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PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc, Presiding Judge
Judge María del Socorro Flores Liera
Judge Reine Adélaïde Sophie Alapini-Gansou

**SITUATION IN LIBYA
IN THE CASE OF
*THE PROSECUTOR v. KHALED MOHAMED ALI EL HISHRI***

Public

Public redacted version of "Corrected Version of 'Pre-Confirmation Brief, ICC-01/11-01/25-94-Conf, 26 March 2026'", ICC-01/11/01/25-94-Conf-Corr, 24 April 2026

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1. This Pre-Confirmation Brief (“PCB”) sets out the Prosecution’s explanation of the evidence and relevant legal and factual arguments in support of the charges against **Khaled Mohamed Ali EL HISHRI** (“**EL HISHRI**”), which are set out in the Document Containing the Charges (“DCC”) for confirmation by the Pre-Trial Chamber.¹

I. THE SUSPECT: KHALED MOHAMED ALI EL HISHRI

DCC, para. 2: EL HISHRI, also known as “Khaled AL BOOTI” or “Sheikh Khaled”, was born on 23 June 1978 in Tripoli, Libya. He is a Libyan national. At all material times, EL HISHRI was a senior member of or was otherwise closely associated with a group which became commonly known as the “Special Deterrence Force” or “RADA” (“SDF/RADA”).

DCC, para. 3: The SDF/RADA was led by Abdalraouf KARA. While some senior SDF/RADA members or close associates may also have obtained official ranks in Libyan state institutions (such as the Ministry of Justice or the Ministry of Interior)—and the SDF/RADA as a whole was later granted an official mandate as the “Deterrence Apparatus for Combating Organised Crime and Terrorism” (“DACOT”)—these events did not preclude continued membership of and/or association with SDF/RADA, or SDF/RADA’s independent functioning under KARA’s authority, including for the pursuit of its own interests and objectives as well as those of its senior members and close associates. Rather, the integration of some senior members and close associates of SDF/RADA within Libyan state institutions reflected and consolidated its own power and influence in Tripoli.

DCC, para. 4: At all material times, KARA and SDF/RADA controlled a strategically important area of Tripoli known as the “Mitiga Compound”, which (in addition to various other strategic assets including an airport) included a prison known as “Mitiga Prison”. This prison included a main building plus associated facilities such as the “*Naqliah*”, a Mosque, and a “Training and Rehabilitation Centre”, and other relevant areas or buildings as established by the evidence. Notwithstanding the formal adoption of Mitiga Prison by the Libyan Ministry of Justice in 2017, KARA and SDF/RADA maintained control of Mitiga Prison and all persons detained there. A senior SDF/RADA member or close associate known as Osama NJEEM was known as the director of Mitiga Prison, and was formally in charge of its day-to-day operations. NJEEM remained subordinate at least to KARA and/or cooperated in the control of Mitiga Prison by KARA and SDF/RADA.

DCC, para. 5: During the charged period, and notwithstanding NJEEM’s role, EL HISHRI exercised general authority and influence throughout Mitiga Prison as well as direct control of the “Women’s Section” of Mitiga Prison and the persons detained therein. EL HISHRI was in a position to commit violent crimes with impunity against detainees, and to instruct guards and detainees to do the same. EL HISHRI was at least a peer of NJEEM within the SDF/RADA hierarchy. EL HISHRI was subordinate to KARA.

2. **Khaled Mohamed ALI EL HISHRI** (also known as Khaled “Al ²خالد محمد علي الهشري),

¹ See ICC-01/11-01/25-92 (“DCC”). Pursuant to regulation 23bis(1) of the Regulations of the Court, this PCB is filed confidentially as it contains sensitive information pertaining to the security of victims and witnesses. A public redacted version will be filed as soon as practicable.

² P-0692, [LBY-OTP-0080-0608](#), para. 198 and P-0692, [LBY-OTP-0080-0669](#).

Booti”,³ or “Sheikh Khaled” (**EL HISHRI**),⁴ was born on 23 June 1978 in Tripoli, Libya.⁵ At all material times, **EL HISHRI** was a senior member of or was otherwise closely associated with SDF/RADA.⁶ SDF/RADA is the present incarnation of an anti-GADDAFI group from the Tripoli district of Souk Al Jumaa, close to Mitiga Compound,⁷ formerly known as the Souk Al Jumaa Revolutionaries Battalion (“SAJR Battalion”, sometimes referred to as Souk Al Jumaa Martyrs Battalion or Nawasi Battalion⁸),⁹ and led by Abdelraouf KARA.¹⁰ **EL HISHRI** was one of the SAJR Battalion’s senior leaders¹¹ and is a founding member of SDF/RADA itself.¹²

3. At all material times, KARA and SDF/RADA controlled the Mitiga Compound, which included Mitiga Prison.¹³ Mitiga Prison encompasses a main building (“Main Prison”) and several support buildings known as the “*Naqliah*” used to interrogate and torture detainees. Other relevant buildings include a mosque where some detainees were forced to attend religious lectures, and the rehabilitation and training institute for certain detainees and “disobedient children”.¹⁴ The *Naqliah*

³ P-0054, [LBYP-OTP-0073-0025](#), para. 31; P-0439, [LBYP-OTP-0066-0951](#), para. 41; P-0486, [LBYP-OTP-0069-0584](#), paras. 32, 130; P-0571, [LBYP-OTP-0080-0169](#), para. 85; P-0595, [LBYP-OTP-0074-0889](#), para. 28; P-0667, [LBYP-OTP-00001491](#), para. 112; P-0993, [LBYP-OTP-00015420](#), para. 49; P-0925, [LBYP-OTP-00018772](#), para. 49. *See also* P-0990, [LBYP-OTP-00015405](#), para. 121; P-1073, [LBYP-OTP-00020267](#), para. 123; P-0665, [LBYP-OTP-0083-0663](#), para. 73.

⁴ P-0486, [LBYP-OTP-0069-0584](#), para. 131; P-0571, [LBYP-OTP-0080-0169](#), para. 45; P-0635, [LBYP-OTP-0070-6952](#), para. 96; P-0665, [LBYP-OTP-0083-0663](#), para. 74; P-0925, [LBYP-OTP-00018772](#), para. 29; P-0990, [LBYP-OTP-00015405](#), para. 53.

⁵ P-0692, [LBYP-OTP-0080-0608](#), para. 198 and P-0692, [LBYP-OTP-0080-0669](#).

⁶ P-0054, [LBYP-OTP-0073-0025](#), para. 22; P-0568, [LBYP-OTP-00018134](#), para. 85; P-0595, [LBYP-OTP-0074-0889](#), para. 244; P-0635, [LBYP-OTP-0070-6952](#), paras. 129, 137; P-0692, [LBYP-OTP-0080-0608](#), paras. 43, 142-143; P-0719, [LBYP-OTP-0070-7295](#), para. 183; P-0720, [LBYP-OTP-0083-0052](#), para. 30; P-0925, [LBYP-OTP-00018772](#), para. 94 (18); P-0942, [LBYP-OTP-00015360](#), paras. 35-36; P-0961, [LBYP-OTP-00019245](#), para. 75; P-1025, [LBYP-OTP-00016916](#), para. 65; P-1046, [LBYP-OTP-00019195](#), paras. 53, 95; P-1070, [LBYP-OTP-00020236](#), paras. 62, 72.

⁷ *See Annex 5*, Satellite image of Tripoli; *Annex 6*, Satellite image of Mitiga Prison Complex.

⁸ The Nawasi Battalion later came under different leadership from within Souk Al Jumaa: P-0724: [LBYP-OTP-0085-0063](#), para. 30; P-0961: [LBYP-OTP-00019245](#), para. 62; Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), pp. 4012, 4022.

⁹ P-0595: [LBYP-OTP-0074-0889](#), para. 26; P-0486: [LBYP-OTP-0069-0584](#), para. 31; P-0720: [LBYP-OTP-0083-0052](#), para. 27; P-0724: [LBYP-OTP-0085-0063](#), paras. 29-30; P-1059: [LBYP-OTP-03218972](#), p.0006; Facebook (screenshot), 1 Nov 2011, [LBYP-OTP-00018608](#) (trans: [LBYP-OTP-00019190](#)) (Souk al-Jumaa Martyrs Battalion, Souk al-Jumaa’s Revolutionaries). *See also* Harchaoui and Lazib, [LBYP-OTP-0070-3925](#), p. 3937; Lacher and Cole, [LBYP-OTP-00018826](#), p. 0033.

¹⁰ *See e.g.* P-0486: [LBYP-OTP-0069-0584](#), paras. 32, 129; P-0720: [LBYP-OTP-0083-0052](#), paras. 26-27; P-0961: [LBYP-OTP-00019245](#), para. 59. *See also* Screenshot (Interview of KARA), [LBYP-OTP-00018638](#) (trans: [LBYP-OTP-00019995](#)) (described as Commander of the Souk al-Jumaa Martyrs Battalion); *see also* Video (Interview of KARA), 1 December 2011, [LBYP-OTP-00018637](#) (trans: [LBYP-OTP-00018899](#)).

¹¹ P-0595, [LBYP-OTP-0074-0889](#), para. 244; P-0724, [LBYP-OTP-0085-0063](#), para. 29; P-1073, [LBYP-OTP-00020267](#), para. 123.

¹² P-0692, [LBYP-OTP-0080-0608](#), paras. 132, 171; P-0942, [LBYP-OTP-00015360](#), paras. 35-36; P-1044, [LBYP-OTP-00018699](#), para. 95; P-1073, [LBYP-OTP-00020267](#), paras. 115, 123.

¹³ *See below* paras. 17, 41.

¹⁴ *See Annex 5; Annex 6*, at 1, 3, 4 and *Annex 7*, Satellite image of Main Prison Building. Witnesses refer to these buildings as the *Naqliah* (or similar terms), or as the Trailers or Containers (or similar terms), or Administration, Investigation, Interrogation, or Security Offices, but consistently place them in the same defined area of the Mitiga Compound.”.

contains offices, and rooms equipped for interrogating and/or torturing detainees.¹⁵ The Main Prison building covers an area of approximately 80 by 100 metres surrounded by a high wall made of reinforced concrete blocks and multiple watchtowers.¹⁶ It is divided into 12 sections,¹⁷ each comprising multiple cells and solitary confinement cells.¹⁸ At all material times, the Main Prison held between at least 1700 and as many as 5140 detainees,¹⁹ including men, women, and children.²⁰ Separating some of the sections are several multi-purpose inner yards and, immediately north of the prison, is one large outer yard; these yards were, amongst others, used for the torture of detainees.²¹ One of these places was known colloquially as the “Islamic Neighbourhood”, referring to the area of Tripoli “where they sell meat and carcasses of slaughtered animals are hanged”.²² In this yard in particular, the Mitiga Perpetrators would suspend detainees from hooks attached to the metal grid-ded roof, and beat them.²³

¹⁵ **P-0054**, [LBY-OTP-0073-0025](#), paras. 84-89; **P-0486**, [LBY-OTP-0069-0584](#), paras. 18, 58-59, 95, 105; **P-0497**, [LBY-OTP-00007250](#), paras. 18, 39; **P-0498**, [LBY-OTP-0069-0506](#), paras. 25, 88, 116; **P-0551**, [LBY-OTP-0072-0387](#), paras. 47, 49-50, 64, 67; **P-0568**, [LBY-OTP-00018134](#), paras. 29-30; **P-0569**, [LBY-OTP-0080-0032](#), paras. 31, 53, 97; **P-0571**, [LBY-OTP-0080-0169](#), paras. 136-138, 165-166; **P-0595**, [LBY-OTP-0074-0889](#), paras. 52-53, 58; **P-0635**, [LBY-OTP-0070-6952](#), paras. 46, 48, 55, 91, 116, 121, 151-152 and [LBY-OTP-0070-6995](#) (trans: [LBY-OTP-00018807](#)); **P-0650**, [LBY-OTP-0080-0468](#), paras. 60-61, 86-89; **P-0667**, [LBY-OTP-00001491](#), paras. 39-43, 46-47, 61-63, 67, 83 and [LBY-OTP-00001497](#); **P-0692**, [LBY-OTP-0080-0608](#), paras. 19, 71, 114; **P-0719**, [LBY-OTP-0070-7295](#), paras. 74, 82-83, 107, 129; **P-0720**, [LBY-OTP-0083-0052](#), paras. 125-127, 142; **P-0724**, [LBY-OTP-0085-0063](#), paras. 51, 61, 67, 76, 82; **P-0730**, [LBY-OTP-00015125](#), paras. 24, 26, 46-47, 49-51, 77; **P-0872**, [LBY-OTP-00007275](#), paras. 24-27, 54, 71-72, 78, 104 and [LBY-OTP-00007280](#) (trans: [LBY-OTP-00018804](#)); **P-0942**, [LBY-OTP-00015360](#), paras. 21-24, 27-28, 35, 39-40, 160-161, 182, 200 and [LBY-OTP-00015372](#) (trans: [LBY-OTP-00018771](#)); **P-0943**, [LBY-OTP-00018075](#), paras. 25-26, 71-73, 76-78, 85 and [LBY-OTP-00018076](#); **P-0990**, [LBY-OTP-00015405](#), paras. 42, 77-81; **P-0993**, [LBY-OTP-00015420](#), paras. 24, 48; **P-1025**, [LBY-OTP-00016916](#), paras. 24, 67-68; **P-1026**, [LBY-OTP-00016896](#), para. 26; **P-1031**, [LBY-OTP-00018119](#), para. 36 and [LBY-OTP-00018121](#).

¹⁶ See **Annex 7**; **P-0990**, [LBY-OTP-00015405](#), para. 44; **HRS**, [LBY-OTP-0066-0332](#), at 0334. See also [LBY-OTP-00019871](#); **P-1046**, [LBY-OTP-00022410](#), para. 190; **P-1070**, [LBY-OTP-00020236](#), para. 123.

¹⁷ See **Annex 7**, at “S1-S11”.

¹⁸ **P-0439**, [LBY-OTP-0066-0951](#), paras. 31, 89, 90, 94; **P-0486**, [LBY-OTP-0069-0584](#), paras. 21, 23, 27-28, 64, 86-87, 128; **P-0498**, [LBY-OTP-0069-0506](#), paras. 34, 50, 113, 139; **P-0568**, [LBY-OTP-00018134](#), paras. 38, 42, 46, 60, 66; **P-0569**, [LBY-OTP-0080-0032](#), paras. 58, 80, 83, 138; **P-0571**, [LBY-OTP-0080-0169](#), paras. 33, 207, 221, 224; **P-0595**, [LBY-OTP-0074-0889](#), paras. 33-34, 63, 85; **P-0635**, [LBY-OTP-0070-6952](#), paras. 62, 64, 144, 160, 164; **P-0650**, [LBY-OTP-0080-0468](#), para. 73; **P-0665**, [LBY-OTP-0083-0663](#), paras. 127-132; **P-0670**, [LBY-OTP-00015152](#), para. 90; **P-0692**, [LBY-OTP-0080-0608](#), paras. 49, 135, 176; **P-0719**, [LBY-OTP-0070-7295](#), paras. 80, 135; **P-0720**, [LBY-OTP-0083-0052](#), paras. 39, 62, 68, 73, 100-101, 169-170; **P-0724**, [LBY-OTP-0085-0063](#), para. 70; **P-0730**, [LBY-OTP-00015125](#), paras. 31, 99; **P-0872**, [LBY-OTP-00007275](#), paras. 69, 99-100; **P-0942**, [LBY-OTP-00015360](#), para. 48, 199; **P-0943**, [LBY-OTP-00018075](#), paras. 34, 87; **P-0990**, [LBY-OTP-00015405](#), paras. 93, 118-119; **P-0993**, [LBY-OTP-00015420](#), paras. 27, 45; **P-1025**, [LBY-OTP-00016916](#), paras. 26, 36, 45, 48, 76-77; **P-1026**, [LBY-OTP-00016896](#), paras. 35-36, 62; **P-1031**, [LBY-OTP-00018119](#), paras. 40, 42. See also [LBY-OTP-00019869](#) and [LBY-OTP-00019872](#); **P-0644**, [LBY-OTP-00020358](#), paras. 98, 213, 215; **P-1046**, [LBY-OTP-00022410](#), para. 191; **P-1070**, [LBY-OTP-00020236](#), paras. 121, 124.

¹⁹ See below para. 46 and fn. 283.

²⁰ See e.g. [LBY-OTP-00018738](#), pp. 3, 18.

²¹ See **Annex 6**, at “Y1”, “Y2”, “Y3”, “Y4”, and “Y5”.

²² **P-0872**: [LBY-OTP-00007275](#), para. 43; **P-1073**: [LBY-OTP-00020267](#), para. 74.

²³ See **Annex 7**, at “Y3”. **P-0054**: [LBY-OTP-0073-0025](#), paras. 149, 159-160; **P-0439**: [LBY-OTP-0066-0951](#), paras. 40, 93; **P-0486**: [LBY-OTP-0069-0584](#), paras. 24, 90-94; **P-0498**: [LBY-OTP-0069-0506](#), paras. 127-129; **P-0568**: [LBY-OTP-00018134](#), para. 38 (2); **P-0569**: [LBY-OTP-0080-0032](#), paras. 33-34, 61; **P-0571**: [LBY-OTP-0080-0169](#),

4. Senior SDF/RADA member or close associate Osama NJEEM was known as the director of Mitiga Prison, under at least KARA's authority. Notwithstanding NJEEM's role, **EL HISHRI** exercised general authority and influence throughout Mitiga Prison as well as direct control of the segregated area of Mitiga Prison where women, girls and young children were detained.²⁴ While some senior SDF/RADA members or close associates may have obtained official ranks in Libyan state institutions and SDF/RADA as a whole later was granted an official mandate, these events did not preclude continued membership of and/or association with SDF/RADA, or SDF/RADA's independent functioning under KARA's authority.²⁵

II. THE CHARGES

DCC, para. 6: For the purpose of these charges—and as convenient factual labels in the interest of clarity and concision, rather than as legal characterisations—this DCC uses the following terms:

DCC, para. 6.a.: The term “Mitiga Prison Leadership” is used to describe persons holding leadership roles in Mitiga Prison. In this sense, “leadership role” does not necessarily imply *de jure* office, but rather reflects the functional reality of Mitiga Prison during the charged period. While the Mitiga Prison Leadership included persons with affiliations to SDF/RADA and/or Libyan state institutions, such affiliations or titles were not necessarily dispositive.

DCC, para. 6.b.: The term “Mitiga Perpetrators” is used to describe: (i) persons who carried out the charged crimes at Mitiga Prison; and (ii) persons who carried out the charged crimes at other locations in and around Tripoli, acting under the direction or control, or with the agreement of, the Mitiga Prison Leadership. Consequently, where appropriate in light of the evidence, the term “Mitiga Perpetrators” may include persons who were also members of the Mitiga Prison Leadership, if they carried out any of the charged crimes. The term includes guards at Mitiga Prison, and other persons participating in the running of Mitiga Prison or interacting with the detainees in Mitiga Prison. It also includes detainees who were compelled or instructed to carry out crimes, either by members of the Mitiga Prison Leadership or (other) Mitiga Perpetrators with the ability to coerce detainees. While the Mitiga Perpetrators included persons with affiliations to SDF/RADA and/or Libyan state institutions, they were not limited to such persons.

DCC, para. 6.c.: Consistent with the functional nature of SDF/RADA as an organisation, as established in the evidence, references to the conduct of SDF/RADA “members” also include the conduct of persons closely associated or affiliated with SDF/RADA.

DCC, para. 7: Consequently, references in this DCC to the “Mitiga Prison Leadership” and “Mitiga Perpetrators” may both potentially include EL HISHRI, depending on the context of the allegation and/or evidence in question.

5. While some or all of the Mitiga Prison Leadership and/or the Mitiga Perpetrators were

paras. 31, 51, 70, 242; **P-0595:** [LBY-OTP-0074-0889](#), paras. 35 (E), 73-75, 80-81; **P-0720:** [LBY-OTP-0083-0052](#), paras. 57-58, 80 (S); **P-0720:** [LBY-OTP-00020099](#), paras. 46-49; **P-0730:** [LBY-OTP-00015125](#), paras. 40-44, 99 (12); **P-0872:** [LBY-OTP-00007275](#), paras. 43, 99 (A4); **P-0925:** [LBY-OTP-00018772](#), paras. 29-35; **P-0942:** [LBY-OTP-00015360](#), paras. 48, 61, 199; **P-0990:** [LBY-OTP-00015405](#), para. 62; **P-0993:** [LBY-OTP-00015420](#), para. 25; **P-1025:** [LBY-OTP-00016916](#), paras. 39, 77 (L); **P-1046:** [LBY-OTP-00019195](#), paras. 105-108. *See also* [LBY-OTP-00018631](#).

²⁴ *See below* paras. 55-56, 63, 70, 165, 179, 181-187.

²⁵ *See below* paras. 16, 18, 226.

SDF/RADA members, or closely associated with SDF/RADA, this is only of evidentiary significance. In the legal determination of the charges, it need not be established that any given individual was a member or close associate of SDF/RADA.

A. CONTEXTUAL ELEMENTS

(1) Contextual elements of crimes against humanity (article 7)

DCC, para. 8: During the charged period (but not limited to it), SDF/RADA carried out a widespread and systematic attack directed against the civilian population in and around Tripoli, including persons in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison (which was controlled by SDF/RADA). Even if some of these persons were fighters rendered *hors de combat* by their detention, the proportion of any such persons was sufficiently limited that it did not deprive the population of its overall civilian character.

