

**Cour
Pénale
Internationale**

**International
Criminal
Court**



Original: **English**

No.: **ICC-02/05-01/20**
Date: **13 November 2024**

TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

IN THE CASE OF

***THE PROSECUTOR v.
ALI MUHAMMAD ALI ABD-AL-RAHMAN (“ALI KUSHAYB”)***

Public
With Public Annexes 1-5, 8-10, 14, 16, 18, 20, 21, 24, 25, 30 and 32,
Confidential Annexes 6 and 27, and
Public Redacted Annexes 7, 11-13, 15, 17, 19, 22, 23, 26, 28, 29 and 31

**Public Redacted Version of “Prosecution’s Final Brief”,
4 November 2024, ICC-02/05-01/20-1206-Conf**

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court*
to:

The Office of the Prosecutor Mr Karim A. A. Khan KC Ms Nazhat Shameem Khan Mr Julian Nicholls	Counsel for the Defence Mr Cyril Laucci Mr Iain Edwards
Legal Representatives of the Victims Ms Natalie von Wistinghausen Mr Anand Shah	Legal Representatives of the Applicants
Unrepresented Victims	Unrepresented Applicants (Participation/Reparation)
The Office of Public Counsel for Victims	The Office of Public Counsel for the Defence
States Representatives	Amicus Curiae

REGISTRY	
Registrar Mr Osvaldo Zavala Giler	Counsel Support Section
Victims and Witnesses Section Mr Nigel Verrill	Detention Section
Victims Participation and Reparations Section Mr Philipp Ambach	Other

A. INTRODUCTION	5
B. ALI MUHAMMAD ALI ABD-AL-RAHMAN IS ALSO KNOWN AS ALI KUSHAYB	5
1) Introduction	5
2) Many witnesses knew the Accused as both ABD-AL-RAHMAN and Ali KUSHAYB	7
3) Contemporaneous documentation establishes that ABD-AL-RAHMAN was also known as Ali KUSHAYB	12
4) ABD-AL-RAHMAN shares many biographical details with the man known as Ali KUSHAYB	18
5) ABD-AL-RAHMAN willingly surrendered for a warrant of arrest in the name of Ali KUSHAYB	23
6) Conclusion	24
C. BACKGROUND	25
D. CONTEXTUAL ELEMENTS OF ARTICLE 8 AND ARTICLE 7	26
1) Contextual elements of article 8 (War crimes)	26
a) Existence of an armed conflict not of an international character	26
b) Nexus requirement	34
2) Contextual elements of article 7 (Crimes against humanity)	35
a) The conduct of GoS Forces and Militia/ <i>Janjaweed</i> involved the commission of multiple article 7(1) acts directed against the civilian population	35
b) GoS Forces and Militia/ <i>Janjaweed</i> acted pursuant to, and in furtherance of, a GoS State policy	36
c) The acts charged as crimes against humanity were committed as part of a widespread and systematic attack directed against the civilian population	46
d) The perpetrators of the crimes, including ABD-AL-RAHMAN, knew their conduct was part of, or intended their conduct to be part of, the widespread and systematic attack directed against the civilian population	48
E. COMMON ELEMENTS OF MODES OF INDIVIDUAL CRIMINAL RESPONSIBILITY	49
1) ABD-AL-RAHMAN was in a position of authority and influence	50
a) ABD-AL-RAHMAN was a senior Militia/ <i>Janjaweed</i> leader	50
b) ABD-AL-RAHMAN cooperated with senior GoS Officials and senior members of the GoS Forces	60
c) ABD-AL-RAHMAN cooperated with GoS Officials at the locality level	64
d) ABD-AL-RAHMAN cooperated with and/or exerted influence over certain members of GoS Forces at the locality level	65
e) ABD-AL-RAHMAN issued orders to members of GoS Forces including, in particular, those of lower rank	68
f) ABD-AL-RAHMAN remained in a position of authority after the charged crimes	69
2) ABD-AL-RAHMAN's individual criminal responsibility	72
F. PERSECUTION	76
1) Introduction	76

2) The perpetrators of the charged conduct in this case—including ABD-AL-RAHMAN—intended to discriminate against the predominantly Fur population of Kodoom and Bindisi and against predominantly Fur males in Mukjar and Deleig, because they were perceived as supporting the rebel armed groups.....	80
a) ABD-AL-RAHMAN and other Militia/ <i>Janjaweed</i> leaders and GoS Officials demonstrated their discriminatory intent, through various public declarations during the charged period	81
b) ABD-AL-RAHMAN and other perpetrators of the charged incidents demonstrated their discriminatory intent during the charged incidents.....	82
c) GoS Forces and Militia/ <i>Janjaweed</i> , including ABD-AL-RAHMAN, also demonstrated their discriminatory intent during other incidents in the charged period	90
G. CRIMES COMMITTED IN KODOOM, BINDISI AND SURROUNDING AREAS	92
1) Introduction.....	92
2) The crimes.....	99
3) ABD-AL-RAHMAN’s individual criminal responsibility	126
H. CRIMES COMMITTED IN MUKJAR AND SURROUNDING AREAS	138
1) Introduction.....	138
2) The crimes.....	145
3) ABD-AL-RAHMAN’S individual criminal responsibility.....	165
I. CRIMES COMMITTED IN DELEIG AND SURROUNDING AREAS	176
1) Introduction.....	176
2) The crimes.....	183
3) ABD-AL-RAHMAN’s individual criminal responsibility	205
J. JURISDICTION	217
K. ABD-AL-RAHMAN WAS NOT SUBJECT TO ANY RELEVANT MISTAKE OF LAW, OR GROUND EXCLUDING CRIMINAL RESPONSIBILITY.....	223
L. CONCLUSION.....	225

A. INTRODUCTION

1. Ali Muhammad Ali **ABD-AL-RAHMAN**, also known as Ali KUSHAYB, was born on or about 15 October 1949 in Rahad Al-Berdi, South Darfur, the Republic of the Sudan (“Sudan”). He is a national of Sudan. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, West Darfur State (“West Darfur”), Sudan.

2. During approximately two and a half years of trial, Trial Chamber I heard from more than 100 witnesses, orally and in writing, and recognised as formally submitted more than 1,800 items of evidence. This evidence, summarised in this Final Brief (“FB”),¹ establishes beyond reasonable doubt that **ABD-AL-RAHMAN** is guilty of the 31 charged counts of war crimes and crimes against humanity committed during the incidents in Kodoom and Bindisi, Mukjar, and Deleig, confirmed by Pre-Trial Chamber II.²

B. ALI MUHAMMAD ALI ABD-AL-RAHMAN IS ALSO KNOWN AS ALI KUSHAYB

1) Introduction

3. The Defence has consistently maintained, as its central line of argument, that **ABD-AL-RAHMAN** was never known by the nickname Ali KUSHAYB.³ Indeed, the Defence has suggested that a man by the name of Ali KUSHAYB might never have existed at all⁴ and, if he did, that the Government of Sudan (“GoS”) used **ABD-AL-RAHMAN** as a scapegoat for crimes committed by Ali KUSHAYB in Darfur in 2003-2004.⁵ These arguments fail. The overwhelming weight of evidence adduced throughout the trial establishes beyond a reasonable doubt that at all times during the charged period, **ABD-AL-RAHMAN** was the person who was also known by the name Ali KUSHAYB. There is no doubt: **ABD-AL-RAHMAN** is Ali KUSHAYB.

4. The evidence establishing the identity of **ABD-AL-RAHMAN** includes the extensive

¹ See [Third directions on the conduct of proceedings](#), paras. 12-15; [Order regarding the final briefs and closing statements](#), para. 9; [Decision on the Defence’s and CLRV’s Requests seeking an extension of the page limit for their final briefs under Regulation 37\(2\) of the Regulations of the Court](#), para. 15. All references to transcripts in this Final Brief are to the confidential versions.

² [Confirmation Decision](#).

³ [Defence Trial Brief](#), paras. 4(i), 12-17; [T-128-CT](#), p. 44, line 7-p. 45, line 17; [T-129-ET](#), p. 19, line 10-p. 20, line 11, p. 28, lines 2-25.

⁴ [T-31-ET](#), p. 5, lines 3-25.

⁵ [T-128-CT](#), p. 43, line 23-p. 47, line 1; [T-129-ET](#), p. 5, lines 7-10, p. 9, lines 16-22. See also [REDACTED].

testimony of witnesses who knew **ABD-AL-RAHMAN** by the name Ali KUSHAYB—before, during and after the charged period.⁶ Some of these witnesses recognised **ABD-AL-RAHMAN** as participating in the charged events in Kodoom and Bindisi, Mukjar and Deleig.⁷ Numerous witnesses recognised **ABD-AL-RAHMAN** in photographs, videos, and in the courtroom as the man they knew as Ali KUSHAYB.⁸

5. Further, contemporaneous documentation, in particular, from the United Nations and the GoS, including an interview of **ABD-AL-RAHMAN** conducted by the Sudanese Public Prosecution (“GoS Interview”), demonstrates that not only was **ABD-AL-RAHMAN** the man known as Ali KUSHAYB, but, prior to the issuance of the ICC arrest warrant, he was also suspected of, and investigated for, crimes allegedly committed in Darfur in 2003-2004.⁹ In addition, **ABD-AL-RAHMAN** shares many biographical details with the individual known as Ali KUSHAYB,¹⁰ and some of his sons also refer to themselves or are referred to by the name “Kushayb” in their social media accounts.¹¹

6. Finally, the circumstances surrounding **ABD-AL-RAHMAN**’s voluntary surrender to the Court in June 2020, including a video in which he identified himself by the nickname “Kushayb”, support the fact that he is the man also known as Ali KUSHAYB.

7. Nicknames are very common in Darfur and are often the name by which someone is most easily recognised.¹² Different nicknames can be used for the same person depending on the nature of the relationship,¹³ and nicknames can even be used behind someone’s back.¹⁴ It is possible to have multiple nicknames.¹⁵ Sometimes a nickname could be applied to members of the same family, for example, **ABD-AL-RAHMAN**’s brother Hassan and son Mohamed were both nicknamed “Kushayb”.¹⁶ Although the word “Kushayb” may relate to a type of

⁶ See below paras. 9-27.

⁷ See Annex 26: Non-exhaustive summary of evidence relevant to witness identification, recognition and knowledge of Ali Muhammad Ali ABD-AL-RAHMAN (Ali KUSHAYB) (“Annex 26”).

⁸ See below paras. 9-11. See also Annex 25: Witness recognition of the Accused as “Ali Kushayb” in photographs, videos and in the courtroom.

⁹ See below paras. 28-51.

¹⁰ See below paras. 52-57.

¹¹ See below paras. 58-60.

¹² P-0119: [T-38-CT](#), p. 10, line 23-p. 11, line 21, p. 93, line 14-p. 94, line 17; P-0850: [DAR-OTP-0224-0642](#) at 0642, para. 2, and [T-44-CT](#), p. 86, line 16-p. 87, line 11; [REDACTED]; P-0990: [T-41-CT](#), p. 23, line 16-p. 25, line 6.

¹³ [REDACTED]. See also D-39: [T-159-ET](#), p. 29, line 22-p. 30, line 1.

¹⁴ P-0990 : [T-41-CT](#), p. 25, lines 3-6; [REDACTED].

¹⁵ P-0012: [T-46-CT](#), p. 16, lines 13-16; [REDACTED].

¹⁶ [REDACTED]; P-0883: [T-71-CT3](#), p. 18, lines 10-13, [REDACTED], and [T-73-CT2](#), p. 79, lines 10-24, and [T-74-CT3](#), p. 3, lines 3-5, line 24-p. 4, line 1; P-0990: [T-41-CT](#), p. 22, lines 8-23. See also para. 58-60 below.

alcohol in parts of Sudan,¹⁷ the evidence demonstrates that the nickname “Kushayb” is not necessarily intended to connote a person who drinks alcohol.¹⁸ The name “Ali Kushayb” was not common in Darfur during the relevant period.¹⁹

8. The Prosecution does not dispute that **ABD-AL-RAHMAN**, in addition to the nickname KUSHAYB, was also sometimes addressed as “Abu Nasser”,²⁰ consistent with Sudanese cultural and Arabic language naming conventions based on the name of his eldest son.²¹ Notably, [REDACTED] stated that **ABD-AL-RAHMAN**, whom he knew as Ali KUSHAYB, was sometimes addressed as “Abu Nasir”.²² The Defence did not however put to a single Prosecution witness that **ABD-AL-RAHMAN** was addressed as “Abu Nasser”, violating the Chamber’s order to put its case to relevant witnesses and depriving them of the opportunity to address or explain this form of address.²³

2) Many witnesses knew the Accused as both **ABD-AL-RAHMAN** and Ali KUSHAYB

9. Many Prosecution witnesses knew **ABD-AL-RAHMAN** for years before, during and after the charged events in both his personal and professional capacities. Sixteen witnesses, including, as detailed below, P-0643, P-0883 and P-0905, knew **ABD-AL-RAHMAN** by both his full legal name, “Ali Muhammad Ali Abd-Al-Rahman”, or a part thereof, and his nickname

¹⁷ D-32: [T-140-CT](#), p. 24, line 18-p. 25, line 12; D-39: [T-159-ET](#), p. 30, lines 19-22, p. 67, line 21-p. 69, line 6; [REDACTED]; P-0012: [T-45-CT](#), p. 87, lines 4-22; P-0119: [DAR-OTP-0124-0196-R03](#) at 0215, para. 121, and [T-38-CT](#), p. 65, line 13-p. 66, line 2; P-0883: [T-74-CT3](#), p. 3, lines 18-23; P-0020: [T-41-CT](#), p. 73, lines 6-10, and [T-42-CT](#), p. 33, lines 9-14.

¹⁸ [REDACTED]; P-0883: [T-74-CT3](#), p. 3, line 24-p. 4, line 1; [REDACTED]; P-0020: [T-42-CT](#), p. 33, lines 4-8, p. 39, line 5-p. 40, line 9; P-0012: [T-45-CT](#), p. 87, lines 4-22; P-0119: [T-38-CT](#), p. 66, lines 3-24; P-0850: [T-44-CT](#), p. 87, lines 2-14; P-0990: [T-41-CT](#), p. 22, line 8-p. 23, line 15. *See also* [REDACTED].

¹⁹ P-0020: [T-41-CT](#), p. 76, line 18-p. 77, line 4, and [T-42-CT](#), p. 36, line 17-p. 38, line 12; [REDACTED]; P-0883: [T-71-CT3](#), p. 18, lines 10-13, and [T-73-CT2](#), p. 79, lines 10-24; P-0850: [DAR-OTP-0224-0642](#) at 0642, para. 2, and [T-44-CT](#), p. 95, lines 7-18.

²⁰ [Defence Trial Brief](#), paras. 15, 17.

²¹ D-32: [REDACTED], and [T-141-CT](#), p. 52, line 23-p. 53, line 11; D-02: [T-156-CT](#), p. 50, lines 20-24; [REDACTED]; D-08: [T-139-CT](#), p. 21, lines 10-12; D-11: [T-138-CT](#), p. 54, line 21-p. 55, line 11; D-39: [T-159-ET](#), p. 29, lines 2-12.

²² [REDACTED].

²³ The Chamber directed the non-calling Party to put its case to a witness on “the real matters in issue” since “it is thought that it is not fair to the witness that he isn’t given an opportunity to deal with what is going to be said about his evidence at the end of the case”, in particular, on the key issue of whether the Accused is Ali Kushayb. *See* [T-31-ET](#), p. 2, line 12-p. 6, line 11. It is inconceivable that the Defence did not know about this form of address from the earliest stage of the case, having chosen the defence that the Accused was not known by the nickname Ali Kushayb. *See also* [REDACTED].

“Ali Kushayb”.²⁴ Seven Prosecution witnesses recognised²⁵ **ABD-AL-RAHMAN** as the man they also knew as Ali KUSHAYB in photographs from his 2006 passport and his initial appearance in 2020,²⁶ while six witnesses, unprompted, recognised him in the courtroom.²⁷ In addition, witnesses recognised **ABD-AL-RAHMAN**, the man they also knew as Ali KUSHAYB, in two videos, referred to as the Um Sory Video²⁸ and the Teachers Video.²⁹

10. The Um Sory Video, filmed in approximately 2013, 2014 or 2015, depicts **ABD-AL-RAHMAN**, wearing a Central Reserve Forces (“CRF”) uniform with the rank of *musa'id*, making a speech to a crowd in Um Sory. The speech related to the 2013 clashes between the Ta’aisha and the Salamat tribes in the Um Sory area, which came under **ABD-AL-RAHMAN**’s CRF command.³⁰ Defence witnesses D-01, D-03, D-05, D-32 and D-39 recognised **ABD-AL-RAHMAN** as the main speaker. [REDACTED].³¹ P-0643,

²⁴ P-0011: [T-91-CT2](#), [REDACTED], p. 45, line 13-p. 46, line 8, p. 48, lines 9-15; P-0012: [DAR-OTP-0119-0503-R01](#) at 0511, para. 33, and [T-45-CT](#), p. 10, lines 18-20, p. 84, line 13-p. 87, line 2, and [T-46-CT](#), p. 16, lines 7-16; P-0119: [T-38-CT](#), p. 15, lines 18-23, p. 16, line 9-p. 17, line 2, p. 80, line 2-p. 81, line 24; [REDACTED]; P-0585: [T-99-CT](#), p. 39, lines 5-16; P-0903: [T-32-CT](#), p. 66, lines 17-22; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0606-0607, para. 23, and [T-68-ET](#), p. 10, lines 8-25, p. 21, line 1-p. 22, line 17; [REDACTED]; P-0990: [T-40-CT](#), p. 17, lines 1-2; [REDACTED]; P-0769: [REDACTED], and [DAR-OTP-0212-0108](#) (Translation [DAR-OTP-0215-4658](#) at 4660, no. 5); P-0994: [DAR-OTP-0222-0055-R01](#) at 0060, para. 24, and [REDACTED]. For P-0643, P-0883 and P-0905, see below paras. 12-15, 20-27.

²⁵ See [REDACTED] (on the distinction between “recognition” and “identification”).

²⁶ P-0643: [T-57-CT](#), p. 43, line 14-p. 45, line 14, and [REDACTED], p. 73, lines 9-14 ([DAR-OTP-0222-0037](#), and [DAR-OTP-0220-5589](#), and [DAR-OTP-0220-5596](#)); [REDACTED]; P-0883: [T-72-CT2](#), p. 39, line 19-p. 40, line 2, and [T-73-CT2](#), p. 82, lines 20-23 ([DAR-OTP-0222-0037](#)); P-0905: [T-86-CT](#), p. 59, lines 4-18 ([DAR-OTP-0222-0037](#)); [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0074, para. 93 ([DAR-OTP-0222-0082](#)). See also [DAR-OTP-0216-0248](#) at 0249 (passport dated 28 October 2006).

²⁷ P-0878: [T-77-CT2](#), p. 49, line 21-p. 50, line 7, p. 56, lines 7-10, p. 59, lines 19-21, p. 64, lines 21-22, p. 65, lines 4-5, and [T-78-CT3](#), p. 3, line 21-p. 5, line 16, and [T-79-CT](#), [REDACTED], p. 84, lines 9-17; P-0883: [T-73-CT2](#), p. 79, lines 10-15, p. 83, lines 4-14; P-0918: [T-77-CT2](#), p. 28, lines 8-15; P-0986: [T-65-CT](#), p. 40, line 9-p. 44, line 20 (P-0986 requested that he not be able to see the Accused while giving evidence); P-0585: [T-102-CT](#), p. 31, line 22-p. 32, line 1; P-0029: [T-29-CT](#), p. 58, line 22-p. 59, line 1. See also Annex 25: Witness recognition of ABD-AL-RAHMAN as Ali KUSHAYB in photographs, videos and in the courtroom. While in-court identification should be given little or no weight ([Lukić AJ](#), para. 120), identification evidence should be assessed in totality ([Limaj et al. AJ](#), para. 24; [Popović et al. AJ](#), para. 1103). Further, prior knowledge of an identified suspect is not necessary as identification may be based on other factors ([Musema AJ](#), para. 113). See also [Bemba TJ](#), para. 242 (for relevant factors when assessing identification evidence).

²⁸ [DAR-OTP-00012474](#) (Transcript [DAR-OTP-0223-0519-R01](#); Translation [DAR-OTP-00012491-R01](#)).

²⁹ [DAR-OTP-00000236](#) (Transcript [DAR-OTP-0220-3194](#); Translation [DAR-OTP-0220-3199](#)). An analysis conducted by the Netherlands Forensic Institute further supports that ABD-AL-RAHMAN appears in each video. See P-1062: [DAR-OTP-0223-0443](#) at 0452, and [DAR-OTP-00000976](#) at 2, and [T-109-ET](#), p. 17, line 14-p. 19, line 11, p. 20, line 21-p. 22, line 14.

³⁰ D-01: [T-155-ET](#), p. 24, lines 15-p. 25, line 6; D-03: [T-155-ET](#), p. 87, line 21-p. 95, line 5 (regarding 2013 clashes), and [T-156-CT](#), p. 10, lines 1-21; D-32: [T-141-CT](#), p. 39, line 4-p. 40, line 19; D-39: [T-159-ET](#), p. 94, lines 20-p. 95, line 1. See also [DAR-OTP-00012491-R01](#) at 2, lines 62-69; [DAR-OTP-00005646](#) (Translation [DAR-OTP-00006766](#)). See also [DAR-OTP-0202-1355](#) (Translation at [DAR-OTP-0219-9136](#)) (showing that the video must have filmed at least before 8 October 2016). See also paras. 195-200 below.

³¹ D-01: [T-155-ET](#), p. 23, line 9-p. 27, line 2 (version shown [DAR-OTP-00006452](#)); D-03: [T-156-CT](#), [REDACTED]-p. 15, line 2, p. 18, line 9-p. 28, line 19 (version shown [DAR-OTP-00006452](#), [REDACTED]); D-32: [T-141-CT](#), p. 39, line 15-p. 41, line 14, p. 56, lines 11-14 (version shown [DAR-OTP-0202-1377](#)); D-39: [T-](#)

[REDACTED], recognised **ABD-AL-RAHMAN** as the man he also knew as Ali KUSHAYB in the video.³² P-0643 pointed out that **ABD-AL-RAHMAN** was wearing a CRF military uniform with the insignia of *musa'id*, and holding the small axe (*farrar*) that he always carried with him.³³

11. The Teachers Video, filmed after the fall of the regime of President Omar Hassan Ahmad AL-BASHIR ("AL-BASHIR") in 2019, depicts **ABD-AL-RAHMAN** speaking to a crowd outside the Rahad Al-Berdi locality office in his capacity as head of the CRF and member of the local security committee. This public meeting took place after a student hit a female teacher, resulting in a teachers' strike that required the intervention of the security committee. It was attended by the heads of the military and police, the executive director of the locality, the *Nazir*, and teachers.³⁴ The Defence does not contest that **ABD-AL-RAHMAN** is the main speaker in the video,³⁵ which was confirmed by Defence witnesses D-01, D-05 and D-08. [REDACTED].³⁶ P-0883 recognised **ABD-AL-RAHMAN**, the man he also knew as Ali KUSHAYB, in the video.³⁷ After **ABD-AL-RAHMAN**'s speech, a member of the crowd is heard calling out, "Long live, Ali Kushayb!"³⁸

P-0643

12. P-0643, [REDACTED],³⁹ knew **ABD-AL-RAHMAN** for five years before the charged events [REDACTED].⁴⁰ P-0643 visited **ABD-AL-RAHMAN**'s pharmacy in the market many times,⁴¹ and heard that **ABD-AL-RAHMAN** was from the Ta'aisha tribe, had the position of *agid al-ogada*, and had retired from the Sudanese Armed Forces ("SAF") as a nurse.⁴²

[159-ET](#), p. 89, line 9-p. 95, line 18 (version shown [DAR-OTP-00006452](#), **ABD-AL-RAHMAN** visible at 1:21-1:29).

³² P-0643: [T-57-CT](#), p. 36, line 13-p. 42, line 15 (version shown [DAR-OTP-0220-4835](#), visible at 00:25:01), and [REDACTED], and [DAR-OTP-0220-5450](#).

³³ P-0643: [T-57-CT](#), p. 39, line 3-p. 43, line 13 ([DAR-OTP-0220-5453](#), paused at 09:09:19). See also [DAR-OTP-0218-0651](#).

³⁴ D-08: [T-139-CT](#), p. 83, line 13-p. 85, line 3; D-01: [T-155-ET](#), p. 19, line 14-p. 21, line 25; D-05: [T-158-ET](#), p. 74, line 1-p. 76, line 9. See also P-0883: [T-72-CT2](#), p. 43, lines 3-22, p. 44, line 19-p. 45, line 16.

³⁵ See P-0883: [T-74-CT3](#), p. 62, line 16-p. 64, line 16, p. 70, line 14-p. 71, line 14.

³⁶ D-01: [T-155-ET](#), p. 19, line 7-p. 23, line 8 (version shown [DAR-OTP-00000236](#)); D-05: [T-158-ET](#), p. 74, line 1-p. 77, line 7 (version shown [DAR-OTP-00000236](#)); D-08: [T-139-CT](#), p. 82, line 17-p. 85, line 3 (version shown [DAR-OTP-00000236](#)).

³⁷ P-0883: [T-72-CT2](#), p. 40, line 4-p. 45, line 20 (version shown [DAR-OTP-0215-2697](#)). See also P-0012: [T-46-CT](#), p. 95, line 6-p. 98, line 14 (version shown [DAR-OTP-0215-2697](#)).

³⁸ [DAR-OTP-00000236](#) (Transcript [DAR-OTP-0220-3194](#); Translation [DAR-OTP-0220-3199](#) at 3202, line 51).

³⁹ [REDACTED]

⁴⁰ [REDACTED].

⁴¹ [REDACTED].

⁴² P-0643: [REDACTED], and [DAR-OTP-0014-0213](#) at 0214.

13. [REDACTED],⁴³ [REDACTED].⁴⁴ [REDACTED].⁴⁵ P-0643 further stated that, after the charged events, **ABD-AL-RAHMAN** became a *Musa'id* in the CRF.⁴⁶

14. [REDACTED].⁴⁷

15. P-0643 recognised **ABD-AL-RAHMAN** as the man he also knew as Ali KUSHAYB in his passport photograph,⁴⁸ a photograph taken after his surrender in the Central African Republic (“CAR”),⁴⁹ a photograph from his initial appearance,⁵⁰ and the Um Sory Video.⁵¹

P-0874

16. P-0874, [REDACTED],⁵² knew **ABD-AL-RAHMAN** from around 1991 or 1992 when **ABD-AL-RAHMAN** retired from the SAF and opened a pharmacy in Garsila. From this time until the charged events, P-0874 would see **ABD-AL-RAHMAN** approximately once per month when he would go to the market to buy medication from him. P-0874 stated that **ABD-AL-RAHMAN** had been a *Musa'id* in the SAF,⁵³ and held the position of “*agid al-ogada*” and “*agid ashusha*.”⁵⁴

17. [REDACTED].⁵⁵ [REDACTED].⁵⁶

18. P-0874 stated that, in 2005 or 2006, **ABD-AL-RAHMAN** was recruited into the CRF with the rank of master sergeant, left for training in Al-Obeid, [REDACTED].⁵⁷ [REDACTED].⁵⁸ [REDACTED].⁵⁹ P-0874 also saw **ABD-AL-RAHMAN** in 2005 or 2006 when he visited his pharmacy in the Khartoum Bil-Leil neighbourhood in Nyala.⁶⁰

19. P-0874 recognised **ABD-AL-RAHMAN** as the man he knew as Ali KUSHAYB in his

⁴³ [REDACTED].

⁴⁴ [REDACTED].

⁴⁵ [REDACTED].

⁴⁶ P-0643: [T-57-CT](#), p. 40, line 23-p. 41, line 15, [REDACTED], and [DAR-OTP-0014-0213](#) at 0214. The rank “*Musa'id*” in Arabic is also translated as “master sergeant” and “warrant officer”.

⁴⁷ [REDACTED].

⁴⁸ P-0643: [T-57-CT](#), p. 43, lines 14-22, and [REDACTED] ([DAR-OTP-0222-0037](#)).

⁴⁹ P-0643: [T-57-CT](#), p. 43, line 23-p. 44, line 18, and [REDACTED], p. 73, lines 9-14 ([DAR-OTP-0220-5589](#)).

⁵⁰ P-0643: [T-57-CT](#), p. 44, line 25-p. 45, line 14, and [REDACTED], p. 73, lines 9-14 ([DAR-OTP-0220-5596](#)).

⁵¹ See above para. 10.

⁵² [REDACTED].

⁵³ [REDACTED].

⁵⁴ [REDACTED].

⁵⁵ [REDACTED].

⁵⁶ [REDACTED].

⁵⁷ [REDACTED].

⁵⁸ [REDACTED].

⁵⁹ [REDACTED].

⁶⁰ [REDACTED].

passport photograph.⁶¹

P-0883

20. P-0883, [REDACTED],⁶² first met **ABD-AL-RAHMAN** in the late 1990s or early 2000s.⁶³ P-0883 heard that **ABD-AL-RAHMAN** was Ta'aisha and had been a *Musa'id* and medical assistant in the SAF, who had fought in South Sudan.⁶⁴ P-0883 [REDACTED] and bought drugs from his pharmacy in Garsila market.⁶⁵ [REDACTED].⁶⁶ [REDACTED].⁶⁷ One of the soldiers who graduated from SAF training with **ABD-AL-RAHMAN** in the 1960s, and who used to talk about him, [REDACTED].⁶⁸

21. [REDACTED]. As detailed below, P-0883 provided extensive evidence regarding **ABD-AL-RAHMAN**'s leadership role,⁶⁹ interactions with known associates,⁷⁰ and participation in military operations, including in the Sindu area,⁷¹ as well as his involvement in the Deleig incident.⁷²

22. P-0883 further stated that, after the charged events, **ABD-AL-RAHMAN** became a leader of the CRF, that his forces received training at Al-Obeid, and that he later moved to Rahad Al-Berdi.⁷³ [REDACTED].⁷⁴ [REDACTED].⁷⁵ [REDACTED].⁷⁶ [REDACTED].⁷⁷

23. P-0883 recognised **ABD-AL-RAHMAN** as the man he also knew as Ali KUSHAYB⁷⁸

⁶¹ [REDACTED]; [DAR-OTP-0221-0778](#).

⁶² [REDACTED].

⁶³ [REDACTED].

⁶⁴ P-0883: [T-71-CT3](#), p. 17, lines 4-23, p. 18, lines 4-6, p. 25, lines 3-7, and [T-73-CT2](#), p. 80, line 21-p. 81, line 1, and [T-74-CT3](#), p. 5, line 25-p. 6, line 19.

⁶⁵ P-0883: [T-71-CT3](#), p. 15, lines 2-25, [REDACTED], and [REDACTED], p. 19, lines 3-13.

⁶⁶ P-0883: [REDACTED], and [T-73-CT2](#), p. 4, lines 3-16, and [T-74-CT3](#), p. 4, lines 3-16, [REDACTED] [REDACTED], p. 34, lines 5-15.

⁶⁷ P-0883: [T-71-CT3](#), [REDACTED], and [T-73-CT2](#), p. 79, lines 10-24, and [T-74-CT3](#), p. 2, line 11-p. 3, line 11.

⁶⁸ P-0883: [T-73-CT2](#), p. 81, line 15-p. 82, line 2.

⁶⁹ P-0883: [T-71-CT3](#), p. 14, line 8-p. 15, line 17, p. 16, line 1-p. 17, line 15, p. 28, lines 3-23, and [T-74-CT3](#), p. 29, line 12-p. 30, line 16.

⁷⁰ See e.g. P-0883: [T-71-CT3](#), p. 28, lines 17-23, p. 30, lines 14-18, and [T-72-CT2](#), p. 35, lines 2-7, p. 36, lines 5-16, p. 38, lines 3-11, p. 40, line 24-p. 42, line 14, and [T-72-CT2](#), p. 25, line 19-p. 26, line 5, and [T-72-CT2](#), p. 13, line 22-p. 14, line 14.

⁷¹ See e.g. P-0883: [T-71-CT3](#), p. 39, lines 3-20, p. 58, line 22-p. 59, line 19, and [T-72-CT2](#), p. 11, line 16-p. 12, line 12.

⁷² See below Section I: Crimes committed in Deleig and surrounding areas.

⁷³ P-0883: [T-72-CT2](#), p. 35, line 21-p. 37, line 13, and [T-73-CT2](#), p. 42, lines 11-24, p. 45, line 7-p. 51, line 1, and [DAR-OTP-00000065](#) at 4, para. 238 (Al-Obeid can also be spelled "Al-Ubayidh").

⁷⁴ [REDACTED].

⁷⁵ [REDACTED].

⁷⁶ [REDACTED].

⁷⁷ [REDACTED].

⁷⁸ P-0883: [T-71-CT3](#), p. 15, lines 14-17.

in his passport photograph,⁷⁹ the Teachers Video,⁸⁰ and in the courtroom.⁸¹ The Defence did not dispute that P-0883 knew **ABD-AL-RAHMAN** as the pharmacist in Garsila.⁸²

P-0905

24. P-0905, [REDACTED],⁸³ first met **ABD-AL-RAHMAN** in 2000.⁸⁴ P-0905 used to walk by **ABD-AL-RAHMAN**'s pharmacy in Garsila,⁸⁵ and [REDACTED].⁸⁶ [REDACTED].⁸⁷ [REDACTED].⁸⁸

25. [REDACTED].⁸⁹ P-0905 used to call **ABD-AL-RAHMAN** "Mr Musa'id" or "Mr Warrant Officer", but most other people would refer to him as "Ali Kushayb".⁹⁰ P-0905 described the axe that **ABD-AL-RAHMAN** [REDACTED].⁹¹

26. [REDACTED],⁹² [REDACTED].⁹³ P-0905 further stated that, after the charged events, **ABD-AL-RAHMAN** joined the CRF with the rank of *Musa'id* in Rahad Al-Berdi.⁹⁴

27. P-0905 recognised **ABD-AL-RAHMAN** as the man he also knew as Ali KUSHAYB in his passport photograph.⁹⁵

3) Contemporaneous documentation establishes that ABD-AL-RAHMAN was also known as Ali KUSHAYB

National Commission of Inquiry report and ABD-AL-RAHMAN's GoS Interview

28. Evidence relating to investigations conducted by the Sudanese National Commission of Inquiry ("NCOI"), and an interview of **ABD-AL-RAHMAN** carried out by the Sudanese Public Prosecution, further establishes the link between **ABD-AL-RAHMAN** and the name Ali KUSHAYB. The evidence detailed in the following paragraphs demonstrates that the

⁷⁹ P-0883: [T-72-CT2](#), p. 39, line 19-p. 40, line 2, and [T-73-CT2](#), p. 82, lines 20-23; [DAR-OTP-0222-0037](#).

⁸⁰ P-0883: [T-72-CT2](#), p. 40, line 4-p. 45, line 20 (version shown [DAR-OTP-0215-2697](#)).

⁸¹ P-0883: [T-73-CT2](#), p. 79, lines 10-15, p. 83, lines 4-14.

⁸² P-0883: [T-74-CT3](#), p. 18, lines 2-9.

⁸³ [REDACTED].

⁸⁴ [REDACTED].

⁸⁵ P-0905: [T-85-CT](#), p. 17, line 2-p. 21, line 6, and [REDACTED], and [DAR-OTP-00000257-R01](#).

⁸⁶ [REDACTED].

⁸⁷ [REDACTED].

⁸⁸ [REDACTED].

⁸⁹ [REDACTED].

⁹⁰ P-0905: [T-85-CT](#), p. 17, line 12-p. 18, line 10.

⁹¹ P-0905: [REDACTED], and [DAR-OTP-00000264](#).

⁹² [REDACTED].

⁹³ [REDACTED].

⁹⁴ [REDACTED].

⁹⁵ P-0905: [T-86-CT](#), p. 59, lines 4-18; [DAR-OTP-0222-0037](#).

interview with **ABD-AL-RAHMAN** is authentic and reliable.⁹⁶ Specifically, the interview has direct chain of custody to the GoS, was certified as authentic by the GoS, is a contemporaneous record, and is corroborated by witness testimony and other contextual evidence.

29. The NCOI was created on 8 May 2004 by Presidential Decree No. 97 of 2004 to investigate alleged human rights violations committed by armed groups in the States of Darfur pursuant to the Commissions of Inquiry Act of 1954,⁹⁷ and was headed by Dafallah Al-Haj Yusuf.⁹⁸ As part of its investigations, on 1 June 2004, the NCOI met with National Council Members from the States of Darfur, during which the Member for Garsila in West Darfur stated that “in Deleig, 127 people were gathered together by Lieutenant ‘Ali Muhammad ‘Ali nicknamed ‘*Kushayb*’”, who “liquidated them outside Deleig”.⁹⁹

30. The NCOI published its report in January 2005.¹⁰⁰ On the basis of witness accounts, the report describes that, on Friday, 5 March 2004, Deleig was cordoned off, and 105 to 110 displaced persons from the surrounding villages were arrested, including three community leaders.¹⁰¹ The report indicates that “[t]he detainees were taken to the Deleig police area [*sic*] by the leader of the *Fursan* armed militia, Muhammad ‘Ali Kushayb” and “killed and buried under the supervision of [...] the militia leader, Muhammad ‘Ali Kushayb”.¹⁰²

31. The NCOI report recommended that a judicial commission of inquiry be established to investigate the allegations of extra-judicial executions in the area of Deleig, given their seriousness and the existence of *prima facie* evidence.¹⁰³ Accordingly, on 19 January 2005, the Minister of Justice established a judicial commission to investigate the violations reported by the NCOI.¹⁰⁴ The commission was comprised of representatives of the Public Prosecution (also

⁹⁶ See [Lubanga TJ](#), para. 109; [Katanga & Ngudjolo Decision on Prosecutor’s bar table motions](#), paras. 24(b), 27; [Ntaganda TJ](#), para. 57; [Bemba First decision on admission of evidence](#), paras. 58-59, 65, 73, 75-76.

⁹⁷ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0381, para. 1, 0394-0396); [DAR-OTP-0035-0109](#) (Translation [DAR-OTP-0219-5715](#)); [DAR-OTP-0222-2979](#) at 3055, para. 218.

⁹⁸ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0395); [DAR-OTP-0035-0109](#) (Translation [DAR-OTP-0219-5715](#) at 5716); [REDACTED].

⁹⁹ [DAR-OTP-0063-0399](#) (Translation [DAR-OTP-0116-0549](#) at 0550, 0560-0561).

¹⁰⁰ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#)) (date found in the Arabic original at 0349).

¹⁰¹ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0408). The community leaders are named as Muhammad Sulayman of Tanaku, Adam Adam of Furqu, and Jaddu Khamsin ‘Abd-Al’Karim of Qaba, which is understood to be reference to *Umdah* Suleiman of Tanako, *Umdah* Kindiri of Forgo, and *Umdah* Khamis of Gaba. See Annex 23: Non-exhaustive list of persons killed in Deleig and surrounding areas (“Annex 23”), no. 26, 72, 80.

¹⁰² [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0408).

¹⁰³ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0387, para. 19(9), 0409, para. 16(5), 0428, para. 14(a)); [REDACTED].

¹⁰⁴ [DAR-OTP-0202-0092](#) at 0094-0095, lines 81-132; [DAR-OTP-0066-0470](#) at 0471.

referred to as the Attorney-General's Office).¹⁰⁵ The work of the commission was governed by the Sudanese Criminal Procedure Act of 1991.¹⁰⁶

32. The judicial commission interviewed **ABD-AL-RAHMAN** in Khartoum on 28 and 29 November 2006.¹⁰⁷ A copy of this interview, in both handwritten and typed form, was provided to the Prosecution by the GoS in response to a request for assistance. The interview was part of a batch of materials, referred to as the Darfur Investigation File, which was hand-delivered to the Office of the Prosecutor ("OTP") in two sealed envelopes by a representative of the Sudanese Ministry of Justice on 11 March 2021.¹⁰⁸ The file contains interviews conducted by the GoS regarding the Darfur events, [REDACTED].¹⁰⁹ The file was stamped and signed by a member of the GoS Attorney General's Office, certifying it as a true copy of the original.¹¹⁰

33. Several features of the interviewee are consistent with agreed facts in this case.¹¹¹ **ABD-AL-RAHMAN**'s name is recorded as "Ali Muhammad Ali Abd-Al-Rahman 'Ali Kushayb'", a Warrant Officer (*Musa'id*) in the CRF, residing in Garsila. He stated that he is from the Ta'aisha tribe and was born in Rahad Al-Berdi.¹¹² He further stated that he was in the SAF until he retired in 1993 and opened a pharmacy in Garsila.¹¹³

34. Furthermore, many of the statements made by **ABD-AL-RAHMAN** in this interview are consistent with evidence in this case. Notably, **ABD-AL-RAHMAN** gave his position as "Emir of the *Fursan* of the Mujahidin in Garsila",¹¹⁴ and described his participation in armed operations alongside GoS Forces in the Wadi Salih and Mukjar Localities, in particular, in Mukjar, Deleig, Bindisi, and Sindu.¹¹⁵ **ABD-AL-RAHMAN** further confirmed his interactions with known associates, including BAKHAT, Abd-Al-Rahman Dawud HAMMUDAH

¹⁰⁵ [DAR-OTP-0202-0092](#) at 0097, lines 198-217; [DAR-OTP-00001013-R01](#) at 3; [REDACTED].

¹⁰⁶ [DAR-OTP-0202-0092](#) at 0095, lines 109-118; [DAR-OTP-00001013-R01](#) at 3.

¹⁰⁷ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008, 7013-7014, 7016) (handwritten); [DAR-OTP-0218-0386](#) (Translation [DAR-OTP-0219-6910](#)) (typed).

¹⁰⁸ [DAR-OTP-00001013-R01](#) at 1-2.

¹⁰⁹ [REDACTED].

¹¹⁰ [DAR-OTP-00001013-R01](#) at 2-3; [DAR-OTP-0218-0231](#) at 0231 (Translation [DAR-OTP-0219-7007](#) at 7008).

¹¹¹ Although the age recorded in the interview (40 years old) is not consistent with the Accused having been born in 1949, the other identifying features establish that the interviewee is nonetheless the Accused. See [Third Agreed Facts AnxA](#), no. 1.

¹¹² [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008-7009); [DAR-OTP-0218-0386](#) (Translation [DAR-OTP-0219-6910](#) at 6911, 6913); [Third Agreed Facts AnxA](#), no. 4, 7, 13. The original handwritten and typed Arabic versions of the interview record his rank as *Musa'id*, which has been translated as "Warrant Officer" and "Sergeant Major".

¹¹³ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009); [Third Agreed Facts AnxA](#), no. 10, 15.

¹¹⁴ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008). See e.g. paras. 128-134 below.

¹¹⁵ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011-7015). See below paras. 153-157; Section G: Crimes committed in Kodoom, Bindisi and surrounding areas; Section H: Crimes committed in Mukjar and surrounding areas; Section I: Crimes committed in Deleig and surrounding areas.

(“HASSABALLAH”), ABD-AL-HAKAM, HAMDI, Major AL HARIKA, and Ahmad Muhammad HARUN (“HARUN”).¹¹⁶

35. There is no evidence that **ABD-AL-RAHMAN** was coerced or unduly influenced during the interview, or that it was not properly carried out in accordance with Sudanese law. To the contrary, the record shows that the first day’s questioning was postponed to the following day on account of **ABD-AL-RAHMAN**’s health, at which time he was transferred into the custody of his CRF unit.¹¹⁷ On the second day, **ABD-AL-RAHMAN** was able to correct two names he had provided the previous day.¹¹⁸ He then confirmed that everything else that he had stated was correct, and signed under the name “Ali Muhammad Ali Abd-al-Rahman”.¹¹⁹

36. [REDACTED].¹²⁰ [REDACTED].¹²¹ [REDACTED].¹²²

37. [REDACTED].¹²³ [REDACTED].

38. Further corroboration of the authenticity of the interview is provided by [REDACTED] who stated that, while **ABD-AL-RAHMAN** was serving in the CRF in Garsila, **ABD-AL-RAHMAN**, HAMDI and HASSABALLAH went to Khartoum where they were put under house arrest while being investigated for alleged crimes in Darfur.¹²⁴

39. Information provided to the Prosecution by the GoS authorities also contextualises and authenticates the interview. On 9 December 2006 (10 days after **ABD-AL-RAHMAN** was arrested and questioned), the Deputy Minister of Justice sent a letter to the ICC Prosecutor containing a list of suspects recently arrested by the judicial commission based on *prima facie* evidence of their involvement in incidents in Shattaya and Deleig. The list included “Ali Mohammed Ali Abdul Rahman, also known as Ali Koshein”, as well as HAMDI and HASSABALLAH.¹²⁵

¹¹⁶ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7010-7012). See e.g. paras. 141, 152, 160-168, 170-176, 178, 183-185, 189-190, 193 below.

¹¹⁷ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7013).

¹¹⁸ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7016).

¹¹⁹ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7016).

¹²⁰ [REDACTED].

¹²¹ [REDACTED].

¹²² [REDACTED].

¹²³ [REDACTED].

¹²⁴ [REDACTED]. This is consistent with the list of names of arrested persons sent by the GoS to the Prosecution on 9 December 2006. See below para. 39.

¹²⁵ [REDACTED]; [DAR-OTP-0123-0002](#) at 0003, no. 1, 2, 3.

40. In meetings with the OTP in Khartoum in January/February 2007, the GoS representatives clarified that the nickname of “Ali Muhammad Ali Abdul Rahman” was “Ali Kushayb” (not “Koshein”),¹²⁶ and explained that the judicial commission had issued a warrant for his arrest on 14 September 2005, but that he was not arrested until 28 November 2006, after which he was interviewed, and then remanded into the custody of his CRF unit.¹²⁷ On 31 January 2007, the GoS sent a letter to the ICC Prosecutor referring to these meetings, and responding to the OTP’s request to interview “Ali Mohammed Ali Abdul Rahman, also known as Ali Kosheib”.¹²⁸

41. As noted by the Chamber, although disputed by the Defence, the evidence relating to **ABD-AL-RAHMAN**’s GoS Interview was unchallenged by other evidence submitted during the trial.¹²⁹ The Defence merely called handwriting expert D-27 to comment on the authenticity of **ABD-AL-RAHMAN**’s signature on the document.¹³⁰ The results of D-27’s examination were ultimately inconclusive however¹³¹ (as acknowledged by the Defence¹³²) and, given the many limitations on her analysis,¹³³ D-27’s evidence should be afforded little, if any, weight.¹³⁴

¹²⁶ [DAR-OTP-0202-0190](#) at 0196-0197, lines 221-246. The GoS officials said that he had given his age as 40 years old, that he was from the Ta’aisha tribe, and a *Musa’id* in the CRF. They further confirmed that he was being investigated for his suspected involvement in incidents in Shattaya and Deleig, including the disappearance of three community leaders. See [DAR-OTP-0202-0190](#) at 0197-0200, lines 248-352, 0204-0207, lines 480-614 (the rank *musa’id* is found in the Arabic text at 0205, lines 539, 541), and [DAR-OTP-0202-0215](#) at 0216-0221, lines 15-202, 0232-0233, lines 601-620 (the rank *musa’id* is found in the Arabic text at 0217, line 48).

¹²⁷ [DAR-OTP-0202-0337](#) at 0344-0345, lines 245-296; [DAR-OTP-0202-0215](#) at 0233, lines 616-620; [DAR-OTP-0202-0190](#) at 0198-0199, lines 295-330; [DAR-OTP-0202-0337](#) at 0344-0345, lines 263-296; [DAR-OTP-0202-0396](#) at 0406, lines 331-343. See also [DAR-OTP-0138-0305](#) at 0305; [DAR-OTP-0157-1344](#) at 1344.

¹²⁸ [DAR-OTP-0123-0006](#) at 0006.

¹²⁹ [T-156-CT](#), p. 78, line 12-p. 81, line 5.

¹³⁰ [T-129-ET](#), p. 26, line 5-p. 28, line 1.

¹³¹ D-27: [DAR-D31-00000158](#) at 7-8, and [T-137-CT](#), p. 20, lines 2-13, p. 27, lines 5-10, p. 30, lines 6-24, p. 67, lines 1-9.

¹³² [T-156-CT](#), p. 80, lines 9-19.

¹³³ These included poor copy quality, very limited reference sample, use of reference signatures written specifically for handwriting comparison, non-contemporaneous reference and questioned signatures, the likelihood of changes to how a person writes their signature over a long period of time, the wide range of natural variation in how **ABD-AL-RAHMAN** writes his signature, and the multitude of factors that could affect handwriting (including injury to the writing hand and the circumstances in which a document was written). See D-27: [DAR-D31-00000158](#) at 3-4, 6, and [T-137-CT](#), p. 16, lines 5-21, p. 20, lines 5-11, p. 22, lines 2-11, p. 24, lines 9-24, p. 29, lines 21-24, p. 33, line 20-p. 35, line 17, p. 37, line 6-p. 39, line 9, p. 40, line 19-p. 41, line 24, p. 43, line 2-p. 50, line 16, p. 53, line 6-p. 54, line 1, p. 54, line 19-p. 55, line 13, p. 56, line 17-p. 57, line 7. See also P-0922: [DAR-OTP-0222-0312-R01](#) at 0319, paras. 27-28; [DAR-OTP-0221-1457](#); [DAR-OTP-0221-1458](#).

¹³⁴ In addition, the reference signatures were not obtained in accordance with accepted practice, nor was D-27’s expert report peer reviewed. See D-27: [T-137-CT](#), p. 22, line 12-p. 23, line 3-p. 24, line 8, p. 54, line 3-18, p. 55, line 14-p. 61, line 1; [DAR-OTP-00006624](#) at 0015, para. 13.2; [DAR-OTP-00006623](#) at 15-16; [DAR-OTP-00006626](#) at 259-260.

[REDACTED] documents

42. [REDACTED].¹³⁵ [REDACTED],¹³⁶ [REDACTED]¹³⁷ ([REDACTED]¹³⁸),
[REDACTED],¹³⁹ [REDACTED].¹⁴⁰

43. [REDACTED].¹⁴¹ [REDACTED].¹⁴² [REDACTED],¹⁴³ [REDACTED],¹⁴⁴
[REDACTED].¹⁴⁵ [REDACTED].¹⁴⁶

44. [REDACTED].¹⁴⁷ [REDACTED].¹⁴⁸ [REDACTED].¹⁴⁹ [REDACTED].¹⁵⁰

45. [REDACTED],¹⁵¹ [REDACTED].¹⁵²

46. [REDACTED].¹⁵³ [REDACTED].¹⁵⁴ [REDACTED],¹⁵⁵ [REDACTED].¹⁵⁶

47. [REDACTED].¹⁵⁷ [REDACTED].¹⁵⁸

48. [REDACTED].¹⁵⁹ [REDACTED].¹⁶⁰ [REDACTED].¹⁶¹

Documentation from [REDACTED]

49. [REDACTED].¹⁶² The first was a typed letter entitled, “Destroying B[i]ndisi Locality”,
dated 1 August 2003, from HARUN and addressed to “The Mujahid, Commander of the

¹³⁵ [REDACTED].

¹³⁶ [REDACTED].

¹³⁷ [REDACTED].

¹³⁸ [REDACTED].

¹³⁹ [REDACTED].

¹⁴⁰ [REDACTED].

¹⁴¹ [REDACTED].

¹⁴² [REDACTED].

¹⁴³ [REDACTED].

¹⁴⁴ [REDACTED].

¹⁴⁵ [REDACTED].

¹⁴⁶ [REDACTED].

¹⁴⁷ [REDACTED].

¹⁴⁸ [REDACTED]

¹⁴⁹ [REDACTED].

¹⁵⁰ [REDACTED].

¹⁵¹ [REDACTED].

¹⁵² [REDACTED].

¹⁵³ [REDACTED].

¹⁵⁴ [REDACTED].

¹⁵⁵ [REDACTED].

¹⁵⁶ [REDACTED].

¹⁵⁷ [REDACTED].

¹⁵⁸ [REDACTED].

¹⁵⁹ [REDACTED].

¹⁶⁰ [REDACTED].

¹⁶¹ [REDACTED].

¹⁶² [REDACTED].

Mujahidin and Fursan, Ali Muhammad Abd-Al-Rahman, ‘Kushayb’”.¹⁶³ The second was a handwritten letter with the same title, addressed to HARUN, and signed by “The Mujahid Commander of the Mujahidin and Fursan, Ali Muhammad Abd-Al-Rahman, ‘Kushayb’”.¹⁶⁴

Other documentation

50. The UNCOI, established pursuant to UN Security Council Resolution 1564, published its findings regarding crimes committed in Darfur in 2003-2004 on 25 January 2005.¹⁶⁵ In its report, the UNCOI noted that it had identified a list of potential perpetrators of crimes that it would provide to the ICC Prosecutor.¹⁶⁶ Included on this list was Militia/*Janjaweed* leader “Ali Mohamed Ali Kushib”, who reportedly armed men under his control to fight the rebellion, met with HARUN in Wadi Salih and received a large sum of money, coordinated his operations with the Popular Defence Forces (“PDF”) and SAF, especially MI, and perpetrated the Deleig and Shattaya incidents.¹⁶⁷

51. Prior to the publication of the UNCOI Report, on 21 January 2005, Human Rights Watch published a report identifying “a man with the ‘nom de guerre’ of Ali Kosheib” as a Militia/*Janjaweed* leader in the Garsila area, reportedly still based there in October 2004, who was named by witnesses in connection with mass executions outside of Deleig and Mukjar.¹⁶⁸

4) ABD-AL-RAHMAN shares many biographical details with the man known as Ali KUSHAYB

52. The biographical details shared by **ABD-AL-RAHMAN** and the man known as Ali KUSHAYB demonstrate that they are the same person. Many details of the personal and professional background of **ABD-AL-RAHMAN**, established by agreed facts and the evidence of Defence and Prosecution witnesses, are also attributed to the man known as Ali KUSHAYB by Prosecution witness and in documentary evidence.

¹⁶³ [REDACTED].

¹⁶⁴ [REDACTED].

¹⁶⁵ [DAR-OTP-0209-0593](#).

¹⁶⁶ [DAR-OTP-0209-0593](#) at 0596-0597.

¹⁶⁷ [DAR-OTP-0216-0702](#) at 0726, paras. 98-102. The UNCOI also provided the OTP a document entitled, “Investigation Overview Report West Darfur”, dated January 2005, which identifies “Ali Mohamed Ali Kouchib”, Agid Al-Ogada of Wadi Salih, as responsible for killings in locations including Deleig, Mukjar and Bindisi, and contains information on his background, including that his father is Ta’aisha, that he left the SAF in 1995 and opened a veterinary pharmacy in Garsila, and that he later joined the police. See [DAR-OTP-0013-0119](#) at 0179-0180, 0191-0192, 0203-0204.

¹⁶⁸ [DAR-OTP-0107-1474](#) at 1484, 1487-1488. For other Human Rights Watch reporting on Ali KUSHAYB in 2004 and 2005, see e.g. [DAR-OTP-0064-0184](#) at 0191; [DAR-OTP-0148-0002](#) at 0030, 0034-0035.

53. These details include that he: (i) was originally from Rahad Al-Berdi, South Darfur;¹⁶⁹ (ii) belongs to the Ta'aisha tribe;¹⁷⁰ (iii) served in the Medical Corps of the SAF until retiring in the early to middle 1990s with the rank of *Musa'id* or *Sol*;¹⁷¹ (iv) served in the SAF in South Sudan;¹⁷² (v) was the *agid al-ogada*¹⁷³ or *Emir* of the *Fursan* and/or *Mujahidin*;¹⁷⁴ (vi) lived in the Western Neighbourhood (*Al-Hay Al-Gharbi*) of Garsila in 2003-2004;¹⁷⁵ (vii) owned a shop, or pharmacy, in Garsila in the market near the Agricultural Bank;¹⁷⁶ (viii) carried a stick, or axe ("*farrar*");¹⁷⁷ and (ix) owned a home in the Khartoum Bil-Leil neighbourhood of

¹⁶⁹ AAR: [Third Agreed Facts AnxA](#), no. 7; AAR/AK: [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 38, and [DAR-OTP-0220-4710](#) at 4710, para. 5. AK: [REDACTED]; P-0581: [DAR-OTP-0216-0560-R02](#) at 0565-0566, para. 27, and [T-64-CT](#), p. 49, lines 2-8.

¹⁷⁰ AAR: [Third Agreed Facts AnxA](#), no. 4. AAR/AK: P-0643: [REDACTED], and [DAR-OTP-0014-0213](#) at 0214; P-0883: [T-71-CT3](#), p. 17, lines 4-15, p. 53, lines 10-18, and [T-73-CT2](#), p. 62, lines 18-23, and [T-74-CT3](#), p. 4, lines 18-22; P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 38, and [DAR-OTP-0220-4710](#) at 4710, para. 5; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0607-0608, paras. 26-30. AK: P-0907: [T-94-CT](#), p. 28, line 24-p. 29, line 2, and [T-96-CT](#), p. 8, lines 7-13; P-0119: [T-38-CT](#), p. 81, line 25-p. 82, line 15.

¹⁷¹ AAR: [Third Agreed Facts AnxA](#), no. 9-10; [REDACTED]. AAR/AK: [REDACTED]; P-0883: [T-71-CT3](#), p. 17, line 9-p. 18, line 6, p. 25, lines 3-7, and [T-73-CT2](#), p. 80, line 14-p. 81, line 14, and [T-74-CT3](#), p. 5, line 8-p. 6, line 19, p. 22, lines 4-24; [REDACTED]; P-0935: [T-90-CT2](#), [REDACTED], p. 66, line 20-p. 67, line 14, p. 68, lines 2-5. AK: [REDACTED]; P-0931: [T-62-CT](#), p. 52, line 4-p. 54, line 1; [REDACTED]; P-0878: [T-77-CT2](#), p. 60, lines 16-24, and [REDACTED]; P-0907: [T-94-CT](#), p. 27, lines 1-13.

¹⁷² AAR: [REDACTED]. AAR/AK: P-0883: [T-71-CT3](#), p. 15, lines 8-10, p. 17, lines 9-23, and [T-73-CT2](#), p. 79, lines 4-5.

¹⁷³ AAR/AK: [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0509-0512, paras. 28-37, and [T-46-CT](#), p. 23, line 21-p. 24, line 10; P-0585: [T-99-CT](#), p. 41, lines 3-23, p. 50, lines 16-18, p. 57, line 17-p. 58, line 7; [REDACTED]. AK: [REDACTED]; P-0984: [T-66-CT2](#), p. 62, line 21-p. 65, line 3; P-0907: [T-95-CT](#), p. 57, lines 11-p. 59, line 3, and p. 60, lines 3-9, p. 61, line 15-p. 62, line 1, p. 63, line 19-p. 64, line 7, and [T-96-CT](#), p. 9, lines 18-22.

¹⁷⁴ AAR/AK: [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008); [REDACTED].

¹⁷⁵ AAR: [Third Agreed Facts AnxA](#), no. 15; [REDACTED]. AAR/AK: [REDACTED]; P-0883: [T-71-CT3](#), [REDACTED], p. 52, lines 22-24; [REDACTED]; P-0011: [T-91-CT2](#), [REDACTED], p. 45, line 13-p. 46, line 8, p. 48, lines 9-15, and [DAR-OTP-00000359-R01](#), and [DAR-OTP-00000361-R01](#).

¹⁷⁶ AAR: [Third Agreed Facts AnxA](#), no. 11, 14; D-08: [T-139-CT](#), p. 30, line 15-p. 31, line 5; D-32: [T-140-CT](#), p. 26, line 12-p. 30, line 2. AAR/AK: [REDACTED]; P-0883: [T-71-CT3](#), p. 15, lines 2-25, [REDACTED], p. 52, lines 22-24, and [T-73-CT2](#), p. 78, lines 15-16, p. 81, lines 9-19, and [T-74-CT3](#), [REDACTED], p. 19, lines 3-13; P-0905: [T-85-CT](#), p. 17, lines 2-p. 21, line 6, and [REDACTED]; P-0011: [T-91-CT2](#), p. 14, lines 9-10, p. 43, lines 13-14; P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 38, and [T-45-CT](#), p. 8, line 22-p. 10, line 20, p. 84, line 13-p. 87, line 2 and [T-46-CT](#), p. 64, lines 3-6; P-0119: [DAR-OTP-0124-0196-R03](#) at 0215, para. 121 and [T-38-CT](#), p. 26, lines 12-16, p. 68, lines 1-17, p. 72, line 2-p. 73, line 10; P-0585: [T-99-CT](#), p. 39, line 5-p. 40, line 20; P-0994: [DAR-OTP-0222-0055-R01](#) at 0060, paras. 23-25, and [DAR-OTP-00000268](#) at 1, para. 3, and [REDACTED]; P-0903: [T-32-CT](#), p. 13, line 3-p. 14, line 19, p. 65, line 16-p. 67, line 4; [REDACTED]; P-0935: [T-90-CT2](#), [REDACTED], p. 17, lines 13-18; P-0990: [T-41-CT](#), p. 22, line 8-p. 34, line 20. AK: At least 12 witnesses gave this evidence, including P-0877, P-0907, P-0736, P-0892, P-0931, P-0984, P-0955, P-0850, P-0697, P-0874, P-0878, and P-0918. See e.g. [REDACTED]; P-0877: [T-54-CT](#), p. 45, lines 9-25, p. 46, lines 12-21; P-0907: [T-95-CT](#), p. 52, line 25-p. 57, line 19, and [T-96-CT](#), p. 48, lines 4-7; P-0736: [DAR-OTP-0210-0248-R02](#) at 0272, para. 89, and [DAR-OTP-0210-0283-R01](#) (Translation [DAR-OTP-0219-7100-R01](#)), and [DAR-REG-0001-0002](#), and [T-35-CT](#), [REDACTED], p. 15, line 8-p. 16, line 12, [REDACTED], p. 46, line 14-p. 47, line 6, p. 49, line 19-p. 50, line 12; P-0931: [T-62-CT](#), p. 52, line 4-p. 54, line 1, p. 64, lines 10-25; [REDACTED]; P-0878: [T-77-CT2](#), p. 60, line 1-p. 63, line 1.

¹⁷⁷ AAR/AK: P-0643: [REDACTED], and [T-57-CT](#), p. 39, line 14-p. 40, line 22, p. 42, line 18-p. 43, line 13, and [REDACTED], and [DAR-OTP-0218-0651](#); P-0883: [REDACTED], and [T-72-CT2](#), p. 26, line 14-p. 28, line 13, and [DAR-OTP-0218-0117](#) (Translation [DAR-OTP-0219-5828](#)); P-0905: [REDACTED], and [DAR-OTP-00000264](#); P-0994: [DAR-OTP-0222-0055-R01](#) at 0065, paras. 47-48; P-0903: [T-32-CT](#), p. 11, lines 18-19, p. 14,

Nyala.¹⁷⁸

54. Additionally, several Prosecution witnesses stated that the man they knew as Ali KUSHAYB had a son named Muhammad Ali, who was killed while serving in the SAF and also had the nickname “Kushayb”.¹⁷⁹ Despite the Defence putting to [REDACTED] that **ABD-AL-RAHMAN** never had a son named Muhammad, which they refuted,¹⁸⁰ Defence witness [REDACTED] confirmed that **ABD-AL-RAHMAN** did indeed have a son named Muhammad Ali, who was deceased.¹⁸¹

55. Furthermore, many details regarding **ABD-AL-RAHMAN**’s service in the CRF also link him to the name Ali KUSHAYB, including that he: (i) joined the CRF with the rank of *Musa'id* after the charged events, and was formally incorporated by 26 July 2005;¹⁸² (ii) attended CRF training in Al-Obeid;¹⁸³ (iii) moved back to Rahad Al-Berdi where he served as head of the CRF;¹⁸⁴ and (iv) was badly injured but survived an assassination attempt in Nyala

line 20-p. 15, line 5, p. 42, lines 19-23, p. 46, lines 5-8; [REDACTED]; P-0935: [T-90-CT2](#), p. 18, line 12-p. 19, line 7; P-0990: [T-40-CT](#), p. 50, line 6-p. 55, line 2, p. 59, line 5-p. 60, line 18, and [T-41-CT](#), [REDACTED], p. 38, line 16-p. 48, line 7, p. 62, line 22-p. 63, line 14.. AK: P-0907: [T-94-CT](#), p. 34, lines 22-23, p. 36, line 23-p. 37, line 1; P-0931: [T-62-CT](#), p. 34, lines 1-7; P-0913: [DAR-OTP-0218-0021-R04](#) at 0037, paras. 105-106, and [DAR-OTP-00000012](#) at 3, para. 30, and [REDACTED]; P-0919: [T-60-CT](#), p. 18, line 1-p. 20, line 3, p. 26, line 2-p. 29, line 6, p. 61, line 4-p. 62, line 12; P-0984: [T-66-CT2](#), p. 61, lines 4-22; P-0877: [T-53-CT2](#), p. 88, line 1-p. 91, line 13, and [REDACTED]; P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 52, 0453-0454, paras. 74, 80, 0457-0458, para. 97, and [T-65-CT](#), p. 13, lines 9-17, and [T-66-CT2](#), p. 23, lines 5-6, p. 61, lines 17-20.

¹⁷⁸ AAR: [REDACTED]; D-11: [T-138-CT](#), p. 49, line 15-p. 50, line 23, [REDACTED] [REDACTED]; D-32: [T-140-CT](#), p. 93, lines 8-12. AAR/AK: [REDACTED]. AK: [REDACTED].

¹⁷⁹ [REDACTED]. See also [DAR-OTP-0215-9038](#) at 9039.

¹⁸⁰ [REDACTED].

¹⁸¹ [REDACTED].

¹⁸² AAR: [Third Agreed Facts AnxA](#), no. 13; D-05: [T-158-ET](#), p. 13, lines 4-21, p. 17, lines 20-22, p. 18, lines 12-15; D-08: [T-139-CT](#), [REDACTED] p. 64, lines 10-20, p. 84, lines 9-24; [REDACTED]; D-29: [T-157-CT](#), p. 24, line 7-p. 26, line 10; D-32: [T-140-CT](#), p. 39, line 18-24, p. 42, line 9-p. 44, line 5, [REDACTED]; D-39: [T-159-ET](#), p. 34, lines 10-17. AAR/AK: P-0643: [T-57-CT](#), p. 38, lines 5-10, p. 40, line 23-p. 41, line 15, [REDACTED], and [DAR-OTP-0014-0213](#) at 0214; P-0883: [T-72-CT2](#), p. 35, line 21-p. 36, line 21 [REDACTED] [REDACTED], and [T-73-CT2](#), p. 42, lines 11-24, p. 45, line 25-p. 51, line 1, and [DAR-OTP-00000065](#) at 4, para. 238; [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0215, para. 121, and [T-38-CT](#), p. 24, line 2-p. 35, line 17, p. 86, line 12-p. 87, line 8; [REDACTED]; P-0011: [T-91-CT2](#), p. 38, line 25-p. 39, line 4; P-0994: [DAR-OTP-0222-0055-R01](#) at 0062, para. 31, and [DAR-OTP-0222-0078](#) (Translation [DAR-OTP-0220-1223](#)), and [REDACTED]. AK: [REDACTED]; [REDACTED]; P-0955: [T-64-CT](#), p. 20, lines 12-23. See also paras. 33, 42-43 above (regarding the GoS interview of **ABD-AL-RAHMAN** and NISS documents provided by P-0547).

¹⁸³ AAR: [REDACTED]; D-032: [T-140-CT](#), p. 32, line 9-p. 34, line 21, [REDACTED], line 24; [REDACTED]. AAR/AK: P-0883: [T-72-CT2](#), p. 35, line 21-p. 37, line 2, and [T-73-CT2](#), p. 42, lines 11-24, p. 45, line 25-p. 47, line 12, p. 50, lines 11-18. AK: [REDACTED].

¹⁸⁴ AAR: [REDACTED]; D-03: [T-155-ET](#), p. 85, lines 1-3; D-05: [T-158-ET](#), p. 13, lines 4-21, p. 18, lines 12-15; D-08: [T-139-CT](#), [REDACTED], p. 84, lines 9-24; [REDACTED]; D-29: [T-157-CT](#), p. 24, line 7-p. 26, line 10; D-32: [T-140-CT](#), [REDACTED], and [T-141-CT](#), p. 20, lines 9-12, p. 55, lines 20-22; D-39: [T-159-ET](#), p. 34, lines 10-12. AAR/AK: [REDACTED]; P-0883: [T-72-CT2](#), p. 35, line 21-p. 37, line 13.

in July 2013.¹⁸⁵

56. Contemporaneous media reporting on the 2013/2014 conflict between the Ta'aisha and the Salamat (including the 2013 assassination attempt in Nyala), particularly on Radio Dabanga, in which Ali KUSHAYB is identified as a *Musa'id*, commander of the CRF in Rahad Al-Berdi, and/or a person wanted by the ICC, further corroborates that he and **ABD-AL-RAHMAN** are the same person.¹⁸⁶ Notably, in the Um Sory Video, which shows **ABD-AL-RAHMAN** making a speech about the Ta'aisha/Salamat conflict, he tells the crowd, "what Radio Dabanga says is true because I've killed a great many people and I'm still going to kill people."¹⁸⁷

57. Additionally, following **ABD-AL-RAHMAN**'s surrender to the Court, an audio recording of a poem was extracted from an SD card found amongst his possessions. The poem, recorded after May 2010,¹⁸⁸ refers to Rahad Al-Berdi, the Ta'aisha tribe, "the Central Reserve Forces, led by the hero, Kushayb",¹⁸⁹ and several times to "Kushayb" or "Ali Kushayb".¹⁹⁰

58. Finally, that several of **ABD-AL-RAHMAN**'s sons—Salah Ali Mohammed,¹⁹¹ Yasser Ali Mohammed,¹⁹² Anwar,¹⁹³ and Al-Nazir¹⁹⁴—refer to themselves and/or are referred to by the nickname "Kushayb" on their Facebook pages further corroborates that **ABD-AL-**

¹⁸⁵ AAR: D-01: [T-155-ET](#), p. 2, line 22-p. 8, line 22; D-03: [REDACTED], and [T-156-CT](#), p. 4, lines 12-21, [REDACTED]; D-05: [T-158-ET](#), p. 40, lines 15-23; [REDACTED]; D-08: [T-139-CT](#), p. 53, lines 19-24, p. 73, line 5-p. 74, line 13; D-11: [T-138-CT](#), [REDACTED], p. 84, line 11-p. 87, line 5; D-32: [T-141-CT](#), p. 26, line 15-p. 28, line 3; D-39: [T-159-ET](#), p. 45, line 9-p. 46, line 16, p. 79, line 24-p. 84, line 6. AAR/AK: [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0216, para. 124, and [T-38-CT](#), p. 22, line 16-p. 25, line 17, p. 83, line 22-p. 87, line 8. AK: [REDACTED].

¹⁸⁶ [DAR-OTP-00005650](#) (Translation [DAR-OTP-00006582](#)); [DAR-OTP-00005648](#) (Translation [DAR-OTP-00006585](#)); [DAR-OTP-00005652](#) (Translation [DAR-OTP-00006587](#)); [DAR-OTP-00005676](#) (Translation [DAR-OTP-00006589](#)); [DAR-OTP-00005646](#) (Translation [DAR-OTP-00006766](#)); [DAR-OTP-00005660](#) (Translation [DAR-OTP-00006581](#)); [DAR-OTP-00010624](#). **ABD-AL-RAHMAN** is also mentioned by his full legal name, "Ali Muhammad Ali Abd-Al-Rahman, known as Ali Kushayb". See [DAR-OTP-00006171](#) (Translation at [DAR-OTP-00006771](#)). "Abu Teira" (also spelled "Abu Tirah" and "Abu Tayrah") refers to the CRF. See Annex 31: Agreed glossary, p. 2.

¹⁸⁷ [DAR-OTP-00012474](#) (Transcript [DAR-OTP-0223-0519-R01](#); Translation [DAR-OTP-00012491-R01](#) at p. 7, lines 115-116).

¹⁸⁸ [DAR-OTP-0216-0792](#) (Transcript [DAR-OTP-00011550](#); Translation [DAR-OTP-00011553](#) at lines 17-18, 46) (referring to events on 16 May 2010).

¹⁸⁹ [DAR-OTP-0216-0792](#) (Transcript [DAR-OTP-00011550](#); Translation [DAR-OTP-00011553](#) at line 4). The poem also refers to "Abd-al-Rahman Bishara, *Nazir* (Paramount Sheikh) of the Ta'aisha", [REDACTED].

¹⁹⁰ [DAR-OTP-0216-0792](#) (Transcript [DAR-OTP-00011550](#); Translation [DAR-OTP-00011553](#), lines 4, 11, 32-33, 47, 95) ("Ali Kushayb is the only son protecting Sudan", "Ali Kushayb is the chemical and the poisonous weapon", "the soldiers of our hero Kushayb", "Ali Kushayb [...], the titan of the mountains and the forests").

¹⁹¹ [Third Agreed Facts AnxA](#), no. 16.

¹⁹² [Third Agreed Facts AnxA](#), no. 18.

¹⁹³ [REDACTED].

¹⁹⁴ [REDACTED].

RAHMAN is also known as Ali KUSHAYB.

59. The Defence called D-37, a digital forensic investigator with expertise in Facebook,¹⁹⁵ who testified regarding the attribution of Facebook accounts. He stated that, to attribute an account, he searches for indicators that make it more or less probable that the Facebook account is used by a particular person,¹⁹⁶ including connections to other online information as well as to known facts about the purported user.¹⁹⁷ He regularly conducts his investigations without receiving any data directly from the company behind Facebook.¹⁹⁸ Although D-37 testified that a Facebook account name can be changed, and that the new name would appear on previous posts,¹⁹⁹ he confirmed that to change the name one would first need access to the account,²⁰⁰ and the name change would have no effect on the text of a post or caption.²⁰¹

60. The Facebook accounts believed to be used by Salah Ali Muhammad (“Salah Bush Kushayb”²⁰² and “Salah ‘Ali Muhammad ‘Ali”²⁰³), Yasser Ali Muhammad (“Yasir Ali Shabshabuni”²⁰⁴), Anwar (“Anwar ‘Ali Kushayb”²⁰⁵) and Al-Nazir (“Al-Nazir ‘Ali

¹⁹⁵ D-37: [T-152-ET](#), p. 11, line 14-p. 12, line 23.

¹⁹⁶ D-37: [T-152-ET](#), p. 51, line 8-p. 60, line 9. These indicators include the friends in the account’s network, especially connections to persons the purported user knows in real life such as family members; the language of the account; user inputted information such as places lived, worked and studied; photographs posted to the account, including of the purported user or people they know such as family members; the number of friends the account has; content posted by the account and its interactions with other accounts; and the length of time the account has existed.

¹⁹⁷ D-37: [T-152-ET](#), p. 50, line 8-p. 51, line 15, and [DAR-D31-00000320](#) at 15.

¹⁹⁸ D-37: [T-152-ET](#), p. 51, lines 17-21.

¹⁹⁹ D-37: [T-152-ET](#), p. 14, line 1-p. 24, line 16, p. 48, line 23-p. 49, line 21, and [DAR-D31-00000320](#) at 16.

²⁰⁰ D-37: [T-152-ET](#), p. 104, line 17-p. 106, line 24. To be changed by someone other than the account user, unless the user gives access to their account, access could only be gained through hacking the account, which requires technical expertise, or through social engineering, which is a lengthy and involved process. *See also* [DAR-D31-00000320](#) at 6-15.

²⁰¹ D-37: [T-152-ET](#), p. 69, lines 11-15.

²⁰² *See* D-37: [T-152-ET](#), p. 66, line 17-p. 72, line 20; [DAR-OTP-00006056](#); [DAR-OTP-00006039](#); [DAR-OTP-00011310](#); [DAR-OTP-00011311](#); [DAR-OTP-00005998](#); [DAR-OTP-00005985](#); [DAR-OTP-00006010](#). *See also* [DAR-OTP-00006014](#). According to media reporting on his death, Salah had the nickname “Bush”, *see below* fn. 209. D-11 recognised Salah in a photograph extracted from this Facebook account and a photograph taken at the time of **ABD-AL-RAHMAN**’s surrender, *see* D-11: [T-138-CT](#), p. 75, lines 5-24, and [DAR-OTP-00005868](#), and [DAR-OTP-00005886](#). *See also* [DAR-OTP-0219-3128](#) at 3130.

²⁰³ *See* D-37: [T-152-ET](#), p. 94, line 5-p. 98, line 9; [DAR-OTP-00006000](#); [DAR-OTP-00005992](#); [DAR-OTP-00006054](#).

²⁰⁴ *See* D-37: [T-152-ET](#), p. 98, line 21-p. 105, line 11; [DAR-OTP-00006091](#); [DAR-OTP-00005829](#); [DAR-OTP-00011186](#); [DAR-OTP-00006090](#); [DAR-OTP-00006085](#); [DAR-OTP-00006100](#); [DAR-OTP-00011187](#); [DAR-OTP-00011312](#); [DAR-OTP-00006106](#); [DAR-OTP-00005847](#); [DAR-OTP-00005848](#); [DAR-OTP-00005849](#); [DAR-OTP-00005850](#); [DAR-OTP-00005851](#); [DAR-OTP-00005852](#); [DAR-OTP-00005853](#); [DAR-OTP-00005854](#); [DAR-OTP-00011315](#); [DAR-OTP-00011314](#). D-11 recognised Yasser in a photograph extracted from this page and in a photograph taken at the time of **ABD-AL-RAHMAN**’s surrender, *see* D-11: [T-138-CT](#), p. 76, lines 9-20, p. 92, lines 14-23, and [DAR-OTP-00006070](#), and [DAR-OTP-00005950](#). *See also* [DAR-OTP-0219-3128](#) at 3130.

²⁰⁵ *See* D-37: [T-152-ET](#), p. 72, line 22-p. 78, line 16, p. 91, line 23-p. 94, line 4; [DAR-OTP-00006030](#); [DAR-OTP-00006013](#); [DAR-OTP-00006058](#); [DAR-OTP-00005986](#); [DAR-OTP-00005989](#); [DAR-OTP-00006007](#);

Kushayb”²⁰⁶) form an interconnected network and bear multiple, relevant indicators of attribution, showing that they are in fact used by **ABD-AL-RAHMAN**’s sons.²⁰⁷ Notably, on 23 May 2023, the “Yasir Ali Shabshabuni” account posted a photograph of a man with the caption “May our Lord have mercy on your soul, dear brother Salah”;²⁰⁸ a clear reference to Yasser’s brother, Salah, who died in June 2022.²⁰⁹ The same account also posted, on 19 December 2021, a photograph of **ABD-AL-RAHMAN** at the ICC with a caption beginning, “As I speak about pride, I’ll start with my father”;²¹⁰ while on 16 June 2022, the account posted the text, “Walad [Son of] Kushayb”.²¹¹

5) **ABD-AL-RAHMAN willingly surrendered for a warrant of arrest in the name of Ali KUSHAYB**

61. The circumstances surrounding **ABD-AL-RAHMAN**’s surrender further demonstrate that he is Ali KUSHAYB. **ABD-AL-RAHMAN** voluntarily surrendered to the Court pursuant to an arrest warrant bearing the name Ali KUSHAYB. To do so, he undertook a journey which he described as long and difficult from Sudan to the CAR.²¹²

62. In the context of communications with the OTP regarding a possible surrender, a person in contact with **ABD-AL-RAHMAN** (P-0869) sent a video to the OTP in which **ABD-AL-RAHMAN** unequivocally states, “I’m Ali Muhammad Ali Abd-al-Rahman, and my nickname is Kushayb”.²¹³ Furthermore, during his appearance before the CAR authorities, in the presence of Duty Counsel and an interpreter, **ABD-AL-RAHMAN** signed an attestation bearing the

[DAR-OTP-00006031](#); [DAR-OTP-00006008](#); [DAR-OTP-00006059](#). D-08 recognised Anwar in photographs extracted from this Facebook page, *see* D-08: [T-139-CT](#), p. 69, line 24-p. 70, line 12, p. 71, line 21-p. 72, line 11, and [DAR-OTP-00005953](#), and [DAR-OTP-00005876](#).

²⁰⁶ The “Salah ‘Ali Muhammad ‘Ali” account is friends with one account in the name “Al-Nazir ‘Ali Kushayb”, while the “Anwar ‘Ali Kushayb” account is friends with four accounts in that name. *See* [DAR-OTP-00006054](#) at 1; [DAR-OTP-00006059](#) at 1. D-08 recognised Al-Nazir in photographs extracted from these accounts. *See* D-08: [T-139-CT](#), p. 70, lines 13-18, p. 72, line 8-p. 73, line 2, and [DAR-OTP-00005872](#), and [DAR-OTP-00005873](#), and [DAR-OTP-00005874](#).

²⁰⁷ [DAR-OTP-00011313](#). *See also* Annex 28: Network of relevant Facebook accounts.

²⁰⁸ [DAR-OTP-00006090](#).

²⁰⁹ *See* [REDACTED]; [DAR-OTP-00000510](#) (Translation [DAR-OTP-00000811](#)); [DAR-OTP-00000701](#) (Translation [DAR-OTP-00000838](#)); D-32: [REDACTED], and [T-141-CT](#), p. 28, lines 9-24; D-11: [T-138-CT](#), p. 87, line 8-p. 90, line 22. D-08, D-11 and D-32 recognised Salah in photographs from media reporting on his death. *See* D-08: [T-139-CT](#), p. 69, lines 10-20, and [DAR-OTP-00005867](#); D-11: [T-138-CT](#), p. 76, lines 1-3, and [DAR-OTP-00005867](#); D-32: [T-141-CT](#), p. 29, lines 4-17, and ([DAR-OTP-00000510](#) (Translation [DAR-OTP-00000811](#))).

²¹⁰ [DAR-OTP-00005837](#) (Translation [DAR-OTP-00006100](#)).

²¹¹ [DAR-OTP-00005896](#) (Translation [DAR-OTP-00006106](#)).

²¹² T-9-CT, p. 65, line 23-p. 66, line 3; [T-27-ET](#), p. 29, lines 1-4. *See also* D-08: [T-139-CT](#), p. 75, line 3-p. 77, line 16.

²¹³ [DAR-OTP-0216-0119](#) (Transcript [DAR-OTP-0220-3010](#)); Translation [DAR-OTP-0220-3015](#) at 3017, lines 3-4). *See* [Admissibility of Video Decision](#); [Admissibility of Video AJ](#).

name Ali KUSHAYB.²¹⁴

63. **ABD-AL-RAHMAN** now claims that he surrendered himself to escape arrest by the Sudanese authorities, and that he only identified himself as “Ali Kushayb” because he believed that he needed “to put himself under the control of the Court and, therefore, [...] he needs to make himself known by the name by which the Court knows him”.²¹⁵ The notion that **ABD-AL-RAHMAN** undertook a long and difficult cross-border journey to voluntarily surrender himself on an arrest warrant for international crimes, believing that he was a victim of mistaken identity, but nonetheless pretending to be Ali KUSHAYB in his interactions with the OTP and the CAR authorities, is incredible. It is also based on a false premise – the Court clearly also knew him by the other name on the 2007 arrest warrant he surrendered on: “Ali Muhammad Ali Abd-Al-Rahman”.²¹⁶

64. Furthermore, if this were a case of mistaken identity, the Defence has not lucidly explained why anyone, including **ABD-AL-RAHMAN** himself, would ever have connected **ABD-AL-RAHMAN**, supposedly a simple pharmacist, to the allegations in the arrest warrant in the first place. The Defence’s claim that the GoS chose **ABD-AL-RAHMAN** as a scapegoat for crimes committed in Darfur has no evidentiary basis whatsoever.²¹⁷ The many witnesses, from all different backgrounds, who provided evidence during the trial that **ABD-AL-RAHMAN** is Ali KUSHAYB are not part of some elaborate decades-long conspiracy, they were simply telling the truth. None of the evidence adduced at trial, including through Defence witnesses, credibly suggested that Ali KUSHAYB either did not exist or was anyone other than **ABD-AL-RAHMAN**.²¹⁸

6) Conclusion

65. In summary, the overwhelming body of evidence establishes that **ABD-AL-RAHMAN** was the man known as Ali KUSHAYB. As described in the following sections, far from being a simple pharmacist, Ali Muhammad Ali **ABD-AL-RAHMAN**, Ali KUSHAYB, was a powerful leader of the Militia/*Janjaweed* who led operations in the Wadi Salih and Mukjar

²¹⁴ [REDACTED].

²¹⁵ T-9-CT, p. 65, line 18-p. 66, line 17; [Réponse aux Observations ICC-02/05-01/20-224](#), para. 34.

²¹⁶ [First Arrest Warrant](#), p. 1, 2, 17.

²¹⁷ See [T-128-CT](#), p. 43, line 23-p. 47, line 1; [T-129-ET](#), p. 5, lines 7-10, p. 9, lines 16-22. See also [REDACTED].

²¹⁸ Even Defence witness D-32 acknowledged that he heard the name Ali KUSHAYB [REDACTED] in 2003 from people talking and on the radio. See D-32: [T-141-CT](#), p. 29, line 21-p. 30, line 8, p. 41, line 25-p. 42, line 8, p. 51, lines 3-19.

Localities in 2003-2004.²¹⁹

C. BACKGROUND

66. In 2003 and 2004, Darfur was divided into three states: North, South and West Darfur.²²⁰ Each state was divided into localities.²²¹ As at 1999, West Darfur had a population of more than 1.7 million. The Fur and Masalit tribes comprised the majority of the population of West Darfur.²²² The Arab tribes in West Darfur, including Wadi Salih, included the Rizeigat, Beni Halba, Misseriya, Ta'aisha and Salamat.²²³ Between August 2003 and April 2004, the political leadership structure in West Darfur included, at the state level, a State Governor in Al Geneina, and at the locality level, a Commissioner within each locality. Major General Suleiman Abdullah ADAM was the Governor of West Darfur State,²²⁴ ABD-AL-HAKAM was the Commissioner of Garsila in the Wadi Salih Locality, and Abdullah Al-Tayyib Muhammad TORSHEIN ("TORSHEIN") was the Commissioner of Mukjar in the Mukjar Locality.²²⁵

67. The traditional leadership structure of Arab and non-Arab tribes in West Darfur generally included civilian leaders called *sheikhs*, *umdaqs*, *shartays* and *nazirs*, as well as *emirs* (in Arab tribes) and military leaders called *agids*.²²⁶ The *sheikh*, the lowest level in the tribal hierarchy, primarily refers to the chief of a village, who presided over the lowest level of court and collected local taxes.²²⁷ The *umda* represented a larger area than a *sheikh*, and acted as the local administrative head and tax collector.²²⁸ The *shartay* was a senior chief or administrator in the Fur tribe.²²⁹

68. The *nazir* and *emir* were the heads of the other Arab tribal leaders²³⁰ and served as the

²¹⁹ See below Section E: Common elements of modes of individual criminal responsibility.

²²⁰ Between at least August 2003 and at least April 2004, Wadi Salih and Mukjar Localities were located in West Darfur State. See [Second Agreed Facts](#), no. 2-4 and P-1042: [DAR-OTP-0220-1623](#) at 1627, para. 5. The Wadi Salih and Mukjar Localities subsequently became part of Central Darfur State, and P-1042 estimated this occurred in approximately 2010 (P-1042: [T-27-ET](#), p. 39, lines 1-14).

²²¹ [Second Joint Submission on Agreed Facts](#), p. 3, para. 3; [West Darfur Planning Map](#). See also Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

²²² [DAR-OTP-0003-0099](#) at 0106.

²²³ [DAR-OTP-0145-0237](#) at 0277; [REDACTED].

²²⁴ P-0878: [T-77-CT2](#), p. 63, lines 21-23.

²²⁵ P-0041: [DAR-OTP-0206-0033-R03](#) at 0037-0038, para. 16; [REDACTED].

²²⁶ [REDACTED]; P-1042: [DAR-OTP-0220-1623](#) at 1646, para. 61. Alternative spellings of *agid* include *aqid*, *akid*, and *aquid*.

²²⁷ P-1042: [DAR-OTP-0220-1623](#) at 1644, para. 56, 1645, para. 58, and [T-27-ET](#), p. 58, lines 5-12.

²²⁸ P-1042: [DAR-OTP-0220-1623](#) at 1644, paras. 56-57, and [T-27-ET](#), p. 58, line 19-p. 59, line 2. Alternative spellings of *umda* include 'omda.

²²⁹ P-1042: [DAR-OTP-0220-1623](#) at 1643, para. 55.

²³⁰ P-0040: [DAR-OTP-0094-0165-R02](#) at 0171, para. 31; [REDACTED]; P-1042: [DAR-OTP-0220-1623](#) at 1644, para. 57, and [T-27-ET](#), p. 59, lines 15-19.

liaison with officials of the GoS.²³¹ In 2003 and 2004, Hussein AL-HILU was the *emir* for all Arab tribes in Wadi Salih.²³² The *agids* were tribal military leaders and were responsible for security of a village, including investigating theft of cattle as well as commanding, mobilising, equipping and training fighters.²³³ The head of all the other *agids* within a particular area was called the *agid al-ogada*²³⁴ also known as *emir*, who would lead the Militia/*Janjaweed* during armed conflict.²³⁵ [REDACTED], explained that when two tribes are engaged in violent conflict, it is the *agid al-ogada* who organises the *agids*, including providing horses, camels and defence.²³⁶

69. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was the *agid al-ogada* in the Wadi Salih and Mukjar Localities.²³⁷

D. CONTEXTUAL ELEMENTS OF ARTICLE 8 AND ARTICLE 7

1) Contextual elements of article 8 (War crimes)

70. From at least April 2003 until at least April 2004, an armed conflict not of an international character was ongoing in Sudan, including Darfur. This is agreed by the Parties.²³⁸

a) Existence of an armed conflict not of an international character

Parties to the armed conflict

71. At all material times, the parties to the armed conflict in Darfur, Sudan were the GoS

²³¹ P-0083: [DAR-OTP-0110-0002-R02](#) at 0027-0028, paras. 99-100.

²³² [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0134, para. 24; P-0585: [T-99-CT](#), p. 49, lines 13-14; P-0041: [DAR-OTP-0206-0033-R03](#) at 0040, para. 25.

²³³ P-0954: [DAR-OTP-0221-0571-R01](#) at 0576, para. 25; P-0083: [DAR-OTP-0110-0002-R02](#) at 0031, para. 114; P-0040: [DAR-OTP-0094-0165-R02](#) at 0171, para. 32; P-0907: [T-96-CT](#), p. 7, lines 13-22; P-1042: [DAR-OTP-0220-1623](#) at 1646, para. 61, and [T-27-ET](#), p. 61, line 1-p. 62, line 1. P-1042 explained that historically the *agid* was a war leader, but in the peaceable times of the late colonial and early independence periods, the *agid* had the diminished responsibility for organising collective activities such as traditional work parties for collective projects such as digging wells, alongside mobilising young men to form an armed posse to pursue and reclaim stolen livestock. During the outbreaks of conflict in Sudan in the 1980s and 1990s, there was an attempt by the Islamist government to give military authority to senior figures in the native administration, but most of the tribal authorities resisted this. In Darfur in 2003 and 2004, most of the recognised tribal authorities did not wish to get involved in mobilising in the conflict and the position of *agid* in this period was therefore one that emerged from either the self-defence of a village or community or the commander of a militia.

²³⁴ [REDACTED].

²³⁵ P-0954: [DAR-OTP-0221-0571-R01](#) at 0576, para. 25.

²³⁶ [REDACTED].

²³⁷ See below paras. 128-142.

²³⁸ [First Agreed Facts](#), no. 1. See also [DAR-OTP-0209-0593](#) at 0618-0619, paras. 75-76; [DAR-OTP-0080-0024](#) at 0026. An armed conflict not of an international character exists in case of “protracted armed violence between governmental authorities and organized armed groups or between such groups within a State”, see [Ntaganda TJ](#), para. 701; [Ongwen TJ](#), para. 2683; [Al Hassan TJ](#), para. 1095.

on one side and rebel armed groups on the other side.²³⁹ The two main rebel armed groups opposing the GoS in Darfur were the Sudan Liberation Movement/Army (“SLM/A”) and the Justice and Equality Movement (“JEM”).²⁴⁰

Government of Sudan Forces

72. The GoS forces included the SAF, also known as the People’s Armed Forces,²⁴¹ the PDF, the CRF, the Popular Police Forces (“PPF”), and the Sudanese Police (“Police”) (together, the “GoS Forces”).²⁴² As set out below, for the purpose of the conflict, the Militia/*Janjaweed* were allied with the GoS Forces.

73. The SAF were the official armed forces of Sudan²⁴³ and thereby had the necessary degree of organisation.²⁴⁴ The SAF included the MI Branch.²⁴⁵ As conventional armed forces, the SAF had a hierarchical chain of command.²⁴⁶ President AL-BASHIR²⁴⁷ was the supreme commander of the SAF.²⁴⁸ Lieutenant General Abbas ARABI was the Chief of Staff of the SAF.²⁴⁹ The SAF headquarters were in Khartoum.²⁵⁰

74. The Western Area Command of the SAF, responsible for the entire region of Darfur, was located in Al Fasher, North Darfur,²⁵¹ under the command of Major General Ismat Abd-Al-Rahman ZEIN-AL-ABIDIN.²⁵² Relevant units and personnel under the Western Area Command included the 6th Division in Al Fasher, under the command of Major General

²³⁹ [First Agreed Facts](#), no. 2; [DAR-OTP-0209-0593](#) at 0614-0619, paras. 61-76, 0632, paras. 138-141.

²⁴⁰ [First Agreed Facts](#), no. 3-4; [DAR-OTP-0209-0593](#) at 0618, para. 75, 0629-0631, paras. 127-137; P-1042: [DAR-OTP-0220-1623](#) at 1671, para. 120; [DAR-OTP-0171-0579](#).

²⁴¹ [Fourth Agreed Facts](#), no. 2.

²⁴² [DAR-OTP-0209-0593](#) at 0619-0623, paras. 78-97.

²⁴³ 1998 Constitution: [DAR-OTP-0139-0003](#) at 0026 (art. 122); [DAR-OTP-0103-0564](#) (Translation [DAR-OTP-0118-0075](#)). *See also* [First Agreed Facts](#), no. 9.

²⁴⁴ [Al Hassan TJ](#), para. 1096.

²⁴⁵ P-0883: [DAR-OTP-00000065](#) at 1-2, paras. 217, 224; P-0905: [T-85-CT](#), [REDACTED], p. 32, lines 1-7, p. 33, line 7-p. 34, line 24; P-0935: [T-90-CT2](#), p. 21, lines 5-21, p. 36, lines 1-6.

²⁴⁶ 1998 Constitution: [DAR-OTP-0139-0003](#) at 0009, 0026 (arts. 42, 122); [DAR-OTP-0103-0564](#) (Translation [DAR-OTP-0118-0075](#)).

²⁴⁷ [Second Agreed Facts](#), no. 5.

²⁴⁸ [Fourth Agreed Facts](#), no. 7; [First Agreed Facts](#), no. 10; 1998 Constitution: [DAR-OTP-0139-0003](#) at 0009 (Article 42); [DAR-OTP-0103-0564](#) (Translation [DAR-OTP-0118-0075](#) at 0084) (art. 11).

²⁴⁹ P-0020: [DAR-OTP-0095-0002-R02](#) at 0029, para. 112; [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0513, para. 42; P-0935: [T-90-CT2](#), p. 21, lines 13-15.

²⁵⁰ [Fourth Agreed Facts](#), no. 8.

²⁵¹ [Fourth Agreed Facts](#), no. 3-4.

²⁵² P-1042: [T-27-ET](#), p. 77, lines 10-12.

Muhammad FA'IZ ("FA'IZ"),²⁵³ the 16th Division in Nyala,²⁵⁴ and the 96th Brigade in Zalingei, under the command of Brigadier Kamal FADLALLAH.²⁵⁵ The Garsila Battalion of the 96th Brigade was under the command of BAKHAT.²⁵⁶ The Garsila Battalion was sub-divided into companies and regiments, which were based in locations including Garsila, Mukjar, Bindisi, Deleig and Arawala.²⁵⁷ The Head of the SAF MI Office in Garsila was HAMDI.²⁵⁸

75. The PDF (*Al-Difa' Al-Sha'bi*), created pursuant to the Popular Defence Forces Act in 1989 (the "PDF Act"), were paramilitary forces intended to "support the [SAF] and all other government forces whenever necessary."²⁵⁹ The PDF comprised two parts, a civilian coordinating body responsible for, in particular, the mobilisation of civilians into the PDF, and a military body, responsible for leading operations, training and various other duties.²⁶⁰

76. At the state and locality level there were civilian PDF coordinators responsible for mobilising civilians into the PDF at the request of the GoS.²⁶¹ [REDACTED]²⁶² [REDACTED] Garsila PDF officer (later Garsila PDF coordinator) HASSABALLAH.²⁶³

²⁵³ P-0883: [T-73-CT2](#), p. 6, lines 21-25, and [REDACTED], and [DAR-OTP-00000065](#) at 1. See also [DAR-OTP-0051-0205](#) at 0263 (Translation [DAR-OTP-0219-4294](#) at 4353); [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7016); P-0954: [DAR-OTP-0221-0571-R01](#) at 0581, para. 48. FA'IZ was preceded by Brigadier Ya'qub Ibrahim MANZUL (at least October 2003-February 2004), see [DAR-OTP-0034-0166](#) at 0170 (Translation [DAR-OTP-0153-0778](#) at 0783); [DAR-OTP-0051-0205](#) at 0254, 0261 (Translation [DAR-OTP-0219-4294](#) at 4344, 4351). In turn, Brigadier MANZUL was preceded by Colonel Ali Adam HARUN, see [DAR-OTP-0051-0205](#) at 0243 (Translation [DAR-OTP-0219-4294](#) at 4333).

²⁵⁴ P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 33, 0580, para. 46; P-0883: [DAR-OTP-00000065](#) at 1; [DAR-OTP-0048-0045](#) at 0052-0053, para. 13. From around 2004, Captain Abdallah ABDU was the PDF deputy commander in Nyala, see P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 23.

²⁵⁵ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7014); P-0935: [T-90-CT2](#), p. 21, line 15-p. 22, line 1; [DAR-OTP-0219-3573](#) at 3583, no. 4.

²⁵⁶ [REDACTED]; P-0905: [T-85-CT](#), p. 31, lines 4-18. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7010). See also [Fourth Agreed Facts](#), no. 5-6.

²⁵⁷ P-0883: [T-72-CT2](#), p. 56, line 11-p. 58, line 16, and [DAR-OTP-00000065](#) at 2, para. 222.

²⁵⁸ [REDACTED]; P-0935: [T-90-CT2](#), p. 7, lines 2-7; P-0931: [T-62-CT](#), p. 13, line 11-p. 14, line 3; P-0905: [T-85-CT](#), p. 32, lines 1-4, p. 33, line 7-p. 34, line 15; P-0119: [DAR-OTP-0124-0196-R03](#) at 0216, para. 123. See also [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0061-0062, para. 30.

²⁵⁹ PDF Act: [DAR-OTP-0103-0559](#) (Translation [DAR-OTP-0116-0889](#) at 0891, articles 5-6); [Fourth Agreed Facts](#), no. 1; 1998 Constitution: [DAR-OTP-0139-0003](#) at 0027, article 125. See also P-0883: [DAR-OTP-00000065](#) at 2-3, paras. 227-228, 237; P-1042: [DAR-OTP-0220-1623](#) at 1661-1662, para. 96, and [T-27-ET](#), p. 54, lines 19-20; P-0954: [DAR-OTP-0221-0571-R01](#) at 0574, para. 20; P-0119: [DAR-OTP-0124-0196-R03](#) at 0209, para. 72; P-0020: [T-41-CT](#), p. 81, line 9-p. 82, line 9; D-36: [DAR-D31-00000312](#) at 4, para. 9, 6, para. 11. ²⁶⁰ [REDACTED]; P-0954: [DAR-OTP-0221-0571-R01](#) at 0575-0576, paras. 24 (excluding the passage the Parties agreed not to rely on see [Third Rule 68\(2\)\(c\) Decision](#), para. 9), 26-27; [REDACTED]; P-0883: [T-71-CT3](#), p. 60, line 22-p. 61, line 5, and [T-73-CT2](#), p. 34, lines 16-24, p. 38, line 11-p. 40, line 7; [REDACTED]; D-36: [DAR-D31-00000312](#) at 6, paras. 16-17.

