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TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Adélaïde Sophie 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

**Public Redacted Version of “Prosecution’s submissions on sentence”, 5 November 2025,
ICC-02/05-01/20-1258-Conf**

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A. INTRODUCTION

1. On 6 October 2025, Trial Chamber I convicted Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb, (“ABD-AL-RAHMAN”) of 27 counts of war crimes and crimes against humanity in relation to three operations which took place in Kodoom and Bindisi, Mukjar, and Deleig, in the Wadi Salih and Mukjar Localities of West Darfur, between August 2003 and March 2004.¹ The crimes committed by ABD-AL-RAHMAN are extremely grave and are aggravated by multiple factors. For the reasons below, ABD-AL-RAHMAN should receive a joint sentence of life imprisonment.

2. Across the three operations, the Chamber convicted ABD-AL-RAHMAN of the murder of no fewer than 213 people,² including at least 4 children,³ while noting that the evidence speaks of many more victims having been killed.⁴ With respect to the Kodoom and Bindisi operation, the Chamber further convicted ABD-AL-RAHMAN of an attack against the civilian population,⁵ the rape of 16 women and girls,⁶ inhumane acts against several persons, including children and an infant,⁷ the destruction of many houses and a mosque,⁸ the pillage of civilian property, including livestock and money,⁹ and the forcible transfer of some 3,400 families.¹⁰ With respect to the Mukjar and Deleig operations, the Chamber further convicted ABD-AL-RAHMAN of the torture, humiliation and degradation of at least 200 persons.¹¹

3. In addition, the Chamber convicted ABD-AL-RAHMAN of the crime of persecution on the intersecting grounds of perceived political affiliation and ethnic identity (for Kodoom and Bindisi) and perceived political affiliation, ethnic identity and gender role (for Mukjar and Deleig).¹² Since the acts underlying the crime of persecution in this case are the same as for the

¹ Trial Judgment, [ICC-02/05-01/20-1240](#).

² [Trial Judgment](#), para. 927 (no fewer than 46 in the Kodoom/Bindisi operation, no fewer than 53 in the Mukjar operation and no fewer than 114 in the Deleig operation).

³ [Trial Judgment](#), paras. 425, 618, 634. At least one child was killed in the Kodoom and Bindisi operation (a little girl), and at least three children were killed during the Deleig operation (Abu Bakar Suleiman Abakar (no more than 12-13 years old), the son of Issa Harun (about 13-14 years old) and Zakaria Abdelmawla Abakar (no more than 12-13 years old)). A young person of 17-18 years of age was also killed in the Kodoom and Bindisi operation. See [Trial Judgment](#), para. 424 (Daoud Ali Yusuf); P-0816: DAR-OTP-0214-0721-R02 at 0729-0730, para. 38.

⁴ [Trial Judgment](#), para. 927 (“the killings claimed considerably more lives, but imprecision of the evidence tendered prevents it from arriving at a definitive breakdown. To this end, it refers to the various testimonies which, although imprecise regarding the actual total number, speak of many more victims killed during the three operations.”).

⁵ [Trial Judgment](#), para. 847.

⁶ [Trial Judgment](#), paras. 867, 870.

⁷ [Trial Judgment](#), paras. 885-888.

⁸ [Trial Judgment](#), paras. 411, 428, 854-859.

⁹ [Trial Judgment](#), paras. 849-852.

¹⁰ [Trial Judgment](#), paras. 372 (1,600 families were living in Kodoom), 376 (1,800 families were living in Bindisi), 409, 426, 865.

¹¹ [Trial Judgment](#), paras. 873-881, 903-913.

¹² [Trial Judgment](#), para. 936.

other crimes for which ABD-AL-RAHMAN was convicted, all direct victims of those crimes are also victims of the crime of persecution.¹³ Further, the intersecting nature of this discriminatory targeting exacerbates the harm to victims and hence heightens the gravity of this crime.

4. Multiple circumstances of the crimes aggravate or render them especially grave. This includes the commission of crimes against multiple victims and particularly defenceless victims, such as children, detainees, and civilians fleeing attacks, the commission of crimes in public, the commission of acts of particular cruelty, including murdering detainees with an axe, severing detainees' ears, and burning detainees with a hot iron, and the commission of crimes for a discriminatory motive.

5. Several factors increase the gravity of or aggravate the sexual crimes in this case, such as the rape of particularly defenceless victims, including an elderly woman, and girls as young as 13 and 15 years old, multiple times by multiple perpetrators acting together, accompanied by violence, threats and derogatory insults, in public, after being stripped, in front of women and children who were forced to watch, causing long-lasting physical, psychological and social harm.¹⁴

6. The crimes committed by ABD-AL-RAHMAN had a massive and lasting impact on the victims, their families, and affected communities.

7. ABD-AL-RAHMAN was convicted for ordering, directly perpetrating and co-perpetrating the crimes. He was a senior and well respected leader of the *Janjaweed* who enthusiastically participated in these crimes. These factors, in combination with other evidence of his acts and conduct, demonstrate ABD-AL-RAHMAN's high degree of participation and intent in relation to the crimes.

8. There are no mitigating factors of any significance or deserving of any weight in this case. In particular, although ABD-AL-RAHMAN voluntarily surrendered to the Court, he did so 13 years after the first arrest warrant was issued, then only to avoid arrest and imprisonment in Sudan. His surrender should therefore be given no weight as a mitigating factor.¹⁵

¹³ [Trial Judgment](#), paras. 928-931, 939.

¹⁴ See below paras. 57-58, 60-64.

¹⁵ *Ntaganda* Sentencing Judgment, [ICC-01/04-02/06-2442](#) ("*Ntaganda* SJ"), paras. 227-228; *Mrkšić et al.* Judgement, [IT-95-13/1-T](#) ("*Mrkšić et al.* TJ"), para. 698; *Popović et al.* Judgement, Volume II, [IT-05-88-T](#) ("*Popović et al.* TJ"), para. 2224.

9. As set out below, the Prosecution recommends that ABD-AL-RAHMAN be sentenced to 30 years for the most serious crimes—murder and persecution—in each of the three operations, and to sentences ranging from 8 to 27 years for the remaining 18 counts. Given the Chamber must impose a joint sentence which is no less than the highest individual sentence pronounced,¹⁶ and considering, in particular, the lack of factual overlap between the three operations, the appropriate sentence in this case is a term of life imprisonment. This sentence is more than justified by the extreme gravity of the crimes, and the individual circumstances of ABD-AL-RAHMAN, as evidenced by the existence of multiple aggravating circumstances.¹⁷

B. CONFIDENTIALITY

10. Pursuant to regulation 23bis(1) and (2) of the Regulations of the Court, this submission is classified as confidential because it contains reference to information relating to witnesses and to the content of documents with the same classification.

C. SUBMISSIONS

11. The legal framework for determining sentences is set out in articles 76 to 78 of the Rome Statute and in rules 145 to 147 of the Rules of Procedure and Evidence. As held by the Appeals Chamber, when determining individual sentences, certain factors may reasonably be considered under more than one of the categories under article 78 and rule 145. What matters is not which category the factor is placed into, but that the Chamber identifies all relevant factors and attaches reasonable weight to them, without relying on the same factor more than once.¹⁸ Further, when determining the joint sentence, the Chamber must take into account the factual overlap between different crimes.¹⁹ As previously held, prior sentencing practice is of limited utility to the Chamber when determining the appropriate sentence in a given case.²⁰

1) Gravity

12. The gravity of ABD-AL-RAHMAN's crimes is extremely high. In the following section, the Prosecution first addresses the factors relevant to the assessment of gravity across all three

¹⁶ Article 78(3) of the Rome Statute.

¹⁷ Articles 77(1)(b) of the Statute; Rule 145(3) of the Rules of Procedure and Evidence.

¹⁸ *Bemba et al.* Sentencing Appeal Judgment, [ICC-01/05-01/13-2276-Red](#) (“*Bemba et al.* SAJ”), paras. 4, 112. See also *Yekatom & Ngaïssona* Judgment, [ICC-01/14-01/18-2784-Red](#) (“*Yekatom & Ngaïssona* TJ”), para. 4412; *Al Hassan* Sentencing Judgment, [ICC-01/12-01/18-2662](#) (“*Al Hassan* SJ”), para. 19; *Ongwen* Sentence, [ICC-02/04-01/15-1819-Red](#) (“*Ongwen* SJ”), para. 56; *Ntaganda* SJ, para. 13.

¹⁹ *Yekatom & Ngaïssona* TJ, para. 4414; *Al Hassan* SJ, para. 40; *Ntaganda* Sentencing Appeal Judgment, [ICC-01/04-02/06-2667-Red](#) (“*Ntaganda* SAJ”), paras. 129-130; *Ntaganda* SJ, para. 249; *Ongwen* SJ, paras. 59, 136, 145.

²⁰ *Lubanga* Sentencing Appeal Judgment, [ICC-01/04-01/06-3122](#) (“*Lubanga* SAJ”), paras. 76-77. See also *Bemba et al.* Sentencing Decision, [ICC-01/05-01/13-2123-Corr](#) (“*Bemba et al.* SJ”), para. 38; *Al Mahdi* Judgment and Sentence, [ICC-01/12-01/15-171](#) (“*Al Mahdi* TJ”), para. 107.

criminal incidents, before turning to each of the specific crimes for which ABD-AL-RAHMAN was convicted.

a) Factors and circumstances relevant to all crimes

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed

13. The crimes were committed over a wide geographical area—in three areas (Kodoom and Bindisi, Mukjar, and Deleig) across two localities (Wadi Salih and Mukjar)—and over an extended period (approximately seven months).²¹

14. The findings of the Chamber in relation to ABD-AL-RAHMAN’s position of authority and influence²² demonstrate that the crimes committed in Kodoom, Bindisi, Mukjar and Deleig were not spontaneous. Rather, they were planned at a high level, with ABD-AL-RAHMAN’s close involvement.²³ These crimes resulted from a plan emanating from the highest levels in Sudan, encapsulated in the 18 December 2003 National Security Council plan (“NSC Plan”) issued by the Government of Sudan (“GoS”).²⁴ This included a plan to target and attack entire communities, including the Fur, and to “assassinat[e] [...] sympathisers from among community leaders (*umdahs*) and local administration officials.”²⁵ Before the attacks, ABD-AL-RAHMAN met with GoS officials at the state and locality levels, including Ministers HARUN and HUSSEIN. He also attending meetings with officials from the Sudanese Armed Forces (“SAF”), the Popular Defence Forces (“PDF”) and the Central Reserve Forces (“CRF”) (collectively, together with the Popular Police Forces and the National Police, the “GoS Forces”), including meetings of GoS decision-making bodies related to counter-insurgency efforts at the locality level.²⁶

15. ABD-AL-RAHMAN and GoS officials worked together to implement the counter-insurgency at the locality level, recruiting, arming, funding and supplying the *Janjaweed* under his command, who operated together with members of the GoS Forces in the operations in Kodoom and Bindisi, Mukjar and Deleig.²⁷ The objective to target specific communities, and to attack civilians, was conveyed to the direct perpetrators of the attacks by ABD-AL-RAHMAN through speeches and the use of specific language, such as “*amsah aksah*”, “wipe

²¹ [Trial Judgment](#), paras. 15, 815.

²² [Trial Judgment](#), paras. 658-680.

²³ [Yekatom & Ngaißsona TJ](#), para. 4496.

²⁴ DAR-OTP-0212-0100 (Translation DAR-OTP-0215-4648); [Trial Judgment](#), paras. 285-289, 823-832.

²⁵ DAR-OTP-0212-0100 (Translation DAR-OTP-0215-4648 at 4651); [Trial Judgment](#), paras. 288-289, 824.

²⁶ [Trial Judgment](#), paras. 660-667.

²⁷ [Trial Judgment](#), paras. 668-675.

out and sweep away”, and “cut the straw, eat it raw.”²⁸ These acts demonstrate a high-level of planning and involvement by ABD-AL-RAHMAN in the execution of the crimes for which he was convicted.²⁹

The extent of the damage caused, including harm caused to victims and their families

16. The crimes committed by ABD-AL-RAHMAN had a massive and lasting impact on the victims, their families, and entire affected communities. Witnesses recounted in excruciating detail the pain that they have endured in the intervening decades, including both physical³⁰ and mental scars.³¹ Crimes were committed in public, with victims forced to witness violence against their parents, children and community members.³² Victims continue to be haunted by the memories of what happened to them and their communities,³³ suffering sleeplessness and nightmares.³⁴ As P-0994 put it, “I remember because it was painful, [...] I must register this in my memory. And I will never forget it until judgment day.”³⁵ Family members that survived were deprived of their opportunity to mourn because they never found the bodies or the graves of their loved ones.³⁶

17. Witnesses described how their lives before the incidents were spent peacefully farming and tending to animals, before being disrupted by the incidents.³⁷ Witnesses lost all of their belongings, livelihoods and homes,³⁸ which meant that they could no longer provide for their family members who relied on them.³⁹ The farmland of the displaced villagers was then taken over by the *Janjaweed* and members of tribes from outside Darfur, who kept them as their own.⁴⁰ In some cases, displaced witnesses were unable to return to their villages because they

²⁸ [Trial Judgment](#), paras. 361, 397, 825-829, 1004-1005.

²⁹ [Yekatom & Ngaiisosa TJ](#), para. 4495.

³⁰ P-0015: T-93-ET, p. 14, line 4; P-0907: T-95-CT, p. 9, lines 20-23; P-0581: T-64-CT, p. 32, lines 21-23; P-0932: DAR-OTP-0222-0602-R02 at 0623, para. 122; P-0986: DAR-OTP-0222-0437-R01 at 0448, para. 54, and T-65-CT, p. 18, lines 12-21; P-1074: DAR-OTP-0224-0441-R02 at 0453, para. 63, and T-103-CT, p. 46, lines 4-25. See [Trial Judgment](#), para. 652.

³¹ P-0015: T-93-ET, p. 19, lines 11-12; P-0712: T-36-ET, p. 14, lines 23-25; P-0907: T-95-CT, p. 10, lines 17-21.

³² [Trial Judgment](#), paras. 885, 908.

³³ P-0617: DAR-OTP-0202-1496-R02 at 1530, para. 94; P-0994: T-84-CT2, p. 50, lines 11-12, 16-17.

³⁴ P-0584: T-92-CT2, p. 22, lines 21-23, p. 23, lines 2-4; P-0671: T-98-CT, p. 84, line 23-p. 85, line 6; P-0718: T-49-CT, p. 19, lines 17-22; P-1074: T-103-CT, p. 45, lines 23-25.

³⁵ P-0994: T-84-CT2, p. 50, lines 17-18.

³⁶ P-0955: T-64-CT, p. 22, lines 5-15.

³⁷ P-0015: T-93-ET, p. 13, lines 3-8; P-0907: T-95-CT, p. 4, lines 20-22; P-0955: T-63-CT2, p. 33, lines 17-20.

³⁸ P-0020: T-41-CT2, p. 78, line 19-p. 79, line 2; P-0119: T-38-CT, p. 27, lines 18-19; P-0878: T-78-CT3, p. 77, lines 14-23, and T-79-CT, p. 8, lines 4-24; P-0918: T-77-CT2, p. 8, lines 12-13; P-0955: T-63-CT2, p. 29, lines 3-6. See [Trial Judgment](#), para. 653.

³⁹ P-0015: DAR-OTP-0088-0187-R04 at 0206, para. 104; P-0850: T-44-CT, p. 67, lines 5-9; P-0907: T-95-CT, p. 5, lines 6-25, p. 13, lines 5-8.

⁴⁰ P-0712: T-36-ET, p. 16, lines 20-25; P-0907: T-95-CT, p. 13, line 17-p. 14, line 1, and T-96-CT, p. 4, lines 15-18, p. 49, lines 14-19, 23-25.

were now “empty” or “there was nothing left”.⁴¹ The circumstances of this displacement, and the harsh realities of life in the internally displaced person (“IDP”) camps, has significantly increased the vulnerability of these victims to further harm.⁴² As the Chamber found, “displaced persons lived in difficult conditions with illnesses spreading, which impacted the elderly and children in particular, leading to a number of deaths.”⁴³

18. The incidents had an especially profound effect on children in Darfur. P-0916, [REDACTED], testified that by August 2003 thousands of IDPs had arrived in Mukjar - most of whom were women, children and elderly people. He described the high child mortality rate during this period - with two to three internally displaced children under the age of five dying every day from lack of food, harsh living conditions and the long journey they endured after being displaced.⁴⁴

19. Education was interrupted by the incidents and often never resumed.⁴⁵ Many children and other dependants lost their primary providers and instead became dependent on humanitarian aid.⁴⁶ According to P-0850, “In our family, there are no males at all anymore.”⁴⁷ Displaced children were distinctly susceptible to disease and malnutrition.⁴⁸ Victims of rape and their children face stigma to this day,⁴⁹ as some of them bore “[c]hildren with unknown fathers, children who are fair skinned, they don’t look like the family.”⁵⁰

20. P-0877 described the lasting economic and social impact the events have had on subsequent generations:

Until now, after 18 long years, people are still impacted by what happened. We still have children beggars, their fathers and their mothers were killed and they can't go to schools. They have no money to pay fees and they don't have any school uniforms or school books. There's also a big number of families who can't afford to buy meat for an entire month [...]. And people sometimes resort to eating only one meal a day [...]. Until now, we have

⁴¹ P-0712: T-36-ET, p. 16, line 24-p. 17, line 1; P-0736: T-35-CT, p. 30, lines 22-24.

⁴² P-0119: T-38-CT, p. 89, line 20-p. 90, line 23; P-0878: T-79-CT, p. 88, line 21-p. 89, line 1; P-0990: p. 71, line 9-p. 72, line 3.

⁴³ [Trial Judgment](#), para. 657.

⁴⁴ P-0129: T-75-CT, p. 16, lines 5-21.