6. For the purpose of article 7, the “attack” must be “directed against any civilian population”, namely a collective of civilians rather than individuals.²⁶ While not a limited and randomly selected group of individuals, the use of ‘any’ indicates that qualifying civilian populations need not be defined by a common nationality, ethnicity, or other similar distinguishing features²⁷ such as political or religious identity. The concept is functional rather than demographic, merely ensuring that civilians collectively are subjected to attack.

7. The civilian population in this case is defined by reference to a geographic location (in and around Tripoli) and by reference to the system of institutionalised and sustained mistreatment and violent abuse of all persons in the custody and/or control of the Mitiga Perpetrators. There can be no doubt that numerous civilians were targeted within these parameters.²⁸ Irrespective of the reasons for which victims were detained—which varied widely²⁹—they were subject to the same criminal system.³⁰ Likewise, victims who were under the control and/or in the custody of Mitiga Perpetrators during their arrest (that is, before their detention at Mitiga Prison) also systematically suffered abuse and mistreatment.³¹ Most victims were detained illegally.³² Even if some victims were not civilians but fighters rendered *hors de combat* by their detention,³³ the proportion of any such

²⁶ *Ongwen* TJ, para. 2675. An attack directed against a civilian population may also serve other objectives or motives: see *Ntaganda* AJ, para. 424.

²⁷ *Ntaganda* TJ, para. 667; *Katanga* TJ, para. 1103; *Bemba* TJ, para. 155; *Bemba* CD, para. 76; *Côte d’Ivoire* Article 15(4) Decision, para. 32.

²⁸ See below, para. 46, **Annex 8**, Non-exhaustive list of victims of imprisonment, torture, cruel treatment, outrages upon personal dignity, and other inhumane acts.

²⁹ For the multiple reasons for detention, see below, paras. 139-152 (relating to **Persecution** (Counts 14-17)).

³⁰ See below, paras. 46-67.

³¹ See below, paras. 47-48.

³² See below, paras. 47-51.

³³ See, for examples of fighters rendered *hors de combat* by their detention at Mitiga Prison: in 2012, detainees from GADDAFI forces after fighting in Bani Walid: **P-1722: [LBY-OTP-02488730](#)**, paras. 65-67; **Video, [LBY-OTP-](#)**

persons was sufficiently limited that it did not deprive the population of its overall civilian character.³⁴

DCC, para. 9: The attack was constituted by a course of conduct involving the multiple commission of acts amounting to crimes under article 7, including the acts forming the basis of the charges. These acts encompassed: (i) the institutionalised and sustained mistreatment and violent abuse of all persons in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison, as charged in counts 1-6, and; (ii) rape and other forms of sexual violence, murder, enslavement, and persecution of certain persons in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison, as charged in counts 7-17.

8. The attack was constituted by a course of conduct involving the multiple commission of acts amounting to crimes under article 7,³⁵ including the acts forming the basis of the charges. These acts encompassed: (i) the institutionalised and sustained mistreatment and violent abuse of all persons in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison, as charged in counts 1 to 6,³⁶ and; (ii) the infliction of rape and other forms of sexual violence, murder, enslavement, and persecution upon certain persons in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison, as charged in counts 7 to 17.³⁷

9. From May 2014 to June 2020, in the charged period, thousands of detainees were held at Mitiga Prison, and subjected to varied forms of mistreatment and abuse.³⁸ Furthermore, while beyond the scope of the present charges, this was part of a wider attack which began before May 2014³⁹ and continued until at least 2025.⁴⁰ During this wider time-frame, the Mitiga Prison

[00018590](#) (showing KARA at 0:00:00-0:00:55) (trans: [LBYP-OTP-00018901](#)); Video, [LBYP-OTP-00018637](#) (trans: [LBYP-OTP-00018899](#)); see also **P-0720**, [LBYP-OTP-0083-0052](#), para. 117. See also, e.g., ISIS and other fighters detained at Mitiga Prison: **P-1685**: [LBYP-OTP-00057776](#), paras. 168-169; **P-0644**: [LBYP-OTP-00020358](#), para. 158; **P-1750**: [LBYP-OTP-03214454](#), para. 127; **P-1745**: [LBYP-OTP-03214428](#), para. 81.

³⁴ *Ongwen TJ*, para. 2675. See also *Ntaganda TJ*, para. 669 (victims may also be “persons otherwise protected” under international humanitarian law such as article 3 common to the Geneva Conventions).

³⁵ See Statute, art. 7(2)(a). The “course of conduct” requirement entails that the attack encompasses a “series or overall flow of events, as opposed to a mere aggregate of random or isolated acts”: *Ongwen TJ*, para. 2674; *Ntaganda TJ*, para. 662. The “multiple commission of acts” implies a quantitative threshold of a certain number of acts falling within that course of conduct: *Ongwen TJ*, para. 2674; *Ntaganda TJ*, para. 663.

³⁶ See below, paras. 45-67.

³⁷ See below, paras. 68-153.

³⁸ See below, para. 46.

³⁹ **P-1722**: [LBYP-OTP-02488730](#), paras. 39, 67, 74-91 (2011-2012, 2013); **P-0720**, [LBYP-OTP-0083-0052](#), paras. 27, 117 (2012); **P-0872**: [LBYP-OTP-00007275](#), paras. 35, 51 (2012). See also UNSMIL, [LBYP-OTP-0070-4182](#), para. 24; **P-0342**: [LBYP-OTP-02790777](#), p. 0001; **P-0571**: [LBYP-OTP-0080-0169](#), para. 23; ASWC, [LBYP-OTP-03703154](#), pp. 0004, 0016-0017, 0019 (2013); UN International Commission of Inquiry on Libya (“CoI”), [LBYP-OTP-0021-2148](#), paras. 320, 349; Amnesty International (“AI”), [LBYP-OTP-03703707](#), p. 0017. See further, from around 2012, extensive work to build Mitiga Prison: Human Rights Solidarity (“HRS”), [LBYP-OTP-0066-0332](#), pp. 0333, 0335-0344; HRS: [LBYP-OTP-0066-0349](#), pp. 0350-0378.

⁴⁰ And in any event until EL HISHRI’s arrest on 16 July 2025. See **P-1673**, [LBYP-OTP-00392926](#), paras. 231-233 ([REDACTED]); ASWC, [LBYP-OTP-03703154](#), pp. 0001-0002, 0004, 0010-0041 (report dated 26 Mar 2025); UN PoE, [LBYP-OTP-00020579](#), para. 42, pp. 0103-0104 (Annex 20, Appendix A) (report dated 13 Dec 2024). For detention/release dates beyond June 2020, see e.g.: [REDACTED].

Leadership continued to include SDF/RADA members.⁴¹

DCC, para. 10: The attack was widespread in that it involved the commission of article 7 crimes on a large scale. While beyond the scope of the present charges, the wider attack not only began before May 2014 but also continued after June 2020, until at least 2025. During the charged period, thousands of persons were detained at Mitiga Prison, and subjected to various forms of mistreatment and abuse. Such acts occurred constantly over a period of more than six years. The prohibited acts thus affected a very large number of persons, and took place over a prolonged period of time. Additionally, outside Mitiga Prison, persons in the custody and/or control of the Mitiga Perpetrators were subjected to various forms of mistreatment and violent abuse at other locations in and around Tripoli, including in Mitiga Compound, and at other locations in the course of their arrest or when taken from Mitiga Prison for purposes including acts of forced labour and participation in armed hostilities.

DCC, para. 11: The attack on the civilian population was also systematic. Mitiga Prison functioned as an organised system under the control of SDF/RADA through the Mitiga Prison Leadership. Within this context, the sustained mistreatment and violent abuse of detainees was institutionalised, such that a number of the charged article 7 crimes affected each and every detainee. While other charged article 7 crimes affected some detainees, they likewise occurred only with the knowledge, assent and tolerance of the Mitiga Prison Leadership.

10. While the attack on the civilian population need only be widespread *or* systematic, in this case both requirements are established.

11. The attack was widespread in that it involved the commission of article 7 crimes on a large scale.⁴² As noted above, the wider attack not only began before 2014 but also continued until at least 2025.⁴³ During the charged period alone, thousands of persons were detained at Mitiga Prison, and subjected to article 7(1) acts.⁴⁴ This occurred constantly for more than six years. The prohibited acts thus affected a very large number of persons, and took place over a prolonged period of time. Additionally, outside Mitiga Prison, persons in the custody and/or control of the Mitiga Perpetrators

⁴¹ For SDF/RADA members of the Mitiga Prison leadership before the charged period, *see e.g.* **KARA: P-0720: [LBY-OTP-0083-0052](#)**, paras. 27-28; **P-0650: [LBY-OTP-0080-0468](#)**, paras. 41, 44. *See further* **P-1722: [LBY-OTP-02488730](#)**, paras. 92-96 ([REDACTED]). For SDF/RADA members after the charged period, *see* **ASWC, [LBY-OTP-03703154](#)**, pp. 0041-0050, 0062-0063 (report dated 26 Mar 2025) (Mitiga Prison described as “ongoing crime scene”); **UN PoE, [LBY-OTP-00020579](#)**, para. 42, pp. 0103-0105 (Annex 20, Appendix A, paras. 1, 3, 6, 8-9) (report dated 13 Dec 2024); **P-0342: [LBY-OTP-02790777](#)**, p. 0002 (“in control of the base and the prison even now”); **P-1673, [LBY-OTP-00392926](#)**, paras. 231-233 ([REDACTED]); **P-0942: [LBY-OTP-00015360](#)**, para. 185 ([REDACTED]); **P-1046: [LBY-OTP-00019195](#)**, para. 140 ([REDACTED]); **ASWC, [LBY-OTP-03703154](#)**, pp. 0001-0002, 0004 (2025). *See further, e.g.,* **EL HISHRI: P-1682: [LBY-OTP-03703580](#)**, pp. 0001-0002 (**EL HISHRI**, Feb 2022); **NJEEM: P-1673: [LBY-OTP-00392926](#)**, paras. 182-183, 186; **P-1685: [LBY-OTP-00057776](#)**, paras. 148-151, 200; **P-1070: [LBY-OTP-00020236](#)**, para. 71; **KARA: P-0724: [LBY-OTP-0085-0063](#)**, paras. 91-93; **Letter, [LBY-OTP-0085-0091](#)** (trans: **[LBY-OTP-00018056](#)**) ([REDACTED]); **Visit Authorisation, [LBY-OTP-0085-0092](#)** (trans: **[LBY-OTP-00018057](#)**). *See also* **TikTok Images, [LBY-OTP-02856252](#), [LBY-OTP-02856251](#)** (uniformed men at Mitiga Compound, with RADA's logo at the top left side, 23 Jul 2025) (*see also, for RADA logo, [LBY-OTP-02856239](#)*); **TikTok Video, [LBY-OTP-02856257](#)** (buildings around Mitiga Compound square, with troops running on tarmac, 19 Aug 2025). *See further*, paras. 207-209 (co-perpetrators and members of the Mitiga Prison Leadership).

⁴² *See Ongwen TJ*, paras. 2674, 2681; *Ntaganda TJ*, paras. 663, 691; *Katanga TJ*, para. 1098.

⁴³ *See above*, para. 9.

⁴⁴ *See below*, para. 46. *See* Section **II.B. ALLEGED CRIMES**.

were subjected to article 7(1) acts at other locations in and around Tripoli, including in Mitiga Compound, and at other locations in the course of their arrest⁴⁵ or when taken from Mitiga Prison for purposes such as forced labour or participation in armed hostilities.⁴⁶

12. Based on the concrete allegations presented in the DCC, at least 945 persons were subjected to imprisonment or severe deprivation of physical liberty, torture and other inhumane acts as article 7(1) acts; at least 89 persons were victims of murder or attempted murder; at least 49 persons were subjected to sexual violence; at least 10 persons were raped; at least 176 persons were enslaved; and at least 173 persons were persecuted.⁴⁷ Furthermore, given the very prolonged period in which Mitiga Prison operated as a prison under the control of SDF/RADA, and the large number of detainees which Mitiga Prison can house (numbering in the thousands), the identified victims merely represent a sample of the overall number of victims. In particular, while the precise number of detainees in Mitiga Prison cannot presently be specified, the evidence shows that at least 5,140 persons were imprisoned and victimised there, including a representative sample of 945 persons.⁴⁸

13. The attack on the civilian population was also systematic.⁴⁹ Mitiga Prison functioned as an organised system under the control of SDF/RADA, through the Mitiga Prison Leadership.⁵⁰ Within this context, the sustained mistreatment and violent abuse of detainees was institutionalised, such that a number of the charged article 7 crimes affected each and every detainee. Once persons were in the custody and/or control of the Mitiga Perpetrators, and, in particular, when brought to Mitiga Prison, the alleged crimes—especially the acts of imprisonment and mistreatment—were carried out within the framework of an organised, controlled system, in an organised, coordinated and consistent way.⁵¹ Witnesses consistently report the invariable routine of initial interrogation at the *Naqliah*, and torture, which was often sexualised,⁵² followed by long periods of institutionalised mistreatment at the hands of the Mitiga Perpetrators.⁵³ Detainees were often returned to the *Naqliah* for further interrogation and torture.⁵⁴ Patterns of abuse included use of the same methods of

⁴⁵ See below para. 48.

⁴⁶ See below, paras. 116, 119.

⁴⁷ See Annexes 8-13.

⁴⁸ See below, para. 46; Annex 8.

⁴⁹ See Ongwen TJ, para. 2682 (“organised nature”); Ntaganda TJ, paras. 692-693; Katanga TJ, para. 1098.

⁵⁰ See below, paras. 47-67, 165, 181-189, 197-199, 202; Section II.C(2)(iii) (Joint perpetration of charged crimes, directly and/or indirectly).

⁵¹ See Ongwen TJ, para. 2682; Ntaganda TJ, paras. 692-693; Katanga TJ, para. 1098. See below paras. 46-67; Section II.C(2)(iii)(b) (The systematic nature).

⁵² See below paras. 49, 53-54, 68.

⁵³ See below paras. 52-65.

⁵⁴ See below para. 53. See P-0054, [LBY-OTP-0073-0025](#), paras. 101-113; P-0486, [LBY-OTP-0069-0584](#), paras. 95-97, 100-102, 104-106; P-0497, [LBY-OTP-00007250](#), para. 39, 42; P-0498, [LBY-OTP-0069-0506](#), paras. 114-117, 119-120; P-0568, [LBY-OTP-00018134](#), paras. 49-53; P-0569, [LBY-OTP-0080-0032](#), paras. 70-79; P-0635, [LBY-OTP-0070-6952](#), paras. 92-94; P-0644, [LBY-OTP-00020358](#), paras. 41-42, 58-61, 95, 111-114, 122, 145-146; P-

interrogation and torture,⁵⁵ and individual or collective punishment.⁵⁶ Forced nudity, sometimes involving full nudity, and sometimes cavity searches—carried out in inappropriate and degrading conditions and beyond what may be necessary for legitimate security reasons, including by or in front of other detainees—were part of the systematic process for inducting each detainee.⁵⁷ The conditions of detention at Mitiga Prison were consistently dire.⁵⁸ While other charged article 7 crimes affected some detainees, they likewise occurred only with the knowledge, assent and tolerance of the Mitiga Prison Leadership,⁵⁹ as is clear from the personal example that they set – including by EL HISHRI.⁶⁰

DCC, para. 12: The article 7 acts constituting the attack were carried out by the Mitiga Perpetrators, which included SDF/RADA members, close associates, and other persons acting under the direction, control or tolerance of SDF/RADA members within the Mitiga Prison Leadership. The attack was carried out pursuant to and in furtherance of an organisational policy to commit such an attack.

0667, [LBYP-OTP-00001491](#), paras. 60-72, 76-87, 95; P-0692, [LBYP-OTP-0080-0608](#), paras. 67-71; P-0719, [LBYP-OTP-0070-7295](#), paras. 81-87; P-0720, [LBYP-OTP-0083-0052](#), paras. 124-128, 130, 139-144; P-0724, [LBYP-OTP-0085-0063](#), paras. 67-68, 76-78, 81-83; P-0730, [LBYP-OTP-00015125](#), paras. 46-54; P-0872, [LBYP-OTP-00007275](#), paras. 40-41, 56, 71-72; P-0942, [LBYP-OTP-00015360](#), paras. 64-66, 101-104, 160-167; P-0990, [LBYP-OTP-00015405](#), paras. 74-81, 83-85, 92; P-0992, [LBYP-OTP-00018787](#), para. 32; P-0943, [LBYP-OTP-00018075](#), paras. 96-98, 111-112; P-1026, [LBYP-OTP-00016896](#), paras. 40-43, 67-69; P-1031, [LBYP-OTP-00018119](#), paras. 56-58, 71-72; P-1073, [LBYP-OTP-00020267](#), para. 64; P-1673, [LBYP-OTP-00392926](#), paras. 47-58, 47-58, 60, 64-67, 72; P-1685, [LBYP-OTP-00057776](#), paras. 26, 32-34, 43, 46-51, 66-69, 72-82; P-1733, [LBYP-OTP-03703558](#), paras. 36-50; P-1745, [LBYP-OTP-03214428](#), paras. 49-57.

⁵⁵ See below, paras. 52-55.

⁵⁶ See below, para. 58. P-0054, [LBYP-OTP-0073-0025](#), paras. 56, 115; P-0439, [LBYP-OTP-0066-0951](#), para. 40; P-0486, [LBYP-OTP-0069-0584](#), paras. 137, 139; P-0498, [LBYP-OTP-0069-0506](#), paras. 72, 121; P-0568, [LBYP-OTP-00018134](#), para. 56; P-0569, [LBYP-OTP-0080-0032](#), paras. 133-135, 140; P-0571, [LBYP-OTP-0080-0169](#), paras. 57, 109, 211; P-0644, [LBYP-OTP-00020358](#), paras. 72, 79, 123, 170; P-0650, [LBYP-OTP-0080-0468](#), paras. 107, 119; P-0670, [LBYP-OTP-00015152](#), para. 84; P-0730, [LBYP-OTP-00015125](#), paras. 66, 75, 92; P-0925, [LBYP-OTP-00018772](#), para. 52; P-0993, [LBYP-OTP-00015420](#), para. 44; P-1026, [LBYP-OTP-00016896](#), para. 47; P-1073, [LBYP-OTP-00020267](#), para. 57; P-1070, [LBYP-OTP-00020236](#), paras. 58-59; P-1673, [LBYP-OTP-00392926](#), paras. 90-96, 190-193; P-1720, [LBYP-OTP-01558903](#), paras. 135-139, 205-210.

⁵⁷ See below para. 68.

⁵⁸ See below, paras. 62-64.

⁵⁹ See e.g., in relation to KARA: P-0942, [LBYP-OTP-00015360](#), paras. 42, 78; P-0054, [LBYP-OTP-0073-0025](#), paras. 23, 103; P-0439, [LBYP-OTP-0066-0951](#), paras. 19, 75; P-0486, [LBYP-OTP-0069-0584](#), para. 159; P-0498, [LBYP-OTP-0069-0506](#), para. 88; P-0571, [LBYP-OTP-0080-0169](#), paras. 19, 44; P-0644, [LBYP-OTP-00020358](#), para. 99; P-0665, [LBYP-OTP-0083-0663](#), para. 119; P-1046, [LBYP-OTP-00022410](#), para. 32; P-1070, [LBYP-OTP-00020236](#), para. 92; P-1733, [LBYP-OTP-03703558](#), para. 49. See below, paras. 207, 220 (KARA permitted the violent commission of crimes by other co-perpetrators: P-0990, [LBYP-OTP-00015405](#), paras. 54, 121; P-1026, [LBYP-OTP-00016896](#), paras. 48-49, 64-68, 76, 87, 101; P-0595, [LBYP-OTP-0074-0889](#), paras. 117-126, 238; P-0667, [LBYP-OTP-00001491](#), paras. 90-92; P-0497, [LBYP-OTP-00007250](#), para. 62; P-0872, [LBYP-OTP-00007275](#), paras. 27-31, 43, 64, 91; P-0942, [LBYP-OTP-00015360](#), paras. 71, 78, 80, 81; P-0990, [LBYP-OTP-00015405](#), para. 121; P-0943, [LBYP-OTP-00018075](#), paras. 76-86; P-1031, [LBYP-OTP-00018119](#), para. 99; P-0498, [LBYP-OTP-0069-0506](#), paras. 90, 126; P-0486, [LBYP-OTP-0069-0584](#), paras. 63, 90-92, 100-103, 108-109, 135; P-0635, [LBYP-OTP-0070-6952](#), para. 135; P-0719, [LBYP-OTP-0070-7295](#), para. 208; P-0569, [LBYP-OTP-0080-0032](#), paras. 99, 102-104; P-0650, [LBYP-OTP-0080-0468](#), paras. 48, 141-142; P-0692, [LBYP-OTP-0080-0608](#), paras. 89, 91; P-0720, [LBYP-OTP-0083-0052](#), para. 178).

⁶⁰ See below, paras. 188, 191-192 (EL HISHRI); 220 (KARA, NJEEM, N'ZAM).

DCC, para. 13: SDF/RADA was vested with sufficiently efficient structures or mechanisms to carry out an attack for the purpose of article 7. At all material times, SDF/RADA had a clear leadership under KARA, and commanded significant resources. While independent, it played a critical role in the security architecture of Tripoli, maintaining its affiliation with Libyan state institutions and other authorities based there. In particular, through the Mitiga Prison Leadership, SDF/RADA maintained control over Mitiga Prison such that the Mitiga Perpetrators could constantly commit article 7 acts against detainees therein with impunity. More broadly, the Mitiga Compound constituted SDF/RADA's principal seat of power in Libya, with the strategic assets in the compound enabling its military and economic influence in Tripoli.