²⁶¹ D-36: [DAR-D31-00000312](#) at 6, para. 16, 9, para. 33, and [T-153-ET](#), p. 52, lines 3-8, p. 53, line 14-p. 54, line 7, p. 59, lines 7-19. See also [REDACTED].

²⁶² [REDACTED].

²⁶³ P-0883: [DAR-OTP-00000065](#) at 3, para. 234, and [T-71-CT3](#), [REDACTED], p. 40, lines 12-23, p. 60, lines 10-20, p. 61, lines 9-22, and [T-72-CT2](#), p. 64, line 12-p. 65, line 3; P-0931: [T-62-CT](#), p. 14, lines 5-22, p. 15, lines

77. During the charged period, in the Wadi Salih area, the PDF chain of command went from Khartoum to Al-Fasher, Zalingei, and then Garsila. There was also a PDF unit in Nyala, which supplied the PDF in the area with weapons and ammunition and, in 2003-2004, this unit was commanded by Major AL HARIKA.²⁶⁴

78. The PDF coordinated closely with the SAF to provide logistics and operational support.²⁶⁵ The PDF unit in Nyala was a support unit within the 16th Division of the SAF.²⁶⁶ Officers and non-commissioned officers from the SAF would be seconded to the PDF in order to organise it in a military manner in relation to supplies, training and general services.²⁶⁷ These military officers would coordinate between the SAF and the troops of the PDF that carried out operations. During operations in Wadi Salih involving the PDF, including during the Sindu operation,²⁶⁸ the SAF leadership would provide a small number of soldiers from the SAF to assist/coordinate with the PDF. As set out below, during these common operations, the PDF also coordinated closely with the Militia/*Janjaweed*, often to the extent that, in practice, these forces were considered the same.²⁶⁹

79. The CRF (*Al-Ihtiyati Al-Markazi*) (also referred to as Abu Teira) were a reserve force originally created in 1970 to assist the Police, including with countering riots, combating tribal conflicts, and pursuing armed gangs.²⁷⁰ The CRF also provided support to the SAF.²⁷¹ The PPF (*Al-Shurta Al-Sha'bia*), established when AL-BASHIR came to power, around the same time

1-3, p. 51, lines 7-16; P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 39, and [DAR-OTP-0220-4710](#) at 4710, para. 7; P-0994: [DAR-OTP-0222-0055-R01](#) at 0070, para. 69; [REDACTED]. See also [REDACTED].

²⁶⁴ P-0883: [DAR-OTP-00000065](#) at 3, paras. 231-233, 235. See below paras. 189-190.

²⁶⁵ [DAR-OTP-0209-0593](#) at 0620, para. 83; P-0883: [DAR-OTP-00000065](#) at 2-3, paras. 227-228. See also P-0041: [DAR-OTP-0206-0033-R03](#) at 0039, para. 21.

²⁶⁶ P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 33.

²⁶⁷ P-0954: [DAR-OTP-0221-0571-R01](#) at 0575, para. 24 (excluding the passage the Parties agreed not to rely on see [Third Rule 68\(2\)\(c\) Decision](#), para. 9); P-0116: [DAR-OTP-0127-0318-R01](#) at 0350, para. 163. See also D-16: [T-153-ET](#), p. 34, line 17-p. 35, line 1.

²⁶⁸ See below paras. 155-157, 187-190.

²⁶⁹ P-0954: [DAR-OTP-0221-0571-R01](#) at 0575-0576, paras. 24 (excluding the passage the Parties agreed not to rely on see [Third Rule 68\(2\)\(c\) Decision](#), para. 9), 26-27, 0580, para. 46. In a reflection of the close degree of coordination during these operations, P-0954 stated that the "People's Defence Force [...] are the Mujahideen and the Emirs in their operation in Wadi Salih." (emphasis added). See also P-0883: [T-71-CT3](#), p. 13, lines 3-24; [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0209, para. 71; P-0012: [DAR-OTP-0119-0503-R01](#) at 0510, para. 29; P-0892: [DAR-OTP-0217-0384-R02](#) at 0393, para. 45; P-0913: [DAR-OTP-0218-0021-R04](#) at 0041, paras. 133-134; P-0984: [T-67-CT](#), p. 24 line 10-p. 25, line 9, p. 26 lines 7-16.

²⁷⁰ P-1042: [DAR-OTP-0220-1623](#) at 1657, para. 86; P-0083: [DAR-OTP-0110-0002-R02](#) at 0037, para. 144; P-0883: [DAR-OTP-00000065](#) at 4, paras. 243, 246; P-0041: [DAR-OTP-0206-0033-R03](#) at 0038, para. 17. See also [REDACTED]; P-0874: [DAR-OTP-00000221](#) at 1, paras. 1-4; [REDACTED]. See also Annex 31: Agreed glossary, p. 2.

²⁷¹ [REDACTED].

as the PDF,²⁷² were the reserve force of local citizens raised to augment the regular police.²⁷³ The Police were a regular national force for the protection of public order.²⁷⁴ The CRF,²⁷⁵ PPF²⁷⁶ and Police²⁷⁷ were all part of the Ministry of the Interior. The Minister of the Interior was HUSSEIN and his deputy was State Minister for the Ministry of the Interior HARUN.²⁷⁸

80. Militia/*Janjaweed*, also known as *Fursan*, *Bashmerga* or *Mujahidin*,²⁷⁹ fought in the armed conflict on the GoS side.²⁸⁰ Joint Expert P-1042 defined “Janjaweed” as a term “used to refer generically to pro-government militia in 2003-5” and “different Arab clans forming brigades” who were “mobilized on an *ad hoc* basis.”²⁸¹ P-1042 noted that Arab militia were also known as “Fursan”. He further stated that the “GoS preferred to say that Janjaweed referred to outlaws and bandits.”²⁸² In his GoS Interview, **ABD-AL-RAHMAN** took this very position, stating “I was the Emir of the Fursan of the Mujahidin”²⁸³ and that the “Janjaweed are people that engage in plunder and are bandits. We are *Fursan* who fight against those who attack the State, and in accordance with directions from the State itself.”²⁸⁴

81. The GoS co-opted the Militia/*Janjaweed* in order to help the GoS Forces fight the

²⁷² P-0883: [DAR-OTP-00000065](#) at 5, para. 256.

²⁷³ P-0883: [DAR-OTP-00000065](#) at 5-6, paras. 257-258; [REDACTED]. See also P-0041: [DAR-OTP-0206-0033-R03](#) at 0038-0039, para. 18.

²⁷⁴ 1999 Police Forces’ Act: [DAR-OTP-0103-0598](#) (Translation [DAR-OTP-0116-0895](#) at 0901, art. 5); 1998 Constitution: [DAR-OTP-0139-0003](#) at 0026-0027, art. 123; P-0883: [DAR-OTP-00000065](#) at 6-7, paras. 261-269.

²⁷⁵ P-0083: [DAR-OTP-0110-0002-R02](#) at 0037, para. 145; P-0883: [DAR-OTP-00000065](#) at 4, para. 244; [REDACTED].

²⁷⁶ P-0883: [DAR-OTP-00000065](#) at 5, para. 256.

²⁷⁷ P-0883: [DAR-OTP-00000065](#) at 6, paras. 261, 265; 1999 Police Forces’ Act: [DAR-OTP-0103-0598](#) (Translation [DAR-OTP-0116-0895](#) at 0901, 0904, art. 13); P-0547: [DAR-OTP-0224-0724](#) (Translation [DAR-OTP-0224-0733](#)).

²⁷⁸ See below para. 99.

²⁷⁹ Militia/*Janjaweed* were also known as “horsemen”, “knights” or “mounted militants” (literal translations of *Fursan*), “holy warriors” or “fighters” (literal translations of *Mujahidin*), “Friendly Forces” and *Murahilin*.

²⁸⁰ [DAR-OTP-0209-0593](#) at 0623-0628, paras. 98-120; P-0883: [DAR-OTP-00000065](#) at 3, para. 237, and [T-71-CT3](#), p. 13, line 3-p. 14, line 14; [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0506, para. 14, 0509, para. 28, and [T-45-CT](#), p. 13, line 18-p. 14, line 11, p. 65, lines 4-10. See below paras. 107-111.

²⁸¹ P-1042: [DAR-OTP-0220-1623](#) at 1625, 1672-1673, para. 126. See also e.g. [REDACTED].

²⁸² P-1042: [DAR-OTP-0220-1623](#) at 1674, para. 130.

²⁸³ P-1042 explained that this term, which he described as “*amir al mujahideen*”, was given to leaders of tribal militias mobilised into the PDF in the early years of AL-BASHIR’s government (approx. 1990-94). These tribal militia leaders were rewarded with vehicles, military training for their personal guards and various privileges. P-1042 noted that “These campaigns were marked by numerous violations against civilians.” ([DAR-OTP-0220-1623](#) at 1658-1659, para. 89). D-16 stated that this was a title that referred to “the commander of a group of mobilised individuals”, which is a group of reserve forces, namely the PDF [REDACTED]. [REDACTED] “the emir that you are talking about is in the structure of the popular defence, which has a mujahid, and that [...] individual is called a mujahid, and then a group is called Mujahidin, and then leading them is an emir.” [REDACTED].

²⁸⁴ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7015-7016).

SLM/A and JEM.²⁸⁵ During the charged period, GoS Forces coordinated with the Militia/*Janjaweed* to varying degrees.²⁸⁶ This coordination included providing funding, weapons and military training to the Militia/*Janjaweed*²⁸⁷ and conducting joint operations against rebel bases and areas perceived to be associated with the rebels, including during the Sindu operation.²⁸⁸ During this time, **ABD-AL-RAHMAN**'s Militia/*Janjaweed* coordinated closely with members of the GoS Forces.²⁸⁹ Militia/*Janjaweed* were also recruited into GoS Forces, particularly into the PDF and the CRF in the later stages of the conflict.²⁹⁰

82. Given this close coordination, the distinction between the Militia/*Janjaweed* and GoS Forces was not always clear.²⁹¹ [REDACTED], stated "in 2003-2004, the Central Reserve Forces would also support the Janjaweed who were also known as the Popular Defence Forces."²⁹² Joint Expert P-1042 explained that "belligerent forces in Darfur in 2003-04 were not static, well-formed groups. Rather both rebel and government forces comprised fast-developing formations of existing, new and re-purposed groups."²⁹³ In relation to operations in Tanako in 2003, P-0883 explained that the "PDF, in essence, [were] the Arabs under the command of [**ABD-AL-RAHMAN**]"²⁹⁴ During the Sindu operation, the Mukjar CRF commander refused to provide CRF vehicles to a convoy of SAF, PDF and Militia/*Janjaweed* forces on the basis that the "PDF forces [...] on horse and camelbacks" were in fact

²⁸⁵ P-1042: [DAR-OTP-0220-1623](#) at 1672-1673, para. 126; P-0935: [T-90-CT2](#), p. 10, line 18-p. 11, line 7; P-0883: [T-71-CT3](#), p. 13, line 3-p. 14, line 14; [REDACTED]; [DAR-OTP-0212-0100](#) (Translation [DAR-OTP-0215-4648](#) at 4651-4652); [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0208, para. 68; P-0012: [T-45-CT](#), p. 67, lines 15-17.

²⁸⁶ [DAR-OTP-0209-0593](#) at 0623-0627, paras. 99, 102, 106-107, 114; P-0954: [DAR-OTP-0221-0571-R01](#) at 0576, paras. 26-27; [REDACTED].

²⁸⁷ See below paras. 107-111. See also e.g. [DAR-OTP-0209-0593](#) at 0626-0627, paras. 111, 113, 116; P-0954: [DAR-OTP-0221-0571-R01](#) at 0574, para. 20; P-0994: [DAR-OTP-0222-0055-R01](#) at 0061-0062, para. 30; P-0026: [DAR-OTP-0095-0151-R02](#) at 0179, paras. 149-150; [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0209, para. 73; P-0116: [DAR-OTP-0127-0318-R01](#) at 0329, para. 49, 0350, para. 163; P-0954: [DAR-OTP-0221-0571-R01](#) at 0574, para. 20.

²⁸⁸ See paras. 155-157, 187-190.

²⁸⁹ P-0935: [T-90-CT2](#), p. 84, lines 2-7; P-0883: [DAR-OTP-00000065](#) at 3-4, para. 237; [REDACTED]. See below paras. 153-157.

²⁹⁰ [DAR-OTP-0209-0593](#) at 0625, para. 108, 0627, para. 116; [DAR-OTP-0212-0100](#) (Translation [DAR-OTP-0215-4648](#) at 4651-4652); P-1042: [DAR-OTP-0220-1623](#) at 1658, para. 88(c), and [T-28-ET](#), p. 28, line 23-p. 29, line 8; [REDACTED]; P-0883: [DAR-OTP-00000065](#) at 4, para. 238, and [T-73-CT2](#), p. 56, lines 10-16; [REDACTED]; P-0116: [DAR-OTP-0127-0318-R01](#) at 0343, paras. 122-123; [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0209, para. 71, 0212-0213, paras. 97, 101-102; P-0954: [DAR-OTP-0221-0571-R01](#) at 0575, para. 24 (excluding the passage the Parties agreed not to rely on see [Third Rule 68\(2\)\(c\) Decision](#), para. 9), 0580, para. 46; [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0062, para. 31; [REDACTED]. See also P-0012: [DAR-OTP-0119-0503-R01](#) at 0509-0510, paras. 28-29; P-0984: [T-67-CT](#), p. 24, lines 10-15.

²⁹¹ [DAR-OTP-0209-0593](#) at 0623, para. 98, 0626, para. 110. See also P-0892: [DAR-OTP-0217-0384-R02](#) at 0393, para. 45; P-0913: [DAR-OTP-0218-0021-R04](#) at 0041, para. 133. See above para. 78.

²⁹² [REDACTED].

²⁹³ P-1042: [DAR-OTP-0220-1623](#) at 1670, para. 118.

²⁹⁴ P-0883: [T-71-CT3](#), p. 40, line 12-p. 41, line 13.

“Janjaweed”, and told a SAF colonel “[w]e only deal with regular forces.”²⁹⁵

83. Despite the evolving nature of various armed groups aligned with the GoS, the evidence set out below clearly demonstrates that **ABD-AL-RAHMAN** was in command of Militia/*Janjaweed* forces that existed independently of, but coordinated closely with, GoS Forces.²⁹⁶ Indeed, as **ABD-AL-RAHMAN** explained in his GoS Interview, “During our conflict with the Fur, we were, of course, a mix of People’s Defence and *Fursan*.”²⁹⁷

Organisation requirement concerning rebel armed groups

84. At all material times, the SLM/A and JEM were sufficiently organised.²⁹⁸ The JEM was founded as a political movement in or about August 2001, later establishing a military wing.²⁹⁹ The SLM/A, which transformed from the Darfur Liberation Front on or about 14 March 2003,³⁰⁰ was divided into a political wing (the Movement) and a military wing (the Army).³⁰¹ SLM/A and JEM had political and military leaders and issued political statements.³⁰² During the relevant period, Abd-Al-Wahid Muhammad NUR and Minni Arko MINAWI were the leaders of the SLM/A and the JEM chairman was Dr Khalil IBRAHIM.³⁰³

85. The SLM/A and JEM used military tactics and carried out large scale and coordinated operations against the GoS in Darfur.³⁰⁴ They were mobile, but had military bases including in

²⁹⁵ [REDACTED].

²⁹⁶ See below paras. 128-194. *De jure* incorporation of the Militia/*Janjaweed* - pursuant to the procedure set out in the 1982 Reserve Forces Act, or otherwise - was not a pre-requisite to their participation in the counter-insurgency [REDACTED]. See also D-36, who determined that the 1989 PDF Act was fundamentally different from the 1982 Reserve Services Act: [DAR-D31-00000312](#) at 6-7, paras. 18-20, and [T-153-ET](#), p. 11, lines 9-16, p. 18, line 19-p. 20, line 7). See also [DAR-OTP-0080-0024](#) at 0026, para. 7, where, in calling for the GoS to bring to justice all those responsible for “widespread human rights abuses and violations of international humanitarian law” in a resolution adopted on 18 September 2004, the UNSC also distinguished between “popular defense forces and Janjaweed militias”.

²⁹⁷ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7015). See also e.g. P-0883 who stated that during the Sindu operation the “PDF were side by side with the horsemen, the *Fursan*. The latter being commanded by Ali Muhammad Ali Abd-Al-Rahman.” See P-0883: [T-72-CT2](#), p. 12, lines 11-12. See below paras. 155-157.

²⁹⁸ [Al Hassan TJ](#), para. 1096.

²⁹⁹ [DAR-OTP-0209-0593](#) at 0631, para. 133. See also [First Agreed Facts](#), no. 15-16.

³⁰⁰ [DAR-OTP-0209-0593](#) at 0629, para. 127; [DAR-OTP-0118-1135](#). See also [First Agreed Facts](#), no. 12.

³⁰¹ [DAR-OTP-0209-0593](#) at 0630, para. 131. See also [First Agreed Facts](#), no. 13.

³⁰² [DAR-OTP-0209-0593](#) at 0608-0609, para. 37, 0629-0631, paras. 127-137; [DAR-OTP-0120-0258](#); [DAR-OTP-0096-0231](#) (Translation [DAR-OTP-0153-0295](#)); [DAR-OTP-0118-1135](#); P-1042: [DAR-OTP-0220-1623](#) at 1669, para. 115, 1671, para. 120; P-0026: [DAR-OTP-0095-0151-R02](#) at 0176-0177, paras. 129-131. See also [First Agreed Facts](#), no. 14, 17.

³⁰³ [DAR-OTP-0209-0593](#) at 0608-0609, para. 37, 0629-0631, paras. 127-137; P-0026: [DAR-OTP-0095-0151-R02](#) at 0167, para. 77, 0177, para. 134; [REDACTED]. See also [First Agreed Facts](#), no. 14, 17.

³⁰⁴ [DAR-OTP-0209-0593](#) at 0615, para. 65, 0661, para. 254; P-1042: [DAR-OTP-0220-1623](#) at 1671, paras. 120-121; P-0013: [DAR-OTP-0088-0129-R03](#) at 0134, para. 22. See also [First Agreed Facts](#), no. 6, 11.

Sindu Hills, Dereissa and Jebel Marra.³⁰⁵ They exercised control over parts of the territory in Darfur³⁰⁶ and had the ability to recruit and train their members.³⁰⁷ They recruited mainly from the Fur, Zaghawa and Masalit tribes.³⁰⁸ SLM/A and JEM attacked police stations and military bases, including in Arawala, Bindisi and Mukjar, during which they obtained arms and other items.³⁰⁹

86. The United Nations Security Council (“UNSC”) stressed that the rebel armed groups in Darfur must “take all necessary steps to respect international humanitarian and human rights law” and demanded that rebel groups ensure their members comply with international humanitarian law.³¹⁰ The SLM/A and JEM leaders signed ceasefire and peace agreements with the GoS, although these were periodically violated.³¹¹ One such peace agreement included a protocol that referenced international humanitarian and human rights treaties.³¹²

Intensity requirement concerning the armed violence

87. The armed hostilities between the GoS together with the Militia/*Janjaweed* on one side and SLM/A and JEM on the other side in Darfur were protracted.³¹³ The intensity of the armed hostilities exceeded internal disturbances and tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.³¹⁴ From at least April 2003 until at least April 2004, the parties to the armed conflict carried out serious and frequent attacks in Darfur.³¹⁵ The armed conflict in Darfur went through different operational phases.³¹⁶ The armed hostilities were spread over the territory of three states: North, West and South Darfur.³¹⁷

³⁰⁵ P-0883: [T-71-CT3](#), p. 10, lines 14-24, p. 11, lines 9-21; [REDACTED]; [DAR-OTP-0027-0271](#) (Translation [DAR-OTP-0219-3573](#) at 3582-3583); P-0935: [T-90-CT2](#), p. 9, line 21-p. 10 line 17; P-0026: [DAR-OTP-0095-0151-R02](#) at 0178, para. 142; [REDACTED]. Dereissa is also known as Dereisa, Duraysa, Darisa, Darissa, Derissa or Drissa.

³⁰⁶ P-0026: [DAR-OTP-0095-0151-R02](#) at 0178, para. 142; P-0020: [DAR-OTP-0095-0002-R02](#) at 0008, para. 23. See also [DAR-OTP-0080-0024](#) at 0025.

³⁰⁷ P-1042: [DAR-OTP-0220-1623](#) at 1671, para. 122; P-0816: [DAR-OTP-0214-0721-R02](#) at 0725, para. 21; P-0012: [DAR-OTP-0119-0503-R01](#) at 0526, para. 105; P-0756: [DAR-OTP-0211-0039-R02](#) at 0044, paras. 21-22.

³⁰⁸ [DAR-OTP-0209-0593](#) at 0629-0631, paras. 127-137.

³⁰⁹ P-0026: [DAR-OTP-0095-0151-R02](#) at 0178, para. 139. See below para. 254.

³¹⁰ [DAR-OTP-0080-0024](#) at 0025-0026.

³¹¹ [DAR-OTP-0209-0593](#) at 0616-0617, paras. 70-71; [DAR-OTP-0171-0579](#); [DAR-OTP-0152-0189](#) at 0190. See also *First Agreed Facts*, no. 7-8.

³¹² [DAR-OTP-0171-0579](#) at 0583-0584.

³¹³ *Al Hassan TJ*, para. 1097.

³¹⁴ *First Agreed Facts*, no. 5.

³¹⁵ See e.g. P-1042: [DAR-OTP-0220-1623](#) at 1671-1672, paras. 121, 124, and [T-29-CT](#), p. 13, line 23-p. 17, line 4; P-0012: [DAR-OTP-0119-0503-R01](#) at 0514, para. 46, 0517, para. 62, and [DAR-OTP-0220-4710](#) at 4710, para. 9; P-0013: [DAR-OTP-0088-0129-R03](#) at 0134, para. 22; [DAR-OTP-0209-0593](#) at 0661, para. 254; Translation [DAR-OTP-0153-0686](#) (original [DAR-OTP-0023-0057](#) not submitted into evidence).

³¹⁶ P-1042: [DAR-OTP-0220-1623](#) at 1674-1676, paras. 131-139.

³¹⁷ P-1042: [DAR-OTP-0220-1623](#) at 1674, para. 131, and [DAR-OTP-0220-1689](#) at 1691.

88. On 25 April 2003, the SLM/A carried out a major attack on the airport in Al Fasher, North Darfur that resulted in the destruction of several military aircraft and many casualties, especially on the GoS side.³¹⁸ As a result, the GoS significantly increased the level of hostilities against the rebel armed groups in Darfur,³¹⁹ attacking rebel bases and areas perceived to be rebel strongholds, using small arms, light and heavy weapons, vehicles and military aircraft.³²⁰ The SLM/A and JEM used various types of weapons and Land Cruiser type vehicles.³²¹ In May and June 2003, SAF commanders in Al Fasher distributed arms to PDF units, to join the counter-insurgency and for self-defence, but many of the non-Arab members of the PDF promptly defected to the rebels.³²²

89. Given the protracted nature of the armed hostilities, the UNSC issued resolutions on the situation in Darfur, reminding the parties to the armed conflict to adhere to the principles of international humanitarian law.³²³ The African Union attempted to broker a political solution to the armed conflict, facilitating the signing of ceasefire and peace agreements.³²⁴ The violence had a devastating effect on the civilian population of Darfur.³²⁵

b) Nexus requirement

90. The conduct that forms the basis of the charges took place in the context of and was associated with the armed conflict.³²⁶ The GoS Forces and Militia/*Janjaweed* perceived the civilians in certain villages or areas in Darfur as associated with the SLM/A and JEM, and thus an enemy, and targeted them on that basis.³²⁷ The conduct underlying the charged crimes served the ultimate goal of the GoS' counter insurgency campaign and, as set out below, was committed as part of, and in the context of, joint operations by GoS Forces and Militia/*Janjaweed* against rebel bases or areas perceived to be associated with the rebels,

³¹⁸ [DAR-OTP-0209-0593](#) at 0615, para. 65; P-1042: [DAR-OTP-0220-1623](#) at 1671, para. 121, and [T-27-ET](#), p. 77, line 13-p. 78, line 16; P-0026: [DAR-OTP-0095-0151-R02](#) at 0168, paras. 82-85; [REDACTED]; P-0020: [DAR-OTP-0095-0002-R02](#) at 0017, para. 57. *See also* [First Agreed Facts](#), no. 6.

³¹⁹ [REDACTED]; P-1042: [T-27-ET](#), p. 77, line 13-p. 78, line 22; P-0116: [DAR-OTP-0127-0318-R01](#) at 0333, paras. 72-75. *See also* P-0020: [T-41-CT](#), p. 86, lines 3-22.

³²⁰ P-0026: [DAR-OTP-0095-0151-R02](#) at 0169-0170, para. 91; [Third Agreed Facts AnxB](#), no. 1-12. *See below* para. 190.

³²¹ P-1042: [DAR-OTP-0220-1623](#) at 1671, paras. 120-122.

³²² P-1042: [DAR-OTP-0220-1623](#) at 1671, para. 122. *See also* [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009).

³²³ *See e.g.* [DAR-OTP-0152-0189](#) at 0190; [DAR-OTP-0080-0024](#) at 0025-0026.

³²⁴ [DAR-OTP-0171-0579](#); [DAR-OTP-0080-0024](#) at 0026-0027; [First Agreed Facts](#), no. 7-8.

³²⁵ *See below* paras. 119-123.

³²⁶ [Al Hassan TJ](#), paras. 1098-1101.

³²⁷ P-1042: [T-27-ET](#), p. 78, line 17, p. 79, line 15, and [T-29-CT](#), p. 28, line 1-p. 29, line 2; [REDACTED]. *See also below* Section F: Persecution.

pursuant to that campaign.³²⁸ At all material times, the members of the Militia/*Janjaweed* and the GoS Forces who were the perpetrators of the crimes underlying the charges, including **ABD-AL-RAHMAN**, were aware of the factual circumstances that established the existence of the armed conflict. In particular, as a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, **ABD-AL-RAHMAN** cooperated with civilian officials of the GoS (“GoS Officials”) and GoS Forces and participated in the military operations against the rebel armed groups in the Wadi Salih and Mukjar Localities.³²⁹

2) Contextual elements of article 7 (Crimes against humanity)

91. Between at least August 2003³³⁰ and at least April 2004,³³¹ GoS Forces and Militia/*Janjaweed* committed a widespread and systematic attack against the civilian population in the Wadi Salih and Mukjar Localities of West Darfur State. This attack was committed pursuant to, and in furtherance of, a GoS State policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities. The acts that are charged as crimes against humanity were committed as part of that attack and should be read in conjunction with this section to establish their objective and subjective elements.³³²

a) The conduct of GoS Forces and Militia/*Janjaweed* involved the commission of multiple article 7(1) acts directed against the civilian population

92. Between at least August 2003 and at least April 2004, GoS Forces and Militia/*Janjaweed* engaged in a course of conduct that involved the multiple commission of acts referred to in article 7(1).³³³ These acts were committed against the civilian population in Kodoom, Bindisi and Deleig in the Wadi Salih Locality, and in Mukjar in the Mukjar Locality.³³⁴ As set out below, the attack further comprised additional non-charged acts under article 7(1) that were committed in Arawala, Forgo, Taringa, Andi, Fere, Seder, Gausir, Kaskeidi and Um Jameina in the Wadi Salih Locality, and Tendy and Tiro in the Mukjar

³²⁸ The armed conflict therefore played a major part in the decision of the perpetrators to commit the crimes, their ability to do so, or the manner in which the crimes were committed (*Al Hassan TJ*, paras. 1099-1100). *See below* paras. 155-157, 187-190, 254.

³²⁹ *See below* paras. 127-194.

³³⁰ *See below* paras. 120-123.

³³¹ The GoS and the SLM/A and JEM signed a humanitarian ceasefire agreement on 8 April 2004. *See* P-1042: *DAR-OTP-0220-1623* at 1675, paras. 136-137. *See above* paras. 86, 89.

³³² *See below* Sections G: Crimes committed in Kodoom, Bindisi and surrounding areas; Section H: Crimes committed in Mukjar and surrounding areas; Section I: Crimes committed in Deleig and surrounding areas.

³³³ *See e.g.* Annex 4: Timeline of key events (April 2003-April 2004). *Al Hassan TJ*, para. 1102.

³³⁴ Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004. *See below* paras. 269-348, 411-474, 535-621.

Locality.³³⁵

93. The number of civilians targeted and the manner in which the attack was executed demonstrate that the civilian population was the object of the attack.³³⁶ As explained below, and especially in Section F (Persecution), the attack was directed against civilians predominantly from the Fur tribe in a discriminatory nature.³³⁷ Many of these civilians were unarmed, wore civilian clothing and included women and children.³³⁸ Acts of murder and rape were regularly committed together with, or during the course of, the commission of other charged crimes against the civilian population.³³⁹ In addition, during the course of the attack, civilian buildings, infrastructure and supplies were targeted and destroyed.³⁴⁰

b) GoS Forces and Militia/*Janjaweed* acted pursuant to, and in furtherance of, a GoS State policy

94. The attack against the civilian population was not spontaneous or isolated acts of violence.³⁴¹ Rather, the attack was carried out pursuant to, and in furtherance of, a State policy by the GoS to commit an attack against the civilian population in Wadi Salih and Mukjar Localities of West Darfur. The attack was the intended outcome of a policy devised by the GoS and executed by GoS Officials, GoS Forces and Militia/*Janjaweed*.³⁴²

95. The State policy was part of a counter-insurgency campaign following the establishment of rebel armed group bases, and the rebel attacks on Al Fasher airport³⁴³ and other GoS installations, including in Bindisi and Mukjar in July and August 2003.³⁴⁴ An integral component of this campaign was the use of GoS Forces and members of Arab tribes, in

³³⁵ Annex 3: Locations forming part of the widespread and systematic attack against the civilian population between at least August 2003 and at least April 2004. *See below* para. 122.

³³⁶ [Ntaganda AJ](#), paras. 7-8, 421-424; [Al Hassan TJ](#), paras. 1106 (“The presence within a civilian population of individuals who do not qualify as ‘civilians’ does not deprive the population of its civilian character. Further, while the Statute mentions that the attack must be directed against any civilian population, it is not necessary to prove that all individual victims were civilians within the meaning of international humanitarian law.”), 1107 (“[...] there is no legal requirement that the ‘*main aim* or object of the relevant acts was to attack civilians’. Rather, the ‘question of whether the attack was directed at a civilian population’ is a factual issue that may be assessed by the Chamber.”).

³³⁷ [Burundi Article 15 Decision](#), para. 48.

³³⁸ *See e.g.* paras. 223, 267, 270, 544 below. *See also* P-1042: [T-28-ET](#), p. 6, lines 8-23, p. 8, line 24-p. 9, line 8, and [DAR-OTP-0220-1623](#) at 1677-1678, paras. 144-145, 1680, para. 149.

³³⁹ [Bemba TJ](#), paras. 151, 673. *See also* [Ntaganda TJ](#), para. 663. *See also* paras. 272-296, 318-335 below.

³⁴⁰ *See e.g.* 285-305 below. *See also* [Ntaganda TJ](#), para. 668; [Ntaganda AJ](#), para. 491.

³⁴¹ [Katanga CD](#), para. 396; [Gbagbo CD](#), para. 215; [Kenyatta CD](#), para. 111; [Bemba TJ](#), para. 161; [Al Hassan TJ](#), para. 1105.

³⁴² [Ntaganda TJ](#), para. 689.

³⁴³ *See above* para. 88.

³⁴⁴ *See e.g.* P-0012: [DAR-OTP-0119-0503-R01](#) at 0517, para. 62. *See above* para. 254.

particular Militia/*Janjaweed*, to target villages and civilians that were perceived as being associated with or supporting the rebel armed groups.³⁴⁵

96. The existence of the State policy is demonstrated by the involvement of GoS Officials, institutions and other parts of the State apparatus at the national, state, and locality level³⁴⁶ throughout the planning, directing, organisation³⁴⁷ and implementation³⁴⁸ of the attack. The evidence of the State policy includes: (i) official GoS documentation³⁴⁹ of the State policy; (ii) preparatory meetings and public speeches to actively promote and encourage³⁵⁰ the attack; (iii) use of public resources³⁵¹ to recruit, train, arm, and fund Militia/*Janjaweed*; (iv) deliberate failure³⁵² of GoS Officials to investigate and prosecute crimes; and (v) GoS efforts to shield known perpetrators of crimes from prosecution and destroy evidence.³⁵³

97. Further, the existence of the State policy is demonstrated by the recurrent and systematic pattern of violence engaged in by GoS Forces and Militia/*Janjaweed* in Wadi Salih and Mukjar Localities between at least August 2003 and at least April 2004,³⁵⁴ and the joint coordination and participation of GoS Forces and Militia/*Janjaweed* throughout the attack.³⁵⁵

GoS official documentation of the State policy

98. As reflected in official documentation,³⁵⁶ the GoS State policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities was planned and coordinated at the highest levels of the political and military State apparatus. The National Security Council (“NSC”) was the highest authority running the security and military operations throughout the whole of Sudan.³⁵⁷ The duties of the NSC included planning the

³⁴⁵ See below paras. 209-217. See also P-1042: [DAR-OTP-0220-1623](#) at 1658-1659, paras. 88-89; D-36: [T-153-ET](#), p. 81, lines 5-16.

³⁴⁶ [Kenya Article 15 Decision](#), para. 89; [Gbagbo CD](#), para. 220. See also [Second Agreed Facts](#), no. 1. See also paras. 171-176.

³⁴⁷ [Katanga CD](#), para. 396; [Bemba CD](#), para. 81; [Kenyatta CD](#), para. 111; [Bemba TJ](#), para. 160; [Gbagbo CD](#), paras. 215-216; [Ongwen TJ](#), para. 2679; [Kenya Article 15 Decision](#), paras. 87-88.

³⁴⁸ [Katanga TJ](#), paras. 1109-1110.

³⁴⁹ [Bemba TJ](#), para. 160; [Ntaganda TJ](#), para. 674.

³⁵⁰ Elements of Crimes, article 7, Introduction, para. 3; [Ntaganda TJ](#), para. 674; [Ruto, Kosgey & Sang Summons Decision](#), para. 27; [Katanga TJ](#), para. 1109.

³⁵¹ [Katanga CD](#), para. 396; [Bemba TJ](#), para. 160; [Ntaganda TJ](#), para. 674.

³⁵² Elements of Crimes, article 7, Introduction, para. 3, fn. 6; [Bemba TJ](#), para. 159; [Katanga TJ](#), para. 1107.

³⁵³ See below paras. 99-118.

³⁵⁴ [Bemba TJ](#), para. 160; [Ntaganda TJ](#), para. 674. See also [Katanga TJ](#), paras. 1111-1113. See below paras. 209-217.

³⁵⁵ [Ntaganda TJ](#), para. 674; [Bemba TJ](#), para. 160. See e.g. below paras. 177-194.

³⁵⁶ [REDACTED].

³⁵⁷ P-0087: [DAR-OTP-0133-0573-R02](#) at 0609, para. 139, and [DAR-OTP-0222-0631-R01](#) at 0640-0641, paras. 68-72. The NSC was also known as the National Security and Defence Council. See [REDACTED]. See also [Second Agreed Facts](#), no. 1.

security policies of the state, overseeing the national security apparatus, and coordinating between the different security committees.³⁵⁸ Members of the NSC included President AL-BASHIR, the Minister of Interior HUSSEIN, the Minister of Defence Bakri Hassan SALIH (“SALIH”), and the Director-General of the NISS Abd-Al-Karim ABDALLAH (“ABDALLAH”).³⁵⁹

99. The NSC also managed operational planning for the Darfur counter-insurgency campaign by passing instructions from the central government to local civilian and military officials through the Darfur Disposal Committee, headed by HUSSEIN, and the Darfur Crisis Committee, headed by HARUN.³⁶⁰ The NSC met once every three months or, if there was a crisis, the President could call for an emergency meeting.³⁶¹

100. After the rebel attack on Al Fasher airport in April 2003, the NSC issued an emergency plan that formed the basis for the GoS to launch its “all-out military” counter-insurgency campaign.³⁶² The plan was to recruit Arab militias through tribal leaders then arm and train them to fight rebellious forces, including the non-Arab villages that were accused of supporting them.³⁶³ The emergency plan stated that members of the SAF and PDF could not be trusted to participate in the counter-insurgency campaign because the majority were from Darfur, and police and reservist forces such as the CRF did not have sufficient numbers to combat the rebels.³⁶⁴

101. On 18 December 2003, Minister of Defence and NSC Rapporteur SALIH sent the NSC’s 2004 plan “for ending the rebellion in the states of Darfur” to NISS Director-General

³⁵⁸ 1999 National Security Forces Act: [DAR-OTP-0021-0412](#) at 0424, arts. 35, 38; [REDACTED]; P-0883: [DAR-OTP-00000065](#) at 7, paras. 270-271; [REDACTED]. The NSC oversaw, in particular, the High Security Committee, the National Security Committee, the State security committees, and the locality security committees. See [REDACTED].

³⁵⁹ 1999 National Security Forces Act: [DAR-OTP-0021-0412](#) at 0424, art. 34; [REDACTED]; P-0087: [DAR-OTP-0133-0573-R02](#) at 0608-0609, para. 137, and [DAR-OTP-0222-0631-R01](#) at 0636, para. 32, 0640-0641, paras. 67, 69. See [Second Agreed Facts](#), no. 5-6. HUSSEIN also held the position of Presidential Representative for Darfur with HARUN as his deputy. See [REDACTED]; P-0087: [DAR-OTP-0133-0573-R02](#) at 0583, para. 41, 0605, paras. 121-122.

³⁶⁰ [REDACTED]; P-0087: [DAR-OTP-0133-0573-R02](#) at 0595-0596, para. 88, 0605, paras. 121-122, and [DAR-OTP-0222-0631-R01](#) at 0634-0635, paras. 18, 22. See [Second Agreed Facts](#), no. 7.

³⁶¹ [REDACTED].

³⁶² [REDACTED]; P-1042: [T-27-ET](#), p. 77, line 13-p. 78, line 22, and [DAR-OTP-0220-1623](#) at 1672-1673, para. 126.

³⁶³ [REDACTED]. [REDACTED] militias were used to “purify and cleanse” Shattaya, Kailek, Um Dukhun, Garsila, Mukjar and Bindisi in furtherance of this plan. [REDACTED].

³⁶⁴ P-0020: [T-41-CT](#), p. 86, lines 3-22. Relatedly, P-1042 also explained the GoS’ “militia strategy”, whereby irregular forces are mobilised “when the government faces an urgent threat in a remote area and cannot quickly deploy regular forces.” See P-1042: [DAR-OTP-0220-1623](#) at 1658, para. 88, 1659, para. 91. [REDACTED] Arab tribal leaders were not recruited based on strictly tribal affiliation or according to rank, but instead on their charisma and character. [REDACTED]. See *above* para. 88.

ABDALLAH,³⁶⁵ copying AL-BASHIR and HUSSEIN.³⁶⁶ In this plan, the NSC further articulated the strategy that it had adopted to restore security in the states of Darfur by “ending the rebellion through military and security decisiveness” and imposing “control over all the villages and the regions to which rebel leaders belong (Fur, Zaghawa, and Masalit).”³⁶⁷

102. The GoS would create “semi-regular forces from Arab tribes”, including Militia/*Janjaweed*, arm, train and integrate them into the armed forces,³⁶⁸ and assassinate “rebel leaders and the sympathisers from among community leaders (*umdahs*) and local administration officials.”³⁶⁹ Crucially, the plan did not restrict the “field of operations” to only rebel encampments, but also authorised the targeting of the villages in which rebels were sheltered and hidden.³⁷⁰

103. The evidence demonstrates that regional civilian and military officials and Security Committees³⁷¹ undertook various measures to facilitate the attack on the civilian population pursuant to the State policy. Between May 2003 and April 2004, the State Security Committee

³⁶⁵ [REDACTED]. The National Security Service was part of/connected to the NISS (also known as the *Jihaz*, meaning “Service”). [REDACTED].

³⁶⁶ [REDACTED]. [REDACTED] this document was also shown to [REDACTED] D-36 (see [T-153-ET](#), p. 60, line 23-p. 61, line 18) who did not question its authenticity. It was also shown to D-23, and while he also did not question its authenticity, no weight can be given to his evidence on this document, given his admission that he had no experience in Sudanese military or security issues ([T-142-CT](#), p. 78, line 20-p. 84, line 20 and [T-136-CT](#), p. 17, line 11-p. 27, line 2).

³⁶⁷ [REDACTED]. See also paras. 209-250 below. The Fur, Zaghawa and Masalit tribes are considered “African” or “non-Arab” tribes in Darfur, in contrast to tribes that are considered to be “Arab”. See P-1042: [T-27-ET](#), p. 46, line 13-p. 47, line 20, and [DAR-OTP-0220-1623](#) at 1640-1641, paras. 48-49.

³⁶⁸ [REDACTED].

³⁶⁹ [REDACTED] *umdahs* in Darfur society had symbolic significance, and if they killed the *umdahs*, the rebels would not find anyone to ask for soldiers. [REDACTED]. See also P-1042: [DAR-OTP-0220-1623](#) at 1643-1646, paras. 54-62. In accordance with this plan, *umdahs*, *sheikhs*, *shartays* and other tribal leaders were rounded up, detained and executed shortly thereafter in Mukjar and Deleig in February/March 2004. See below paras. 429-462, 600-609. These tribal leaders were part of the “native administration” (*al-idara al-ahliya*) in Darfur. See Annex 31: Agreed glossary, p. 16; P-1042: [T-27-ET](#), p. 57, line 2-p. 59, line 19, and [T-28-ET](#), p. 37, line 21-p. 38, line 14.

³⁷⁰ [REDACTED], the village would be attacked indiscriminately “whether it was someone at his home or whether it’s someone working on a farm” because “all African tribes in the eyes of the Sudanese regime and government were all rebels”. [REDACTED]. See also P-1042: [T-27-ET](#), p. 78, line 17-p. 79, line 15, and [DAR-OTP-0220-1623](#) at 1657, para. 84 (The large-scale ethnically-targeted violence of 2003-4 was in part due to the fact that “the security services no longer possessed the precise intelligence that would have enabled them to target individuals, and so they resorted to indiscriminately targeting entire communities.”), and [T-29-CT](#), p. 10, line 13-p. 11, line 5, p. 28, line 9-p. 29, line 2.

³⁷¹ P-0116: [DAR-OTP-0123-0039-R01](#) at 0067, paras. 154-155. The State Security Committees discussed all the economic, political and security issues with a focus on the military and security. Members of the committee included the head of security, head of intelligence services, head of the police, the *mu’atamids* (commissioners) and were presided over by the State governor. See 1999 Police Forces Act: [DAR-OTP-0116-0895](#) at 0906-0907, arts. 17-18; [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0509, paras. 25-26; [REDACTED]; P-0116: [DAR-OTP-0127-0318-R01](#) at 0346, paras. 140-142; [REDACTED].

of West Darfur formed and mobilised joint reserve forces,³⁷² ordered the mobilisation of the *Mujahidin*,³⁷³ and instructed Militia/*Janjaweed* to support GoS Forces.³⁷⁴ Local administration and Security Committee decisions regarding the counter-insurgency campaign could be overridden by senior GoS Officials such as HARUN.³⁷⁵ [REDACTED], **ABD-AL-RAHMAN** also made it clear that he only received instructions from HARUN and HUSSEIN, thereby demonstrating their close coordination to further the policy.³⁷⁶

Preparatory meetings and public speeches to promote and encourage the attack

104. Between at least August 2003 and at least April 2004, senior GoS Officials travelled extensively throughout West Darfur to conduct preparatory meetings and give public speeches that promoted and encouraged the attack.³⁷⁷ During these visits, GoS Officials met with local civilian and military leaders, including **ABD-AL-RAHMAN**,³⁷⁸ issued operational instructions, distributed arms and funding, discussed regional implementation, and delivered motivational speeches to GoS Forces and Militia/*Janjaweed* in furtherance of the State policy.³⁷⁹

105. HARUN in particular was given a wide remit for coordinating between GoS Forces and provided political support for the GoS policy in Wadi Salih and Mukjar Localities.³⁸⁰ HARUN was “in the three Darfurian states all the time, moving there all the time”, visited the armed forces to boost morale³⁸¹ and met with heads of the Security Committees, members of GoS Forces, and local tribal leaders.³⁸² HARUN gave speeches to crowds of combined GoS Forces

³⁷² [DAR-OTP-0034-0260](#) (Translation [DAR-OTP-0219-8825](#) at 8827, no. 1, 8830, no. 7, 8847, no. 1). See also a duplicate at [DAR-OTP-0027-0271](#) (Translation [DAR-OTP-0219-3573](#)). The Defence did not challenge the authenticity of the West Darfur State Security Committee meeting minutes. See [REDACTED].

³⁷³ [DAR-OTP-0034-0260](#) (Translation [DAR-OTP-0219-8825](#) at 8833, no. 4 (2/8/2003), 8834, no. 1 (4/8/2003), 8835, no.1 (24/8/200[3])). See also [REDACTED]. See below paras. 172-174.

³⁷⁴ [DAR-OTP-0034-0260](#) (Translation [DAR-OTP-0219-8825](#) at 8844, no. 4, 8849, no. 5).

³⁷⁵ P-0120: [DAR-OTP-0124-0816-R02](#) at 0824-0825, paras. 34-40; P-0087: [DAR-OTP-0133-0573-R02](#) at 0611, para. 148.

³⁷⁶ [REDACTED].

³⁷⁷ Some of these meetings and early calls for mobilisation of Arab militias began in 2002. See P-0020: [T-41-CT](#), p. 85, line 4-p. 87, line 9; [REDACTED].

³⁷⁸ P-0878: [T-78-CT3](#), p. 8, line 1-p. 15, line 1; [REDACTED]. See below paras. 159-170.

³⁷⁹ See e.g. [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0613, paras. 58-62; P-0087: [DAR-OTP-0133-0573-R02](#) at 0605, para. 123, and [DAR-OTP-0222-0631-R01](#) at 0644, paras. 93-94; P-0120: [DAR-OTP-0124-0816-R02](#) at 0824-0825, paras. 34-40; P-0085: [DAR-OTP-0110-0054-R02](#) at 0067, para. 51; P-0008: [DAR-OTP-0088-0085-R02](#) at 0095, paras. 36, 38; P-0736: [DAR-OTP-0210-0248-R02](#) at 0271-0272, paras. 86-88; P-0020: [T-42-CT](#), p. 29, lines 10-13, [REDACTED].

³⁸⁰ P-0087: [DAR-OTP-0133-0573-R02](#) at 0605-0606, paras. 121-126, and [DAR-OTP-0222-0631-R01](#) at 0635, para. 23; P-1042: [T-27-ET](#), p. 84, line 2-p. 85, line 1, and [DAR-OTP-0220-1623](#) at 1672-1673, para. 126.

³⁸¹ [REDACTED]; P-0883: [T-73-CT2](#), p. 68, lines 7-22.

³⁸² P-0878: [T-77-CT2](#), p. 63, line 11-p. 65, line 21, and [T-78-CT3](#), p. 8, line 1-p. 15, line 1; P-0040: [DAR-OTP-0094-0165-R02](#) at 0176, para. 55, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxXII](#), p. 4.

and Militia/*Janjaweed*, directing them to “clean this area”, “crush and wipe”, or “sweep and mop up.”³⁸³ These meetings frequently coincided with the distribution of weapons or money by the GoS and immediately preceded large-scale offensives against the rebel armed groups.³⁸⁴

106. The GoS, including HARUN, organised meetings for Arab tribal leaders throughout Darfur, in which it discussed mobilisation of Militia/*Janjaweed* to attack supporters of the rebel armed groups, especially the Fur.³⁸⁵ As set out below, between August 2003 and February/March 2004, HARUN travelled to Mukjar on numerous occasions to coordinate with local officials and communicate the GoS policy. In August 2003, HARUN addressed the Militia/*Janjaweed*, pledging GoS support to those who agreed to fight the rebels by giving them money, weapons and establishing camps to train them.³⁸⁶

Use of public resources to recruit, train, arm, and fund Militia/*Janjaweed*

107. Consistent with its response to previous counter-insurgencies, the GoS utilised public resources to recruit, train, arm and fund Militia/*Janjaweed* pursuant to the State policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities.³⁸⁷

³⁸³ These expressions were widely used by GoS Officials, members of GoS Forces, Militia/*Janjaweed* and **ABD-AL-RAHMAN** in the context of the counter-insurgency campaign. For their meaning, *see below* paras. 154, 156, 192, 246, 249, 273, 360-366.

³⁸⁴ P-0878: [T-78-CT3](#), p. 12, lines 1-5; P-0028: [DAR-OTP-0094-0423-R01](#) at 0436-0437, paras. 56-58, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIV](#), p. 5; [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011). *See also below* para. 163 and [Third Agreed Facts AnxB](#), no. 1-8.

³⁸⁵ P-0129: [DAR-OTP-0128-0128-R04](#) at 0134-0135, paras. 24-27, and [DAR-OTP-00000084](#) at 3, para. 35, and [T-76-CT](#), p. 17, line 11-p. 19, line 24; P-0116: [DAR-OTP-0127-0318-R01](#) at 0324-0325, paras. 28-29, 0328-0329, paras. 45-46, 0338-0339, para. 103; P-0040: [DAR-OTP-0094-0165-R02](#) at 0176-0177, paras. 54-62, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxXII](#), p. 4-5.

³⁸⁶ *See below* paras. 141, 160, 163, 220, 255-258. *See also below* para. 221. HARUN also travelled to Garsila, Al Geneina and other parts of West Darfur to disseminate the policy during this period. *See e.g.* P-0883: [T-71-CT3](#), p. 36, line 11-p. 37, line 7, p. 37, line 23-p. 38, line 2, and [T-72-CT2](#), p. 19, lines 12-14; P-0087: [DAR-OTP-0133-0573-R02](#) at 0588-0591, paras. 61-71, 0605-0606, paras. 123-126; P-0116: [DAR-OTP-0127-0318-R01](#) at 0334-0335, paras. 76-81, 86; P-0028: [DAR-OTP-0094-0423-R01](#) at 0436-0437, paras. 56-58, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIV](#), p. 5. *See also* paras. 167-168.

³⁸⁷ This method of conducting the counter-insurgency campaign through Arab militias by recruiting, arming, training and issuing ID cards to them had been utilised by the GoS before, particularly by HARUN. *See* P-1042: [T-27-ET](#), p. 87, line 19-p. 88, line 1; [REDACTED]. *See also* P-1042: [T-27-ET](#), p. 67, line 3-p. 70, line 11, p. 70, line 12-p. 71, line 15, p. 72, line 21-p. 73, line 1, p. 83, line 11-p. 84, line 1, p. 85, lines 2-15, p. 87, line 19-p. 88, line 1, and [T-28-ET](#), p. 4, line 25-p. 5, line 1 (“The approach of the Sudanese government towards fighting the counterinsurgency was essentially similar – it had essentially the similar components to what had occurred in recurrent – in response to recurrent rebellions insurgencies over the previous 20 years. And in each of those cases what we had seen [...] was the mobilisation of an array of forces, regular and irregular, which launched very widespread, indiscriminate attacks on entire communities. And what we’d seen from the early 1980s onwards was that in each of those instances there were very widespread and very intense episodes of forced displacement, of pillage, of destruction of livelihoods, of rape and other forms of sexual violence, of starvation and of widespread and indiscriminate killing of civilians. And here was every reason to believe that if the same instruments were deployed, the – in the normal course of events, you would see the same consequences unfold.”), and [DAR-OTP-0220-1623](#) at 1652, para. 76, 1653-1654, para. 80, 1677, para. 143. [REDACTED] HARUN had also been involved in earlier efforts to hire Arab tribes. *See* [REDACTED]. *See also* P-1042: [T-29-CT](#), p. 23, lines 7-19.

Between at least August 2003 and at least April 2004, GoS Officials, as well as **ABD-AL-RAHMAN**, solicited assistance from local Arab tribal leaders to recruit and arm members of Militia/*Janjaweed*,³⁸⁸ some of whom were assimilated into GoS Forces, such as the CRF, PPF and PDF.³⁸⁹ GoS Forces provided training to members of Militia/*Janjaweed* at camps located in Mukjar, Garsila, Al Geneina, Um Dukhun, For Baranga and Al-Obeid.³⁹⁰

108. GoS Officials including HARUN, HUSSEIN, and Vice President TAHA, and members of the CRF, PDF and MI, ordered and/or oversaw several distributions of weapons from Khartoum to Militia/*Janjaweed* around Bindisi, Mukjar and Garsila.³⁹¹ The GoS delivered weapons by aircraft immediately before large-scale counter-insurgency operations.³⁹²

109. Funding for GoS Forces and Militia/*Janjaweed* attacks was arranged in many ways, including the transfer of monthly salaries from the Ministry of Defence and Ministry of the Interior³⁹³ and the Agricultural Bank,³⁹⁴ and millet and money through regional *zakat* offices.³⁹⁵ Leaders from Arab tribes were given funds to recruit militias,³⁹⁶ and commanders received money on a regular basis to carry out actions in the field from the leadership in Khartoum, including from HARUN.³⁹⁷ The GoS further incentivised Militia/*Janjaweed* to implement the

³⁸⁸ P-1042: [DAR-OTP-0220-1623](#) at 1673, para. 129; P-0011: [T-91-CT2](#), p. 14, line 11-p. 15, line 19; [REDACTED]; P-0883: [T-71-CT3](#), p. 27, line 17-p. 28, line 23, and [REDACTED]; P-0087: [DAR-OTP-0222-0631-R01](#) at 0649, paras. 144-146; [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009-7011).

³⁸⁹ P-0087: [DAR-OTP-0222-0631-R01](#) at 0649, para. 142; P-1042: [T-29-CT](#), p. 30, line 16-p. 31, line 24, and [DAR-OTP-0220-1623](#) at 1658-1659, para. 88(c) (“The next stage in the cycle is bringing the irregular forces under formal control by providing them with salaries, uniforms and ranks”), 89 (“[...] tribal chiefs were given military titles (*amir al mujahideen*) and rewarded with vehicles, military training for their personal guards, and various privileges.”); [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0154-0155, paras. 102-105; [REDACTED]. See above para. 195.

³⁹⁰ P-0116: [DAR-OTP-0123-0039-R01](#) at 0065, para. 145; P-0984: [T-66-CT2](#), p. 44, lines 1-11; P-0011: [T-91-CT2](#), p. 14, line 11-p. 15, line 19; P-0015: [DAR-OTP-0088-0187-R04](#) at 0192, para. 22, and [T-93-ET](#), p. 40, lines 12-14.

³⁹¹ P-0905: [T-85-CT](#), [REDACTED], p. 39, lines 5-25, p. 40, lines 5-18, p. 44, line 1-p. 46, line 20, [REDACTED]; P-0028: [DAR-OTP-0094-0423-R01](#) at 0437-0438, para. 60; P-0012: [DAR-OTP-0119-0503-R01](#) at 0513-0515, paras. 49-52, 54, 0516-0517, paras. 58-61, and [DAR-OTP-0220-4710](#) at 4710-4711, paras. 11, 13-16; [REDACTED]; P-0085: [DAR-OTP-0110-0054-R02](#) at 0059-0060, paras. 15-23; P-0883: [T-71-CT3](#), p. 26, line 18-p. 30, line 19, p. 32, line 18-p. 34, line 25.

³⁹² See e.g. P-0932: [DAR-OTP-0222-0602-R02](#) at 0610, para. 40; P-0816: [DAR-OTP-0214-0721-R02](#) at 0726-0727, para. 26; P-0984: [T-66-CT2](#), p. 45, line 2-p. 46, line 6; P-0877: [T-53-CT2](#), p. 75, line 12-p. 76, line 21; P-0757: [DAR-OTP-0211-0003-R02](#) at 0018, para. 58; P-0029: [T-30-CT2](#), p. 23, line 6-p. 25, line 10. The GoS also facilitated money transfers by plane. P-0012: [DAR-OTP-0119-0503-R01](#) at 0514-0517, paras. 49-61. See also [Third Agreed Facts AnxB](#), no. 1-9.

³⁹³ [REDACTED]; P-0119: [DAR-OTP-0124-0196-R03](#) at 0212, paras. 97, 99; [REDACTED]; P-0116: [DAR-OTP-0123-0039-R01](#) at 0048, para. 46; P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 36.

³⁹⁴ P-0119: [DAR-OTP-0124-0196-R03](#) at 0210-0211, paras. 82-87.

³⁹⁵ P-0922: [DAR-OTP-0222-0312-R01](#) at 0316-0317, paras. 16-17, 0319-0320, paras. 27-29; P-0012: [DAR-OTP-0119-0503-R01](#) at 0506-0508, paras. 15, 18-20, 22-23, 0511, paras. 33-34, and [DAR-OTP-0220-4710](#) at 4710, para. 2; P-0085: [DAR-OTP-0110-0054-R02](#) at 0066, paras. 46-47. See below paras. 259-260.

³⁹⁶ [REDACTED].

³⁹⁷ [REDACTED].

policy by authorising them to plunder and keep what they seized during attacks.³⁹⁸ The GoS also gave Militia/*Janjaweed* access to public facilities from which to base their operations, including military barracks and police stations.³⁹⁹

110. The GoS conferred other benefits of State sponsorship and legitimisation on Militia/*Janjaweed*,⁴⁰⁰ including official GoS identification cards,⁴⁰¹ uniforms,⁴⁰² vehicles such as Land Cruisers,⁴⁰³ fuel,⁴⁰⁴ weapons and ammunition,⁴⁰⁵ food for their horses,⁴⁰⁶ Thuraya satellite phones,⁴⁰⁷ and medical treatment.⁴⁰⁸ The family members of Militia/*Janjaweed* killed in action were given financial compensation by the GoS.⁴⁰⁹ Moreover, GoS Forces would often coordinate and participate jointly alongside Militia/*Janjaweed* in the attacks on villages, supplying manpower, logistics, discipline and expertise to military operations.⁴¹⁰

111. The use of public resources by the GoS to recruit, arm, train and fund forces to fight in its counter-insurgency campaign was selective and generally excluded members of non-Arab tribes.⁴¹¹ Members of the Fur tribe, in particular, were denied access to GoS resources that were

³⁹⁸ P-0087: [DAR-OTP-0133-0573-R02](#) at 0579, para. 21; P-0932: [DAR-OTP-0222-0602-R02](#) at 0613, para. 59 (P-0932 heard the Minister of Defence HUSSEIN saying “If an Arab kills a Fur then he will have killed a Kafir [non believer] and if he takes their money then it is a war gain for the Arabs”). See below paras. 219, 256, 258.

³⁹⁹ See e.g. below paras. 166, 419-432, 539-559.

⁴⁰⁰ P-0020: [T-42-CT](#), p. 27, line 19-p. 28, line 8; P-0878: [T-77-CT2](#), p. 65, lines 4-19; P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, paras. 36-37; P-0028: [DAR-OTP-0094-0423-R01](#) at 0436-0438, paras. 56-58, 60, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIV](#), p. 5.

⁴⁰¹ P-0040: [DAR-OTP-0094-0165-R02](#) at 0173-0174, paras. 40-41; P-0954: [DAR-OTP-0221-0571-R01](#) at 0579-0580, para. 42; P-0129: [DAR-OTP-0128-0128-R04](#) at 0154-0155, paras. 102-105.

⁴⁰² P-0096: [DAR-OTP-0113-0138-R02](#) at 0152, para. 94; P-0922: [DAR-OTP-0222-0312-R01](#) at 0331, paras. 78-79; P-0026: [DAR-OTP-0095-0151-R02](#) at 0179, paras. 149-150; P-0129: [DAR-OTP-0128-0128-R04](#) at 0154-0155, paras. 102-105, and [T-76-CT](#), p. 28, lines 20-24.

⁴⁰³ P-0119: [DAR-OTP-0124-0196-R03](#) at 0212, paras. 93-95; P-0129: [DAR-OTP-0128-0128-R04](#) at 0154-0155, paras. 102-105, and [T-76-CT](#), p. 29, lines 10-25. See also [Third Agreed Facts AnxB](#), no. 10.

⁴⁰⁴ P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 35.

⁴⁰⁵ P-0883: [T-71-CT3](#), p. 27, line 17-p. 29, line 13; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0032-0033, paras. 74-83. In some instances, the GoS kept records of the weapons and ammunition that were provided to ABD-AL-RAHMAN and the Militia/*Janjaweed* under his command. [REDACTED]. See below paras. 160-169.

⁴⁰⁶ P-0878: [T-77-CT2](#), p. 65, lines 4-19.

⁴⁰⁷ [REDACTED]. See also [Third Agreed Facts AnxB](#), no. 11-12.

⁴⁰⁸ P-0116: [DAR-OTP-0127-0318-R01](#) at 0351, paras. 168, 170.

⁴⁰⁹ P-0954: [DAR-OTP-0221-0571-R01](#) at 0578, para. 37.

⁴¹⁰ P-0954: [DAR-OTP-0221-0571-R01](#) at 0575-0576, paras. 24 (excluding the passage the Parties agreed not to rely on see [Third Rule 68\(2\)\(c\) Decision](#), para. 9), 27; P-0026: [DAR-OTP-0095-0151-R02](#) at 0179, paras. 149-150. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011-7013). See below paras. 177-190.

⁴¹¹ P-0087: [DAR-OTP-0222-0631-R01](#) at 0648, para. 131; P-1042: [DAR-OTP-0220-16230](#) at 1673, para. 129; P-0020: [T-42-CT](#), p. 24, line 18-p. 25, line 7; P-0816: [DAR-OTP-0214-0721-R02](#) at 0726, para. 25; P-0011: [T-91-CT2](#), p. 14, line 18-p. 15, line 8; P-0697: [DAR-OTP-0209-0155-R03](#) at 0160-0161, para. 25; [REDACTED]; P-0039: [DAR-OTP-0094-0270-R02](#) at 0285, paras. 77-78.

being allocated to members of Arab tribes.⁴¹² Even when the Fur *umdahs* and *sheikhs* requested weapons for self-defence,⁴¹³ they would be turned away on the basis that they were considered *tora bora* (rebels).⁴¹⁴ Members of African tribes in civil service were also excluded from recruitment, dismissed or forced into retirement.⁴¹⁵

Deliberate failure to investigate and prosecute crimes

112. The GoS deliberately failed to conduct genuine investigation and prosecution of crimes committed by GoS Forces and Militia/*Janjaweed* during the attack on the civilian population in Wadi Salih and Mukjar Localities in furtherance of the State policy.⁴¹⁶

113. Between at least August 2003 and at least April 2004, members of non-Arab tribes were turned away when they attempted to report crimes committed by GoS Forces and Militia/*Janjaweed*.⁴¹⁷ Members of non-Arab tribes were often told that the Police had insufficient resources to investigate their allegations.⁴¹⁸ Whilst the Police would occasionally engage in initial investigations, there would be no formal enquiry or response from GoS Officials.⁴¹⁹ Police officers from non-Arab tribes who were willing to register criminal complaints were prevented from doing so,⁴²⁰ and those who did would be accused of being rebels.⁴²¹

114. Despite the effort to prevent police reports, the crimes committed by GoS Forces and

⁴¹² P-0116: [DAR-OTP-0123-0039-R01](#) at 0056-0058, paras. 96-97, 103; P-0040: [DAR-OTP-0094-0165-R02](#) at 0178, para. 68; [REDACTED]; P-0883: [T-71-CT3](#), p. 35, line 6-p. 36, line 4, and [T-72-CT2](#), p. 49, line 24-p. 50, line 18, and [DAR-OTP-0221-0407-R01](#) (Translation [DAR-OTP-0219-5245-R01](#)); [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009-7010); P-0040: [DAR-OTP-0094-0196](#) (Translation [DAR-OTP-0116-0718](#)).

⁴¹³ [REDACTED].

⁴¹⁴ [REDACTED]; P-0883: [T-71-CT3](#), p. 35, line 6-p. 36, line 4. The phrase “*tora bora*” referred to the members of rebel armed groups in Darfur and their supporters. See Annex 31: Agreed Glossary, p. 18; P-1042: [T-27-ET](#), p. 51, lines 8-13, and [T-28-ET](#), p. 92, line 23-p. 93, line 1.

⁴¹⁵ [REDACTED]; P-0954: [DAR-OTP-0221-0571-R01](#) at 0574, para. 20.

⁴¹⁶ The GoS deliberately failed to fulfil its international obligation to do so despite previous assurances given to the international community and constant requests from the UNSC. See UNSC Res. 1556: [DAR-OTP-0152-0189](#) at 0191-0193, paras. 1, 6, 14; UNSC Res. 1564: [DAR-OTP-0080-0024](#) at 0025, 0027, paras. 7, 9, 12; UNSC Res. 1591: [DAR-OTP-0080-0041](#) at 0043, para. 1.

⁴¹⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0509, para. 26, 0527, para. 110; P-0913: [T-69-CT](#), p. 23, lines 9-11; P-0039: [DAR-OTP-0094-0270-R02](#) at 0276, para. 41, 0285, paras. 77-78. In 2003-2004, it was particularly difficult to report crimes or rape and sexual violence, see *below* para. 334.

⁴¹⁸ P-0039: [DAR-OTP-0094-0270-R02](#) at 0278, para. 41; P-0116: [DAR-OTP-0127-0318-R01](#) at 0357, paras. 206-207.

⁴¹⁹ See also P-0116: [DAR-OTP-0123-0039-R01](#) at 0051, para. 67; P-0907: [T-94-CT](#), p. 25, lines 1-12, p. 26, lines 1-6. According to P-0883, the police in Garsila “had neither the capability nor the authority” to hold **ABD-AL-RAHMAN** accountable. See P-0883: [T-72-CT2](#), p. 18, line 20-p. 19, line 14.

⁴²⁰ P-0012: [DAR-OTP-0119-0503-R01](#) at 0509, para. 26.

⁴²¹ P-0984: [T-67-CT](#), p. 19, lines 9-14.

Militia/*Janjaweed* in West Darfur were regularly relayed to central military and intelligence authorities, but nothing was done to stop them.⁴²² Fur villagers and tribal leaders were told that the GoS would not be protecting them anymore because their children had become rebels.⁴²³ Members of GoS Forces that attempted to intervene in the commission of crimes were actively prevented from doing so by their commanders.⁴²⁴

GoS efforts to shield perpetrators and destroy evidence

115. The GoS made active efforts to shield the perpetrators of crimes committed against the civilian population in Wadi Salih and Mukjar Localities from prosecution and to destroy evidence of the crimes pursuant to the State policy.⁴²⁵

116. In 2004, AL-BASHIR set up the NCOI, ostensibly to investigate alleged war crimes committed in Darfur.⁴²⁶ In 2005, the NCOI confirmed that a large number of villages in the Wadi Salih area had been burned either partially or completely and civilians had been executed.⁴²⁷ The NCOI was followed by subsequent investigations between 2005-2009.⁴²⁸ Although these investigations identified **ABD-AL-RAHMAN**, **HAMDI**, **HASSABALLAH** and other members of the GoS Forces and Militia/*Janjaweed* as perpetrators,⁴²⁹ no one was ever prosecuted in relation to these incidents.⁴³⁰ Several prominent leaders in the counter-insurgency campaign that the NCOI implicated in crimes, including **ABD-AL-RAHMAN**, were later promoted instead of facing charges.⁴³¹

117. SAF and GoS Officials, as well as **ABD-AL-RAHMAN** and his Militia/*Janjaweed*,

⁴²² P-0954: [DAR-OTP-0221-0571-R01](#) at 0580, para. 43. See also P-0087: [DAR-OTP-0222-0631-R01](#) at 0636-0637, paras. 33, 41; P-0020: [DAR-OTP-0095-0002-R02](#) at 0008-0009, para. 24; [REDACTED].

⁴²³ P-0012: [T-46-CT](#), p. 38, line 16-p. 40, line 18, and [DAR-OTP-0119-0503-R01](#) at 0517-0519, paras. 63-68, 0523, para. 88.

⁴²⁴ P-0116: [DAR-OTP-0127-0318-R01](#) at 0334-0335, paras. 81, 86; P-0883: [T-72-CT2](#), p. 18, lines 12-19; P-0012: [DAR-OTP-0119-0503-R01](#) at 0519, paras. 69-71, and [T-46-CT](#), p. 38, line 16-p. 40, line 18.

⁴²⁵ [REDACTED].

⁴²⁶ [DAR-OTP-0035-0109](#) (Translation [DAR-OTP-0219-5715](#)); [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0394-0396). See above paras. 28-31.

⁴²⁷ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0389, 0398-0399, 0406).

⁴²⁸ [DAR-OTP-0222-2979](#) at 3054-3058, paras. 215-227. See above paras. 31-41. See also [REDACTED].

⁴²⁹ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0408-0409); [DAR-OTP-0123-0002](#) at 0003; [DAR-OTP-0222-2979](#) at 3055, para. 219. See above paras. 31-41. See [REDACTED].

⁴³⁰ [REDACTED]; P-0087: [DAR-OTP-0133-0573-R02](#) at 0600, para. 104, 0603, para. 114; [REDACTED]. While there were some cases of prosecutions for crimes committed in Darfur, the military service members facing charges appear to be the lower level perpetrators who were convicted of civilian, or “non-military” crimes. See [REDACTED].

⁴³¹ P-0116: [DAR-OTP-0123-0039-R01](#) at 0066-0067, para. 153, and [DAR-OTP-0127-0318-R01](#) at 0352, para. 176; P-0907: [T-95-CT](#), p. 65, lines 12-17; P-0883: [T-73-CT2](#), [REDACTED], p. 60, line 19-p. 61, line 3. In particular, **ABD-AL-RAHMAN** was promoted to the rank of master sergeant in the CRF after the events of 2004. See [REDACTED]. See also below para. 195.

were involved in efforts to conceal, including through reburial or burning, the bodies of victims at execution sites, apparently in an effort to prevent humanitarian or international organisations from locating them.⁴³²

118. As of at least October 2005, the GoS continued to provide arms and supplies to **ABD-AL-RAHMAN** and other Militia/*Janjaweed* leaders, to fight the rebel armed groups.⁴³³

c) The acts charged as crimes against humanity were committed as part of a widespread and systematic attack directed against the civilian population

119. The acts that are charged as crimes against humanity were committed as part of an attack that was not only widespread but systematic⁴³⁴ and directed against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.⁴³⁵ As explained below, each crime was carried out by GoS Forces and/or Militia/*Janjaweed* and was committed pursuant to, and in furtherance of, the GoS State policy. Each crime also targeted civilians that were predominantly from the Fur tribe.⁴³⁶ The nexus is further established on the basis of the geographical distribution of the crimes committed in villages inhabited primarily by members of the Fur tribe.⁴³⁷

The attack on the civilian population in Wadi Salih and Mukjar Localities was widespread and systematic

120. The attack by GoS Forces and Militia/*Janjaweed* against the civilian population in Wadi Salih and Mukjar Localities was both widespread and systematic. The widespread nature of the attack is demonstrated by its geographical spread, the period of time over which the crimes were committed, and the number of victims involved.

121. The locations that form the basis of the charges against **ABD-AL-RAHMAN**, namely Kodoom, Bindisi, Deleig and Mukjar, are alone sufficient to establish the widespread nature of the attack. They encompass an area of approximately 1,400 square kilometres and were

⁴³² [REDACTED]; P-0712: [DAR-OTP-0209-1884-R04](#) at 1898, paras. 52-54; P-0087: [DAR-OTP-0222-0631-R01](#) at 0654-0655, paras. 192-204, and [DAR-OTP-0133-0573-R02](#) at 0622, no. 23; [DAR-OTP-0118-1521](#) (Translation [DAR-OTP-0219-8317](#)); P-0675: [DAR-OTP-0206-0173-R02](#) at 0208-0210, paras. 125-129. See also P-0116: [DAR-OTP-0123-0039-R01](#) at 0066-0067, para. 153, and [DAR-OTP-0127-0318-R01](#) at 0352, para. 176.

⁴³³ See above para. 46. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011).

⁴³⁴ As a matter of law, it is necessary only that the attack satisfies one of these thresholds. See [Bemba CD](#), para. 82. See also [Bemba TJ](#), para. 162.

⁴³⁵ See [Second Agreed Facts](#), no. 2-4.

⁴³⁶ See below Section F: Persecution. See also [DAR-OTP-0003-0099](#) at 0127-0128.

⁴³⁷ [DAR-OTP-0145-0237](#) at 0270, 0271, 0275, 0276, 0303, 0308, 0319, 0335; P-1042: [DAR-OTP-0220-1623](#) at 1681, paras. 154-156, and [T-28-ET](#), p. 25, line 15-p. 26, line 7, and [DAR-OTP-0220-1689](#) at 1691-1692.

spread over two separate localities, Wadi Salih and Mukjar.⁴³⁸ Moreover, the crimes committed at these locations took place over the course of eight to nine months between at least August 2003 and March/April 2004. The attack at these locations also resulted in hundreds of civilians being murdered, many raped and thousands forcibly displaced.⁴³⁹

122. The attack on Bindisi, Kodoom, Deleig and Mukjar does not stand alone. As further evidence of the widespread nature of the attack on the civilian population in the Wadi Salih and Mukjar Localities, other locations were also attacked, as set out below. More generally, this evidence is also corroborated by the UNCOI, which concluded that by the end of February 2004 “the total number of the villages that were attacked by GoS Forces and Militia/*Janjaweed* was around 53 villages”,⁴⁴⁰ and by Joint Expert P-1042, who in particular, noted that sexual violence was widespread and mainly perpetrated by members of irregular GoS Forces against civilians during armed operations.⁴⁴¹ A non-exhaustive list of other locations that are part of the attack⁴⁴² includes Seder,⁴⁴³ Gausir⁴⁴⁴ and Tiro⁴⁴⁵ in August 2003, Fere⁴⁴⁶ and Forgo⁴⁴⁷

⁴³⁸ See [West Darfur Planning Map](#). See also Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

⁴³⁹ See below paras. 272-284, 318-335, 336-347, 429-462, 548-619.

⁴⁴⁰ [DAR-OTP-0013-0119](#) at 0156. See also [DAR-OTP-0209-0593](#) at 0617, para. 72. See also [DAR-OTP-0152-0189](#) at 0189; [DAR-OTP-0003-0099](#) at 0127-0128.

⁴⁴¹ P-1042 also cited to reliable estimates of 134,000 excess deaths in Darfur between September 2003-January 2005 – mostly young children who died from hunger and disease, stating that the “vast majority of those who perished from hunger and disease did so as the foreseeable outcome of the campaigns of pillage, destruction of objects indispensable for survival and forced displacement.” He further noted that property was pillaged and homes and villages destroyed. He also noted that between April 2003 and January 2005, more than two million people in Darfur were forcibly displaced due to the conflict (P-1042: [DAR-OTP-0220-1623](#) at 1677-1683, paras. 144-159). See also UN Report which estimates that over 570,000 persons were displaced in West Darfur alone by March 2004, [DAR-OTP-0160-0885](#), especially at 0888; [DAR-OTP-0162-0042](#).

⁴⁴² See Annex 3: Locations forming part of the widespread and systematic attack against the civilian population between at least August 2003 and at least April 2004. The Prosecution does not charge **ABD-AL-RAHMAN** with the crimes committed in these other locations. Rather, this list is provided to demonstrate the widespread and systematic nature of the attack, in which **ABD-AL-RAHMAN** took part.

⁴⁴³ See below paras. 252, 264, 274.

⁴⁴⁴ P-0867: [DAR-OTP-0217-0173-R02](#) at 0179-0183, paras. 32-52; P-0917: [DAR-OTP-0217-0071-R03](#) at 0074-0076, para. 16-21.

⁴⁴⁵ See below paras. 252, 264, 267, 274, 299, 367.

⁴⁴⁶ P-0718: [DAR-OTP-0209-2004-R02](#) at 2018, paras. 94-96; P-0736: [DAR-OTP-0210-0248-R02](#) at 0257-0258, paras. 36-39, and [T-35-CT](#), p. 56, line 23-p. 58, line 8; P-0651: [DAR-OTP-0205-0015-R02](#) at 0020-0021, paras. 18-22, and [T-34-CT3](#), p. 46, line 15-p. 55, line 4.

⁴⁴⁷ P-0725: [DAR-OTP-0210-0122-R02](#) at 0128-0130, paras. 48-62; P-0607: [DAR-OTP-0203-0164-R02](#) at 0169, para. 17; P-0617: [DAR-OTP-0202-1496-R02](#) at 1506, paras. 31-32, 1508-1509, paras. 38-39, 1515-1517, paras. 56-57, 59, 62, and [DAR-OTP-0202-1538](#) (Translation [DAR-OTP-0219-8144](#)); P-0973: [DAR-OTP-0220-0736-R01](#) at 0741, para. 22; P-0955: [DAR-OTP-0220-0620-R02](#) at 0625-0627, paras. 18-27, 0634, para. 57, and [T-64-CT](#), p. 7, lines 3-5; P-0850: [DAR-OTP-0216-0002-R04](#) at 0008, paras. 25-26, 0010, para. 35; P-0725: [DAR-OTP-0210-0122-R02](#) at 0124-0127, paras. 15-28, 32-38, 44; P-0907: [REDACTED], and [T-95-CT](#), p. 5, lines 5-25, and [T-96-CT](#), p. 48, line 21-p. 49, line 10, and [DAR-OTP-00000430](#); P-0726: [DAR-OTP-0210-0346-R04](#) at 0349, para. 11, 0351-0362, paras. 20-55, and [DAR-OTP-0224-0792](#) at 0792, para. 7, and [T-53-CT2](#), p. 13, line 3-p. 15, line 24, p. 20, line 23-p. 22, line 21, [REDACTED].

between September and October 2003, Um Jameina,⁴⁴⁸ Taringa⁴⁴⁹ and Andi⁴⁵⁰ between the end of October and December 2003, Arawala⁴⁵¹ and Kaskeidi⁴⁵² in December 2003, and Tendy⁴⁵³ in January/February 2004.

123. The attack against the civilian population in Wadi Salih and Mukjar Localities was also systematic. As set out above, the attack was planned, organised and carried out pursuant to, and in furtherance of, a GoS State policy.⁴⁵⁴ The attack was executed according to a pattern in which GoS Forces and Militia/*Janjaweed* acted together to target civilians who were predominantly members of the Fur tribe. The pattern involved GoS Forces and Militia/*Janjaweed* acting together to attack, murder, rape, pillage and destroy the homes of the predominantly Fur population of Kodoom and Bindisi, and to search for, detain, torture and, in many cases, murder, predominantly Fur males in Mukjar and Deleig.⁴⁵⁵

d) The perpetrators of the crimes, including ABD-AL-RAHMAN, knew their conduct was part of, or intended their conduct to be part of, the widespread and systematic attack directed against the civilian population

124. At all material times, the perpetrators of the crimes underlying the charges, including ABD-AL-RAHMAN, knew that their conduct was part of, or intended their conduct to be part of, the widespread and systematic attack directed against the civilian population in Wadi Salih

⁴⁴⁸ P-0584: [DAR-OTP-0200-1540-R02](#) at 1546-1554, paras. 19-30, 32, 40-46, 49, and [DAR-OTP-0200-1581](#) (Translation [DAR-OTP-0219-8551](#)), and [DAR-OTP-00000419](#) at 1-2, paras. 4, 15, and [T-92-CT](#), p. 18, line 22-p. 19, line 14; [REDACTED]. See below paras. 156, 249, 516.

⁴⁴⁹ P-0718: [DAR-OTP-0209-2004-R02](#) at 2006-2011, paras. 12, 16-24, 26-34, 40-44, and [DAR-OTP-0220-4792](#) at 4792, paras. 4, 6, and [DAR-OTP-0209-2021](#) (Translation [DAR-OTP-0219-8160](#)); P-0651: [DAR-OTP-0205-0015-R02](#) at 0023-0024, paras. 28-30, and [T-34-CT3](#), p. 12, line 2-p. 13, line 13, [REDACTED], p. 40, line 25-p. 41, line 9, p. 57, line 9-p. 58, line 9; P-0697: [DAR-OTP-0209-0155-R03](#) at 0164-0165, paras. 40, 42-45.

⁴⁵⁰ P-0671: [DAR-OTP-0206-0105-R02](#) at 0108-0109, paras. 14-19; [DAR-OTP-00000462](#) at 1, para. 4, and [T-99-CT](#), p. 13, lines 20-24.

⁴⁵¹ P-0736: [DAR-OTP-0210-0248-R02](#) at 0256, para. 33; P-0725: [DAR-OTP-0210-0122-R02](#) at 0128-0130, paras. 48-62; P-0726: [DAR-OTP-0210-0346-R04](#) at 0362-0363, paras. 56-59; P-0607: [DAR-OTP-0203-0164-R02](#) at 0168-1074, paras. 16, 20-32, 34-36; P-0617: [DAR-OTP-0202-1496-R02](#) at 1512, para. 50, 1517, para. 62; P-0955: [DAR-OTP-0220-0620-R02](#) at 0624, paras. 15-16, 0627, para. 29; P-0850: [DAR-OTP-0216-0002-R04](#) at 0008, para. 23, 0015-0016, para. 55; P-0013: [DAR-OTP-0088-0129-R03](#) at 0135-0136, paras. 26-27, 0138, para. 41; P-0016: [DAR-OTP-0088-0150-R02](#) at 0156-0157, paras. 28-38; [REDACTED] and [DAR-OTP-00000263-R01](#). See also paras. 155-156, 192, 249, 362.

⁴⁵² P-0617: [DAR-OTP-0202-1496-R02](#) at 1521-1522, paras. 74-76; P-0850: [DAR-OTP-0216-0002-R04](#) at 0009-0012, paras. 27-41, and [DAR-OTP-0224-0642](#) at 0642, paras. 1, 4-5, 7 (spelled Kaskildo).

⁴⁵³ P-0903: [T-32-CT](#), p. 10, line 11-p. 17, line 24, p. 71, line 10-p. 72, line 4, [REDACTED], p. 79, line 22-p. 80, line 10, and [T-33-CT](#), p. 22, line 19-p. 26, line 9, p. 32, lines 2-19, p. 86, line 19-p. 87, line 7; P-0984: [T-66-CT2](#), p. 49, line 15-p. 50, line 13; P-0877: [T-53-CT2](#), p. 66, line 6-p. 67, line 10, p. 80, line 21-p. 81, line 5; P-0584: [DAR-OTP-0200-1540-R02](#) at 1561, para. 79; P-0129: [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 34-38, and [REDACTED]; P-0675: [DAR-OTP-0206-0173-R02](#) at 0191-0195, paras. 66-78.

⁴⁵⁴ See above paras. 94-118.

⁴⁵⁵ See below paras. 429-462, 548-619.

and Mukjar Localities of West Darfur.⁴⁵⁶ In particular, between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed*.⁴⁵⁷ By virtue of his position and role, he knew and intended for his conduct to be part of the widespread and systematic attack directed against the civilian population in Wadi Salih and Mukjar Localities.⁴⁵⁸

125. **ABD-AL-RAHMAN** had knowledge of the GoS State policy and demonstrated his subscription to and active participation in it. He attended meetings with GoS Officials, during which the State policy was discussed.⁴⁵⁹ **ABD-AL-RAHMAN** also received express instructions from GoS Officials to implement the State policy.⁴⁶⁰ **ABD-AL-RAHMAN**'s knowledge of and willingness to implement the State policy is demonstrated by his own words and conduct.⁴⁶¹ **ABD-AL-RAHMAN**'s knowledge may also be inferred from his position as head of the Mujahidin Committee,⁴⁶² involvement in the recruitment, arming and funding of Militia/*Janjaweed* in order to execute the GoS State policy⁴⁶³ as well as his acts and conduct contributing to the charged crimes in the attack on Kodoom, Bindisi, Mukjar, and Deleig.⁴⁶⁴

E. COMMON ELEMENTS OF MODES OF INDIVIDUAL CRIMINAL RESPONSIBILITY

126. This section addresses **ABD-AL-RAHMAN**'s position and personal conduct which are common to the different criminal episodes charged against him, and relevant to elements of his individual criminal responsibility under articles 25(3)(a) (direct co-perpetration) and 25(3)(b) (ordering and inducing) of the Statute. This section should be read in conjunction with the subsections related to individual criminal responsibility in Sections G, H and I, regarding the

⁴⁵⁶ Elements of Crimes, article 7, para. 2; *Bemba TJ*, paras. 166-167; *Ongwen TJ*, para. 2691; *Al Hassan TJ*, para. 1117 (“[I]t is not necessary that the perpetrator be aware of the precise details of the plan or policy of the State or organisation.”).

⁴⁵⁷ See below paras. 128-134.

⁴⁵⁸ When interviewed by the GoS, **ABD-AL-RAHMAN** acknowledged that he had received money, arms and ammunition from the GoS and participated in operations in Mukjar and Deleig jointly with GoS Forces. **ABD-AL-RAHMAN** also indicated that Fur *Umdahs* were responsible for leading the rebellion. See [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#)). See below para. 616.

⁴⁵⁹ See above paras. 104-106.

⁴⁶⁰ See e.g. paras. 103, 164, 170.

⁴⁶¹ See below Section E: Common elements of modes of individual criminal responsibility. See also Annex 5: **ABD-AL-RAHMAN**'s activities in Wadi Salih and Mukjar Localities (August 2003 – April 2004); Annex 6: Overview of GoS and Militia/*Janjaweed* actors and **ABD-AL-RAHMAN**'s interactions with key individuals (August 2003 – April 2004); Annex 7: Involvement of **ABD-AL-RAHMAN** and key individuals in the criminal episodes underpinning the charges.

⁴⁶² See below paras. 133, 135, 140, 173, 174.

⁴⁶³ See below paras. 149-152.

⁴⁶⁴ See below paras. 349-393, 475-514, 622-663.

crimes committed in Kodoom, Bindisi, Mukjar, Deleig, and their surrounding areas, respectively.

1) ABD-AL-RAHMAN was in a position of authority and influence

127. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN**: a) was a senior Militia/*Janjaweed* leader; b) cooperated with senior GoS Officials and senior members of GoS Forces; c) cooperated with GoS Officials at the locality level; d) cooperated with and/or exerted influence over certain members of the GoS Forces at the locality level; and e) issued orders to members of GoS Forces including, in particular, those of lower rank. The combination of these factors placed **ABD-AL-RAHMAN** in a position of authority and influence. This, in turn, enabled **ABD-AL-RAHMAN** to contribute to the charged crimes as set out in this FB.⁴⁶⁵

a) ABD-AL-RAHMAN was a senior Militia/*Janjaweed* leader

*ABD-AL-RAHMAN was a senior Militia/*Janjaweed* leader by at least August 2003*

128. **ABD-AL-RAHMAN**'s role as a senior leader or *agid al-ogada* in the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, between at least August 2003 and at least April 2004, was consistently confirmed by multiple witnesses, including members of the SAF, the PDF, the CRF, [REDACTED], political and administrative officials, and **ABD-AL-RAHMAN**'s victims.

129. [REDACTED] P-0905, [REDACTED], confirmed he was the "one leader" of the Militia/*Janjaweed*, and that "all the decisions and instructions and orders were coming from Ali Kushayb".⁴⁶⁶ P-0905 recalled "what Ali Kushayb did to women, to little children, to men who were killed", and concluded "[t]his is a man who shed blood."⁴⁶⁷ P-0883, [REDACTED], stated that **ABD-AL-RAHMAN** was the commander of the Militia/*Janjaweed*, or Fursan, "tasked with ending the rebellion in Wadi Salih and Garsila."⁴⁶⁸ Similarly, P-0935, [REDACTED], stated that **ABD-AL-RAHMAN** was well known as the leader of the

⁴⁶⁵ See in this context, Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004; Annex 4: Timeline of key events (April 2003-April 2004); Annex 5: **ABD-AL-RAHMAN**'s activities in Wadi Salih and Mukjar Localities (August 2003-April 2004); Annex 6: Overview of GoS and Militia/*Janjaweed* actors and **ABD-AL-RAHMAN**'s interactions with key individuals (August 2003-April 2004); Annex 7: Involvement of **ABD-AL-RAHMAN** and key individuals in the criminal episodes underpinning the charges. See also [Confirmation Decision](#), p. 52, paras. 13-15.

⁴⁶⁶ [REDACTED].

⁴⁶⁷ [REDACTED].

⁴⁶⁸ P-0883: [REDACTED], and [T-72-CT2](#), p. 23, lines 16-17, and [T-73-CT2](#), p. 8, lines 1-4, and [T-74-CT3](#), p. 25, line 24-p. 26, line 6, [REDACTED].

Militia/*Janjaweed*.⁴⁶⁹

130. [REDACTED],⁴⁷⁰ explained that **ABD-AL-RAHMAN** was invited to a meeting of this committee because he was “the head of the *Fursan* or the so-called *Janjaweed*.”⁴⁷¹ [REDACTED] P-0921,⁴⁷² [REDACTED] stated that **ABD-AL-RAHMAN** led the Militia/*Janjaweed*.⁴⁷³ P-0874, [REDACTED] recalled that **ABD-AL-RAHMAN** was the “commander in charge”⁴⁷⁴ and held the position of *agid al-ogada*.⁴⁷⁵

131. [REDACTED] P-0547 described **ABD-AL-RAHMAN** as a “*Fursan* commander”, a position which he described as a “field role in order to [...] end the conflict in Darfur. This meant obviously military operations, killing, rape, burning down villages”.⁴⁷⁶ He explained that **ABD-AL-RAHMAN** was “a wartime emir, a useful one” and that the “emirs in wartime are wartime commanders.”⁴⁷⁷ Notably, in his GoS Interview, **ABD-AL-RAHMAN** used this same term, describing himself as “the Emir of the *Fursan* of the Mujahidin in Garsila, West Darfur”.⁴⁷⁸

132. P-0131, [REDACTED], knew **ABD-AL-RAHMAN** as the “commander of the *Janjaweed* in the area of Wadi Salih”.⁴⁷⁹ [REDACTED] reports about operations commanded by **ABD-AL-RAHMAN**, which referred to “his destruction of the Fur villages, his killing and displacement of the people there”.⁴⁸⁰ [REDACTED] a signal communication that referenced **ABD-AL-RAHMAN**’s leadership role within the Militia/*Janjaweed*.⁴⁸¹

133. P-0643, [REDACTED],⁴⁸² knew **ABD-AL-RAHMAN** as the “*agid al-ogada*” in Wadi Salih⁴⁸³ and [REDACTED] head of the Mujahidin Committee responsible for recruiting and arming the Militia/*Janjaweed*.⁴⁸⁴ P-0878, [REDACTED], described him as “the one, the leader

⁴⁶⁹ P-0935: [T-90-CT2](#), [REDACTED], p. 11, lines 8-18.

⁴⁷⁰ [REDACTED].

⁴⁷¹ [REDACTED].

⁴⁷² [REDACTED].

⁴⁷³ [REDACTED].

⁴⁷⁴ [REDACTED].

⁴⁷⁵ [REDACTED].

⁴⁷⁶ [REDACTED]. [REDACTED].

⁴⁷⁷ [REDACTED]. See also P-1042: [DAR-OTP-0220-1623](#) at 1651, para. 74, 1658-1659, para. 89.

⁴⁷⁸ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008). See above paras. 68, 80.

⁴⁷⁹ [REDACTED].

⁴⁸⁰ [REDACTED].

⁴⁸¹ [REDACTED].

⁴⁸² [REDACTED].

⁴⁸³ [REDACTED].

⁴⁸⁴ [REDACTED].

of Janjaweed, who burnt down the villages and killed the women and men.”⁴⁸⁵ P-0012, [REDACTED], stated that the “position of ‘*aqid ogada* made KUSHAYB the highest ranking ‘*aqid* in [Wadi Salih], and the campaign for the destruction of my area was headed by him.”⁴⁸⁶

134. **ABD-AL-RAHMAN**’s senior leadership position was also confirmed by multiple other witnesses, including P-0919, [REDACTED], who recalled that **ABD-AL-RAHMAN** referred to himself as the leader of the Militia/*Janjaweed*.⁴⁸⁷

ABD-AL-RAHMAN had the right profile to become a senior Militia/Janjaweed leader by at least August 2003

135. As set out below, in the months preceding the start of the period relevant to the charges, **ABD-AL-RAHMAN**’s authority and influence steadily grew. Based on his military experience and *agid al-ogada* role, he was appointed to head a Mujahidin Committee through which he began to cooperate with GoS Officials/GoS Forces at the locality level. Then, in July 2003, when **ABD-AL-RAHMAN**’s Militia/*Janjaweed* supported GoS Forces following a rebel attack on Mukjar, he began to co-operate and coordinate closely with senior GoS Officials, and senior members of the GoS Forces.

136. [REDACTED] P-0547 explained the profile of a senior Militia/*Janjaweed* leader: the “main relevance in this is how that person can conduct the mission given to him by the Sudanese government, and this is how they used to use the Arab tribes for military purposes against African tribes.”⁴⁸⁸ A tribal leadership role was not a pre-requisite for a leadership role in the counter insurgency, nor did it matter which particular Arab tribe a leader was from. What mattered was “for him to be an Arab person from Darfur and that he be capable of performing an activity or something that could help the Government of Sudan in countering the rebellion [...] in Darfur”,⁴⁸⁹ and “someone with a charisma able to do the job”.⁴⁹⁰

137. **ABD-AL-RAHMAN** met the criteria for a Militia/*Janjaweed* leader the GoS could rely

⁴⁸⁵ P-0878: [T-79-CT](#), p. 84, lines 13-17, and [T-77-CT2](#), p. 56, lines 7-10, p. 59, lines 19-21.

⁴⁸⁶ P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

⁴⁸⁷ P-0919: [T-60-CT](#), p. 17, line 17-p. 18, line 3, and [T-61-CT](#), p. 12, lines 6-11, p. 13, line 21, p. 17, line 4-p. 18, line 2. See also e.g. P-0029: [T-29-CT](#), p. 59, lines 18-21, and [T-30-CT2](#), p. 14, lines 18-25, p. 16, lines 3-8; P-0907: [T-94-CT](#), p. 10, lines 7-14, [REDACTED]; P-0984: [T-66-CT2](#), p. 63, line 6-p. 64, line 11; P-0994: [DAR-OTP-0222-0055-R01](#) at 0061, para. 28, 0066-0067, paras. 51, 56, and [DAR-OTP-00000268](#) at 2, para. 12, and [REDACTED].

⁴⁸⁸ [REDACTED].

⁴⁸⁹ [REDACTED].

⁴⁹⁰ [REDACTED].

on.⁴⁹¹ As D-28 confirmed, prior to the charged crimes, **ABD-AL-RAHMAN** was an *agid* of the Ta'aisha tribe in Rahad Al-Berdi.⁴⁹² As a SAF veteran, he had military experience, including in the conflict in South Sudan, and was also revered as a "wise man".⁴⁹³ After he left the SAF in the early to middle 1990s,⁴⁹⁴ he opened a pharmacy in Garsila⁴⁹⁵ and [REDACTED] recalled that he would see **ABD-AL-RAHMAN** preside over meetings in front of his shop with Arab *umdahs* and leaders.⁴⁹⁶

138. Prior to August 2003, **ABD-AL-RAHMAN** was already "*agid al-ogada*" or "colonel of colonels" in Wadi Salih.⁴⁹⁷ P-0643 stated that **ABD-AL-RAHMAN** was appointed as *agid al-ogada* because he was "a retired army officer who had a good command of warfare."⁴⁹⁸ P-0012 also stated that **ABD-AL-RAHMAN** was appointed "because of his military experience and education" in around March 2003,⁴⁹⁹ and P-0907 recalled this appointment was made by **ABD-AL-HAKAM** in 2002 or early 2003.⁵⁰⁰ P-0883 explained that although **ABD-AL-RAHMAN**'s tribe was "far away in Rahad Al-Berdi", the leaders of the other tribes, including **BONJOUSE** and **Al-Dayf SAMIH** ("SAMIH"), "agreed to appoint just one person, and they all agreed that that person should be Ali Kushayb."⁵⁰¹

139. As set out above, the duties of an *agid* included responsibility for security of a village, including investigating theft of cattle.⁵⁰² Prior to becoming an *agid al-ogada* in Garsila, **ABD-AL-RAHMAN** performed these very functions in Garsila. In his GoS Interview in 2006, he explained: "I was in charge of all the Fursan operating under the command of People's Defence. This was in 1992. Up until when the incidents broke out, I used to receive orders whenever there was armed looting. We would go as a posse in order to get back things that had been plundered [...]. I would request weapons from the army and the police [...]. I would next

⁴⁹¹ [REDACTED].

⁴⁹² D-28 confirmed that **ABD-AL-RAHMAN** was an *agid* when D-28, [REDACTED], was a child ([DAR-D31-00000150](#) at 6, para. 26).

⁴⁹³ P-0883: [T-71-CT3](#), p. 17, line 9-p. 18, line 6.

⁴⁹⁴ See above para. 53. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009).

⁴⁹⁵ See above para. 53.

⁴⁹⁶ [REDACTED]. See also [REDACTED].

⁴⁹⁷ [REDACTED]; P-0905: [T-85-CT](#), p. 21, line 7-p. 23, line 16; P-0129: [DAR-OTP-0128-0128-R04](#) at 0134-0135, paras. 24-25, and [DAR-OTP-0223-0157-R02](#) at 0162, para. 23; P-0585: [T-99-CT](#), p. 41, lines 3-23, p. 45, line 13-p. 46, line 2, p. 50, lines 13-17, p. 57, line 18-p. 58, line 7, p. 61, lines 19-25. P-0874 also stated that **ABD-AL-RAHMAN** was "*Agid al-ogada*" or "*agid ashusha*". [REDACTED]. See above paras. 68-69.

⁴⁹⁸ [REDACTED].

⁴⁹⁹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0511, para. 35. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008), where **ABD-AL-RAHMAN** states that in the area of Garsila, he was "the Emir of the *Fursan* of the Mujahidin in Garsila, West Darfur".

⁵⁰⁰ P-0907: [T-95-CT](#), p. 60, line 3-p. 62, line 21, p. 65, lines 3-17.

⁵⁰¹ P-0883: [T-73-CT2](#), p. 56, line 24-p. 57, line 17.

⁵⁰² See above paras. 68-69.

assemble the available force, usually as a group of 100 or 50. I oversee the group. If the cattle were returned, then there would be no armed confrontation. But if they refused, we would fight it out with them.”⁵⁰³ Similarly, P-0932 recalled that in around 2001, he was present at a high level meeting of various tribes in the Wadi Salih and Mukjar Localities, that was also attended by **ABD-AL-RAHMAN**, whom he recognised from his shop in Garsila. At this meeting, which concerned a tribal dispute about 300 cows, P-0932 noted that **ABD-AL-RAHMAN** “appeared to be presiding on the side of the Arabs” and was “clearly in a position of authority.”⁵⁰⁴

140. As set out below, in Garsila, in around early August 2003, **ABD-AL-RAHMAN** was appointed head of a Mujahidin Committee,⁵⁰⁵ which required him to “equip, prepare and organise the Mujahidin and then seek resources for the sake of warfare.”⁵⁰⁶ He was appointed due to his military experience and the fact that, as *agid al-ogada*, “he was well positioned to know all the colonels and their positions and functions, because that was at the heart of what his role was and what his work was.”⁵⁰⁷

141. In around late July/early August 2003, rebel armed groups attacked the police station and the CRF base in Mukjar.⁵⁰⁸ In response, **ABD-AL-RAHMAN** entered Mukjar with his Militia/*Janjaweed*⁵⁰⁹ and “saved the camp from falling within the hands of the insurgents.”⁵¹⁰ Following this attack, a high level delegation of GoS Officials, including HARUN and senior members of GoS Forces, arrived in Mukjar and held a meeting with **ABD-AL-RAHMAN**, among others.⁵¹¹ After these events, **ABD-AL-RAHMAN** “no longer dealt with local people” and was no longer under the authority of **ABD-AL-HAKAM**’s Mobilisation Committee, which “did not have any material for the war.”⁵¹² Instead he dealt directly with the “military headquarters in Garsila”, from where he was supplied with weapons and equipment by **HAMDI**.⁵¹³ P-0883 explained **ABD-AL-RAHMAN**’s relationship with senior members of the military in similar terms, stating “Ali Kushayb was the leader of the Al Fursan” and “[h]ad it not been for Al Fursan [...] Wadi Salih would have been occupied. That’s why they came and

⁵⁰³ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008).

