats with him for hours ... However, those individuals who came for chit-chats with Pol Pot were not aware of Pol Pot's real intent"]. See also **E1/191.1** Philip Short, T. 8 May 2013, 09.32.24-09.34.26.

²²⁵⁸ **E3/4023** Khieu Samphan Interview, EN 00792450 [transcript of video **E3/4023R**: "Now let's talk about the arrests. These arrests involved detention, imprisonment and death ... I am of the opinion that it is imperative that we distinguish the arrests approved by Salot Sar or Pol Pot himself along with Standing Committee from those made by the respective arbitrary authority of others in the various Sectors and Zones ... Pol Pot at the leadership echelon only considered the arrests of cadres who had committed misconduct"]; **E3/4026** Khieu Samphan Interview, EN 00789052 ["Pol Pot did not just arrest cadres randomly. These were matters that had to be investigated, monitored, and seen clearly"].

²²⁵⁹ **E3/4023** Khieu Samphan Interview, EN 00792451 [transcript of video **E3/4023R**: "I am familiar with Pol Pot's working style. On whatever issue, he always needed to collect many documents, to collect information, to gather a great deal on a situation before making a decision"].

²²⁶⁰ **E3/587** Khieu Samphan Interview, 15 Oct 2007, EN 00680031 ["Pol Pot hunted down and made arrests with the participation from the Standing Committee; he never did anything alone"].

²²⁶¹ **E3/4023** Khieu Samphan Interview, EN 00792450 [transcript of video **E3/4023R**: "The latter type of arrests occurred, and those they arrested they kept in their respective places or else they sent them to S-21"], EN 00792451 [disputing that the purpose of S-21 was merely to "furnish the 'proof' of treason that the leadership required"]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498277-78.

²²⁶² **E3/4201R** Video *Facing Genocide: Khieu Samphan and Pol Pot*, 01.14.15-01.14.42 [in response to question about the children killed at S-21: "a few youngsters is not a reason to erase and reject an entire period in history"], 01.16.00-01.17.55 [referring to Vietnam: "So they talk about the little S-21 here in order to make people forget the gigantic S-21 over there"].

²²⁶³ **E3/4603** Khieu Samphan Interview, 24 Jan 2004, EN 00716435 ["After more than three decades of dedicated service, and silence, followed by several years of reflection, Khieu Samphan admitted that there was indeed a 'state institution' in which systematic crime, torture, extermination were state policy"]; **E3/18** Khieu Samphan, *Cambodia's Recent History*, EN 00103788 [stating that confession naming him as Office 870 Chairman had the "indelible stain of a terrible crime – torture"]; **E3/4023** Khieu Samphan Interview, EN 00792450 [agreeing with Philip Short that Pol Pot did not "believe documents obtained by torture"]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498273.

5. Specific Evidence relating to Treatment of Ethnic Minorities (Vietnamese & Cham)

a) Party Centre Plan to Destroy Vietnamese, Cham, and Other Ethnic Minorities

551. Both **Nuon Chea** and **Khieu Samphan** participated in the daily meetings of the top CPK leaders held in Phnom Penh in April and May 1975 that formulated and agreed upon the Party plans and policies, which were then announced by Pol Pot and **Nuon Chea** at the 20-25 May 1975 mass meeting attended by CPK leaders from all zones, sectors, districts and organisations of the country.²²⁶⁴ As confirmed by former Sector 105 Secretary Sao Sarun, the plans announced by the CPK leaders at the meeting included the removal of all Vietnamese people from the country.²²⁶⁵ Numerous witnesses and other sources confirm this was part of a broader CPK policy to have only one race or nationality, the Khmer, and to eliminate and no longer recognise the country's ethnic minorities.²²⁶⁶ David Chandler testified that the CPK policy was a "race war against the Vietnamese" and "anyone else in the country who was not Khmer."²²⁶⁷

²²⁶⁴ See discussion of meetings in the section **Contribution to Enslavement of the Population – Participation of Nuon Chea and Khieu Samphan in Party Centre Meetings Establishing CPK Policy.**

²²⁶⁵ **E1/82.1** Sao Sarun, T. 6 June 2012, 11.24.43-11.27.21 ["That's what I heard at the time, that the Vietnamese were sent back to their country"], confirming **E3/384** Sao Sarun WRI, EN 00348375 ["Q. Did they talk about driving all of the Yvon from Cambodia? A. That was said, and the speaker was Pol Pot. Later on, I heard my lower-level cadres say that trucks transported the Vietnamese from the provinces of Kampong Cham and Kratie back to their country"]; **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651867 and original interview notes **E3/5593** at EN 00419371-72 ["Pol Pot spoke a lot about the question of Vietnam. He stressed the importance of the issue of evacuating all of the Vietnamese people out of Cambodian territory"], EN 00651868 ["We heard it said that Vietnam was an enemy all over the place bit by bit ... It was only Pol Pot and Nuon Chea who said this, in speeches to political schools ... The conflict became antagonistic in 1975 ... Because at that time the Vietnamese residents were expelled from Cambodian territory"]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024 [list of 8 key points made at 20-25 May 1975 meeting, based on interviews of multiple attendees, includes: "(7) Expel the entire Vietnamese minority population"].

²²⁶⁶ **E1/344.1** Seng Khuy, T. 9 Sept 2015, 15.09.49 ["During the Pol Pot regime, ... they only wanted to have one pure race ... so they would not spare any other ethnicity, including the Cham race"]; **E1/465.1** Seng Soeun, T. 29 Aug 2016, 11.24.39 ["I was there when the 'Yvon' and the Chinese were cleansed. That's always the words they used. And they did not want any other race except the Khmer ... In every study session I attended, ... that was the policy of the CPK to cleanse or to purge"]; **E3/5643** Seng Soeun DC-Cam Interview, EN 00753855 ["There was a plan to smash ethnic Vietnamese and ethnic Chinese"]; **E1/346.1** Seng Srun, T. 14 Sept 2015, 11.33.46 ["under the Khmer Rouge regime, not only the Cham or the Vietnamese people were screened and names were compiled, the Chinese were also screened and lists were compiled"]; **E3/1692** Seng Srun WRI, EN 00242088 [describing how the Vietnamese wife of his uncle and their children were all killed, but his uncle "was not arrested and killed because he was pure Cambodian"]; **E3/7821** Math Ly Interview, 27 Mar 2000, EN 00441579 ["Q: Was there a policy against Cham, Chinese and Vietnamese? A: All were targeted. Vietnamese were even treated more badly"]; **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651868, and original interview notes **E3/5593** at EN 00419374 ["Q: What did Pol Pot say about the Cham people? A: [At] that time the Cham people were considered as a minority among the various nationalities throughout Cambodia. Like other various national groups. And they were all killed together. Whether the minority groups were Cham or other minorities, they [were] killed"]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150139-40 [quoting interview of former Sector 21 Deputy Secretary Ouk Bun Chhoeun: "There was no policy of allowing

552. The April 1976 issue of *Revolutionary Flag*, which published a CPK leader's speech from the 17 April ceremony, described the 1975 deportation of the Vietnamese as follows:

Our people are called the 'Kampuchean people.' However, there were many foreigners, hundreds of thousands, and ***one type of foreigner that was very strongly poisonous and dangerous to our people.*** These people have what is called a poisonous composition since they came to wolf us down, came to nibble at us, came to swallow us, came to confiscate and take away everything, and came to endanger our nation, and our people, and they have caused us to lose much territory in the past ... Within 20 years these foreigners would certainly have increased to 10,000,000 persons ... However, our revolution, in particular on 17 April 1975, sorted this issue out cleanly and sorted it out entirely. We assume that we sorted it out permanently ... the great typhoon of our democratic revolution ***swept hundreds of thousands of these foreigners clean and expelled them from our country,*** got them permanently out of our territory.²²⁶⁸

553. In the fall of 1975, the Cham people who lived in communities along the Mekong River in Kroch Chhmar and other districts were "broken up," forcibly moved to other regions and dispersed into Khmer villages. The dispersal of the Cham was the subject of a 30 November 1975 telegram from Sao Phim (using his alias Chhon) to Pol Pot, copied to **Nuon Chea**, Doeun (the other member of the Office 870 Committee along with **Khieu Samphan**) and "Archives."²²⁶⁹ This telegram states that the removal of 50,000 Cham from the East Zone was pursuant to prior "discussions" with and "instructions" from

minority nationalities. Everyone was mixed together. There was only one race – the Khmer"; **E1/301.1** Or Hau, T. 19 May 2015, 10.07.16-10.09.56 [CPK "wanted to have only ethnic Khmer"]; **E1/302.1** Or Hau, T. 20 May 2015, 14.02.21 ["After having heard the mid-level Angkar representative, who said that in Kampuchea there would be only one single population – that is, Khmer"]; **E1/260.1** Elizabeth Becker, T. 10 Feb 2015, 11.28.17 ["When I would ask about minorities, I was told this is one Cambodian nation, one Cambodian people"]; **E3/20** Elizabeth Becker, *When the War was Over*, EN 00237951 ["Under the Khmer Rouge, the desire for racial purity"]; **E3/4524** Elizabeth Do, *Treatment of the Vietnamese Minority in Democratic Kampuchea from a Comparative Perspective*, EN 00548861 ["As soon as the Khmer Rouge took power, it publicly announced that there was to be only a Khmer race and began the regime's pursuit for an ethnically pure Democratic Kampuchea"]; **E3/4519** Farina So, *An Oral History of Cham Muslim Women in Cambodia under the Khmer Rouge*, EN 00554567-69 ["the Khmer Rouge proceeded to erase the identity of each ethnic minority group by ordering people to embrace a single race: Khmer. They instituted a racist, chauvinistic policy of forced assimilation or 'Khmerization' of the Cham and other ethnic minorities ... In decrees sent to the provinces, the Khmer Rouge declared that ... the various nationalities do not exist any longer in Kampuchea"].

²²⁶⁷ **E1/93.1** David Chandler, T. 20 July 2012, 16.02.14-16.03.42 ["By the end of 1978, the Khmer Rouge certainly had a policy of exterminating the Cham. By the end of 1978, they had a policy of eliminating the Vietnamese ... their public statements began to refer to the 'puch' – or the race, the Cambodian race. It was not a word they'd used much before ... It's a term that was meant to encourage the Cambodian citizens to pursue, engage and win a race war against the Vietnamese and, by extension, not against the Cham, but against anyone else in the country who was not Khmer"].

²²⁶⁸ **E3/759** *Revolutionary Flag*, Apr 1976, EN 00517853-54 [emphasis added].

²²⁶⁹ **E3/154** Telegram 15 from Chhon (Sao Phim) to Brother Pol, 30 Nov 1975.

the Centre.²²⁷⁰ Norng Sophang testified this telegram was distributed to **Nuon Chea** because the K-1 telegram unit was under instructions that **Nuon Chea** “was in charge of people” and responsible “to find a solution” to such matters.²²⁷¹ Doeun’s receipt of the telegram confirms that Political Office 870 was also involved in this crime.

554. Between July and October 1975, the CPK leaders broadcast a series of propaganda reports on DK radio about Cham or Muslim villages in Cambodia, claiming they had been persecuted by the former regime, but were now “happy” because the revolution had guaranteed the freedom to “worship their religion.”²²⁷² After October 1975, however, there were no further DK radio broadcasts or statements referencing the Cham or Muslim peoples in the country.²²⁷³ This radio silence, that began at the very time the CPK was breaking up Cham villages and dispersing their people throughout the country, reflects the determination of the CPK leaders that the Cham people would no longer exist as a distinct ethnic, national or religious group. The next mention of the Cham came in the *Black Paper* published by the DK Government in September 1978, in which the CPK leaders told the world the “Cham race was totally exterminated by the Vietnamese.”²²⁷⁴ This calculated lie in a document prepared by Ministry of Foreign

²²⁷⁰ **E3/154** Telegram 15 from Chhon to Brother Pol, 30 Nov 1975, EN 00185064 [“There are some problems ... on which the views and the instructions of the Organization are not being respected ... The view decided at the meeting stipulated that Islamic brothers and sisters were not to be sent into [Kratie], whereas the Northwest and the North had to accept them in order to split up Islamic people and separate them from the length of the Mekong River ... In principle their removal was to break them up, in accordance with your views in your discussions with us”].

²²⁷¹ **E3/64** Norng Sophang WRI, EN 00334057; **E1/120.1** Norng Sophang, T. 3 Sept 2012, 11.48.02-11.49.35.

²²⁷² **E3/1366** FBIS, *Moslem Villagers Enjoy New Life After Liberation*, 5 July 1975, EN 00167281 [“The Cambodian Moslems of Chrek Romiet village, Kompong Chhnang province are very happy with their new life”]; **E3/119** FBIS, *Revolution Improves Cambodian Moslems’ Livelihood*, 31 July 1975, EN 00167362 [Prek Hay village, Stung Trang district, Kampong Cham: “It is inhabited by our brothers, the Cambodian Moslems ... In the present era of liberation, the Moslem brothers are happy ... They are free to worship their religion and free to work and move about”]; **E3/272** FBIS, *Moslems Guaranteed Full Democratic Liberties*, 15 Oct 1975, EN 00167520 [Antong Sar village, Peam Chikang commune, Kang Meas district, Kampong Cham: “The majority of the inhabitants of this village has always been Cambodian Moslem ... the fraternal Cambodian Moslems in Phum Antong Sar have received much help from the revolutionary organization and are guaranteed full democratic liberties, including the freedom of belief”].

²²⁷³ This statement is based on a review of the monthly FBIS records of DK Radio broadcasts during the DK period and the written statements issued by the DK Government. See also **E1/88.1** Yun Kim, T. 19 June 2012, 11.53.18 [“During the study session, I had never learned anything about the Cham or Muslim people, because these people were regarded as Khmer or Cambodians and they were never regarded as another race or national in any document taught to us”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150140 [“In lectures to foreign ministry staff in 1976-77, Ieng Sary and his aides sometimes touched on the nationalities issue. According to a witness, ‘They just talked about one nationality – the Khmer. They did not mention the Chams ... The Chams they did not like, because they had killed revolutionary cadres ... The Chams and the Chinese were capitalists. They had been saying this for years’”].

²²⁷⁴ **E3/23** DK Publication, *Black Paper*, Sept 1978, EN 00082514.

Affairs cadres, pursuant to instructions received at a meeting with Pol Pot, **Nuon Chea**, and Ieng Sary,²²⁷⁵ evidences the consciousness of guilt of the CPK leaders and their knowledge or expectation that there would be no more Cham in the country.

555. In 1977-78, pursuant to the plan to eliminate ethnic minorities and to have only the Khmer race and nationality in Democratic Kampuchea, the Vietnamese who had avoided deportation and remained in the country were identified and executed,²²⁷⁶ as were the Cham people who remained in Kang Meas, Kampong Siem and Kroch Chhmar districts, the traditional Cham heartland of Cambodia. The executions of the Cham were conducted primarily by Southwest Zone and Centre Division forces sent to purge the Central Zone in 1977 and the East Zone in 1978. (These killings are described in detail in the sections of this brief discussing the Crimes Against the Cham and Vietnamese.)
556. Both **Nuon Chea** and **Khieu Samphan** were on the stage with Pol Pot during his 17 April 1978 speech,²²⁷⁷ in which he described the ongoing war as one between the “Yuon” and “Kampuchean race,”²²⁷⁸ instructed cadres to cleanse the “germs” amongst the people,²²⁷⁹ and called on every Khmer to kill 30 Vietnamese.²²⁸⁰ Pol Pot’s speech

²²⁷⁵ **E1/102.1** Suong Sikoeun, T. 6 Aug 2012, 14.30.36-14.33.39 [meeting regarding preparation of Black Paper presided over by Pol Pot and attended by Nuon Chea and Ieng Sary]; **E3/42** Suong Sikeoun WRI, EN 00327217 [“Q: Did you have any contact with Nuon Chea from 1975 to 1979? A: ... I only saw him during a meeting organized in September 1977 for the drafting of the black book about the foreign policy of the Socialist Republic of Vietnam towards Democratic Kampuchea ... We had been summoned by Pol Pot, and he was the one who spoke most. Nuon Chea was more an observer”].

²²⁷⁶ **E1/386.1** Meas Voeun, T. 2 Feb 2016, 15.57.30 [“Initially, ... they were peacefully sent back to their country by the government, and that continued until 1975 ... later on we were instructed that Vietnamese had to be smashed because they did not return to their country”].

²²⁷⁷ **E1/440.1** Kaing Guek Eav, T. 20 June 2016, 10.38.16-10.40.17 [participants on stage at 17 April 1978 celebration with Pol Pot included “Uncle Nuon, Brother Thiounn Thioeunn, Brother Vorn and Brother Hem”]; **E1/62.1** Kaing Guek Eav, T. 10 Apr 2012, 09.04.12 [“Q: Before the meeting of 6 January 1979 that we will talk about in a while, did you have any particular contact, of any kind, with Mr. Khieu Samphan? A: ... Before that date, I did not have any involvement with Khieu Samphan; I only saw him from a distance on the 17 April 1978 commemoration”]; **E1/442.1** Kaing Guek Eav, T. 22 June 2016, 13.51.23-13.59.16 [confirming he heard presentation printed in Revolutionary Flag **E3/4604** at 17 April 1978 rally he attended].

²²⁷⁸ **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519837 [“To defend Kampuchean territory means to defend the Kampuchean race. If the Yuon are able to take it, the Kampuchean race will be gone within 30 years”].

²²⁷⁹ **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519842 [“Do not let those germs bore inside among our people, our Party, our Army. We make our Army clean, our Party clean, our people clean, so that they can fight the enemy and defend Kampuchean territory, that is, defend the Kampuchean race. Otherwise our race will disappear ... The Yuon will keep coming, 1,000,000 a year, 2,000,000, and will be out of territory and will have lost our race. This is our belief”].

²²⁸⁰ **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519833-34 [“The Party made the determination to fight and smash large numbers of the enemy’s life forces and to protect our forces to the maximum ... This is our slogan. Looking at the numbers, one of us must fight 30 Yuon. If we can implement this slogan, we win ... So when we have 2 million, we already have more than we need to fight them because they only

was published in the April 1978 issue of *Revolutionary Flag*,²²⁸¹ and a similar message broadcast on the DK radio on 11 May 1978,²²⁸² in which the CPK made very clear that their objective was to target the entire Vietnamese population:

If we have 2 million troops, there should be 60 million Vietnamese. For this reason, 2 million troops should be more than enough to fight the Vietnamese, because Vietnam only has 50 million inhabitants. We do not need 8 million people. We need only 2 million troops to crush the 50 million Vietnamese; and we still would have 6 million people left.²²⁸³

557. There can be no doubt, based on the numbers used, that the CPK leaders were not just speaking about combat between DK and Vietnam's armies, but rather the elimination of the entire Vietnamese race.²²⁸⁴ Two months later, in the July 1978 *Revolutionary Flag*, the CPK cadres were told that it was the "national duty of all" to eliminate the "genocidal Yuon enemy" who "stink to high heaven and are degradingly despised as nothing,"²²⁸⁵ and the Party commended the "quick-burning flames of national and class hatred" that had been "transformed into a great mass movement" to sweep cleanly away the "Yuon" enemies.²²⁸⁶
558. **Nuon Chea** and **Khieu Samphan** were thus part of the CPK leadership that formed the Party plan to eliminate ethnic minorities and have only a single race and nationality in Democratic Kampuchea, the Khmer people, a plan that was accomplished by mass

have 50 million. We don't need to use 8 million; we can use [a] force of only 2 million to fight and smash the Yuon and still have 6 million left". See also **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166070 [repeated references to how "when 100 of the enemy were killed or wounded, we suffered from 3 to 5 killed or wounded," which may be the origin of the 30:1 reference in Pol Pot's speech].

²²⁸¹ **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519830 ["The Presentation of the Comrade Secretary of the [CPK] on the Occasion of the 3rd Anniversary of the Great Victory of 17 April"].

²²⁸² **E3/1722** FBIS, *Past Year's National Defence Efforts Reviewed*, 10 May 1978, EN 00294786 ["The party instructed that we must try to destroy as many of the enemy as possible and to preserve our forces to the maximum ... This was our slogan. In terms of numbers, one of us had to kill 30 Vietnamese"], 00294790 ["We must purify our armed forces, our Party and the people in order to continue fighting the enemy in defense of Kampuchean territory and the Kampuchean race, for if we fail to do so, our race will disappear"].

²²⁸³ **E3/1722** FBIS, *Past Year's National Defence Efforts Reviewed*, 10 May 1978, EN 00294787.

²²⁸⁴ See also **E3/4604** *Revolutionary Flag*, Apr 1978, EN 00519836 ["And now, how about the Yuon? There are no Yuon in Kampuchean territory. Formerly there were nearly 1,000,000 of them. Now there is not one seed"]; **E3/1568** Heng Samrin Interview, EN 00651903 ["At Suong in Jan. 1978, Pol Pot said that in the war against Vietnam and the 1977 victory over Vietnam it was fixed that each Khmer should kill 10, no 30 Vietnamese. [Was this about the troops ... or the general population?] The whole, everyone. Both troops and civilians. Each Khmer had to kill 30 Vietnamese. Pol Pot said this clearly, directly. It was certain that he was not talking just about troops"].

²²⁸⁵ **E3/746** *Revolutionary Flag*, July 1978, EN 00428289 [also stating that the Yuon had been the "national enemy" of the Kampuchean race "from the beginning up through the present"].

²²⁸⁶ **E3/746** *Revolutionary Flag*, July 1978, EN 00428303-04.

deportations of Vietnamese, the break-up and dispersal of the Cham, and mass executions of those who remained behind. As demonstrated below, the Accused's intent and agreement with the plan to remove and eliminate ethnic minorities is proven by their statements and acts during the regime.

b) Evidence of Intent of Nuon Chea

559. In his January 1977 speech to the RAK, in describing how the 1973 capture of the town of Banam had correctly implemented the Party's line of "attacking the enemy," **Nuon Chea** noted that they had "expell[ed] the ethnic Vietnamese, the ethnic Chinese, the military, the police,"²²⁸⁷ reflecting the CPK leaders' view of those groups as enemies. **Khieu Samphan** was present during that speech.²²⁸⁸ In another speech at which **Khieu Samphan** was present,²²⁸⁹ **Nuon Chea** stated that the 'Yuon' were the "enemy of the revolution."²²⁹⁰ In the presence of Ta Mok and Son Sen, **Nuon Chea** rallied 1,000 soldiers against the "contemptible 'Yuon' enemies" who had "sent spy agents" to invade DK territory.²²⁹¹
560. In other speeches during the regime, **Nuon Chea** used inflammatory language designed to provoke hatred towards the Vietnamese. He referred to the Vietnamese as "vicious" and "evil" annexationists who acted "cruelly" and "barbarously" and intended to "exterminate the Kampuchea race."²²⁹² He further revealed his paranoid and hostile attitude towards the Vietnamese in a July 1978 speech, in which he told a visiting delegation of Danish Communists at the height of the Cold War that "CIA agents [had] joined up with the Vietnamese in order to come to Kampuchea," explaining that the

²²⁸⁷ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491425.

²²⁸⁸ **E3/147** FBIS, *Leaders Attend Meeting Celebrating Army Anniversary*, 17 Jan 1977, EN 00168464 ["Among DK leaders attending this meeting were Comrade Khieu Samphan"].

²²⁸⁹ **E1/475.1** Mom Vun 16 Sept 2016, 13.58.05-14.01.22 [describing 1976 assembly at Phnom Kulen presided over by Nuon Chea, Khieu Samphan and Ieng Sary, at which Nuon Chea gave a speech], 14.11.20-14.15.27.

²²⁹⁰ **E1/475.1** Mom Vun 16 Sept 2016, 14.17.13-14.19.41.

²²⁹¹ **E498.1** Ou Dav, T. 10 Nov 2016, 14.50.11-14.57.36 [testimony of Division 164 cadre describing Nuon Chea speech at Borei Keila, after which troops were sent to the Eastern battlefield].

²²⁹² **E3/76** FBIS, *Nuon Chea Hosts Banquet*, 18 Sept 1978, EN 00170388 [Nuon Chea speech referring to "the Vietnamese enemy's acts of territorial expansion, annexation and aggression," and stating that Vietnam was "vicious and devoid of all gratitude," had "arrogantly returned evil for good" and "intend[ed] to annex Kampuchea as a whole"]; **E3/199** Nuon Chea Speech, 3 Sept 1978, EN 00065915 [praising the RAK because it had "smashed all the acts of subversion, attempts at coups d'etat ... cruelly, barbarously and successively perpetrated by Vietnam against Democratic Kampuchea" and "crushed the Vietnamese strategy of 'Indochina Federation' aiming at swallowing the Kampuchea territory and exterminating the Kampuchea race"].

Vietnamese did not “discriminate in choosing agents” and would “accept anybody who fights the CPK.”²²⁹³

561. **Nuon Chea** also made nationalist and xenophobic statements evidencing his distrust of and desire to exclude non-Khmer people from Democratic Kampuchea. At a study session held at Borei Keila, he declared that “Khmers should love Khmers,” and urged cadres to stand “shoulder to shoulder to protect our land” against “the Yuon.”²²⁹⁴ At another political education session conducted with **Khieu Samphan** and Pol Pot, **Nuon Chea** spoke of “aggressive Yuon agents” who had infiltrated the country,²²⁹⁵ and instructed cadres that anyone educated in foreign countries was a threat to the revolution.²²⁹⁶
562. **Nuon Chea** is directly linked to arrests and killings of Vietnamese people, including women and children. In the minutes of the 26 March 1976 Standing Committee meeting on Vietnam that was presided over by **Nuon Chea** and attended by **Khieu Samphan**, the CPK Deputy Secretary discussed a “group of five or six Vietnamese [who] came to live in the forest,” stating: “We have ordered them arrested already.”²²⁹⁷ At the conclusion of that meeting, **Nuon Chea** remarked that “with Vietnam, our problems are never ending.”²²⁹⁸ In June 1977, **Nuon Chea** was one of the CPK leaders who received Northeast Zone Secretary Vi’s telegram requesting instructions on “209 Vietnamese soldiers, including 9 females” who had been captured and detained by Division 801.²²⁹⁹ It is apparent from the telegram that these people were not soldiers of the Vietnamese government, but rather Jarai dissidents.²³⁰⁰ As detailed in the *Au Kanseng* section, the order sent down to Division 801, which was carried out, was to execute all the Jarai prisoners from Vietnam.
563. Other mass killings of Vietnamese were also reported to the Party Centre leaders. In its

²²⁹³ **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762403.

²²⁹⁴ **E1/217.1** Ek Hen, T. 3 July 2013, 11.45.52; **E3/474** Ek Hen WRI, EN 00205050.

²²⁹⁵ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.18.00-11.20.30.

²²⁹⁶ **E1/115.1** Em Oeun, T. 27 Aug 2012, 11.11.59-11.14.22.

²²⁹⁷ **E3/218** Minutes of Standing Committee Meeting on “Results of Negotiations with Vietnam regarding the Eastern Border,” 26 Mar 1976, EN 00182657.

²²⁹⁸ **E3/218** Minutes of Standing Committee Meeting on “Results of Negotiations with Vietnam regarding the Eastern Border,” 26 Mar 1976, EN 00182657.

²²⁹⁹ **E3/240** Telegram 07 from Vi, 15 June 1977 [copied to “Grand Uncle, Uncle Nuon, Brother Van, Brother Vorn, Brother Khieu, Office & Documentation”].

²³⁰⁰ **E3/240** Telegram 07 from Vi, 15 June 1977, EN 00897667 [reporting that the captured Vietnamese were almost all Jarai, carried “US-made backpacks,” brought only “one AK rifle, three AR-15 guns, two pistols and three US-made grenades,” and had stated “they were ordinary people who came to defect to Cambodia”].

July 1978 monthly report, the West Zone reported that Sector 37 had “smashed 100 ethnic Yuons, including small and big, adults and children,”²³⁰¹ pursuant to the “Party’s assignment line to routinely remove, screen and sweep clean” such persons.²³⁰²

564. In 1978, during the period Duch reported directly to **Nuon Chea**, numerous Vietnamese were taken to S-21 and executed, including two seven year old boys and two eight year olds from Svay Rieng,²³⁰³ seven children aged 10 or 11 years old,²³⁰⁴ and 16 other Vietnamese children between the ages of 13 and 15.²³⁰⁵ In total, well over 500 Vietnamese prisoners were sent to S-21 in 1978,²³⁰⁶ the majority of whom were not Vietnamese soldiers.²³⁰⁷ They were arrested and sent from different regions of the country, though primarily the provinces that bordered Vietnam, that is, Svay Rieng (East Zone), Takeo (Southwest Zone) and Mondulhiri (Northeast), as well as Vietnamese arrested at sea and sent to S-21 from Kampong Som.²³⁰⁸ The 1978 evidence from S-21 thus demonstrates that, under **Nuon Chea**’s oversight, all Vietnamese found on Cambodian soil or waters were being arrested and sent for execution, whether they were a 20-year old soldier, a 45-year old fisherman or a seven year old child.²³⁰⁹

²³⁰¹ **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315374-75.

²³⁰² **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315368.

²³⁰³ **E3/10604** OCU S-21 Prisoner List, Nos 10129 [8-year old Vin Yaing Fa entered S-21 on 6 May 1978], 12623 [7-year old boy Troeng Yaing Fak entered on 30 October 1978 and was executed the following day], 12660 [7-year old Troeng Yaing Ngok entered 13 Nov 1978], 12697 [8-year old girl Le Thimiphoeung entered S-21 on 19 Nov 1978]. See also **E3/10456** S-21 List of Prisoners Killed on 31 October 1978, KH 01018835 [Troeng Yaing Fak]; **E3/8463** S-21 List of Prisoners Smashed on 27 May 1978, EN 01032536 [No. 578 – Vin Yaing Fa].

²³⁰⁴ **E3/10604** OCU S-21 Prisoner List, Nos 8037 [11-year old Meu Chuk from Vietnam entered S-21 on 17 Jan 1978], 12509 [10-year old Vinh Yaing Thanh from Svay Rieng entered 25 Sept 1978], 12590 [11-year old boy Le Yaing Ve from Southwest Zone entered 12 Oct 1978], 12657-12659 [11-year old boys Dinh Thanh Siem and Ngvieng Yaing Ta and 11-year old girl Ngvieng Thinga from Svay Rieng all entered on 13 Nov 1978], 13974 [11-year old Yor Yaing Nhoek from Svay Rieng entered 4 Dec 1978]. Le Yaing Ve’s S-21 Photograph is No. 610 in **E3/9837**. He was executed on 20 Oct 1978 (OCP Revised S-21 List, No. 4593).

²³⁰⁵ **E3/10604** OCU S-21 Prisoner List, Nos 8258, 8405, 9767, 9856, 9902, 10130, 10262, 11832, 12496, 12507, 12594, 12619, 12633, 12677, 13196, 13891, 14879. A number of these Vietnamese children appear to have been arrested at sea and sent to S-21 from Kampong Som, including 15-year olds Loeung Minh Tun Hay, who entered on 16 Feb 1978 and was executed on 27 Mar 1978 (No. 8405), and Ngvieng Kong Vieng (No. 12496). The S-21 photograph of 13-year old Vin Thi Ngok (OCU No. 10130), taken on her arrival on 6 May 1978, is **E3/8639.171**. She was executed a week later on 14 May 1978 (**E3/8463** at KH 00016000-04 - No. 69). See also **E3/10456** S-21 List of Prisoners Killed on 31 October 1978, KH 01018835 [includes 13 year old Ngvieng Yaing Vin (OCU 12619)].

²³⁰⁶ See **Annex F.33** List of Vietnamese S-21 Prisoners; **Annex F.2** Figure 5.2, *Vietnamese Arrested by Month at S-21*, p. 47.

²³⁰⁷ See **Annex F.2** Figure 5.1, *Vietnamese Described as Spies, Soldiers and Civilians at S-21*, p. 47.

²³⁰⁸ See **Annex F.2** Figure 5.3, *Vietnamese Arrested by Zone at S-21*, p.49. See also **E3/196** Nuon Chea Speech, 30 July 1978, EN 00762405 [“The Vietnamese thus crawled into our country by what they term ‘legal’ means, especially in Takeo and Svay Rieng”].

²³⁰⁹ See **E1/57.1** Kaing Guek Eav, T. 2 Apr 2012, 14.53.10 [“Yvon people were not able to live in Cambodia”].