DCC, para. 14: The article 7 acts constituting the attack were not random but rather clearly related to one another, demonstrating the existence of the organisational policy. In particular, these acts were all committed against Mitiga Prison detainees or persons otherwise in the Mitiga Perpetrators' control and/or custody, principally at Mitiga Prison, and took place in a largely similar way.

14. To be an 'organisation' under article 7(2) of the Statute, it suffices that a group has "a set of structures or mechanisms, whatever those may be, that are sufficiently efficient to ensure the coordination necessary to carry out an attack directed against a civilian population".⁶¹ This ensures that "acts which are unrelated to or perpetrated by individuals acting randomly on their own are excluded" from the scope of the attack.⁶² Consistent with this purpose, the policy need not consist of a pre-established design, nor be formalised,⁶³ but rather its existence may be inferred.⁶⁴ In other words, the policy requirement seeks to show only a sufficient connection between the acts alleged to comprise the attack. If an attack is shown to be systematic, as in this case,⁶⁵ it necessarily also meets the policy requirement, which is less demanding.⁶⁶

15. The article 7 acts constituting the attack were carried out by the Mitiga Perpetrators, which included SDF/RADA members and close associates. The Mitiga Prison Leadership at all material times included members of the SDF/RADA leadership, under KARA's authority.⁶⁷ Consistent with its systematic nature, the attack directed against the civilian population was committed pursuant to or in furtherance of an organisational policy to commit such an attack.⁶⁸

16. SDF/RADA meets the organisation requirement within the meaning of article 7(2) since it was at all material times vested with "sufficiently efficient" structures or mechanisms such that it was able to carry out an attack on a civilian population.⁶⁹ When SDF/RADA first emerged under

⁶¹ *Ongwen TJ*, para. 2677, citing *Katanga TJ*, para. 1119.

⁶² *Ongwen TJ*, para. 2678.

⁶³ *Ntaganda TJ*, para. 674; *Bemba TJ*, para. 160.

⁶⁴ See e.g. *Ntaganda TJ*, para. 674; *Bemba TJ*, para. 160; *Katanga TJ*, para. 1109.

⁶⁵ See above, para. 13.

⁶⁶ *Ongwen TJ*, para. 2679.

⁶⁷ See below, paras. 159, 207-209.

⁶⁸ See *Ongwen TJ*, para. 2679.

⁶⁹ *Ongwen TJ*, para. 2677, citing *Katanga TJ*, para. 1119.

KARA's command from units of the Tripoli Interim Supreme Security Committee ("SSC"),⁷⁰ it was nominally under the authority of the Ministry of Interior ("MoI").⁷¹ Under successive Tripoli authorities, SDF/RADA maintained a quasi-official role, nominally under the authority of the MoI (until after the charged period, when it was placed under the direct authority of the Presidential Council ("PC"))⁷².⁷³ SDF/RADA leveraged its capabilities and assets to play a critical role in the security architecture of Tripoli. Rather than diminishing its independence, the grant of official commissions to senior SDF/RADA members,⁷⁴ and its exercise of quasi-official functions,⁷⁵ reflected its infiltration of and connections with the Tripoli authorities.

17. At all material times, SDF/RADA had a clear leadership under KARA,⁷⁶ and commanded significant resources⁷⁷—including fighters and weaponry,⁷⁸ and an international airport.⁷⁹ The SAJR Battalion (SDF/RADA's precursor) was based at Mitiga Compound, along with several revolutionary battalions, after it participated in seizing it from GADDAFI forces, in around August

⁷⁰ **Decision 388/2011**, [LBY-OTP-00018682](#) (trans: [LBY-OTP-00020197](#)); *see also* [LBY-OTP-00018675](#) (trans: [LBY-OTP-00019178](#)). *See also* **Video**, [LBY-OTP-00018623](#) (trans: [LBY-OTP-00019381](#), ll.56-61). *See further* **Cole and Mangan**, [LBY-OTP-0070-3941](#), pp. 3951-3952; **Lacher and Cole**, [LBY-OTP-00018826](#), pp. 0019, 0030-0032; **Lacher and al-Idrissi**, [LBY-OTP-0070-4009](#), pp. 4012-4013; UNSC, [LBY-OTP-00018618](#), p. 0004.

⁷¹ **Video**, [LBY-OTP-00018620](#) (trans: [LBY-OTP-00018900](#), ll. 81-94); **Video**, [LBY-OTP-00018603](#) (trans: [LBY-OTP-00018902](#) ll. 39-40); **Video**, [LBY-OTP-00018043](#) (trans: [LBY-OTP-00018812](#), ll. 47-64); **Website**, [LBY-OTP-00018798](#) (trans: [LBY-OTP-00019370](#)); **P-1044**: [LBY-OTP-00018699](#), para. 33; **Interior Ministry**, [LBY-OTP-00018611](#) (trans: [LBY-OTP-00019996](#)). *See also* **Cole and Mangan**, [LBY-OTP-0070-3941](#), pp. 3952-3953; **Lacher and Cole**, [LBY-OTP-00018826](#), at pp. 0037-0038; **Lacher and al-Idrissi**, [LBY-OTP-0070-4009](#), p. 4013.

⁷² **Decision 578/2020**, [LBY-OTP-00019369](#), (Article 1 – "subordinate to the Presidential Council")

⁷³ **Statement**, [LBY-OTP-00018953](#) (trans: [LBY-OTP-00019191](#)); **Decision 578/2020**, [LBY-OTP-00018655](#) (trans: [LBY-OTP-00019369](#), p. 0002); **Decision 555/2018**, [LBY-OTP-0069-0146](#) (trans: [LBY-OTP-0070-0004](#)). *See further* **OHCHR**, [LBY-OTP-00018738](#), p. 0019.

⁷⁴ *See e.g.* KARA: **P-0498**: [LBY-OTP-0069-0506](#), para. 82; **Cole and Mangan**, [LBY-OTP-0070-3941](#), p. 3953; **Lacher and Cole**, [LBY-OTP-00018826](#), p. 0079 (note 74); **P-0724**: [LBY-OTP-0085-0063](#), paras. 34-35; **P-0486**: [LBY-OTP-0069-0584](#), para. 159.

⁷⁵ *See e.g.* Presidential Council Decision No. 260 of 2016 on formation of the al-Rada Special Force: While no copy of this decision (known as decision 260/2016) can presently be found, it is mentioned in later decisions such as **Decision 578/2020**, [LBY-OTP-00018655](#) (trans: [LBY-OTP-00019369](#), p. 0002). *See further* **OHCHR**, [LBY-OTP-00018738](#), p. 0019; **Decision 555/2018**, [LBY-OTP-0069-0146](#) (trans: [LBY-OTP-0070-0004](#)); **Statement**, [LBY-OTP-00018953](#) (trans: [LBY-OTP-00019191](#)); **Website**, [LBY-OTP-00018798](#) (trans: [LBY-OTP-00019370](#)). *See also* **P-1044**: [LBY-OTP-00018699](#), para. 33.

⁷⁶ *See* **P-0054**: [LBY-OTP-0073-0025](#), para. 23; **P-0439**: [LBY-OTP-0066-0951](#), paras. 19, 75; **P-0486**: [LBY-OTP-0069-0584](#), paras. 32, 129, 159; **P-0497**: [LBY-OTP-00007250](#), paras. 42, 60; **P-0498**: [LBY-OTP-0069-0506](#), paras. 82, 87; **P-0551**: [LBY-OTP-0072-0387](#), para. 13; **P-0569**: [LBY-OTP-0080-0032](#), para. 122; **P-0571**, [LBY-OTP-0080-0169](#), paras. 19, 44; **P-0595**: [LBY-OTP-0074-0889](#), para. 28; **P-0635**: [LBY-OTP-0070-6952](#), paras. 127-128; **P-0719**: [LBY-OTP-0070-7295](#), paras. 181, 183; **P-0730**: [LBY-OTP-00015125](#), paras. 90-91; **P-0872**: [LBY-OTP-00007275](#), para. 80; **P-0993**: [LBY-OTP-00015420](#), para. 40; **P-0942**: [LBY-OTP-00015360](#), para. 42. *See below*, paras. 165, 207-209.

⁷⁷ **P-0872**: [LBY-OTP-00007275](#), para. 83; **P-1059**: [LBY-OTP-03218972](#), pp. 0007-0008; **P-0439**: [LBY-OTP-0066-0951](#), para. 75; **P-0486**: [LBY-OTP-0069-0584](#), paras. 17-18, 32; **P-0489**: [LBY-OTP-0069-0506](#), paras. 36-37; **P-0650**: [LBY-OTP-0080-0468](#), paras. 29-30, 36; **P-0711**: [LBY-OTP-0083-0189](#), paras. 62, 219, 224. *See also* **Lacher and al-Idrissi**, [LBY-OTP-0070-4009](#), pp. 4017-4018, 4020; **Pack**, [LBY-OTP-00000570](#), p. 0027.

⁷⁸ *See e.g.* fighting against the LNA, in April 2019: **P-0342**: [LBY-OTP-02790777](#), pp. 0002-0003; **P-1059**: [LBY-OTP-03218972](#), p. 0006. *See also* **P-1026**: [LBY-OTP-00016896](#), para. 58. *See also*, in 2020: **P-1041**: [LBY-OTP-00020173](#), paras. 96-110.

⁷⁹ *See* SDF/RADA's seizure of Mitiga airport in 2017: **P-0650**: [LBY-OTP-0080-0468](#), para. 32; **P-1721**: [LBY-OTP-02488678](#), paras. 34-35, 43-45, 55.

2011.⁸⁰ The Mitiga Compound ultimately became SDF/RADA's principal seat of power in Tripoli, with strategic assets such as the airport enabling its wider military and economic influence⁸¹—particularly after Tripoli International Airport was severely damaged during the hostilities in 2014.⁸² During the charged period, SDF/RADA was headquartered at Mitiga Compound.⁸³ Likewise, through the Mitiga Prison Leadership, SDF/RADA under KARA's authority exercised control over Mitiga Prison,⁸⁴ acting independently and without restraint.⁸⁵

18. In particular, Mitiga Prison remained outside the control of State institutions, notwithstanding allegations of the systematic abuse of detainees.⁸⁶ For example, despite the Tripoli authorities purporting in mid-2013 to transfer nominal control of the prison from the MoI to the Ministry of Defence (Military Police and Prisons Authority),⁸⁷ SDF/RADA remained in *de facto* control under KARA.⁸⁸ Subsequently, SDF/RADA was able to secure a compromise further perpetuating and consolidating its position—while the prison itself was formally adopted by the Ministry of Justice

⁸⁰ **P-1044**: [LBY-OTP-00018699](#), para. 30; **P-0720**: [LBY-OTP-0083-0052](#), para. 27; **P-0650**: [LBY-OTP-0080-0468](#), paras. 24-26; **P-1721**: [LBY-OTP-02488678](#), paras. 30-31; **P-0342**: [LBY-OTP-02790777](#), p.0001; **France 24**, [LBY-OTP-00018634](#) (trans: [LBY-OTP-00019179](#), pp. 0002-0004); **Video**, [LBY-OTP-00018585](#) (trans: [LBY-OTP-00019507](#)) (takeover of the Mitiga Air Force Base by Suq al-Jumaa revolutionaries on 21 Aug 2011); **Reuters**, [LBY-OTP-00018600](#). See also **Harchaoui and Lazib**, [LBY-OTP-0070-3925](#), p. 3937.

⁸¹ **P-0569**: [LBY-OTP-0080-0032](#), paras. 28-29, 38; **P-0650**: [LBY-OTP-0080-0468](#), para. 32; **P-1721**: [LBY-OTP-02488678](#), paras. 34-35, 43-45, 55. See also **P-0342**: [LBY-OTP-02790777](#), p.0002; **P-0724**: [LBY-OTP-0085-0063](#), para. 32; **P-1025**, [LBY-OTP-00016916](#), para. 64-67. See also **Human Rights Solidarity ("HRS")**, [LBY-OTP-0066-0332](#), p. 0333; **HRS**, [LBY-OTP-0066-0349](#), pp. 0351-0378.

⁸² **UNSMIL**, [LBY-OTP-0053-1204](#), para. 18; **P-0650**: [LBY-OTP-0080-0468](#), para. 18; **P-1721**: [LBY-OTP-02488678](#), para. 25; **P-0724**, [LBY-OTP-0085-0063](#), para. 32; **Foreign Policy**, [LBY-OTP-0070-3752](#), p. 3753-3754; **Harchaoui and Lazib**, [LBY-OTP-0070-3925](#), p. 3937.

⁸³ **P-0439**: [LBY-OTP-0066-0951](#), para. 19; **P-0486**: [LBY-OTP-0069-0584](#), paras. 15, 32; **P-0551**: [LBY-OTP-0072-0387](#), para. 34.

⁸⁴ See below, paras. 159, 165, 207-210, 220 and above fn. 76. See also, e.g., **P-0551**: [LBY-OTP-0072-0387](#), para. 34; **P-0571**: [LBY-OTP-0080-0169](#), paras. 19-20, 23; **P-0650**: [LBY-OTP-0080-0468](#), paras. 24, 41; **P-0720**, [LBY-OTP-0083-0052](#), paras. 25-28. See also **Press conference**, [LBY-OTP-0070-5931](#) (trans: [LBY-OTP-00019075](#) ll. 30-40); **Letter**, [LBY-OTP-0044-0518](#) (trans: [LBY-OTP-0070-0543](#)).

⁸⁵ See, for e.g., **P-0724**: [LBY-OTP-0085-0063](#), para. 34-35; see also, e.g., **P-0961**: [LBY-OTP-00019245](#), paras. 60-61; **P-1720**: [LBY-OTP-01558903](#), paras. 183-184; **P-0347**: [LBY-OTP-02843571](#); **Statement**, [LBY-OTP-00018953](#) (trans: [LBY-OTP-00019191](#)); **Video (interview of KARA)**: [LBY-OTP-00022471](#) (trans: [LBY-OTP-00022509](#)); **UNSMIL**, [LBY-OTP-0070-4253](#), paras. 32; **UNSMIL**, [LBY-OTP-0062-0060](#), para. 46. See further, below, para. 224 (regarding external access to Mitiga Prison).

⁸⁶ See **OHCHR**, [LBY-OTP-00018883](#), pp. 0008, 0010. See also, e.g., in 2015, the UNSG first referred to allegations of "beatings, torture and other ill treatment in the [...] Mitiga detention centre": **UNSMIL**, [LBY-OTP-0070-4219](#), para. 58; See further **UNSMIL-OHCHR**, [LBY-OTP-00018882](#), p. 0020; **UNSMIL**, [LBY-OTP-0070-4235](#), para. 43; **UNSMIL**, [LBY-OTP-0053-1170](#), para. 40; **UNSMIL**, [LBY-OTP-0053-1152](#), para. 40; **UNSMIL**, [LBY-OTP-0070-4253](#), para. 32.

⁸⁷ **Facebook**, [LBY-OTP-00018910](#) (trans: [LBY-OTP-00019374](#)); see also **LANA News**, [LBY-OTP-00018892](#) (trans: [LBY-OTP-00019372](#)); **Libya Herald**, [LBY-OTP-00018864](#); **Al Jazeera**, [LBY-OTP-00018893](#) (trans: [LBY-OTP-00019125](#)).

⁸⁸ **P-0724**: [LBY-OTP-0085-0063](#), para. 34-35; **P-0486**: [LBY-OTP-0069-0584](#), paras 31-32, 159-160. See also, e.g., **Video**, [LBY-OTP-0070-5931](#) (trans: [LBY-OTP-00019075](#) ll. 30-40) (dated 20 May 2014); **Letter**, [LBY-OTP-0044-0518](#) (trans: [LBY-OTP-0070-0543](#)) (dated 20 Oct 2015); **Bawabat al-Wasat**, [LBY-OTP-00018274](#) (trans: [LBY-OTP-00018814](#)) (NJEEM, commander of Mitiga Prison) (dated 28 Apr 2015); **Video (interview of KARA)**: [LBY-OTP-00022471](#) (trans: [LBY-OTP-00022509](#)). For KARA's continuous authority over SDF/RADA, see above, fn. 76; see below, paras. 207, 220.

(“MoJ”) as the Tripoli Main Correction and Rehabilitation Institution on 15 October 2017, and its employees reportedly transferred to the MoJ (Judicial Police Authority (“JPA”)),⁸⁹ the MoJ did not exercise control over the prison.⁹⁰ Instead, on 30 October 2017, the Attorney General tasked SDF/RADA to secure the *external* perimeter of the prison,⁹¹ providing a mandate which also effectively preserved its internal control. Amid continuing allegations of abuse,⁹² SDF/RADA was also provided with law enforcement powers of arrest and investigation when it was formally renamed the Deterrence Apparatus for Combatting Organised Crime and Terrorism (“DACOT”) on 7 May 2018.⁹³ This further enhanced SDF/RADA’s legitimacy and power, and the corresponding impunity of the Mitiga Prison Leadership and Perpetrators, including SDF/RADA members.⁹⁴

19. The article 7 acts constituting the attack were not random but rather clearly related to one another⁹⁵—notably, all these acts, including the charged crimes, were committed against detainees or persons otherwise in the custody and/or control of the Mitiga Perpetrators, principally at Mitiga Prison, and took place in a largely similar way. In particular, all the victims of the charged crimes were at some point Mitiga Prison detainees, and all of the charged conduct took place either during their arrest (including by SDF/RADA members⁹⁶) or during their detention.⁹⁷ The same patterns of abuse took place, repeatedly, over the years.⁹⁸ This included, for example, use of the same methods of interrogation and torture,⁹⁹ at locations specifically designated—and adjusted¹⁰⁰—for the

⁸⁹ See e.g. **Letter**, [LBYP-OTP-00018157](#) (trans: [LBYP-OTP-00019183](#)) (referring to decision 699/2017); **Ministry of Justice (“MoJ”)**, [LBYP-OTP-00018657](#) (trans: [LBYP-OTP-00019174](#)), p. 0015. See also **Judicial Police Authority (“JPA”) Facebook**, [LBYP-OTP-00018318](#), (trans: [LBYP-OTP-00018816](#)); **JPA** (signed by Osama NJEEM), [LBYP-OTP-00018355](#), (trans: [LBYP-OTP-00018819](#)).

⁹⁰ **MoJ**, [LBYP-OTP-00018657](#) (trans: [LBYP-OTP-00019174](#)), pp. 0015, 0026; **UNSMIL**, [LBYP-OTP-0062-0060](#), para. 46. See also **P-1745**, [LBYP-OTP-03214428](#), paras 134-135; **P-0724**: [LBYP-OTP-0085-0063](#), paras. 34-35.

⁹¹ See **Letter**, [LBYP-OTP-00018157](#) (trans: [LBYP-OTP-00019183](#)) (referring to decision 699/2017).

⁹² See e.g. **OHCHR**, [LBYP-OTP-00018738](#), pp. 0005-0006; **UN PoE**, [LBYP-OTP-00018739](#), paras. 40-41.

⁹³ **Decision 555/2018**, [LBYP-OTP-0069-0146](#) (trans: [LBYP-OTP-0070-0004](#)) (Arts 1, 3, 13). See also **P-1059**: [LBYP-OTP-03218972](#), p.0007; **Lacher and al-Idrissi**, [LBYP-OTP-0070-4009](#), p. 4023.

⁹⁴ **OHCHR**, [LBYP-OTP-00018738](#), p. 0009 (on integration of armed groups in general); **Amnesty International (“AI”)**, [LBYP-OTP-00018886](#), p. 0001; **P-1059**: [LBYP-OTP-03218972](#), pp. 0009-0010. See also **P-0961**: [LBYP-OTP-00019245](#), paras. 48-52.

⁹⁵ **Ongwen TJ**, para. 2678 (explaining that the policy requirement serves to exclude unrelated and random crimes). The policy need not consist of a pre-established design, nor be formalised, but rather may be proven by inference: see e.g. **Ntaganda TJ**, para. 674; **Bemba TJ**, para. 160; **Katanga TJ**, para. 1109.

⁹⁶ See e.g. **P-0054**, [LBYP-OTP-0073-0025](#), paras. 75-77; **P-0439**, [LBYP-OTP-0066-0951](#), paras. 15, 19; **P-0551**, [LBYP-OTP-00001366](#), p. 0017 (ln. 9)-p. 0019 (ln. 8); **P-0568**, [LBYP-OTP-00018134](#), paras. 20-23; **P-0720**, [LBYP-OTP-0083-0052](#), paras. 19, 21-23; **P-0724**, [LBYP-OTP-0085-0063](#), paras. 48-49; **P-0942**, [LBYP-OTP-00015360](#), paras. 14-18.

⁹⁷ See below, Section II.B. ALLEGED CRIMES.

⁹⁸ See below Section II.B. ALLEGED CRIMES. See above, para. 13.

⁹⁹ See below, e.g. paras. 53-55.