⁵⁰⁴ P-0932: [DAR-OTP-0222-0602-R02](#) at 0606-0607, paras. 26-30.

⁵⁰⁵ [REDACTED].

⁵⁰⁶ [REDACTED].

⁵⁰⁷ [REDACTED].

⁵⁰⁸ See below para. 254.

⁵⁰⁹ See below paras. 254-255.

⁵¹⁰ [REDACTED].

⁵¹¹ See below paras. 162, 255-256.

⁵¹² [REDACTED].

⁵¹³ [REDACTED].

talked to Ali Kushayb.”⁵¹⁴

142. Other indicia of **ABD-AL-RAHMAN**’s authority included his use of a stick-like object often used to denote seniority, especially in the military,⁵¹⁵ as well as an axe.⁵¹⁶ He also had a Land Cruiser vehicle, drivers and security escorts/bodyguards.⁵¹⁷ Various witnesses stated that **ABD-AL-RAHMAN** had a Thuraya satellite phone.⁵¹⁸ Commenting on the exclusive nature of these devices, P-0883 noted that in the region, “the commissioner, the head of the battalion, the internal security and Mr Ali Kushayb” had such phones.⁵¹⁹

ABD-AL-RAHMAN was feared, respected and an influential figure among other leaders and members of Militia/Janjaweed in the Wadi Salih and Mukjar Localities

143. **ABD-AL-RAHMAN** was feared and respected by Arab tribes in the Wadi Salih and Mukjar Localities. P-0883 testified that “[f]irst, Ali Kushayb was a regular civilian, just like us in the neighbourhood and in the market, and then he became a master. Everybody feared him in the area.”⁵²⁰

144. P-0012 stated that **ABD-AL-RAHMAN** functioned as the link between the “[*agids*] and the politicians” and adds that the “government [gave] him the weapons, salaries and uniforms to be given out to the other [*agids*].”⁵²¹ As a senior leader/*agid al-ogada* in the Militia/Janjaweed, **ABD-AL-RAHMAN** had authority over other *agids* operating in the region, including in particular SAMIH and BONJOUSE,⁵²² as well as multiple other *agids* during armed operations.⁵²³

⁵¹⁴ P-0883: [T-73-CT2](#), p. 7, line 21-p. 8, line 4.

⁵¹⁵ P-0718: [DAR-OTP-0209-2004-R02](#) at 2014, para. 68; P-0651: [DAR-OTP-0205-0015-R02](#) at 0022-0023, para. 26, and [T-34-CT3](#), p. 10, line 1-p. 12, line 1; P-0935: [T-90-CT2](#), p. 19, lines 2-10.

⁵¹⁶ P-0935: [T-90-CT2](#), p. 19, lines 2-10; P-0643: [T-57-CT](#), p. 39, line 18-p. 43, line 13, and [DAR-OTP-0218-0651](#), and Um Sory Video, [DAR-OTP-00012474](#) (version shown [DAR-OTP-0220-4835](#), Transcript [DAR-OTP-0223-0519-R01](#), Translation [DAR-OTP-00012491-R01](#)); P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 52, and 0453, para. 74, and [DAR-OTP-0220-5673](#) at 5673, para. 9, and [T-65-CT](#), p. 13, lines 9-17, and [T-66-CT2](#), p. 23, lines 2-7. *See also* paras. 53, 507, 660.

⁵¹⁷ *See e.g.* P-0584: [DAR-OTP-0200-1540-R02](#) at 1568, para. 106; P-0883: [T-72-CT2](#), p. 35, lines 8-14; P-0935: [T-90-CT2](#), p. 20, lines 16-24; P-0994: [DAR-OTP-0222-0055-R01](#) at 0065, paras. 47-48; P-0726: [DAR-OTP-0210-0346-R04](#) at 0367-0368, paras. 76-77; P-0905: [T-85-CT](#), p. 72, lines 1-3.

⁵¹⁸ [REDACTED]; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-44, and [DAR-OTP-00000462](#) at 1, para. 12; [REDACTED]; P-0584: [DAR-OTP-0200-1540-R02](#) at 1570, para. 110, and [T-92-CT](#), p. 16, lines 10-19. *See below* paras. 169, 372, 660.

⁵¹⁹ P-0883: [T-72-CT2](#), p. 33, lines 12-18.

⁵²⁰ P-0883: [T-73-CT2](#), p. 78, lines 15-17.

⁵²¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0513, para. 45.

⁵²² P-0012: [DAR-OTP-0119-0503-R01](#) at 0511, paras. 33-37, and [T-46-CT](#), [REDACTED], p. 23, line 16-p. 26, line 8, [REDACTED].

⁵²³ *See below* para. 147.

145. [REDACTED] P-0921 knew that SAMIH was “one of Ali Kushayb’s [...] Janjaweed commanders.”⁵²⁴ P-0874, [REDACTED], knew SAMIH as a Militia/*Janjaweed* leader but stated it was **ABD-AL-RAHMAN** who was the “commander in charge.”⁵²⁵ P-0883 recalled that SAMIH and **ABD-AL-RAHMAN** “knew each other as leaders of the Fursan, the horsemen” and participated together in the “operations of Bindisi, Mukjar and Sindu.”⁵²⁶ P-0012 and P-0029 also recalled that SAMIH was one of **ABD-AL-RAHMAN**’s deputies, based in Mukjar.⁵²⁷

146. P-1021 stated that SAMIH and BONJOUSE were directly under **ABD-AL-RAHMAN**’s command.⁵²⁸ P-0643 also testified that BONJOUSE was **ABD-AL-RAHMAN**’s deputy.⁵²⁹ P-0883 recalled that BONJOUSE was **ABD-AL-RAHMAN**’s deputy in the Garsila area and that after operations against the rebels in Wadi Salih in 2003/2004,⁵³⁰ **ABD-AL-RAHMAN** “fired [BONJOUSE] from his deputy position [...]. He called him a coward and took away his machine gun.”⁵³¹ [REDACTED].⁵³² P-0012 also stated that **ABD-AL-RAHMAN**’s other deputies were BONJOUSE, in an area called Zame Bayaa, Hamdan UMAR, in Garsila, and Hamuda HAMDAN, in Bindisi.⁵³³ P-0874 also recalled HAMDAN as a Militia/*Janjaweed* leader.⁵³⁴

147. **ABD-AL-RAHMAN** had many other *agids* under his command, including during armed operations. P-0012 recalled that “when the Arab fighters stand together in some public functions, every [*agid*] stands in front of his men and Ali KUSHAYB would always stand in front of everyone.”⁵³⁵ In the course of the operation to attack Kodoom and Bindisi, [REDACTED] **ABD-AL-RAHMAN** was in command of the *agids* and *umdahs* present. [REDACTED] **ABD-AL-RAHMAN** blow his whistle to summon 15-20 of his *agids* to give them orders and also [REDACTED] override their objections.⁵³⁶ [REDACTED] during the operation to attack Sindu, which involved thousands of Militia/*Janjaweed*, **ABD-AL-**

⁵²⁴ [REDACTED]. See also P-0932: [DAR-OTP-0222-0602-R02](#) at 0608-0609, paras. 31, 34.

⁵²⁵ [REDACTED].

⁵²⁶ P-0883: [T-72-CT2](#), p. 14, lines 9-14. See also [REDACTED].

⁵²⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0511, para. 33; P-0029: [T-30-CT2](#), p. 15, line 25-p. 16, line 8.

⁵²⁸ [REDACTED].

⁵²⁹ [REDACTED].

⁵³⁰ P-0883: [T-71-CT3](#), p. 39, lines 3-12, p. 41, line 8-p. 42, line 3. P-0883 stated BONJOUSE was based in an area called Simbi Sey, to the west of Garsila. See P-0883: [T-73-CT2](#), p. 42, lines 22-24.

⁵³¹ P-0883: [T-71-CT3](#), p. 41, lines 1-15.

⁵³² [REDACTED].

⁵³³ P-0012: [DAR-OTP-0119-0503-R01](#) at 0511, para. 33, and [REDACTED].

⁵³⁴ [REDACTED].

⁵³⁵ P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

⁵³⁶ [REDACTED]. See below paras. 154, 265, 356, 371, 372, 390.

RAHMAN would regularly give instructions to his men, as well as speeches to motivate them.⁵³⁷

148. As a respected and influential figure in the Wadi Salih and Mukjar Localities, **ABD-AL-RAHMAN**'s orders, including orders to commit crimes, were obeyed by other members of the Militia/*Janjaweed*. According to P-0012, Arabs did not go on operations unless approved by **ABD-AL-RAHMAN**, and he added that other members of the Militia/*Janjaweed* "refer to the war as Ali KUSHAYB's war."⁵³⁸ In a further indication of **ABD-AL-RAHMAN**'s seniority and authority, P-0984 observed that the "Janjaweed used to call Ali Kushayb *agid al-ogada*, which means, if you want to explain that, that he's like the prime minister."⁵³⁹

ABD-AL-RAHMAN played a central role in the recruiting, arming, supplying and financing of Militia/Janjaweed

149. **ABD-AL-RAHMAN** played a prominent role in the recruitment of Militia/*Janjaweed*, which was confirmed, in particular, by P-0547,⁵⁴⁰ P-0643,⁵⁴¹ and, as set out below, by **ABD-AL-RAHMAN** in his GoS Interview.

150. **ABD-AL-RAHMAN** was also directly involved in coordinating and participating in the distribution of weapons, ammunition and other military equipment to Militia/*Janjaweed*. [REDACTED] recalled that in the early stage of the conflict, **ABD-AL-RAHMAN** was supplied by the Garsila police with around 100 Kalashnikovs.⁵⁴² In his GoS Interview, **ABD-AL-RAHMAN** explained that in August 2003, the Garsila Police commander approached him to say that rebel forces "want to attack Garsila. You're the Emir of the Fursan. What are you going to do?" The Police commander then provided him with 86 Kalashnikov weapons, following which, **ABD-AL-RAHMAN** said "I went to the *agids* of the tribes involved, that is – I had the co-ordinator of the People's Defence with me. We handed out the weapons and distributed them among the groups – to each *agid* [...]."⁵⁴³

151. In late 2003 and 2004 in Garsila, P-0935 recalled that **ABD-AL-RAHMAN** would sit with the "commanders in the [...] general command" while "his people" lined up to collect weapons. P-0935 also saw that **ABD-AL-RAHMAN**'s vehicles were used to collect weapons

⁵³⁷ [REDACTED]. See also P-0012: [DAR-OTP-0119-0503-R01](#) at 0524, paras. 93-95.

⁵³⁸ P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

⁵³⁹ P-0984: [T-66-CT2](#), p. 63, line 6-p. 64, line 11.

⁵⁴⁰ [REDACTED].

⁵⁴¹ [REDACTED].

⁵⁴² [REDACTED].

⁵⁴³ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7009).

and ammunition from the SAF base in Garsila.⁵⁴⁴ In around February 2004, over a two day period, P-0883 saw **ABD-AL-RAHMAN** coordinating the distribution of weapons, ammunition and military equipment to Militia/*Janjaweed* in the Garsila SAF base, “telling each *umdah* to bring a certain number of citizens with him to get weapons”.⁵⁴⁵ P-0883 also explained that **ABD-AL-RAHMAN** was able to direct the *umdahs* to bring their men to be armed, “because he owned the will of the *umdahs*.”⁵⁴⁶

152. **ABD-AL-RAHMAN** also provided money to his *agid* sub-commanders such as SAMIH and BONJOUSE, for disbursement to their men, and would handle the list of people to whom money was paid. [REDACTED] after “Ali Kushayb’s people carried out an operation”, HARUN would often travel to Mukjar to provide “salaries as incentives” and to offer congratulations for the operation.⁵⁴⁷ [REDACTED] “Ali Kushayb, when the salaries arrive, he collects the cash, holds the cash, brings senior people, Al-Dayf Al Samih, Al Bonjouse, he brings them, saying that, ‘Brothers, now we receive the salaries so that we can disburse them.’”⁵⁴⁸ [REDACTED] around 30 members of the Militia/*Janjaweed* lining up outside **ABD-AL-RAHMAN**’s pharmacy in Garsila at the end of each month, and was later told by one such Militia/*Janjaweed* member that they were awaiting their monthly salary payments.⁵⁴⁹

ABD-AL-RAHMAN led Militia/Janjaweed armed operations in the Wadi Salih and Mukjar Localities

153. **ABD-AL-RAHMAN** led Militia/*Janjaweed* armed operations in the Wadi Salih and Mukjar Localities, including in Sindu, Kodoom, Bindisi, Arawala, Mukjar and Deleig.⁵⁵⁰ In the course of these operations **ABD-AL-RAHMAN** would relay orders to other members of Militia/*Janjaweed*, which were complied with.⁵⁵¹

⁵⁴⁴ P-0935: [T-90-CT2](#), p. 26, line 15-p. 29, line 1. See also P-0011: [T-91-CT2](#), p. 14, line 11-p. 15, line 19.

⁵⁴⁵ P-0883: [T-71-CT3](#), p. 27, line 7-p. 29, line 10, and [T-74-CT3](#), p. 42, line 5-p. 43, line 12.

⁵⁴⁶ P-0883: [T-74-CT3](#), p. 43, line 24-p. 44, line 2. See below para. 185.

⁵⁴⁷ [REDACTED].

⁵⁴⁸ [REDACTED].

⁵⁴⁹ [REDACTED].

⁵⁵⁰ During 2003, **ABD-AL-RAHMAN** also led Militia/*Janjaweed* on armed operations against armed rebel groups in Dereissa, Silik and Tanako, and P-0883 recalled that he was informed by intelligence offices following these events that **ABD-AL-RAHMAN**’s performance during these operations was characterised by “manhood and strength.” See P-0883: [T-71-CT3](#), p. 39, line 21-p. 46, line 4. In his GoS Interview, **ABD-AL-RAHMAN** also refers to his involvement in an attack on the “Farisah camp” of “Abdul Wahid”, the context of which suggests that this is a reference to the attack on Dereissa. See [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7012). See above para. 85.

⁵⁵¹ See below paras. 350-391, 510-511, 655-661.

154. [REDACTED] attacks on Kodoom and Bindisi in August 2003. [REDACTED] **ABD-AL-RAHMAN** led this operation and decided the route, the tactics and the duration of the attack.⁵⁵² [REDACTED] **ABD-AL-RAHMAN** ordering his forces to “[w]ipe out, sweep away, *amsah aksah*”, which means “clean everything [...] wipe out, burn out and do not leave any trace behind”.⁵⁵³ [REDACTED] **ABD-AL-RAHMAN** summon 15-20 of his Militia/*Janjaweed agids* to relay orders, encourage, and also criticise those who expressed reluctance to continue the attacks.⁵⁵⁴ [REDACTED] **ABD-AL-RAHMAN** ordering and commanding Militia/*Janjaweed*, including to “[k]ill everybody. Wipe out and [...] Cut the straw and eat it raw.”⁵⁵⁵

155. In around early 2004, **ABD-AL-RAHMAN** led Militia/*Janjaweed* in a joint operation with the SAF that focused on attacking locations in the Sindu area. This operation, which originated from Garsila, also included attacks on other locations, including Arawala, and culminated in the mass executions of men in Mukjar and Deleig in February/March 2004.⁵⁵⁶ Together with **ABD-AL-RAHMAN**’s forces, the convoy also included around 50 members of the SAF and PDF, [REDACTED].⁵⁵⁷ The convoy first went to Arawala, where it was joined by around 700-800 Militia/*Janjaweed*.⁵⁵⁸ As the convoy progressed towards Sindu, via Mukjar, over the following days, the numbers increased to thousands of Militia/*Janjaweed*.⁵⁵⁹

156. Throughout this operation **ABD-AL-RAHMAN** issued orders and instructions - including through speeches - to Militia/*Janjaweed*. [REDACTED] in Arawala, **ABD-AL-RAHMAN** told his men “*amsah aksah*” and “[a]nything you see, you have to kill or wipe. So no man has to stay alive”.⁵⁶⁰ In Um Jameina, **ABD-AL-RAHMAN** told his men “[w]henver you encounter a man, you have to kill them”;⁵⁶¹ and in Dembow Kabdy, shortly before entering Sindu, **ABD-AL-RAHMAN** said “[a]*msah aksah*, never bring someone alive.”⁵⁶²

157. [REDACTED].⁵⁶³ [REDACTED] in Sindu, a man who identified himself as the second-

⁵⁵² [REDACTED].

⁵⁵³ [REDACTED].

⁵⁵⁴ [REDACTED].

⁵⁵⁵ [REDACTED]. See below paras. 273, 298, 299, 319, 335, 363, 366, 368, 380, 383, 386, 391.

⁵⁵⁶ See below Section H: Crimes committed in Mukjar and surrounding areas; Section I: Crimes committed in Deleig and surrounding areas. [REDACTED].

⁵⁵⁷ [REDACTED].

⁵⁵⁸ [REDACTED].

⁵⁵⁹ [REDACTED].

⁵⁶⁰ [REDACTED].

⁵⁶¹ [REDACTED].

⁵⁶² [REDACTED].

⁵⁶³ [REDACTED].

in-command in the Sindu rebel camp, surrendered himself to the Militia/*Janjaweed*. He was brought before **ABD-AL-RAHMAN**, who ordered that the man was not to be harmed because of his importance and the need to obtain information from him. **ABD-AL-RAHMAN** then interrogated this man about the whereabouts of rebel leader NUR and his forces, and asked the second-in-command if he would be able to help identify rebels who may have fled to Mukjar.⁵⁶⁴ After this, the captured man was taken by **ABD-AL-RAHMAN** back to Mukjar police station and used to point out suspected rebels.⁵⁶⁵

b) ABD-AL-RAHMAN cooperated with senior GoS Officials and senior members of the GoS Forces

158. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** cooperated with senior GoS Officials and senior members of the GoS Forces, as set out below.

ABD-AL-RAHMAN met senior GoS Officials and was provided with public support, weapons and money

159. [REDACTED].⁵⁶⁶ [REDACTED] **ABD-AL-RAHMAN** played “an active role” and “carried out all missions that were entrusted to him by the Sudanese government”⁵⁶⁷ [REDACTED]⁵⁶⁸

160. In Mukjar in late July or early August 2003, shortly after the attack by rebel forces on the police station and the CRF base in Mukjar,⁵⁶⁹ multiple witnesses observed the arrival by helicopter of a delegation of senior GoS Officials and senior members of the GoS Forces.⁵⁷⁰ P-0878 observed **ABD-AL-RAHMAN** waiting to receive this high-level delegation, which included HARUN, Ali KARTI (“KARTI”), then commander of the PDF in Sudan, the commander of the SAF Western Command, and Suleiman Abdullah ADAM, Governor of West

⁵⁶⁴ [REDACTED].

⁵⁶⁵ [REDACTED].

⁵⁶⁶ [REDACTED].

⁵⁶⁷ [REDACTED].

⁵⁶⁸ [REDACTED].

⁵⁶⁹ See below para. 254.

⁵⁷⁰ P-0984: [T-66-CT2](#), p. 40, line 5-p. 41, line 9; P-0878: [T-77-CT2](#), p. 63, line 11-p. 65, line 21, and [T-78-CT3](#), p. 8, line 1-p. 15, line 1; [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011); P-0012: [DAR-OTP-0119-0503-R01](#) at 0517, para. 63; P-0041: [Prosecution’s response regarding rule 68\(2\)\(b\) declarations](#), para. 9, and [T-123-ET](#), p. 6, lines 3-16, and [DAR-OTP-0206-0033-R03](#) at 0044-0046, paras. 43-51, and [DAR-OTP-0096-0002-R01](#) at 0004-0006, paras. 7-12; P-0756: [DAR-OTP-0211-0039-R02](#) at 0045, para. 24; P-0877: [T-53-CT2](#), p. 70, line 1-p. 71, line 22; [REDACTED]. See also [REDACTED].

Darfur State, as well as other senior members of the NISS and the Police.⁵⁷¹

161. The delegation held a private meeting that included TORSHEIN, Mukjar CRF commander Colonel Abdullah HIMEIDAN (“HIMEIDAN”), **ABD-AL-RAHMAN** and some of his Militia/*Janjaweed* sub-commanders, including SAMIH and BONJOUSE, as well as other senior members of the GoS Forces in the Mukjar Locality Building.⁵⁷² This was followed by a public meeting at which P-0878 observed **ABD-AL-RAHMAN**, HARUN and KARTI, address the assembled Militia/*Janjaweed* and their commanders, including SAMIH and BONJOUSE.⁵⁷³ **ABD-AL-RAHMAN** stated that “the Janjaweed are at the disposal of the government.”⁵⁷⁴

162. HARUN thanked the Militia/*Janjaweed* for their support and told them, “you are considered, as of today, government forces”, and promised them weapons, training, salaries and food for their horses. KARTI also informed them, “You, today, are considered a part of the PDF. You are a part of the PDF. We will train you. We will give you weapons. We will give you wages.”⁵⁷⁵ Money was distributed.⁵⁷⁶ During this time, P-0012 saw that **ABD-AL-RAHMAN** was standing in front of his men, very close to HARUN.⁵⁷⁷

163. Following this meeting with HARUN, **ABD-AL-RAHMAN** was no longer under the authority of ABD-AL-HAKAM’s Mobilisation Committee in Garsila⁵⁷⁸ and instead began receiving weapons from the “military headquarters in Garsila.”⁵⁷⁹ As **ABD-AL-RAHMAN**

⁵⁷¹ P-0878: [T-77-CT2](#), p. 63, line 11-p. 64, line 3. *See also* [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011), where **ABD-AL-RAHMAN** refers to a meeting in Mukjar in August 2003, following the attack on the police station, with GoS Officials and senior members of GoS Forces, including HARUN, Lieutenant General ARABI, and general PDF coordinator Kamal IBRAHIM.

⁵⁷² P-0877: [T-53-CT2](#), p. 70, line 1-p. 71, line 22; P-0878: [T-77-CT2](#), p. 64, line 17-p. 65, line 2, and [T-78-CT3](#), p. 8, lines 5-21, and [REDACTED].

⁵⁷³ P-0878: [T-77-CT2](#), p. 65, lines 3-19, [T-78-CT3](#), p. 8, line 22-p. 11, line 17, and [REDACTED]. *See also* P-0877: [T-53-CT2](#), p. 74, lines 4-13; [REDACTED]; P-0041: [T-123-ET](#), p. 6, lines 3-16, and [DAR-OTP-0206-0033-R03](#) at 0044-0046, paras. 43-51, and [DAR-OTP-0096-0002-R01](#) at 0004-0006, paras. 7-12, and [DAR-OTP-0096-0009](#), and [DAR-OTP-0096-0010](#), and [DAR-OTP-0096-0011](#), and [DAR-OTP-0096-0012](#), and [Prosecution’s response regarding rule 68\(2\)\(b\) declarations](#), para. 9; P-0984: [T-66-CT2](#), p. 41, line 6-p. 43, line 22.

⁵⁷⁴ P-0878: [REDACTED], and [T-78-CT3](#), p. 8, line 22-p. 9, line 10, and [T-77-CT2](#), p. 65, lines 3-9. *See also* P-0029: [T-29-CT](#), p. 48, lines 8-11; P-0877: [T-53-CT2](#), p. 74, line 21-p. 75, line 10, p. 76, lines 3-9.

⁵⁷⁵ P-0878: [T-77-CT2](#), p. 64, line 17-p. 65, line 19, and [T-78-CT3](#), p. 11, line 22-p. 12, line 9, and [REDACTED]. *See also* P-0012: [DAR-OTP-0119-0503-R01](#) at 0518, para. 66; [REDACTED]; [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011); P-0984: [T-66-CT2](#), p. 41, line 6-p. 44, line 11.

⁵⁷⁶ P-0012: [DAR-OTP-0119-0503-R01](#) at 0518, para. 66; P-0877: [T-53-CT2](#), p. 74, lines 4-13, p. 75, line 11-p. 76, line 2; P-0878: [T-77-CT2](#), p. 65, line 19, and [REDACTED]. *See also* [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011).

⁵⁷⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0517-0518, paras. 62-67. *See also* P-0029: [T-29-CT](#), p. 52, line 20-p. 53, line 8, p. 55, lines 4-13; P-0878: [T-78-CT3](#), p. 9, lines 11-23.

⁵⁷⁸ [REDACTED].

⁵⁷⁹ [REDACTED].

stated in his GoS Interview, during his meeting in Mukjar with HARUN and high ranking members of the GoS Forces that followed the rebel attack in 2003, he was told: “[...] get on with your operations under the supervision of the army. We’ll get weapons for you.” **ABD-AL-RAHMAN** also stated that at this meeting “they allocated for the whole force a salary of a thousand pounds per month.”⁵⁸⁰

164. [REDACTED] “many times when a senior person comes [...] like Ahmad Harun or Abdel Raheem Muhammad Hussein, they would ask, “Where is the leader, where is Ali Kushayb?” He stated that after each operation HARUN came to Mukjar and “called on Ali Kushayb, telling him that “I’ve received the salaries”, and “Congratulations, you have carried out the operation.”⁵⁸¹ [REDACTED] **ABD-AL-RAHMAN** enter meetings in Mukjar with HARUN, the CRF commander, and members of the SAF. [REDACTED] all **ABD-AL-RAHMAN**’s instructions came from HARUN and HUSSEIN.⁵⁸² [REDACTED], **ABD-AL-RAHMAN** informed [REDACTED] “I have no business with you [...] My instructions come from [HARUN and HUSSEIN].”⁵⁸³ P-0883 explained that “Ali Kushayb back then had prerogatives vested in him by [HARUN]. Probably those powers were granted even by a higher authority”⁵⁸⁴ and that “[w]hen Ahmad Harun came to Garsila [...] he would seek the presence of Ali Kushayb in meetings.”⁵⁸⁵

165. [REDACTED].⁵⁸⁶ [REDACTED] observed the delivery of weapons and uniforms to the SAF base in Garsila less than 30 days later.⁵⁸⁷ Around a month after the weapons delivery, [REDACTED] recalled seeing a number of senior members of the GoS Forces arrive by helicopter to the SAF base in Garsila, including a Major, a Lieutenant Colonel, and a Colonel. [REDACTED].⁵⁸⁸ [REDACTED] also observed that Garsila MI officer ABD-AL-MUN’IM (aka ABU LAHAB) (“ABD-AL-MUN’IM”) was closely involved in the distribution of these weapons,⁵⁸⁹ which were only distributed to Arab tribes.⁵⁹⁰

166. [REDACTED].⁵⁹¹ P-0935 confirmed that “[b]efore the problems, before he was given

⁵⁸⁰ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011).

⁵⁸¹ [REDACTED].

⁵⁸² [REDACTED].

⁵⁸³ [REDACTED].

⁵⁸⁴ P-0883: [T-72-CT2](#), p. 19, lines 1-9.

⁵⁸⁵ P-0883: [T-72-CT2](#), p. 19, lines 12-14, and [T-73-CT2](#), p. 68, line 7-p. 69, line 3.

⁵⁸⁶ [REDACTED].

⁵⁸⁷ [REDACTED].

⁵⁸⁸ [REDACTED].

⁵⁸⁹ [REDACTED].

⁵⁹⁰ [REDACTED].

⁵⁹¹ [REDACTED].

weapons, et cetera, he didn't come a lot. However, after the Sudanese government gave him responsibilities, he used to come more often [...] he was continuously coming to the base.⁵⁹²

167. In around February 2004, shortly after witnessing **ABD-AL-RAHMAN** distributing weapons in Garsila, P-0883 recalled seeing HARUN arrive by helicopter at the SAF base in Garsila. He was accompanied by a SAF division commander from Al Fasher and two brigadier generals, one from the NISS and the other from the PDF.⁵⁹³ P-0883 observed HARUN issue orders for boxes of money to be unloaded from the helicopter and distributed to SAF, NISS and Police commanders, as well as to **ABD-AL-RAHMAN**, who received "the lion's share."⁵⁹⁴ P-0883 explained that this money was provided to **ABD-AL-RAHMAN** because the "counterinsurgency in Sindu and elsewhere was carried out by Ali Kushayb and his men. Therefore, regular civilians [...] were not on a payroll. That is why this was a reward for what they accomplished, and also to boost their morale."⁵⁹⁵

168. P-0883 recalled that HARUN visited the Garsila SAF base on three to four occasions and each time he would meet with **ABD-AL-RAHMAN**.⁵⁹⁶ HARUN would visit the Militia/*Janjaweed* in Garsila and Mukjar to boost their morale and to provide money and other forms of support.⁵⁹⁷ [REDACTED].⁵⁹⁸

169. When a delegation of high-ranking officers visited Deleig in early March 2004, **ABD-AL-RAHMAN** accompanied them "all the time" [REDACTED].⁵⁹⁹ [REDACTED].⁶⁰⁰

ABD-AL-RAHMAN communicated with senior GoS Officials in relation to armed operations

170. [REDACTED]. The first was a signed letter on official GoS notepaper from HARUN to **ABD-AL-RAHMAN** to destroy Bindisi, and the second a reply on paper with a horse logo from **ABD-AL-RAHMAN** to HARUN detailing the planned operation in August 2003. [REDACTED].⁶⁰¹

⁵⁹² P-0935: [T-90-CT2](#), p. 17, lines 21-25.

⁵⁹³ P-0883: [T-71-CT3](#), p. 36, line 11-p. 37, line 7, p. 37, line 23-p. 38, line 2..

⁵⁹⁴ P-0883: [T-71-CT3](#), p. 37, lines 8-18, p. 38, lines 3-11.

⁵⁹⁵ P-0883: [T-74-CT3](#), p. 45, line 14-p. 46, line 1.

⁵⁹⁶ P-0883: [T-71-CT3](#), p. 36, lines 11-16.

⁵⁹⁷ P-0883: [T-73-CT2](#), p. 68, lines 13-22.

⁵⁹⁸ [REDACTED].

⁵⁹⁹ [REDACTED].

⁶⁰⁰ [REDACTED].

⁶⁰¹ [REDACTED]. See below para. 261.

c) ABD-AL-RAHMAN cooperated with GoS Officials at the locality level

171. **ABD-AL-RAHMAN** also cooperated with GoS Officials in the Wadi Salih and Mukjar Localities, especially with ABD-AL-HAKAM, Commissioner of Garsila, and TORSHEIN, Commissioner of Mukjar. **ABD-AL-RAHMAN** cooperated with ABD-AL-HAKAM in relation to the mobilisation of, and the distribution of weapons to, Militia/*Janjaweed* in Garsila. **ABD-AL-RAHMAN** also attended meetings with GoS Officials in the Wadi Salih and Mukjar Localities, including with ABD-AL-HAKAM in Garsila⁶⁰² and Deleig,⁶⁰³ and with TORSHEIN in Mukjar.⁶⁰⁴

172. As set out above, in Garsila in early August 2003, a Mobilisation Committee was created in Wadi Salih for the purpose of countering the insurgency in Darfur.⁶⁰⁵ This was a locality level committee that was created after a decision by the state level West Darfur State Security Committee that requested “ideas for a local mobilisation plan in the districts of Mukjar and Garsila.”⁶⁰⁶ This Mobilisation Committee was headed by ABD-AL-HAKAM, and contained representatives of Arab and Fur tribes, including civil society representatives, members of the Locality Security Committee and members of the PDF and PPF, as well as **ABD-AL-RAHMAN** as an *agid al ogada*.⁶⁰⁷

173. This Mobilisation Committee had three sub-committees:⁶⁰⁸ a Mujahidin Committee, headed by **ABD-AL-RAHMAN**,⁶⁰⁹ a Support Committee, tasked with providing financial and logistical support for the Mujahidin Committee and a Media Committee, responsible for encouraging participation in, and support of, the mobilisation to fight the insurgency.⁶¹⁰ Despite being created by representatives of all communities and tribes, **ABD-AL-RAHMAN**’s Mujahidin Committee only armed members of Arab tribes.⁶¹¹

174. In his GoS Interview, **ABD-AL-RAHMAN** explained that on the day he distributed weapons to *agids* of the Arab tribes, the Fur complained to ABD-AL-HAKAM that only Arabs were being armed. A Garsila Security Committee meeting was then held, attended by, among

⁶⁰² P-0883: [T-72-CT2](#), p. 15, line 7-p. 16, line 12, [REDACTED].

⁶⁰³ P-0129: [DAR-OTP-0128-0128-R04](#) at 0135, paras. 25-27, and [DAR-OTP-0223-0157-R02](#) at 0162, para. 22.

⁶⁰⁴ [REDACTED]. See below para. 430.

⁶⁰⁵ [REDACTED].

⁶⁰⁶ [REDACTED].

⁶⁰⁷ [REDACTED].

⁶⁰⁸ [REDACTED].

⁶⁰⁹ [REDACTED].

⁶¹⁰ [REDACTED].

⁶¹¹ [REDACTED].

others, ABD-AL-HAKAM and BAKHAT. **ABD-AL-RAHMAN** was also present, and he explained that he told the Security Committee “You should have told [the Fur] why we’re seeking weapons.” [REDACTED],⁶¹² **ABD-AL-RAHMAN** also told his GoS interviewers: “I got together all my force. I held a meeting where I divided up my force into groups” and a short time later, these forces travelled to Mukjar, where, following the rebel attack, **ABD-AL-RAHMAN** met HARUN and others.⁶¹³

175. As set out below, both ABD-AL-HAKAM and TORSHEIN were involved in the planning for **ABD-AL-RAHMAN**’s attack on Kodoom and Bindisi.⁶¹⁴ During the course of the operation to attack Kodoom and Bindisi, [REDACTED] **ABD-AL-RAHMAN** express his intention to return to Garsila after the attack, “where a big celebration will be held for us by Governor Ja’afar Abd-Al-Hakam Ishaq [...] for this achievement” and “afterwards the new direction that we will take will be decided for us to carry on our programme.”⁶¹⁵

176. In addition to **ABD-AL-RAHMAN** attending various meetings in Garsila, [REDACTED]⁶¹⁶ [REDACTED]⁶¹⁷

d) ABD-AL-RAHMAN cooperated with and/or exerted influence over certain members of GoS Forces at the locality level

177. **ABD-AL-RAHMAN** also cooperated with, and at times exerted influence over, members of GoS Forces in the Wadi Salih and Mukjar Localities, as set out below.

178. [REDACTED],⁶¹⁸ [REDACTED] shortly before the attack on Kodoom and Bindisi, **ABD-AL-RAHMAN** [REDACTED] provided CRF commander HIMEIDAN with a letter signed by Commissioner ABD-AL-HAKAM.⁶¹⁹ [REDACTED]⁶²⁰ [REDACTED].⁶²¹

179. [REDACTED]⁶²² In a stark reflection of **ABD-AL-RAHMAN**’s influence during the operation to attack Kodoom and Bindisi, [REDACTED] **ABD-AL-RAHMAN** “was the leader,

⁶¹² See paras. 133, 135, 140, 173, 174.

⁶¹³ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008). See also paras. 162, 255-256.

⁶¹⁴ See below paras. 255, 259-260, 350.

⁶¹⁵ [REDACTED].

⁶¹⁶ [REDACTED].

⁶¹⁷ [REDACTED].

⁶¹⁸ [REDACTED].

⁶¹⁹ [REDACTED]. See below paras. 259-260.

⁶²⁰ [REDACTED].

⁶²¹ [REDACTED].

⁶²² [REDACTED].

he was in charge, he would give orders. He was capable of giving orders even to kill us.”⁶²³ [REDACTED] recalled that **ABD-AL-RAHMAN** personally signed the “12C” form to acknowledge receipt of these weapons and ammunition.⁶²⁴

180. [REDACTED], before **ABD-AL-RAHMAN** left Mukjar towards Sindu on an operation in early 2004, he instructed the Police chief that any man coming to Mukjar from the direction of Sindu must be registered and kept in Mukjar.⁶²⁵ **ABD-AL-RAHMAN** also confirmed spending the night in Mukjar with the CRF commander during this operation.⁶²⁶ [REDACTED] explained that on the instructions of the Police chief in Mukjar, all the *sheikhs* in Mukjar were required to ensure that any man entering Mukjar presented himself at the police station, and if not, the *sheikh* of the relevant neighbourhood would be arrested.⁶²⁷

181. P-0913, [REDACTED], recalled that in March 2004, shortly after a helicopter landed with weapons and ammunition, **ABD-AL-RAHMAN** arrived at the police camp in his Land Cruiser, accompanied by trucks loaded with Militia/*Janjaweed*. He then met the head of the CRF in Mukjar, Lieutenant Colonel Mustafa Ahmad AL-TAYYIB (“AL-TAYYIB”),⁶²⁸ who provided **ABD-AL-RAHMAN** with boxes of ammunition, which had been brought by a “Minister”, in a helicopter.⁶²⁹ [REDACTED] also describes AL-TAYYIB’s cooperation and compliance when **ABD-AL-RAHMAN** requested AL-TAYYIB to hand over the prisoners detained in Mukjar.⁶³⁰

182. P-0883 testified that Police in Garsila could not investigate **ABD-AL-RAHMAN** because “they had neither the capability nor the authority to hold Ali Kushayb accountable”⁶³¹ and that they “could do nothing” in respect of **ABD-AL-RAHMAN**, “because he had prerogatives that he had received from even higher up authorities.”⁶³² [REDACTED] also confirmed, in the context of the Deleig operation, that Police were powerless to stop **ABD-AL-RAHMAN**.⁶³³ [REDACTED] explained that “if you lodge a complaint against this person, this

⁶²³ [REDACTED].

⁶²⁴ [REDACTED].

⁶²⁵ [REDACTED]. See below paras. 194, 398.

⁶²⁶ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7012).

⁶²⁷ [REDACTED]. See below paras. 194, 398.

⁶²⁸ [REDACTED].

⁶²⁹ [REDACTED], and [REDACTED].

⁶³⁰ [REDACTED]. See below para. 431.

⁶³¹ P-0883: [T-72-CT2](#), p. 18, lines 20-23.

⁶³² P-0883: [T-74-CT3](#), p. 12, lines 11-14.

⁶³³ [REDACTED]. See also P-0736: [DAR-OTP-0210-0248-R02](#) at 0261, para. 50; P-0651: [DAR-OTP-0205-0015-R02](#) at 0030, para. 54.

simply means that it will simply expedite the process of ensuring that I get killed.”⁶³⁴

183. As described in detail in the section on Kodoom and Bindisi, in the course of the attack, there was also close cooperation between **ABD-AL-RAHMAN** and [REDACTED], and Garsila PDF officer HASSABALLAH.⁶³⁵ **ABD-AL-RAHMAN** also cooperated closely with HASSABALLAH in the course of the Deleig operation.⁶³⁶

184. **ABD-AL-RAHMAN** also cooperated with, and at times exerted influence over, SAF personnel in the Wadi Salih and Mukjar Localities. Multiple witnesses confirmed **ABD-AL-RAHMAN**’s close cooperation with MI officers during the period of the charges, in particular HAMDI, the officer in charge of the MI Office in Garsila. [REDACTED],⁶³⁷ as well as regular meetings with HAMDI and BAKHAT inside the SAF base.⁶³⁸ [REDACTED].⁶³⁹ [REDACTED].⁶⁴⁰

185. [REDACTED],⁶⁴¹ explained that HAMDI, under BAKHAT’s ultimate supervision, oversaw the distribution of weapons to **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates,⁶⁴² and that “[e]ach time Ali would come to the garrison, he would go to Hamdi’s office.”⁶⁴³ [REDACTED].⁶⁴⁴ Civilians, including members of the local tribal hierarchy, were also arrested and detained at the SAF base in Garsila on **ABD-AL-RAHMAN**’s orders⁶⁴⁵ and with the approval of HAMDI and BAKHAT.⁶⁴⁶ As described in detail below, there was also extensive cooperation between **ABD-AL-RAHMAN** and HAMDI during the course of the Mukjar⁶⁴⁷ and Deleig⁶⁴⁸ criminal episodes.

186. **ABD-AL-RAHMAN** also maintained a close relationship with Garsila MI officers ABD-AL-MUN’IM,⁶⁴⁹ Hamad Adam ABD-AL-BANAT (“ABD-AL-BANAT”)⁶⁵⁰ and

⁶³⁴ [REDACTED].

⁶³⁵ See below paras. 257, 259-260, 351-353, 356-357, 359, 371.

⁶³⁶ See below para. 625.

⁶³⁷ [REDACTED].

⁶³⁸ [REDACTED].

⁶³⁹ [REDACTED].

⁶⁴⁰ [REDACTED].

⁶⁴¹ [REDACTED].

⁶⁴² P-0883: [T-71-CT3](#), p. 28, lines 17-23, p. 29, lines 14-19, and [T-74-CT3](#), p. 43, line 13-p. 44, line 11. See also P-0935: [T-90-CT2](#), p. 24, lines 9-15, p. 25, line 16-p. 28, line 12.

⁶⁴³ P-0883: [T-72-CT2](#), p. 35, lines 5-7.

⁶⁴⁴ [REDACTED].

⁶⁴⁵ [REDACTED].

⁶⁴⁶ [REDACTED].

⁶⁴⁷ See below paras. 479-489.

⁶⁴⁸ See below paras. 626-629.

⁶⁴⁹ See below para. 188.

⁶⁵⁰ P-0883: [T-72-CT2](#), p. 34, line 24-p. 35, line 4. See also paras. 527, 530.

Mussadiq Hassan MANSUR (“MANSUR”),⁶⁵¹ including during the course of the Mukjar and Deleig criminal episodes.⁶⁵² [REDACTED].⁶⁵³ [REDACTED].”⁶⁵⁴

187. [REDACTED].”⁶⁵⁵ [REDACTED].”⁶⁵⁶

188. [REDACTED]⁶⁵⁷ [REDACTED].⁶⁵⁸ [REDACTED]⁶⁵⁹ [REDACTED]⁶⁶⁰ [REDACTED].⁶⁶¹

189. Similarly, P-0883 referred to **ABD-AL-RAHMAN** and his “horsemen, the Fursan” launching attacks on rebel positions in Sindu.⁶⁶² He described how **ABD-AL-RAHMAN**’s forces were supported by the PDF and SAF, and recalled that Muqaddam IDRIS, a Staff Sergeant from Garsila, was a SAF commander present during this operation.⁶⁶³ P-0935 recalled that AL HARIKA was in charge of the SAF during this operation while “Kushayb was in charge of the Janjaweed.”⁶⁶⁴ P-0954, [REDACTED], referred to him as a PDF commander in Nyala.⁶⁶⁵

190. In describing this Sindu operation in his GoS Interview, **ABD-AL-RAHMAN** explained that “we received a signal telling us [...] to go to Sindu camp. A force assembled under the command of Major Harikah of Nyala garrison.”⁶⁶⁶ [REDACTED].⁶⁶⁷

e) ABD-AL-RAHMAN issued orders to members of GoS Forces including, in particular, those of lower rank

191. **ABD-AL-RAHMAN**, at times, issued orders to certain personnel of the GoS Forces, including to personnel of the SAF and PDF. These orders were obeyed. In the SAF, this

⁶⁵¹ See below paras. 525, 529.

⁶⁵² See below paras. 432, 440, 479-483, 625-631.

⁶⁵³ [REDACTED].

⁶⁵⁴ [REDACTED]. See also paras. 568-569.

⁶⁵⁵ [REDACTED]. See also paras. 229, 232.

⁶⁵⁶ [REDACTED].

⁶⁵⁷ [REDACTED].

⁶⁵⁸ [REDACTED].

⁶⁵⁹ [REDACTED].

⁶⁶⁰ [REDACTED].

⁶⁶¹ [REDACTED].

⁶⁶² P-0883: [T-72-CT2](#), p. 11, line 16-p. 12, line 12.

⁶⁶³ P-0883: [T-72-CT2](#), p. 12, line 13-p. 13, line 16.

⁶⁶⁴ P-0935: [T-90-CT2](#), p. 31, lines 11-23, p. 33, line 7-p. 34, line 13.

⁶⁶⁵ P-0954: [DAR-OTP-0221-0571-R01](#) at 0575, para. 23. While P-0954 refers to AL HARIKA as “Lieutenant Colonel, Abu Al Ghassim ALI HARIKA HAMED”, the similarities with other evidence regarding the spelling, his affiliation and presence during the armed operations indicate that they are the same person.

⁶⁶⁶ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7012).

⁶⁶⁷ [REDACTED], and [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7012-7013); [REDACTED]. [REDACTED].

included SAF Staff Sergeant Muqaddam IDRIS, ⁶⁶⁸ as well as certain officers within the MI Office in Garsila, as described below.

192. [REDACTED] orders issued by **ABD-AL-RAHMAN** during the course of joint SAF and Militia/*Janjaweed* armed operations, including: “*amsah aksah* [...] wipe everything and kill everybody. Don’t leave anybody alive. Kill everyone.” ⁶⁶⁹ [REDACTED]. ⁶⁷⁰ As set out below, **ABD-AL-RAHMAN** also gave orders to SAF Staff Sergeant IDRIS to execute a *sheikh* and seven children during the Mukjar executions. ⁶⁷¹ [REDACTED] **ABD-AL-RAHMAN** responded “No, I am the commander [...] I do not have time to wait for the commander.” The three men were then handed over to **ABD-AL-RAHMAN**. ⁶⁷² [REDACTED]. ⁶⁷³

193. **ABD-AL-RAHMAN** also issued orders to leaders and other personnel of the PDF. [REDACTED], ⁶⁷⁴ [REDACTED], ⁶⁷⁵ [REDACTED]. ⁶⁷⁶

194. **ABD-AL-RAHMAN** also issued orders to Police personnel. [REDACTED] observed **ABD-AL-RAHMAN** instruct the Police chief in Mukjar that any man coming to Mukjar from the direction of Sindu must be registered and kept in Mukjar. ⁶⁷⁷ As set out below, he also issued orders to Police officers in relation to detainees in police stations in Mukjar and Deleig. ⁶⁷⁸

f) ABD-AL-RAHMAN remained in a position of authority after the charged crimes

195. After the period relevant to the charges, in a reflection of the authority and influence he amassed during the charged period, **ABD-AL-RAHMAN** continued to hold various leadership roles in Garsila and Rahad Al-Berdi. In particular, like other prominent Militia/*Janjaweed* leaders, he was promoted into a position within one of the GoS Forces. ⁶⁷⁹ He joined the CRF as a warrant officer ⁶⁸⁰ and became the CRF commander of Rahad Al-Berdi. In a continuation of his prior role as *agid al-ogada* in the Wadi Salih and Mukjar Localities, he also became an

⁶⁶⁸ [REDACTED]. See below paras. 432, 444, 448, 454-455, 479-488, 501, 504.

⁶⁶⁹ [REDACTED].

⁶⁷⁰ [REDACTED]. See below para. 249.

⁶⁷¹ See below paras. 454-455.

⁶⁷² [REDACTED]. See below para. 528.

⁶⁷³ [REDACTED]. See below para. 568.

⁶⁷⁴ [REDACTED].

⁶⁷⁵ [REDACTED].

⁶⁷⁶ [REDACTED].

⁶⁷⁷ [REDACTED]. See also para. 398.

⁶⁷⁸ See below paras. 398, 400, 431-432, 553.

⁶⁷⁹ See above para. 55.

⁶⁸⁰ See above para. 55.

“overseer” or “*mushrif*” in Rahad Al-Berdi. Echoing his roles on the Mujahidin Committee in Garsila and his *ad hoc* involvement with the Garsila and Mukjar security committees during the charged period, **ABD-AL-RAHMAN** also later attended meetings of Rahad Al-Berdi’s shura council and security committee.

196. As set out above, [REDACTED] documentation [REDACTED] confirmed **ABD-AL-RAHMAN**’s role as a CRF warrant officer in 2005 and 2006.⁶⁸¹ P-0883 recalled that after **ABD-AL-RAHMAN** joined the CRF, he went to an event in a police camp in Wadi Salih where “all police officers stood when he arrived to salute him.” When an army officer present queried this, the commander of the police in the area stated that he “had instructions from the higher command that anybody whose rank [...] is a captain or lower, they need to salute [**ABD-AL-RAHMAN**].”⁶⁸²

197. Multiple Defence witnesses testified about **ABD-AL-RAHMAN**’s ongoing influence and authority in Rahad Al-Berdi after the charged crimes. [REDACTED] **ABD-AL-RAHMAN**, who was the commander of the CRF in Rahad Al-Berdi from around 2009 until his surrender in 2020. [REDACTED] **ABD-AL-RAHMAN**’s CRF rank in essentially the same terms – as a *musa’id*/warrant officer or *sol*/master sergeant.⁶⁸³ [REDACTED] explained that “in the military system, sometimes a person at this rank can lead a whole region [...] as a *musaid* [**ABD-AL-RAHMAN**] was able to be the head of [...] the CRF in Rahad Al-Berdi.”⁶⁸⁴ [REDACTED] **ABD-AL-RAHMAN**’s rank of warrant officer was “irrelevant to Ali Kushayb’s actions. Whether he was a warrant officer or even lower [...] What matters, what is relevant is the person’s actual mission he is tasked with.”⁶⁸⁵

198. In a significant revelation, D-03, [REDACTED], testified that after the charged crimes, **ABD-AL-RAHMAN** had the role of “overseer” or “*mushrif*” within the Ta’aisha tribe in Rahad Al-Berdi.⁶⁸⁶ D-03 explained that an overseer or *mushrif*, who was chosen by the “men of the tribe or the young people of the tribe”, was a “position within the hierarchy of *agids*”, equal to an *agid al-ogada*⁶⁸⁷ and that if there was a tribal conflict between the Ta’aisha and another tribe, the overseer works “in cooperation” with, and has an equal role to, the *agid al-*

⁶⁸¹ See above paras. 42-43.

⁶⁸² P-0883: [T-73-CT2](#), p. 47, line 1-p. 48, line 5.

⁶⁸³ [REDACTED]; D-28: [DAR-D31-00000150](#), p. 5, para. 23. D-29, [REDACTED], also confirmed that **ABD-AL-RAHMAN** was a “warrant officer” [REDACTED] See D-29: [T-157-CT](#), p. 25, lines 17-19, [REDACTED].

⁶⁸⁴ [REDACTED].

⁶⁸⁵ [REDACTED].

⁶⁸⁶ D-03: [T-155-ET](#), [REDACTED], p. 73, lines 12-20, [REDACTED].

⁶⁸⁷ D-03: [T-155-ET](#), p. 73, lines 5-20, [REDACTED].

ogada, who would provide horses, camels and defence of an area. Whereas there may be more than one *agid al-ogada*, there was “only one” overseer and this had only ever been **ABD-AL-RAHMAN**.⁶⁸⁸ Notably, **ABD-AL-RAHMAN** performed a prominent role in the tribal conflict between the Ta’aisha and the Salamat, when, in 2013, as D-32 confirmed, he transported 250 Salamat families from Rahad Al-Berdi to Nyala in a CRF convoy.⁶⁸⁹

199. D-05 confirmed that **ABD-AL-RAHMAN** was “a notable” in the Ta’aisha tribe, and a “guardian of safety”.⁶⁹⁰ D-02 confirmed that in the period when **ABD-AL-RAHMAN** was in the CRF in Rahad Al-Berdi, he was the “right-hand man” of the former Ta’aisha *nazir*, Abd-Al-Rahman Al Bishara Al Senussi. D-02 explained that **ABD-AL-RAHMAN** “provided many services to the *nazir*”, which included “preserving the security” and “protecting the farms of the farmers on behalf of the *nazir*.”⁶⁹¹ **ABD-AL-RAHMAN** also attended *shura* council meetings of the Ta’aisha tribe,⁶⁹² and as a CRF commander, he was a member of the Rahad Al-Berdi Security Committee.⁶⁹³

200. **ABD-AL-RAHMAN** continued to use his authority to issue violent threats. In the Um Sory Video he told a large gathering how he would respond to perceived threats, warning “if they so much as spray water on a member of any of these marginal tribes, then we’ll spray them with blood.”⁶⁹⁴ He also confirmed that “what Radio Dabanga says is true, because I’ve killed a great many people and I’m still going to kill people” and bragged about owning internationally banned weapons and threatened that after “one gas shell [...] on that market there [...] not one chicken will survive.”⁶⁹⁵ He then boasted about his prior personal contact with former President AL-BASHIR.⁶⁹⁶ In the Teachers Video, during which he addressed a large crowd in his capacity as a Rahad Al-Berdi Security Committee member, he stated “I’d have stabbed and killed any individual who mocked Rehed al-Birdi or denigrated the

⁶⁸⁸ D-03: [REDACTED].

⁶⁸⁹ D-32: [T-141-CT](#), p. 24, line 11-p. 25, line 13, and [DAR-OTP-00006587](#).

⁶⁹⁰ D-05: [T-158-ET](#), p. 20, lines 8-12, p. 31, line 22-p. 32, line 5.

⁶⁹¹ D-02: [T-156-CT](#), p. 44, lines 8-9, p. 59, line 23-p. 61, line 9. [REDACTED].

⁶⁹² [REDACTED].

⁶⁹³ [DAR-OTP-00000236](#), 01:16:12-01:24:19, 02:06:02-02:13:12; [DAR-OTP-0220-3194](#) (Translation [DAR-OTP-0220-3199](#) at 3201, lines 16-17, 27-29); D-01: [T-155-ET](#), p. 21, lines 13-25; D-08: [T-139-CT](#), p. 83, line 13-p. 84, line 24.

⁶⁹⁴ [DAR-OTP-00012474](#) (version shown to witnesses [DAR-OTP-00006452](#), 03:45:11-04:05:19); [DAR-OTP-0223-0519-R01](#) (Translation [DAR-OTP-00012491-R01](#), p. 5, lines 82-93).

⁶⁹⁵ [DAR-OTP-00012474](#) (version shown to witnesses [DAR-OTP-00006452](#), 05:40:06-06:18:21; [DAR-OTP-0223-0519-R01](#) (Translation [DAR-OTP-00012491-R01](#), p. 6, lines 115-127). See also para. 56 above. See also [Ntaganda AJ](#), para. 1127.

⁶⁹⁶ [DAR-OTP-00012474](#) (version shown to witnesses [DAR-OTP-00006452](#), 04:38:03-06:22:00; [DAR-OTP-0223-0519-R01](#) (Translation [DAR-OTP-00012491-R01](#), p. 5, lines 98-107).

teacher.”⁶⁹⁷

2) ABD-AL-RAHMAN’s individual criminal responsibility

201. ABD-AL-RAHMAN’s position of authority within the Militia/*Janjaweed* and his cooperation with and influence over the GoS Officials and GoS Forces enabled him to, among other things, order and instruct his subordinates to commit crimes and/or exert influence over the physical perpetrators of crimes and/or facilitate the commission of crimes and/or otherwise contribute to the commission of crimes in the Wadi Salih and Mukjar Localities during the charged period.

Direct co-perpetration under article 25(3)(a)

202. ABD-AL-RAHMAN is charged with direct co-perpetration, pursuant to article 25(3)(a), for crimes committed in connection with Mukjar and Deleig.⁶⁹⁸ The elements of co-perpetration are:⁶⁹⁹ (a) the existence of a common plan or agreement between two or more persons, including the accused,⁷⁰⁰ that includes “a critical element of criminality”;⁷⁰¹ (b) the accused provided an essential contribution to the common plan;⁷⁰² (c) the accused meant to

⁶⁹⁷ [DAR-OTP-00000236](#), 02:50:24-03:07:00; [DAR-OTP-0220-3194](#) (Translation [DAR-OTP-0220-3199](#) at 3202, lines 43-49).

⁶⁹⁸ See below paras. 477-506, 623-649.

⁶⁹⁹ [Bemba et al. TJ](#), paras. 61-71.

⁷⁰⁰ [Katanga CD](#), para. 522; [Lubanga CD](#), para. 343; [Lubanga TJ](#), paras. 980-988; [Bemba et al. TJ](#), para. 65. See also [Confirmation Decision](#), p. 61, paras. 85-86, p. 65, paras. 121-122. This common plan or agreement ties the co-perpetrators together and justifies the reciprocal imputation of their respective acts ([Lubanga AJ](#), para. 445; [Bemba et al. AJ](#), paras. 818, 824, 1307; [Lubanga TJ](#), paras. 1000, 1004).

⁷⁰¹ [Lubanga AJ](#), para. 446; [Lubanga TJ](#), paras. 984-985; [Lubanga CD](#), para. 344. The plan may also be previously arranged or materialise extemporaneously ([Lubanga AJ](#), para. 445). The common plan can also be inferred from circumstantial evidence, such as the subsequent concerted action of the co-perpetrators ([Lubanga TJ](#), paras. 984, 988; [Bemba et al. TJ](#), para. 66), and may also be inferred from the wider circumstances, including the events on the ground ([Ntaganda AJ](#), para. 19). The Appeals Chamber has also confirmed that evidence post-dating the common plan can be used to infer the existence of a common plan at a prior date ([Bemba et al. AJ](#), para. 1306).

⁷⁰² [Bemba et al. AJ](#), paras. 812, 824-825, 1307. The essential contribution may also be made “within the framework” of the common plan ([Bemba et al. AJ](#), paras. 818-820; [Lubanga AJ](#), paras. 445, 469; [Lubanga CD](#), para. 345). The decisive consideration is whether the accused’s contribution within the framework of the common plan was such that without it “the crime would not have been committed or would have been committed in a significantly different way” ([Bemba et al. AJ](#), paras. 820, 825; [Ongwen AJ](#), para. 661; [Blé Goudé CD](#), para. 135). It is therefore not required that the accused made an intentional contribution to each of the specific crimes or criminal incidents that were committed on the basis of the common plan ([Bemba et al. AJ](#), paras. 812, 821). As to the assessment of the essential nature of a contribution, see [Ongwen AJ](#), para. 253 (“The question is whether the accused had control over the crime, by virtue of his or her essential contribution to it and the resulting power to frustrate its commission, even if that essential contribution was not made at the execution stage.”). By making such an intentional essential contribution to the common plan, the accused co-perpetrator is liable for all the crimes that occur within the framework of the common plan ([Bemba et al. AJ](#), para. 1307, see also para. 1029; [Bemba et al. TJ](#), para. 62). While the contribution of other co-perpetrators may be of assistance in determining whether an accused retained control over the crimes, the determination of any such contribution is not a legal pre-requisite to determining whether the accused had the power to frustrate the commission of crimes ([Ongwen AJ](#), para. 673). The essential nature of the accused’s contribution to the common plan is based on a cumulative assessment of all

engage in the conduct which constituted his essential contribution;⁷⁰³ (d) the accused intended the execution of the material elements of the crime or was aware that the implementation of the agreement between the co-perpetrators would, in the ordinary course of events, result in execution of the material elements of the crimes;⁷⁰⁴ and (e) the accused was aware that the circumstances relevant to the charged crimes existed, or that in the ordinary course of events, the charged crimes would be committed⁷⁰⁵ and further that the accused was aware (i) that the common plan or agreement involved an element of criminality;⁷⁰⁶ and (ii) of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise control over the crime.⁷⁰⁷

203. **ABD-AL-RAHMAN**'s position of authority and influence, as detailed at paragraphs 127 to 194, enabled **ABD-AL-RAHMAN** to make an essential contribution to the Mukjar and Deleig common plans as described at paragraphs 490 to 505 and 632 to 646 respectively: it allowed him to obtain the cooperation of members of the GoS Forces regarding, among other things, the arrest and detention of persons, the questioning and mistreatment by **ABD-AL-RAHMAN** and his subordinates of detainees in the custody of GoS Forces and/or Militia/*Janjaweed*, and the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his subordinates. It also allowed him to, among other things, order or induce his Militia/*Janjaweed* subordinates, as well as certain members of the GoS Forces, to physically

relevant contributions to the common plan, and not on an isolated assessment of individual acts and such contributions may take many forms and need not be criminal in nature (*Bemba et al. AJ*, paras. 810, 812). In addition, a co-perpetrator may make an essential contribution to the common plan at any stage, which includes the execution stage of the crime, the planning and preparation stage, and the stage when the common plan is conceived (*Bemba et al. AJ*, paras. 819, 810; *Lubanga AJ*, paras. 469, 473; *Bemba et al. TJ*, para. 69). See also *Confirmation Decision*, p. 61, paras. 87-88, p. 66, paras. 123-124.

⁷⁰³ Article 30(2)(a). See also *Ongwen TJ*, para. 2788. See also *Confirmation Decision*, p. 62, para. 89, p. 66, para. 125.

⁷⁰⁴ Article 30(2)(b). See also *Ongwen TJ*, para. 2788; *Ruto, Kosgey & Sang CD*, para. 335; *Lubanga CD*, paras. 350-352. The concept of "awareness that a consequence will occur in the ordinary course of events" means that, based on the accused's knowledge of how events ordinarily develop, the accused anticipated that the consequence would occur in the future (*Lubanga TJ*, para. 1012, see also *Bemba et al. TJ*, paras. 67, 70; *Lubanga TJ*, para. 1008; *Katanga CD*, para. 533). The Appeals Chamber has held that this standard requires proof that the foreseeability of future events is virtually, as opposed to absolutely, certain (*Lubanga AJ*, para. 447, see also *Bemba CD*, para. 362). For the accused to meet the subjective element of the crimes charged, he need not have been aware of the *specific* crimes that resulted from the implementation of the common plan (*Brdanin AJ*, paras. 418, 420-425; *Brima et al. AJ*, para. 76). Instead, the accused need only have been aware that the implementation of the common plan would, in the ordinary course of events, result in the commission of the *type* of offences charged (*Ongwen AJ*, para. 685; *Ntaganda AJ*, para. 1065; *Bemba et al. AJ*, para. 1308).

⁷⁰⁵ Article 30(3).

⁷⁰⁶ *Lubanga CD*, paras. 361-365.

⁷⁰⁷ *Lubanga TJ*, para. 1008; *Katanga TJ*, paras. 1399, 1414-1415; *Lubanga CD*, paras. 366-367; *Katanga CD*, paras. 538-539. This is established by showing that the accused was aware of his or her critical role in the implementation of the common plan (*Lubanga TJ*, para. 1013; *Katanga TJ*, para. 1415; *Lubanga CD*, para. 367; *Katanga CD*, para. 539).

assault, transport, and execute detainees. The evidence summarised above at paragraphs 127 to 194, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** as a co-perpetrator.

Ordering under article 25(3)(b)

204. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) (“ordering”), for crimes committed in Kodoom, Bindisi,⁷⁰⁸ Mukjar, Deleig and their surrounding areas. To establish responsibility under “ordering”, it is necessary to prove that:⁷⁰⁹ (i) the accused was in a position of authority;⁷¹⁰ (ii) the accused ordered another person either to commit a crime which occurs or is attempted, or to perform an act or omission in the execution of which a crime is carried out;⁷¹¹ (iii) the order had a direct effect on the commission or attempted commission of the

⁷⁰⁸ See [Decision on the Prosecution’s Regulation 55\(2\) application](#).

⁷⁰⁹ [Ntaganda CD](#), para. 145; [Mudacumura AW Decision](#), para. 63. See also [Confirmation Decision](#), p. 62, paras. 92-93, p. 67, paras. 129-130.

⁷¹⁰ Ordering liability under article 25(3)(b) requires the accused to hold a position of authority *vis-à-vis* the physical perpetrator ([Bemba et al. TJ](#), para. 77; [Ntaganda CD](#), para. 145; [Mudacumura AW Decision](#), para. 63). A *de facto* position of authority is sufficient ([Ntaganda CD](#), para. 147, fn. 598; [Blé Goudé CD](#), para. 160). According to the established jurisprudence of the *ad hoc* international criminal tribunals, this position of authority may be differentiated from the superior-subordinate relationship for command responsibility under article 28 of the Rome Statute. It does not require proof of effective command, control or authority (see [Gacumbitsi AJ](#), para. 182; [Kamuhanda AJ](#), para. 75; [Semanza AJ](#), para. 361; [Galić AJ](#), para. 176; [Boškoski & Tarčulovski AJ](#), para. 164). Nor is it necessary to show that there was an official or formal superior-subordinate relationship (see [Semanza AJ](#), para. 361; [Karera AJ](#), para. 211; [Setako AJ](#), para. 240; [Nahimana et al. AJ](#), para. 481, fn. 1162; [Renzaho AJ](#), para. 315; [Kamuhanda AJ](#), para. 75; [Galić AJ](#), para. 176; [Kordić & Čerkez AJ](#), para. 28; [Boškoski & Tarčulovski AJ](#), para. 164). It is sufficient “that there is proof of some position of authority on the part of the accused that would compel the perpetrator to commit a crime pursuant to the accused’s order” ([Karera AJ](#), para. 211; [Semanza AJ](#), para. 361; [Boškoski & Tarčulovski AJ](#), para. 164). It further suffices that the direct perpetrators regarded the accused as “speaking with authority” ([Semanza AJ](#), para. 363) in the sense that they perceived ([Gacumbitsi AJ](#), para. 185) his words as orders to perform certain acts or omissions, and that they felt obliged to comply. This position of authority may also be informal or of a purely temporary nature ([Semanza AJ](#), para. 363. See also [Setako AJ](#), para. 240) and it may emanate from his “social, economic, political or administrative standing” ([Gacumbitsi AJ](#), para. 185).

⁷¹¹ For all three modes of liability under article 25(3)(b), the accused may exert influence “in any form” ([Bemba et al. TJ](#), para. 73; [Gbagbo CD](#), para. 243; [Blé Goudé CD](#), para. 159; [Bemba et al. CD](#), para. 34; [Al Mahdi CD](#), para. 25; [Ongwen CD](#), para. 42; [Ntaganda CD](#), para. 153) and an order or act of solicitation or inducement may be performed directly on the physical perpetrators of the crimes or may be committed through an intermediary ([Bemba et al. AJ](#), paras. 847-848). It is not necessary that the accused was present when the instigated crime was committed ([Kordić & Čerkez AJ](#), para. 27; [Nahimana et al. AJ](#), para. 480; [Karera AJ](#), para. 317; [Nyiramasuhuko et al. AJ](#), para. 3327. See also [Šešelj AJ](#), paras. 124, 131, 153). In relation specifically to ordering, it is necessary to prove that the accused used his or her position of authority to prompt another person to commit a crime or to perform another act ([Bemba et al. AJ](#), para. 77), as well as direct or circumstantial proof of a positive action by the accused ([Galić AJ](#), paras. 176-178; [Kamuhanda AJ](#), para. 76; [Boškoski & Tarčulovski AJ](#), para. 160).

crime;⁷¹² and (iv) the accused meant to engage in the conduct that constitutes an order,⁷¹³ and the accused either meant to contribute to the crime or he was aware that the crime would be committed in the ordinary course of events as a consequence of the execution or implementation of the order;⁷¹⁴ and (v) the accused was aware that the circumstances relevant to the charged crimes existed, or that, in the ordinary course of events, the charged crimes would be committed⁷¹⁵ and that the accused was aware of his position of authority *vis-à-vis* the perpetrator of the crime.

205. In light of his leadership position in the Militia/*Janjaweed* in the Mukjar and Wadi Salih Localities in 2003 and 2004, and his relationship with GoS Officials and GoS Forces at the national and local level,⁷¹⁶ **ABD-AL-RAHMAN** was in a position of authority within the Militia/*Janjaweed*. This made it possible for him to issue orders to his Militia/*Janjaweed* subordinates in the context of the crimes committed in Kodoom, Bindisi and surrounding areas, Mukjar and surrounding areas, and in Deleig and surrounding areas. It also placed him in a position of authority over certain GoS Forces, including in particular those of lower rank, during the criminal episodes concerning Kodoom, Bindisi, Mukjar, Deleig and their surrounding areas. This enabled him to issue orders to certain GoS Forces personnel during the Kodoom, Bindisi, Mukjar and Deleig criminal episodes.

206. The evidence summarised above at paragraphs 127 to 194, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Kodoom and Bindisi, Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** for ordering the charged crimes.

Inducing under article 25(3)(b)

207. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) (“inducing”) for crimes committed in connection with Kodoom, Bindisi, Mukjar, Deleig and their surrounding areas.⁷¹⁷

⁷¹² *Bemba et al. AJ*, paras. 847-848 (“[w]hat matters is that there is a *causal relationship* between the act of instigation and the commission of the crime, in the sense that the accused person’s actions prompted the principal perpetrator to commit the crime”, emphasis added). See also *Kordić & Čerkez AJ*, para. 27; *Nahimana et al. AJ*, para. 480; *Karera AJ*, para. 317; *Nyiramasuhuko et al. AJ*, para. 3327. While the *Bemba et al.* Appeals Chamber made this statement in the context of solicitation, it referred to the effect of acts of instigation in general, and instigation is a broad term that encompasses “ordering”, “soliciting” and “inducing”: *Gbagbo CD*, para. 243; *Blé Goudé CD*, para. 159; *Al Mahdi CD*, para. 25; *Ongwen CD*, para. 42; *Bemba et al. TJ*, para. 74; *Bemba et al. AJ*, para. 847.

⁷¹³ Article 30(2)(a).

⁷¹⁴ Article 30(2)(b). See also *Mudacumura AW Decision*, para. 63; *Ntaganda CD*, para. 153.

⁷¹⁵ Article 30 (3).

⁷¹⁶ See above paras. 127-194.

⁷¹⁷ See below paras. 392-393, 512-514, 662-663.

To establish responsibility under “inducing”, it is necessary to prove that: (i) the accused induced another person either to commit a crime which occurs or is attempted, or to perform an act or omission in the execution of which a crime is carried out;⁷¹⁸ (ii) the inducement had a direct effect on the commission or attempted commission of the crime;⁷¹⁹ (iii) the accused meant to engage in the conduct that constitutes the acts of inducement,⁷²⁰ and the accused either meant to induce the commission of the crime, or must have been at least aware that the crime(s) would be committed in the ordinary course of events as a consequence of the fulfilment of his act or omission;⁷²¹ and (iv) the accused was aware that the circumstances relevant to the charged crimes existed, or that in the ordinary course of events, the charged crimes would be committed.⁷²²

208. **ABD-AL-RAHMAN**’s position of authority and influence⁷²³ enabled him to exert influence over Militia/*Janjaweed* members in the context of the Kodoom, Bindisi, Mukjar and Deleig criminal episodes. It also made it possible, in the same context, for him to exert influence over GoS Forces and GoS Officials regardless of whether or not he was their *de jure* hierarchical superior. The evidence summarised above at paragraphs 127 to 194, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Kodoom, Bindisi, Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** for inducing the charged crimes.

F. PERSECUTION

1) Introduction

209. **ABD-AL-RAHMAN** committed the crime against humanity of persecution with

⁷¹⁸ *Ntaganda CD*, para. 153. In the case of “inducing”, “the accessorial perpetrator exerts influence over the physical perpetrator, either by strong reasoning, persuasion or conduct implying the prompting of the commission of the [crime]” (*Bemba et al. TJ*, para. 76. See also *Confirmation Decision*, paras. 55-56, 94, 131). The act of inducement does not need to be direct and can be performed by any means, either implied or express, directly on the physical perpetrator or through intermediaries, provided that it had the requisite effect on the physical perpetrator (*Bemba et al. AJ*, paras. 847-848). ICC Chambers have found “inducing” under article 25(3)(b) to be established where there was direct participation in the crimes by the accused (see *Ntaganda CD*, para. 155; *Bemba et al. TJ*, paras. 860-861); where the accused created a climate conducive to the commission of crimes, demonstrated through, *inter alia*, the use of derogatory language against the targeted group, preparatory meetings, public speeches and procurement of weapons (*Ntaganda CD*, para. 155; *Gbagbo CD*, paras. 246-248); and where the accused failed to take all necessary and reasonable measures to prevent and/or repress the crimes (see *Ntaganda CD*, para. 155). See also fn. 711.

⁷¹⁹ See above fn. 712.

⁷²⁰ Article 30(2)(a).

⁷²¹ Article 30(2)(b). See also *Al Hassan AW Decision*, para. 186; *Bemba et al. TJ*, para. 82. See also *Confirmation Decision*, p. 58, para. 57, p. 63, para. 95, p. 67, para. 132.

⁷²² Article 30(3).

⁷²³ See above paras. 127-194.

respect to each of the three charged incidents, as charged in Counts 11, 21 and 31. **ABD-AL-RAHMAN** and other perpetrators persecuted Fur persons on political and ethnic grounds for the Kodoom and Bindisi incident, and persecuted Fur males on political, ethnic and gender grounds for the Mukjar and Deleig incidents.

210. During the charged period, Militia/*Janjaweed* and GoS Forces targeted for attack that part of the population of Darfur perceived as supporting the rebel armed groups, particularly those from the Fur, Zaghawa, and Masalit tribes.⁷²⁴ In Wadi Salih and Mukjar Localities, which were predominantly Fur in ethnic composition,⁷²⁵ members of the Fur tribe were targeted in a discriminatory manner. Fur civilians were assumed to support the rebel groups and therefore oppose the GoS. For that reason, as described below, **ABD-AL-RAHMAN**, together with GoS Forces and Militia/*Janjaweed*, targeted members of the Fur tribe by committing crimes against them.

211. Through the commission of Counts 1 to 10, 12 to 20 and 22 to 30, **ABD-AL-RAHMAN** severely deprived, contrary to international law, persons of fundamental rights, namely, the rights to life, bodily integrity, private property, freedom of movement and residence, and not to be subjected to rape, torture or cruel, inhuman or degrading treatment.⁷²⁶ Since these deprivations (with no justification) amount to article 7(1) acts and crimes (for example, murder, rape, torture), they amount to severe deprivations of those fundamental rights contrary to international law.⁷²⁷

212. Since the charged crimes constitute the conduct underlying the crime of persecution in themselves, it follows that the underlying conduct was committed with the requisite connection

⁷²⁴ P-0769: [T-97-CT](#), p. 60, line 14-p. 61, line 10, p. 64, line 21-p. 65, line 4, p. 68, line 20-p. 69, line 13, and [DAR-OTP-0212-0100](#) (Translation [DAR-OTP-0215-4648](#) at 4651); P-0547: [T-52-CT](#), p. 55, line 14-p. 58, line 9, p. 69, lines 8-23, p. 76, line 21-p. 77, line 22, and [DAR-OTP-0223-0487](#) (Translation [DAR-OTP-0220-4795](#)). See also [DAR-OTP-0003-0099](#) at 0108.

⁷²⁵ [DAR-OTP-0013-0119](#) at 0123, 0151-0152.

⁷²⁶ See Elements of Crimes, Crime against humanity of persecution, article 7(1)(h), element 1. See also [UDHR](#), articles 3, 5, 13, 17; [ICCPR](#), articles 6, 7, 9, 12. See also [Al Hassan TJ](#), paras. 1201 (recognising these rights as fundamental); [Ongwen TJ](#), para. 2733; [Ntaganda TJ](#), paras. 991, 999. See also [Kordić & Čerkez AJ](#), para. 108; [Blaškić AJ](#), para. 152-153; [Krnojelac AJ](#), para. 221.

⁷²⁷ See Elements of Crimes, Crime against humanity of persecution, element 1. See also [Al Hassan TJ](#), para. 1204 (if the underlying conduct is one of the other acts listed under article 7(1), it will in principle satisfy the first element of the crime of persecution). See also [Al Hassan TJ](#), para. 1205; [Ntaganda TJ](#), paras. 992, 999; [Kupreškić et al. TJ](#), paras. 615, 620-622; [Krnojelac TJ](#), para. 434; [Kvočka AJ](#), paras. 319-321, 325 (to determine a severe deprivation of fundamental rights, the Chamber must assess the relevant acts on a case-by-case basis, “in their context and with consideration of their cumulative effect”).

to an article 7(1) act or any crime within the jurisdiction of the Court.⁷²⁸

213. **ABD-AL-RAHMAN** and other perpetrators targeted such persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.⁷²⁹ All three targeted groups (the predominantly Fur population of Bindisi and Kodoom, and predominantly Fur males in Mukjar and Deleig, respectively) were identifiable.⁷³⁰ **ABD-AL-RAHMAN** and other perpetrators targeted the groups for their perceived support for, or association with, the rebel armed groups (political grounds).⁷³¹ They also targeted the groups since they considered the group's Fur ethnicity a proxy to identify rebel supporters (ethnic grounds).⁷³² In Mukjar and Deleig, **ABD-AL-RAHMAN** and other perpetrators additionally targeted Fur males because of their presumed role in society as “fighters”, which underpinned the perpetrators' perceptions of Fur males as current or potential “rebels” or rebel sympathisers (gender grounds).⁷³³ All the victims were perceived and targeted in a discriminatory manner; all three grounds are universally recognised as impermissible under international law.⁷³⁴ Although a

⁷²⁸ See Elements of Crimes, Crime against humanity of persecution, element 4. See also [Al Hassan TJ](#), paras. 1208-1210 (“the Majority, Judge Akane dissenting, is of the view with respect to the connection requirement that it is not necessary to demonstrate that the Article 7(1) acts meet the contextual elements for crime against humanity; it is sufficient that there is a connection between the persecution and any instance of murder, torture, rape or other inhumane act” and “it is the persecution which must be connected with a crime – not the individual acts underlying the same”), 1576-1577 (the persecution formed part of series of crimes against humanity involving different article 7(1) acts, and additionally, the persecution was characterised by crimes under the Statute, further establishing the connection needed).

⁷²⁹ See Elements of Crimes, Crime against humanity of persecution, elements 2-3. See also [Blaškić AJ](#), para. 163, referring to [Blaškić TJ](#), para. 235 (“the perpetrator of the acts of persecution does not initially target the individual but rather membership in a specific [...] group”).

⁷³⁰ [Al Hassan TJ](#), para. 1206 (the group need only be identifiable, this can be on the basis of neutral criteria such as geography or residence and need not be premised on a discriminatory ground such as racial or ethnic composition. The identifiable targeted group need not to be defined by the discriminatory grounds in article 7(1)h, but rather these grounds enumerate the prohibited reasons for targeting the group. It is not required that members of the targeted group hold common views or consider themselves as an identifiable group), para. 1558; [Ongwen TJ](#), paras. 2736-2737; [Ntaganda TJ](#), paras. 1010-1011; [Burundi Article 15 Decision](#), para. 133 (targeted group may be subjectively defined by the perpetrator).

⁷³¹ [Ongwen TJ](#), para. 2737.

⁷³² [Gbagbo CD](#), para. 205.

⁷³³ Statute, article 7(3) (the term “gender” refers to the two sexes, male and female, within the context of society); [Al Hassan TJ](#), paras. 1566 (“specifically targeted local women and girls by reason of their gender, depriving them of some of their fundamental rights because of the particular roles, expectations and conduct [the perpetrator group] assigned to their gender”), 1567 (“persecution may be gender-based if male and female members of the group are targeted in different ways or for different forms of violence depending on their gender”; [Al Hassan CD](#), paras. 666-667 (gender persecution against male members of a group may be expressed differently than that against female members of the group, and the killing of the male members of a group can be one example); [Ntaganda Reparations Order](#), para. 63 (“Gender-based crimes are those committed against persons because of their sex and/or gender expression or identity. They are not always manifested as a form of sexual violence.”). See also C.K. Hall et. al., ‘Article 7’, in O. Triffterer and K. Ambos (ed.), *Commentary to the Rome Statute of the International Criminal Court* (2021), p. 232-233 (“It is important to note that the gender-based persecution is not limited to women and girls.”) and p. 234 (“[...] gender discrimination under article 7(1)(h) extends to situations where male or female members of a group are targeted on the basis of gender roles as understood in the context of society, i.e. the killing only of all military age men within a group [...]”).

⁷³⁴ [Al Hassan TJ](#), para. 1207.

single ground may suffice in principle,⁷³⁵ the multiple intersecting discriminatory grounds alleged best describe and fully capture all aspects of the discriminatory targeting in this case. This intersectional discrimination cumulatively borne by the victims created a unique and distinct burden on them—not limited to or captured by any one prohibited ground.⁷³⁶ The victims were particularly vulnerable for all these cumulative reasons.

214. The Chamber may infer discriminatory intent from “the general behaviour of the perpetrator as well as the circumstances surrounding the commission of the crime.”⁷³⁷ The Chamber may also consider the general context in which the crimes occurred,⁷³⁸ the scale of the atrocities, the systematic targeting of victims on account of their membership of a particular group or the repetition of destructive and discriminatory acts.⁷³⁹ There is no legal requirement to show a “specific persecutory intent behind an alleged persecutory plan or policy”,⁷⁴⁰ establishing the specific discriminatory intent required by elements 2 and 3 of article 7(1)(h) is enough.

215. **ABD-AL-RAHMAN** and Militia/*Janjaweed* and GoS Forces targeted persons or groups because of their perceived views of their political affiliation, ethnic identity and/or gender role.⁷⁴¹ This targeting was discriminatory and without proper justification.⁷⁴² Even if

⁷³⁵ [Al Hassan TJ](#), para. 1207.

⁷³⁶ [Al Hassan TJ](#), para. 1207; [Ntaganda TJ](#), paras. 994, 1009; [Gbagbo CD](#), para. 205 (although targeting on one ground will suffice, “a combination of more than one may equally form the basis for the discrimination”). See also IACtHR, [Gonzales Lluy et al. v. Ecuador Judgment](#), Judge Ferrer Mac-Gregor Concurring Opinion, paras. 11-12 (“[...] intersectional discrimination refers to multiple reasons or factors that interact to create a unique and distinct burden or risk of discrimination [...] the reasons or the factors are analytically inseparable because the experience of discrimination cannot be disaggregated into [separate] reasons”).

⁷³⁷ [Al Hassan TJ](#), para. 1212; [Ongwen TJ](#), para. 2739. See also [Krnojelac AJ](#), para. 186 (inferring discriminatory intent from the fact that beatings were inflicted only on the non-Serb detainees in a prison); [Kordić & Čerkez AJ](#), para. 950; [Kvočka AJ](#), para. 366 (inferring discriminatory intent from the fact that almost all detainees in a camp were non-Serb, with their group membership being the reason for their detention and discriminatory).

⁷³⁸ See also [Blaškić AJ](#), para. 164; [Krnojelac AJ](#), para. 184; [Kvočka AJ](#), paras. 366, 460; [Sainović et al. AJ](#), paras. 579-580 (finding that the Trial Chamber erred in not considering the context and inferring discriminatory intent when three Kosovo Albanian women were raped in the course of an operation to remove large numbers of Kosovo Albanians from the town); [Popović et al. AJ](#), para. 713 (discriminatory intent may be inferred from the general discriminatory nature of an attack as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent). See also [Jelisić TJ](#), para. 73 (“an individual knowingly acting against the backdrop of the widespread and systematic violence being committed against only one specific group could not reasonably deny that he chose his victims discriminatorily”).

⁷³⁹ [Rutaganda AJ](#), para. 525, para. 528 (“[S]pecific intent may be inferred from other facts, such as the general context and the perpetration of other acts systematically directed against a given group.”); [Jelisić AJ](#), para. 47.

⁷⁴⁰ The Elements of Crimes for the crime against humanity of persecution contains no such requirement. See also [Kordić & Čerkez AJ](#), para. 111, citing to [Blaškić AJ](#), para. 165 (“a showing of a specific persecutory intent behind an alleged persecutory plan or policy, the removal of targeted persons from society or humanity, is not required to establish the *mens rea* of the perpetrator carrying out the underlying physical acts of persecutions”).

⁷⁴¹ [Ongwen TJ](#), para. 2739 (“The perpetrators harms the victims *because* the perpetrator perceives the victim as belonging to a particular group or collectivity.”).

⁷⁴² [Ntaganda AJ](#), Key Findings, para. 9 (“Difficulties [in distinguishing combatants from civilians] cannot justify the targeting of an entire ethnic group without distinction between civilian and combatants.”), para. 491.

ABD-AL-RAHMAN had friendly relations with Fur individuals in a different time, place or context or had offered them selective assistance, this does not undermine his discriminatory intent.⁷⁴³

216. As set out in the following sections, the victims were predominantly civilian, fleeing their homes as internally displaced persons; many were unarmed and wearing civilian clothing. In Mukjar and Deleig, male victims were often targeted for arrest based on the category they were presumed to belong to, without proper scrutiny. The victims—who were male—were then subjected to harsh treatment, inhumane detention conditions and mass executions as a result of the discriminatory and intersectional targeting. Thus the violence inflicted on them was also gender specific.⁷⁴⁴ The similarity in the *modus operandi* of executions outside of Mukjar and Deleig, committed several days apart by **ABD-AL-RAHMAN** and Militia/*Janjaweed* and GoS Forces, further underscores the systematic targeting of those male victims.

217. The following section details evidence relevant to establishing the discriminatory intent of **ABD-AL-RAHMAN** and the other perpetrators. This evidence should be assessed in combination with evidence of the general pattern of attacks and the circumstances of the charged incidents.

2) The perpetrators of the charged conduct in this case—including ABD-AL-RAHMAN—intended to discriminate against the predominantly Fur population of Kodoom and Bindisi and against predominantly Fur males in Mukjar and Deleig, because they were perceived as supporting the rebel armed groups

218. The charged crimes in this case were committed with discriminatory intent, during the charged period, as demonstrated by: (i) public speeches of **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Officials; (ii) acts and language used, including by **ABD-AL-RAHMAN**; and (iii) the pattern of conduct during other incidents involving **ABD-AL-RAHMAN**.⁷⁴⁵

⁷⁴³ See [Muhimana AJ](#), para. 32; [Rutaganda AJ](#), para. 537; [Karadžić AJ](#), para. 629.

⁷⁴⁴ See [Al Hassan TJ](#), paras. 1568-1569.

⁷⁴⁵ That a perpetrator had discriminatory intent can be inferred from the language used by the perpetrators during the attacks or in the surrounding period; it can also be inferred from a pattern of attacks. See [Ongwen TJ](#), para. 1092. See also the incident regarding a male infant in Kodoom 2003, P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 40, and [DAR-OTP-00000427](#) at 2, para. 15, and [T-93-ET](#), p. 56, lines 4-7.

a) ABD-AL-RAHMAN and other Militia/*Janjaweed* leaders and GoS Officials demonstrated their discriminatory intent, through various public declarations during the charged period

219. During the charged period, **ABD-AL-RAHMAN** was encouraged by GoS Officials to target the Fur because of their presumed support for the rebels. Around late July or early August 2003, following a rebel attack on the police station and the CRF base in Mukjar, HARUN gave a public speech, in the presence of **ABD-AL-RAHMAN**, where he stated that because the Fur children had become rebels, all the Fur and their property had become booty (*ghanema*) for the Mujahidin.⁷⁴⁶ Within days of this speech, **ABD-AL-RAHMAN** and Militia/*Janjaweed* began attacking Fur villages and towns outside Mukjar, including Kodoom and Bindisi.⁷⁴⁷

220. After these attacks, GoS Officials continued encouraging the targeting of the Fur. P-0757 recounted witnessing HARUN make a speech to gathered members of the GoS Forces in front of the Mukjar police station in mid-August 2003, in which he again reiterated that “all assets and belongings that Fur people have can be considered as our prize”.⁷⁴⁸ Towards the end of August 2003, P-0932 witnessed a gathering of Militia/*Janjaweed* in Mukjar, in which he heard Minister HUSSEIN tell gathered fighters that “if an Arab kills a Fur then he will have killed a *Kafir* [non-believer] and if he takes their money then it is a war gain for the Arabs.”⁷⁴⁹ HARUN spoke next telling the Militia/*Janjaweed* “at this instant, you deliver this land to us with not a single Fur on it.”⁷⁵⁰ Following the speech by HARUN, SAMIH proclaimed “we will deliver the land without Fur.”⁷⁵¹

221. During a meeting in November 2003, P-0012 heard the Commissioner of Mukjar, TORSHEIN, informing the attendees, on behalf of the GoS, that “if the rebels did not return from the mountains, the Janjaweed had the power to destroy the area” because “the children of the Fur had become rebels.”⁷⁵² Witness P-0903 recalled similarly that in around late February to early March 2004, HARUN stated publicly in Mukjar that “the Fur and the money of the Fur are booties and you may target anything you want [...] on their land, including trees.”⁷⁵³ P-

⁷⁴⁶ See below para. 256. See also para. 294.

⁷⁴⁷ See below paras. 264-268.

⁷⁴⁸ P-0757: [DAR-OTP-0211-0003-R02](#) at 0016-0018, paras. 52-60. See also P-0984: [T-66-CT2](#), p. 40, line 3-p. 43, line 22.

⁷⁴⁹ P-0932: [DAR-OTP-0222-0602-R02](#) at 0613-0614, paras. 58-62.

⁷⁵⁰ P-0932: [DAR-OTP-0222-0602-R02](#) at 0613, para. 61.

⁷⁵¹ P-0932: [DAR-OTP-0222-0602-R02](#) at 0614, para. 62.

⁷⁵² P-0012: [DAR-OTP-0119-0503-R01](#) at 0523, para. 88, and [DAR-OTP-0220-4710](#) at 4712, para. 26. See also P-0015: [DAR-OTP-0088-0187-R04](#) at 0202, para. 77, and [DAR-OTP-00000427](#) at 5, para. 37.

⁷⁵³ P-0903: [T-32-CT](#), p. 11, line 23-p. 12, line 7, p. 22, lines 12-17, p. 69, line 2-p. 70, line 11.

0903 immediately left the area because “what [HARUN] said is dangerous and I was afraid”.⁷⁵⁴

222. Militia/*Janjaweed*, including **ABD-AL-RAHMAN**—who worked closely with HARUN and HUSSEIN during the charged period⁷⁵⁵ and shared their discriminatory intent—made clear their intent to target members of the Fur tribe throughout this period.

b) ABD-AL-RAHMAN and other perpetrators of the charged incidents demonstrated their discriminatory intent during the charged incidents

Kodoom and Bindisi

223. **ABD-AL-RAHMAN** led GoS Forces and Militia/*Janjaweed* on an attack on Kodoom and Bindisi, which were predominantly Fur villages⁷⁵⁶ assumed to support the rebel armed groups. In early August 2003, following rebel attacks on Bindisi and Mukjar, HARUN requested **ABD-AL-RAHMAN** to form a “committee” to destroy “B[i]ndisi locality” and **ABD-AL-RAHMAN** replied in the affirmative.⁷⁵⁷ The attacks on Kodoom, Bindisi and surrounding areas were carried out shortly after HARUN’s speech in Mukjar, targeting the Fur, and attacked the civilian population of these villages,⁷⁵⁸ even though there were no rebel forces resisting the attack.⁷⁵⁹

224. When questioned by a GoS investigation committee in November 2006, **ABD-AL-RAHMAN** referred to his presence in Bindisi after he met HARUN and other senior figures in Mukjar, and confirmed that the village was perceived to be a stronghold for a rebel movement. He stated: “Abdul Wahid’s camp that was known was the one in Bundis, under the command of Mr Amin Husayn. We got from it a rifle and three RPGs [...] and from --- there we returned to Garsila”.⁷⁶⁰ [REDACTED] the vengeful nature of the attack, testifying that the first house burnt in Kodoom belonged to a person whose son was suspected of taking part in the rebel attack on Bindisi.⁷⁶¹ Moreover, in the course of the attack, the civilian population was addressed as *tora bora*,⁷⁶² meaning “rebels”. Women who were victims of sexual violence were

⁷⁵⁴ P-0903: [T-32-CT](#), p. 70, lines 10-13.

⁷⁵⁵ See above paras. 103, 125, 164, 176. See below paras. 255-257, 261, 262, 286, 350, 359, 362, 388, 395, 396, 480, 481. See fn. 47.

⁷⁵⁶ See below fn. 860.

⁷⁵⁷ See below para. 261. See also above paras. 49, 170.

⁷⁵⁸ See below paras. 269-271.

⁷⁵⁹ See below para. 267.

⁷⁶⁰ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011-7012). See also [REDACTED]. Bindisi was also referred to as “Bundis”, see [REDACTED]; P-0011: [T-91-CT2](#), p. 40, lines 7-10.

⁷⁶¹ [REDACTED].

⁷⁶² P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47, 0206, para. 97.

often called mothers, sisters or wives of *tora bora*.⁷⁶³ Civilians were also questioned about the whereabouts of rebels, weapons and villagers.⁷⁶⁴

225. During the attack on Kodoom and Bindisi, **ABD-AL-RAHMAN** ordered and encouraged attackers to attack the mostly Fur population.⁷⁶⁵ P-0986 heard **ABD-AL-RAHMAN** state that all the Fur would die and their livestock should become spoils of war.⁷⁶⁶ Members of the Militia/*Janjaweed* who beat and whipped P-0986 further stated that “[y]ou slaves, it is your year, this year you will all die!”⁷⁶⁷

226. Witnesses heard the attackers, including **ABD-AL-RAHMAN**,⁷⁶⁸ referring to the mostly Fur victims using derogatory terms like *abid*, meaning “slaves”,⁷⁶⁹ and *nuba*, a derogatory term used to refer to black persons.⁷⁷⁰ P-0012, for instance, heard attackers exclaim “holy war against the slaves” and explained how the use of pejorative language was another “tool of war”.⁷⁷¹ P-0015 heard Militia/*Janjaweed* calling victims in Bindisi “black Nubas” and stating that they had permission from the government to kill them and chase them away, as they were of no benefit.⁷⁷² P-0007 heard attackers saying that they wanted to kill every “black person” and did not want “any slaves here”.⁷⁷³ P-0917 stated that upon returning to Bindisi in October 2003, he encountered Militia/*Janjaweed* who stated that they did not “want to leave anything green, but wanted to turn everything in the same colour as [the Furs’] skin”.⁷⁷⁴

227. The attacks specifically targeted Fur people and property.⁷⁷⁵ P-0918 referred to Militia/*Janjaweed* pillaging Fur people’s houses in his Kodoom neighbourhood.⁷⁷⁶ P-0012

⁷⁶³ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196-0197, paras. 43, 47; P-1073: [T-103-CT](#), p. 14, lines 14-17. See also P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, paras. 31-32.

⁷⁶⁴ P-0011: [T-91-CT2](#), p. 23, lines 19-22; P-0757: [DAR-OTP-0211-0003-R02](#) at 0014, para. 45; P-0986: [T-65-CT](#), p. 47, lines 21-25, p. 48, lines 20-25, p. 50, line 17-p. 51, line 4.

⁷⁶⁵ See below paras. 350-393.

⁷⁶⁶ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448-0449, para. 55.

⁷⁶⁷ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447, paras. 49-50.

⁷⁶⁸ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447, paras. 49-50, and [T-65-CT](#), p. 10, lines 6-24, p. 47, line 18-p. 48, line 19, p. 50, lines 10-13.

⁷⁶⁹ P-0986: [DAR-OTP-0222-0437-R01](#) at 0445, para. 39, 0447, para. 50; P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, para. 32.

⁷⁷⁰ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, lines 8-17; P-0986: [DAR-OTP-0222-0437-R01](#) at 0443, para. 30, 0445, para. 39, 0447, para. 47, and [T-65-CT](#), p. 46, lines 17-23. See also P-0922, who heard attackers employ the term *Nuba* during the attack on Drangal: [DAR-OTP-0222-0312-R01](#) at 0316-0317, paras. 17-18. See Annex 31: Agreed Glossary, p. 15, 18.

⁷⁷¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 83, and [DAR-OTP-0220-4710](#) at 4712, para. 23, and [T-45-CT](#), p. 19, lines 7-17, p. 31, lines 9-20.

⁷⁷² P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47.

⁷⁷³ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, lines 8-17.

⁷⁷⁴ P-0917: [DAR-OTP-0217-0071-R03](#) at 0083, para. 58.

⁷⁷⁵ See below paras. 256, 264, 269-347.

⁷⁷⁶ P-0918: [DAR-OTP-0218-0120-R04](#) at 0127-0128, para. 27, and [DAR-OTP-00000104](#) at 2, para. 13.

testified that Fur stores were targeted during the attack on the market in North Bindisi, while the ones belonging to Mararit and Tama owners had been previously identified and were not looted.⁷⁷⁷ [REDACTED] houses and stores belonging to non-Arab tribesmen were looted.⁷⁷⁸ When P-0927 later returned to Bindisi in October 2003, he saw that the only neighbourhood in which people were still living and the houses had not been destroyed was an area in upper Bindisi where the Tama tribe resided.⁷⁷⁹

228. [REDACTED],⁷⁸⁰ [REDACTED].⁷⁸¹ [REDACTED].⁷⁸² [REDACTED].⁷⁸³

Mukjar

229. **ABD-AL-RAHMAN** and the other perpetrators of the charged crimes at Mukjar demonstrated their intent to target Fur males because they were perceived as supporting, or associated with, the rebel armed groups.⁷⁸⁴ [REDACTED] explained, “First, I am Fur. So it’s normal to be biased towards my people.”⁷⁸⁵ Although there was no insurgency in Mukjar, the GoS perceived it to be the “birthplace” for insurgents in Sindu, because it was a predominantly Fur area.⁷⁸⁶ Accordingly, everyone from Sindu and the eastern side of Mukjar, and everyone from the Fur tribe was perceived as being affiliated to the rebels, or as supporting them.⁷⁸⁷ In his GoS Interview, **ABD-AL-RAHMAN** himself defined the parties to the conflict along ethnic lines saying, “During our conflict with the Fur, we were, of course, a mix of People’s Defence and Fursan. And the Fur, of course, are militias.”⁷⁸⁸

230. The targeting of Fur was apparent at checkpoints surrounding Mukjar. Although thousands of predominantly Fur IDP’s had already arrived in Mukjar by October 2003,⁷⁸⁹ P-

⁷⁷⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

⁷⁷⁸ [REDACTED].

⁷⁷⁹ P-0927: [DAR-OTP-0221-0523-R01](#) at 0532, para. 43. The Tama and Gimir tribes were considered by some to be allies of the GoS Forces and Militia/*Janjaweed*. See e.g. P-0008: [DAR-OTP-0088-0085-R02](#) at 0088, para. 18, 0096, para. 41; P-0015: [DAR-OTP-0088-0187-R04](#) at 0192, para. 22, and [T-93-ET](#), p. 40, lines 12-14, p. 42, lines 14-20; P-0129: [DAR-OTP-0128-0128-R04](#) at 0135, para. 28, and [T-76-CT](#), p. 28, lines 12-15; P-0736: [T-35-CT](#), p. 36, lines 3-9; [REDACTED].

⁷⁸⁰ [REDACTED].

⁷⁸¹ [REDACTED]. See also [REDACTED].

⁷⁸² [REDACTED].

⁷⁸³ [REDACTED].

⁷⁸⁴ P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41, and [DAR-OTP-0224-0658](#), paras. 5-6; P-0990: [T-40-CT](#), p. 27, line 16-p. 28, line 12; P-0877: [T-53-CT2](#), p. 91, line 16-p. 93, line 21; P-0932: [DAR-OTP-0222-0602-R02](#) at 0616, para. 78; P-0984: [T-66-CT2](#), p. 66, lines 7-23.

⁷⁸⁵ [REDACTED].

⁷⁸⁶ P-0643: [T-56-CT2](#), p. 36, line 23-p. 37, line 18.

⁷⁸⁷ P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41.

⁷⁸⁸ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7015).

⁷⁸⁹ P-0675: [DAR-OTP-0206-0173-R02](#) at 0178-0179, paras. 19-21, 0196-0197, paras. 82-88, and [DAR-OTP-0206-0227](#), and [DAR-OTP-0206-0217](#); [DAR-OTP-0038-0060](#) at 0072.