565. The evidence also proves that these crimes were being committed under the immediate oversight and direction of **Nuon Chea** and the Party Centre leaders. **Nuon Chea** received reports from the base regarding Vietnamese who were being sent to S-21,²³¹⁰ and on some occasions informed Duch in advance that Vietnamese prisoners were being transported to S-21.²³¹¹ He provided specific instructions to Duch regarding the interrogation and filming of Vietnamese POWs and recording of their confessions for broadcast on the DK radio.²³¹²

566. Surviving notebooks of S-21 interrogators record the political education and instructions provided to S-21 cadres in 1978 relating to the Vietnamese, including a statement by Pol Pot emphasizing the importance of smashing completely the Vietnamese enemy:

On 17 January 1978, Brother Party Secretary said that if we hit their legs the Yuon can still crawl, if we hit their arms they can walk.²³¹³

567. Subsequent notes reflect repeated discussion of “the problem of the Yuon hidden in Kampuchea,” who were said to be “hiding everywhere.”²³¹⁴ Interrogators were specifically instructed to “ask about the Yuon in hiding,”²³¹⁵ and told that “finding the Yuon” was a “maximum victory,” while “finding additional traitor connections who are Yuon agents” was only a “minimum victory.”²³¹⁶ Duch testified that a note from an 8 October 1978 meeting, which referenced a future plan to restrict the use of torture and beatings on Khmer prisoners, but continue to apply “absolute Special Branch methods, completely and totally, permanently” for “Yuon” and “foreigners,” was part of the instructions he had received at a political education meeting led by Pol Pot and **Nuon Chea**.²³¹⁷

²³¹⁰ See e.g. **E3/181** Telegram 11 from 47 (Son Sen) to Respected Brother, 14 Feb 1978, copied to “Grand Uncle, Grand Uncle Nuon & Archive” [para. 5 reports: “Comrade Tal (*Division 290 Secretary*) captured 2 Yuon heads, ages 17 and 27. They were sent to S-21”]. **E3/10604 OCLJ S-21 Prisoner List** records that, 17-year old Le Vang Khocung (No. 8227) and 27-year old Troeung Yaing Nhim (No. 14893) entered S-21 on the following day, 15 February 1978.

²³¹¹ **E1/439.1** Kaing Guek Eav, T. 16 June 2016, 09.43.05-09.44.35 [confirming that Nuon Chea informed him that “‘Yuon’ soldiers would be sent to me”]; **E3/1580** Kaing Guek Eav WRI, EN 00177588.

²³¹² **E1/436.1** Kaing Guek Eav, T. 13 June 2016, 15.00.14-15.04.30, 15.11.42-15.17.31; **E1/58.1** Kaing Guek Eav, T. 3 Apr 2012, 09.59.14; **E3/525** Kaing Guek Eav, T. 10 June 2009, 09.33.27-09.38.48, 11.54.57; **E3/1580** Kaing Guek Eav WRI, EN 00177588.

²³¹³ **E3/834** Pon-Tuy S-21 Interrogators Notebook, EN 00184497.

²³¹⁴ **E3/834** Pon-Tuy S-21 Interrogators Notebook, EN 00184498 [18 June 1978 note].

²³¹⁵ **E3/834** Pon-Tuy S-21 Interrogators Notebook, EN 00184529 [16 December 1978].

²³¹⁶ **E3/834** Pon-Tuy S-21 Interrogator Notebook, EN 00184504 [18 July 1978 note].

²³¹⁷ **E3/834** Pon-Tuy S-21 Interrogators Notebook, EN 00184522 [8 Oct 1978 notes: “In the near term, we have plans to interrogate all of the Khmer without beatings and getting 80% confessions. No beatings and

568. Thet Sambath, who interviewed the Accused over a number of years, states that **Nuon Chea** always referred to the Vietnamese as “Yuon,”²³¹⁸ and that his contempt for the Vietnamese began early,²³¹⁹ “reach[ed] its height” during the DK period and “still lingers today.”²³²⁰ As one example of this, **Nuon Chea** cannot bring himself to admit he was once called “Brother Number Two,” despite the incontrovertible evidence, because he views that name as one “derived from the cult of Vietnam.”²³²¹ Even in his carefully crafted statements to this Chamber, **Nuon Chea** is unable to conceal his hatred and contempt for Vietnam.²³²²

getting very detailed confessions, 70%. As for the foreigners, the Yuon, the imperialist CIA, we apply absolute Special Branch methods, completely and totally, permanently. Also in this temporary period, the task of defense will temporarily apply the old principles, absolutely and totally”]; **E1/437.1** Kaing Guek Eav, T. 14 June 2016, 11.10.07-11.18.34.

²³¹⁸ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757508 [“Even now, Nuon Chea always refers to the Vietnamese as ‘Yuon,’ a racist term used by Cambodians”]. See e.g. **E3/26** Nuon Chea Interview, Oct 2006, EN 00329513 [“The evil groups ... There were Khmer Serei, the CIA, the KGB, the Yuon”]; **E3/108** Nuon Chea Interview, 10 June 2006, EN 00000934 [claiming that the “Yuon” set up Tuol Sleng to “blame us for killing our own people”]; **E3/3** Nuon Chea Statement, May 1998, EN 00184657 [“a number of the Yuon who had led in Kampuchea and who had been secretly imbedded in the Yuon ethnic minority”], 00184672 [“Right after the coup, the Yuon had no place to stay because America was attacking ... The Yuon had to depend on us. The bitch Nguyen Thi Binh, the female commander, came to meet Phim”], 00184674 [after completing presentation on pre-75 period: “Attacking the Yuon, attacking whatever, that was later”], 00184676 [“The experience about the Yuon, that many were smashed”]. **E1/402.1** Alexander Hinton, T. 15 Mar 2016, 09.15.50-09.17.13 [“the term ‘Yuon’ ... is one that signals this hatred of the Vietnamese other”]; **E1/404.1** Alexander Hinton, T. 17 Mar 2016, 12.10.24-12.11.14.

²³¹⁹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757501 [“Nuon Chea and Pol Pot both had personal experiences with the Vietnamese that colored their opinions of their neighbors from an early age ... ‘I hated Vietnamese youths from the time I was young,’ Pol Pot told Nuon Chea. ‘I did not like them because the Vietnamese were rude and too clever at playing unfair tricks while playing football against me’”].

²³²⁰ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757508, 00757511 [also noting: “With the Khmer Rouge emphasis on racial purity and hostility between Cambodia and its neighbors, Vietnamese living in Cambodia were targeted by the Khmer Rouge, just as they had been with Lon Nol. Vietnamese citizens were labelled spies. Many were arrested and others fled to Vietnam”].

²³²¹ **E1/22.1** Nuon Chea, T. 14 Dec 2011, 09.42.13 [“Number One or Number Two here, I think, was derived from the cult of Vietnam, particularly those Cambodians who left for Vietnam following the Geneva Conference. Certain number of Cambodian people – approximately 1,500 of them – went to Vietnam. Those Cambodians returned to Cambodia and they brought along with them this culture. But in the Communist Party of Kampuchea there was no such thing as Brother Number One, Number Two, we only address each other by Brother”]. See also **E1/444.1** Kaing Guek Eav, T. 27 June 2016, 10.08.08-10.10.50 [“it was the ‘Yuon’ who usually referred to their cadres as ‘Brother Number 1’ or ‘Number 2’ ... later on, Brother Pol and Brother Nuon advised not to use that title again ... later on, the upper echelon gave instructions for us to stop using the titles because in the ‘Yuon’ structure, they use such titles”].

²³²² **E1/14.1** Nuon Chea, T. 22 Nov 2011, 13.54.42 [Khmer people did not participate in the Indochinese Party because “Khmer dislike Vietnamese”], 13.59.43 [accusing Vietnam of having an “evil ambition”], 15.06.32 [“Vietnam’s bad behavior remains unchanged for centuries”], 15.08.57 [“Vietnam’s cadres still ... remain discretely on Cambodian soil in order to ... annex, swallow Cambodia and rid Cambodia of her race and ethnicity and bring further Vietnamese illegal immigrants to live in Cambodia”], 15.34.13 [describing Vietnamese as “thieves who wished to steal our land and wipe Cambodia off the face of the world”].

c) *Evidence of Intent of Khieu Samphan*

569. **Khieu Samphan's** decision to participate in the CPK criminal plan was a conscious choice driven by his nationalist views²³²³ and his paranoia about a Vietnamese threat – beliefs which he shared with Pol Pot and **Nuon Chea**.²³²⁴ He contributed to the CPK's crimes against the Vietnamese, and revealed his agreement with the plan to eliminate all Vietnamese from Cambodia, through political education and other speeches he made during the DK regime.
570. In a study session he led at Borei Keila that was attended by over 400 cadres, **Khieu Samphan** stated that Khmers had to be united and "free of Vietnamese."²³²⁵ The witness present at this meeting indicated that **Khieu Samphan** used the term "Yuong," and stated that by that time, "there were only Cambodians" and "no Yuons" in the country.²³²⁶
571. In his speeches, **Khieu Samphan** referred to the Vietnamese as "our sworn enemy,"²³²⁷ "the worst criminals ever,"²³²⁸ "superpower chauvin[ists],"²³²⁹ "ruthless, savage international enemies"²³³⁰ who were "ferocious," "brutal,"²³³¹ "evil,"²³³² "ugly,"²³³³

²³²³ **E3/18** Khieu Samphan, *Cambodia's Recent History and the Reasons Behind the Decisions I Made*, EN 00103783 ["Indeed most militants of my generation, including those who, like me, were driven by fervent nationalism, made a fundamental mistake."].

²³²⁴ **E3/4201R** Video *Facing Genocide: Khieu Samphan and Pol Pot*, 01.15.10-01.15.42 ["You have to understand that, without Pol Pot, without the Khmer Rouge, ... Cambodian would have been in the hands of the Vietnamese communists. Don't forget that!"]; **E3/4046** Khieu Samphan Interview, EN 00792907 ["if we trusted and were close to the Vietnamese that was wrong, that was against the line"]; **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498302 ["If the Vietnamese had liberated the South before Phnom Penh had been liberated, there may have been major danger"]; **E1/190.1** Philip Short, T. 7 May 2013, 14.37.11 [discussing above statement in **E3/16**: "That reflects the paranoia about Vietnam"]; **E1/191.1** Philip Short, T. 8 May 2013, 09.36.53 ["it became a self-fulfilling prophecy. If you are convinced that the Vietnamese wish you ill, then you see all kinds of reasons to take measures against the Vietnamese, which in turn ... becomes enmity"].

²³²⁵ **E1/217.1** Ek Hen, T. 3 July 2013, 11.30.15-11.33.02 ["'Yuong' were not regarded as our friends because in our country, in those days, there were only Cambodians, no 'Yuons.' And he [referring to **Khieu Samphan**] also mentioned something about this. He said Khmer had to be united and Khmer shall be free of Vietnamese, or the 'Yuong'"].

²³²⁶ **E1/217.1** Ek Hen, T. 3 July 2013, 11.30.15-11.33.02.

²³²⁷ **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169296 ["the entire Kampuchean people oppose Vietnam which is our sworn enemy"]. See also **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280392; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010559; **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166069 ["aggressive, expansionist and annexationist Vietnamese enemy"].

²³²⁸ **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169296.

²³²⁹ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391 ["we have powerfully shattered ... the flag of Vietnam's 'superpower chauvinism'"].

²³³⁰ **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169296.

²³³¹ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166065, 00166068; **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169295 [Vietnam acted "in a most insolent and brutal manner ... arrogantly and savagely"].

²³³² **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166066; **E3/562** Khieu Samphan Speech,

“barbaric and cruel,”²³³⁴ “devoured by sinister ambition,”²³³⁵ akin to Hitler,²³³⁶ and engaged in “genocidal aggression”²³³⁷ aimed at “swallowing up” and “snuffing out” Kampuchea.²³³⁸

572. **Khieu Samphan**’s inflammatory nationalist language was designed to provoke hatred against the Vietnamese. In a statement broadcast at the end of 1977 that had been approved by **Nuon Chea**,²³³⁹ **Khieu Samphan** told Cambodians that the “Vietnamese enemy” had “plundered Cambodia’s rice,” “raped and killed our women,”²³⁴⁰ and wanted to “enslave all our people and turn all of us into Vietnamese.”²³⁴¹ In an April 1978 speech, he publicly endorsed “national hatred” against the Vietnamese,²³⁴² talked about the conflict as a war between races,²³⁴³ and called on the people to “draw

15 Apr 1978, EN S 00010558.

²³³³ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166070 [“SRV’s ugly face”].

²³³⁴ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391.

²³³⁵ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391.

²³³⁶ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166068 [asserting that Vietnam had acted “in the same way Hitler invaded Czechoslovak territory in 1939”].

²³³⁷ **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169295 [“anti-Kampuchea genocidal aggression” aimed at “exterminating the Kampuchean nation”].

²³³⁸ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391-92 [“an aggressor eager to grab and annex the Kampuchean territory”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010558 [“the greedy Vietnamese have the evil intention of swallowing up our Cambodian territory in accordance with their Indochinese federation plan”]; **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166066 [“The SRV thinks that if this aim could be achieved, in 30 years at most, the Vietnamese nationals would become the majority in Cambodia, for it would be possible to send from 500,000 to 1,000,000 Vietnamese nationals into Cambodia each year”]; **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391-92 [“the greedy Vietnamese have the evil intention of swallowing up our Cambodian territory in accordance with their Indochinese federation plan”]; **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166066 [“The SRV thinks that if this aim could be achieved, in 30 years at most, the Vietnamese nationals would become the majority in Cambodia, for it would be possible to send from 500,000 to 1,000,000 Vietnamese nationals into Cambodia each year”]; **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280391-92 [“the greedy Vietnamese have the evil intention of swallowing up our Cambodian territory in accordance with their Indochinese federation plan”]; **E3/296** Khieu Samphan Statement, 2 Jan 1979, EN 00169294 [Statement of DK Government “read by State Presidium Chairman Khieu Samphan”: “Vietnam has relentlessly used all kinds of tactics - persuasion, hostility, clandestine manipulation, subversion, intimidation, threats, coups d’etat, infiltration and outright aggression and invasion -- against the Kampuchean nation and people ... carrying out the strategy of swallowing up Kampuchean territory ... aiming at snuffing out and destroying Democratic Kampuchea all at once”].

²³³⁹ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166068 [“with the approval of the CPRA Standing Committee which met in special session on 25 December 1977 under the chairmanship of Comrade Nuon Chea, the Government of Democratic Cambodia decides to issue this statement”].

²³⁴⁰ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166065.

²³⁴¹ **E3/8304** FBIS, *Khieu Samphan Statement*, 31 Dec 1977, EN 00166070 [“The aggressive, expansionist Vietnamese enemy has a great ambition; they want to annex all our territory and enslave all our people and turn all of us into Vietnamese within the next few decades”]. See also **E1/120.1** Norng Sophang, T. 3 Sept 2012, 15.06.26 [“I used to listen to the statement made by Mr. Khieu Samphan. It was done on the 31st of December 1977 through the National Radio of Democratic Kampuchea broadcast”]; **E1/382.1** Prum Sarat, T. 26 Jan 2016, 15.59.35; **E3/385** Leng Chhoeung WRI, EN 00360130 [“Q: Did you hear any announcement of Khieu Samphan on radio? A: I heard his appeals on radio to fight against the Yuon”].

²³⁴² **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280396 [“the fight against Vietnam the aggressor that wants to grab and annex our territory further raised the political awareness and patriotism of our people and again stirred up their national hatred and class hatred. Consequently, our people’s political and ideological awareness was further developed”].

²³⁴³ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280392 [describing RAK as “cornerstone” of defence of “the race of Kampuchea”]; **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280398 [instructing people that their “1st task” from the Party

inspiration” from the army and “radically eliminate forever from the territory of Kampuchea” the Vietnamese aggressors.²³⁴⁴ At the end of that speech, the meeting participants adopted a resolution to “keep extremely seething the national spirit of revolutionary vigilance” and to “exterminate the enemies of all stripes, particularly the expansionist, annexationist Vietnamese enemy, in order to preserve the nation and the Cambodian race forever.”²³⁴⁵

573. **Khieu Samphan** intended his words to have this very effect and to inspire hatred against the Vietnamese, as he would later admit to Norodom Sihanouk:

He [*referring to Khieu Samphan*] unabashedly told me that ‘to unite our compatriots through the Party, to bring our workers up to their highest level of productivity, and to make the *yotheas*’ ardor and valor in combat even greater, the best thing we could do was incite them to hate the Yuons more and more every day.’ Khieu Samphan added: ‘Our *bang-phaaun* [literally, older and younger brothers and sisters] are willing to make any sacrifice the minute we wave the ‘Hate Vietnam’ flag in front of them.’²³⁴⁶

6. Persecution of Buddhists

574. As with the other key CPK policies, Pol Pot and **Nuon Chea** conveyed the plan to close all pagodas and disrobe all monks at the 20-25 May 1975 mass meeting of cadre from across Cambodia.²³⁴⁷ The announcement of this policy followed weeks of meetings of the CPK leaders in Phnom Penh formulating the Party’s post-liberation plans. Both **Khieu Samphan** and **Nuon Chea** participated in those meetings, as discussed in previous sections. The Party leaders confirmed their view on the need to eliminate

was to “defend tooth and nail ... the Kampuchean race”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563.

²³⁴⁴ **E3/169** Khieu Samphan Speech, 15 Apr 1978, EN 00280392; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010559-60 [“strive wholeheartedly to fulfil all the tasks the Party has assigned each of us ... so as to completely and forever eliminate the aggressive enemies of all stripes, particularly the expansionist, annexationist Vietnamese aggressors, from our Cambodian soil”].

²³⁴⁵ **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010563 [also resolving to “destroy forever all the expansionist, annexationist Vietnamese aggressors”].

²³⁴⁶ **E3/1819** Norodom Sihanouk, *War and Hope*, EN 00349591.

²³⁴⁷ **E1/82.1** Sao Sarun, T. 6 June 2012, 11.08.03 & 11.34.17, *confirming* **E3/367** Sao Sarun WRI, EN 00278694 [“In that meeting, the presenters at the opening sessions were Nuon Chea and Pol Pot ... Both of them talked about ... monastery closings”]; **E3/1593** Ben Kiernan, *The Pol Pot Regime*, EN 01150024 [list of eight policies discussed at meeting includes: “(4) Defrock all Buddhist monks and put them to work growing rice”]; **E3/1568** Chea Sim Interview, 3 Dec 1991, EN 00651867, and original interview notes **E3/5593** at EN 00419371-72 [confirming that one of the eight points discussed by Pol Pot and Nuon Chea was to “Defrock all monks”]. *See also* **E1/291.1** Pech Chim, T. 23 Apr 2015, 14.27.10-14.34.47 [testifying that Tram Kak District Secretary Khom attended the May 1975 meeting and convened district cadres on her return to communicate the plan: “Q: Do you recall whether she said anything about disrobing or defrocking of the monks? A: Yes, she actually spoke about that subject ... She talked about that and she led the communes to implement”].

Buddhism in Cambodian society in *Revolutionary Flag*, noting their long-standing conclusion that the Buddhist religion and its leaders were an obstacle to the goals of the CPK revolution.²³⁴⁸ (The evidence of a uniform prohibition on Buddhism that could only have originated from the Party Centre leaders is discussed in the JCE section on *Targeting of Buddhists*.)

575. Both Accused showed their agreement with the elimination of religion during the DK regime. Civil Party Son Em testified that he was informed by a Member of the Northwest Zone Committee of an order from **Nuon Chea** to close the pagodas.²³⁴⁹ **Khieu Samphan**, in explaining the limitation on religious freedom in the DK Constitution, warned that “imperialists continue to look for means to attack us, among which is the use of a religious cloak to infiltrate our country.”²³⁵⁰ S-21 Chairman Duch testified that at a political training session presided over by Pol Pot and **Nuon Chea** near the end of the regime, Pol Pot announced that the plan to “eliminate Buddhism” had been “successful.”²³⁵¹
576. Moreover, it is noteworthy that while both Accused have begun virtually every statement in ECCC court proceedings by paying their respect to the venerable monks,²³⁵² not a single one of their DK-era speeches contains any such statement. As

²³⁴⁸ **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486230 [stating that “the contradiction between the peasants and the landowners” had been buried in the past because “the landowner class, the mandarin holders of power, and the spiritual leaders of the exploiting classes disseminated information to bury these contradictions. The belief that bad and good deeds from another life resulted in present conditions, etc., served to deceive the peasants and prevent them from seeing the contradictions”]; **E1/23.1** Nuon Chea, T. 15 Dec 2011, 14.21.58-14.34.54 [refusing to respond to questions on this issue]; **E3/144** Pol Pot Speech, 27 Sept 1977, EN S 00012677.

²³⁴⁹ **E1/500.1** Son Em, T. 21 Nov 2016, 10.50.48, referencing **E3/6636a** Son Em CP Supplementary Information, EN 00859259; **E3/5000** Son Em CPA, EN 00793364.

²³⁵⁰ **E3/273** FBIS, *Khieu Samphan Report*, 14 Dec 1975, EN 00167816 [adding that they should be opposed “at all costs”], EN 00167813 [also stating that the new regime opposed “all corrupt, reactionary cultures of the various oppressive classes ... in Cambodia”].

²³⁵¹ **E1/56.1** Kaing Guek Eav, T. 29 Mar 2012, 09.21.32-09.23.24 [describing Sept 1978 study session: “Pol Pot, Nuon Chea were there and Pol Pot was presenting documents in the training sessions for senior cadres when Nuon Chea was seen sitting alongside”], 09.25.09-09.28.00 [describing Pol Pot presentation: “he indicated as well that we were trying to eliminate Buddhism and our cause was successful ... Pol Pot told Le Duan that how to eliminate Buddhism was by way of making monks build dams and blend in the popular masses”].

²³⁵² See e.g. **E1/14.1** Nuon Chea, T. 22 Nov 2011, 13.49.55 [“my respect to venerable monks”]; **E1/21.1** Khieu Samphan, T. 13 Dec 2011, 14.16.49 [“Mr. President ... venerable monks”]; **E1/23.1** Nuon Chea, T. 15 Dec 2011, 13.57.07 [“My respects to the monks”]; **E1/27.1** Khieu Samphan, T. 16 Jan 2012, 12.06.07 [“venerable monks”]; **E1/237.1** Nuon Chea, T. 31 Oct 2013, 09.03.56 [“My respect to the venerable monks who are present here today and those at the pagodas”]; **E1/237.1** Khieu Samphan, T. 31 Oct 2013, 13.46.52 [“My utmost respect to venerable Buddhist monks in various monasteries and pagodas across Cambodia”].

Nuon Chea has acknowledged,²³⁵³ the explanation for this is simple – the CPK leaders understood there were no monks left.

CONTRIBUTION TO FORCED MARRIAGE

1. Development and Implementation of Policy at Centre

577. The development of a nationwide policy relating to forced marriage will be discussed in detail later in this brief in the section titled *Forced Marriage and Rape – Establishment of the Policy*. This policy was implemented by the very top CPK leaders.
578. Forced marriages and mass weddings were conducted at the Ministry of Commerce,²³⁵⁴ for which **Khieu Samphan** had oversight responsibility.²³⁵⁵ As many as 20 to 30 couples were married at the same time,²³⁵⁶ in marriages sometimes conducted by Commerce Minister Van Rith and his deputy Nget You alias Hong.²³⁵⁷ A former deputy

²³⁵³ **E1/23.1** Nuon Chea, T. 15 Dec 2011, 14.38.16 [“Q: I had noted that, in your opening statement, you had started your comments by paying respect to the Venerable Monks and that you did so also today ... Why is it that the speeches you made as a Khmer Rouge leader contain no respect to the Venerable Monks? A: Mr. President, a speech could be a political one. I do not want to mix religion with politics. However, at that time, at that particular time, there was no monk participating ... For that reason, I never used a line to pay my respects to Venerable Monks”].

²³⁵⁴ **E1/467.1** Phan Him, T. 31 Aug 2016, 14.21.44 [testimony of female Commerce cadre who worked at Tuol Tumpoung: “I was told that despite my refusal, Angkar would assign me to have a husband and if I violated the discipline, then I had to be careful”], 14.29.03 [marriage conducted “to the east of the Tuol Tumpoung pagoda”]; **E1/468.1** Phan Him, T. 1 Sept 2016, 09.25.10-09.30.50, 09.40.52-09.42.13; **E3/9318** Phan Him DC-Cam Statement, EN 00679676-77; **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.51.10-14.06.10 [Civil Party who worked for Ministry of Commerce was forced by her supervisor to marry a handicapped soldier and stay in rooms at the Tuol Tumpoung market, where they were monitored by the militia], 15.27.51-15.32.37 [required to make commitment to “produce children for Angkar” at marriage ceremony]; **E3/10620** Ruos Suy WRI, A77, A79, A83 [witness was forcibly married himself, and facilitated hundreds of forced marriages as deputy chief of the State Warehouses, testifying: “Some people who were assigned to get married did not dare to refuse the assignment because of fear from being mistreated or fear of bad things happening to them. When they asked for agreement from them, they just answered in agreement because of fear. Although from outside it seemed that it was not a forced marriage, in fact they forced people to accept, including myself”].

²³⁵⁵ **E1/502.1** Beit Bocurn alias Bit Na, T. 28 Nov 2016, 10.52.03-10.54.50 [testimony of Chairperson of Product Sorting Section at Tuol Tumpoung that Khieu Samphan held meetings there “because he was in charge of supervising the Ministry of Commerce”]; **E3/10721** Bit Na WRI, A242; **E1/206.1** Sim Hao, T. 12 June 2013, 14:34, 15:10 [witness who worked at Tuol Tumpoung warehouses describes inspections of premises by Khieu Samphan, accompanied by Van Rith]; **E1/184.1** Ruos Suy, T. 25 Apr 2013, 10:36, 11:18, 13:53 [testimony of deputy chief of State Warehouses describing Khieu Samphan inspections of warehouses and training sessions]. Khieu Samphan’s oversight of the Ministry of Commerce is discussed in further detail in the previous section **Role of Khieu Samphan – Responsibility for Commerce and DK Economy and Contribution to Persecution and Execution of Enemies – Implementation of Policy at Organisations Overseen by the Accused – Khieu Samphan Responsibility for FUNK, GRUNK, Intellectuals and Commerce**.

²³⁵⁶ **E1/467.1** Phan Him, T. 31 Aug 2016, 14.21.44-14.23.40 [“There were 21 couples and I was the last couple”]; **E3/9318** Phan Him DC-Cam Statement, EN 00679677; **E3/5642** Phan Sarath OCP Interview, EN 00197563, [statement of husband of Phan Him: “I married a woman in a group wedding of 30 couples”]; **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.56.22-14.02.17 [group wedding of 12 couples]; **E3/10620** Ruos Suy WRI, A83 [marriage of 20 couples].

²³⁵⁷ **E1/467.1** Phan Him, T. 31 Aug 2016, 14.23.40-14.25.27 [“Ta Hong and Ta Rith were there. Then they

chief at the State Warehouses has stated that, beginning in 1977, the Ministry received a plan of “strict measures” requiring that 100 couples be married each month.²³⁵⁸ The Trial Chamber also heard testimony from Thuch Sithan regarding forced marriages of Ministry of Social Affairs cadres,²³⁵⁹ a ministry that fell under the oversight of **Nuon Chea**.²³⁶⁰

2. Nuon Chea Statements & Instructions Supporting CPK Forced Marriage Policy

579. **Nuon Chea**’s knowledge of and agreement with the CPK practice of forced marriages is summed up in a simple admission he made to Thet Sambath: “The man always wants to choose a beautiful girl, so that’s why we forced them to get married and Angkar chose the wife.”²³⁶¹ **Nuon Chea**’s statements also reflect his agreement with the underlying purpose of the CPK policy, that is: (i) the eradication of traditional families and replacement with revolutionary families loyal to Angkar,²³⁶² and (ii) a dramatic increase in the population. He has repeatedly minimised the importance of individual freedoms,²³⁶³ and stated that he would choose the revolution over love.²³⁶⁴ **Nuon Chea**

called out each pair to hold hands, to announce them husband and wife”, 14.30.47-14.32.50 [“Ta Rith addressed the wedding. He was standing up, explaining us and educating us to love and be loyal to Angkar and the Party”]; **E3/9318** Phan Him DC-Cam Statement, EN 00679677; **E3/5642** Phan Sarath OCP Interview, EN 00197563 [“Ta Rit presided over my wedding”].

- ²³⁵⁸ **E3/10620** Ruos Suy WRI, A75 [“there was a plan which required the unit (the Warehouse Ministry) to have 100 couples married per month ... The marriage age was over 20 years old”], A77-A78 [“The marriages began in 1976, but strict measures were implemented from 1977. However, I am not sure of the dates. Q: What do you mean by ‘strict measures’? A: I mean that 100 couples per month had to get married”].

- ²³⁵⁹ **E1/500.1** Thuch Sithan, 21 Nov 2016, 14.46.49-14.51.30 [“The wedding took place at the Ministry of Social Affairs office ... There were 3 couples. Bong Sou was presiding over the ceremony ... People of my age who were in their twenties, either from the hospitals or the Ministry of Social Affairs, they were arranged to get married by Angkar. It was Angkar who was the one deciding who to marry who”], 14.59.07-15.01.19; **E3/5305** Thuch Sithan WRI, EN 00345228 [“Ms. Sou, my supervisor, decided – with the approval of Ieng Thirith – that I was to marry Vasai ... We were not allowed to choose the person we wanted to marry”].

- ²³⁶⁰ **E3/182** CPK Standing Committee Minutes, 9 Oct 1975, EN 00183393 [Nuon Chea assigned responsibility for “Social Action, Culture, Propaganda and Education”]; **E1/500.1** Thuch Sithan, T. 21 Nov 2016, 15.15.48 [describing occasions she saw Nuon Chea: “And my third encounter, I saw him when we were talking about the organization of medicine. I saw him another time while he came to the Ministry of Social Affairs ... I saw him coming to see Bong Sou”], 15.18.10-15.19.50 [“Bong Sou who was in charge of that office”], 15.21.20-15.24.42; **E1/152.1** Kham Phan alias Phan Van, T. 12 Dec 2012, 10.04.00-10.10.40; **E3/447** Kham Phan WRI, EN 00486512, 00486516; **E3/57** Kham Phan WRI, EN 00290509.

- ²³⁶¹ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496 [Thet Sambath continues on to state: “Young women were forced to marry men who were twice their age and vice versa. The opinions of the prospective groom and bride did not matter. Marriage became a government policy and an institution that served the revolutionary cause”].

- ²³⁶² **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496 [“Nuon Chea thought the purpose of marriage should be to serve the movement, as he too had married with the interest of the Party in mind,” explaining that he did not allow his mother to come to his wedding “because I was worried it would damage the organization”].

- ²³⁶³ See e.g. **E3/26** Nuon Chea Interview, Oct 2006, EN 00329517 [“The highest human right, the most

has admitted that the CPK planned to increase the population of the country to at least 15 million people in five years,²³⁶⁵ and during the regime he instructed cadres on the need to increase the population to “15 to 20 million people.”²³⁶⁶ The practice of forced marriage and consummation was the criminal means by which the CPK leaders planned to achieve the desired population growth.

3. Khieu Samphan Statements & Instructions Supporting CPK Forced Marriage Policy

580. **Khieu Samphan** agreed with and substantially contributed to the CPK policy of forced marriage and consummation. Civil Party Chea Dieb testified that the Accused instructed a group of female cadres in the Ministry of Commerce that all women above a certain age were required to marry “so that they would produce children.”²³⁶⁷ **Khieu Samphan** also told them they “should not have any feelings” towards their parents, because Angkar was now their parent.²³⁶⁸
581. **Khieu Samphan** also supported the CPK’s forced marriage policy in speeches and training sessions. At a political education session at K-15, he told returning intellectuals

important human right is the right to take up arms to fight an enemy. That is the highest right. But the right to write, the rights of speech, those are ordinary”; **E3/4001R** Video *Enemies of the People*, 01:04:48 [Nuon Chea: “I have feelings for both the nation and the individual, but I clearly distinguish between them. If we must choose one or the other, I choose the nation. The individual I cast aside”], played in Court at **E1/231.1** T. 21 Oct 2013, 09:56:47.

²³⁶⁴ **E3/26** Nuon Chea Interview, Oct 2006, EN 00329526 [“Q: If you had to choose between love and the revolution, which would you choose? A: I’d choose revolution ... Revolution always goes forward. Revolution is the masses, love is the individual”].

²³⁶⁵ **E3/686** Nuon Chea Interview, 27 Oct 1981, EN S 00030349 [“Democratic Kampuchea has pursued a policy of increasing its population ... the four-year plan of 1977-1980 aimed at increasing our population to at least 15,000,000 within 5 to 10 years”]; **E3/663** Nuon Chea Interview, Jan 2007, EN 00087608 [“Vietnam had a population of 70 million, Thailand of 60 million people ... We wanted to push the population to 20 million in five years”]; **E3/558** Nuon Chea OCIJ Adversarial Hearing, 19 Sept 2007, EN 00148699 [“The Five Year Plan of the Party was to increase the population to 15 million”].

²³⁶⁶ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491435 [Nuon Chea speech at 9th anniversary of RAK: “We need from 15 to 20 million people to meet the needs of our land”].

²³⁶⁷ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14-13.51.10 [“I met Khieu Samphan at Ounalom Pagoda. He came to open a session for the female combatants to study ... He said that all female cadres needed to work for the state and those with the age above 19 from all ministries needed to be arranged to get married ... He asked all ministries to arrange married for all male and female youths ... Q: Did he explain the reason why they should get married? A: He said that they should be – get married so that they would produce children ... when they produce children, we will have more forces to defend our territory. That’s what he said ... Not long after he said that, my forces were arranged to get married”], 15.02.50-15.06.55; **E1/467.1** Chea Dieb, T. 31 Aug 2016, 09.05.32-09.06.49, 11.07.02-11.09.09.

