



អង្គជំនុំជម្រះវិសាមញ្ញក្នុងតុលាការកម្ពុជា

Extraordinary Chambers in the Courts of Cambodia
Chambres extraordinaires au sein des tribunaux cambodgiens

ព្រះរាជាណាចក្រកម្ពុជា
ជាតិ សាសនា ព្រះមហាក្សត្រ

Kingdom of Cambodia
Nation Religion King

Royaume du Cambodge
Nation Religion Roi

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STATEMENT BY THE INTERNATIONAL CO-PROSECUTOR ON CASE 003

On 14 November 2017, the International and National Co-Prosecutors filed their Final Submissions in Case 003 concerning the investigation of Meas Muth. A Final Submission is issued by the Co-Prosecutors at the conclusion of an investigation, requesting the Co-Investigating Judges either to indict the Charged Person and send him for trial, or to dismiss the case. In Case 003, the two Co-Prosecutors filed separate Final Submissions reflecting their differing views on whether the Co-Investigating Judges should issue an indictment against Meas Muth.

The Internal Rules of the ECCC provide that while the Co-Prosecutors’ Final Submissions must be filed confidentially, the Co-Prosecutors may release to the public an objective summary of their submissions. In the interest of transparency in matters of public interest, the International Co-Prosecutor provides the following summary of information contained in his Final Submission regarding the Meas Muth investigation. Readers should be aware that the summary below does not include the views of the National Co-Prosecutor (which are summarised in a separate public summary), or those of the Defence, and is in no way intended to reflect the opinions of the Co-Investigating Judges, who will make their own determination of the issues.

Now that the Co-Prosecutors’ Final Submissions have been filed, Meas Muth’s Defence will have the opportunity to respond to these submissions with its views on the law and evidence. It will then be up to the Co-Investigating Judges to decide whether Meas Muth is subject to the personal jurisdiction of the ECCC and whether the investigation has established his responsibility for crimes within the ECCC’s jurisdiction to the standard required to indict him and send him to trial. As with all charged or accused persons at the ECCC, Meas Muth retains the presumption of innocence, which is lifted only if and when guilt is established at trial and confirmed on any appeal.

Personal Jurisdiction

The International Co-Prosecutor’s Final Submission argued that the evidence demonstrates that Meas Muth was both a “senior leader” of the DK and one of the persons “most responsible” for the crimes committed between 17 April 1975 and 6 January 1979 within the meaning of the ECCC’s governing law, and thus falls within the personal jurisdiction of the ECCC.

The Submission pointed out that during the DK regime, Meas Muth held several high-level military and political positions at both the national and regional levels, making him one of the most senior and powerful leaders of the regime. Meas Muth was already a senior military commander in April 1975 when the Khmer Rouge took power. During the regime, he was promoted to even higher military and political positions. Meas Muth used the increased authority from these powerful roles to carry out the crimes described in the International Co-Prosecutor's Submission.

From 1975-1979, Meas Muth was the Secretary of Division 164, the largest division in the Revolutionary Army of Kampuchea ("RAK"). Division 164 had up to 10,000 personnel and included the DK Navy. Simultaneously, Meas Muth was Secretary of the Kampong Som Autonomous Sector, with 8,000-9,000 civilians under his direct authority. Later, during the DK internal purges, Meas Muth was also given authority over the vast region of Autonomous Sector 505 (Kratie). At the national level, Meas Muth was appointed to the CPK Central Committee. In 1978, he then became Deputy Secretary of the RAK General Staff, one of the most important military positions in the DK with the authority to give orders to all RAK units throughout the entire country. In the International Co-Prosecutor's view, given his high political and military rank, Meas Muth was among the most powerful and influential cadres, or "senior leaders" at the top of the CPK hierarchy.

The Submission also argued that Meas Muth was among those individuals "most responsible" for the crimes committed in the DK. Meas Muth's positions of responsibility enabled him to make many substantial contributions to crimes committed against thousands of Cambodian civilians, RAK military personnel, and foreigners, including in particular those of Vietnamese and Thai nationality.