0720 saw an increase in early 2004 and observed additional checkpoints had been set up, to the east and north of Mukjar. GoS Forces manning those checkpoints singled out Fur men and took them to Mukjar police station.⁷⁹⁰ When P-0675 arrived at a checkpoint from [REDACTED], the men and older boys were separated from the women and children. The males were checked under their shirts to see if they bore marks on their shoulders from carrying a weapon. Despite none of the males having marks, they were arrested and taken to Mukjar police station, while women and children were taken to the Mukjar Locality Building.⁷⁹¹ The majority of those arrested were adult males, but some boys under the age of 18 years⁷⁹² and elderly men, including *umdahs*, were also detained.⁷⁹³

231. Fur males were also conscripted into the PPF, so as to prevent them from joining the rebellion.⁷⁹⁴ Nevertheless, they were still a suspect group.⁷⁹⁵ [REDACTED] at Mukjar police station on the afternoon that detainees were loaded onto Land Cruisers for execution, [REDACTED] described being unable to help detained friends or relatives, as he was also a target, being Fur.⁷⁹⁶ As P-0984 explained “Some of the soldiers were from the Fur tribe, but you were helpless. You couldn’t do anything at all. Even as a Fur police soldier or a policeman, you are still labelled as a tora bora. You can’t even protect your own self.”⁷⁹⁷

232. [REDACTED], similarly described feeling in constant danger and powerless to intervene, even though he recognised his wife’s uncle and a colleague among the detainees loaded onto a vehicle, shortly before their execution. [REDACTED] explained that “I am a Fur person, so if I would talk on behalf of somebody’s problem, I would put myself in danger” and “I cannot speak directly to Ali Kushayb and I cannot complain to him. It was – these were hard times [...] I could have been killed.”⁷⁹⁸ [REDACTED], testified about [REDACTED], Lieutenant Colonel AL-JILLI, head of Police/PPF in Garsila, of being a rebel – simply on the

⁷⁹⁰ P-0720: [DAR-OTP-0210-0291-R02](#) at 0304-0305, paras. 87-90, and [DAR-OTP-0160-0885](#) at 0902, and [DAR-OTP-0115-0747](#) at 0747-0748.

⁷⁹¹ P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0197, paras. 84-85, 0200, paras. 96-97.

⁷⁹² [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 48, and [DAR-OTP-0223-0157-R02](#) at 0169-0170, para. 58.

⁷⁹³ P-0877: [T-55-CT](#), p. 58, line 16-p. 59, line 7; P-0984: [T-66-CT2](#), p. 65, line 15-p. 66, line 23; P-0129: [T-76-CT](#), p. 34, line 18-p. 35, line 1; P-0008: [DAR-OTP-0088-0085-R02](#) at 0096-0097, paras. 44, 46-47; [REDACTED]; P-0916: [DAR-OTP-0224-0023-R01](#) at 0038-0039, paras. 75-77.

⁷⁹⁴ [REDACTED].

⁷⁹⁵ See above para. 88.

⁷⁹⁶ [REDACTED]. See executed friends and relatives at [DAR-OTP-00000014](#) at 2-3, no. 5, 9-11, 5, no. 18.

⁷⁹⁷ P-0984: [T-67-CT](#), p. 19, lines 9-14. See also P-0720: [DAR-OTP-0210-0291-R02](#) at 0300, para. 64.

⁷⁹⁸ [REDACTED]. See also [REDACTED].

basis of his ethnicity.⁷⁹⁹

233. In Mukjar police station, [REDACTED] stated that **ABD-AL-RAHMAN** used a purported rebel captured in Sindu, to point out suspected rebels amongst the detainees,⁸⁰⁰ but ultimately, whether or not these men were pointed out as suspected rebels made no difference to **ABD-AL-RAHMAN**. In a clear indication that these men were targeted based on their belonging to a group, [REDACTED] recalled that **ABD-AL-RAMAN** said about them, “They are all *tora bora*.”⁸⁰¹

234. **ABD-AL-RAHMAN** used derogatory language to insult detainees inside the cells of Mukjar police station. He accused them of being *tora bora*,⁸⁰² called them “sons of dogs”, *nujus* (a derogatory term meaning impure or dirty) and *abid* (a derogatory term meaning slave), and vowed “We will show you that which you’ve never seen before”.⁸⁰³ A soldier in camouflage threatened detainees, “we will fuck you, we will rape you”.⁸⁰⁴

235. P-0990 recalled the terror when **ABD-AL-RAHMAN** and Militia/*Janjaweed* entered his cell, “[t]he only thing you can do is to answer ‘no’ when – when you’re called a rebel or a *tora bora*. You can’t even look these people in the eye. You have to look down because they would be upset if you look them in the eye.”⁸⁰⁵ Detainees P-0919, P-0877, P-0903, P-0990 and P-0129 described how **ABD-AL-RAHMAN** targeted community leaders such as the *umdahs*, using his axe to strike them on the head and upper body.⁸⁰⁶

236. [REDACTED], described listening to the *umdahs* cry as they were beaten by Militia/*Janjaweed* in the back of the vehicle transporting them to the first execution site. Militia/*Janjaweed* taunted them, “You *umdahs*, we are going to kill you all”.⁸⁰⁷ Notably, the *umdahs* were leaders within the Fur community. Therefore, harm directed against them was

⁷⁹⁹ [REDACTED]. See also [REDACTED]: [DAR-OTP-0222-0044](#) (Translation at [DAR-OTP-0220-5645](#) at 5646).

⁸⁰⁰ See para. 432.

⁸⁰¹ [REDACTED].

⁸⁰² See below para. 421.

⁸⁰³ P-0129: [T-75-CT](#), p. 55, line 15-p. 56, line 22, p. 58, lines 2-11, and [DAR-OTP-0223-0157-R02](#) at 0169, para. 56, and [DAR-OTP-00000084](#) at 3, para. 41.

⁸⁰⁴ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 47, and [DAR-OTP-0223-0157-R02](#) at 0169, para. 56.

⁸⁰⁵ P-0990: [T-41-CT](#), p. 37, line 24-p. 38, line 3.

⁸⁰⁶ P-0919: [T-60-CT](#), p. 18, line 9-p. 19, line 13, p. 27, line 23-p. 28, line 13, p. 28, line 24-p. 29, line 6; P-0877: [T-54-CT](#), p. 13, lines 4-20, [REDACTED]; P-0903: [T-32-CT](#), p. 46, lines 5-19, p. 47, line 25-p. 48, line 11; P-0129: [T-75-CT](#), p. 58, lines 2-11, and [REDACTED], and [DAR-OTP-00000086](#) at 3, no. 5, and [DAR-OTP-0128-0128-R04](#) at 0142, para. 47, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 53, 56-57; P-0990: [T-60-CT](#), p. 18, lines 20-22, p. 27, lines 24-25, and [T-61-CT](#), p. 16, line 22-p. 17, line 3. See also Annex 17: Non-exhaustive list of persons killed outside of Mukjar (“Annex 17”), no. 39 (Abdul Mawla Ismail).

⁸⁰⁷ [REDACTED].

harm directed against the Fur community as a whole. As discussed at paragraph 102 above, targeting such community leaders was an explicit policy of the GoS. Community leaders were similarly targeted in Deleig, as discussed below at paragraphs 600 to 609.

237. In addition to seeing **ABD-AL-RAHMAN** physically assault detainees, witnesses also heard him call for the detainees to be executed. [REDACTED] saw **ABD-AL-RAHMAN** walk toward the convoy of vehicles containing detainees, shouting “*Allahu Akbar, Toro Boro is over, prepare their graves.*”⁸⁰⁸ Some Militia/*Janjaweed* used derogatory language at the UNAMID/*Khor Kushayb* execution site, shouting “*Tora bora, we are going to fuck you. Tora bora we are going to fuck you*” as they shot the detainees.⁸⁰⁹ [REDACTED] heard soldiers at the third execution location calling the detainees “*dogs*” and saying “*this is the last of your days*” as they were hit with sticks and told to lie down.⁸¹⁰ In a final act of disrespect, Militia/*Janjaweed* and GoS Forces did not bother burying the corpses, but left them in piles to rot and be discovered by local Fur villagers.⁸¹¹ **ABD-AL-RAHMAN**’s pattern of persecutory targeting would repeat itself days later in Deleig, culminating in the execution of more than 100 Fur males, including several *umdahs* and *sheikhs*.

Deleig

238. As in Mukjar, in Deleig, Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, targeted Fur males displaced from the surrounding areas, who they perceived as rebels or rebel supporters, for arrest, mistreatment and killing.⁸¹² There was no armed rebel

⁸⁰⁸ [REDACTED].

⁸⁰⁹ [REDACTED]. United Nations African Union Hybrid Operation in Darfur (“UNAMID”).

⁸¹⁰ [REDACTED].

⁸¹¹ [REDACTED].

⁸¹² P-0883: [REDACTED], and [T-74-CT3](#), p. 49, line 22-p. 50, line 5, [REDACTED]; P-0935: [T-90-CT2](#), p. 43, lines 9-16; P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36, 40, 44, and [DAR-OTP-00000268](#) at 2, para. 10, and [REDACTED]; P-0907: [T-94-CT](#), p. 29, lines 14-p. 33, line 20; P-0955: [DAR-OTP-0220-0620-R02](#) at 0628, para. 33, 0631, paras. 45, 47; P-0651: [DAR-OTP-0205-0015-R02](#) at 0026, para. 41, 0032, para. 61, and [T-34-CT3](#), p. 15, lines 2-17, p. 67, lines 9-18; P-0585: [T-100-CT](#), p. 21, line 8-p. 22, line 8; P-0584: [DAR-OTP-0200-1540-R02](#) at 1564-1567, paras. 90, 92-96, 100, and [T-92-CT](#), p. 36, lines 3-21, p. 37, lines 11-17; P-0607: [DAR-OTP-0203-0164-R02](#) at 0176-0177, paras. 43-46; P-0736: [DAR-OTP-0210-0248-R02](#) at 0263-0267, paras. 59, 62-70, 72, and [T-35-CT](#), p. 14, lines 5-22, p. 75, line 25-p. 76, line 11, p. 78, lines 5-17; P-0712: [DAR-OTP-0209-1884-R04](#) at 1893-1896, paras. 32-38, 40-41; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, paras. 68, 71-72; P-0973: [DAR-OTP-0220-0736-R01](#) at 0742, paras. 26-27, 30, 0746-0747, paras. 48-49; P-0726: [DAR-OTP-0210-0346-R04](#) at 0364-0365, paras. 63, 65, and [DAR-OTP-0224-0792](#) at 0793-0794, paras. 15-16, and [T-53-CT2](#), p. 15, line 25-p. 17, line 1; P-0617: [DAR-OTP-0202-1496-R02](#) at 1523-1524, para. 80; P-0697: [DAR-OTP-0209-0155-R03](#) at 0167-0168, paras. 54, 57-58, and [T-101-CT](#), p. 16, line 24-p. 18, line 23; P-0671: [DAR-OTP-0206-0105-R02](#) at 0112-0114, para. 26-34, and [DAR-OTP-00000462](#) at 1, paras. 9-10; P-0718: [DAR-OTP-0209-2004-R02](#) at 2014-2015, paras. 69-71, and [T-49-CT](#), p. 15, lines 7-22, p. 16, lines 15-18, p. 20, line 24-p. 21, line 4, p. 24, lines 18-22, p. 56, lines 4-10, p. 62, lines 11-16; P-0850: [DAR-OTP-0216-0002-R04](#) at 0018-0019, paras. 64-69; P-0129: [DAR-OTP-0128-0128-R04](#) at 0150-0151, para. 83.

group present in Deleig,⁸¹³ and no armed resistance to the search and arrest operation.⁸¹⁴ From among the thousands of displaced persons seeking refuge in Deleig,⁸¹⁵ the Militia/*Janjaweed* and GoS Forces rounded up hundreds of Fur males in the streets and during house to house searches.⁸¹⁶ Many Fur males, especially those who had been displaced to Deleig, hid to avoid arrest.⁸¹⁷ P-0726, a Fur male, wore a traditional robe with a veil typically worn by Sudanese women, given to him by a local resident for his protection, to avoid being arrested.⁸¹⁸ [REDACTED].⁸¹⁹

239. More than 100 Fur males were rounded up and killed in a single day during the Deleig operation. This is powerful evidence that **ABD-AL-RAHMAN** and the other perpetrators targeted them based on discriminatory assumptions of their politics, ethnicity and gender – regardless of whether they were in fact “rebels”. If a person was perceived to be Fur, male, and from the surrounding areas (and therefore perceived to be a rebel or rebel sympathiser), this was sufficient for him to be arrested, mistreated and killed.

240. This discriminatory targeting is also shown by the manner in which **ABD-AL-RAHMAN** decided either to release or detain (and send to be killed) certain people, further demonstrating that whether they were actually rebels or rebel sympathisers did not ultimately matter to **ABD-AL-RAHMAN** – he targeted them based on their belonging to a group.⁸²⁰ Similarly, while the perpetrators primarily targeted adult “fighting age” males,⁸²¹ they also

⁸¹³ P-0935: [T-90-CT2](#), p. 38, lines 16-22; P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, para. 36; P-0607: [DAR-OTP-0203-0164-R02](#) at 0182, para. 65; P-0712: [DAR-OTP-0209-1884-R04](#) at 1901, para. 68, and [T-36-ET](#), p. 24, line 23-p. 25, line 15.

⁸¹⁴ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36, 41; P-0607: [DAR-OTP-0203-0164-R02](#) at 0182, para. 65; P-0718: [T-49-CT](#), p. 62, lines 11-16; P-0935: [T-90-CT2](#), p. 84, lines 10-24.

⁸¹⁵ See below para. 516.

⁸¹⁶ See above fn. 812. See below para. 533.

⁸¹⁷ [REDACTED]; P-0850: [DAR-OTP-0216-0002-R04](#) at 0018-0019, paras. 66-68; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, para. 70; P-0607: [DAR-OTP-0203-0164-R02](#) at 0176-0177, para. 44, 0181, para. 59; P-0726: [DAR-OTP-0210-0346-R04](#) at 0364-0365, paras. 63-65, and [DAR-OTP-0224-0792](#) at 0793-0794, paras. 15-17, and [T-53-CT2](#), p. 15, line 25-p. 17, line 1; P-0617: [DAR-OTP-0202-1496-R02](#) at 1523-1524, para. 80; P-0671: [DAR-OTP-0206-0105-R02](#) at 0111, para. 24, 0117, para. 49.

⁸¹⁸ P-0726: [DAR-OTP-0210-0346-R04](#) at 0364, para. 64, and [DAR-OTP-0224-0792](#) at 0794, para. 16.

⁸¹⁹ [REDACTED].

⁸²⁰ See below paras. 562, 603.

⁸²¹ P-0907: [T-94-CT](#), p. 32, line 22-p. 33, line 14, and [T-96-CT](#), p. 15, lines 14-p. 16, line 7 (P-0907 and [REDACTED] were targeted because they were of military age and were fit and strong, while the elderly people and children with them were released); P-0973: [DAR-OTP-0220-0736-R01](#) at 0742, para. 26 (did not arrest [REDACTED] who was old or [REDACTED] who was 18); P-0994: [DAR-OTP-0222-0055-R01](#) at 0064, para. 40 (different age groups, mainly young males); P-0651: [DAR-OTP-0205-0015-R02](#) at 0026, para. 41, and [T-34-CT3](#), p. 15, lines 2-17 (adult males around 25 years old); P-0607: [DAR-OTP-0203-0164-R02](#) at 0176, para. 43, 0180, para. 56, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxII](#), p. 1-2 (old man from Deleig not arrested, [REDACTED]); P-0718: [DAR-OTP-0220-4792](#) at 4792, para. 3, and [T-49-CT](#), p. 15, line 7-p. 16, line 18, p. 20, line 6-p. 21, line 4, p. 23, line 6-p. 24, line 22, p. 50, lines 1-13, p. 69, lines 2-8 ([REDACTED]). For corroboration of P-0718’s account of being released [REDACTED].

arrested and killed some Fur young boys and males over 60 years.⁸²² At one execution site, when the detainees told the Militia/*Janjaweed* that they were just poor people without any weapons, they shot them anyway.⁸²³ [REDACTED].⁸²⁴

241. The language used by **ABD-AL-RAHMAN** and the other perpetrators also shows their discriminatory targeting. [REDACTED] saw **ABD-AL-RAHMAN** patrolling around the Fur males detained near the Deleig police station, telling them, “You escaped from Arawala and then you came here. If -- even if you fly to the sky I will get you.”⁸²⁵ P-0585 asked a Militia/*Janjaweed* member who these detainees were, and he replied that they were “all *tora bora*” and that they “were going to be killed.”⁸²⁶ The Militia/*Janjaweed* referred to Fur males as *tora bora*,⁸²⁷ slaves,⁸²⁸ and donkeys (an insult perceived as particularly demeaning).⁸²⁹ P-0850 heard the Militia/*Janjaweed* yelling words like “Fuck the Fur”, “Kill the slaves” and “Fuck the Fur, fuck the slaves.”⁸³⁰ [REDACTED].⁸³¹

242. The victims’ identities also substantiate the discriminatory targeting. The people arrested, mistreated, and killed were predominantly Fur males.⁸³² Of the 137 persons identified as having been killed during the Deleig executions, there is direct evidence that 43 were Fur and 131 were from Fur villages in the surrounding areas. All were male.⁸³³ There is no evidence of women or girls being arrested or killed during the Deleig incident.

243. The discriminatory intent of **ABD-AL-RAHMAN** and the other perpetrators is also apparent from their contemptuous attitude towards the victims, demonstrated by other

⁸²² P-0907: [T-94-CT](#), p. 35, lines 4-13, [REDACTED], and [T-95-CT](#), p. 8, line 22-p. 9, line 15 (the age of the detainees outside the Deleig police station ranged but included some over 60 years old and some children as young as 13-14 years old). *See also* Annex 23, no. 5, 17, 39, 77, 137 (boys) and 19, 67, 80, 122 (males over 60 years of age).

⁸²³ *See below* paras. 581-582.

⁸²⁴ [REDACTED].

⁸²⁵ [REDACTED].

⁸²⁶ P-0585: [T-100-CT](#), p. 15, line 22-p. 16, line 7.

⁸²⁷ P-0584: [DAR-OTP-0200-1540-R02](#) at 1565, para. 92, and [DAR-OTP-00000419](#) at 2, para. 23.

⁸²⁸ P-0718: [DAR-OTP-0209-2004-R02](#) at 2013, para. 60, and [REDACTED]; P-0726: [DAR-OTP-0224-0792](#) at 0794, para. 16.

⁸²⁹ P-0718: [DAR-OTP-0209-2004-R02](#) at 2013, para. 60, and [REDACTED].

⁸³⁰ P-0850: [DAR-OTP-0216-0002-R04](#) at 0018-0019, paras. 64-65, 67.

⁸³¹ [REDACTED].

⁸³² *See e.g.* P-0994: [DAR-OTP-0222-0055-R01](#) at 0064, para. 40, and [DAR-OTP-00000268](#) at 2, para. 10.

⁸³³ *See* Annex 23. For the ethnic composition of these villages, *see* [DAR-OTP-0145-0237](#) at 0271 (Arawala (Arwalla)), 0270 (Andi), 0276 (Forgo, Gaba), 0277 (Gorolla (Gurla)), 0278 (Kaskeidi (Kaskildo)), 0279 (Khirtin (Kerteng), Kirila), 0280 (Kusu (Kusa), Massa (Masa)), 0281 (Mindu (Mindu)), 0282 (Ordo), 0283-0284 (Sugo), 0296 (Tanako), 0285 (Taringa), 0285 (Um Jameina, Zarey (Zare)). Hassan Adam Musa and *Sheikh* Ismail Abdulaziz were from or resident in Garsila, while the village of origin of Sharif Taka is unknown. Despite Deleig being predominantly Fur, only three persons from Deleig are identified as having been killed. *See* Annex 23, no. 54, 75, 111. *See above* para. 515.

circumstances of the Deleig incident, including: the inhumane treatment of the detainees; the public nature of the victims' detention and mistreatment, including **ABD-AL-RAHMAN**'s killing of two victims with his axe; the leaving behind of the victims' bodies at the execution sites to rot and be found by local villagers; and the subsequent digging up and moving of the bodies to conceal evidence of the crimes.⁸³⁴

244. Furthermore, the killing of four *umdahs* (including *Umdah* Khamis) and six *sheikhs* during the Deleig operation fits the overall pattern of targeting of Fur community leaders during this period.⁸³⁵ When interviewed by the GoS regarding the Deleig incident, **ABD-AL-RAHMAN** stated that he had known *Umdah* Khamis for a long time, that he had never seen him at any battle, that he was a Fur *umdah* and that "[t]hey are the ones who are leading the rebellion."⁸³⁶ This statement confirms **ABD-AL-RAHMAN**'s perception that the Fur, in particular their community leaders, were rebels or rebels supporters.

245. With respect to detainees *Sheikh* Ismail and Hassan Adam Musa, that **ABD-AL-RAHMAN** may have had an additional personal motive to kill these victims, as described below,⁸³⁷ does not detract from his discriminatory intent.⁸³⁸

c) GoS Forces and Militia/Janjaweed, including ABD-AL-RAHMAN, also demonstrated their discriminatory intent during other incidents in the charged period

246. In addition to the evidence described above, relating to the three charged incidents, evidence relating to other events during the charged period further supports the inference that GoS Forces and Militia/Janjaweed, including **ABD-AL-RAHMAN**, targeted members of the Fur tribe in Wadi Salih and Mukjar Localities. As set out below, **ABD-AL-RAHMAN**'s own words during several of these events showed his discriminatory intent towards Fur males, issuing orders such as "[a]nything you see, you have to kill or wipe. So no man has to stay alive" and "[w]henver you encounter a man you have to kill them".⁸³⁹

⁸³⁴ See below paras. 535-543, 548-559, 566, 574-579, 608.

⁸³⁵ See above para. 102. See also Annex 23, no. 19, 25, 26, 29, 65, 67, 72, 73, 80, 136.

⁸³⁶ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7015).

⁸³⁷ See below para. 523.

⁸³⁸ [Kvočka AJ](#), paras. 106, 367; [Jelisić AJ](#), para. 49; [Tadić AJ](#), para. 269; [Krnojelac AJ](#), paras. 102, 186; [Case 001 AJ](#), para. 240; [Popović et al. AJ](#), para. 733.

⁸³⁹ [REDACTED].

Mukjar 2003

247. P-0913 described how **ABD-AL-RAHMAN**'s Militia/*Janjaweed* and GoS Forces targeted Fur males in Mukjar on suspicion of being rebels.⁸⁴⁰ In August 2003, P-0913 hid in a relative's house in Mukjar, having learned that **ABD-AL-RAHMAN**'s forces and government intelligence were targeting Fur males, as they were considered to be rebels.⁸⁴¹ P-0918 used his sister's clothes to dress as a female to leave Mukjar, because he knew "they were still arresting males in Mukjar."⁸⁴² P-0984 explained that Fur men faced two options, remain a prisoner or be forcibly conscripted into the PPF.⁸⁴³ GoS officials referred to members of the Fur tribe as *tora bora*, which P-0984 interpreted to mean those who oppose the government. [REDACTED], as *tora bora*.⁸⁴⁴

248. Around this time, P-0757 and his family arrived in Mukjar with other displaced villagers from [REDACTED]. Just before entering, they were advised by a Mukjar resident to wear traditional clothing such as the *jallabiya*, as any young men wearing shirts and trousers would be seen as *tora bora* and not be allowed to enter Mukjar.⁸⁴⁵

Arawala and Um Jameina 2003

249. During the attack on Arawala,⁸⁴⁶ **ABD-AL-RAHMAN** instructed Militia/*Janjaweed* "[a]nything you see, you have to kill or wipe. So no man has to stay alive. Women can be spared."⁸⁴⁷ [REDACTED] explained that "every time they went for war, they never killed women. They would torture women and rape them but not kill them."⁸⁴⁸ [REDACTED]⁸⁴⁹ Militia/*Janjaweed* forces immediately took these men away and killed them.⁸⁵⁰ **ABD-AL-RAHMAN** also told his forces, "[w]henver you encounter a man, you have to kill them."⁸⁵¹ In the next village of Um Jameina,⁸⁵² [REDACTED]⁸⁵³

⁸⁴⁰ P-0913: [DAR-OTP-0218-0021-R04](#) at 0030, para. 61, and [T-69-CT](#), p. 45, lines 13-24, and [REDACTED].

⁸⁴¹ P-0913: [DAR-OTP-0218-0021-R04](#) at 0030, para. 61.

⁸⁴² P-0918: [DAR-OTP-0218-0120-R04](#) at 0133, para. 47.

⁸⁴³ [REDACTED].

⁸⁴⁴ P-0984: [REDACTED].

⁸⁴⁵ P-0757: [DAR-OTP-0211-0003-R02](#) at 0015, para. 49.

⁸⁴⁶ See above para. 122.

⁸⁴⁷ [REDACTED].

⁸⁴⁸ [REDACTED].

⁸⁴⁹ [REDACTED].

⁸⁵⁰ [REDACTED].

⁸⁵¹ [REDACTED].

⁸⁵² See above para. 122.

⁸⁵³ [REDACTED].

Mukjar 2004 – Locality Building

250. Around the same time as the charged incident in Mukjar, P-0892, a Fur [REDACTED] male, was stopped at a checkpoint by the PPF and directed to the Mukjar Locality Building where **ABD-AL-RAHMAN** was present.⁸⁵⁴ **ABD-AL-RAHMAN** ordered him and other men to be beaten.⁸⁵⁵ The GoS Forces and Militia/*Janjaweed* who carried out **ABD-AL-RAHMAN**'s orders called the men (the majority of whom were Fur⁸⁵⁶) “rebels” and “slaves” while they beat them.⁸⁵⁷ P-0892 understood that “everyone who was a member of the Fur tribe was considered a tora bora”⁸⁵⁸

G. CRIMES COMMITTED IN KODOOM, BINDISI AND SURROUNDING AREAS

1) Introduction

251. During the charged period, Kodoom, Bindisi and surrounding areas were located in the Wadi Salih Locality, West Darfur.⁸⁵⁹ The populations of Kodoom and Bindisi were predominantly Fur.⁸⁶⁰ Kodoom had a population of around 1,600 families⁸⁶¹ and was composed of separate areas or neighbourhoods, including Kodoom Ronga Tass, Kodoom Tineh, Kodoom Jureh and Kodoom Derliwa.⁸⁶² Kodoom was located approximately nine kilometres northeast of Bindisi.⁸⁶³

⁸⁵⁴ P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41, 0395, para. 53, and [T-48-CT](#), p. 8, lines 2-17.

⁸⁵⁵ P-0892: [DAR-OTP-0217-0384-R02](#) at 0395, para. 55, and [T-48-CT](#), p. 22, line 17.

⁸⁵⁶ P-0892: [DAR-OTP-0217-0384-R02](#) at 0395, para. 55.

⁸⁵⁷ P-0892: [DAR-OTP-0217-0384-R02](#) at 0396, paras. 57-59, and [T-48-CT](#), p. 8, line 18-p. 10, line 16.

⁸⁵⁸ P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41, and [T-48-CT](#), p. 11, lines 8-14.

⁸⁵⁹ See Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004; [Third Agreed Facts AnxC](#), no. 1-2.

⁸⁶⁰ [DAR-OTP-0145-0237](#) at 0300 (Bindisi, 97% Fur, 2% Masalit, 1% Dajo), 0305-0306 (Kodoom, 100% Fur); P-0011: [T-91-CT2](#), p. 34, lines 1-2; P-0012: [DAR-OTP-0119-0503-R01](#) at 0505-0506, paras. 11, 13; P-0015: [DAR-OTP-0088-0187-R04](#) at 0190, para. 11; P-0816: [DAR-OTP-0214-0721-R02](#) at 0724, para. 17, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxII](#), p. 3; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0026, para. 34, 0028, para. 43; P-0918: [DAR-OTP-0218-0120-R04](#) at 0123-0124, para. 12; P-0927: [DAR-OTP-0221-0523-R01](#) at 0526, para. 17; P-0932: [DAR-OTP-0222-0602-R02](#) at 0605, para. 15; P-0986: [DAR-OTP-0222-0437-R01](#) at 0441, para. 21, 0446, para. 44; [REDACTED]; P-1074: [DAR-OTP-0224-0441-R02](#) at 0444, para. 14.

⁸⁶¹ [DAR-OTP-0145-0237](#) at 0305-0306; P-0932: [DAR-OTP-0222-0602-R02](#) at 0605, para. 15; P-0986: [DAR-OTP-0222-0437-R01](#) at 0441, para. 21.

⁸⁶² See Annex 10: Neighbourhoods of Kodoom (which contains an annotated satellite image of Kodoom). See also P-0029: [T-29-CT](#), p. 48, lines 12-18, p. 61, line 14-p. 62, line 1, p. 65, line 25-p. 66, line 5, and [T-30-CT2](#), p. 78, line 11-p. 82, line 11, p. 84, lines 18-23; [REDACTED]; P-0918: [DAR-OTP-0218-0120-R04](#) at 0123-0124, para. 12, and [DAR-OTP-00000104](#) at 1, para. 1, and [DAR-OTP-0219-9124-R01](#), and [DAR-OTP-00000095](#); [REDACTED]; P-0986: [DAR-OTP-0222-0437-R01](#) at 0441, para. 21.

⁸⁶³ See [West Darfur Planning Map](#); Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

252. Bindisi was a large town with a population of around 1,800 families.⁸⁶⁴ Bindisi was separated by the Wadi Salih riverbed or valley into two areas.⁸⁶⁵ North of the *wadi* was “New”⁸⁶⁶ or “North”⁸⁶⁷ or “upper”⁸⁶⁸ Bindisi, which included the Daguina area, where the Bindisi market was located.⁸⁶⁹ South of the *wadi* was “Old”⁸⁷⁰ or “South”⁸⁷¹ or “lower”⁸⁷² Bindisi. Several other villages were clustered around Bindisi, including Kodoom, Drangal,⁸⁷³ Gausir,⁸⁷⁴ Merly,⁸⁷⁵ Seder⁸⁷⁶ and Tiro.⁸⁷⁷ Bindisi was located approximately 19 kilometres west of Mukjar.⁸⁷⁸

⁸⁶⁴ [DAR-OTP-0145-0237](#) at 0300; [DAR-OTP-0003-0099](#) at 0124; P-0012: [DAR-OTP-0119-0503-R01](#) at 0505-0506, para. 11; P-0015: [DAR-OTP-0088-0187-R04](#) at 0190, para. 10; P-0922: [DAR-OTP-0222-0312-R01](#) at 0316, para. 15, and [T-39-ET](#), p. 36, lines 19-20.

⁸⁶⁵ See Annex 9: Key locations in Bindisi town (which contains an annotated satellite image of Bindisi).

⁸⁶⁶ P-0012: [DAR-OTP-0119-0503-R01](#) at 0505-0506, para. 11, and [T-45-CT](#), p. 17, lines 6-7; P-0015: [DAR-OTP-0088-0187-R04](#) at 0190, para. 10; P-0927: [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

⁸⁶⁷ P-0867: [DAR-OTP-0217-0173-R02](#) at 0176, para. 17; P-0922: [DAR-OTP-0222-0312-R01](#) at 0318, para. 22.

⁸⁶⁸ P-0927: [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

⁸⁶⁹ P-0029: [T-29-CT](#), p. 62, lines 14-16, and [T-30-CT2](#), p. 19, lines 21-24; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061-0062, paras. 27-28, and [DAR-OTP-0110-0071-R02](#) (Translation [DAR-OTP-0153-1577-R02](#)); P-0816: [DAR-OTP-0214-0721-R02](#) at 0724, para. 16, 0727, para. 30, and [DAR-OTP-0214-0737](#); [REDACTED]; P-0918: [DAR-OTP-0218-0120-R04](#) at 0126, para. 22, and [DAR-OTP-00000104](#) at 1, para. 9; [REDACTED]; P-1074: [DAR-OTP-0224-0441-R02](#) at 0444, para. 12; P-0007: [DAR-OTP-0088-0060-R02](#) at 0063, para. 10, 0065-0066, paras. 18, 24, and [DAR-OTP-0088-0076-R01](#) (Translation [DAR-OTP-0219-8861-R01](#)).

⁸⁷⁰ P-0012: [DAR-OTP-0119-0503-R01](#) at 0505-0506, para. 11, and [T-45-CT](#), p. 17, lines 6-7; P-0015: [DAR-OTP-0088-0187-R04](#) at 0190, para. 10; P-0927: [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

⁸⁷¹ P-0029: [T-30-CT2](#), p. 19, lines 20-23; P-0867: [DAR-OTP-0217-0173-R02](#) at 0176, para. 17; [REDACTED]; P-0922: [DAR-OTP-0222-0312-R01](#) at 0318, para. 22.

⁸⁷² P-0927: [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

⁸⁷³ P-0007: [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0029: [T-29-CT](#), p. 74, lines 4-5; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 27; P-0816: [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0025-0026, para. 32; P-0922: [DAR-OTP-0222-0312-R01](#) at 0316, para. 15, 0318, para. 22; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0932: [DAR-OTP-0222-0602-R02](#) at 0611, para. 45.

⁸⁷⁴ P-0007: [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0029: [T-29-CT](#), p. 62, lines 17-19; P-0867: [DAR-OTP-0217-0173-R02](#) at 0175-0176, para. 12; P-0922: [DAR-OTP-0222-0312-R01](#) at 0319, para. 26, and [DAR-OTP-0222-0339-R01](#) (Translation [DAR-OTP-0220-1225-R01](#)), and [T-39-ET](#), p. 12, lines 5-16; P-0932: [DAR-OTP-0222-0602-R02](#) at 0611, para. 45.

⁸⁷⁵ P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0029: [T-29-CT](#), p. 41, lines 21-23, p. 62, lines 5-6, p. 73, lines 13-16, and [T-30-CT2](#), p. 13, lines 18-19; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 27; P-0757: [DAR-OTP-0211-0003-R02](#) at 0011, para. 34; P-0816: [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0026, para. 33; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317, paras. 18, 20, and [DAR-OTP-0222-0339-R01](#) (Translation [DAR-OTP-0220-1225-R01](#)); P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0932: [DAR-OTP-0222-0602-R02](#) at 0610-0611, paras. 43, 45.

⁸⁷⁶ P-0007: [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0029: [T-29-CT](#), p. 74, lines 2-3, and [T-30-CT2](#), p. 13, line 23-p. 14, line 1; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 27; P-0757: [DAR-OTP-0211-0003-R02](#) at 0011, para. 35; P-0816: [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0026, para. 33; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31; P-0922: [DAR-OTP-0222-0312-R01](#) at 0318, para. 22, and [DAR-OTP-0222-0339-R01](#) (Translation [DAR-OTP-0220-1225-R01](#)); P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23.

⁸⁷⁷ P-0007: [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77, and [T-46-CT](#), p. 44, lines 23-25; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 25; P-0757: [DAR-OTP-0211-0003-R02](#) at 0005-0006, para. 12, 0010, para. 28. See above para. 92.

⁸⁷⁸ See [West Darfur Planning Map](#).

253. The crimes charged in Counts 1 to 11 took place mainly in Kodoom and/or Bindisi, the geographic limits of which cannot be precisely determined, but also include crimes committed against persons fleeing the attack on these places. The acts charged under Counts 1 to 3 and 11 occurred in Kodoom, Bindisi and/or surrounding areas; those charged under Counts 4, 5 and 10 occurred exclusively within Kodoom and Bindisi; and those charged in Counts 6 to 9 occurred in Bindisi and/or its surrounding areas.

Meetings in Mukjar following the rebel attacks on Bindisi and Mukjar

254. Around July or early August 2003, rebel armed groups attacked locations in Bindisi, including a police station and the *Zakat* Office.⁸⁷⁹ Days later, in late July or early August, rebel armed groups attacked the police station and the CRF base in Mukjar.⁸⁸⁰ Immediately after these attacks, **ABD-AL-RAHMAN** came to Mukjar with the Militia/*Janjaweed* under his command to provide support to GoS Forces.⁸⁸¹

255. Around this time, a high-level delegation of GoS Officials and senior members of GoS Forces, including HARUN, arrived in Mukjar.⁸⁸² **ABD-AL-RAHMAN**, along with two of his deputies, SAMIH and BONJOUSE, GoS Officials, and senior members of the GoS Forces then held a series of private meetings at the Mukjar Locality Building.⁸⁸³

256. After these meetings, HARUN and other GoS Officials made public speeches to members of the public and the Militia/*Janjaweed*.⁸⁸⁴ **ABD-AL-RAHMAN** stood in front of his men close to HARUN,⁸⁸⁵ and also addressed the gathered Militia/*Janjaweed* under his command.⁸⁸⁶ In his speech, HARUN not only pledged support to the Militia/*Janjaweed*,⁸⁸⁷ but also stated that because the Fur children had become rebels, all the Fur and their property “had

⁸⁷⁹ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0514, paras. 46-47, and [DAR-OTP-0220-4710](#) at 4710, para. 9, and [T-45-CT](#), p. 78, lines 5-9; P-0029: [T-29-CT](#), p. 50, lines 3-21; [REDACTED]; P-0878: [T-77-CT2](#), p. 48, line 1-p. 49, line 18; [REDACTED]; [DAR-OTP-0003-0099](#) at 0124. See also P-0927: [DAR-OTP-0221-0523-R01](#) at 0527, para. 20.

⁸⁸⁰ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0517, para. 62, and [T-45-CT](#), p. 76, lines 8-16, p. 77, line 25-p. 78, line 9; P-0029: [T-29-CT](#), p. 49, line 24-p. 50, line 5, p. 52, lines 2-8; P-0720: [DAR-OTP-0210-0291-R02](#) at 0299, para. 53; P-0041: [DAR-OTP-0206-0033-R03](#) at 0044, paras. 40-42, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIII](#), p. 4; [REDACTED]; P-0756: [DAR-OTP-0211-0039-R02](#) at 0044-0045, para. 23; [REDACTED]; P-0878: [T-77-CT2](#), p. 53, line 12-p. 55, line 12; [REDACTED]. See also [DAR-OTP-0034-0260](#) (Translation [DAR-OTP-0219-8825](#) at 8834), entry 1 dated 9/8/2003.

⁸⁸¹ See e.g. [REDACTED]; P-0878: [T-77-CT2](#), p. 56, line 2-p. 59, line 21; [REDACTED]. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7008, 7013-7014, 7016).

⁸⁸² See above para. 160.

⁸⁸³ See above para. 161.

⁸⁸⁴ See above para. 161.

⁸⁸⁵ See above para. 162.

⁸⁸⁶ See above para. 161.

⁸⁸⁷ See above para. 162.

become booty (*ghanema*) for the *Mujahidin*”.⁸⁸⁸ HARUN further publicly threatened civilians, stating “you will be killed, you will be raped.”⁸⁸⁹

257. [REDACTED] **ABD-AL-RAHMAN** [REDACTED] refused to cooperate with local authorities, stating he only received instructions from HARUN and HUSSEIN.⁸⁹⁰

258. Following these meetings, **ABD-AL-RAHMAN** and the Militia/*Janjaweed* under his command attacked villages located to the east of Mukjar, before returning to Mukjar.⁸⁹¹

Preparation to attack Kodoom, Bindisi and surrounding areas

259. **ABD-AL-RAHMAN** was involved in planning and implementing the operation in Kodoom, Bindisi and surrounding areas. Multiple witnesses refer to a letter, or written instruction, that authorised **ABD-AL-RAHMAN** to obtain food from the *Zakat* Office in Bindisi. [REDACTED], following a meeting between **ABD-AL-RAHMAN**, SAMIH, BONJOUSE and the Mukjar Locality Commissioner TORSHEIN, [REDACTED] **ABD-AL-RAHMAN** and his Militia/*Janjaweed* to the *Zakat* Office in Bindisi.⁸⁹²

260. [REDACTED].⁸⁹³ [REDACTED] 90 sacks of corn from the *Zakat* Office in Bindisi to be used to feed the horses of the Militia/*Janjaweed*.⁸⁹⁴ [REDACTED], **ABD-AL-RAHMAN** gave that written instruction from ABD-AL-HAKAM to HIMEIDAN.⁸⁹⁵ [REDACTED] this unusual request to be a subterfuge to avoid suspicion of an imminent attack and therefore a “cheap way to implement their plan.”⁸⁹⁶

261. [REDACTED] correspondence that demonstrated HARUN and **ABD-AL-RAHMAN**’s intention to destroy the Bindisi area.⁸⁹⁷ [REDACTED].⁸⁹⁸ The first of these

⁸⁸⁸ P-0012: [DAR-OTP-0119-0503-R01](#) at 0518, para. 65, and [T-46-CT](#), p. 40, lines 2-18; P-0029: [T-29-CT](#), p. 47, line 3-p. 49, line 8, p. 52, lines 23-p. 55, lines 4-13. *See also* P-0041: [DAR-OTP-0206-0033-R03](#) at 0047, para. 53, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIII](#), p. 4, and [Prosecution’s response regarding rule 68\(2\)\(b\) declarations](#), para. 9, and [T-123-ET](#), p. 6, lines 3-16. *See also* para. 294.

⁸⁸⁹ P-0878: [T-78-CT3](#), p. 14, lines 2-12. *See also* regarding a later speech, P-0877: [T-54-CT](#), p. 3, lines 8-14, p. 7, line 23-p. 8, line 13.

⁸⁹⁰ [REDACTED].

⁸⁹¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0519-0520, paras. 72-74; P-0028: [DAR-OTP-0094-0423-R01](#) at 0433, para. 38; P-0129: [DAR-OTP-0128-0128-R04](#) at 0136, paras. 30-32; P-0878: [T-78-CT3](#), p. 14, line 21-p. 16, line 15, and [T-79-CT](#), p. 43, line 15-p. 44, line 8; [REDACTED]. *See also* [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011).

⁸⁹² [REDACTED]. *See also* P-0984: [T-66-CT2](#), p. 50, line 16-p. 52, line 22.

⁸⁹³ [REDACTED].

⁸⁹⁴ [REDACTED].

⁸⁹⁵ [REDACTED].

⁸⁹⁶ [REDACTED].

⁸⁹⁷ *See above* paras. 49, 170. [REDACTED].

⁸⁹⁸ [REDACTED].

documents was a signed letter on official GoS notepaper from HARUN to **ABD-AL-RAHMAN** entitled “Destroying Bendisi Locality” and dated 1 August 2003.⁸⁹⁹ This instructed **ABD-AL-RAHMAN** to establish a committee to prepare and implement the destruction of the Bindisi locality, to obtain weapons and vehicles from ABD-AL-HAKAM, and to establish Mujahidin committees to be headed by *umdahs*.⁹⁰⁰ The second document was a reply from **ABD-AL-RAHMAN** to HARUN providing details on the organisation of the “Zakat Gathering Committees” and the planned operation to depart from Mukjar, spend the night in “Dangai, [Seder] and [Drangal]”, and attack Bindisi on 16 August 2003. [REDACTED],⁹⁰¹ all of whom were present during the attack.⁹⁰²

262. Additionally, in his GoS Interview, **ABD-AL-RAHMAN** confirmed his presence in Bindisi after he met HARUN and other senior figures in Mukjar, stating: “Abdul Wahid’s camp that was known was the one in Bundis, under the command of Mr Amin Husayn. We got from it a rifle and three RPGs [...] and from --- there we returned to Garsila”.⁹⁰³

263. CRF members went ahead of the attackers and, in what appeared to be an effort to neutralise potential resistance and prevent people from fleeing, informed citizens that the forces were simply going to Bindisi to collect from the *Zakat* Office and that people should not worry.⁹⁰⁴ Given the surrounding circumstances, and the conduct of the subsequent attack on Kodoom, Bindisi and surrounding areas, the only reasonable inference is that this correspondence and the meetings in Mukjar served to coordinate and organise this attack.

⁸⁹⁹ [REDACTED].

⁹⁰⁰ At this time, **ABD-AL-RAHMAN** headed a Mujahidin Committee in Garsila, *see above* para. 173.

⁹⁰¹ [REDACTED].

⁹⁰² [REDACTED].

⁹⁰³ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7011-7012). *See also* [REDACTED]. Al-Amin Yousef HUSAYN’s presence in Bindisi during the attack was also referred to by [REDACTED], but they knew him as a teacher, not a rebel leader ([REDACTED]; *see also* P-0986: [DAR-OTP-0222-0437-R01](#) at 0456-0457, para. 92). P-0922 was told by Al-Amin HUSAYN, [REDACTED], that he had an argument with **ABD-AL-RAHMAN** in Bindisi on 15 August 2003 (P-0922: [DAR-OTP-0222-0312-R01](#) at 0319, para. 27, and [T-39-ET](#), p. 46, lines 4-20).

⁹⁰⁴ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 20, and [T-89-CT](#), p. 27, line 11-p. 29, line 21, p. 50, line 17-p. 51, line 19; P-0028: [DAR-OTP-0094-0423-R01](#) at 0433, para. 39; P-0029: [T-29-CT](#), p. 43, lines 15-25, p. 61, lines 3-9, p. 63, line 22-p. 64, line 12, and [T-30-CT2](#), p. 11, line 18-p. 12, line 1, and [REDACTED]; P-0085: [DAR-OTP-0110-0054-R02](#) at 0060-0061, para. 24; P-0757: [DAR-OTP-0211-0003-R02](#) at 0014, para. 44; P-0867: [DAR-OTP-0217-0173-R02](#) at 0179, para. 33; [REDACTED]; P-0903: [T-32-CT](#), p. 71, lines 1-7; P-0913: [DAR-OTP-0218-0021-R04](#) at 0024-0025, paras. 21-22, 24, and [DAR-OTP-00000012](#) at 1, paras. 1-2, and [T-69-CT](#), p. 12, lines 9-15, p. 28, line 2-p. 29, line 1, p. 30, line 6-p. 33, line 17; P-0918: [DAR-OTP-0218-0120-R04](#) at 0126-0127, paras. 22-25, and [DAR-OTP-00000104](#) at 1, paras. 9-10; P-0927: [DAR-OTP-0221-0523-R01](#) at 0527-0528, paras. 19, 21; P-0932: [DAR-OTP-0222-0602-R02](#) at 0609, para. 36, and [DAR-OTP-0220-5720](#) at 5720, para. 5. *See also* P-0922: [DAR-OTP-0222-0312-R01](#) at 0316-0317, para. 17, and [DAR-OTP-0220-3562](#) at 3573, lines 363-369, and [T-39-ET](#), p. 43, line 3-p. 46, line 3; [DAR-OTP-0003-0099](#) at 0124; [DAR-OTP-0064-0184](#) at 0192. *See also* [REDACTED].

Sequence of attacks from Mukjar to Bindisi

264. In furtherance of this plan, on or about 15 August 2003, Militia/*Janjaweed* and/or GoS Forces, led by **ABD-AL-RAHMAN**, left Mukjar and attacked several Fur villages on their way to Kodoom and Bindisi.⁹⁰⁵ These villages were looted, burned and many civilians were killed and raped. These other villages included Nyerli⁹⁰⁶ and Tiro,⁹⁰⁷ attacked prior to Kodoom. They also included Merly,⁹⁰⁸ Seder⁹⁰⁹ and Drangal,⁹¹⁰ attacked after Kodoom and prior to Bindisi. Although the attacks on these other locations are not charged, they demonstrate a continuous *modus operandi* of attacks against civilians which the perpetrators and **ABD-AL-RAHMAN** must have known would be repeated in Kodoom and Bindisi.

265. Upon arriving in North Bindisi in the afternoon, shortly after attacking Kodoom, Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN** and SAMIH, attacked the town and pillaged the market and the *Zakat* warehouses in Bindisi.⁹¹¹ This attack led the

⁹⁰⁵ See Annex 8: Locations relevant to the attack on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003. Annex 8 contains a satellite image identifying Kodoom, Bindisi and surrounding areas, as well as a number of additional villages attacked during the same operation. Due to difficulties in obtaining a high resolution satellite image from the period 2003-2004 that would cover the whole area of interest, the OTP has used a satellite image from December 2020 obtained from ESRI.

⁹⁰⁶ See e.g. P-0877: [T-53-CT2](#), p. 76, line 14-p. 77, line 14; [REDACTED].

⁹⁰⁷ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77, and [T-46-CT](#), p. 43, line 16-p. 48, line 25; P-0028: [DAR-OTP-0094-0423-R01](#) at 0434, para. 41; P-0029: [T-29-CT](#), p. 43, line 15, p. 44, lines 2-3, p. 48, lines 8-11, p. 61, lines 10-13, p. 64, lines 14-25, and [T-30-CT2](#), p. 11, line 25-p. 12, line 2; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 25 (with the exclusion of the reference to Ali Kushayb, see [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); P-0756: [DAR-OTP-0211-0039-R02](#) at 0041, para. 12, 0045-0050, paras. 27-34, 37-38, 40-47; P-0757: [DAR-OTP-0211-0003-R02](#) at 0005, para. 12, 0009-0010, paras. 25-26, 29-31, 0013, para. 42; [REDACTED]; P-0877: [T-53-CT2](#), p. 76, line 14-p. 77, line 14; P-0918: [DAR-OTP-0218-0120-R04](#) at 0127, para. 26, and [DAR-OTP-00000104](#) at 2, para. 12; P-0984: [T-66-CT2](#), p. 52, lines 9-18; [REDACTED].

⁹⁰⁸ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0029: [T-29-CT](#), p. 62, lines 5-8, p. 73, lines 13-16, and [T-30-CT2](#), p. 12, line 25-p. 13, line 2, p. 13, lines 18-19; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, paras. 25, 27 (with the exclusion of the reference to Ali Kushayb, see [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); [REDACTED]; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317, para. 18; P-0932: [DAR-OTP-0222-0602-R02](#) at 0610-0611, paras. 43-45.

⁹⁰⁹ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0029: [T-29-CT](#), p. 62, lines 9-11, p. 74, lines 2-3, and [T-30-CT2](#), p. 13, line 3; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061-0062, paras. 26, 28 (with the exclusion of the passages identified in the [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); P-0757: [DAR-OTP-0211-0003-R02](#) at 0012, para. 40; [REDACTED]; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, paras. 23-25; [REDACTED].

⁹¹⁰ See e.g. P-0029: [T-29-CT](#), p. 62, lines 12-13, p. 74, lines 4-5, and [T-30-CT2](#), p. 13, lines 5-7; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, paras. 25, 27 (with the exclusion of the passages identified in the [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0025-0026, paras. 32-34, and [DAR-OTP-00000012](#) at 1, paras. 5, 7, and [T-70-ET](#), p. 16, line 24-p. 17, line 2; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317-0319, paras. 19-21, 25.

⁹¹¹ See e.g. [REDACTED]. See below paras. 290-291, 302.

population to flee North Bindisi to South Bindisi.⁹¹² Militia/*Janjaweed* and GoS Forces set up camp north of Bindisi where they spent the night.⁹¹³ The next morning, following a meeting between **ABD-AL-RAHMAN** and his *agids*,⁹¹⁴ the Militia/*Janjaweed* and GoS Forces continued their attack on civilians in South Bindisi.⁹¹⁵

266. Evidence of this sequence of attacks and of the crimes committed in both Kodoom and Bindisi is provided by [REDACTED], along with at least 23 [REDACTED] witnesses. [REDACTED],⁹¹⁶ [REDACTED],⁹¹⁷ [REDACTED],⁹¹⁸ [REDACTED],⁹¹⁹ [REDACTED]. Although the testimonies of these [REDACTED] witnesses contain minor discrepancies,⁹²⁰ the core of their evidence is consistent: **ABD-AL-RAHMAN** led the attack against Kodoom and Bindisi.

267. [REDACTED] not aware of any rebel presence in the attacked villages during the operation.⁹²¹ Other witnesses also stated that there was no rebel presence or armed resistance.⁹²² Despite the lack of any rebel presence, [REDACTED] Militia/*Janjaweed* met some resistance from some individuals with arms in the villages that were burnt.⁹²³ [REDACTED].⁹²⁴ P-0012 stated that while some members of the Police did attempt to defend themselves in South Bindisi, “the exchange did not last for more than five minutes” after which the

⁹¹² P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79, and [T-46-CT](#), p. 52, lines 16-20; P-0913: [DAR-OTP-0218-0021-R04](#) at 0026, para. 36, and [DAR-OTP-00000012](#) at 1, para. 9, and [T-69-CT](#), p. 42, line 21-p. 44, line 17; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0011: [T-91-CT2](#), p. 21, lines 2-14. *See also* [REDACTED].

⁹¹³ P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 80, and [DAR-OTP-0220-4710](#) at 4711, para. 20; P-0015: [DAR-OTP-0088-0187-R04](#) at 0194, para. 33; P-0029: [T-30-CT2](#), p. 13, line 8; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0026-0027, paras. 38-39, and [DAR-OTP-00000012](#) at 1, para. 10; [REDACTED]; P-0922: [DAR-OTP-0222-0312-R01](#) at 0319, para. 27, and [T-39-ET](#), p. 46, lines 4-20; [REDACTED].

⁹¹⁴ *See below* paras. 358-359.

⁹¹⁵ *See below* paras. 278, 281, 292-293, 303.

⁹¹⁶ [REDACTED].

⁹¹⁷ [REDACTED].

⁹¹⁸ [REDACTED].

⁹¹⁹ [REDACTED].

⁹²⁰ These minor inconsistencies can be attributed to the passage of time and the witnesses’ different viewpoints during the course of the attack. For instance, [REDACTED]. *See* [Al Hassan TJ](#), paras. 37, 40.

⁹²¹ [REDACTED].

⁹²² P-0015: [DAR-OTP-0088-0187-R04](#) at 0191, para. 16, 0206, para. 97; P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 35; P-0913: [T-69-CT](#), p. 32, lines 12-17; P-0917: [DAR-OTP-0217-0071-R03](#) at 0080, para. 41; P-0927: [DAR-OTP-0221-0523-R01](#) at 0527, para. 18; P-0932: [DAR-OTP-0222-0602-R02](#) at 0609, para. 38; P-0986: [DAR-OTP-0222-0437-R01](#) at 0441, para. 23, 0444, para. 36; P-1074: [DAR-OTP-0224-0441-R02](#) at 0447, para. 30. P-0029 acknowledged that although some villagers in Kodoom did possess weapons, there was no organised village defence at the moment of the attack ([T-30-CT2](#), p. 84, line 24-p. 91, line 22, and [T-31-ET](#), p. 14, line 10-p. 19, line 12).

⁹²³ [REDACTED].

⁹²⁴ [REDACTED]. *See also* P-0756: [DAR-OTP-0211-0039-R02](#) at 0043-0044, paras. 19-22.

Militia/*Janjaweed* destroyed the police station.⁹²⁵

268. The crimes committed during this continuous attack are detailed below.

2) The crimes

Count 1: Intentionally directing attacks against the civilian population as such (WC)

269. On or about 15 and 16 August 2003, **ABD-AL-RAHMAN** led Militia/*Janjaweed* and GoS Forces in an attack against the civilian population of Kodoom, Bindisi and surrounding areas as such, or against individual civilians not taking direct part in the hostilities. As set out below, **ABD-AL-RAHMAN** and the perpetrators of the attack intended the civilian population to be the object of the attack or knew that this would occur in the ordinary course of events.

270. In the villages attacked prior to Kodoom and Bindisi, attackers chased civilians⁹²⁶ and deliberately targeted them,⁹²⁷ including women and children.⁹²⁸ Militia/*Janjaweed* and/or GoS Forces, under the command and at the direction of **ABD-AL-RAHMAN**, then entered Kodoom, Bindisi and surrounding areas with ground forces arriving in Land Cruisers, some mounted with *Dushkas*,⁹²⁹ others on horses, camels and on foot.⁹³⁰ They were armed with high calibre weapons, such as Kalashnikovs and GiMs,⁹³¹ as well as edged weapons,⁹³² which they intentionally used to injure and kill persons, often shooting randomly at fleeing civilians.⁹³³ [REDACTED] in Kodoom “[e]verything moving was targeted”.⁹³⁴ The adoption of a scorched

⁹²⁵ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 83, and [DAR-OTP-0220-4710](#) at 4711, para. 22, and [T-46-CT](#), p. 59, lines 1-3. See also P-0913: [T-69-CT](#), p. 42, line 25-p. 44, line 10.

⁹²⁶ [REDACTED].

⁹²⁷ See e.g. [REDACTED].

⁹²⁸ [REDACTED].

⁹²⁹ [Third Agreed Facts AnxB](#), no. 1-3, 10; P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 16, lines 9-10, p. 35, lines 4-6; P-0011: [T-91-CT2](#), p. 20, lines 3-6; P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 45; P-0029: [T-29-CT](#), p. 48, lines 12-14, p. 61, lines 14-16; P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 36; P-0986: [DAR-OTP-0222-0437-R01](#) at 0446-0447, paras. 42-43, 49, and [DAR-OTP-0220-5673](#) at 5673, para. 2; P-1073: [T-103-CT](#), p. 9, lines 24-25, p. 10, lines 11-16. See also [REDACTED].

⁹³⁰ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 16, line 10; P-0029: [T-29-CT](#), p. 64, line 22-p. 65, line 4; P-0757: [DAR-OTP-0211-0003-R02](#) at 0009, para. 26; P-0932: [DAR-OTP-0222-0602-R02](#) at 0609, para. 38; P-0986: [DAR-OTP-0222-0437-R01](#) at 0444-0446, paras. 36, 39, 42; P-1073: [T-103-CT](#), p. 12, lines 8-10; P-1074: [DAR-OTP-0224-0441-R02](#) at 0446, para. 26, and [DAR-OTP-00000503](#) at 1, para. 8.

⁹³¹ [Third Agreed Facts AnxB](#), no. 4-8; P-0007: [DAR-OTP-0088-0060-R02](#) at 0067, para. 26, [T-89-CT](#), p. 11, lines 10-22; P-0029: [T-29-CT](#), p. 71, lines 17-20; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0610, para. 42; P-0986: [DAR-OTP-0222-0437-R01](#) at 0446, para. 42. See also [REDACTED].

⁹³² P-0986: [DAR-OTP-0222-0437-R01](#) at 0446-0048, paras. 42, 47, 52.

⁹³³ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, line 18-p. 16, line 12; P-0012: [T-45-CT](#), p. 16, lines 22-25; P-0015: [DAR-OTP-0088-0187-R04](#) at 0193, para. 25, and [T-93-ET](#), p. 36, line 16-19, p. 40, lines 1-3; P-0029: [T-29-CT](#), p. 61, lines 14-18, p. 65, lines 7-15, p. 71, lines 21-22; P-0913: [DAR-OTP-0218-0021-R04](#) at 0027, para. 41, and [DAR-OTP-00000012](#) at 1, para. 11; P-0917: [DAR-OTP-0217-0071-R03](#) at 0077, paras. 25, 27; P-0922: [DAR-OTP-0222-0312-R01](#) at 0320, para. 30.

⁹³⁴ [REDACTED].

earth tactic,⁹³⁵ including the targeting of crops and food supplies,⁹³⁶ the conduct of the attacking forces, the use of discriminatory and persecutory language to refer to the Fur population in the villages,⁹³⁷ including by **ABD-AL-RAHMAN**,⁹³⁸ and the resulting victims⁹³⁹ all demonstrate that the attack was directed against the civilian population of these villages.

271. The evidence establishes that Militia/*Janjaweed* and/or GoS Forces directed numerous acts of violence against the civilian population of Kodoom, Bindisi and the surrounding areas. The attack caused actual death, injury, and destruction, as described further under Counts 2 to 11. As such, it is the only reasonable inference that the perpetrators, including **ABD-AL-RAHMAN**, intended the civilian population of Kodoom, Bindisi and surrounding areas to be the object of the attack.

Counts 2-3: Murder (CAH and WC)

272. On or about 15 and 16 August 2003, Militia/*Janjaweed* and/or GoS Forces under the direction of **ABD-AL-RAHMAN** killed at least 79 persons in Kodoom, Bindisi and surrounding areas, as listed in Annex 11.⁹⁴⁰ These persons were either civilians taking no active part in hostilities or were persons *hors de combat*. They included men, women, children and elderly persons.

273. Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** intended to kill protected persons, who they perceived as belonging to, or being associated with, or supporting the rebel armed groups.⁹⁴¹ **ABD-AL-RAHMAN** led the attackers, issued

⁹³⁵ See below paras. 297-305.

⁹³⁶ [REDACTED]; P-0878: [T-78-CT3](#), p. 77, line 24-p. 78, line 9.

⁹³⁷ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, lines 8-17; P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 83, and [DAR-OTP-0220-4710](#) at 4712, para. 23, and [T-45-CT](#), p. 19, lines 7-17, p. 31, lines 9-20; P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317, para. 18; P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, para. 32; P-0986: [DAR-OTP-0222-0437-R01](#) at 0445, para. 39, 0447-0448, paras. 47, 49-50, 54, and [T-65-CT](#), p. 46, lines 17-23.

⁹³⁸ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 49-51, 53, 55, and [T-65-CT](#), p. 10, lines 13-24, p. 47, line 18-p. 49, line 6, p. 50, lines 10-13, and [T-66-CT2](#), p. 25, line 15-p. 26, line 7.

⁹³⁹ See Annex 11: Non-exhaustive list of persons killed in Kodoom, Bindisi and surrounding areas (Counts 2-3) (“Annex 11”); Annex 12: Non-exhaustive list of persons raped in Bindisi and surrounding areas (Counts 8-9) (“Annex 12”).

⁹⁴⁰ See Annex 11, which also includes the names of victims that the Parties agreed to submit into evidence (Bar table list of victims, [DAR-OTP-00000697](#), see Annex 11, no. 6, 8, 15, 21, 24, 25, 26, 42, 57, 58, 61, 65, 72, 73, 76). In cases involving mass criminality, it may be impracticable or unnecessary for the Prosecution to exhaustively identify every victim by name. See *Ongwen TJ*, para. 2698; *Bemba TJ*, para. 43; *Ntaganda TJ*, para. 862; *Katanga TJ*, para. 768; *Mbarushimana CD*, para. 112; *Kupreškić et al. AJ*, paras. 89-90; *Sainović et al. AJ*, para. 235; *Ndindabahizi AJ*, para. 16; *Ntakirutimana et al. AJ*, para. 73; *Rukundo AJ*, paras. 158-160; *Sesay et al. AJ*, para. 52; *Brima et al. AJ*, para. 41. Moreover, it is not a legal requirement that the Prosecution establish the identity of the victim by name in order to prove the crime of murder. See *Bemba TJ*, para. 88.

⁹⁴¹ See above paras. 223-224, 258, 262.

orders and instructions to and encouraged Militia/*Janjaweed* and GoS Forces under his command by shouting “*Allah Akhbar. Allah Akhbar. Wipe out and swipe away. Amsah aksah*”, “cut the straw and eat it raw”⁹⁴² and “[k]ill everybody. Wipe out and [...] cut the straw and eat it raw”, in the midst of the ongoing “[b]urning down and killing”.⁹⁴³ Militia/*Janjaweed* and/or GoS referred to the civilian women as *tora bora* wives, mothers and sisters⁹⁴⁴ and openly stated their intention to wipe out civilians,⁹⁴⁵ stating that “this year you will all die”,⁹⁴⁶ and that they did not want any black person to survive and were going to exterminate them.⁹⁴⁷ The attacking forces also used heavy weaponry, shot randomly at fleeing civilians,⁹⁴⁸ and killed a number of civilians, some of whom were restrained.⁹⁴⁹ It is the only reasonable inference, therefore, that **ABD-AL-RAHMAN** and the other perpetrators were aware of the factual circumstances that established the status of the victims as *hors de combat* or civilians and of the context in which the crimes were committed,⁹⁵⁰ and perpetrated the crimes with intent and knowledge.

274. The murders committed in Kodoom, Bindisi and surrounding areas were consistent with the pattern of attacks on earlier villages. In Nyerli, [REDACTED] “burning, killing, beating”⁹⁵¹ and Militia/*Janjaweed* throw people, including children, into burning houses.⁹⁵² [REDACTED] people burning inside their homes in Jogoma Shargiya⁹⁵³ and Merly.⁹⁵⁴ [REDACTED].⁹⁵⁵ People were also murdered in Tiro,⁹⁵⁶ Seder⁹⁵⁷ and Drangal.⁹⁵⁸

275. In Kodoom, [REDACTED] **ABD-AL-RAHMAN** give orders to SAMIH and

⁹⁴² See below paras. 360-368.

⁹⁴³ [REDACTED].

⁹⁴⁴ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196-0197, paras. 43, 47; P-1073: [T-103-CT](#), p. 14, lines 14-17. See also P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, para. 32.

⁹⁴⁵ P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47.

⁹⁴⁶ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 50, 54.

⁹⁴⁷ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, lines 8-17.

⁹⁴⁸ See above fn. 933.

⁹⁴⁹ See below paras. 275, 279.

⁹⁵⁰ [Bemba TJ](#), para. 92; [Katanga TJ](#), para. 784. See above Section D: Contextual elements of article 8 and article 7.

⁹⁵¹ [REDACTED].

⁹⁵² [REDACTED].

⁹⁵³ Or Eastern Jogoma, see [REDACTED].

⁹⁵⁴ [REDACTED]. P-0029 similarly reported victims in Merly ([T-29-CT](#), p. 62, lines 5-8, p. 73, lines 13-16, and [T-30-CT2](#), p. 12, line 25-p. 13, line 2).

⁹⁵⁵ [REDACTED].

⁹⁵⁶ P-0757: [DAR-OTP-0211-0003-R02](#) at 0013-0014, paras. 42-43, 46, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxVIII](#), p. 4; P-0028: [DAR-OTP-0094-0423-R01](#) at 0434, para. 41; P-0029: [T-29-CT](#), p. 48, lines 7-12; P-0756: [DAR-OTP-0211-0039-R02](#) at 0050, paras. 40-44, 46; P-0913: [DAR-OTP-0218-0021-R04](#) at 0025, para. 28; [REDACTED].

⁹⁵⁷ P-0029: [T-29-CT](#), p. 74, lines 2-3.

⁹⁵⁸ P-0029: [T-29-CT](#), p. 62, lines 9-13, p. 74, lines 4-5; P-0913: [DAR-OTP-00000012](#) at 1, paras. 3, 5, 7; P-0922: [DAR-OTP-0222-0312-R01](#) at 0318-0319, paras. 21, 25.

BONJOUSE to “continue working” and say “Anyone you see him, kill him”.⁹⁵⁹ [REDACTED] “they did the same thing they did in Nyerli: The shooting, the killing, the burning, and the raping”.⁹⁶⁰ [REDACTED].⁹⁶¹ [REDACTED] arrived in Kodoom after it was attacked and saw that “95 per cent of the people got burnt inside their homes. They were completely burned. It was an inhuman situation”.⁹⁶² [REDACTED] “heard some people moaning, some people shouting, I did not see this with my own eyes. But you could tell because of that that those individuals were inside the fire”.⁹⁶³ [REDACTED].⁹⁶⁴

276. [REDACTED] Militia/*Janjaweed* implement the “same pattern, the same type of plan” in Kodoom as they had in previous villages⁹⁶⁵ [REDACTED] attackers “chasing people, women”⁹⁶⁶ “like a dog chasing its prey, as if they were not humans”.⁹⁶⁷ [REDACTED].⁹⁶⁸ [REDACTED],⁹⁶⁹ [REDACTED].⁹⁷⁰

277. P-0029 was present during the attack in Kodoom and saw the body of [REDACTED], Issa Ahmad Bakhit, with gunshot wounds.⁹⁷¹ P-0932, [REDACTED], helped bury his body.⁹⁷² P-0986, [REDACTED] bodies of two of his friends, [REDACTED], both of whom had been killed and were on the ground, covered in blood.⁹⁷³ P-0029, P-0932 and P-0918 provided evidence of other victims of the Kodoom attack.⁹⁷⁴

278. In Bindisi, P-0007 saw Militia/*Janjaweed* and GoS Forces enter the town on or about 15 August and begin “killing people.”⁹⁷⁵ He was also present when Militia/*Janjaweed* and GoS

⁹⁵⁹ [REDACTED].

⁹⁶⁰ [REDACTED].

⁹⁶¹ [REDACTED].

⁹⁶² [REDACTED].

⁹⁶³ [REDACTED]. P-0927 similarly recounted saving a sleeping child from a burning building in Bindisi ([DAR-OTP-0221-0523-R01](#) at 0529, para. 27).

⁹⁶⁴ [REDACTED]. See Annex 11, no. [REDACTED].

⁹⁶⁵ [REDACTED].

⁹⁶⁶ [REDACTED].

⁹⁶⁷ [REDACTED].

⁹⁶⁸ [REDACTED].

⁹⁶⁹ [REDACTED] *Faqih* Umar Ya'qub, the *Imam* of the Kodoom Tineh Mosque, and *Faqih* Abd-Al-Rahman Abdallah (aka Wassaba). [REDACTED]. See Annex 11, no. 2, 13, including for corroboration provided by [REDACTED] on the death of *Faqih* Umar Ya'qub.

⁹⁷⁰ [REDACTED]. See Annex 11, no. [REDACTED], including for corroborative evidence listed therein.

⁹⁷¹ P-0029: [T-29-CT](#), p. 48, lines 12-18, p. 61, lines 22-23, p. 65, lines 16-17, p. 73, lines 8-12, p. 74, line 19-p. 75, line 19, [REDACTED], and [T-30-CT2](#), p. 12, lines 10-13, p. 13, lines 16-17. See Annex 11, no. 9.

⁹⁷² P-0932: [DAR-OTP-0222-0602-R02](#) at 0612, para. 51, 0624, paras. 131-132, and [DAR-OTP-0220-5720](#) at 5721, paras. 22-23, and [T-68-ET](#), p. 8, lines 4-9.

⁹⁷³ P-0986: [DAR-OTP-0222-0437-R01](#) at 0445-0446, paras. 39-41, and [DAR-OTP-0220-5673](#) at 5673, para. 3, and [T-65-CT](#), p. 9, lines 17-20, p. 46, lines 3-16. See also Annex 11, no. [REDACTED].

⁹⁷⁴ See Annex 11, no. [REDACTED].

⁹⁷⁵ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [DAR-OTP-00000314](#) at 1, para. 6, and [T-89-CT](#), p. 35, lines 4-6.

Forces resumed the attack on Bindisi the next day,⁹⁷⁶ and heard attackers use the term *nuba* and say that “they did not want any black person to survive.”⁹⁷⁷ P-0007 stated that Militia/*Janjaweed* and GoS Forces did not differentiate between targets, as they killed “[y]oung boys, men, women and children.”⁹⁷⁸ P-0007 saw Militia/*Janjaweed* rape and kill Kony Harun,⁹⁷⁹ Darasalam Husayn⁹⁸⁰ and Halima Isa.⁹⁸¹ After escaping to Mukjar following the attack, P-0007 returned to Bindisi several days later and saw 17 bodies of men, women, and children, some had gunshot wounds, while others were burnt beyond recognition.⁹⁸² [REDACTED].⁹⁸³

279. P-0011 stated that Militia/*Janjaweed* and/or GoS Forces shot her uncle [REDACTED].⁹⁸⁴ Militia/*Janjaweed* eventually caught up with P-0011 and a group of fleeing civilians, including about 20 men (three of whom he knew). The men were separated, had their hands tied behind their backs, and were put in a kneeling position. They were tortured and hit, told to lie face down and then shot dead.⁹⁸⁵ P-0011 recounted that when Abd-al-Nasir Ibrahim did not die after being shot, he was beaten to death.⁹⁸⁶

280. A number of witnesses refer to the killing of Khamis Adam Idris, an elderly tailor who had an amputated leg and was unable to escape the attack.⁹⁸⁷ Multiple witnesses provided

⁹⁷⁶ P-0007: [DAR-OTP-0088-0060-R02](#) at 0066, para. 23.

⁹⁷⁷ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21, and [T-89-CT](#), p. 15, lines 8-17.

⁹⁷⁸ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065-0066, para. 22.

⁹⁷⁹ P-0007: [DAR-OTP-0088-0060-R02](#) at 0071, para. 43, and [DAR-OTP-00000314](#) at 2, para. 12, and [DAR-OTP-00000312](#), and [DAR-OTP-00000311](#) at 1, and [T-89-CT](#), p. 8, lines 10-24, p. 38, lines 4-22, p. 51, line 22-p. 52, line 3. See Annex 11, no. 64.

⁹⁸⁰ P-0007: [DAR-OTP-0088-0060-R02](#) at 0071, para. 43, and [DAR-OTP-00000314](#) at 2, para. 12, and [DAR-OTP-00000312](#), and [DAR-OTP-00000311](#) at 1, and [T-89-CT](#), p. 8, line 25-p. 11, line 6. See Annex 11, no. 41.

⁹⁸¹ P-0007: [DAR-OTP-0088-0060-R02](#) at 0071, para. 43, and [DAR-OTP-00000314](#) at 2, para. 12, and [DAR-OTP-00000312](#), and [DAR-OTP-00000311](#) at 1, and [T-89-CT](#), p. 7, line 14-p. 8, line 8. See Annex 11, no. 46.

⁹⁸² P-0007: [DAR-OTP-0088-0060-R02](#) at 0070-0071, paras. 41-42, and [T-89-CT](#), p. 16, lines 16-25.

⁹⁸³ P-0007: [DAR-OTP-0088-0060-R02](#) at 0069, para. 36, and [DAR-OTP-00000314](#) at 2, paras. 12-13, and [DAR-OTP-0088-0077](#) (Translation [DAR-OTP-0119-0475](#)), and [DAR-OTP-00000311](#) at 2-5. See Annex 11, no. [REDACTED], including for corroborative evidence.

⁹⁸⁴ P-0011: [T-91-CT2](#), [REDACTED], p. 21, line 9-p. 22, line 5, p. 23, lines 1-8, and [DAR-OTP-00000356](#) at 2, no. 4. See Annex 11, no. [REDACTED].

⁹⁸⁵ P-0011: [T-91-CT2](#), p. 23, lines 11-19, p. 26, line 24-p. 30, line 14, and [DAR-OTP-00000356](#) at 2, no. 1-3, and [DAR-OTP-00000363-R01](#). See Annex 11, no. 23, 30, 71, including for corroborative evidence.

⁹⁸⁶ P-0011: [T-91-CT2](#), p. 29, lines 19-23.

⁹⁸⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 85; P-0913: [DAR-OTP-0218-0021-R04](#) at 0029, paras. 50, 52, 55-56, and [DAR-OTP-00000012](#) at 2, para. 15, and [DAR-OTP-00000013](#) at 1, no. 4; P-1074: [DAR-OTP-00000503](#) at 1, para. 10, and [DAR-OTP-0224-0441-R02](#) at 0449, para. 42; [REDACTED]. Although P-0816 refers to this victim with a different name (Mohammed Khamiss), the Prosecution assesses that it is the same person based on the description, see [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38. See Annex 11, no. 63.

evidence that midwife Khaltouma Yahia Ahmad was shot dead in South Bindisi.⁹⁸⁸

281. P-0012, who previously knew **ABD-AL-RAHMAN**,⁹⁸⁹ saw him in South Bindisi giving orders to Militia/*Janjaweed* as they killed, looted and burned.⁹⁹⁰ P-0012, who was present during both days of the attack on Bindisi, saw Militia/*Janjaweed* and/or GoS Forces killing people,⁹⁹¹ and stated that children and elderly persons were especially vulnerable as it was harder for them to run away. After the attack, he saw ashes and corpses scattered in Bindisi,⁹⁹² and assisted with the burial of 22 persons, all of whom looked like civilians, including women and young girls. P-0012 noted that most of the bodies had “bullet wounds”, whilst two bore “sword wounds”. In total, P-0012 estimated seeing about 150 bodies after the attack.⁹⁹³

282. P-0816 assisted with the burial of some Bindisi victims, [REDACTED].⁹⁹⁴ P-0913 found [REDACTED] the bodies of slain civilians in Bindisi, including that of two elderly men, *Iman* Baher Harun Atim and Adam Abdallah Imam, the blind brother of the *Sheikh* of Bindisi.⁹⁹⁵ [REDACTED] all the bodies had what appeared to be gunshot wounds.⁹⁹⁶ [REDACTED].⁹⁹⁷

283. P-0015 testified that Militia/*Janjaweed* and/or GoS Forces killed her father, [REDACTED].⁹⁹⁸ [REDACTED], was also killed during the attack, together with “those who could not run such as the elderly and the children.”⁹⁹⁹ P-0015 provided a list of a further seven

⁹⁸⁸ P-0913: [DAR-OTP-0218-0021-R04](#) at 0029, paras. 53-56, and [DAR-OTP-00000012](#) at 2, para. 13, and [DAR-OTP-00000013](#) at 2, no. 6, and [T-69-CT](#), p. 22, line 10-p. 23, line 11; P-1074: [DAR-OTP-0224-0441-R02](#) at 0447, para. 29; P-0015: [DAR-OTP-0088-0187-R04](#) at 0207, para. 105, and [DAR-OTP-00000427](#) at 5, para. 41; P-0085: [DAR-OTP-0110-0054-R02](#) at 0062, para. 31; P-0874: [DAR-OTP-0221-0700-R03](#) (Translation [DAR-OTP-00000167-R01](#) at 3); Bar table victims list, [DAR-OTP-00000697](#) at 1, no. 11. See Annex 11, no. 61.

⁹⁸⁹ P-0012 met **ABD-AL-RAHMAN**, who he also knew by the name Ali Muhammad Ali, around the beginning of 2000 in his pharmacy in Garsila, which P-0012 visited more than 50 times in 2001-2002. **ABD-AL-RAHMAN** was well-known in the area ([DAR-OTP-0119-0503-R01](#) at 0512, para. 38, and [DAR-OTP-0220-4710](#) at 4710, paras. 5-6, and [T-45-CT](#), p. 8, line 9-p. 10, line 20, p. 84, line 13-p. 87, line 2, and [T-46-CT](#), p. 6, line 24-p. 7, line 25, p. 83, line 21-p. 84, line 12). See Annex 26, p. 1-2.

⁹⁹⁰ P-0012: [T-45-CT](#), p. 17, line 12-p. 18, line 7.

⁹⁹¹ P-0012: [T-45-CT](#), p. 16, lines 22-25.

⁹⁹² P-0012: [T-45-CT](#), p. 18, line 22-p. 19, line 6.

⁹⁹³ P-0012: [DAR-OTP-0119-0503-R01](#) at 0521-0522, paras. 81, 85, and [DAR-OTP-0220-4710](#) at 4711, para. 21.

⁹⁹⁴ P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. See Annex 11, no. [REDACTED].

⁹⁹⁵ P-0913: [DAR-OTP-0218-0021-R04](#) at 0029, paras. 50, 52, 55-56, and [DAR-OTP-00000012](#) at 2, paras. 6, 15, and [DAR-OTP-00000013](#) at 1, and [T-69-CT](#), p. 13, lines 17-18, p. 22, lines 10-p. 23, line 11. See Annex 11, no. 29, 39, [REDACTED].

⁹⁹⁶ P-0913: [DAR-OTP-0218-0021-R04](#) at 0029, paras. 55-56.

⁹⁹⁷ P-1074: [DAR-OTP-00000506](#), and [T-103-CT](#), p. 40, line 22-p. 41, line 20. See Annex 11, no. [REDACTED].

⁹⁹⁸ P-0015: [DAR-OTP-0088-0187-R04](#) at 0189, para. 7, 0193, paras. 26-27, and [T-93-ET](#), p. 13, lines 12-15, p. 35, lines 10-11. See Annex 11, no. [REDACTED].

⁹⁹⁹ P-0015: [DAR-OTP-0088-0187-R04](#) at 0194, para. 32. See Annex 11, no. [REDACTED].

[REDACTED] killed during the attack on Bindisi.¹⁰⁰⁰ P-0085 saw Militia/*Janjaweed* and/or GoS Forces shoot dead four of his neighbours during the Bindisi attack.¹⁰⁰¹

284. [REDACTED].¹⁰⁰² The murder of civilians in Bindisi is further corroborated by P-0029 who, on or about 16 August, found the bodies of Kaltuma and Ibrahim Gibna on the outskirts of the Bindisi market.¹⁰⁰³ [REDACTED] died as a consequence of inhaling toxic gases from weapons used by attackers in Bindisi.¹⁰⁰⁴

Count 4: Pillaging (WC)

285. Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** pillaged Kodoom and Bindisi on or about 15 and 16 August 2003. Militia/*Janjaweed* and/or GoS Forces appropriated food items, livestock and other personal property belonging to the primarily Fur civilian population, without their consent. They intended to appropriate the property for their private or personal use and deprive the owners of their property.

286. Pillaging formed part of the conduct of the attack. During his speech prior to the launch of the operation, HARUN had previously told attackers that the Fur's belongings "had become booty (*ghanema*)".¹⁰⁰⁵ [REDACTED] while part of the attackers chased "citizens as furthest as possible", others would remain in the villages and "plunder anything of value, anything they deemed useful from homes".¹⁰⁰⁶ [REDACTED] Militia/*Janjaweed* would compete to reach rich persons' houses and shops in order to plunder them.¹⁰⁰⁷ [REDACTED] when Militia/*Janjaweed* would "[...] enter a locality, the first thing that they would do is to see what's inside the house. If there is a good mattress, they would take it. [...]. If there are horses or camels, they would take them, while they are moving forward".¹⁰⁰⁸ Villages attacked prior to Kodoom and Bindisi were pillaged in the same way.¹⁰⁰⁹

287. In Kodoom, [REDACTED] the same pattern of pillaging.¹⁰¹⁰ [REDACTED]

¹⁰⁰⁰ P-0015: [DAR-OTP-0088-0187-R04](#) at 0207, para. 105, and [DAR-OTP-00000427](#) at 5, para. 41. See Annex 11, no. [REDACTED].

¹⁰⁰¹ P-0085: [DAR-OTP-0110-0054-R02](#) at 0062, para. 31.

¹⁰⁰² [REDACTED]. See Annex 11, no. [REDACTED].

¹⁰⁰³ P-0029: [T-29-CT](#), p. 74, lines 5-10, and [T-30-CT2](#), p. 13, lines 21-23, p. 18, line 20-p. 19, line 1, p. 22, lines 13-18. See also Annex 11, no. 54, 60.

¹⁰⁰⁴ [REDACTED]. See also Annex 11, no. [REDACTED].

¹⁰⁰⁵ See above fn. 888. See also para. 294.

¹⁰⁰⁶ [REDACTED]. See also [REDACTED]; P-0012: [T-45-CT](#), p. 32, line 8-p. 33, line 2.

¹⁰⁰⁷ [REDACTED].

¹⁰⁰⁸ [REDACTED]. See also D-36: [T-153-ET](#), p. 25, line 21-p. 26, line 6.

¹⁰⁰⁹ [REDACTED].

¹⁰¹⁰ [REDACTED].

belongings and animals were looted, especially from well-constructed houses.¹⁰¹¹ [REDACTED] Militia/*Janjaweed* “were taking away beds and looting other things”, [REDACTED].¹⁰¹² [REDACTED].¹⁰¹³

288. P-0918 saw Militia/*Janjaweed* and/or GoS Forces pillaging Fur homes in his neighbourhood in Kodoom, including the houses of his mother and brother, and taking away “crops, clothes and anything of value in addition to livestock.”¹⁰¹⁴ P-0932 similarly testified that attackers took “all of the money from the village” and “all of the livestock, cows, sheep, camels, donkeys and house contents”.¹⁰¹⁵ P-0029 recalled that Militia/*Janjaweed* “took the cattle and the money as war booty”¹⁰¹⁶ and that his houses and animals were pillaged.¹⁰¹⁷ P-0757 went to Kodoom on 16 August 2003 and observed that food and crops had been burned or stolen.¹⁰¹⁸

289. P-0986 saw Militia/*Janjaweed* and/or GoS Forces in Kodoom competing to see who would be the first to loot the houses.¹⁰¹⁹ He saw attackers searching his neighbours’ houses and running after their livestock. His family’s animals were also taken.¹⁰²⁰ P-0986 further recalled that **ABD-AL-RAHMAN**, who he knew prior to the attack on Kodoom,¹⁰²¹ was present during the looting and that a member of the Militia/*Janjaweed* or GoS Forces told him, “Jenabu Ali Kushayb, I want to shoot this person [P-0986] because the cows, goats and sheep are running away and we want to catch them.”¹⁰²² Before **ABD-AL-RAHMAN** left the area, he ordered Militia/*Janjaweed* and/or GoS Forces, “Don’t kill him. Let’s catch the livestock running away [...]” and told gathered attackers that “[...] all the Fur would die and their livestock would become their (Arabs’) rewards”.¹⁰²³

290. Upon arriving in North Bindisi, [REDACTED] Militia/*Janjaweed* breaking into stores

¹⁰¹¹ [REDACTED].

¹⁰¹² [REDACTED].

¹⁰¹³ [REDACTED].

¹⁰¹⁴ P-0918: [DAR-OTP-0218-0120-R04](#) at 0127-0128, para. 27, and [DAR-OTP-00000104](#) at 2, para. 13, and [T-77-CT2](#), p. 36, line 17-p. 37, line 7.

¹⁰¹⁵ P-0932: [DAR-OTP-0222-0602-R02](#) at 0610, para. 41.

¹⁰¹⁶ P-0029: [T-29-CT](#), p. 65, lines 17-20.

¹⁰¹⁷ P-0029: [T-30-CT2](#), p. 15, lines 4-14, p. 55, line 24-p. 56, line 6. *See also* P-0867: [DAR-OTP-0217-0173-R02](#) at 0179, para. 34.

¹⁰¹⁸ P-0757: [DAR-OTP-0211-0003-R02](#) at 0012, para. 41.

¹⁰¹⁹ P-0986: [DAR-OTP-0222-0437-R01](#) at 0045, para. 39.

¹⁰²⁰ P-0986: [DAR-OTP-0222-0437-R01](#) at 0446, paras. 44-46.

¹⁰²¹ P-0986 met **ABD-AL-RAHMAN** in 2001, when, together with his father, P-0986 visited his pharmacy in Garsila, *see* [DAR-OTP-0222-0437-R01](#) at 0442, paras. 24-27, and [T-65-CT](#), p. 5, line 17-p. 8, line 18, and [T-66-CT2](#), p. 18, line 7-p. 19, line 22, p. 20, line 18-p. 21, line 25. *See Annex 26*, p. 17-18.

¹⁰²² P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 53, and [T-65-CT](#), p. 53, lines 11-21.

¹⁰²³ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 55.

in the Bindisi market and looting supplies, including in the *Zakat* warehouses.¹⁰²⁴ [REDACTED] Militia/*Janjaweed* carrying away beds and mattresses¹⁰²⁵ [REDACTED] although **ABD-AL-RAHMAN** could see this happening, he did not reprimand anyone.¹⁰²⁶ [REDACTED] Militia/*Janjaweed* break into shops in the Bindisi market and loot merchandise such as sugar and flour, before heading to South Bindisi and “taking away refrigerators, beds and other belongings with them and coming to Daguina”.¹⁰²⁷ [REDACTED] stores and houses belonging to non-Arab inhabitants near the market were totally looted, as were animals.¹⁰²⁸ [REDACTED] the market entirely looted.¹⁰²⁹

291. P-0012 saw **ABD-AL-RAHMAN**, HASSABALLAH [REDACTED] arrive in Bindisi and the Militia/*Janjaweed* with them immediately start to loot and destroy the market.¹⁰³⁰ In an indication of the coordinated and targeted nature of the attack against the Fur, P-0012 stated that “collaborators” placed “green cloth” and markings on the shops owned by the Mararit and the Tama tribes in advance of the attack to prevent them from being looted.¹⁰³¹ Upon returning to the market after the attack, P-0012 saw that it had been completely pillaged, including his own shop.¹⁰³² P-0012’s house was also burnt down and everything inside looted.¹⁰³³

292. The next day, on around 16 August 2003, the attack continued in South Bindisi. There, P-0012 observed the attackers splitting into groups, with one responsible for collecting animals and breaking into houses.¹⁰³⁴ P-0927 heard Militia/*Janjaweed* members tell each other to “[b]urn down the houses but make sure to take anything of value with you first!”¹⁰³⁵ P-0913 heard that the Bindisi market was again looted in the morning of 16 August 2003¹⁰³⁶ and recalled that arms and ammunition were taken from a police station on the same day.¹⁰³⁷ Upon

¹⁰²⁴ P-0878: [REDACTED], and [T-79-CT](#), p. 9, lines 10-21, p. 10, lines 4-8; [REDACTED]. See also P-0129: [DAR-OTP-0128-0128-R04](#) at 0136, para. 32, and [DAR-OTP-00000084](#) at 1, paras. 11-12, and [REDACTED]; [DAR-OTP-0003-0099](#) at 0124.

¹⁰²⁵ [REDACTED].

¹⁰²⁶ [REDACTED].

¹⁰²⁷ [REDACTED].

¹⁰²⁸ [REDACTED].

¹⁰²⁹ [REDACTED].

¹⁰³⁰ P-0012: [DAR-OTP-0119-0503-R01](#) at 0520-0521, paras. 78-79.

¹⁰³¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

¹⁰³² P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79, and [DAR-OTP-0220-4710](#) at 4711, para. 19, and [T-46-CT](#), p. 54, lines 1-8.

¹⁰³³ P-0012: [T-46-CT](#), p. 48, lines 8-12.

¹⁰³⁴ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 83. See also P-0015: [DAR-OTP-00000427](#) at 1, para. 6.

¹⁰³⁵ P-0027: [DAR-OTP-0221-0523-R01](#) at 0529, para. 27.

¹⁰³⁶ P-0913: [DAR-OTP-0218-0021-R04](#) at 0026-0027, para. 39; P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 82.

¹⁰³⁷ P-0913: [DAR-OTP-0218-0021-R04](#) at 0027, para. 41, and [DAR-OTP-00000012](#) at 1, para. 11, and [T-69-CT](#), p. 43, lines 1-8.

returning to South Bindisi after the attack, P-0913 found a looted storage of produce owned by a Fur.¹⁰³⁸ The witness's cattle and belongings were also looted.¹⁰³⁹

293. Other witnesses also gave evidence about the pillaging that occurred during the Bindisi attack.¹⁰⁴⁰ P-0816 stated that in Bindisi “most houses were looted”, including his [REDACTED] houses, from where all “belongings were gone.”¹⁰⁴¹ P-0878's cattle, [REDACTED] and his home were pillaged.¹⁰⁴² P-1073 recounted that her family's livestock and a donkey cart were looted during the attack.¹⁰⁴³ P-1074 also testified that livestock was looted.¹⁰⁴⁴

294. As described above, the items were pillaged from civilians and their homes, persons *hors de combat*, and their very nature clearly indicates these objects (such as beds, mattresses, and livestock) served no military purpose. These items were appropriated by the attackers. As such, the notion of *ghanema* does not apply in the present case. As clarified by Defence expert D-16, *ghanema* “consists of everything that can be collected [by the SAF] in *the camps and sites* of the enemies. That could include money, instruments, weapons, vehicles and so on, whether military or civilian equipment”. In this context, *ghanema* may be legal if taken for use of the SAF after an attack on the camp or site of an enemy. If it is taken for personal use, it is illegal.¹⁰⁴⁵ Given this concept “does not apply unless the armed forces attack an enemy camp”, it has no relevance to the attack on Kodoom and Bindisi.¹⁰⁴⁶

295. The term *hiraba* refers to armed robbery and is an offence under the Sudanese Penal Code.¹⁰⁴⁷ D-16 defined it as “crime that is committed outside of cities and inhabited areas by the use of weapons for the purpose of stealing, raping, threatening or any other related crimes”.

¹⁰³⁸ P-0913: [DAR-OTP-0218-0021-R04](#) at 0028-0029, para. 51, and [DAR-OTP-00000012](#) at 2, para. 14.

¹⁰³⁹ P-0913: [T-69-CT](#), p. 21, line 19-p. 22, line 7.

¹⁰⁴⁰ P-0007: [DAR-OTP-0088-0060-R02](#) at 0066, para. 23; P-0015: [DAR-OTP-0088-0187-R04](#) at 0193, para. 29, and [DAR-OTP-00000427](#) at 1, para. 6, and [T-93-ET](#), p. 40, lines 5-18. *See also* [REDACTED].

¹⁰⁴¹ P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 37.

¹⁰⁴² P-0878: [T-79-CT](#), p. 14, lines 9-21.

¹⁰⁴³ P-1073: [T-103-CT](#), p. 12, lines 20-25, p. 19, lines 16-25.

¹⁰⁴⁴ P-1074: [T-103-CT](#), p. 44, lines 15-19, and [DAR-OTP-0224-0441-R02](#) at 0447, para. 28.

¹⁰⁴⁵ [REDACTED]. *See also* [REDACTED]. The 1986 People's Armed Forces Act criminalised “negligence in safeguarding captured equipment”, explicitly determining that those subject to that Act that are “negligent in protecting or safeguarding public property *captured from the enemy*, or who delay reporting [such capture] or who *do not hand it over to the appropriate authorities without delay*” would be convicted ([DAR-OTP-00005984](#), Translation [DAR-OTP-00006136](#) at 21, art. 53, *emphasis added*). “Enemy” is defined as including “external enemies, outlaw rebels and armed gangs in a state of readiness for combat operations”, thus explicitly excluding civilians from the definition (*see* at 6, art. 3).

¹⁰⁴⁶ *See above* para. 267.

¹⁰⁴⁷ D-16: [REDACTED]. *See also* 1991 Criminal Act: [DAR-D31-0003-0177](#) (Translation [DAR-OTP-0021-0296](#)), sections 167-168.

He further stated that “taking away goods from an attacked locality” could constitute a crime of stealing or *hiraba*.¹⁰⁴⁸ [REDACTED] *hiraba* was a term used by semi-regular forces to refer to “military attack”,¹⁰⁴⁹ also confirmed that while it was widely employed by semi-regular forces, it was illegal and “regular forces” could be punished for committing it.¹⁰⁵⁰ Therefore, although the attackers were at times incentivised to take the Fur property as booty of war,¹⁰⁵¹ there was no legal justification for this conduct.¹⁰⁵²

296. Based on the facts set out above, it is the only reasonable inference that the perpetrators intended to deprive the owners of the property and to appropriate it for their private and personal use.

Count 5: Destruction of the property of an adversary (WC)

297. On or about 15 and 16 August 2003, Militia/*Janjaweed* and/or GoS Forces under the orders and instructions of **ABD-AL-RAHMAN** carried out the systematic destruction of properties belonging to predominantly Fur civilians in Kodoom and Bindisi, who were perceived as the adversary. These properties were protected under the law of armed conflict and their destruction was not justified by military necessity.

298. Multiple witnesses testified that the destruction of property formed part of the conduct of the attack. [REDACTED] villages attacked prior to Kodoom and Bindisi were burned,¹⁰⁵³ following a scorched earth strategy. Other [REDACTED] witnesses could also see smoke rising and/or saw these villages on fire.¹⁰⁵⁴ [REDACTED] **ABD-AL-RAHMAN** was not only aware of the destruction inflicted on civilian structures by persons under his command, but also encouraged it by shouting “wipe out and sweep away”, which included destroying and burning

¹⁰⁴⁸ D-16: [REDACTED].

¹⁰⁴⁹ [REDACTED].

¹⁰⁵⁰ [REDACTED].

¹⁰⁵¹ See above fn. 888; [REDACTED].

¹⁰⁵² The Prosecution does not refer to D-23’s evidence on these concepts, since he evidently did not possess any specialised knowledge on either Islamic or Sudanese law and did not provide proper sources to support his assertions. See D-23: [T-142-CT](#), p. 70, line 1-p. 75, line 23, and [T-143-ET](#), p. 16, line 24-p. 17, line 13, p. 18, line 6-p. 19, line 4. See also D-23: [T-134-ET](#), [REDACTED], p. 93, line 17-p. 95, line 7, and [T-135-ET](#), p. 28, line 24-p. 33, line 4, p. 59, line 13-p. 60, line 4.

¹⁰⁵³ [REDACTED].

¹⁰⁵⁴ See e.g. P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77, and [T-46-CT](#), p. 44, lines 23-25; P-0028: [DAR-OTP-0094-0423-R01](#) at 0434, para. 41; P-0029: [T-29-CT](#), p. 44, lines 2-4, p. 61, lines 1-13; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, paras. 25-27 (with the exclusion of the passages identified in the [Decision on the Prosecution’s second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); P-0756: [DAR-OTP-0211-0039-R02](#) at 0046, paras. 28-29; P-0757: [DAR-OTP-0211-0003-R02](#) at 0009-0010, paras. 25, 32, 0012, para. 40; P-0877: [T-53-CT2](#), p. 76, line 20-p. 77, line 14; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317, para. 18; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0984: [T-66-CT2](#), p. 52, lines 6-14.

villages.¹⁰⁵⁵ [REDACTED] the expression “cut the straw and eat it raw” used by **ABD-AL-RAHMAN** signified “don’t leave anything behind, not a tree, not anything”.¹⁰⁵⁶ [REDACTED] **ABD-AL-RAHMAN** asked Militia/*Janjaweed* [REDACTED] in Nyerli, which was on fire, whether they did “finish with the village”.¹⁰⁵⁷ [REDACTED].¹⁰⁵⁸

299. Upon reaching Kodoom, [REDACTED] it was also “being burnt down”.¹⁰⁵⁹ P-0878 observed Militia/*Janjaweed* burning houses and crops.¹⁰⁶⁰ [REDACTED] it was burnt and completely destroyed, and people were being burned alive inside their homes.¹⁰⁶¹ [REDACTED]¹⁰⁶² [REDACTED] **ABD-AL-RAHMAN** use the same motto “Cut the straw and eat it raw, meaning leave nothing behind”,¹⁰⁶³ and order attackers to burn the village.¹⁰⁶⁴

300. P-0029 fled the attack in Kodoom, which was “burnt down completely”.¹⁰⁶⁵ Upon returning to Kodoom immediately after Militia/*Janjaweed* and GoS Forces left, P-0029 saw that more than 100 houses had been burned down, including his [REDACTED] homes [REDACTED].¹⁰⁶⁶ P-0757 went to Kodoom on 16 August 2003 and observed that “most of the village had been burned down” and that food and crops had also been burned or stolen.¹⁰⁶⁷

301. From his hiding place [REDACTED], P-0918 saw Militia/*Janjaweed* and/or GoS Forces set fire to his family home located in Kodoom [REDACTED].¹⁰⁶⁸ After these forces left, the witness made his way back into the village and saw many houses destroyed, mostly in Kodoom Jureh.¹⁰⁶⁹ P-0932 stated that Militia/*Janjaweed* damaged and burned houses in Kodoom, including the witness’ own house, and also “burned what was made of straw,” and damaged and burned food supplies.¹⁰⁷⁰ P-0986, [REDACTED], found a hiding place from where he saw the attackers burn the huts of his Fur neighbours and also the [REDACTED] huts

¹⁰⁵⁵ [REDACTED].

¹⁰⁵⁶ [REDACTED].

¹⁰⁵⁷ [REDACTED].

¹⁰⁵⁸ [REDACTED].

¹⁰⁵⁹ [REDACTED].

¹⁰⁶⁰ P-0878: [T-78-CT3](#), [REDACTED], p. 79, lines 14-19, and [T-79-CT](#), p. 7, line 20-p. 8, line 18.

¹⁰⁶¹ [REDACTED].

¹⁰⁶² [REDACTED].

¹⁰⁶³ [REDACTED].

¹⁰⁶⁴ [REDACTED].

¹⁰⁶⁵ P-0029: [T-29-CT](#), p. 42, lines 16-24, p. 44, lines 9-10, p. 48, lines 12-14, p. 61, lines 14-18, p. 71, line 23-p. 72, line 3.

¹⁰⁶⁶ P-0029: [T-29-CT](#), p. 73, lines 8-14, and [T-30-CT2](#), p. 12, lines 6-14, p. 15, lines 4-24, p. 55, line 24-p. 56, line 6.

¹⁰⁶⁷ P-0757: [DAR-OTP-0211-0003-R02](#) at 0112, para. 41.

¹⁰⁶⁸ P-0918: [DAR-OTP-0218-0120-R04](#) at 0127-0128, para. 27, and [DAR-OTP-00000104](#) at 2, para. 13, and [T-77-CT2](#), p. 36, line 17-p. 37, line 7.

¹⁰⁶⁹ P-0918: [DAR-OTP-0218-0120-R04](#) at 0128-0129, para. 31. *See also* [DAR-OTP-0003-0099](#) at 0124.