²³⁶⁸ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 15.13.40-15.16.17 [Khieu Samphan also instructed “that we should not have any feelings towards our parents and that we should detach ourselves from our parents”], 15.17.42 [“that’s what Angkar said, that we were with Angkar and we were under the supervision of Angkar, and that we should not look for the parents because Angkar was the parents”].

to “wash your mind” of all concepts of private property, material and mental, explaining:

spiritual private property is more dangerous, it comprises everything that you think is ‘yours,’ everything that you think exists in relation to yourself - your parents, your family, your wife ... Thinking in terms of ‘me’ and ‘my’ is forbidden. If you say ‘my wife,’ that’s wrong. You should say ‘our family.’ The Cambodian nation is our big family ... All of you are under the protection of Angkar ... We are the child of Angkar, the man of Angkar, the woman of Angkar.²³⁶⁹

In his speeches, he endorsed the Party line to “rapidly” expand the population to between 15 and 20 million in ten years.²³⁷⁰

582. Norodom Sihanouk described vividly **Khieu Samphan**’s support for forced marriages:

Young girls driven from Phnom Penh and other towns in April 1975 were forcibly married to Khmer Rouge heroes, people who were mutilated. Yes, those were injured war handicapped, one-eyed persons, blind persons, people who had only one arm or one leg or who were completely legless. Khieu Samphan may well have asserted that these young ladies possessed heightened patriotic spirit and accepted through their marriages to take care of the well-being of heroes who had sacrificed themselves for national salvation. My wife and I trembled with horror at the idea of such marriages. The Frankenstein of the films of horror could not have imagined such monstrosity ... the idea of sacrificing gently virgins who [had] just left college, secondary schools and universities on the altar of such form of patriotism, there is a gap that our spirit cannot fill.²³⁷¹

²³⁶⁹ **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396524; **E1/190.1** Philip Short, T. 7 May 2013, 09:48:07-09:51:11.

²³⁷⁰ **E3/201** Khieu Samphan Speech, 15 Apr 1977, EN 00419514 [“Our country has a small population, making it necessary for us rapidly to strengthen and expand our population ... This is the political line dictated by our revolutionary organisation”]; **E3/562** Khieu Samphan Speech, 15 Apr 1978, EN S 00010565 [resolution adopted at end of speech: “To grasp firmly and implement well the plan to increase the size of the population to its maximum, so as to have 15-20,000,000 people in the next 10-15 years; To grasp firmly and implement well the plans to maximize the size of the population within one year, three years, five years, 10 years and 15 years”]. See also **E3/16** Khieu Samphan, *Considerations on the History of Cambodia*, EN 00498284 [confirming that Pol Pot’s aim was “to increase the population by a factor of two or three. Specifically, he wanted the population of Kampuchea to rise to 15 to 20 million within ten years”].

²³⁷¹ **E3/2813** Norodom Sihanouk, *Prisoner of the Khmer Rouge*, EN 00632939. See also **E3/3993** Raoul Marc Jennar, *Khieu Samphan and the Khmer Rouge*, EN 00922107 [“The expression of total contempt for the dignity of persons and marriages imposed by the CPK was known by Khieu Samphan. Not only did the CPK publications refer to that, but he, himself, phrased it to King Norodom Sihanouk in April 1976 ... According to Khieu Samphan, the young women accepted through their marriage to take care of the well-being of heroes who had sacrificed themselves in the interests of the national salvation”].

D. CRIMES

1. FORCED MARRIAGE AND RAPE

*The man always wants to choose a beautiful girl, so that's why we forced them to get married and Angka chose the wife*²³⁷²

– Nuon Chea

*He [Khieu Samphan] said that all female cadres ... with the age above 19 from all ministries needed to be arranged to get married. We should not keep them unmarried ... He said that they should ... get married so that they would produce children ... we will have more forces to defend our territory ... Not long after he said that, my forces were arranged to get married during the DK regime*²³⁷³

– Witness Chea Dieb

583. Before the CPK took control of the country, marriage in Cambodian society had been a rich tradition, largely managed by the couple's families,²³⁷⁴ and involving sacred rituals,²³⁷⁵ and, crucially, consent from the bride and groom.²³⁷⁶ Traditionally, the

²³⁷² **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496.

²³⁷³ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14-13.51.10 [“[During the meeting at Ounalom Pagoda, Khieu Samphan] said that all female cadres needed to work for the state and those with the age above 19 from all ministries needed to be arranged to get married. We should not keep them unmarried ... He did not say about whether the marriage was based on love or not, but he just simply said this should be arranged to get – to get married for the female youth with the age above 19 and the male youth with the age of 25 years old. He asked all ministries to arrange marriage for all male and female youths. We should not [keep] them all without marriage ... He said that they should ... get married so that they would produce children to -- and when we -- when they produce children, we will have more forces to defend our territory ... Not long after he said that, my forces were arranged to get married during the DK regime”].

²³⁷⁴ **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037039 [quoting from May Ebiara: “Marriages were largely arranged by parents, primarily mothers, and ‘in most cases, the child’s own inclinations and desires [were] taken into consideration and he/she [was] not forced into doing something distasteful’ ... alliances between whole families”]; **E1/472.1** K Nakagawa, T. 13 Sept 2016, 10.59.18-11.04.37 [“even though the single girls were consulted by her parents about her marriage, they blindly agreed to the marriage ... happy to accept and follow the decision by their parents”]; **E1/473.1** K. Nakagawa, T. 14 Sept 2016, 09.29.52-09.31.12; **E1/462.1** Om Yocurn, T. 23 Aug 2016, 10.34.42-10.37.55; **E3/10655** K. Nakagawa, *Motherhood at War*, EN 01322864; **E3/9662** Keo Theary WRI, A22; **E3/5510** Khim Pang WRI A19; **E3/9826** [REDACTED] WRI, A140.

²³⁷⁵ **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037039 [“Traditional weddings... involving carefully planned rituals and ornate traditional clothing ... up to thirteen ritual acts”]; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992283 [“typically run for two to three days and include extended family and friends ... various religious and cultural rituals”]; **E3/1794** P. Levine, *A Contextual Study into the Wedding and Births under the Khmer Rouge* [“A Contextual Study”], EN 00482489 [“The monk is central ... from the beginning to end of the wedding rites of passage. Monks provide counselling for the couples, and make links to deceased ancestors”], 00482490-91; **E1/464.1** Yos Phal, T. 25 Aug 2015, 10.04.10-10.06.45; **E3/9736** Meas Saran WRI, A36 [“music, a wise man and parents would be present, the hair-cutting ceremony, and the bride price ceremony would be conducted”].

²³⁷⁶ **E1/463.1** Sou Sotheavy, T. 24 Aug 2016, 13.41.18 [“If the girl agrees, the marriage would happen”]; **E3/9826** [REDACTED] WRI, A140-142 [“When a man loved a woman, he would tell his parents to make a marriage proposal for him. If the woman liked that man, they would get married”]; **E1/473.1** K. Nakagawa, T. 14 Sept 2016, 09.29.52 [“the daughters were expecting the parents to decide on her marriage. So we would say that she ... blindly agreed upon the proposal by the parents for a marriage

process began with a potential groom or his parents expressing interest in a potential bride.²³⁷⁷ The bride's family would investigate the background of the groom, assessing a range of factors, and consult an *achar* (religious layperson) for an auspicious time to marry.²³⁷⁸ Should the bride and her family consent, the groom would give the bride's family gifts or money to seal the marriage.²³⁷⁹ The wedding ceremony proceeded over multiple days,²³⁸⁰ closely involving the parents, invoking the protection of ancestral spirits, and symbolising the union of the couple, as well as the two families, in the eyes of their communities.²³⁸¹

584. Marriage practice in Cambodia changed drastically once the CPK came into power.²³⁸² One of the manifestations of the DK regime's exercise of the power of ownership over

because there was a mutual trust. The daughters trust[ed] that their parents would make the best possible selection or the best possible decision for her and for her family because [marriage] is not an individual matter, whereas in the Khmer Rouge time, [the] Khmer Rouge failed to gain the trust by those married couple[s]"; E3/9669 Penh Va WRI, A1-2 ["without their son's consent, parents would not propose a marriage"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033 ["Traditional marriages in Cambodia were most often arranged, by consent, by parents for their children. For men, who initiated the proposal, choice was provided; both men and women were customarily asked to consent to the match before the wedding took place ... none of these marriages were described in the sample as coercive, even when family pressure exerted great influence"]; EN 01037039 ["arranged marriages ... are largely described ... as being between consenting adults. Consent and the right to choose one's spouse is likewise stressed in Khmer Cham marriage"]; E3/9662 Keo Theary WRI, A24 ["my mother ... would not have forced me to be married to that man if I did not agree"].

²³⁷⁷ E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037040 ["a young man makes his own choice as to whom to marry and ... asks his parents to begin negotiations with the girl's family. When the latter receives a marriage proposal, the young woman herself is consulted and ... is free to accept or reject the offer"]; E3/10655 K. Nakagawa, *Motherhood at War*, EN 01322854.

²³⁷⁸ E3/1794 P. Levine, *A Contextual Study*, EN 00482484 ["According to tradition, an *achaa* sets the date of the marriage ... The wedding day is determined by the horoscopes of the bridal couple"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037039.

²³⁷⁹ E3/10655 K. Nakagawa, *Motherhood at War*, EN 01322855.

²³⁸⁰ E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992278; E3/1794 P. Levine, *A Contextual Study*, EN 00482484; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037039; E3/3416 B. Toy-Cronin, *'I Want to Tell You'*, EN 00449488.

²³⁸¹ E1/466.1 Chea Dieb, T. 30 Aug 2016, 14.15.48-14.17.12 ["they are surrounded by their relatives, parents and grandparents who all bless them"]; E3/10639 [REDACTED] WRI, A209 ["The elderly, as well as the parents of the bride and groom, attend ... Traditional weddings include ceremonies such as the tying of wrists, the hair-cutting ritual, the married couple's greeting, and the wedding reception"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033 ["Traditional Khmer weddings were a means to validate and legitimize the union in the eyes of the community, the family, and, for the largely Buddhist population, in the ancestral realm ... both a marriage and the wedding event itself held spiritual meaning. For Buddhists, this included karmic consequences related to past and future lives"]; E3/1794 P. Levine, *A Contextual Study*, EN 00482489-90.

²³⁸² E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.56.22-14.02.17 [Forcibly married to a handicapped soldier in 1975 while at the Ministry of Commerce], 14.15.48 ["If you compare the marriage took place under the Khmer Rouge to the previous practice before and after the Khmer Rouge regime, it is absolutely different. During the Khmer Rouge we were matched up in five or 10 couples each time or sometimes there were 100 couples each time, but at present ... only a couple is celebrated the marriage during one ceremony and they are surrounded by their relatives, parents and grandparents who all bless them. There are traditional procession and blessing ... it's like you compare the earth to the sky ... I felt upset when I thought of the way that I was married ... I am upset with my destiny"].

individuals was the practice of forcing men and women to marry partners chosen by the authorities.²³⁸³ Between late 1975 and the end of the regime, the concept of the revolutionary family and the need to rapidly increase the population in order to meet the goals set by the CPK in terms of national defence and agricultural development led the Party Centre to adopt a policy of choosing spouses and arranging marriages. Those chosen by the authorities were often wed in mass ceremonies devoid of Cambodian traditions.

585. The couples were expected to consummate the union and the authorities monitored their compliance. Most of these DK arranged marriages lacked consent from one or both spouses. CPK leaders intentionally forced, threatened with force, or coerced civilians and military to marry and to consummate the marriage. These forced marriages were very traumatic for the victims at the time and often had lifelong consequences, including both physical and mental injuries.
586. Although there were minor regional variations, the pairing, organisation and notification of marriages, as well as the monitoring of consummation, was carried out across Democratic Kampuchea in a similar, organised fashion. The scale of the number of forced marriages and the similarity in patterns establish that forced marriages and forced consummation were part of a central CPK policy.²³⁸⁴ **Nuon Chea and Khieu Samphan** are charged with the crime against humanity of other inhumane acts, in

²³⁸³ **E3/3993** R.M. Jennar, *Khieu Samphan et les Khmers Rouges*, EN 00922106 [“the [CPK] assumed control over the lives of the country’s men and women. Individual liberties were abolished. Privacy was outlawed. The CPK was bent on having control over each and every person’s life. The Party’s resolve to have total control over people’s lives was reflected, among other things, in forced marriages”]; **E3/9820** Preap Sokhourn WRI, A13 [“I was *Angkar*’s asset, so I had to follow *Angkar* and that if *Angkar* ordered me to enter a crab hole, I would do so”], A12 [“In 1977, the Khmer Rouge arranged a marriage. At that time, they forced me to marry a handicapped man whom I did not love”]; **E3/9736** Meas Saran WRI, A31-32 [“A31: In that era, they completely owned us ... A32: No one dared to refuse [to marry] because we were afraid they would not let us stay alive”].

²³⁸⁴ **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 15.00.49-15.04.24 [“Q: were forced marriages occurring in Democratic Kampuchea in most provinces during that period of time? A. Yes, that’s correct”]; **E3/3416** B. Toy-Cronin, *I Want to Tell You*, EN 00449489 [“The consistency of the description of the ceremonies across geographical areas indicates a top level policy of forced marriage ... it is clear the policy existed, the variation was only in the implementation”]; **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033 [“Mass forced marriage procedures (involving three to hundreds of couples) were organized, systematic and widespread”]; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992278 [“the regime forced many single or widowed people to marry for ‘Angkar’ ... the regime assumed complete control over the selection of spouses to be married, arrangements for marriage, where couples would live and consummation of the marriage ... exerted widespread and systematic control over the population”].

relation to both forced marriages and rape (the forced consummation of these marriages) nationwide.²³⁸⁵

ESTABLISHMENT OF THE FORCED MARRIAGE POLICY

587. The CPK policy on marriages reflected the Party's ideology that tradition, personal emotion and love should no longer be part of the process of selecting life partners. Only "revolutionary families" could serve *Angkar*. The CPK leaders therefore sought to control and regulate the most intimate personal relationships of all Cambodian citizens through three main strategies: (1) breakdown of traditional family relationships; (2) repression of sexual and marital freedom; and (3) forced marriage and forced consummation, clinically executed throughout the DK.

1. The Revolutionary Family

588. Since family relationships were "private possessions", they had to be sacrificed in exactly the same way as material wealth. As explained in a 1975 *Revolutionary Youth*, to serve the revolution one had to sacrifice "private possessions such as housing, paddy-farm, garden, family, parents, relatives and other properties", including "sentiment".²³⁸⁶ It also meant that the CPK felt entitled to take absolute control over "family building" and sexual life.²³⁸⁷

²³⁸⁵ **D427** Closing Order, para 1442 [forced marriage (nationwide)]; **E301/9/1.1** Annex: List of paragraphs and portions of the Closing Order relevant to Case 002/02, EN 00981690.

²³⁸⁶ **E3/750** *Revolutionary Youth*, Nov 1975, EN 00522460-61, FR 00525856-58, KH 00063614-17. See also **E3/8** Chandler et al., *Pol Pot Plans the Future*, EN 00104082 ["The consciousness of some of our cadres still heavily favours private property in (terms of) ... family-ism"]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533 ["'Mothers should not get too entangled with their offspring,' Pol told the Central Committee. Similarly, if a man felt a sentimental attachment developing with a woman, he should take a collectivist stand, and resolve it ... To do otherwise is to have a strong private stance"]; **E3/10640**, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303625; **E3/9** Philip Short, *Pol Pot: The History of a Nightmare*, EN 00396524 [Khieu Samphan stated at a political education session at K-15: "spiritual private property is more dangerous, it comprises everything that you think is 'yours,' everything that you think exists in relation to yourself - your parents, your family, your wife ... Thinking in terms of 'me' and 'my' is forbidden. If you say 'my wife,' that's wrong. You should say 'our family.' The Cambodian nation is our big family ... That's why you have been separated: the men with the men, the women with women, the children with children ... We are the child of Angkar, the man of Angkar, the woman of Angkar"]; **E1/190.1** Philip Short, T. 7 May 2013, 09.48.07-09.51.11.

²³⁸⁷ See e.g. **E1/451.1** H. Locard, T. 29 July 2016, 11.00.35 ["under DK, one of the major characteristics of the totalitarian state is that the state invaded everything. We no longer have a private domain ... everything belongs to the state ... even sexual life was included"], 11.21.32 ["dehumanization because ... no one was master of anything anymore. One was no longer master of the choice of one's spouse or one's sentimental life, one's family life"]; **E1/51.1** Duch, T. 20 Mar 2012, 11.13.29 ["this ideology was already written in a song ... They say that parents could only create you, but Angkar would be the one who controlled you and who owned you"]; **E3/10640**, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303625; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992278. See also **Implementation of the Forced Marriage Policy – Organisation**.

589. The CPK first published its policies on family building in the February 1974 issue of *Revolutionary Youth*. The Party reprinted the document for wider circulation six weeks after capturing Phnom Penh and republished it yet again in September 1975 in 1,000 copies, reflecting the importance it placed on full implementation of these policies throughout the country.²³⁸⁸
590. Central to this and subsequent Party pronouncements was the intention that the traditional notion of family would be supplanted by a new form, the “revolutionary family”, in which all recognisable familial ties became insignificant. Building a family was no longer about following “whatever your heart sees,” or “personal interests”.²³⁸⁹ Instead, absolute loyalty to *Angkar* was mandatory and love for the Party replaced love for one’s relatives.²³⁹⁰ The sole purpose of the “revolutionary family” was to produce children and meet the country’s revolutionary goals.²³⁹¹ It was dictated that the Party

²³⁸⁸ **E3/775** CPK Publication, *Revolutionary and Non-Revolutionary World Views Regarding the Matter of Family Building*, reprinted from 2 Feb 1974 on 2 June 1975 and republished on 2 September 1975 (1000 copies) (“Family Building policy document”).

²³⁸⁹ **E3/775** Family Building policy document, EN 00417943; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421891 [“One of the policies of the *Angkar* was to destroy traditional Cambodian family structure ... There was mutual trust between family members, and the community was strongly unified. The KR regime tried to destroy that traditional structure for the rapid achievement of the revolution”]; **E3/3474** Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284169 [“DK was not interested in helping to nurture relationships between husbands and wives”]; **E3/3416** B. Toy-Cronin, *I Want to Tell You*, EN 00449489 [“this policy ... was probably aimed at maintaining control over individuals; ensuring reproduction while also attempting to eliminate love and family relationships, which were considered a distraction to the goals of the revolution”]; **E3/20** E. Becker, *When the War was Over*, EN 00237930-31; **E3/5184** Chea Thy WRI, EN 00225528; **E3/5498** Bun Thien WRI, EN 00384409; **E3/5539** Khem Leng WRI, EN 00380129; **E3/5295** Dul Laom WRI, EN 00351368; **E3/5560** Tes Ding WRI, EN 00377170-71.

²³⁹⁰ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 15.13.40-15.16.17 [Khieu Samphan instructed “that we should not have any feelings towards our parents and that we should detach ourselves from our parents”], 15.17.42 [“Angkar said, that we were with Angkar and we were under the supervision of Angkar, and that we should not look for the parents because Angkar was the parents”]; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394900-01 [“the very nature of the nuclear family was transformed ... The *Angkar* willed that all family ties be more utilitarian and less emotional ... The only social relation—and equally, emotional relation—that counted was the vertical relation of filial affection toward—in truth, submission to—the *Angkar*. At the same time, the Khmer Rouge kept other words of kinship (‘uncle,’ ‘aunt,’ ‘brother,’ etc.) in order that the revolutionary society be seen as ‘one big family,’ with the *Angkar* at its head, at once tutor and parent of an entire people that they had infantilized. All affection and love that a son or daughter had for his or her mother and father, and that parents had for their children, had to be transferred to the *Angkar*”]; **E3/4611** Yuos Phal WRI, A6 [“I already fell in love with a woman. I told Ri that I had a fiancée ... Ri told me that I could not marry her. Ri told me that if I were a child of Angkar, Angkar thus will select a woman and marry off. I told Ri that I was the son of Angkar, because if I refused, I would be smashed by Angkar”]; **E3/1757** M. Vickery, *Cambodia 1975-1982*, EN 00397102 [“DK policy ... served to modify, not destroy, the family through transferring parental authority over adults to the state and breaking down the extended family ... probably was an element of deliberate policy”]; **E3/5832** Cheang Sreimom WRI, A8 [“I did not dare to reject the wedding ... we were told that ‘we were children of Angkar’”]; **E3/3474** Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284169

²³⁹¹ **E3/775** Family Building policy document, EN 00417942-43 [“matters of family [are] being inseparable from matters of the entire nation ... So, building our revolutionary families is not just for our personal

would only prosper by “handing over the family [to] the Organization” and to the “collective, to help educate and build”.²³⁹²

591. Thus, in serving the goal of rebuilding the country, families no longer needed to live together and were typically separated and sent to different worksites.²³⁹³ Very young children were separated from their mothers so the adult females could work, while the children were trained as “children of *Angkar*” and were often tasked with spying on their own parents and denouncing their wrongdoings.²³⁹⁴

interests or happiness or to have children and grandchildren to continue the family line. Importantly, it is so that the revolution may achieve its highest mission”; **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14-13.51.10 [Khieu Samphan required that all ministry female workers above 19 be married in order to produce children]; **E1/488.1** Kul Nem, T. 24 Oct 2016, 15.11.34 [Mondulkiri: “They said that if we did not produce children for Angkar, then we were against the law”]; **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.25.32-09.30.48 [“we had to commit ... to produce as many children as possible ... so that Angkar would have stock of children”]; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.49.44 [“we had to love each other from the time onward and had to work hard to produce rice ... and to produce babies, as many as possible, in order to meet the targets of Angkar. The Angkar needed more people to defend our country better. ... We had to repeat those words”], 10.53.07-10.54.55 [“My pregnancy was not out of my decision or planning, but it was the target by Angkar that we were required to produce children”]; **E1/259.1** E. Becker, T. 9 Feb 2015, 13.35.32 [“family groupings ... discouraged so that they would be working, working, working”]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394900 [“The Angkar willed that all family ties be more utilitarian and less emotional. It was a matter of producing children”], EN 00394888; **E3/10640**, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303624-25 [Angkar changed the family to serve its political and economical goals; it was reduced to its reproductive function]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533, FRE 00639883 [“The family ... primary purpose became 'to beget children for the service of the Party'”]; **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041 [“The main purpose of the marriages was ... to produce children to serve the revolution”]; **E3/3474** Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284169 [“neither, by allowing couples to meet once a week for sex, did they care to develop nuclear families. DK's only aim was to maintain an efficient workforce ... maximum productivity”]; **E3/9820** Preap Sokhoeun WRI, A31 [“they needed young men and women to get married to produce more children to add to the revolutionary forces”]; **E3/3416** B. Toy-Cronin, *I Want to Tell You*, EN 00449495: [“to ensure reproduction, forced sex was a necessary part of the marriage”]; See also **E3/732** Revolutionary Youth, April 1976, EN 00392451.

²³⁹² **E3/775** Family Building policy document, EN 00417945.

²³⁹³ **E1/467.1** Chea Dieb, T. 31 Aug 2016, 09.47.53 [“I asked the permission to go and see my siblings and parents, but the request was rejected because Angkar was my parents”]; **E1/259.1** E. Becker, T. 9 Feb 2015, 13.35.32-13.37.45 [“children were no longer living with their families ... they were sent on ... Children's Brigade”]; **E3/10655** K. Nakagawa, *Motherhood at War*, EN 01322866 [“After the wedding ceremony, most couples were separated for forced labor in different areas ... they could not have a marriage life *per se*”]; **E3/9111** K. Natale, *I Could Feel My Soul Flying Away From My Body*, EN 00992134 [“Husbands, wives, parents and children were often separated into distinct work”]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396534, FRE 00639883; **E3/5510** Khim Pang WRI A16; **E3/10713** Chuon Thy WRI, A22.

²³⁹⁴ **E1/451.1** H. Locard, T. 29 July 2016, 10.03.37 [About slogan 77 in French and 89 in English, saying: “Angkar is the mother and father of all young children as well as all adolescent boys and girls” ... “the Khmer Rouge leaders followed the Maoist doctrine which said that children were a blank page on which we can write whatever we want. Everyone knows that children were considered from birth as ... being the children ... of the revolution ... even the smallest children, the babies and infants, had to be left by their mothers who -- mothers had to go and work ... the Khmer Rouge regime felt that children were their property”], 10.05.50 [“they have a slogan ... ‘if you really want to know, ask children.’ And this meant that children were meant to spy on their own parents”]; **E1/473.1** K. Nakagawa, T. 14 Sept 2016, 09.43.49 [“When the mothers were breastfeeding a child, a child was allowed to stay with the mother in

2. Repression of Sexual and Marital Freedom

592. The Party implemented policies imposing morality restrictions on all other relationships²³⁹⁵ and fully regulated marriage. Relationships with the opposite sex outside marriage were absolutely prohibited and severely punished. They were considered not only as distractions from the all-important goal of rebuilding the nation, but also as moral offences.²³⁹⁶ Both cadres and the general populace were educated on the meaning of moral offences and any infringements were reported and punished.²³⁹⁷

the night and mostly over the lunch time, but except those time[s], mothers were forced to work ... When the mother stopped breastfeeding, [the] mother was not allowed to see a child"; **E1/260.1** E. Becker, T. 10 Feb 2015, 10.43.49 ["children were discouraged from seeing their parents as their authority figures"]; **E1/475.1** Mom Yun, T. 16 Sept 2016, 15.11.46 ["my children were not considered as my children anymore ... They were managed by Angkar"]; **E3/9662** Keo Theary WRI, A76; **E3/10755** Sat Pheap WRI, A139; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421891 ["The Angkar educated child soldiers to spy [on] what their parents were saying against the Angkar to dissolve the tie between children and parents"]; **E3/9111** K. Natale, 'I Could Feel My Soul Flying Away From My Body', EN 00992134; **E3/8** David Chandler et al., *Pol Pot Plans the Future*, EN 00104076.

²³⁹⁵ **E3/20** E. Becker, *When the War was Over*, EN 00237858 ["Gaiety was suspect. Flirting was banned and punished"]; **E3/1757** M. Vickery, *Cambodia 1975-1982*, EN 00397104 ["family relationships were subject to the same suffocating authority as all other aspects of life"]; **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496 ["The institution of marriage was also twisted under the Khmer Rouge to fit party needs ... The opinions of the prospective groom and bride did not matter. Marriage became a government policy and an institution that served the revolutionary cause"]; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421891 ["Another policy was the prohibition of 'moral offence'. The crime of 'moral offence' included the relationship between men and women without the benefit of marriage ... a pregnancy without a marriage was a moral offence ... Even a victim of [rape] was punished for committing a 'moral offence'"]; EN 00421892 ["A slogan of the Angkar said, 'Angkar endorses (your partner). If you do not obey Angkar's discipline, you will be sent to a study session for a time'"]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533-34, FRE 00639883 ["Marriage ... was a Party, not an individual affair"]; **E3/5585** Kao San WRI, A9; **E3/5305** Thuch Sithan WRI, EN 00345228; **E3/10640**, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303626 [describes the exacerbated puritanism of the CPK leaders and their control over the sexual and sentimental life of everyone].

²³⁹⁶ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450539 ["there were major contradictions, for instance some people being systematically immoral ... because of serious private ownership"]; **E3/765** *Revolutionary Youth*, Oct 1978, EN 00539994; **E3/9578** Chhuom Savoeun WRI, A18-19 ["A18: two women [and two Khmer Rouge soldiers] were arrested, charged with a moral offense ... A19: ... only husband and wife could have intimacy, and that intimacy outside of wedlock was a crime of immorality ... Ta Chham said they could not be pardoned. After that Ta Chham said they had to be smashed. Then they had the four wrongdoers kneel in front of all the people, and Khmer Rouge soldiers beat those four wrongdoers to death"]; **E3/9575** Thang Thoeuy WRI, A57-58 ["Q. why those 10 people were taken for execution [under Yeay Chaem's orders]? A57: Because they were accused of committing moral offences... A58: It refers to talk between men and women even though they are siblings"]; **E3/3416** B. Toy-Cronin, *I Want to Tell You*, EN 00449476 ["sexual relationships were a distraction to the aims of the revolution. If the Angkar discovered anyone breaking this rule, the Angkar could punish or kill both the man and the woman ... the Angkar would punish or kill both a victim and a rapist if it discovered the rape"]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396534, FRE 00639883; **E3/2060** Analytical Report by the U.N. Commission on Human Rights, EN 00078662 ["Article 16 ... Specific violations ... relate to the strict prohibition of courting"]; **E3/3993** R.M. Jennar, *Khieu Samphan et les Khmers Rouges*, EN 00922106; **E3/9808** [REDACTED] WRI, A81; **E3/5311** Mour Setha WRI, EN 00373370.

²³⁹⁷ **E1/465.1** Seng Soeun, T. 29 Aug 2016, 15.06.45 [Sector 25: "I witnessed one case where a civilian youth fell in love with a soldier secretly, they violated the morality and they were arrested and shot dead"];

593. At the same time, the CPK removed the right of Cambodian people to marry freely to their partner of choice. Seeking spouses out of love, family interest, or happiness was viewed as “private ownership” that contravened the collective interests of the country.²³⁹⁸ Those who thought about family interests were deemed to be deceptive, to be renouncing the revolution,²³⁹⁹ and to constitute easy targets for enemy agents.²⁴⁰⁰

E3/2424 Tram Kak Record, *To Comrade Elder Brother from Meng*, 15 July 1978, EN 00322223; **E3/9367** Report from Roeun (Div 801) to Uncle 89, 24 March 1977, EN 00184015 [About District cadre Bau Khao being sexually immoral with many women]; **E3/9355** Phat Duongchan WRI, EN 00375683 [“the person who had committed a moral offense, meaning that falling in love with each other, secretly loving each other ... would have to be taken to be killed”]; **E3/9823** Nap Somaly WRI, A159-161; **E3/9736** Meas Saran WRI, A118-A119 [“A119: they always reminded us that if men and women had a secret relationship before getting married, they would accuse them of committing moral offences and would punish them. So everyone was frightened and dared not make any transgressions”]; **E3/5498** Bun Thien WRI, EN 00384409 [“They’ talked about a one-husband-one-wife policy. Anyone committed moral offence would be smashed”]; **E3/5579** Nhean Poek WRI, EN 00373377; **E3/5571** Chim Sam At WRI, EN 00359919; **E3/5498** Bun Thien WRI, EN 00384409 **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394888; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421891; **E3/20** E. Becker, *When the War was Over*, EN 00237929; **E3/5283** Chhuy Huy WRI, EN 00321202; **E3/9808** [REDACTED] WRI, A81; **E3/9671** [REDACTED] WRI, A39; **E3/9830** [REDACTED] WRI, A92, A94.

²³⁹⁸ **E3/775** Family Building policy document, EN 00417942, KH 00407100, FR 00593929 [“many youths have absorbed the world views of the oppressor class. They search out spouses or build families only out of personal material greed ... they seek out family interests or happiness by completely breaking from the interests and the fate of the entire nation and people”], EN 00417943, KH 00407100-01, FR 00593930 [“If both are inside the ranks, it is imperative to choose someone who has a solid revolutionary stance ... Therefore, we do not just chose someone who is good-looking and who knows how to dress and make themselves up playfully in the modern imperialist style, or who is the child of a wealthy person, or who has high old society cultural abilities ... or who has some high position”]; **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450538 [“Private ownership in organization, organizing by one’s personal sentiments, by one’s family, by one’s clique, and not standing upon the political, ideological, and organizational line of the Party”]; **E3/750** *Revolutionary Youth*, Nov 1975, EN 00522461; **E3/729** *Revolutionary Youth*, Oct 1975, EN 00357909-10 [“There is still the ideology of personalism, seeing and thinking only [of] one’s personal surroundings, only one’s family”]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533, FRE 00639883; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394900 [“think only of the interest of the collective ... Give up all personal belongings: renounce your father, your mother, all your family.’ Here is one of [the] fundamental commandments of the society”]; **E3/5789** Duch WRI, 2 Dec 2009, EN 00414334 [“after 1979 ... I would meet spouses who explained to me that they were forced to marry a person they did not know and that the marriage had been collective ... Ta Mok would gather future spouses by the hundreds and forced them into marriage”].

²³⁹⁹ **E3/10** *Revolutionary Flag*, Sept-Oct 1976, EN 00450539 [“No aspect of private ownership is good ... private ownership has always had a negative impact on the revolution ... anyone who thinks a lot about family interests always deceives the revolution, renounces the revolution, and lives separately seeking family happiness, not seeking happiness inside the Party ... a contradiction with the Party”]; **E3/138** CPK Publication, *Sharpen the Ideology of the Proletarian Class*, EN 00743806-07.