The International Co-Prosecutor addressed concerns of how the indictment of Meas Muth could impact "the pursuit of justice, and national reconciliation, stability, peace and security." The International Co-Prosecutor noted that the convictions and life sentences handed down in Case 001 (against Kaing Guek Eav *alias* Duch) and Case 002/01 (against Nuon Chea and Khieu Samphan) have had no negative effect on national reconciliation, stability, peace or security, but rather have often been lauded for their many positive effects, including providing the victims of the Khmer Rouge in Cambodia some measure of justice. Further, there have been no negative public reactions to the disclosure that Meas Muth and other suspects were under investigation in Cases 003 and 004.

The International Co-Prosecutor believes that the indictment of Meas Muth would not compromise national reconciliation, stability, peace, or security in Cambodia. Rather, it is his belief that the effort to hold high-level DK leaders who were responsible for massive crimes accountable for their actions would enhance public confidence that persons of influence cannot forever evade responsibility for crimes and that justice is achievable.

Criminal Responsibility

In his Final Submission, the International Co-Prosecutor provided his analysis of the evidence collected in the investigation and an explanation regarding why, in his view, it establishes Meas Muth's responsibility for serious crimes within the jurisdiction of the ECCC to the standard necessary to send him to trial.

The International Co-Prosecutor argued that Meas Muth should be indicted and tried for the genocide of the Vietnamese group in Cambodia, for the crimes against humanity of murder, extermination, enslavement, imprisonment, torture, persecution, and other inhumane acts (specifically, inhumane treatment, enforced disappearances, forced marriage, and rapes within the context of forced marriage), and for grave breaches of the 1949 Geneva Conventions.

The investigation focused on Meas Muth's role in the CPK purges, primarily of RAK military divisions, including his own Division 164 and Division 117 based in Sector 505, two security centres, numerous worksites and agricultural production areas in the Kampong Som Autonomous Sector, and crimes committed against those captured at sea and on islands claimed by Democratic Kampuchea. The investigation produced convincing evidence that Meas Muth authorised the transfer of many of his victims to the DK's largest and most notorious security centre, S-21 in Phnom Penh, knowing they would be detained in inhumane conditions, tortured and executed. Meas Muth's crimes were not isolated or sporadic but occurred continuously over the entire DK period as part of a systematic persecution of the population.

1. Purge of Division 164: Meas Muth endorsed and implemented the CPK policy to purge so-called "enemies" from inside the ranks of the RAK, executing a systematic purge of his own Division 164, by identifying, arresting, detaining, enslaving, and killing cadres suspected of disloyalty to the CPK leadership. Meas Muth oversaw the incarceration of many victims in Division 164's own detention facilities, including those at Wat Enta Nhien in Kampong Som City, at Toek Sap and in Stung Hav, and delivered at least 67 Division 164 personnel to S-21. Many others were enslaved in numerous worksites in the Kampong Som Autonomous Sector.
2. Wat Enta Nhien Security Centre was one of the detention facilities operated by Division 164 located around two kilometres from Meas Muth's Division headquarters and home in Kampong Som City. The former pagoda was used for detention in grossly inhumane conditions, torture, and execution. Some prisoners were not killed on site, and were instead transferred to the S-21 security centre for further torture and execution.
3. Toek Sap Security Centre was a second prison in the Kampong Som Autonomous Sector where Meas Muth and his subordinates punished perceived "enemies" of the DK state. Military personnel and civilians enslaved in neighbouring cooperatives, former Lon Nol officials, and foreigners captured at sea were imprisoned, subjected to inhumane conditions, tortured, and executed. Many victims who were taken to Toek Sap were immediately executed on arrival. Hundreds of corpses were found in the vicinity of the security centre after the DK regime, many dug in shallow pits under durian and rambutan trees.
4. The Stung Hav Worksites were a group of worksites and related facilities operated by Division 164 in the north of the Kampong Som region. At these sites, Meas Muth and his subordinates forced demobilised Division 164 soldiers to work to exhaustion in inhumane conditions that amounted to the crime against humanity of enslavement. These workers lived under the constant threat of imprisonment, torture, and execution at the local jail, one of the other Kampong Som security centres, or in some cases, S-21.
5. The Ream Area Worksites were the primary crop production areas under Meas Muth's

control where demobilised soldiers and civilians were enslaved under inhumane conditions in order to farm for the DK regime and build water irrigation systems (e.g., dams, canals). Workers were arrested for the slightest perceived “mistake” and either executed at one of the nearby execution sites or S-21 security centre.