¹⁰⁰ **P-0551**: [LBYP-OTP-0072-0387](#), paras. 49-51, 55-58, 71, 73; **P-0720**: [LBYP-OTP-0083-0052](#), paras. 57, 132-133 (suspension of detainees in the “Islamic Neighbourhood”; chains fixed into the wall in the open air “Laryea” area); **P-0724**: [LBYP-OTP-0085-0063](#), paras. 56-59 (Y shaped poles used to suspend detainees); **P-0569**: [LBYP-OTP-0080-0032](#), para. 36 (another area for suspending prisoners); **P-0872**: [LBYP-OTP-00007275](#), paras. 28-31 (Balanco); **P-0942**: [LBYP-OTP-00015360](#), paras. 28-29 (Balanco); **P-1026**: [LBYP-OTP-00016896](#), paras. 29-30; **P-1685**: [LBYP-](#)

purpose;¹⁰¹ use of tools specifically designed for torture;¹⁰² and a sequence of torture and subsequent mistreatment, often sexualised, after the initial arrest.¹⁰³ The conditions of detention, which were consistently appalling,¹⁰⁴ resulted from the administrative arrangements made by SDF/RADA members or on their behalf through the Mitiga Prison Leadership—for example, to accommodate detainees in overcrowded cells,¹⁰⁵ or limiting food apparently in order to maximise the opportunity for personal profit by senior SDF/RADA members.¹⁰⁶ Indeed, over the years, SDF/RADA expanded the Main Prison and made significant structural alterations, including adding more cell blocks to house yet more detainees.¹⁰⁷ SDF/RADA controlled the system in place at Mitiga Prison, through the Mitiga Leadership, and ensured that it was maintained—including through punishing Mitiga Perpetrators who were lenient with detainees.¹⁰⁸ SDF/RADA also condoned and encouraged the commission of the article 7 acts,¹⁰⁹ including through members of the Mitiga Prison Leadership personally mistreating and torturing Mitiga detainees,¹¹⁰ ordering the mistreatment of Mitiga

[OTP-00057776](#), paras. 94-95, 127-130 (Balanco in the “Naqliah”, “Islamic Neighbourhood” where prisoners were suspended and left hanging for days).

¹⁰¹ The *Naqliah* contains offices, and rooms equipped for interrogating and/or torturing detainees: *See above*, para. 3, fn. 15. *See e.g.*, **P-0551**: [LBY-OTP-0072-0387](#), paras. 49-51, 55-58, 71, 73. *See below*, para. 194.

¹⁰² *See below*, paras. 53-54, 147, fns. 362-365 (use of device for “*falqa*” beatings: *See e.g.* **P-0054**, [LBY-OTP-0073-0025](#), paras. 105-108; **P-1733**, [LBY-OTP-03703558](#), paras. 35, 40, 80; use of metal coffin-like box: *See e.g.* **P-0644**, [LBY-OTP-00020358](#), para. 136; **P-0720**, [LBY-OTP-0083-0052](#), para. 142; use of “*balanco*”: *See e.g.* **P-0665**, [LBY-OTP-0083-0663](#), paras. 46-48, 141; **P-0644**, [LBY-OTP-00020358](#), paras. 32, 41, 46, 81, 102; use of “*farrouj*” or “rotisserie chicken”: *See e.g.* **P-0724**, [LBY-OTP-0085-0063](#), paras. 56-57; **P-1685**, [LBY-OTP-00057776](#), para. 72-76; **P-1750**, [LBY-OTP-03214454](#), paras. 80, 83-86).

¹⁰³ *See below* paras. 49, 53.

¹⁰⁴ *See below* paras. 62-64, 80-82.

¹⁰⁵ *See below*, para. 62 (regarding overcrowded cells). *See e.g.* **P-0569**: [LBY-OTP-0080-0032](#), para. 81; **P-0054**: [LBY-OTP-0073-0025](#), para. 99; **P-0644**, [LBY-OTP-00020358](#), paras. 48, 55, 68; **P-0942**, [LBY-OTP-00015360](#), paras. 49-50.

¹⁰⁶ **P-0644**, [LBY-OTP-00020358](#), para. 54; **P-0720**, [LBY-OTP-0083-0052](#), paras. 162-165; **P-0486**, [LBY-OTP-0069-0584](#), paras. 113-114; **P-0720**, [LBY-OTP-0083-0052](#), para. 164; **P-1025**, [LBY-OTP-00016916](#), para. 56; **P-0993**, [LBY-OTP-00015420](#), para. 38; **P-0990**, [LBY-OTP-00015405](#), paras. 97-98; **P-0730**, [LBY-OTP-00015125](#), para. 74; **P-1685**, [LBY-OTP-00057776](#), para. 186; **P-1720**, [LBY-OTP-01558903](#), paras. 179-180.

¹⁰⁷ **HRS**, [LBY-OTP-0066-0332](#), pp. 0333, 0335-0344; **HRS**, [LBY-OTP-0066-0349](#), pp. 0350-0378. *See also*, *e.g.* **P-0486**, [LBY-OTP-0069-0584](#), para. 32; **P-0569**, [LBY-OTP-0080-0032](#), paras. 36-37; **P-0571**, [LBY-OTP-0080-0169](#), paras. 28, 219; **P-0665**, [LBY-OTP-0083-0663](#), para. 125; [LBY-OTP-0083-0726](#) (trans: [LBY-OTP-00018824](#)) (Annex 18) at ‘16’; **P-0667**, [LBY-OTP-00001491](#), para. 54; **P-0720**, [LBY-OTP-0083-0052](#), paras. 59, 61; **P-0942**, [LBY-OTP-00015360](#), para. 199; [LBY-OTP-00015371](#) (Annex K) at ‘4’; **P-1745**: [LBY-OTP-03214428](#), paras. 121-123, [LBY-OTP-03214441](#) (Annex E), [LBY-OTP-03214442](#) (Annex F).

¹⁰⁸ *See below* paras. 163-165 (EL HISHRI). *See* **P-0720**: [LBY-OTP-0083-0052](#), para. 79; **P-1722**: [LBY-OTP-02856267](#), para. 64; **P-1710**: [LBY-OTP-01257853](#), paras. 191, 225, 226; **P-1720**: [LBY-OTP-01558903](#), para. 217; **P-0439**, [LBY-OTP-0066-0951](#), para. 42.

¹⁰⁹ *See e.g. below*, paras. 165, 201-204 (EL HISHRI); paras. 165, 207 (KARA permitted the violent commission of crimes by other co-perpetrators: **P-0990**, [LBY-OTP-00015405](#), para. 121; **P-1026**, [LBY-OTP-00016896](#), para. 101; **P-0595**, [LBY-OTP-0074-0889](#), paras. 125-126).

¹¹⁰ *See below*, Section II.C(1)(iii) (EL HISHRI directly perpetrated acts amounting to the commission of crimes), paras. 192-193, 220 (EL HISHRI); paras. 208, 220 (N’ZAM), paras. 209, 220 (NJEEM).

detainees,¹¹¹ and ensuring that the Mitiga Perpetrators obeyed their orders.¹¹²

DCC, para. 15: The conduct forming the basis of the charges was committed as part of the widespread and systematic attack against a civilian population. This conduct was related to and sufficiently connected with the attack, given the context and circumstances in which the charged crimes were committed. In particular, all victimised persons were Mitiga Prison detainees or persons otherwise in the Mitiga Perpetrators' control and/or custody, principally at Mitiga Prison.

20. Determining the nexus between the article 7 attack and the alleged conduct of the perpetrator(s) requires: on the one hand, consideration of “the nature of the act at issue, the aims it pursues and the consequences it occasions”; on the other, “the widespread or systematic attack, considered as a whole, and in respect of [its] various components [...] (including the policy, the patterns of crimes, or the type of victims).”¹¹³ Applying customary international law, other tribunals have taken a similar approach.¹¹⁴ Notably, the ICTY Appeals Chamber emphasised that “the requirement that the acts of an accused must be part of the ‘attack’ [...] does not, however, require that they be committed *in the midst of that attack*: a crime which is committed before or after the main attack against the civilian population or away from it could still, if sufficiently connected, be part of that attack.”¹¹⁵ As observed in *Katanga*, “[i]solated acts that clearly differ in their nature, aims and consequences from other acts that form part of an attack” do not satisfy the article 7 nexus.¹¹⁶

21. Like the article 8 nexus, the article 7 nexus therefore requires a fact sensitive and multifaceted assessment. Broad conceptual similarity between these tests is unsurprising, since they serve similar functions and seek to achieve similar goals. Just as the perpetrator of a war crime need not be responsible for the armed conflict to which their conduct may have a nexus,¹¹⁷ the perpetrator of a crime against humanity need not be responsible for the widespread or systematic attack upon a

¹¹¹ See below, paras. 165, 198, 200-204 (EL HISHRI) (see e.g. P-1673, [LBY-OTP-00392926](#), paras. 37-41). See below, paras. 165, 207 (KARA) (see e.g. P-0720, [LBY-OTP-0083-0052](#), paras. 84-89).

¹¹² See below, paras. 163, 165, 203-204 (EL HISHRI). See P-0692, [LBY-OTP-0080-0608](#), para. 144; P-0486, [LBY-OTP-0069-0584](#), paras. 138, 160; P-0925, [LBY-OTP-00018772](#), para. 65; P-1046, [LBY-OTP-00019195](#), para. 97; P-0644, [LBY-OTP-00020358](#), para. 71; P-0571, [LBY-OTP-0080-0169](#), para. 90; P-1046, [LBY-OTP-00019195](#), para. 104; P-0635, [LBY-OTP-0070-6952](#), para. 137; P-1745, [LBY-OTP-03214428](#), para. 33; P-0569, [LBY-OTP-0080-0032](#), paras. 121-122; P-1685, [LBY-OTP-00057776](#), paras. 52-57, 59, 115-116, 122-126.

¹¹³ *Al Hassan* TJ, paras. 1115-1116 (citing also *Katanga* TJ, para. 1124; *Ongwen* TJ, para. 2688). See also *Yekatom and Ngaïssona* TJ, para. 3781.

¹¹⁴ See e.g. *Katanga* TJ, para. 1124 (citing *inter alia* *Kunarac et al.* AJ, para. 99). See further *Popović et al.* AJ, para. 570 (requiring the act of the perpetrator, “by its nature or consequences”, to be “objectively part of the attack”, in combination with the requisite knowledge of the perpetrator).

¹¹⁵ *Mrkšić and Šljivančanin* AJ, para. 41 (emphasis added, citing *inter alia* *Kunarac et al.* AJ, paras. 99-100). Rather—as in *Katanga* TJ below—the nexus serves purely to exclude an “isolated act”, understood as one that is “so far removed from that attack that, having considered the context and circumstances in which it was committed, it cannot reasonably be said to have been part of that attack”.

¹¹⁶ *Katanga* TJ, para. 1124.

¹¹⁷ Indeed, the person responsible for a war crime need not even be a combatant or themselves affiliated to a party to the armed conflict: see e.g. *Akayesu* AJ, para. 444 (rejecting any requirement for a perpetrator to have a “special relationship with one party to the conflict”). See also *Rutaganda* AJ, para. 570 (referring to war crimes committed by a “non-combatant”).

civilian population—yet their conduct may still have the requisite nexus.¹¹⁸ Notably, the article 7 nexus recognises that the perpetrator’s conduct may form “part” of the article 7 attack without necessarily amounting to one of the acts which establish the requisite “course of conduct”—this is demonstrated, for example, by the well-established principle that the victims of an underlying act (charged against a perpetrator as a crime against humanity) need not themselves be part of the civilian population which is attacked.¹¹⁹ There is likewise no requirement that the perpetrator’s acts are themselves widespread, systematic, or carried out pursuant to a State or organizational policy¹²⁰—even if, in practice, this may frequently be the case. Rather, as a matter of law, it is only required that: (i) the *attack* satisfies those requirements, and; (ii) there is a *sufficient connection* between the perpetrator’s conduct and the attack to justify characterising the relevant conduct as a crime against humanity, taking all the relevant circumstances into account. This is consistent with the purpose of crimes against humanity, which ensures broad protection from the serious harms represented by the prohibited acts,¹²¹ which are fundamental in nature,¹²² once the threshold condition (a widespread or systematic attack on any civilian population) is established.

22. Applying a fact sensitive and multifactored assessment, the nexus requirement is satisfied in this case in relation to all of the charged conduct. In particular, none of the acts underlying the charged crimes differ in their nature, aims and consequences from other acts forming part of the attack. All victimised persons were Mitiga Prison detainees under the control and/or custody of the Mitiga Perpetrators, and the criminal conduct was committed within that context. Specifically in relation to **Count 13**, there is no basis for treating any of the victims differently. All formed part of the civilian population under attack, and even if they did not, the criminal acts charged in relation to these victims were committed within the same context and circumstances as all of the other acts constituting the attack. It cannot be said that the conduct relating to Black Migrants and Non-Libyans, or any other enslaved persons, were isolated acts in that they were so far removed from the attack that no nexus can be established.¹²³

¹¹⁸ See **Ambos** (2014), pp. 75-76.

¹¹⁹ The Court has consistently noted that individual victims “need only be ‘persons’ under the Elements of Crimes” and need not even be “civilians” at all: see *Ongwen* TJ, para. 2675; *Al Hassan* TJ, para. 1106; *Ntaganda* TJ, para. 669; *Bemba* TJ, para. 156. Under customary international law, likewise, see e.g. *Popović et al.* AJ, para. 569; *Mrkšić and Šljivančanin* AJ, para. 36; *Martić* AJ, paras. 305-314. See also **Ambos** (2014), p. 76.

¹²⁰ **Ambos** (2014), pp. 75-76.

¹²¹ The intent to afford broad protection is illustrated, for example, by the reference to “any” civilian population: see e.g. Statute, art. 7(1).

¹²² See **Ambos** (2014), p. 48. See also **Ambos** (2022), p. 146 (mn. 3).

¹²³ See below, **Section II.B(4) Enslavement (count 13)**. The Prosecution refers to the groups previously known as “Sub-Saharan Africans” as “Black Migrants” for greater accuracy.

DCC, para. 16: The Mitiga Perpetrators, including EL HISHRI, knew that their conduct was part of a widespread or systematic attack against a civilian population, or intended that this would be so.

23. The Mitiga Perpetrators, including **EL HISHRI**, knew or intended that the crimes formed part of the attack. While this does not entail knowledge of all the characteristics of the attack or precise details of the underlying organisational policy or any plan,¹²⁴ the circumstances of this case show that **EL HISHRI** and the Mitiga Perpetrators could not reasonably have failed to act with the necessary knowledge or intent. In particular, **EL HISHRI** was a member of the Mitiga Prison Leadership,¹²⁵ and the Mitiga Perpetrators included persons with affiliations to SDF/RADA.¹²⁶ Mitiga Prison operated in the same criminal way for years (during at least the charged period), and crimes committed against persons in the custody and/or control of the Mitiga Perpetrators, in particular in the context and circumstances of the detention of persons at Mitiga Prison, were flagrant.¹²⁷ **EL HISHRI** was present at Mitiga Prison almost every day,¹²⁸ frequently monitored the cameras in the CCTV room,¹²⁹ and was active in carrying out his duties in the prison.¹³⁰ He also personally tortured and mistreated Mitiga detainees on numerous occasions,¹³¹ including before the charged period.¹³²

(2) Contextual elements of war crimes (article 8)

DCC, para. 17: The conduct forming the basis of the charges was likewise committed in the context of, and was associated with, a non-international armed conflict (“NIAC”) ongoing in Libya during at least the charged period.

DCC, para. 18: In February 2011, an uprising against the regime of Muammar Mohammed Abu Minyar GADDAFI (“GADDAFI”) led to a NIAC at least between State armed forces under GADDAFI’s control and non-State organised armed groups opposing GADDAFI. Following GADDAFI’s overthrow, there was no peaceful settlement. Whether as part of the initial NIAC, or in parallel to it (but in any event as an integral factual consequence of the NIAC leading to the overthrow of GADDAFI), hostilities continued between rival groups seeking control of Libya.

24. The test for determining when a NIAC has come into existence—sufficiently intense hostilities between a State and a non-State armed group which is sufficiently well organised, or between such groups—is well established. It is no less clear that NIACs conclude only when there has been

¹²⁴ *Bemba* TJ, para. 167; *Bemba* CD, para. 88; *Ongwen* TJ, para. 2691.

¹²⁵ *See below*, paras. 159-161, 166, 210.

¹²⁶ *See DCC*, paras. 6-7.

¹²⁷ *See e.g.* paras. 54-56, 68-73.

¹²⁸ **P-1685**, [LBY-OTP-00057776](#), para. 132; **P-0719**, [LBY-OTP-0070-7295](#), para. 175. *See also* **P-1046**, [LBY-OTP-00022410](#), para. 51; **P-1710**, [LBY-OTP-01257853](#), paras. 145-157; **P-1720**, [LBY-OTP-01558903](#), para. 66; **P-1745**, [LBY-OTP-03214428](#), para. 106; **P-1750**, [LBY-OTP-03214454](#), para. 133.

¹²⁹ [REDACTED].

¹³⁰ *See below* para. 167, 189.

¹³¹ *See e.g.* paras. 188, 192, 194.

¹³² [REDACTED] (2013).

“peaceful settlement”.¹³³ This may result from the complete victory of a party to the conflict or a “lasting cessation of armed confrontations” between the parties, with or without “the conclusion or unilateral pronouncement of a formal act such as a ceasefire, armistice or peace agreement”, but in any event “without real risk of resumption” of such confrontations.¹³⁴

25. Since transitions out of conflict are often progressive, determinations of the termination of a conflict are highly fact-sensitive and should be approached with caution.¹³⁵ A conflict does not end simply because one of the legal (intensity and organisation) criteria required for its commencement may temporarily fall below the threshold initially required.¹³⁶ To the contrary, violence in an armed conflict need not be continuous or uninterrupted; mere interruptions or fluctuations in the intensity of the hostilities, or changes in the configuration of the parties involved, do not necessarily imply termination.¹³⁷ To conclude otherwise risks a “revolving door between applicability and non-applicability” of international humanitarian law (“IHL”),¹³⁸ which not only introduces unnecessary confusion into the jurisdiction of institutions such as this Court but also risks reducing the protection afforded to individuals from this body of law.¹³⁹

26. In February 2011, an uprising against the regime of GADDAFI¹⁴⁰ led to a NIAC at least between State armed forces under GADDAFI’s control and non-State organised armed groups

¹³³ See e.g. *Tadić* Jurisdiction Decision, para. 70; *Lubanga* TJ, para. 533; *Bemba* TJ, para. 141.

¹³⁴ See e.g. ICRC GCI Commentary (2016), Article 3, paras. 487, 489-491, 494; ICRC Conflict Definition Guidance, pp. 18-19; ICRC *Challenges* Report, paras. 38-41; Sivakumaran, pp. 253-254. See also ICRC GCIV Commentary (1958), Article 6(2), p. 62 (in the context of international armed conflicts, featuring multiple parties). While this commentary relates to the end of an *international* armed conflict, it is logical for the same criteria to apply to non-international armed conflicts: see e.g. Grignon, pp. 91-98.

¹³⁵ Examples of elements that may indicate that a situation has sufficiently stabilized to consider that a non-international armed conflict has ended include: the effective implementation of a peace agreement or ceasefire; declarations by the Parties, not contradicted by the facts on the ground, that they definitely renounce all violence; the implementation of disarmament, demobilization and/or reintegration programmes; the increasing duration of the period without hostilities: ICRC GCI Commentary (2016), Article 3, para. 495. See further ICRC Conflict Definition Guidance, p. 19 (identifying factors including: the effective implementation of a peace agreement or ceasefire; declarations by the parties renouncing violence, if not contradicted by the facts on the ground; the implementation of disarmament, demobilisation, and/or reintegration programmes; and the increasing duration of the period without hostilities).

¹³⁶ See e.g. ICRC Conflict Definition Guidance, pp. 18-19; ICRC GCI Commentary (2016), Article 3, para. 494.

¹³⁷ *Bemba* TJ, para. 140. See further e.g. Grignon, p. 98; ICRC GCI Commentary (2016), Article 3, para. 492; ICRC *Challenges* Report, para. 39; *Ongwen* TJ, para. 2684; Dwyer and McCormack, p. 56. But see Lewis et al., pp. 96-103 (summarising different theories on the end of a NIAC).

¹³⁸ See *Gotovina* TJ, para. 1694; ICRC GCI Commentary (2016), Article 3, para. 496.

¹³⁹ In this regard, the application of IHL does not inherently and invariably entail greater risk for the civilian population, favouring its precipitate termination. For example, IHL does not displace the application of international human rights law (“IHRL”) and many IHRL protections complement those of IHL: see e.g. ICJ, *Nuclear Weapons* AO, para. 25; *Wall* AO, para. 106; *OPT* AO, para. 99; HRC General Comment 36, para. 64; HRC General Comment 35, para. 64. Even where it is accepted that more permissive rules of IHL inform the interpretation of IHRL, this does not automatically permit (for example) unrestricted ‘status-based’ targeting, without reference to the circumstances: see e.g. HRC General Comment 36, para. 64 (“in general”); Murray et al., pp. 106-108 (mns. 4.78-4.84), 112-128 (mns. 5.01-5.56). See also Milanović, pp. 389-392.