²⁴⁰⁰ **E3/775** Family Building policy document, EN 00417944 [“our revolutionary youth comrades must ... be really vigilant toward this matter of family building. If we do not respect organizational discipline, if we do not respect the collective, if we do not take firm revolutionary stances, and if we are free and all over the place in terms of morality, we will surely build families incorrectly and not be accordance with the Party line, and we will surely encounter bad elements or even clandestine enemy agents”]; **E3/765** *Revolutionary Youth*, Oct 1978, EN 00539994 [“when we impact male-female morality, that is the true corrupt and rotten nature of the enemies ... this enables the enemy to attract us. Therefore, this is dangerous for us and is dangerous for the revolutionary movement”].

During the March 1970–April 1975 civil war, and until late 1975, CPK combatants and cadres were generally not allowed to marry.²⁴⁰¹

594. In short, complete loyalty to *Angkar* left no room for personal relationships. Elizabeth Becker explained: “the Khmer Rouge were threatened by all expressions of love—between husband and wife, parents and children, friends and colleagues. Everyone had to renounce personal intimacies.”²⁴⁰²

3. Need for Population Growth

595. Cambodia’s population was quickly dwindling in the months and years following 17 April 1975 as a direct result of CPK policies. Death rates increased due to executions and inhumane living and working conditions,²⁴⁰³ while birthrates were plummeting due to overwork and malnourishment,²⁴⁰⁴ strict prohibitions on sexual relations,²⁴⁰⁵ and separation of married couples, who rarely were allowed to see each other.²⁴⁰⁶

²⁴⁰¹ **E3/2060** Analytical Report by the U.N. Commission on Human Rights, 30 Jan 1979, EN 00078662 [“Article 16: ... the right to marry has been seriously infringed, and several refugees have claimed that prior to 1976 marriages were entirely prohibited in the communities where they lived”]; **E3/9355** Phat Duongchan WRI, EN 00375683 [first to be forcibly married in her area within Sector 505 in December 1975; many marriages took place afterwards]; **E3/5833** Seng Ol WRI, A44-45 [“A44: In 1973 a man proposed to me ... *Angkar* did not agree to the marriage, saying, ‘There is a war on.’ Q45: When did *Angkar* permit marriage? A45: Around 1976 or 1977”]; **E3/9820** Preap Sokhoeurn WRI, A30 [“I did not see weddings before 1976”], A32 [“The weddings happened frequently ... in 1976, 1977, and 1978”]; **E3/10620** Ruos Suy WRI, A77-78 [“A77: The marriages began in 1976, but strict measures were implemented from 1977”]; **E3/5271** Chhum Ruom WRI, EN 00289927 [“married in December 1975 in the wedding of 53 couples”]; **E1/346.1** Seng Srun, T. 14 Sept 2015, 11.49.12-11.51.40 [“I married my wife under the Khmer Rouge and that happened in 1976 ... that was the first marriage ceremony that took place in Peam Chi Kang commune and there were 28 couples”]; *Contra*: Exceptionally, Khieu Samphan married in December 1972 (**E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533-34; **E1/204.1**, So Socheat, T. 10 June 2013, 13.59.49-14.14.12; **E1/205.1**, So Socheat, T. 11 June 2013, 14.35.55-14.40; **E3/3244** H. Locard, *Preah Vihear: Sector or Zone 103*, EN 00403276); Maot Voem, who had joined the revolutionary movement in 1971, was married by *Angkar* in November 1974; **E3/5299** Maot Voem WRI, EN 00285572; Prak Yut, although district secretary, was forcibly married by Ta Chap, Sector secretary, in either 1973 or 1975: **E1/378.1** Prak Yut, T. 19 Jan 2016, 11.07.16-11.22.00 [“in Sector 35... if I did not follow his instructions, it meant that I disrespected him. Loving him or not, I had to follow his [Ta Chap] instruction. So, I had to get married”]; **E3/9310** Prak Yut DC-Cam, EN 01064271-72 [“I said I did not want to marry, but finally, he organized the arranged marriage for us in 1975. At that time, we could not totally deny the marriage proposal. Believe me, if we refused, they would say we were against them”]; **E3/9499** Prak Yut WRI, A95 [“I did not love him ... but after thorough consideration, I agreed to marry him ... if I refused ... *Angkar* would think I went against the intention of *Angkar*”].

²⁴⁰² **E3/20** E. Becker, *When the War was Over*, EN 00237929.

²⁴⁰³ See sections in **Facts – Crimes**.

²⁴⁰⁴ **E1/306.1** Hun Sethany, T. 27 May 2015, 14.40.06 [“We did not have enough food to eat ... From August, September, October, and November, most female workers in my village had no menstrual cycle”]; **E1/464.1** Yos Phal, 25 Aug 2016, T. 10.48.34 [“after the marriage ... militiamen ... kept monitoring us ... someone told them that how could I have intercourse because I was so exhausted and skinny?”]; **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.25.32-09.30.48 [“we had to commit to one another and to produce as many children as possible. And how could I do that because I was so skinny and I only had gruel to eat? I did not have any strength inside me”]; **E3/488.1** Kul Nem, T. 24 Oct 2016, 14.31.18,

596. The CPK leadership sought to drastically stimulate the birthrate and double or triple the workforce.²⁴⁰⁷ The CPK leaders' motivation was twofold. Firstly, they required more manpower to develop their overambitious and labour-intensive economic, i.e. primarily agricultural goals.²⁴⁰⁸ Secondly, the leaders wanted more soldiers to defend the country and, in particular, to fight their war against Vietnam. As hostilities with Vietnam intensified in 1977-1978, the urgency and thus the number of wedding ceremonies across the country increased.²⁴⁰⁹

14.35.12 [her young wife had a miscarriage due to exhaustion and many other couples experienced the same]; E3/20 E. Becker, *When the War was Over*, EN 00237929 ["Many women stopped menstruating entirely, partly because of malnutrition, partly because of the trauma"]; E3/5833 Seng Ol WRI, A16; E3/10640, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303625 [the lack of food or starvation caused amenorrhea for women and absence of sexual desire for men]. As for mortality of babies born after forced marriage, as a result of overwork and lack of healthcare, see e.g.: E1/489.1 Say Naroeun, T. 25 Oct 2016, 10.53.07-10.57.24, 11.10.21-11.12.08.

2405 E3/20 E. Becker, *When the War was Over*, EN 00237929 ["Any sex before marriage was punishable by death ... Young people were segregated by sex and expected to ... forget about the opposite sex. Predictably, the birthrate dropped dramatically"]. See section **Forced Marriage and Rape – Establishment of the Forced Marriage Policy – Repression of Sexual and Marital Freedom**.

2406 See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Separation**.

2407 E3/25 *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491435 [Nuon Chea: "the essence of socialist revolution and building socialism is the goal of building the country well, defending the country well, and sorting out the livelihood of the people quickly. We need from 15 to 20 million people to meet the needs of our land. For our population to constantly increase the livelihood of the people must rise ... this means quickly increasing production"]; E3/11 *Revolutionary Flag*, Sept 1977, EN 00486263 ["We must double our efforts ... so the Kampuchean population can increase in number rapidly enough to effectively defend and build our Kampuchea into a prosperous and developed country"]; E3/16 Khieu Samphan, *Considerations on the History*, EN 00498284 ["Short was correct when he wrote: 'Pol Pot ... aim was to increase the population by a factor of two or three. Specifically, he wanted the population of Kampuchea to rise to '15 to 20 million within ten years'"]; E1/454.1 Chin Saroeun, T. 3 Aug 2016, 14.09.25 ["The reason that I left 920 to go to Sector 105 was to increase the population in Monduliri province, and the plan was for us, the Khmer men, to marry the minority women there"]; E3/1385 Ieng Sary Statement, Letter to the U.N. Secretary General, EN 00075933 ["Three years after ... the policies designed to increase the population have begun to produce their first successful results"]; E3/5306 Svay Boramy WRI, EN 00345184 ["In 1976 ... Angkar needed people and young people were told to get married ... 'Angkar' forced us"]; E3/20 E. Becker, *When the War was Over*, EN 00237929; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449494.

2408 E3/748 *Revolutionary Flag*, Oct-Nov 1975, EN 00495808: ["our country's degraded agriculture has to be rapidly shifted to a modern agriculture between ten to fifteen years. Agriculture shall be shifted to industry between fifteen to twenty years ... [The acceleration of the country's reconstruction] is another prerequisite to accommodate a rapid increase in our population"]; E3/11 *Revolutionary Flag*, Sept 1977, EN 00486263; E3/558 Nuon Chea Written Record of Adversarial Hearing, 19 Sept 2007, EN 00148699 ["Making revolution requires people, and building the nation also requires people"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041 ["assigned husbands and wives [publicly] promised to have a child within one year ... The main purpose of the marriages was ... to 'produce children to serve the revolution'"].

2409 E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.48.56 ["Q: When he [Khieu Samphan] said that older male and female youths should be arranged to get married, did he explain the reason why ...? A: He said that they should ... get married so that they would produce children ... we will have more forces to defend our territory"]; E3/1385 DK Statement to UN, 13 June 1978, EN 00235727 ["ensure that the population of Kampuchea increases rapidly in order to defend and develop the country and to achieve prosperity by leaps and bounds ... today's population of 8 million is well below the potential of the country, which needs more than 20 million"]; E3/10713 Chuon Thy WRI, A30 [Division 1, Regiment Commander: "I

597. CPK leaders discussed the policy openly, announcing that the DK required 15 to 20 million people to “meet the needs” of the land within five to 10 years, a utopian goal.²⁴¹⁰ The Defence points to CPK propaganda to support its claim that the Party Centre had the intention to increase the population only by improving its living conditions.²⁴¹¹ However, **Khieu Samphan** and Pol Pot made unequivocal statements during the DK period explaining that this goal had to be achieved mainly through the organisation of

had to report the number of couples to the upper echelons ... Because the situation during that time was in turmoil during 1978-1979, they forced multi-couple weddings”; **E3/10620** Ruos Suy WRI, A77-78 [“The marriages began in 1976, but strict measures were implemented from 1977 ... I mean that 100 couples per month had to get married”], A84, A90-91”; **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037079 [“Case studies suggest a spike in forced marriage in the second half of 1978”]; **E3/9507** You Vann WRI, A82.

- ²⁴¹⁰ **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491435 [Nuon Chea: “building the country well, defending the country well, and sorting out the livelihood of the people quickly. We need from 15 to 20 million people to meet the needs of our land”]; **E3/11** *Revolutionary Flag*, Sept 1977, EN 00486262-63 [“we need to increase our Kampuchean population to 15 to 20 million over the next 10 years ... Today, our population, which is nearly eight million, falls short of the country’s potential need, which is for more than 20 million people”]; **E3/1586** Ieng Sary Statement to the UN General Assembly, 11 Oct 1977, EN 00079815, paras 60 and 63 [“60. ...we need a population of 15 to 20 million in 10 years’ time ... 63. ... our population is still far short of our country’s capacity, which has a need of more than 20 million people”]; **E3/558** Nuon Chea Written Record of Adversarial Hearing, 19 Sept 2007, EN 00148699 [“The Five Year Plan of the Party was to increase the population to 15 million”]; **E3/7233R** Video, *Red Wedding*, 2011, 51:28-52:34 [audio footage of Pol Pot stating, “The country has only eight million inhabitants ... In the coming ten years, we will need twenty million Cambodians”]; **E3/290** FBIS, Pol Pot Speech at 27 Sept KCP Anniversary Meeting, Oct 1977, EN 00168651; **E3/562** Khieu Samphan Statement, 16 Apr 1978, EN S 00010565 [Khieu Samphan lists resolutions adopted by the Party, including “(6) increase the size of the population to its maximum, so as to have 15-20,000,000 people in the next 10-15 years;” and “(7) maximize the size of the population within one year, three years, five years, 10 and 15 years”]; **E3/5715** Pol Pot Statement to the Belgium-Cambodian Association Delegation, 5 Aug 1978, EN 00574566; **E3/215** *Revolutionary Flag*, Sept 1978, EN 00488637 [Pol Pot: “Our policy to increase the population is receiving good results ... From mid 1977 through mid 1978, the number of births was 392,000 from a population of 7,800,000 persons ... Presently, the [dea]th rate is less than 13 per thousand since the numbers of infants and children dying has been greatly reduced. Thus, our population has increased beyond what it was before the coup. But this speed is not yet sufficient when compared to the objective of the Party, the aim to increase the population to 15 to 20 million within ten to 15 years”]; **E3/77** FBIS, *Countrywide Medical Conference Issues Resolutions*, EN 00170124; In a propaganda exercise, Nuon Chea claimed in 1981 that the DK population increased in 1976, 1977 and 1978: **E3/686** SWB, *Interviews with DK Leader (Nuon Chea)*..., 27 Oct 1981, EN S 00030349 [“the four-year plan of 1977-1980 aimed at increasing our population to at least 15,000,000 within five to 10 years. As a result of this plan, our population has increased as follows: From March to December 1976, it increased by 160,000 or 2%; in 1977 it increased by 220,000 or 2.8%; and in 1978 it increased by 260,000 or 3.2%”]. On the absurdity of such policy to double / triple the population within 5-10 years, see **E1/451.1** H. Locard, T. 29 July 2016, before 13.42.20 [“first, you need at least a generation, 30 years, in order for the population to double... second, we can’t starve a population and execute a large number of people and at the same time, hope that the population grows exponentially”].

- ²⁴¹¹ **E1/471.1** A. Guissé, T. 8 Sept 2016, 09.15.45-09.20.07, 09.23.30-09.48.48, quoting extensive passages of **E3/1586** Ieng Sary Statement to the UN General Assembly, 11 Oct 1977, EN 00079815, paras 45 & 60; **E3/215** *Revolutionary Flag*, Sept 1978, EN 00488637; **E3/7233R** Video, *Red Wedding*, 2011, 51:28-52:34; **E3/290** FBIS, Speech at 27 Sept KCP Anniversary Meeting, Oct 1977, EN 00168651; **E3/686** SWB, *Interviews with DK Leader (Nuon Chea)*..., 27 Oct 1981, EN S 00030349; **E3/25** *Revolutionary Flag*, Dec 1976-Jan 1977, EN 00491435; **E3/562** Khieu Samphan Statement, 16 Apr 1978, EN S 00010565; **E3/16** Khieu Samphan, *Considerations on the History*, EN 00498284.

marriages.²⁴¹² These Party Centre instructions were passed down to all cadres organising such marriages and ensuring their consummation.²⁴¹³ Ruos Suy, who worked as a

²⁴¹² **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14-13.51.10 ["During the meeting at Ounalom Pagoda], he [Khieu Samphan] said that all female cadres needed to work for the state and those with the age above 19 from all ministries needed to be arranged to get married. We should not keep them unmarried ... He did not say about whether the marriage was based on love or not, but he just simply said this should be arranged to get – to get married for the female youth with the age above 19 and the male youth with the age of 25 years old. He asked all ministries to arrange marriage for all male and female youths. We should not [keep] them all without marriage ... He said that they should ... get married so that they would produce children ... when they produce children, we will have more forces to defend our territory ... Not long after he said that, my forces were arranged to get married during the DK regime"; 15.04.52-15.06.55 ["Q: ... Khieu Samphan said that the purpose of getting married ... was to produce children? A: That's what he said and not only him who said that. During all meetings that I attended they talked about the same thing, all cadres raised the same point"]; **E3/4593** Chuon Thy WRI, A4 [Division 1 regiment commander referring to a June 1978 meeting; Pol Pot stated "that 'within 10 to 20 years we must increase number of population up to between 20 and 30 million in order to have enough forces to protect our country.' In this sense, Pol Pot stated that he required arrangement for marriage to increase number of population by instructing lower echelons to arrange the wedding for people"]; **E3/10713** Chuon Thy WRI, A21, A28, A32, A35 ["A21: I remember Pol Pot saying that we were in need of additional forces ... over the next 10 to 20 years the plan was to increase the population to between 20 and 30 million. Therefore, from then on we had to increase the number of marriages between young men and young women to improve the population to promote progress ... A28: Pol Pot ... just said there was a need for marriage to increase the population ... A32: They only told us to arrange marriages for young people ... A35: The policy to increase the population was widely circulated, because they wrote and posted slogans and banners everywhere. They also announced the policy at meetings about building forces and increasing the population to between 20 and 30 million"]. See also **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496 ["Because they wanted to double the population, the Khmer Rouge wanted to increase the number of marriages ... The opinions of the prospective groom and bride did not matter. Marriage became a government policy and an institution that served the revolutionary cause"].

²⁴¹³ **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.05.50 ["They made an announcement that, 'The population of Cambodia is not that great and for us, male and female youths we strive to work best. And for that reason Angkar required us to get married to increase the population.' That's why we knew that that was the day that we were forced to get married"]; 15.11.15 ["We had gratitude for Angkar who organized the marriage for us and that we would become husband and wife and produce children as required by Angkar. That's the resolution that I made. Then they clapped their hands"]; 15.17.35 ["They spoke about producing children for Angkar, having respect for Angkar, and anybody who betrayed would be smashed"]; **E1/387.1** Meas Vocun, T. 3 Feb 2016, 10.40.55-10.45.23 ["Q: was this drive to have the [Division 1] troops get married have anything to do with this will to increase Cambodia's population? A. Yes, That is correct"]; Ao An, Sector 41 Secretary and Central Zone Deputy Secretary spoke about marriage planning and the impetus behind it: **E1/376.1** You Vann, T. 14 Jan 2016, 15.40.03 ["Q: Do you remember Prak Yut telling you that Ta An had made this rule that husbands and wives had to sleep together for national progress? A: Yes, that's what I heard and that is for the progress and the development of the nation"]; **E3/10755** Sat Pheap WRI, A27-28, 138-139 ["A27-28: Ta An ... spoke about marriage planning. They planned to raise new forces, to increase the population to 15 or 20 million in the next 15 or 20 years ... referring to Pol Pot's plan ... A138: Ta An intended to achieve this plan by] marrying off workers from ministerial offices and cooperatives ... A139: [Ta An] said that after their marriage, people should love each other as married couples and had to produce children"; **E3/9507** You Vann WRI, A82 ["Prior to the conversation between Ta An and Prak Yut about organizing marriage, there had been no weddings. Weddings started taking place after Ta An had announced this"]; **E3/9826** [REDACTED] WRI, A97 [Sangke District, Oct 1978: "The unit chief and the group chief matched couples to get married ... they said. 'May the men and women holding hands create children to build the country'"]; **E3/9820** Preap Sokhoeurn WRI, A31 ["Before starting the wedding, Sau announced ... 'Angkar needs more forces,' so they needed young men and women to get married to produce more children to add to the revolutionary forces"]; **E3/10620** Ruos Suy WRI, A85 [Ministry of Commerce: "they wanted population growth"], A86-87 ["they had the idea to increase the population. Even women after giving birth, they did not allow them to drop all the blood from their wombs because they wanted

Ministry of Commerce cadre, explained that his ministry unit was assigned monthly minimum quotas for marriages in 1977 and 1978.²⁴¹⁴ Seng Soeun, the Office Chief of S'ang District, stated that "the policy of the Khmer Rouge Regime [was] that when people reached certain age, *they had to marry*"²⁴¹⁵ (20 years for women and 25 years for men), although there were several cases of much younger girls being forcibly married.²⁴¹⁶

598. To obtain the required rapid population growth, the Party needed to ensure that their "newlyweds" consummated the union. Close monitoring of the new couples was, therefore, typically organised immediately after the weddings.²⁴¹⁷ However, in keeping with the notion of the "revolutionary family", couples were shortly after assigned to separate worksites and only allowed periodic visits.²⁴¹⁸ The contradictions inherent in CPK policies on marriage and sexual relations were aptly summarised by Expert Elizabeth Becker:

The Khmer Rouge were schizophrenic about sex and procreation. On the one hand they thought sex should be restricted because it took up too much time and detracted from the chores at hand, overnight industrialization and glorification of the motherland. Yet they also

them to have more babies soon ... women who had many children did not have good health. But...they wanted women to have more children."]. See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Role of CPK Leaders in Forced Marriages**.

²⁴¹⁴ **E3/10620** Ruos Suy WRI, A75-78, A84-85, A90 ["A75: there was a plan which required the unit (the State Warehouse unit) to have 100 couples married per month ... A77: The marriages began in 1976, but strict measures were implemented from 1977 ... A78: 100 couples per month had to get married ... A84: I think that it [the order] was issued by the ministry chairman ... A85: they wanted population growth ... A90: I just know that Rith alias Rocung ordered my chief, and my chief ordered me to prepare vehicles ... Marrying 100 couples a month did not mean those 100 couples had to get married at once. The wedding ceremonies could be held three times a month"].

²⁴¹⁵ **E3/409** Seng Soeun WRI, A65, A67 (emphasis added) ["A65: I was asked to match men and women and the men had to be two or three years older than the women ... A67: That was the policy of the Khmer Rouge Regime that when people reached certain age, they had to marry. For women, the age was from 20 and above while for men they had to be aged from 25 and above"]; See also **E3/10620** Ruos Suy WRI, A75.

²⁴¹⁶ **E3/9575** Thang Thoeuy WRI, A76 [forcibly married at around 15]; **E3/9830** [REDACTED] WRI, A67, A70, A72 [Forcibly married at 17 to a 36 years-old widower who was one-eye blind]; **E3/10639** [REDACTED] WRI, A189-191, A199 [Forced to marry a 15-16 years old when he was 29 or 30]; **E1/483.1** Pen Sochan, T. 13 Oct 2016, 11.47.48-11.49.53 [Forcibly married at 15 or 16 and raped by her new husband]; **E3/5194** Math Sor alias Ahmad Sofiyah WRI, EN 00274708 ["I got married when I was 17. The Khmer Rouge told me whom I had to marry"]; **E3/5589** Kim Dav WRI, A4 [Married at nearly 17 on 30 Sept 1976; born on 5 October 1959]; **E3/9338** Yi Laisaun WRI, EN 00288642 [married in Nov / Dec 1978 at about 18 years of age]; **E3/5585** Kao San WRI, A15 [likely married in 1976; she was 18 and her husband 19]; **E3/436** Heng Lai Heang WRI, A30 ["I was only 18 years old, and I did not want to get married"]; **E3/5559** Khiev Horn WRI, EN 00377369 [18 years old]; **E3/9830** [REDACTED] WRI, A62-63, A70, A73 [17 years-old girl forcibly married].

²⁴¹⁷ See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Rape within Forced Marriage (Forced Consummation)**.

²⁴¹⁸ See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Separation**.

decided there should be many more Cambodians to carry out this program and ordered that the population double. The solution was no sex, no romance, but regular visitation rights for husband and wife.²⁴¹⁹

IMPLEMENTATION OF THE FORCED MARRIAGE POLICY

1. Organisation

599. In DK, any form of tradition was gone, and generally, families no longer played any role in marriages.²⁴²⁰ Instead, *Angkar* determined *whether*, *when*, and *whom* couples would marry. Whilst the specifics of the process varied, the common denominator was the complete control wielded by *Angkar*.²⁴²¹
600. Forced marriages were imposed for ordinary citizens, and at every level of the Party, including within the military. Depending upon the status of the intended spouses, marriages were ordered by the appropriate authorities of the CPK: at the commune, district, sector, or zone level; as well as by the CPK ministries, and by RAK divisions.²⁴²² Whenever authorities had to pair couples, they were instructed to do so, on

²⁴¹⁹ E3/20 E. Becker, *When the War was Over*, EN 00237929, FR 00638486, KH 00232298.

²⁴²⁰ E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.54.56-13.56.22 ["I never consulted with my parents or siblings ... although I wanted to ask for permission to visit them but they did not allow me to do so"]; E3/9756 Va Limhun WRI, A20 ["I wanted to be married legally following Khmer tradition. I would leave this matter to be arranged by my parents. I would have been happier if my parents had arranged the marriage for me no matter if the groom were rich or poor"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041; E3/9820 Preap Sokhocum WRI, A22.

²⁴²¹ E3/9833 Muol Eng WRI, A222 ["the biographies of the people [who] would get married would have to be cleared first. The Khmer Rouge did that to control the people. They were afraid that the people could be their enemies. Even I could not choose some[one] I loved to get married"]; E3/2959 K. Nakagawa, *Gender-Based Violence*, EN 00421892 ["No marriage was carried out without an instruction by the *Angkar*. A slogan of the *Angkar* said, '*Angkar* endorses (your partner). If you do not obey *Angkar*'s discipline, you will be sent to a study session for a time'. Marriage was not an individual matter ... it was strictly controlled by the *Angkar* at the village level"]; E1/472.1 K. Nakagawa, T. 13 Sept 2016, 13.31.15 ["during the Khmer Rouge time ... they had to ask permission and approval"]; E3/9820 Preap Sokhocum WRI, A34 ["when the chairperson of a men's unit wanted any women to marry men. They ordered the chairperson of a women's unit to select women to match with the men ... The men and women who were assigned to get married were not aware of it until the wedding day. Sometimes, when they could not find the people whose names they had selected to get married, and they selected new people instead"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041 ["*Angkar*, which claimed to be everyone's parent, assigned spouses"]; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488; E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992278; E3/9 P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533-34, FR 00639883 ["Free choice of spouses' was explicitly condemned"].

²⁴²² E1/465.1 Seng Soeun, T. 29 Aug 2016, 09.55.14 [Chief of S'ang District Office: "I simply followed the order from the district chief ... who wanted me to ... collect the biographies from the male mobile units and female mobile units and then decided whom should be arranged to get married"]; E3/409 Seng Soeun WRI, A65-66, A75; E1/476.1 Heng Lai Heang, T. 19 Sept 2016, 09.35.56 [the committee of Sector 505]; E3/436 Heng Lai Heang WRI, A26, A28 ["A26: For those who worked in public offices and ministries, the arrangements were made at their places ... A28: For those who worked in the commune and in the district level, the weddings were arranged by the sector level while, for the other civilians, the weddings were arranged by the commune level"]; E3/5499 Uk Phorn WRI, EN 00372932 ["*Angkar* called me to a meeting, when I arrived, they arranged for me to make the marriage vows. Then the

the basis of identical political class, ethnicity, and background,²⁴²³ and the recommendations were then approved or rejected by the higher level CPK authorities.²⁴²⁴ Sector and zone cadres were kept apprised of the number of couples

district com. said, comrades, you must respect what has been organized by *Angkar*”; E3/408 Duk Suo WRI, A88 [“The district committee organized the weddings”]; E3/3255 H. Locard, *Northeast*, Witness Bun Chan, 12 Jan 1994, EN 00403209 [The zone leader]; E3/10620 Ruos Suy WRI, A75-78, A84-85, A90; E3/5590 Kong Vach WRI, A49; E3/5294 Sou Soeun WRI, EN 00360115-16; E3/9833 Muol Eng WRI, A223-225 [SWZ military forced to marry by his regiment commander]; E3/9736 Meas Saran WRI, A2-A6, A16 [Division 164]; E3/10639 [REDACTED] WRI, A160, A203, A206 [“A160: the Division [2] Commander arranged marriages for soldiers ... A203: the same for soldiers in all Companies, Platoons and Battalions”]; E3/10733 Tuon Sim WRI, A21-26 [Forced marriages presided by Oeun and Voeung, Division 310 leaders]; E1/387.1 Meas Voeun, T. 3 Feb 2016, 10.40.55-10.45.23 [Marriages were organised within Division 1, and some women were brought in from elsewhere to marry Division 1 male soldiers].

²⁴²³ E3/775 Family Building policy document, EN 00417943, KH 00407101, FRE 00593930 [For Party or Youth League members: “It is imperative to look at their background very clearly first. That is to say, they must be clean in living morals and clean politically, without involvements with any enemy strings or bad elements. If both are inside the ranks, it is imperative to choose someone who has a solid revolutionary stance”]; E1/449.1 Moeng Vet, T. 27 Jul 2016, 09.59.58 [Sector 13: “if a woman was a progressive person or member of the Youth League ... on the men’s side, the person was a member of the Party could propose to that woman ... everything was based on the background”], 10.03.54 [“we were told firmly that Youth League people or progressive people should only propose to their own peers. And likewise, Party members should propose to other Party members only ... if I were to love a 17 April woman, I would not be allowed. I would be directed to propose to another woman who was my peer”]; E3/9480 Khoem Boeun WRI, A120 [“the new people were no-good. They were the enemy and were not as valuable as the old people. Thus they were not allowed to marry the old people”], A112; E1/296.1 Khoem Boeun, T. 4 May 2015, 09.46.30-09.53.32; E1/253.1 Chou Koemlan, T. 27 Jan 2015, 10.05.09; E1/305.1 Meas Layhuor T., 26 May 2015, 09.31.46-09.36.40 [“My husband was rich and I was poor. Even though we loved each other – even if our parents mutually agreed on our marriage, Angkar would not want to marry us because we were of farmer and petty bourgeoisie backgrounds ... If they were of different backgrounds, they could not get married ... Cham married their own people”]; E1/326.1 Om Chy T., 30 July 2015, 14.13.33 [“They reviewed the biographies and if they matched, then they would organise for the couple to get married. For example, if they both belonged to the same peasant class”], 14.15.28 [“if they were both evacuees from Phnom Penh then they could be matched ... so the Cham people could be matched with the Cham people”]; E3/5255 Or Ho WRI, EN 00250047 [new people married new people, old people married old people, Cham married Cham and Chinese married Chinese]; E1/322.1 Kong Uth T., 25 June 2015, 11.17.35; E1/465.1 Seng Soeun, T. 29 Aug 2016, 09.59.46-10.01.08, 11.03.15 [“When I was asked to get biographies from both men and women from the mobile units, I matched them according to ... their status, whether they were New People or Base People”]; E1/466.1 Seng Soeun, T. 30 Aug 2016, 11.17.43; E1/376.1 You Vann, T. 14 Jan 2016, 15.36.18; E1/377.1 You Vann, T. 18 Jan 2016, 10.53.47 [“[For] people of different ethnicity, the marriage were forbidden”]; E1/452.1 H. Locard, T. 1 Aug 2016, 13.48.04 [“You could only marry within your own caste”]; E1/469.1 Nop Ngim, T. 5 Sept 2016, 10.45.36; E3/1757 M. Vickery, *Cambodia 1975-1982*, EN 00397102 [“the couple should be of the same political class ... full rights people should not marry depositees”]; E3/10640, H. Locard, *Pourquoi les Khmers Rouges*, FR 01303625 [Angkar was pursuing some kind of ideological eugenics as the goal was to ensure the reproduction of individuals who possessed the best revolutionary genes]; E1/462.1 Sou Sotheavy, T. 24 Aug 2016, 09.43.55; E1/372.1 Sos Romly, 8 Jan 2016, 11.14.19; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488; E3/5295 Dul Laom WRI, EN 00351368; E3/9662 Keo Theary WRI, A78, A80, A85; E3/9667 Nhim Kol WRI, A39; E3/5562 Seng Chon WRI, EN 00400458; E3/409 Seng Soeun WRI, A65-66, A69; E3/9328 Kheu Hun WRI, EN 00272626; E3/9361 Koa Cheng OCP Statement, EN 00219263; E3/9471 [REDACTED] WRI, A69; E3/9756 Va Limhun WRI, A24; E3/9667 Nhim Kol WRI, A39; E3/10744 Sum Chanthol WRI, A120.

²⁴²⁴ E1/376.1 You Vann, T. 14 Jan 2016, 15.32.34 [“The village chief raised the proposal to the commune and then it was raised to the district level and later on the wedding ceremony would be held at the district’s office. Q: the authority to approve marriages rested at the district level? A: ... this is my understanding as well”]; E3/9507 You Vann WRI, A2, A26 [“Prak Yut wrote a request to Ta An that 10

married in their areas through reports sent up the chain to their attention; reports on marriages were also made by the zones to the Party Centre.²⁴²⁵

2. Marriages Were Forced

601. The evidence shows that while the total number of victims will likely never be accurately estimated, tens of thousands of men and women throughout DK were coerced into marriages.²⁴²⁶ In numerous cases, mass weddings of cadres, military, and ordinary civilians were organised solely by *Angkar* with little or no prior consultation with the intended spouses. Typically on the day of the ceremony or shortly before, work unit chiefs or other local authorities, informed individuals that they would be getting married and asked them to report for the ceremony.²⁴²⁷ Often, this occurred after

couples be married in Kampong Siem District. Ta An always approved and allowed the marriages. Prak Yut made requests once a month or once every two or three months"; E1/296.1 Khoem Boeun, T. 4 May 2015, 09.46.30-09.50.28 ["A marriage proposal had to be submitted to the upper level for approval. And only after the approval had been received by the lower level could the marriage take place. ... I received the policy from the district. Q. ... it was the district who gave you the instructions? A. Yes. ... The policy was communicated to those village chiefs"]; E274.1 Neang Ouch, T. 10 Mar 2015, 10.51.22-10.56.54 [Tram Kak District: "the request would be made by the commune head to the district"], 10.59.14-11.03.14; E3/9576 Keo Voeun WRI, A10; E3/409 Seng Soeun WRI, A69; [S'ang District: "I would write the names of those to be coupled and then I would pass the names on to the district committee to announce who goes with whom"]. About rejected recommendations, see section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Marriages Were Forced.**

- ²⁴²⁵ E3/1094 Report from M-401 to Angkar, 4 Aug 1978, EN 00315383, FR 00593538, KH 00143617; E3/1092 Report from M-401 to Angkar, 16 Jul 1978, EN 00289924, FR 00611450, KH 00143579; E3/9576 Keo Voeun WRI, A3 [Krala Commune: "After wedding ceremonies, Commune Chief Nan had me write reports about numbers of couples from my commune married at the District Office"], A8, A11 ["Yes, I did [have to report the weddings to Prak Yut after they were finished]"]; E3/10713 Chuon Thy WRI, A30 [Division 1 Regiment Commander: "in my unit, I had to report the number of couples to the upper echelons. Other units did the same. Because the situation during that time was in turmoil during 1978-1979, they forced multi-couple weddings"]; E3/9507 You Vann WRI, A26-27 [confirms Prak Yut sent reports to Ao An that requested approval for couples to be married in Kampong Siem District. No names or details were included, "only numbers of couples to be married. The more couples the better, to save time for work"].