⁴⁵ P-0015: DAR-OTP-0088-0187-R04 at 0206, para. 103; P-0671: T-98-CT, p. 81, lines 2-5; P-0697: T-101-CT, p. 11, lines 7-18; P-0877: T-54-CT, p. 70, lines 4-11; P-0907: T-95-CT, p. 6, lines 12-14, p. 10, lines 17-21, p. 12, line 18-p. 13, line 2; P-0990: T-40-CT2, p. 71, line 9-p. 72, line 1; P-0955: T-63-CT2, p. 28, lines 15-17, p. 34, lines 4-6, 13-25.

⁴⁶ P-0671: T-98-CT, p. 85, lines 9-13; P-0955: T-63-CT2, p. 28, lines 23-25.

⁴⁷ P-0850: T-44-CT, p. 66, line 18.

⁴⁸ P-0907: T-95-CT, p. 8, lines 10-13, p. 12, lines 10-13; P-0916: T-75-CT, p. 16, lines 18-21.

⁴⁹ P-0119: T-38-CT, p. 29, lines 2-5; P-1042: T-28-ET, p. 17, lines 4-17, and DAR-OTP-0220-1623 at 1680, para. 151. See [Trial Judgment](#), paras. 652, 885-888.

⁵⁰ P-0119: T-38-CT, p. 29, lines 2-3.

displaced children. Until now, we have children who can't have education. Until now, we have children who can't get any kind of support or assistance... This is the situation now.⁵¹

21. The destructive impact on the Fur community in West Darfur in particular has been tremendous. Social structures within the tribe, and relationships with other tribes, have been irreparably damaged.⁵² The younger generation of the Fur tribe no longer experience essential parts of their culture and heritage.⁵³ Traditional celebrations that were once commonplace are now rarely observed in the same manner as they once were.⁵⁴ Moreover, the large-scale targeting and murder of Fur tribal leaders, including many *umdahs* and *sheikhs*, has created a devastating vacuum of leadership from which the community has not yet recovered.⁵⁵ As P-0877 summarised: “[T]hey lost their leaders on whom they were dependent in their daily life, starting from resolving disputes to guiding them how to behave with others and how to communicate with neighbouring people, [...] they are without leadership.”⁵⁶

22. P-0020 described the collapse of Fur communities in West Darfur, after the charged events: “They are still depending on the assistance offered by the non-governmental organisations. We will never be able to talk about their livelihoods. Their education institutions have been destroyed. Their businesses have been destroyed. It is the whole cycle of life that has been destroyed. They have nothing left.”⁵⁷

ABD-AL-RAHMAN's degree of participation and intent, and his age, education and social and economic condition

23. ABD-AL-RAHMAN had a high degree of participation in, and intent for, the crimes. This is demonstrated by, in particular, his position of authority as an effective and respected senior leader of the *Janjaweed*, his commanding role in the operations, his personal and often enthusiastic participation in the operations, and his direct perpetration of multiple crimes, including murder and torture.⁵⁸ The Chamber found that ABD-AL-RAHMAN had authority over *Janjaweed* leaders and other lower-ranking members and direct access to key figures at the highest level of the Sudanese government, such as Ministers HUSSEIN and HARUN, as

⁵¹ P-0877: T-54-CT, p. 70, lines 4-15.

⁵² P-0020: T-41-CT2, p. 77, lines 11-12, p. 79, lines 6-11; P-1042: T-28-ET, p. 18, lines 2-11.

⁵³ P-0643: T-57-CT, p. 59, line 18-p. 60, line 4, and T-58-CT, p. 65, lines 18-23; P-0878: T-79-CT, p. 12, line 9 - p. 14, line 4.

⁵⁴ P-0011: T-91-CT2, p. 33, lines 1-6; P-0986: T-65-CT, p. 14, line 23-p. 15, line 6.

⁵⁵ P-0643: T-57-CT, p. 58, line 25-p. 59, line 4; P-0907: T-95-CT, p. 10, line 25-p. 11, line 10; P-0955: T-63-CT2 p. 29, lines 16-p. 30, line 5; P-0994: T-84-CT2, p. 14, lines 13-15.

⁵⁶ P-0877: T-54-CT, p. 61, lines 5-9.

⁵⁷ P-0020: T-41-CT2, p. 78, line 23-p. 79, line 2.

⁵⁸ [Trial Judgment](#), paras. 53, 469, 508, 523-525, 668, 675, 678-679, 983, 993, 1002, 1003.

well as those at the locality level, including officials from the SAF, PDF and CRF.⁵⁹ Combined, these factors demonstrate that ABD-AL-RAHMAN was a “leader who commanded respect and therefore obedience from others.”⁶⁰

24. ABD-AL-RAHMAN was approximately 54/55 years old when he committed the crimes in 2003/2004.⁶¹ As the Chamber noted, his prior education included a degree from a training school for general medical assistants, he was registered with an official body regulating medical professionals in Sudan, and he retired from the SAF with the highest possible rank for a non-commissioned officer.⁶² After his retirement, he opened a pharmacy in Garsila, from which he sold medication.⁶³ The Chamber also found that ABD-AL-RAHMAN was “not only well-known in the Wadi Salih area but well respected” and part of that respect appeared to be based on his military background and his role as a pharmacist.⁶⁴ The Chamber further noted that ABD-AL-RAHMAN’s pharmacy functioned as a meeting place where he would meet leaders of Arab tribes⁶⁵ and that he was known to mediate in tribal negotiations.⁶⁶

25. Rather than use his position in the community to de-escalate tribal tensions, or even to stay neutral in the conflict like some others in his Ta’aisha tribe,⁶⁷ ABD-AL-RAHMAN took the opportunity to use his role as a person of influence prior to the conflict⁶⁸ to become a *Janjaweed* leader, co-ordinate with the leadership of the GoS and GoS Forces at the state and locality level, and to commit the charged crimes.⁶⁹ ABD-AL-RAHMAN performed this role, over a period of at least seven months, with enthusiasm and vigour. For example, he appeared to revel in his encouragement of GoS Forces and *Janjaweed* to “kill and destroy without any limits”⁷⁰ through use of the term “*amsah aksah*”,⁷¹ and to take great satisfaction in repeating his “motto” during the Kodoom and Bindisi attack of “[c]ut the straw, eat it raw. Don’t leave anyone behind, and bring no one alive”.⁷² On various occasions, he referred to attacks on civilians, including executions, as his “work.”⁷³

⁵⁹ [Trial Judgment](#), paras. 660-679.

⁶⁰ [Trial Judgment](#), para. 983.

⁶¹ [Trial Judgment](#), para. 7.

⁶² [Trial Judgment](#), para. 52.

⁶³ [Trial Judgment](#), para. 52.

⁶⁴ [Trial Judgment](#), para. 680.

⁶⁵ [Trial Judgment](#), para. 680.

⁶⁶ [Trial Judgment](#), para. 680.

⁶⁷ [Trial Judgment](#), para. 324, fn. 712.

⁶⁸ [Trial Judgment](#), para. 680.

⁶⁹ [Trial Judgment](#), paras. 660-675.

⁷⁰ [Trial Judgment](#), para. 366.

⁷¹ [Trial Judgment](#), paras. 363-365.

⁷² [Trial Judgment](#), para. 361.

⁷³ See e.g. [Trial Judgment](#), paras. 402, 557.

26. In addition, the Chamber's finding that a reasonable person in ABD-AL-RAHMAN's position could have expected, at the time of his conduct, to find himself facing the crimes charged, based on, *inter alia*, his high-ranking position as a senior *Janjaweed* leader and his extensive career in the SAF,⁷⁴ further demonstrates that he was in a position to differentiate between criminal and non-criminal conduct.⁷⁵ Nevertheless, he chose to commit, and enthusiastically participate in, the crimes he is convicted of.

b) Factors and circumstances relevant to crimes committed in relation to the Kodoom and Bindisi operation

27. With respect to the operation in Kodoom and Bindisi, the Chamber convicted ABD-AL-RAHMAN of an attack against a civilian population (as a war crime), murder (as a crime against humanity and as a war crime), pillaging (as a war crime), destroying the enemy's property (as a war crime), other inhumane acts (as a crime against humanity), outrages upon personal dignity (as a war crime), rape (as a crime against humanity and as a war crime), and persecution (as a crime against humanity).⁷⁶

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed, as well as aggravating circumstances

28. The manner and the means employed to execute the crimes demonstrate their particularly heightened gravity. The crimes committed in Kodoom and Bindisi were only part of a wider campaign⁷⁷ launched on a number of Fur villages to the east and north,⁷⁸ and later west and south of Mukjar.⁷⁹ They were also committed in a particularly treacherous way, as police had been previously withdrawn from those places⁸⁰ and the civilian population had been reassured beforehand by CRF officers that they would not be harmed.⁸¹

29. The crimes that underpin Counts 1-11 were also committed under common aggravating circumstances, which include (i) the participation of multiple attackers;⁸² (ii) the multiplicity of

⁷⁴ [Trial Judgment](#), paras. 52-60.

⁷⁵ [Yekatom & Ngaissona TJ](#), para. 4445.

⁷⁶ [Trial Judgment](#), p. 352-353.

⁷⁷ [Trial Judgment](#), para. 1010.

⁷⁸ [Trial Judgment](#), para. 392.

⁷⁹ [Trial Judgment](#), paras. 397-403, 417-419.

⁸⁰ [Trial Judgment](#), para. 371.

⁸¹ [Trial Judgment](#), paras. 393, 404, 420.

⁸² [Trial Judgment](#), para. 396. See *Bemba* Decision on Sentence pursuant to Article 76 of the Statute, [ICC-01/05-01/08-3399](#) ("Bemba SJ"), para. 53.

victims;⁸³ and, for all but Count 11, (iii) the discriminatory motive of the crimes that targeted the non-Arab population considered to be or to support rebels.⁸⁴

ABD-AL-RAHMAN's degree of participation and intent

30. ABD-AL-RAHMAN's degree of participation and intent is common to all crimes charged under Counts 1-11 and significantly heightens their gravity.⁸⁵ ABD-AL-RAHMAN was convicted for ordering the attack on Kodoom, Bindisi and surrounding areas.

31. First, ABD-AL-RAHMAN actively participated in planning the attack.⁸⁶ ABD-AL-RAHMAN "spoke on behalf of the *Janjaweed*", which he commanded, during meetings with a high-level delegation in Mukjar just prior to the launch of the campaign, where GoS officials incentivised attackers to "wipe out and sweep away the Fur do not keep anyone alive".⁸⁷ ABD-AL-RAHMAN then conducted a series of attacks in towns and villages situated to the east and north of Mukjar before leading an attack of a similar nature on Kodoom and Bindisi.⁸⁸ A pre-dated letter had been issued by commissioner Ja'afar ABD-AL-HAKAM instructing a *Zakat* official to provide ABD-AL-RAHMAN and the *Janjaweed* with feed for their horses.⁸⁹

32. Second, ABD-AL-RAHMAN was present on the ground and led *Janjaweed* during the attack on Kodoom and Bindisi, issuing orders and instructions to elements under his command, as well as personally participating in and supervising the attack.⁹⁰ Throughout the attack, he ordered the commission of the charged crimes through his words and conduct, including the order to "wipe out and sweep away", which he knew would be understood as an order to target Fur persons and their property in the villages.⁹¹ His conspicuous presence and approval before, during and after the attack and the overall permissive environment which he created for the operation, including his failure to challenge or punish any members of the *Janjaweed* under his command for the crimes that they committed, further highlight the gravity of the crimes,⁹² as does the fact that the occurrence of the crimes and their consequences were objectively foreseeable to ABD-AL-RAHMAN.⁹³

⁸³ [Trial Judgment](#), para. 917.

⁸⁴ [Trial Judgment](#), paras. 846, 855.

⁸⁵ [Yekatom & Ngaißona TJ](#), para. 4493.

⁸⁶ [Yekatom & Ngaißona TJ](#), para. 4495; [Ntaganda SJ](#), para. 60.

⁸⁷ [Trial Judgment](#), paras. 381-390, 660.

⁸⁸ [Trial Judgment](#), para. 392.

⁸⁹ [Trial Judgment](#), paras. 394, 664.

⁹⁰ [Trial Judgment](#), paras. 405, 412-416, 421, 436-441, 1003-1004. See [Yekatom & Ngaißona TJ](#), para. 4496; [Ongwen SJ](#), para. 181.

⁹¹ [Trial Judgment](#), paras. 397, 399, 405, 1005-1006, 1008. See [Yekatom & Ngaißona TJ](#), para. 4497.

⁹² [Trial Judgment](#), paras. 398, 401-403, 416, 437-441. See [Ntaganda SJ](#), paras. 66-67.

⁹³ [Trial Judgment](#), paras. 1009-1011.

33. By virtue of his position, ABD-AL-RAHMAN had the power to end attacks,⁹⁴ but did not do so.⁹⁵ To the contrary, throughout the attack, he “subdued and dismissed challenges to his plan or instructions from other *Janjaweed agids*, GoS officials and members of the GoS forces.”⁹⁶

34. The submissions below further specify the gravity factors or aggravating circumstances for each of the crimes committed in Kodoom and Bindisi and should be read in conjunction with the overarching submissions contained in sections 1(a) and 2.

Attack against a civilian population as a war crime (Count 1)

35. The war crime of attack against a civilian population is objectively grave as it violates the principle of distinction, one of the main pillars of international humanitarian law.⁹⁷

36. This crime is particularly grave in the current case as actual harm was inflicted on the civilian population of Kodoom, Bindisi and surrounding areas,⁹⁸ a consequence that was objectively foreseeable to ABD-AL-RAHMAN as he ordered the attack.⁹⁹ The scope of the attack and the nature of the unlawful behaviour also indicate the high gravity of the crime,¹⁰⁰ as it targeted (i) villages which did not contain structures that could be considered valid military objectives, such as, *inter alia*, a market, houses, a police station and a mosque,¹⁰¹ and (ii) thousands of civilians, most of whom were unarmed.¹⁰² It is clear from the context in which this attack occurred, furthermore, that civilians and civilian infrastructure were the main target of this operation: civilians were indistinctively shot at and beaten, women were raped, houses and shops were looted and most of the villages were burnt down.¹⁰³ Moreover, thousands of attackers under ABD-AL-RAHMAN’s orders, armed with a variety of weapons, participated in the attack, further increasing its gravity.¹⁰⁴

37. As submissions on impact and harm will be included in the following sections, the Prosecution will not repeat them under this count. The Prosecution further refers the Chamber

⁹⁴ [Trial Judgment](#), paras. 396, 440-441, 1007.

⁹⁵ [Yekatom & Ngaïssona TJ](#), para. 4585.

⁹⁶ [Trial Judgment](#), para. 1002(g).

⁹⁷ [Trial Judgment](#), para. 845. See [Yekatom & Ngaïssona TJ](#), paras. 4500-4501; [Ongwen SJ](#), para. 148; [Ntaganda SJ](#), para. 53.

⁹⁸ [Yekatom & Ngaïssona TJ](#), para. 4502; [Ongwen SJ](#), para. 149; [Ntaganda SAJ](#), para. 101; [Ntaganda SJ](#), para. 53.

⁹⁹ [Trial Judgment](#), para. 1009.

¹⁰⁰ [Yekatom & Ngaïssona TJ](#), para. 4503.

¹⁰¹ [Trial Judgment](#), paras. 422, 427-428, 850.

¹⁰² [Trial Judgment](#), para. 845.

¹⁰³ [Trial Judgment](#), paras. 408, 410-414, 423, 427-434. See [Yekatom & Ngaïssona TJ](#), para. 4503; [Ongwen SJ](#), paras. 150, 185, 223.

¹⁰⁴ [Trial Judgment](#), paras. 396, 845.

to its introductory remarks on gravity and aggravating circumstances applicable to all crimes committed in the Kodoom and Bindisi operation.

38. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 14 years for the crime of attack against a civilian population (Count 1).

*Murder as a crime against humanity and as a war crime (Counts 2-3)*¹⁰⁵

39. The crime of murder protects human life and is thus considered “inherently one of the most serious crimes”.¹⁰⁶ Murder also causes harm to the relatives and dependants of the direct victim, who may have relied on that person for financial, physical, emotional, psychological, moral or other support, as well as to the victim’s community. The gravity of the crime of murder is therefore objectively very high.¹⁰⁷

40. In the current case, the extreme gravity of these crimes is particularly established. Civilians were killed in their homes, whilst under the control of the attacking forces, or while attackers shot indiscriminately at the fleeing crowd during an attack which encountered no resisting force.¹⁰⁸ The victims were unarmed.¹⁰⁹ Victims included men, women, children and elderly persons.¹¹⁰ Amongst them were farmers, traders, doctors, students, a tailor, a midwife and religious leaders *Faqih Abd-Al-Rahman Abdullah* (“Abd-Al-Rahman Wassaba”) and *Faqih Umar Ya’qub* from Kodoom.¹¹¹

41. These crimes had both an immediate and sustained impact on the population of Kodoom and Bindisi. Some of the victims died by gunshot, while others were burned to death - their bodies, including those of children, were unrecognisable.¹¹² Seven of P-0015’s relatives were murdered in the attack. After her father was shot in the head right in front of her eyes, she was forced to leave his body behind to save herself.¹¹³ More than 20 years later, she still experiences flashbacks.¹¹⁴ Witnesses P-0932 and P-0913 also recall that after fleeing Kodoom in the wake

¹⁰⁵ The Prosecution addresses “jointly the relevant factors and circumstances applicable to such facts underlying a war crime and a crime against humanity” for the sole purpose of streamlining these submissions, however sentences shall be pronounced separately for each of these crimes. See [Onqwen SJ](#), para. 146.

¹⁰⁶ [Yekatom & Ngaissona TJ](#), para. 4507; [Onqwen SJ](#), paras. 153, 187; [Ntaganda SJ](#), para. 44; [Bemba SJ](#), para. 29.