¹⁰⁷⁰ P-0932: [DAR-OTP-0222-0602-R02](#) at 0610-0612, paras. 38, 47, 53.

belonging to his family.¹⁰⁷¹

302. Upon arriving in North Bindisi on around 15 August 2003, attackers broke into and destroyed stores at the Bindisi market¹⁰⁷² and also burned the market, including straw *rakubas*,¹⁰⁷³ as well as houses.¹⁰⁷⁴ Witnesses reported that during that day Militia/*Janjaweed* forces had already attacked and destroyed part of the town, setting fire to houses.¹⁰⁷⁵ P-0012's house [REDACTED] was burnt down.¹⁰⁷⁶ P-1073 testified that Militia/*Janjaweed* burnt down Daguina, [REDACTED].¹⁰⁷⁷

303. The following day, most of the town, especially South Bindisi, was attacked and destroyed. P-0927 [REDACTED] came across Militia/*Janjaweed* and/or GoS Forces torching a house while encouraging each other to "[b]urn down the houses but make sure to take anything of value with you first."¹⁰⁷⁸ P-0007 saw Militia/*Janjaweed* and/or GoS Forces burning houses.¹⁰⁷⁹ P-0012 saw Militia/*Janjaweed*, following orders from **ABD-AL-RAHMAN**, destroy the police station in South Bindisi and burn down all the documents and the house of the chief of Police.¹⁰⁸⁰ Militia/*Janjaweed* and/or GoS Forces then separated into three attacking groups and he saw one group "breaking into houses and torching them."¹⁰⁸¹ The witness also recounted how there was a lot of fire and smoke during the attack caused by burning homes.¹⁰⁸² P-0085 saw houses being burned, including his wife's hut, and also observed a truck on fire during the attack.¹⁰⁸³ P-1074 saw Militia/*Janjaweed* set alight a mill and mosques,¹⁰⁸⁴ and stated that "[e]verything was razed to the ground".¹⁰⁸⁵

¹⁰⁷¹ P-0986: [DAR-OTP-0222-0437-R01](#) at 0444-0446, paras. 35-38, 44-46.

¹⁰⁷² [REDACTED]; P-0878: [REDACTED], and [T-79-CT](#), p. 9, lines 10-15; [REDACTED]. See also P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79; P-0129: [DAR-OTP-0128-0128-R04](#) at 0136, para. 32, and [DAR-OTP-00000084](#) at 1, paras. 11-12, and [REDACTED].

¹⁰⁷³ [REDACTED].

¹⁰⁷⁴ [REDACTED].

¹⁰⁷⁵ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065, para. 21; P-0015: [DAR-OTP-0088-0187-R04](#) at 0193-0194, paras. 29, 32; P-0085: [DAR-OTP-0110-0054-R02](#) at 0061, para. 27.

¹⁰⁷⁶ P-0012: [REDACTED], and [T-46-CT](#), p. 48, lines 8-12, and [DAR-REG-0001-0009](#).

¹⁰⁷⁷ P-1073: [T-103-CT](#), p. 9, line 24-p. 10, line 1, p. 12, line 15-p. 13, line 18.

¹⁰⁷⁸ P-0927: [DAR-OTP-0221-0523-R01](#) at 0529, para. 27.

¹⁰⁷⁹ P-0007: [DAR-OTP-0088-0060-R02](#) at 0066, para. 23. See also P-0922: [DAR-OTP-0222-0312-R01](#) at 0319, para. 26; P-0029: [T-30-CT2](#), p. 13, lines 8-13.

¹⁰⁸⁰ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, paras. 83-84, and [T-45-CT](#), p. 17, line 12-p. 18, line 7.

¹⁰⁸¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 83.

¹⁰⁸² P-0012: [T-45-CT](#), p. 18, line 15-p. 19, line 2.

¹⁰⁸³ P-0085: [DAR-OTP-0110-0054-R02](#) at 0062, paras. 28-29, 32 (with the exclusion of the passages identified in the [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6).

¹⁰⁸⁴ P-1074: [DAR-OTP-0224-0441-R02](#) at 0447, para. 32, 0449, para. 42, and [DAR-OTP-00000503](#) at 1, paras. 9-10. See also P-0029: [T-30-CT2](#), p. 56, lines 3-4.

¹⁰⁸⁵ P-1074: [T-103-CT](#), p. 44, lines 15-19.

304. [REDACTED].¹⁰⁸⁶ P-0007 returned to Bindisi after about 15 days and also found the town, including the market, warehouses and the witness' own houses, burned down. P-0007 discovered mosques, including the "big mosque" and its collection of Islamic books, destroyed.¹⁰⁸⁷ P-0913 saw all houses and the "big mosque" burnt after returning to Bindisi.¹⁰⁸⁸ P-0816 found many houses burned upon passing through Bindisi after about four days in hiding.¹⁰⁸⁹ Upon returning to Bindisi after about two months, P-0816 found all the houses burned down and was told his three houses were also burnt.¹⁰⁹⁰ P-0927, who returned to Bindisi in around October 2003, found all the houses destroyed and burned down.¹⁰⁹¹

305. Based on the facts set out above, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the protected status of the destroyed property.

Count 6: Other inhumane acts (CAH); Count 7: Outrages upon personal dignity (WC)

306. During the attack on Bindisi and surrounding areas on or about 15 and 16 August 2003, **ABD-AL-RAHMAN**, Militia/*Janjaweed* and/or GoS Forces subjected civilians not taking part in hostilities or were *hors de combat* to great suffering, serious injury to mental or physical health, and humiliating and degrading treatment that violated their dignity.

307. This conduct was consistent with the pattern of attack observed in the Darfur conflict, with Joint Expert P-1042 explaining that "[w]omen and girls were raped, often in brutal and humiliating ways, including gang rape and rape in front of family members".¹⁰⁹² As with the other conduct charged, the humiliation, degradation and violation of dignity, as well as the infliction of suffering or serious bodily or mental injury on civilians, was part of the perpetrators' conduct in the villages attacked before they reached Bindisi.

308. In Kodoom, P-0986 was first stabbed in the foot,¹⁰⁹³ and then beaten, kicked and whipped by Militia/*Janjaweed*.¹⁰⁹⁴ **ABD-AL-RAHMAN** himself put a foot on the witness'

¹⁰⁸⁶ [REDACTED]. See also P-0927: [DAR-OTP-0221-0523-R01](#) at 0531, para. 34.

¹⁰⁸⁷ P-0007: [DAR-OTP-0088-0060-R02](#) at 0070, para. 41, and [T-89-CT](#), p. 16, lines 16-25.

¹⁰⁸⁸ P-0913: [T-69-CT](#), p. 13, lines 11-20, p. 14, lines 6-8.

¹⁰⁸⁹ P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 37.

¹⁰⁹⁰ P-0816: [DAR-OTP-0214-0721-R02](#) at 0732, para. 49.

¹⁰⁹¹ P-0927: [DAR-OTP-0221-0523-R01](#) at 0532, para. 43. See also P-0015: [DAR-OTP-0088-0187-R04](#) at 0205, para. 92.

¹⁰⁹² P-1042: [DAR-OTP-0220-1623](#) at 1680, para. 151.

¹⁰⁹³ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447, paras. 47-48, and [T-65-CT](#), p. 46, line 18-p. 47, line 17, and [DAR-OTP-0222-0469](#), and [DAR-OTP-0222-0470](#).

¹⁰⁹⁴ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 49-50.

neck and referred to him as “*abid*”, meaning slave.¹⁰⁹⁵ Upon turning his head and seeing it was **ABD-AL-RAHMAN** with his foot on P-0986’s neck, he was then struck in the forehead with the butt of a gun, causing scarring that is still visible.¹⁰⁹⁶ One of the attackers then asked for **ABD-AL-RAHMAN**’s permission to shoot P-0986, who ordered the Militia/*Janjaweed* not to kill P-0986 immediately, but to torture him until he provided information about where other villagers were.¹⁰⁹⁷ P-0986 was then tied [REDACTED], and left under the sun and then the rain, screaming until he fell unconscious. [REDACTED].¹⁰⁹⁸ P-0867 was the victim of a similar episode of torture and humiliation and left tied to a post in Gausir.¹⁰⁹⁹

309. In Bindisi, P-0011 saw a Militia/*Janjaweed* member use a sword to strike the hand of a woman as she fled holding her belongings.¹¹⁰⁰ P-0011 and other civilians were detained by Militia/*Janjaweed* and taken to a location where men and women were separated and lined up.¹¹⁰¹ About 20 men had their hands tied behind their backs, were put in a kneeling position, told “today is your day”, then hit with rifle butts. They were then told to lie face down and were executed, in front of other detained civilians.¹¹⁰² Women were asked where the “*tora bora*” men were, then some were taken a short distance away, beaten and raped, within view and/or earshot of other captured persons.¹¹⁰³ P-0011 saw, for instance, that [REDACTED] was whipped 10-15 times and beaten while she was dragged to a place around 10 metres away where she was raped, within P-0011’s view.¹¹⁰⁴

310. P-0011 was beaten, tied up and raped during this incident. P-0011 recounted that her clothes were torn off by a member of the Militia/*Janjaweed* using a knife, while he had his hand on her neck. Another attacker then told her “[w]e want to kill you, but we need you to tell us where the *tora bora* are”. The witness was hit with the butt of a Kalashnikov and her leg

¹⁰⁹⁵ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447, para. 49, and [T-65-CT](#), p. 10, lines 13-24, p. 47, lines 18-25.

¹⁰⁹⁶ P-0986: [DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 50-51, and [T-65-CT](#), p. 48, lines 1-19, p. 51, lines 5-17, and [DAR-OTP-0222-0467](#), and [DAR-OTP-0222-0468](#).

¹⁰⁹⁷ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, paras. 53, 55, and [T-65-CT](#), p. 11, lines 4-18, p. 48, line 20-p. 49, line 6, and [T-66-CT2](#), p. 25, line 24-p. 26, line 7.

¹⁰⁹⁸ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448-0450, paras. 54-58, 60-61, 0460-0461, paras. 110-112, 114, and [T-65-CT](#), [REDACTED], p. 49, lines 3-13, p. 53, lines 11-21, [REDACTED], and [T-66-CT2](#), p. 23, lines 16-p. 24, line 15.

¹⁰⁹⁹ P-0867: [DAR-OTP-0217-0173-R02](#) at 0181-0182, paras. 45-49. *See also* P-0029: [T-30-CT2](#), p. 57, lines 18-19.

¹¹⁰⁰ P-0011: [T-91-CT2](#), p. 23, lines 11-14.

¹¹⁰¹ P-0011: [T-91-CT2](#), p. 23, lines 14-15, p. 28, lines 15-22, and [DAR-OTP-00000356](#) at 1.

¹¹⁰² P-0011: [T-91-CT2](#), p. 23, lines 15-19, p. 27, line 6-p. 30, line 14, and [DAR-OTP-00000363-R01](#), and [DAR-OTP-00000356](#) at 2.

¹¹⁰³ P-0011: [T-91-CT2](#), p. 23, lines 19-p. 24, line 8, and [DAR-OTP-00000356](#) at 1.

¹¹⁰⁴ P-0011: [DAR-OTP-00000367](#) at 1-3, and [T-91-CT2](#), p. 23, line 24-p. 24, line 7, p. 30, lines 8-15, and [DAR-OTP-00000356](#) at 1, no. 2.

was then tied to a tree. P-0011 was subsequently raped by two persons, while a sword was held to her mouth and neck. While she was being raped, she was hit on the side of her face and on her back. The first rapist ejaculated and urinated inside P-0011's vagina.¹¹⁰⁵

311. Militia/*Janjaweed* caught and detained P-0015 and about 15 [REDACTED] as they fled the attack on South Bindisi on around 16 August 2003.¹¹⁰⁶ Militia/*Janjaweed* stripped the women down to their inner clothing. P-0015 stated that they searched her breasts, and when she resisted, they hit her with the butt of a gun and then pointed the gun to her head.¹¹⁰⁷ While detained, women were kicked, hit and whipped.¹¹⁰⁸ P-0015 saw an attacker pull a baby off the back of a woman she knew as [REDACTED]. After the attacker realised that it was a boy, he threw the baby in the air and it landed on the ground 1.5 metres away.¹¹⁰⁹ During this attack, Militia/*Janjaweed* and/or GoS Forces called them "wives and mothers of *toro bora*" and "black *nubas*". They were told that they would be wiped out, that they were of "no benefit" and that the government had given permission "to wipe us out, to kill us, to chase us away."¹¹¹⁰

312. The selected women and girls were then taken not far from where the P-0015 was located and raped in an open area, in full view and/or hearing of other detained civilians. To stop the raped women and girls from screaming, attackers stuffed their mouths with clothes they had ripped off their victims.¹¹¹¹ Whilst the rapes were ongoing, the other detained civilians, including a four year-old child, were threatened at gunpoint, with two of the attackers stating "don't move or run away because these people are coming to you after they finish with these women". The detained civilians were also forced to watch the rapes.¹¹¹²

313. P-0007, who fled to a mountain south of Bindisi during the attack, could see Militia/*Janjaweed* detain, mistreat, strip and openly rape and murder three women during the attack.¹¹¹³ P-0927 also witnessed Militia/*Janjaweed* capture a group of women in the fields

¹¹⁰⁵ P-0011: [T-91-CT2](#), p. 24, line 7-p. 26, line 25, and [DAR-OTP-00000366](#), and [DAR-OTP-00000357](#), and [DAR-OTP-00000358](#).

¹¹⁰⁶ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, para. 38, and [DAR-OTP-00000427](#) at 2, para. 12.

¹¹⁰⁷ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, paras. 38-39.

¹¹⁰⁸ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, paras. 38-39, and [DAR-OTP-00000427](#) at 2, para. 14.

¹¹⁰⁹ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 40, and [DAR-OTP-00000427](#) at 2, para. 15, and [T-93-ET](#), p. 56, lines 4-7.

¹¹¹⁰ P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47.

¹¹¹¹ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, paras. 41-43, and [DAR-OTP-00000427](#) at 3, para. 17, and [T-93-ET](#), p. 56, lines 4-7.

¹¹¹² P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 44, and [DAR-OTP-00000427](#) at 2-3, paras. 16, 18, and [T-93-ET](#), p. 45, line 25-p. 46, line 7.

¹¹¹³ P-0007: [DAR-OTP-0088-0060-R02](#) at 0071, para. 43, and [DAR-OTP-00000314](#) at 2, para. 12, and [T-89-CT](#), p. 6, line 12-p. 12, line 2, p. 36, lines 4-18, p. 37, lines 15-17, p. 38, line 4-p. 40, line 2, p. 52, lines 10-15.

around Bindisi and drag two women away while they resisted. He later heard the women cry and scream, as if they were in pain, which made him believe they were being raped. P-0927 learned immediately after this attack that the two women were indeed raped and that other women in the captured group were humiliated repeatedly by being called “*abid*” and told that their husbands were going to be exterminated.¹¹¹⁴

314. P-1073, a child at the time, testified that she and her sister were beaten and whipped before being raped by Militia/*Janjaweed*. P-1073 recounted that she was also tied and insulted as “sister of *tora bora*” whilst being raped. The victims’ mother was taken to a tree, had her hands tied and was then held at gunpoint whilst her daughters were raped.¹¹¹⁵ P-1074 similarly recounted how she was detained by Militia/*Janjaweed* whilst fleeing the attack on Bindisi, whipped and hit with a stick before being raped. P-1074 also recalled having her mouth stuffed with a piece of clothing to stop her from screaming and being choked by one of the rapists. P-1074 was also slapped and kicked for trying to bite the penis of a Militia/*Janjaweed* member who tried to orally rape her.¹¹¹⁶

315. While the acts of rape these witnesses describe are charged under Counts 8 to 9, the physical and psychological violence that took place before, during or after the rapes including the forced nudity, use of derogatory language and threats, and forced witnessing of violent acts including rapes, torture and execution, as well as the intentionally humiliating and often public circumstances under which these rapes incidents occurred, are charged under Counts 6 and 7.

316. Some of the victims were stripped and raped and gang raped, for instance, in full view of others, including family members. The humiliation and degrading nature of this experience was exacerbated by the fact that sexual violence had severe social and cultural implications for victims in a conservative and patriarchal society.¹¹¹⁷ Some suffered the humiliation of having their clothing torn and stuffed in their mouths, others were urinated on whilst being raped, amounting to great suffering and a violation of their dignity (in addition to the crime of rape).

¹¹¹⁴ P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, paras. 31-32.

¹¹¹⁵ P-1073: [T-103-CT](#), p. 14, line 3-p. 16, line 2, and [DAR-OTP-00000500](#), and [DAR-OTP-00000492](#).

¹¹¹⁶ P-1074: [DAR-OTP-0224-0441-R02](#) at 0447-0448, paras. 34-36, and [DAR-OTP-00000505](#), and [DAR-OTP-00000508](#), and [DAR-OTP-0224-0462](#), and [DAR-OTP-0224-0463](#).

¹¹¹⁷ P-0011: [T-91-CT2](#), [REDACTED], p. 34, line 16-p. 35, line 6, and [DAR-OTP-00000367](#) at 2-3; P-0015: [DAR-OTP-0088-0187-R04](#) at 0206, paras. 99, 101, and [T-93-ET](#), p. 16, line 14-p. 17, line 6, p. 18, lines 1-5, p. 53, lines 12-17; P-0119: [T-38-CT](#), p. 28, line 17-p. 29, line 6; P-0584: [T-92-CT](#), p. 71, line 4-p. 72, line 13; P-0916: [DAR-OTP-0224-0023-R01](#) at 0044, paras. 107-108; P-0922: [DAR-OTP-0222-0312-R01](#) at 0335, para. 97; P-0932: [T-68-ET](#), p. 31, lines 4-13; P-1042: [DAR-OTP-0220-1623](#) at 1641-1642, paras. 50, 52, 1680-1681, paras. 151-152, and [T-27-ET](#), p. 53, lines 9-16, and [T-28-ET](#), p. 11, lines 2-16, p. 17, lines 7-15; P-1073: [T-103-CT](#), p. 17, lines 5-8; V-0001: [T-100-CT](#), p. 25, line 23-p. 27, line 15.

Moreover, in some instances onlookers were forced to watch others being raped and told they would be next: the witnessing of such violent acts also amounted to great suffering and humiliation.¹¹¹⁸ Likewise, other acts of violence and sexual violence (for instance, searching of breasts, forced removal of clothes) and the use of derogatory and humiliating language, also amounted to other inhumane acts and outrages upon personal dignity.¹¹¹⁹

317. Based on the facts set above, the only reasonable inference is that the perpetrators were aware of the factual circumstances that established the character (nature and gravity) of their acts and the victims' status as civilians or *hors de combat*.

Counts 8-9: Rape (CAH and WC)

318. The evidence establishes that on or about 15 and 16 August 2003, Militia/*Janjaweed* and/or GoS Forces raped women during the attack on Bindisi and surrounding areas, including the 22 women listed in Annex 12.¹¹²⁰ This is consistent with the wider pattern adopted by the GoS not only in earlier campaigns,¹¹²¹ but also during the 2003-2004 Darfur conflict, in which sexual violence was widespread and rape was weaponised.¹¹²²

319. **ABD-AL-RAHMAN's** words and conduct, including in the villages attacked immediately before the attack on Bindisi, contributed to a coercive environment conducive to the rape¹¹²³ of women and girls in Bindisi and surrounding areas, and facilitated the commission of these crimes. His orders, in particular his instructions to his men to "wipe out and sweep away" and "cut the straw and eat it raw", led to rape among other violent acts. **ABD-AL-RAHMAN's** and the other perpetrators' intent is apparent from the repeated pattern and *modus operandi* of these attacks, which included rape,¹¹²⁴ and is also shown by **ABD-AL-RAHMAN's** subsequent endorsement and conduct.¹¹²⁵

¹¹¹⁸ Mental suffering caused to onlookers forced to witness brutal crimes has been previously recognised as an inhumane act. See e.g. [Kenyatta CD](#), paras. 277, 280; [Ongwen TJ](#), para. 2744 citing to, among others, [Kvočka TJ](#), para. 209 (see also para. 192); [Kupreškić et al. TJ](#), para. 819. See also [Al Hassan TJ](#), para. 1186.

¹¹¹⁹ See e.g. [Đorđević AJ](#), para. 852; [Al Hassan TJ](#), para. 1153.

¹¹²⁰ See Annex 12.

¹¹²¹ P-1042: [T-28-ET](#), p. 3, line 19-p. 5, line 1, and [DAR-OTP-0220-1623](#) at 1677, para. 143.

¹¹²² P-1042: [DAR-OTP-0220-1623](#) at 1680-1681, paras. 151-152; P-0020: [T-42-CT](#), p. 29, lines 10-13, [REDACTED].

¹¹²³ See [Ongwen TJ](#), para. 2710 ("[c]oercion may be inherent in certain circumstances, such as armed conflict"). See [Ntaganda TJ](#), para. 935 (factors that may contribute to creating a coercive environment are "the number of people involved in the commission of the crime, or whether the rape is committed during or immediately following a combat situation, or is committed together with other crimes"). See also [Akayesu TJ](#), para. 688.

¹¹²⁴ [Ntaganda AJ](#), paras. 1062, 1067 (on assessing the role of the accused holistically across attacks), 1127 ("[...] depending on the circumstances, the conduct of an accused after the commission of a crime may provide information or evidence that may be of relevance to the assessment of his or her intent at the time of the offence.")

¹¹²⁵ [Ntaganda AJ](#), para. 1127-1128.

Militia/Janjaweed and/or GoS Forces raped women at locations immediately before and after the attack on Bindisi and surrounding areas

320. In Nyerli, [REDACTED] Militia/Janjaweed “chased the man and the woman who were fleeing from the village”.¹¹²⁶ [REDACTED] women had been raped in Nyerli.¹¹²⁷

321. [REDACTED] women were chased and intercepted by Militia/Janjaweed [REDACTED] many had been raped in Kodoom that day.¹¹²⁸ [REDACTED] as soon as the Militia/Janjaweed arrived in Kodoom they “did the same thing they did in Nyerli: The shooting, the killing, the burning, and the raping”.¹¹²⁹ P-0867 and P-0932 also heard that women were raped during the attack on Kodoom.¹¹³⁰

322. In Gausir, P-0867 saw attackers rape [REDACTED] on the day of the attack on Kodoom and Bindisi.¹¹³¹ This victim later told P-0867 that many other women had also been raped in Gausir.¹¹³²

Militia/Janjaweed and/or GoS Forces raped women in Bindisi and surrounding areas

323. In Bindisi, like in earlier places attacked, women and girls were raped by force, by threat of force or coercion, or within the context of the violent attack in Bindisi and surrounding areas.¹¹³³ P-0011, P-1073 and P-1074 provided evidence of their own rape and P-0015, P-0007 and P-0927 witnessed other women being raped. The similarity in their accounts reflects the systematic nature of the rapes. As set out below, women, and often girls fleeing the attack, were chased, detained and separated from the men. They were often whipped, restrained, their clothes stuffed into their mouths and questioned about “*tora bora*”. In the course of these rapes, often involving multiple men, Militia/Janjaweed would offer thanks to former President AL-BASHIR, or refer to their “instructions from the government”, or boast they were “the men of Ali Kushayb.”

324. After being detained with other civilians,¹¹³⁴ P-0011 saw Militia/Janjaweed and/or GoS

¹¹²⁶ [REDACTED].

¹¹²⁷ [REDACTED].

¹¹²⁸ [REDACTED].

¹¹²⁹ [REDACTED].

¹¹³⁰ P-0867: [DAR-OTP-0217-0173-R02](#) at 0179, para. 34; P-0932: [DAR-OTP-0222-0602-R02](#) at 0611-0612, paras. 49-50, and [T-68-ET](#), p. 30, line 13-p. 31, line 3.

¹¹³¹ P-0867: [DAR-OTP-0217-0173-R02](#) at 0183, paras. 51-52.

¹¹³² P-0867: [DAR-OTP-0217-0173-R02](#) at 0183, para. 52.

¹¹³³ See Annex 12.

¹¹³⁴ P-0011: [T-91-CT2](#), p. 23, lines 14-15.

Forces take women and girls and rape them. P-0011 saw the gang rape of a child called [REDACTED] (about 16 or 17 years old). P-0011 saw that [REDACTED] was whipped and beaten while she was dragged to a place around 10 metres away from P-0011. She saw one man put his hand on [REDACTED]'s throat and then vaginally rape her. [REDACTED] was then raped by at least one other man.¹¹³⁵ P-0011 also saw another girl called [REDACTED] (around 17-18 years old) who was put "aside". P-0011 did not see what happened to [REDACTED], but believed she was raped because she returned with blood on her clothes.¹¹³⁶

325. P-0011 also saw [REDACTED] (around 20 years old), [REDACTED] and [REDACTED] (both around 16-17 years old) taken away, together with other victims.¹¹³⁷ P-0011 heard [REDACTED] and [REDACTED] screaming and heard one attacker tell the other to "just take their inside clothes out and start doing your job". She saw that [REDACTED] and [REDACTED], who had been holding hands and "telling each other they would be killed that day", were separated and taken a short distance away by two men who pointed the knives at the end of their weapons into the back of the girls' necks. Other Militia/*Janjaweed* then joined them and were "talking the same as before."¹¹³⁸ The only reasonable inference is that these women and girls were all raped.

326. After witnessing Militia/*Janjaweed* and/or GoS Forces rape [REDACTED], P-0011 was hit repeatedly with the butt of a weapon and thrown down to the ground by a member of the Militia/*Janjaweed*. She was told "not to argue and to take off [her] clothes." When she resisted, an attacker tore off her clothes with a knife. She was then tied to a tree by her leg and hit repeatedly. P-0011 was then raped by two persons. First by a man who told her "We want to kill you, but we need you to tell us where the *tora bora* are." This first rapist ejaculated and urinated inside P-0011's vagina. Then another man held a sword to her mouth and neck and told her "If you [speak] a word, I'm going to cut off your throat." P-0011 was then raped again by another man and while she was being raped, she was hit on the side of her face and on her back. The second rapist was "very harsh", and "at the end, he thanked Omar Al-Bashir for giving them the opportunity to do that".¹¹³⁹ [REDACTED].¹¹⁴⁰

¹¹³⁵ P-0011: [DAR-OTP-00000356](#) at 1, no. 2, and [DAR-OTP-00000367](#) at 1-3, and [T-91-CT2](#), p. 23, line 19-p. 24, line 8, p. 30, lines 8-15. See Annex 12, no. [REDACTED].

¹¹³⁶ P-0011: [DAR-OTP-00000356](#) at 1, no. 1, and [DAR-OTP-00000367](#) at 1. See Annex 12, no. [REDACTED].

¹¹³⁷ P-0011: [DAR-OTP-00000356](#) at 1, no. 3-5. See Annex 12, no. [REDACTED].

¹¹³⁸ P-0011: [DAR-OTP-00000367](#) at 3-4, and [T-91-CT2](#), p. 23, line 25-p. 24, line 1.

¹¹³⁹ P-0011: [T-91-CT2](#), p. 24, line 7-p. 26, line 25, and [DAR-OTP-00000366](#), and [DAR-OTP-00000357](#), and [DAR-OTP-00000358](#). See Annex 12, no. [REDACTED].

¹¹⁴⁰ [REDACTED].

327. During the Bindisi attack, P-0007 saw, from about 30 metres away, Militia/*Janjaweed* and/or GoS Forces detain, rape and subsequently kill three women who were fleeing that attack.¹¹⁴¹ [REDACTED].¹¹⁴²

328. Militia/*Janjaweed* and/or GoS Forces then detained a group of civilians, including P-0015, and the women and girls were separated from the men.¹¹⁴³ Women were stripped, kicked, hit and whipped.¹¹⁴⁴ A group of pre-selected women and girls were then taken to an open area “where groundnuts were being grown” to be raped, in full view and/or hearing of other detained civilians.¹¹⁴⁵ P-0015 was forced to watch as some of the women were raped, including the mother of a baby boy who had been thrown through the air by Militia/*Janjaweed*.¹¹⁴⁶ If a victim would resist rape, two attackers would restrain her so that a third could rape her.¹¹⁴⁷ To stop victims from screaming, attackers stuffed their mouths with the clothes they had been stripped of.¹¹⁴⁸ As some of the women and girls were being raped,¹¹⁴⁹ P-0015 heard members of the Militia/*Janjaweed* and/or GoS Forces saying, “we have taken Tora Bora's wives, praise be to God”, state that they “had instructions and directions from the government to do so”, and that they wanted to “wipe [the victims] out”.¹¹⁵⁰ Some fired guns in the air and shouted, “I have found a virgin woman”.¹¹⁵¹ She also heard Militia/*Janjaweed* who were raping and torturing women say they “were the men of Ali Kushayb”.¹¹⁵²

329. P-1073, [REDACTED], who was 14 years old in 2003, was with her mother [REDACTED] and her older sister [REDACTED] when they were captured by a group of

¹¹⁴¹ P-0007: [DAR-OTP-0088-0060-R02](#) at 0071, para. 43, and [DAR-OTP-00000311](#) at 1, and [DAR-OTP-00000312](#), and [T-89-CT](#), p. 7, line 9-p. 12, line 2, p. 36, line 4-p. 40, line 2. P-0007 determined that the distance between the top of the mountain where he stood and the bottom of it, where the assaults happened, was about 3 times the courtroom length ([T-89-CT](#), p. 10, lines 10-21). See Annex 12, no. 4, 12, 17.

¹¹⁴² P-0007: [DAR-OTP-0088-0060-R02](#) at 0069, para. 36, and [DAR-OTP-00000314](#) at 2, para. 12, and [DAR-OTP-0088-0081](#) (Translation [DAR-OTP-0119-0480](#)). See Annex 12, no. [REDACTED].

¹¹⁴³ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, para. 38, and [DAR-OTP-00000427](#) at 2, para. 12.

¹¹⁴⁴ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, paras. 38-39, and [DAR-OTP-00000427](#) at 2, para. 14.

¹¹⁴⁵ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 38, 41-43, and [DAR-OTP-00000427](#) at 2-3, paras. 16-17, and [T-93-ET](#), p. 45, line 8-p. 46, line 10. See Annex 12, no. 1, 6.

¹¹⁴⁶ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, para. 40, and [T-93-ET](#), p. 46, lines 5-10, p. 56, lines 4-7. This conduct is charged under Counts 6-7 above.

¹¹⁴⁷ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 42.

¹¹⁴⁸ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 43.

¹¹⁴⁹ Although P-0015 identifies [REDACTED] as rape victims in the incident she witnessed ([DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 38, 41, 0206, para. 102, and [DAR-OTP-00000427](#) at 2, para. 16, 5, para. 40, and [REDACTED]), the Prosecution will solely rely on the evidence of [REDACTED]. It is the Prosecution's position that although P-0015 was truthful in her account about the instance of collective rape she witnessed, she may be confused about the names of victims [REDACTED].

¹¹⁵⁰ P-0015: [T-93-ET](#), p. 41, lines 12-15.

¹¹⁵¹ P-0015: [DAR-OTP-0088-0187-R04](#) at 0196-0197, paras. 43, 47.

¹¹⁵² P-0015: [REDACTED].

[REDACTED] Militia/*Janjaweed* members whilst fleeing the attack on Daguina, on 15 August 2003.¹¹⁵³ P-1073 and her sister were whipped and beaten and then taken to separate deserted huts by different trios of men, where they were raped, while their mother was tied to a tree.¹¹⁵⁴ After being taken into the hut, P-1073's hands were tied, she was threatened with weapons and called "sister of tora bora".¹¹⁵⁵ P-1073 was then vaginally raped by three attackers, two of whom ejaculated inside her. [REDACTED].¹¹⁵⁶ She also suffers from insomnia as a result of the attack.¹¹⁵⁷ P-0913 also heard that P-1073 was raped during the attack on Bindisi.¹¹⁵⁸ [REDACTED].¹¹⁵⁹

330. P-1074 was present in Bindisi during the attack on 15 and 16 August 2003. On the second day of the attack, she fled to a farming area between Bindisi and a forest south of Bindisi, where she spent the night together with her sister. On the following morning, they were chased by attackers into the forest, and P-1074 was separated from her sister.¹¹⁶⁰ In the forest, P-1074 was captured by four Militia/*Janjaweed*, who whipped and hit her with a stick, [REDACTED].¹¹⁶¹ Like other sexual violence victims, P-1074 recalled that her mouth was stuffed with a piece of clothing to stop her from screaming. Militia/*Janjaweed* then tore off her clothes, and while one attacker pinned her to the ground with her hands behind her back and choked her, another attacker held her legs. She was vaginally raped. A Militia/*Janjaweed* member tried to orally rape P-1074, who tried to defend herself by attempting to bite his penis, which led to her being slapped and kicked.¹¹⁶² After her rape, for which she was treated with traditional medicine and painkillers, P-1074 still feels pain in her body and suffers with insomnia, headaches and heavy menstrual periods.¹¹⁶³ P-1074 also heard of another rape victim during the August 2003 attack.¹¹⁶⁴

¹¹⁵³ P-1073: [T-103-CT](#), [REDACTED], p. 8, lines 21-25, p. 9, line 8-p. 10, line 10, p. 12, lines 12-14, p. 13, lines 19-21.

¹¹⁵⁴ P-1073: [T-103-CT](#), p. 14, lines 3-23, p. 15, lines 9-23, and [DAR-OTP-00000500](#) at 1-2, 4-5. See Annex 12, no. [REDACTED].

¹¹⁵⁵ P-1073: [T-103-CT](#), p. 14, lines 12-17, and [DAR-OTP-00000500](#) at 1-2, and [DAR-OTP-00000492](#).

¹¹⁵⁶ P-1073: [DAR-OTP-00000500](#), and [DAR-OTP-00000492](#).

¹¹⁵⁷ P-1073: [T-103-CT](#), p. 21, lines 15-25.

¹¹⁵⁸ P-0913: [DAR-OTP-0218-0021-R04](#) at 0031, para. 66, and [DAR-OTP-00000012](#) at 2, para. 21.

¹¹⁵⁹ P-0913: [DAR-OTP-0218-0021-R04](#) at 0042, para. 136, and [DAR-OTP-0218-0054](#) (Translation [DAR-OTP-0219-8114](#)), and [DAR-OTP-00000012](#) at 4-5, paras. 35-36. See Annex 12, no. [REDACTED].

¹¹⁶⁰ P-1074: [DAR-OTP-0224-0441-R02](#) at 0446-0447, paras. 24-26, 31-33.

¹¹⁶¹ P-1074: [DAR-OTP-0224-0441-R02](#) at 0447-0448, paras. 34-35, and [DAR-OTP-00000505](#), and [DAR-OTP-0224-0462](#), and [DAR-OTP-0224-0463](#).

¹¹⁶² P-1074: [DAR-OTP-0224-0441-R02](#) at 0448, para. 36, and [DAR-OTP-00000505](#), and [DAR-OTP-00000508](#). See Annex 12, no. [REDACTED].

¹¹⁶³ P-1074: [DAR-OTP-0224-0441-R02](#) at 0453, paras. 62-63, and [T-103-CT](#), p. 45, lines 1-25.

¹¹⁶⁴ P-1074: [DAR-OTP-0224-0441-R02](#) at 0453-0454, para. 64.

331. Also on around 17 August 2003, P-0927 saw Militia/*Janjaweed* and/or GoS Forces capture a group of women in the meadows around Bindisi.¹¹⁶⁵ Two of these women were dragged from the group while resisting and he heard their screams as if they were in pain. P-0927 spoke to the group of women after the Militia/*Janjaweed* and/or GoS Forces left the area and they reported to him that the two selected women had just been raped.¹¹⁶⁶ P-0085 also received reports that Militia/*Janjaweed* and/or GoS Forces raped women and girls during the attack on Bindisi.¹¹⁶⁷

332. [REDACTED].¹¹⁶⁸ [REDACTED] *sheikhs* brought 18 girls who had been raped by Militia/*Janjaweed* during the attacks of 15 August 2003 to the police station in Mukjar and lodged formal complaints.¹¹⁶⁹

333. Multiple witnesses testified about the stigma surrounding rape in Darfur, as well as the deeply negative cultural and social impact of rape for women in the Darfuri culture. Joint Expert P-1042 testified about the “disturbing and profound” implications of sexual violence and rape for women in the patriarchal society of Darfur.¹¹⁷⁰ P-0015 stated that raped women had “no value” in the community and would not be perceived as suitable for marriage, and, as such, many committed suicide.¹¹⁷¹ P-0015 herself expressed that she thought the incidents of rape she witnessed were worse than the killing she also saw.¹¹⁷² P-0011, for instance, stated that women victims of rape are disillusioned, some suicidal, while others developed different mental health issues, and often live in isolation.¹¹⁷³

334. Additionally, as confirmed by various witnesses, women do not speak freely of rape in Darfur due to the issue being taboo.¹¹⁷⁴ As such, reporting of rape was already extremely low for cultural and social reasons. On top of this, in the context of the Darfur conflict, multiple witnesses confirmed that victims had “no one to complain to; they had to accept it as something

¹¹⁶⁵ P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, para. 31.

¹¹⁶⁶ P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, para. 32.

¹¹⁶⁷ P-0085: [DAR-OTP-0110-0054-R02](#) at 0062, para. 31.

¹¹⁶⁸ [REDACTED].

¹¹⁶⁹ [REDACTED].

¹¹⁷⁰ P-1042: [DAR-OTP-0220-1623](#) at 1641-1642, paras. 50, 52, and [T-27-ET](#), p. 53, lines 9-16, and [T-28-ET](#), p. 17, lines 7-15. *See also above* para. 316.

¹¹⁷¹ P-0015: [DAR-OTP-0088-0187-R04](#) at 0206, paras. 99, 101. *See also* P-0020: [T-41-CT](#), p. 75, line 7-p. 76, line 7.

¹¹⁷² P-0015: [DAR-OTP-0088-0187-R04](#) at 0207, para. 106.

¹¹⁷³ P-0011: [T-91-CT2](#), p. 34, lines 16-22.

¹¹⁷⁴ P-0015: [T-93-ET](#), p. 53, lines 12-17; P-0916: [DAR-OTP-0224-0023-R01](#) at 0044, paras. 107-108; P-0922: [DAR-OTP-0222-0312-R01](#) at 0335, para. 97; P-1042: [DAR-OTP-0220-1623](#) at 1680-1681, para. 151, and [T-28-ET](#), p. 11, lines 2-16; P-0932: [T-68-ET](#), p. 31, lines 4-22; P-1073: [T-103-CT](#), p. 17, lines 5-8; V-0001: [T-120-CT](#), p. 27, line 17-p. 28, line 14.

sent by God which they can do nothing about”, as they felt they could not report the rapes since members of the GoS Forces were involved in the attacks.¹¹⁷⁵ Others confirmed that either there was no police force to report these crimes to or, even if it was present, it would not register the complaints made.¹¹⁷⁶ Access to medical care was also difficult at the time,¹¹⁷⁷ and victims reported receiving only traditional medicine and being treated with hot water following their rapes.¹¹⁷⁸ Witnesses also spoke of the social exclusion suffered by children born out of rape.¹¹⁷⁹

335. Considering the evidence presented above that rape was used as part of the attack on the civilians and weaponised in the Darfur conflict, it is clear that sexual violence, like the other violent acts, was integral to the tactics employed during the operation to attack Kodoom and Bindisi to “wipe out” the inhabitants and “cut the straw and eat it raw”. The only reasonable inference, therefore, is that the attackers, led by **ABD-AL-RAHMAN**, intended to target civilian women and girls with rape and sexual violence and/or knew this would happen in the ordinary course of events.

Count 10: Forcible transfer (CAH)

336. **ABD-AL-RAHMAN** and Militia/*Janjaweed* and GoS Forces under his direction intended and knew that their conduct on or about 15 and 16 August 2003 in Kodoom and Bindisi, would serve to expel or coerce persons legally present therein into leaving these areas, in particular the predominantly Fur population.

337. As described above, during the attack Militia/*Janjaweed* and/or GoS Forces chased civilians away from the villages they inhabited,¹¹⁸⁰ murdered and raped civilians, and proceeded to burn down houses and other infrastructure.¹¹⁸¹ As a result, civilians were

¹¹⁷⁵ P-0015: [DAR-OTP-0088-0187-R04](#) at 0206, para. 102, and [T-93-ET](#), p. 16, line 14-p. 17, line 6.

¹¹⁷⁶ P-0916: [DAR-OTP-0224-0023-R01](#) at 0043-0044, paras. 102-104, and [DAR-OTP-00000060](#) at 2, para. 23, and [T-75-CT](#), p. 18, lines 1-7; [REDACTED]; P-0922: [DAR-OTP-0222-0312-R01](#) at 0335, para. 96, and [T-39-ET](#), p. 40, lines 2-10; P-1073: [T-103-CT](#), p. 16, lines 22-25, p. 17, line 21-p. 18, line 6. *See also* P-1042: [DAR-OTP-0220-1623](#) at 1680-1681, para. 151, and [T-28-ET](#), p. 11, lines 13-16; [DAR-OTP-0222-2979](#) at 3057, paras. 224-226; P-0584: [T-92-CT](#), p. 71, lines 4-23; [DAR-OTP-0148-0002](#) at 0074-0076.

¹¹⁷⁷ P-0015: [T-93-ET](#), p. 15, lines 12-20; P-0922: [DAR-OTP-0222-0312-R01](#) at 0335, paras. 97, 103, and [DAR-OTP-0223-0473-R01](#) at 0481, para. 24. *See also* P-0584: [T-92-CT](#), p. 72, lines 5-13. *See also* V-0001: [T-120-CT](#), p. 15, lines 7-20, p. 24, line 18-p. 25, line 22, p. 28, line 15-p. 29, line 11.

¹¹⁷⁸ P-1073: [T-103-CT](#), p. 16, lines 3-9; P-1074: [DAR-OTP-0224-0441-R02](#) at 0453, para. 62, and [T-103-CT](#), p. 46, lines 1-8.

¹¹⁷⁹ P-0011: [T-91-CT2](#), p. 34, line 23-p. 35, line 6; P-0015: [T-93-ET](#), p. 18, lines 1-5; P-0119: [T-38-CT](#), p. 28, line 17-p. 29, line 6; V-0001: [T-100-CT](#), p. 29, line 12-p. 31, line 15.

¹¹⁸⁰ *See above* paras. 270, 276, 286, 311, 320-321, 330.

¹¹⁸¹ *See above* paras. 272-284, 297-305, 318-335.

displaced to other parts of Sudan, mostly to Mukjar,¹¹⁸² and even to neighbouring countries.¹¹⁸³ As stated by P-1042, “[f]orced displacement was both the foreseeable outcome of the conflict and also a central war aim of at least some of the belligerents”.¹¹⁸⁴

338. P-0986 recounted that his family fled to the woods to escape the attack on Kodoom.¹¹⁸⁵ He was also taken to the woods by other inhabitants after they found him tied up. There, he found villagers from surrounding villages taking shelter.¹¹⁸⁶ P-0986 was then reunited with his family and taken to a mountain, where they met other displaced persons and stayed for about 20 days before travelling together with people “from the villages around Kodoom” to Mukjar, where many displaced civilians were.¹¹⁸⁷ P-0986 stated that no one returned to live in Kodoom after fleeing the attack and that displaced residents still fear returning to Kodoom due to the security situation.¹¹⁸⁸

339. P-0029, P-0918 and P-0932 recounted fleeing to bushes and forests on the outskirts of Kodoom in the course of the attack.¹¹⁸⁹ P-0932 then spent a few days in Mukjar with his family before returning to Kodoom.¹¹⁹⁰ P-0029 and P-0918 also returned to Kodoom following the 15 August 2003 attack and remained there until a second attack took place later that month.¹¹⁹¹ Nonetheless, P-0918 and P-0932 testified that other inhabitants decided to move to Mukjar after the first attack, as the village was burnt and food reserves were depleted and burnt.¹¹⁹² Both P-0029 and P-0932 testified that Kodoom “no longer exists.”¹¹⁹³

¹¹⁸² P-0756: [DAR-OTP-0211-0039-R02](#) at 0050-0051, paras. 47, 50; P-0757: [DAR-OTP-0211-0003-R02](#) at 0014-0015, paras. 48, 50; P-0816: [DAR-OTP-0214-0721-R02](#) at 0728, para. 33, 0730, para. 40; P-0867: [DAR-OTP-0217-0173-R02](#) at 0185, paras. 59-61; P-0922: [DAR-OTP-0222-0312-R01](#) at 0319-0320, paras. 24, 30-31; P-0932: [DAR-OTP-0222-0602-R02](#) at 0605, para. 15, 0612-0613, paras. 53, 55. *See also* [DAR-OTP-0147-0659](#) at 0671-0672, 0725.

¹¹⁸³ P-1042: [DAR-OTP-0220-1623](#) at 1634, para. 27, 1681-1682, paras. 154-157, and [T-28-ET](#), p. 25, line 15-p. 26, line 7; P-0986: [DAR-OTP-0222-0437-R01](#) at 0451, para. 66; [REDACTED]; [DAR-OTP-0145-0237](#) at 0300, 0305-0306; P-0085: [DAR-OTP-0110-0054-R02](#) at 0056-0057, paras. 8-9.

¹¹⁸⁴ P-1042: [DAR-OTP-0220-1623](#) at 1681, para. 154, and [T-28-ET](#), p. 14, lines 8-25.

¹¹⁸⁵ P-0986: [DAR-OTP-0222-0437-R01](#) at 0444-0445, para. 38.

¹¹⁸⁶ P-0986: [DAR-OTP-0222-0437-R01](#) at 0450, paras. 60-62, and [DAR-OTP-0220-5673](#) at 5673, para. 8.

¹¹⁸⁷ P-0986: [DAR-OTP-0222-0437-R01](#) at 0449-0452, paras. 58, 60-61, 67-69, and [DAR-OTP-0220-5673](#) at 5673, para. 7.

¹¹⁸⁸ P-0986: [DAR-OTP-0222-0437-R01](#) at 0446, para. 46, 0451, para. 66.

¹¹⁸⁹ P-0029: [T-29-CT](#), p. 61, lines 16-19, p. 65, lines 5-15; P-0918: [DAR-OTP-0218-0120-R04](#) at 0127, para. 26, and [DAR-OTP-00000104](#) at 2, para. 12, and [T-77-CT2](#), p. 34, line 15-p. 35, line 17; P-0932: [DAR-OTP-0222-0602-R02](#) at 0609-0610, para. 38.

¹¹⁹⁰ P-0932: [DAR-OTP-0222-0602-R02](#) at 0609-0614, paras. 43-46, 54-57, 64-68, and [T-68-ET](#), p. 29, line 1-p. 30, line 12.

¹¹⁹¹ P-0029: [T-30-CT2](#), p. 26, line 20-p. 27, line 15; P-0918: [DAR-OTP-0218-0120-R04](#) at 0129, para. 32, 0131, paras. 39-40.

¹¹⁹² P-0918: [DAR-OTP-0218-0120-R04](#) at 0129, para. 32, 0131, paras. 39-40; P-0932: [DAR-OTP-0222-0602-R02](#) at 0605, para. 15, 0611-0613, paras. 47, 53, 55.

¹¹⁹³ P-0932: [DAR-OTP-0222-0602-R02](#) at 0605, para. 15; P-0029: [T-29-CT](#), p. 42, lines 16-18.

340. Persons were often displaced more than once during the attack. P-0757 recounted fleeing from Tiro to Kodoom, which was then attacked, and then onwards to South Bindisi, which was also attacked the following day.¹¹⁹⁴ P-1074 and P-0927 recounted that on or about 15 August 2003, many people from Kodoom and other nearby villages arrived in Bindisi, which was then also attacked.¹¹⁹⁵ Upon taking shelter [REDACTED] in South Bindisi, P-0015 encountered a number of villagers from nearby attacked villages, including Kodoom.¹¹⁹⁶

341. P-0012 stated that as the attack on Bindisi started on around 15 August 2003, “[a]ll the people from New BENDISI left for Old BENDISI”.¹¹⁹⁷ Citizens could see smoke rising from villages attacked beforehand and were also warned to flee by persons on horseback escaping from previously attacked towns.¹¹⁹⁸ Other witnesses fled to South Bindisi, including P-0913, who believed it would be safer.¹¹⁹⁹ [REDACTED].¹²⁰⁰ [REDACTED].¹²⁰¹

342. P-0012 hid in the gardens on the bank of the Wadi Salih river during the attack, together with many others.¹²⁰² He stated that while some villagers, including him, decided to flee to Mukjar, others went to Chad.¹²⁰³ He estimated that more than 100,000 people arrived in Mukjar in a period of two weeks¹²⁰⁴ and observed that displaced persons were not able to return to their villages after the attack as they “became nothing but rubble”.¹²⁰⁵ Similarly, P-0015 took shelter in the farms on the bank of Wadi Salih river before crossing to South Bindisi.¹²⁰⁶ On the second day of the attack, she and others then fled into surrounding areas, including the forest south of Bindisi. P-0015 eventually journeyed to Mukjar under dire circumstances. There was little food

¹¹⁹⁴ P-0757: [DAR-OTP-0211-0003-R02](#) at 0010-0011, paras. 28, 33-39.

¹¹⁹⁵ P-1074: [DAR-OTP-0224-0441-R02](#) at 0446, para. 23; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 25. P-0867 saw a woman who fled the attack on Kodoom arrive in Gausir ([DAR-OTP-0217-0173-R02](#) at 0179, para. 33).

¹¹⁹⁶ P-0015: [DAR-OTP-0088-0187-R04](#) at 0194, para. 34, and [DAR-OTP-00000427](#) at 1-2, para. 10.

¹¹⁹⁷ P-0012: [DAR-OTP-0119-0503-R01](#) at 0521, para. 79, and [T-46-CT](#), p. 52, lines 16-20.

¹¹⁹⁸ P-0012: [DAR-OTP-0119-0503-R01](#) at 0520, para. 77; P-0913: [DAR-OTP-0218-0021-R04](#) at 0025, para. 26; P-0816: [DAR-OTP-0214-0721-R02](#) at 0728, para. 34; P-0922: [DAR-OTP-0222-0312-R01](#) at 0317, para. 18.

¹¹⁹⁹ P-0913: [DAR-OTP-0218-0021-R04](#) at 0026, para. 36, and [DAR-OTP-00000012](#) at 1, para. 9, and [T-69-CT](#), p. 42, line 21-p. 44, line 17; P-0927: [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0011: [T-91-CT2](#), p. 21, lines 2-14.

¹²⁰⁰ [REDACTED].

¹²⁰¹ [REDACTED].

¹²⁰² P-0012: [DAR-OTP-0119-0503-R01](#) at 0523, para. 86, and [DAR-OTP-0220-4710](#) at 4712, para. 24, and [T-46-CT](#), p. 56, lines 18-24. P-0816 similarly describes how women and girls were sent to hide in the farms surrounding Bindisi while the men stayed in Bindisi ([DAR-OTP-0214-0721-R02](#) at 0729, para. 35).

¹²⁰³ P-0012: [DAR-OTP-0119-0503-R01](#) at 0523, para. 87, and [DAR-OTP-0220-4710](#) at 4711, para. 13.

¹²⁰⁴ P-0012: [REDACTED].

¹²⁰⁵ P-0012: [T-45-CT](#), p. 33, lines 3-23.

¹²⁰⁶ P-0015: [DAR-OTP-0088-0187-R04](#) at 0193-0194, paras. 27, 33-34, and [DAR-OTP-00000427](#) at 1-2, paras. 4, 10.

and newborn babies died of starvation during the journey.¹²⁰⁷

343. P-1074 recalled that while some persons in Bindisi fled to the mountains, others, including herself, went to the farming area between Daguina and the rest of Bindisi, before crossing to South Bindisi.¹²⁰⁸ On around 16 August 2003, P-1074 fled the attack on South Bindisi towards farming and forest areas.¹²⁰⁹ She never returned to her house in Bindisi.¹²¹⁰

344. Other witnesses provide evidence of citizens fleeing to forests and mountains on the outskirts of Bindisi¹²¹¹ and then making their way to Mukjar, as it was considered safer.¹²¹² [REDACTED].¹²¹³ [REDACTED].¹²¹⁴ P-0007 stated that the *umdah* and *sheikhs* from Bindisi also fled to Mukjar.¹²¹⁵

345. Witnesses who were in Mukjar at the time of the attack on Kodoom and Bindisi testified that a large influx of internally displaced persons from those locations arrived in Mukjar to seek shelter.¹²¹⁶ Witnesses who sought refuge in Mukjar similarly confirmed the presence of many displaced persons.¹²¹⁷ [REDACTED].¹²¹⁸

346. Witnesses also confirmed the unliveable conditions in Bindisi following the attack on the town.¹²¹⁹ [REDACTED].¹²²⁰ P-0917, who returned to Bindisi in around October 2003, stated that all the houses were burnt down and Militia/*Janjaweed* were continuously present at the town, forbidding citizens to harvest and continuing to harass, kill and rape returning

¹²⁰⁷ P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, paras. 46, 48, and [DAR-OTP-00000427](#) at 3, paras. 19-20.

¹²⁰⁸ P-1074: [DAR-OTP-0224-0441-R02](#) at 0446-0447, paras. 24-25, 31.

¹²⁰⁹ P-1074: [DAR-OTP-0224-0441-R02](#) at 0447, paras. 32-33.

¹²¹⁰ P-1074: [T-103-CT](#), p. 40, lines 18-21.

¹²¹¹ P-0007: [DAR-OTP-0088-0060-R02](#) at 0065-0066, paras. 22-23; P-0085: [DAR-OTP-0110-0054-R02](#) at 0063, para. 35; P-0816: [DAR-OTP-0214-0721-R02](#) at 0729, para. 36, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxII](#), p. 3, and [Prosecution's response regarding rule 68\(2\)\(b\) declarations](#), para. 11; P-0913: [DAR-OTP-0218-0021-R04](#) at 0027, paras. 41-42, and [T-69-CT](#), p. 34, line 25-p. 36, line 8, p. 44, line 18-p. 45, line 6; P-0917: [DAR-OTP-0217-0071-R03](#) at 0077, paras. 26-27, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxXI](#), p. 3; P-0927: [DAR-OTP-0221-0523-R01](#) at 0529-0530, paras. 26-29, 33.

¹²¹² P-0007: [DAR-OTP-0088-0060-R02](#) at 0068, para. 32; P-0816: [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; P-0913: [DAR-OTP-0218-0021-R04](#) at 0030, para. 60; P-0917: [DAR-OTP-0217-0071-R03](#) at 0077, para. 27; P-0927: [DAR-OTP-0221-0523-R01](#) at 0530-0531, para. 34; P-1073: [T-103-CT](#), p. 16, lines 6-9, p. 17, lines 9-15.

¹²¹³ [REDACTED].

¹²¹⁴ [REDACTED].

¹²¹⁵ P-0007: [DAR-OTP-0088-0060-R02](#) at 0066, para. 23.

¹²¹⁶ P-0581: [DAR-OTP-0216-0560-R02](#) at 0567, para. 33, and [T-64-CT](#), p. 31, lines 13-19; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303, paras. 81-82, and [T-43-CT3](#), p. 25, lines 20-21; P-0916: [T-75-CT](#), p. 15, line 20-p. 16, line 22; P-0984: [T-66-CT2](#), p. 52, lines 6-18; [REDACTED]. See also [DAR-OTP-0160-0885](#) at 0902.

¹²¹⁷ P-0816: [DAR-OTP-0214-0721-R02](#) at 0730, para. 42.

¹²¹⁸ P-0878: [REDACTED], and [T-79-CT](#), [REDACTED], p. 12, line 13-p. 13, line 7.

¹²¹⁹ See above para. 304.

¹²²⁰ [REDACTED].

villagers.¹²²¹ P-0007 later heard Militia/*Janjaweed* claim they had “ruined Bindisi and we burned it down completely”.¹²²²

347. Based on the facts set out above, the only reasonable inference is that the perpetrators were aware of the factual circumstances that established the victims’ lawful presence in Kodoom, Bindisi and surrounding areas.

Count 11: Persecution (CAH)

348. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 223 to 228 relating to the events in Kodoom, Bindisi and surrounding areas. The facts described under Counts 1 to 10 form the underlying conduct of the crime of persecution.

3) ABD-AL-RAHMAN’s individual criminal responsibility

349. **ABD-AL-RAHMAN** is criminally responsible for the charged crimes under article 25(3)(b) (ordering and/or inducing). This section should be read in conjunction with Section E (Common elements of modes of individual criminal responsibility).

Ordering under article 25(3)(b) of the Rome Statute

i) ABD-AL-RAHMAN was in a position of authority

350. **ABD-AL-RAHMAN** was a senior Militia/*Janjaweed* leader in the Wadi Salih and Mukjar Localities between at least August 2003 and at least March 2004.¹²²³ **ABD-AL-RAHMAN** was entrusted by HARUN with orchestrating the destruction of Bindisi locality.¹²²⁴ **ABD-AL-RAHMAN** then coordinated with HARUN and several local GoS Officials and GoS Forces in a series of meetings held in Mukjar,¹²²⁵ and also received material support from the GoS before launching this attack.¹²²⁶ Local GoS Officials provided him with a letter to obtain grains from the *Zakat* Office in Bindisi¹²²⁷ and a vehicle belonging to the Garsila *Zakat* Office, which was used during the operation.¹²²⁸ CRF commander HIMEIDAN provided **ABD-AL-**

¹²²¹ P-0917: [DAR-OTP-0217-0071-R03](#) at 0078-0082, paras. 30-34, 42-49.

¹²²² P-0007: [T-89-CT](#), p. 40, line 4-p. 41, line 7.

¹²²³ See above Section E (1): **ABD-AL-RAHMAN** was in a position of authority and influence.

¹²²⁴ See above para. 261.

¹²²⁵ See above paras. 160-162, 255-256. See also [REDACTED].

¹²²⁶ See above fn. 576.

¹²²⁷ See above paras. 259-260.

¹²²⁸ [REDACTED]. See also P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 39, 0520-0521, para. 78, and [DAR-OTP-0220-4710](#) at 4710, para. 7; P-0932: [DAR-OTP-0222-0602-R02](#) at 0610, para. 39, and [DAR-OTP-0220-5720](#) at 5720, para. 6, and [T-68-ET](#), p. 61, line 21-p. 62, line 25.

RAHMAN support from his forces.¹²²⁹ [REDACTED].¹²³⁰

351. **ABD-AL-RAHMAN** also coordinated with local PDF officer **HASSABALLAH** [REDACTED],¹²³¹ local Militia/*Janjaweed agids*, including **SAMIH** and **BONJOUSE**,¹²³² as well as Arab *umdahs* who were also part of the Militia/*Janjaweed*,¹²³³ and GoS Forces,¹²³⁴ who were all present during the attack.

352. **ABD-AL-RAHMAN** then led the attack on Kodoom, Bindisi and surrounding areas. He was the highest commander on the ground during the attack.¹²³⁵ **ABD-AL-RAHMAN**'s authority is further evidenced by, *inter alia*, his regular orders and instructions to Militia/*Janjaweed* and GoS Forces, including his deciding the route and duration of the operation. These orders and instructions were immediately complied with.¹²³⁶ In at least one instance, members of the Militia/*Janjaweed* sought **ABD-AL-RAHMAN**'s explicit prior approval to kill a civilian in Kodoom.¹²³⁷

353. During the attack on Kodoom, Bindisi and surrounding areas, **ABD-AL-RAHMAN**'s authority was absolute. [REDACTED].¹²³⁸ [REDACTED].¹²³⁹ [REDACTED].¹²⁴⁰ [REDACTED] **ABD-AL-RAHMAN** state "I will kill whoever I want and I leave whoever I want to leave".¹²⁴¹

354. **ABD-AL-RAHMAN**'s authority during the attack is also evidenced by his refusal to heed objections from other members of the Militia/*Janjaweed* leaders and GoS Forces who

¹²²⁹ [REDACTED].

¹²³⁰ [REDACTED].

¹²³¹ [REDACTED].

¹²³² P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 84; P-0085: [DAR-OTP-0110-0054-R02](#) at 0062-0063, paras. 29, 33-34 (excluding the references to Ali Kushayb in these paragraphs which the Prosecution agreed not to rely on. See [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); [REDACTED]; P-0918: [DAR-OTP-0218-0120-R04](#) at 0128, paras. 28-30, and [DAR-OTP-00000104](#) at 2, para. 14; [REDACTED]. Witnesses also identify *agid* Abdullah Rabak as present during the attacks, see P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 84; P-0085: [DAR-OTP-0110-0054-R02](#) at 0063, para. 33-34 (excluding the parts not to be relied on, see [Decision on the Prosecution's second Rule 68\(2\)\(c\) application for P-0085](#), para. 5, fn. 6); [REDACTED].

¹²³³ [REDACTED].

¹²³⁴ P-0012: [DAR-OTP-0119-0503-R01](#) at 0520-0521, para. 78; P-0015: [T-93-ET](#), p. 28, lines 6-19, p. 29, lines 12-21, p. 30, lines 4-9; [REDACTED].

¹²³⁵ [REDACTED]. See also P-0986, who heard **ABD-AL-RAHMAN** being referred to as "*Jenabu* Ali Kushayb", meaning "Excellency" or "Commander" ([DAR-OTP-0222-0437-R01](#) at 0448, para. 53, and [T-66-CT2](#), p. 25, line 24-p. 26, line 7); P-0012: [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

¹²³⁶ See below paras. 355-382.

¹²³⁷ See above para. 308.

¹²³⁸ [REDACTED].

¹²³⁹ [REDACTED].

¹²⁴⁰ [REDACTED].

¹²⁴¹ [REDACTED].

questioned his tactics and decisions during the attack.¹²⁴²

ii) *ABD-AL-RAHMAN issued orders and instructions to the Militia/Janjaweed and/or GoS Forces that were carried out*

355. During the course of the continuous attack on several villages on or about 15 and 16 August 2003, including on Kodoom, Bindisi and surrounding areas, **ABD-AL-RAHMAN** gave multiple orders and instructions to the Militia/Janjaweed and/or GoS Forces.

The route of the attack

356. **ABD-AL-RAHMAN** made decisions in relation to the route to be followed and conveyed these orders and instructions to Militia/Janjaweed and GoS Forces, including PDF officer HASSABALLAH. [REDACTED]¹²⁴³ [REDACTED].¹²⁴⁴ [REDACTED].¹²⁴⁵ [REDACTED].¹²⁴⁶ [REDACTED] **ABD-AL-RAHMAN** convened his *agids*, including SAMIH, in Nyerli and ordered them to move to different villages.¹²⁴⁷ [REDACTED].¹²⁴⁸ In Tiro, **ABD-AL-RAHMAN** told HASSABALLAH to go to the village of Kodoom and Militia/Janjaweed forces followed. [REDACTED].¹²⁴⁹

357. [REDACTED],¹²⁵⁰ [REDACTED],¹²⁵¹ [REDACTED].¹²⁵² **ABD-AL-RAHMAN's** presence in Kodoom is further confirmed by P-0932¹²⁵³ as well as P-0986, who saw him when

¹²⁴² See below paras. 373-376.

¹²⁴³ [REDACTED].

¹²⁴⁴ [REDACTED].

¹²⁴⁵ [REDACTED].

¹²⁴⁶ [REDACTED].

¹²⁴⁷ [REDACTED].

¹²⁴⁸ [REDACTED].

¹²⁴⁹ [REDACTED].

¹²⁵⁰ [REDACTED].

¹²⁵¹ [REDACTED].

¹²⁵² [REDACTED].

¹²⁵³ P-0932 saw **ABD-AL-RAHMAN** arrive in the centre of Kodoom, near a mill, in a white vehicle [REDACTED]. P-0932 was about 15m away ([DAR-OTP-0222-0602-R02](#) at 0610, para. 39, and [T-68-ET](#), p. 61, line 21-p. 62, line 21, see also [T-68-ET](#), [REDACTED], p. 26, line 21-p. 27, line 21). P-0932 had previously met **ABD-AL-RAHMAN** - who he knew as Ali Kushayb, Ali Mohammed Ahmed and Abd-Al-Rahman - in his pharmacy in Garsila in 2000 ([DAR-OTP-0222-0602-R02](#) at 0607, paras. 24-25, and [T-68-ET](#), p. 13, line 12-p. 15, line 6, p. 53, line 1-7) and during a tribal dispute negotiation in 2001 ([DAR-OTP-0222-0602-R02](#) at 0607-0608, paras. 26-30, and [T-68-ET](#), p. 12, lines 14-21, p. 17, line 3-p. 21, line 6, p. 53, line 8-p. 54, line 4). He also saw **ABD-AL-RAHMAN** later in the Mukjar market ([DAR-OTP-0222-0602-R02](#) at 0616, para. 79, and [T-68-ET](#), p. 31, line 23-p. 34, line 2) and while imprisoned in Mukjar ([DAR-OTP-0222-0602-R02](#) at 0619-0602, paras. 102, 104-105, and [DAR-OTP-0220-5720](#) at 5720-5721, paras. 15-17, and [T-68-ET](#), p. 34, line 5-p. 35, line 20, p. 39, line 1-p. 41, line 21, p. 52, lines 23-25). See Annex 26, p. 15-16. See also P-0029: [T-29-CT](#), p. 44, lines 6-13, p. 61, line 25-p. 62, line 6, p. 65, line 17-p. 67, line 11, p. 69, line 17-p. 71, line 3, and [T-30-CT2](#), p. 14, lines 18-25, p. 22, line 25-p. 23, line 5, and [T-31-ET](#), p. 25, line 3-p. 27, line 21.

he had this foot on his neck.¹²⁵⁴

358. In the evening, following the first phase of the attack on Bindisi, **ABD-AL-RAHMAN** blew his whistle and gathered 15 to 20 Militia/*Janjaweed* leaders to a meeting. He told them “You’ve taught the enemy a lesson that the enemy will never forget. The Fur will never forget this lesson. And, God willing, tomorrow [...] we will go to Garsila where a big celebration will be held for us by Governor Ja’afar Abd-Al-Hakam Ishaq, in addition to his governmental representatives.” Afterwards, **ABD-AL-RAHMAN** ordered the forces to “go to their positions to get dinner and to sleep early”.¹²⁵⁵

359. However, the next morning **ABD-AL-RAHMAN** summoned his forces again and informed them that “today the word is different. Because I have received instructions to continue this operation [...] and destroy the remainder of the villages of Bindisi and Mukjar, south of Bindisi and then eastward of Bindisi all the way to Mukjar”.¹²⁵⁶ [REDACTED].¹²⁵⁷ **ABD-AL-RAHMAN** was also seen in Bindisi on around 15 and 16 August 2003 by witnesses [REDACTED],¹²⁵⁸ P-0012,¹²⁵⁹ and P-0011.¹²⁶⁰

Orders and instructions

360. **ABD-AL-RAHMAN** regularly conveyed orders and instructions to Militia/*Janjaweed* and GoS Forces under his command, and encouraged them throughout the attack. [REDACTED], **ABD-AL-RAHMAN** encouraged Militia/*Janjaweed* and GoS Forces by shouting “*Allah Akbar. Allah Akhbar. Wipe out and swipe away. Amsah aksah*”, while they

¹²⁵⁴ See above paras. 289, 308. P-0986 could also observe that **ABD-AL-RAHMAN** was holding an axe during the Kodoom attack ([DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 51-52, and [T-66-CT2](#), p. 23, lines 2-7, and [T-65-CT](#), p. 13, lines 9-17), which is also reported by [REDACTED] and P-1073 ([T-103-CT](#), p. 10, line 11-p. 11, line 20, p. 18, lines 6-12).

¹²⁵⁵ [REDACTED].

¹²⁵⁶ [REDACTED]. P-0012 recalled being told about this meeting [REDACTED], but recalled a different version of these events stating that SAMIH pressured Ali Kushayb into continuing fighting ([DAR-OTP-0119-0503-R01](#) at 0521, para. 82).

¹²⁵⁷ [REDACTED].

¹²⁵⁸ [REDACTED].

¹²⁵⁹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0520-0522, paras. 78, 84, 86, and [T-45-CT](#), p. 14, line 23-p. 16, line 25, p. 17, line 12-p. 18, line 14, and [T-46-CT](#), p. 48, line 23-p. 51, line 19, p. 55, line 24-p. 61, line 17, p. 83, line 21-p. 84, line 12, and [DAR-OTP-0220-4715-R01](#), and [DAR-REG-0001-0010](#). See also P-1073: [T-103-CT](#), p. 9, line 14-p. 11, line 20, p. 18, lines 6-12, p. 28, lines 4-16.

¹²⁶⁰ P-0011 heard Militia/*Janjaweed* discussing how to distribute themselves when arriving in Bindisi on 15 August 2003 and determining that some should go in the direction of Ali Kushayb’s location to provide him with protection. P-0011 saw Ali Kushayb inside a white vehicle from about 20 metres away (twice the distance between the witness and the bench in courtroom 2) (See [T-91-CT2](#), p. 17, line 5-p. 20, line 19, p. 43, line 25-p. 45, line 10, p. 48, lines 16-21). The witness knew **ABD-AL-RAHMAN** and his family beforehand [REDACTED] ([T-91-CT2](#), [REDACTED], p. 43, line 12-14, p. 45, line 13-p. 49, line 17, and [DAR-OTP-00000361-R01](#), and [DAR-OTP-00000359-R01](#)). See Annex 26, p. 1.

burned homes, looted, and murdered and raped civilians.¹²⁶¹ [REDACTED] this expression, which was already in use by the SAF and PDF forces during the conflict in South Sudan, in which **ABD-AL-RAHMAN** participated,¹²⁶² meant “[d]o not leave behind any trace”.¹²⁶³ [REDACTED] confirmed that the expression “*Aksah Amsah*” was used in wartime since the conflict in South Sudan to boost morale and instruct soldiers to “carry out the killing and the clean sweep”.¹²⁶⁴ [REDACTED] the expression meant “kill relentlessly”.¹²⁶⁵

361. [REDACTED], the expression meant “leave nobody alive”,¹²⁶⁶ further explaining that *aksah* means “attack and advance” to soldiers and *amsah* means “fight and [...] don’t leave anything behind, no houses, no trees, no humans, no animals”, basically, “sweep away anything you find on this land”.¹²⁶⁷ [REDACTED] “these words mean genocide and killing prisoners. And this contradicts with the war -- the war laws based on the Geneva Convention.”¹²⁶⁸ [REDACTED] “*Aksah amsah*” motto was already in use by CRF forces which came from Khartoum to Mukjar in 2003, but later became popular in 2005-2006 across all the CRF. [REDACTED] the expression meant “cleanse”, “sweep it”, “bring him alive, eat him alive, fresh”, and was used to boost morale.¹²⁶⁹

362. [REDACTED] **ABD-AL-RAHMAN** use this expression later in Arawala and Dembo Kabdy. [REDACTED] it meant “never bring someone alive”¹²⁷⁰ or “kill” and “burn out”.¹²⁷¹ The expression was also later attributed to HARUN,¹²⁷² who in speeches would state “he didn’t want a single Fur person in Darfur, nor a single village there” and would encourage soldiers and Militia/*Janjaweed* by saying “*Aksah amsah*” or “wipe and sweep away”.¹²⁷³ P-0041 also heard Militia/*Janjaweed* use this expression following HARUN’s speech in Mukjar prior to the

¹²⁶¹ [REDACTED].

¹²⁶² See above fn. 172.

¹²⁶³ [REDACTED].

¹²⁶⁴ [REDACTED].

¹²⁶⁵ [REDACTED].

¹²⁶⁶ [REDACTED].

¹²⁶⁷ [REDACTED].

¹²⁶⁸ [REDACTED].

¹²⁶⁹ [REDACTED]. A 2013 video submitted by the Defence further confirmed that the expression was still in use by the SAF at that later time as a motivational chant, and was used in association with phrases such as “[l]et’s get the [military] equipment, pull the trigger!” and “[o]n the day it is necessary, we’ll set on fire, fire, fire, flames on the grave”. See [DAR-D31-00000001](#), and [DAR-D31-00000003](#).

¹²⁷⁰ [REDACTED].

¹²⁷¹ [REDACTED].

¹²⁷² [REDACTED].

¹²⁷³ [REDACTED]. See also HARUN using these terms while addressing troops in a 2012 video, [DAR-OTP-0193-0530](#), [DAR-OTP-0219-9258](#) (Translation [DAR-OTP-0219-9344](#) at 9346-9347).

attack on Kodoom, Bindisi and surrounding areas.¹²⁷⁴

363. [REDACTED] **ABD-AL-RAHMAN** order Militia/*Janjaweed* to “cut the straw and eat it raw”, meaning “don’t leave anything behind, not a tree, not anything. Just wipe out everything”.¹²⁷⁵ Through the use of these expressions, **ABD-AL-RAHMAN** ordered and/or induced the troops under his command to attack civilian villages and commit the charged crimes.¹²⁷⁶

364. Specifically in Nyerli, [REDACTED] **ABD-AL-RAHMAN** order Militia/*Janjaweed* to attack by shouting “Allah Akbar. Allah Akbar. Wipe out and sweep away. *Amsah aksah*” and gesturing to them in a sweeping forward motion. **ABD-AL-RAHMAN** then moved towards the village together with the attackers [REDACTED] “until all the village was burned down and until all the village was looted”.¹²⁷⁷ [REDACTED].¹²⁷⁸

365. [REDACTED] in Nyerli, **ABD-AL-RAHMAN** asked his men “did you finish with the village?” and after they confirmed they had, **ABD-AL-RAHMAN** then instructed them to “move on”.¹²⁷⁹

366. [REDACTED] **ABD-AL-RAHMAN**, [REDACTED], saying to Militia/*Janjaweed* in Nyerli “Kill everybody. Wipe out and [...] cut the straw and eat it raw”, in the midst of the ongoing “[b]urning down and killing”.¹²⁸⁰ [REDACTED] attackers would “carry people and just throw them in the fire, in the burning houses”, including children, while **ABD-AL-RAHMAN** told them to “cut the straw and eat it raw”.¹²⁸¹ [REDACTED] **ABD-AL-RAHMAN** told some of his *agids* to “cut the straw and eat it raw” when ordering them to split up and attack different villages.¹²⁸²

367. Upon reaching Tiro, [REDACTED] **ABD-AL-RAHMAN** could see that the town was burnt down.¹²⁸³ **ABD-AL-RAHMAN** [REDACTED] to give orders and instructions. [REDACTED] **ABD-AL-RAHMAN** give orders and instructions, physically signalling where

¹²⁷⁴ P-0041: [DAR-OTP-0206-0033-R03](#) at 0047, para. 53, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxIII](#), p. 4, and [Prosecution’s response regarding rule 68\(2\)\(b\) declarations](#), para. 9, and [T-123-ET](#), p. 6, lines 3-16.

¹²⁷⁵ [REDACTED].

¹²⁷⁶ See [Ntaganda AJ](#), paras. 459-472.

¹²⁷⁷ [REDACTED].

¹²⁷⁸ [REDACTED].

¹²⁷⁹ [REDACTED].

¹²⁸⁰ [REDACTED].

¹²⁸¹ [REDACTED].

¹²⁸² [REDACTED].

¹²⁸³ [REDACTED].

his Militia/*Janjaweed* forces should go and ordering “Hey, you, come here. Dayf [SAMIH], come forward. Bonjouse, come forward.”¹²⁸⁴

368. Upon reaching Kodoom, [REDACTED] the town being burned, [REDACTED] inhabitants being chased and Militia/*Janjaweed* shooting.¹²⁸⁵ [REDACTED] **ABD-AL-RAHMAN** was again saying “cut the straw and eat it raw” whilst attackers were “busy shooting and burning the village”.¹²⁸⁶ [REDACTED] he was not only ordering his forces, the Militia/*Janjaweed*, “to take action, to shoot” civilians, but was also “doing the killing himself”.¹²⁸⁷ [REDACTED].¹²⁸⁸

369. [REDACTED].¹²⁸⁹ [REDACTED] **ABD-AL-RAHMAN** giving orders to SAMIH and BONJOUSE “to continue working” and ordering “Anyone you see [...], kill him”.¹²⁹⁰ [REDACTED].¹²⁹¹

370. When one of the members of the Militia/*Janjaweed* who was taking part in the attack on Kodoom told **ABD-AL-RAHMAN** that he wanted to kill P-0986, **ABD-AL-RAHMAN** ordered him to “just torture him until he tells us where the other people are”.¹²⁹² Before **ABD-AL-RAHMAN**, who had his foot on the witness’ neck, left the area, he ordered Militia/*Janjaweed* and/or GoS Forces: “Don’t kill him. Let’s catch the livestock running away and get the other people. [...] If after that you want to kill him, then kill him. If he tells where the people are, then you can kill him”.¹²⁹³ **ABD-AL-RAHMAN** also told his men that all the Fur would die and their livestock would become the Militia/*Janjaweed*’s rewards.¹²⁹⁴

371. Upon arriving in Bindisi on the evening of around 15 August 2003, looting was ongoing in sight of **ABD-AL-RAHMAN** but he did nothing to stop it or reprimand any of his subordinates.¹²⁹⁵ As described above, in the evening, **ABD-AL-RAHMAN** congratulated the *agids* under his command, stating they had “taught the enemy a lesson that the enemy will

¹²⁸⁴ [REDACTED].

¹²⁸⁵ [REDACTED].

¹²⁸⁶ [REDACTED].

¹²⁸⁷ [REDACTED].

¹²⁸⁸ [REDACTED].

¹²⁸⁹ [REDACTED].

¹²⁹⁰ [REDACTED].

¹²⁹¹ [REDACTED].

¹²⁹² P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 53, and [T-65-CT](#), p. 53, lines 11-21.

¹²⁹³ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 55, and [T-65-CT](#), p. 11, lines 4-18, p. 48, line 20-p. 49, line 6, and [T-66-CT2](#), p. 25, line 24-p. 26, line 7.

¹²⁹⁴ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 55.

¹²⁹⁵ [REDACTED].

never forget”.¹²⁹⁶ [REDACTED].¹²⁹⁷ [REDACTED].¹²⁹⁸ On around 16 August 2003, after ordering the continuation of the attack on Bindisi,¹²⁹⁹ **ABD-AL-RAHMAN** was seen in South Bindisi gesticulating to the *agids* who, in turn, would relay orders to the *Fursan*.¹³⁰⁰

372. Throughout the attack, therefore, **ABD-AL-RAHMAN** issued orders and instructions to GoS Forces and Militia/*Janjaweed* members and leaders, including his deputies SAMIH and BONJOUSE, [REDACTED].¹³⁰¹ [REDACTED].¹³⁰² [REDACTED].¹³⁰³

Overriding of objections

373. **ABD-AL-RAHMAN**’s authority remained dominant through the course of the attack. [REDACTED].¹³⁰⁴

374. When Militia/*Janjaweed* leader and *umdah* Dawud DAHAB questioned **ABD-AL-RAHMAN**’s tactics in Tiro, saying that they did not please God and that they were “not right”, **ABD-AL-RAHMAN** reacted angrily and told him, “*Umdah*, this is our business. You can’t tell us how to do our own work. If you don’t like what we’re doing, choose one of these horses. [...] Choose one, ride it and go back to your house in Garsila”.¹³⁰⁵

375. [REDACTED].¹³⁰⁶ [REDACTED].¹³⁰⁷ [REDACTED].¹³⁰⁸

376. Issa MARDOUM, another Militia/*Janjaweed* leader, expressed concerns about **ABD-AL-RAHMAN**’s orders to continue to attack South Bindisi and other villages on around 16 August 2003, telling him that the things they had done were an “unforgettable lesson” and asking not to go to the remainder of the villages but move to Garsila. In response, he was

¹²⁹⁶ [REDACTED].

¹²⁹⁷ [REDACTED].

¹²⁹⁸ [REDACTED].

¹²⁹⁹ See above para. 359.

¹³⁰⁰ P-0012: [DAR-OTP-0119-0503-R01](#) at 0522, para. 84, and [T-45-CT](#), p. 17, line 12-p. 18, line 14.

¹³⁰¹ [REDACTED]. See [Ntaganda AJ](#), para. 1108 (finding that an accused need not be present when the crimes are taking place to be held responsible and that the accused’s monitoring of operations in the course of which crimes were committed is relevant).

¹³⁰² [REDACTED]. See also [REDACTED]; P-0883: [T-72-CT2](#), p. 33, lines 12-15; P-0012: [DAR-OTP-0119-0503-R01](#) at 0513, para. 45; P-0986: [DAR-OTP-0222-0437-R01](#) at 0447-0448, paras. 51-52, and [T-66-CT2](#), p. 23, lines 2-7; P-0085: [DAR-OTP-0110-0054-R02](#) at 0063, para. 33 (excluding the reference to the passages the Parties agreed not to rely on, see [Decision on the Prosecution’s second Rule 68\(2\)\(c\) application](#), para. 5, fn. 6).

¹³⁰³ [REDACTED].

¹³⁰⁴ [REDACTED].

¹³⁰⁵ [REDACTED].

¹³⁰⁶ [REDACTED].

¹³⁰⁷ [REDACTED].

¹³⁰⁸ [REDACTED].

mocked and humiliated by **ABD-AL-RAHMAN**,¹³⁰⁹ after which **ABD-AL-RAHMAN** continued his attack on Bindisi.

Direct effect of these orders and instructions

377. **ABD-AL-RAHMAN**'s personal conduct, including his orders and instructions during the attack on Kodoom and Bindisi, directly impacted the commission of the crimes by Militia/*Janjaweed* and/or GoS Forces.

378. **ABD-AL-RAHMAN** led and directed the attack on Kodoom, Bindisi and surrounding areas. By the actions described above, he communicated not only his tolerance of crimes committed by Militia/*Janjaweed* and/or GoS Forces but also his tacit and express approval. **ABD-AL-RAHMAN** could see the crimes that were being committed by Militia/*Janjaweed* and/or GoS Forces during the course of the attack and failed to stop or reprimand attackers.¹³¹⁰ Furthermore he expressly encouraged and directed the attacks against villages through his words and actions, such as through his use of persecutory language, stating, for instance, that "all the Fur would die".¹³¹¹ **ABD-AL-RAHMAN** also directly engaged in criminal conduct himself, by for example, shooting at inhabitants in Kodoom¹³¹² and putting his foot on the neck of P-0986 and calling him a "slave", before instructing that the witness be tortured.¹³¹³

379. **ABD-AL-RAHMAN**'s words and conduct also contributed to a coercive environment conducive to the rape of women and girls and facilitated the commission of the crimes charged under Counts 6 to 9. Sexual violence, as described above, had a profoundly negative impact on the Darfuri community¹³¹⁴ and was thus yet another means through which the local community could be "wiped out and swept away".¹³¹⁵

380. The Militia/*Janjaweed* and/or GoS Forces under **ABD-AL-RAHMAN**'s command, therefore, understood his words and conduct to permit the commission of all charged crimes. For example, following his order to "cut the straw and eat it raw", the Militia/*Janjaweed* in Kodoom started "the shooting, the killing, the burning, and the raping."¹³¹⁶ Militia/ *Janjaweed*

¹³⁰⁹ [REDACTED]. P-0029 also recognised Issa MARDOUM during the attack on Kodoom ([T-29-CT](#), p. 72, lines 13-21) and heard about his disagreement with **ABD-AL-RAHMAN** in Daguina ([T-30-CT2](#), p. 13, lines 9-13, p. 46, line 25-p. 47, line 25).

¹³¹⁰ See above paras. 367-368, 371.

¹³¹¹ P-0986: [DAR-OTP-0222-0437-R01](#) at 0448, para. 55.

¹³¹² [REDACTED].

¹³¹³ See above paras. 289, 308.

¹³¹⁴ See above paras. 316, 333-335.

¹³¹⁵ See *Sesay et al. TJ*, paras. 1347-1349, fn. 2513-2515; *Akayesu TJ*, para. 687; IACtHR, *Women Victims of Sexual Torture in Atenco v. Mexico Judgment*, paras. 202, 204.

¹³¹⁶ [REDACTED].

attackers made statements indicating their actions were supported by and/or reflected the **ABD-AL-RAHMAN**'s orders,¹³¹⁷ openly declaring that they had permission from the GoS to do so and to wipe the victims out, to kill them and to chase them away.¹³¹⁸ Militia/*Janjaweed* who were raping and torturing women would also state they were "the men of Ali Kushayb"¹³¹⁹ and repeat the derogatory and persecutory language¹³²⁰ used by **ABD-AL-RAHMAN**.

381. The evidence shows that rape, outrages upon personal dignity and other inhumane acts were an integral part of the attack on Kodoom, Bindisi and surrounding areas. Most of the conduct charged under Counts 6 to 9 happened in open areas, within view of others.¹³²¹ Civilians were openly stripped,¹³²² restrained,¹³²³ searched and robbed,¹³²⁴ and beaten and whipped,¹³²⁵ especially women before they were raped and gang raped under extraordinarily humiliating circumstances.¹³²⁶ Militia/*Janjaweed* also spoke publicly about the commission of rapes in the course of the attack.¹³²⁷ The perpetrators thus made no effort to conceal the widespread commission of these specific crimes as opposed to others.

382. As such, rape and other sexual and gender-based violence must not be treated differently from other violent crimes charged in this case. They were not "merely opportunistic", they were committed with intention and as part of the concerted strategy of the attack.¹³²⁸

¹³¹⁷ P-0011: [T-91-CT2](#), p. 25, lines 4-7; P-0015: [DAR-OTP-0088-0187-R04](#) at 0196, para. 43.

¹³¹⁸ P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47, and [T-93-ET](#), p. 41, lines 12-15.

¹³¹⁹ P-0015: [REDACTED].

¹³²⁰ P-0015: [DAR-OTP-0088-0187-R04](#) at 0197, para. 47; P-0011: [T-91-CT2](#), p. 23, line 19-p. 25, line 7; P-1073: [T-103-CT](#), p. 14, lines 14-17.

¹³²¹ P-0011: [T-91-CT2](#), p. 23, line 24-p. 25, line 7, and [DAR-OTP-00000367](#) at 1, 3; P-0015: [DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 38-44, and [DAR-OTP-00000427](#) at 2-3, paras. 14, 16, 18, and [T-93-ET](#), p. 45, line 25-p. 46, line 10, p. 56, lines 4-7; P-0007: [T-89-CT](#), p. 7, lines 16-25, p. 8, line 13-p. 9, line 18; P-1073: [T-103-CT](#), p. 14, lines 8-17; P-1074: [DAR-OTP-0224-0441-R02](#) at 0447-0448, paras. 34-36; P-0927: [DAR-OTP-0221-0523-R01](#) at 0530, paras. 31-32.

¹³²² P-0007: [T-89-CT](#), p. 7, lines 16-25, p. 8, lines 13-15, p. 9, lines 11-13; P-0011: [T-91-CT2](#), p. 24, lines 15-25; P-0015: [DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 38-39, 41-42.

¹³²³ P-0011: [T-91-CT2](#), p. 23, lines 14-16, p. 28, lines 4-10, and [DAR-OTP-00000366](#) at 2, 4-5, and [DAR-OTP-00000363-R01](#); P-0015: [DAR-OTP-0088-0187-R04](#) at 0195, para. 38. *See also* P-1073: [T-103-CT](#), p. 14, lines 12-13, and [DAR-OTP-00000500](#) at 2.

¹³²⁴ P-0015: [DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 38-39, 41.

¹³²⁵ P-0007: [T-89-CT](#), p. 8, lines 13-17; P-0011: [T-91-CT2](#), p. 23, lines 15-17, p. 24, lines 3-14, and [DAR-OTP-00000366](#) at 2, and [DAR-OTP-00000367](#) at 2; P-0015: [DAR-OTP-0088-0187-R04](#) at 0195-0196, paras. 39-40, and [DAR-OTP-00000427](#) at 2, para. 14, and [T-93-ET](#), p. 46, lines 7-10; P-1073: [T-103-CT](#), p. 14, lines 10-13, and [DAR-OTP-00000500](#) at 1-2; P-1074: [DAR-OTP-0224-0441-R02](#) at 0447-0448, paras. 34-36, and [DAR-OTP-00000508](#).

¹³²⁶ *See above* para. 389.

¹³²⁷ [REDACTED].

¹³²⁸ *See e.g.* [Gbagbo & Blé Goudé AJ, Judge Ibáñez Dissenting Opinion](#), paras. 395-404; [Gbagbo & Blé Goudé AJ, Judge Eboe-Osuji Partly Concurring Opinion](#), para. 334; [Ntaganda TJ](#), para. 805-806; ICTY, [Dordević AJ](#).

iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

383. **ABD-AL-RAHMAN** meant to engage in his conduct and was aware that Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes charged and that his actions contributed to their commission. **ABD-AL-RAHMAN**'s intent and/or awareness can be inferred from the overall context and the facts and circumstances of his conduct, such as his leadership role during the attack, including the orders and instructions that he gave to Militia/*Janjaweed* and/or GoS Forces present on the ground,¹³²⁹ as well as his verbal and physical cues, including his orders and instructions to perpetrators "to wipe out and sweep away" and "cut the straw and eat it raw".

384. Moreover, **ABD-AL-RAHMAN**'s conspicuous presence and approval before, during and after the attack is indicative of the overall permissive environment which he created for the operation, including his failure to challenge or punish any members of the Militia/*Janjaweed* under his command for the crimes that they committed. In particular, **ABD-AL-RAHMAN** was also aware that rape and mistreatment of civilians would be committed in the ordinary course of events as part of the attack on Bindisi and surrounding areas. His intent and knowledge in relation to these specific crimes can be inferred not only from the factors set out above, but also from the massive and violent nature of other crimes committed during the attack.¹³³⁰ [REDACTED], **ABD-AL-RAHMAN**'s role as a *Fursan* commander in the conflict in Darfur included "military operations, killing, rape, burning down villages and all the other kinds of activities that were used in the field".¹³³¹

385. **ABD-AL-RAHMAN**'s awareness that the Militia/*Janjaweed* would, in the ordinary course of events, commit the crimes charged under Counts 6 to 9 is further demonstrated by the fact that rape, other forms of sexual violence and mistreatment of civilians were consistent features of prior GoS counterinsurgency campaigns,¹³³² in which he had taken part,¹³³³ and also of the entire widespread and systematic attack on the civilian population in Wadi Salih and

paras. 852, 887, 892-893, 895, 897-898; ICTY, [Sainović et al. AJ](#), para. 580; ICTR, [Karemera et al. AJ](#), paras. 624-626, 630-633.

¹³²⁹ See above paras. 355-382.

¹³³⁰ [Dorđević AJ](#), paras. 920-926. See also [Karemera et al. AJ](#), paras. 624 ss.

¹³³¹ [REDACTED].

¹³³² P-1042: [DAR-OTP-0220-1623](#) at 1653-1654, para. 80, 1677, para. 143, and [T-28-ET](#), p. 3, line 19-p. 5, line 1; [DAR-OTP-0148-0002](#) at 0074-0075.

¹³³³ See above fn. 172.

Mukjar Localities between August 2003 and at least April 2004.¹³³⁴ [REDACTED] “every time they went for war, they never killed women. They would torture women and rape them but not kill them”.¹³³⁵

386. Rape and mistreatment of civilians also occurred in the villages attacked immediately prior to Bindisi.¹³³⁶ The continued occurrence of these violent acts in Bindisi and surrounding areas was therefore a foreseeable consequence of **ABD-AL-RAHMAN**’s acts and conduct, including his dehumanising and derogatory language and his own involvement in the detention and torture of P-0986.¹³³⁷ In the specific context of this attack, when **ABD-AL-RAHMAN** ordered his men to “wipe out and sweep away” or to “cut the straw and eat it raw”, he was aware that in the ordinary course of events, all the charged crimes would be committed.

387. Further, the intended commission of rape and other similar acts was publicly and widely discussed in **ABD-AL-RAHMAN**’s presence.

388. About a week before the attack, Ahmad HARUN—from whom **ABD-AL-RAHMAN** declared he exclusively took orders—¹³³⁸ publicly threatened civilians, in **ABD-AL-RAHMAN**’s presence, that “you will be killed, you will be raped.”¹³³⁹ [REDACTED].¹³⁴⁰

389. [REDACTED].¹³⁴¹

390. That same evening **ABD-AL-RAHMAN** congratulated his *agids* for “teaching the enemy a lesson they will never forget”,¹³⁴² and the following morning, told them they would “continue this operation [...] and destroy the remainder of [...] Bindisi”.¹³⁴³ By doing this, he not only condoned all crimes committed during the first day of the attack, including the rapes and associated mistreatment of civilians, but also signalled and encouraged that similar violent acts should continue on the second day of the attack on Bindisi in order to teach “the enemy”

¹³³⁴ See above fn. 1122. See also e.g. P-0726: [T-53-CT2](#), p. 15, lines 1-24, [REDACTED], and [DAR-OTP-0210-0346-R04](#) at 0355-0357, paras. 34-35, 38-39 (Forgo); P-0903: [T-32-CT](#), [REDACTED], p. 80, lines 4-7 (Tendy); [REDACTED] (Sindu), [REDACTED] (Arawala); P-0651: [T-34-CT3](#), p. 41, lines 10-21 (Deleig).

¹³³⁵ [REDACTED].

¹³³⁶ See above paras. 320-321. On the relevance of considering this prior events to demonstrate that a pattern was followed during the attack see [Ongwen AJ](#), paras. 301-305, 946-948.

¹³³⁷ See above fn. 938 and paras. 289, 308.

¹³³⁸ See above para. 257.

¹³³⁹ P-0878: [T-78-CT3](#), p. 14, lines 2-12. See also regarding a later speech, P-0877: [T-54-CT](#), p. 3, lines 8-14, p. 7, line 23-p. 8, line 13.

¹³⁴⁰ [REDACTED].

¹³⁴¹ [REDACTED].

¹³⁴² [REDACTED].

¹³⁴³ [REDACTED].

a lesson,¹³⁴⁴ thereby highlighting how rape was used, or weaponised, in his campaigns. **ABD-AL-RAHMAN**'s encouragement of this conduct was further reinforced by the aggressive humiliation of those who objected to the brutal nature of the attack.¹³⁴⁵

391. This is further demonstrated by [REDACTED].¹³⁴⁶ [REDACTED].¹³⁴⁷

Inducing under article 25(3)(b) of the Rome Statute

392. As detailed in this section, during the events in Kodoom and Bindisi, between about 15 and 16 August 2003, **ABD-AL-RAHMAN** exerted influence over Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes. Through the conduct described above, in particular at paragraphs 355 to 382, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in Counts 1 to 11.

393. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 350 to 391.

H. CRIMES COMMITTED IN MUKJAR AND SURROUNDING AREAS

1) Introduction

394. During the charged period, Mukjar was a town located in the Mukjar Administrative Unit of Mukjar Locality in West Darfur. Mukjar was approximately 49 kilometres southeast of the town of Garsila, approximately 59 kilometres south of the town of Deleig, and approximately 19 kilometres east of the town of Bindisi.¹³⁴⁸ The population of the town of Mukjar was predominantly Fur.¹³⁴⁹

¹³⁴⁴ The conduct of the accused after the commission of a crime may provide information or evidence that may be of relevance to the assessment of his or her intent at the time of the offence. See [Ntaganda AJ](#), paras. 1127-1128.

¹³⁴⁵ See above paras. 373-376.

¹³⁴⁶ [REDACTED].

¹³⁴⁷ [REDACTED].

¹³⁴⁸ [West Darfur Planning Map; Third Agreed Facts AnxC](#), no. 3. See also Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

¹³⁴⁹ [DAR-OTP-0145-0237](#) at 0317 (1800 households in total, of which 66% Fur, 12% Masalit, 12% Tama and 10% Gimir, around August 2003 – the population size and the percentage of Fur population further increased during the charged period due to the influx of internally displaced persons ("IDPs") from the destroyed

395. HARUN visited Mukjar by helicopter in early 2004, just prior to the Sindu operation. In February, he attended the graduation ceremony of Fur police officers forcibly recruited into the PPF.¹³⁵⁰ In early March, he visited a second time, delivering 16 boxes of weapons and ammunition for **ABD-AL-RAHMAN** and Militia/*Janjaweed* forces.¹³⁵¹ Head of the CRF in Mukjar, Lieutenant Colonel Mustafa Ahmad AL-TAYYIB, informed **ABD-AL-RAHMAN** that HARUN had delivered weapons and ammunition for him to collect.¹³⁵² [REDACTED] at Mukjar police station when **ABD-AL-RAHMAN** arrived with Militia/*Janjaweed*. [REDACTED] **ABD-AL-RAHMAN** instruct Militia/*Janjaweed* to collect the boxes and load them onto their trucks.¹³⁵³ The following day, **ABD-AL-RAHMAN** and Militia/*Janjaweed* began attacking the Fur villages of Arada and Indiri.¹³⁵⁴

397. **ABD-AL-RAHMAN** led Militia/*Janjaweed* forces in a joint operation with the SAF, which deployed from Garsila, and attacked various locations while travelling to the Sindu area.¹³⁵⁵ The operation culminated in a strikingly similar pattern of arrest, mistreatment and execution of hundreds of Fur males near Mukjar and Deleig in February/March 2004.¹³⁵⁶ The convoy consisted of **ABD-AL-RAHMAN**'s vehicles,¹³⁵⁷ about 700-800 Militia/*Janjaweed*,¹³⁵⁸ and members of the SAF and PDF.¹³⁵⁹ As the convoy progressed towards Sindu, via Mukjar, over the following days, the numbers of Militia/*Janjaweed* increased to thousands.¹³⁶⁰

398. The night before the Sindu operation began, **ABD-AL-RAHMAN** and his forces slept at the CRF base in Mukjar.¹³⁶¹ Before leaving Mukjar, **ABD-AL-RAHMAN** ordered the "commander of the police" that any man coming from Sindu must be registered and kept in

surrounding villages, many of which were 100% Fur). See [DAR-OTP-0145-0237](#) at 0311 (Arada, Artala), 0312 (Balda), 0314 (Dembow Kabdy, Denow), 0315-0316 (Gorolla, Indry) and 0319 (Tendy). See also Annex 13: Displacement of civilians to Mukjar between at least February and March 2004, and **ABD-AL-RAHMAN**'s attack on Sindu.

¹³⁵⁰ P-0913: [DAR-OTP-0218-0021-R04](#) at 0031-0032, paras. 69-73, and [DAR-OTP-00000012](#) at 2, paras. 17-18, and [T-69-CT](#), p. 40, line 22-p. 41, line 4, [REDACTED]. See also P-0720: [DAR-OTP-0210-0291-R02](#) at 0301, para. 66.

¹³⁵¹ [REDACTED].

¹³⁵² [REDACTED].

¹³⁵³ [REDACTED].

¹³⁵⁴ P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, paras. 86-87, and [DAR-OTP-00000012](#) at 000003, paras. 25-26.

¹³⁵⁵ See above paras. 153-157.

¹³⁵⁶ See below Section H: Crimes committed in Mukjar and surrounding areas; Section I: Crimes committed in Deleig and surrounding areas. See also P-0877: [T-54-CT](#), p. 6, line 24-p. 7, line 3; P-0922: [DAR-OTP-0222-0312-R01](#) at 0332, para. 85, and [T-39-ET](#), p. 29, lines 5-10, p. 60, line 16-p. 61, line 10.

¹³⁵⁷ [REDACTED].

¹³⁵⁸ [REDACTED].

¹³⁵⁹ [REDACTED].

¹³⁶⁰ [REDACTED].

¹³⁶¹ [DAR-OTP-0219-6910](#) at 6915.

Mukjar, until their return.¹³⁶² In case of non-compliance, **ABD-AL-RAHMAN** added, the Police chief would be held accountable. In turn, the head of Police told all the *sheikhs* in Mukjar that if any man came from outside of Mukjar, he should be registered and brought to the police station. Failure to do would result in the arrest of both the unregistered man and the *sheikh*.¹³⁶³

399. Between at least February and March 2004, as part of the armed operation to attack Sindu,¹³⁶⁴ Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Mukjar, including but not limited to Tendy,¹³⁶⁵ Abirla,¹³⁶⁶ Arada,¹³⁶⁷ Dembow Kabdy,¹³⁶⁸ Kirarow,¹³⁶⁹ Sigigir,¹³⁷⁰ and Nyerli.¹³⁷¹ These attacks caused thousands of civilians to seek refuge in Mukjar, including a number of Prosecution witnesses.¹³⁷² Living conditions were already deplorable. Frightened, displaced villagers were dispersed throughout the streets and neighbourhoods of Mukjar.¹³⁷³ Elderly people and young children frequently died from

¹³⁶² [REDACTED]. According to [REDACTED], Lt Col Mustapha Ahmad AL-TAYEB (AL-TAYYIB) was the police commander in Mukjar in March 2004. See P-0913: [DAR-OTP-0218-0021-R04](#) at 0033, para. 79.

¹³⁶³ [REDACTED]; P-0922: [DAR-OTP-0222-0312-R01](#) at 0332, para. 85.

¹³⁶⁴ [REDACTED]; P-0922: [DAR-OTP-0222-0312-R01](#) at 0332, para. 85, and [T-39-ET](#), p. 29, lines 9-10, p. 60, line 16-p. 61, line 10; P-0931: [T-62-CT](#), p. 19, line 24-p. 20, line 5.