- ²⁴²⁶ E3/9614 Theresa De Langis *et al.*, *Like Ghost Changes Body* EN 01037042; E3/7233R Video, *Red Wedding*, 2011, 59:52 ["It is estimated that at least 250 000 women were forced to marry during the Khmer Rouge regime"]; See also e.g.: E3/9833 Muol Eng WRI, A208-A211, A218, A222, A226-228; E3/10620 Ruos Suy WRI, A77, A79, A83 [witness was forcibly married himself and facilitated hundreds of forced marriages as deputy chairman of the State Warehouses, Ministry of Commerce]; E3/9326 Mao Phat WRI, EN 00272581 [Banlung District: "As for marriages, they were coerced, not voluntary on the part of both parties"]; E3/4637 Sum Alat WRI, EN 00242124; E1/253.1 Chou Koemlan, T. 27 Jan 2015, 10.05.09-10.06.45 ["we did not have a right to choose"].

- ²⁴²⁷ E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.01.21 ["most commonly ... they were informed that they were going to marry early in the morning or one day before... the marriage ceremony was conducted by the evening ... within 24 hours"]; E1/468.1 Phan Him, T. 1 Sept 2016, 09.40.52-09.42.13 ["I did not know about the marriage ceremony for me. I was informed only in the evening, and then the next day, the marriage ceremony took place"]; E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.53.11 ["After the supervisor asked me, I was informed that three days later I would be married"]; E1/459.1 Mey Savoeun, T. 17 Aug 2016, 10.09.47 [East Zone soldier: "I learnt that information one day before the ceremony took place"], 14.15.36 ["Only a day before ... the mobile unit's chief told me about the proposed marriage and [her] name was mentioned"]; E1/326.1 Khin Vat, T. 30 Jul 2015, 09.36.43 ["I was told that at 5 a.m. the next morning, I had to be ready to depart for Kampong Chhnang. I did not know ... my

those chosen to marry were told they must obey *Angkar's* orders.²⁴²⁸ Some chosen to marry had no advance notice at all, arriving for what they thought would be a meeting and leaving with a spouse.²⁴²⁹ Many had never met their spouse before the ceremony and some were unable to recognise him or her afterwards.²⁴³⁰ Among the victims were

future husband at that time"; **E1/253.1** Chou Koemlan, T. 27 Jan 2015, 10.05.09; **E3/9818** [REDACTED] WRI, A51 ["We did not actually know about the wedding ceremony in advance. We just heard about it from Ta Mok in the morning"]; **E3/10655** K. Nakagawa, *Motherhood at War*, EN 01322863; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992279, 81-82; **E3/9756** Va Limhun WRI, A27; **E3/5306** Svay Boramy WRI, EN 00345184; **E3/9829** Suon Yim WRI, A8; **E3/9820** Preap Sokhoeun WRI, A13, A23.

²⁴²⁸ **E3/9820** Preap Sokhoeun WRI, A13 ["As soon as I arrived, [Ni Li, mobile chief] asked me whether I would obey *Angkar's* order. I told her that I was *Angkar's* asset, so I had to follow *Angkar* and that if *Angkar* ordered me to enter a crab hole, I would do so"]; A28; **E3/9578** Chhuom Savoeun WRI, A26 ["Ta Chham called all the single women at the worksite to ... resolve to obey *Angkar*, but Ta Chham did not tell them [the] purpose of the resolution to obey *Angkar* ... Ta Chham said that the women who declared their determination to obey *Angkar* would marry men"]; **E3/5311** Mour Setha WRI, EN 00373370 ["In 1978 ... my unit chief named Reun asked me if I followed *Angkar*. I replied that I followed *Angkar*. Next day, the Khmer Rouge held a big meeting to arrange weddings for approximately 30 couples including myself"]; **E3/5560** Tes Ding WRI, EN 00377170 ["sent to a meeting at the District 106 office ... we were told about respecting *Angkar's* rules and respecting *Angkar's* orders, and ... Ran announced the names of the men and women who had to marry"].

²⁴²⁹ **E1/469.1** Nop Ngim, T. 5 Sept 2016, 11.19.05 [Samlaut District: "None of us was aware of anything on the day of the marriage. Even for the men's side, they did not know that they had to marry"]; **E1/488.1** Nget Chat, T. 24 Oct 2016, 15.58.07 [Bakan District, Aug 1978: "I had no idea which man I would be matched up with"]; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.37.06-10.44.30 ["I asked the unit chief, 'Comrade, why are there many people here?' And she answer[ed], 'You will know soon because people from the upper level come to preside over the assembly' ... I saw men sitting in one row and women sitting in one row. I was suspicious ... Later on, people from the upper level ... asked us to stand up and make the commitments ... I started to know that perhaps it was a marriage ceremony, so I started to feel fearful ... I felt painful because like cattle, we were paired up without knowing each other"]; **E1/465.1** Seng Soeun, T. 29 Aug 2016, 09.56.58 ["they were not aware ... in advance about their marriage ... I can confirm that those couples were not informed beforehand"]; **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 13.47.50 ["To put it [simply], it was just like a meeting. People were mobilized to have a meeting and ... it was a wedding"]; **E1/308.1** Seang Sovida, T. 2 June 2015, 11.09.25; **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.03.54; **E3/10621** Chhouk Rin WRI, A71 [Division 230: "I was assigned to get married without any prior information. I did not know my bride"]; **E3/5832** Cheang Sreimom WRI, A8 ["I was very shocked when I was told that they arranged the wedding for me that night. Ol told me that I had to marry Tri Tuoch... I hated him very much ... I believed that I did not have other choice. I cried in my mind, and I was very sad ... Tri Touch ... did not know about the wedding either"]; **E3/5499** Uk Phorn WRI, EN 00372932 ["*Angkar* called me to a meeting, when I arrived, they arranged for me to make the marriage vows. Then the district com. said, comrades, you must respect what has been organized by *Angkar*"]; **E3/5560** Tes Ding WRI, EN 00377171; **E3/9833** Muol Eng WRI, A20, A208, A211; **E3/9736** Meas Saran WRI, A2, A6, A10, A13 ["A10: When I arrived at the cinema, I was surprised ... I asked ... what was going on, and they told me that they were arranging a marriage ceremony. I wanted to escape, but I could not because there were [Division 3/164] soldiers"]; **E3/9743** [REDACTED] WRI, A3, A6; **E3/9662** Keo Theary WRI, A26, A28.

²⁴³⁰ **E1/340.1** Mean Loey, T. 2 Sept 2015, 14.14.51 ["In the marriage, some couples did not know each other in advance, and after the marriage they could not even find their spouses"]; **E1/325.1** Mam Soeum alias Heng Samuoth, T. 29 July 2015, 10.01.32 [Trapeang Thma Dam, 1977: "the marriage was held at the worksite ... because it was dark and the brides and grooms did not know each other well, they went off with a different spouse"]; 10.06.15 ["after the event ... a man ... found that the bride in room was not his ... there were so many couples that it was hard for him to know which bride was his"]; **E1/326.1** Khin Vat, T. 30 Jul 2015, 09.36.43-09.39.39 [Division 502 soldier: "I did not know the proposed man, my future husband at that time, and I only learned of his name when I met him at the wedding"]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 09.39.30-09.44.45 ["I never saw [my wife] before. When they required us to match with each other and to commit to each other, I was the 42nd couple. I did not even

reluctant young women and sometimes aging former monks who were forcibly paired by *Angkar*.²⁴³¹ Such victims were deeply upset and/or traumatized by marrying under such conditions.²⁴³²

- see her at that time, although she was standing nearby me"]; E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.06.25-14.08.09; E1/427.1 Him Huy, T. 4 May 2016, 15.23.15-15.25.45; E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.54.56-13.56.22; E3/9341 Chhoeung Uo WRI, EN 00316786 [Trapeang Thma Dam: "There were about one hundred couples getting married in one ceremony. Some couples lost their partners at the end of the ceremony because there were too many pairs at the same time"]; E3/10733 Tuon Sim WRI, A22, A24 [Division 310, 1977: "A22: Some people confused their partners"]; E3/9662 Keo Theary WRI, A27, A29 ["A27: I did not know [him before] ... A29: My husband went back to his unit and his friends asked him if he knew his wife's face. He said that he did not look at my face, so he did not know"]; E3/9825 [REDACTED] WRI, A81-88; E3/10621 Chhouk Rin WRI, A71; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041 ["Often couples were complete strangers"]; E3/7233R Video, *Red Wedding*, 2011, 7:49-8:13; E3/3993 R.M. Jennar, *Khieu Samphan et les Khmers Rouges*, EN 00922106, FR 00751347, KH 00923051; E1/324.1 Mam Soeum alias Heng Samuoth, T. 28 July 2015, 15.49.12-15.50.47; E3/9828 [REDACTED] WRI, A13; E1/461.1 Om Yoeum, T. 22 Aug 2016, 15.42.39-15.44.38; E3/9833 Muol Eng WRI, A211, A218; E3/9831 [REDACTED] WRI, A109-110; E3/9338 Yi Laisauv WRI, EN 00288642; E3/9575 Thang Thoeuy WRI, A65; E3/9515 Peou Sinuon WRI, A76; E3/9827 [REDACTED] WRI, A25; E3/9786 Mech Nhanh WRI, A123; E3/9822 [REDACTED] WRI, A374; E3/10744 Sum Chanthol WRI, A111; E3/10761 Sat Pheap WRI, A67; E3/9669 Penh Va WRI, A4; E3/5559 Khiev Horn WRI, EN 00377369; E3/5127 Tieng Rany WRI, EN 00163433; E3/10620 Ruos Suy WRI, A75; E3/10626 [REDACTED] WRI, A32; E3/9743 [REDACTED] WRI, A7 [Division 164: "some new couples even mistook their respective partners"]].
- ²⁴³¹ E3/9820 Preap Sokhoeum WRI, A27 ["Angkar selected young women to marry former aging monks. For some couples, for example, an 18-year-old girl was paired up with a 50-year-old man"]; E1/263.1 Em Phoeung, T. 16 Feb 2015, 13.37.55-13.51.17 [Former monk: "Did the chief of the village explain to you why you should get married? ... they said that you are rather old so you should get married ... there were some other monks who were forced to get married"]; E1/252.1 Chou Koemlan, T. 26 Jan 2015, 13.47.29 ["He was a monk and then he was ordered to disrobe, then to make a commitment"]; E3/5560 Tes Ding WRI, 00377169, 71 [Monk disrobed in 1975 and forcibly married in 1978]; E3/2818 Ian Harris, *Buddhism under Pol Pot*, EN 00703990-91, FR 00836378-79, KH 00791304-05 ["The other more likely reasons underlying the policy [of forcing monks to marry] were, on the one hand, a desire to humiliate, control and smash and, on the other, an overriding concern for social conformity ... Reports that monks, either individually or sometimes *en masse*, were coerced into taking partners are extraordinarily frequent and the practice may have been more widespread than evidence suggests ... many monks who rejoined the monastic order in the PRK period were reluctant to admit to any diminution of celibacy during the DK period on the grounds that such a revelation would simultaneously impact on their spiritual prestige and future career prospects within the *sangha* ... The proportion of monks who were forced to marry could be quite high. Of the 68 monks residing at Wat Chum Nik before April 1975, for example, 40 (i.e. 58.8%) ended up in forced marriages"]; E3/20 E. Becker, *When the War was Over*, EN 00237959, FR 00638514, KH 00232336 ["Many monks were ordered to marry, which prevented them from returning to the clergy"]; E3/7906 Tep Vong Statement (CDC), EN 00711584-86, FR 00857626-28, KH 00850689-92 [Former monk explains: "A month later they asked me to get married; I refused ... Around August-September 1976, I was arrested ... They punished me ... First, for refusing to get married"]; E3/5539 Khem Leng WRI, EN 00380129 ["in Svay Rieng Province ... an abbot who was defrocked and forced to marry an old woman"]; E3/5130 Khut Unn WRI, EN 00223181 [Former monk, Khsach Kandal District: "They forced me to find a wife of my own age. The elders said not to argue with them, to do what they said, not to make trouble ... Because they would ... take you out, meaning you would go into a grave pit"]; E3/9789 [REDACTED] WRI, EN 00986703; E3/3976 D. Affonco WRI, EN 00346935; E3/5499 Uk Phorn WRI, EN 00372932 [Monk forcibly married at age 30 in Sector 13]; E3/9358 Khleang Rei WRI, EN 00163453 [Monk forcibly married early Jan 1979].
- ²⁴³² E1/475.1 Mom Vun, T. 16 Sept 2016, 15.49.18 ["I knew that they were all forced [to marry] because the 60 couples all wept, they all wept. When we were standing together, we all wept, and only when [the cadres] arrived then we wiped our tear and stopped weeping ... Anyone would weep, regardless whether you were a single virgin or whether you are a widow"]; E1/462.1 Sou Sotheavy, T. 23 Aug 2016, 15.14.21 ["There was none of the 107 couples who refused, however, we could see that some people

602. In many instances, male RAK soldiers with disabilities were told to choose or were given a wife they did not choose as a “reward from *Angkar*” for their sacrifice.²⁴³³ Many

shed their tears quietly, especially the women”]; E3/2812 H. Locard, *Pol Pot's Little Red Book*, EN 00394888 [“No one doubts that these occasions were hardly joyful”]; E3/9820 Preap Sokhoeun WRI, A13 [“Comrade Ni Li, she asked me why I was crying if they were taking me to get married, and I told her that it was because the marriage was not being arranged according to Khmer tradition”]; E3/5832 Cheang Sreimom WRI, A8 [“I cried in my mind, and I was very sad”]; E3/5560 Tes Ding WRI, EN 00377170 [“The men did not cry during the marriages, but the females cried hard inside their hearts, since they did not dare cry out loud”]; E3/9830 [REDACTED] WRI, A83-85, A89; E3/1678 Tuoloas Sma Ei WRI, EN 00353497. See also section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Physical and Mental Trauma Suffered by the Victims**.

2433 E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.58.20 [“Among the 12 couples, the female sides were also female combatants and the male sides were also male combatants, but the male combatants were all handicapped. Because they could not fight again[st] the enemy any longer, they were brought in to get married”], 14.02.17 [“We were not allowed to choose”]; E1/478.1 Sem Om alias Prum Iet, T. 21 Sept 2016, 10.07.22-10.11.23 [Chamkar Leu District: “I only knew that disabled soldiers had the rights to get married since they already became disabled”]; E1/469.1 Nop Ngim, T. 5 Sept 2016, 13.43.22 [“were those handicapped soldiers sent to Samlout from all over the country with the sole objective of having them married, or there were other reasons ... ? A. They were sent for marriages”]; Preak Kap, disabled Division 2 cadre (blind) was forced by Ta Mok and Ta Tith to marry Nop Ngim: E3/9818 [REDACTED] WRI, A51, A75 [“A51: thirty-eight disabled soldiers who were wed ... We did not actually know about the wedding ceremony in advance. We just heard about it from Ta Mok in the morning ... The names of the couples were written on paper and placed on the table opposite each other ... I had to sit facing my would-be wife's name, [REDACTED] ... A75: No-one asked me whether or not I wanted to get married”]; E1/462.1 Sou Sotheavy, T. 23 Aug 2016, 15.47.07 [Bati District: “When the soldiers with disabilities sent back from the battlefields, they got married to those women, and those women even ... the 18 People, they did not dare to refuse”]; E1/468.1 Phan Him, T. 1 Sept 2016, 09.34.45-09.37.28 [A group of handicapped soldiers meant to marry young women refused as they “were too young” and the disabled were afraid they would “not have a good future”]; E1/489.1 Say Naroeun, T. 25 Oct 2016, 11.02.54-11.06.54; E3/10755 Sat Pheap WRI, A147-148 [“Q: Were [the injured veterans] able to get married? A: Yes. They had the right to marry beautiful girls of their choice ... Because they had fought in the past, they had these privileges”]; E3/10754 [REDACTED] WRI, A8, A12-17, A24 [“A13: If a woman was assigned to marry a leg-amputated man, she did not dare to object ... A15: The amputated soldiers were wed according to a set quota ... A24: It was prescribed that the handicapped or amputated soldiers were permitted by their leaders to get married”]; E3/9833 Muol Eng WRI, A219-220, A226-228 [Bavel District Secretary: “A220: Ta Chay instructed me to arrange the marriage of the disabled soldiers as well as people from Srae Ambil ... A226: Two women objected it... A227: I explained to them that they had a patriotic responsibility to marry and care for the soldiers who had become disabled because they engaged in the fighting for the nation ... A228: They had reluctantly agreed to marry them”]; E3/9820 Preap Sokhoeun WRI, A12, A22, A24 [“A12: In 1977... they forced me to marry a handicapped man ... A24: Back then, the handicapped people were the ones who had made sacrifices on the battlefield, so they selected those people to marry women as an incentive for those handicapped soldiers”]; E3/2634 Kamboly Dy, *A History of Democratic Kampuchea*, EN 00284191 [“Women were sometimes forced to marry soldiers who had been injured during the war and lost a hand or leg. Those who refused to accept the disabled men might be imprisoned, severely tortured or forced to do hard labor far from their homes. Some women facing forced marriages committed suicide”]; E3/9667 Nhim Kol WRI, A36 [“Prak Yuth had already selected the women before informing the commune to arrange the wedding for the disabled. Those disabled soldiers were sent from the Sector to the district to be taken care of”]; E3/9326 Mao Phat WRI, EN 00272581 [Banlung District: “Sometimes I saw beautiful young girls marry old or handicapped men”]; E3/9823 Nap Somaly WRI, A141 [“There was a beautiful girl ... ordered to marry to a disabled militiaman”]; E3/10639 [REDACTED] WRI, A1, A6, A9, A150, A159-163, A197 [REDACTED] (amputee) forcibly married in August 1978 by Ren to a 15-16 years-old girl: “A197: [Division Commander Ren] twice selected women for me but I resisted. By the third time he did not inform me again when he selected a woman for me. Upon my arrival there, I was forced to marry her”]; E3/7884 Bun Sat WRI, A26; E3/9562 [REDACTED] WRI, A183; E3/3976 Denise Affonco WRI, EN 00346935; E3/9576 Keo Voeun WRI, A15; E3/10622 Moeng Veth WRI, A161;

of these young women were civilian workers from nearby mobile units and cooperatives.²⁴³⁴ Sometimes, requests were sent from the RAK divisions to district or communes of distant areas for females to satisfy this demand.²⁴³⁵ As a result, the large majority of these women met the disabled soldiers selected to be their spouses for the first time at the ceremony.²⁴³⁶ Norodom Sihanouk described hearing **Khieu Samphan** explain how young women forced to marry handicapped soldiers were “fervently patriotic” and “accepted, by way of their marriage, to care for the well-being of the heroes who had sacrificed themselves for the nation”.²⁴³⁷ Sihanouk, however, rightly viewed the practice as sacrificing the happiness of these innocent young women “in the name of patriotism”, as none of them truly consented to such marriages.²⁴³⁸

E3/9667 Nhim Kol WRI, A35; **E3/3993** R.M. Jennar, *Khieu Samphan et les Khmers Rouges*, EN 00922106.

²⁴³⁴ **E1/465.1** Seng Soeun, T. 29 Aug 2016, 09.38.38-09.45.24 [Ta Khmau District: “the chief of the area told me that those handicapped soldiers had been married to the women who were brought in from the pepper plantation”]; **E3/5564** Snguon Tai Ren WRI, EN 00414579 [“If they wanted to marry soldiers, the Khmer Rouge would pick women in the villages to marry those soldiers”]; **E3/9820** Preap Sokhoeun WRI, A8-10 [Worked in a cotton plantation, Thma Pun Commune, Prey Chhor District, when she was forced to marry a handicapped soldier working in Chrey Vien commune]; **E3/10754** [REDACTED] WRI, A16-18 [Banan District marriages to handicapped soldiers: “They brought women from elsewhere and they used Kampong Kul Sugar Factory Site to hold the wedding ceremony ... A17: I saw them bringing the women in ... A18: ... by trucks”]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394899-900 [“The two announcements that follow ... foreshadow forced marriages to physically disabled, so feared by young women educated in the towns. Some preferred suicide to what they considered a shameful plight. 348- ‘Handicapped soldiers from squad 05 are expecting the young women from the commune’; 349- ‘Handicapped soldiers from squad 05 are expecting the young women who are resolved [to serve the revolution]’”]; **E3/9326** Mao Phat WRI, EN 00272581.

²⁴³⁵ **E3/5833** Seng Ol WRI, A20, 27 [Female cadre in Tram Kak District: “A20: In 1977 or 1978, the army came to request women from my unit to be married in Kampong Saom. Proposal letters were sent from the army to my commune, and the Commune Com told me to select women to go to Kampong Saom, saying that the army had requested them ... neither I nor the women selected to go knew that they were being taken away to marry handicapped soldiers ... I selected about three to five women from my unit ... various other communes did the same thing”]; **E3/9833** Muol Eng WRI, A219-220, A226-228 [Bavel District Secretary recalls arranging the marriage of disabled soldiers to (salt fields female) Srae Ambil workers who reluctantly agreed to marry]; **E3/9818** Preap Kap WRI, A59 [Disabled (blind) Division 2 cadre forcibly married by Ta Mok in NWZ with 37 other disabled: “Q. Did you know where the women who were arranged to marry the disabled persons came from? A59: Ta Mok sent them from Srae Ambel [salt fields] in Kampot Province”]. See also **E1/489.1** Say Naroeun, T. 25 Oct 2016, 11.02.54-11.06.54 [“during the Khmer liberation day he was a soldier ... he was not aware of the arrangement ... the chairman Khorn ... said that ‘Comrade Say Naroeun, you are here to marry to a handicapped soldier who was wounded in the front battlefield’. Then there were two handicapped soldiers who lost their legs up to the knees, were sitting on wheelchair. I was so shocked to see them that I shouted in that office”].

²⁴³⁶ See above, fn. 2433.

²⁴³⁷ **E3/2813** Norodom Sihanouk, *Prisoner of the Khmer Rouge*, EN 00632939.

²⁴³⁸ **E3/2813** Norodom Sihanouk, *Prisoner of the Khmer Rouge*, EN 00632939 [“No doubt, these genuine, severely disabled heroes deserve all our respect and compassion. However, there is [a] big difference between that and us eagerly accepting the idea of sacrificing innocent young virgins, who have only recently graduated from our secondary schools and universities, in the name of patriotism”]; As for the lack of consent, see: **E3/9820** Preap Sokhoeun WRI, A12, A24; **E3/9833** Muol Eng WRI, A227-A228; **E3/9823** Nap Somaly WRI, A141; **E3/9562** [REDACTED] WRI, A183; **E3/3976** Denise Affonco WRI, EN 00346935; **E3/9576** Keo Voeun WRI, A15; **E3/10761** Sat Pheap WRI, A111; **E3/10754** Khay Chhaury

603. The regime's frequent use of violence and demand for blind obedience from individuals deprived of all rights intentionally created a general atmosphere of terror and coercion, where refusal of any order or suggestion by *Angkar* was seen as gravely dangerous or even suicidal; in that context, *genuine* individual consent to marriage was generally not possible.²⁴³⁹ In fact, decisions from *Angkar* regarding marriages had to be "absolutely respected,"²⁴⁴⁰ and objections were normally not permitted.²⁴⁴¹

WRI, A11-13; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394899-900; **E3/9669** Penh Va WRI, A7; Interestingly Em Sarin, a Division 2 battalion deputy commander who was injured at war and became an amputee claims that he did not know whether her 15-16 years old wife "was willing to marry" him although none of them knew in advance that a marriage was organised: **E3/10639** [REDACTED] WRI, A163, A189-190, A241-242.

²⁴³⁹ **E3/775** Family Building policy document, EN 00417944 ["our revolutionary youth comrades must pay attention and be really vigilant toward this matter of family building. If we do not respect organizational discipline, if we do not respect the collective, if we do not take firm revolutionary stances, and if we are free and all over the place in terms of morality, we will surely build families incorrectly and not be accordance with the Party line"]; **E1/468.1** Phan Him, T. 1 Sept 2016, 09.25.10 ["the female chief said that, "No matter what you said, you have to agree with Angkar, and Angkar would organize the marriage for you. You have to respect Angkar and adhere to the principles or direction set by Angkar"]; **E1/476.1** Heng Lai Heang, T. 19 Sept 2016, 09.35.56-09.40.32 [Sector 505, 1976: "I felt concerned about my own safety, and that's why I agreed to accept whatever they arranged"]; **E3/436** Heng Lai Heang WRI, A26, A30 ["A30: I was only 18 years old, and I did not want to get married, but since it was the arrangement, I was scared to lose my own life. If I had not followed the arrangement my life and my family lives would be in trouble"]; **E1/465.1** Seng Soeun, T. 29 Aug 2016, 10.14.35 ["Sometimes, people died or disappeared without reasons, and that's what made us think that if we were forced or instructed to marry, then we just simply did"]; **E3/409** Seng Soeun WRI, A72-73; **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 14.08.09 ["particularly in 1977-1978 when people were already terrorized by the Khmer Rouge, by saying no, by refusing, it might mean their death, that they would be killed. So many people could not even say no"], 14.12.51 ["There [were] two patterns. One was that the Khmer Rouge or the village chief explicitly said ... that they would be killed or a family member [would be] killed if they refused ... the second pattern is that people are already terrified. They were living under the extreme fear if they were against the Khmer Rouge they would be killed"], 14.20.09 ["it was reported from all divisions that I visited, women were living under the terror, continuous terror"]; **E1/451.1** H. Locard, T. 29 July 2016, 09.50.34 ["There are two ways of terrorizing the people, obviously by using words, and also using the Kalashnikov, that is, weapons. So those were the two means used by the Khmer Rouge leadership to control the people"], 10.56.48 [Commenting the DK slogan 'Whoever protests is an enemy and whoever opposes is a corpse': "That was abominable and it obviously sums up the entire policy of repression of the country"]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 09.25.19; **E1/296.1** Khoem Boeun, T. 4 May 2015, 09.55.07; **E3/5513** Ieng Chham WRI, A34 [Chief of 1st Jan Dam construction: "nobody dared to protest in that regime"]; **E3/9820** Preap Sokhoeun WRI, A12-13, A20; **E3/9325** Dy Mach WRI, EN 00239495; **E3/9831** [REDACTED] WRI, A115; **E3/5283** Chhuy Huy WRI, EN 00321201-02; **E3/9790** Nget Chat WRI, A97.

²⁴⁴⁰ **E3/775** Family Building policy document, EN 00417943; **E3/5560** Tes Ding WRI, EN 00377170 ["at the District 106 office ... we were told about respecting *Angkar's* rules ... in particular that we had to respect orders to marry"]; **E3/9820** Preap Sokhoeun WRI, A20 ["Back then, we did not have rights to refuse their orders ... although I did not know my husband, I had to marry him"]; **E3/9825** [REDACTED] WRI, A90-92 [Sangke District, 1978: "They announced, 'It is imperative to follow the Party line. No one can refuse' ... They said that by megaphone during the wedding ceremony"]; **E3/5499** Uk Phorn WRI, EN 00372932; Even prominent CPK members had to respect Angkar's decision to marry them against their own will, such as Prak Yut, district secretary in 1975 (although she claims it might have been in 1973): **E1/378.1** Prak Yut, T. 19 Jan 2016, 11.07.16-11.22.00 ["in Sector 35, he [Ta Chap] was overall in charge, and if I did not follow his instructions, it meant that I disrespected him. Loving him or not, I had to follow his instruction. So, I had to get married"]; **E3/9310** Prak Yut DC-Cam, EN 01064271-72 ["he organized the arranged marriage for us in 1975 ... Believe me, if we refused, they would say we were against them"]; **E3/9499** Prak Yut WRI, A95 ["I did not love him ... but ... I agreed to marry him

604. Often the threats were implicit. Those who were instructed to marry legitimately feared that any refusal would brand them an enemy and could result in severe punishment for “disrespecting *Angkar*”, such as being sent for refashioning, reeducation or execution.²⁴⁴² Some had also heard or seen people punished for refusing to marry.²⁴⁴³ The large majority of those chosen by *Angkar* to marry did not take the risk of voicing their objection and were therefore forced into conjugal relationships.²⁴⁴⁴ Those who

because I thought that if I refused I was afraid that *Angkar* would think I went against the intention of *Angkar*”].

- ²⁴⁴¹ **E1/419.1** Nhem En, T. 20 April 2016, 14.26.44-14.33.20 [In Division 703, S-21: “I met Khoeun ... She was not happy ... It was a forced marriage and of course you are aware of that nobody could make any objection to the arrangement by *Angkar*”]; **E3/5832** Cheang Sreimom WRI, A8 [“I did not dare to reject the wedding because in the meetings I had attended, we were told that ‘we were children of *Angkar*,’ and we had to follow *Angkar*’s arrangements; I believed that I did not have other choices ... I was asked if I agreed to love that man voluntarily or compulsorily; I said that no one forced me; then they clapped hands”]; **E3/5231** Chea Leng WRI EN 00279253-54 [“Q: During the Khmer Rouge regime did women have the right to refuse marriages which had been ordered by *Angkar*? A: They could not. It was an order from upper level *Angkar*”]; **E3/9328** Kheu Hun WRI, EN 00272626; **E3/9331** Chhut Daung WRI, EN 00274086; **E3/9361** Koa Cheng OCP Statement, EN 00219263; **E3/408** Duk Suo WRI, EN 00404732; **E3/3416** B. Toy-Cronin, ‘I Want to Tell You’, EN 00449488; **E3/9833** Muol Eng WRI, A209-210.

- ²⁴⁴² **E1/322.1** Kong Uth, T., 25 June 2015, 10.59.10 [1st Jan Dam: “I felt that I did not want to get married but they came to call me a few times and I had to go ... I did not dare to refuse the marriage and if I dared to do so I would be accused of opposing them”]; **E3/9667** Nhim Kol WRI, A40, [“Everyone at that time knew that when anyone refused an order would be taken to be re-educated or disappear”]; **E3/9824** Sum Pet WRI, A30 [“They taught me to follow or respect the arrangements of *Angkar*. Refusing was equal to opposing to the orders of *Angkar*, so they would surely have taken me to be tortured”]; **E3/10749** Samrith An WRI, A44 [“They were afraid of being killed”]; **E3/9350** Van Sorn WRI, EN 00244170 [“If we objected and did not agree with them, they would take us for refashioning”]; **E3/9755** Hin Long WRI, A53 [“They told me, ‘I am being forced me to marry a young woman. I have to get married, or they would accuse me of being an enemy’”]; **E3/7775** Kang Ut WRI, EN 00233533; **E3/9808** [REDACTED] WRI, A78; **E3/436** Heng Lai Heang WRI, A26, A30; **E3/9361** Koa Cheng OCP Statement, EN 00219263; **E3/9809** [REDACTED] WRI, A91 [“they would have killed me”]; **E3/9759** [REDACTED] WRI, A124; **E3/9785** Yim Sovann WRI, A76; **E3/9823** Nap Somaly WRI, A154; **E3/9743** [REDACTED] WRI, A6; **E3/9826** [REDACTED] WRI, A110.

- ²⁴⁴³ **E3/5561** Mao Kroeur WRI, EN 00384789 [District 106, 1977-1978: “I agreed to marry because I did not have other choice. I had been already sent to the reeducation centre, and I was afraid that this would happen again”]; **E3/9820** Preap Sokhoeun WRI, A21 [“if someone refused to get married as requested by *Angkar* and fled, they chased down that person to be killed. I saw it happen to a woman in my unit named Proeung ... Later the union arrested her from the cooperative saying that she had disobeyed *Angkar*’s rules ... they tied her up and loaded her on an ox-cart. She disappeared after that ... Because of this experience, I was very frightened”]; **E3/9321** Saom Mon WRI, EN 00163771 [“they were coerced into marriage ... Specifically, a girl named Run objected and refused to marry and was removed from the unit”].