¹⁰⁷ [Yekatom & Ngaissona TJ](#), para. 4507; [Ntaganda SJ](#), para. 44; [Bemba SJ](#), paras. 29-30.

¹⁰⁸ [Trial Judgment](#), paras. 372, 376, 919. See [Bemba SJ](#), para. 53.

¹⁰⁹ [Yekatom & Ngaissona TJ](#), paras. 4509-4510.

¹¹⁰ [Trial Judgment](#), paras. 408, 423-425; Annex 11 to Prosecution’s Trial Brief, ICC-02/05-01/20-1206-Conf-Anx11, no. 19, 29, 33, 38, 39, 40, 44, 63. See [Onqwen SJ](#), para. 226.

¹¹¹ [Trial Judgment](#), para. 408, 424; Annex 11 to Prosecution’s Trial Brief, no. 2, 3, 4, 9, 11, 13, 18, 19, 20, 30, 39, 41, 53, 61, 63, 64, 67, 78.

¹¹² P-0007: DAR-OTP-0088-0060-R02 at 0071, para. 42.

¹¹³ P-0015: DAR-OTP-0088-0187-R04 at 0193, para. 26-27, 0207, para. 105, and T-93-ET, p. 13, lines 12-14.

¹¹⁴ P-0015: DAR-OTP-0088-0187-R04 at 0206, para. 105.

of the attack, they had to return later to bury their dead in a single grave.¹¹⁵ There was no possibility to properly mourn their family members, neighbours and friends. Children also experienced particular harm. P-0015 describes that some children were killed, while others lost their parents and became orphans.¹¹⁶ The psychological harm that these crimes imposed on the survivors is immeasurable.

42. A number of factors increase the gravity of these crimes (or, alternatively, aggravate these crimes). No fewer than 46 victims¹¹⁷ were killed in these villages, which was entirely foreseeable to ABD-AL-RAHMAN.¹¹⁸ Most of the victims were particularly defenceless, as some were fleeing the attack,¹¹⁹ some were killed after being captured and restrained,¹²⁰ and others were killed after being raped.¹²¹ Some of the killings were also conducted with particular cruelty, as victims were targeted indiscriminately,¹²² and some were reported to have been burned to death inside their houses, a way of killing that involves protracted pain and unthinkable agony.¹²³

43. ABD-AL-RAHMAN specifically ordered *Janjaweed* to kill¹²⁴ and, given the *modus operandi* adopted by the *Janjaweed* and GoS Forces during the whole operation, he knew that particularly defenceless victims would be killed, some in especially cruel ways, during the course of the attack.¹²⁵

44. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 30 years for each count of the crime of murder (Counts 2-3).

Pillaging as a war crime (Count 4)

45. While the crime of pillaging is of lesser gravity than crimes committed against persons,¹²⁶ it can be particularly grave when considering “the economic consequences for the victims” and

¹¹⁵ P-0932: DAR-OTP-0222-0602-R02 at 0612, paras. 51, 53; P-0913: DAR-OTP-0218-0021-R04 at 0028-0029, paras. 54-55.

¹¹⁶ P-0015: T-93-ET, p. 14, lines 9-14.

¹¹⁷ [Trial Judgment](#), para. 917.

¹¹⁸ [Ongwen SJ](#), para. 154.

¹¹⁹ [Trial Judgment](#), paras. 408, 423.

¹²⁰ [Trial Judgment](#), para. 424.

¹²¹ Annex B to Trial Judgment, ICC-02/05-01/20-140-Conf-AnxB (“Annex B to Trial Judgment”), para. 8.

¹²² [Trial Judgment](#), para. 408. See [Ongwen SJ](#), para. 189.

¹²³ [Ongwen SJ](#), paras. 227, 263.

¹²⁴ [Trial Judgment](#), paras. 919, 1004-1005.

¹²⁵ [Trial Judgment](#), paras. 1008-1010. See [Ongwen SJ](#), para. 155.

¹²⁶ [Ntaganda SJ](#), para. 14.

the large number of individuals deprived of their property.¹²⁷ In this case, both circumstances are established.

46. The attack was of large scale and involved widespread looting of civilian houses, shops and property, including beds, livestock and money.¹²⁸ Considering that the population of Kodoom and Bindisi relied mostly on farming and small-scale trade,¹²⁹ and would normally store all their valuables and possessions in their houses,¹³⁰ it is evident that *Janjaweed* appropriated private civilian property for their own personal gain, pillaging “without concern for the victims’ livelihood or well-being”.¹³¹

47. Additionally, in Bindisi, *Janjaweed* and GoS Forces pillaged communal spaces, such as the cattle market; shops and warehouses in the Bindisi market, an important regional hub, taking basic food supplies; the *Zakat* office and stores, which stored provisions to be distributed to those in need;¹³² and a police station.¹³³ This further evidenced the extent of the crime and its impact not only for individual victims who were “left without the means to sustain themselves”,¹³⁴ but also for the community as a whole, depriving the regional population of access to food supplies.¹³⁵

48. The crime was, therefore, committed with exceptionally grave personal, professional and social consequences for victims, who were deprived of their livelihood, basic necessities and houses, most never being able to return to their homes.¹³⁶

49. The gravity of the crime is also heightened by the fact that pillaging was committed with a high degree of intent, as evidenced by the fact that before the attack, HARUN, in the presence of ABD-AL-RAHMAN among others, publicly characterised the Fur property as *ghanima*, to be appropriated by the attackers for their own personal gain.¹³⁷ Moreover, the fact that a letter was issued ordering the surrender of *Zakat* items to ABD-AL-RAHMAN also demonstrates a high degree of preparation for the crimes that would occur during the attack.¹³⁸ Furthermore, during the course of the attack it became clear that ABD-AL-RAHMAN not only instructed

¹²⁷ [Ongwen SJ](#), para. 169.

¹²⁸ [Trial Judgment](#), paras. 410, 427, 849.

¹²⁹ [Trial Judgment](#), para. 277; P-0119: T-38-CT, p. 26, line 22-p. 27, line 2; P-0029: T-30-CT3, p. 54, lines 8-13.

¹³⁰ P-0119: T-38-CT, p. 26, lines 9-20.

¹³¹ [Bemba SJ](#), para. 53.

¹³² [Trial Judgment](#), paras. 374-375.

¹³³ [Trial Judgment](#), para. 427.

¹³⁴ [Trial Judgment](#), para. 653.

¹³⁵ [Trial Judgment](#), para. 653. See [Ongwen SJ](#), paras. 170, 201.

¹³⁶ [Trial Judgment](#), paras. 409, 426. See [Bemba SJ](#), paras. 49-51.

¹³⁷ [Trial Judgment](#), paras. 851, 1004-1005.

¹³⁸ [Trial Judgment](#), para. 394. See [Ongwen SJ](#), para. 171.

attackers to pillage, but widely condoned this behaviour,¹³⁹ in one instance ordering *Janjaweed* to chase after livestock¹⁴⁰ and, in another, scolding them for not taking medicines scattered on the ground.¹⁴¹

50. Regarding the specific aggravating circumstances applicable to this crime, pillaging formed a particular objective and was an integral part of the attack.¹⁴² It was often committed together with other charged crimes, such as murder, rape and destruction of property.¹⁴³ As such, the crime was committed with particular cruelty. The widespread violence employed against civilians “must be seen as a method of looting” and, as it is not an element of the crime, thus, should be considered an aggravating circumstance.¹⁴⁴

51. The crime affected a multiplicity of victims¹⁴⁵ who were deprived of property and essential items for their livelihood. Fur property was targeted on a discriminatory basis, as evidenced by the events prior to the attack, as well as the fact that in Bindisi market, shops and stores belonging to people of non-Arab tribes were particularly targeted.¹⁴⁶

52. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 10 years for the crime of pillage (Count 4).

Destroying the enemy’s property as a war crime (Count 5)

53. As with pillaging, the gravity of the crime of destruction of the enemy’s property is “variable and depends also on the consequences for the victims who were deprived of their property”.¹⁴⁷ In this case, many houses and their contents were burned all across Kodoom and Bindisi.¹⁴⁸ As a consequence, the non-Arab population was deprived of their houses and household items, which were central also to their livelihoods, as most were farmers and small-scale traders. As such, they were forced to flee, most never able to return to their villages,¹⁴⁹ severing their ties to the land.¹⁵⁰ The massive scale of the destruction of property is also relevant, with many witnesses attesting that the vast majority of these villages was either burned

¹³⁹ P-1021: T-81-CT, p. 20, lines 12-19.

¹⁴⁰ [Trial Judgment](#), paras. 414, 1003(g), 1009(c).

¹⁴¹ [Trial Judgment](#), para. 416.

¹⁴² [Ongwen SJ](#), paras. 171-172.

¹⁴³ [Trial Judgment](#), para. 850 (referring to paras. 407, 409, 422, 426). See [Bemba SJ](#), para. 54.

¹⁴⁴ [Ongwen SJ](#), paras. 203, 240.

¹⁴⁵ [Trial Judgment](#), paras. 410, 427; P-0816: DAR-OTP-0214-0721-R02 at 0729, para. 37.

¹⁴⁶ [Trial Judgment](#), para. 427.

¹⁴⁷ [Ongwen SJ](#), para. 242.

¹⁴⁸ [Trial Judgment](#), paras. 411, 428.

¹⁴⁹ [Trial Judgment](#), paras. 409, 426. See [Bemba SJ](#), paras. 49-51.

¹⁵⁰ [Trial Judgment](#), para. 653; P-0020: T-41-CT2, p. 77, lines 16-23.

or destroyed.¹⁵¹ Moreover, considering the widespread burning of the villages, it affected a multiplicity of victims, further aggravating the crime.

54. As established in *Ongwen*, “in addition to the deprivation of the owner of the right of property, destruction of property may also have additional gravity depending on the *de facto* economic, social, cultural or environmental function of the property destroyed.”¹⁵² In Kodoom, houses belonging to a *sheikh* and religious leader,¹⁵³ were among those burned. In Bindisi, a mosque, with its collection of Islamic books,¹⁵⁴ was also burned down, demonstrating the social and cultural impact of the crime. More importantly, crops and essential food supplies were also burned and destroyed,¹⁵⁵ further hindering the survival of victims and increasing the gravity of the crime.¹⁵⁶

55. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 10 years for the crime of destroying the enemy’s property (Count 5).

Other inhumane acts as a crime against humanity (Count 6) and outrages upon personal dignity as a war crime (Count 7)

56. The crimes of other inhumane acts and outrages upon personal dignity are objectively grave crimes.¹⁵⁷ They are also particularly grave in this case considering how they were committed. Carrying out beatings, murders, rapes, and undressing women in public and within the view and hearing of others, including children,¹⁵⁸ “not only heightened the distress and suffering experienced by the victims” but also “exposed members of the population [...], including children, to violent scenes”.¹⁵⁹ The exposure of family members, such as P-1073’s mother,¹⁶⁰ to the suffering of victims “whilst in a precarious and frightening situation oneself, is particularly cruel and heightens the gravity of these crimes”.¹⁶¹

¹⁵¹ See e.g. P-0878: T-78-CT3, p. 79, lines 4-19; P-0029: T-29-CT, p. 42, lines 16-24, p. 71, line 25-p. 72, line 5, p. 73, lines 7-14, and T-30-CT3, p. 12, lines 6-14, p. 15, lines 4-24, p. 55, line 24-p. 56, line 6; P-0007: DAR-OTP-0088-0060-R02 at 0070, para. 41, and T-89-CT, p. 16, lines 16-25; P-0913: T-69-CT, p. 13, lines 11-20, p. 14, lines 6-8; P-0816: DAR-OTP-0214-0721-R02 at 0732, para. 49; P-0927: DAR-OTP-0221-0523-R01 at 0532, para. 43.

¹⁵² *Ongwen SJ*, para. 242.

¹⁵³ *Trial Judgment*, para. 411.

¹⁵⁴ *Trial Judgment*, paras. 428, 854.

¹⁵⁵ See e.g. P-0878: T-78-CT3, p. 77, line 14-p. 78, line 9; P-0757: DAR-OTP-0211-0003-R02 at 0012-0013, para. 41; P-0932: DAR-OTP-0222-0602-R02 at 0611-0612, paras. 47, 53.

¹⁵⁶ *Ongwen SJ*, para. 277.

¹⁵⁷ *Yekatom & Ngaissona TJ*, paras. 4576, 4578; *Al Hassan SJ*, para. 44; *Ongwen SJ*, para. 206.

¹⁵⁸ *Trial Judgment*, paras. 429-430, 433, 885, 894-898.

¹⁵⁹ *Al Hassan SJ*, para. 45.

¹⁶⁰ *Trial Judgment*, para. 434.

¹⁶¹ *Yekatom & Ngaissona TJ*, para. 4581.

57. Moreover, the violence and suffering to which victims were subjected were “multi-faceted, as they caused physical, psychological and emotional harms”.¹⁶² These crimes caused unimaginable fear and degradation, particularly given the relevant cultural context. The victims of rape were also subject to social stigmatisation due to their ordeal and public humiliation.¹⁶³ P-0015 recalls that the clothing which was humiliatingly stripped from the victims was then stuffed in their mouths to silence them during the rapes.¹⁶⁴ Those made to watch the rapes had guns pointed at their heads if they tried to look away.¹⁶⁵ These crimes also had long-lasting impact on the victims,¹⁶⁶ such as persistent physical pain, lack of sleep and living in a state of fear.¹⁶⁷

58. A number of factors increase the gravity of the crimes charged under counts 6 and 7 (or, alternatively, aggravate these crimes). Victims were multiple¹⁶⁸ and particularly defenceless, as they were captured and under the control of the attacking forces when subjected to these crimes. Some had their hands tied behind their backs, others were threatened at gunpoint, some were mistreated while subject to other types of violence, such as rape.¹⁶⁹ Some victims were also particularly vulnerable given they were only children or elderly at the time.¹⁷⁰ The use of derogatory language as people were being mistreated¹⁷¹ also demonstrates that the crimes were committed with a discriminatory intent, further aggravating them.

59. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 20 years for the crime of other inhumane acts (Count 6), and 20 years for the crime of outrages upon personal dignity (Count 7).

Rape as a crime against humanity and as a war crime (Counts 8-9)

60. Rape is a crime of inherent gravity.¹⁷² The circumstances under which rape was committed in this case also heighten its gravity, considering that (i) rapes occurred together with other violent crimes committed during the attack;¹⁷³ (ii) in several instances, physical

¹⁶² [Yekatom & Ngaissona TJ](#), para. 4580. See [Trial Judgment](#), paras. 434.

¹⁶³ [Trial Judgment](#), paras. 652, 899. See [Al Hassan SJ](#), para. 47. See also paras. 61-63 below.

¹⁶⁴ P-0015, DAR-OTP-0088-0187-R04 at 0196, para. 43.

¹⁶⁵ P-0015, DAR-OTP-0088-0187-R04 at 0196, para. 44, and DAR-OTP-00000427 at 0002, para. 16, and T-93-ET, p. 45, line 25-p. 46, line 7.

¹⁶⁶ [Trial Judgment](#), paras. 434, 652, 898.

¹⁶⁷ [Trial Judgment](#), para. 434; P-1074, T-103-CT, p. 45 lines 7-25; P-0011, T-91-CT2, p. 36, lines 17-24.

¹⁶⁸ [Trial Judgment](#), paras. 895-896.

¹⁶⁹ [Trial Judgment](#), paras. 895-897.

¹⁷⁰ [Trial Judgment](#), paras. 434, 885, 895-896. See [Ongwen SJ](#), para. 287.

¹⁷¹ [Trial Judgment](#), paras. 435, 897.

¹⁷² [Ongwen SJ](#), para. 300, citing to [Ntaganda SJ](#), para. 96 and cited jurisprudence.

¹⁷³ [Trial Judgment](#), para. 869.

violence or restrictions were used to subdue women;¹⁷⁴ (iii) perpetrators also used explicit and implicit threats of force, including the killing of men and rape of other women in front of captives;¹⁷⁵ (iv) various incidents occurred in the open and/or in particularly humiliating circumstances;¹⁷⁶ and (v) some women were raped multiple times and by several different men.¹⁷⁷

61. The Chamber has already made findings on the impact of rape on the victims, their children and the community as a whole. To this day, the victims of these crimes suffer lasting physical and psychological pain caused by the rapes.¹⁷⁸ P-1074, P-1073 and P-0011 enumerated the physical consequences of the rapes to their bodies.¹⁷⁹ Lack of access to medical treatment and to judicial recourse compounded the harm.¹⁸⁰ Furthermore, the degree of humiliation, derogation and terror imposed on the victims during the rapes¹⁸¹ was such that P-0015 stated that witnessing the rapes was even more traumatic than witnessing the killings.¹⁸²

62. Magnifying the harm was the stigma imposed on the victims.¹⁸³ Isolation and exclusion of the victims from the community they had once felt a sense of belonging to were common. P-0011 explains how corrosive that shame was to the mental health of victims who felt worthless and in some cases committed suicide.¹⁸⁴

63. These crimes further caused generational trauma, with the children of rape being deeply stigmatised by the community.¹⁸⁵ In fact, children were particularly victimised as they were also raped and/or made to watch the rapes.¹⁸⁶ In particular, P-1073 was a child when she was raped by the *Janjaweed*, and suffered severe physical repercussions.¹⁸⁷ P-0015, who “co-lives” with the sorrow and the memories, triggered by children’s screams, shared how she was ultimately

¹⁷⁴ [Trial Judgment](#), para. 869. See [Ntaganda SJ](#), para. 99.

¹⁷⁵ [Trial Judgment](#), paras. 429-430, 433, 435, 886, 895. See [Ntaganda SJ](#), para. 100.

¹⁷⁶ [Trial Judgment](#), paras. 433, 869.

¹⁷⁷ [Trial Judgment](#), paras. 432-433, 869.

