



Forced Marriage Case Notes

Meas Muth Case

The Co-Prosecutors v Meas Muth

Case 003

June 2021

Key dates of the case



What happened?

The Khmer Rouge

From April 1975 to January 1979 the ruling party in Cambodia, called the Communist Party of Kampuchea (CPK) or Khmer Rouge, planned and created policies to build their version of a socialist state. To achieve their goals, the Cambodian population was forcibly transferred from their homes to worksites where they faced harsh conditions, starvation, forced labour, mistreatment, torture, disappearances and killings. As part of their collectivist approach, the Khmer Rouge practiced forced marriages and targeted groups such as Buddhists and the Cham because of their religion and ethnicity. Because they resisted the CPK, the Vietnamese population was also targeted.

Meas Muth was a military commander who was very close to the senior leadership level of the Communist Party of Kampuchea (CPK). He was tasked with purging the Revolutionary Army of Kampuchea (RAK), ordering people to be imprisoned, tortured or executed. He also targeted civilian groups who were perceived to be enemies of the state, including Thai, Vietnamese and Cambodians who had fallen under suspicion, for example of being affiliated with the former Cambodian government. Furthermore, Meas implemented a nationwide policy of enslaving people at forced labour sites where they were forced to grow and harvest rice; quarry rock; and build dams, roads and a port. He also oversaw a system of forced marriages in his areas of control.

The Extraordinary Chambers in the Courts of Cambodia

In 1997, the Cambodian government requested the United Nations to assist in establishing a tribunal to prosecute Khmer Rouge senior leaders and those most responsible for the crimes committed during the Khmer Rouge rein. The Extraordinary Chambers in the Courts of Cambodia for the Prosecution of Crimes Committed during the Period of Democratic Kampuchea (ECCC) were created in 2003. It is a hybrid court in that it combines Cambodian and international judges, prosecutors and defence lawyers and applies both Cambodian and international law. It is based in Phnom Penh, Cambodia.

The ECCC concluded its investigations in Case 003 and the Co-Investigating Judges issued two separate Closing Orders. The National Judge ruled to dismiss the charges against Meas because he does not fall within the personal jurisdiction of the ECCC. The International Judge, however, found that the ECCC did have personal jurisdiction over Meas. He highlighted Meas' high-level military role and charged him with genocide of the Vietnamese, crimes against humanity including enslavement and rape and forced marriage as inhumane acts, war crimes and crimes under Cambodian law. The Co-Lawyers for Meas and the National Co-Prosecutor appealed against the International Co-Investigating Judge's Closing Order (Indictment), and the International Co-Prosecutor appealed against the National Co-Investigating Judge's Closing Order (Dismissal).

On 7 April 2021, the Pre-Trial Chamber issued its Considerations on the appeals. The five Judges found Meas' appeal to be inadmissible, the Prosecutors' appeals to be admissible, the issuance of separate closing orders to be illegal, and the Indictment to be valid. However, as there was no supermajority order by at least four Judges to send the case file to the Trial Chamber for trial, the Pre-Trial Chamber has not yet forward the case file. On 20 May 2021, the Co-Investigating Judges denied the International Co-Prosecutor's request to transfer the case file to the Trial Chamber. The Judges rejected the Prosecutor's argument that the Pre-Trial Chamber's agreement on the validity of the Indictment meant that the case should go to trial when the National Judges had clearly requested the case file to be archived. The International Co-Prosecutor has notified the Pre-Trial Chamber that she will file a request to issues a decision to conclude the pre-trial stage to resolve the current judicial limbo of the Case 003.



What does the case say about forced marriage and modern slavery?

In his [Closing Order](#), the International Judge highlighted that the Khmer Rouge pursued a policy of forced marriage with the aim to further their socialist revolution by creating a new society of “desirable citizens” through marriage and birth. Implementing this aim sometimes included transferring people for the purpose of marriage.

In Case 003, the International Judges considered evidence that the Khmer Rouge matched couples with similar political, ethnic and class backgrounds. Favoured individuals such as soldiers could choose their spouse and have their choice approved by the authorities.