¹⁴⁰ See, e.g., P-0337: [LBY-OTP-03216760](#), p. 0001; P-1059: [LBY-OTP-03218972](#), p. 0001.

opposing GADDAFI.¹⁴¹ Following GADDAFI's overthrow, there was no peaceful settlement. Whether as part of the initial NIAC, or parallel to it (but in any event as an integral factual consequence of the NIAC leading to the overthrow of GADDAFI), hostilities continued between rival groups seeking control of Libya, including between those perceived as 'pro-' and 'anti-' GADDAFI. Thus, even after the "liberation" of Tripoli on 26 August 2011,¹⁴² and the National Transition Council ("NTC") declared victory for the anti-GADDAFI armed groups in October 2011,¹⁴³ fighting continued as anti-GADDAFI armed groups carried out attacks against pro-GADDAFI groups or perceived GADDAFI supporters.¹⁴⁴ Rival armed groups vied for power and legitimacy—including through competing to secure strategic resources, and affiliation with State structures.¹⁴⁵ The hostilities included serious armed confrontations between anti-GADDAFI armed groups in Tripoli.¹⁴⁶ The UN Security Council-established Panel of Experts ("UNSC PoE") warned of the ongoing use of force in Libya in this period, by actors pursuing their own agendas.¹⁴⁷ While the General National Congress ("GNC") was intended to succeed the NTC after July 2012, and to serve as the parliament in Libya,¹⁴⁸ the following months and years saw growing challenges.¹⁴⁹ These resulted from disputes over a proposed law that would exclude individuals previously associated with the GADDAFI regime from holding a wide range of offices,¹⁵⁰ as well as armed group activity and regional polarisation.¹⁵¹

¹⁴¹ OHCHR, [LBY-OTP-0053-0990](#), para. 32; UN CoI, [LBY-OTP-0009-0015](#), paras. 40, 62-65. For the hostilities in this period, see e.g.: P-1059: [LBY-OTP-03218972](#), pp. 0001-0002; P-1044: [LBY-OTP-00018699](#), paras. 18, 23; P-0371: [LBY-OTP-0065-0649](#), paras. 13-14; P-0650: [LBY-OTP-0080-0468](#), paras. 22-25; P-0711: [LBY-OTP-0083-0189](#), para. 29. See also *Al-Werfalli* Arrest Warrant, paras. 4-6, 25; *Al-Werfalli* Second Arrest Warrant, paras. 9-14, 33-34; *Sneidel* Arrest Warrant, paras. 7, 15; *Al-Tuhamy* Arrest Warrant, paras. 6, 10.

¹⁴² Video, [LBY-OTP-00018582](#) (trans: [LBY-OTP-00019380](#)), [LBY-OTP-00018583](#) (screenshot showing date) (trans: [LBY-OTP-00019505](#)).

¹⁴³ OHCHR, [LBY-OTP-0053-0990](#), para. 32; P-0337: [LBY-OTP-03216760](#), p. 0001. See also UNSC, [LBY-OTP-0027-0405](#), p. 0406-0407.

¹⁴⁴ See e.g. Bani Walid: UNSMIL, 1 Mar 2012, [LBY-OTP-00019034](#), paras. 9-10; UN PoE, [LBY-OTP-00019029](#), para. 31; P-1722: [LBY-OTP-02488730](#), paras. 65-67; Reuters, [LBY-OTP-00019114](#); UNSMIL, [LBY-OTP-0070-4201](#), paras. 7-10, 31. See also UN PoE, [LBY-OTP-0053-0395](#), paras. 23, 25 (Tawergha, and Bani Walid). See further *Lacher* (2020) (ebook), p. 24.

¹⁴⁵ P-1044: [LBY-OTP-00018699](#), paras. 24-28; *Lacher and Cole*, [LBY-OTP-00018826](#), pp.0014-0019, 0021-0022; *Wehrey*, [LBY-OTP-0053-1369](#), pp. 1379-1383, 1388-1389; *Lacher and al-Idrissi*, [LBY-OTP-0070-4009](#), pp. 4012-4013; ICG, [LBY-OTP-0022-2540](#), pp. 2550-2559; UNSMIL, [LBY-OTP-0053-1134](#), paras. 22-31; OHCHR, [LBY-OTP-0053-0990](#), para. 33; UN PoE, [LBY-OTP-0053-0395](#), paras. 34-35.

¹⁴⁶ See e.g. UNSMIL, [LBY-OTP-0053-1098](#), paras. 16-18; UN PoE, [LBY-OTP-00019030](#), para. 32. See also, e.g. UNSMIL, [LBY-OTP-0053-1134](#), paras. 21-23.

¹⁴⁷ UNSC PoE, [LBY-OTP-00019030](#), paras. 20, 26-27, 30-36. See also UNSC PoE, [LBY-OTP-00019029](#), paras. 29-35.

¹⁴⁸ UNSMIL, [LBY-OTP-0053-1116](#), paras. 2-3; P-0337: [LBY-OTP-03216760](#), p. 0001; P-1059: [LBY-OTP-03218972](#), p. 0003.

¹⁴⁹ P-0337: [LBY-OTP-03216760](#), pp. 0001-0002; P-1059: [LBY-OTP-03218972](#), p. 0003.

¹⁵⁰ Law, [LBY-OTP-03297001](#) (trans: [LBY-OTP-03297000](#)); UNSMIL, [LBY-OTP-0053-1134](#), para. 11; UNSC PoE, [LBY-OTP-00019030](#), para. 22.

¹⁵¹ See e.g. UNSMIL, [LBY-OTP-0053-1098](#), paras. 2, 16-25; UNSC PoE, [LBY-OTP-00019030](#), paras. 25-27; P-1059: [LBY-OTP-03218972](#), p. 0003.

27. Likewise, in the period from 2011 until the start of the charged period in May 2014, the conduct of external entities underlined their expectation that intense hostilities would be imminently renewed. The UNSC remained constantly seized of the situation in Libya,¹⁵² warning of arms proliferation (2012),¹⁵³ “escalating [...] security incidents” (2013),¹⁵⁴ and “worsening security situation and political divisions” (2014).¹⁵⁵ Alongside the referral to this Court, the organs created by the UNSC to help implement measures aimed at containing the situation in Libya—the Sanctions Committee¹⁵⁶ and the UNSC PoE¹⁵⁷—remained active. In spite of the arms embargo, third States continued to provide support and weapons to various armed groups.¹⁵⁸ Such activities not only anticipated but facilitated renewed hostilities in Libya.

DCC para. 19: Certainly, by the charged period, there was protracted armed violence amounting to a NIAC between different non-State organised armed groups, and/or between one or more such groups and State armed forces of Libya. Notably, this violence coalesced primarily around hostilities between the bloc known as the Libyan National Army (“LNA”), under the command of former Libyan army General Khalifa HAFTAR based in the east, and the bloc known as the General National Congress (“GNC”, and later the Government of National Accord, or “GNA”) based in the west.

DCC para. 20: Hostilities between the LNA and GNC/GNA (and, in some instances, groups associated with them) were sufficiently intense. Clashes such as Operation Dignity, Operation Libya Dawn, Operation Flood of Dignity, and Operation Peace Storm illustrated the parties’ abilities to engage in heavy combat for sustained periods, and to undertake military manoeuvres across large areas of Libyan territory, affecting thousands of people. At all material times, the LNA and GNC/GNA maintained control over distinct areas of Libyan territory, to the exclusion of the other. There was no peaceful settlement at any time in the charged period, or any lasting absence of armed confrontations between the parties without real risk of resumption.

28. During the charged period, there was protracted armed violence amounting to a NIAC¹⁵⁹ between different non-State organised armed groups, and/or between one or more such groups and State armed forces of Libya.¹⁶⁰ Notably, this violence coalesced primarily around hostilities

¹⁵² See e.g. UNSC, [LBY-OTP-0039-0607](#); UNSC, [LBY-OTP-0039-0609](#); UNSC, [LBY-OTP-0039-0614](#); UNSC, [LBY-OTP-0053-1313](#).

¹⁵³ See e.g. UNSC, [LBY-OTP-0039-0609](#), p.0609 (Preamble); UNSC, [LBY-OTP-0039-0620](#), p. 0621 (Preamble).

¹⁵⁴ UNSC, [LBY-OTP-0039-0614](#), p. 0615 (Preamble).

¹⁵⁵ UNSC, [LBY-OTP-0039-0620](#), p. 0621 (Preamble).

¹⁵⁶ UNSC, [LBY-OTP-0001-0004](#), paras. 4, 9-10, 15, 17, 24.

¹⁵⁷ UNSC, [LBY-OTP-0004-0138](#), para. 24; UNSC, [LBY-OTP-0039-0614](#), paras. 14, 16; UNSC, [LBY-OTP-0039-0620](#), para. 13. See further UNSC PoE, [LBY-OTP-00019029](#), paras. 108-109.

¹⁵⁸ See e.g. UNSC PoE, [LBY-OTP-00019029](#), paras. 65-66; UNSC PoE, [LBY-OTP-0053-0474](#), paras. 104-107, 125, 175; UNSC Res, [LBY-OTP-00019030](#), para. 82. See also, e.g. P-0961: [LBY-OTP-00019245](#), para. 77.

¹⁵⁹ See e.g. *Ongwen* TJ, para. 2683. Such a conflict exceeds situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of similar nature: see Statute, arts. 8(2)(d), (f). This requires an assessment of two criteria: the organisation of the group(s) involved, and the intensity of the hostilities: e.g. *Ongwen* TJ, paras. 2684-2685.

¹⁶⁰ The facts identified herein demonstrate the applicability of IHL at the times and places material to the charges, and are neither inconsistent with nor undermined by the potentially complex relations between the various groups operating across Libya, including the possibility of parallel conflicts between some or all of these groups. While some

between the bloc known as the Libyan National Army (“LNA”), under the command of former Libyan army General Khalifa HAFTAR (“HAFTAR”) based in the east, and the bloc known as the GNC (later, the Government of National Accord, or “GNA”¹⁶¹) based in the west.¹⁶² Each claimed to be the legitimate Libyan authority (or to be affiliated with it).¹⁶³

29. Assessment of the intensity of a conflict is fact-sensitive, drawing on a number of relevant factors.¹⁶⁴ While exercise of control over a part of the territory is not required, its importance as a factor increases in the absence of active hostilities. It is also not required that the violence be continuous and uninterrupted—the Chamber need only find that the violence goes beyond isolated or sporadic acts.¹⁶⁵

30. Hostilities between the LNA and GNC/GNA (and, in some instances, groups associated with them) were sufficiently intense. Clashes such as Operation Dignity,¹⁶⁶ Operation Libya Dawn,¹⁶⁷ Operation Flood of Dignity,¹⁶⁸ and Operation Peace Storm¹⁶⁹ illustrated the parties’ abilities to engage in heavy combat for sustained periods, and to undertake military manoeuvres across large areas of Libyan territory, affecting thousands of people. At all material times, the LNA and GNC/GNA maintained control over distinct areas of Libyan territory, to the exclusion of the

commentators have stressed the fragmented nature of the security situation for these reasons, their analysis aimed at understanding the breadth and depth of the situation as a whole (or relevant aspects of it)—which is notoriously complicated—and thus may address issues or draw distinctions which go beyond the requirements of this case: *see e.g. Harchaoui and Lazib*, [LBYP-OTP-0070-3925](#), p. 3929. *See also* UNSC PoE, [LBYP-OTP-00000526](#), para. 11.

¹⁶¹ *See e.g. Libyan Political Agreement (“LPA”)*, [LBYP-OTP-0053-0959](#), p.0964 (Article (1)); OHCHR, [LBYP-OTP-0053-0990](#), para. 48; *Decision 555/2018*, [LBYP-OTP-0069-0146](#) (trans: [LBYP-OTP-0070-0004](#), p. 0005) (referring to Presidential Council Decree No. 4 of 2016 forming the Government of National Accord). *See also*, Harchaoui and Lazib, [LBYP-OTP-0070-3925](#), p. 3928.

¹⁶² P-1059: [LBYP-OTP-03218972](#), p. 0004; P-0337: [LBYP-OTP-03216760](#), pp. 0002-0003; P-0635: [LBYP-OTP-0070-6952](#), para. 19; UNSC PoE, [LBYP-OTP-0053-0474](#), paras. 32-38, 51, 55; 88, 90, 92-96; OHCHR, [LBYP-OTP-0053-0990](#), paras. 35-36, 44, 47, 54-63, pp. 1079-1080 (Annex II – Indicative mapping - 2014); UNSC PoE, [LBYP-OTP-00000526](#), paras. 11, pp. 0090-0093 (Annex 6, maps of the conflict); Wehrey, [LBYP-OTP-0053-1369](#), pp. 1395-1397; Harchaoui and Lazib, [LBYP-OTP-0070-3925](#), pp. 3928-3929; Lacher (2020) (ebook), pp. 36-39, 48-49; UN PoE, [LBYP-OTP-0053-0643](#), para. 36. *See also* P-0719: [LBYP-OTP-0070-7295](#), para. 23.

¹⁶³ OHCHR, [LBYP-OTP-0053-0990](#), paras. 50-64; UNSC PoE, [LBYP-OTP-0053-0474](#), pp. 0564-0565 (Annex 16, paras. 45-46); Harchaoui and Lazib, [LBYP-OTP-0070-3925](#), pp. 3928-3929; Lacher and Cole, [LBYP-OTP-00018826](#), pp. 0023-0024; P-1059: [LBYP-OTP-03218972](#), pp. 0003-0004; P-0337: [LBYP-OTP-03216760](#), pp. 0002, 0006, 0010, 0014; Lacher (2020) (ebook), pp. 38, 41-42, 47.

¹⁶⁴ *See e.g. Lubanga* TJ, para. 538 (“the seriousness of attacks and potential increase in armed clashes, their spread over territory and over a period of time, the increase in the number of government forces, the mobilisation and the distribution of weapons among both parties to the conflict, as well as whether the conflict has attracted the attention of the United Nations (“UN”) Security Council, and, if so, whether any resolutions on the matter have been passed”). *See also*, *e.g., Ongwen* TJ, para. 2684.

¹⁶⁵ *See e.g. Ongwen* TJ, para. 2684.

¹⁶⁶ P-1059: [LBYP-OTP-03218972](#), p. 0004; UNSC PoE, [LBYP-OTP-0053-0474](#), paras. 32-33, 36-37; P-0337: [LBYP-OTP-03216760](#), pp. 0003-0004, 0006-0007, 0013.

¹⁶⁷ UNSC PoE, [LBYP-OTP-0053-0474](#), paras. 51-55; OHCHR, [LBYP-OTP-0053-0990](#), para. 36; UNSMIL, [LBYP-OTP-0053-1204](#), paras. 16-22; Wehrey, [LBYP-OTP-0053-1369](#), pp. 1397-1398.

¹⁶⁸ P-0767: [LBYP-OTP-02991591](#); P-0764: [LBYP-OTP-03214667](#); UNSMIL, [LBYP-OTP-00000424](#), paras. 2-3, 6, 15-25; UNSC PoE, [LBYP-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps of the conflict); UN IFFM, [LBYP-OTP-0070-9227](#), para. 43.

¹⁶⁹ UNSMIL, [LBYP-OTP-00000425](#), paras. 8-9, 27; UNSMIL, [LBYP-OTP-00000427](#), paras. 2-5, 29-35.

other.¹⁷⁰ For example:

- On or about 16 May 2014, the LNA—a coalition including Libyan army units, commanded by HAFTAR¹⁷¹—launched a large-scale military operation in eastern Libya (“Operation Dignity”).¹⁷² The operation was launched under the pretext of fighting terrorism, and targeted militia fighters, many of whom were former revolutionaries;¹⁷³ an alliance of groups joined forces as the Benghazi Revolutionaries Shura Council (“BHRC”) to oppose them.¹⁷⁴ Operation Dignity was neither authorised nor backed by the GNC,¹⁷⁵ but it was endorsed by the House of Representatives (“HOR”)—the new parliament based in Tobruk, in eastern Libya,¹⁷⁶ aligned with HAFTAR.¹⁷⁷ Shortly after Operation Dignity was launched, LNA-allied forces from Zintan attacked the GNC, in Tripoli.¹⁷⁸ After the launch of Operation Dignity, fighting intensified in Benghazi between the LNA and the BRSC,¹⁷⁹ and included the use of airstrikes and tanks by the LNA.¹⁸⁰ The situation transformed into a “war of trenches”,¹⁸¹ causing the displacement of thousands of civilians, and multiple civilian casualties.¹⁸² A fresh LNA military offensive on Benghazi, launched on or about 20 February 2016, also involving the use of airstrikes, led to continuing fighting between the LNA and the BRSC until at least 18 March 2017,¹⁸³ and continuing hostilities involving armed groups opposing the LNA even after the

¹⁷⁰ See below, paras. 34–35. See e.g. **P-1059**: [LBY-OTP-03218972](#), pp. 0003–0004; **P-0337**: [LBY-OTP-03216760](#), p. 0002 (HAFTAR made a declaration ... National Congress is also going to be frozen); UNSC PoE, [LBY-OTP-00000526](#), paras. 11–13, pp. 0090–0093 (Annex 6, maps of the conflict); OHCHR, [LBY-OTP-0053-0990](#), paras. 44, 47, 50–64, pp. 1079–1080 (Annex II – Indicative mapping - 2014); Harchaoui and Lazib, [LBY-OTP-0070-3925](#), p. 3928; Lacher (2020) (ebook), pp. 49–50.

¹⁷¹ **P-0370**: [LBY-OTP-03703701](#), pp. 0005, 0009.

¹⁷² **P-1059**: [LBY-OTP-03218972](#), p. 0004; **P-0337**: [LBY-OTP-03216760](#), pp. 0002–0004; UNSC PoE, [LBY-OTP-0053-0474](#), paras. 32–33, 36–37; OHCHR, [LBY-OTP-0053-0990](#), paras. 35, 59; Wehrey, [LBY-OTP-0053-1369](#), pp. 1395–1397.

¹⁷³ **P-1059**: [LBY-OTP-03218972](#), p. 0004; UNSC PoE, [LBY-OTP-0053-0474](#), paras. 36–37; **P-0337**: [LBY-OTP-03216760](#), pp. 0006–0007, 0013; **P-0370**: [LBY-OTP-03703701](#), pp. 0004, 0007; **P-0635**: [LBY-OTP-0070-6952](#), paras. 19, 22.

¹⁷⁴ **P-0337**: [LBY-OTP-03216760](#), pp. 0002–0006; OHCHR, [LBY-OTP-0053-0990](#), paras. 35, 60; UNSC PoE [LBY-OTP-0053-0474](#), paras. 32–33. See also UNSMIL, [LBY-OTP-0053-1204](#), para. 5.

¹⁷⁵ UNSC PoE, [LBY-OTP-0053-0474](#), paras. 37–38. See also **P-0719**: [LBY-OTP-0070-7295](#), para. 42; UNSMIL, [LBY-OTP-0053-1204](#), para. 24.

¹⁷⁶ UNSMIL, [LBY-OTP-0053-1204](#), paras. 7–8.

¹⁷⁷ OHCHR, [LBY-OTP-0053-0990](#), paras. 44, 56. See also Harchaoui and Lazib, [LBY-OTP-0070-3925](#), p. 3928; Lacher and Cole, [LBY-OTP-00018826](#), pp. 0023–0024. See further **P-0337**: [LBY-OTP-03216760](#), p. 0016.

¹⁷⁸ Wehrey, [LBY-OTP-0053-1369](#), pp. 1396–1397; Lacher (2020) (ebook), p. 36; Press conference, [LBY-OTP-0070-5931](#) (trans: [LBY-OTP-00019075](#), ll. 8–19, 42–50, 53–80) (re: attacks on the Congress and state institutions).

¹⁷⁹ UNSMIL, [LBY-OTP-0070-4219](#), paras. 13–15; OHCHR, [LBY-OTP-0053-0990](#), para. 35. See also **P-0337**: [LBY-OTP-03216760](#), pp. 0008–0010.

¹⁸⁰ **P-0337**: [LBY-OTP-03216760](#), pp. 0013–0015; UNSMIL, [LBY-OTP-0070-4219](#), para. 14.

¹⁸¹ SRSG-UNSC, [LBY-OTP-0053-0389](#), para. 3. See also **P-0337**: [LBY-OTP-03216760](#), p. 0010.

¹⁸² UNSMIL, [LBY-OTP-0070-4219](#), para. 26. In addition, humanitarian access, including by UN staff, was limited, as a result of the fighting: UNSMIL, [LBY-OTP-0070-4219](#), para. 28.

¹⁸³ **P-0337**: [LBY-OTP-03216760](#), pp. 0010–0012, 0019–0020; Human Rights Watch (“HRW”), [LBY-OTP-0053-1424](#); HRW, [LBY-OTP-0053-1419](#), pp. 1419–1421; Libya Herald, [LBY-OTP-0053-1436](#); Libya Herald, [LBY-](#)

LNA announced Benghazi's "liberation" in December 2017.¹⁸⁴

- On or about 13 July 2014, armed groups from Tripoli and Misrata ("Libya Dawn fighters")—increasingly aligned with the GNC¹⁸⁵—launched an attack against rival groups from Tripoli and Zintan ("Operation Libya Dawn"), leading to around six weeks of heavy fighting in or around Tripoli.¹⁸⁶ The initial attack targeted strategic installations, including Tripoli International Airport,¹⁸⁷ which was destroyed in the fighting,¹⁸⁸ and the hostilities included airstrikes and shelling of populated areas of Tripoli, resulting in considerable casualties, and the displacement of thousands of civilians.¹⁸⁹ After Operation Libya Dawn, intense hostilities continued throughout 2014 and 2015, extending beyond Tripoli.¹⁹⁰ Hostilities included airstrikes carried out by the LNA-allied air force, including against Mitiga airport.¹⁹¹

31. There was no peaceful settlement at any time in the charged period, or any lasting absence of armed confrontations between the parties without real risk of resumption. For example, mediation efforts during 2014 and 2015 culminated in the signing, on 17 December 2015, of the Libyan Political Agreement ("LPA").¹⁹² This led to a newly-created Presidency Council ("PC")¹⁹³ taking office in Tripoli, in March 2016, to form a Government of National Accord (GNA).¹⁹⁴ However, the HOR, which was supposed to continue as the sole parliament under the LPA, did not approve

[OTP-0053-1437](#); UNSC PoE, [LBY-OTP-0053-0643](#), para. 48; UNSMIL, [LBY-OTP-0053-1152](#), para. 15; UNSMIL, [LBY-OTP-0053-1187](#), para. 18.