¹⁷⁸ [Trial Judgment](#), paras. 434, 652.

¹⁷⁹ [Trial Judgment](#), para. 434.

¹⁸⁰ [Trial Judgment](#), para. 652; P-0922: DAR-OTP-0222-0312-R01 at 0336, paras. 96, 97, 103, 104; P-1073 : T-103-CT, p. 15, line 3-p. 16, line 25; P-0015: T-93-ET, p. 15, lines 12-20.

¹⁸¹ [Trial Judgment](#), paras. 433-435.

¹⁸² P-0015: DAR-OTP-0088-0187-R04 at 0207, para. 106.

¹⁸³ [Trial Judgment](#), paras. 652, 898; P-1042: T-28-ET, p. 17, lines 7-15, and DAR-OTP-0220-1623, para. 151. See [Ntaganda SJ](#), para. 107.

¹⁸⁴ P-0011: T-91-CT2, p. 34, lines 16-22.

¹⁸⁵ P-0119: T-38-CT, p. 28, line 25-p. 29, line 5; P-0015: T-93-ET, p. 18, lines 1-5.

¹⁸⁶ [Trial Judgment](#), paras. 431, 433; P-0015: DAR-OTP-0088-0187-R04 at 0195-0196, paras. 38, 41-43, 44, and DAR-OTP-00000427, p. 2-3, rows 16-18; P-0119: DAR-OTP-0124-0196-R03 at 0216, para. 127.

¹⁸⁷ [Trial Judgment](#), para. 434.

robbed of an opportunity to continue her education.¹⁸⁸ P-0011 similarly described how the shame from being raped prevented her from completing her education.¹⁸⁹

64. As regards factors that increase the gravity of these crimes (or, alternatively, aggravate these crimes), the Chamber has already found that numerous women were raped during the attack on Kodoom and Bindisi.¹⁹⁰ These women were particularly defenceless, as the rapes occurred after they had been captured and shortly after or during the commission of other violent crimes.¹⁹¹ Some victims were also particularly defenceless given they were only children or elderly at the time.¹⁹² The use of derogatory language as rapes occurred¹⁹³ also demonstrates that the crimes were committed with a discriminatory intent, further aggravating these crimes.

65. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 27 years for each count of the crime of rape (Counts 8-9).

Forcible transfer of population as a crime against humanity (Count 10)

66. The forcible displacement of a population is objectively a crime of high gravity.¹⁹⁴ The circumstances under which it was committed during the Kodoom and Bindisi operation also demonstrate its gravity in this case, even if the coercive acts that caused the population transfer are encompassed by other charges.¹⁹⁵

67. The crime was committed as part of a policy to discriminately target the Fur population¹⁹⁶ and through a “scorched earth” attack commanded by ABD-AL-RAHMAN. It started in Mukjar and went through several villages, whose inhabitants were forced to flee, some towards Kodoom and Bindisi, only to be targeted again.¹⁹⁷

68. Kodoom and Bindisi were significantly destroyed, forcing a considerable part of the mostly Fur population to flee and seek refuge in Mukjar and elsewhere within Sudan or in other countries.¹⁹⁸ As a result, Mukjar became overcrowded and many people were living in the open,

¹⁸⁸ P-0015: T-93-ET, p. 19, lines 6-21.

¹⁸⁹ P-0011: T-91-CT2, p. 31, lines 16-21.

¹⁹⁰ [Trial Judgment](#), paras. 431, 868.

¹⁹¹ See above para. 42. See also [Trial Judgment](#), para. 868.

¹⁹² [Trial Judgment](#), paras. 431, 434, 868, 885, 894-896. See [Ongwen SJ](#), para. 287; [Ntaganda SJ](#), para. 95.

¹⁹³ [Trial Judgment](#), paras. 433, 435, 897-899.

¹⁹⁴ [Yekatom & Ngaïssona TJ](#), para. 4517; [Ntaganda SJ](#), para. 158.

¹⁹⁵ [Ntaganda SJ](#), para. 159.

¹⁹⁶ [Trial Judgment](#), paras. 381-389, 863.

¹⁹⁷ [Trial Judgment](#), para. 861. See [Ntaganda SJ](#), para. 161.

¹⁹⁸ [Trial Judgment](#), paras. 409, 426, 861. See [Ntaganda SJ](#), para. 160.

under trees in dire conditions.¹⁹⁹ Many could not, and still cannot, return to their villages as nothing was left there.²⁰⁰

69. The impact of such displacement was palpable amongst a population whose primary livelihood depended on farming, raising livestock and small-scale trade, and in which land ownership was central.²⁰¹ People displaced from Kodoom and Bindisi experienced a sharp decline in their standard of life due to the loss of their homes and possessions.²⁰² Those who fled to the surrounding areas also endured harsh living conditions, without access to food, medication or shelter, which also resulted in a number of casualties.²⁰³ Even those who reached Mukjar also settled mostly in open areas, under trees, or in the municipality building, without any proper support.²⁰⁴ Displaced persons lived in difficult conditions,²⁰⁵ and endured not only the loss of loved ones and their belongings, but also their sense of safety for a prolonged time. Those who fled to Mukjar, particularly, were further targeted by *Janjaweed* and GoS Forces.²⁰⁶

70. The forced displacement of the population also had an impact on the social fabric and cultural practices of the Fur. Many witnesses described that inhabitants' associations ceased to exist²⁰⁷ and that traditional celebrations were not held anymore.²⁰⁸

71. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 15 years for the crime of forcible transfer of population (Count 10).

Persecution as a crime against humanity (Count 11)

72. The crime of persecution is “inherently very serious”, warranting a severe penalty.²⁰⁹ The prohibition against persecution in article 7(1)(h) of the Statute is intended to protect the right of all individuals not to be discriminated against on the basis of political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognised as impermissible under international law.²¹⁰ Persecution is therefore considered “one of the most serious crimes

¹⁹⁹ See e.g. P-0916: T-75-CT, p. 16, lines 5-21; P-0012: T-45-CT, p. 34, lines 11-19; P-0878: T-78-CT3, p. 67, lines 6-13, p. 78, line 10-p. 79, line 3. See [Yekatom & Ngaïssona TJ](#), paras. 4520, 4613.

²⁰⁰ [Trial Judgment](#), paras. 409, 426, 861; P-0878: T-79-CT, p. 14, line 25-p. 16, line 15. See [Yekatom & Ngaïssona TJ](#), paras. 4526-4533.

²⁰¹ [Trial Judgment](#), para. 277.

²⁰² [Popović et al. TJ](#), para. 2151.

²⁰³ P-0015: T-93-ET, p. 14, lines 9-14. See [Ntaganda SJ](#), para. 162; [Yekatom & Ngaïssona TJ](#), para. 4524.

²⁰⁴ See e.g. P-0878: T-79-CT, p. 11, lines 9-22.

²⁰⁵ [Trial Judgment](#), para. 657; P-0007: T-89-CT, p. 17, line 6-p. 18, line 1; P-0020: T-41-CT2, page 78, line 11-p. 79, line 2; P-0119: T-38-CT, p. 27, lines 14-23, p. 89, line 24-p. 90, line 23; P-0878: T-79-CT, p. 88, line 17-p. 89, line 1.

²⁰⁶ [Yekatom & Ngaïssona TJ](#), paras. 4523, 4525.

²⁰⁷ P-0007: T-89-CT, p. 14, lines 12-20. See [Yekatom & Ngaïssona TJ](#), paras. 4527, 4623.

²⁰⁸ P-0011: T-91-CT2, p. 33, lines 1-6; P-0986: T-65-CT, p. 14, line 23-p. 15, line 6. See above para. 21.

²⁰⁹ [Al Hassan SJ](#), para. 70. See also [Yekatom & Ngaïssona TJ](#), para. 4547.

²¹⁰ [Yekatom & Ngaïssona TJ](#), para. 4547; [Al Hassan SJ](#), para. 70; [Ntaganda SJ](#), para. 175; [Onqwen SJ](#), para. 174.

against humanity, as it amounts to a denial of fundamental rights of one or more persons by virtue of their belonging to a particular group or collectivity.”²¹¹

73. The commission of this crime during the attack on Kodoom and Bindisi was particularly grave.²¹² *Janjaweed* and GoS Forces, under the command of ABD-AL-RAHMAN, targeted the entire non-Arab or predominantly Fur population of Kodoom and Bindisi, not only those who opposed them or actually belonged to a rebel group. A considerable number of people, therefore, were subject to persecution.²¹³ The Chamber also found that “the *Janjaweed* targeted the predominantly Fur inhabitants based on the perception that they were affiliated with the rebels, and the fact that they were Fur, thus discriminated them based on perceived political affiliation and ethnic identity”.²¹⁴ The intersecting nature of the grounds for discrimination demonstrates the compounded and thus heightened gravity of the crime of persecution in this case. As found by the Chamber, “[a] victim can suffer a higher risk of victimisation because of the *intersection* of different factors of discrimination.”²¹⁵

74. The extent and scale of the attack also meant that numerous fundamental rights of the population were substantially and violently violated, further contributing to the gravity of persecution in this case.²¹⁶ As mentioned, the attack also had long-lasting consequences for and deep and multi-faceted impact on victims and their communities.²¹⁷ Some victims of the crime of persecution were also particularly vulnerable as a result of their young or old age.²¹⁸

75. The gravity of the crime is also heightened by ABD-AL-RAHMAN’s high degree of intent, as evidenced by the fact that prior to the attack, HARUN, in the presence of ABD-AL-RAHMAN, among others, publicly referred to the Fur as *ghanima* and encouraged *Janjaweed* to “wipe out and sweep away the Fur”.²¹⁹

76. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 30 years for the crime of persecution (Count 11).

²¹¹ [Al Hassan SJ](#), para. 70. See also [Yekatom & Ngaïssona TJ](#), para. 4547; [Ntaganda SJ](#), para. 175.

²¹² In relation to the need to impose an individual sentence for the crime of persecution, see [Ntaganda SAJ](#), paras. 129-130.

²¹³ [Trial Judgment](#), para. 933. See [Al Hassan SJ](#), para. 71; [Ongwen SJ](#), paras. 176, 214; [Yekatom & Ngaïssona TJ](#), para. 4548.

²¹⁴ [Trial Judgment](#), para. 936.

²¹⁵ [Trial Judgment](#), para. 787.

²¹⁶ See [Trial Judgment](#), paras. 378-441 (for the Chamber's findings on all underlying facts for crimes committed in Kodoom and Bindisi). See [Yekatom & Ngaïssona TJ](#), para. 4548; [Al Hassan SJ](#), paras. 72-73, 76; [Ongwen SJ](#), paras. 175, 213.

²¹⁷ See above paras. 41, 47-48, 51, 53-54, 56-57, 61-63, 68-70. See also [Yekatom & Ngaïssona TJ](#), para. 4549.

²¹⁸ See above paras. 40, 58, 64. See [Al Hassan SJ](#), para. 75.

²¹⁹ [Trial Judgment](#), paras. 852, 933, 1004-1005.

c) Factors and circumstances relevant to crimes committed in relation to the Mukjar and Deleig operations

77. With respect to the Mukjar and Deleig operations, the Chamber convicted ABD-AL-RAHMAN of four counts of torture (as a crime against humanity and as a war crime), two counts of outrages upon personal dignity (as a war crime), four counts of murder (as a crime against humanity and as a war crime), four counts of attempted murder (as a crime against humanity and as a war crime) and two counts of persecution (as a crime against humanity).²²⁰

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed

78. Many victims of the crimes committed in the course of the Mukjar and Deleig operations were particularly vulnerable, having already been displaced to Mukjar, Deleig and Garsila by attacks on villages in the surrounding areas.²²¹ These victims included persons already displaced by the attacks on Kodoom and Bindisi.²²² In Mukjar, at least 40,000 displaced persons were living in insecurity, in close proximity to each other, without shelter or access to basic needs.²²³ They were insulted with derogatory terms and had their possessions seized.²²⁴ In Deleig, displaced persons were living in dire conditions, without proper shelter, and suffering from food shortage, poor sanitation and illness. Members of the *Janjaweed* seized possessions of displaced persons in Deleig and beat and verbally harassed them using derogatory names.²²⁵

79. Further, in both places, the crimes were committed in the context of a violent, abusive and demeaning atmosphere that provoked terror in the victims and the local inhabitants. In Mukjar, in February and March 2004, civilians arriving from surrounding villages were degraded at checkpoints set up and manned by *Janjaweed* and GoS Forces.²²⁶ They were called “*tora bora*”, “*nujus*” and “criminals”.²²⁷ Men were separated from women and children, and young men were searched for weapons or signs that they carried any.²²⁸ Over this period, *Janjaweed* and GoS Forces arrested males at checkpoints, in their homes, the market and other places.²²⁹ For about two weeks, people living in Mukjar were not permitted to leave.²³⁰ P-0892,

²²⁰ [Trial Judgment](#), p. 353-354.

²²¹ [Trial Judgment](#), paras. 447-450.

²²² [Trial Judgment](#), para. 450.

²²³ [Trial Judgment](#), paras. 451, 455.

²²⁴ [Trial Judgment](#), paras. 492-493.

²²⁵ [Trial Judgment](#), paras. 578-579.

²²⁶ [Trial Judgment](#), paras. 483-484.

²²⁷ [Trial Judgment](#), paras. 483-484, 492.

²²⁸ [Trial Judgment](#), paras. 484, 493.

²²⁹ [Trial Judgment](#), para. 494.

²³⁰ [Trial Judgment](#), para. 494.

who was a child when he was stopped at a checkpoint, recalled feeling that everyone from the Fur tribe was perceived as affiliated with or supporting the rebels.²³¹

80. In Deleig, armed *Janjaweed* and GoS Forces surrounded the town from the late evening on 4 March 2004²³² and, from early morning on 5 March 2004, patrolled the streets and searched houses looking for Fur men and boys not from Deleig who they suspected of being or supporting rebels.²³³ Members of the Fur community, especially the displaced, were scared and many hid to avoid arrest, including P-0725, who was only about 14 years old.²³⁴ P-0712, a student, was told to go home by a member of the *Janjaweed* who cocked and pointed his gun at him. He was terrified and quickly left the area.²³⁵ The *Janjaweed* insulted the Fur people with denigrating language, and threatened, beat and kicked both men and women.²³⁶ Fur men and boys were herded “like animals” to the police station.²³⁷ The local police were powerless to stop the operation.²³⁸ Detainees outside the police station were treated without any respect, like “insects”,²³⁹ and later thrown into the backs of vehicles “like bags of grain”.²⁴⁰

81. Furthermore, the method of mass killing employed by ABD-AL-RAHMAN in both Mukjar and Deleig further heightens the gravity of those crimes.

ABD-AL-RAHMAN’s degree of participation and intent

82. ABD-AL-RAHMAN was convicted of all crimes committed in the Mukjar and Deleig operations as a co-perpetrator,²⁴¹ and additionally of the crimes of murder (Deleig only), torture, outrages upon personal dignity and persecution as a direct perpetrator,²⁴² pursuant to article 25(3)(a) of the Statute.

83. Multiple facts and circumstances demonstrate ABD-AL-RAHMAN’s high degree of participation and intent in the Mukjar and Deleig crimes. As found by the Chamber, for both operations, ABD-AL-RAHMAN “was present and intervened throughout the different stages (preparation and execution)” of the respective common plans and “personally carried out the

²³¹ [Trial Judgment](#), paras. 492, 501; P-0892: DAR-OTP-0217-0384-R02 at 0392, para. 41.

²³² [Trial Judgment](#), para. 589.

²³³ [Trial Judgment](#), para. 593.

²³⁴ [Trial Judgment](#), para. 595; P-0725: DAR-OTP-0210-0122-R02 at 0124, para. 11.

²³⁵ P-0712: DAR-OTP-0209-1884-R04 at 1892, para. 31.

²³⁶ [Trial Judgment](#), para. 596.

²³⁷ [Trial Judgment](#), para. 598.

²³⁸ [Trial Judgment](#), para. 601.

²³⁹ [Trial Judgment](#), paras. 608, 616.

²⁴⁰ [Trial Judgment](#), para. 617.

²⁴¹ [Trial Judgment](#), para. 998.

²⁴² [Trial Judgment](#), para. 958.

material elements of some of the crimes that were part of the same”.²⁴³ The Chamber’s specific findings on the nature and extent of ABD-AL-RAHMAN’s contributions to the Mukjar²⁴⁴ and Deleig²⁴⁵ Common Plans amply demonstrate his high degree of participation and intent in these crimes. The following examples of ABD-AL-RAHMAN’s conduct in the two operations should be read together with the specific sections addressing ABD-AL-RAHMAN’s degree of participation and intent for each crime below.

84. In Mukjar, in late February 2004, ABD-AL-RAHMAN instructed the Mukjar chief of police to register and detain any person coming from the direction of Sindu.²⁴⁶ As a result, predominantly Fur men, including community leaders, and boys were arrested and detained at the Mukjar police station.²⁴⁷ ABD-AL-RAHMAN also personally arrested a Fur man, Abakar Abdelmoula, and took him to the police station. He was later executed together with other detainees.²⁴⁸

85. Over the course of at least two days between February and early March 2004, ABD-AL-RAHMAN was present at the Mukjar police station where he, *Janjaweed* and GoS Forces

²⁴³ [Trial Judgment](#), paras. 985-986.