¹³⁶⁵ P-0877: [T-53-CT2](#), p. 80, line 18-p. 81, line 5; P-0984: [T-66-CT2](#), p. 62, line 21-p. 63, line 5, p. 65, lines 4-8; P-0903: [T-32-CT](#), p. 10, line 12-p. 12, line 24; P-0675: [DAR-OTP-0206-0173-R02](#) at 0195-0196, paras. 81-83; P-0129: [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 35-38, and [DAR-OTP-00000084](#) at 2, para. 13; P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, para. 90; P-0041: [DAR-OTP-0206-0033-R03](#) at 0049, para. 66; P-0581: [DAR-OTP-0216-0560-R02](#) at 0567, para. 33, and [T-64-CT](#), p. 31, lines 9-19.

¹³⁶⁶ P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, para. 86, and [DAR-OTP-00000012](#) at 3, para. 25; P-0919: [T-60-CT](#), [REDACTED], p. 13, line 1-p. 14, line 8, p. 48, line 25-p. 49, line 4; P-0041: [DAR-OTP-0206-0033-R03](#) at 0049, para. 66; P-0581: [DAR-OTP-0216-0560-R02](#) at 0567, para. 33, and [T-64-CT](#), p. 31, lines 9-19.

¹³⁶⁷ P-0990: [T-40-CT](#), p. 24, line 13-p. 26, line 5; P-0892: [DAR-OTP-0217-0384-R02](#) at 0390-0392, paras. 32-39, and [DAR-OTP-0224-0658](#) at 0658, para. 4, and [T-48-CT](#), p. 7, lines 10-13, p. 19, line 6; P-0877: [T-53-CT2](#), p. 80, line 18-p. 81, line 5, and [T-55-CT](#), p. 25, lines 2-8; P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, paras. 86-87, and [DAR-OTP-00000012](#) at 3, paras. 25-26.

¹³⁶⁸ [REDACTED]; P-0877: [T-53-CT2](#), p. 80, line 17-p. 81, line 5; P-0984: [T-66-CT2](#), p. 62, line 21-p. 63, line 5, p. 65, lines 4-8; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196, para. 83; P-0720: [DAR-OTP-0210-0291-R02](#) at 0305, para. 90; P-0913: [DAR-OTP-00000012](#) at 3, para. 25; P-0581: [DAR-OTP-0216-0560-R02](#) at 0567, para. 33, and [T-64-CT](#), p. 31, lines 9-19.

¹³⁶⁹ [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, para. 90; P-0041: [DAR-OTP-0206-0033-R03](#) at 0050, paras. 68-69.

¹³⁷⁰ P-0877: [T-53-CT2](#), p. 80, line 18-p. 81, line 5, and [T-55-CT](#), p. 25, lines 2-8.

¹³⁷¹ P-0877: [T-53-CT2](#), p. 80, line 18-p. 81, line 5; P-0581: [DAR-OTP-0216-0560-R02](#) at 0567, para. 33, and [T-64-CT](#), p. 31, lines 9-19.

¹³⁷² P-0892: [DAR-OTP-0217-0384-R02](#) at 0391, para. 37, and [T-48-CT](#), p. 7, lines 10-16; P-0129: [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 38-39, and [DAR-OTP-0223-0157-R02](#) at 0164, para. 35, and [DAR-OTP-00000084](#) at 2-3, paras. 14, 37; P-0877: [T-53-CT2](#), p. 80, line 18-p. 81, line 9; P-0029: [REDACTED], and [T-31-ET](#), p. 47, lines 10-12; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0197, paras. 83-84; P-0903: [T-32-CT](#), p. 11, lines 8-22, p. 21, lines 10-15, p. 22, lines 12-15, p. 32, lines 16-24, and [T-33-CT](#), p. 41, line 19-p. 42, line 16; P-0984: [T-66-CT2](#), p. 65, lines 15-24, and [T-67-CT](#), p. 41, lines 7-24; P-0922: [DAR-OTP-0222-0312-R01](#) at 0332, para. 85, and [T-39-ET](#), p. 29, lines 9-10, p. 60, line 16-p. 61, line 10; P-0913: [DAR-OTP-0218-0021-R04](#) at 0034, para. 88. See also [DAR-OTP-0162-0042](#) at 0044-0045, 0069; Annex 13: Displacement of civilians to Mukjar between at least February and March 2004, and ABD-AL-RAHMAN's attack on Sindu.

¹³⁷³ P-0984: [T-67-CT](#), p. 41, lines 21-24; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303-0304, paras. 81-82, and [DAR-OTP-0210-0318](#) (Translation at [DAR-OTP-0219-1388](#)), and [DAR-OTP-0220-4687](#) at 4687, para. 6; [DAR-OTP-0038-0060](#) at 0062, 0065; [REDACTED].

exhaustion, illness and starvation.¹³⁷⁴

Arrests and registration of Fur males

400. The GoS Forces that participated in the operation in Mukjar between at least February and March 2004 included, among others, the SAF (including MI),¹³⁷⁵ the PDF,¹³⁷⁶ the PPF,¹³⁷⁷ the CRF,¹³⁷⁸ and the Police.¹³⁷⁹

401. In February 2004, Militia/*Janjaweed* and GoS Forces set up numerous checkpoints, including to the north and east of Mukjar.¹³⁸⁰ The arrests of Fur males from outside Mukjar began a few days after Militia/*Janjaweed* and GoS Forces departed for Sindu. Checkpoints around Mukjar were manned by, among others, Hassan Muhammad JOMA (CARTER),¹³⁸¹

¹³⁷⁴ [REDACTED]; P-0816: [DAR-OTP-0214-0721-R02](#) at 0731, para. 42.

¹³⁷⁵ P-0931: [T-62-CT](#), [REDACTED], p. 16, line 23-p. 17, line 4, p. 33, line 2-p. 34, line 20; P-0990: [T-41-CT](#), p. 49, line 6-p. 50, line 13; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, para. 102, and [DAR-OTP-00000012](#) at 3, para. 28, [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 41, 0141-0143, paras. 46, 50-52, and [DAR-OTP-00000084](#) at 2, paras. 21-22, and [T-76-CT](#), p. 30, lines 13-23; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0620, para. 103; [REDACTED].

¹³⁷⁶ P-0931: [T-62-CT](#), p. 14, line 5-p. 15, line 19, p. 33, line 2-p. 34, line 20; P-0877: [T-53-CT2](#), p. 81, line 24-p. 82, line 22; P-0129: [DAR-OTP-0128-0128-R04](#) at 0138, para. 39, and [DAR-OTP-0223-0157-R02](#) at 0163-0164, paras. 34-39, and [DAR-OTP-00000084](#) at 3, para. 40, and [T-76-CT](#), [REDACTED], p. 34, line 23-p. 35, line 1; P-0008: [DAR-OTP-0088-0085-R02](#) at 0097, para. 46; [REDACTED].

¹³⁷⁷ P-0903: [T-32-CT](#), p. 22, line 21-p. 23, line 23; P-0877: [T-53-CT2](#), p. 81, line 24-p. 82, line 19, and [T-54-CT](#), p. 4, lines 17-25, p. 5, line 11-p. 6, line 20; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, para. 102, and [DAR-OTP-00000012](#) at 3, para. 28; P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, paras. 41-42, and [DAR-OTP-0224-0658](#) at 0658-0659, paras. 6-13, and [T-48-CT](#), p. 8, lines 11-17; P-0919: [T-60-CT](#), p. 14, line 19-p. 15, line 16, and [T-61-CT](#), p. 4, lines 12-24, p. 8, lines 5-7; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 97, and [T-45-CT](#), p. 23, line 12-p. 25, line 7, p. 26, lines 20-24, p. 27, lines 23-p. 28, line 4; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303, para. 78, 0305-0306, paras. 93-95, and [DAR-OTP-0220-4687](#) at 4687, para. 5; P-0675: [DAR-OTP-0206-0173-R02](#) at 0197, paras. 86-87, 0202, para. 105.

¹³⁷⁸ P-0931: [T-62-CT](#), p. 33, line 12-p. 35, line 2; P-0919: [T-60-CT](#), p. 29, lines 8-10, p. 30, lines 12-25, [REDACTED]; P-0877: [T-53-CT2](#), p. 81, line 24-p. 82, line 22, and [T-54-CT](#), p. 5, line 11-p. 6, line 13; P-0012: [T-45-CT](#), p. 21, line 20-p. 22, line 25; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 102, 106-107, and [DAR-OTP-00000012](#) at 3-4, paras. 30-31, and [REDACTED]; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303, para. 78; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198, para. 89; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, paras. 97-98.

¹³⁷⁹ [REDACTED]; P-0931: [T-62-CT](#), [REDACTED], p. 32, lines 7-23, p. 33, lines 2-9, 21-24; P-0919: [T-60-CT](#), p. 14, lines 19-25, and [T-61-CT](#), p. 4, lines 12-24; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303, para. 78, 0306, para. 95, and [DAR-OTP-0220-4687](#) at 4687, para. 5; P-0922: [DAR-OTP-0222-0312-R01](#) at 0332, para. 85; P-0129: [DAR-OTP-0128-0128-R04](#) at 0143, para. 51, and [DAR-OTP-0223-0157-R02](#) at 0171-0172, para. 63; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 101, 103.

¹³⁸⁰ P-0984: [T-66-CT2](#), p. 65, line 15-p. 66, line 23; P-0919: [T-61-CT](#), p. 4, line 7-p. 5, line 9; P-0720: [DAR-OTP-0210-0291-R02](#) at 0304, para. 87. See also Annex 14: Key locations in Mukjar town.

¹³⁸¹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 97, and [T-45-CT](#), p. 23, line 25-p. 24, line 16; P-0919: [T-60-CT](#), p. 14, line 19-p. 15, line 20, and [T-61-CT](#), p. 8, lines 5-7; P-0877: [T-53-CT2](#), p. 81, line 24-p. 82, line 19, and [T-54-CT](#), p. 4, lines 17-25, and [REDACTED]; P-0129: [DAR-OTP-0223-0157-R02](#) at 0164, para. 37, and [DAR-OTP-00000084](#) at 3, para. 39, and [T-76-CT](#), p. 33, line 25-p. 34, line 2; P-0903: [T-32-CT](#), p. 22, line 16-p. 23, line 20, p. 27, lines 2-6; P-0720: [DAR-OTP-0210-0291-R02](#) at 0305-0306, paras. 93-94, and [DAR-OTP-0210-0317-R01](#) (Translation [DAR-OTP-0219-1386-R01](#)); P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, paras. 41-42, and [DAR-OTP-0224-0658](#) at 0658-0659, paras. 6-13; P-0990: [T-40-CT](#), p. 27, line 4-p. 29, line 1. Alternative references: Hassan Mohammed Joma/Jumaa/Juma aka Carter, Hassan Jooma, Hasan Carter/Kartar/Kartal.

Abakar SALIH (“KOREIN”),¹³⁸² and Al-Sadiq BASHAR (“BASHAR”),¹³⁸³ all PPF officers. Hundreds of predominantly Fur males, including community leaders, were arrested at checkpoints and stripped of whatever livestock and possessions they had salvaged before fleeing.¹³⁸⁴ Males were also arrested at the market and during house to house searches.¹³⁸⁵ The arrests continued until at least early March 2004.¹³⁸⁶

402. Mukjar resident P-0012 explained that PPF in Mukjar served as “whistleblowers for the government because, as they were in the region, they could support the government by providing it with reports, as they were well aware of the daily details of people.”¹³⁸⁷ According to P-0012, everyone with a social rank was arrested.¹³⁸⁸ Men did not resist arrest, aware that if they ran away they would inevitably be killed by Militia/*Janjaweed* roaming the area.¹³⁸⁹

403. Young men arriving from surrounding villages were routinely separated from the elderly, women and children. Some had their shoulders checked for marks of carrying a

¹³⁸² P-0919: [T-60-CT](#), p. 47, line 24-p. 48, line 4; P-0903: [T-32-CT](#), p. 22, line 16-p. 23, line 9, p. 27, lines 2-6; P-0129: [DAR-OTP-0223-0157-R02](#) at 0163, para. 39, and [DAR-OTP-00000084](#) at 3, paras. 39-40; P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 42, 0398, para. 66, and [DAR-OTP-0224-0658](#) at 0658-0659, paras. 7-9, 19; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0197, paras. 84, 87; P-0990: [T-40-CT](#), p. 27, lines 4-15. Alternative references: Abakar Salih Issa aka Korin, Abakar Korein/Korain/Kurean/Koreen/Korin/Korinquey.

¹³⁸³ P-0990: [T-40-CT](#), p. 27, lines 4-15; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036, para. 102, and [DAR-OTP-00000012](#) at 3, para. 28, and [REDACTED]; P-0919: [T-60-CT](#), p. 14, lines 19-25, and [T-61-CT](#), p. 4, lines 17-19. Alternative references: Al Saddiq Mohammed Bashar, Al Daro, Bashar, Haroun Bashir.

¹³⁸⁴ P-0892: [DAR-OTP-0217-0384-R02](#) at 0393, para. 42, 0398, paras. 66-67, and [DAR-OTP-0224-0658](#) at 0658-0659, paras. 7-10, 12-13, 19, and [T-48-CT](#), p. 7, line 14-p. 8, line 17; P-0877: [T-53-CT2](#), p. 81, line 25-p. 83, line 1, and [T-54-CT](#), p. 3, line 15-p. 4, line 20, and [REDACTED]; P-0922: [T-39-ET](#), p. 28, line 19-p. 29, line 15; P-0919: [T-60-CT](#), p. 14, line 14-p. 16, line 16, and [T-61-CT](#), p. 4, line 8-p. 5, line 9; P-0984: [T-66-CT2](#), p. 65, line 15-p. 66, line 23, [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-99, and [DAR-OTP-0220-4710](#) at 4712, para. 27, and [T-45-CT](#), p. 23, line 12-p. 28, line 4; [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0138-0139, paras. 39, 41, and [DAR-OTP-0223-0157-R02](#) at 0164, paras. 35, 37-39, and [DAR-OTP-00000084](#) at 2-3, paras. 15, 38-41, and [T-76-CT](#), p. 34, line 12-p. 35, line 1; P-0008: [DAR-OTP-0088-0085-R02](#) at 0097, para. 46; P-0913: [DAR-OTP-0218-0021-R04](#) at 0034-0035, paras. 88-91; P-0990: [T-40-CT](#), p. 26, line 11-p. 27, line 2; P-0028: [DAR-OTP-0094-0423-R01](#) at 0439, para. 65; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0198, paras. 84-85, 0204, para. 110; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303-0304, paras. 78, 87, and [T-43-CT3](#), p. 47, lines 12-17. Other Fur males were arrested by Militia/*Janjaweed* and GoS Forces during the Sindu operation in the villages that were attacked, and brought to Mukjar.

¹³⁸⁵ P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-99, and [T-45-CT](#), p. 23, line 12-p. 25, line 7, p. 26, line 11-p. 28, line 4; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, paras. 65-66, and [DAR-OTP-0224-0658](#) at 0659, para. 19; P-0984: [T-66-CT2](#), p. 67, lines 6-18, [REDACTED]; P-0913: [T-69-CT](#), p. 45, lines 18-24; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0198, paras. 84-88; P-0720: [DAR-OTP-0210-0291-R02](#) at 0303-0306, para. 95; P-0757: [DAR-OTP-0211-0003-R02](#) at 0015, para. 51; P-0008: [DAR-OTP-0088-0085-R02](#) at 0097, para. 46.

¹³⁸⁶ P-0720: [DAR-OTP-0210-0291-R02](#) at 0307, paras. 103-105, and [REDACTED]; P-0877: [T-53-CT2](#), p. 81, line 7-p. 82, line 4; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 97.

¹³⁸⁷ P-0012: [T-45-CT](#), p. 24, lines 17-21. See also P-0129: [T-76-CT](#), p. 34, line 18-p. 35, line 1; P-0916: [DAR-OTP-0224-0023-R01](#) at 0038-0039, paras. 74, 80.

¹³⁸⁸ P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-98, and [T-45-CT](#), p. 27, line 23-p. 28, line 4. See also P-0816: [DAR-OTP-0214-0721-R02](#) at 0731, para. 43; P-0757: [DAR-OTP-0211-0003-R02](#), para. 75.

¹³⁸⁹ P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 97.

weapon, and were frisked.¹³⁹⁰ Personal information such as their name, village, name of their local *umdah* and *sheikh* was recorded in a register by, among others, PPF Officer, JOMA (CARTER) and CRF Officer, John KOJ.¹³⁹¹ Some witnesses saw this register reappear days later, when it was used to call out the names of certain detainees, in the presence of **ABD-AL-RAHMAN**, and load them onto vehicles for transportation to execution sites.¹³⁹²

404. The arrested persons included Fur community leaders *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelm Mahmoud (aka Doorri), and a number of Prosecution witnesses.¹³⁹³ Many of the males, especially community leaders, were given no reason for their arrest.¹³⁹⁴ Others were accused of being rebels.¹³⁹⁵

405. P-0919 and P-0129¹³⁹⁶ were among those arrested at checkpoints as they attempted to enter Mukjar. [REDACTED].

406. P-0919, [REDACTED], fled to Mukjar with relatives after hiding in the mountains while Militia/*Janjaweed* attacked and burned down [REDACTED]. [REDACTED]. His

¹³⁹⁰ P-0675: [DAR-OTP-0206-0173-R02](#) at 0197, para. 85; P-0919: [T-60-CT](#), p. 14, lines 22-25; P-0990: [T-40-CT](#), p. 27, line 4-p. 28, line 12. *See also* P-0903: [T-32-CT](#), p. 24, lines 1-4, p. 26, line 20-p. 27, line 1; P-0877: [T-53-CT2](#), p. 81, line 24-p. 82, line 19.

¹³⁹¹ P-0990: [T-40-CT](#), p. 26, line 15-p. 29, line 9, p. 32, lines 21-25, p. 39, line 22-p. 40, line 17; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, para. 102, and [DAR-OTP-00000012](#) at 3, para. 28; P-0919: [T-60-CT](#), p. 14, line 22-p. 15, line 20; P-0877: [T-53-CT2](#), p. 93, lines 2-10, and [T-54-CT](#), p. 17, line 18-p. 18, line 2, and [REDACTED]; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198, para. 90; P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 44. Alternative references: John Kott, John.

¹³⁹² [REDACTED]; P-0877: [T-54-CT](#), p. 13, line 4-p. 14, line 8; P-0990: [T-40-CT](#), p. 61, line 5-p. 62, line 7, and [T-41-CT](#), p. 48, lines 11-14, p. 49, line 18-p. 50, line 13; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 102-104, and [DAR-OTP-00000012](#) at 3, para. 28; P-0903: [T-32-CT](#), p. 43, line 1-p. 45, line 17, p. 49, lines 3-9, p. 50, lines 7-11; P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 44.

¹³⁹³ P-0913: [DAR-OTP-0218-0021-R04](#) at 0034-0035, paras. 88-92; P-0919: [T-60-CT](#), p. 14, line 22-p. 17, line 12; [REDACTED]; P-0877: [T-54-CT](#), p. 9, lines 4-8, p. 13, lines 12-25, p. 14, line 19-p. 15, line 5, p. 38, line 10-p. 39, line 10. *See also* P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, paras. 100-101, and [DAR-OTP-0220-4710](#) at 4712, para. 27, and [T-45-CT](#), p. 29, lines 15-21; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, paras. 97-100, and [DAR-OTP-0220-5723-R01](#) at 5723-5725; P-0720: [DAR-OTP-0210-0291-R02](#) at 0305, para. 92, and [T-43-CT3](#), p. 46, line 2-p. 48, line 7; P-0903: [T-32-CT](#), [REDACTED], p. 30, lines 8-23, p. 31, line 14-p. 32, line 12; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398-0399, para. 68, and [T-48-CT](#), p. 13, line 21-p. 14, line 8; P-0756: [DAR-OTP-0211-0039-R02](#) at 0055-0056, para. 71; P-0008: [DAR-OTP-0088-0085-R02](#) at 0097-0098, paras. 46, 48; P-0085: [DAR-OTP-0110-0054-R02](#) at 0067, para. 51.

¹³⁹⁴ P-0984: [T-66-CT2](#), p. 66, lines 7-23; P-0903: [T-33-CT](#), p. 42, line 20-p. 44, line 25; P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 41, and [DAR-OTP-00000084](#) at 3, para. 40; P-0919: [DAR-OTP-0224-0876](#) at 0876-0877, no. 4-7, and [T-60-CT](#), p. 16, lines 4-13, p. 18, line 9-p. 19, line 8.

¹³⁹⁵ P-0877: [T-53-CT2](#), p. 91, line 16-p. 93, line 10; P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41, and [T-48-CT](#), p. 7, line 12-p. 8, line 17. *See also* P-0990: [T-40-CT](#), p. 50, line 18-p. 53, line 8.

¹³⁹⁶ Despite some confusion as to the sequence of HARUN's visit during his two periods of detention, P-0129 sets out the timeline at [DAR-OTP-0223-0157-R02](#) at 0168, para. 54. Furthermore, witnesses identified P-0129 as present in during the charged events, including [REDACTED]) and P-0877 ([T-54-CT](#), p. 44, lines 2-17). *See* Annex 26, p. 3-4, p. 14.

mother and grandmother were allowed to enter Mukjar.¹³⁹⁷

407. P-0129, [REDACTED], was stopped at a checkpoint as he attempted to enter Mukjar.¹³⁹⁸ [REDACTED] Bahr-Al-Deen Idriss Muhammad Abd-Al-Rahman, [REDACTED] Abd-al-Karim Abd-Al-Rahman Muhammad, [REDACTED] Usman Adam Yahya, and Harun Adam Abd-Al-Rahman [REDACTED] would be executed.¹³⁹⁹ The PDF questioned where they had been, searched and insulted them, calling them “criminals” and “*nujus*” (a derogatory term meaning impure or dirty).¹⁴⁰⁰ P-0129 and [REDACTED] were told by the PDF “you are wanted at the police station and then they will release you.” According to P-0129, their only “crime” was that they fled the war and had returned to Mukjar.¹⁴⁰¹

408. All Fur coming from Sindu and the eastern side of Mukjar were perceived as being affiliated with or supporting the rebels. The PPF explained that because the rebels from Sindu intercepted them on their attack on Arada, everyone from that area was supporting the rebels. The men were accused of being *tora bora*, searched and beaten with sticks. [REDACTED] Hassan Issac Khalil (aka Abu Zeit) and Idriss Abakar Abdallah (aka N’yanga) were arrested and taken to the police station – both would be executed.¹⁴⁰² Even uniformed Fur police officers were subject to arrest and mistreatment by **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces.¹⁴⁰³

409. Local Fur residents were also subject to arrest. Mukjar resident [REDACTED] **ABD-AL-RAHMAN** personally arrest [REDACTED], Abakar Abdelmoula, near Mukjar market a few days after the end of the Sindu operation. [REDACTED] **ABD-AL-RAHMAN** arrested Abdelmoula, and drove him to Mukjar police station. Abdelmoula would be executed a few

¹³⁹⁷ P-0919: [T-60-CT](#), [REDACTED], p. 14, line 2-p. 15, line 9, [REDACTED], and [T-61-CT](#), p. 4, line 9-p. 5, line 9. *See also* Annex 17, no. 86 (Hassan Abdalla).

¹³⁹⁸ P-0129: [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 37-41, and [DAR-OTP-0223-0157-R02](#) at 0164-0165, paras. 35-45, and [DAR-OTP-00000084](#) at 2-3, paras. 14-15, 37-41, and [T-76-CT](#), p. 33, line 25-p. 34, line 2.

¹³⁹⁹ P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 41, 0141, para. 45, and [DAR-OTP-0223-0157-R02](#) at 0160-0161, paras. 15-16, 0164, para. 35, 0167, para. 49, 0179, para. 116, and [DAR-OTP-00000084](#) at 2-3, paras. 15, 37; P-0877: [DAR-OTP-0217-0260](#) (Translation at [DAR-OTP-0217-0489](#) at 0491), and [T-54-CT](#), p. 40, lines 1-23; P-0720: [DAR-OTP-0210-0291-R02](#) at 0305, para. 92, and [T-43-CT3](#), [REDACTED]; P-0903: [T-32-CT](#), p. 30, lines 8-17, p. 62, line 6-p. 63, line 1. *See also* Annex 17, no. 78 (Bahr-Al-Deen Idriss Muhammad Abd-Al-Rahman), 150 (Usman Adam Yahya), 83 (Harun Adam Abd-Al-Rahman).

¹⁴⁰⁰ P-0129: [DAR-OTP-00000084](#) at 3, para. 41.

¹⁴⁰¹ P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 44, and [DAR-OTP-00000084](#) at 3, para. 40.

¹⁴⁰² [REDACTED]. *See also* Annex 17, no. 88 (Hassan Isaaq Mohamed Khalil aka Abu Zeit/Dougousseh), 96 (Idris Abaker Abdallah, aka N’yanga).

¹⁴⁰³ P-0877: [T-54-CT](#), p. 8, line 17-p. 10, line 21.

days later.¹⁴⁰⁴

410. [REDACTED] P-0675 was detained in the police station for four days. [REDACTED] Adam Musa Ibrahim and [REDACTED] Khalil Abakar Ibrahim Hussein (also known as Toyota) [REDACTED] would later be executed.¹⁴⁰⁵ Upon arriving at the police station, P-0675 heard one guard ask “are you bringing the rebels”. P-0675 was made to state his name and the village he was from. He was stripped down to his underwear and searched.¹⁴⁰⁶

2) The crimes

Counts 12-13: Torture (CAH and WC); Count 14: Other inhumane acts (CAH); Count 15: Cruel treatment (WC); Count 16: Outrages upon personal dignity (WC)

Mistreatment of detainees at the Mukjar police station

411. Upon their arrest, an estimated 177 predominantly Fur males, including P-0129, P-0675, P-0877, P-0903, P-0919, P-0932, P-0990 and the victims listed in Annex 17, were taken to Mukjar police station and imprisoned in overcrowded cells and converted rooms.¹⁴⁰⁷ Over the course of two days, **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces entered cells at Mukjar police station to assault, terrorise and verbally abuse detainees.¹⁴⁰⁸ From his first visit to the cells at Mukjar police station, to loading detainees onto vehicles for execution the next afternoon, **ABD-AL-RAHMAN** seriously wounded at least 14 detainees, striking them

¹⁴⁰⁴ [REDACTED]. See also Annex 17, no. 1 (Abakar Abd-Al-Mawla).

¹⁴⁰⁵ P-0675: [DAR-OTP-0206-0173-R02](#) at 0177, para. 13, 0199-0200, paras. 92, 95; P-0129: [DAR-OTP-0223-0157-R02](#) at 0180, para. 118, 0186-0187, para. 163. See also Annex 17, no. 59 (Adam Musa Ibrahim), 115 (Khalil Abakar Ibrahim Hussein aka Toyota/Tabuo Taw).

¹⁴⁰⁶ P-0675: [DAR-OTP-0206-0173-R02](#) at 0198, para. 90.

¹⁴⁰⁷ P-0129: [DAR-OTP-0128-0128-R04](#) at 0138-0139, paras. 39, 45, and [DAR-OTP-0223-0157-R02](#) at 0164, paras. 35-39, 0166-0167, para. 49, and [DAR-OTP-00000084](#) at 2-3, paras. 15, 37-40; P-0675: [DAR-OTP-0206-0173-R02](#) at 0196-0199, paras. 84-92; P-0877: [DAR-OTP-0217-0251](#) (Translation [DAR-OTP-0219-0490](#) at 0492-0493), and [REDACTED], and [T-54-CT](#), p. 18, line 12-p. 20, line 20, p. 63, lines 14-24; P-0903: [T-32-CT](#), [REDACTED], p. 27, lines 2-22, p. 29, lines 5-14, p. 32, line 16-p. 33, line 2, p. 74, lines 8-21, and [DAR-REG-0001-0001](#); P-0919: [T-60-CT](#), p. 14, line 22-p. 16, line 16, [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, paras. 97-100, and [DAR-OTP-0220-5723-R01](#) at 5723-5725, and [T-68-ET](#), p. 41, line 22-p. 42, line 9; P-0990: [DAR-OTP-0224-0547](#), and [T-40-CT](#), p. 29, line 2-p. 30, line 6; P-0984: [T-66-CT2](#), p. 59, lines 2-6, p. 65, lines 17-24, p. 66, lines 7-17, [REDACTED], and [DAR-OTP-0225-0057-R01](#) (annotated version [DAR-REG-0001-0014](#)); [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 97, and [T-45-CT](#), p. 23, line 25-p. 25, line 7; [REDACTED]; P-0720: [DAR-OTP-0210-0291-R02](#) at 0305, para. 89; P-0922: [DAR-OTP-0220-2876](#) (Translation at [DAR-OTP-0220-3037](#)). See also Annex 15: Close-up of Mukjar police station and adjacent detention facilities. It includes the office building which housed, among others, the office of AL-TAYYIB (the head of CRF in Mukjar, to whom police personnel in Mukjar reported) and the detention facilities where a number of Fur males were detained.

¹⁴⁰⁸ P-0919: [T-60-CT](#), p. 17, line 17-p. 18, line 12, p. 29, line 25-p. 30, line 6; P-0931: [T-62-CT](#), p. 17, lines 17-23, p. 18, lines 5-17; P-0129: [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-49, and [DAR-OTP-0223-0157-R02](#) at 0167-0170, paras. 50, 52-53, 55-58, and [T-75-CT](#), p. 55, line 15-p. 56, line 22 (see Courtroom 2 dimensions), and [REDACTED]; P-0903: [T-32-CT](#), p. 35, lines 21-25; P-0877: [T-55-CT](#), p. 63, lines 12-14.

on the head, upper body or leg with his axe – sometimes more than once.¹⁴⁰⁹ Detainees had their heads shaved to the scalp and were bleeding, others had their ears hacked off with knives.¹⁴¹⁰ Some were kicked, flogged, stomped or stepped on.¹⁴¹¹ They were indiscriminately beaten – “no one escaped this treatment”, recalled P-0903.¹⁴¹² They were beaten using sticks and whips, while **ABD-AL-RAHMAN** used both the blunt and sharp sides of his axe.¹⁴¹³

412. GoS Forces took some detainees out in groups and accused them of being rebels.¹⁴¹⁴ [REDACTED] Lieutenant KHALID, a NISS officer, in the intelligence services office as to whether rebel leader Abd-Al-Wahid had been killed or was still alive.¹⁴¹⁵ Some detainees were questioned with a pistol pressed against their head.¹⁴¹⁶ Detainees were repeatedly accused of being *tora bora* and racially insulted.¹⁴¹⁷

413. Some detainees were visibly injured after being interrogated and had dried blood stuck to their skin and clothes.¹⁴¹⁸ P-0675 recalled that after being tortured, detainees Mohamed, Zacharia and Serri were brought back into the cell and died from their injuries.¹⁴¹⁹ P-0892's [REDACTED] said he was tortured so badly that his resulting injuries have changed his life. To this day he cannot sleep on his back. He told P-0892 that he was so severely tortured, he preferred to have been killed.¹⁴²⁰

¹⁴⁰⁹ See para. 507 for names of detainees ABD-AL-RAHMAN struck with his axe.

¹⁴¹⁰ P-0919: [T-60-CT](#), p. 18, lines 21-22, p. 20, line 12-p. 21, line 1, p. 22, line 24-p. 23, line 5, p. 26, lines 10-16, p. 29, lines 4-6, and [T-61-CT](#), p. 13, lines 14-25.

¹⁴¹¹ P-0903: [T-32-CT](#), p. 34, lines 14-15; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619-0620, para. 98; P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 48, and [DAR-OTP-0223-0157-R02](#) at 0169, para. 56-57; P-0919: [T-61-CT](#), p. 19, lines 13-23.

¹⁴¹² P-0903: [T-32-CT](#), p. 35, line 8-p. 36, line 23, and [T-33-CT](#), p. 50, line 23-p. 51, line 18. See Annex 26, p. 12.

¹⁴¹³ P-0932: [DAR-OTP-0222-0602-R02](#) at 0619-0620, paras. 97-98, 102, 104; P-0919: [T-60-CT](#), p. 18, line 18-p. 19, line 13, p. 33, line 20-p. 35, line 25, and [T-61-CT](#), p. 18, line 23-p. 19, line 23; P-0877: [T-53-CT2](#), p. 85, line 23-p. 86, line 2, and [T-54-CT](#), p. 11, line 7-p. 14, line 8, p. 15, line 12-p. 17, line 17; P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, paras. 47-49, and [DAR-OTP-0223-0157-R02](#) at 0168-0170, paras. 50, 52-53, 55-58, and [DAR-OTP-00000084](#) at 3, paras. 42, 44, and [T-75-CT](#), p. 55, line 15-p. 56, line 22, p. 58, lines 2-11 (see Courtroom 2 dimensions), and [T-76-CT](#), p. 39, lines 9-12, p. 40, lines 15-24, p. 41, lines 1-25; P-0903: [T-32-CT](#), p. 33, line 3-p. 34, line 15; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198-0199, para. 92; P-0990: [T-40-CT](#), p. 60, lines 8-18.

¹⁴¹⁴ P-0877: [T-53-CT2](#), [REDACTED], p. 85, line 21-p. 86, line 2, p. 92, line 15, p. 93, line 10 (see Courtroom 2 dimensions); P-0675: [DAR-OTP-0206-0173-R02](#) at 0198-0199, paras. 91-92.

¹⁴¹⁵ [REDACTED]: [DAR-OTP-0217-0251](#) (Translation at [DAR-OTP-0219-0490](#) at 0492-0493), and [REDACTED], and [T-54-CT](#), p. 6, line 24-p. 7, line 3, p. 20, lines 15-20. [REDACTED].

¹⁴¹⁶ P-0129: [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-47, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 52-53, 55-56, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 42, and [T-75-CT](#), p. 55, line 24-p. 56, line 7, and [T-76-CT](#), p. 40, lines 19-24.

¹⁴¹⁷ P-0919: [T-60-CT](#), p. 19, line 16-p. 20, line 3, p. 30, lines 2-6, and [T-61-CT](#), p. 21, line 8-p. 22, line 9; [REDACTED].

¹⁴¹⁸ P-0931: [T-62-CT](#), p. 17, lines 17-23, p. 18, lines 5-17; P-0877: [T-54-CT](#), p. 53, line 20-p. 54, line 5, and [T-55-CT](#), p. 62, line 23-p. 64, line 9.

¹⁴¹⁹ P-0675: [DAR-OTP-0206-0173-R02](#) at 0199, para. 94.

¹⁴²⁰ P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0903: [T-32-CT](#), p. 36, lines 1-6.

414. Members of the CRF also mistreated detainees. They entered P-0919's cell, slapped detainees in the face and pressed a hot iron against parts of their bodies, demanding to know if they were *tora bora*. P-0919 sustained burns from an iron pressed against [REDACTED] – and still bears scars from these injuries.¹⁴²¹ P-0903 was kicked and beaten and has scars from where boiling plastic was dripped onto his [REDACTED].¹⁴²²

415. Several injured detainees remained in squalid conditions overnight – with gaping head, leg and shoulder wounds from being hit with an axe. None received medical treatment.¹⁴²³ P-0919 recalled that on the first evening, after detainees had been assaulted and abused by **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces, the detainees spent the night crying, whining and shouting in pain. Some recited verses from the Quran to ease their suffering. For P-0919, sleep was difficult, as he hurt all over.¹⁴²⁴

Inhumane conditions of detention

416. Over the course of at least two days, at least 177 predominantly Fur males, including approximately 7 children between the ages of 8-12,¹⁴²⁵ were detained in squalid cells and converted rooms at Mukjar police station.¹⁴²⁶ Having been displaced from their villages and separated from their families, they arrived already scared and exhausted.¹⁴²⁷

417. The conditions of detention were inhumane. Witnesses estimate that there were approximately 100 detainees crammed in the outer cell, roughly five by five metres, and 100 detainees in the inner cell.¹⁴²⁸ As new arrivals were forced inside the already packed cells, detainees crammed together so tightly, they were forced to squat or stand.¹⁴²⁹ P-0903 recalled,

¹⁴²¹ P-0919: [DAR-OTP-0217-0445](#), and [DAR-OTP-0217-0446](#), and [T-60-CT](#), p. 29, line 3-p. 33, line 15.

¹⁴²² P-0903: [DAR-OTP-0219-5103](#), and [DAR-OTP-0219-5104](#), and [T-32-CT](#), p. 34, lines 5-9, p. 35, lines 13-15, p. 36, line 14-p. 38, line 17, and [T-33-CT](#), p. 50, line 23-p. 51, line 18.

¹⁴²³ P-0903: [T-32-CT](#), p. 80, lines 11-20; P-0919: [T-60-CT](#), p. 32, lines 13-15.

¹⁴²⁴ P-0919: [T-60-CT](#), p. 32, line 13-p. 33, line 15.

¹⁴²⁵ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 48, and [DAR-OTP-0223-0157-R02](#) at 0169-0170, para. 58, and [T-75-CT](#), p. 65, lines 4-10, and [REDACTED].

¹⁴²⁶ P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 45, and [DAR-OTP-0223-0157-R02](#) at 0166-0167, para. 49, and [T-76-CT](#), p. 38, line 25-p. 39, line 12; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198, para. 91; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0919: [T-60-CT](#), p. 15, line 25-p. 16, line 18, p. 23, lines 4-5, p. 26, lines 10-13, [REDACTED], and [T-61-CT](#), p. 11, lines 3-13; [REDACTED]; P-0877: [T-53-CT2](#), p. 85, lines 6-20; P-0903: [T-32-CT](#), p. 32, line 16-p. 33, line 2. *See also* Annex 15: Close-up of Mukjar police station and adjacent detention facilities.

¹⁴²⁷ P-0877: [T-53-CT2](#), p. 85, lines 8-12, and [T-54-CT](#), p. 64, lines 6-9.

¹⁴²⁸ P-0919: [T-60-CT](#), p. 16, lines 2-3, and [T-61-CT](#), p. 8, lines 15-18; P-0990: [DAR-OTP-0224-0547](#), and [T-40-CT](#), p. 30, lines 6-23, p. 33, lines 3-5; P-0903: [T-32-CT](#), p. 29, lines 10-12; P-0877: [T-53-CT2](#), p. 82, line 24-p. 83, line 1, p. 84, lines 14-18; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198, para. 91; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, paras. 98-99; P-0892: [DAR-OTP-0222-0384](#) at 0398, para. 67.

¹⁴²⁹ P-0919: [T-61-CT](#), p. 11, lines 9-21, p. 19, lines 5-6. *See also* P-0990: [T-40-CT](#), p. 35, lines 1-17; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, para. 99; [REDACTED]; P-0892: [DAR-OTP-0222-0384](#) at 0398, para. 67.

“[w]e could barely breathe. There were so many people and the space was very small.”¹⁴³⁰ According to P-0919, “[t]here wasn’t enough space. We were sitting upon each other. If you find a place to stretch your leg, that would be too much. That’s more than you can ask for”.¹⁴³¹

418. The detainees were parched and starving. Some were given a cup of water and half a loaf of bread to share, while many received nothing.¹⁴³² With no access to toilets, the detainees were forced to urinate and defecate where they squatted. A stench filled the air.¹⁴³³ The ground was filthy. The temperature was stiflingly hot, making it difficult to breathe, as air only entered through one small window.¹⁴³⁴ When P-0129 entered his cell on the Tuesday, he saw that all of the *umdahs* were undressed, their clothes having been taken from them.¹⁴³⁵ When the sun went down, the detainees were submerged in total darkness, and could not see one another until morning.¹⁴³⁶

Day One: ABD-AL-RAHMAN assaulted and beat detainees, including community leaders, in detention

419. On a Tuesday afternoon around the end of February or early March 2004, **ABD-AL-RAHMAN** entered P-0919’s cell, along with several Militia/*Janjaweed*. P-0919 heard **ABD-AL-RAHMAN** introduce himself, “I am the head of the Janjaweed and my name is Ali KUSHAYB.”¹⁴³⁷ Turning first to *Umdah* Yahya Ahmad Zarruq, **ABD-AL-RAHMAN** said “I detained you in the past and I released you, but this time I am going to kill you”. *Umdah* Yahya

¹⁴³⁰ P-0903: [T-32-CT](#), p. 30, lines 2-3.

¹⁴³¹ P-0919: [T-60-CT](#), p. 17, lines 2-4. See also P-0877: [T-53-CT2](#), p. 84, lines 14-18, p. 85, lines 1-5; P-0932: [DAR-OTP-0222-0602-R02](#) at 0619, paras. 98-100, 0621, paras. 110-111; [REDACTED]; P-0903: [T-32-CT](#), p. 29, lines 10-14.

¹⁴³² P-0919: [T-60-CT](#), p. 16, lines 19-20, p. 33, lines 11-15, and [T-61-CT](#), p. 22, line 22-p. 23, line 2; P-0877: [T-53-CT2](#), p. 84, lines 19-20, p. 85, lines 2-12; P-0990: [T-40-CT](#), p. 34, lines 1-3; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0621, para. 110; P-0990: [T-40-CT](#), p. 34, lines 1-3; P-0903: [T-32-CT](#), p. 30, lines 6-7; P-0877: [T-53-CT2](#), p. 84, lines 19-20, p. 85, lines 2-12.

¹⁴³³ P-0919: [T-60-CT](#), p. 16, lines 21-25; P-0877: [T-53-CT2](#), p. 84, lines 21-25, and [T-55-CT](#), p. 60, lines 5-6; P-0990: [T-40-CT](#), p. 34, lines 4-18; P-0903: [T-32-CT](#), p. 29, line 15-p. 30, line 3; P-0675: [DAR-OTP-0206-0173-R02](#) at 0198-0199, paras. 91-92; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0932: [DAR-OTP-0222-0602-R02](#) at 0621, para. 110.

¹⁴³⁴ P-0919: [T-61-CT](#), p. 9, line 20-p. 10, line 19; P-0877: [DAR-OTP-0219-0490](#), and [T-53-CT2](#), p. 85, lines 1-5, and [T-55-CT](#), p. 59, lines 17-p. 60, line 6; P-0990: [T-40-CT](#), p. 34, lines 19-22, and [T-41-CT](#), p. 47, line 22-p. 48, line 6; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0675: [DAR-OTP-0206-0173-R02](#) at 0199, para. 92.

¹⁴³⁵ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 46, and [DAR-OTP-0223-0157-R02](#) at 0167, para. 51, and [T-76-CT](#), p. 43, lines 11-22.

¹⁴³⁶ P-0990: [T-40-CT](#), p. 34, lines 20-22.

¹⁴³⁷ P-0919: [T-60-CT](#), p. 17, line 15-p. 18, line 3.

Ahmad Zarruq replied “I will die as a martyr, but you will suffer.”¹⁴³⁸ [REDACTED] *Umdah* Yahya Ahmad Zarruq, P-0919 watched as **ABD-AL-RAHMAN** struck *Umdah* Yahya Ahmad Zarruq with an axe, hitting his shoulder/collar bone and breaking his arm.¹⁴³⁹ Militia/*Janjaweed* proceeded to insult, beat, whip and step on detainees.¹⁴⁴⁰ P-0919 still has a scar from where he was whipped on his [REDACTED].¹⁴⁴¹ Militia/*Janjaweed* used a stick to beat him on the [REDACTED] – an injury he still feels today.¹⁴⁴²

420. **ABD-AL-RAHMAN** struck *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri) with his axe.¹⁴⁴³ **ABD-AL-RAHMAN** watched as Militia/*Janjaweed* took turns beating *Umdah* Issa on his shoulder and head with sticks and whips.¹⁴⁴⁴ Militia/*Janjaweed* then beat *Sheikh* Muhammad Ali Bolot (also known as Jabbor), *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri) and Yusuf Muhajir with sticks and whips.¹⁴⁴⁵ **ABD-AL-RAHMAN** struck *Sheikh* Abdallah Ahmad Hasan on his head with his axe, severely wounding him.¹⁴⁴⁶ He also struck Dr/*Umdah* Muhammad Umar Ahmad Zarruq,¹⁴⁴⁷ *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa),¹⁴⁴⁸ and Adam Nahid Numan with his axe.¹⁴⁴⁹

¹⁴³⁸ P-0919: [T-60-CT](#), p. 17, line 15-p. 19, line 13, and [T-61-CT](#), p. 12, line 10-p. 13, line 24, p. 17, lines 4-17. See also P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, paras. 46-49, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 52-53, 55-57, and [DAR-OTP-00000084](#) at 2-3, paras. 20, 42, and [T-75-CT](#), p. 55, line 15-p. 56, line 22.

¹⁴³⁹ P-0919: [T-60-CT](#), p. 18, line 9-p. 19, line 13, p. 28, line 24-p. 29, line 2; P-0877: [T-54-CT](#), p. 13, lines 4-16, [REDACTED]; P-0903: [T-32-CT](#), p. 45, line 4-p. 46, line 19, p. 47, line 25-p. 48, line 11; P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, paras. 46-48, and [DAR-OTP-0223-0157-R02](#) at 0168-0170, paras. 53, 55-59, and [DAR-OTP-00000084](#) at 2-3, paras. 20, 42, and [T-75-CT](#), p. 58, lines 7-11, and [REDACTED]. See also Annex 17, no. 39 (Abdul Mawla Ismail).

¹⁴⁴⁰ P-0919: [T-60-CT](#), p. 18, lines 21-22, p. 19, lines 16-18, p. 20, lines 1-22, and [T-61-CT](#), p. 19, lines 13-23.

¹⁴⁴¹ P-0919: [DAR-OTP-0217-0450](#), and [T-60-CT](#), p. 18, line 24-p. 19, lines 1, 11-13, p. 20, lines 1-11.

¹⁴⁴² P-0919: [T-60-CT](#), p. 23, lines 6-p. 25, line 1, and [DAR-OTP-0217-0444](#) (annotated version [DAR-REG-0001-0012](#)), and [T-61-CT](#), p. 12, lines 22-23.

¹⁴⁴³ P-0919: [T-60-CT](#), p. 27, line 4-p. 28, line 9; P-0877: [T-54-CT](#), p. 13, lines 12-25, p. 15, lines 1-5; P-0129: [DAR-OTP-0128-0128-R04](#) at 0141, paras. 46-49, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 52-53, 55-57, and [DAR-OTP-00000084](#) at 2-3, paras. 20, 42, and [T-75-CT](#), p. 58, lines 7-11, and [REDACTED]. See also Annex 17, no. 15 (Abd-Al-Karim Uthman Jalal-Al-Din), 28 (Abd-Al-Moula Tibaj).

¹⁴⁴⁴ P-0919: [T-60-CT](#), p. 27, line 2-17.

¹⁴⁴⁵ P-0919: [T-60-CT](#), p. 28, lines 10-23; P-0877: [T-54-CT](#), p. 13, line 19-p. 14, line 8, p. 39, lines 19-23. See also Annex 17, no. 33 (Abd-Al-Raziq Abd-Al-Jabbar Adam), 41 (Abu-Al-Ghasim Yaqub Hassan Ali).

¹⁴⁴⁶ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 49, and [DAR-OTP-0223-0157-R02](#) at 0168, para. 53, 0170, para. 59, and [T-76-CT](#), p. 40, lines 15-24. See also Annex 17, no. 20 (*Sheikh* Abdallah Ahmad Hasan, aka Kildigi).

¹⁴⁴⁷ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 49, and [T-76-CT](#), p. 43, lines 11-15. See also Annex 17, no. 37.

¹⁴⁴⁸ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, paras. 46, 49, and [DAR-OTP-0223-0157-R02](#) at 0166, para. 49, 0168, para. 53, 0182, para. 130. See also Annex 17, no. 20 (*Sheikh* Abdallah Ahmad Hasan, aka Kildigi).

¹⁴⁴⁹ P-0877: [T-54-CT](#), p. 12, line 19-p. 13, line 8, p. 24, line 24-p. 25, line 13, [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0140, para. 45, and [DAR-OTP-0223-0157-R02](#) at 0166, para. 49, 0178, para. 115; P-0028: [DAR-OTP-0153-1434](#) at 1445, victim 32. See also Annex 17, no. 18 (Abdallah Abdallah Muhammad).

421. The detainees cowered on the floor.¹⁴⁵⁰ **ABD-AL-RAHMAN** walked between the detainees, beating some and slapping others. He insulted them, calling them “sons of dogs”, *nujus* (a derogatory term meaning impure or dirty), *abid* (a derogatory term meaning slave) and told them “[w]e will show you that which you’ve never seen before”.¹⁴⁵¹ SAMIH held a long whip and HAMDİ carried a pistol.¹⁴⁵² HAMDİ pointed his firearm in the face of detainees, demanding to know where someone named Haroun and someone named Issa were.¹⁴⁵³

422. P-0129 was hit on [REDACTED] with the blunt end of **ABD-AL-RAHMAN**’s axe and saw him use it to beat other detainees. **ABD-AL-RAHMAN** severely injured a young boy aged 9-10, sitting near *Umdah* Yahya Ahmad Zarruq by striking him on the head with the sharp end of his axe.¹⁴⁵⁴ One soldier told the detainees “we will fuck you, we will rape you”. Another stomped on detainees with his boot.¹⁴⁵⁵

423. P-0919 witnessed Militia/*Janjaweed* and GoS Forces use knives to cut off the ears of two Fur detainees named Abdu Saleh and Abdalla Ibrahim Singel, as well as a third man, while **ABD-AL-RAHMAN** stood, watching.¹⁴⁵⁶ Militia/*Janjaweed* used knives to shave the heads of two Fur detainees with long hair until their scalps bled.¹⁴⁵⁷ None received any medical treatment.¹⁴⁵⁸

424. Shortly after **ABD-AL-RAHMAN** and Militia/*Janjaweed* left the cell, CRF forces entered and asked detainees if they were *tora bora*, using a hot iron to press against their skin and slap them. P-0919 was burnt with a hot iron under his [REDACTED] and on his

¹⁴⁵⁰ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, paras. 48-49, and [T-76-CT](#), p. 38, line 25-p. 39, line 12, [REDACTED]; P-0919: [T-60-CT](#), p. 16, line 25-p. 17, line 2, and [T-61-CT](#), p. 10, line 25-p. 12, line 2.

¹⁴⁵¹ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 47, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 52, 55-56, and [DAR-OTP-00000084](#) at 2, para. 19, and [T-75-CT](#), p. 55, line 15-p. 56, line 22 (*see* Courtroom 2 dimensions), and [REDACTED].

¹⁴⁵² P-0129: [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-47, and [DAR-OTP-0223-0157-R02](#) at 0167-0169, paras. 50, 52-53, 55-56, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 42, 44, and [T-75-CT](#), p. 55, line 25-p. 56, line 22, and [T-76-CT](#), p. 40, lines 15-24, [REDACTED].

¹⁴⁵³ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 47, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 55-56, and [DAR-OTP-00000084](#) at 2, para. 19, and [T-75-CT](#), p. 55, line 25-p. 56, line 7, and [T-76-CT](#), p. 40, lines 14-24.

¹⁴⁵⁴ P-0129: [DAR-OTP-0223-0157-R02](#) at 0168, para. 53.

¹⁴⁵⁵ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 48, and [DAR-OTP-0223-0157-R02](#) at 0168-0170, paras. 53, 55-58, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 44.

¹⁴⁵⁶ P-0919: [T-60-CT](#), p. 20, line 1-p. 22, line 8, and [T-61-CT](#), p. 13, line 21-p. 14, line 1. *See also* Annex 17, no. 35 (Abduh Salih Adam Atrun).

¹⁴⁵⁷ P-0919: [T-60-CT](#), p. 18, lines 21-22, p. 20, line 12-p. 21, line 1, p. 22, line 24-p. 23, line 5, p. 26, lines 10-16, p. 29, lines 4-6, and [T-61-CT](#), p. 13, lines 14-25.

¹⁴⁵⁸ P-0919: [T-60-CT](#), p. 32, lines 13-15; P-0903: [T-32-CT](#), p. 80, lines 11-19.

[REDACTED].¹⁴⁵⁹

425. That evening, CRF officer John KOJ warned detainees, including [REDACTED] P-0877, “Ask God, because tomorrow you will not be alive, so you have to say your prayers now.”¹⁴⁶⁰ Fearing he would be killed, [REDACTED].¹⁴⁶¹ [REDACTED].¹⁴⁶²

426. The mistreatment of these males, including their conditions of detention, inflicted on them severe physical or mental pain or suffering, or great suffering or serious injury to body or to mental and physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. Based on the facts set out in paragraphs 411 to 425, the only reasonable inference is that **ABD-AL-RAHMAN** and the other physical perpetrators inflicted the pain and suffering to obtain information or a confession, punish, intimidate or coerce the detained Fur males or for reasons based on political, ethnic and gender discrimination. **ABD-AL-RAHMAN** and the other physical perpetrators were aware of the factual circumstances establishing the character (nature and gravity) of their acts. At all material times, the Fur males were in the custody or were under the control of the perpetrators.

427. The mistreatment, including the conditions of their detention, of these Fur males also humiliated, degraded or otherwise violated their dignity. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity.

428. These Fur males were either persons *hors de combat* or were civilians taking no active part in the hostilities. **ABD-AL-RAHMAN** and the other perpetrators were aware of the factual circumstances that established the victims’ status.

Counts 17-18: Murder (CAH and WC); Counts 19-20: Attempted murder (CAH and WC)

Day Two: ABD-AL-RAHMAN removes detainees from Mukjar police station for execution

Morning meeting with TORSHEIN and the commander of the joint forces

429. **ABD-AL-RAHMAN** returned to Mukjar police station with a convoy of

¹⁴⁵⁹ P-0919: [DAR-OTP-0217-0445](#), and [DAR-OTP-0217-0446](#), and [DAR-OTP-0217-0448](#), and [T-60-CT](#), p. 29, line 23-p. 32, line 5, and [T-60-CT](#), p. 19, lines 10-11, p. 20, lines 1-22, and [T-61-CT](#), p. 19, lines 1-23, p. 21, line 23-p. 22, line 9.

¹⁴⁶⁰ P-0877: [T-53-CT2](#), p. 85, line 21-p. 86, line 2, and [T-54-CT](#), p. 10, lines 23-25.

¹⁴⁶¹ P-0877: [DAR-OTP-0224-0164](#), and [REDACTED], and [T-54-CT](#), p. 10, lines 22-25, [REDACTED].

¹⁴⁶² [REDACTED] (*see* Courtroom 2 dimensions); P-0990: [DAR-OTP-0223-0236](#), and [T-40-CT](#), p. 38, lines 4-17. *See* Annex 26, p. 18.

Militia/*Janjaweed*, some of whom were wounded from the Sindu operation.¹⁴⁶³ They drove open-back Land Cruisers, some were the colour of tea/coffee with milk and mounted with a *Dushka* machine gun, some were camouflage.¹⁴⁶⁴

430. TORSHEIN sat with **ABD-AL-RAHMAN** and the commander of the joint forces outside Mukjar police station.¹⁴⁶⁵ **ABD-AL-RAHMAN** informed TORSHEIN and the commander of the joint forces that he was taking the detainees to Zalingei.¹⁴⁶⁶ [REDACTED] **ABD-AL-RAHMAN** and TORSHEIN [REDACTED].¹⁴⁶⁷ P-0129 also saw a meeting take place that morning between **ABD-AL-RAHMAN**, TORSHEIN and HAMDİ.¹⁴⁶⁸

431. [REDACTED]. **ABD-AL-RAHMAN** arrived with a convoy of Land Cruisers around 15h00.¹⁴⁶⁹ **ABD-AL-RAHMAN**, AL-TAYYIB, TORSHEIN and many Militia/*Janjaweed* gathered in front of the prison. [REDACTED] went to see what was happening and returned a few minutes later, informing [REDACTED] **ABD-AL-RAHMAN** asked AL-TAYYIB to collect the detainees, as he wanted to transfer them to Garsila. [REDACTED] **ABD-AL-RAHMAN**, Abdel BADE and other PPF officers, including BASHAR and JOMA (CARTER), and heard the order that the cell doors be opened.¹⁴⁷⁰ P-0903 also heard **ABD-AL-RAHMAN** tell TORSHEIN that the detainees would to be taken to Garsila.¹⁴⁷¹

432. [REDACTED] at the Mukjar police station, with BAKHAT.¹⁴⁷² [REDACTED] prior to the detainees being taken out, a rebel they had captured during the Sindu operation, claiming to be the second deputy head of Abd-Al-Wahid's forces,¹⁴⁷³ entered the cell with **ABD-AL-RAHMAN**, IDRİSS and ABD-AL-MUN'IM, to point out detainees supposedly affiliated with the rebels. To save himself and possibly escape being killed, the rebel started pointing out certain detainees. He claimed that the detainees inside the store within the Mukjar police station

¹⁴⁶³ [REDACTED].

¹⁴⁶⁴ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142-0143, para. 50, and [DAR-OTP-0223-0157-R02](#) at 0170, paras. 61-62.

¹⁴⁶⁵ [REDACTED].

¹⁴⁶⁶ [REDACTED].

¹⁴⁶⁷ [REDACTED].

¹⁴⁶⁸ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142-0143, para. 50, and [DAR-OTP-0223-0157-R02](#) at 0170-0171, paras. 61-62, and [DAR-OTP-0128-0163](#), no. 7 (Translation [DAR-OTP-0219-7084](#)), and [DAR-OTP-00000088](#), and [T-75-CT](#), p. 57, line 2-25.

¹⁴⁶⁹ [REDACTED].

¹⁴⁷⁰ P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 95-103, and [DAR-OTP-00000012](#) at 3, paras. 27-28.

¹⁴⁷¹ P-0903: [T-32-CT](#), p. 40, line 21-p. 41, line 25 (see Courtroom 3 dimensions).

¹⁴⁷² [REDACTED].

¹⁴⁷³ [REDACTED]. See above paras. 157, 223.

compound (converted to a cell), were rebels.¹⁴⁷⁴ Ignoring the selection of purported rebels who had been pointed out among the detainees, **ABD-AL-RAHMAN** informed the commander of Mukjar police station that all the detainees were *tora bora* and must be handed over and taken to Zalingei or Garsila.¹⁴⁷⁵

Assaulting detainees, loading them onto Land Cruisers

433. Holding a whip in one hand and axe in the other, **ABD-AL-RAHMAN** ordered *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelmahmoud (also known as Doorri) to stand up. He then instructed the rest of the detainees, “you get up, you get up”. Any detainee **ABD-AL-RAHMAN** told to get up would receive at least 10 lashes from Militia/*Janjaweed*.¹⁴⁷⁶ *Umdah* Yahya Ahmad Zarruq asked to be allowed to get dressed properly, but was refused.¹⁴⁷⁷ He was first to exit the cell, when **ABD-AL-RAHMAN** struck him with his axe.¹⁴⁷⁸ *Umdah* Yahya Ahmad Zarruq fell to the ground bleeding and members of Militia/*Janjaweed* and GoS Forces beat him with sticks and whips, then threw him onto a Land Cruiser.¹⁴⁷⁹

434. [REDACTED], P-0877, P-0903, P-0990 and [REDACTED] also witnessed **ABD-AL-RAHMAN** hit *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelmahmoud (also known as Doorri) and *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa) with his axe, striking them on the head, neck or shoulder.¹⁴⁸⁰

435. [REDACTED] in the convoy transporting detainees for execution. [REDACTED] P-0931, observed that the detainees leaving the cells were dressed in civilian clothes and appeared

¹⁴⁷⁴ [REDACTED].

¹⁴⁷⁵ [REDACTED]; P-0903: [T-32-CT](#), p. 44, line 11-p. 45, line 1; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 98, 100-107, and [DAR-OTP-00000012](#) at 3-4, paras. 27-31; [REDACTED]; P-0990: [T-40-CT](#), p. 61, line 5-p. 62, line 7; [REDACTED].

¹⁴⁷⁶ P-0919: [T-60-CT](#), p. 33, line 22-p. 35, line 25; [REDACTED]. See also P-0129: [DAR-OTP-0223-0157-R02](#) at 0171, paras. 65-66.

¹⁴⁷⁷ [REDACTED].

¹⁴⁷⁸ [REDACTED]; P-0877: [T-54-CT](#), p. 13, lines 4-16; P-0903: [T-32-CT](#), p. 46, lines 5-19; P-0129: [DAR-OTP-0128-0128-R04](#) at 0143, para. 51, and [T-75-CT](#), p. 58, lines 7-11.

¹⁴⁷⁹ P-0877: [T-54-CT](#), p. 13, lines 4-16; P-0903: [T-32-CT](#), p. 46, lines 5-19, p. 47, line 25-p. 48, line 11, and [T-33-CT](#), p. 47, line 25-p. 49, line 8.

¹⁴⁸⁰ [REDACTED]; P-0877: [T-54-CT](#), p. 13, line 4-p. 15, line 8; P-0903: [T-32-CT](#), p. 44, line 1-p. 46, line 19; [REDACTED]; P-0990: [T-40-CT](#), p. 51, line 4-p. 52, line 2. See also P-0892: [DAR-OTP-0217-0384-R02](#) at 0399, para. 70.

to have been severely tortured, as their bodies were covered in blood and they appeared tired.¹⁴⁸¹

436. P-0877 saw **ABD-AL-RAHMAN** strike detainee Adam Naheed Numan, a guard of *Shartay* Mohammed Zarruq from Tendy, with his axe.¹⁴⁸² Terrified and crying, the detainees stopped responding to names being called out by JOMA (CARTER). Chaos erupted among the detainees, so Militia/*Janjaweed* started pulling them out in a haphazard manner.¹⁴⁸³ [REDACTED] a *Sheikh* and young boys, aged 8-11, exit the prison and be loaded into one of the Land Cruisers.¹⁴⁸⁴

437. P-0877 saw **ABD-AL-RAHMAN** strike [REDACTED] and [REDACTED], on the head with his axe.¹⁴⁸⁵ **ABD-AL-RAHMAN** accused P-0990 of being a *tora bora* and struck his [REDACTED] with his axe, splitting the skin on his [REDACTED] open at least 15 centimetres.¹⁴⁸⁶ These three men were left in their cell, seriously injured and bleeding, but were spared being swept up in the chaos and loaded onto vehicles for execution. [REDACTED] would remain unconscious on the ground for two days. P-0877 thought he was dead.¹⁴⁸⁷

438. **ABD-AL-RAHMAN**, SAMIH, TORSHEIN, AL-TAYYIB, and several Militia/*Janjaweed* and GoS Forces stood in lines outside the door of the cell, beating the detainees as they were loaded onto vehicles.¹⁴⁸⁸

439. [REDACTED] **ABD-AL-RAHMAN** personally take detainees from the cell outside to the waiting vehicles.¹⁴⁸⁹ Some detainees were bleeding from being hit with sticks and whips, they were sworn at and told to get onto the vehicles and lie on their bellies.¹⁴⁹⁰ P-0877 could

¹⁴⁸¹ [REDACTED]; P-0931: [T-62-CT](#), [REDACTED], p. 18, lines 7-17, p. 32, line 7-p. 35, line 15, p. 54, line 3-p. 55, line 18, and [DAR-OTP-0222-0052](#) (Translation at [DAR-OTP-0221-1358](#)). (Lieutenant Colonel AL-JILLI, head of police/PPF in Garsila). See also [REDACTED].

¹⁴⁸² P-0877: [T-54-CT](#), p. 11, line 10-p. 13, line 8; P-0903: [T-32-CT](#), p. 45, lines 7-11. See also Annex 17, no. 60 (Adam Nahid Numan, aka Tomoli).

¹⁴⁸³ P-0877: [T-54-CT](#), p. 15, line 18-p. 16, line 2.

¹⁴⁸⁴ [REDACTED].

¹⁴⁸⁵ P-0877: [T-54-CT](#), p. 16, lines 3-15; P-0922: [DAR-OTP-0220-2864-R01](#) at 2868, para. 24 [REDACTED]; P-0129: [DAR-OTP-00000085](#) at 1, no. 3, and [DAR-OTP-0128-0128-R04](#) at 0142, para. 52, and [DAR-OTP-0223-0157-R02](#) at 0172, para. 72.

¹⁴⁸⁶ P-0990: [DAR-OTP-0223-0235](#), and [T-40-CT](#), p. 51, line 24-p. 55, line 4, p. 59, line 5-p. 60, line 18; P-0877: [T-54-CT](#), p. 16, lines 3-15.

¹⁴⁸⁷ P-0877: [T-54-CT](#), p. 16, lines 3-15, p. 18, lines 7-10.

¹⁴⁸⁸ P-0877: [T-54-CT](#), p. 12, lines 2-18 (see Courtroom 3 dimensions); P-0129: [DAR-OTP-0128-0128-R04](#) at 0142-0143, para. 50, and [DAR-OTP-0223-0157-R02](#) at 0170, paras. 61-62. See also P-0903: [T-33-CT](#), p. 48, line 23-p. 49, line 22.

¹⁴⁸⁹ [REDACTED].

¹⁴⁹⁰ [REDACTED]; P-0877: [T-54-CT](#), p. 15, line 18-p. 16, line 15.

hear detainees in the other cells crying in fear.¹⁴⁹¹ [REDACTED] was pushed to the ground, [REDACTED]. Militia/*Janjaweed* told the *umdahs* that they were going to be killed. He could hear the *umdahs* crying.¹⁴⁹²

440. [REDACTED] were loaded onto a vehicle in the convoy, driven by HAMDİ and ABD-AL-MUN'İM.¹⁴⁹³ [REDACTED], enabling him to see what was happening.¹⁴⁹⁴ [REDACTED] full of detainees. Armed soldiers sat at the back of each side, on top of the detainees, so as to ensure none would escape.¹⁴⁹⁵

441. In ABD-AL-RAHMAN's presence, Militia/*Janjaweed* and GoS Forces piled detainees on top of each other "like sacks" in the back of several Land Cruisers and instructed them to lay face down and not raise their heads.¹⁴⁹⁶ [REDACTED] recalled thinking that those at the bottom of the pile would surely die of suffocation within minutes.¹⁴⁹⁷ P-0913 saw ABD-AL-RAHMAN walk towards the convoy, shouting "*Allahu Akbar, Toro Boro is over, prepare their graves.*"¹⁴⁹⁸

442. Alongside ABD-AL-RAHMAN and Militia/*Janjaweed*, SAMİH, HAMDİ and ABD-AL-MUN'İM¹⁴⁹⁹ were identified as loading detainees, while TORSHEIN and AL-TAYYİB looked on.¹⁵⁰⁰

ABD-AL-RAHMAN's convoy departs Mukjar police station

443. [REDACTED] one of the Land Cruisers packed with detainees [REDACTED] at Mukjar police station at a distance of two metres. He recognised some of the men, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour, and Dr/*Umdah* Muhammad Umar Ahmad Zarruq.¹⁵⁰¹

¹⁴⁹¹ P-0877: [T-54-CT](#), p. 16, line 14-p. 17, line 8.

¹⁴⁹² [REDACTED].

¹⁴⁹³ [REDACTED].

¹⁴⁹⁴ [REDACTED].

¹⁴⁹⁵ [REDACTED].

¹⁴⁹⁶ [REDACTED]; P-0877: [T-54-CT](#), p. 16, line 22-p. 17, line 8; [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 100, and [DAR-OTP-0220-4710](#) at 4712, paras. 27-28, and [T-45-CT](#), p. 28, line 5-p. 30, line 10; [REDACTED]; P-0903: [T-32-CT](#), p. 45, line 18-p. 46, line 19, p. 47, line 15-p. 50, line 11. *See also* P-0892: [DAR-OTP-0217-0384-R02](#) at 0397, para. 63; P-0675: [DAR-OTP-0206-0173-R02](#) at 0203-0204, para. 111; P-0756: [DAR-OTP-0211-0039-R02](#) at 0056, para. 72.

¹⁴⁹⁷ [REDACTED].

¹⁴⁹⁸ P-0913: [DAR-OTP-0218-0021-R04](#) at 0037-0038, para. 110.

¹⁴⁹⁹ P-0129: [DAR-OTP-0223-0157-R02](#) at 0171, para. 67.

¹⁵⁰⁰ P-0129: [DAR-OTP-0223-0157-R02](#) at 0173, para. 80; [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0037, para. 105, and [DAR-OTP-00000012](#) at 4, para. 29.

¹⁵⁰¹ [REDACTED]. *See* Annex 17, no. 158 (*Umdah* Yahya Ahmad Zarruq), 112 (*Umdah* Issa Harun Nour, aka Issa Tibé), 134 (Dr/*Umdah* Muhammad Umar Ahmad Zarruq).

444. Once the Land Cruisers were filled with detainees, [REDACTED], the convoy departed Mukjar police station.¹⁵⁰² **ABD-AL-RAHMAN** was at the front of the convoy.¹⁵⁰³ **HAMDI**,¹⁵⁰⁴ **HASSABALLAH**,¹⁵⁰⁵ **BAKHAT**,¹⁵⁰⁶ **IDRISS**,¹⁵⁰⁷ **AL-JILLI** [REDACTED]¹⁵⁰⁸ **SAMIH**,¹⁵⁰⁹ and [REDACTED]¹⁵¹⁰ followed behind. [REDACTED], following the convoy along the road to Garsila. [REDACTED].¹⁵¹¹

First location: Execution of *Umdahs* and others near the future UNAMID base/Khor Kushayb, attempted murder [REDACTED]

445. As the convoy drove a few kilometres north outside of Mukjar,¹⁵¹² the detainees continued to be beaten.¹⁵¹³ [REDACTED] still has a scar [REDACTED] where he was beaten.¹⁵¹⁴ The convoy made its first stop near a sycamore tree, next to a *chor* – close to where the UNAMID base would later be located.¹⁵¹⁵ **ABD-AL-RAHMAN**'s Land Cruiser was at the front of the convoy, his vehicle pulled over near the tree.¹⁵¹⁶ **HAMDI** got out and halted the rest of the convoy. **ABD-AL-RAHMAN** and **SAMIH** exited their vehicles.¹⁵¹⁷ Militia/*Janjaweed* from the second car jumped out.¹⁵¹⁸ **AL-JILLI** got out [REDACTED] vehicle to speak briefly to **ABD-AL-RAHMAN**.¹⁵¹⁹ [REDACTED] heard **ABD-AL-RAHMAN** say “[c]ome here. Get all of these prisoners out of the vehicles” and exited his

¹⁵⁰² [REDACTED]; P-0931: [T-62-CT](#), p. 32, lines 7-13; [REDACTED]; P-0877: [T-54-CT](#), p. 16, line 17-p. 17, line 8, p. 21, line 23-p. 22, line 5; [REDACTED]; P-0903: [T-33-CT](#), p. 45, line 25-p. 46, line 4; [REDACTED].

¹⁵⁰³ [REDACTED]; P-0931: [T-62-CT](#), p. 32, lines 7-13; [REDACTED]; P-0903: [T-32-CT](#), p. 49, lines 10-19; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 100.

¹⁵⁰⁴ P-0931: [T-62-CT](#), p. 32, line 7-p. 33, line 24; [REDACTED].

¹⁵⁰⁵ P-0931: [T-62-CT](#), p. 32, line 7-p. 33, line 24; [REDACTED].

¹⁵⁰⁶ [REDACTED].

¹⁵⁰⁷ P-0931: [T-62-CT](#), p. 32, line 7-p. 33, line 24; [REDACTED].

¹⁵⁰⁸ [REDACTED].

¹⁵⁰⁹ [REDACTED].

¹⁵¹⁰ [REDACTED].

¹⁵¹¹ [REDACTED].

¹⁵¹² [REDACTED]. See also [REDACTED]. See also Annex 16: Approximate locations of execution sites outside Mukjar.

¹⁵¹³ [REDACTED].

¹⁵¹⁴ [REDACTED].

¹⁵¹⁵ [REDACTED]; P-0990: [T-40-CT](#), p. 68, line 23-p. 70, line 2, and [T-41-CT](#), p. 55, line 24-p. 56, line 10, p. 57, lines 7-11; [REDACTED]; P-0931: [DAR-OTP-0224-0881](#), and [T-62-CT](#), p. 35, line 8-p. 37, line 11; P-0877: [DAR-OTP-0217-0256](#) (Translation at [DAR-OTP-0217-0483](#)), and [DAR-OTP-0217-0264](#) (Translation [DAR-OTP-0217-0495](#)), and [DAR-OTP-0217-0278](#) (Translation [DAR-OTP-0215-8891](#) at 8893, lines 4-22), and [T-54-CT](#), p. 23, lines 2-4, p. 24, line 24-p. 25, line 20, p. 26, line 8-p. 27, line 1, p. 29, line 1-p. 30, line 7, p. 37, line 1-p. 39, line 23; P-0892: [DAR-OTP-0217-0384-R02](#) at 0402, paras. 89-91, and [T-48-CT](#), p. 14, line 25-p. 16, line 21, p. 18, lines 19-25; P-0932: [DAR-OTP-0222-0602-R02](#) at 0622, paras. 116-117.

¹⁵¹⁶ [REDACTED].

¹⁵¹⁷ [REDACTED].

¹⁵¹⁸ [REDACTED].

¹⁵¹⁹ P-0931: [T-62-CT](#), p. 32, lines 16-19.

vehicle to see what was going on.¹⁵²⁰

446. After **ABD-AL RAHMAN**'s vehicle pulled over, one soldier [REDACTED] Land Cruiser advised detainees, "if any of you know verses from the Koran, you better start praying because these people are going to kill you". [REDACTED] began reciting verses and encouraged the others to do the same.¹⁵²¹

447. **ABD-AL-RAHMAN** said "*Umdahs*, get down".¹⁵²² They were hit, whipped and insulted, then told to "run" and "speed up" as the remaining detainees exited the back of the packed Land Cruiser. After that, the shooting began.¹⁵²³ [REDACTED] heard **ABD-AL-RAHMAN** instruct Militia/*Janjaweed* and GoS Forces to "execute the order", adding "[f]or those who don't know how to kill, they are going to learn how to kill here".¹⁵²⁴

448. Militia/*Janjaweed* and GoS Forces – including Ali Ibrahim AL DOUMA, known as AL-TARZI,¹⁵²⁵ IDRIS (SAF),¹⁵²⁶ and HASSABALLAH (PDF)¹⁵²⁷ – proceeded to shoot the detainees.¹⁵²⁸ P-0931 testified that **ABD-AL-RAHMAN** and HAMDİ stood watching,¹⁵²⁹ as did SAMIH.¹⁵³⁰

449. [REDACTED].¹⁵³¹ He could hear the detainees screaming and crying around him.¹⁵³² **ABD-AL-RAHMAN** ordered his men, "[s]hoot again. Maybe someone did not die yet. Go back. Shoot them again."¹⁵³³ [REDACTED].¹⁵³⁴ He heard Militia/*Janjaweed* shouting, "[w]e are going to fuck you, *tora bora*. We are going to fuck you, *tora bora*".¹⁵³⁵ Terrified, the detainees in parked vehicles watched – screaming and crying, calling on God and their mothers.¹⁵³⁶

¹⁵²⁰ [REDACTED].

¹⁵²¹ [REDACTED].

¹⁵²² [REDACTED]; P-0931: [T-62-CT](#), p. 32, lines 16-19. *See also* [REDACTED].

¹⁵²³ [REDACTED].

¹⁵²⁴ [REDACTED]. *See also* P-0129: [DAR-OTP-0128-0128-R04](#) at 0143-0144, paras. 53-54, and [DAR-OTP-0223-0157-R02](#) at 0173, paras. 76-82, and [DAR-OTP-00000084](#) at 2, paras. 23-26.

¹⁵²⁵ P-0931: [T-62-CT](#), p. 14, line 23-p. 15, line 9, p. 33, line 4-p. 34, line 24. *See in this context*, P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 62.

¹⁵²⁶ P-0931: [T-62-CT](#), [REDACTED], p. 33, line 4-p. 34, line 24.

¹⁵²⁷ [REDACTED].

¹⁵²⁸ [REDACTED]; P-0931: [T-62-CT](#), p. 33, lines 4-11, p. 34, lines 12-20; [REDACTED].

¹⁵²⁹ P-0931: [T-62-CT](#), p. 33, lines 4-11, p. 34, lines 12-20; [REDACTED].

¹⁵³⁰ P-0919: [DAR-OTP-0128-0128-R04](#) at 0144, para. 54.

¹⁵³¹ [REDACTED].

¹⁵³² [REDACTED].

¹⁵³³ [REDACTED].

¹⁵³⁴ [REDACTED].

¹⁵³⁵ [REDACTED].

¹⁵³⁶ [REDACTED].

450. [REDACTED].¹⁵³⁷ [REDACTED]. [REDACTED] saw the *umdahs* and other detainees exit the first vehicle. He saw **ABD-AL-RAHMAN** beat them with his axe, while SAMIH used a Kalashnikov to whip and a stick to hit them.¹⁵³⁸ As the *umdahs* and other detainees lay on the ground, the beating continued. [REDACTED] identified **ABD-AL-RAHMAN**, SAMIH, HAMDI and TORSHEIN next to Militia/*Janjaweed* and GoS Forces, as they opened fire on the *umdahs* and other detainees, [REDACTED].¹⁵³⁹

451. [REDACTED] **ABD-AL-RAHMAN**'s forces shooting the detainees. The detainees were covered in blood, some had already been killed. [REDACTED] drew a sketch of the scene he witnessed, marking where he saw **ABD-AL-RAHMAN**'s vehicle parked under the tree.¹⁵⁴⁰ [REDACTED] P-0931 also marked a satellite image to indicate what he witnessed at the first execution location, corroborating [REDACTED] evidence.¹⁵⁴¹

452. The first detainees selected for execution by **ABD-AL-RAHMAN** were community leaders *Umdah* Yahya Ahmad Zarruq,¹⁵⁴² *Umdah* Issa Harun Nour,¹⁵⁴³ *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doori),¹⁵⁴⁴ *Sheikh* Abdallah Ahmad Hasan,¹⁵⁴⁵ *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa),¹⁵⁴⁶ *Sheikh* Muhammad Ali Bolot (also known

¹⁵³⁷ [REDACTED].

¹⁵³⁸ [REDACTED].

¹⁵³⁹ [REDACTED]

¹⁵⁴⁰ [REDACTED].

¹⁵⁴¹ P-0931: [DAR-OTP-0224-0881](#), no. 1, and [T-62-CT](#), p. 35, line 16-p. 38, line 4.

¹⁵⁴² [REDACTED]; P-0984: [T-67-CT](#), [REDACTED], p. 17, line 1-p. 18, line 7; [REDACTED]. See also P-0877: [T-54-CT](#), p. 29, line 20-p. 30, line 7, p. 34, lines 10-13, p. 38, lines 10-19, [REDACTED]; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 101, and [DAR-OTP-0220-4710](#) at 4712, para. 27, and [T-45-CT](#), p. 29, line 15-p. 30, line 10; P-0903: [T-32-CT](#), p. 45, line 2-p. 46, line 19, p. 47, line 15-p. 49, line 15, p. 53, line 1-p. 54, line 22, p. 57, lines 18-21; [REDACTED]; P-0892: [DAR-OTP-0217-0384-R02](#) at 0398-0399, paras. 68, 72; P-0932: [DAR-OTP-0222-0602-R02](#) at 0621-0622, paras. 108, 116; Annex 17, no. 39 (Abdul Mawla Ismail).

¹⁵⁴³ [REDACTED]; P-0984: [T-67-CT](#), [REDACTED], p. 17, line 1-p. 18, line 7; [REDACTED]. See also P-0877: [T-54-CT](#), p. 13, lines 12-25, p. 15, lines 1-5; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 101, and [T-45-CT](#), p. 29, line 15-p. 30, line 10; P-0903: [T-32-CT](#), p. 45, line 2-p. 46, line 19, p. 57, lines 18-25; [REDACTED]; P-0892: [DAR-OTP-0217-0384-R02](#) at 0397-0399, paras. 64, 68, 70-71. See also Annex 17, no. 28 (Abd-Al-Moula Tibaj).

¹⁵⁴⁴ [REDACTED]. See also P-0877: [T-54-CT](#), p. 13, lines 12-25, p. 38, line 22-p. 39, line 10; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 101, and [T-45-CT](#), p. 29, line 15-p. 30, line 10; P-0903: [T-32-CT](#), p. 45, line 2-p. 46, line 19, p. 57, lines 18-25; P-0932: [DAR-OTP-0222-0602-R02](#) at 0621-0622, paras. 109, 116. See also Annex 17, no. 15 (Abd-Al-Karim Uthman Jalal-Al-Din).

¹⁵⁴⁵ [REDACTED]. See also P-0877: [T-54-CT](#), p. 40, line 7-p. 41, line 3; Annex 17, no. 6 (Abakr Abd-Al-Rasul Abd-Al-Mahmud).

¹⁵⁴⁶ P-0129: [DAR-OTP-0128-0128-R04](#) at 0140, para. 45(d), 0143-0144, paras. 53-54, and [DAR-OTP-0223-0157-R02](#) at 0166, para. 49, 0171, paras. 63-68, 0173, paras. 76-81, 0182, para. 130, 0184-0185, para. 147, and [DAR-OTP-00000084](#) at 2-3, paras. 23-26, 45-47; P-0877: [T-54-CT](#), p. 14, lines 23-25, p. 24, line 5-p. 25, line 13, and [REDACTED]. See also Annex 17, no. 20 (Abdallah Ahmad Hasan, aka Kildigi).

as Jabbor)¹⁵⁴⁷ and *Imam/Sheikh* Ahmad Muhammad Yahya Abakar.¹⁵⁴⁸

453. Having heard the shooting, the head of the Mukjar Police arrived at the scene to confront **ABD-AL-RAHMAN**.¹⁵⁴⁹ He told **ABD-AL-RAHMAN** that he had handed over the detainees under the condition that **ABD-AL-RAHMAN** would take them to Garsila and Zalingei for interrogation, not for them to be killed.¹⁵⁵⁰ One of the remaining vehicles included a *sheikh* who was teaching the Quran in Sindu and five of his students, ages 8-11 – as well as two brothers, aged 8 and 11.¹⁵⁵¹ The head of Police tried to negotiate with **ABD-AL-RAHMAN**, seeking to ensure that the detainees would not be killed but he could not reason with or stop **ABD-AL-RAHMAN**, who simply replied, “Well, this is our operation. This is our work.”¹⁵⁵² Notwithstanding the efforts of the head of Police, the convoy continued on.

Second location: Execution of the *sheikh* and seven children

454. The Land Cruiser containing the *Sheikh* who was teaching the Quran in Sindu, his five students (boys, ages 8-11) and two brothers (ages 8 and 11), drove to a second location not far from the first UNAMID site, stopping at a *chor*, east of the road.¹⁵⁵³ [REDACTED] **ABD-AL-RAHMAN** order for them to be killed.¹⁵⁵⁴ IDRIS requested “Just leave these for me”, [REDACTED]. IDRIS advised the *Sheikh* and seven children “If you have anything to say before being killed, say it, say it.”¹⁵⁵⁵ The terrified children all went towards the *Sheikh* and hid behind him.¹⁵⁵⁶ One of the boys pleaded with IDRIS, explaining that his father was a colonel in the SAF in Nyala and his brothers were in Mukjar, visiting family. The boy was only in Mukjar to bring his brothers back and got stuck there. IDRIS replied “If your father is a colonel, what am I then? What am I then if your father is a colonel?”¹⁵⁵⁷

¹⁵⁴⁷ P-0903: [T-32-CT](#), p. 63, lines 13-22; P-0877: [T-54-CT](#), p. 29, lines 21-24, p. 38, line 1-p. 39, line 23. *See also* P-0919: [T-60-CT](#), p. 16, lines 4-13, p. 27, line 14-p. 28, line 23; Annex 17, no. 33 (Abd-Al-Raziq Abd-Al-Jabbar Adam).

¹⁵⁴⁸ P-0129: [DAR-OTP-0128-0128-R04](#) at 0140, para. 45(n), and [DAR-OTP-0223-0157-R02](#) at 0166, para. 49, 0178, para. 115. *See also* Annex 17, no. 21 (Abdallah Ismail Muhammad, aka Abu Sarankat).

¹⁵⁴⁹ [REDACTED]. According to P-0913 and others, the police commander in March 2004 was Lieutenant Colonel Mustapha Ahmad Al-Tayeb (AL-TAYYIB). *See e.g.* P-0913: [DAR-OTP-0218-0021-R04](#) at 0033, para. 79.

¹⁵⁵⁰ [REDACTED]. *See also* for additional context regarding this event, P-0913: [DAR-OTP-0218-0021-R04](#) at 0036, para. 98; [REDACTED]; P-0932: [DAR-OTP-0222-0602-R02](#) at 0620, para. 104, 0622, para. 116.

¹⁵⁵¹ [REDACTED]. *See also* Annex 17, no. 42-49.

¹⁵⁵² [REDACTED].

¹⁵⁵³ [REDACTED]. *See also* Annex 16: Approximate locations of execution sites outside Mukjar; Annex 17, no. 42-49.

¹⁵⁵⁴ [REDACTED].

¹⁵⁵⁵ [REDACTED].

¹⁵⁵⁶ [REDACTED].

¹⁵⁵⁷ [REDACTED].

455. The *Sheikh* begged for the children's lives to be spared, "[i]f you want to kill me, kill me. But these kids are orphans, please let them go."¹⁵⁵⁸ Unmoved, IDRISS asked the *Sheikh* if he was finished. The *Sheikh* made a final request, "After your permission, sir, I just want to pray. If you allow me to pray, please." Cleaning his hands with sand, the *Sheikh* took a moment, then told IDRISS "Okay, I've finished, sir."¹⁵⁵⁹ IDRISS shot the *Sheikh* in the head. One of the brothers then tried to escape, jumping out of the vehicle, running towards the *khor* – but was shot at by IDRISS, and killed.¹⁵⁶⁰ **ABD-AL-RAHMAN** then told IDRISS, we don't have time, let's get it over with.¹⁵⁶¹ IDRISS shot the remaining six children.¹⁵⁶²

Third location: Execution of detainees between Nyerli and Gogoma Shargiya, attempted murder [REDACTED]

456. The convoy, led by **ABD-AL-RAHMAN**'s vehicle, proceeded to drive north along the road to Garsila.¹⁵⁶³ **ABD-AL-RAHMAN**'s vehicle stopped at a small valley between Nyerli and Gogoma Shargiya (Eastern Juguma). In the presence of **ABD-AL-RAHMAN**, detainees were instructed to get off the vehicles and they were hit by Militia/*Janjaweed*.¹⁵⁶⁴ [REDACTED] recalled, "[t]hey were insulting us calling us *dogs*, saying *this is the last of your days* and hitting us with sticks".¹⁵⁶⁵ Detainees, [REDACTED], were beaten with the butt of firearms, and ordered to lie face down on the ground.¹⁵⁶⁶ [REDACTED] detainees lay next to each other in the riverbed, **ABD-AL-RAHMAN** ordered his soldiers to open fire, "spraying with every type of gun they had".¹⁵⁶⁷ About 10 soldiers opened fire on the detainees.¹⁵⁶⁸ [REDACTED] watched [REDACTED] Bahr-al-Deen Idriss Muhammad Abd-Al-Rahman get shot while trying to run away.¹⁵⁶⁹

457. [REDACTED], Abd-al-Karim Abd-al-Rahman, also get shot.¹⁵⁷⁰ As Abakar Adam Isa

¹⁵⁵⁸ [REDACTED].

¹⁵⁵⁹ [REDACTED].

¹⁵⁶⁰ [REDACTED].

¹⁵⁶¹ [REDACTED].

¹⁵⁶² [REDACTED].

¹⁵⁶³ [REDACTED].

¹⁵⁶⁴ [REDACTED].

¹⁵⁶⁵ [REDACTED].

¹⁵⁶⁶ [REDACTED].

¹⁵⁶⁷ [REDACTED].

¹⁵⁶⁸ [REDACTED].

¹⁵⁶⁹ [REDACTED]. See also P-0903: [T-32-CT](#), p. 62, line 6-p. 63, line 1; Annex 17, no. 78 (Bahr-Al-Deen Idriss Muhammad Abd-Al-Rahman).

¹⁵⁷⁰ P-0129: [DAR-OTP-0128-0128-R04](#) at 0139, para. 41, 0141, para. 45(hh), and [DAR-OTP-0223-0157-R02](#) at 0167, para. 49, 0174-0175, paras. 87-90, 0179, para. 116, and [DAR-OTP-00000084](#) at 4, paras. 51-53. See also Annex 17, no. 2 (Abakar Adam Isa, aka Abakar Yahya).

(also known as Abakar Yahya) was shot [REDACTED].¹⁵⁷¹ [REDACTED]. After the shooting stopped, members of the Militia/*Janjaweed* and GoS Forces walked on top of the detainees, [REDACTED], to make sure they were all dead.¹⁵⁷² [REDACTED] one soldier remark that one of the “slaves”, referring to a victim, had money on him and took it.¹⁵⁷³

458. [REDACTED] was not sure if other vehicles in the convoy continued on with additional prisoners or not, as some vehicles had stopped at different points, along the journey.¹⁵⁷⁴ Several witnesses who saw detainees being loaded onto vehicles at Mukjar police station, reported hearing gunshots soon after.¹⁵⁷⁵ Later that day, some of the vehicles that were used to transport detainees returned to Mukjar police station, empty.¹⁵⁷⁶

[REDACTED]: Survivors of the executions

459. Although substantial steps were taken to execute all of the detainees taken to these sites, two witnesses survived due to circumstances independent of the perpetrators’ intentions.¹⁵⁷⁷ [REDACTED].¹⁵⁷⁸ [REDACTED]¹⁵⁷⁹ [REDACTED].¹⁵⁸⁰ All of the detainees were dead, including *Umdahs* Yahya Ahmed Zarruq, Issa Harun Nour and Adam Husayn Abdelm Mahmoud (also known as Doori).¹⁵⁸¹

460. [REDACTED].¹⁵⁸² [REDACTED] “The impact of the execution was significant. [...] [REDACTED]. Not one of them was alive.”¹⁵⁸³ Shortly thereafter, [REDACTED] recorded the

¹⁵⁷¹ P-0129: [DAR-OTP-0128-0128-R04](#) at 0141, para. 45(ii), 0144-0145, paras. 56-58, and [DAR-OTP-0223-0157-R02](#) at 0175, paras. 87-90, and [DAR-OTP-00000084](#) at 4, paras. 51-53. See also Annex 17, no. 14 (Abd-Al-Karim Abd-Al-Rahman Muhammad, aka Kirim).

¹⁵⁷² [REDACTED].

¹⁵⁷³ [REDACTED].

¹⁵⁷⁴ P-0129: [DAR-OTP-0128-0128-R04](#) at 0145, paras. 57-58, and [DAR-OTP-0223-0157-R02](#) at 0175, paras. 91-92.

¹⁵⁷⁵ P-0877: [T-54-CT](#), p. 21, line 23-p. 22, line 15; P-0029: [T-30-CT2](#), p. 41, line 19-p. 42, line 14; P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 100, and [DAR-OTP-0220-4710](#) at 4712, para. 29, and [DAR-OTP-0220-4716-R01](#), and [T-45-CT](#), p. 29, line 22-p. 30, line 10; P-0913: [DAR-OTP-0218-0021-R04](#) at 0038, paras. 111-112; P-0932: [DAR-OTP-0222-0602-R02](#) at 0620, para. 103; P-0675: [DAR-OTP-0206-0173-R02](#) at 0205, para. 114; P-0756: [DAR-OTP-0211-0039-R02](#) at 0056-0057, paras. 74-77; P-0922: [DAR-OTP-0220-2864-R01](#) at 2869, paras. 28-29.

¹⁵⁷⁶ P-0877: [T-54-CT](#), p. 21, line 25-p. 22, line 15; P-0903: [T-32-CT](#), p. 65, lines 9-15; P-0756: [DAR-OTP-0211-0039-R02](#) at 0057, para. 78.

¹⁵⁷⁷ Article 25(3)(f); [Ongwen TJ](#), para. 2696; [Ntaganda TJ](#), para. 877.

¹⁵⁷⁸ [REDACTED]; P-0913: [DAR-OTP-00000012](#) at 4, para. 33, and [DAR-OTP-0218-0021-R04](#) at 0040, para. 124, and [DAR-OTP-0218-0047](#) (Translation [DAR-OTP-0219-8101](#) at 8104); P-0877: [T-54-CT](#), p. 44, line 18-p. 45, line 2.

¹⁵⁷⁹ [REDACTED]. See also Annex 17, no. 124 (Muhammad Abdelkarim Abdallah, aka Wo Mad).

¹⁵⁸⁰ [REDACTED]. See also Annex 17, no. 86 (Hassan Abdalla).

¹⁵⁸¹ [REDACTED]. See also Annex 17, no. 158 (*Umdah* Yahya Ahmad Zarruq), 112 (*Umdah* Issa Harun Nour, aka Issa Tibé), 53 (*Umdah* Adam Husayn Abd-Al-Mahmud, aka Doori).

¹⁵⁸² [REDACTED].

¹⁵⁸³ [REDACTED].

names of executed victims in a notebook.¹⁵⁸⁴

461. At least 177 Fur males were killed between late February and early March 2004 in the Mukjar executions.¹⁵⁸⁵ The Prosecution has established the identities of 169 of these persons and Annex 17 to this FB lists the evidence proving their deaths. The totality of the evidence, assessed in the overall context, demonstrates that the total number of persons killed in the charged Mukjar executions was at least 177.¹⁵⁸⁶ Regarding at least two detained Fur males, [REDACTED], the perpetrators took substantial steps to intentionally kill them, yet they survived. The perpetrators attempted to murder these two males who survived the conduct described above.

462. As detailed above, all of the persons killed, or attempted to be killed, were either persons *hors de combat* or were civilians taking no active part in the hostilities, and at all material times were in the power of the perpetrators of the killings.¹⁵⁸⁷ Based on the facts set out above, the only reasonable inference is that **ABD-AL-RAHMAN** and the physical perpetrators were aware of the factual circumstances that established the victims' status.

Events following the executions: Discovery of the corpses of the victims

463. In addition to execution survivors [REDACTED] identifying bodies as they fled the site of the killings, several detainees and witnesses subsequently visited the first execution site near the future UNAMID base. The day after the executions, P-0984 drove past the site and saw about 20 bodies, two were identified as *Umdah* Issa Harun Nour and Dr/*Umdah* Muhammad Umar Ahmad Zarruq.¹⁵⁸⁸ Three days after his release from Mukjar police station, [REDACTED]/detainee P-0877 went to identify the corpses of several detainees, including the *umdahs*, and helped bury them.¹⁵⁸⁹ P-0877 identified the body of *Umdah* Yahya Ahmad Zarruq from his undergarments he wore in the cell and a silver ring he never took off his finger.¹⁵⁹⁰ He also recognised from their clothing the bodies of *Umdah* Adam Husayn Abdelm Mahmoud (also

¹⁵⁸⁴ [REDACTED].

¹⁵⁸⁵ Of these, 49 names were listed in Annex 1 to the Confirmation Decision, and the remaining 129 are established by evidence obtained by the Prosecution since the Document Containing the Charges was filed. See [Confirmation Decision Anx1](#), p. 3.

¹⁵⁸⁶ See Annex 17.

¹⁵⁸⁷ See above paras. 401-410.

¹⁵⁸⁸ P-0984: [T-67-CT](#), p. 17, line 1-p. 18, line 1. See also Annex 17, no. 112 (*Umdah* Issa Harun Nour, aka Issa Tibé), 134 (Dr/*Umdah* Muhammad Umar Ahmad Zarruq).

¹⁵⁸⁹ P-0877: [DAR-OTP-0217-0256](#) (Translation at [DAR-OTP-0217-0483](#)), and [T-54-CT](#), p. 24, line 5-p. 25, line 20, p. 29, line 15-p. 30, line 7, p. 37, line 21-p. 39, line 10, p. 41, lines 12-14.

¹⁵⁹⁰ [REDACTED], p. 38, lines 7-19. See also Annex 17, no. 158 (*Umdah* Yahya Ahmad Zarruq).

known as Doori),¹⁵⁹¹ and Adam Nahid Numan,¹⁵⁹² all whom he had seen being loaded onto the vehicles at Mukjar police station.¹⁵⁹³ [REDACTED] found the body of [REDACTED] Abd-Al-Khalik Yahya Ishaq Musa.¹⁵⁹⁴

464. P-0877 testified about the impact the Mukjar executions had on him “we felt completely helpless. And that’s why, until this moment, I remember that day as the worst day ever in my life and the life of the entire region. And our entire history never witnessed a day like this day.”¹⁵⁹⁵ The *khorr* at the first execution site, where Fur community leaders, including *umdahs* and *sheikhs* were executed is now referred to by locals as *Khor Kushayb*.¹⁵⁹⁶

465. P-0877 found another site an estimated seven kilometres away from the first.¹⁵⁹⁷ [REDACTED], recognising several of the corpses.¹⁵⁹⁸ In 2007, P-0877 recorded the GPS coordinates of several execution locations and provided them to the OTP, along with a list of names of executed persons.¹⁵⁹⁹ In 2020, [REDACTED], the UNAMID/*Khor Kushayb* execution site, where the corpses of the *umdahs* and others were found. The *Wali* invited media to document and film the gathering of notables, paying their respect to these victims.¹⁶⁰⁰

466. P-0892 came across the first execution site, while fetching hay for his livestock. He identified what he believed to be the corpse of *Umdah* Issa Harun Nour, [REDACTED], based on the distinctive attire worn by the *Umdah* and his skinny figure. P-0892 verified the location as *Khor Kushayb* when he was shown the 2020 video [REDACTED], and the gathering of notables, paying their respects to victims.¹⁶⁰¹

¹⁵⁹¹ P-0877: [T-54-CT](#), p. 29, line 19-p. 30, line 7, p. 38, line 7-p. 39, line 10. See also Annex 17, no. 53 (*Umdah* Adam Husayn Abd-Al-Mahmud aka Doori).

¹⁵⁹² P-0877: [T-54-CT](#), p. 29, line 19-p. 30, line 7, p. 39, lines 1-15. See also Annex 17, no. 60 (Adam Nahid Numan, aka Tomoli).

¹⁵⁹³ P-0877: [T-54-CT](#), p. 12, line 20-p. 17, line 17.

¹⁵⁹⁴ P-0903: [T-32-CT](#), p. 61, lines 6-21. See also Annex 17, no. 16 (Abd-Al-Khalik Yahya Ishaq Musa).

¹⁵⁹⁵ P-0877: [T-54-CT](#), p. 66, lines 6-9.

¹⁵⁹⁶ [REDACTED]; P-0892: [DAR-OTP-0217-0384-R02](#) at 0397, para. 64, 0400, para. 80, and [T-48-CT](#), p. 13, line 1-p. 16, line 21, p. 18, lines 19-25; P-0922: [DAR-OTP-0222-0312-R01](#) at 0333, para. 89; P-0903: [T-32-CT](#), p. 53, line 1-p. 54, line 2, and [T-33-CT](#), p. 52, lines 2-25; P-0932: [DAR-OTP-0222-0602-R02](#) at 0622, para. 116, and [DAR-OTP-0220-5720](#) at 5721, para. 20.

¹⁵⁹⁷ P-0877: [DAR-OTP-0217-0260](#) (Translation [DAR-OTP-0217-0489](#)), and [T-54-CT](#), p. 26, lines 5-7.

¹⁵⁹⁸ [REDACTED].

¹⁵⁹⁹ P-0877: [DAR-OTP-0217-0254](#), and [DAR-OTP-0224-0169](#), and [DAR-OTP-0223-0517](#). See also [DAR-OTP-0217-0273](#) (Translation [DAR-OTP-0217-0500](#)).

¹⁶⁰⁰ [REDACTED]; [DAR-OTP-0220-5152](#) (Transcript [DAR-OTP-0220-5231](#), Translation [DAR-OTP-0220-5245](#) at 5247).

¹⁶⁰¹ P-0892: [DAR-OTP-0217-0384-R02](#) at 0402, para. 89; and [T-48-CT](#), p. 13, line 1-p. 16, line 21, [REDACTED]; [DAR-OTP-0217-0278](#) (Translation [DAR-OTP-0215-8891](#) at 8893, lines 4-22).