- ²⁴⁴⁴ **E1/488.1** Nget Chat, T. 24 Oct 2016, 16.02.04-16.06.35 [“I looked at the face of my spouse and he’s very old. I was only 20 years-old and he was over 40 ... I did not dare to protest ... they said that if I opposed I would be sent to the upper level ... My [first] husband was just taken away to be smashed. I was still weeping. I felt afraid that I would die and leaving my children behind”]; **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.10.37; **E1/326.1** Khin Vat, T. 30 Jul 2015, 09.36.43 [Division 502 soldier forcibly married at Kampong Chhnang airport]; **E3/10620** Ruos Suy WRI, A77, A79, A83 [“A83: Some people who were assigned to be married did not dare to refuse the assignment because of fear from being mistreated ... they just answered in agreement because of fear. Although from outside it seemed that it was not a forced marriage, in fact they forced people to accept, including myself. Among the 20 couples married at the same I was, only my couple still presently lives together”]; **E3/9355** Phat Duongchan WRI, EN 00375683; **E3/9823** Nap Somaly WRI, A154; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992279; **E3/3416** B. Toy-Cronin, ‘I Want to Tell You’, EN 00449488

hesitated or refused the order to marry were often expressly threatened or punished. Punishment included reeducation, hard labour and imprisonment,²⁴⁴⁵ physical violence,²⁴⁴⁶ rape,²⁴⁴⁷ and execution.²⁴⁴⁸

[“interviewees emphasized that unlike arranged marriages where, though arranged by the parents, the spouses consent to the union, in DK people had no choice but to marry the person chosen for them. Those who refused to marry were considered an enemy of *Angkar*”]; E3/408 Duk Suo WRI, A90-91 [“we did not dare to refuse because the power was in the hands of *Angkar*”]; E3/5521 Nut Nouv WRI, A103 [Tram Kak District, commune chief: “some couples just said they agreed for marriage as they were afraid”]; E3/10622 Moeng Veth WRI, A154, A161, A164-165, A168 [Successively in Division 2, SWZ, and Division 117, Sector 505: “A154: The chiefs said, ‘... Women who are 25 years old have the right to get husbands. Men who are 30 years old have the right to get wives’. It was officially announced. However, in reality ... at the cadre level, youths were forced to get married even if they did not love each other ... A161: In some places, older women were told to marry bad-looking or disabled men. The unit chairpersons forced them to get married ... A164: The women could not refuse. Sometimes when a man proposed marriage to Woman ‘A’, at the actual ceremony, he had to marry Woman ‘D’. In some cases, when names were called for people to stand up in rows and if the proposed couples could not stand in their proper positions, they held hands with different people. Then they could not reject that person ... A165: Everyone was afraid ... A168: [In Division 1 and 2] even if there was no proposal, they also randomly selected some names for marriage”]; E3/5294 Sou Soeun WRI, EN 00360115-16 [Ke Pauk’s wife: “Q: Did any of the girls in your group refuse the marriage? A: No, they did not. They rarely refused, although they did not like the men; and these people got divorced after the fall of the Khmer Rouge”]; E3/9669 Penh Va WRI, A4; E3/9763 [REDACTED] WRI, A63-64 [Mongkol Borei District: “Q: Why could not they refuse? A64: Because we, at that time, were *Angkar*’s children, not our mother’s children”]; E3/10621 Chhouk Rin WRI, A76, A82 [Division 230, 1976: “A82: My head would have been cut off if I had refused it”]; E3/5590 Kong Vach WRI, A48; E3/10652 Nop Ngim WRI, A11; E3/5562 Seng Chon WRI, EN 00400458; E3/5832 Cheang Sreimom WRI, A8; E3/9826 [REDACTED] WRI, A109; E3/9796 [REDACTED] WRI, A4; E3/9562 [REDACTED] WRI, A182; E3/9778 [REDACTED] WRI, A162-164; E3/9515 [REDACTED] WRI, A76; E3/9469 [REDACTED] WRI, A67; E3/9786 Mech Nanh WRI, A128; E3/9782 [REDACTED] WRI, A93; E3/9672 [REDACTED] WRI, A55; E3/9800 [REDACTED] WRI, A186-87; E3/5231 Chea Leng WRI, EN 00279253; E3/9765 [REDACTED] WRI, A97-98; E3/9471 [REDACTED] WRI, A73-74; E3/9822 [REDACTED] WRI, A340; E3/9761 [REDACTED] WRI, A112; E3/9785 Yim Sovann WRI, A87; E3/9756 Va Limhun WRI, A23; E3/9829 Suon Yim WRI, A6; E3/10744 Sum Chanthol WRI, A111; E3/5513 Jeng Chham WRI, A33; E3/9831 [REDACTED] WRI, A104, A115; E3/9790 Nget Chat WRI, A97; E3/9761 [REDACTED] WRI, A110; E3/9785 Yim Sovann WRI, A75; E3/9820 Preap Sokhoeun WRI, A20; E3/9747 [REDACTED] WRI, A99-100; E3/9760 [REDACTED] WRI, A72; E3/9830 [REDACTED] WRI, A62-63, A70, A73; E3/5130 Khut Unn WRI, EN 00223181; E3/7884 Bun Sat WRI, A26; E3/5254 Sok Thul WRI, EN 00242363; E3/9326 Mao Phat WRI, EN 00272581; E3/5306 Svay Boramy WRI, EN 00345184; E3/10733 Tuon Sim WRI, A22; E3/9777 [REDACTED] WRI, A15; E3/9833 Muol Eng WRI, A210; E3/9667 Nhim Kol WRI, A40-41; E3/9736 Meas Saran WRI, A31-A32; E3/3964 Pechuy Chipse WRI, EN 00225211; E3/5585 Kao San WRI, A14.

²⁴⁴⁵ E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.16.57-14.18.16 [“I heard many stories of the punishment of refusal to the marriage ... She was only 15 years old and she refused to marry and she was sent to the reeducation camp for three months ... one woman in Siem Reap ... told me she was sent to the reeducation camp”]; E1/416.1 Phan Van, T. 7 Apr 2016, 11.27.39-11.29.29; E3/9667 Nhim Kol WRI, A40-41 [“A40: when anyone refused an order would be taken to be re-educated or disappear ... A41: they re-educated people by torturing them until they agreed to get married. One widow refused to get married, so she was ordered to do hard labor”]; E3/9823 Nap Somaly WRI, A141 [“a beautiful girl ... was ordered to marry to a disabled militiaman. She refused and was slapped several times until blood came out from her mouth and she was taken to be re-educated”], A157 [“They took her to a re-education place ... for the people who committed moral offences”]; E3/10682 [REDACTED] WRI, A101 [“

E3/5561 Mao Kroeun WRI, EN 00384789 [“I refused [to marry], so the Khmer Rouge took me to the re-education place at a pagoda ... I was kept there three or four months because I refused to marry ... I

was punished; I was sent to search for firewood and carry water ... I ate only gruel ... When I returned to the co-operative, the Khmer Rouge arranged my wedding"; E3/9472 ████████ WRI, A456-459 ["A person from Kampong Speu Province was taken to be detained in a prison because of this [refusal to marry] ... there were many of them"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037038 ["in all cases, the system was coercively enforced through real or threatened punishment—'re-education', imprisonment, sexual violence and torture, or death"]; E3/2959 K. Nakagawa, *Gender-Based Violence*, EN 00421892; E1/449.1 Moeng Vet, T. 27 Jul 2016, 10.08.23-10.12.15; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488 ["threats of violence or actual violence, including beatings, hard labour and even death"]; E3/5519 Sok Sim WRI, A52; E3/5521 Nut Nouv WRI, A106; E3/5271 Chhum Ruom WRI, EN 00289927.

2446 E3/9510 ████████ WRI, A34-35 [Bakan District, 1977: "A34: I refused to get married. They handcuffed me once I arrived at Boeng Kul; however, they did not yet shackle me when they took me back to Trach Kraol. Q: Did they torture you when you were imprisoned at Trach Kraol? A35: There was some torture"; E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992281 ["In 10 cases, respondents were tortured for refusing to marry. In the following case, the woman's husband was executed just prior to her being asked by the regime to marry. When she refused, she was imprisoned and tortured"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033 ["Penalties for refusing to marry ... included verbal threats and actual physical punishment, such as beatings, rape, sexual slavery, and death"]; E3/9823 Nap Somaly WRI, A141; E3/2959 K. Nakagawa, *Gender-Based Violence*, EN 00421892, EN 00421919 ["one interviewee stated: ... 'Angkar took me to a field and beat my legs until both legs were broken. Angkar also pulled out my fingernails, but I still refused to marry'"]; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488.

2447 E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.12.51 [women were raped for refusing to marry: "I heard that story. And I also heard a woman who had to witness another woman's rape because she refused to marry"]; E1/475.1 Mom Vun, T. 16 Sept 2016, 11.18.38-11.24.42 [Siem Reap, late 1975, two to three months after her first husband was sent for re-education (executed): "When I arrived there, I was told that in two days time, I would remarry ... they planned to mistreat me before the -the wedding day. There were five of them and they planned to rape me, one by one. And I was raped and the last one told me to leave after they committed the act"]; E3/9790 Nget Chat WRI, A92-93 ["A92: Because I did not agree to get married, they sent me to the upper echelon. At that time they wanted to rape me ... A93: One soldier led me and comrade Rin ... When we reached a forest ... Comrade Rin went with the soldier, and he raped her ... I begged him by making an excuse that I was a menstruating and I knelt down to beg him. So he did not rape me"]; E3/2959 K. Nakagawa, *Gender-Based Violence*, EN 00421893 ["My husband was a French soldier. They hanged my husband. Five months later they told me I had to marry but I refused. They took me to the forest and raped me. After they raped me I said to them, 'kill me' ... I said, 'six of my children have already died so please dig a hole and bury me together with my four remaining children' but I won't agree to marry... Now I am almost mad"]; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488-89 ["Some of the interviewees however reported the use of rape to coerce or punish women who refused to marry. Chantry explained how she was taken to a *monty santesok* (security prison) when she refused to marry the husband the Angkar selected for her. Inside ... a soldier ... took her to see women who had been raped: 'All the ladies were naked. They had no clothes on, and the three soldiers were also naked. Those ladies cried, and the soldiers stuffed *kramas* (traditional scarves) into their mouths. They laid those women on beds, and they tied their arms and shackled their legs to the beds ... They asked me, 'do you want to imitate these women? ... I was so shocked that I decided to marry my husband'"]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033, 38.

2448 E1/462.1 Om Yoeurn, T. 23 Aug 2016, 09.14.42-09.18.26 [forcibly married in early 1978 in Chamkar Leu District; she did not refuse because people who protested or refused disappeared. Her own cousin was killed for refusing to marry a handicapped person]; E3/9472 ████████ WRI, A461 [Tram Kak District, 1975-76: "Were persons sent to Kraing Ta Chan because of their refusal to get married? A461: Yes. A man from Kirivong was sent there, and he was killed later on"]; E3/5591 Hong Savat WRI, A23-24, A26, A29-30 ["A23: the Khmer Rouge forced my sisters to marry ... Khmer Rouge cadres ... When it was time for them to hold hands with their future husbands, they tried to run away. At that time, the Khmer Rouge arrested both of my sisters ... together with other women who refused to marry. They killed all of them ... Q: Did you eye witness the execution? A24: I saw with my own eyes the killing of both of my elder sisters. They were hit with wooden stick"]; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449488; E3/9667 Nhim Kol WRI, A41 ["During the weddings when Soeun and Thin were in charge, when anyone did something wrong, they were taken to be re-educated and freed, but starting with Yeay Yuth, the killing began"]; E3/9825 ████████ WRI, A90-92; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033, 38; E3/2959 K. Nakagawa, *Gender-Based Violence*, EN 00421892;

605. This is not to say that *every* marriage during the DK regime was forced. Some fortunate cadres or favoured couples wanted to marry and received permission to wed the spouse of both partners' choosing.²⁴⁴⁹
606. However, in the majority of cases where there might appear to be some superficial indicia of consent, a closer inspection makes clear that one or both of the couple did not *genuinely* consent to the union. In some cases, young male cadres or combatants, mostly Base People or soldiers, petitioned or were forced to petition their local officials for permission to marry specific women, usually among a small group of females.²⁴⁵⁰ The fact that some civilian and military cadres or combatants were requested or allowed to choose their own mates does not change the forced nature of the marriage to which ample evidence indicates that their selected spouses did not consent.²⁴⁵¹ Contrary to

E3/3993 R.M. Jennar, *Khieu Samphan et les Khmers Rouges*, EN 00922106; **E3/9823** Nap Somaly WRI, A155 ["She preferred to die rather than marry a disabled man"]; A157 ["They took her to a re-education place about eight kilometres from the village. It was a re-education place for the people who committed moral offences"]; **E3/9787** [REDACTED] WRI, A46 ["those who were not happy with it would be taken to be killed. Many people died because of such complaints"].

²⁴⁴⁹ **E3/10713** Chuon Thy WRI, A26; **E3/9736** Meas Saran WRI, A29; **E3/10768** [REDACTED] WRI, A233; **E1/269.1** Phan Chhen, T. 25 Feb 2015, 14.04.50-14.09.10; **E1/476.1** Heng Lai Heang, T. 19 Sept 2016, 13.42.02-13.43.26; **E1/305.1** Meas Layhuor, T. 26 May 2015, 15.19.32-15.21.25; **E1/461.1**, Tep Poch, T. 22 Aug 2016, 15.06.55-15.12.05 [Baray District Secretary, reluctant witness]; **E3/5515** Phneu Yav WRI, A32.

²⁴⁵⁰ **E1/488.1** Kul Nem, T. 24 Oct 2016, 15.20.57-15.26.14 [Northeast Zone Army soldier who was forced to choose a wife among five Phnong girls in a village but ultimately asked Angkar to choose one for him – he had a fiancée in his village]; **E1/449.1** Moeng Veth, T. 27 Jul 2016, 09.51.08 [Division 2, SWZ, and Division 117, Sector 505: "the soldiers, the men, had the right to choose which particular women they wanted to get married to"]; **E3/10622** Moeng Veth WRI, A162-A164 ["A162: They allowed those who loved each [other] to make a request to marry. Such couples were called 'the proposed couples'. In some cases, names were randomly selected for marriage. Q: For the proposed couples, did only one side propose or both sides propose? A163: The proposal was from the man ... A164: The women could not refuse"]; **E3/9578** Chhuom Savoeun WRI, A26 ["*Angkar* told me that it was time for me to get married. So I proposed the name of a woman I liked for *Angkar* to arrange the marriage. After 1979 that woman requested a divorce"]; **E3/5558** Horng Orn WRI, EN 00381009 ["My future husband proposed to the female unit chief, named Aun, to marry me. Q: Did you oppose the marriage? A. I did not dare to oppose. Q: Why? A. I had no idea where to escape to. Q: Did you like your future husband? A. I had to agree because the Khmer Rouge said that I had to accept him"]; **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037033 ["many men had opportunity to request a spouse during the regime, this being reported by half of all responses"]; **E3/2060** Analytical Report by the U.N. Commission on Human Rights, 30 Jan 1979, EN 00078662 ["Article 16 ... Specific violations of this article ... relate to ... the need to apply for permission to marry, the arbitrary handling of such applications"]; **E3/10639** [REDACTED] WRI, A228-229 [Division 2, handicapped unit: "A228: The grooms chose their spouses freely ... Q: ... did you ask the brides if they agreed to marry these men? A229: I did not ask the women"]; Some women were brought to islands where Division 164 soldiers were deployed so that they could pick the women of their choice after seeing them only once, then [REDACTED] claims that the women *freely agreed* to be married: **E3/10768** [REDACTED] WRI, A237-238; Although Chuon Thy, Division 1 regiment Commander, explains that brides and grooms could mutually agree to request the upper echelon to organise their marriage, he fails to explain how this could happen, as contacts between men and women were strictly prohibited: **E3/10713** Chuon Thy WRI, A33, A43-44.

²⁴⁵¹ See e.g. **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421895 [a "new person" forced to get married to a soldier: "If I knew in advance about the marriage I would have run away ... The top leaders forced me to marry him since he loved me and asked the top leaders to make me marry him"]; **E3/9111**

Khieu Samphan's claims to the late King Father that such marriages were not forced,²⁴⁵² some women chose to commit suicide rather than accept being married to someone who they deemed undesirable because he was disabled, or whom they did not know at all and/or did not love.²⁴⁵³

607. Moreover, whilst some cadres and combatants may have enjoyed an element of choice on whom to marry, it appears that they usually had no choice *whether* to marry. Being “gifted” a spouse or *required* to choose a partner at a moment dictated by *Angkar*, sometimes from only a handful of women, does not constitute a genuine exercise of free will, particularly in view of the pervasive climate of fear that existed inside and outside the CPK ranks. For those women chosen as the “gift from Angkar” or reward, the marriage was not only forced and its coerced consummation resulting in rape, but this was a further manifestation of their enslavement — with the authorities exercising the ownership over them by dictating their spouse and sexual partner.
608. While some individuals may have agreed to marriage to alleviate their dire

K. Natale, *I Could Feel My Soul Flying Away From My Body*, EN 00992156 [“one female respondent in Battambang commented that ‘... if the man suggested someone to marry, they could accomplish this, even if the woman did not want to. She had to agree because of *Angkar*’”]; **E3/10622** Moeng Veth WRI, A163-164; **E3/9823** Nap Somaly WRI, A141, A155, A157; **E3/10620** Ruos Suy WRI, A77, A79, A83; **E3/2060** Analytical Report by the U.N. Commission on Human Rights, 30 Jan 1979, EN 00078662, FR 00292906, KH 00294968; **E3/9575** Thang Thoeuy WRI, A65, A68 [“A65: I was forced to get married to my husband ... A68: my husband requested the unit chief or the group chief; and the unit chief or the group chief made the request to the upper echelon”]; **E3/10756** [REDACTED] WRI, A4 [“A man could propose to a specific woman for marriage through a unit chief. A woman was instructed to follow *Angkar's* policy”].

²⁴⁵² **E3/2813** Norodom Sihanouk, *Prisoner of the Khmer Rouge*, EN 00632939.

²⁴⁵³ **E3/10761** Sat Pheap WRI, A111 [Prey Chhor District: “a woman who worked at the sector commerce was forced to get married with a disabled soldier. Two or three days after the marriage she committed suicide by taking an overdose of medicine”]; **E3/10754** [REDACTED] WRI, A8, A11-13 [“A11: After the wedding, some hanged themselves ... A12: So, some of them committed suicide because they did not love their leg-amputated husbands”]; **E3/9669** Penh Va WRI, A7 [“Say, alias Ly ... took some pills to commit suicide after she had been forced to get married to a disabled soldier”]; **E3/1094** Report from M-401 to Angkar, 4 Aug 1978, EN 00315373, FR 00593529, KH 00143609 [“2-The activity of the Hidden Enemy Burrowing from Within: The activities of hanging ones selves to commit suicide: In Taing Krauch Cooperative, District 27, a man named Ol, who was in the Sector Mobile Unit previously, committed suicide on 26-7-78 by hanging himself. This happened after he was arranged by Angkar to get married”]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394899-900 [“Some preferred suicide to what they considered a shameful plight”]; **E1/476.1** Heng Lai Heang, T. 19 Sept 2016, 09.56.18 [“The reasons that they committed suicide were because they were forced to get married ... they were threatened so, together, it forced them to commit suicide”]; **E3/436** Heng Lai Heang WRI, A26, A32 [“A26: they matched people to marry ... Some people committed suicide either by drowning into the water or poisoning themselves”]; **E3/9468** Thann Thim WRI, A92 [“a particular couple had not loved one another, so the bride took Slaeng Thum seeds to commit suicide”]; **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.49.56 [“the transgender people would refuse even though they had to commit suicide. They would commit suicide by drinking the poisonous substance. They refused to get married”].

circumstances,²⁴⁵⁴ it is clear that in an environment of coercion, any relative benefits that victims of forced marriage may receive from perpetrators neither signifies consent, nor vitiates the criminal nature of the perpetrators' conduct.²⁴⁵⁵

609. In every case, the final decision on marriage solely belonged to *Angkar*.²⁴⁵⁶ The central policy document on family building pronounced:

When marrying, it is imperative to honestly make proposals to the Organization, to the collective, to have them help sort things out. Organizational discipline must be absolutely respected. In the matter of building a family, no matter the outcome of the Organization's and the collective's assessments and decisions, they must be absolutely respected. Do not have hard feelings. Do not be disappointed. This is because only the Organization and the collective are able to make a thorough assessment from every aspect.²⁴⁵⁷

The *Revolutionary Youth* magazine dated October 1978, which was extensively used by the Defence during the hearings, refers to the same power of the collective to take the final decision, whether the couple formally agreed or not.²⁴⁵⁸ Denials of marriage

²⁴⁵⁴ **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 13.44.35 ["young women, single women, who [were] up to the reproductive age, [were] in the youth group or the mobile unit ... and their lives were very difficult because they had to wake up at 3 o'clock in the morning ... they were sent very far away from their family... Their lives were miserable, but they believed if they married ... they could escape from a really tough labour ... and ... could stay close to their parents ... [because of harsh living conditions] they would prefer to get married and they would propose to marry"]; **E3/10655** K. Nakagawa, *Motherhood at War*, EN 01322862 ["this consent was not a genuine choice, and such a request or motivation to marry was driven by the need to survive ... Both men and women who were interviewed made similar statements. The KR allowed married couples to enjoy some privileges, which drew single women to apply for marriages"]; **E3/9667** Nhim Kol WRI, A38 ["Sometimes people agreed to get married in order to avoid being sent to work in the front battle lines"], A42 ["they agreed to get married at that time because they wanted to avoid doing hard labor"]; **E3/9000** Duong Savorn, *The Mystery of Sexual Violence*, EN 00992194 ["A 21 year-old widow requested to marry him ... He did not love this woman ... this woman did not really love him, either ... she had three reasons. The first was to avoid further observation and suspicion against her because her first husband was accused of betraying *Angkar*. Secondly, once married she could come back to stay in the village with her parents. The third reason was that family of the woman was aristocratic during the previous period ... which stood in contrast to him and his whole family"]; **E1/387.1** In Yoeung, T. 3 Feb 2016, 15.41.02 ["I volunteered and I decided to get married so that I would be sent to be working in the cooperative since the situation there was better"].

²⁴⁵⁵ See section **Law – Crimes Against Humanity – Other Inhumane Acts – Forced Marriage**.

²⁴⁵⁶ **E3/2060** Analytical Report by the U.N. Commission on Human Rights, 30 Jan 1979, EN 00078662 ["Article 16 ... Specific violations ... relate to ... the need to apply for permission to marry, the arbitrary handling of such applications, and the infringement of the right of free choice on the part of females"]; **E3/20** E. Becker, *When the War was Over*, EN 00237962 ["In [DK] a couple could marry only with the approval of cooperative elders"]; **E1/326.1** Om Chy T., 30 July 2015, 15.49.07; **E1/335.1** Chhuy Huy, T. 24 Aug 2015, 11.28.10; **E3/5283** Chhuy Huy WRI, EN 00321201-02.

²⁴⁵⁷ **E3/775** Family Building policy document, EN 00417943, KH 00407101, FRE 00593930; See also **E1/466.1** Chea Dieb, T. 30 Aug 2016, 15.19.38-15.21.38 [referring to a passage from the Family Building policy document: "The content ... is consistent with what I experienced ... We had to respect the opinion of the collective"]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394897.

²⁴⁵⁸ **E3/765** *Revolutionary Youth*, Oct 1978, EN 00539994 [The comment on Moral Rule no. 6 states that for building a family, whenever the parties agree, the collective still needs to agree]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394897 [Locard commented the slogan 346 which is similar to Moral Rule

proposals made by one or both partners²⁴⁵⁹ were often followed by forced marriages to other individuals selected by the Party.²⁴⁶⁰ Some people who were disappointed by such decision by *Angkar* committed suicide or disappeared after refusing the partner *Angkar* imposed them.²⁴⁶¹

610. At odds with the evidence above, Expert Peg Le Vine testified that she “worked very hard to not even ask” couples whether they felt their marriages were forced or not, but that she came to the conclusion that they were not.²⁴⁶² In spite of the rather inexplicable logic behind her opinion, information volunteered by those interviewed in Le Vine’s study only confirmed that people were coerced into marrying against their will. Two of

no. 6: “346 ‘1-You can choose your spouse yourself. 2-*Angkar* endorses [your partner]. 3-If you do not obey *Angkar*’s discipline, you will be sent to a study session for a time’: “Again, another example of Orwellian ‘doublethink’. Young people had to accept a partner chosen by the Party and at the same time convince themselves that it was their own personal choice. Likewise, for the authorities, the spouse they chose was by definition the best, and therefore desired by both parties, since the Party was infallible in matters of the heart ... *Angkar* proclaimed *urbi et orbi* that everyone was his own master ... yet ... *Angkar* threatened him or her with a dire penalty-reeducation or even death-if he did not accept the Party’s choice”].

²⁴⁵⁹ **E1/197.1** Yos Phal, T. 27 May 2013, 15.34.58-15.39.19 [“My fiancée was a woman whom I understood well ... we were ready to get married. A unit chief asked me whether any of my fiancée’s relatives [were] ever smashed by *Angkar*. And I replied that her older brother was smashed by *Angkar*. Then the unit chief said ... that *Angkar* would prohibit me from marrying her because I was the son of *Angkar* and it was up to *Angkar* to organize the marriage”]; **E3/10622** Moeng Veth WRI, A164 [Division 117: “A164: Sometimes when a man proposed marriage to Woman ‘A’, at the actual ceremony, he had to marry Woman ‘D’ ... Then they could not reject that person”]; **E3/9111** K. Natale, ‘*I Could Feel My Soul Flying Away From My Body*’, EN 00992156; **E3/10655** K. Nakagawa, *Motherhood at War*, EN 01322862; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394888 [“Numerous were the cases of arrest, imprisonment, and execution for simple ‘adultery’ between consenting adults, including partners who were very much in love with each other but from whom the *Angkar* withheld permission to marry”]; **E3/9833** Muol Eng WRI, A223-225 [SWZ military forced to marry a woman he did not know after his regiment commander refused him to marry the woman he loved because she was related to a Lon Nol soldier].

²⁴⁶⁰ **E1/462.1** Om Yoeurn, T. 23 Aug 2016, 09.05.27-09.07.54 [“Om Phon... When he came to visit me, he noticed me, and he proposed to me. However, on the day that I got married, it was another man”]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 09.42.32, *confirming* **E3/4611** Yuos Phal WRI, A6 [Because his fiancée had a brother who was a Khmer Republic soldier and had been ‘smashed’, he could not marry her and his chief told him “that if I were a child of *Angkar*, *Angkar* thus would select a woman for me to marry”]; **E1/488.1** Preap Sokhoeurn, T. 24 Oct 2016, 09.24.53-09.28.08 [“there were cases where people worked together and loved each other and proposed to *Angkar*, but the *Angkar* turned the proposals down ... men were forced to marry women that they did not love and the women did not like the men”]; **E3/9662** Keo Theary WRI, A22, A25, A85 [“A22: Before I got married, a man proposed to my parents and *Angkar* to be married to me. That man cried on the wedding day because they arranged for him to marry another person. His name was Tri ... A85: some base people wished to be married to the new ones because the new people were attractive, but *Angkar* rejected that”]; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394888.

²⁴⁶¹ **E1/416.1** Phan Van, T. 7 Apr 2016, 11.27.39 [“One individual ... shot himself to death. That was the soldier who loved a lady, but he could not marry that lady. Later on, he killed -- he shot himself to death”]; **E3/9820** Preap Sokhoeurn WRI, A34 [“In some cases, a man loved a woman he knew and asked the unit chairperson to get married. When the unit chairperson did not permit them to get married, they protested, and they arrested both of them”]; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394888.

²⁴⁶² **E1/480.1** Peg Levine, T. 10 Oct 2016, 14.27.16.

the men interviewed stated that they refused the first time they were instructed to marry and were punished by hard labour.²⁴⁶³ Other witnesses stated that they married the spouse chosen by the authorities because: they “could not protest”;²⁴⁶⁴ “she did not agree but afraid of being killed, so agreed”;²⁴⁶⁵ “I had to follow Angkar or I would be killed”;²⁴⁶⁶ “She did not agree (Angkar killed people)”;²⁴⁶⁷ and “an older woman told her she must marry or she would be killed”.²⁴⁶⁸ One woman, “Moni”, who was highly educated and was tasked by the Khmer Rouge with preparing lists of those to be killed, told Le Vine that the authorities ordered her to marry an uneducated Base Person. She said she did not want to marry him or anyone for that matter, but went through with the wedding because her father told her he would be killed if she refused.²⁴⁶⁹

3. The Ceremony

611. Cambodian sacred traditions and rituals of the wedding ceremony intended to forge, celebrate, and bless the coming together of two families were not part of Khmer Rouge weddings.²⁴⁷⁰ Family members were generally excluded from the ceremony.²⁴⁷¹ CPK

²⁴⁶³ E3/1794 P. Levine, *A Contextual Study*, EN 00482653 [#9] and EN 00482659 [#30].

²⁴⁶⁴ E3/1794 P. Levine, *A Contextual Study*, EN 00482664 [#47].

²⁴⁶⁵ E3/1794 P. Levine, *A Contextual Study*, EN 0048672 [#70].

²⁴⁶⁶ E3/1794 P. Levine, *A Contextual Study*, EN 00482677 [#84].

²⁴⁶⁷ E3/1794 P. Levine, *A Contextual Study*, EN 00482673 [#72].

²⁴⁶⁸ E3/1794 P. Levine, *A Contextual Study*, EN 00482702 [#157].

²⁴⁶⁹ E3/1794 P. Levine, *A Contextual Study*, EN 00482434-35.

²⁴⁷⁰ E1/466.1 Chea Dieb, T. 30 Aug 2016, 14.14.05 [“there were no traditional procession of prayer or blessing ... our names were called out to match up with the male side. Then Angkar gave us some instructions and then we had to salute the Party’s flag ... It lasted for less than an hour”]; E1/475.1 Mom Vun, T. 16 Sept 2016, 14.23.08-14.27.47; E1/291.1 Pech Chim, T. 23 Apr 2015, 09.21.09; E1/472.1 K. Nakagawa, T. 13 Sept 2016, 13.49.55; E1/462.1 Sou Sotheavy, T. 23 Aug 2016, 15.16.23; E1/461.1 Om Yocum, T. 22 Aug 2016, 15.50.40; E1/454.1 Chin Saroeun, T. 3 Aug 2016, 14.09.25; E1/476.1 Heng Lai Heang, T. 19 Sept 2016, 09.35.56-09.50.55; E1/296.1 Khoem Boeun, T. 4 May 2015, 09.55.07; E3/9584 [REDACTED] WRI, A34 [“When they forced me to get married to my second husband, I said that how [could I] get married and live with him because we did not follow traditional ceremony; I was afraid that ancestors would harm us”]; E3/9830 [REDACTED] WRI, A83; E3/9826 [REDACTED] WRI, A168; E3/10655 K. Nakagawa, *Motherhood at War*, EN 01322865; E3/9614 T. De Langis et al., *Like Ghost Changes Body*, EN 01037033 [“Parental participation and ancestral rites were excluded, resulting in karmic consequences”], EN 01037041; E3/9831 [REDACTED] WRI, A112; E3/1794 P. Levine, *A Contextual Study*, EN 00482478, 91-92; E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992282-83; E3/436 Heng Lai Heang WRI, A26; E3/9578 Chhuom Savoeun WRI, A27; E3/9562 [REDACTED] WRI, A177, A188; E3/10783 [REDACTED] WRI, A81; E3/9785 Yim Sovann WRI, A82; E3/9756 Va Limhun WRI, A34; E3/9829 Suon Yim WRI, A12; E3/10639 [REDACTED] WRI, A209; E3/9468 Thann Thim WRI, A86; E3/9329 Yuok Iem WRI, EN 00272702.