²⁴⁴ The Chamber found that ABD-AL-RAHMAN: (i) prior to the Mukjar Operation, held meetings with high-ranking GoS officials in relation to the implementation of the Common Plan; (ii) led the *Janjaweed* in this joint operation with the GoS Forces; (iii) personally committed crimes which were part of the Mukjar Common Plan, namely the crimes of outrages upon personal dignity and torture, in the presence of members of the *Janjaweed* and the GoS Forces; (iv) prior to the Mukjar Operation, instructed GoS Forces how to carry out, and, during the Operation, personally participated in, arrests; (v) was present as detainees were being brought to the police station; (vi) took steps to identify ‘rebels’, namely by instructing the second-in-command of the SLM/A, who had been captured during the Sindu Operation, to point them out in a cell at the police station; (vii) physically and verbally abused detainees at the police station, and was present as members of the *Janjaweed* did the same; (viii) liaised with Minister Harun and other senior GoS officials in relation to the custody of detainees; (ix) gave orders to GoS officials in relation to the transfer of detainees; (x) personally took detainees out of their cells and loaded them onto vehicles, and ordered members of the *Janjaweed* and the GoS Forces to do the same; (xi) supervised the transport of detainees to the execution sites; (xii) at the execution sites, mistreated detainees in the presence of members of the *Janjaweed* and GoS Forces, and was present while members of the *Janjaweed* and GoS Forces were doing the same; and (xiii) at the execution sites, ordered members of the *Janjaweed* and GoS Forces to execute the detainees. See [Trial Judgment](#), para. 985.

²⁴⁵ The Chamber found that ABD-AL-RAHMAN: (i) led the *Janjaweed* in this joint operation with the GoS Forces; (ii) personally committed crimes, which were part of the Deleig Common Plan, namely the crimes of outrages upon personal dignity, torture and murder in the presence of members of the *Janjaweed* and the GoS Forces; (iii) personally brought detainees to the Garsila SAF base, and provided intelligence which led to, and issued orders for, the arrest of persons, some of whom were later detained and killed in Deleig; (iv) was present, issued orders during, and participated in the search and arrest operation; (v) was present at the Deleig police station, including in the open area outside the police station where detainees were held and mistreated; (vi) commanded the *Janjaweed* at the Deleig police station; (vii) questioned detainees; (viii) decided whether detainees should be released; (ix) physically and verbally abused detainees in the presence of members of the *Janjaweed* and GoS Forces; (x) committed killings in the presence of members of the *Janjaweed* and the GoS Forces; (xi) gave instructions to members of the *Janjaweed* and GoS Forces to load detainees onto vehicles, and supervised this process; (xii) supervised the transport of detainees to execution sites; and (xiii) at one execution site, ordered members of the *Janjaweed* and the GoS Forces to take the detainees off the vehicles and execute them. See [Trial Judgment](#), para. 986.

²⁴⁶ [Trial Judgment](#), paras. 473-474, 488.

²⁴⁷ [Trial Judgment](#), paras. 484, 488-491, 510

²⁴⁸ [Trial Judgment](#), para. 495.

tortured, degraded and humiliated detainees.²⁴⁹ ABD-AL-RAHMAN ordered and supervised the loading of detainees, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Adam Husayn Abdelmahmoud and *Umdah* Issa Harun Nour, onto vehicles.²⁵⁰ Using his axe, ABD-AL-RAHMAN struck several detainees as they exited the cell, including *Umdah* Yahya Ahmad Zarruq and *Umdah* Issa Harun Nour.²⁵¹ Upon arrival at the execution sites outside of Mukjar, ABD-AL-RAHMAN struck detainees with his axe as they disembarked the vehicles and ordered their execution.²⁵²

86. In Garsila, before the Deleig operation, ABD-AL-RAHMAN issued orders for people to be arrested and provided intelligence to the SAF on suspected “insurgents”. This led to many arrests.²⁵³ ABD-AL-RAHMAN also personally brought *Sheikh* Ismail Abdulaziz and Hassan Adam Musa to the Garsila SAF base to be detained.²⁵⁴ ABD-AL-RAHMAN visited *Umdah* Mohamed Suleiman while he was detained at the Garsila SAF base.²⁵⁵ Around 5 March 2004, the first day of the Deleig operation, ABD-AL-RAHMAN took custody of *Umdah* Suleiman, *Sheikh* Abdulaziz and Hassan Adam Musa. They remained in custody until around 7 March 2004.²⁵⁶ All three detainees were killed during the Deleig operation.²⁵⁷

87. On 5 March 2004, ABD-AL-RAHMAN led the contingent of *Janjaweed* and GoS Forces that entered Deleig,²⁵⁸ was present at Deleig police station where the detainees were held,²⁵⁹ and commanded the *Janjaweed* at the police station.²⁶⁰

Torture as a crime against humanity and as a war crime and outrages upon personal dignity as a war crime (Counts 12-13, 16, 22-23 and 26)

88. Torture has been described as “a particularly heinous act, by which an individual’s human dignity, security and mental well-being is assaulted”.²⁶¹ The right not to be subjected to torture is a *ius cogens* norm and non-derogable right recognised in customary and conventional international law.²⁶² The objective gravity of the crime of torture is therefore very high.²⁶³ The

²⁴⁹ [Trial Judgment](#), paras. 873, 904-905.

²⁵⁰ [Trial Judgment](#), paras. 541-542, 544.

²⁵¹ [Trial Judgment](#), para. 542.

²⁵² [Trial Judgment](#), paras. 552, 554, 563.

²⁵³ [Trial Judgment](#), para. 580.

²⁵⁴ [Trial Judgment](#), para. 580.

²⁵⁵ [Trial Judgment](#), para. 581(c).

²⁵⁶ [Trial Judgment](#), paras. 586-587.

²⁵⁷ [Trial Judgment](#), paras. 581(d), 642-646.

²⁵⁸ [Trial Judgment](#), para. 589.

²⁵⁹ [Trial Judgment](#), para. 606.

²⁶⁰ [Trial Judgment](#), para. 607.

²⁶¹ [Yekatom & Ngaissona TJ](#), para. 4588.

²⁶² [Yekatom & Ngaissona TJ](#), para. 4588; [Al Hassan SJ](#), para. 44; [Ongwen SJ](#), para. 157.

²⁶³ [Yekatom & Ngaissona TJ](#), para. 4588; [Al Hassan SJ](#), para. 44; [Ongwen SJ](#), para. 157.

prohibition against torture and outrages upon personal dignity is enshrined in Common Article 3 of the Four Geneva Conventions, and these rights are fundamental rules of international humanitarian law.²⁶⁴ The objective gravity of the crime of outrages upon personal dignity is also considered to be high.²⁶⁵

89. Factors relevant to assessing the gravity of torture and outrages upon personal dignity in this case (or, alternatively, that aggravate those crimes) include: the high number of victims; the victimisation of particularly defenceless persons, including children and detainees;²⁶⁶ the manner of commission of the crimes, including acts of particular cruelty and the commission of crimes in public; the long-lasting impact of the crimes; and ABD-AL-RAHMAN's high degree of participation and intent, including his direct and co-perpetration of the crimes.

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed

90. The Chamber convicted ABD-AL-RAHMAN of the crimes of torture and outrages upon personal dignity encompassing a high number of victims: at least 100 predominantly Fur men and boys in Mukjar and at least 100 Fur men and boys in Deleig.²⁶⁷

91. In Mukjar, the men and boys detained at Mukjar police station, who were victims of the crimes of torture and outrages upon personal dignity, included children (around 9 or 10 years old) and older men (aged over 60).²⁶⁸ Several respected Fur community leaders (*umdahs* and *sheikhs*) from surrounding villages were targeted for arrest and mistreatment. According to P-0012, everyone with a social rank was arrested.²⁶⁹

92. The detainees were abused over the course of at least two days,²⁷⁰ and were subjected to acts of particular cruelty. ABD-AL-RAHMAN personally struck several detainees, including *umdahs* and *sheikhs*, with his axe and whip.²⁷¹ P-0919's skin was burned with an iron, P-0903 described having hot plastic thrown on him, and P-0919 witnessed detainees have their ears cut off and heads shaved with knives, until their scalps bled.²⁷²

²⁶⁴ [Al Hassan SJ](#), para. 44.

²⁶⁵ [Ongwen SJ](#), para. 206.

²⁶⁶ For crimes where the detention is taken into account in the element of the crime, the Chamber should not also consider this factor as aggravating, *see above* para. 11.

²⁶⁷ [Trial Judgment](#), paras. 873-874, 902, 910.

²⁶⁸ [Trial Judgment](#), paras. 491, 506, 523-524, 526, 873, 879, 881.

²⁶⁹ 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.

²⁷⁰ [Trial Judgment](#), para. 873.

²⁷¹ [Trial Judgment](#), paras. 523-524

²⁷² [Trial Judgment](#), paras. 526-528, 530, 874.

93. The severity of the abuse was such that victims were bleeding, in agony, shouting and crying, and citing quotes and verses from the *Qur'an*. Some of the detainees' skin peeled off and their wounds were so grave they became disfigured.²⁷³ None were provided any medical treatment for the injuries they sustained.²⁷⁴ At least three men died as a result of the physical abuse and inhumane conditions of detention.²⁷⁵

94. The detainees were also subjected to verbal abuse and threats. While striking detainees with his axe, ABD-AL-RAHMAN directed derogatory comments at them, calling them slaves, *magus*, *tora bora* and rebels.²⁷⁶ In addition to the physical and verbal abuse, the detainees were photographed and filmed whilst Minister HARUN accused them of being rebels and called them *tora bora* - they were then loaded on to vehicles, stacked on top of one another "like sacks" and mistreated and told they would be killed.²⁷⁷ When P-0129 was arrested and taken to the police station, he saw that various of the detained *umdahs* had been made to undress down to their underwear.²⁷⁸ *Umdah* Yahya Ahmad Zarruq was denied permission to get properly dressed before leaving the police station and being loaded onto a vehicle for execution.²⁷⁹

95. In Deleig, the men and boys detained outside the police station, who were victims of the crimes of torture and outrages upon personal dignity, included children (from around 13 years old) and older men (aged over 60).²⁸⁰ Further, two of the persons the Chamber found were struck by the *Janjaweed* were children: P-0718 (about 12 years old)²⁸¹ and P-0736 (15 years old).²⁸² At least five community leaders were targeted.²⁸³

96. In addition, the Chamber found that the crime of outrages upon personal dignity was committed against "at least one child whilst being transported from Deleig police station, particularly by repeatedly beating them with boots, whips and sticks, while subjecting them, at least in one instance, to verbal abuse through the use of derogatory expressions."²⁸⁴ This crime was further committed against P-0955 ([REDACTED]) and other family members, who were

²⁷³ [Trial Judgment](#), paras. 534, 905.

²⁷⁴ [Trial Judgment](#), para. 535.

²⁷⁵ [Trial Judgment](#), paras. 536, 873.

²⁷⁶ [Trial Judgment](#), paras. 521, 525.

²⁷⁷ [Trial Judgment](#), paras. 517-518, 903-904; P-0905: T-86-CT, p. 22, line 14.

²⁷⁸ [Trial Judgment](#), para. 510.

²⁷⁹ [Trial Judgment](#), paras. 545, 904.

²⁸⁰ [Trial Judgment](#), paras. 604-605, 875.

²⁸¹ [Trial Judgment](#), paras. 596, 599. For P-0718's age, see P-0718: DAR-OTP-0209-2004-R02 at 2007, para. 14, and DAR-OTP-0220-4792 at 4792, para. 3.

²⁸² [Trial Judgment](#), para. 596. For P-0736's age, see P-0736: DAR-OTP-0210-0248-R02 at 0250, para. 12, and T-35-CT, p. 6, lines 19-22.

²⁸³ See below fn. 309.

²⁸⁴ [Trial Judgment](#), para. 907 (citations omitted).

particularly degraded by the violent arrest of *Umdah* Kindiri, during which ABD-AL-RAHMAN made death threats to the family.²⁸⁵

97. With respect to acts of particular cruelty, a Fur detainee, Abdallah Mussa, known as Mulenqwe, was stabbed in the eye with a bayonet by an “army soldier”.²⁸⁶ After beating P-0973 on the face and ear, the *Janjaweed* pulled P-0973 by a metallic-type rope tied around his neck, while asking why he was not killed like the others.²⁸⁷ P-0584 lost consciousness as a result of the beating he suffered.²⁸⁸

98. Further, the victims detained in the unfenced area near the police station were tortured and degraded in a highly public place, in the centre of Deleig town.²⁸⁹

The extent of the damage caused, including harm caused to victims and their families

99. Victims described long-lasting physical and psychological harm resulting from the torture they suffered.

100. In relation to the Mukjar operation, execution survivor P-0919 was hit on the head with a stick and burned with an iron by members of the CRF.²⁹⁰ He testified about his lasting injuries: “I have problems when I go out in the sun, I feel that there is something on my head and my back, because they hit me in my chest. And when I sit down, I -- I still feel this pain, up to now”.²⁹¹ P-0990 still bears scars on his body, from where ABD-AL-RAHMAN struck him with an axe.²⁹²

101. In relation to the Deleig operation, the Chamber found that the acts of torture and mistreatment committed by the *Janjaweed* left many victims with “long term psychological and physical harms.”²⁹³ P-0907, who was struck in the back with a stick by a member of the *Janjaweed* “as if he was ploughing the land”,²⁹⁴ stated: “I still suffer the impact of that hit. Now, when I sleep for extended period, I feel the pain exactly where I was hit. That wakes me up and then I sit up, take a break, and then go back to sleep. This is the impact of that hit until this very

²⁸⁵ [Trial Judgment](#), para. 908.

²⁸⁶ [Trial Judgment](#), para. 609.

²⁸⁷ [Trial Judgment](#), para. 638.

²⁸⁸ [Trial Judgment](#), para. 596.

²⁸⁹ [Trial Judgment](#), para. 576.

²⁹⁰ [Trial Judgment](#), para. 527.

²⁹¹ P-0919: T-60-CT, p. 50, lines 4-6.

²⁹² P-0990: T-40-CT2, p. 52, lines 1-2.

²⁹³ [Trial Judgment](#), para. 874 (referring to para. 652).

²⁹⁴ [Trial Judgment](#), para. 609.

day.”²⁹⁵ In addition, P-0973 suffered permanent hearing issues from being beaten by the *Janjaweed* in the face and right ear.²⁹⁶

ABD-AL-RAHMAN’s degree of participation and intent

102. With respect to Mukjar, the Chamber found that ABD-AL-RAHMAN directly perpetrated torture and outrages upon personal dignity by hitting detainees, including *umdahs*, *sheikhs* and one child of about 9 to 10 years old, using an axe and a whip, and verbally abusing them by means of threats and derogatory language.²⁹⁷ ABD-AL-RAHMAN was also present when *Janjaweed* shaved the heads and severed detainees’ ears with a knife.²⁹⁸

103. With respect to Deleig, the Chamber found that ABD-AL-RAHMAN directly perpetrated torture and outrages upon personal dignity by stepping with his shoes on the backs of the detainees lying on the ground outside the police station, “as if he was walking on trees”, and striking them with his stick-like object.²⁹⁹ The victims were in a weak and vulnerable state when ABD-AL-RAHMAN assaulted them, some with their hands tied behind their backs.³⁰⁰ ABD-AL-RAHMAN patrolled the area around the detainees, telling them, “even if you fly to the sky I will get you”.³⁰¹

104. With respect to outrages upon personal dignity, committed during the arrest of *Umdah* Kindiri, ABD-AL-RAHMAN directly participated in this incident. ABD-AL-RAHMAN was present and ordered the arrest of *Umdah* Kindiri, kicking him and threatening to shoot his family members who cried as he was being dragged out of the house.³⁰²

105. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 20 years for each count of the crime of torture (Counts 12-13 and 22-23), and 14 years for each count of the crime of outrages upon personal dignity (Counts 16 and 26).

Murder and attempted murder as a crime against humanity and as a war crime (Counts 17-20, 27-30)

106. As submitted above, the objective gravity of the crime of murder is very high.³⁰³

²⁹⁵ P-0907: T-95-CT, p. 9, lines 16-23.

²⁹⁶ [Trial Judgment](#), para. 638.

²⁹⁷ [Trial Judgment](#), paras. 520-525, 541-542, 943, 945, 948, 950.

²⁹⁸ [Trial Judgment](#), para. 530.

²⁹⁹ [Trial Judgment](#), paras. 610, 944.

³⁰⁰ [Trial Judgment](#), para. 944.

³⁰¹ [Trial Judgment](#), para. 944.

³⁰² [Trial Judgment](#), paras. 602, 908.

³⁰³ See above para. 39.

107. Factors that increase the gravity of the crimes of murder and attempted murder in this case (or, alternatively, that aggravate those crimes) include: the high number of victims; the victimisation of particularly defenceless persons, including children and detainees; the manner of the commission of the crimes, including acts of particular cruelty, the commission of crimes in public, and the treatment of the victims' dead bodies; the severe and long-lasting impact of the crimes, including by targeting Fur community leaders; and ABD-AL-RAHAMN's high degree of participation and intent, including as a direct and co-perpetrator of the crimes.

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed

108. The Chamber convicted ABD-AL-RAHMAN of the murders of a total of no fewer than 53 persons in the Mukjar operation and no fewer than 114 persons in the Deleig operation.³⁰⁴ These incidents occurred within the period of approximately one week, with almost all the killings (no fewer than 158 victims) being perpetrated in two days.³⁰⁵ In addition, ABD-AL-RAHMAN was convicted of the attempted murder of four persons who survived the executions in Mukjar and Deleig.³⁰⁶

109. All the victims in Mukjar and Deleig were detainees when they were murdered and were thus particularly defenceless.³⁰⁷ At least three victims were children³⁰⁸ and eight were community leaders (*umdahs* and *sheikhs*).³⁰⁹ In both operations, the corpses of the victims at the execution sites were callously left behind, where they were later found by villagers.³¹⁰

110. In Mukjar, as the vehicles loaded with detainees departed Mukjar police station, ABD-AL-RAHMAN shouted "*Allahu Akbar, Toro Boro is over, prepare their graves.*"³¹¹ At the first

³⁰⁴ [Trial Judgment](#), paras. 920, 921, 927. The Prosecution notes that the Chamber's findings appear to indicate that at least five community leaders were killed near Fere, rather than at least six. See [Trial Judgment](#), paras. 641-646, 921 (*Umdah* Khamis, *Umdah* Suleiman, *Umdah* Kindiri, *Sheikh* Abdulaziz and Hassan Adam Musa).