¹⁸⁴ UNSMIL, [LBY-OTP-0062-0060](#), para. 18.

¹⁸⁵ P-0961: [LBY-OTP-00019245](#), para. 29; UNSMIL, [LBY-OTP-0053-1204](#), para. 4; OHCHR, [LBY-OTP-0053-0990](#), para. 44; UNSC PoE, [LBY-OTP-0053-0474](#), para. 123; Lacher and al-Idrissi, [LBY-OTP-0070-4009](#), pp. 4013-4014; Lacher (2020) (ebook), pp. 37, 39-40; Wehry, [LBY-OTP-0053-1369](#), p. 1397-1398.

¹⁸⁶ UNSC PoE, [LBY-OTP-0053-0474](#), paras. 51-55, 88, 93; OHCHR, [LBY-OTP-0053-0990](#), para. 36; UNSMIL, [LBY-OTP-0053-1204](#), paras. 16-22; Wehry, [LBY-OTP-0053-1369](#), p. 1397; Lacher (2020) (ebook), p. 37.

¹⁸⁷ OHCHR, [LBY-OTP-0053-0990](#), paras. 36-37.

¹⁸⁸ UNSMIL, [LBY-OTP-0053-1204](#), paras. 2-3, 16-19; UNSC PoE, [LBY-OTP-0053-0474](#), para. 57; P-0650: [LBY-OTP-0080-0468](#), para. 18; P-1721: [LBY-OTP-02488678](#), para. 25.

¹⁸⁹ UNSMIL, [LBY-OTP-0053-1204](#), para. 2 (noting also that most representatives of the international community, including UN staff, were also forced to withdraw); OHCHR, [LBY-OTP-0053-0990](#), para. 36; UNSC PoE, [LBY-OTP-0053-0474](#), para. 56.

¹⁹⁰ UNSMIL-OHCHR, [LBY-OTP-00018882](#), pp. 0008-0009. See military operations by Libya Dawn fighters in Warshafana region; by groups affiliated with Zintan in Kikla and Al-Qala'a: OHCHR, [LBY-OTP-0053-0990](#), para. 37; UNSMIL, [LBY-OTP-0070-4219](#), paras. 8-9. See, in southern Libya: OHCHR, [LBY-OTP-0053-0990](#), paras. 38-39; UNSC PoE, [LBY-OTP-0053-0474](#), para. 54, p. 0554 (Annex 15, paras. 1-4). See, LNA counter-attack in Tripoli: UNSC PoE, [LBY-OTP-0053-0474](#), para. 90. See Operation Sunrise: UNSC PoE, [LBY-OTP-0053-0474](#), para. 54; UNSMIL, [LBY-OTP-0070-4219](#), para. 11.

¹⁹¹ OHCHR, [LBY-OTP-0053-0990](#), para. 37; UNSMIL, [LBY-OTP-0070-4219](#), para. 10.

¹⁹² UNSMIL, [LBY-OTP-0070-4219](#), para. 2; UNSMIL, [LBY-OTP-00018877](#), paras. 2-19; OHCHR, [LBY-OTP-0053-0990](#), para. 48.

¹⁹³ Libyan Political Agreement ("LPA"), [LBY-OTP-0053-0959](#), p.0964 (Article (1)); UNSMIL, [LBY-OTP-0053-1170](#), para. 2.

¹⁹⁴ LPA, [LBY-OTP-0053-0959](#), p.0964 (Article (1)); OHCHR, [LBY-OTP-0053-0990](#), para. 48; UNSMIL, [LBY-OTP-0053-1170](#), paras. 2, 4; Harchaoui and Lazib, [LBY-OTP-0070-3925](#), p. 3928. See also Decision 555/2018, [LBY-OTP-0069-0146](#) (trans: [LBY-OTP-0070-0004](#), p. 0005) (referring to Presidential Council Decree No. 4 of 2016 forming the GNA).

the GNA;¹⁹⁵ the division between eastern (LNA-aligned) and western authorities persisted, with parallel institutions remaining in place.¹⁹⁶ Even before the resumption of large-scale hostilities in April 2019, armed violence, including between GNA-affiliated armed groups on the one side, and the LNA, or LNA-affiliated groups, on the other, continued.¹⁹⁷ Further, the UNSC—as well as the Sanctions Committee¹⁹⁸ and the UNSC PoE¹⁹⁹—remained engaged in the situation in Libya throughout the charged period, and UNSC resolutions after 2014 continued to find a threat to international peace and security.²⁰⁰ Similarly, the supply of arms to various armed groups continued.²⁰¹ Hostilities significantly increased in intensity again in 2019:

- On 4 April 2019, the LNA—including the then LNA-allied 9th Brigade (also known as the Al Kani group or Al Kaniyat)—launched an offensive to take control of Tripoli from the GNA (“Operation Flood of Dignity”).²⁰² GNA-affiliated armed groups that mobilised to fight against the LNA²⁰³ included the Abu Slim (or Abu Salim) armed group,²⁰⁴ and an SDF/RADA unit, known as the 20/20 Division (later the 444th Combat Brigade) under Mahmoud Hamza.²⁰⁵ The subsequent fighting in and around Tripoli included the use of airstrikes.²⁰⁶ The LNA targeted Mitiga airport using airstrikes and shelling by ground forces.²⁰⁷ The hostilities caused

¹⁹⁵ ICG, [LBYP-OTP-0053-1264](#), p. 1266; UNSMIL, [LBYP-OTP-0053-1152](#), paras. 2-3; P-0961: [LBYP-OTP-00019245](#), para. 40.

¹⁹⁶ See e.g. UNSMIL, [LBYP-OTP-0053-1152](#), para. 5; UNSMIL, [LBYP-OTP-0053-1187](#), para. 9; UNSMIL, [LBYP-OTP-00000424](#), para. 10.

¹⁹⁷ See armed violence in Oct/Nov 2017, and Jan 2018: UNSMIL, [LBYP-OTP-0062-0060](#), paras. 4, 14-15. See further fighting in Tripoli in Aug/Sep 2018 between the then 7th Brigade from Tarhouna (also known as Al Kani’s group or the Kaniyat) and GNA-affiliated armed groups: P-0706: [LBYP-OTP-02856209](#), p.0001; P-0713: [LBYP-OTP-02843570](#). But see P-1059: [LBYP-OTP-03218972](#), p. 0006 (HAFTAR did not take part in this war). See further UNSMIL, [LBYP-OTP-00000537](#), paras. 2-3, 10-11; UN IFFM Report, [LBYP-OTP-0070-9227](#), para. 42; Pack, [LBYP-OTP-00000570](#), pp. 0024-0025.

¹⁹⁸ See e.g. UNSC Sanctions Committee, [LBYP-OTP-00018866](#).

¹⁹⁹ See e.g. UNSC PoE Report, [LBYP-OTP-00000526](#).

²⁰⁰ See UNSC, [LBYP-OTP-0053-1316](#), p. 1317 (Preamble); UNSC, [LBYP-OTP-00019005](#), p. 0003 (Preamble); UNSC, [LBYP-OTP-0053-1328](#), p. 1329 (Preamble); UNSC, [LBYP-OTP-0053-1332](#), p. 1333 (Preamble); UNSC, [LBYP-OTP-00018878](#), p. 0004 (Preamble); UNSC, [LBYP-OTP-00019108](#), p. 0002 (Preamble); UNSC, [LBYP-OTP-00018879](#), p.0003 (Preamble); UNSC, [LBYP-OTP-00019109](#), p. 0002 (Preamble).

²⁰¹ See e.g. UNSC, [LBYP-OTP-00000526](#), paras. 60-62. The increased activity of ISIL added another layer of threats to a complex security setting: See e.g. UNSMIL, [LBYP-OTP-0070-4235](#), para. 15; UNSC PoE, [LBYP-OTP-0053-0643](#), paras. 41-47 (defeat of ISIL in Sirte).

²⁰² P-0767: [LBYP-OTP-02991591](#); P-0764: [LBYP-OTP-03214667](#); P-0706: [LBYP-OTP-02856209](#), p. 0002; UNSMIL, [LBYP-OTP-00000424](#), paras. 2-3, 16; UNSC PoE, [LBYP-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps of the conflict); UN IFFM, [LBYP-OTP-0070-9227](#), para. 43. See also P-1059: [LBYP-OTP-03218972](#), p. 0006; Pack, [LBYP-OTP-00000570](#), p. 0010.

²⁰³ UNSC PoE Report, [LBYP-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps); Pack, [LBYP-OTP-00000570](#), pp. 0010-0011; Lacher (2020) (ebook), p. 54.

²⁰⁴ P-0764: [LBYP-OTP-03214667](#) (Abu Sleem); P-1026, [LBYP-OTP-00016896](#), para. 42; UNSC PoE, [LBYP-OTP-00000526](#), paras. 11-13, p. 0090 (Annex 6, maps).

²⁰⁵ P-0342: [LBYP-OTP-02790777](#), pp. 0002-0003; P-1059: [LBYP-OTP-03218972](#), p. 0008. See also P-1026: [LBYP-OTP-00016896](#), para. 58. The GNA response was known as Operation Volcano of Rage: UNSC PoE, [LBYP-OTP-00000526](#), para. 11 fn. 4. See also P-0719: [LBYP-OTP-0070-7295](#), paras. 23-24.

²⁰⁶ UNSMIL, [LBYP-OTP-00000424](#), para. 17; UNSMIL, [LBYP-OTP-00000426](#), paras. 3, 8, 22-24, 26.

²⁰⁷ UNSMIL, [LBYP-OTP-00000426](#), paras. 23-24.

significant civilian casualties, displacing many thousands.²⁰⁸ After Operation Flood of Dignity was launched, the hostilities both escalated and widened geographically over the following months to the end of 2019.²⁰⁹ While an internationally-brokered ceasefire led to a temporary reduction in hostilities from January 2020, widespread fighting soon resumed.²¹⁰

- On or about 23 March 2020, the GNA launched a counter-offensive against the LNA (“Operation Peace Storm”), which pushed the LNA back from some areas around Tripoli. However, the GNA failed to achieve a decisive breakthrough, and by around mid-2020 the frontlines had shifted from western to central Libya.²¹¹ SDF/RADA was amongst the GNA-affiliated groups fighting against the LNA, firing artillery from within Mitiga Compound. In Mitiga Compound, SDF/RADA also received deliveries, by plane, of armaments and cash; and, from Mitiga Compound, supplied armaments to GNA-affiliated forces, including in Tarhouna.²¹² On or around 5 June 2020, GNA forces entered and “liberated” Tarhouna.²¹³ During the operations, the LNA also targeted Mitiga airport.²¹⁴

32. After the charged period, on or about 23 October 2020, the LNA and GNA formally agreed a ceasefire.²¹⁵ However, the UNSC has remained engaged in the situation in Libya, and hostilities have continued.²¹⁶

DCC, para. 21: At all material times, the parties to the NIAC were sufficiently organised. They each maintained the capacity to conduct complex military operations and to control territory.

33. Non-State “organized armed groups”²¹⁷ must have a sufficient degree of organisation, in order to enable them to carry out protracted armed violence.²¹⁸ While various factors may be

²⁰⁸ UNSMIL, [LBY-OTP-00000424](#), paras. 41-42, 72; UNSMIL, [LBY-OTP-00000426](#), paras. 4, 26, 75.

²⁰⁹ UNSMIL, [LBY-OTP-00000426](#), paras. 2, 32, 75.

²¹⁰ UNSMIL, [LBY-OTP-00000426](#), para. 9; UNSMIL, [LBY-OTP-00000425](#), paras. 2-3, 7-9, 24-29, 69; **P-1041**: [LBY-OTP-00020173](#), paras. 96-110.

²¹¹ UNSMIL, [LBY-OTP-00000425](#), paras. 8-9, 27; UNSMIL, [LBY-OTP-00000427](#), paras. 2-5, 29-35.

²¹² **P-1041**: [LBY-OTP-00020173](#), paras. 96-110. *See also* **P-1750**: [LBY-OTP-03214454](#), para. 132.

²¹³ **P-0706**: [LBY-OTP-02856209](#), p. 0002; UNSMIL, [LBY-OTP-00000427](#), paras. 4, 33, 52.

²¹⁴ **P-1041**: [LBY-OTP-00020173](#), para. 109; UNSMIL, [LBY-OTP-00000427](#), paras. 29, 33.

²¹⁵ *See e.g.* UNSMIL, [LBY-OTP-00018762](#), paras. 2, 8-9, 13. *See also* UNSMIL, [LBY-OTP-00000427](#), paras. 9, 68-69, 92. *See also* provision for the further evolution of the GNA into the “Government of National Unity” (“GNU”): UNSMIL, [LBY-OTP-00018762](#), para. 17; *see also* SRSG, [LBY-OTP-00018850](#), p. 0002. Likewise, the LNA has since been restyled as the “Libyan Arab Armed Force” (“LAAF”): UN PoE, [LBY-OTP-00000531](#), p. 0045.

²¹⁶ *See e.g.* UNSC, [LBY-OTP-00018880](#), p. 0003 (Preamble); UNSC, [LBY-OTP-00019110](#), p. 0002 (Preamble); UNSC, [LBY-OTP-00019107](#), p. 0002 (Preamble); UNSC, [LBY-OTP-00018851](#), p. 0002 (Preamble); UNSC, [LBY-OTP-00018852](#), pp. 0002-0004 (Preamble).

²¹⁷ *See* Article 8(2)(f) of the Statute.

²¹⁸ *Lubanga* TJ, para. 536.

relevant,²¹⁹ none is individually determinative. Indeed the test, along with these criteria, should be applied flexibly when the Chamber is deciding whether a body was an organised armed group, given the limited requirement in article 8(2)(f).²²⁰ In other words, this is a fact-based determination that may persist notwithstanding shifts in alliances, or changes in the composition or internal structure of armed groups.

34. At all material times, the GNC/GNA were State armed forces and/or sufficiently organised in that they maintained the capacity to conduct complex military operations and to control territory, including through the armed groups affiliated or associated with them. Demonstrating their capacity to control territory, the GNC and GNA were each governmental authorities headquartered in Tripoli, with governmental institutions—for example, the MoI, the Ministry of Justice and the Ministry of Defence—established under them.²²¹ The ability of the GNC/GNA—through armed groups under its control or affiliated to it—to carry out large scale and coordinated military operations is illustrated by: the launching of Operation Libya Dawn, in 2014;²²² the military operations in Tripoli during the LNA's Operation Flood of Dignity,²²³ which included the use of airstrikes by the GNA,²²⁴ and the GNA's launching of its counter-offensive, Operation Peace Storm, in March 2020.²²⁵ The affiliation of armed groups with the GNC/GNA is illustrated, in the case of SDF/RADA, by KARA's stated support for the GNC as a State institution (even as he distanced himself politically from the GNC), when the GNC came under attack in Tripoli in May 2014,²²⁶

²¹⁹ *Lubanga* TJ, para. 537 (“the force or group’s internal hierarchy; the command structure and rules; the extent to which military equipment, including firearms, are available; the force or group’s ability to plan military operations and put them into effect; and the extent, seriousness, and intensity of any military involvement”). *See also, e.g., Ongwen* TJ, para. 2685.

²²⁰ *Lubanga* TJ, para. 537.

²²¹ *See e.g.* in relation to the GNA: **Letter**, [LBY-OTP-00018157](#) (trans: [LBY-OTP-00019183](#), p. 0002) (referring to decision 699/2017 of the Justice Minister Plenipotentiary); **Decision 555/2018**, [LBY-OTP-0069-0146](#) (trans: [LBY-OTP-0070-0004](#), p. 0005) (referring to Presidential Council Decree No. 4 of 2016 forming the Government of National Accord, Council of Ministers Decree No. 145 of 2012 adopting the Ministry of Interior's organisational chart and competencies and regulating its administrative organ); **Decision 578/2020**, [LBY-OTP-00018655](#) (trans: [LBY-OTP-00019369](#)). *See also* UNSMIL, [LBY-OTP-0053-1152](#), para. 12. *See e.g.* in relation to the GNC: **Law No. (13) 2013**, [LBY-OTP-03297001](#) (trans: [LBY-OTP-03297000](#)); **LPA**, [LBY-OTP-0053-0959](#), p. 0964 (Article (1) – General National Congress); **OHCHR**, [LBY-OTP-0053-0990](#), para. 47.

²²² *See above*, para. 30. Abu Salim/Slim unit (a former SSC unit under the MoI) participated: **Lacher and Cole**, [LBY-OTP-00018826](#), pp. 0033-0034, 0038 (fourth support branch in Abu Salim); **UNSC PoE**, [LBY-OTP-0053-0474](#), paras. 63, 69, 123 (al-Kikli was a Libya Dawn commander); **Lacher and al-Idrissi**, [LBY-OTP-0070-4009](#), p. 4013 (al-Kikli's forces from Abu Salim/Abu Slim were amongst the Libya Dawn fighters); **Pack**, [LBY-OTP-00000570](#), p. 0028. *See also* **Letter**, [LBY-OTP-0044-0518](#) (trans: [LBY-OTP-0070-0543](#)) (letter addressed to the Commander of the Abu-Salim Battalion, al Kikli). *See also* **P-0961**: [LBY-OTP-00019245](#), para. 60.

²²³ *See above*, para. 31. *See* **UNSC PoE**, [LBY-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps); **Pack**, [LBY-OTP-00000570](#), pp. 0010-0011; **Lacher** (2020) (ebook), p. 54.

²²⁴ **UNSMIL**, [LBY-OTP-00000426](#), para. 22.

²²⁵ *See above*, para. 31. *See* **UNSMIL**, [LBY-OTP-00000425](#), paras. 8-9, 27; **UNSMIL**, [LBY-OTP-00000427](#), paras. 3, 34.

²²⁶ **Press conference**, [LBY-OTP-0070-5931](#) (trans: [LBY-OTP-00019075](#), lns. 8-19, 42-50, 53-80) (20 May 2014, re: attacks on the Congress and state institutions); **Wehrey**, [LBY-OTP-0053-1369](#), p. 1396 (attack on GNC). *See also* [REDACTED]. *See also* **Daily Beast**, [LBY-OTP-0070-3864](#), pp. 3865-3870.

and by the group's role in providing security for the PC/GNA when the PC relocated to Tripoli in 2016.²²⁷ Even if SDF/RADA, and other Tripoli-based armed groups, did not all always participate in fighting against the LNA,²²⁸ their long-term affiliation with the GNC/GNA is illustrated by their (at least nominal) integration into State structures.²²⁹ At least one group amongst the Libya Dawn fighters—the Abu Slim/Salim armed group—was a former unit of the SSC, and also affiliated with the MoI,²³⁰ and in any event these groups were associated with the GNC.²³¹ Unified by their opposition to HAFTAR and the LNA, the Tripoli-based armed groups—including SDF/RADA,²³² mobilised and participated in the fighting against the LNA during Operation Flood of Dignity,²³³ along with other GNA-affiliated armed groups,²³⁴ and participated in the GNA's counter-offensive operations.²³⁵ Finally, the GNC/GNA's organisation was also demonstrated by the ability to negotiate and conclude ceasefire agreements.²³⁶

35. At all material times, the LNA was sufficiently organised in that it maintained the capacity to conduct complex military operations and to control territory. Upon its emergence, the LNA

²²⁷ Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), p. 4015; ECFR, [LBYP-OTP-0049-0205](#), p. 0211; OHCHR, [LBYP-OTP-00018738](#), p. 0019; Pack, [LBYP-OTP-00000570](#), p. 0027.

²²⁸ UNSC PoE, [LBYP-OTP-0053-0474](#), para. 69; Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), p. 4013; P-0961: [LBYP-OTP-00019245](#), para. 60. *See also* UNSMIL, [LBYP-OTP-0053-1152](#), paras. 12-13.

²²⁹ Pack, [LBYP-OTP-00000570](#), pp. 0027-0028; Cole and Mangan, [LBYP-OTP-0070-3941](#), pp. 3952-3953; Lacher and Cole, [LBYP-OTP-00018826](#), pp. 0037-0038; Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), p. 4013; *see also* Letter, [LBYP-OTP-0044-0518](#) (trans: [LBYP-OTP-0070-0543](#)). In relation to SDF/RADA, *see above*, para. 16. *See further*, in the case of SDF/RADA (in relation to the GNA): Decision 555/2018, [LBYP-OTP-0069-0146](#) (trans: [LBYP-OTP-0070-0004](#)); Decision 578/2020, [LBYP-OTP-00018655](#) (trans: [LBYP-OTP-00019369](#)); OHCHR, [LBYP-OTP-00018738](#), p. 0019. *See further*, in relation to the GNC: Statement, [LBYP-OTP-00018953](#) (trans: [LBYP-OTP-00019191](#)); Video, [LBYP-OTP-00018620](#) (trans: [LBYP-OTP-00018900](#), lns. 81-94); Video, [LBYP-OTP-00018603](#) (trans: [LBYP-OTP-00018902](#) lns. 39-40); Video, [LBYP-OTP-00018043](#) (trans: [LBYP-OTP-00018812](#), lns. 47-64); Website, [LBYP-OTP-00018798](#) (trans: [LBYP-OTP-00019370](#)); P-1044: [LBYP-OTP-00018699](#), para. 33; Interior Ministry, [LBYP-OTP-00018611](#) (trans: [LBYP-OTP-00019996](#)).