²⁴⁷¹ E1/489.1 Nget Chat, T. 25 Oct 2016, 09.12.35; E1/472.1 K. Nakagawa, T. 13 Sept 2016, 13.47.50; E1/466.1 Chea Dieb, T. 30 Aug 2016, 13.54.56, 13.59.18; E1/469.1 Nop Ngim, T. 5 Sept 2016, 11.22.20-11.24.12; E1/475.1 Mom Vun, T. 16 Sept 2016, 13.38.11; E1/488.1 Preap Sokhoeun, T. 24 Oct 2016, 09.38.02; E3/9826 [REDACTED] WRI, A156 [Sangke District, Oct 1978: “My parents did not find my marriage legitimate because they were not present during the marriage ceremony”]; E3/10754 [REDACTED] WRI, A7; E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992282 [“In every case except one, family did not attend. Many respondents found this very upsetting”]; E3/9614 T. De Langis et al., *Like Ghost Changes Body*, EN 01037041, 78; E3/10655 K. Nakagawa, *Motherhood*

officials from all echelons presided over the ceremonies: unit chairpersons,²⁴⁷² village or cooperative chiefs,²⁴⁷³ commune chiefs,²⁴⁷⁴ district officials,²⁴⁷⁵ sector officials,²⁴⁷⁶ and zone officials,²⁴⁷⁷ as well as military officials.²⁴⁷⁸

- at War, EN 01322864-65; E3/3416 B. Toy-Cronin, 'I Want to Tell You', EN 00449488; E3/5184 Chea Thy WRI, EN 00225528; E1/265.1 Sao Hean, T. 18 Feb 2015, 10.07.26-10.10.05; E1/464.1 Yos Phal, T. 25 Aug 2016, 10.06.45-10.07.46; E1/461.1 Om Yoeurn, T. 22 Aug 2016, 15.50.40-15.52.38; E1/468.1 Phan Him, T. 1 Sept 2016, 09.31.59-09.33.54; E3/9820 Preap Sokhoeurn WRI, A22; E3/9829 Suon Yim WRI, A12; E3/9472 [REDACTED] WRI, A443; E3/5589 Kim Dav WRI, A5; E3/5248 Tem Kimseng WRI, EN 00235147; E3/9321 Saom Mon WRI, EN 00163771; E3/10626 [REDACTED] WRI, A43.
- 2472 E1/360.1 Pan Chhuong T. 1 Dec 2015, 11.08.32; E3/1113 Telegram from Ny Kan to Beloved Brother, 15 Mar 1978 [official answer to Yugoslav journalists: "The mobile unit commanding committee for the cooperative decides to arrange the marriage"]; E3/9756 Va Limhun WRI, A18, A26; E3/9651 Mom Sroeurng WRI, A1, A9 ["A1: Initially I objected, but the unit chairman threatened that if I did not accept, I would be sent back to the previous place, meaning the prison"]; E3/9820 Preap Sokhoeurn WRI, A23, A34; E3/5184 Chea Thy WRI, EN 00225528; E3/4657 Suong Sim WRI, EN 00353706; E3/9515 Peou Sinuon WRI, A80; E3/9829 Suon Yim WRI, A11; E3/9484 [REDACTED] WRI A70; E3/5561 Mao Kroeur WRI, EN 00384789; E3/5589 Kim Dav WRI, A5; E3/5510 Khim Pang WRI, A17. E3/9331 Chhut Daung WRI, EN 00274086; E3/5558 Horng Orn WRI, EN 00381009; E3/5677 Saom Mon DC-Cam Statement, EN 00597370.
- 2473 E1/326.1 Om Chy, T. 30 July 2015, 14.13.33-14.15.28; E1/253.1 Chou Koemlan, T. 27 Jan 2015, 10.05.09-10.06.45; E1/263.1 Em Phoeung, T. 16 Feb 2015, 13.50.00-13.51.17; E3/9755 Hin Long WRI, A54; E3/5255 Or Ho WRI, EN 00250047 ["I arranged marriages for them. Sometimes 30 to 40 couples at the same time"]; E3/9350 Van Sorn WRI, EN 00244170; E3/9826 [REDACTED] WRI, A95; E3/9778 [REDACTED] WRI, A166; E3/9765 [REDACTED] WRI, A99; E3/9471 [REDACTED] WRI, A68; E3/9761 [REDACTED] WRI, A108; E3/9472 [REDACTED] WRI, A443; E3/5589 Kim Dav WRI, A5; E3/5591 Hong Savat WRI, A28.
- 2474 E1/264.1 Pheou Yav, T. 17 Feb 2015, 10.48.20; E1/291.1 Pech Chim, T. 23 Apr 2015, 09.17.07; E3/5832 Cheang Sreimom WRI, A8; E3/9655 Khoem Neary WRI, A16; E3/9667 Nhim Kol WRI, A35; E3/9507 You Vann WRI, A2; E3/9562 [REDACTED] WRI, A181; E3/9656 Sbhong Yann WRI, A18; E3/9829 Suon Yim WRI, A6; E3/9760 Ly Chhuon WRI, A74; E3/5521 Nut Nouv WRI, A102; E3/9830 [REDACTED] WRI, A60; E3/5132 Preab Proeun WRI, EN 00223190; E3/5590 Kong Vach WRI, A49; E3/5833 Seng Ol WRI, EN 00413906-07.
- 2475 E1/376.1 You Vann, T. 14 Jan 2016, 15.34.53 ["It was Prak Yut [who presided over the ceremony once the marriage was approved] with the respective village chiefs"]; E3/5560 Tes Ding WRI, EN 00377170 ["The District 106 Com, at the time was Ran ... announced the names of the men and women who had to marry ... I had never met or known my wife before"]; E3/10783 [REDACTED] WRI, A88; E3/5590 Kong Vach WRI, A49; E3/10682 [REDACTED] WRI, A99; E3/9655 [REDACTED] WRI, A16; E3/9662 Keo Theary WRI, A28; E3/9575 Thang Theouy WRI, A70 [in a marriage ceremony for 85 couples: "[Preah Net Preah District Secretary] Yeay Chaem supervised the whole wedding"]; E3/9667 Nhim Kol WRI, A36; E3/9576 Keo Vooun WRI, A8, A10; E3/5212 Dy Piech WRI, EN 00275426; E3/9545 [REDACTED] WRI, A53; E3/9518 [REDACTED] WRI, A2; E3/9778 [REDACTED] WRI, A166; E3/408 Duk Suo WRI, A88.
- 2476 See e.g. E1/376.1 You Vann, T. 14 Jan 2016, 15.34.53 ["For many couples, between five to 10 couples, Ta An was present. However, for a ... fewer number of couples ... Prak Yut be presiding over the ceremony"]; E3/9822 [REDACTED] WRI, A360; E3/10755 Sat Pheap WRI, A159.
- 2477 See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Role of CPK Leaders in Forced Marriages**, para 619 (Ta Mok and Ke Pauk).
- 2478 E3/9833 Muol Eng WRI, A207 ["[my collective wedding ceremony] was presided over by the Regiment Commander by the name of Phea"]; E3/10639 [REDACTED] WRI, A160, A203, A206 ["the Division Commander arranged marriages for soldiers. At that time, Ren was the Division [2] Commander"]; E1/387.1 Meas Vooun, T. 3 Feb 2016, 10.40.55-10.45.23 [marriages were organised by Ta Soeung within Division 1, West Zone, and some women were brought in to marry Division 1 male soldiers]; E3/5564 Snguon Tai Ren WRI, EN 00414579; E3/5833 Seng Ol WRI, EN 00413906-07; E3/436 Heng Lai Heang WRI, A26. See also section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – Role of CPK Leaders in Forced Marriages**, para 619 (Meas Muth, Oeun and Sou Met, Commanders of Divisions 164, 310 & 502).

612. The couples took part *en masse* in austere hand-holding ceremonies that more closely resembled a meeting than a significant life event.²⁴⁷⁹ In fact, these ceremonies were no longer called “weddings” but ceremonies of “commitment”, “resolution”, or “exchange of vows”.²⁴⁸⁰ The evidence shows that the number of couples varied from one to hundreds, but very often the number was above 15 couples,²⁴⁸¹ and sometimes over 50 couples.²⁴⁸² Most frequently, the pairs were announced by name or were aligned in facing rows and instructed to hold hands with the person across from them.²⁴⁸³

²⁴⁷⁹ **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 13.47.50 [“it was just like a meeting”]; **E3/5498** Bun Thien WRI, EN 00384409; **E3/3474** Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284170 [“Weddings were fast and efficient ... A DK wedding was simply one activity compressed into the daily work schedule ... For DK, marriages were practical arrangements that served to unite individuals under the authority and scrutiny of the regime, making it simpler for DK to control their activities”]; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394888 [“Marriage was replaced by austere, collective, civil ceremonies, conducted under the auspices of the local *Angkar*”]; **E3/9341** Chhoeung Uo WRI, EN 00316786; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992282; **E1/291.1** Pech Chim, T. 23 Apr 2015, 09.21.09; **E3/9786** Mech Nanh WRI, A123 [“During a meeting, they announced that this comrade had to hold that comrade's hand. No big ceremony was held”]; **E3/4637** Sum Alat WRI, EN 00242124; **E3/9760** Ly Chhuon WRI, A70; **E3/9830** [REDACTED] WRI, A59; **E3/9329** Yuok Iem WRI, EN 00272702; **E3/369** Koy Mon WRI, EN 00272719; **E3/5589** Kim Dav WRI, A5; **E3/10713** Chuon Thy WRI, A21, A37 [Division 1: A37: They just called the couples to hold hands, and then the wedding was finished”]; **E3/10622** Moeng Veth WRI, A75.

²⁴⁸⁰ **E3/9736** Meas Saran WRI, A10 [the “regime used the word ‘to make resolutions’ instead of ‘marry’”]; **E1/360.1** Pan Chhuong, T. 1 Dec 2015, 11.08.32; **E3/5515** Pheou Yav WRI, A32; **E3/9328** Kheun Hun WRI, EN 00272626; **E3/9578** Chhuom Savoeun WRI, A27.

²⁴⁸¹ See e.g. **E1/464.1** Yos Phal, T. 25 Aug 2016, 09.55.13 [“They called 50 males to stand in lines according to numbers from 1 to 50, and they educated the men that, ‘Today, all of you would be married by Angkar’”]; **E3/384** Sao Sarun WRI, EN 00348373 [“I went to a meeting with Pol Pot ... and he said to marry them in couples, two or three couples could be married, to not make it too difficult”]; **E1/326.1** Om Chy T., 30 July 2015, 14.13.33 [10 to 15 couples for each marriage ceremony]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 13.51.41 [“between 30 to 32 couples”]; **E1/263.1** Em Phoeung, T. 16 Feb 2015, 13.37.55-13.47.10 [Tram Kak District: “group of 10 or 20”], 13.47.10-13.50.00 [about 30 couples]; **E1/264.1** Pheou Yav, T. 17 Feb 2015, 10.48.20 [Tram Kak District: 20 and 10 couples]; **E1/323.1** Sen Sophon, T. 27 July 2015, 15.46.50 [10 or 20 couples forcibly married]; **E1/417.1** Chum Mey, T. 18 Apr 2016, 09.51.38 [around 20 couples]; **E1/468.1** Phan Him, T. 1 Sept 2016, 09.31.59 [21 couples]; **E1/457.1** Yun Bin T. 15 Aug 2016, 11.07.55-11.10.04 [20 couples]; **E3/5255** Or Ho WRI, EN 00250047 [“I arranged marriages for them. Sometimes 30 to 40 couples at the same time”]; **E3/5832** Cheang Sreimom WRI, A8 [“only my couple”]; **E3/9775** Pen Thol WRI, A23 [2 and 60 couples]; **E3/9651** Mom Sroeuang WRI, A1, A9 [21 couples]; **E3/9664** Aok Chanty WRI, A12 [5, 20 or up to 37 couples]; **E3/9351** Meas Laihuo WRI, EN 00244165 [25 couples]; **E3/9350** Van Som WRI, EN 00244170 [40 couples]; **E3/9755** Hin Long WRI, A53 [Baray District: 3 to 5 couples]; **E3/9823** Nap Somaly WRI, A148 [20 couples]; **E3/9820** Preap Sokhoeun WRI, A32 [50, 40, 20 & 15 couples]; **E3/10749** Samrith An WRI, A40 [32 and 15 couples]; **E3/1678** Tuoloas Sma El WRI, EN 00353497 [20-30 couples]; **E3/408** Duk Suo WRI, A88 [33 couples]; **E3/409** Seng Soeun WRI, A70 [“I matched 35 couples in mid 1978”]; **E3/5558** Horng Orn WRI, EN 00381009 [24 couples]; **E3/5311** Mour Setha WRI, EN 00373370 [30 couples]; **E3/5590** Kong Vach WRI, A48 [32 couples]; **E3/9818** [REDACTED] WRI, A51 [38 women married to disabled Division 2 soldiers]; **E3/9545** [REDACTED] WRI, A53 [30 couples]; **E3/7803** Kan Thol WRI, EN 00277823 [30 to 40 couples at a time]; **E3/10733** Tuon Sim WRI, A21 [15 or 20 couples]; ²⁴⁸² See e.g. **E1/299.1** Ul Hoeun, T. 8 May 2015, 15.15.50 [Tram Kak District: “I saw a marriage celebration of 400 couples and that happened in September 1978”]; **E1/291.1** Pech Chim, T. 23 Apr 2015, 09.18.06 [“For example, if there were 12 communes and in each commune there were 100 people getting married at the same time and same place, therefore, there would be more than one thousand people getting married. Or there were 12 communes and in each commune there were 10 people getting married, then there would be more than one hundred people getting married. That's why> the wedding ceremonies

613. The matched couples were then required to make a “resolution” or “commitment” to 1) serve *Angkar* — which encompassed a wide variety of promises such as to work hard, to produce a certain amount of rice, or to obey *Angkar* — and 2) to accept their mate forever.²⁴⁸⁴ In the larger mass ceremonies, representatives were sometimes selected to make vows on behalf of the newlyweds in order to save time.²⁴⁸⁵ In addition to commanding them to work hard and respect *Angkar*, cadres routinely instructed the couples to “love each other”, to “get along”, “take care of each other”, or to “have children for *Angkar*”.²⁴⁸⁶ Despite the different words used, the meaning was the same:

- were held on a large scale”]; **E1/463.1** Sou Sotheavy, T. 24 Aug 2016, 13.56.02 [117 couples]; **E1/459.1** Mey Savoeun, T. 17 Aug 2016, 10.09.47 [60 couples]; **E1/360.1** Pan Chhuong T. 1 Dec 2015, 11.08.32 [Trapeang Thma Dam: about 50 couples]; **E3/9341** Chhoeung Uo WRI, EN 00316786 [Trapeang Thma Dam: “about one hundred couples getting married in one ceremony. Some couples lost their partners at the end”]; **E3/9329** Yuok Iem WRI, EN 00272702 [50, 100, or 200 couples]; **E3/9662** Keo Theary WRI, A2 [57 couples]; **E3/9655** Khoem Neary WRI, A16 [72 couples]; **E3/9831** [REDACTED] WRI, A99 [83 couples]; **E3/7818** Saing Nham WRI, EN 00290386 [51 couples]; **E3/9575** Thang Theouy WRI, A65 [85 couples]; **E3/9562** [REDACTED] WRI, A177 [about 100 couples]; **E3/9810** Nat Hoeun WRI, EN 00797024 [groups of 50 or 60 couples]; **E3/9775** Pen Thol WRI, A23 [60 couples]; **E3/9671** Sor Chheang WRI, A37 [50 couples or 70 couples].
- ²⁴⁸³ **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.09.26 [“We were in a line and the women were in a separate line, then they played a game similar to hide-and-seek. They actually switched off the light and that we had to feel a woman ... on another line”]; **E1/469.1** Nop Ngim, T. 5 Sept 2016, 10.45.36 [“we were made to sit separately, male and female, and then we were called to hold each other’s hands and voice our commitment or resolution”]; **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.59.18; **E1/323.1** Sen Sophon, T. 27 July 2015, 15.46.50; **E3/9831** [REDACTED] WRI, A98-100; **E3/9825** [REDACTED] WRI, A81-83; **E3/3416** B. Toy-Cronin, ‘I Want to Tell You’, EN 00449488; **E3/9667** Nhim Kol WRI, A35; **E3/9820** Preap Sokhoeun WRI, A28; **E3/10761** Sat Pheap WRI, A44; **E3/2812** H. Locard, *Pol Pot’s Little Red Book*, EN 00394898; **E3/409** Seng Socun WRI, A74; **E3/10682** [REDACTED] WRI, A99; **E3/9785** Yim Sovann WRI, A74; **E3/9833** Muol Eng WRI, A208.
- ²⁴⁸⁴ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.59.18 [“we had to make commitments in front of the symbols of the Angkar that was the sickle and the rice ... Angkar gave us instructions to follow and simply adhere to the disciplines of Angkar, to love one another and to strive to work hard to build the country”]; **E1/264.1** Phneou Yav, T. 17 Feb 2015, 10.48.20 [“people were instructed to make the resolution saying that ‘I commit to love my wife or my husband for the rest of my life’”]; **E1/464.1** Yos Phal, T. 25 Aug 2016, 09.58.02-10.02.27 [“I came out and made a commitment that, ‘I thank Angkar, Angkar is my parent. I will follow whatever Angkar order me to do’”]; **E1/469.1** Nop Ngim, T. 5 Sept 2016, 10.45.36; **E1/340.1** Mean Loeuy, T. 2 Sept 2015, 14.09.40-14.14.51; **E1/415.1** Soh Kamrei, T. 6 Apr 2016, 11.21.04-11.22.55; **E3/9819** Nop Ngim WRI, A68; **E3/10621** Chhouk Rin WRI, A84; **E3/5498** Bun Thien WRI, EN 00384409; **E3/9338** Yi Laisaun WRI, EN 00288642 [“They told us to stick to monogamy rule and make determination to serve Angkar”]; **E3/5833** Seng Ol WRI, A34; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992282; **E3/3416** B. Toy-Cronin, ‘I Want to Tell You’, EN 00449488; **E3/9824** Sum Pet WRI, A25; **E3/9662** Keo Theary WRI, A28; **E1/265.1** Sao Hean, T. 18 Feb 2015, 10.07.26-10.10.05; **E3/5832** Cheang Sreimom WRI, A8; **E3/10626** [REDACTED] WRI, A44; **E3/5177** Ouk Savuth WRI, EN 00272135; **E3/5212** Dy Piech WRI, EN 00275426; **E3/10682** [REDACTED] WRI, A98; **E3/9761** [REDACTED] WRI, A109; **E3/9824** Sum Pet WRI, A40; **E3/9833** Muol Eng WRI, A208.
- ²⁴⁸⁵ **E1/322.1** Kong Uth, T. 25 June 2015, 11.04.25; **E1/487.1** Preap Sokhoeun, T. 20 Oct 2016, 14.27.27; **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 13.49.55; **E3/5589** Kim Dav WRI, A5; **E3/9651** Mom Sroeurng WRI, A9; **E3/9736** Meas Saran WRI, A21.
- ²⁴⁸⁶ See e.g. **E1/475.1** Mom Vun, T. 16 Sept 2016, 13.38.11 [“Cadres who married us, the 60 couples, made an announcement that the newlywed couples had to love one another, to take care of one another, and to strive to engage in production to increase the produce, so that our economics could develop and that we could smash the enemies and we had to produce more children for Angkar”]; **E1/488.1** Kul Nem, T. 24 Oct 2016, 15.11.34 [“They said that if we did not produce children for Angkar, then we were against the

they were expected to consummate their marriage to increase the population.²⁴⁸⁷ Some explicitly mentioned that divorce was prohibited; this derives from the principle that *Angkar* was infallible in matching couples.²⁴⁸⁸ Nget Chat remembers internally questioning the vows she was forced to make mere days after her first husband, a Khmer Krom, had been taken to be killed:

I was told to consummate the marriage and that we had to commit to one another and to produce as many children as possible. And how could I do that because I was so skinny and I only had gruel to eat? I did not have any strength inside me. However, I did not dare to say anything. I just kept making commitment saying the words that I [was] told to say or to clap my hands.²⁴⁸⁹

law”]; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.49.44 [“we had to love each other from the time onward ... and to produce babies, as many as possible, in order to meet the targets of Angkar. The Angkar needed more people to defend our country better ... We had to repeat those words”]; **E3/9826** [REDACTED] WRI, A97 [“they said ... ‘May the men and women holding hands create children to build the country’”]; **E3/9744** Muok Sengly WRI, A34-35 [“the people who presided over the wedding gave advice to each couple to love each other and have babies for *Angkar*”]; A37; **E3/9820** Preap Sokhoeun WRI, A31 [“Before starting the wedding, Sau announced to the meeting participants in general, ‘*Angkar* needs more forces,’ so they needed young men and women to get married to produce more children to add to the revolutionary forces”]; **E1/376.1** You Vann, T. 14 Jan 2016, 15.40.03-15.43.25 [“Q: Do you remember Prak Yut telling you that Ta An had made this rule that husbands and wives had to sleep together for national progress? A: Yes, that’s what I heard”]; **E3/10755** Sat Pheap WRI, A139-140 [“A139: [Ta An] said that after their marriage, people should love each other as married couples and had to produce children ... A140: He [Ke Pauk] told us to love each other and live in unity”]; **E3/9507** You Vann WRI, A31; **E3/10639** [REDACTED] WRI, A205-206.

²⁴⁸⁷ **E3/9667** Nhim Kol WRI, A44-45 [“they told us what to do as a husband and wife. If any couple did not get along with each other, they would be accused of being against Angkar or betraying Angkar. They did not say directly we had to have sex, but we all understood that they meant by that”]; **E3/9662** Keo Theary WRI, A32 [“after the wedding ceremony they instructed us to go to our house in the village and live together as husband and wife there”]; A36 [“living together as husband and wife means having intercourse”]; **E3/9756** Va Limhun WRI, A42 [“My unit chief, Chhen, told me straightaway that after the hand-holding ceremony, if I did not get along with my husband, I would be taken to be killed”]; **E3/9820** Preap Sokhoeun WRI, A36.

²⁴⁸⁸ **E1/488.1** Kul Nem, T. 24 Oct 2016, 14.27.44 [“the chief ... advised that ... if we were to divorce or to separate from one another, it means that we would be in trouble that could lead to death”]; **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.31.58; **E1/305.1** Meas Layhuor T., 26 May 2015, 09.44.53 [“After the marriage was arranged by Angkar, the newlywed did not dare to get divorced ... If they dare to get divorced, they would be killed by Angkar”]; **E3/9756** Va Limhun WRI, A26 [“make their vows to live together forever without divorce”]; **E3/9744** Muok Sengly WRI, A38; **E3/409** Seng Soeun WRI, A74 [“the couples were told that if they wanted to split, they could do so. But in reality if a man or a woman broke the marriage, then this person ... would be sent to work at a worksite”]; **E3/9321** Saom Mon WRI, EN 00163771; *Contra*: In a propaganda exercise, Pol Pot mentioned to Belgian visitors that divorce was theoretically possible without judgment but was not a real issue for the revolutionary family; **E3/5712** Pol Pot Statement at Meeting with Belgium-Cambodian Association Delegation, EN 00829765 (also **E3/76** FBIS, EN 00170424) [“The young men and women build up families on a voluntary basis. After marriage, should problems arise within the family, the masses give advice to the partners ... they have the choice of divorce. Neither of the parties concerned needs to go to the court. Normally the question of separation is very rare as both the husband and wife have a high political consciousness ... no contradiction is permanent and cannot be settled within the family”].

²⁴⁸⁹ **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.25.32-09.28.26, *see also* 09.56.48-09.58.09.

4. Rape within Forced Marriage (Forced Consummation)

614. DK authorities throughout the country were unequivocal in their message that the primary purpose of the couples' marriage was to procreate.²⁴⁹⁰ After the ceremony, officials typically required the "newlyweds" to spend a few nights together and consummate their marriage before sending them back to their respective worksites.²⁴⁹¹ Frequently, huts were arranged for them for those nights, where they were expected to have sex.²⁴⁹² To enforce consummation, Khmer Rouge militiamen were often stationed around or under the huts to monitor the couples' night-time activities and conversations.²⁴⁹³

²⁴⁹⁰ See section **Forced Marriage and Rape – Implementation of the Forced Marriage Policy – The Ceremony**. E1/378.1 Prak Yut, T. 19 Jan 2016, 13.41.08 ["After the marriage, it is common sense that they had to consummate their marriage. Then, if not, what was the purpose marriage?"]; E3/9472 [REDACTED] WRI, A476; E3/9786 Mech Nanh WRI, A149; E3/9824 Sum Pet WRI, A45; E3/5885 Kao San WRI, A17.

²⁴⁹¹ E1/339.1 Nuon Naron, T. 1 Sept 2015, 14.38.13 ["After three nights, we were separated ... we were not allowed to see each other"]; E1/325.1 Khin Vat, T. 29 July 2015, 15.31.16 [Kampong Chhnang airport: "After I got married with my husband and after I spent a week there, I returned. And I had to return because that was the instruction"]; E1/449.1 Moeng Vet, T. 27 Jul 2016, 10.08.23 ["they were not allowed to live together. They had to return to their respective units"]; E1/321.1 Chum Samoeun, T. 24 June 2015, 15.29.08; E1/489.1 Say Naron, T. 25 Oct 2016, 10.51.55; E3/5560 Tes Ding WRI, EN 00377171 ["one or two days before they would permit us to return to our units"]; E3/9662 Keo Theary WRI, A29; E3/9820 Preap Sokhoeun WRI, A36; E3/9562 [REDACTED] WRI, A190; E3/9769 Ly Lonn WRI, A113, A118, A120 ["A113: Three days after we got married, she was forced to work at her place, and we were apart from that time ... A120: Yes, I did [have sexual intercourse with my second wife]"]; E3/5231 Chea Leng WRI EN 00279255; E3/5177 Ouk Savuth WRI, EN 00272135; E3/9471 [REDACTED] WRI, A59; E3/9822 [REDACTED] WRI, A352; E3/9669 Penh Va WRI, A4; E3/9349 Chuop Non WRI, EN 00244159; E3/9833 Muol Eng WRI, A212; E3/9823 Nap Somaly WRI, A142; E3/9321 Saom Mon WRI, EN 00163771.

²⁴⁹² E1/472.1 K. Nakagawa, T. 13 Sept 2016, 13.53.00, 14.21.43 ["They were prepared a hut to stay a night or several nights together. So they were instructed to stay together overnight in those places and mostly they were instructed to consummate the marriage"]; E1/411.1 Sun Vuth, T. 31 Mar 2016, 09.11.42; E1/488.1 Nget Chat, T. 24 Oct 2016, 16.03.42; E1/480.1 P. Levine, T. 10 Oct 2016, 15.56.43; E3/5561 Mao Kroeun WRI, EN 00384790 ["The first night we were put in one long shelter with palm leaves roof but in different small rooms divided by pieces of cloth and mats. Q: Did the Khmer Rouge order the couples to have sexual intercourse on that night? A: They did not order that, but they told us that we committed ourselves by getting married and that if we did not make love to our husbands, we would have problems"]; E3/5560 Tes Ding WRI, EN 00377171; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041.

²⁴⁹³ E1/262.1 Ry Pov, T. 12 Feb 2015, 13.52.54 [Tram Kak District: "we were also instructed to monitor the activities of the newlywed couples, whether they got along well or they actually consummate their marriage. And then we can inform the units nearby"]; E3/9821 Kol Set WRI, A114 [Militiaman, Bakan District: "They ordered me to go around and listen and investigate the new-married couples, and then I had to report to them. They wanted to know who talked about *Angkar* and who refused to sleep together after their marriage. I had to report to them"]; E3/3474 Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284169 ["On the night of the wedding, informants would sneak underneath the stilted houses to listen to conversations that might ensue on the wedding night or the nights thereafter ... to make certain that couples were happy with the spouse DK had arranged for them, and second to make sure that individuals were not complaining about their work and the regime ... If couples were not happy with the spouse arranged for them by *Angkar*, they were defying DK orders and could possibly prove to be an undermining force"]; E1/462.1 Sou Sotheavy, T. 23 Aug 2016, 15.21.20; E1/464.1 Yos Phal, 25 Aug 2016, T. 10.48.34; E1/467.1 Chea Dieb, T. 31 Aug 2016, 10.02.40-10.07.42; E1/395.1 Uch Sunlay,

615. “Wedding nights” played out in different ways. Some couples engaged in sexual intercourse because they knew they were being monitored by militia.²⁴⁹⁴ Living under a constant cloud of terror and fearing retribution and punishment for disrespecting *Angkar* — being “smashed”, beaten, or sent for reeducation if they refused to consummate — others felt compelled to have intercourse with the person with whom they had just been paired.²⁴⁹⁵ While many of the men were themselves victims and only

T. 2 Mar 2016, 09.53.53 [“my father-in-law was forced to marry another woman ... he was monitored by the militia whether he consummated with his wife or whether they said anything else while they were together. And as a result ... my father-in-law was taken away and killed”]; E1/476.1 Heng Lai Heang, T. 19 Sept 2016, 09.35.56-09.40.32; E1/339.1 Chao Lang T. 1 Sept 2015, 14.38.13; E1/305.1 Meas Layhuor T., 26 May 2015, 09.46.36; E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.26.47; E1/264.1 Phneou Yav, T. 17 Feb 2015, 10.55.51-10.59.11; E3/9769 Ly Lonn WRI, A118, A120 [Bakan District, 1978: “They ordered a militiaman to hide and listen to me and my wife ... Q: Did you have sexual intercourse with your second wife? A120: Yes, I did. That was why the boy knew, and he ran to tell the unit chief about this. And then the unit chief said it was all right”]; E3/9240 R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992246, EN 00992283 [“Because the purpose of forced marriage was to produce children for Angkar, newly wed couples were almost universally pressured to engage in sex under the watchful eye of the Khmer Rouge”]; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449490; E3/9614 T. De Langis et al., *Like Ghost Changes Body*, EN 01037041; E3/9828 [REDACTED] WRI, A3, A11; E3/436 Heng Lai Heang WRI, A31-32; E3/5561 Mao Kroeurn WRI, EN 00384790; E3/9833 Muol Eng WRI, A212; E3/9578 Chhuom Savoeun WRI, A28; E3/9562 [REDACTED] WRI, A192; E3/9471 [REDACTED] WRI, A86; E3/9822 [REDACTED] WRI, A353-55; E3/9785 Yim Sovann WRI, A84; E3/9829 Suon Yim WRI, A19-22; E3/10744 Sum Chanthol WRI, A106; E3/9484 [REDACTED] WRI A68; E3/9472 [REDACTED] WRI, A477; E3/9830 [REDACTED] WRI, A79-80; E3/9575 Thang Theoy WRI, A77, A80.

²⁴⁹⁴ E1/489.1 Say Naroeun, T. 25 Oct 2016, 10.46.03 [After observing that two new couples were taken away by militiamen, because perhaps they “did not get along with each other... Then I thought to myself that I must live longer although my body was trembling, I agreed to give my body to my husband because I saw the militia men walking back and forth”]; E1/254.1 Cheang Sreimom, T. 29 Jan 2015, 10.40.49-10.44.13 [“Because there was a militiaman eavesdropping, I submitted myself to be a wife. I could not avoid”]; E3/5832 Cheang Sreimom WRI, A8 [“there were militiamen eavesdropping below the house. I did not want to make love with my husband, but I forced myself to do so. I knew that my husband did not love me because he loved another woman”]; E1/488.1 Kul Nem, T. 24 Oct 2016, 15.08.17 [“We were afraid ... I decided to consummate the marriage because we had been monitored ... we had to respect them otherwise we would risk being killed or tortured”]; E3/5561 Mao Kroeurn WRI, EN 00384789-90 [“I was forced to make love with my husband, and it was the first time ... The Khmer Rouge threatened that people who refused to have sexual intercourse after being married would be taken to the prison ... The Khmer Rouge militia stayed outside the shelter listening and spying on us”]; E3/9240 R. Braaf, *Sexual Violence Against Ethnic Minorities*, EN 00992283 [“Of the 40 ethnic minority respondents who married when they were first asked, 36 said that they felt forced to have sex because they were watched by Khmer Rouge cadre who patrolled sleeping areas at night”]; E3/9824 Sum Pet WRI, A33-34 [“they called these children ‘Angkar with pineapple eyes’ ... All these children were militiamen who monitored under peoples’ houses at night”], A41 [“in order to stop them from tracking us and so to avoid trouble, we had slept together other as spouses that night”], A45; E3/5558 Horng Orn WRI, EN 00381009 [“At night, the unit chief would come outside the house and check”]; E3/9830 [REDACTED] WRI, A79-80, A82; E3/3416 B. Toy-Cronin, *I Want to Tell You*, EN 00449490.