³⁰⁵ [Trial Judgment](#), paras. 538 (Mukjar, on or around 2 March 2004), 605 (Deleig, 5 March 2004).

³⁰⁶ [Trial Judgment](#), para. 927.

³⁰⁷ [Trial Judgment](#), para. 924.

³⁰⁸ [Trial Judgment](#), paras. 618, 634 (Abu Bakar Suleiman Abakar, no more than 12-13 years old; son of Issa Harun, about 13-14 years old; Zakaria Abdelmawla Abakar, no more than 12-13 years old).

³⁰⁹ [Trial Judgment](#), paras. 560, 574, 581, 612, 641-645; Annex 17 to Prosecution's Trial Brief, ICC-02/05-01/20-1206-Conf-Anx17, no. 53, 112, 158. Three in Mukjar: Adam Husayn Abdelm Mahmoud aka Doorri, (*Umdah* of Kirarow, Artala, Balda, Dembow Kabdy, Dine, Gorolla, Kankule, Nyamatala, part of Sindu, Zorow and Morow), Issa Harun Nour aka Issa Tibé (*Umdah* of part of Mukjar, part of Abirla, part of Arada, Bolboso, Dadey, Dembow Kabdy, part of Korofata, Indiri, part of Nyerli, part of Tendy, Sigigir, and Head of the Court of Mukjar/President of the traditional court), Yahya Ahmad Zarruq (*Umdah* for part of Mukjar, Abirla, Arada, Balda, Dembow Kabdy, Korofata, Nyerli, Orol, Sindu, Tendy-Sooru, and Tiro); and five in Deleig: Adam Adam Abd-Al-Rahman aka Motor (*Sheikh* from Massa), Adam Adam Degges Ahmed Abdulshafa aka Kindiri (*Umdah* of Forgo), Ismail Abdulaziz aka Ismail Dikobi (*Sheikh* of the Western Neighbourhood in Garsila), Jiddo Khamis Abd-Al-Karim (*Umdah* of Gaba), Mohamed Suleiman Abdulshafa aka Dirbo (*Umdah* of Tanako).

³¹⁰ [Trial Judgment](#), paras. 550, 554, 559-560, 562-565, 573-574 (Mukjar), 624-625, 630, 633 (Deleig).

³¹¹ [Trial Judgment](#), para. 549.

execution site, ABD-AL-RAHMAN, *Janjaweed* and GoS Forces beat and insulted detainees.³¹² One soldier told them: “if any of you know verses from the Koran, you better start praying because these people are going to kill you”.³¹³ ABD-AL-RAHMAN then ordered the detainees to lie down, and repeatedly ordered the *Janjaweed* and GoS Forces to shoot and kill: “Shoot again. Shoot again. Maybe one of them did not get shot, so shoot again.”³¹⁴ As the shooting went on, the *Janjaweed* were heard shouting: “*Tora bora*, we are going to fuck you. *Tora bora* we are going to fuck you”.³¹⁵ Similarly, at the second execution site, ABD-AL-RAHMAN ordered the execution of other detainees.³¹⁶ After the shooting, some soldiers walked on top of the corpses to ensure they were dead. One soldier called them “slaves” and took money from a corpse.³¹⁷

111. In Deleig, ABD-AL-RAHMAN personally murdered two victims: Adam Abd-Al-Rahman, known as Jenif, and Adam Adam Abd-Al-Rahman, known as *Sheikh* Motor.³¹⁸ The circumstances of these murders make them especially grave. First, ABD-AL-RAHMAN killed the victims in a particularly brutal manner, striking them to the head multiple times with his axe.³¹⁹ Second, ABD-AL-RAHMAN insulted and demeaned the victims before and after murdering them.³²⁰ Third, ABD-AL-RAHMAN knew that *Sheikh* Motor was a *sheikh* and therefore an important Fur community leader when he murdered him. Fourth, ABD-AL-RAHMAN murdered *Sheikh* Motor in the open area outside the Deleig police station, in front of members of the public and where at least 100 Fur male detainees were waiting terrified to learn their fate.³²¹

The extent of the damage caused, including harm caused to victims and their families

112. As demonstrated below, the victims, their families and the whole Fur community suffered profound psychological, social and economic harm as a result of the executions committed in Mukjar and Deleig.

³¹² [Trial Judgment](#), paras. 551-553.

³¹³ [Trial Judgment](#), para. 553.

³¹⁴ [Trial Judgment](#), para. 554.

³¹⁵ [Trial Judgment](#), para. 558.

³¹⁶ [Trial Judgment](#), paras. 562-564.

³¹⁷ [Trial Judgment](#), para. 565.

³¹⁸ [Trial Judgment](#), paras. 306, 611-612.

³¹⁹ [Trial Judgment](#), paras. 611-612.

³²⁰ Before killing Jenif, ABD-AL-RAHMAN told him, “I’m not going to even spend one single shot on you because shots are expensive, we pay money for it. So all what I’m going to use is this axe”. Afterwards, he told a police officer to throw Jenif’s body outside the police station. See [Trial Judgment](#), para. 611. Before killing *Sheikh* Motor, ABD-AL-RAHMAN told him, “[y]ou are a very fat person. You must have eaten people’s money or taken people’s money.” Afterwards, he instructed his men to throw *Sheikh* Motor’s body onto the back of a vehicle. See [Trial Judgment](#), para. 612.

³²¹ [Trial Judgment](#), paras. 605, 612.

113. Survivors of the executions described profound and lasting psychological suffering. P-0919, [REDACTED], stated: “I’m really sad when I remember those events and that place. And when I remember the area which this happened and which people were killed, I started crying and I feel very bad indeed. So I try not to look at that area. I try to avoid that as much as I can.”³²² He still has scars on the back and front of his [REDACTED] from when he was beaten and pushed off a vehicle at the first execution site.³²³ His [REDACTED] bears a scar from when he was shot during the execution.³²⁴ [REDACTED] of P-0919 were among those executed, leaving behind orphaned children and causing great loss for his family.³²⁵

114. P-0877 testified about the lasting psychological trauma, calling the Mukjar executions the worst day of his life: “the government and the Janjaweed started killing everybody and we felt completely helpless. And that is 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, 2 March 2004.”³²⁶

115. As a child [REDACTED], P-0671 found the bodies of his father and brother at an execution site outside of Deleig. He dug graves and buried his father and brother himself, and with villagers helped to bury the other bodies that had been left behind to decompose.³²⁷ P-0671 stated: “The images that I saw stay with me and cause me severe nightmares. I try not to think about what happened to my brother and father, but when I do, it makes me extremely upset.”³²⁸ He further stated, “I was really affected and impacted by the death of my older brother and my father because my father was my leader in life. He was teaching me. He was educating me. He took me with him to farming, and he was my leader in life. And when I lost him on 5 March, I was extremely sad because I had lost a large part of myself.”³²⁹

116. P-0850, who was present in Deleig during the operation and lost members of his family in the executions, stated: “[I]t impacted me a lot and [...] when I think about it I’m really impacted, even though some time has elapsed since then. It was very difficult at that time. The circumstances were really difficult.”³³⁰ He continued: “[The disappearance and apparent killing

³²² P-0919: T-60-CT, p. 50, lines 17-20.

³²³ P-0919: T-60-CT, p. 43, lines 10-22, p. 43, lines 20-22, DAR-OTP-0217-0445 and DAR-OTP-0217-0446 (scars on [REDACTED]), DAR-OTP-0217-0450 (scar on [REDACTED]), DAR-OTP-0217-0447 (scar on [REDACTED]).

³²⁴ P-0919: T-60-CT, p. 41, lines 1-6, p. 43, lines 20-22 and DAR-OTP-0217-0449 (scar on [REDACTED]).

³²⁵ [Trial Judgment](#), para. 559; P-0919: T-60-CT, p. 50, line 22-p. 51, line 1.

³²⁶ P-0877: T-54-CT, p. 65, line 18-p. 66, line 9.

³²⁷ [Trial Judgment](#), para. 634; P-0671: DAR-OTP-0206-0105-R02 at 0107, para. 11, 0113, para. 33, 0118-0119, paras. 53-56.

³²⁸ P-0671: DAR-OTP-0206-0105-R02 at 0121, para. 63.

³²⁹ P-0671: T-98-CT, p. 85, lines 7-11.

³³⁰ P-0850: T-44-CT, p. 66, line 2-p. 67, line 9.

of my family members] impacted me a lot. When I remember this or someone mentions them to me, I'm really impacted. In our family, there are no males at all anymore. All of this happened in a week. And all my relatives, even the husband of my sister, they [...] all died. They disappeared on the same day, as well as our neighbours. On a Friday, they all died. I was raised there. And as a matter of fact, whenever I remember them, I cry, I weep. And I'm really very much impacted and impressed when someone talks about them.”³³¹

117. P-0726, who lost his [REDACTED] in the Deleig operation,³³² stated, “when I knew about his death, that was also shocking for me. [...] that was really painful. We [...] were thinking about bringing back the rights to those people who were executed and killed during that attack.”³³³

118. P-0907, a Fur man [REDACTED], described the harm he suffered, as well as the impact on the community from the murder of *faqihs* (persons who had memorised the *Qu'ran*):³³⁴

The psychological and mental impact that I still suffer from when I remember these innocent victims that were murdered in the execution site, whenever I remember the name of any of them, I can't sleep. All of them had memorised the whole [*Qu'ran*] by heart, they were *faqihs*, they were teachers to the children. And as a result of their execution, their religious education came to a halt in that region.³³⁵

119. A second Deleig survivor, P-0584, who managed to escape from the vehicle transporting him to an execution site,³³⁶ stated: “I personally felt that death would have been better for me than what happened. If I knew that this would happen, it would have been better for me to die, because I'm living in real difficulty right now. The main reason for all my suffering is Ali Kushayb.”³³⁷ P-0584 continued, “I have improved a little [with psychological treatment] but I still suffer from nightmares. Every night I dream of my old friends, my childhood friends that I used to play and chat to. None of them is still alive except just one person. [...] My friends and my relatives, many of them died. They were killed. And I still suffer from nightmares and

³³¹ P-0850: T-44-CT, p. 66, lines 6-22.

³³² P-0726's [REDACTED] was Mohamed Mohamed Adam. See [Trial Judgment](#), para. 634; P-0726: DAR-OTP-0210-0346-R04 at 0364-0365, paras. 63, 69, and DAR-OTP-0224-0792 at 0795, para. 19, and DAR-OTP-0224-0758

at 0758 and fn. 1 (Mohammed Mohammed Adam from Forgo), and T-53-CT2, p. 17, lines 3-19.

³³³ P-0726: T-53-CT2, p. 18, lines 3-6.

³³⁴ “*Faqih*” is an honorific used in Sudan as a general term of respect and to refer to individuals who have memorised the *Qur'an*. See Agreed Glossary, Annex 31 to Prosecution's Final Brief, ICC-02/05-01/20-1206-Anx31-Red, p. 16.

³³⁵ P-0907: T-95-CT, p. 10, lines 17-21.

³³⁶ [Trial Judgment](#), para. 629.

³³⁷ P-0584: T-92-CT2, p. 21, lines 12-18.

sleeplessness. I sometimes can't sleep for more than one hour. The memories keep coming back to me. It just flashes in front of me, and I am in real suffering.”³³⁸

120. Villagers who discovered bodies left behind after the executions also suffered harm. P-0877, who discovered bodies outside of Mukjar, explained: “When I went to the first site and I saw the bodies there, and I identified a big number of them, I got severely impacted by that. But then when we went to the second site, we saw an even bigger number of bodies, half buried. And that's why, until now, every time I remember this experience, I cry.”³³⁹

121. P-0697³⁴⁰ and P-0651³⁴¹ were each children of only about 15 years old when they found dead bodies outside of Deleig.³⁴² P-0697 stated, “I was affected or impacted by the bodies, the dead bodies that I saw in the *Khor*. This has impacted me a lot.”³⁴³ P-0651 stated, “I was terrified by what I had seen.”³⁴⁴ P-0651 further explained that the community could not bury the bodies properly, nor hold proper funerals, because they had to be buried “very quickly under pressure, fear.”³⁴⁵

122. A particular harm suffered in this case relates to the murder of eight community leaders in Mukjar and Deleig,³⁴⁶ including one directly by ABD-AL-RAHMAN.³⁴⁷ This had a substantial impact not only on their families but on the entire Fur community. As found by the Chamber, the targeted assassination of community leaders was an explicit part of the GoS' counter-insurgency strategy, formalised in the NSC Plan.³⁴⁸ The Chamber found:

The execution of the *sheikhs* and *umdahs*, in particular had a significant impact on the Fur communities in Mukjar and Deleig, given their symbolic and substantive role and importance. These leaders offered guidance, resolved disputes, and maintained communal cohesion. This loss left many in the Fur community without the leaders on whom they were dependent in their daily life.³⁴⁹

123. P-0907 explained that the loss of the community leaders had an intense impact and caused a “domino effect”: “a communal leader, one of the notables, they would be able to address the

³³⁸ P-0584: T-92-CT2, p. 22, line 19-p. 23, line 4.

³³⁹ P-0877: T-54-CT, p. 67, lines 4-7.

³⁴⁰ P-0697: DAR-OTP-0209-0155-R03 at 0168, para. 13, and T-101-CT, p. 13, lines 6-24.

³⁴¹ P-0651: DAR-OTP-0205-0015-R02 at 0017-0018, para. 11.

³⁴² [Trial Judgment](#), paras. 632, 634.

³⁴³ P-0697: T-101-CT, p. 11, line 20-p. 12, line 6.

³⁴⁴ P-0651: DAR-OTP-0205-0015-R02 at 0031, para. 58.

³⁴⁵ P-0651: T-34-CT3, p. 33, line 7-p. 34, line 5.

³⁴⁶ See above fn. 309.

³⁴⁷ [Trial Judgment](#), para. 612 (Adam Adam Abd-Al-Rahman aka Motor (*Sheikh* from Massa)).

³⁴⁸ [Trial Judgment](#), paras. 823-824.

³⁴⁹ [Trial Judgment](#), para. 656. See also [Trial Judgment](#), paras. 274-275.

[...] government authorities to fund schools, hospitals. So say when this notable person dies, the whole society suffers because [...] we don't have someone to take care of us.”³⁵⁰

124. Further, community leaders such as *umdahs* and *sheikhs* often headed large families, who were significantly impacted by their loss.³⁵¹ When murdered in Deleig, *Umdah* Kindiri had three wives and nine children. His loss had a huge impact on his family, interrupting his children's education and causing members of the family to become separated for many years.³⁵² Given the circumstances of his murder, *Umdah* Kindiri's family has never been able to obtain a death certificate, to find his body or grave, or to hold any burial honours for him.³⁵³

125. P-0955, a relative of *Umdah* Kindiri, who was only [REDACTED] when he was murdered, stated:

[*Umdah* Kindiri] was the *Umdah* and he was well loved. Even today when we meet those who knew him, they would cry and they would tell us that, “you have to be tough, you have to be strong because you will never be able to replace [him].” [...] Even those who weren't from the same village, our village, when we meet them, they used to cry because of [his] death. They couldn't describe him enough. He was so brave. All those who knew him, at work or at the market or school, they used to tell us that when we used to meet them. And even today the impact of his death is widely felt.³⁵⁴

126. P-0720 described the impact the executions of community leaders, in particular *Umdah* Yahya Ahmad Zarruq, who was murdered in the Mukjar operation, had on the Fur community:

“[*Umdah* Yahya Ahmad Zarruq] was a reference to everybody. [...] He was sparing no time or effort in serving his people and the villages he was responsible for. And that's why his disappearance and his killing had a huge impact, not only on the villages that he was responsible for but on the entire area. [...] The people lost confidence in everything, and they thought that even those who are still alive will meet the same fate. People lost their sense of security and their sense of confidence and trust. The people who are in charge and references for the people have been imprisoned and killed, so what do you think will be the fate of normal people. So people felt extremely sad.”³⁵⁵

³⁵⁰ P-0907: T-95-CT, p. 10, line 22-p. 11, line 10.

³⁵¹ P-0643: T-57-CT, p. 58, line 19-p. 59, line 4.

³⁵² P-0955: DAR-OTP-0220-0620-R02 at 0623, para. 11, DAR-OTP-0220-0638-R03, and T-63-CT2, p. 28, line 9-p. 29, line 19.

³⁵³ P-0955: DAR-OTP-0220-0620-R02 at 0632, para. 50, and T-64-CT, p. 22, lines 1-24.

³⁵⁴ P-0955: T-63-CT2, p. 29, line 13-p. 30, line 5.

³⁵⁵ P-0720: T-43-CT3, p. 13, line 23-p. 14, line 25.

ABD-AL-RAHMAN's degree of participation and intent

127. The nature and extent of ABD-AL-RAHMAN's conduct in Mukjar and Deleig demonstrates that he was a willing and enthusiastic participant in the murders.