²³⁰ Lacher and Cole, [LBYP-OTP-00018826](#), pp. 0033-0034, 0038-0039; UNSC PoE, [LBYP-OTP-0053-0474](#), para. 123 (al-Kikli was a Libya Dawn commander); Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), p. 4013 (al-Kikli's forces from Abu Salim or Slim were amongst the Libya Dawn fighters); Pack, [LBYP-OTP-00000570](#), p. 0028. *See also* Letter, [LBYP-OTP-0044-0518](#) (trans: [LBYP-OTP-0070-0543](#)) (letter addressed to the Commander of the Abu-Salim Battalion, al Kikli). *See also* P-0961: [LBYP-OTP-00019245](#), para. 60.

²³¹ *See above*, para. 30 (Operation Libya Dawn). *See* P-0961: [LBYP-OTP-00019245](#), para. 29; UNSMIL, [LBYP-OTP-0053-1204](#), para. 4; OHCHR, [LBYP-OTP-0053-0990](#), para. 44; UNSC PoE, [LBYP-OTP-0053-0474](#), para. 123; Lacher and al-Idrissi, [LBYP-OTP-0070-4009](#), pp. 4013-4014; Lacher (2020) (ebook), pp. 37, 39-40; Wehrey, [LBYP-OTP-0053-1369](#), pp. 1397-1398.

²³² Pack, [LBYP-OTP-00000570](#), pp. 0026, 0031-0032; P-1673: [LBYP-OTP-00392926](#), para. 186.

²³³ P-0767: [LBYP-OTP-02991591](#); P-0764: [LBYP-OTP-03214667](#); UNSMIL, [LBYP-OTP-00000424](#), paras. 2-3, 6, 15-25; UNSC PoE, [LBYP-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps of the conflict); UN IFFM, [LBYP-OTP-0070-9227](#), para. 43; P-0342: [LBYP-OTP-02790777](#), pp. 0002-0003; P-1059: [LBYP-OTP-03218972](#), p. 0008; Lacher (2020) (ebook), p. 54. *See also* P-1026: [LBYP-OTP-00016896](#), para. 58.

²³⁴ Pack, [LBYP-OTP-00000570](#), pp. 0026-0031; UNSC PoE, [LBYP-OTP-00000526](#), paras. 11-13, pp. 0090-0093 (Annex 6, maps).

²³⁵ *See above*, para. 31. *See* P-1041: [LBYP-OTP-00020173](#), paras. 96-110.

²³⁶ *See e.g.* LPA, [LBYP-OTP-0053-0959](#); UNSMIL, [LBYP-OTP-00000426](#), para. 9; UNSMIL, [LBYP-OTP-00000427](#), paras. 10-11; UNSMIL, [LBYP-OTP-00000429](#), para. 8.

comprised elements from the Libyan army—including commanders of several Libyan army brigades,²³⁷ and civilians²³⁸—and it continued to evolve thereafter.²³⁹ At all material times, the LNA was led by HAFTAR,²⁴⁰ and endorsed by or affiliated with the HoR, based in eastern Libya.²⁴¹ It controlled territory in eastern Libya.²⁴² The LNA’s capacity to conduct complex military operations and to control territory is illustrated by its planning and conduct of Operation Dignity in 2014,²⁴³ and Operation Flood of Dignity in 2019, as well as the continuing operations in and around Benghazi, culminating in the “liberation” of Benghazi in December 2017.²⁴⁴ The LNA had significant logistical capacity, in that it comprised many thousands of members and multiple units, which were deployed throughout southern and eastern Libya.²⁴⁵ It also possessed military aircraft.²⁴⁶ Finally, the LNA’s organisation was demonstrated by its ability to negotiate and conclude ceasefire agreements.²⁴⁷

DCC, para. 22: The conduct forming the basis for the charges took place in the context of, and was associated with, a NIAC. Throughout the charged period, SDF/RADA was affiliated to the GNC/GNA, which was one party to the conflict, and contributed to its military and security capabilities including by (but not limited to) maintaining Mitiga Prison as a detention facility, including for (but not limited to) persons detained in connection to the conflict. The victims of the charged crimes were all civilians or fighters *hors de combat*, and in some cases were perceived as opposing the military and security interests of the GNC/GNA. The Mitiga Perpetrators committed the alleged crimes in the context of their functions in Mitiga Prison, which SDF/RADA controlled.

²³⁷ For e.g., the Al-Saiqa Brigades: OHCHR, [LBY-OTP-0053-0990](#), para. 59; UNSC PoE, [LBY-OTP-0053-0474](#), para. 32; UNSMIL, [LBY-OTP-0053-1204](#), para. 25. See also P-0337: [LBY-OTP-03216760](#), p. 0018; P-0370: [LBY-OTP-03703701](#), p. 0003.

²³⁸ P-0370: [LBY-OTP-03703701](#), p. 0005. The LNA should not be confused with the Libyan army. See e.g., P-0370: [LBY-OTP-03703701](#), p. 0002.

²³⁹ Harchaoui and Lazib, [LBY-OTP-0070-3925](#), p. 3931; P-0370: [LBY-OTP-03703701](#), p. 0005. See e.g. in relation to the LNA’s internal organisation: P-0370: [LBY-OTP-03703701](#), pp. 0006-0007, 0009; [LBY-OTP-0069-0380](#) (Annex 1) (transl: [LBY-OTP-03703642](#)); [LBY-OTP-0069-0381](#) (Annex 2) (transl: [LBY-OTP-03703643](#)). The organisational structure included operations rooms at different locations, and a military justice system including military prisons: P-0370: [LBY-OTP-03703701](#), pp. 0008, 0013-0015.

²⁴⁰ P-0370: [LBY-OTP-03703701](#), pp. 0001-0003, 0009; see also pp. 0007-0009, 0011-0012 (HAFTAR giving orders). See further P-1059: [LBY-OTP-03218972](#), p. 0004; P-0337: [LBY-OTP-03216760](#), p. 0021.

²⁴¹ See e.g. OHCHR, [LBY-OTP-0053-0990](#), paras. 44, 47, 56.

²⁴² See e.g. Benghazi: UNSMIL, [LBY-OTP-0062-0060](#), para. 18; UNSC PoE, [LBY-OTP-0053-0643](#), paras. 37-40 (military rule of the LNA), para. 48 (Benghazi); UNSC PoE, [LBY-OTP-00000526](#), pp. 0090-0093 (Annex 6, maps of the conflict).

²⁴³ See P-0370: [LBY-OTP-03703701](#), pp. 0003, 0009, 0015. See above, para. 30.

²⁴⁴ See above, para. 30. See e.g. UNSMIL, [LBY-OTP-0062-0060](#), para. 18.

²⁴⁵ P-1059: [LBY-OTP-03218972](#), p. 0005.

²⁴⁶ P-1059: [LBY-OTP-03218972](#), p. 0005.

²⁴⁷ UNSMIL, [LBY-OTP-00000429](#), para. 8; UNSMIL, [LBY-OTP-00000427](#), paras. 10-11. See also UNSMIL, [LBY-OTP-00000424](#), para. 8.

DCC, para. 23: Furthermore, irrespective of the reason why persons were detained at Mitiga Prison, the NIAC played a substantial part in the ability of the Mitiga Perpetrators to carry out the alleged crimes and the manner in which they did so. In particular, the conflict ensured the critical importance of SDF/RADA's control over strategic assets such as the Mitiga Compound, and its consequent role in ensuring the security of Tripoli. This assured its independence from Libyan State institutions, including in its control over Mitiga Prison, so that the crimes therein could be committed systematically and with impunity.

36. The article 8 nexus requirement is a fact sensitive and multi-factored test. Even if applied “rigorous[ly]”,²⁴⁸ it cannot be reduced to a single arbitrary dimension, but rather requires a holistic assessment based on relevant factors.²⁴⁹ As the Appeals Chamber has reiterated: “[t]he armed conflict need not have been causal to the commission of the crime, but the existence of an armed conflict must, at a minimum, have *played a substantial part* in the perpetrator’s ability to commit it, his decision to commit it, the manner in which it was committed or the purpose for which it was committed. Hence, if it can be established [...] that the perpetrator acted in furtherance of or under the guise of the armed conflict, it would be sufficient to conclude that his acts were closely related to the armed conflict.”²⁵⁰

37. This means that, while it may factually be relevant that a person was detained “for reasons related to the conflict,”²⁵¹ it is not dispositive in establishing whether a war crime was committed against them.²⁵² In particular, article 8(2)(c)—which expressly aims to address “serious violations of article 3 common to the four Geneva Conventions” (“CA3”)—provides that relevant war crimes under this provision encompass those “committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause”. This provision is materially identical to CA3. As the ICJ has recalled, CA3 constitutes a “minimum yardstick”, reflecting “rules which, in the Court’s opinion, reflect [...] ‘elementary considerations of humanity’”.²⁵³

38. On its face, nothing in the chapeau of article 8(2)(c) limits its scope of application only to persons detained “for reasons related to the armed conflict”. Rather, the core criterion is that victims are merely “taking no active part in the hostilities”—the categories of person then listed are mere

²⁴⁸ *Ntaganda* Jurisdiction AJ, para. 68.

²⁴⁹ *Ntaganda* Jurisdiction AJ, para. 68 (“the [...] Chamber may have regard, *inter alia*, to ‘the fact that the perpetrator is a combatant; the fact that the victim is a non-combatant; the fact that the victim is a member of the opposing party; the fact that the act may be said to serve the ultimate goal of a military campaign; and the fact that the crime is committed as part of or in the context of the perpetrator’s official duties’”, quoting *Kunarac et al.* AJ, para. 59).

²⁵⁰ *Afghanistan* Article 15(4) AJ, para. 69 (quoting *Kunarac et al.* AJ, paras. 58-60, emphasis added).

²⁵¹ *See Njeem* Arrest Warrant, paras. 51, 52, 76; *EL HISHRI* Arrest Warrant, paras. 15, 17.

²⁵² It is only essential to prove that a person was detained for reasons related to the conflict in circumstances where the relevant criminal conduct against that person occurred at times after the conflict had terminated, in order to establish the continued application of IHL. This question does not arise within the temporal scope of the DCC.

²⁵³ ICJ, *Nicaragua* (Merits), para. 218 (quoting ICJ, *The Corfu Channel Case* (Merits), p. 22).

illustrative examples, as demonstrated by the word “including”. This is also supported by the open-ended category of reasons for which even a member of armed forces may become *hors de combat*. As such, there is no requirement in article 8(2)(c) that a victim is necessarily a detainee at all—let alone a restriction on the reasons for their detention—provided they are in the power of the alleged perpetrator. Such an interpretation would substantially restrict and undermine the protective scope of CA3. In its authoritative commentary, the ICRC has reaffirmed the broad scope of CA3. It stated that persons “taking no active part in the hostilities” include “first and foremost the civilian population”,²⁵⁴ without qualification. Moreover, CA3 “contains no limitation requiring a person [...] to be in the power of the enemy in order to be protected”.²⁵⁵ The ICRC has stressed the role of the *nexus* in delimiting the correct application of CA3, rather than reading any limitation into CA3 itself.²⁵⁶

39. Similarly, article 8(2)(e) is addressed to “[o]ther serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law”. On its face, this likewise contains no express limitation to persons detained “for reasons related to the conflict”. As the Appeals Chamber has previously explained, the chapeau of article 8(2)(e) means that the scope of application of each war crime to which it applies must be assessed individually, in the context of the “established framework of international law”—which means, in the absence of a relevant applicable treaty, customary IHL.²⁵⁷ The relevant war crimes in this case are all listed under article 8(2)(e)(vi), which applies *inter alia* to “rape” and “other sexual violence”. While the IHL prohibition of this conduct is not drawn expressly from CA3, it is nonetheless closely linked to CA3. This is demonstrated by the specific proviso that it is a war crime under this head to commit “any other form of sexual violence *also constituting a serious violation of [CA3]*” (emphasis added). As explained above, full effect is to be given to the broad scope of application of CA3, with the correct delimitation of the Court’s war crimes jurisdiction addressed by means of the nexus requirement.²⁵⁸ Furthermore, with specific regard to the scope of application of the war crimes in article 8(2)(e)(vi), the Appeals Chamber has stressed that “there is no

²⁵⁴ ICRC, GCIII Commentary (2020), para. 555.

²⁵⁵ ICRC, GCIII Commentary (2020), para. 579 (emphasis supplied). *See also* para. 580 (noting that such a limitation would be “difficult to reconcile with the protective purpose of [CA3]” and that including persons affiliated to the same party to the conflict is “logical” since it may often be difficult “to determine whether members of the general population not actively participating in hostilities are affiliated with one or other Party to the conflict”). *See also* *Ntaganda* Jurisdiction AJ, paras. 60-61.

²⁵⁶ ICRC, GCIII Commentary (2020), para. 583 (“insofar as a specific situation has a nexus to a non-international armed conflict [...] all Parties to the conflict should, as a minimum, grant humane treatment [...] based on [CA3]”). *See also* para. 581 (suggesting that a person could be protected by CA3 if subjected to inhumane treatment when tried for “ordinary crimes in the context of the armed conflict”).

²⁵⁷ *Ntaganda* Jurisdiction AJ, paras. 53-55.

²⁵⁸ *See above*, para. 38.

conceivable reason” to conclude that “[IHL] suggests any limits on who may be victims” of conduct such as rape and sexual slavery, for which the “prohibitions [...] in armed conflict are without a doubt well established”.²⁵⁹

40. In assessing the nexus requirement in this case, the Chamber should consider in particular factors such as: the affiliation of the Mitiga Perpetrators to SDF/RADA and the GNC/GNA, as a party to the conflict; the status of the victims as civilians or fighters *hors de combat*; the commission of the relevant conduct by the Mitiga Perpetrators in the context of their official functions; and the substantial part played by the NIAC in enabling the Mitiga Perpetrators to carry out the relevant conduct, the manner in which it was committed, and/or the purpose for which it was committed.²⁶⁰ Notably, but for the conflict and the power vacuum and factionalism which had been created by it, the Mitiga Perpetrators could not have carried out the alleged crimes at all, or in any event in a similar institutionalised and sustained way.

41. The conduct that forms the basis for the charges took place in the context of, and was associated with, a NIAC. Throughout the charged period, SDF/RADA was affiliated to the GNC/GNA, which was one party to the conflict,²⁶¹ and contributed to its military and security capabilities including by (but not limited to) its maintenance of Mitiga Prison as a detention facility,²⁶² including for (but not limited to) persons detained in connection to the conflict.²⁶³ More broadly, SDF/RADA also controlled the Mitiga Compound. The strategic importance of Mitiga Compound within the conflict—controlled by SDF/RADA—is evident in that the LNA targeted the airport and/or compound during its attacks on Tripoli in November 2014,²⁶⁴ in 2019,²⁶⁵ and again in early 2020.²⁶⁶ Mitiga was also attacked by ISIS, on or about 18 September 2015,²⁶⁷ and by the Al Bugra armed

²⁵⁹ *Ntaganda* Jurisdiction AJ, paras. 64-66.

²⁶⁰ See the approach of the Appeals Chamber in *Afghanistan*: Afghanistan Article 15(4) AJ, paras. 74, 76-77.

²⁶¹ See *above*, para. 34. See KARA’s stated support for the GNC as a State institution (even as he distanced himself politically from the GNC), when the GNC came under attack in Tripoli in May 2014 (**Press conference**, [LBYP-OTP-0070-5931](#) (trans: [LBYP-OTP-00019075](#), ll. 8-19, 42-50, 53-80); **Wehrey**, [LBYP-OTP-0053-1369](#), p. 1396. See also **P-0719**: [LBYP-OTP-0070-7295](#), paras. 42-43, 46; **Daily Beast**, [LBYP-OTP-0070-3864](#), pp. 3864-3867, 3870); and by SDF/RADA’s role in providing security for the PC/GNA in 2016 (**Lacher and al-Idrissi**, [LBYP-OTP-0070-4009](#), pp. 4015; **ECFR**, [LBYP-OTP-0049-0205](#), p. 0211; **OHCHR**, [LBYP-OTP-00018738](#), p. 0019; **Pack**, [LBYP-OTP-00000570](#), pp. 0027). See also **P-0551**: [LBYP-OTP-0072-0387](#), para. 13.

²⁶² See *above*, paras. 16-18.

²⁶³ This factor is not dispositive in establishing whether a war crime was committed against them: see para. 37. See e.g. **Facebook**, [LBYP-OTP-00018983](#) (trans: [LBYP-OTP-00019378](#)) (announcing release of 78 prisoners involved in the “Tripoli offensive”). See also, below, fn. 271.

²⁶⁴ **Alwasat**, [LBYP-OTP-00018913](#) (trans: [LBYP-OTP-00019375](#)); **Anadolu Agency**, [LBYP-OTP-00018889](#); **OHCHR**, [LBYP-OTP-0053-0990](#), para. 37.

²⁶⁵ **UNSMIL**, [LBYP-OTP-00000426](#), para. 23.

²⁶⁶ **UNSMIL**, [LBYP-OTP-00000425](#), para. 26.

²⁶⁷ **Libya Security Monitor**, [LBYP-OTP-00018888](#) pp. 0001-0003; **P-1750**: [LBYP-OTP-03214454](#), paras. 127-128.

group, in mid-January 2018,²⁶⁸ and it was targeted during fighting in August-September 2018, between the then 7th Brigade from Tarhouna (also known as Al Kani's group or the Kaniyat) and GNA-affiliated armed groups.²⁶⁹

42. The victims of the charged crimes were all civilians or fighters *hors de combat*,²⁷⁰ and in some cases were perceived as opposing the military and security interests of the GNC/GNA.²⁷¹ With the exception of the detainees acting under their direction and control, the Mitiga Perpetrators committed the alleged crimes in the context of their official functions, either as SDF/RADA members, or persons acting under the control or direction of the Mitiga Leadership (such as any guards who were not SDF/RADA members).²⁷²

43. Furthermore, irrespective of the reason why persons were detained at Mitiga Prison, the NIAC enabled the Mitiga Perpetrators to commit the charged crimes systematically and with impunity. As explained above, SDF/RADA's independence from the Tripoli authorities—and its control over the Mitiga Compound and Prison, through the Mitiga Prison Leadership—resulted from its critical role in the security architecture of Tripoli.²⁷³

DCC, para. 24: The Mitiga Perpetrators, including EL HISHRI, were aware of the factual circumstances that established the existence of the armed conflict.

44. The circumstances of this case show that the Mitiga Perpetrators, including EL HISHRI, were aware of the factual circumstances that established the existence of the armed conflict, and that the charged crimes were carried out in the context of and associated with the armed conflict. In particular, Mitiga Compound was itself the target of attacks by the LNA, using heavy weapons and airstrikes,²⁷⁴ and combat operations were undertaken from Mitiga Compound, including operations led by KARA involving the shelling of LNA targets,²⁷⁵ as well as the use of Mitiga detainees to

²⁶⁸ P-0692: [LBY-OTP-0080-0608](#), paras. 109-110; P-0942: [LBY-OTP-00015360](#), paras. 68-70; P-0990: [LBY-OTP-00015405](#), para. 49 (Boogra Militia); UNSMIL, [LBY-OTP-0062-0077](#), p. 0077; UN PoE, [LBY-OTP-00018739](#), para. 25 (Al Buqra Brigade). See also UNSMIL, [LBY-OTP-0062-0060](#), paras. 4, 17.

²⁶⁹ See above, fn. 197; UNSMIL, [LBY-OTP-00000537](#), para. 10.

²⁷⁰ The victims' protected status as civilians or fighters *hors de combat* would have been evident from the circumstances of their arrest and detention, their dress and their own words. See Annex 8.

²⁷¹ For example, persons detained because suspected of affiliation with ISIS or the LNA. See e.g. [REDACTED] (supporter of HAFTAR/member of Al Karama (Dignity) Operation or ISIS); [REDACTED] (Karama/HAFTAR's forces); [REDACTED] (from the East, perceived affiliation with ISIS); [REDACTED] (accused of being pro-HAFTAR); [REDACTED] (detainees from East of Libya believed to be HAFTAR supporters); [REDACTED] (suspected DAESH affiliation); [REDACTED] (from the East, suspected DAESH); [REDACTED] (relating to Operation Dignity in 2014 with HAFTAR); [REDACTED] (pro-Karama); [REDACTED] (suspected ISIS member); [REDACTED] (*inter alia* DAESH member). See also P-1720: [LBY-OTP-01558903](#), para. 21 (you could be arrested if accused of being from the east); P-0670: [LBY-OTP-00015152](#), para. 107 (young men arrested because from the east).

²⁷² The Prosecution relies upon the facts and corresponding evidence set out in Sections II.B (ALLEGED CRIMES) and II.C (INDIVIDUAL CRIMINAL RESPONSIBILITY).

²⁷³ See above, paras. 16-18.

²⁷⁴ See, in 2019: UNSMIL, [LBY-OTP-00000426](#), para. 23; in 2020: P-1041: [LBY-OTP-00020173](#), para. 109; UNSMIL, [LBY-OTP-00000427](#), paras. 29, 33.