Often, forced spouses had never met before their wedding ceremony. Often, they were married without advance notice in group weddings. During the ceremony, forced spouses were asked to make vows or simply declared married. Wedding ceremonies were conducted without regard to Buddhist or Cambodian traditions. Most of them were attended by the forced spouses and members of the authorities. The parents of forced spouses were generally absent.

After the ceremony, forced spouses were taken to their matrimonial home where they were forced or coerced to consummate the marriage and to produce children.

After the wedding night, couples were split up and sent back to their respective work units. They were brought back together regularly, between once a week and once a month, for procreation. This shows that marital relationships remained under the control of the CPK.

While not every refusal to marry led to negative consequences, generally, people could not refuse their marriage or its consummation and they could not get divorced. They were threatened with or feared repercussions or punishment such as being sent for re-education, physical violence, rape or being forced to watch women being raped, or death.

Forced spouses felt pained and disheartened at being married without their family being told, disappointed at the wedding itself, unhappy at being separated after the wedding and angry at not being told earlier. They felt trapped in unhappy relationships and live with regret and sorrow at not having been able to choose their spouse or marry traditionally.

Consequently, many couples who were forcibly married separated after the fall of the Khmer Rouge. Some victims of sexual violence continue to suffer from physical injury and pain as well as psychological problems including anger, grief, fear, nightmares, depression and suicidal thoughts.

The International Judge distinguished these forced marriages from arranged marriages that presumably at least one of the spouses consented to.

Contrary to the International Judge's interpretation, the Defence was of the opinion that forced marriage cannot amount to another inhumane act.



Significance and points to note

The case highlights the debate about whether or not forced marriage can amount to another inhumane act, and how it differs from arranged marriage.

Learning from institutions and decisions in the Indictment

Enslavement

- Prosecutor v Kaing Guek Eav (Trial Judgment) 001/18-07-2007/ECCC/TC “Case 001” (26 July 2010): para 53
- Prosecutor v Milorad Krnojelac (Trial Judgment) IT-97-25-T (15 March 2000): para 53
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Trial Judgment) ICTY IT-96-23-T and IT-96-23/1-T “Foča case” (22 February 2001): para 53

Rape

- Prosecutor v Kaing Guek Eav (Trial Judgment) 001/18-07-2007/ECCC/TC “Case 001” (26 July 2010): para 56
- Prosecutor v Dragoljub Kunarac, Radomir Kovač and Zoran Vuković (Appeals Chamber Judgment) ICTY IT-96-23 and IT-96-23/1-A “Foča case” (12 June 2002): para 56

Forced Marriage

- Prosecutor v Nuon Chea and Khieu Samphan (Closing Order) 002/19-09-2007/ECCC/OCIJ “Case 002/02” (15 September 2010): para 62



Additional reading and resources

Boyle A, 'Dueling Decisions at the Khmer Rouge Trials Could Mean a Suspect Avoids Justice' (18 December 2018) accessed 15 January 2021 (available [here](#))

Cambodia Tribunal Monitor 15 January 2021 (available [here](#))

The Centre for Justice and Accountability, 'International or Hybrid Tribunal: Case 003' accessed 15 January 2021 (available [here](#))

Chheng N, 'ECCC Starts Hearing on Trying KR's Meas Muth' (27 November 2019) accessed 15 January 2021 (available [here](#))

Extraordinary Chambers in the Courts of Cambodia, 'Case 003' accessed 15 January 2021 (available [here](#))

Extraordinary Chambers in the Courts of Cambodia, 'Forced Marriage' (04 November 2014) accessed 15 January 2021 (available [here](#))

Open Society Justice Initiative, 'Recent Developments at the Extraordinary Chambers in the Courts of Cambodia' (2019) accessed 15 January 2021 (available [here](#))

Sovuthy K, 'ECCC Concludes Hearing on Trying Meas Muth' (02 December 2019) accessed 15 January 2021 (available [here](#))

Vida T, 'KRT Concludes Three Days of Hearing in Case 003 Against Meas Muth' (29 November 2019) accessed 15 January 2021 (available [here](#))