128. At the Mukjar police station, ABD-AL-RAHMAN personally took some detainees from the cell and brought them outside to waiting vehicles, including Land Cruisers.³⁵⁶ He also ordered the *umdahs* and other detainees to get into the vehicles, and *Janjaweed* and GoS Forces to load others.³⁵⁷ At both execution sites, ABD-AL-RAHMAN struck detainees with his axe as they were unloaded from the vehicles, before ordering their execution.³⁵⁸

129. In Deleig, as noted above, ABD-AL-RAHMAN directly perpetrated the brutal murder of two victims: Adam Abd-Al-Rahman, known as Jenif, and Adam Adam Abd-Al-Rahman, known as *Sheikh Motor*.³⁵⁹ Further, ABD-AL-RAHMAN was present in the open area outside the police station, instructed "his men" to load the detainees onto awaiting Land Cruisers, and supervised the loading process, counting the number of men being loaded onto vehicles until the capacity of each vehicle was reached.³⁶⁰ ABD-AL-RAHMAN left in one of the vehicles which was part of the first or second sets of transports of detainees to execution sites.³⁶¹

130. An exceptionally cruel act committed by ABD-AL-RAHMAN against a child and his father during the loading of the vehicles speaks volumes regarding his degree of intent. When a man named Issa Harun demanded that ABD-AL-RAHMAN release his son, who was around 13 or 14 years old, from the first vehicle, ABD-AL-RAHMAN refused. Issa Harun responded that he would "go wherever you take my son", so ABD-AL-RAHMAN told him to get on the vehicle. Both Issa Harun and his son were taken to an execution site and killed.³⁶²

131. ABD-AL-RAHMAN identified where the convoy containing at least 70 to 80 detainees should stop in an area northwest of Deleig, near Fere.³⁶³ At that location, ABD-AL-RAHMAN issued instructions for the detainees to be taken off the vehicles and then issued instructions to shoot the detainees.³⁶⁴

³⁵⁶ [Trial Judgment](#), paras. 544, 546.

³⁵⁷ [Trial Judgment](#), paras. 544-546; P-0129: DAR-OTP-0128-0128-R04 at 0143-0144, para. 53.

³⁵⁸ [Trial Judgment](#), paras. 552, 563.

³⁵⁹ [Trial Judgment](#), paras. 611-612.

³⁶⁰ [Trial Judgment](#), para. 617.

³⁶¹ [Trial Judgment](#), para. 621.

³⁶² [Trial Judgment](#), para. 618.

³⁶³ [Trial Judgment](#), para. 623.

³⁶⁴ [Trial Judgment](#), para. 624.

132. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 30 years for each count of the crime of murder (Counts 17-18 and 27-28), and 8 years for each count of the crime of attempted murder (Counts 19-20 and 29-30).

Persecution as a crime against humanity (Counts 21, 31)

133. The crime of persecution is inherently grave.³⁶⁵ The features of the persecution which occurred in Mukjar and Deleig make the crime especially grave, as shown below.

Nature of the unlawful behaviour, including the manner, time and location of the crimes, and the means employed

134. As found by the Chamber, “in Mukjar and Deleig, the *Janjaweed* and GoS Forces targeted predominantly Fur men of fighting age based on the perception that they were affiliated with the rebels, and the fact that they were Fur, thus discriminated them based on their political affiliation, ethnic identity and perceived gender role.”³⁶⁶

135. The acts underlying these two counts of the crime of persecution are the same as for the other crimes charged in relation to the Mukjar and Deleig operations.³⁶⁷ The number of victims of these crimes is therefore very high since it encompasses all victims of the crimes for which ABD-AL-RAHMAN was convicted in relation to the two operations, namely, torture, outrages upon personal dignity, murder and attempted murder. As submitted above, some of the victims of these crimes were particularly defenceless, including children, elderly persons (including community leaders), and detainees – some of whom were wounded.³⁶⁸

136. Several different fundamental rights were violated, which contributes to the gravity of the persecution.³⁶⁹ These rights included the right to life, the right not to be subjected to cruel, inhumane or degrading treatment, and the right to bodily integrity.³⁷⁰ In addition, some victims were discriminated against on multiple intersecting grounds, namely ethnicity, political opinion and gender. As found by the Chamber, “a victim can suffer a higher risk of victimisation because of the *intersection* of different factors of discrimination.”³⁷¹ The intersecting nature of the discrimination in this case exacerbates the impact and therefore heightens the gravity of the persecution.

³⁶⁵ See above para. 72.

³⁶⁶ [Trial Judgment](#), para. 936.

³⁶⁷ [Trial Judgment](#), paras. 929-931.

³⁶⁸ See above paras. 78, 91, 95, 96, 109. See also [Trial Judgment](#), paras. 523-524.

³⁶⁹ See [Al Hassan SJ](#), para. 76; [Yekatom & Ngaïssona TJ](#), para. 4785.

³⁷⁰ [Trial Judgment](#), para. 932.

³⁷¹ [Trial Judgment](#), para. 787.

The extent of the damage caused, including harm caused to victims and their families

137. When assessing the harm caused by the discriminatory targeting based on gender, the Chamber should take into account the societal context in Darfur. As stated by joint expert, P-1042, “Darfurian society today is patrilineal and patriarchal. Darfurians trace identity in the male line and men are the masters of the household and hold almost all positions of public authority.”³⁷² P-1042 explained that, in the absence of adult men, women were compelled to find ways to cope without male breadwinners.³⁷³ P-1042 further stated that polygamy remains common in Darfur.³⁷⁴ As already noted, given that some men, such as community leaders, supported multiple wives and large families, the targeting of men impacted not only those men themselves, but large groups of dependants and the social fabric of the affected communities.³⁷⁵

138. As described by P-0850, whose family members were killed during the Deleig operation: “In our family, there are no males at all anymore. All of this happened in a week. And all my relatives, even the husband of my sister, they [...] all died. They disappeared on the same day, as well as our neighbours. On a Friday, they all died.”³⁷⁶ He explained, “It is really very difficult to only have one member of the family remain [...] -- some of them had two to three children, and we do not know how to ensure their survival and their living. Our life was difficult because some of us did not have any belongings remaining. When we see the children before us, we are really impressed and impacted.”³⁷⁷

ABD-AL-RAHMAN’s degree of participation and intent

139. In relation to the Mukjar and Deleig operations, the Chamber convicted ABD-AL-RAHMAN of persecution as a co-perpetrator and as a direct perpetrator.³⁷⁸ The Chamber found that ABD-AL-RAHMAN shared the co-perpetrators’ discriminatory intent, and noted “the particularly cruel nature of his relevant criminal conduct, namely inflicting severe pain and suffering on multiple male detainees, including a boy, while using derogatory and discriminatory language against them.”³⁷⁹

³⁷² P-1042: DAR-OTP-0220-1623 at 1641-1642, para. 50.

³⁷³ P-1042: DAR-OTP-0220-1623 at 1642, para. 52 (in the context of the extreme imbalance between the numbers of adult women and men in post-colonial Sudan due to male labour migration).

³⁷⁴ P-1042: DAR-OTP-0220-1623 at 1641-1642, para. 50.

³⁷⁵ See above para. 124.

³⁷⁶ P-0850: T-44-CT, p. 66, lines 18-20.

³⁷⁷ P-0850: T-44-CT, p. 67, lines 5-9.

³⁷⁸ [Trial Judgment](#), paras. 954-958, 989.

³⁷⁹ [Trial Judgment](#), para. 956.

140. The Prosecution recommends that ABD-AL-RAHMAN receive a sentence of 30 years for each count of the crime of persecution (Counts 21 and 31).

2) Multiple aggravating circumstances exist in this case, including that ABD-AL-RAHMAN committed his crimes for a discriminatory motive

141. As noted above, when determining individual sentences, the Chamber must not “double-count” relevant factors, for example, by considering the same factor in relation to the assessment of gravity and also as an aggravating circumstance.³⁸⁰ The Prosecution has identified relevant facts relating to the commission of crimes against particularly defenceless victims (rule 145(b)(iii)), and the commission of crimes with particular cruelty or against multiple victims (rule 145(2)(b)(iv)), in the preceding sections and does not repeat those submissions here. This is, however, without prejudice to the Chamber’s exercise of discretion in assessing the relevant factors under whichever category it considers appropriate.³⁸¹

142. Pursuant to rule 145(2)(b)(v), the “[c]ommission of the crime for any motive involving discrimination on any of the grounds referred to in article 21, paragraph 3” is an aggravating factor. The grounds listed in article 21(3) include political opinion, ethnic origin, and gender (as defined in article 7(3)).

143. All the crimes for which ABD-AL-RAHMAN was convicted were committed for a discriminatory motive. In relation to all three criminal incidents, the Chamber convicted ABD-AL-RAHMAN of the crime of persecution, for which the underlying acts are the same as for the other crimes charged.³⁸² The Chamber found that these crimes were committed in the implementation of a policy to “specifically target civilians from non-Arab tribes in Wadi Salih, in particular, the Fur, who were perceived as associated with the rebels, and thus as the enemy.”³⁸³

144. The Chamber should consider ABD-AL-RAHMAN’s discriminatory motive as an aggravating factor for all crimes except torture and persecution,³⁸⁴ given the discriminatory aspect of the latter two crimes is a constitutive element of these latter crimes.³⁸⁵ This does not

³⁸⁰ See above para. 11.

³⁸¹ See above para. 11.

³⁸² [Trial Judgment](#), para. 930.

³⁸³ [Trial Judgment](#), para. 831.

³⁸⁴ For torture, the Chamber found that “the *Janjaweed* and GoS Forces inflicted pain and suffering to punish and intimidate the detainees and for reasons based on political and ethnic discrimination”, see [Trial Judgment](#), para. 878. For persecution, the Chamber found discrimination based on perceived political affiliation and ethnic identity (for Kodoom and Bindisi) and political affiliation, ethnic identity and perceived gender role (for Mukjar and Deleig), see [Trial Judgment](#), para. 937.

³⁸⁵ See [Yekatom & Ngaissona TJ](#), paras. 4424-4425; [Al Hassan SJ](#), para. 25.

offend the prohibition against double-counting, however the Chamber should consider any overlap in the underlying conduct between the different crimes when it determines its joint sentence.³⁸⁶

3) Mitigating circumstances do not exist or should be given no weight

145. In the below paragraphs the Prosecution addresses some potentially mitigating factors, but takes the view that no mitigating factors exist or if they do, they should be given no weight. The Prosecution will respond to the specific arguments raised by the Defence in its sentencing submissions, and if necessary, will expand on the below submissions in the sentencing hearing, as instructed by the Chamber.³⁸⁷

a) ABD-AL-RAHMAN's surrender 13 years after the first arrest warrant was issued should not be given weight in mitigation

146. ABD-AL-RAHMAN voluntarily surrendered to the Court in June 2020. While the Prosecution recognises “the considerable benefits for international courts and tribunals of voluntary surrender”,³⁸⁸ and that voluntary surrender *may* warrant substantial mitigation,³⁸⁹ in determining the weight to be attributed to this factor, the Chamber should consider the circumstances of ABD-AL-RAHMAN's voluntary surrender and accordingly give no weight to this circumstance as a mitigating factor.

147. First, there was a substantial lapse of time (13 years) between the issuance of the first arrest warrant in 2007 and ABD-AL-RAHMAN's surrender in 2020.³⁹⁰ Second, ABD-AL-RAHMAN admits that he surrendered to the Court to escape arrest and imprisonment in Sudan following the issuance of an arrest warrant by the Sudanese authorities on 2 December 2019.³⁹¹

³⁸⁶ See *Yekatom & Ngaïssona TJ*, para. 4425 (“The prohibition against double-counting does not extend to factors that do not constitute legal elements of the crimes or modes of liability but rather serve to prove them.”).

³⁸⁷ Decision on the sentencing procedure, [ICC-02/05-01/20-1241](#), para. 8.

³⁸⁸ *Ntaganda SJ*, para. 227, citing to *Martinović & Naletilić Judgement*, [IT-98-34-A](#), para. 600.

³⁸⁹ *Ntaganda SJ*, paras. 227-228, citing to *Milošević Judgement*, [IT-98-29/1-T](#), para. 1003; *Lukić & Lukić Judgement*, [IT-98-32/1-T](#) (“*Lukić & Lukić TJ*”), para. 1093; *Rutaganira Judgment and Sentence*, [ICTR-95-1C-T](#), paras. 144-145.

³⁹⁰ Warrant of arrest for Ali Kushayb, 27 April 2007, [ICC-02/05-01/20-18](#).

³⁹¹ See e.g. Confirmation of charges hearing, 26 May 2021, T-9-CT, p. 65, line 23-p. 66, line 15 (Mr Laucci: “As the OTP accepted, Mr Abd-Al-Rahman, from his own initiative, took a long and difficult journey from Sudan, the place of his last residence, to the Central African Republic. Why did he [...] undertake this difficult journey? He did this because he was informed that the Sudanese authorities intended to arrest him because the International Criminal Court was seeking him as Ali Kushayb. Mr Abd-Al-Rahman works for the police. He’s in a good position [...] to be familiar with Sudanese prisons. He knows very well why he has no desire to spend any time there. So better to go [...] towards the Court in the Central African Republic [...]. So, during the initial hearing he says he came to [...] the International Criminal Court to find justice. Mr Ali Muhammad Ali Abd-Al-Rahman [...] needs to be taken on by the Court. He doesn’t know whether he’s going to be arrested, how that will happen. He had no

ABD-AL-RAHMAN's surrender was evidently motivated not by selfless reasons but by the realisation he could no longer evade justice and the desire for better conditions of incarceration.

148. The jurisprudence of the Court and the *ad hoc* tribunals shows that voluntary surrender after a significant delay should be afforded little or no weight as a mitigating factor. In *Ntaganda*, the Trial Chamber considered that the delay of five years in the accused's voluntary surrender "reduced the value of its mitigating impact." It thus afforded this factor no weight in mitigation.³⁹² At the ICTY, *Mrkšić's* voluntary surrender almost seven years after the issuance of an international arrest warrant was not considered mitigating,³⁹³ and *Pandurević's* surrender after almost three and a half years was given only limited weight.³⁹⁴ The delay in ABD-AL-RAHMAN's surrender to the Court is far longer than in these cases. It should not be treated as mitigating the gravity of his crimes and criminal conduct.

b) ABD-AL-RAHMAN has not expressed remorse for his crimes

149. ABD-AL-RAHMAN has not expressed any remorse for his crimes. Further, his purported expressions of sympathy for the victims of the 2003-2004 events,³⁹⁵ which in no way equate to

idea what would happen to him at that stage. But he needs to put himself under the control of the Court [...]."); Oral arguments, 25 January 2023, T-109-ET, p. 94, line 14-p. 95, line 16 (Defence Counsel submitted that, following the issuance of the arrest warrant in Sudan, ABD-AL-RAHMAN was "in hiding" and later travelled to the Central African Republic from where he surrendered himself to the Court); ABD-AL-RAHMAN's unsworn statement, 13 December 2024, T-162-ET, p. 60, line 21-p. 61, line 4 ("As for my surrender to the International Criminal Court, no one brought me here. I came out of my free will because I have nothing to do with accusations against me and nothing to do with everything said by organisations and journalists on the radio. I have come here so that the Court would look into my case and tell me what my fate is. I said on the phone that my name was Ali Kushayb because I had been waiting for two months in hiding, moving around all the time, and I was warned that the government wanted to arrest me and I was afraid of being arrested. I was desperate.") See also Sudan Tribune, "Legal measures against Kushayb pushed him to surrender to ICC: Sudan's prosecution," 11 June 2020, DAR-OTP-0215-2766.

³⁹² *Ntaganda SJ*, paras. 227-228.

³⁹³ *Mrkšić et al. TJ*, para. 698. No reasons were advanced for the delay in surrender.

³⁹⁴ *Popović et al. TJ*, para. 2224.

³⁹⁵ See e.g. ABD-AL-RAHMAN's unsworn statement, 6 April 2022, T-27-ET, p. 29, lines 13-15 ("Lastly, we pray for the souls of the martyrs, who gave their lives in Sudan, from all tribes, during the tribal disputes, the act of rebellion, and during protests. And we pray for their souls and for God to receive their souls in his eternal heaven."); ABD-AL-RAHMAN's unsworn statement, 13 December 2024, T-162-ET, p. 62, lines 8-10 ("Because of the war, all of this is ruined and destroyed and the Sudanese people are suffering. They suffered in 2003-2004, they suffered before, they have suffered since then and they are still suffering now."), p. 62, line 22-p. 63, line 1 ("The victims of 2003, 2004 and of today are my brothers and sisters. I pray for their salvation and I suffer with their families, for whom their absence has caused an eternal suffering. If I had done the things they say I did, I would not be able to get over this, but I ask God to give me the strength to endure God's punishment because brothers cannot fight among each other.").

genuine remorse,³⁹⁶ must be assessed in their context.³⁹⁷ [REDACTED].³⁹⁸ Given ABD-AL-RAHMAN's persistent lies regarding his identity and responsibility for the crimes, his hollow statements should be afforded no weight in mitigation.

c) ABD-AL-RAHMAN's age, family situation, and lack of prior convictions are not mitigating

150. In determining sentence, the Chamber shall take into account, *inter alia*, the “individual circumstances of the convicted person”, pursuant to article 78(1) of the Statute, and the “age, education, social and economic condition of the convicted person”, pursuant to rule 145(1)(c) of the Rules. The Chamber, “based on its intimate knowledge of the case, will have to balance all factors *it considers relevant*” and “consider the circumstances both of the convicted person and of the crime”.³⁹⁹

151. With respect to his family situation, ABD-AL-RAHMAN reportedly has three wives and 17 children,⁴⁰⁰ two of whom have passed away since he has been in detention.⁴⁰¹ Consistent with the Court's jurisprudence, ABD-AL-RAHMAN's family circumstances, including the deaths of family members whilst in detention,⁴⁰² are common to many convicted persons and are not exceptional circumstances amounting to mitigating circumstances.⁴⁰³ In *Katanga*, cited by the Defence,⁴⁰⁴ the Chamber afforded “very limited weight” to several potentially mitigating

³⁹⁶ *Al Hassan SJ*, para. 96, citing to *Katanga* Decision on Sentence pursuant to article 76 of the Statute, [ICC-01/04-01/07-3484-tENG-Corr](#) (“*Katanga SJ*”), para. 117 (“only a sincere statement of remorse” may amount to a mitigating circumstance and “the expression of sympathy or genuine compassion for the victims may be taken into account in the determination of sentence, it cannot be considered commensurate to a statement of remorse under any circumstance, and must [...] be accorded less weight.”). See also *Al Hassan* Decision on Reduction of Sentence, [ICC-01/12-01/18-2743-Red](#), paras. 49-53, in which the Panel of Judges took account of his post-sentence statements requesting forgiveness for the harm he had caused to the victims of his crimes and considered them in granting a sentence reduction.