Disturbance of the first execution site and reburial of corpses

467. The day after the executions, [REDACTED] at Mukjar police station, meeting with AL-TAYYIB. Shortly thereafter, he saw three CRF Land Cruisers depart the police station, driving in the direction of Garsila. One of the Land Cruisers returned to collect shovels and pickaxes. CRF Officer John KOJ told [REDACTED] had come to report many dead bodies which had been found very early in the morning by local women collecting firewood. KOJ said those were the prisoners taken the previous day.¹⁶⁰²

468. [REDACTED], Dr/*Umdah* Muhammad Umar Ahmad Zarruq, as well as [REDACTED], *Umdah* Yahya Ahmad Zarruq, in the execution. [REDACTED] asked P-0008 to accompany some villagers to bury the corpses, but P-0008 was stopped by TORSHEIN, who told the villagers that he would send people to bury them. Soldiers hastily reburied many of the corpses.¹⁶⁰³

469. P-0913 visited the first execution site a couple days later [REDACTED] and saw some shoes and items of clothing strewn around the area as well as some *jallabiyas* stained with blood. [REDACTED] by CRF Officer, John KOJ that the corpses had been moved to two separate locations and reburied.¹⁶⁰⁴

470. Around a month later, P-0675 visited the first execution site and observed that it had been disturbed – the bodies appeared to have been dug up with shovels. Only scattered shell casings were visible.¹⁶⁰⁵ P-0984 also recalled passing the first execution site with TORSHEIN sometime later and he could no longer see any of the corpses. He does not know where they were taken.¹⁶⁰⁶ [REDACTED] took P-0675 to the third execution location, near Nyerli, where [REDACTED] Adam Musa Ibrahim was executed. P-0675 saw signs of turned soil piled around.¹⁶⁰⁷

P-0877's subsequent identification of ABD-AL-RAHMAN (Ali KUSHAYB)

471. [REDACTED]/detainee P-0877 had previously heard that Ali KUSHAYB ran a

¹⁶⁰² P-0913: [DAR-OTP-0218-0021-R04](#) at 0038, paras. 114-116.

¹⁶⁰³ P-0008: [DAR-OTP-0088-0085-R02](#) at 0098, para. 48. *See also* P-0028: [DAR-OTP-0094-0423-R01](#) at 4440, paras. 70-71; [REDACTED]; Annex 17, no. 134 (Dr/*Umdah* Muhammad Umar Ahmad Zarruq), 158 (*Umdah* Yahya Ahmad Zarruq).

¹⁶⁰⁴ [REDACTED].

¹⁶⁰⁵ P-0675: [DAR-OTP-0206-0173-R02](#) at 0208, para. 125, and [DAR-OTP-0206-0230](#) (“Khor Talaba”).

¹⁶⁰⁶ P-0984: [T-67-CT](#), p. 18, lines 10-12.

¹⁶⁰⁷ P-0675: [DAR-OTP-0206-0173-R02](#) at 0199, para. 95, 0209, para. 126, and [DAR-OTP-0206-0230](#) (“Nurli”). *See* Annex 17, no. 59 (Adam Musa Ibrahim).

veterinary pharmacy in Garsila. On a Thursday morning in early April 2004, shortly after his release, P-0877 went to Garsila to verify if the Ali KUSHAYB he had heard ran a pharmacy near the Agricultural Bank, was the same individual he had identified in his cell at Mukjar police station. P-0877 was given directions to KUSHAYB's pharmacy by two colleagues at Garsila market. Upon entering the pharmacy, P-0877 recognised the man as the same man who had threatened and assaulted detainees inside Mukjar police station. P-0877 spoke to KUSHAYB for a few minutes about a medicine for donkeys. KUSHAYB wore a white *jallabiya*. P-0877 paid for the medicine and departed.¹⁶⁰⁸ The man called Ali KUSHAYB who P-0877 spoke with in the pharmacy was clearly **ABD-AL-RAHMAN**.¹⁶⁰⁹

472. P-0877 would see **ABD-AL-RAHMAN** once more in 2007, this time in Mukjar, while sitting outside his friend's [REDACTED] shop. **ABD-AL-RAHMAN** was dressed in a CRF uniform and exiting a CRF vehicle. P-0877 watched **ABD-AL-RAHMAN** from a distance of around 10 metres, as he spoke to someone for four to five minutes, before returning to his vehicle and driving away.¹⁶¹⁰

Count 21: Persecution (CAH)

473. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 229 to 237 relating specifically to the events in Mukjar.

474. The facts described above under Counts 12 to 13 (torture), Count 14 (other inhumane acts), Count 15 (cruel treatment), Count 16 (outrages upon personal dignity), Counts 17 to 18 (murder), and Counts 19 to 20 (attempted murder) constitute the underlying conduct of the crime against humanity of persecution.

3) **ABD-AL-RAHMAN'S individual criminal responsibility**

475. **ABD-AL-RAHMAN** is individually criminally responsible for the charged crimes pursuant to article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f).

476. This section should be read in conjunction with Section E (Common elements of modes

¹⁶⁰⁸ P-0877: [T-54-CT](#), p. 45, line 5-p. 47, line 19, and [T-55-CT](#), p. 75, line 8-p. 76, line 8.

¹⁶⁰⁹ See Section B: Ali Muhammad Ali **ABD-AL-RAHMAN** is also known as Ali KUSHAYB.

¹⁶¹⁰ P-0877: [T-54-CT](#), p. 48, line 6-p. 49, line 24, and [T-55-CT](#), p. 78, line 2-p. 79, line 7 (*see* Courtroom 3 dimensions).

of individual criminal responsibility).

Co-perpetration under article 25(3)(a) of the Rome Statute

i) *ABD-AL-RAHMAN was part of a common plan or an agreement with one or more persons*

477. **ABD-AL-RAHMAN** committed the crimes charged in Counts 12 to 21 in concert with others through his participation in, and essential contributions to, a common plan.

478. Between at least February and March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Mukjar, including those displaced to Mukjar from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder and persecution (“Mukjar Common Plan”). The Mukjar Common Plan came into existence, at the latest, between February and March 2004.

479. Other persons sharing the Mukjar Common Plan included Militia/*Janjaweed* commander SAMIH, MI officers HAMDI and ABD-AL-MUN’IM, PDF officer HASSABALLAH, SAF officer IDRIS, Mukjar CRF commander AL-TAYYIB, and several other members of Militia/*Janjaweed* and GoS Forces. Pursuant to the Mukjar Common Plan, between at least February and March 2004, **ABD-AL-RAHMAN** and his co-perpetrators engaged in conduct which led to the commission of the charged crimes.

480. Multiple witnesses identified the co-perpetrators present at Mukjar police station, assaulting and insulting detainees, loading them onto trucks, bringing them to execution sites and executing detainees or being present during the executions. Prior to the Sindu operation, [REDACTED] AL-TAYYIB coordinating with **ABD-AL-RAHMAN**, about the collection of weapons and ammunition brought by HARUN to Mukjar police station.¹⁶¹¹ [REDACTED] was familiar with Militia/*Janjaweed* commander SAMIH’s partnership with **ABD-AL-RAHMAN**, as SAMIH joined [REDACTED] to fight in the Sindu operation.¹⁶¹² According to P-0984,

¹⁶¹¹ [REDACTED].

¹⁶¹² [REDACTED]. See also P-0883: [T-72-CT2](#), p. 14, lines 7-14, [REDACTED].

SAMIH implemented **ABD-AL-RAHMAN**'s orders.¹⁶¹³ SAMIH, MI officers HAMDI and ABD-AL-MUN'IM, and SAF officer IDRIS were among those in the convoy who returned to Mukjar, with **ABD-AL-RAHMAN** after the Sindu operation, and went to Mukjar police station.¹⁶¹⁴ Several of these same forces would travel as a convoy to Deleig days later, to continue their mission.¹⁶¹⁵

481. P-0129 saw SAMIH, HAMDI, ABD-AL-MUN'IM, and others upon his arrival at Mukjar police station. Later that day, they entered P-0129's cell to beat and insult detainees.¹⁶¹⁶ SAMIH introduced himself as the "deputy of Ali KUSHAYB" and threatened detainees, "you toro boro we will finish you".¹⁶¹⁷ Prior to removing the detainees from their cells on the day of the execution, **ABD-AL-RAHMAN** was seen meeting with HAMDI, SAMIH and TORSHEIN, out front of the police station.¹⁶¹⁸ [REDACTED] **ABD-AL-RAHMAN** tell TORSHEIN, "[m]y instructions come from the minister. I don't take my instructions from a *wali* or *mu'atamid* or anybody else, I take my instructions from the minister himself".¹⁶¹⁹ P-0129 identified those same persons entering the cell, beating detainees and ordering them to lay on the ground.¹⁶²⁰ HAMDI pressed his pistol to the heads of detainees.¹⁶²¹

482. [REDACTED] also saw IDRIS and ABD-AL-MUN'IM accompany **ABD-AL-RAHMAN** into the cell to remove detainees.¹⁶²² [REDACTED] for ABD-AL-MUN'IM to relay information about transporting the detainees to Garsila.¹⁶²³

¹⁶¹³ P-0984: [T-66-CT2](#), p. 63, lines 8-16, and [T-67-CT](#), p. 33, line 17-p. 34, line 21, p. 39, line 14-p. 40, line 8. See also P-0916: [DAR-OTP-0224-0023-R01](#) at 0037, para. 67.

¹⁶¹⁴ See above paras. 145, 188.

¹⁶¹⁵ [REDACTED].

¹⁶¹⁶ P-0129: [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-47, and [DAR-OTP-0223-0157-R02](#) at 0167-0169, paras. 50, 52-53, 55-56, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 42, 44, and [T-75-CT](#), p. 55, line 12-p. 56, line 20, p. 58, lines 5-11, and [T-76-CT](#), p. 39, line 13-p. 40, line 24, [REDACTED] (see Courtroom 2 dimensions).

¹⁶¹⁷ P-0129: [DAR-OTP-0128-0128-R04](#) at 0142, para. 47, and [DAR-OTP-0223-0157-R02](#) at 0168-0169, paras. 55-56, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 44.

¹⁶¹⁸ [REDACTED]; P-0129: [DAR-OTP-0128-0128-R04](#) at 0142-0143, para. 50, and [DAR-OTP-0223-0157-R02](#) at 0170, paras. 61-62, and [DAR-OTP-0128-0163](#), no. 7 (Translation [DAR-OTP-0219-7084](#)), and [DAR-OTP-00000088](#), and [T-75-CT](#), p. 57, lines 2-25; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 98-103, and [DAR-OTP-00000012](#) at 3, paras. 27-28; P-0877: [T-54-CT](#), p. 11, line 7-p. 12, line 18. See also P-0903: [T-32-CT](#), p. 43, line 21-p. 45, line 1.

¹⁶¹⁹ [REDACTED].

¹⁶²⁰ P-0129: [DAR-OTP-0128-0128-R04](#) at 0143, para. 51, and [DAR-OTP-0223-0157-R02](#) at 0171, paras. 63-64, and [T-75-CT](#), p. 58, lines 2-11.

¹⁶²¹ P-0129: [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-47, and [DAR-OTP-0223-0157-R02](#) at 0167-0170, paras. 50-53, 55-58, and [DAR-OTP-00000084](#) at 2-3, paras. 19, 42, 44, and [T-75-CT](#), p. 55, line 25-p. 56, line 22, p. 58, lines 7-11, and [T-76-CT](#), p. 40, lines 15-24, [REDACTED].

¹⁶²² [REDACTED].

¹⁶²³ [REDACTED].

483. [REDACTED] had known SAMIH since 1991, and also identified him among those standing in a line, outside the cell, striking and beating the detainees as they were thrown onto vehicles,¹⁶²⁴ alongside HAMDİ and ABD-AL-MUN'IM,¹⁶²⁵ in the presence of **ABD-AL-RAHMAN**, TORSHEIN and AL-TAYYIB.¹⁶²⁶ [REDACTED] testified that IDRİSS and ABD-AL-MUN'IM formed part of the convoy which departed Mukjar police station with detainees, on the road to Garsila.¹⁶²⁷

484. Mukjar commissioner TORSHEIN was complicit in the charged crimes: he was present when **ABD-AL-RAHMAN** and Militia/*Janjaweed* assaulted and insulted detainees,¹⁶²⁸ permitted **ABD-AL-RAHMAN** to take custody of the detainees (despite him severely injuring at least 14 of them with his axe), and was present when **ABD-AL-RAHMAN** beat detainees and threw them onto vehicles.¹⁶²⁹ He materially assisted **ABD-AL-RAHMAN** by instructing [REDACTED].¹⁶³⁰ TORSHEIN was also identified by [REDACTED] at the first execution site standing next to **ABD-AL-RAHMAN**.¹⁶³¹

485. At the first execution site, [REDACTED] identified SAMIH and HAMDİ exit their vehicles, alongside **ABD-AL-RAHMAN**.¹⁶³² They hit and whipped detainees as they exited the vehicle.¹⁶³³ P-0931 identified HASSABALLAH and HAMDİ present. P-0931 also saw IDRİSS and two of **ABD-AL-RAHMAN**'s bodyguards Abikir (AL-SAFI) and AL-TARZI, beating the detainees.¹⁶³⁴

486. [REDACTED] P-0931 identified some of the active shooters in the convoy. [REDACTED] identified HASSABALLAH,¹⁶³⁵ P-0931 identified IDRİSS, as well as AL-TARZI and Abikir (AL-SAFI).¹⁶³⁶ [REDACTED] identified HAMDİ, SAMIH and TORSHEIN standing next to **ABD-AL-RAHMAN**.¹⁶³⁷

¹⁶²⁴ [REDACTED].

¹⁶²⁵ [REDACTED].

¹⁶²⁶ [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0037, paras. 103-107, and [DAR-OTP-00000012](#) at 3, para. 28; P-0877: [T-54-CT](#), p. 12, lines 2-18 (*See* Courtroom 3 dimensions).

¹⁶²⁷ [REDACTED].

¹⁶²⁸ [REDACTED].

¹⁶²⁹ [REDACTED].

¹⁶³⁰ [REDACTED].

¹⁶³¹ [REDACTED].

¹⁶³² [REDACTED].

¹⁶³³ [REDACTED].

¹⁶³⁴ P-0931: [T-62-CT](#), p. 33, lines 4-24.

¹⁶³⁵ [REDACTED].

¹⁶³⁶ P-0931: [T-62-CT](#), p. 34, lines 19-20.

¹⁶³⁷ [REDACTED].

487. At the first execution site, AL-TAYYIB appeared to confront **ABD-AL-RAHMAN** about killing the detainees he had said would be brought to Zalingei or Garsila, but AL-TAYYIB did nothing to secure custody of the remaining live detainees and instead left them to face death at the hands of **ABD-AL-RAHMAN**.¹⁶³⁸

488. The same co-perpetrators in the convoy that drove the prisoners from the first execution site were also present at the second site.¹⁶³⁹ [REDACTED] about IDRIS executing the *Sheikh* and seven boys. **ABD-AL-RAHMAN** was present, witnessing them beg for their lives and told IDRIS to be quick killing them, “we don’t have time, let’s get this over with” – IDRIS shot them at point blank.¹⁶⁴⁰

489. After the *umdahs* and other detainees were executed, **ABD-AL-RAHMAN** said “*Haroko*” (move) and HAMDI returned to his vehicle, where [REDACTED] other detainees awaited their fate. HAMDI followed **ABD-AL-RAHMAN**’s vehicle onwards, to another site,¹⁶⁴¹ where the pattern of killing was repeated.

ii) *ABD-AL-RAHMAN carried out an essential contribution in a coordinated manner with other co-perpetrators that resulted in the fulfilment of the material elements of the crimes*

490. **ABD-AL-RAHMAN** made an essential contribution to the Mukjar Common Plan and to the charged crimes through the conduct described below. Annex 18 contains a diagram depicting **ABD-AL-RAHMAN**’s contributions.

491. **ABD-AL-RAHMAN** contributed to the implementation of the Mukjar Common Plan by being conspicuously present and actively participating in the charged crimes, including through issuing orders for detainees to be executed. Further, due to his position of authority and influence, his failure to intervene or protest criminal acts encouraged and approved the other co-perpetrators’ conduct.

a. Instructing GoS Forces to arrest persons fleeing to Mukjar from other locations, personally arresting a Fur males in Mukjar, as well as contributing to such arrests by way of his presence

492. As described above, prior to departing from Mukjar to Sindu, [REDACTED] **ABD-**

¹⁶³⁸ See above para. 453.

¹⁶³⁹ [REDACTED].

¹⁶⁴⁰ See above para. 455.

¹⁶⁴¹ [REDACTED].

AL-RAHMAN instruct the head of Police in Mukjar: “[w]hen we leave to Sindu – when we enter Sindu, anyone who would come from that direction, from the Sindu area, or a new person, they must be registered by you here and they must be kept until we return.”¹⁶⁴² When the attack on Sindu started, the number of forces manning check points increased.¹⁶⁴³ Intelligence officers worked in conjunction with the joint forces.¹⁶⁴⁴ Local Fur PDF and Police were stationed to identify arriving prominent Fur community members, such as *sheikhs*, *umdahs* and *imams*.¹⁶⁴⁵ The PDF, PPF and CRF intelligence arrested persons entering Mukjar and brought them to the police station.¹⁶⁴⁶ Names of males arrested were recorded in a register, which several witnesses later saw utilised to identify detainees in the cells at Mukjar police station.¹⁶⁴⁷ **ABD-AL-RAHMAN** personally arrested Abakar Abdelmoula and drove him to Mukjar police station. He would be executed a few days later.¹⁶⁴⁸

b. Threatening and verbally abusing the detainees in Mukjar police detention facilities in February/early March 2004 in the presence of members of the Militia/Janjaweed and/or GoS Forces

493. This conduct is described at paragraphs 411 to 415, 419 to 424, 433 and 437 above.

c. Physically assaulting detainees at Mukjar police station, including community leaders, in the presence of members of the Militia/Janjaweed and/or GoS Forces

494. This conduct is described above at paragraphs 411 to 415, 419 to 424, 433 to 434, and 436 to 438. Notably, **ABD-AL-RAHMAN** carried out some assaults in the presence of TORSHEIN, the Commissioner of Mukjar.

¹⁶⁴² [REDACTED].

¹⁶⁴³ P-0720: [DAR-OTP-0210-0291-R02](#) at 0304-0305, paras. 87-88; P-0129: [T-76-CT](#), p. 34, line 12-p. 35, line 1.

¹⁶⁴⁴ P-0984: [T-67-CT](#), p. 29, lines 7-14.

¹⁶⁴⁵ P-0012: [DAR-OTP-0119-0503-R01](#) at 0525, para. 98, and [T-45-CT](#), p. 26, lines 11-24, p. 27, line 14-p. 28, line 4; P-0129: [T-76-CT](#), p. 34, line 23-p. 35, line 1.

¹⁶⁴⁶ P-0892: [DAR-OTP-0217-0384-R02](#) at 0392, para. 41-42, 0397, para. 64, and [DAR-OTP-0224-0658](#) at 0658, paras. 5-8, 10, and [T-48-CT](#), p. 8, lines 3-17, p. 63, lines 3-7; P-0877: [T-53-CT2](#), p. 81, line 23-p. 82, line 19, and [T-54-CT](#), p. 4, lines 17-25, and [REDACTED]; P-0916: [DAR-OTP-0224-0023-R01](#) at 0038-0039, paras. 74, 76-80.

¹⁶⁴⁷ P-0877: [T-54-CT](#), p. 13, lines 4-25, p. 17, line 18-p. 18, line 2; P-0919: [T-60-CT](#), p. 15, lines 4-20; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036-0037, paras. 98, 101-102, and [DAR-OTP-00000012](#) at 3, para. 28; P-0990: [T-40-CT](#), p. 27, line 4-p. 29, line 9.

¹⁶⁴⁸ [REDACTED]. See Annex 17, no. 1 (Abakar Abd-Al-Mawla).

d. Obtaining the transfer of detainees into the custody of ABD-AL-RAHMAN and his co-perpetrators

495. **ABD-AL-RAHMAN** played a key role in obtaining the transfer of detainees into his custody and that of his Militia/*Janjaweed* subordinates. [REDACTED], **ABD-AL-RAHMAN** did so by stating to the Commissioner of Mukjar Locality, TORSHEIN, and the head of Police that the detainees were to be handed over on the pretext that they would be transferred to Garsila or Zalingei, to be investigated.¹⁶⁴⁹ P-0990 and P-0903 both testified that they heard **ABD-AL-RAHMAN** tell the Mukjar Police commander he would bring the detainees to Garsila.¹⁶⁵⁰

e. Selecting detainees, including community leaders, to be removed from Mukjar police station and executed

496. **ABD-AL-RAHMAN** personally removed detainees, [REDACTED] from their cell, onto waiting vehicles¹⁶⁵¹ as Militia/*Janjaweed* assaulted them.¹⁶⁵² **ABD-AL-RAHMAN** told the *umdahs* to stand up and exit their cell.¹⁶⁵³ Relying on the register of arrested persons to locate the *umdahs*, they were the first to be forced to exit the cell and loaded onto a Land Cruiser.¹⁶⁵⁴ Notably, and as mentioned already in Section F (Persecution) above, the *umdahs* were leaders within the Fur community. Therefore, harm directed against such leaders of the Fur community constituted harm directed against the Fur community as a whole. As discussed at paragraph 102 above, targeting such civilian community leaders was an explicit policy of the GoS. Community leaders were similarly targeted in Deleig, as discussed at paragraphs 601 to 610 below.

497. [REDACTED] also described **ABD-AL-RAHMAN** entering the cell, in the presence of the head of Police in Mukjar and the leadership of other local GoS Forces.¹⁶⁵⁵ Instead of selecting specific detainees pointed out as alleged rebels, **ABD-AL-RAHMAN** ordered the head of Police in Mukjar that all the detainees be handed over. Most of the detainees were then

¹⁶⁴⁹ [REDACTED]. See also P-0913: [DAR-OTP-0218-0021-R04](#) at 0036, para. 98; P-0903: [T-33-CT](#), p. 50, lines 1-21; P-0990: [T-40-CT](#), p. 61, line 5-p. 62, line 7.

¹⁶⁵⁰ P-0990: [T-40-CT](#), p. 61, line 5-p. 62, line 7; P-0903: [T-32-CT](#), p. 44, line 11-p. 45, line 1 (TORSHEIN).

¹⁶⁵¹ [REDACTED].

¹⁶⁵² [REDACTED].

¹⁶⁵³ [REDACTED].

¹⁶⁵⁴ [REDACTED].

¹⁶⁵⁵ [REDACTED]; P-0877: [T-54-CT](#), p. 12, lines 2-5.

taken out.¹⁶⁵⁶

- f. Supervising the transport of a group of detained males, including community leaders, from Mukjar police station to execution sites

498. Having provided some of the vehicles that were used to transport the detainees,¹⁶⁵⁷ **ABD-AL-RAHMAN** led the convoy transporting the detainees to their execution.¹⁶⁵⁸ **ABD-AL-RAHMAN** distributed his men among the Land Cruisers.¹⁶⁵⁹ His men were in several of the vehicles, guarding the detainees.¹⁶⁶⁰ **ABD-AL-RAHMAN** and SAMIH rode in the lead vehicle,¹⁶⁶¹ containing *Umdah* Yahya Ahmad Zarruq¹⁶⁶² and the other *umdahs*.¹⁶⁶³

- g. Physically assaulting detainees, including community leaders, at one or more execution sites in the presence of members of the Militia/Janjaweed and/or GoS Forces, and ordering members of the Militia/Janjaweed and/or GoS Forces to kill detainees at execution sites and/or exerting influence over the Militia/Janjaweed and/or GoS Forces, prompting them to carry out the killings

499. Witnesses [REDACTED], P-0931 and [REDACTED] testified as to **ABD-AL-RAHMAN**'s presence at the execution sites. **ABD-AL-RAHMAN** was seen unloading, assaulting, and insulting detainees.

500. At the first location, **ABD-AL-RAHMAN** spoke to the *umdahs*, instructing them to "get down" from the vehicle and then told the remaining detainees, "get down kids", "run".¹⁶⁶⁴ P-0931 recalled that **ABD-AL-RAHMAN** carried a small axe.¹⁶⁶⁵ [REDACTED] saw **ABD-AL-RAHMAN** use the axe to assault detainees, as they exited the vehicle.¹⁶⁶⁶

501. [REDACTED] P-0931 identified **ABD-AL-RAHMAN** standing next to the Militia/Janjaweed and GoS Forces, as they opened fire on detainees.¹⁶⁶⁷ P-0931 witnessed

¹⁶⁵⁶ [REDACTED]; P-0877: [T-54-CT](#), p. 15, line 18-p. 17, line 8.

¹⁶⁵⁷ [REDACTED]; P-0913: [DAR-OTP-0218-0021-R04](#) at 0036, para. 100, and [DAR-OTP-00000012](#) at 3, para. 27.

¹⁶⁵⁸ [REDACTED].

¹⁶⁵⁹ P-0931: [T-62-CT](#), p. 32, lines 10-13, and [T-63-CT2](#), p. 17, lines 6-13.

¹⁶⁶⁰ [REDACTED]; P-0931: [T-62-CT](#), p. 32, line 10-p. 33, line 7, and [T-63-CT2](#), p. 17, lines 6-13; [REDACTED].

¹⁶⁶¹ [REDACTED].

¹⁶⁶² P-0129: [DAR-OTP-0128-0128-R04](#) at 0143, para. 51, and [DAR-OTP-0223-0157-R02](#) at 0171, paras. 63-68, and [DAR-OTP-00000084](#) at 3, para. 45.

¹⁶⁶³ P-0129: [DAR-OTP-0128-0128-R04](#) at 0143, para. 51, and [DAR-OTP-0223-0157-R02](#) at 0171, paras. 63-68, and [DAR-OTP-00000084](#) at 3, para. 45.

¹⁶⁶⁴ [REDACTED].

¹⁶⁶⁵ P-0931: [T-62-CT](#), p. 35, lines 3-7.

¹⁶⁶⁶ [REDACTED]. See also P-0931: [T-62-CT](#), p. 35, lines 1-7.

¹⁶⁶⁷ [REDACTED]; P-0931: [T-62-CT](#), p. 32, line 7-p. 38, line 4.

ABD-AL-RAHMAN's bodyguards, **AL-SAFI** and **AL-TARZI**, and **IDRISS** beat and shoot the detainees.¹⁶⁶⁸ **ABD-AL-RAHMAN** was standing in front of them.¹⁶⁶⁹ When questioned as to whether he correctly identified **ABD-AL-RAHMAN** at the execution site, P-0931 replied "I saw him with my own eyes. He was in front of me. I saw him when they killed the people."¹⁶⁷⁰

502. [REDACTED] **ABD-AL-RAHMAN** [REDACTED] order the detainees to be taken from the vehicles, put in a line and be killed.¹⁶⁷¹ Complying with his order, Militia/*Janjaweed* commenced firing.¹⁶⁷² **ABD-AL-RAHMAN** told those around him "[f]or those who don't know how to kill, they are going to learn how to kill here."¹⁶⁷³ **ABD-AL-RAHMAN** ordered "Shoot again. Maybe someone did not die yet. Go back. Shoot them again. Maybe someone did not get killed."¹⁶⁷⁴

503. **ABD-AL-RAHMAN**'s presence played a decisive role in the executions continuing, despite the arrival of the Mukjar head of Police.¹⁶⁷⁵ When the head of Police confronted **ABD-AL-RAHMAN** as to why he was killing the detainees, **ABD-AL-RAHMAN** simply replied "Well, this is our operation. This is our work."¹⁶⁷⁶ **ABD-AL-RAHMAN** exerted influence over Militia/*Janjaweed* and GoS Forces to continue on with the killings, by refusing to stop or back down when challenged.

504. [REDACTED] part of the convoy then travelled a short distance and halted.¹⁶⁷⁷ At the next execution site, [REDACTED] **ABD-AL-RAHMAN** order, "[g]et the rest of the detainee[s], the *sheikh* and the children. [...] Kill them. Execute them."¹⁶⁷⁸ **ABD-AL-RAHMAN** said, "we don't have time, let's get it over with."¹⁶⁷⁹ **IDRISS** killed them all.¹⁶⁸⁰

505. **ABD-AL-RAHMAN** and the convoy continued in a northerly direction, towards Garsila.¹⁶⁸¹ When they reached a riverbed between Nyerli and Gogoma Shargiya, **ABD-AL-**

¹⁶⁶⁸ P-0931: [T-62-CT](#), p. 32, line 16-p. 35, line 2; [REDACTED].

¹⁶⁶⁹ P-0931: [T-62-CT](#), p. 33, lines 2-20, p. 34, line 25-p. 35, line 4.

¹⁶⁷⁰ P-0931: [T-63-CT2](#), p. 18, line 25-p. 19, line 1.

¹⁶⁷¹ [REDACTED].

¹⁶⁷² [REDACTED].

¹⁶⁷³ [REDACTED].

¹⁶⁷⁴ [REDACTED].

¹⁶⁷⁵ [REDACTED].

¹⁶⁷⁶ [REDACTED].

¹⁶⁷⁷ [REDACTED].

¹⁶⁷⁸ [REDACTED].

¹⁶⁷⁹ [REDACTED].

¹⁶⁸⁰ [REDACTED].

¹⁶⁸¹ [REDACTED].

RAHMAN's vehicle stopped.¹⁶⁸² [REDACTED] **ABD-AL-RAHMAN** order the vehicles of detainees to be unloaded.¹⁶⁸³ [REDACTED] other detainees were hit, ordered to get off the vehicles and lie down, and then beaten in **ABD-AL-RAHMAN**'s presence. "They were insulting us calling us *dogs*, saying *this is the last of your days* and hitting us with sticks."¹⁶⁸⁴ [REDACTED] was three to five metres away from **ABD-AL-RAHMAN**, when he heard him give the order to execute the detainees. Militia/*Janjaweed* and GoS Forces started shooting the detainees, killing everyone [REDACTED].¹⁶⁸⁵

iii) ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes

506. As is evident from, among other things, his statements such as threats to kill, and orders to kill detainees (paragraphs 419, 421, 447, 449, 454 to 456), conduct such as arresting and assaulting detainees (paragraphs 398, 409, 419 to 423, 433 to 438, 447, 450), and related context such as his presence at detention and execution sites, and cooperative relationship with co-perpetrators summarised above (paragraphs 398, 429 to 432, 438, 442, 444, 448, 450, 453, and 458). **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events in implementing the Mukjar Common Plan. In light of the same facts, and due to his position of authority and influence,¹⁶⁸⁶ he was further aware of his essential role in the Mukjar Common Plan, the Mukjar Common Plan's critical criminal component, the essential nature of his contributions to it, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

Direct perpetration under article 25(3)(a) of the Rome Statute

507. As described at paragraphs 411, 419 to 422, 434, 436, 437, 450, **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 12 to 13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), and outrages upon personal dignity as a war crime (Count 16) by threatening, verbally abusing, and physically assaulting detainees, including striking with the blunt or sharp side of his axe, at least 14 detainees, including: [REDACTED], *Umdah Yahya*

¹⁶⁸² [REDACTED].

¹⁶⁸³ [REDACTED].

¹⁶⁸⁴ [REDACTED].

¹⁶⁸⁵ [REDACTED].

¹⁶⁸⁶ See also Section E: Common elements of modes of individual criminal responsibility.

Ahmad Zarruq, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelmahmoud (also known as Door), *Sheikh* Muhammad Ali Bolot (aka Jabbor), *Sheikh* Abdallah Ahmad Hasan, Dr/*Umdah* Muhammad Umar Ahmad Zarruq, *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa), a young boy aged 9-10 years old, Adam Nahid Numan, [REDACTED] and [REDACTED].¹⁶⁸⁷ Through this conduct, **ABD-AL-RAHMAN** also directly perpetrated the crime against humanity of persecution (Count 21).

508. As is evident from the context, and his statements and actions, described in particular at paragraphs 411 and 419 to 422, **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events as a result of his conduct.¹⁶⁸⁸ **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the facts and circumstances relating to this conduct, within the overall context.

509. With respect to the crime of persecution, **ABD-AL-RAHMAN** intentionally targeted these persons on political, ethnic and gender grounds, that is, by reason of their identity as Fur males who **ABD-AL-RAHMAN** perceived as belonging to, or being associated with, or supporting the rebel armed groups. The evidence establishing **ABD-AL-RAHMAN**'s discriminatory intent is detailed above at paragraphs 229 to 237.

Ordering under article 25(3)(b) of the Rome Statute

510. **ABD-AL-RAHMAN**, while being in a position of authority, ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill detained Fur males, as described above at paragraphs 449, 454 to 456 and 477. Several of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a crime against humanity and a war crime (Counts 17 to 18), persecution as a crime against humanity (Count 21) and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 19 to 20).

511. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the facts and circumstances relating to this conduct, within the overall context. **ABD-AL-RAHMAN** meant to engage in the conduct described above and was aware of his position of

¹⁶⁸⁷ See paras. 419, 420, 422, 434, 436, 437, 450. Some detainees were struck more than once.

¹⁶⁸⁸ [Al Hassan TJ](#), para. 1218.

authority over the physical perpetrators of the crimes.¹⁶⁸⁹ For the same reasons, **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Inducing under article 25(3)(b) of the Rome Statute

512. Through the conduct described above, in particular at paragraphs 411, 412, 419 to 424, 432, 433, 436 to 439, 441, 447 to 449, 452 to 507 carried out in the presence of Militia/*Janjaweed* and GoS Forces, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in Counts 12 to 21.

513. Using his position of authority and influence,¹⁶⁹⁰ **ABD-AL-RAHMAN** exerted influence over the Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes.

514. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 411, 477 to 481, 483, 492, and 495 to 505, **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

I. CRIMES COMMITTED IN DELEIG AND SURROUNDING AREAS

1) Introduction

515. During the charged period, Deleig was a town located in the Garsila-Deleig Administrative Unit of Wadi Salih Locality, West Darfur.¹⁶⁹¹ Deleig was approximately 17 kilometres northeast of Garsila and approximately 53 kilometres southwest of Zalingei. The population of Deleig was predominantly Fur.¹⁶⁹²

516. Between September 2003 and March 2004, Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Deleig, including the predominantly Fur villages of

¹⁶⁸⁹ See also Section E: Common elements of modes of individual criminal responsibility.

¹⁶⁹⁰ See also Section E: Common elements of modes of individual criminal responsibility.

¹⁶⁹¹ [West Darfur Planning Map](#); [Third Agreed Facts AnxC](#), no. 4. See also Annex 2: Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

¹⁶⁹² [DAR-OTP-0145-0237](#) at 0273 (Fur 92%); P-0651: [DAR-OTP-0205-0015-R02](#) at 0019, para. 14.

Arawala, Forgo, Taringa, Andi, Fere, Kaskeidi and Um Jameina.¹⁶⁹³ These attacks caused thousands of civilians to seek shelter in Deleig, Garsila and other towns.¹⁶⁹⁴ By early March 2004, more than 16,000 internally displaced persons were staying in Deleig,¹⁶⁹⁵ significantly increasing the pre-conflict population of Deleig of several thousand.¹⁶⁹⁶ The displaced persons stayed in the streets, under trees, in empty fields, in and around the primary school, around the market, and in the houses of relatives or other Deleig residents.¹⁶⁹⁷

517. Several key locations in Deleig are marked on Annex 20 (a satellite image from 2006)¹⁶⁹⁸ and Annex 21 (an aerial photograph taken by the UNCOI in January 2005).¹⁶⁹⁹ The police station was located on a small incline in the middle of Deleig, in an elevated position

¹⁶⁹³ See above paras. 122. For the ethnic composition of these villages, see [DAR-OTP-0145-0237](#) at 0270 (Andi, Amjemena [Um Jameina]), 0271 (Arwalla [Arawala]), 0275 (Fere), 0276 (Forgo), 0278 (Kaskildo [Kaskeidi]), 0285 (Taringa). See also P-0907: [T-94-CT](#), p. 6, lines 17-19, and [T-95-CT](#), p. 7, lines 10-24 (Forgo and villages in the Deleig area); P-0955: [DAR-OTP-0220-0620-R02](#) at 0623, para. 13 (Forgo); P-0617: [DAR-OTP-0202-1496-R02](#) at 1499-1500, para. 12, 1503, para. 22 (Arawala, Forgo); P-0850: [DAR-OTP-0216-0002-R04](#) at 0005, para. 11 (Kaskeidi). See also P-1042: [T-28-ET](#), p. 15, lines 5-21; [DAR-OTP-0220-1689](#) at 1691.

¹⁶⁹⁴ Deleig and Garsila: P-0994: [DAR-OTP-0222-0055-R01](#) at 0059-0060, paras. 20-22; P-0585: [T-101-CT](#), p. 59, lines 1-5; P-0973: [DAR-OTP-0220-0736-R01](#) at 0741, paras. 22-23; P-0029: [T-30-CT2](#), p. 28, lines 10-14; P-0651: [DAR-OTP-0205-0015-R02](#) at 0022, paras. 23-24, 0024-0025, paras. 33-34, and [T-34-CT3](#), p. 13, line 14-p. 14, line 5; P-0726: [DAR-OTP-0210-0346-R04](#) at 0363-0364, paras. 59-62, and [DAR-OTP-0224-0792](#) at 0793, para. 12; P-0607: [DAR-OTP-0203-0164-R02](#) at 0173-0176, paras. 34, 37, 39-40; P-0617: [DAR-OTP-0202-1496-R02](#) at 1518-1519, para. 66, 1521, para. 73, 1523, para. 79; P-0850: [DAR-OTP-0216-0002-R04](#) at 0014-0015, para. 52; P-0736: [DAR-OTP-0210-0248-R02](#) at 0259-0261, paras. 43-44, 49. Deleig: P-0907: [T-94-CT](#), p. 22, line 14-p. 23, line 2, p. 24, lines 2-5, and [T-95-CT](#), p. 7, lines 10-21; P-0955: [DAR-OTP-0220-0620-R02](#) at 0627, paras. 28, 30; P-0584: [DAR-OTP-0200-1540-R02](#) at 1563-1564, paras. 86-88; P-0671: [DAR-OTP-0206-0105-R02](#) at 0110, paras. 20-21, and [DAR-OTP-00000462](#) at 1, paras. 6-7, and [T-98-CT](#), p. 81, line 15-p. 82, line 4; P-0718: [DAR-OTP-0209-2004-R02](#) at 2012, para. 51; P-0712: [DAR-OTP-0209-1884-R04](#) at 1891, para. 26, and [T-36-ET](#), p. 24, line 23-p. 25, line 15; P-0697: [DAR-OTP-0209-0155-R03](#) at 0165-0167, paras. 45-48, 50; P-0725: [DAR-OTP-0210-0122-R02](#) at 0130-0131, paras. 63-67. Garsila: [REDACTED]. See also Annex 19: Displacement of civilians to Deleig between September 2003 and March 2004.

¹⁶⁹⁵ [DAR-OTP-0160-0885](#) at 0902 (16,345 IDPs in March 2004), and [DAR-OTP-0162-0042](#) at 0044-0046, 0074 (16,345 IDPs in 2003/2004); [DAR-OTP-0211-0326](#) at 0329, para. 30 (more than 12,000 IDPs on 2 March 2004); [DAR-OTP-0115-0747](#) at 0747 (19,116 IDPs on 2 March 2004); [DAR-OTP-0013-0119](#) at 0156; [DAR-OTP-0209-0593](#) at 0667, para. 275; P-0955: [T-64-CT](#), p. 7, lines 14-19; P-0726: [T-53-CT2](#), p. 49, lines 19-24. See also [DAR-OTP-0145-0237](#) at 0273 (5,150 households of IDPs in 2005).

¹⁶⁹⁶ P-0651: [DAR-OTP-0205-0015-R02](#) at 0019, para. 14; [DAR-OTP-0162-0042](#) at 0074 (23,345 total of IDPs plus residents); [DAR-OTP-0145-0237](#) at 0273 (1,264 households before the crisis; 7,120 households in 2005); [DAR-OTP-0209-0014](#) at 0015 (17,000 IDPs in Deleig, a town of 5,000).

¹⁶⁹⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0062-0063, para. 34, [REDACTED]; P-0907: [T-94-CT](#), p. 24, lines 6-17; P-0955: [DAR-OTP-0220-0620-R02](#) at 0628, paras. 31, 33, and [T-64-CT](#), p. 7, lines 14-19; P-0718: [DAR-OTP-0209-2004-R02](#) at 2011, paras. 45-47, and [T-49-CT](#), p. 15, lines 10-14, p. 21, lines 10-13, p. 60, line 18-p. 61, line 25; P-0651: [DAR-OTP-0205-0015-R02](#) at 0026, para. 39; P-0607: [DAR-OTP-0203-0164-R02](#) at 0175-0176, para. 40; P-0712: [DAR-OTP-0209-1884-R04](#) at 1891, para. 26; P-0736: [DAR-OTP-0210-0248-R02](#) at 0260-0261, para. 49; P-0697: [DAR-OTP-0209-0155-R03](#) at 0165, para. 46; P-0725: [DAR-OTP-0210-0122-R02](#) at 0130-0131, paras. 66-67; P-0973: [DAR-OTP-0220-0736-R01](#) at 0741, para. 24; P-0726: [DAR-OTP-0210-0346-R04](#) at 0363-0364, paras. 60-62; P-0850: [DAR-OTP-0216-0002-R04](#) at 0017, para. 61.

¹⁶⁹⁸ Annex 20: Satellite image showing key locations in Deleig town. The white buildings directly north of the police station were not present in March 2004. See P-0651: [T-34-CT3](#), p. 23, line 19-p. 24, line 1; P-0671: [DAR-OTP-0206-0105-R02](#) at 0115, para. 42, and [DAR-OTP-00000462](#) at 1, para. 11, and [DAR-OTP-0206-0132](#) (Translation [DAR-OTP-0219-1696](#)).

¹⁶⁹⁹ Annex 21: Aerial photograph showing key locations in Deleig town. See [DAR-OTP-0013-0119](#) at 0121, 0156-0157; [DAR-OTP-0219-5483](#).

compared to other buildings nearby.¹⁷⁰⁰ There was no fence around the police station.¹⁷⁰¹ Ansar Al-Sunna Mosque (the “market mosque”) and Masjid Al-Kabir (the “big mosque”) were the two main mosques in Deleig.¹⁷⁰² Near Ansar Al-Sunna Mosque was a police/security checkpoint.¹⁷⁰³

Arrests in Garsila prior to the Deleig operation

518. By late February/early March 2004, **ABD-AL-RAHMAN**, along with Militia/*Janjaweed* and GoS Forces, had carried out the Sindu operation, and the arrests and executions in Mukjar, and had returned to Garsila.¹⁷⁰⁴ Within days, **ABD-AL-RAHMAN** and his co-perpetrators would go on to arrest, mistreat and kill Fur males who they perceived as rebels or rebel supporters in Deleig, following a strikingly similar *modus operandi* as employed in Mukjar. In the lead-up to this incident, five prominent members of the Fur community—who would ultimately be killed during the Deleig incident—including three *umdahs*, one *sheikh* and the Garsila PDF coordinator, were arrested in Garsila.

Arrest, detention, and release of *Umdah* Kindiri, *Umdah* Khamis and JENIF¹⁷⁰⁵

519. *Umdah* Adam Adam Deguis Ahmed Abdulshafa (nickname Kindiri) of Forgo (“*Umdah* Kindiri”) and *Umdah* Jiddo Khamis Abdelkarim of Gaba (“*Umdah* Khamis”), both Fur, were displaced by attacks in the region to Garsila, [REDACTED].¹⁷⁰⁶ After being informed of their presence in Garsila, **ABD-AL-HAKAM** had them brought to his house, where a meeting was held, after which they were detained at the Garsila SAF base.¹⁷⁰⁷ [REDACTED] the GoS

¹⁷⁰⁰ P-0994: [DAR-OTP-0222-0055-R01](#) at 0071, para. 75; P-0651: [DAR-OTP-0205-0015-R02](#) at 0028, para. 46; P-0955: [DAR-OTP-0220-0620-R02](#) at 0630, para. 44; P-0584: [DAR-OTP-0200-1540-R02](#) at 1566, para. 97; P-0973: [DAR-OTP-0220-0736-R01](#) at 0743, para. 33.

¹⁷⁰¹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, para. 39; P-0907: [T-94-CT](#), p. 34, lines 2-6; P-0584: [T-92-CT](#), p. 38, line 8.

¹⁷⁰² P-0651: [DAR-OTP-0205-0015-R02](#) at 0027-0028, para. 43, and [T-34-CT3](#), p. 15, line 18-p. 17, line 10; P-0718: [DAR-OTP-0209-2004-R02](#) at 2012, para. 55, and [T-49-CT](#), p. 55, line 19-p. 56, line 19. *See also* P-0671: [DAR-OTP-0206-0105-R02](#) at 0115, para. 39.

¹⁷⁰³ P-0994: [DAR-OTP-0222-0055-R01](#) at 0073, para. 88, and [REDACTED], and [DAR-OTP-00000269](#); P-0736: [DAR-OTP-0210-0248-R02](#) at 0262, paras. 54-55, and [REDACTED], and [DAR-OTP-0210-0281-R01](#) (Translation [DAR-OTP-0219-7097-R01](#)), and [DAR-REG-0001-0004](#) (in the morning (not at the time of Friday prayer) there was a group of Militia/*Janjaweed* stopping people about 50 metres behind this checkpoint); P-0726: [T-53-CT2](#), p. 46, line 16-p. 47, line 4. *See also* P-0651: [DAR-OTP-0205-0015-R02](#) at 0028, para. 46, and [T-34-CT3](#), p. 66, line 23-p. 67, line 18 (P-0651 was asked if, at the time of Friday prayer, there was a checkpoint manned by the Militia/*Janjaweed* (rather than a police/security checkpoint) east of the mosque and he said that there was not).

¹⁷⁰⁴ [REDACTED]; P-0935: [T-90-CT2](#), p. 37, lines 5-9, p. 38, line 23-p. 39, line 7.

¹⁷⁰⁵ *See* Annex 23, no. 23, 26, 72 (for evidence regarding their identities, ethnicity and positions).

¹⁷⁰⁶ *See also* [REDACTED]; P-0617: [DAR-OTP-0202-1496-R02](#) at 1528, para. 89; P-0955: [DAR-OTP-0220-0620-R02](#) at 0625, para. 18, 0627, paras. 27-28.

¹⁷⁰⁷ [REDACTED].

considered them to be rebels because they were Fur leaders, even though they were elderly and had earlier been detained by the rebels and still had injuries on their wrists and ankles from being tied up.¹⁷⁰⁸

520. At this time, Adam Abd-Al-Rahman (nickname JENIF), the Garsila PDF coordinator (“JENIF”), who was Fur, had also been arrested and was detained at the Garsila SAF base, based on information received from the Militia/*Janjaweed* that he supported the rebellion.¹⁷⁰⁹

521. After they were questioned, [REDACTED] to release them. [REDACTED].¹⁷¹⁰ He later learned that they went to Deleig to join their families there.¹⁷¹¹

Arrest and detention of *Umdah* Suleiman¹⁷¹²

522. *Umdah* Mohamed Suleiman Abdulshafa (nickname Dirbo) of Tanako (“*Umdah* Suleiman”), who was Fur, fled the military operations in Tanako and went to his brother in Garsila, who surrendered him to ABD-AL-HAKAM. The Security Committee had information that he had been training the rebels, and decided that he should be detained at the Garsila SAF base.¹⁷¹³ [REDACTED].¹⁷¹⁴ [REDACTED] **ABD-AL-RAHMAN**, who was in charge of the Tanako operation, had worked hard to try to arrest the *umdah* in Tanako, but he had fled. [REDACTED].¹⁷¹⁵

Arrest and detention of *Sheikh* Abdulaziz and Hassan Adam Musa¹⁷¹⁶

523. *Sheikh* Ismail Abdulaziz (nickname Dikobi), *sheikh* of the Western Neighbourhood of Garsila (“*Sheikh* Abdulaziz”), and Hassan Adam Musa, **ABD-AL-RAHMAN**’s immediate neighbour in the Western Neighbourhood, both Fur, were arrested on the orders of **ABD-AL-RAHMAN** and brought to the SAF base, where they were detained.¹⁷¹⁷ According to rumours in Garsila, **ABD-AL-RAHMAN** was having sexual intercourse with Hassan Adam Musa’s wife. Hassan Adam Musa complained to *Sheikh* Abdulaziz about this, who informed *Umdah* Eid, the *umdah* of Garsila. *Sheikh* Abdulaziz proposed that **ABD-AL-RAHMAN** be made to

¹⁷⁰⁸ [REDACTED].

¹⁷⁰⁹ [REDACTED].

¹⁷¹⁰ [REDACTED].

¹⁷¹¹ [REDACTED]. See also P-0955: [DAR-OTP-0220-0620-R02](#) at 0628, para. 31; P-0617: [DAR-OTP-0202-1496-R02](#) at 1528, para. 89; [REDACTED].

¹⁷¹² See Annex 23, no. 80 (for evidence regarding his identity, ethnicity and position).

¹⁷¹³ [REDACTED].

¹⁷¹⁴ [REDACTED].

¹⁷¹⁵ [REDACTED]. See also fn. 550.

¹⁷¹⁶ See Annex 23, no. 50, 65 (for evidence regarding their identities, ethnicity and positions).

¹⁷¹⁷ [REDACTED].

swear that he would stop going to Hassan Adam Musa's house, however *Umdah* Eid did not accept the accusation for lack of proof. [REDACTED] this provided a reason for **ABD-AL-RAHMAN** to eliminate *Sheikh* Abdulaziz and Hassan Adam Musa.¹⁷¹⁸

ABD-AL-RAHMAN's deployment from Garsila and transport of detainees to Deleig on or about 5 March 2004

524. In early March 2004, prior to the Deleig operation, a delegation of high-ranking officers—consisting of Major General FA'IZ (commander of the 6th Division in Al Fasher), Brigadier General KHAMIS (a MI commander in Khartoum), and another general (the head of the PDF in Khartoum)—arrived at the SAF base by helicopter.¹⁷¹⁹ The delegation had been sent by the command in Khartoum to follow the events in Wadi Salih.¹⁷²⁰ The evidence of [REDACTED] corroborates that a high-ranking SAF delegation was present in the Garsila SAF base at this time.¹⁷²¹

525. As detailed in the following paragraphs, the evidence of [REDACTED] establishes that, on or about Friday, 5 March 2004, **ABD-AL-RAHMAN** came to the Garsila SAF base, took custody of *Umdah* Suleiman, *Sheikh* Abdulaziz and Hassan Adam Musa, and deployed to Deleig with PDF member HASSABALLAH, several MI officers (including HAMDI, ABD-AL-MUN'IM and MANSUR), and SAF soldiers, including IDRIS [REDACTED].

526. [REDACTED], having returned to the Garsila SAF base from the Sindu operation some days before,¹⁷²² the SAF forces received instructions to be ready for an operation in Deleig. [REDACTED] these instructions came from BAKHAT, but were relayed through the chain of command to the *musa'id* (IDRIS) and then to the troops ([REDACTED]), who received them while they were standing in lines.¹⁷²³ The convoy deployed on this operation contained approximately 13 Land Cruisers, including two used by **ABD-AL-RAHMAN**, two used by HASSABALLAH, and five used by the SAF. [REDACTED] MI officers ABD-AL-MUN'IM and Abubakr Abdullah BAKHIT ("Abubakr BAKHIT") also joined the mission, in addition to

¹⁷¹⁸ [REDACTED].

¹⁷¹⁹ P-0883: [REDACTED], and [T-73-CT2](#), p. 2, line 21-p. 3, line 24, p. 4, line 24-p. 5, line 2, and [T-74-CT3](#), p. 44, line 23-p. 45, line 8, p. 51, lines 8-13, and [DAR-OTP-0221-0409-R01](#) (Translation [DAR-OTP-0219-5249-R01](#)). The head of the PDF in Khartoum at that time was Major General Abbas Ahmad AL-SA'AD, see P-0954: [DAR-OTP-0221-0571-R01](#) at 0574, para. 22. See also [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7014) (**ABD-AL-RAHMAN** stated that instructions for the Deleig operation were received from "Brigadier Ahmed 'ABBAS" and "Major General Muhammad Fayiz").

¹⁷²⁰ P-0883: [REDACTED], and [T-73-CT2](#), p. 4, line 1-20, p. 5, lines 3-14.

¹⁷²¹ [REDACTED].

¹⁷²² See above para. 518.

¹⁷²³ [REDACTED].

SAF officer IDRIS [REDACTED].¹⁷²⁴

527. [REDACTED] P-0935 similarly recalled that the SAF forces that returned to the Garsila SAF base from Sindu were subsequently deployed to Deleig. The SAF forces included MI officers ABD-AL-MUN'IM and ABD-AL-BANAT, and a number of soldiers.¹⁷²⁵ [REDACTED], P-0935 stated that the instructions for the operation were channelled from BAKHAT through the SAF chain of command to the troops, who received them while lined up in the courtyard.¹⁷²⁶ P-0935 stated that this was a joint operation with ABD-AL-RAHMAN and the Militia/*Janjaweed*.¹⁷²⁷

528. On the day of the deployment to Deleig, [REDACTED] ABD-AL-RAHMAN arrive at the SAF base in his vehicle. ABD-AL-RAHMAN [REDACTED] detainees *Umdah* Suleiman, *Sheikh* Abdulaziz and Hassan Adam Musa. [REDACTED] ABD-AL-RAHMAN responded, "No, I am the commander. I was with him and I do not have time to wait for the commander."¹⁷²⁸ [REDACTED]. ABD-AL-RAHMAN replied that he was taking them to Zalingei. [REDACTED].¹⁷²⁹ [REDACTED].¹⁷³⁰

529. [REDACTED] HAMDI, who had with him a force and three vehicles, including one belonging to the Zalingei MI office, leave the Garsila SAF base. He was heading to Kailek, a town on the same route as Deleig, to search for SLA/M leader NUR and his group. HAMDI's convoy included MI officers Seif-Al-Din BAKHIT, ABD-AL-MUN'IM and MANSUR, and PDF officer HASSABALLAH.¹⁷³¹ After ABD-AL-RAHMAN took the detainees, [REDACTED] follow HAMDI in the direction of Deleig.¹⁷³² [REDACTED].¹⁷³³

530. The evidence [REDACTED] corroborates that ABD-AL-RAHMAN took detainees from the SAF base on the day that the forces deployed to Deleig. [REDACTED] two vehicles belonging to ABD-AL-RAHMAN, one of which was used by HASSABALLAH, enter the Garsila SAF base. [REDACTED] ABD-AL-RAHMAN's forces loading detainees onto two of ABD-AL-RAHMAN's vehicles, which also contained multiple guards and MI officers

¹⁷²⁴ [REDACTED].

¹⁷²⁵ P-0935: [T-90-CT2](#), p. 37, lines 5-9, p. 39, lines 8-13, p. 40, lines 11-20, p. 82, line 16-p. 83, line 2.

¹⁷²⁶ P-0935: [T-90-CT2](#), p. 77, line 9-p. 80, line 19.

¹⁷²⁷ P-0935: [T-90-CT2](#), p. 84, lines 2-7.

¹⁷²⁸ [REDACTED].

¹⁷²⁹ [REDACTED].

¹⁷³⁰ [REDACTED].

¹⁷³¹ [REDACTED].

¹⁷³² [REDACTED].

¹⁷³³ [REDACTED].

ABD-AL-MUN'IM and ABD-AL-BANAT. **ABD-AL-RAHMAN** was present when the detainees were loaded. [REDACTED] the two vehicles depart the base, followed by an SAF convoy.¹⁷³⁴

531. [REDACTED].¹⁷³⁵

Search and arrest operation starting on or about Friday, 5 March 2004

532. On or about Friday, 5 March 2004,¹⁷³⁶ from the early morning, Militia/*Janjaweed* and GoS Forces surrounded Deleig and prevented people from leaving or entering the town.¹⁷³⁷ Militia/*Janjaweed* and GoS Forces went through the streets and from house to house searching for Fur males who had been displaced to Deleig from locations in the surrounding areas.¹⁷³⁸ The Militia/*Janjaweed* and GoS Forces perceived Fur males coming from these locations as belonging to, or being associated with, or supporting the rebel armed groups.¹⁷³⁹

533. On this day, Militia/*Janjaweed* and GoS Forces arrested at least 100, and likely more than 200 predominantly Fur males¹⁷⁴⁰ from the streets, houses and mosques.¹⁷⁴¹ The Militia/*Janjaweed* and GoS Forces continued to arrest people in Deleig on until at least about Sunday, 7 March 2004.¹⁷⁴²

534. As observed by witnesses and corroborated by a contemporaneous UN report, a large

¹⁷³⁴ [REDACTED].

¹⁷³⁵ [REDACTED].

¹⁷³⁶ For reports corroborating that the Deleig incident occurred from on or about 5 to 7 March 2004, see [DAR-OTP-0002-0201](#) at 0201, 0205; [DAR-OTP-0003-0099](#) at 0099, 0122-0124; [DAR-OTP-0090-0377](#) at 0384; [DAR-OTP-0013-0119](#) at 0156; [DAR-OTP-0209-0593](#) at 0667, para. 275; [DAR-OTP-0060-0222](#) (Translation [DAR-OTP-0153-0917](#) at 0918).

¹⁷³⁷ P-0883: [T-74-CT3](#), p. 49, line 23-p. 50, line 2, [REDACTED]; P-0907: [T-94-CT](#), p. 29, line 14-p. 30, line 7; P-0994: [DAR-OTP-0222-0055-R01](#) at 0062-0063, paras. 32-33, 35, and [REDACTED]; P-0955: [DAR-OTP-0220-0620-R02](#) at 0628, para. 32; P-0584: [DAR-OTP-0200-1540-R02](#) at 1564-1565, paras. 90-91; P-0651: [DAR-OTP-0205-0015-R02](#) at 0027, para. 41, and [T-34-CT3](#), p. 14, line 14-p. 15, line 1, p. 60, lines 4-10; P-0671: [DAR-OTP-0206-0105-R02](#) at 0111, para. 24; P-0736: [DAR-OTP-0210-0248-R02](#) at 0261-0262, paras. 53-55; P-0718: [DAR-OTP-0209-2004-R02](#) at 2012, para. 53, and [T-49-CT](#), p. 15, lines 14-17, p. 62, line 11-p. 63, line 3; P-0726: [DAR-OTP-0210-0346-R04](#) at 0364, paras. 62-63, and [DAR-OTP-0224-0792](#) at 0793, para. 14; P-0607: [DAR-OTP-0203-0164-R02](#) at 0176, para. 42; P-0712: [DAR-OTP-0209-1884-R04](#) at 1891-1892, paras. 28-31, and [T-36-ET](#), p. 10, lines 13-22; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, para. 68; P-0973: [DAR-OTP-0220-0736-R01](#) at 0741, para. 25; P-0617: [DAR-OTP-0202-1496-R02](#) at 1523-1524, paras. 79-80; P-0129: [DAR-OTP-0128-0128-R04](#) at 0150-0151, para. 83.

¹⁷³⁸ See above fn. 812.

¹⁷³⁹ See above paras. 238-245.

¹⁷⁴⁰ For evidence regarding the number, ethnicity and gender of those arrested, see below fn. 1754.

¹⁷⁴¹ See above fn. 812.

¹⁷⁴² P-0726: [DAR-OTP-0224-0792](#) at 2, para. 11; P-0651: [DAR-OTP-0205-0015-R02](#) at 0032-0033, para. 62; P-0585: [T-100-CT](#), p. 24, line 25-p. 25, line 17; P-0697: [DAR-OTP-0209-0155-R03](#) at 0168, para. 58; P-0712: [DAR-OTP-0209-1884-R04](#) at 1896, para. 43; P-0850: [DAR-OTP-0216-0002-R04](#) at 0020, para. 71.

number of Militia/*Janjaweed* participated in the Deleig operation.¹⁷⁴³ The GoS Forces that participated in the Deleig operation between about 5 and about 7 March 2004 included the SAF (including MI) and the PDF.¹⁷⁴⁴ The Deleig Police were powerless to stop the operation since some of them were Fur, some were unarmed, they had no telecommunications equipment, and they were greatly outnumbered by the Militia/*Janjaweed*.¹⁷⁴⁵ There is however some evidence that certain members of the Police did participate,¹⁷⁴⁶ albeit sometimes unwillingly.¹⁷⁴⁷

2) The crimes

Counts 22-23: Torture (CAH and WC); Count 24: Other inhumane acts (CAH); Count 25: Cruel treatment (WC); Count 26: Outrages upon personal dignity (WC)

Mistreatment of Fur males during the search and arrest operation in different areas of Deleig

535. During the search and arrest operation, in different areas of Deleig, the Militia/*Janjaweed* and GoS Forces whipped, beat and kicked persons,¹⁷⁴⁸ and insulted them using terms such as “slave”, “donkey” and *tora bora*.¹⁷⁴⁹

536. P-0955, [REDACTED], was present when **ABD-AL-RAHMAN** arrested

¹⁷⁴³ P-0994: [DAR-OTP-0222-0055-R01](#) at 0062, para. 33; [REDACTED]; P-0585: [T-100-CT](#), p. 15, lines 5-10; P-0712: [T-36-ET](#), p. 10, lines 13-22; P-0931: [T-62-CT](#), p. 42, lines 14-21; P-0955: [DAR-OTP-0220-0620-R02](#) at 0628, para. 33, and [T-64-CT](#), p. 13, lines 12-19; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, para. 68; P-0736: [DAR-OTP-0210-0248-R02](#) at 0261-0262, paras. 53-54, 0266, para. 70; P-0973: [DAR-OTP-0220-0736-R01](#) at 0741, para. 25; [DAR-OTP-0115-0747](#) at 0748, para. 8 (2,000 to 3,000 outside of Deleig on 2 March 2004).

¹⁷⁴⁴ [REDACTED]; P-0935: [T-90-CT2](#), p. 39, lines 8-13, p. 40, lines 11-20, p. 82, line 16-p. 83, line 2, p. 84, lines 2-7 (SAF, MI, PDF); P-0994: [DAR-OTP-0222-0055-R01](#) at 0069-0070, paras. 66-69, and [DAR-OTP-00000268](#) at 1, para. 4 (SAF, MI); P-0907: [T-94-CT](#), p. 30, lines 8-15, and [T-96-CT](#), p. 35, lines 1-25; P-0584: [DAR-OTP-0200-1540-R02](#) at 1564-1565, paras. 90-91, 1566-1567, paras. 95, 101 (SAF); P-0617: [DAR-OTP-0202-1496-R02](#) at 1523-1524, para. 80 (SAF); P-0697: [DAR-OTP-0209-0155-R03](#) at 0167, para. 52 (SAF); P-0726: [DAR-OTP-0210-0346-R04](#) at 0364, para. 63 (SAF); P-0736: [DAR-OTP-0210-0248-R02](#) at 0261-0262, para. 53 (SAF); P-0850: [DAR-OTP-0216-0002-R04](#) at 0018, paras. 64-66 (SAF); P-0973: [DAR-OTP-0220-0736-R01](#) at 0746-0747, para. 48 (SAF); P-0712: [DAR-OTP-0209-1884-R04](#) at 1892, para. 30, and [T-36-ET](#), p. 10, line 23-p. 11, line 7 (SAF vehicles); P-0119: [DAR-OTP-0124-0196-R03](#) at 0213-0214, para. 108 (MI); P-0129: [DAR-OTP-0128-0128-R04](#) at 0151, para. 84 (MI).

¹⁷⁴⁵ [REDACTED]; P-0973: [DAR-OTP-0220-0736-R01](#) at 0744, para. 36, 0747, para. 51; P-0736: [DAR-OTP-0210-0248-R02](#) at 0261, para. 50; P-0651: [DAR-OTP-0205-0015-R02](#) at 0028, para. 44, 0030, para. 54; P-0955: [T-64-CT](#), p. 13, lines 12-19. *See also* [REDACTED].

¹⁷⁴⁶ P-0584: [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 98-102, and [T-92-CT](#), p. 38, line 2-p. 40, line 16.

¹⁷⁴⁷ P-0712: [DAR-OTP-0209-1884-R04](#) at 1893-1894, paras. 33-36.

¹⁷⁴⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, paras. 35-36; P-0907: [T-94-CT](#), p. 32, lines 22-25; P-0736: [DAR-OTP-0210-0248-R02](#) at 0265, para. 66; P-0712: [DAR-OTP-0209-1884-R04](#) at 1894, para. 36; P-0718: [T-49-CT](#), p. 15, lines 21-22, p. 64, lines 7-14; P-0584: [DAR-OTP-0200-1540-R02](#) at 1565, para. 92, and [DAR-OTP-00000419](#) at 2, para. 23, and [T-92-CT](#), p. 36, line 23-p. 37, line 10, p. 42, lines 17-21, p. 43, lines 13-16; P-0973: [DAR-OTP-0220-0736-R01](#) at 0742, paras. 26-28, 0745-0747, paras. 44, 47-48, and [DAR-OTP-0220-0762](#), and [DAR-OTP-0220-0763](#), and [DAR-OTP-0220-0764](#).

¹⁷⁴⁹ P-0718: [DAR-OTP-0209-2004-R02](#) at 2013, para. 60, and [REDACTED]; P-0850: [DAR-OTP-0216-0002-R04](#) at 0018-0019, paras. 65, 67; P-0584: [DAR-OTP-0200-1540-R02](#) at 1565, para. 92; P-0726: [DAR-OTP-0210-0346-R04](#) at 0364-0365, paras. 64-65, and [DAR-OTP-0224-0792](#) at 0794, para. 16. *See also* P-0973: [DAR-OTP-0220-0736-R01](#) at 0747-0748, para. 48; P-0736: [DAR-OTP-0210-0248-R02](#) at 0265, para. 67.

[REDACTED] in Deleig. **ABD-AL-RAHMAN** [REDACTED] ordered *Umdah* Kindiri to stand up, kicked him, and then ordered his men to tie his hands and take him to a vehicle. P-0955 [REDACTED] started to cry as **ABD-AL-RAHMAN**'s men dragged *Umdah* Kindiri [REDACTED]. **ABD-AL-RAHMAN** told [REDACTED], "if you step out and follow the vehicles you will be shot". P-0955 saw [REDACTED] be put onto the back of a Land Cruiser vehicle, surrounded by soldiers, which drove off in the direction of Deleig police station.¹⁷⁵⁰

537. P-0955 saw [REDACTED] later that day in the back of the Land Cruiser, which was parked in the market. With him was *Umdah* Khamis, who also had his hands tied. Both were wearing white *jallabiya*. From about 30 metres away, P-0955 saw **ABD-AL-RAHMAN** in the passenger seat. [REDACTED] This was the last time P-0955 saw [REDACTED] alive.¹⁷⁵¹

538. P-0973, [REDACTED], was arrested by the Militia/*Janjaweed* along with [REDACTED]. The Militia/*Janjaweed* made them lie down and beat them, then stabbed P-0973 [REDACTED].¹⁷⁵² Two days later, the Militia/*Janjaweed* took P-0973 [REDACTED].¹⁷⁵³

Mistreatment of Fur males at the open area near the Deleig police station

539. On or about 5 March 2004, the Militia/*Janjaweed* and GoS Forces brought at least 100, and likely more than 200, predominantly Fur arrested males to an open area near the Deleig police station where they were made to lie face down on the ground.¹⁷⁵⁴ Some had their hands tied behind their backs.¹⁷⁵⁵ The detainees were made to lie directly in the hot sun and were denied food, water and access to toilet facilities for prolonged periods of time, for as long as

¹⁷⁵⁰ P-0955: [DAR-OTP-0220-0620-R02](#) at 0620, 0623, para. 12, 0628-0629, paras. 34-37, and [DAR-OTP-0220-0640](#) (colour 18), and [REDACTED], and [T-64-CT](#), p. 9, lines 2-23, p. 17, line 19-p. 18, line 17. See Annex 26, p. 17. See also [REDACTED].

¹⁷⁵¹ P-0955: [DAR-OTP-0220-0620-R02](#) at 0629-0630, paras. 39-43, and [REDACTED], and [T-64-CT](#), p. 12, lines 11-18 ([REDACTED]).

¹⁷⁵² P-0973: [DAR-OTP-0220-0736-R01](#) at 0739, para. 12, 0742, paras. 26-28, and [DAR-OTP-0220-0762](#), and [DAR-OTP-0220-0763](#), and [DAR-OTP-0220-0764](#).

¹⁷⁵³ P-0973: [DAR-OTP-0220-0736-R01](#) at 0745-0747, paras. 44, 47-48.

¹⁷⁵⁴ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36-40, and [DAR-OTP-00000268](#) at 2, para. 10, and [REDACTED]; P-0907: [T-94-CT](#), p. 32, lines 1-4, p. 33, line 16-p. 34, line 8, p. 34, line 24-p. 35, line 3, p. 39, lines 1-6, and [T-96-CT](#), p. 17, line 12-p. 18, line 20, p. 19, lines 6-8, 20-25; [REDACTED]; P-0585: [T-100-CT](#), p. 15, line 22-p. 16, line 16; P-0651: [DAR-OTP-0205-0015-R02](#) at 0027-0029, paras. 43, 47, 49; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 45, and [T-64-CT](#), p. 12, lines 11-21; P-0584: [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 96-97, 100; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131-0132, paras. 71, 75; P-0718: [DAR-OTP-0209-2004-R02](#) at 2013-2014, paras. 61, 63, 66, and [T-49-CT](#), p. 66, lines 19-21; P-0671: [DAR-OTP-0206-0105-R02](#) at 0115-0116, paras. 40-42, 45, and [DAR-OTP-00000462](#) at 1, para. 11; P-0607: [DAR-OTP-0203-0164-R02](#) at 0178-0179, paras. 48, 51; P-0736: [DAR-OTP-0210-0248-R02](#) at 0266-0267, para. 71; P-0973: [DAR-OTP-0220-0736-R01](#) at 0742-0743, para. 30. See also Annex 23.

¹⁷⁵⁵ P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 45; P-0718: [DAR-OTP-0209-2004-R02](#) at 2014, para. 63; P-0671: [DAR-OTP-0206-0105-R02](#) at 0115, para. 40, and [DAR-OTP-00000462](#) at 1, para. 11.

10 hours.¹⁷⁵⁶ The Militia/*Janjaweed* surrounded the detainees, guarding them to prevent their escape.¹⁷⁵⁷

540. The Militia/*Janjaweed* and GoS Forces walked and stamped on the backs and heads of the detained males,¹⁷⁵⁸ kicked them,¹⁷⁵⁹ beat them with rifle butts, whips, fists and sticks (including when detainees, [REDACTED], tried to raise their heads),¹⁷⁶⁰ and verbally abused them using terms such as “donkey” and “slave”.¹⁷⁶¹ [REDACTED], P-0584 saw a member of the GoS Forces stab [REDACTED] in the eye with a bayonet.¹⁷⁶² P-0585, who was passing through on a bus, asked a Militia/*Janjaweed* member who the detainees were, and he replied that they were “all *tora bora*” and that they “were going to be killed.”¹⁷⁶³

541. The Militia/*Janjaweed* and GoS Forces later threw or otherwise loaded some of the Fur male detainees onto the backs of vehicles like objects.¹⁷⁶⁴ After the detained males were removed from the open area near the police station, [REDACTED] P-0994 saw that there was blood on the ground.¹⁷⁶⁵

¹⁷⁵⁶ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 37-38; [REDACTED]; P-0907: [T-94-CT](#), p. 31, line 11-p. 32, line 21, [REDACTED], p. 37, line 24-p. 38, line 7, and [REDACTED], and [T-96-CT](#), p. 20, lines 5-8; P-0584: [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 97, 102, and [DAR-OTP-00000419](#) at 3, para. 27, and [T-92-CT](#), p. 38, line 17-p. 40, line 16; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131-0132, paras. 73, 75; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 43; P-0617: [DAR-OTP-0202-1496-R02](#) at 1525-1526, para. 84; P-0651: [DAR-OTP-0205-0015-R02](#) at 0028-0029, paras. 46, 49.

¹⁷⁵⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, para. 39; [REDACTED]; P-0907: [T-96-CT](#), p. 24, lines 4-6; P-0651: [DAR-OTP-0205-0015-R02](#) at 0027-0028, para. 43; P-0955: [T-64-CT](#), p. 12, lines 17-21; P-0671: [DAR-OTP-0206-0105-R02](#) at 0115-0116, paras. 40-41; P-0736: [DAR-OTP-0210-0248-R02](#) at 0266-0267, para. 71; P-0973: [DAR-OTP-0220-0736-R01](#) at 0742-0743, para. 30.

¹⁷⁵⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, paras. 38-39; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, para. 71; P-0736: [DAR-OTP-0210-0248-R02](#) at 0267, para. 72.

¹⁷⁵⁹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, paras. 36, 38, 0067, para. 55.

¹⁷⁶⁰ P-0994: [DAR-OTP-0222-0055-R01](#) at 0062-0063, paras. 36, 38-39, 0067, para. 55, and [REDACTED]; P-0907: [T-95-CT](#), p. 9, lines 16-23, and [T-96-CT](#), p. 20, lines 9-23, p. 21, line 23-p. 22, line 3, p. 23, line 25-p. 24, line 21, p. 34, lines 7-11; [REDACTED]; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 45, and [T-64-CT](#), p. 12, lines 17-21; P-0651: [DAR-OTP-0205-0015-R02](#) at 0028, para. 49; P-0973: [DAR-OTP-0220-0736-R01](#) at 0744, para. 37; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-44; P-0718: [T-49-CT](#), [REDACTED], p. 67, lines 12-17.

¹⁷⁶¹ [REDACTED].

¹⁷⁶² P-0584: [DAR-OTP-0200-1540-R02](#) at 1567, para. 101, and [DAR-OTP-00000419](#) at 2-3, para. 26 (P-0584 identifies the man who was stabbed as Abdallah Mullenqwe).

¹⁷⁶³ P-0585: [T-100-CT](#), p. 15, line 22-p. 16, line 7.

¹⁷⁶⁴ P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 76; [REDACTED]; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569, para. 107, and [T-92-CT](#), p. 36, lines 3-21, [REDACTED].

¹⁷⁶⁵ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067-0068, para. 59.

542. **ABD-AL-RAHMAN** stood and walked on the backs of the detainees, [REDACTED],¹⁷⁶⁶ hit them with a stick or axe-like object¹⁷⁶⁷ (including, as detailed below, JENIF and *Sheikh Motor*¹⁷⁶⁸), kicked them,¹⁷⁶⁹ and verbally abused them.¹⁷⁷⁰

Mistreatment of Fur males inside the Deleig police station

543. Some of the arrested males were detained for up to several days inside the police station, in hot and overcrowded conditions, [REDACTED].¹⁷⁷¹ The detainees inside the police station were denied food, water and access to toilet facilities.¹⁷⁷² [REDACTED] stated that the “conditions were terrible in the cell. It was hot and people had to go to the toilet where they crouched. We were treated as animals”.¹⁷⁷³ On or about 5 March 2004, [REDACTED] heard **ABD-AL-RAHMAN** tell *Umdah* Kindiri, while he was detained inside the police station, “This is your last day on Earth, get ready for the doomsday.”¹⁷⁷⁴

Number and status of the Fur males arrested and detained

544. The total number of detained Fur males in the open area near the police station on or about 5 March 2004 was at least 100, and likely more than 200.¹⁷⁷⁵ A large number of males were also detained inside the police station.¹⁷⁷⁶ Among the detainees were the Fur males listed in Annex 23, who were subsequently killed. The arrested males were either persons *hors de combat* or were civilians taking no active part in the hostilities,¹⁷⁷⁷ [REDACTED].¹⁷⁷⁸ There was no armed rebel group present in Deleig,¹⁷⁷⁹ and no armed resistance to the search and arrest

¹⁷⁶⁶ [REDACTED]; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 44. *See also* [REDACTED].

¹⁷⁶⁷ P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 44.

¹⁷⁶⁸ *See below* paras. 548-559.

¹⁷⁶⁹ P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 44.

¹⁷⁷⁰ [REDACTED]; P-0907: [T-96-CT](#), p. 27, lines 14-17 (“You are a very fat person. You must have eaten people’s money [...]”).

¹⁷⁷¹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0064-0067, paras. 45-46, 49, 53-54 ([REDACTED]); P-0973: [DAR-OTP-0220-0736-R01](#) at 0744-0748, paras. 36-54, and [DAR-OTP-0220-0769-R01](#) (Translation [DAR-OTP-0219-5226-R01](#)), and [DAR-OTP-0219-5866-R01](#); P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 47; P-0617: [DAR-OTP-0202-1496-R02](#) at 1527, para. 86.

¹⁷⁷² P-0994: [DAR-OTP-0222-0055-R01](#) at 0064-0065, para. 45; P-0973: [DAR-OTP-0220-0736-R01](#) at 0744, para. 39 ([REDACTED]).

¹⁷⁷³ P-0973: [DAR-OTP-0220-0736-R01](#) at 0744, para. 39.

¹⁷⁷⁴ [REDACTED].

¹⁷⁷⁵ *See above* fn. 1754.

¹⁷⁷⁶ *See above* para. 208.

¹⁷⁷⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36, 40-41; P-0651: [DAR-OTP-0205-0015-R02](#) at 0032, para. 61; P-0955: [DAR-OTP-0220-0620-R02](#) at 0623, para. 14 ([REDACTED]). *See also* [DAR-OTP-0209-0593](#) at 0672, para. 297.

¹⁷⁷⁸ [REDACTED].

¹⁷⁷⁹ P-0935: [T-90-CT2](#), p. 38, lines 16-22; P-0994: [DAR-OTP-0222-0055-R01](#) at 0063, para. 36; P-0607: [DAR-OTP-0203-0164-R02](#) at 0182, para. 65; P-0712: [DAR-OTP-0209-1884-R04](#) at 1901, para. 68, and [T-36-ET](#), p. 24, line 23-p. 25, line 15.

operation.¹⁷⁸⁰ The detained males were unarmed and wearing civilian clothes,¹⁷⁸¹ as were the corpses later found outside of Deleig.¹⁷⁸² Some corpses were found with their hands tied behind their backs.¹⁷⁸³

545. The mistreatment of these males, including their conditions of detention, inflicted on them severe physical or mental pain or suffering, or great suffering or serious injury to body or to mental and physical health. The pain and suffering did not arise from and was not inherent in or incidental to lawful sanctions. Based on the facts set out in paragraphs 532 to 543, the only reasonable inference is that **ABD-AL-RAHMAN** and the other physical perpetrators inflicted the pain and suffering to obtain information or a confession, punish, intimidate or coerce the detained Fur males or for reasons based on political, ethnic and gender discrimination. **ABD-AL-RAHMAN** and the other physical perpetrators were aware of the factual circumstances establishing the character (nature and gravity) of their acts. At all material times, the Fur males were in the custody or were under the control of the perpetrators.

546. The mistreatment, including the conditions of their detention, of these Fur males also humiliated, degraded or otherwise violated their dignity. The severity of the humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity.

547. These Fur males were either persons *hors de combat* or were civilians taking no active part in the hostilities. **ABD-AL-RAHMAN** and the other perpetrators were aware of the factual circumstances that established the victims' status.

Counts 27-28: Murder (CAH and WC); Counts 29-30: Attempted murder (CAH and WC)

Killings of two Fur male detainees by ABD-AL-RAHMAN in and near Deleig police station on or about 5 March 2004

548. On or about 5 March 2004, in and near Deleig police station, **ABD-AL-RAHMAN** killed two Fur male detainees—Adam Abd-Al-Rahman, nickname JENIF, and *Sheikh* Adam Adam Abd-Al-Rahman, nickname Motor—by striking them to the head with an axe. The below

¹⁷⁸⁰ P-0994: [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36, 41; P-0607: [DAR-OTP-0203-0164-R02](#) at 0182, para. 65; P-0718: [T-49-CT](#), p. 62, lines 11-16; P-0935: [T-90-CT2](#), p. 84, lines 10-24.

¹⁷⁸¹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0064, para. 41; P-0671: [DAR-OTP-0206-0105-R02](#) at 0113-0114, para. 34, 0116-0117, para. 46; P-0725: [DAR-OTP-0210-0122-R02](#) at 0131, para. 71; P-0651: [DAR-OTP-0205-0015-R02](#) at 0031, para. 55; P-0697: [DAR-OTP-0209-0155-R03](#) at 0167-0168, para. 54.

¹⁷⁸² P-0671: [DAR-OTP-0206-0105-R02](#) at 0118, para. 53; P-0697: [DAR-OTP-0209-0155-R03](#) at 0169-0170, paras. 60-61, and [DAR-OTP-00000490](#) at 2, paras. 10-11, and [T-101-CT](#), p. 21, line 15-p. 22, line 2.

¹⁷⁸³ P-0651: [DAR-OTP-0205-0015-R02](#) at 0031, para. 57.

evidence establishes that JENIF and *Sheikh* Motor died shortly after being struck by **ABD-AL-RAHMAN** as a result of the injuries they sustained. In the alternative, it is reasonable to infer that they died after being transported to an execution site, either due to the absence of medical treatment for their injuries, or by being shot to death.

Adam Abd-Al-Rahman, nickname JENIF, PDF coordinator in Garsila¹⁷⁸⁴

549. [REDACTED] P-0994 [REDACTED] saw **ABD-AL-RAHMAN** arrive in a Land Cruiser being driven by his driver, Hussein. JENIF, [REDACTED], was on the back of the vehicle with some guards. P-0994 saw the guards dragging JENIF out of the vehicle. P-0994 did not hear whether **ABD-AL-RAHMAN** said anything to JENIF. From about five to six metres away, P-0994 saw **ABD-AL-RAHMAN** hit JENIF to the head with an axe, causing an open wound to the back of his head, which started bleeding heavily. **ABD-AL-RAHMAN** and his guards then walked JENIF into the police station.¹⁷⁸⁵

550. P-0907, [REDACTED], corroborates P-0994's account. Although P-0907 was unaware that JENIF had initially been brought to the police station in a vehicle by **ABD-AL-RAHMAN**, and instead believed that JENIF had come by himself, his evidence that JENIF was not among the detainees lying on the ground, but had arrived walking from the northeast, is consistent with P-0994's account.¹⁷⁸⁶ P-0907 heard JENIF, who he knew very well, say to **ABD-AL-RAHMAN**, "Who are you to do this? Who are you to gather these poor people and humiliate them?" **ABD-AL-RAHMAN** replied, "Who are you to ask me this question?" From about 10 to 15 steps away, P-0907 saw **ABD-AL-RAHMAN** hit JENIF to the head with an axe, causing blood to pour over his face. P-0907 stated that JENIF was then taken into the police station.¹⁷⁸⁷

551. [REDACTED].¹⁷⁸⁸

552. [REDACTED].¹⁷⁸⁹ [REDACTED].¹⁷⁹⁰

¹⁷⁸⁴ See Annex 23, no. 23.

¹⁷⁸⁵ P-0994: [DAR-OTP-0222-0055-R01](#) at 0065-0066, paras. 47-48, 50, 0070, para. 73, and [DAR-OTP-00000268](#) at 2, para. 9, and [DAR-OTP-0222-0077](#) (Translation [DAR-OTP-0220-1221](#)), and [REDACTED]. See also [REDACTED] (for corroboration that Jenif was arrested in Deleig).

¹⁷⁸⁶ P-0907: [T-96-CT](#), p. 25, lines 1-18. The sketch drawn by P-0994 indicates that Jenif was taken out of a vehicle which arrived to the northeast of where the detainees were lying on the ground near the police station, see P-0994: [DAR-OTP-0222-0077](#) (Translation [DAR-OTP-0220-1221](#)).

¹⁷⁸⁷ P-0907: [T-94-CT](#), p. 34, line 20-p. 38, line 13, and [T-96-CT](#), p. 25, line 1-p. 26, line 23, p. 27, line 18-p. 29, line 2 (see Courtroom 1 dimensions).

¹⁷⁸⁸ [REDACTED].

¹⁷⁸⁹ [REDACTED].

¹⁷⁹⁰ [REDACTED].

553. [REDACTED]¹⁷⁹¹

554. The next day, on or about Saturday, 6 March 2004, P-0994 heard people saying that JENIF had been executed. On or about Sunday, 7 March 2004, [REDACTED].¹⁷⁹²

555. As detailed below, on or about Sunday, 7 March 2004, [REDACTED] regarding the Deleig executions.¹⁷⁹³ Consistent with the evidence of P-0994, P-0907 and [REDACTED], [REDACTED],¹⁷⁹⁴ reported that **ABD-AL-RAHMAN** killed JENIF by hitting him with an axe. [REDACTED] however that this reportedly took place at an execution site near the *khors* of Soja rather than in or near the police station.¹⁷⁹⁵

556. [REDACTED], stated that he was later told [REDACTED] that JENIF was arrested in Deleig and held in the cell at the police station. **ABD-AL-RAHMAN** then took JENIF out and hit him in the head with an axe, killing him.¹⁷⁹⁶ The death of JENIF is further corroborated by several lists of persons killed during the Deleig executions.¹⁷⁹⁷

557. Subsequently, HAMDİ appointed HASSABALLAH, an Arab from the Rizeigat tribe, [REDACTED], to replace JENIF as PDF coordinator in Garsila.¹⁷⁹⁸ P-0643 stated that JENIF, who was Fur, may have been killed so that he could be replaced by a person from an Arab tribe.¹⁷⁹⁹ P-0883 similarly stated that the fact that HASSABALLAH was Arab may have been one of the reasons he was chosen, since the PDF at that time was filled with people from Arab tribes.¹⁸⁰⁰

Sheikh Adam Adam Abd-Al-Rahman, nickname Motor, of Massa¹⁸⁰¹

558. P-0907 was [REDACTED] in the open area near the police station when he saw **ABD-AL-RAHMAN** strike *Sheikh* Motor of Massa village, [REDACTED], with an axe. P-0907 heard **ABD-AL-RAHMAN** ask *Sheikh* Motor what his position was, and *Sheikh* Motor replied

¹⁷⁹¹ [REDACTED].

¹⁷⁹² P-0994: [DAR-OTP-0222-0055-R01](#) at 0065-0066, para. 49, and [REDACTED].

¹⁷⁹³ See below paras. 568-570.

¹⁷⁹⁴ See above para. 528.

¹⁷⁹⁵ [REDACTED].

¹⁷⁹⁶ [REDACTED].

¹⁷⁹⁷ P-1018: [DAR-OTP-0219-9005](#) (Translation [DAR-OTP-0220-3047](#) at 3048); AI: [DAR-OTP-0002-0201](#) at 0202; HRW: [DAR-OTP-0003-0099](#) at 0175.

¹⁷⁹⁸ P-0883: [DAR-OTP-00000065](#) at 3, para. 234, and [T-71-CT3](#), p. 61, lines 9-22, and [REDACTED], and [T-73-CT2](#), p. 38, line 11-p. 39, line 9. See also P-0643: [REDACTED]; P-0931: [T-62-CT](#), p. 51, lines 7-25; P-0994: [DAR-OTP-0222-0055-R01](#) at 0070, para. 69; P-0736: [DAR-OTP-0210-0248-R02](#) at 0271, para. 83.

¹⁷⁹⁹ [REDACTED]

¹⁸⁰⁰ P-0883: [REDACTED], and [T-73-CT2](#), p. 38, line 11-p. 39, line 9.

¹⁸⁰¹ See Annex 23, no. 25.

that he was a *sheikh*. **ABD-AL-RAHMAN** told him, “You are a very fat person. You must have eaten people’s money [...]” [REDACTED] P-0907 [REDACTED] was able to [REDACTED] see **ABD-AL-RAHMAN**, [REDACTED], hit *Sheikh* Motor with an axe, causing him to fall to the ground. [REDACTED]. **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* to throw or shove *Sheikh* Motor onto a vehicle. His body was loaded onto a vehicle with other detainees and transported to an execution site.¹⁸⁰²

559. P-0584’s evidence regarding the killing of *Sheikh* Motor is consistent with P-0907’s account. P-0584 [REDACTED] saw **ABD-AL-RAHMAN** walk over to *Sheikh* Motor, tell him to stand up, and have a short conversation with him (which P-0584 could not hear). **ABD-AL-RAHMAN** then struck *Sheikh* Motor to the head with a stick, causing him to fall to the ground and make unusual noises (like someone being electrocuted) before going silent and becoming motionless. **ABD-AL-RAHMAN** then ordered his men to put *Sheikh* Motor’s body onto the back of a vehicle, and his men loaded him onto the vehicle in a humiliating way. P-0584 stated that this occurred when the detainees were being loaded onto vehicles that later transported them to execution sites.¹⁸⁰³

Killings of detainees in locations outside of Deleig on or about 5 March 2004

560. P-0905, P-0994, P-0907 and P-0584 each testified that **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces to load the detained Fur males who were lying on the ground in the open area near the police station onto vehicles.¹⁸⁰⁴ The Militia/*Janjaweed* and GoS Forces loaded groups of the detainees, [REDACTED],¹⁸⁰⁵ onto the backs of open-backed Land Cruisers.¹⁸⁰⁶ They also loaded the motionless bodies of *Sheikh* Motor and JENIF.¹⁸⁰⁷

¹⁸⁰² P-0907: [T-94-CT](#), p. 38, line 14-p. 39, line 22, and [T-96-CT](#), p. 20, line 9-p. 22, line 10, p. 24, line 7-p. 25, line 3, p. 26, line 25-p. 27, line 17, p. 29, lines 1-3, and [DAR-OTP-00000431](#) at 1, no. 1.

¹⁸⁰³ P-0584: [DAR-OTP-0200-1540-R02](#) at 1568-1569, paras. 106-108, and [DAR-OTP-0200-1591](#) at 1593 (Translation [DAR-OTP-0219-1670](#) at 1673), and [DAR-OTP-00000419](#) at 3, paras. 29-30, and [REDACTED], p. 44, lines 17-p. 45, line 2. See Annex 26, p. 4.

¹⁸⁰⁴ [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0066-0067, paras. 51, 56, and [DAR-OTP-00000268](#) at 2, para. 12; P-0907: [T-94-CT](#), p. 37, lines 2-4, p. 40, line 7-p. 41, line 4, and [T-96-CT](#), p. 36, lines 10-18, p. 47, lines 3-9; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569-1570, paras. 108-110, and [DAR-OTP-00000419](#) at 3, para. 31, and [T-92-CT](#), p. 16, line 20-p. 17, line 9.

¹⁸⁰⁵ [REDACTED].

¹⁸⁰⁶ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, paras. 55-57, and [DAR-OTP-0071-0581](#), and [REDACTED]; P-0907: [T-94-CT](#), p. 40, line 7-p. 42, line 8, [REDACTED]; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569, para. 108, and [REDACTED]; P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 76; P-0607: [DAR-OTP-0203-0164-R02](#) at 0179-0180, paras. 53-55; P-0651: [DAR-OTP-0205-0015-R02](#) at 0029-0030, paras. 50-53; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0973: [DAR-OTP-0220-0736-R01](#) at 0743, paras. 33-34; P-0617: [DAR-OTP-0202-1496-R02](#) at 1525-1527, paras. 84-86; P-0712: [DAR-OTP-0209-1884-R04](#) at 1896, para. 44.

¹⁸⁰⁷ P-0907: [T-94-CT](#), p. 38, lines 14-22, p. 39, lines 17-22; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569, para. 107, and [REDACTED]. See also P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 76. While there is no direct

ABD-AL-RAHMAN was present during, and supervised, the loading of the detainees.¹⁸⁰⁸

561. [REDACTED] P-0994 and [REDACTED] P-0907 each heard **ABD-AL-RAHMAN** order the Militia/*Janjaweed* to drive the detainees to Garsila.¹⁸⁰⁹ The vehicles carrying detainees drove in different directions to locations outside of Deleig, including to the northwest, in the direction of Fere, and to the south, in the direction of Koska.¹⁸¹⁰ At these locations, as detailed below, the Militia/*Janjaweed* and GoS Forces unloaded the detained Fur males from the vehicles and shot at them, killing most or all of the detainees in each group.¹⁸¹¹ Annex 22 contains a map showing the approximate locations of execution sites outside of Deleig.¹⁸¹²

562. P-0907 stated that a boy from Kaskeidi, who was about 13 or 14 years old, was loaded onto the first vehicle. His father, Issa Harun, had heard that his son had been detained and had come to the police station. [REDACTED], P-0907 heard Issa Harun ask **ABD-AL-RAHMAN** to take his son out of the vehicle. **ABD-AL-RAHMAN** refused and instead ordered that Issa Harun be put on the vehicle. As a result, both were taken to the execution site and killed.¹⁸¹³

563. The vehicles returned empty of detainees to the open area near the Deleig police station.¹⁸¹⁴ The process of loading detainees onto vehicles, transporting them to locations outside of Deleig, unloading them, and shooting them to death was repeated several times on or about 5 March 2004.¹⁸¹⁵ Witnesses estimate that there were between 16 and 30 detainees in

evidence of Jenif's body being loaded onto a vehicle, this is inferred from the fact that it was not left behind at the police station, *see* P-0994: [DAR-OTP-0222-0055-R01](#) at 0065-0066, paras. 49-50, 0067-0068, para. 59.

¹⁸⁰⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067-0068, paras. 56, 59, 62, 0070, para. 71, and [DAR-OTP-00000268](#) at 2, para. 12; [REDACTED]; P-0907: [T-94-CT](#), p. 40, line 14-p. 42, line 4, [REDACTED], and [T-96-CT](#), p. 36, line 10-p. 37, line 9, p. 47, lines 3-9; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569-1570, paras. 108-110; [REDACTED]; P-0651: [DAR-OTP-0205-0015-R02](#) at 0030, para. 53 (vehicle only).

¹⁸⁰⁹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 58; P-0907: [T-94-CT](#), p. 40, line 25-p. 41, line 24.

¹⁸¹⁰ [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0067-0068, paras. 57, 61; P-0907: [T-94-CT](#), p. 40, lines 7-19, [REDACTED], and [T-96-CT](#), [REDACTED], and [DAR-REG-0001-0017](#); P-0584: [DAR-OTP-0200-1540-R02](#) at 1570, paras. 111-112, and [DAR-OTP-0200-1591](#) (Translation [DAR-OTP-0219-1670](#) at 1672); P-0651: [DAR-OTP-0205-0015-R02](#) at 0029-0030, paras. 50-51, and [T-34-CT3](#), p. 20, line 9-p. 21, line 19 and [DAR-OTP-0205-0040](#) (Translation [DAR-OTP-0219-1684](#)); P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0973: [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0736: [DAR-OTP-0210-0248-R02](#) at 0268-0269, para. 76, and [T-35-CT](#), p. 78, lines 2-14; P-0712: [DAR-OTP-0209-1884-R04](#) at 1896, paras. 43-44; P-0617: [DAR-OTP-0202-1496-R02](#) at 1525-1526, paras. 84-85; P-0607: [DAR-OTP-0203-0164-R02](#) at 0181-0182, para. 62.

¹⁸¹¹ *See below* paras. 565-599.

¹⁸¹² Annex 22: Approximate locations of execution sites outside Deleig.

¹⁸¹³ P-0907: [REDACTED], and [T-95-CT](#), p. 8, line 22-p. 9, line 15. [REDACTED].

¹⁸¹⁴ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, paras. 56-57; P-0651: [DAR-OTP-0205-0015-R02](#) at 0030, paras. 52-53; P-0736: [DAR-OTP-0210-0248-R02](#) at 0268-0269, para. 76, and [T-35-CT](#), p. 78, lines 2-9; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0907: [T-94-CT](#), p. 40, lines 7-13; P-0973: [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 76 (cannot say whether same vehicles or not).

¹⁸¹⁵ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 57; [REDACTED]; P-0651: [DAR-OTP-0205-0015-R02](#) at 0030, paras. 52-53; P-0607: [DAR-OTP-0203-0164-R02](#) at 0179-0180, paras. 53-55; P-0736: [DAR-OTP-0210-](#)

each vehicle.¹⁸¹⁶ P-0994, who counted the detainees as they were loaded onto the vehicles, estimated that approximately 100 detainees were transported from outside the police station in four batches, while P-0651 estimated the total number to be between 150 and 200.¹⁸¹⁷

564. [REDACTED] P-0994 stated that **ABD-AL-RAHMAN**'s driver Hussein drove the vehicle that he saw transport detainees outside of Deleig four times.¹⁸¹⁸ P-0994 recalled that **ABD-AL-RAHMAN** went with Hussein in the vehicle on one or two of these trips.¹⁸¹⁹ As described below, [REDACTED] also stated that **ABD-AL-RAHMAN** went with one transport of detainees to an execution site.¹⁸²⁰

Execution site in the area of Soja, to the northwest of Deleig

565. [REDACTED] **ABD-AL-RAHMAN** in a convoy of 13 Land Cruisers loaded with approximately 70 to 80 detainees. The convoy left the police station, drove out of Deleig to the northwest and took the road towards Zalingei, before crossing the *wadi* and going west, then taking a side road in the direction of Garsila.¹⁸²¹

566. The vehicles stopped at a location identified by **ABD-AL-RAHMAN**, who ordered that the detainees be taken out. [REDACTED]. The detainees were made to lie on their stomachs in lines. [REDACTED] **ABD-AL-RAHMAN** order the Militia/*Janjaweed* to shoot the detainees, telling them to "execute the instructions". The Militia/*Janjaweed* shot all of the detainees dead using Kalashnikovs and a Goryunov machine gun.¹⁸²² The use of a machine gun is consistent with the evidence of P-0994, who earlier saw a member of the Militia/*Janjaweed* carrying a machine gun in Deleig.¹⁸²³ After shooting the detainees, the convoy left the bodies lying on the ground and went to Garsila.¹⁸²⁴

567. [REDACTED] HASSABALLAH, IDRIS and ABD-AL-MUN'IM were present at

[0248-R02](#) at 0268-0269, para. 76; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0973: [DAR-OTP-0220-0736-R01](#) at 0743, para. 33. See also P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 76.

¹⁸¹⁶ [REDACTED]; P-0584: [DAR-OTP-0200-1540-R02](#) at 1570, para. 111 (30); P-0617: [DAR-OTP-0202-1496-R02](#) at 1525-1526, para. 84 (16-17); P-0736: [DAR-OTP-0210-0248-R02](#) at 0268-0269, para. 76 (20). While most Prosecution witnesses stated that the process of loading detainees onto vehicles outside the Deleig police station occurred on Friday, 5 March 2004, P-0736 stated that it occurred on Saturday, 6 March 2004.

¹⁸¹⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 57; P-0651: [DAR-OTP-0205-0015-R02](#) at 0029-0030, paras. 49-53.

¹⁸¹⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0061, para. 29, 0067-0068, paras. 55-57, 62, and [DAR-OTP-00000268](#) at 1-2, para. 5, and [REDACTED] ([REDACTED]).

¹⁸¹⁹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 62, 0070, para. 71.

¹⁸²⁰ [REDACTED].

¹⁸²¹ [REDACTED]. See also Annex 22: Approximate locations of execution sites outside Deleig.

¹⁸²² [REDACTED].

¹⁸²³ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 62.

¹⁸²⁴ [REDACTED].

this execution, along with Militia/*Janjaweed* and SAF soldiers.¹⁸²⁵

568. [REDACTED].¹⁸²⁶ ([REDACTED]¹⁸²⁷) [REDACTED].¹⁸²⁸

569. Consistent with the route to the execution site [REDACTED],¹⁸²⁹ [REDACTED] the convoy left Deleig and took the road going to Zalingei, but then left this road and went towards Soja.¹⁸³⁰ When they arrived near the *khors* in the mountainous area near Soja, **ABD-AL-RAHMAN** stopped the convoy and took the detainees out of the vehicle and lined them up. **ABD-AL-RAHMAN** told them to sit down, and tied their hands behind their backs and covered their eyes. There was a very big number of detainees. The detainees were divided into groups. The first group included the three people **ABD-AL-RAHMAN** had taken from the SAF base (*Umdah* Suleiman, *Sheikh* Abdulaziz and Hassan Adam Musa), as well as the three who had been released and went to Deleig where they were re-arrested (*Umdah* Kindiri, *Umdah* Khamis and JENIF). **ABD-AL-RAHMAN** started hitting the group with his axe and his men started shooting them. Some of the detainees were screaming. [REDACTED].¹⁸³¹ [REDACTED]¹⁸³²

570. The totality of the evidence shows that [REDACTED] the six men previously detained at the Garsila SAF base were killed during the Deleig incident is correct, however the specific circumstances in which they were killed differs. As described above, the evidence establishes that JENIF was killed by **ABD-AL-RAHMAN** with his axe at Deleig police station,¹⁸³³ while, as detailed below, the remaining five detainees were killed outside of Deleig, in the same general area [REDACTED], on or about Sunday, 7 March 2004.¹⁸³⁴

571. Subsequently, [REDACTED], that 101 persons had been executed in the mountains of Soja and their bodies left in the *khors*. [REDACTED] explained that these were people from the areas of Arawala and Gaba who had been arrested during the inspection in Deleig. HAMDI was present during the inspection and gave instructions, while MI officers ABD-AL-MUN'IM and MANSUR, who were from Arawala and had travelled to Deleig in HAMDI's convoy, were

¹⁸²⁵ [REDACTED].