²⁴⁹⁵ E1/472.1 K. Nakagawa, T. 13 Sept 2016, 14.23.15 [“Not all but some explicitly said that they didn’t want to and they had to for their survival”], 14.36.55 [“Q: were they able to exercise full and free consent in terms of having sexual intercourse with their partners ...? A. No, I don’t think so ... the forced marriage, was of course not their own free will and the decision to sexuality was also not their own. They were terrified and they were scared. So it was not from their genuine decision, both men and women”]; E1/324.1 Mam Soeurn alias Heng Samuoth, T. 28 July 2015, 15.53.32 [Trapeang Thma Dam: “if they refuse to consummate the marriage, they would risk their lives because it was against the decision of Angkar”]; E3/5515 Phneou Yav WRI, A32 [Tram Kak District: “no couple dared to not get on well

engaged in sexual relations because of the coercion, some “grooms” threatened to denounce the “brides” to authorities if they persisted in refusing to consummate the marriage; a number of men also forced themselves upon their “wives”, either through fear of repercussions or simply because they felt entitled.²⁴⁹⁶ In every one of these scenarios, sexual intercourse took place without the consent of either one or both participants in the sexual act and constituted rape.²⁴⁹⁷

616. Some couples managed to successfully hide the fact that they had not consummated

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- because they were afraid of death. If any couple did not get on well, and it was known by the militiamen, they would report to the upper echelon. Next morning, they were called to be advised; they were threatened that they would be taken to some places such as being taken to keep at Krang Ta Chan”]; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421895-96; **E3/9614** T. De Langis et al., *Like Ghost Changes Body*, EN 01037054 [“Why did you feel forced to have sex after the wedding? ... 32.6% Surveillance / spying; 16.3% Fear of punishment”]; **E3/9756** Va Limhun WRI, A34-35, A48; **E3/9744** Muok Sengly WRI, A33 [“if a woman ... did not agree to live together as a couple, Angkar would take her to be killed”], A38; **E3/9667** Nhim Kol WRI, A44-45; **E3/9651** Mom Sroeurng WRI, A10-11 [“A11: My husband's unit chairperson told me that I had to get married, and if I did not do so, I had to be sent back to prison. Thus, I understood that sleeping together was necessary”]; **E3/5560** Tes Ding WRI, EN 00377170 [“If we did not get along with our mates, Angkar would tell us that they would take us for re-education”]; **E3/9829** Suon Yim WRI, A17; **E3/5585** Kao San WRI, A16-17.
- ²⁴⁹⁶ **E3/5561** Mao Kroeurn WRI, EN 00384790 [“We were both forced, and we did not dare to resist”]; **E1/472.1** K. Nakagawa, T. 13 Sept 2016, 14.24.57-14.28.40 [“some men used violence. It could be because he was also scared that he has to consummate the marriage and that drove him to use the violence against his wife”]; **E3/2959** K. Nakagawa, *Gender-Based Violence*, EN 00421892 [one female respondent stated: “... he beat me because I did not love him and refused to have sex... he hit me on the thighs with his hands so I couldn't struggle and it made it easier for him to have sex with me”], EN 00421896 [another respondent stated: “When I refused to have sex with him after the marriage, he reported it to the cadres, then they came to catch me and then in the house they forced me to take off my clothes in order that the man (the husband) can rape me. They said if I do not agree they will kill me ... So I had to agree because I had no choice”]; **E3/9614** T. De Langis et al., *Like Ghost Changes Body*, EN 01037041 [“Forced marriages included sexual violence in that sexual relations to consummate the marriage was also forced. Researchers have documented this practice”], EN 01037041 [“Ye discusses how the order to consummate marriages led to rape and sexual violence for many women by their assigned husbands”]; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992246 [“Some husbands also forced their new wives to have sex. Forced sex in forced marriages was very distressing for male and female victims alike”]; **E3/7233R** Video, *Red Wedding*, 2011, 09:42-10:12 [“The first night he grabbed me and ripped my clothes. He hurt me and asked them to spy on us. He tied my hands behind my back. I couldn't move. I wore two pairs of pants, he tore them. He tore everything ... He took off[f] all my clothes and he managed to hurt me...”]; **E1/483.1** Pen Sochan, T. 13 Oct 2016, 11.47.48; **E3/9820** Preap Sokhoeurn WRI, A43-45, A48 [A43: “One night, he tore my clothes apart and told me that if I was not willing to have sexual intercourse with him, he had to use force ... After the rape, he apologised me by telling me that he followed Angkar's direction ... A44: [describing the rape in details], A48; **E3/3416** B. Toy-Cronin, *I Want to Tell You*, EN 00449495: [“As one of the primary purposes of these marriages was to ensure reproduction, forced sex was a necessary part of the marriage ... In some cases the policy of forced marriage was used to legitimate rape”]; **E3/9578** Chhuom Savoeun WRI, A28 [“if the male party said the female party refused to get along, the Khmer Rouge would order the couple to have intercourse and the militia would eavesdrop on their activity. If the woman still refused, they would take the woman to be killed”]; **E3/9515** Peou Sinuon WRI, A79; **E3/9736** Meas Saran WRI, A48-49, A54-56 [“Q: How did they know that you avoided having sexual intercourse with your husband? A49: My husband told them ... A54: I stopped refusing because someone told me that we had already made our resolutions, and we must fulfil our vows ... A56: If I refused to sleep with him, he would have forced me”].
- ²⁴⁹⁷ See section **Law - Other Inhumane Acts – Rape** regarding the legal elements constituting rape within forced marriage (other inhumane acts).

their marriages,²⁴⁹⁸ but those who were discovered and those who continued to refuse were reeducated, threatened with execution,²⁴⁹⁹ or harshly punished for their disobedience and sometimes disappeared,²⁵⁰⁰ were tortured, and/or were executed.²⁵⁰¹

²⁴⁹⁸ **E1/361.1** Prak Doeun, T. 2 Dec 2015, 15.56.47 ["there were two couples who were caught not to consummate the marriage. And the rest, although they might or might not consummate the marriage, they kept quiet"]; **E1/488.1** Nget Chat, T. 24 Oct 2016, 16.03.42 ["We consulted among each other that we should not oppose and we should ke[ep] quiet because there were young militiamen walking nearby listening to us ... We kept quiet because we saw cases where people were taken away to be killed"]; **E3/9820** Preap Sokhoeurn WRI, A26-27 ["A26: I knew a couple: the woman Ret was Chinese and the man San was Cham. After the marriage, they did not sleep together because Ret minded that San was circumcised. Ret and San agreed to live with each other, but they did not expose that fact to other people ... A27: Back then, if any side showed that he or she did not want to live with their partner, *Angkar* would kill both people"]; A36, A38-39 [before being raped, Preap Sokhoeurn managed to conceal the non-consummation for months: "A36: When I was reluctant, Sau warned me, 'Look at those who were reluctant and disappeared' ... A38: I did not have sexual intercourse with him for the first four months ... The militiamen did not know about it"].

²⁴⁹⁹ **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.25.07 ["they warned if I did not consummate and if they find out, then we would be smashed"]; **E3/9614** T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037054 ["48.8% of respondents said they felt forced to have sex after the wedding because they were verbally threatened"]; **E1/387.1** In Yoeung, T. 3 Feb 2016, 15.18.05 ["they told us that we needed to consummate the marriage. If we refuse to consummate the marriage, we would be taken to the commune office to make sure that we would consummate there ... if we refused to follow the instruction we would be killed"]; **E1/378.1** Prak Yut, T. 19 Jan 2016, 13.47.30 ["For couples who did not consummate their marriage ... they would be brought to the district to be educated so that they could understand each other and because they were already married"]; **E1/376.1** You Vann, T. 14 Jan 2016, 15.38.30 ["people who refused to sleep together] ... would be refashioned for one and for two times and then they would agree to do so. So they did not get divorced"]; **E1/488.1** Preap Sokhoeurn, T. 24 Oct 2016, 09.26.45 ["Oeun, who was arranged to marry Mean. Mean had a large build, fat and was not fit ... Oeun was handsome. Mean loved the man she was paired with, but the man did not love her and from what Mean said, when she was asked to sleep together, he would sleep in a hammock while she slept in the hall so they did not actually consummate their marriage. And the news reach Angkar, and Angkar called them for education"]; **E3/5515** Phneou Yav WRI, A32 ["threatened that they would be taken to ... Krang Ta Chan"]; **E3/5560** Tes Ding WRI, EN 00377170 [re-education]; **E3/9651** Mom Sroeurng WRI, A10-11 ["A11: if I did not do so, I had to be sent back to prison. Thus, I understood that sleeping together was necessary"]; **E3/9820** Preap Sokhoeurn WRI, A36; **E3/9744** Muok Sengly WRI, A33, A38; **E3/9507** You Vann WRI, A78 ["If the first reeducation by village chiefs failed, they would be sent to see the commune chiefs to be re-educated in the same way. In the end, some couples agreed to sleep together and have children together"]; **E3/9756** Va Limhun WRI, A35-37 ["among the 'base people' ... Yeay Yim and Ta Nan ... they both were called to be re-educated"], A38-41 ["They took them to be refashioned ... If they still had not gotten along [after being refashioned], they would [have] been killed"]; **E3/9662** Keo Theary WRI, A69-70 ["Such cases ... happened a lot ... called them for re-education ... In some cases they reduced their food rations until they agreed"]; **E3/5833** Seng Ol WRI, A40; **E3/9578** Chhuom Savoeun WRI, A28; **E3/9824** Sum Pet WRI, A31, A35; **E3/9831** [REDACTED] WRI, A125; **E3/9821** Kol Set WRI, A116; **E3/9669** Penh Va WRI, A4; **E3/9562** [REDACTED] WRI, A193.

²⁵⁰⁰ **E1/376.1** You Vann, T. 14 Jan 2016, 15.41.44-15.45.38 ["When they agreed to sleep with one another then they did not disappear. However, for those who were related to the elements ... former soldiers, Cham ethnicities and Vietnamese ethnicities. Khmer people did not disappear because after being re-educated they followed the instructions"]; **E1/298.1** Ul Hoeun, T. 7 May 2015, 16.01.24-16.05.48 [Tram Kak District: "the woman was left alone at the graveyard in order to scare her off so that she would return to consummate the marriage. When the husband went to see her she scratched him hard preventing him from touching her. And this kind of practice happened elsewhere in all communes"]; **E1/488.1** Preap Sokhoeurn, T. 24 Oct 2016, 09.21.13-09.26.08 ["Comrade Proeung got married already and the husband was Oeun, who was short and had a slim build. And she said she did not want to have him as a husband because he looked like a kid. She refused and kept refusing and, later on, both of them, Proeung and the husband, disappeared"]; **E1/308.1** Seang Sovida, T. 2 June 2015, 11.09.25-11.14.10 ["she was deprived of food ... because she initially didn't consummate the marriage"]; **E3/9808** [REDACTED] WRI, A73,

Preap Sokhoeurn testified that, after refusing to consummate her wedding with her disabled husband, she was taken by ox-cart to another house where she was repeatedly told that she would be killed if she did not have sex.²⁵⁰² Later that night, she noticed that she was being monitored and her husband raped her, telling her he had to “follow *Angkar*’s orders”.²⁵⁰³

5. Separation

617. Newly married couples were expected to focus on the revolutionary goal of rebuilding the country and were usually sent back to their respective cooperatives or units, sometimes far from their new spouse, soon after spending their first nights together.²⁵⁰⁴

- A78-79 [“A73: I was ordered by the Khmer Rouge to call six couples to get married. After the wedding, some couples did not get along with each other, so they were taken to study and disappeared ... A78: anyone, either man or woman, who did not get along with each other would be sent to study”]; E3/9820 Preap Sokhoeurn WRI, A27, A34 [“A27: *Neary* Rin disappeared from the unit. When I asked Ni Li, ‘Where has Comrade Rin gone? Why?’ Comrade Li told me that they had taken her because she had not agreed to have sexual intercourse”]; E3/9614 T. De Langis *et al.*, *Like Ghost Changes Body*, EN 01037041; E3/9507 You Vann WRI, A81; E3/408 Duk Suo WRI, A93; E3/9831 [REDACTED] WRI, A125 [“They punished them by sending the men for re-education, but those men never returned”]; E3/9821 Kol Set WRI, A114, A116 [Militiaman, Bakan District: “A116: Those people were called for re-education, and they disappeared later”]; E3/9786 Mech Nanh WRI, A135-36 [“A136: She was taken to be re-educated two times or three times, and she still disagreed. Then she was taken to a prison”].
- 2501 E1/324.1 Mam Soeurn, T. 28 July 2015, 15.53.32 [Trapeang Thma Dam: “After the wedding or marriage, if the newlyweds were not satisfied with each other and if they refused to consummate the marriage, they would risk their lives”]; E3/9575 Thang Thoeuy WRI, A77-82 [“A77: If the couples did not consummate, they would be taken for execution... A78: in my unit, there were two or three women taken by the militia to be killed because they did not agree to consummate... A80: To my understanding, Yeay Chaem was the one who ordered the unit chief ... [to take] those who did not agree to consummate, for execution... A82: They were taken for execution in the forest”]; E3/9484 [REDACTED] WRI A67; E3/9472 [REDACTED] WRI, A480-86, A509-17 [two different individuals were sent for re-education because they refused to consummate the marriage with the persons assigned to them]; E3/9672 [REDACTED] WRI, A71-73 [Pursat: a couple forced to get married in Trach Kraol prison, were spied upon for three nights and killed because they did not consummate the marriage]; E3/9744 Muok Sengly WRI, A33.
- 2502 E1/487.1 Preap Sokhoeurn, T. 20 Oct 2016, 14.35.06 [“there was an oxcart coming to collect me ... if someone was taken by the oxcart, they would disappear ... we reached Prey Totueng ... there were Ta Hom and Yeay Kim and they said that comrade, after the marriage, you have to have sexual intercourse; otherwise, you would be killed”]; E3/9820 Preap Sokhoeurn WRI, A43.
- 2503 E1/487.1 Preap Sokhoeurn, T. 20 Oct 2016, 14.37.33 [“my husband convinced me to sleep and I slept very tiredly on that night and when I woke up, I saw his hands on my body. And on that ... day, he tore my clothes, my shirt, my trousers, and took off my bra and then he raped me. I shouted. I was shouting at the time and he asked me not to shout because he said that he and I became husband and wife already. That was the first day that he raped me”]; E3/9820 Preap Sokhoeurn WRI, A43 [“After the rape, he apologized me by telling me that he followed *Angkar*’s direction”], A48.
- 2504 E1/464.1 Yos Phal, T. 25 Aug 2016, 09.58.02-10.04.10 [“And since we were introduced to one another when it was night time, we could hardly recognize each other, and only next morning that we could see one another clearly. But by that time, we had to return to our respective workplaces”]; E1/476.1 Heng Lai Heang, T. 19 Sept 2016, 09.58.35 [“After my marriage, during that regime, couples who got along with each other or not, they lived together briefly and then they were separated to work in their respective worksites”]; E1/473.1 K. Nakagawa, T. 14 Sept 2016, 09.35.18-09.38.43 [“The overall goal of the Khmer Rouge, to my understanding, was to achieve the revolution ... engage in the hard labour ... Because of this strategy ... the husband and wife were separated”]; E1/321.1 Chum Samoeurn, T. 24 June 2015, 15.29.08; E1/325.1 Khin Vat, T. 29 July 2015, 15.31.16; E1/339.1 Nuon Narom, T. 1 Sept

However, in order to produce babies for *Angkar*, couples were ordered, allowed, or encouraged to see each other, usually once or twice a month, but with the express authorisation of their superiors.²⁵⁰⁵

6. Role of CPK Leaders in Forced Marriages

618. The Centre's forced marriage policy was implemented in the highest echelons of the Party and a number of forced marriages were directly initiated or conducted by CPK leaders themselves, belying any claim that the DK Centre policy was merely to arrange and celebrate voluntary marriages. Indeed, since 1979, **Nuon Chea** and Ieng Sary have admitted that, under the CPK, marriage was not free and that couples were forced to marry.²⁵⁰⁶
619. **Khieu Samphan** announced in a meeting in 1975 that all single female and male youth workers from every ministry had to be married in order to produce children and

2015, 14.38.13; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, 13.51.41; **E1/264.1** Phneou Yav, T. 17 Feb 2015, 10.52.08; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.51.27; **E1/449.1** Moeng Vet, T. 27 Jul 2016, 10.08.23; **E3/3474** Kalyanee Mam, *Democratic Kampuchea (1975-1979)*, EN 00284168 ["To further regulate sexual activity within the regime and achieve absolute control over women's physical labor, DK also enforced strict limits on how often husbands and wives could meet"]; **E3/9** P. Short, *Pol Pot: The History of a Nightmare*, EN 00396533-34, FR 00639883; **E3/9240** R. Braaf, *Sexual Violence against Ethnic Minorities*, EN 00992283; **E3/9614** T. De Langis et al., *Like Ghost Changes Body*, EN 01037041; **E3/20** E. Becker, *When the War was Over*, EN 00237962; **E3/9736** Meas Saran WRI, A43; **E3/9562** [REDACTED] WRI, A190; **E3/9769** Ly Lonn WRI, A113-117; **E3/5231** Chea Leng WRI EN 00279255; **E3/5177** Ouk Savuth WRI, EN 00272135; **E3/9471** [REDACTED] WRI, A59; **E3/9822** [REDACTED] WRI, A352; **E3/9669** Penh Va WRI, A4; **E3/9349** Chuop Non WRI, EN 00244159; **E3/9823** Nap Somaly WRI, A142; **E3/9321** Saom Mon WRI, EN 00163771.

²⁵⁰⁵ **E1/487.1** Preap Sokhoeun, T. 20 Oct 2016, 15.06.30 ["he came to visit me every month. I almost forgot his face when he returns for his next visit"], 15.10.15 ["we could meet three nights per month and if we did more than that we would be disciplined"]; **E3/9820** Preap Sokhoeun WRI, A34; **E1/377.1** You Vann, T. 18 Jan 2016, 13.38.33; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.51.27 ["like once in every one week, we were allowed to meet each other again"]; **E1/462.1** Sou Sotheavy, T. 23 Aug 2016, 15.28.06 ["every 10 days"]; **E3/9614** T. De Langis et al., *Like Ghost Changes Body*, EN 01037041; **E3/9662** Keo Theary WRI, A50-51; **E3/9507** You Vann WRI, A77; **E3/5560** Tes Ding WRI, EN 00377171 ["One month or two after we had lived together, Angkar told us to meet one another again"]; Even Central Zone Secretary Ke Pauk and his wife Sou Soeun lived separately as work was the absolute priority: **E3/5294** Sou Soeun WRI, EN 00360119 ["We lived separately. He lived in Kampong Cham and I lived in Chamkar Leu. We were not allowed to live together. However, I could visit him and stayed with him for one or two weeks per month. Sometimes I visited him once every two or three months when he was very busy"]; **E3/436** Heng Lai Heang WRI, A33; **E3/9328** Kheu Hun WRI, EN 00272626; **E3/7688** Yim Saroeun WRI, EN 00275420; **E3/5231** Chea Leng WRI EN 00279254; **E3/2812** H. Locard, *Pol Pot's Little Red Book*, EN 00394888; **E3/3416** B. Toy-Cronin, *'I Want to Tell You'*, EN 00449489.

²⁵⁰⁶ **E3/4202** Gina Chon & Thet Sambath, *Behind the Killing Fields*, EN 00757496, FR 00849377-78, KH 00858253-54 ["the man always wants to choose a beautiful girl, so that's why we forced them to get married and Angka chose the wife"]; **E3/681** Ieng Sary Statement, *Pol Pot Aide Calls for World Support*, 1 Dec 1980 ["Mr. Ieng Sary said that all political parties would now be allowed ... : 'We will allow freedom for all religions and education. Marriages will be free and families live together' ... He added: 'there will be voluntary, not enforced cooperatives, not like before'"].

demanding that this be arranged.²⁵⁰⁷ Similarly, forced marriages were personally arranged and celebrated by other CPK leaders who were members of the JCE, including Southwest Zone secretary and Standing Committee member Ta Mok,²⁵⁰⁸ Central Zone secretary Ke Pauk and his deputy Ao An (Sector 41 secretary),²⁵⁰⁹ Minister of Social Affairs Ieng Thirith and deputy Sin Phalkun alias Sou,²⁵¹⁰ Minister of Commerce Van Rith,²⁵¹¹ Division 164 leaders (commander Meas Muth, as well as deputies Hang Doeun

²⁵⁰⁷ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 13.47.14-13.51.10 “[During the meeting at Ounalom Pagoda, Khieu Samphan] said that all female cadres needed to work for the state and those with the age above 19 from all ministries needed to be arranged to get married ... He asked all ministries to arrange marriage for all male and female youths. We should not [keep] them all without marriage, only those who were still young should be kept unmarried ... He said that they should ... get married so that they would produce children ... Not long after he said that, my forces were arranged to get married during the DK regime ... I was married in 1975”].

²⁵⁰⁸ **E1/469.1** Nop Ngim, T. 5 Sept 2016, 11.06.50 [38 disabled soldiers married Samlaut District: “It was Ta Mok who actually organized the wedding for us”]; **E1/252.1** Chou Koemlan, T. 26 Jan 2015, before 13.49.58-13.54.00 [Tram Kak District: “at the K-1 cooperative ... many couples ... were instructed to make a resolution during the ceremony, and Ta Mok was the one who presided the marriage”]; **E1/90.1** Khiev Neou, T. 21 June 2012, 14.02.29 [Ta Mok’s nephew married in Takeo, 1977: “Ta Mok organized this marriage for me – for my couple”]; **E3/9818** [REDACTED] WRI, A15, A29, A32, A44, A46, A51 [disabled (blind) Division 2 cadre, Southwest Zone, transferred and forcibly married by Ta Mok and Ta Tith to [REDACTED] together with 37 other disabled soldiers in Samlaut district, Northwest Zone, on 20 August 1978: “A44: Ta Mok called a meeting and told us, ‘You must not go anywhere today; you must take a shower and clean up this afternoon. I will arrange your marriages’ ... A46: First, Ta Mok convened the would-be couples by calling each spouse at a time. At the end of the ceremony, Ta Mok said: ‘Comrade Tith, Sector 1 Chairman, is invited to make a speech to the newly-wed couples’ ... A51: We did not actually know about the wedding ceremony in advance”]; **E3/9833** Moul Eng WRI, A20 [“I recall travelling by train to Battambang. Before this departure, Ta Mok had arranged my wedding in Takeo Province. During this wedding, they called us by name, and we walked around, looking for our partner, whose name was announced earlier”], A216; **E3/9804** [REDACTED] WRI, A69-70 [“A72: I heard Ta Mok threaten two young women from the Southwest Zone that if they did not agree to get married to the old handicapped cadres, the girls would be sent to the battlefield”].

²⁵⁰⁹ **Regarding Ke Pauk: E3/10761** Sat Pheap WRI, A62 [head of disabled people in Prey Chhor District: “The wedding ceremony was held after the sector conference. I saw Ke Pauk as the presiding officer”]; **E3/10755** Sat Pheap WRI, A33, A140 [“A140: He [Ke Pauk] told us to love each other and live in unity”]; **Regarding Ao An**, Sector 41 Secretary and Deputy Secretary of the Central Zone: **E3/10755** Sat Pheap WRI, A27-28, 138-139; **E3/9507** You Vann WRI, A82; **E1/376.1** You Vann, T. 14 Jan 2016, 15.40.03 [“Q: Do you remember Prak Yut telling you that Ta An had made this rule that husbands and wives had to sleep together for national progress? A: Yes, that’s what I heard and that is for the progress and the development of the nation”]; **E1/378.1** Prak Yut, T. 19 Jan 2016, 13.38.44 [“Ta An participated in the wedding ceremony”].

²⁵¹⁰ **E1/500.1** Thuch Sithan, 21 Nov 2016, 14.46.49-14.51.30 [“The wedding took place at the Ministry of Social Affairs office ... There were 3 couples. Bong Sou was presiding over the ceremony ... Angkar acted as our parents during the wedding ceremony. People of my age who were in their twenties, either from the hospitals or the Ministry of Social Affairs, they were arranged to get married by Angkar. It was Angkar who was the one deciding who to marry who ... We reached the age for marriage but there was no policy allowing us to get married to the one whom we love.”], 14.59.07-15.01.19; **E3/5305** Thuch Sithan WRI, EN 00345228, FR 00342208, KH 00349554-55 [“Ms. Sou, my supervisor, decided – with the approval of Ieng Thirith – that I was to marry Vasai ... it was the leaders, the authority figures, who decided this type of thing. We were not allowed to choose the person we wanted to marry”].

²⁵¹¹ **E1/467.1** Phan Him, T. 31 Aug 2016, 14.23.40 [“Ta Hong and Ta Rith were there. Then they called out each pair to hold hands, to announce them husband and wife”], 14.30.47 [“Ta Rith addressed the wedding. He was standing up, explaining us and educating us to love and be loyal to Angkar and the Party”]; **E3/5642** Phan Sarath OCP Interview, EN 00197563 [“Ta Rit presided over my wedding”].

alias Dim and Nhan),²⁵¹² Division 310 commander Sbauv Him alias Oeun,²⁵¹³ and Division 502 commander Sou Met.²⁵¹⁴

7. Physical and Mental Trauma Suffered by the Victims

620. Nationwide, men and women forced to marry during the DK regime often suffered physical and mental trauma at the time of the events. For many, the trauma has had long-lasting effects that continue to impact their lives today. Several witnesses reported experiencing physical distress when they realised they were being forced to marry someone they did not know or love.²⁵¹⁵ Many recalled weeping and experiencing an entire gamut of negative emotions at the time,²⁵¹⁶ while others are still haunted by the

²⁵¹² **E3/9743** [REDACTED] WRI, A3, A6, A8 ["A3: a radio operator contacted me telling me Meas Mut wanted to see me at his home ... When I arrived at his home ... I had no idea what was going on there. Soon, Ta Nhan called a bride to come out, and then he declared a wedding ceremony ... A6: I had no choice at all ... A8: I think Ta Mut was the initiator of my marriage... I thought he wanted me to be one of relatives because my wife was a blood relative of his"]; **E3/9736** Meas Saran WRI, A21, A28 [forcibly married together with 70 couples to a Division 3 (renamed Division 164) military soldier: "A21: After Ta Dim finished his speech, the two or three couples at the front stood, held each other's hands, and made their resolutions ... A28: Ta Dim was the one who told all the couples to repeat 'resolve' after him"]; **E3/9069** Ma Chhoeun DC-Cam Statement, EN 00969949 ["Q: Who gave instruction for you to get married? A: Ta Mut"]; **E3/10768** [REDACTED] WRI, A226 [REDACTED] "She served as a medical staff in Kampong Som, and the upper level arranged the marriage for us. I did not know her before the wedding. Ta Nhan who replaced Ta Chhan arranged the marriage for us. However we divorced"]. As for the position of Hang Doeun alias Dim, see e.g. **E3/10768** [REDACTED] WRI, A31.

²⁵¹³ **E3/10733** Tuon Sim WRI, A21-26 ["A21: I saw 15 or 20 couples married simultaneously in a place near Wat Phnom ... A22: No. Some people confused their partners. Q: Did you see that yourself? A23: Yes, because I played music there ... A24: they did not want to marry, because the only thing they knew was that they were going to be married. However, they did not know to whom they were being married ... A25: Ta Oeun and Ta Voeung themselves organized that wedding. Q: Did those two organize all the weddings you attended? A26: Yes, they organized all of them"].

²⁵¹⁴ **E1/321.1** Chum Samoeun, T. 24 Jun 2015, 14.25.08 ["I was forced to marry a man in a five couple wedding ceremony"], 14.32.40 ["It was my unit chief, Met, who arranged the marriage for me"].

²⁵¹⁵ **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.14.46 ["My body shook, my heart was pumping blood quickly. However, I dared not to weep. And when we were told to make a commitment, I just said what I was told to do. I almost fainted"]; **E1/489.1** Say Naroeun, T. 25 Oct 2016, 10.39.00 ["I started to know that perhaps it was a marriage ceremony, so I started to feel fearful. My body was trembling. My body was cold because I was so fearful"]; **E3/5832** Cheang Sreimom WRI, A8 ["I was very shocked when I was told that they arranged the wedding for me that night. Ol told me that I had to marry Tri Tuoch ... I hated him very much. I did not dare to reject the wedding because in the meetings I had attended, we were told that 'we were children of Angkar,' and we had to follow Angkar's arrangements ... I did not have other choices. I cried in my mind, and I was very sad"].

²⁵¹⁶ **E1/469.1** Nop Ngim, T. 5 Sept 2016, 10.41.32 [forcibly married to a blind military in Samlaut District: "among other 40 couples ... Some of them even cried during the wedding. Some ran away. Two people ran away ... I also cried. I was disappointed, very disappointed since I had never seen my would-be husband before the marriage day ... if I had refused, I would have been killed"], 10.50.31 ["Everyone got angry because we were asked to get married"], 11.00.52 ["And I was very upset, and we all were very upset and we didn't eat meals for three or few days after"]; **E1/488.1** Nget Chat, T. 24 Oct 2016, 16.02.04-16.06.35 ["I looked at the face of my spouse and he's very old. I was only 20 years-old and he was over 40, about 18 years older than me, but I did not dare to protest ... when I saw [him], I felt intimidated and frightened"]; **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.56.48 ["I was still weeping at the loss of my husband, and I was sent to get married"]; **E1/466.1** Chea Dieb, T. 30 Aug 2016, 14.14.05 ["I was not happy and I had only tears - actually I wept almost every day. I felt the pain but I could not do anything"]; **E1/482.1** Pen Sochan, T. 12 Oct 2016, 13.42.57-13.45.49 ["I was very young and I was also

painful memories some 40 years later.²⁵¹⁷ Some witnesses and civil parties described the emotional difficulty of being forced to live in a conjugal relationship with a person they did not love.²⁵¹⁸

621. Victims were forced to marry despite being in love with another person.²⁵¹⁹ Witnesses recalled the inner conflict they felt between staying true to their partners versus staying alive. Kul Nem testified about the regret he still carries for dishonouring his former fiancée by marrying another woman in order to survive.²⁵²⁰ Other victims were grieving widows.²⁵²¹ Mom Vun recalled the fear she felt shortly after her husband was called for

scared"], 15.39.05-15.40.30 ["Both the male and the female side wept. Every one of the 12 couples"]; **E1/488.1** Kul Nem, T. 24 Oct 2016, 14.27.44 ["I, myself, felt the sorrow and pain inside me"]; **E1/113.1** Em Oeun, T. 23 Aug 2012, 15.55.36 ["My wife did not love me either, so, whenever we stayed together at night, we [cried] to each other"]; **E1/475.1** Mom Vun, T. 16 Sept 2016, 15.49.18 ["When we were standing together, we all wept ... Anyone would weep, regardless whether you were a single virgin or ... a widow ... All 60 of us stood together and wept"]; **E3/9820** Preap Sokhoeum WRI, A53 ["I dared not even look at my husband's face. I was very upset, and I looked down at the ground. When I saw his leg was curved, I was even more disappointed"]; **E3/9824** Sum Pet WRI, A31 ["it felt troubled ... My wife also felt frightened"]; **E3/9829** Suon Yim WRI, A40 ["I felt angry and sad"]; **E3/9830** [REDACTED] WRI, A72, A74, A84-85, A89 ["A72: He is 19 years older than me ... a widower ... A74: he was a lot older than me and was blind in one eye ... A84: I felt very upset inside my heart, and I also secretly cried, but I did not let anyone know that I was crying. Q: Was it dangerous to show your upset feelings and to let people see you crying? A85: Yes, it definitely was"].

²⁵¹⁷ **E1/466.1** Chea Dieb, T. 30 Aug 2016, 14.17.12 ["Every time I think of what happened that I did not like my husband, that I was organized to marry him by Angkar, I feel the pain in my chest"]; **E1/113.1** Em Oeun, T. 23 Aug 2012, 15.57.58 ["if I recall my past, I sometime cannot hold my tears"]; **E1/489.1** Nget Chat, T. 25 Oct 2016, 09.18.45 [Forced to remarry: "I endured the pain the most. I told my children that it was a great misery, and it stays inside me"]; **E3/7233R** Video, *Red Wedding*, 2011, 26:15-26:38 [Pen Sochan: "If I talk about it, I cry. The tears flow like the words"].

²⁵¹⁸ **E1/325.1** Khin Vat, T. 29 July 2015, 15.38.30 ["My husband advised me after the marriage that if I did not love him, just say nothing. If I told other people that I did not love him, I would risk my life ... I felt very sorry for my husband as well"]; **E1/255.1** Cheang Sreimom, T. 2 Feb 2015, 09.27.16 ["we physically stayed together as a husband and wife, but inside, our feeling was different. But because of the fear, we decided to follow the instruction of Angkar; otherwise we would be in danger – that is, fatal danger"]; **E3/9800** [REDACTED] WRI A188; **E3/9829** Suon Yim WRI, A9.

²⁵¹⁹ **E1/464.1** Yos Phal, 25 Aug 2016, T. 09.33.25 ["Before the Khmer Rouge required me to get married, I had been already engaged. I had a fiancée. We loved each other so much. We were prepared to get married, but ... the Khmer Rouge did not allow me to get married to my fiancée"]; **E3/4611** Yuos Phal WRI, A6; **E1/416.1** Phan Van, T. 7 Apr 2016, 11.27.39; **E3/5832** Cheang Sreimom WRI, A8 ["I did not want to make love with my husband, but I forced myself to do so. I knew that my husband did not love me because he loved another woman"]; **E3/9833** Muol Eng WRI, A223-225 [SWZ Military forcibly married to a woman he did not know after his regiment commander refused him to marry the one he loved].

²⁵²⁰ **E1/488.1** Kul Nem, T. 24 Oct 2016, 14.24.56 ["they asked me again and I replied that I agreed to the arrangement for the marriage despite my unsettling feeling, since I had a fiancée at my village ... I did that in order to survive ... my fiancée remained unmarried and I apologized to her ... it's a dishonour on my side to her... this unsettling feeling remains with me until the present day"].

²⁵²¹ **E1/199.1** Po Dina, T. 30 May 2013, 15.27.13 ["I lost my beloved husband, son and parents. I was then forced to marry another husband, but I refused. That was the time I was beaten and imprisoned"]; **E1/379.1** Lach Kry, T. 20 January 2016, 14.17.55-14.21.15 [testified his brother was forced to remarry after his ethnic-Vietnamese wife was executed]; **E1/475.1** Mom Vun, T. 16 Sept 2016, 11.13.35-11.16.02; **E1/487.1** Preap Sokhoeum, T. 20 Oct 2016, 15.43.36; **E1.461.1** Om Yoeun, T. 22 Aug 2016, 15.36.47-15.41.00, 15.42.39; **E3/5251** Lang Hel WRI, EN 00235496 ["Several months after they arrested my [pregnant] wife and [4] children, they had me marry my later wife"]; **E3/9769** Ly Lonn WRI, A111-