6. Purge of Division 117 and Sector 505: Meas Muth was assigned by the CPK leadership to take charge of Division 117 and Sector 505 (Kratie) in November 1978. He purged the previous Division and Sector leadership, sending most to S-21 where they were tortured and executed. Meas Muth then appointed his own Division 164 regiment commanders as secretaries of both the Division and Sector and brought Division 164 troops to the area. Meas Muth’s forces continued to purge the lower ranks, including Sector 505 commune chiefs, civilians and Division 117 soldiers. Meas Muth also continued the genocidal attack against the Vietnamese, sending Vietnamese nationals captured in Kratie to S-21.
7. Purges of other RAK Divisions: Meas Muth coordinated with the General Staff, Centre Division and Independent Regiment commanders to implement the criminal plan to purge the RAK by arresting, imprisoning, torturing, and executing RAK Centre Division and Independent Regiment members who were suspected of being traitors or otherwise enemies of the CPK without any legal process. Meas Muth endorsed that plan at military meetings and implemented it in his own areas. As a key contributor to this criminal enterprise, Meas Muth bears responsibility for over 4,800 other RAK prisoners, in addition to those from Divisions 164 and 117, who were sent to S-21.
8. Crimes committed against those Captured by the DK Navy in Waters and on Islands claimed by Democratic Kampuchea: As commander of the DK Navy, Meas Muth actively participated in the targeting, arrest, imprisonment, torture, and execution of thousands of victims - Vietnamese, Thai and other foreign nationals - captured in waters off the Cambodian coast and on its islands. Executions occurred either at sea, on one of the Cambodian islands, at one of the durian or coconut plantations in the Kampong Som Autonomous Sector, or at S-21.

The International Co-Prosecutor’s Submission further argued that the evidence establishes Meas Muth’s criminal responsibility for forced marriage and rape in the Kampong Som Autonomous Sector and for genocide of the Vietnamese throughout the areas under his control. In particular, the evidence shows:

1. Forced Marriage and Rape: In the Kampong Som Autonomous Sector, Meas Muth and his subordinates implemented CPK policies by compelling individuals to wed and forcing the victims to consummate these forced marriages without their free consent, constituting rape. Many couples received little to no advance notice of their impending union and some women were forced to wed men chosen by the regime, sometimes disabled soldiers they had never seen before. Meas Muth also imposed a rule that newlywed spouses had to sleep together to produce children. After the forced marriage ceremony, ‘newlyweds’ were often monitored by Meas Muth’s subordinates to ensure that they consummated their marriages, compelling both men and women to have sexual intercourse without the free consent of one or both partners. Forcing individuals to engage in sexual relations in conditions where free consent is either absent or impossible has been recognised as rape,

and in the view of the International Co-Prosecutor, Meas Muth and his subordinates committed this crime.

2. Genocide of the Vietnamese: The CPK leadership set out to cleanse the DK entirely of the Vietnamese ethnic group, initially mainly through deporting them to Vietnam, and by 1977, killing all Vietnamese that remained in Cambodia. The campaign of genocide by killings included the execution of many civilian fishermen and refugees captured at sea by Meas Muth's naval forces. Between 1975 and 1979, Meas Muth issued orders that Vietnamese prisoners captured at sea be killed on the spot or taken to land and sent for execution. Unlike Thai prisoners, whose lives could sometimes be negotiated for where the DK saw an economic benefit in doing so, the certain death prescribed for Vietnamese captured at sea or under Meas Muth's control in Kratie indicates that they were killed simply because they were Vietnamese.

The International Co-Prosecutor's Final Submission consisted of over 320 pages of substantive analysis accompanying more than 4,200 endnotes citing evidence collected during the investigation. This evidence comprised around 7,000 documents and audio-visual materials, including approximately 1,000 Written Records of Interview; approximately 650 Civil Party Applications lodged in Case 003; numerous contemporaneous CPK and DK records; S-21 prisoner lists; Documentation Center of Cambodia interviews; trial transcripts from Cases 001, 002/01 and 002/02; photographs; maps; and academic books and articles. The International Co-Prosecutor intends to ask the Co-Investigating Judges make the Co-Prosecutors' Final Submissions and the Defence response to those submissions public after appropriate redactions are made to protect the security and privacy of witnesses and victims.

Readers are again reminded that all suspects and charged or indicted persons are presumed innocent unless and until their guilt is proven beyond a reasonable doubt at trial and confirmed on any appeal.

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