¹⁸²⁶ [REDACTED].

¹⁸²⁷ [REDACTED].

¹⁸²⁸ [REDACTED].

¹⁸²⁹ See above para. 565.

¹⁸³⁰ For the location of Soja mountains between Fere and Taringa, see P-0651: [T-34-CT3](#), p. 8, line 20-p. 9, line 24, and [DAR-OTP-0224-0495-R01](#).

¹⁸³¹ [REDACTED].

¹⁸³² [REDACTED].

¹⁸³³ See above paras. 549-557.

¹⁸³⁴ See below paras. 600-609.

also present and assisted to identify who was from those areas. The arrested people were brought to the police gaol and detained there. **ABD-AL-RAHMAN** then picked up a large number of detainees on his vehicle and one belonging to the PDF, and took them to the *khors* near Soja, where they were executed.¹⁸³⁵

572. [REDACTED] that Abikir AL-SAFI, a bodyguard of **ABD-AL-RAHMAN**, executed the orders of **ABD-AL-RAHMAN** and carried out the executions in Deleig.¹⁸³⁶ AL-SAFI's involvement is corroborated by P-0994, who recalled that AL-SAFI, Hussein (**ABD-AL-RAHMAN**'s driver), AL-TARZI, and Abu Zafra were among the Militia/*Janjaweed* who participated in the executions.¹⁸³⁷ As detailed above, AL-SAFI and AL-TARZI also participated in the Mukjar executions.¹⁸³⁸

573. [REDACTED].¹⁸³⁹

574. The evidence of several witnesses regarding a mass grave and the discovery of bodies in the area northwest of Deleig, and efforts to destroy traces of these bodies, [REDACTED].

575. On or about Saturday, 6 March 2004, P-0651 heard that a large number of dead bodies had been found near Fere, north of the road going towards Garsila, and buried in a mass grave. P-0651 later went to that place, which is consistent with the location of the execution site [REDACTED],¹⁸⁴⁰ and saw a big hole, approximately four by four metres, with sand over it. P-0651 saw some bodies partly sticking out of the ground with blood around them, and noticed a smell of dead people in the area.¹⁸⁴¹

576. Several days after on or about 6 March 2004, P-0697 was walking near Fere when he saw, from a distance of about 100 to 150 metres, approximately 13 to 15 dead bodies scattered on the ground in a *chor*. They were wearing civilian clothing, possibly *jallabiya*, stained with blood.¹⁸⁴²

577. Within days of the executions, P-0718 heard that the bodies of [REDACTED], who had

¹⁸³⁵ [REDACTED].

¹⁸³⁶ [REDACTED].

¹⁸³⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, paras. 62-63, and [DAR-OTP-00000268](#) at 2-3, paras. 13-14.

¹⁸³⁸ See above paras. 448, 485-486, 501.

¹⁸³⁹ [REDACTED].

¹⁸⁴⁰ [REDACTED].

¹⁸⁴¹ P-0651: [DAR-OTP-0205-0015-R02](#) at 0032, para. 60, and [T-34-CT3](#), p. 32, line 12-p. 35, line 4, and [DAR-OTP-0205-0042](#) (Translation [DAR-OTP-0219-1687](#)). P-0651 also heard that dead bodies were found between Taringa and Soja.

¹⁸⁴² P-0697: [DAR-OTP-0209-0155-R03](#) at 0169-0170, paras. 60-61, and [DAR-OTP-00000490](#) at 2, paras. 10-11, and [T-101-CT](#), p. 21, line 15-p. 22, line 2.

been arrested on or about Friday, 5 March 2004, had been found near Fere with bullet wounds in the backs of their heads. One was only about 12 years old. Their bodies were brought back to Deleig [REDACTED].¹⁸⁴³ In the days following the executions, P-0736, P-0850, P-0712 and P-0671 also heard that dead bodies had been found near Fere.¹⁸⁴⁴

578. [REDACTED] **ABD-AL-RAHMAN** to bury the bodies that had been left near Soja, and that **ABD-AL-RAHMAN** and his forces did so. Further orders then came to move the bodies to a different place in order to conceal evidence of the execution because an international organisation had heard about what had happened in Deleig and had visited the location.¹⁸⁴⁵ [REDACTED].¹⁸⁴⁶

579. [REDACTED], P-0712 stated that, a few days after the executions, an international organisation came to Deleig searching for the execution sites. Villagers in Deleig told P-0712 that ABD-AL-HAKAM had threatened them not to help any such organisation. Later in March 2004, P-0712 heard that ABD-AL-HAKAM had ordered the Militia/*Janjaweed* to exhume the bodies and destroy any trace of the executions to prevent international or humanitarian organisations from obtaining evidence concerning the executions.¹⁸⁴⁷ P-0116, [REDACTED], similarly stated that ABD-AL-HAKAM had ordered the destruction of mass graves in Wadi Salih, and that graves were exhumed and many bodies burnt.¹⁸⁴⁸ P-0671 also heard rumours that international organisations could not find the burial site and that the GoS had moved the bodies,¹⁸⁴⁹ while P-0955 stated that he heard that when a woman who found bodies near Fere returned, she found they had been burnt.¹⁸⁵⁰

Execution sites in the area of Koska mountain, to the south of Deleig

580. [REDACTED] a vehicle with approximately 26 detainees, along with six guards and a driver. They drove south of Deleig across the *wadi* to a *khor* near Koska mountain, on the

¹⁸⁴³ P-0718: [DAR-OTP-0209-2004-R02](#) at 2017, paras. 89-90, and [DAR-OTP-0220-4792](#) at 4793, para. 14. *See* Annex 23, no. 28, 39, 102.

¹⁸⁴⁴ P-0736: [DAR-OTP-0210-0248-R02](#) at 0269, para. 79 (west of Wadi Dabaray i.e. the area of Fere); P-0850: [DAR-OTP-0216-0002-R04](#) at 0020, para. 73; P-0712: [DAR-OTP-0209-1884-R04](#) at 1897, para. 50; P-0671: [DAR-OTP-0206-0105-R02](#) at 0119, para. 57.

¹⁸⁴⁵ *See also* [REDACTED]; P-0712: [DAR-OTP-0209-1884-R04](#) at 1898, para. 52; P-0736: [DAR-OTP-0210-0248-R02](#) at 0269-0270, para. 80; [REDACTED]; P-0617: [DAR-OTP-0202-1496-R02](#) at 1528-1529, para. 90; P-0726: [DAR-OTP-0224-0792](#) at 0795, para. 19 (for evidence that a local driver called Adam Wadfori/Wat Furi aka Fouranquay/Furenkwe/Foriykwe saw the bodies and showed the execution site to an NGO).

¹⁸⁴⁶ [REDACTED].

¹⁸⁴⁷ P-0712: [DAR-OTP-0209-1884-R04](#) at 1898, paras. 53-54, and [T-36-ET](#), p. 28, line 24-p. 29, line 20.

¹⁸⁴⁸ P-0116: [DAR-OTP-0127-0318-R01](#) at 0321-0322, para. 10, 0346, para. 140, 0352, para. 176.

¹⁸⁴⁹ P-0671: [DAR-OTP-0206-0105-R02](#) at 0119, para. 58, and [DAR-OTP-00000462](#) at 2, para. 16.

¹⁸⁵⁰ P-0955: [DAR-OTP-0220-0620-R02](#) at 0631-0632, para. 49. *See also* paras. 608 below.

eastern side of an area between two mountains. [REDACTED].¹⁸⁵¹ [REDACTED].¹⁸⁵²

581. The detainees were taken off the vehicle. Some of the guards were in uniform and some in civilian clothes with a sort of head cover. A soldier in uniform asked one of the detainees, *Faqih* Musa, what brought him there, since he was from Garsila. *Faqih* Musa responded that he came to take his mother, who was ill and blind, back to Garsila.¹⁸⁵³ The Militia/*Janjaweed* asked the detainees if they had any money, and [REDACTED] Abdallah Mulenqwe giving some money to them.¹⁸⁵⁴ The guards also asked the detainees whether they were carrying any weapons, and they responded, “We are just poor people. We don’t have any weapons.”¹⁸⁵⁵

582. The detainees were made to lie on their fronts and the guards stood around them, then started shooting them straight to the head from a short distance, only about five steps. Most of the detainees were shot to the head or the shoulder, while two were shot to the abdomen. After shooting at the detainees, the guards lit a cigarette and started smoking. [REDACTED]. The guards were suspicious that someone was still alive and shot at the detainees again. [REDACTED].¹⁸⁵⁶

583. [REDACTED]¹⁸⁵⁷

584. [REDACTED] Adam Ahmed Abakar Musa [REDACTED] had been shot under his chest. [REDACTED] his dead body was found leaning against a tree, separate from the rest of the group, as if he had tried to crawl about 10 steps.¹⁸⁵⁸ [REDACTED] Abdallah Mussa, who was alive but had been shot in the head, [REDACTED].¹⁸⁵⁹

585. [REDACTED] was walking on a road that leads to Andi when he found two groups of dead bodies. There were 13 bodies in the first group but [REDACTED] did not count the number of bodies in the second group. All of the bodies were wearing civilian clothing (white *jallabiya*).¹⁸⁶⁰ Consistent with the evidence of [REDACTED], P-0994 stated that he heard that dead bodies were found in the direction of Andi.¹⁸⁶¹

¹⁸⁵¹ [REDACTED].

¹⁸⁵² [REDACTED].

¹⁸⁵³ [REDACTED].

¹⁸⁵⁴ [REDACTED].

¹⁸⁵⁵ [REDACTED].

¹⁸⁵⁶ [REDACTED].

¹⁸⁵⁷ [REDACTED].

¹⁸⁵⁸ [REDACTED]. See also Annex 23, no. 27.

¹⁸⁵⁹ [REDACTED]. See also Annex 23, no. 10.

¹⁸⁶⁰ [REDACTED].

¹⁸⁶¹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 61.

586. [REDACTED].¹⁸⁶²

587. [REDACTED] He heard cries for help in Fur and walked in their direction. He found bodies lying face down in a long row, possibly more than 40, [REDACTED].¹⁸⁶³ There was a large pool of blood and the bodies had all been shot. Among the bodies, he found Abdallah Mussa, alive but severely injured, [REDACTED].¹⁸⁶⁴

588. After arriving in Deleig, Abdallah Mussa entered a small mosque where [REDACTED] saw that he was in a terrible condition with an apparent gunshot wound to his temple, a hole through his eye socket and three of his fingers missing. He was bleeding heavily. Abdallah told [REDACTED] that everyone who had been taken away from Deleig had been executed. [REDACTED] fled the mosque, but learned the next day that Abdallah had died during the night and had been buried by his family.¹⁸⁶⁵

589. [REDACTED] account of seeing an injured Abdallah Mussa is corroborated by P-0726, P-0643, P-0617 and P-0907. P-0726, [REDACTED], heard from people who had been present at the mosque that Abdallah had arrived with gunshot wounds to his head (a bullet having exited his eye) and shoulder, and that he had died of his injuries. [REDACTED].¹⁸⁶⁶ P-0643 also heard that Abdallah Mussa, [REDACTED], had returned at night and told people at the mosque that the others had been killed, before he died and was buried.¹⁸⁶⁷ P-0617 similarly heard that Abdallah Mussa had arrived in Deleig late in the night, injured and bloody, and had explained that the others with him had been killed.¹⁸⁶⁸

590. [REDACTED] that the detainees had been killed and that if he went to Koska valley, he would find the tracks of a Land Cruiser and the dead bodies.¹⁸⁶⁹ *Sheikh* Nizam attempted to go to the execution site, but on the way he found that people had gathered for the funeral of Abdallah Mussa. [REDACTED].¹⁸⁷⁰

591. [REDACTED].¹⁸⁷¹

¹⁸⁶² [REDACTED].

¹⁸⁶³ *See also* Annex 23, no. 109.

¹⁸⁶⁴ [REDACTED].

¹⁸⁶⁵ [REDACTED].

¹⁸⁶⁶ P-0726: [DAR-OTP-0210-0346-R04](#) at 0366-0367, paras. 73-74, and [DAR-OTP-0224-0792](#) at 0795, paras. 20-22.

¹⁸⁶⁷ P-0643: [REDACTED], and [DAR-OTP-0224-0825](#) at 0825, no. 1.

¹⁸⁶⁸ P-0617: [DAR-OTP-0202-1496-R02](#) at 1526, para. 85.

¹⁸⁶⁹ [REDACTED].

¹⁸⁷⁰ [REDACTED].

¹⁸⁷¹ [REDACTED].

592. News that a detainee had survived an execution near Koska mountain started to spread in Deleig.¹⁸⁷² [REDACTED],¹⁸⁷³ [REDACTED].¹⁸⁷⁴ [REDACTED].¹⁸⁷⁵

593. Also on or about Saturday, 6 March 2004, P-0850 heard that a man [REDACTED] had been found wounded on the outskirts of Deleig and brought into town. P-0850 visited the man, [REDACTED], and saw that his intestines were spilling out and he was in great pain. [REDACTED] said that the previous day he had been taken from the police station with other detainees to a riverbed between Koska and Ordo. Their hands were tied and they were blindfolded before being shot. He said that the other detainees with him, [REDACTED], had all been executed and their families should stop looking for them.¹⁸⁷⁶

594. P-0850's account of visiting injured [REDACTED] is corroborated by P-0725, P-0726 and P-0617. P-0725 heard [REDACTED], that [REDACTED] had been found outside of Deleig with a gunshot wound to his side and his intestines coming out of his body. [REDACTED] about how he and other detainees had been taken in vehicles from the police station, lined up, and shot from behind.¹⁸⁷⁷ P-0726 also heard from [REDACTED] that [REDACTED] had survived the execution.¹⁸⁷⁸ P-0617 also heard that [REDACTED] had been executed, while his [REDACTED] had survived.¹⁸⁷⁹

595. The evidence of P-0129 and P-0617 establishes that a person called [REDACTED] also survived the executions to the south of Deleig. [REDACTED] he had been taken from the police station to a small *wadi* south of Deleig, where he had been shot in his side but survived.¹⁸⁸⁰ P-0617 also heard that [REDACTED] survived the Deleig executions.¹⁸⁸¹

¹⁸⁷² P-0725: [DAR-OTP-0210-0122-R02](#) at 0134, para. 93; P-0607: [DAR-OTP-0203-0164-R02](#) at 0181-0182, para. 62; P-0712: [DAR-OTP-0209-1884-R04](#) at 1896-1897, paras. 42-46; P-0671: [DAR-OTP-0206-0105-R02](#) at 0117, para. 48. See also P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 58, 0071, para. 78. [REDACTED].

¹⁸⁷³ [REDACTED].

¹⁸⁷⁴ P-0725: [DAR-OTP-0210-0122-R02](#) at 0133-0134, paras. 87-91, 93; P-0726: [DAR-OTP-0210-0346-R04](#) at 0366, paras. 70-72, and [DAR-OTP-0224-0792](#) at 0794-0795, para. 18; P-0129: [DAR-OTP-0128-0128-R04](#) at 0152, paras. 88-90. [REDACTED].

¹⁸⁷⁵ P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 48, and [DAR-OTP-0225-0053](#) at 0053, para. 3.

¹⁸⁷⁶ P-0850: [DAR-OTP-0216-0002-R04](#) at 0019-0020, paras. 70-72, and [DAR-OTP-0224-0644](#) at 0645, and [T-44-CT](#), p. 60, lines 11-23 ([REDACTED]). See Annex 23, no. 5, 16, 64, 70, 77, 81, 113.

¹⁸⁷⁷ P-0725: [DAR-OTP-0210-0122-R02](#) at 0133, paras. 83-86, and [Registry Transmission of Rule 68\(2\)\(b\) Declarations AnxVI](#), p. 4 ([REDACTED]).

¹⁸⁷⁸ P-0726: [DAR-OTP-0210-0346-R04](#) at 0366-0367, paras. 70, 75 ([REDACTED]), and [DAR-OTP-0224-0792](#) at 0795, para. 22.

¹⁸⁷⁹ P-0617: [DAR-OTP-0202-1496-R02](#) at 1526, para. 85.

¹⁸⁸⁰ P-0129: [DAR-OTP-0128-0128-R04](#) at 0151-0152, paras. 87-89.

¹⁸⁸¹ P-0617: [DAR-OTP-0202-1496-R02](#) at 1526, para. 85. See also P-0850: [DAR-OTP-0216-0002-R04](#) at 0024, para. 86, and [DAR-OTP-0224-0644](#) at 0645, and [T-44-CT](#), p. 60, lines 11-23 ([REDACTED]).

596. [REDACTED].¹⁸⁸² [REDACTED], and that executions in this area occurred around sunset.¹⁸⁸³ [REDACTED] consistent that there were trees in the area near the execution site,¹⁸⁸⁴ which is corroborated by P-0671 and P-0651.¹⁸⁸⁵ [REDACTED].¹⁸⁸⁶

597. On or about 6 March 2004, P-0651 found 40 to 42 dead bodies lined up next to each other in a *khor* on the western part of Tolda mountain, facing Koska mountain, to the south of Deleig. The bodies were lying face down on the ground, uncovered, with their hands tied behind their backs. They all appeared to have been shot to the back or side of the head, and there were large pools of blood amongst them. Consistent with [REDACTED], tyre tracks led from the dirt road to the bodies.¹⁸⁸⁷

598. Some days later, P-0671 went with other villagers to an area near Tolda mountain, south of Deleig, where he saw 20 to 40 dead bodies lined up next to each other in a *khor*. Most were lying face down and all had suffered gunshot wounds, mostly to their backs and heads. They were wearing civilian clothes, some had their hands tied behind their backs, there was a large amount of dried blood around them, and there was a strong smell in the area. Among the bodies, P-0671 found [REDACTED], who had been arrested by **ABD-AL-RAHMAN** in Deleig on or about 5 March 2004. He helped to bury the bodies, [REDACTED], near the place where they were found.¹⁸⁸⁸

599. The execution locations [REDACTED] are highly consistent with the locations where P-0651 and P-0671 later saw dead bodies, as described below.¹⁸⁸⁹ Further corroboration is provided by P-0955, P-0994, P-0736, P-0712 and P-0718, who each heard in the days following the executions that dead bodies had been found near Koska mountain, south of Deleig.¹⁸⁹⁰

¹⁸⁸² [REDACTED].

¹⁸⁸³ [REDACTED]. See also P-0994: [DAR-OTP-0222-0055-R01](#) at 0067-0068, para. 59; P-0617: [DAR-OTP-0202-1496-R02](#) at 1526-1527, paras. 85-86; P-0651: [DAR-OTP-0205-0015-R02](#) at 0030, para. 54; P-0725: [DAR-OTP-0210-0122-R02](#) at 0132, para. 78. See also [Fifth Agreed Facts](#), no. 26 (on 5 March 2004, astronomical sunset was at 19:37 local time in Garsila).

¹⁸⁸⁴ [REDACTED].

¹⁸⁸⁵ P-0671: [T-98-CT](#), p. 75, lines 18-23, and [DAR-OTP-00000463](#); P-0651: [DAR-OTP-0205-0015-R02](#) at 0031, para. 57.

¹⁸⁸⁶ [REDACTED].

¹⁸⁸⁷ P-0651: [DAR-OTP-0205-0015-R02](#) at 0031, paras. 56-58, and [DAR-OTP-0205-0042](#) (Translation [DAR-OTP-0219-1687](#)), and [T-34-CT3](#), p. 30, line 9-p. 32, line 11; [REDACTED].

¹⁸⁸⁸ P-0671: [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 51-56, and [DAR-OTP-00000463](#), and [T-98-CT](#), p. 74, line 11-p. 76, line 14. [REDACTED].

¹⁸⁸⁹ [REDACTED]; P-0651: [DAR-OTP-0205-0042](#) (Translation [DAR-OTP-0219-1687](#)), and [T-34-CT3](#), p. 30, line 9-p. 32, line 11; P-0671: [T-98-CT](#), p. 74, line 11-p. 76, line 14, and [DAR-OTP-00000463](#).

¹⁸⁹⁰ P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 48, and [DAR-OTP-0220-0644](#) (Translation [DAR-OTP-0220-0800](#)); P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 58; P-0736: [DAR-OTP-0210-0248-R02](#) at 0269, para. 79; P-0712: [DAR-OTP-0209-1884-R04](#) at 1897, para. 49; P-0718: [T-49-CT](#), p. 17, lines 8-10, p. 21, lines 16-22.

Consistent with P-0671, P-0955 stated that family members of the victims went to the site to identify the bodies, and then buried them in a makeshift grave.¹⁸⁹¹

Killings of Fur community leaders and other detainees outside of Deleig on or about 7 March 2004

600. Between about Friday, 5 March and about Sunday, 7 March 2004, *Umdah* Kindiri, *Umdah* Khamis, and Hassan Adam Musa were detained in Deleig, most likely inside the police station.¹⁸⁹² The evidence indicates that *Umdah* Suleiman and *Sheikh* Abdulaziz also remained in detention, however their specific detention location is not confirmed.¹⁸⁹³

Detainees taken out of the Deleig police station

601. On or about Sunday, 7 March 2004, a few hours after sunrise, possibly around 08h00, [REDACTED] five people, including *Umdah* Kindiri, *Umdah* Khamis and Hassan Adam Musa, [REDACTED] being placed on the back of a vehicle parked out the front. This appeared to be the same vehicle [REDACTED] transporting detainees on Friday. [REDACTED] armed Militia/*Janjaweed* get into the back of the vehicle with the detainees, and the vehicle then drove away. About four hours later, [REDACTED] what appeared to be the same vehicle return to the police station, but the detainees were no longer in the back.¹⁸⁹⁴

Detainees last seen alive in a convoy with ABD-AL-RAHMAN in Deleig market

602. At around 07h00, [REDACTED] P-0994 saw a Land Cruiser parked next to a restaurant at the Deleig market with six detainees on the back. **ABD-AL-RAHMAN** and his driver Hussein were there, along with other Militia/*Janjaweed*. The six detainees in the vehicle were *Umdah* Kindiri, *Umdah* Khamis, *Umdah* Suleiman, *Sheikh* Abdulaziz, Hassan Adam Musa and Sherif Mohammedin. P-0994 saw that some of the *Umdahs* were wearing *jallabiya*, while *Umdah* Kindiri was wearing a cotton vest that is usually worn underneath the *jallabiya*.¹⁸⁹⁵

603. P-0994 saw and heard [REDACTED] police member, Salah Ismail, intervene and try to persuade **ABD-AL-RAHMAN** to release Sherif Mohammedin. The police member told

¹⁸⁹¹ P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 48.

¹⁸⁹² P-0973: [DAR-OTP-0220-0736-R01](#) at 0744-0745, paras. 38-42; P-0994: [DAR-OTP-0222-0055-R01](#) at 0064-0066, paras. 45-46, 49, 0072-0073, paras. 80, 84, and [REDACTED]; P-0955: [DAR-OTP-0220-0620-R02](#) at 0631, para. 47; [REDACTED]; P-0725: [DAR-OTP-0210-0122-R02](#) at 0134, paras. 94-95. For the full names, nicknames and positions of these persons, see Annex 23, no. 26, 50, 65, 72, 80.

¹⁸⁹³ See e.g. P-0994: [DAR-OTP-0222-0055-R01](#) at 0072-0073, para. 84.

¹⁸⁹⁴ [REDACTED].

¹⁸⁹⁵ P-0994: [DAR-OTP-0222-0055-R01](#) at 0071-0072, paras. 79-80.

ABD-AL-RAHMAN that Sherif Mohammedin was his uncle, that he was from the Zaghawa tribe, that he was not a rebel and that his son had been killed in Arawala. **ABD-AL-RAHMAN** agreed to release Sherif Mohammedin and instructed him to get off the vehicle, which he did. P-0994 then heard **ABD-AL-RAHMAN** order a member of the Militia/*Janjaweed*, *Umdah* Abdallah SENOUSI, to “take the detainees to catch up with the buses moving towards Nyala”. P-0994 deduced that this could be a type of passcode. *Umdah* Abdallah SENOUSI got inside the vehicle with other members of the Militia/*Janjaweed*, and it drove off in the direction northwest of the market. [REDACTED], P-0994 saw **ABD-AL-RAHMAN** still standing with some of his subordinates.¹⁸⁹⁶ [REDACTED].¹⁸⁹⁷

604. At around 08h00 or 09h00, P-0907 was on a bus in Deleig on his way to Nyala when he saw the same Land Cruiser vehicle [REDACTED]. On the back of the vehicle, P-0907 saw a group of seven or eight people, including *Umdah* Kindiri [REDACTED]. P-0907 saw the vehicle come from the south and go towards the west.¹⁸⁹⁸

605. [REDACTED] was in the market when he saw **ABD-AL-RAHMAN** in a vehicle going in the same direction as an open-backed military vehicle carrying on its back a group of people dressed in white *jallabiyas* and turbans of an expensive type normally worn by notable people. [REDACTED] that they were *umdahs* who had been detained: *Umdah* Jiddo, *Umdah* Kindiri, *Umdah* Suleiman, the *umdah* of Tanako, *Sheikh* Dikobi of the Western Neighbourhood of Garsila, and a fifth person [REDACTED].¹⁸⁹⁹

606. P-0725 was also in Deleig market when he saw *Umdah* Kindiri, *Umdah* Khamis ([REDACTED]) and a third man on the back of a Land Cruiser being driven towards Zalingei.¹⁹⁰⁰ P-0617 was also told by members of his family that, one or two days after the killing of the males detained at the police station, they had seen a vehicle containing *Umdah* Kindiri, *Umdah* Khamis and three other men stopped in Deleig market.¹⁹⁰¹

607. The evidence of P-0651, P-0850 and P-0718 corroborates that **ABD-AL-RAHMAN** was present in Deleig market on or about Sunday, 7 March 2004. P-0651 and P-0850 each saw

¹⁸⁹⁶ P-0994: [DAR-OTP-0222-0055-R01](#) at 0072, paras. 81-83, and [DAR-OTP-00000268](#) at 3, paras. 16-17.

¹⁸⁹⁷ [REDACTED].

¹⁸⁹⁸ P-0907: [REDACTED] (Land Cruiser vehicle), p. 59, line 17-p. 60, line 25, and [T-96-CT](#), p. 28, lines 8-15.

¹⁸⁹⁹ [REDACTED].

¹⁹⁰⁰ P-0725: [DAR-OTP-0210-0122-R02](#) at 0134, paras. 94-95, and [DAR-OTP-0210-0139](#) (colour 18).

¹⁹⁰¹ P-0617: [DAR-OTP-0202-1496-R02](#) at 1527-1528, paras. 87-88 (except at para. 87, “KUSHAYB’s”, see [Decision on Prosecution’s sixth, seventh and eighth rule 68\(2\)\(b\) applications](#), para. 20, fn. 49).

ABD-AL-RAHMAN in a Land Cruiser in the market,¹⁹⁰² while P-0718 also saw **ABD-AL-RAHMAN** in the market with a four by four vehicle.¹⁹⁰³

News that the group of detainees was killed and their bodies found near Fere

608. Later on or about Sunday, 7 March 2004, [REDACTED] learnt that the body of [REDACTED], *Umdah* Kindiri, had been found that day near Fere, along with the bodies of *Umdah* Khamis, *Umdah* Suleiman, *Sheikh* Abdulaziz and Hassan Adam Musa. Most of the bodies were wearing white *jallabiyas*.¹⁹⁰⁴ Within days, news spread among the local population, including [REDACTED] P-0994, that this group had been killed and their bodies found in a location near Fere, in the direction of Zalingei.¹⁹⁰⁵ P-0643, [REDACTED], heard about their deaths about one week or 10 days later [REDACTED].¹⁹⁰⁶

609. [REDACTED],¹⁹⁰⁷ there is no evidence that these detainees ever reached the MI Office in Zalingei. To the contrary, as detailed above, [REDACTED] that these five detainees were killed outside of Deleig.¹⁹⁰⁸ [REDACTED] that the convoy carrying detainees had not gone to Zalingei but to Deleig, and that the detainees had been killed there.¹⁹⁰⁹ There is no evidence that these detainees were seen alive again after on or about Sunday, 7 March 2004.¹⁹¹⁰ Furthermore, the killing of this group in Deleig is consistent with the overarching GoS strategy to assassinate community leaders considered to be rebel sympathisers.¹⁹¹¹ Based on the above, the only reasonable inference is that these five detainees were killed on or about Sunday, 7

¹⁹⁰² P-0651: [DAR-OTP-0205-0015-R02](#) at 0022-0023, paras. 25-27, 0028, para. 45 (Land Cruiser vehicle), 0033, para. 63, and [T-34-CT3](#), p. 72, line 5-p. 75, line 20; P-0850: [DAR-OTP-0216-0002-R04](#) at 0006-0007, paras. 18-20, 0021-0022, paras. 75-78, and [DAR-OTP-0216-0027-R01](#), and [DAR-OTP-0224-0642](#) at 0642, paras. 2-3, 9, and [T-44-CT](#), p. 77, line 19-p. 81, line 24, p. 91, line 15-p. 95, line 18. See Annex 26, p. 6-8.

¹⁹⁰³ P-0718: [DAR-OTP-0209-2004-R02](#) at 2015-2017, paras. 76-85, and [DAR-OTP-0209-2023](#), and [DAR-OTP-0220-4792](#) at 4792-4793, paras. 11-13, and [T-49-CT](#), p. 25, line 7-p. 26, line 18, p. 75, line 8-p. 79, line 5. See Annex 26, p. 8.

¹⁹⁰⁴ [REDACTED].

¹⁹⁰⁵ P-0994: [DAR-OTP-0222-0055-R01](#) at 0072, paras. 80, 83; P-0651: [DAR-OTP-0205-0015-R02](#) at 0033, para. 64; P-0725: [DAR-OTP-0210-0122-R02](#) at 0134, paras. 95-96; P-0712: [DAR-OTP-0209-1884-R04](#) at 1897, para. 47; P-0617: [DAR-OTP-0202-1496-R02](#) at 1528-1529, paras. 89-90; P-0671: [DAR-OTP-0206-0105-R02](#) at 0117, para. 50, and [DAR-OTP-00000462](#) at 1-2, para. 13; P-0973: [DAR-OTP-0220-0736-R01](#) at 0745, paras. 41-42; P-0850: [DAR-OTP-0216-0002-R04](#) at 0020, para. 73; P-0726: [DAR-OTP-0210-0346-R04](#) at 0365, para. 69, and [DAR-OTP-0224-0792](#) at 0793, para. 11, 0795, para. 19; P-0607: [DAR-OTP-0203-0164-R02](#) at 0182, para. 63; P-0584: [DAR-OTP-0200-1540-R02](#) at 1573, para. 126.

¹⁹⁰⁶ [REDACTED].

¹⁹⁰⁷ See above para. 528.

¹⁹⁰⁸ See above paras. 568-570.

¹⁹⁰⁹ [REDACTED].

¹⁹¹⁰ P-0955: [DAR-OTP-0220-0620-R02](#) at 0630, para. 43, and [REDACTED]; P-0907: [T-94-CT](#), p. 60, lines 19-25; P-0994: [DAR-OTP-0222-0055-R01](#) at 0072, para. 83; P-0973: [DAR-OTP-0220-0736-R01](#) at 0745, para. 42; P-0725: [DAR-OTP-0210-0122-R02](#) at 0134, para. 96.

¹⁹¹¹ See above para. 102.

March 2004.¹⁹¹²

[REDACTED] reports concerning the Deleig incident

610. [REDACTED].¹⁹¹³

611. [REDACTED].¹⁹¹⁴

612. [REDACTED].¹⁹¹⁵

613. [REDACTED] [REDACTED] ([REDACTED]¹⁹¹⁶), [REDACTED].¹⁹¹⁷
[REDACTED].¹⁹¹⁸

614. [REDACTED],¹⁹¹⁹ [REDACTED].¹⁹²⁰ [REDACTED].¹⁹²¹

ABD-AL-RAHMAN's interview with GoS Public Prosecution in 2006

615. When questioned by the GoS Public Prosecution in November 2006, **ABD-AL-RAHMAN** stated that after they got close to the camp of Abd-Al-Wahid Muhammad NUR (leader of the SLA/M¹⁹²²) in Sindu, NUR and the rebels went to Deleig with their weapons. Instructions were received from “Brigadier Ahmad ‘ABBAS” and Major General FA’IZ to surround and search Deleig, and to capture NUR. The search was led by HAMDI and First Lieutenant Sayf of Zalingei (Seif-Al-Din BAKHIT¹⁹²³). They searched the area but did not find NUR, though some weapons were seized and transferred to Garsila. A second search was carried out based on the same instructions and under the same command; weapons were seized and confiscated. **ABD-AL-RAHMAN** stated that, “In this search, nobody was arrested, but we did take some weapons”. He also stated: “We did not select 100 people in the area”.¹⁹²⁴

616. In relation to *Umdah* Khamis, **ABD-AL-RAHMAN** stated that he had known him for

¹⁹¹² See e.g. [Popović et al. TJ](#), paras. 570-577; [Popović et al. AJ](#), paras. 1811-1817.

¹⁹¹³ [REDACTED].

¹⁹¹⁴ [REDACTED].

¹⁹¹⁵ [REDACTED].

¹⁹¹⁶ [REDACTED].

¹⁹¹⁷ [REDACTED].

¹⁹¹⁸ [REDACTED].

¹⁹¹⁹ This may be a mistaken reference to Major General Muhammad Abbas Ahmad AL-SA’AD, head of the PDF in Khartoum, who may have been the third member of the high-ranking delegation visiting the Garsila SAF base, *see above* para. 524.

¹⁹²⁰ [REDACTED].

¹⁹²¹ [REDACTED].

¹⁹²² *See above* para. 84.

¹⁹²³ *See above* paras. 522-529.

¹⁹²⁴ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7014) (FA’IZ is spelled “Fayiz”). *See also* paras. 32-41 *above*.

a long time and that he never saw *Umdah* Khamis at any battle. He stated that *Umdah* Khamis was a Fur *umdah*, that “[t]hey are the ones leading the rebellion”, and that he did not know where he was presently. **ABD-AL-RAHMAN** stated, “I have never detained any Fur *umdah*. I do not have a [prison]. I just take all my orders from the commanders, who are the commanders for the mobile force”. He further stated, “As for prisoners, they were the commander’s responsibility. The commander is always the one who gives orders, and we obey him. We do not act of our own accord. The truth is that no prisoners were ever held.”¹⁹²⁵

At least 137 Fur males were killed between about 5 and about 7 March 2004

617. At least 137 Fur males were killed between about 5 and about 7 March 2004 during the Deleig incident. The Prosecution has established the identities of 137 of these persons, and Annex 23 to this FB lists the evidence proving their deaths. The totality of the evidence, assessed in the overall context, demonstrates that the total number of persons killed during the Deleig incident was at least 137.

618. This evidence includes: the number of detainees loaded onto each vehicle, or in total, and the number of trips made by the vehicles;¹⁹²⁶ the finding of dead bodies and a mass grave near Fere,¹⁹²⁷ and the finding of dead bodies near Koska mountain¹⁹²⁸ and on the road to Andi;¹⁹²⁹ the [REDACTED] reporting that at least 101 detainees were killed;¹⁹³⁰ the list of 116 persons killed during the Deleig incident provided by P-1018;¹⁹³¹ lists compiled or collected by several organisations containing the names of between 122 and 131 persons killed in Deleig/Wadi Salih between 5 and 7 March 2004;¹⁹³² the conclusion of the UNCOI that over

¹⁹²⁵ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7014-7015).

¹⁹²⁶ See above paras. 563-564.

¹⁹²⁷ P-0697: [DAR-OTP-0209-0155-R03](#) at 0169-0170, paras. 60-61, and [DAR-OTP-00000490](#) at 2, paras. 10-11, and [T-101-CT](#), p. 21, line 15-p. 22, line 2 (approx. 13-15 bodies); P-0651: [DAR-OTP-0205-0015-R02](#) at 0032, para. 60, and [T-34-CT3](#), p. 32, line 12-p. 35, line 4, and [DAR-OTP-0205-0042](#) (Translation [DAR-OTP-0219-1687](#)) (big hole approx. 4x4m).

¹⁹²⁸ P-0651: [DAR-OTP-0205-0015-R02](#) at 0031, paras. 56-58, and [DAR-OTP-0205-0042](#) (Translation [DAR-OTP-0219-1687](#)), and [T-34-CT3](#), p. 30, line 9-p. 32, line 11 (40-42 dead bodies); P-0671: [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 51-56, and [DAR-OTP-00000463](#), and [T-98-CT](#), p. 74, line 11-p. 76, line 14 (20-40 dead bodies).

¹⁹²⁹ [REDACTED].

¹⁹³⁰ [REDACTED].

¹⁹³¹ P-1018: [DAR-OTP-0219-9002](#) (Translation [DAR-OTP-0220-3041](#)); [DAR-OTP-0219-9003](#) (Translation [DAR-OTP-0220-3043](#)); [DAR-OTP-0219-9004](#) (Translation [DAR-OTP-0220-3045](#)); [DAR-OTP-0219-9005](#) (Translation [DAR-OTP-0220-3047](#)).

¹⁹³² AI: [DAR-OTP-0002-0201](#) at 0201-0202 (131, including two persons killed outside of Mukjar); SACHR (received from SOAT): [DAR-OTP-0053-0068](#) (Translation [DAR-OTP-0153-0211](#) at 0212-0218) (122); DPDO: [DAR-OTP-0060-0222](#) (Translation [DAR-OTP-0153-0917](#) at 0918-0927) (123); FIDH: [DAR-OTP-0090-0377](#) at 0384-0385 (127); HRW: [DAR-OTP-0003-0099](#) at 0122-0124, 0172-0175 (126). While some lists contain additional names, and the transliteration of some names from Arabic into English varies, the lists are generally

120 men were killed during the Deleig incident;¹⁹³³ and approximations given by multiple other Prosecution witnesses of the total number of persons killed during the Deleig incident, ranging from 116 to more than 150.¹⁹³⁴

619. As detailed above, all of the persons killed, or attempted to be killed between about 5 and about 7 March 2004, were either persons *hors de combat* or were civilians taking no active part in the hostilities, and at all material times were in the power of the perpetrators of the killings.¹⁹³⁵ Based on the facts set out in paragraphs 532 to 544 and 548 to 616, the only reasonable inference is that **ABD-AL-RAHMAN** and the physical perpetrators were aware of the factual circumstances that established the victims' status.

Survivors

620. As detailed above, on or about 5 March 2004, four detained Fur males survived, despite the intention of the perpetrators to kill them. [REDACTED].¹⁹³⁶ The perpetrators attempted to murder these four males by taking action that commenced the execution of the crime by means of a substantial step, but the crime did not occur because of circumstances independent of their intentions.

Count 31: Persecution (CAH)

621. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 238 to 245 relating specifically to the events in Deleig. The facts described above under Counts 22 to 23 (torture), Count 24 (other inhumane acts), Count 25 (cruel treatment), Count 26 (outrages upon personal dignity), Counts 27 to 28 (murder), and Counts 29 to 30 (attempted murder) constitute the underlying conduct of the crime against humanity of persecution.

3) ABD-AL-RAHMAN's individual criminal responsibility

622. **ABD-AL-RAHMAN** is criminally responsible for the charged crimes under article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or

similar in relation to both content and sequence of names. Two of the names relate to persons killed outside of Mukjar: *Umdah* Yahya Ahmad Zarruq and Muhammad Umar Ahmad Zarruq. See Annex 17, no. 134 (*Umdah* Muhammad Umar Ahmad Zarruq), 158 (*Umdah* Yahya Ahmad Zarruq).

¹⁹³³ [DAR-OTP-0209-0593](#) at 0667, para. 275.

¹⁹³⁴ P-0119: [DAR-OTP-0124-0196-R03](#) at 0214-0215, para. 116 (135); P-0617: [DAR-OTP-0202-1496-R02](#) at 1526, para. 85 (116); P-0129: [DAR-OTP-0128-0128-R04](#) at 0151, para. 86 (128); [REDACTED].

¹⁹³⁵ See above paras. 544, 547.

¹⁹³⁶ See above paras. 580-587, 590-596.

inducing). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f). This section should be read in conjunction with Section E (Common elements of modes of individual criminal responsibility).

Co-perpetration under article 25(3)(a) of the Rome Statute

i) *ABD-AL-RAHMAN was part of a common plan or an agreement with one or more persons*

623. **ABD-AL-RAHMAN** committed the crimes charged in Counts 22 to 31 of the confirmed charges in concert with others through his participation in, and essential contribution to, a common plan.

624. At least between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Deleig, including those displaced to Deleig from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder, and persecution (“Deleig Common Plan”). The Deleig Common Plan came into existence, at the latest, on or about 5 March 2004.

625. Other persons sharing the Deleig Common Plan included MI officers HAMDI, MANSUR and ABD-AL-MUN’IM, PDF officer HASSABALLAH, SAF officer IDRIS, and other members of the Militia/*Janjaweed* and GoS Forces. Pursuant to the Deleig Common Plan, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** and his co-perpetrators engaged in conduct which led to the commission of the charged crimes.

626. As detailed above, HAMDI, ABD-AL-MUN’IM, MANSUR, HASSABALLAH and IDRIS deployed with **ABD-AL-RAHMAN** from the Garsila SAF base to Deleig.¹⁹³⁷

627. [REDACTED], that HAMDI gave instructions for the inspection to occur in Deleig so that all those who fled from conflict areas would be arrested. HAMDI was present and in charge of the inspection. HAMDI was assisted by MI officers ABD-AL-MUN’IM and MANSUR, who identified people who had fled from the Arawala area, where they had previously been deployed. After the people were arrested and detained at the police station, HAMDI left to

¹⁹³⁷ See above paras. 525-531.

carry out his mission in Kailek.¹⁹³⁸ [REDACTED] evidence is consistent with **ABD-AL-RAHMAN**'s GoS Interview, in which he stated that HAMDI and Seif-Al-Din BAKHIT led the search in Deleig.¹⁹³⁹

628. Evidence from P-0994 corroborates that HAMDI was present in Deleig on or about 5 March 2004. P-0994 saw HAMDI at the local SAF base, north of the police station,¹⁹⁴⁰ and heard that HAMDI was also present at the open area near the police station where the Fur males were detained.¹⁹⁴¹ In addition, P-0907 heard about three or four days after the executions that HAMDI, MANSUR and ABD-AL-MUN'IM had been present in Deleig on that day.¹⁹⁴²

629. [REDACTED] also gave evidence regarding HAMDI's role in Deleig. Approximately six months after the Deleig executions, he spoke to Juma'a Hasan FADHALI, a police member who was stationed in Deleig,¹⁹⁴³ who told him that HAMDI came with **ABD-AL-RAHMAN**, took the key to the police station from him, and were managing the police station. They brought people to the open area and made them lie on their stomachs, then loaded them onto vehicles on the pretext that they were going to be moved elsewhere, but in reality they were executed.¹⁹⁴⁴ [REDACTED] stated that both HAMDI and HASSABALLAH were present during the Deleig operation.¹⁹⁴⁵

630. P-0994 also saw HASSABALLAH, [REDACTED], at the Deleig police station with **ABD-AL-RAHMAN**. He stated that HASSABALLAH generally assisted **ABD-AL-RAHMAN** during the operation and was present from start until finish.¹⁹⁴⁶ P-0643 stated that HASSABALLAH participated in the Deleig operation as leader of the PDF, despite JENIF technically remaining the PDF coordinator until he was killed.¹⁹⁴⁷

¹⁹³⁸ [REDACTED]. See also P-0907: [T-96-CT](#), p. 35, lines 3-11; P-0617: [DAR-OTP-0202-1496-R02](#) at 1533, paras. 102-103; P-0726: [DAR-OTP-0210-0346-R04](#) at 0350, para. 14 (for corroboration that ABD-AL-MUN'IM and/or MANSUR were previously deployed in the Arawala area).

¹⁹³⁹ [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7014). [REDACTED].

¹⁹⁴⁰ P-0994: [DAR-OTP-0222-0055-R01](#) at 0069, para. 66, and [DAR-OTP-00000268](#) at 3, para. 15.

¹⁹⁴¹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0069, para. 66.

¹⁹⁴² P-0907: [T-96-CT](#), p. 35, lines 1-25.

¹⁹⁴³ See [REDACTED]; P-0850: [T-44-CT](#), p. 71, line 22-p. 72, line 12; P-0973: [DAR-OTP-0220-0736-R01](#) at 0744, para. 39, 0747, para. 53; [REDACTED] (for corroboration that policeman Juma'a Hassan FADHALI, who was later killed, was stationed in Deleig and witnessed the events).

¹⁹⁴⁴ [REDACTED].

¹⁹⁴⁵ [REDACTED].

¹⁹⁴⁶ P-0994: [DAR-OTP-0222-0055-R01](#) at 0061, para. 28, 0069-0070, paras. 68, 71, and [DAR-OTP-00000268](#) at 1, para. 4.

¹⁹⁴⁷ [REDACTED].

631. [REDACTED].¹⁹⁴⁸ HAMDI later appointed HASSABALLAH as PDF coordinator.¹⁹⁴⁹ [REDACTED] HASSABALLAH, IDRIS and ABD-AL-MUN'IM were present at the execution site to the northwest of Deleig, near Soja mountains.¹⁹⁵⁰

ii) *ABD-AL-RAHMAN carried out an essential contribution in a coordinated manner with other co-perpetrators that resulted in the fulfilment of the material elements of the crimes*

632. **ABD-AL-RAHMAN** made an essential contribution to the Deleig Common Plan and the charged crimes through the conduct described below. Annex 24 contains a diagram depicting **ABD-AL-RAHMAN**'s contributions.¹⁹⁵¹

633. As detailed in the following section, this conduct includes **ABD-AL-RAHMAN**'s approving presence during the search and arrest operation in Deleig, at the open area near Deleig police station where the Fur males were being detained, during the loading of detainees onto vehicles that transported them to locations outside of Deleig where they were killed or attempted to be killed, and at one or more of the locations outside of Deleig where detainees were transported and then killed. **ABD-AL-RAHMAN**'s conspicuous presence at these places and times contributed to the implementation of the Deleig Common Plan, due to his position of authority and influence,¹⁹⁵² since his failure to intervene or protest criminal acts exhibited his encouragement and tacit approval of the other co-perpetrators' conduct.

a. Ordering the arrest of Fur males in Garsila and transporting them to Deleig where they were detained, and killed in the surrounding areas of Deleig

634. As described above, **ABD-AL-RAHMAN** ordered the arrests of *Sheikh* Abdulaziz and Hassan Adam Musa in Garsila,¹⁹⁵³ and transported them with *Umdah* Suleiman to Deleig¹⁹⁵⁴ where they were detained, and then killed in the surrounding areas of Deleig.¹⁹⁵⁵

¹⁹⁴⁸ [REDACTED].

¹⁹⁴⁹ See above para. 557.

¹⁹⁵⁰ [REDACTED].

¹⁹⁵¹ Annex 24: **ABD-AL-RAHMAN**'s contributions to the Deleig Common Plan.

¹⁹⁵² See below paras. 656-660. See also Section E(1): **ABD-AL-RAHMAN** was in a position of authority and influence.

¹⁹⁵³ See above para. 523.

¹⁹⁵⁴ See above paras. 525-531.

¹⁹⁵⁵ See above paras. 600-609.

b. Being present during, giving orders and participating in the search and arrest operation in Deleig

635. **ABD-AL-RAHMAN** was present during, gave orders and participated in the search and arrest operation at several locations in Deleig. As described above, **ABD-AL-RAHMAN** gave orders and participated in the search for and violent arrest of *Umdah Kindiri*.¹⁹⁵⁶ **ABD-AL-RAHMAN** also brought detainees JENIF and *Sheikh Adam Abakar* to the police station.¹⁹⁵⁷ In addition, **ABD-AL-RAHMAN** ordered that Issa Harun be put onto a vehicle transporting detainees to an execution site, after refusing to release his 13-14 year-old son.¹⁹⁵⁸

636. As P-0697 exited one of the mosques, he saw three or four Land Cruisers with both GoS Forces and Militia/*Janjaweed*. From about 10 metres away, P-0697 saw **ABD-AL-RAHMAN** sitting in one of the Land Cruisers. A man wearing civilian clothing and a turban was standing in the back, pointing out males leaving the mosque, who were then arrested by the Militia/*Janjaweed* and put in the vehicles.¹⁹⁵⁹

637. P-0671 was at his family's shelter in Deleig when three open-back Land Cruisers arrived. Three soldiers exited the first vehicle, entered their shelter and arrested [REDACTED]. P-0671 was watching from the doorstep of the shelter, a short distance away. One of the soldiers walked to the first vehicle and said, "Your honour [Siyadetak] Ali KUSHAYB where do you want us to put these". **ABD-AL-RAHMAN** replied: "Put them in this vehicle". Two soldiers then threw [REDACTED] into the first vehicle, which already contained three or four detainees. The vehicles then drove away and arrested other males nearby. P-0671 saw a total of about 10 males arrested.¹⁹⁶⁰

c. Being present in the open area near Deleig police station where the Fur males were being detained

638. **ABD-AL-RAHMAN** was present at the open area near the police station where the Fur

¹⁹⁵⁶ See above paras. 536-537.

¹⁹⁵⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0065, paras. 47-48, and [DAR-OTP-00000268](#) at 2, para. 9, and [DAR-OTP-0222-0077](#) (Translation [DAR-OTP-0220-1221](#)), and [REDACTED] (Jenif); [REDACTED].

¹⁹⁵⁸ See above para. 562.

¹⁹⁵⁹ P-0697: [DAR-OTP-0209-0155-R03](#) at 0167-0168, paras. 51-55, and [DAR-OTP-0209-0174](#), and [DAR-OTP-00000490](#) at 2, para. 9, and [T-101-CT](#), p. 16, line 24-p. 21, line 14. See Annex 26, p. 7-8.

¹⁹⁶⁰ P-0671: [DAR-OTP-0206-0105-R02](#) at 0111-0114, paras. 25-37, and [DAR-OTP-0206-0130](#) (Translation [DAR-OTP-0219-1693](#)), and [DAR-OTP-00000462](#) at 1, paras. 8-10, and [T-99-CT](#), p. 14, line 2-p. 17, line 5. See Annex 26, p. 7.

males were being detained.¹⁹⁶¹ He was also present inside the police station.¹⁹⁶² [REDACTED] P-0994's evidence that **ABD-AL-RAHMAN**'s bodyguards AL-TARZI and AL-SAFI (who also participated in the Mukjar executions¹⁹⁶³) were present during the Deleig operation corroborates his evidence regarding **ABD-AL-RAHMAN**'s presence.¹⁹⁶⁴

d. Inspecting and questioning detainees, and deciding whether they would be released or not

639. **ABD-AL-RAHMAN** inspected detainees at the open area near the police station. On or about Friday, 5 March 2004, [REDACTED] saw **ABD-AL-RAHMAN** patrolling around the detainees who were lying face down on the ground near the Deleig police station. **ABD-AL-RAHMAN** was talking to the detainees, telling them, "You escaped from Arawala and then you came here. If – even if you fly to the sky I will get you".¹⁹⁶⁵

640. **ABD-AL-RAHMAN** also questioned some detainees. As detailed above, **ABD-AL-RAHMAN** questioned detainee [REDACTED], and also questioned *Sheikh* Motor about what position he held.¹⁹⁶⁶

641. **ABD-AL-RAHMAN** also decided whether detainees would be released or not. As detailed above, on or about Friday, 5 March 2004, **ABD-AL-RAHMAN** refused to release the 13-14 year-old son of Issa Harun from a vehicle transporting detainees to an execution site.¹⁹⁶⁷ In addition, on or about Sunday, 7 March 2004, **ABD-AL-RAHMAN** decided to release detainee Sherif Mohammedin from the convoy containing the detained *umdahs*.¹⁹⁶⁸

¹⁹⁶¹ [REDACTED], and [DAR-OTP-00000260-R01](#); P-0994: [DAR-OTP-0222-0055-R01](#) at 0065-0068, paras. 47, 51, 56, 59, and [DAR-OTP-00000268](#) at 2, paras. 9, 12; P-0585: [T-100-CT](#), p. 16, line 17-p. 20, line 1, and [DAR-OTP-0201-0072](#) (Translation [DAR-OTP-0219-1674](#)); P-0907: [T-94-CT](#), p. 34, lines 7-23, p. 35, line 14-p. 37, line 12, p. 38, line 14-p. 39, line 22, p. 40, line 14-p. 41, line 24, [REDACTED], and [T-96-CT](#), p. 16, line 13-p. 17, line 17, p. 20, line 25-p. 22, line 24, p. 24, line 7-p. 29, line 3, p. 31, line 21-p. 33, line 1, [REDACTED]; P-0736: [DAR-OTP-0210-0248-R02](#) at 0263, paras. 57-58, and [DAR-OTP-0220-3745](#), and [T-35-CT](#), p. 13, lines 6-21, p. 16, line 14-p. 17, line 12, p. 24, line 18-p. 26, line 20, p. 70, line 7-p. 74, line 4, p. 79, line 16-p. 80, line 9; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 43, and [DAR-OTP-00000462](#) at 1, para. 12; P-0584: [DAR-OTP-0200-1540-R02](#) at 1568-1570, paras. 103-110, and [DAR-OTP-00000419](#) at 3, paras. 28, 31, and [T-92-CT](#), p. 13, line 15-p. 17, line 9. *See also* P-0931: [T-62-CT](#), [REDACTED], p. 48, line 5-p. 49, line 9 (deduced that Ali KUSHAYB was there); P-0651: [DAR-OTP-0205-0015-R02](#) at 0028-0030, paras. 45-48, 53 (recognised Ali KUSHAYB's vehicle, believed it was Ali KUSHAYB). *See* Annex 26, p. 4-5, 6-8, [REDACTED], 18-19.

¹⁹⁶² [REDACTED].

¹⁹⁶³ *See above* paras. 448, 485-486, 501.

¹⁹⁶⁴ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 62, and [DAR-OTP-00000268](#) at 2-3, paras. 13-14 (Abikir Al Safi Adam and Ali Ibrahim Al Douma aka Tarzi).

¹⁹⁶⁵ [REDACTED].

¹⁹⁶⁶ *See above* paras. 552, 558.

¹⁹⁶⁷ *See above* para. 562.

¹⁹⁶⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0072, para. 81. *See above* para. 603.

- e. Killing two Fur males—JENIF and *Sheikh Motor*—by striking them to the head with a stick or axe-like object

642. This conduct is described above at paragraphs 548 to 559.

- f. Mistreating detainees by standing and walking on their backs, hitting them with a stick or axe-like object, kicking them, and verbally abusing them

643. This conduct is described above at paragraph 542.

- g. Ordering, being present during, and supervising the loading of detainees onto vehicles that transported them to locations outside of Deleig where they were killed or attempted to be killed

644. This conduct is described above at paragraphs 560 to 564.

- h. Ordering the Militia/*Janjaweed* and/or GoS Forces to unload and then shoot and kill detained Fur males at one location outside of Deleig

645. This conduct is described above at paragraph 566.

- i. Being present at one of the locations outside of Deleig where detainees were transported and then killed

646. This conduct is described above at paragraphs 565 to 570.

- iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

647. **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events in implementing the Deleig Common Plan. **ABD-AL-RAHMAN** was aware that the Deleig Common Plan involved an element of criminality. He was further aware of his essential role in the Deleig Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

648. **ABD-AL-RAHMAN**'s knowledge and intent is inferred from: (i) his pre-existing relationships with his co-perpetrators HAMDI, HASSABALLAH, MANSUR, ABD-AL-MUN'IM and IDRIS (for example, paragraphs 183 to 186, 188 to 189); (ii) direct perpetration

of the crimes of murder and persecution (paragraphs 548 to 559); orders to perpetrators to commit the crime of murder (paragraph 566); (iii) presence at locations where crimes were being committed, including inside and outside the Deleig police station and at one execution site outside of Deleig (paragraphs 542 to 543, 551 to 553, 565 to 570, 638); (iv) participation in arrests, questioning of detainees and deciding whether detainees would be released (paragraphs 635 to 637, 639 to 641); and (v) his presence and involvement in the attack on Kodoom, Bindisi and surrounding areas in August 2003 (with HASSABALLAH),¹⁹⁶⁹ and in the arrests and killings in Mukjar and surrounding areas shortly before the charged crimes in Deleig (with HAMDI, HASSABALLAH and ABD-AL-MUN'IM).¹⁹⁷⁰ The evidence demonstrating **ABD-AL-RAHMAN**'s specific intent with regards to the crime against humanity of persecution is detailed above at paragraphs 209 to 250, in particular, paragraphs 238 to 245.

649. More specifically, in relation to the killing of the group of detainees that included several Fur community leaders, on or about 7 March 2004, **ABD-AL-RAHMAN**'s knowledge and intent is inferred from a combination of factors, including that **ABD-AL-RAHMAN**: (i) tried to arrest *Umdah* Suleiman during the Tanako operation, [REDACTED] (paragraph 522); (ii) ordered the arrests of *Sheikh* Abdulaziz and Hassan Adam Musa in Garsila, for whom he had an additional personal motive to kill (paragraph 523); (iii) took *Sheikh* Abdulaziz, *Umdah* Suleiman Abdulshafa and Hassan Adam Musa from detention in the Garsila SAF base and transported them to Deleig on the first day of the Deleig operation, during which more than 100 Fur males were arrested, detained and killed (paragraphs 525 to 531); (iv) was present and participated in the arrest and mistreatment of *Umdah* Kindiri in Deleig, who he later told, "This is your last day on Earth, get ready for the doomsday" (paragraphs 536 to 537, 543); (v) brought JENIF to the Deleig police station, where he questioned him and struck him with his axe, killing or seriously injuring him (paragraphs 549 to 557); (vi) struck another Fur community leader, *Sheikh* Motor, with his axe in Deleig, killing or seriously injuring him (paragraphs 558 to 559); (vii) on or about 7 March 2004, was present in Deleig in the convoy that contained the vehicle carrying the detainees, which, on his order, drove out of Deleig, after which the detainees were never seen alive again (paragraphs 602 to 609); (viii) [REDACTED] that the detainees would be taken to the MI Office in Zalingei, and the failure of the detainees to ever arrive there (paragraphs 608 to 609); and (ix) killed several Fur community leaders in Mukjar in late

¹⁹⁶⁹ See Section G: Crimes committed in Kodoom, Bindisi and surrounding areas.

¹⁹⁷⁰ See Section H: Crimes committed in Mukjar and surrounding areas.

February/early March 2004, shortly before the events in Deleig.¹⁹⁷¹

Direct perpetration under article 25(3)(a) of the Rome Statute

650. As described at paragraphs 548 to 559 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of murder as a crime against humanity and a war crime (Counts 27 to 28) by striking two Fur male detainees—*Sheikh* Adam Adam Abd-Al-Rahman (known as Motor) and Adam Abd-Al-Rahman (the PDF coordinator in Garsila known as JENIF)—to the head with an axe, killing them or causing their death.

651. If the Chamber considers that the evidence does not establish that each of these two persons died as a consequence of **ABD-AL-RAHMAN**'s conduct in striking them to the head with a stick or axe-like object, then **ABD-AL-RAHMAN** would nonetheless be responsible for their murders as a direct co-perpetrator or for ordering or inducing their murders. In that case, **ABD-AL-RAHMAN** would also be responsible, as a direct perpetrator, for the crimes of torture as a crime against humanity and a war crime (Counts 22 to 23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), and/or outrages upon personal dignity as a war crime (Count 26) for his conduct in relation to these two victims.

652. As described at paragraphs 536, 542, and 548 to 559 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 22 to 23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), and outrages upon personal dignity as a war crime (Count 26) by standing or walking on the backs of detainees—who had been made to lie face down on the ground in the hot sun, some with their hands tied behind their backs, for prolonged periods of time without access to food, water and sanitary facilities—hitting them with a stick or axe-like object, kicking them, and verbally abusing them. Through this conduct, **ABD-AL-RAHMAN** also directly perpetrated the crime against humanity of persecution (Count 31).

653. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events as a result of his conduct. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the

¹⁹⁷¹ See Section H: Crimes committed in Mukjar and surrounding areas.

facts and circumstances relating to this conduct, within the overall context.

654. With respect to the crime of persecution, **ABD-AL-RAHMAN** intentionally targeted the victims on political, ethnic and gender grounds, that is, by reason of their identity as Fur males who **ABD-AL-RAHMAN** perceived as belonging to, or being associated with, or supporting the rebel armed groups. The evidence establishing **ABD-AL-RAHMAN**'s discriminatory intent is detailed above at paragraphs 209 to 250, in particular, paragraphs 238 to 245.

Ordering under article 25(3)(b) of the Rome Statute

655. As detailed above at paragraphs 565 to 570, on or about 5 March 2004, in an area to the northwest of Deleig, near Soja mountain, **ABD-AL-RAHMAN** ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill detained Fur males. One or more of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a CAH and a WC (Counts 27 to 28) and persecution as a CAH (Count 31).

656. **ABD-AL-RAHMAN** gave this order from a position of authority. As detailed in Section E (Common elements of modes of individual criminal responsibility), between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN**, as a senior Militia/*Janjaweed* leader, had a position of authority and influence.¹⁹⁷² During the events in Deleig, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** had the authority to compel members of the Militia/*Janjaweed* and GoS Forces to commit crimes pursuant to his orders, notwithstanding that in some instances the superior-subordinate relationship may have been informal or temporary in nature. The evidence demonstrating **ABD-AL-RAHMAN**'s authority during the Deleig operation is summarised in the following paragraphs.

657. While both Militia/*Janjaweed* and GoS Forces participated,¹⁹⁷³ [REDACTED] stated that the Deleig operation was not under the direct command and supervision of the SAF. He explained that while the decision to carry out an operation in a village or area was made by the SAF, the operation was carried out by the Militia/*Janjaweed* under the command of **ABD-AL-RAHMAN**.¹⁹⁷⁴

658. **ABD-AL-RAHMAN** also transported in this convoy detainees *Umdah* Suleiman,

¹⁹⁷² See above Section E(1): **ABD-AL-RAHMAN**'s position of authority and influence.

¹⁹⁷³ See above para. 534.

¹⁹⁷⁴ [REDACTED].

Sheikh Abdulaziz and Hassan Adam Musa, [REDACTED].¹⁹⁷⁵

659. When **ABD-AL-RAHMAN** gave orders to Militia/*Janjaweed* and/or GoS Forces during the Deleig operation—for example, [REDACTED],¹⁹⁷⁶ to tie up *Umdah* Kindiri and take him to a vehicle,¹⁹⁷⁷ to put [REDACTED] into a vehicle,¹⁹⁷⁸ to beat detainees,¹⁹⁷⁹ to bring JENIF out from the police cell,¹⁹⁸⁰ [REDACTED],¹⁹⁸¹ to throw *Sheikh* Motor’s body onto a vehicle,¹⁹⁸² to load detainees onto vehicles to transport to execution sites,¹⁹⁸³ to put Issa Harun onto a loaded vehicle with his son,¹⁹⁸⁴ to drive detainees outside of Deleig to execution sites,¹⁹⁸⁵ to stop at a location, unload and then shoot and kill detainees,¹⁹⁸⁶ and to release Sherif Mohammedin¹⁹⁸⁷—his orders were immediately complied with.

660. Multiple witnesses observed that **ABD-AL-RAHMAN** was in charge during the operation, including [REDACTED] P-0994.¹⁹⁸⁸ Several other indicators signalled **ABD-AL-RAHMAN**’s status as a senior leader during the Deleig operation. **ABD-AL-RAHMAN** stopped two vehicles belonging to an NGO for at least two hours on the first day of the Deleig operation.¹⁹⁸⁹ **ABD-AL-RAHMAN** ordered a bus driver stopped near the market not to allow anyone on or off the bus, and to leave Deleig immediately.¹⁹⁹⁰ The Militia/*Janjaweed* and GoS Forces came to attention and saluted him when he arrived at a location, addressing him as “*Jenabu* Ali” (meaning “commander Ali”).¹⁹⁹¹ In addition, as corroborated by evidence not

¹⁹⁷⁵ [REDACTED].

¹⁹⁷⁶ [REDACTED].

¹⁹⁷⁷ [REDACTED].

¹⁹⁷⁸ P-0671: [DAR-OTP-0206-0105-R02](#) at 0113, paras. 32-33, and [DAR-OTP-00000462](#) at 1, paras. 9-10.

¹⁹⁷⁹ P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 44; P-0994: [DAR-OTP-0222-0055-R01](#) at 0066, para. 51.

¹⁹⁸⁰ [REDACTED].

¹⁹⁸¹ [REDACTED].

¹⁹⁸² P-0907: [T-94-CT](#), p. 39, lines 17-22, and [T-96-CT](#), p. 21, line 25-p. 22, line 2.

¹⁹⁸³ [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0066-0067, paras. 51, 56, and [DAR-OTP-00000268](#) at 2, para. 12; P-0907: [T-94-CT](#), p. 37, lines 2-4, p. 40, line 7-p. 41, line 4, and [T-96-CT](#), p. 36, lines 10-18, p. 47, lines 3-9; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569-1570, paras. 108-110, and [DAR-OTP-00000419](#) at 3, para. 21, and [T-92-CT](#), p. 16, line 20-p. 17, line 9.

¹⁹⁸⁴ P-0907: [REDACTED], and [T-95-CT](#), p. 8, line 22-p. 9, line 15.

¹⁹⁸⁵ [REDACTED]; P-0994: [DAR-OTP-0222-0055-R01](#) at 0067, para. 58, 0072, para. 82, and [DAR-OTP-00000268](#) at 3, paras. 16-17.

¹⁹⁸⁶ [REDACTED].

¹⁹⁸⁷ P-0994: [DAR-OTP-0222-0055-R01](#) at 0072, para. 81.

¹⁹⁸⁸ P-0994: [DAR-OTP-0222-0055-R01](#) at 0061, para. 28, 0066-0067, paras. 51, 56, and [DAR-OTP-00000268](#) at 2, para. 12, and [REDACTED]; P-0907: [T-96-CT](#), p. 32, lines 1-20, p. 34, lines 22-25, p. 36, line 10-p. 37, line 9, p. 47, lines 3-9; P-0585: [T-100-CT](#), p. 24, lines 6-24; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 44.

¹⁹⁸⁹ P-0994: [DAR-OTP-0222-0055-R01](#) at 0069, para. 65, and [REDACTED].

¹⁹⁹⁰ P-0585: [T-100-CT](#), p. 16, line 17-p. 20, line 1, and [DAR-OTP-0201-0072](#) (Translation [DAR-OTP-0219-1674](#)).

¹⁹⁹¹ P-0584: [DAR-OTP-0200-1540-R02](#) at 1568, paras. 104-105, and [DAR-OTP-00000419](#) at 3, para. 28, and [T-92-CT](#), p. 13, line 15-p. 15, line 18, [REDACTED].

specific to the Deleig incident,¹⁹⁹² **ABD-AL-RAHMAN** had an escort of protection¹⁹⁹³ (including bodyguard AL-SAFI¹⁹⁹⁴), carried and used a Thuraya satellite phone,¹⁹⁹⁵ and carried an axe and/or stick¹⁹⁹⁶ signifying that he had reached the military rank of *musa'id*.¹⁹⁹⁷

661. **ABD-AL-RAHMAN** meant to engage in the conduct described above and was aware of his position of authority over the physical perpetrators of the crimes. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the facts and circumstances relating to this conduct, within the overall context.

Inducing under article 25(3)(b) of the Rome Statute

662. As detailed above at paragraphs 656 to 660, during the events in Deleig, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** exerted influence over Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes. Through the conduct described above, in particular at paragraphs 632 to 645, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in Counts 22 to 31.

663. **ABD-AL-RAHMAN** meant to engage in the conduct described above. **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 648 to 649.

¹⁹⁹² See above para. 142.

¹⁹⁹³ P-0907: [T-96-CT](#), p. 16, lines 13-17; P-0584: [DAR-OTP-0200-1540-R02](#) at 1568, para. 106.

¹⁹⁹⁴ P-0994: [DAR-OTP-0222-0055-R01](#) at 0068, para. 62, and [DAR-OTP-00000268](#) at 2-3, paras. 13-14.

¹⁹⁹⁵ P-0955: [DAR-OTP-0220-0620-R02](#) at 0628-0629, para. 35; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-44, and [DAR-OTP-00000462](#) at 1, para. 12; P-0584: [DAR-OTP-0200-1540-R02](#) at 1570, para. 110, and [T-92-CT](#), p. 16, lines 4-19; P-0850: [DAR-OTP-0216-0002-R04](#) at 0021-0022, paras. 77-78, and [DAR-OTP-0224-0642](#) at 1, para. 9.

¹⁹⁹⁶ P-0994: [DAR-OTP-0222-0055-R01](#) at 0065, para. 47; P-0955: [DAR-OTP-0220-0620-R02](#) at 0628-0629, paras. 35-36; P-0584: [DAR-OTP-0200-1540-R02](#) at 1569, para. 107, and [REDACTED]; P-0907: [T-94-CT](#), p. 36, line 23-p. 37, line 1, p. 38, lines 23-25; P-0671: [DAR-OTP-0206-0105-R02](#) at 0116, para. 43, and [DAR-OTP-00000462](#) at 1, para. 12; P-0850: [DAR-OTP-0216-0002-R04](#) at 0021, para. 77. See also [REDACTED].

¹⁹⁹⁷ P-0935: [T-90-CT2](#), p. 18, line 20-p. 19, line 7; P-0651: [DAR-OTP-0205-0015-R02](#) at 0022-0023, para. 26, and [T-34-CT3](#), p. 10, line 1-p. 12, line 1.

J. JURISDICTION

664. The Appeals Chamber held that the charged crimes “draw upon norms that were recognised globally, including in Sudan, and were fully ascertainable at the time of the conflict in Darfur”¹⁹⁹⁸ and that the referral of the situation in Darfur to the ICC “encompassed violations of binding international obligations carrying a risk of individual criminal liability”.¹⁹⁹⁹ It also noted that the crimes under the Statute were intended to be generally representative of the state of customary international law when the Statute was drafted. The majority then held that “[t]his weighs heavily in favour of the foreseeability of facing prosecution for crimes within the jurisdiction of this Court, even in relation to conduct occurring in a State not party to the Statute”.²⁰⁰⁰

665. Judge Ibáñez, in a separate opinion, found that the Statute itself was sufficient to “address any possible concern regarding a potential infringement of the principle of *nullum crimen sine lege*”. There was no reason to examine the question under customary international law. Nonetheless, she also recalled that “the prohibition to commit international crimes which violate the core human rights is also a *ius cogens* norm.”²⁰⁰¹

666. While this could have been sufficient to confirm the Court’s exercise of jurisdiction in this case and support the Accused’s criminal responsibility,²⁰⁰² the majority of the Appeals Chamber considered it necessary to analyse the framework of laws applicable to the conflict in Darfur and noted that Sudan had ratified a number of treaties, human rights instruments, and agreements relating to internal armed conflict.²⁰⁰³ Indeed, the evidence confirms that at the relevant time, Sudan was a party to relevant international human rights²⁰⁰⁴ and humanitarian

¹⁹⁹⁸ [Jurisdiction AJ](#), para. 77.

¹⁹⁹⁹ [Jurisdiction AJ](#), para. 79. See [DAR-OTP-0080-0047](#).

²⁰⁰⁰ [Jurisdiction AJ](#), para. 89 (footnote omitted).

²⁰⁰¹ [Jurisdiction AJ](#), para. 95 (footnote omitted), where Judge Ibáñez further opined that “[t]he content of the Statute, including in particular the crimes under its jurisdiction and the applicable penalties, has been public since its adoption”, and, considering that Sudan participated in the diplomatic negotiations that led to its adoption and signed the Rome Statute, “the law was public and known for Sudan and the accused”.

²⁰⁰² ECtHR, [Kononov Judgment](#), para. 237; ECtHR, [Šimšić Decision](#), para. 23; ECtHR [Maktouf & Damjanović Judgment](#), para. 55; ECCC, [Case 002/01 AJ](#), para. 763; ECCC, [Case 001 AJ](#), para. 96. See also [Prosecution’s response to Jurisdictional Appeal](#), paras. 32, 35, 46-50; [Prosecution’s response to Jurisdictional Challenge](#), paras. 2, 8-13, 27-37.

²⁰⁰³ [Jurisdiction AJ](#), para. 78, citing to [DAR-OTP-0209-0593](#) at 0633-0643, paras. 143-171.

²⁰⁰⁴ Charter of the United Nations, International Covenant on Civil and Political Rights, African Charter on Human and People’s Rights, Convention on the Rights of the Child, ILO Convention (No. 111) concerning discrimination in respect of employment and occupation, ILO Convention (No. 100) concerning equal remuneration for men and women workers for work of equal value, Convention on the elimination of all forms of racial discrimination.

law treaties,²⁰⁰⁵ as well as to agreements which created and/or reaffirmed its obligations in internal armed conflicts.²⁰⁰⁶ Moreover, the 1998 Sudanese constitution in effect at the time had a bill of rights,²⁰⁰⁷ and various items of evidence show that international treaties were considered part of Sudan's national legislation at the time²⁰⁰⁸ and even before 1998.²⁰⁰⁹

667. The evidence presented at trial, therefore, not only further confirms the Appeals Chamber majority's conclusions about the legal framework applicable to the conflict in Darfur, but also shows that much of **ABD-AL-RAHMAN**'s conduct was also criminalised under the Sudanese Criminal Code in effect at the time,²⁰¹⁰ which was applicable to the actions of persons

²⁰⁰⁵ See e.g. Geneva Conventions I-IV of 1949; Convention for the Protection of Cultural Property in the Event of Armed Conflict; Convention on the Prevention and Punishment of the Crime of Genocide [accession on 13/10/2003]; Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction [accession 7/11/2003]; Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction [ratified 13/10/2003]; Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction. At the time Sudan was also a signatory of, e.g., the Rome Statute and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. See also [DAR-OTP-0097-0038](#) at 0040; [DAR-OTP-0107-0638](#) (Translation [DAR-OTP-0153-0959](#) at 0967-0969).

²⁰⁰⁶ [DAR-OTP-00005576](#); [DAR-OTP-0171-0579](#) (see especially the Protocol at 0583).

²⁰⁰⁷ D-16: [REDACTED]; 1998 Constitution: [DAR-OTP-0139-0003](#) at 0005-0006.

²⁰⁰⁸ [DAR-OTP-00005133](#) at 16; [DAR-OTP-00006618](#) at 10, para. 48(a) and (c); [DAR-OTP-0097-0038](#) at 0040. *Contra* [Defence Trial Brief](#), para. 8.

²⁰⁰⁹ [DAR-OTP-00007037](#), article 7; [DAR-OTP-00006615](#) at 20, para. 61; [DAR-OTP-00006616](#) at 12, para. 68. No weight can be attributed to D-23's evidence on this issue ([DAR-OTP-00005970](#) at 0040-0042, paras. 78-85) given: i) his demonstrated lack of expertise ([Prosecution's challenge to D-0023's qualifications and report](#). See also [T-134-ET](#), p. 27, line 6-p. 28, line 16, p. 46, line 22-p. 47, line 11, p. 51, line 9-p. 57, line 7, p. 59, lines 1-9, p. 59, line 19-p. 60, line 15, p. 61, lines 15-20, [REDACTED], p. 72, lines 12-21, p. 78, lines 12-19, p. 80, lines 5-17, p. 81, lines 11-17, p. 82, lines 18-20, p. 84, line 19-p. 85, line 9, p. 89, lines 18-22, p. 90, line 19-p. 91, line 5, p. 94, lines 7-15, p. 96, lines 18-24, p. 97, line 16-p. 99, line 7, p. 101, line 23-p. 103, line 1, and [T-135-ET](#), p. 6, line 19-p. 7, line 10, p. 8, lines 11-14, p. 19, line 19-p. 22, line 3, p. 33, line 6-p. 34, line 24, p. 43, lines 13-23, p. 74, line 15-p. 79, line 11, and [T-142-CT](#), p. 70, lines 1-18, p. 80, line 9-p. 81, line 1, p. 82, line 18-p. 84, line 20, and [T-143-ET](#), p. 16, line 24-p. 18, line 5, p. 18, line 14-p. 19, line 4, p. 28, lines 9-22); ii) the egregious lack of proper sourcing ([T-134-ET](#), p. 28, line 18-p. 29, line 15, p. 31, line 7-p. 33, line 6, p. 74, lines 17-24, p. 103, line 4-p. 105, line 1, and [T-135-ET](#), p. 4, line 11-p. 5, line 4, p. 5, line 13-p. 6, line 16, p. 10, lines 14-p. 17, line 25, p. 18, line 6-p. 19, line 18, p. 22, line 4-p. 25, line 21, p. 29, line 8-p. 32, line 18, p. 35, line 4-p. 41, line 2, p. 42, line 17-p. 43, line 4, p. 47, line 21-p. 48, line 12, and [T-142-CT](#), p. 9, line 9-p. 15, line 17, p. 20, line 11-p. 24, line 6, p. 70, line 22-p. 71, line 19, p. 73, line 6-p. 74, line 1, p. 82, line 18-p. 83, line 25, and [T-143-ET](#), p. 6, line 7-p. 8, line 1); and iii) inaccuracy of the report presented to the Court ([T-142-CT](#), p. 15, line 19-p. 20, line 10, p. 22, line 8-p. 30, line 19, p. 44, line 1-p. 46, line 23, p. 47, line 14-p. 48, line 2, p. 54, line 18-p. 55, line 20, p. 57, line 13-p. 58, line 3, p. 58, lines 12-20, p. 65, line 5-p. 69, line 25, p. 70, line 22-p. 72, line 2). Moreover, D-23 confirmed not having focused his studies on the application of the 1998 Sudanese Constitution ([T-135-ET](#), p. 7, line 25-p. 8, line 10, p. 8, lines 20-24, p. 9, lines 9-15, and [T-142-CT](#), p. 16, lines 8-14), and deriving his opinion from a simple reading of a translation of the constitutional text combined with an analogical comparison with his personal and unsupported interpretation of the 2005 one ([T-142-CT](#), p. 54, lines 3-20, and [REDACTED]). His opinion was not based on any further academic texts or jurisprudence ([T-135-ET](#), p. 9, line 23-p. 10, line 13, p. 22, line 4-p. 25, line 21, and [T-136-CT](#), p. 43, lines 11-24, p. 49, line 25-p. 50, line 1, and [T-142-CT](#), p. 9, lines 9-24).

²⁰¹⁰ 1991 Criminal Act, [DAR-D31-0003-0177](#) (Translation [DAR-OTP-0021-0296](#)), see sections 64, 65, 75, 87, 90, 107, 114, 125, 127-132, 136, 138-144, 148-149, 151-152, 160, 164-165, 167-168, 170-171, 174-176, 181-183. See D-16: [REDACTED]. *Contra* [Defence Trial Brief](#), para. 9.

submitted to military justice.²⁰¹¹ Defence expert D-16 also confirmed that in the context of a military force attacking a village, acts such as killing civilians and rape would constitute crimes under the 1991 Criminal Law Act and the 1986 People's Armed Forces Act. He further confirmed that if a commander saw someone under his authority committing rape, he would be required by law to immediately intervene.²⁰¹² D-16 also stated that pursuant to the 1986 People's Armed Forces Act "if a military service member is tried [...] and his conduct is not incriminating as per the Armed Forces Act but is incriminating as per any other panel or criminal law, then that person would be tried on the basis of the penal code or any other criminal law."²⁰¹³

668. The flagrantly unlawful nature of the conduct thus was apparent to **ABD-AL-RAHMAN** even with the most cursory reflection,²⁰¹⁴ based on established and general prohibitions under international and national law.²⁰¹⁵

669. In this regard, the Appeals Chamber, by majority, held that the principle of *nullum crimen sine lege* "generally requires that a court may exercise jurisdiction only over an individual who could have reasonably expected to face prosecution under national or international law", and that courts place particular emphasis on the concepts of "foreseeability" and "accessibility".²⁰¹⁶ The majority further determined that **ABD-AL-RAHMAN** "was reasonably capable of taking steps to comprehend and comply with his obligations under international law, and he was capable of appreciating the attendant penal consequences".²⁰¹⁷ In reaching this conclusion, the majority of the Appeals Chamber referred to four factors, each of which are amply supported, and complemented by, a significant body of evidence, as follows.

670. First, the Appeals Chamber relied on the fact that **ABD-AL-RAHMAN** "spent a considerable part of his career as a non-commissioned officer in the Military". This is not only

²⁰¹¹ 1986 People's Armed Forces Act, [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#)), art. 79. D-16: [REDACTED].

²⁰¹² D-16: [REDACTED].

²⁰¹³ D-16: [REDACTED]. While D-16 referred to "Article 72 or 74 of the Armed Forces Act of 1986", from the context of his testimony, the Prosecution's position is that D-16 intended to refer to article 79. See 1986 People's Armed Forces Act: [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#)), art. 79.

²⁰¹⁴ ECtHR, [Kononov Judgment](#), para. 238; ECtHR, [K.-H. W. Judgment](#), para. 104; ECtHR, [Milanković Judgment](#), para. 64; ECtHR, [Šimšić Decision](#), para. 24; [Milutinović et al. Decision on jurisdiction](#), para. 42.

²⁰¹⁵ [Jurisdiction AJ](#), para. 89; [Milutinović et al. Decision on jurisdiction](#), para. 41; UNGA, [A/RES/3\(I\)](#), [A/RES/2583\(XXIV\)](#), [A/RES/2712\(XXV\)](#), [A/RES/2840\(XXVI\)](#), [A/RES/3074\(XXVIII\)](#). This general prohibition was accessible to **ABD-AL-RAHMAN** even if through competent legal advice (See *Sam Hinga Norman et al. Child Recruitment Jurisdiction Decision*, [Dissenting Opinion of Justice Robertson](#), p. 10, para. 3. ECtHR, [Ould Dah Decision](#), p. 19).

²⁰¹⁶ [Jurisdiction AJ](#), para. 85.

²⁰¹⁷ [Jurisdiction AJ](#), para. 88.

a fact agreed by the Parties, but also confirmed by a number of witnesses.²⁰¹⁸ As set out below, the evidence consistently demonstrates that well before the period of the charged crimes, including during the period that **ABD-AL-RAHMAN** was in the SAF, even at the most junior ranks of the SAF, there was an awareness of the principles of International Humanitarian Law (“IHL”), as well as at least a basic level of training.²⁰¹⁹

671. D-39, [REDACTED] and maintained contact with him subsequently,²⁰²⁰ confirmed that it was only after “six or seven years” in the SAF that **ABD-AL-RAHMAN** “moved to the medical field” of the SAF.²⁰²¹ [REDACTED].²⁰²² [REDACTED].²⁰²³ [REDACTED] when they met, **ABD-AL-RAHMAN** was a medical assistant, which is broadly consistent with **ABD-AL-RAHMAN**’s qualification as a medical assistant in 1984.²⁰²⁴

672. [REDACTED] in 1971, military college students studied military, civil and criminal law and there were also “some lectures about the international law, but in a very concise way” [REDACTED] had “general knowledge that the Geneva Conventions were signed by States and they complied with these conventions.”²⁰²⁵ D-08, who also served in the SAF since the 1970s, confirmed that his “job as a soldier in the military is to protect citizens, and, if I do not, then I would not uphold the principles of being in the military.”²⁰²⁶ As a [REDACTED],²⁰²⁷ even though D-08 had a far more junior rank to **ABD-AL-RAHMAN**,²⁰²⁸ he nevertheless knew that as a soldier, he would be held accountable for crimes committed against civilians by a court and by “God”.²⁰²⁹

673. P-0883, [REDACTED],²⁰³⁰ testified that “[s]ince the command of the armed forces exists in Sudan, the soldiers of the armed forces are trained. [...] They are taught about the

²⁰¹⁸ See above fn. 171.

²⁰¹⁹ *Contra* [Defence Trial Brief](#), para. 10.

²⁰²⁰ D-39: [T-159-ET](#), [REDACTED], p. 32, line 8-p. 33, line 13.

²⁰²¹ D-39: [T-159-ET](#), p. 32, lines 3-12.

²⁰²² [REDACTED]; [Third Agreed Facts AnxA](#), no. 10.

²⁰²³ [REDACTED]. Notably, Joint Expert P-1042 confirmed that war-related deaths in Sudan were at their highest in the conflict in South Sudan during the mid-late 1980s. He also stated that “Sudan was at war in the two decades following 1983 [...]. The Sudanese war’s distinctive pattern of violations against civilians, including killing, torture, rape and enslavement, forcible recruitment and use of child soldiers, forced displacement, pillage, starvation crimes arises from the way in which the belligerent forces were mobilized and deployed” (P-1042: [DAR-OTP-0220-1623](#) at 1653, para. 80).

²⁰²⁴ [Third Agreed Facts AnxA](#), no. 9.

²⁰²⁵ [REDACTED].

²⁰²⁶ D-08: [T-139-CT](#), p. 62, lines 11-14.

²⁰²⁷ [REDACTED].

²⁰²⁸ 1986 People’s Armed Forces Act: [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#)), art. 32.

²⁰²⁹ D-08: [T-139-CT](#), p. 62, lines 8-23.

²⁰³⁰ [REDACTED].

importance of not executing civilians, of not harassing individuals”.²⁰³¹ This is confirmed by the GoS [REDACTED] which states that:

“[REDACTED].”²⁰³²

674. [REDACTED] “part of the basic training of a soldier includes a basic training on IHL in a simplified manner” and that non-commissioned officers would also receive a lecture on the subject.²⁰³³ [REDACTED],²⁰³⁴ [REDACTED]²⁰³⁵ [REDACTED] was aware of a training manual that was issued “in the ‘90s”.²⁰³⁶

675. In this regard, a SAF military manual on the law of armed conflict, dated 2000, refers to the historic importance of IHL in Sudan. In particular, it states “how could Sudan not be one of the first countries to sign [the Geneva Convention] which advocates respect for man and the protection of humanity, when our own true religion advocates the same principles?”²⁰³⁷ It also states “The Geneva and Hague Conventions include much of what God conveyed to us, 14 centuries ago, in His noble Book”, including the IHL principles of distinction and proportionality.²⁰³⁸

676. [REDACTED]²⁰³⁹ [REDACTED]²⁰⁴⁰

677. [REDACTED] in Darfur in 2003 and 2004, a military justice office was present in the commands and military units in Al Fasher, Al Geneina, Nyala, Al-Da’in, Zalingei “and all other areas, all the other military units.” [REDACTED] each military justice office included three human rights legal advisers, a legal adviser, a prosecutor and a military judge. [REDACTED] in respect of operations in Darfur in 2003 and 2004, a legal adviser would attend briefings given to soldiers by the command or chief of staff and they would “usually warn them about the protection of civilians and the likes.”²⁰⁴¹ Echoing the purported importance of the

²⁰³¹ P-0883: [T-73-CT2](#), p. 17, line 21-p. 18, line 18. See also [DAR-OTP-0097-0038](#) at 0054-0056; [DAR-OTP-0107-0638](#) (Translation [DAR-OTP-0153-0959](#)).

²⁰³² [Annex to the Requête aux fins de soumission d’un élément de preuve supplémentaire](#), p. 5, [DAR-D31-00000353](#) (Translation [DAR-D31-00000354](#)).

²⁰³³ [REDACTED].

²⁰³⁴ [DAR-D31-00000234](#) at 1.

²⁰³⁵ [REDACTED].

²⁰³⁶ [REDACTED].

²⁰³⁷ [DAR-OTP-0107-0638](#) (Translation [DAR-OTP-0153-0959](#), see specifically 0969).

²⁰³⁸ [DAR-OTP-0107-0638](#) (Translation [DAR-OTP-0153-0959](#) at 0963-0970); [REDACTED]; D-36: [T-153-ET](#), p. 63, l. 23-25; D-08: [T-139-CT](#), p. 61, line 25-p. 62, line 19. See also [Annex to the Requête aux fins de soumission d’un élément de preuve supplémentaire](#), p. 5.

²⁰³⁹ [REDACTED].

²⁰⁴⁰ [REDACTED].”

²⁰⁴¹ [REDACTED].

principle of distinction and protecting civilians, **ABD-AL-RAHMAN** stated in his GoS Interview: “We were fighting people who were outlaws, and not ordinary citizens” and “I would like to say that the work that we carried out was performed [...] for the purpose of protecting civilians [...]”.²⁰⁴²

678. Individual criminal liability for the charged crimes – in international and national law – was therefore foreseeable and accessible to **ABD-AL-RAHMAN**, on the basis of his prior experience in the SAF, his religion,²⁰⁴³ and due to the fact that his role as a senior Militia/*Janjaweed* leader involved joint operations with the SAF in Darfur²⁰⁴⁴ and close coordination with senior SAF officers.²⁰⁴⁵

679. The second factor referenced by the Appeals Chamber was **ABD-AL-RAHMAN**’s role as “the head of the *Janjaweed* militia in the Wadi Salih and Mukjar Localities” during the relevant period, which is amply supported by evidence presented at trial.²⁰⁴⁶ Thirdly, the Appeals Chamber relied on the fact that **ABD-AL-RAHMAN** “had command over the deputies of the militia as well as members of the Sudanese Armed Forces”, which was also proven during trial.²⁰⁴⁷ Relatedly, the evidence also established that the illegal and immoral nature of his conduct was made clear to him in the course of the charged events. For example, during the course of the attack against Kodoom, Bindisi and surrounding areas, **ABD-AL-RAHMAN** promptly dismissed objections raised by an *umdah*, [REDACTED].²⁰⁴⁸ **ABD-AL-RAHMAN**’s knowledge of the illegal nature of his actions is also demonstrated by his participation in attempts to conceal evidence of dead bodies at execution sites.²⁰⁴⁹

680. The fourth factor noted by the Appeals Chamber was a 2002 agreement between the GoS and the SPLM in which the parties formally undertook to comply with “their obligations under international law, including common article 3 of the 1949 Geneva Conventions”.²⁰⁵⁰ The evidence also demonstrates that a National Commission for the implementation of IHL was created in Sudan at the beginning of 2003,²⁰⁵¹ following a regional Arab plan for the

²⁰⁴² [DAR-OTP-0218-0231](#) (Translation [DAR-OTP-0219-7007](#) at 7016).

²⁰⁴³ [Third Agreed Facts AnxA](#), no. 3.

²⁰⁴⁴ See e.g. above paras. 184-186, 188-190, 192, 397, 399-400. See also [REDACTED].

²⁰⁴⁵ See e.g. above paras. 159-161, 165-167, 169.

²⁰⁴⁶ See above paras. 128-157.

²⁰⁴⁷ See above paras. 143-148, 153-157, 177-194.

²⁰⁴⁸ See above paras. 374-375. See also paras. 186, 569.

²⁰⁴⁹ See above para. 117.

²⁰⁵⁰ [DAR-OTP-00005576](#).

²⁰⁵¹ [DAR-OTP-0097-0038](#) at 0042-0044. See [REDACTED].

implementation of IHL.²⁰⁵² Part of its mandate was to ensure the implementation of IHL provisions and to disseminate knowledge of IHL amongst GoS Forces.

681. After the conflict, a ceasefire agreement also encompassed provisions related to humanitarian assistance in Darfur.²⁰⁵³ A National Commission was set up to inquire into allegations of crimes against humanity and violations of international humanitarian law in Darfur.²⁰⁵⁴ Following its report, a special judicial commission was established²⁰⁵⁵ and a Special Court was created to judge events in Darfur with jurisdiction over violations of International Humanitarian Law.²⁰⁵⁶ **ABD-AL-RAHMAN** was formally investigated by Sudanese authorities for crimes committed in Deleig.²⁰⁵⁷ A Prosecution service specialising in crimes against humanity was also established in 2005, having competence to exercise powers specified in “the international human rights law, international conventions that Sudan is a *signatory to* and any other related law pertaining to crimes against humanity or any crime undermining human integrity that is addressed by any other law”.²⁰⁵⁸

682. As set out above, the evidence presented at trial amply supports all of the factors referenced by the majority of the Appeals Chamber and this evidence has been supplemented by a substantial body of additional relevant evidence. Accordingly, and based on the submissions and evidence above, the Trial Chamber should draw the same conclusion that “the risk of international criminal liability was acute to such a degree that it was foreseeable” to **ABD-AL-RAHMAN**.

K. ABD-AL-RAHMAN WAS NOT SUBJECT TO ANY RELEVANT MISTAKE OF LAW, OR GROUND EXCLUDING CRIMINAL RESPONSIBILITY

683. Proving that **ABD-AL-RAHMAN** acted with knowledge for the purpose of article 30(3) of the Statute, does not require showing that he knew of the “criminal and blameworthy character” of the acts with which he is charged.²⁰⁵⁹ To the contrary, as set out in article 32(2),

²⁰⁵² [DAR-OTP-0097-0038](#) at 0047-0050. *See* [REDACTED].

²⁰⁵³ [DAR-OTP-0171-0579](#) (*see especially* the Protocol at 0583).

²⁰⁵⁴ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0395); [DAR-OTP-0123-0002](#).

²⁰⁵⁵ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0387, para. 19-9, 0407-0412); [DAR-OTP-0202-0092](#) at 0094-0095, lines 81-132; [DAR-OTP-0202-0140](#); [DAR-OTP-0202-0172](#) at 0173-0179.

²⁰⁵⁶ [DAR-OTP-00006662](#) (Translation [DAR-OTP-00006622](#)); [DAR-OTP-0066-0475](#) (Translation [DAR-OTP-0066-0470](#)); [DAR-OTP-0202-0337](#) at 0355-0356. *See also* [REDACTED].

²⁰⁵⁷ [DAR-OTP-0036-0348](#) (Translation [DAR-OTP-0116-0380](#) at 0408-0409); [DAR-OTP-0218-0231](#) at 0231-0239 (Translation [DAR-OTP-0219-7007](#)); [DAR-OTP-0202-0092](#) at 0096, lines*- 142-148; [DAR-OTP-0202-0190](#) at 0196-0200, 0203-0206; [DAR-OTP-0202-0215](#) at 0216-0217; [DAR-OTP-0202-0337](#) at 0344-0346; [REDACTED]. *See above* paras. 28-33.

²⁰⁵⁸ [DAR-OTP-0118-1505](#) (Translation [DAR-OTP-0219-9322](#)) (emphasis added). *See also* [REDACTED].

²⁰⁵⁹ *Contra* [Defence Trial Brief](#), para. 29.

any mistake by **ABD-AL-RAHMAN** as to whether his conduct “is a crime within the jurisdiction of the Court” shall not exclude his criminal responsibility.²⁰⁶⁰ This is consistent with the nature of the crimes under the Court’s jurisdiction as “the most serious crimes of international concern”.²⁰⁶¹ Mistake of law may only excludes criminal responsibility where the mental elements applicable to a particular crime require a specific legal appreciation.²⁰⁶² No such crime is charged in this case.²⁰⁶³ Furthermore, and in any event, this trial has seen no evidence sufficient even to put in issue²⁰⁶⁴ that **ABD-AL-RAHMAN** was subject to any relevant mistake.²⁰⁶⁵

684. Similarly, **ABD-AL-RAHMAN** expressly concedes that he does not seek to raise any defence of superior orders or duress.²⁰⁶⁶ Nor are his factual assertions supported by the evidence—for example, it is incorrect that he was necessarily subject to the death penalty if he failed to follow orders.²⁰⁶⁷ Rather, the evidence shows that **ABD-AL-RAHMAN** acted with an

²⁰⁶⁰ See also [Al Hassan TJ](#), para. 1767.

²⁰⁶¹ Statute, arts. 1, 5.

²⁰⁶² See e.g. [Al Hassan TJ](#), para. 1769 (“mistake of law is a ground for excluding criminal responsibility only when knowledge of a legal characteristic is required by the requisite mental element of the offence”).

²⁰⁶³ See also [Confirmation Decision](#), paras. 76-77, 81.

²⁰⁶⁴ See [Ongwen AJ](#), para. 340 (“when raising grounds purporting to exclude an accused’s criminal responsibility, it is not enough to merely give notice of such an intention. The Defence must also present evidence to substantiate its allegations”); [Al Hassan TJ](#), paras. 1738 (“grounds for excluding criminal responsibility [...] shall be considered when there is sufficient evidence in the record of the case to warrant such consideration. The Chamber is not obliged to consider a ground to exclude criminal responsibility merely because the Defence asserts that such a ground exists, rather, within the evidence as a whole, there must be evidence which puts the existence of such a ground at genuine issue”), 1739 (“when raising grounds for excluding criminal responsibility, it is incumbent on the Defence to present evidence to substantiate its allegations”).

²⁰⁶⁵ *Contra* [Defence Trial Brief](#), para. 30. To the contrary, the Prosecution has proved beyond reasonable doubt that **ABD-AL-RAHMAN** acted with the requisite intent and knowledge: *see above* paras. 383-391, 393, 506, 508-509, 511, 514, 647-649, 653-654, 661, 663. Even to the extent that the Pre-Trial Chamber suggested it was necessary that **ABD-AL-RAHMAN** knew that a “civilian” was “someone who is not involved in military matters and does not engage in acts of warfare” ([Confirmation Decision](#), paras. 76-77), this was established: *see above* para. 677. There was no basis for **ABD-AL-RAHMAN** to assume that he could not be prosecuted for the charged crimes, since the GoS had for example undertaken to investigate crimes committed in Darfur in 2003-2004: *see above* para. 681. Nor would any evidence of a State policy of tolerance in any event be relevant: *see* ECtHR, [Vasiliauskas Judgment](#), para. 158; ECtHR, [Streletz et al. Judgment](#), paras. 74, 77-79; ECtHR, [K.-H. W. Judgment](#), para. 90. Moreover, the illegality of his actions was foreseeable and accessible to **ABD-AL-RAHMAN**, *see* Section K: **ABD-AL-RAHMAN** was not subject to any relevant mistake of law or ground excluding criminal responsibility.

²⁰⁶⁶ [Defence Trial Brief](#), para. 32.

²⁰⁶⁷ *Contra* [Defence Trial Brief](#), para. 31. To the contrary, the 1986 People’s Armed Forces Act provides that a person convicted for failing to obey an order would be sentenced “to prison for not more than ten years, or some lesser punishment”, and for various more minor offences with lesser sentences: [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#) at 23), arts. 60-62. On “lesser punishment”, *see* [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#) at 6), art. 3; *see also* [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#) at 27-28), arts. 80, 82. Only those who, *in face of the enemy*, refuse to obey orders could potentially be subject to “death or some other penalty as shown in Article 80” and “Enemy” is defined as “external enemies, outlaw rebels and armed gangs in a state of readiness for combat operations.”, *see* [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#) at 6 and 20), art. 48(c).

appreciable measure of autonomy and discretion.²⁰⁶⁸ It was clear that any order to commit the charged crimes was unlawful and that **ABD-AL-RAHMAN** was not obliged to execute an unlawful order.²⁰⁶⁹

685. Further, the Defence did not raise an alibi,²⁰⁷⁰ nor was any evidence adduced during the trial that would support an alibi for any incident. The evidence, including from Defence witnesses, in fact shows that **ABD-AL-RAHMAN** was not [REDACTED],²⁰⁷¹ and was instead committing the charged crimes in Mukjar and Deleig.

L. CONCLUSION

686. The evidence summarised in this FB proves beyond reasonable doubt that **ABD-AL-RAHMAN** is criminally responsible for Counts 1 to 31.



Karim A. A. Khan KC

Prosecutor

Dated this 13th day of November 2024

At The Hague, The Netherlands

²⁰⁶⁸ See e.g. above paras. 528-529, 186. See also [Confirmation Decision](#), para. 85.

²⁰⁶⁹ See e.g. 1986 People's Armed Forces Act, [DAR-OTP-00005984](#) (Translation [DAR-OTP-00006136](#)), arts. 28, 60; [REDACTED]. See ECtHR, [K.-H. W. Judgment](#), paras. 75-76. See also Statute, art. 33(1)(b) and (c), 33(2).

²⁰⁷⁰ See [Alibi Submission](#), para. 1; [Decision on the Defence's Second postponement application and notice of alibi](#), paras. 6, 16; [T-140-CT](#), p. 2, line 10-p. 5, line 12.

²⁰⁷¹ *Contra* [Alibi Submission](#), paras. 15-18. [REDACTED].