³⁹⁷ See e.g. *Blaškić* Judgement, [IT-95-14-T](#), para. 775 (“the feeling of remorse must be analysed in the light of not only the accused's statements but also of his behaviour”); *Popović et al. TJ*, para. 2162 (despite some evidence that Popović was emotionally affected by the crimes that occurred at an execution site, the Trial Chamber found this carried very little weight as a mitigating factor in view of the fact that he played a significant role in orchestrating the murder operation).

³⁹⁸ [REDACTED]. This contrasts with ABD-AL-RAHMAN's unsworn statement at the beginning of the trial. See T-27-ET, p. 29, lines 3-4 (“I congratulate the International Criminal Court for being a fair court of law”).

³⁹⁹ *Bemba et al. SAJ*, para. 283 (emphasis in original) (“while failure to consider a mandatory factor may amount to a legal error, the identification and weighing of the relevant factors lies at the core of the Trial Chamber's exercise of discretion”); Rule 145(1)(b) of the Rules.

⁴⁰⁰ Requête aux fins d'exécution du paragraphe 25 de la Décision ICC-02/05-01/20-123-Conf, ICC-02/05-01/20-183-Conf, para. 17 (the Defence submitted on 13 October 2020 that ABD-AL-RAHMAN had 3 wives and 17 children). [REDACTED].

⁴⁰¹ Salah died in June 2022 (see T-138-CT, p. 28, line 15-p. 29, line 11; T-44-CT, p. 56, lines 9-13), and Nazir died in July 2023 (see Email from the Defence to Trial Chamber I on 18 July 2023 at 14:43). See also ABD-AL-RAHMAN's unsworn statement, 13 December 2024, T-162-ET, p. 61, lines 16-18.

⁴⁰² See *Yekatom & Ngaïssona TJ*, paras. 4442, 4449, 4668, 4670-4671; *Bemba SJ*, paras. 77-78.

⁴⁰³ *Al Hassan SJ*, paras. 86-87; *Bemba et al. SJ*, para. 62.

⁴⁰⁴ Defence Request to Present Additional Evidence for Sentencing, ICC-02/05-01/20-1243-Conf (“Defence Additional Evidence Request”), para. 27.

factors, including that the accused was a father of six children, in light of the nature of the crimes for which he was convicted.⁴⁰⁵

152. ABD-AL-RAHMAN's age is not mitigating. ABD-AL-RAHMAN was born in 1949⁴⁰⁶ and was approximately 54/55 years old when he committed the crimes in 2003/2004. There is nothing mitigating about this circumstance. Equally, ABD-AL-RAHMAN's current age (76 years), more than 20 years after the commission of the crimes, and following his surrender 13 years after the first arrest warrant, does not warrant any reduction in sentence.

153. According to information received by the Court from the Government of Sudan, ABD-AL-RAHMAN does not have any prior criminal convictions.⁴⁰⁷ Consistent with the Court's jurisprudence, while constituting a relevant individual circumstance to be taken into account in determining sentence,⁴⁰⁸ the absence of prior convictions is a fairly common feature among individuals convicted by international tribunals and is not mitigating.⁴⁰⁹

d) ABD-AL-RAHMAN's behaviour in the courtroom and in detention is not mitigating

154. The Prosecution does not dispute that ABD-AL-RAHMAN behaved appropriately in the courtroom and was cooperative during the proceedings. But good behaviour during a trial is expected of any accused person, and such comportment may only be considered a mitigating factor if exceptional in nature.⁴¹⁰ There was nothing exceptional about ABD-AL-RAHMAN's behaviour in these proceedings.

155. Similarly, the Prosecution does not dispute that ABD-AL-RAHMAN has behaved well whilst in detention.⁴¹¹ Again, good behaviour whilst in detention is expected of any accused or convicted person and does not constitute a mitigating circumstance unless exceptional.⁴¹² In *Ntaganda*, despite the accused's behaviour having been described as "exemplary", the Trial Chamber considered the weight to be attributed to this factor to be "too limited to impact on the

⁴⁰⁵ [Katanga SJ](#), para. 88 (the Trial Chamber considered his young age, that he was the father of six children, and his kindly and protective disposition towards the civilians in his community as mitigating but found that these factors could not play a determinant role considering the nature of the crimes).

⁴⁰⁶ [Trial Judgment](#), para. 7.

⁴⁰⁷ Annex to Decision on the Defence's second request to submit additional evidence, ICC-02/05-01/20-1217-Conf-Anx, p. 3.

⁴⁰⁸ [Yekatom & Ngaiisonga TJ](#), para. 4443; [Bemba et al. SJ](#), paras. 61, 89, 137, 184.

⁴⁰⁹ [Yekatom & Ngaiisonga TJ](#), para. 4443, 4669; [Al Mahdi TJ](#), para. 96; [Bemba et al. SJ](#), paras. 61, 89, 137, 184.

⁴¹⁰ [Yekatom & Ngaiisonga TJ](#), paras. 4458, 4680; [Al Hassan SJ](#), para. 124; [Ntaganda SAJ](#), paras. 6, 260; [Ntaganda SJ](#), paras. 229-230; [Bemba SJ](#), para. 81; [Katanga SJ](#), paras. 127-128; [Bemba et al. SJ](#), paras. 88, 136, 186.

⁴¹¹ Annex to Registry's Observations on "Defence Request to Present Additional Evidence for Sentencing", 20 October 2025, ICC-02/05-01/20-1243-Conf, ICC-02/05-01/20-1247-Conf-Anx.

⁴¹² [Yekatom & Ngaiisonga TJ](#), paras. 4457-4458; [Bemba et al. SJ](#), paras. 88, 136, 186; [Ntaganda SJ](#), para. 22, citing to [Bemba SJ](#), para. 81.

individual and overall sentences” in light of the overall gravity and aggravating circumstances of the crimes.⁴¹³ Similarly, in *Al Mahdi*, the Trial Chamber attributed only “limited weight” to the accused’s “irreproachable” behaviour in detention despite being deprived of family visits for one year.⁴¹⁴

e) ABD-AL-RAHMAN’s conduct in Rahad Al-Berdi between 2009-2019 is not mitigating

156. In determining sentence, the Chamber shall take into account “[t]he convicted person’s conduct after the act”, pursuant to rule 145(2)(a)(ii) of the Rules.

157. The statements of D-0040 and D-0041, which the Chamber authorised for submission into evidence pursuant to rule 68(2)(b),⁴¹⁵ [REDACTED]. Aspects of this evidence are inconsistent with other information and evidence on the record, as set out below. Moreover, even if the Chamber were to rely on this evidence, these alleged acts, in an entirely different location and many years after the commission of the crimes, are so marginal, especially in light of the gravity of the crimes and the existence of aggravating factors, that they should be given no weight in mitigation.⁴¹⁶

158. Specifically, any actions that ABD-AL-RAHMAN may have taken as part of his ordinary duties as a member of the [REDACTED],⁴¹⁷ such as certain acts described by D-0041,⁴¹⁸ and his supposed role in an agricultural protection committee,⁴¹⁹ do not warrant mitigation. In *Al Hassan*, the Trial Chamber found that certain acts performed by the accused were those “normally expected from someone who was acting as a police officer in charge of maintaining

⁴¹³ *Ntaganda SJ*, paras. 234-235.

⁴¹⁴ *Al Mahdi TJ*, paras. 97, 109. The Prosecution notes that the Chamber gave limited weight to the accused’s “irreproachable” behaviour *despite* being deprived of family visits for one year, rather than to the behaviour alone. *Contra* Defence Additional Evidence Request, para. 30.

⁴¹⁵ See Decision on the presentation of additional evidence relevant to the sentence, ICC-02/05-01/20-1257-Conf, paras. 24, 25, 40(ii) (“in its evaluation of this witnesses’ evidence, the Chamber will take into account that this is not a case where the evidence is uncontroversial, the witnesses will not appear before the Chamber, will not be subject to cross examination, and therefore their evidence has limited probative value and will be assessed by the Chamber in light of other evidence given during the trial.”).

⁴¹⁶ See e.g. *Popović et al. TJ*, para. 2161 (the Trial Chamber considered that evidence as to Popović’s general character and demeanour throughout the conflict, although accepted by the Chamber, had “very little impact in mitigating the severity of his sentence” in light of the crimes for which he had been convicted).

⁴¹⁷ See e.g. D-0040: DAR-D31-00000358 at 0005, para. 15 ([REDACTED]).

⁴¹⁸ See e.g. D-0041: DAR-D31-00000361 at 0005, para. 15(ii)-(iii) ([REDACTED]). The Prosecution notes that it is not clear, on the basis of D-0041’s statement alone, whether ABD-AL-RAHMAN is said to have performed these acts in his capacity as a member of [REDACTED] or in his personal capacity.

⁴¹⁹ See e.g. D-0040: DAR-D31-00000358 at 0004-0005, paras. 13-14, 16; D-0041: DAR-D31-00000361 at 0004-0005, para. 15(i) ([REDACTED]).

public order and the security of the population, and are as a consequence not of such a nature as to be taken into account as mitigating circumstances in the present case.”⁴²⁰

159. D-0040’s and D-0041’s positive characterisation of public speeches given by ABD-AL-RAHMAN in [REDACTED]⁴²¹ starkly contrasts with the violent and inflammatory language he used in two public speeches in [REDACTED] during the same period, as shown in videos of the events.⁴²² The Prosecution does not accept the evidence of D-0040 and D-0041. Were the Prosecution to have had the opportunity to cross-examine these witnesses, it would have confronted them with the evidence of ABD-AL-RAHMAN’s alleged continued criminality following the period of the charged crimes, including forcible transfer of members of the [REDACTED], among other crimes.⁴²³

160. Further, P-0041’s evidence that the [REDACTED] hopes that ABD-AL-RAHMAN [REDACTED] and protected the Fur from other tribes,⁴²⁴ is flatly contradicted by the Defence’s previous submissions. [REDACTED],⁴²⁵ [REDACTED].⁴²⁶

⁴²⁰ *Al Hassan SJ*, para. 117 (through his role in the Islamic Police, the accused “helped protect the property of the local population, facilitated peaceful resolution of disputes, assisted members of the population, in particular in relation to a person killed in a car accident [and] ‘intervened to stop armed men from looting property’.”). Further, the Chamber considered that certain “good actions” that superseded the accused’s normal role were minor in nature and could only be accorded very limited weight particularly considering the nature of the crimes of which he was convicted. See *Al Hassan SJ*, paras. 118-119.

⁴²¹ D-0040: DAR-D31-00000358 at 0004, para. 13; D-0041: DAR-D31-00000361 at 0004-0005, para. 15(i).

⁴²² See e.g. Um Sory Video, DAR-OTP-00012474 (Transcript DAR-OTP-0223-0519; Translation DAR-OTP-00012491-R01). See esp. DAR-OTP-00012491-R01, lines 89-90 (“if they so much as spray water on a member of any of these marginal tribes, then we’ll spray them with blood”), 111-112 (“there’s a gun here, which if we open fire with it on the market, it’ll kill everyone. In just one shot everyone will die. It’s also internationally prohibited.”), 115-116 (“what Radio Dabanga says is true because I’ve killed a great many people and I’m still going to kill people”), 121-123 (“Just one gas shell on the market, on that market there, I swear by Allah, not even a chicken... not one chicken will survive. And the weapon is internationally banned, but I did it. I’ve got two of them.”); Teachers Video, DAR-OTP-00000236 (Transcript at DAR-OTP-0220-3194; Translation at DAR-OTP-0220-3199). See esp. DAR-OTP-0220-3199, lines 43-44 (“I’d have stabbed and killed any individual who mocked Rehed al-Birdi or denigrated the teacher”). The Um Sory video was filmed in approximately 2013, 2014 or 2015. See D-0001: T-155-ET, p. 24, lines 15-p. 25, line 6; D-0003: T-155-ET, p. 87, line 21-p. 95, line 5 (regarding 2013 clashes), and T-156-CT, p. 10, lines 1-21; D-0032: T-141-CT, p. 39, line 4-p. 41, line 14; D-0039: 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). The Teachers Video was filmed after the fall of the regime of President Omar Hassan Ahmad AL-BASHIR in 2019. See D-0008: T-139-CT, p. 83, line 13-p. 85, line 3; D-0001: T-155-ET, p. 19, line 14-p. 21, line 25; D-0005: 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.

⁴²³ See e.g. DAR-OTP-00005644 (Translation DAR-OTP-00006765 at 0001); DAR-OTP-00005648 (Translation DAR-OTP-00006585 at 0002); DAR-OTP-00005650 (Translation DAR-OTP-00006582 at 0002); DAR-OTP-00005652 (Translation DAR-OTP-00006587 at 0002); DAR-OTP-00006165 (Translation DAR-OTP-00006767 at 0001); DAR-OTP-00005676 (Translation DAR-OTP-00006589 at 0001). *Contra* D-0040: DAR-D31-00000358 at 0005, para. 15; D-0041: DAR-D31-00000361 at 0005, para. 15(iv). The Prosecution notes that, according to the media reports, the main [REDACTED] conflict occurred in the first half of 2013, whereas D-0040 was living in [REDACTED] from 2010-2014. See D-0040: DAR-D31-00000358 at 0004, paras. 13-14.

⁴²⁴ D-0041: DAR-D31-00000361 at 0005, para. 16.

⁴²⁵ Annex B to Trial Judgment, paras. 669, 845.

⁴²⁶ [REDACTED].

161. At trial, Defence witnesses D-0001 and D-0008 testified that people from the Fur tribe who were displaced during the 2003-2004 conflict came to Rahad Al-Berdi and were given houses, including by ABD-AL-RAHMAN,⁴²⁷ and/or that some of these displaced people stayed in ABD-AL-RAHMAN's house.⁴²⁸ The Chamber should not rely on this evidence given its adverse findings on the credibility of both witnesses.⁴²⁹ In addition, D-0001 stated that he had no knowledge of ABD-AL-RAHMAN before 2010,⁴³⁰ further undermining his evidence of ABD-AL-RAHMAN's purported actions in 2003-2004.

162. Furthermore, it is implausible that ABD-AL-RAHMAN - who according to the evidence was residing in West Darfur at the time, not in Rahad Al-Berdi⁴³¹ - would give shelter to people from the very same community that his crimes (committed for a discriminatory motive, which included the targeting of people of the Fur ethnicity) had displaced. Even if this evidence were capable of belief, such selective help should not be considered mitigating in the circumstances of this case.⁴³²

f) [REDACTED]

163. [REDACTED].⁴³³ [REDACTED].

164. [REDACTED],⁴³⁴ [REDACTED].⁴³⁵

165. [REDACTED].

4) ABD-AL-RAHMAN should be sentenced to a joint sentence of life imprisonment

166. The Chamber may impose life imprisonment, as an individual or joint sentence, when justified by the extreme gravity of the crimes and the individual circumstances of the convicted person, as evidenced by the existence of one or more aggravating circumstances.⁴³⁶

⁴²⁷ D-0001: T-154-CT, p. 45-47, and T-155-ET, p. 16, lines 1-18.

⁴²⁸ D-0008: T-139-CT, p. 15-16, 18-20, 64-65. In an unsworn statement, ABD-AL-RAHMAN spoke about displaced Fur people coming to Rahad Al-Berdi, however the time period he was referring to is unclear and he did not say that these people stayed at his house, only that they stayed on a plot of land that he owned for a while until houses were found for them. See T-162-ET, p. 58, line 22-p. 59, line 8.

⁴²⁹ Annex B to Trial Judgment, paras. 580, 623.

⁴³⁰ D-0001: T-154-CT, p. 52, lines 54-55.

⁴³¹ [Trial Judgment](#), para. 10.

⁴³² See e.g. [Al Hassan SJ](#), paras. 115-117.

⁴³³ [REDACTED].

⁴³⁴ [REDACTED].

⁴³⁵ [REDACTED].

⁴³⁶ Article 77(1)(b) and 78(3) of the Statute; Rule 145(3) of the Rules. See e.g. [Lukić & Lukić TJ](#), paras. 642-653 (Milan Lukić was sentenced to life imprisonment, which was upheld on appeal); [Galić Judgment, IT-98-29-A](#), paras. 395-456 and p. 185 (Galić was sentenced to 20 years, which was increased to life imprisonment on appeal).

167. The Prosecution has recommended individual sentences of 30 years for each of the counts of murder and persecution, and sentences ranging from 8-27 years for the remaining 18 counts. The Chamber must impose a joint sentence which is no less than the highest individual sentence pronounced.⁴³⁷ Considering its recommended sentence for the most serious crimes in each of the three operations is 30 years, and taking into account the lack of factual overlap between those three operations, the Prosecution submits that the appropriate joint sentence in this case is a term of life imprisonment. This joint sentence would further reflect the nature of the multiple other crimes for which ABD-AL-RAHMAN was convicted, and the temporal and geographical scope and overall impact of the three operations.

168. This joint sentence is more than justified by the extreme gravity of the crimes and the existence of multiple aggravating factors, demonstrated by, *inter alia*, the high number of victims, the duration and geographical spread of the crimes, the discriminatory motive, the multiple acts of particular cruelty, the victimisation of particularly defenceless persons, including children, ABD-AL-RAHMAN's high degree of participation and intent, and the massive and continuing impact of the crimes on the surviving victims and the affected communities. Further, there are no mitigating factors in this case which should be given any weight.

D. CONCLUSION

169. For the above reasons, the Prosecution respectfully requests that the Chamber impose on ABD-AL-RAHMAN a joint sentence of life imprisonment for the 27 counts of crimes against humanity and war crimes for which he was convicted.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 12th day of November 2025

At The Hague, The Netherlands

⁴³⁷ Article 78(3) of the Statute.