²⁷⁵ See, in 2020: P-1041: [LBY-OTP-00020173](#), paras. 101-110.

participate or be involved in the hostilities.²⁷⁶ Armaments for the ongoing armed conflict were also delivered to Mitiga by plane, and supplied to the fighting forces.²⁷⁷ Furthermore, hostilities in Tripoli lasted for weeks, and involved the use of heavy weapons and air strikes.²⁷⁸ Members of SDF/RADA, as part of the GNA bloc, participated in the hostilities against the LNA.²⁷⁹ SDF/RADA also asked for volunteers amongst the detainees at Mitiga Prison, for the fighting against the LNA.²⁸⁰ In relation to the military and security interests of the GNC/GNA served by Mitiga Prison, **EL HISHRI** was himself involved in defending Mitiga against an attack by ISIS in around September 2015.²⁸¹ Finally, amongst the detainees at Mitiga Prison were persons suspected of affiliation to the LNA, the adverse party in the ongoing armed conflict.²⁸²

B. ALLEGED CRIMES

45. During the charged period, the Mitiga Perpetrators committed the following crimes against detainees or persons otherwise in their custody and/or control, principally at Mitiga Prison.

1) Torture and cruel treatment, imprisonment, outrages upon personal dignity and other inhumane acts (counts 1-6)

DCC, para. 26: During the charged period, the Mitiga Perpetrators violently arrested, detained and systematically mistreated at least 5,140 persons, principally at Mitiga Prison. The victims included women and men, girls and boys, Libyans and non-Libyans. The victims were all civilians taking no active part in the hostilities or fighters *hors de combat*, and as a consequence of their arrest and/or detention were in the custody or under the control of the Mitiga Perpetrators at all material times.

46. While the precise number of detainees in Mitiga Prison cannot presently be specified, the evidence shows substantial grounds to believe that at least 5,140 persons²⁸³ were imprisoned and

²⁷⁶ **P-1041:** [LBY-OTP-00020173](#), paras. 96-100, 103-110, 115-116, 118, 120-121; *see also* **P-1750:** [LBY-OTP-03214454](#), para. 132.

²⁷⁷ **P-1041:** [LBY-OTP-00020173](#), paras. 96-110.

²⁷⁸ *See, in 2014:* UNSC PoE, [LBY-OTP-0053-0474](#), para. 51; OHCHR, [LBY-OTP-0053-0990](#), para. 36; UNSMIL, [LBY-OTP-0053-1204](#), paras. 2, 16-19, 22; Wehrey, [LBY-OTP-0053-1369](#), pp. 1397-1398; *Lacher* (2020) (ebook), p. 37.

²⁷⁹ *See, in 2019:* **P-0342:** [LBY-OTP-02790777](#), pp. 0002-0003; **P-1059:** [LBY-OTP-03218972](#), p. 0008; **P-1750:** [LBY-OTP-03214454](#), para. 132; **P-0644:** [LBY-OTP-00020358](#), para. 158. *See also* **P-1026:** [LBY-OTP-00016896](#), para. 58.

²⁸⁰ **P-0644:** [LBY-OTP-00020358](#), para. 158.

²⁸¹ **P-1750:** [LBY-OTP-03214454](#), paras. 127-128; **P-1745:** [LBY-OTP-03214428](#), paras. 76-81, 84. *See also* **P-0720:** [LBY-OTP-0083-0052](#), paras. 116-117.

²⁸² **P-0635:** [LBY-OTP-0070-6952](#), para. 51; **P-0551:** [LBY-OTP-00001366](#), p. 0020 (ln. 10)-p. 0022 (ln. 6); **P-1026:** [LBY-OTP-00016896](#), paras. 22-23, 27, para. 63; **P-0595:** [LBY-OTP-0074-0889](#), para. 103; **P-0719:** [LBY-OTP-0070-7295](#), paras. 41, 51. *See also* **P-1720:** [LBY-OTP-01558903](#), para. 21; **P-0670:** [LBY-OTP-00015152](#), para. 107. *See also* Facebook, [LBY-OTP-00018983](#) (trans: [LBY-OTP-00019378](#)) (release of 78 prisoners involved in the "Tripoli offensive").

²⁸³ Prosecution witnesses detained at Mitiga Prison estimate 4000 to 5140 detainees. Since the prison population fluctuated over the relevant period, the Prosecution refers to a total of 5140 detainees, corresponding to the highest number of prisoners mentioned by a Prosecution witness at a specific time, namely 2020-2021. *See* [REDACTED] (estimating over 1200 detainees in 2014); [REDACTED] (estimating 3000 prisoners between 2016 and 2017);

subjected to outrages upon personal dignity, cruel treatment, torture, and other inhumane acts from around May 2014 to June 2020, including a representative sample of 945 persons.²⁸⁴

DCC, para. 27: The Mitiga Perpetrators detained persons at Mitiga Prison arbitrarily. Most detainees were not held on any lawful basis, and all were deprived of fundamental rights contrary to international humanitarian and human rights law, including, but not limited to: the right to be informed promptly of the reasons for arrest and of any charges; the right not to be coerced or compelled to incriminate oneself; the right to be free from torture or cruel, inhuman or degrading treatment or punishment and the right to be free from slavery and the slave trade. Even if some detainees were convicted and serving sentences according to Libyan law, or were otherwise detained on a *prima facie* lawful basis under Libyan law, their detentions were still arbitrary on the basis of the systematic violation of other relevant fundamental rights.

47. While some detainees may have been held at Mitiga Prison on a lawful basis (as criminal suspects on remand, or serving a judicial sentence), most were not. This is evident from: the circumstances of their arrest by the Mitiga Perpetrators; the absence of due process once detainees were brought to Mitiga Prison; and the Mitiga Perpetrators' rejection of external authority, including arbitrary refusals to yield detainees to prosecutorial or judicial authorities.

48. The Mitiga Perpetrators identified their targets by coercing others, or by covert surveillance, or entrapment operations.²⁸⁵ Where necessary for their purposes, the Mitiga Perpetrators would arrest family members of targeted persons, including women, children, and the elderly.²⁸⁶ The Mitiga Perpetrators would also examine the contacts, communications, and social media activities of those they arrested, and exploit them to arrest others.²⁸⁷ Such arrests could take place anywhere,

[REDACTED] (estimating 3000 prisoners between 2015 and 2017); [REDACTED] (estimating 4000 detainees in 2018); [REDACTED] (estimating 4500 detainees between 2016 and 2018); [REDACTED] (estimating 4000 detainees between 00002017 and 2018); [REDACTED] (estimating 4000-4100 detainees between 2015 and 2018); [REDACTED] (estimating 5140 detainees between 2020 and 2021). *See also* OHCHR, [LBY-OTP-00018738](#), p. 18 (referring to 1700 detainees in May 2016, and 2600 detainees in November 2016); UNSMIL, [LBY-OTP-0070-4037](#), para. 35 (referring to over 3600 detainees in January 2019).

²⁸⁴ *See* Annex 8. This list of sample victims includes 125 women, 770 men, and 50 children, including 13 girls and 27 boys.

²⁸⁵ P-0446, [LBY-OTP-0068-0003](#), para. 17; P-0551, [LBY-OTP-0072-0387](#), paras. 33, 42, 51, 60, 63, 111; P-0568, [LBY-OTP-00018134](#), para. 28; P-0569, [LBY-OTP-0080-0032](#), paras. 43-50, 53; P-0571, [LBY-OTP-0080-0169](#), paras. 111, 119-121, 127, 171-172, 259-260; P-0595, [LBY-OTP-0074-0889](#), paras. 55, 231; P-0635, [LBY-OTP-0070-6952](#), paras. 52-53; P-0667, [LBY-OTP-00001491](#), paras. 28, 31-33, 64-66, 133-134; P-0724, [LBY-OTP-0085-0063](#), paras. 52-53; P-0730, [LBY-OTP-00015125](#), para. 82; P-0943, [LBY-OTP-00018075](#), para. 81. *See also* News article, [LBY-OTP-0070-3588](#), p. 8.

²⁸⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* UN-OHCHR, [LBY-OTP-0070-3642](#), para. 38; UN-OHCHR, [LBY-OTP-00018738](#), p. 5.

²⁸⁷ P-0054, [LBY-OTP-0073-0025](#), paras. 78, 80; P-0446, [LBY-OTP-0068-0003](#), para. 17; P-0551, [LBY-OTP-00001366](#), p. 37, ln. 24 to p. 38, ln. 6; P-0568, [LBY-OTP-00018134](#), para. 28; P-0569, [LBY-OTP-0080-0032](#), paras. 48, 53; P-0667, [LBY-OTP-00001491](#), paras. 28, 31-34; P-0992, [LBY-OTP-00018787](#), para. 18.

including at homes²⁸⁸ and workplaces.²⁸⁹ Other arrests took place merely on the basis of generalised suspicions, such as at roadblocks,²⁹⁰ demonstrations,²⁹¹ or at Mitiga Airport,²⁹² which was under the Mitiga Perpetrators' control. The Mitiga Perpetrators also detained people, including many Black Migrants, to enslave them.²⁹³ In carrying out arrests, the Mitiga Perpetrators were often masked or failed to identify themselves.²⁹⁴ They did not inform detainees of their rights, why they were arrested, or where they were taken.²⁹⁵ Detainees' belongings were often seized and never returned.²⁹⁶ Arrests were carried out by armed Mitiga Perpetrators²⁹⁷ and were violent, intimidating,

²⁸⁸ P-0439, [LBY-OTP-0066-0951](#), para. 15; P-0486, [LBY-OTP-0069-0584](#), paras. 34-39; P-0497, [LBY-OTP-00007250](#), para. 14; P-0595, [LBY-OTP-0074-0889](#), paras. 40-49; P-0942, [LBY-OTP-00015360](#), paras. 14-18; P-0992, [LBY-OTP-00018787](#), paras. 14-17; P-0993, [LBY-OTP-00015420](#), para. 16. See also UN-OHCHR, [LBY-OTP-00018738](#), pp. 20-21.

²⁸⁹ [REDACTED]; [REDACTED]; [REDACTED]. See also UN-OHCHR, [LBY-OTP-00018738](#), p. 20.

²⁹⁰ [REDACTED]. See also UN-OHCHR, [LBY-OTP-00018738](#), p. 20.

²⁹¹ [REDACTED]; [REDACTED].

²⁹² [REDACTED].

²⁹³ See e.g. P-1041, [LBY-OTP-00020173](#), paras. 81, 83, 84, 88-89, 92; P-0498, [LBY-OTP-0069-0506](#), paras. 136-137; P-0720, [LBY-OTP-0083-0052](#), paras. 20, 76-77, and P-0720, Annex 1, [LBY-OTP-0083-0090](#); P-1073, [LBY-OTP-00020267](#), para. 62; P-0692, [LBY-OTP-0080-0608](#), para. 99; UN Panel of Experts, [LBY-OTP-00018745](#), p. 98; UNSMIL report, [LBY-OTP-0066-1022](#), p. 48. See also below 89, 106, 116, 119, 131.

²⁹⁴ P-0054, [LBY-OTP-0073-0025](#), paras. 63, 75-76; P-0439, [LBY-OTP-0066-0951](#), paras. 15, 19; P-0446, [LBY-OTP-0068-0003](#), paras. 13-15; P-0486, [LBY-OTP-0069-0584](#), paras. 34-39, 45; P-0497, [LBY-OTP-00007250](#), paras. 14-15; P-0551, [LBY-OTP-00001366](#), p. 17, ln. 9 to p. 19, ln. 8; P-0569, [LBY-OTP-0080-0032](#), paras. 43-48; P-0571, [LBY-OTP-0080-0169](#), paras. 119-123; P-0635, [LBY-OTP-0070-6952](#), paras. 43-44; P-0650, [LBY-OTP-0080-0468](#), paras. 84-85; P-0667, [LBY-OTP-00001491](#), paras. 23-26; P-0692, [LBY-OTP-0080-0608](#), paras. 15-19; P-0720, [LBY-OTP-0083-0052](#), paras. 19, 21-23; P-0730, [LBY-OTP-00015125](#), paras. 18-21; P-0872, [LBY-OTP-00007275](#), paras. 18-24; P-0925, [LBY-OTP-00018772](#), paras. 17-18; P-0942, [LBY-OTP-00015360](#), paras. 14-18; P-0990, [LBY-OTP-00015405](#), para. 34; P-0992, [LBY-OTP-00018787](#), paras. 14-17; P-0993, [LBY-OTP-00015420](#), para. 16; P-1025, [LBY-OTP-00016916](#), paras. 15-17; P-1026, [LBY-OTP-00016896](#), para. 23; P-1031, [LBY-OTP-00018119](#), paras. 20-27; P-1720, [LBY-OTP-01558903](#), para. 45. See also UN Working Group on Arbitrary Detention, [LBY-OTP-00018765](#), para. 5; UN Working Group on Arbitrary Detention, [LBY-OTP-00018764](#), paras. 8, 12.

²⁹⁵ P-0446, [LBY-OTP-0068-0003](#), paras. 14, 16; P-0486, [LBY-OTP-0069-0584](#), paras. 39, 55; P-0551, [LBY-OTP-00001366](#), p. 31, lns. 16-21; P-0568, [LBY-OTP-00018134](#), para. 24; P-0595, [LBY-OTP-0074-0889](#), para. 51; P-0644, [LBY-OTP-00020358](#), para. 26; P-0650, [LBY-OTP-0080-0468](#), para. 86; P-0667, [LBY-OTP-00001491](#), para. 39; P-0730, [LBY-OTP-00015125](#), paras. 22-23; P-0872, [LBY-OTP-00007275](#), paras. 24, 36; P-0942, [LBY-OTP-00015360](#), para. 19; P-0943, [LBY-OTP-00018075](#), para. 29; P-0992, [LBY-OTP-00018787](#), paras. 16, 26; P-1025, [LBY-OTP-00016916](#), paras. 22, 24; P-1026, [LBY-OTP-00016896](#), paras. 23-24; P-1031, [LBY-OTP-00018119](#), para. 27; P-1046, [LBY-OTP-00019195](#), para. 33; P-1685, [LBY-OTP-00057776](#), para. 18. See also UN-OHCHR, [LBY-OTP-00018738](#), p. 20; UN Working Group on Arbitrary Detention, [LBY-OTP-00018764](#), paras. 8, 12.

²⁹⁶ P-0054, [LBY-OTP-0073-0025](#), para. 75; P-0439, [LBY-OTP-0066-0951](#), paras. 15-17; P-0446, [LBY-OTP-0068-0003](#), para. 14; P-0569, [LBY-OTP-0080-0032](#), paras. 47-48; P-0595, [LBY-OTP-0074-0889](#), para. 44; P-0719, [LBY-OTP-0070-7295](#), paras. 65, 69-70; P-0872, [LBY-OTP-00007275](#), para. 20; P-0942, [LBY-OTP-00015360](#), para. 23; P-0990, [LBY-OTP-00015405](#), paras. 34, 38-41; P-1025, [LBY-OTP-00016916](#), para. 16; P-1026, [LBY-OTP-00016896](#), para. 25; P-1031, [LBY-OTP-00018119](#), paras. 24, 26, 37; P-1070, [LBY-OTP-00020236](#), para. 15.

²⁹⁷ P-0054, [LBY-OTP-0073-0025](#), paras. 75-76; P-0439, [LBY-OTP-0066-0951](#), para. 15; P-0446, [LBY-OTP-0068-0003](#), para. 13; P-0497, [LBY-OTP-00007250](#), para. 14; P-0551, [LBY-OTP-00001366](#) at 000019, lns. 3-8; P-0568, [LBY-OTP-00018134](#), paras. 20, 22; P-0571, [LBY-OTP-0080-0169](#), paras. 121-123; P-0595, [LBY-OTP-0074-0889](#), paras. 40-49; P-0650, [LBY-OTP-0080-0468](#), paras. 84-85; P-0667, [LBY-OTP-00001491](#), paras. 23-24; P-0720, [LBY-OTP-0083-0052](#), paras. 19, 21-23; P-0724, [LBY-OTP-0085-0063](#), para. 48; P-0730, [LBY-OTP-00015125](#), paras. 19, 21; P-0872, [LBY-OTP-00007275](#), para. 19; P-0942, [LBY-OTP-00015360](#), paras. 14-18; P-1031, [LBY-OTP-00018119](#), paras. 22-23; P-1685, [LBY-OTP-00057776](#), para. 15; P-1710, [LBY-OTP-01257853](#), paras. 34-40. See also UN-OHCHR, [LBY-OTP-00018738](#), p. 20-21.

and abusive. The victims were tied up or handcuffed,²⁹⁸ blindfolded or hooded,²⁹⁹ threatened,³⁰⁰ insulted³⁰¹ and beaten³⁰² or otherwise mistreated.³⁰³ The masked Mitiga Perpetrators who took [REDACTED] from his home shot him [REDACTED] while threatening to kill him.³⁰⁴ P-1745 was beaten with a plastic pipe and subjected to electric shocks.³⁰⁵

49. Following arrest by the Mitiga Perpetrators, most detainees were taken directly to Mitiga.³⁰⁶ Detainees arrested and detained by other groups would also sometimes be transferred to Mitiga.³⁰⁷ In either scenario, the absence of due process or legal protection was again manifest on arrival.³⁰⁸ Detainees were not informed why they were detained,³⁰⁹ frequently, they were subject to accusations which they did not understand or that changed.³¹⁰ According to P-0498, “[n]one of the

²⁹⁸ P-0439, [LBY-OTP-0066-0951](#), para. 15; P-0446, [LBY-OTP-0068-0003](#), para. 14; P-0486, [LBY-OTP-0069-0584](#), para. 38; P-0667, [LBY-OTP-00001491](#), para. 26; P-0720, [LBY-OTP-0083-0052](#), para. 22; P-0724, [LBY-OTP-0085-0063](#), para. 48; P-0872, [LBY-OTP-00007275](#), para. 19; P-0925, [LBY-OTP-00018772](#), paras. 17-18; P-0990, [LBY-OTP-00015405](#), para. 34; P-0993, [LBY-OTP-00015420](#), para. 16.

²⁹⁹ P-0439, [LBY-OTP-0066-0951](#), para. 15; P-0486, [LBY-OTP-0069-0584](#), para. 38; P-0667, [LBY-OTP-00001491](#), para. 26; P-0720, [LBY-OTP-0083-0052](#), para. 22; P-0724, [LBY-OTP-0085-0063](#), para. 49; P-0872, [LBY-OTP-00007275](#), para. 19; P-0943, [LBY-OTP-00018075](#), para. 31; P-0990, [LBY-OTP-00015405](#), para. 34; P-0942, [LBY-OTP-00015360](#), paras. 14-18; P-0993, [LBY-OTP-00015420](#), para. 16; P-1025, [LBY-OTP-00016916](#), para. 17; P-1026, [LBY-OTP-00016896](#), para. 23.

³⁰⁰ P-0486, [LBY-OTP-0069-0584](#), paras. 34-39; P-0571, [LBY-OTP-0080-0169](#), paras. 121-122; P-0595, [LBY-OTP-0074-0889](#), paras. 40-49; P-0667, [LBY-OTP-00001491](#), paras. 24-26; P-0719, [LBY-OTP-0070-7295](#), para. 70; P-0720, [LBY-OTP-0083-0052](#), para. 22; P-0724, [LBY-OTP-0085-0063](#), para. 49; P-1710, [LBY-OTP-01257853](#), paras. 35-36.

³⁰¹ P-0054, [LBY-OTP-0073-0025](#), para. 78; P-0446, [LBY-OTP-0068-0003](#), paras. 14-15; P-0486, [LBY-OTP-0069-0584](#), paras. 34-39; P-0571, [LBY-OTP-0080-0169](#), paras. 121-122; P-0650, [LBY-OTP-0080-0468](#), paras. 84-85; P-1673, [LBY-OTP-00392926](#), para. 29.

³⁰² P-0054, [LBY-OTP-0073-0025](#), paras. 78-79; P-0486, [LBY-OTP-0069-0584](#), paras. 34-39; P-0568, [LBY-OTP-00018134](#), paras. 23-24; P-0595, [LBY-OTP-0074-0889](#), para. 50; P-0724, [LBY-OTP-0085-0063](#), para. 48; P-0872, [LBY-OTP-00007275](#), para. 19; P-0925, [LBY-OTP-00018772](#), paras. 17-18; P-1685, [LBY-OTP-00057776](#), paras. 16-18.

³⁰³ P-0054, [LBY-OTP-0073-0025](#), paras. 76-80; P-0720, [LBY-OTP-0083-0052](#), paras. 19, 21-23; P-1720, [LBY-OTP-01558903](#), paras. 32-51; P-1745, [LBY-OTP-03214428](#), paras. 21-22.

³⁰⁴ [REDACTED].

³⁰⁵ P-1745, [LBY-OTP-03214428](#), para. 23.

³⁰⁶ P-0054, [LBY-OTP-0073-0025](#), para. 83; P-0439, [LBY-OTP-0066-0951](#), para. 18; P-0446, [LBY-OTP-0068-0003](#), para. 16; P-0551, [LBY-OTP-00001366](#), p. 29, ln. 15 to p. 31, ln. 21; P-0568, [LBY-OTP-00018134](#), para. 27; P-0569, [LBY-OTP-0080-0032](#), paras. 48-49, 51; P-1031, [LBY-OTP-00018119](#), para. 27; P-1673, [LBY-OTP-00392926](#), para. 30; P-1710, [LBY-OTP-01257853](#), para. 37; P-1745, [LBY-OTP-03214428](#), para. 24; P-1750, [LBY-OTP-03214454](#), paras. 29-31.

³⁰⁷ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁰⁸ P-1046, [LBY-OTP-00019195](#), para. 92.

³⁰⁹ P-0439, [LBY-OTP-0066-0951](#), para. 23; P-0446, [LBY-OTP-0068-0003](#), paras. 14, 16, 50; P-0498, [LBY-OTP-0069-0506](#), paras. 29, 47; P-0650, [LBY-OTP-0080-0468](#), para. 105; P-0730, [LBY-OTP-00015125](#), para. 23. *See also* Lacher and al-Idrissi, [LBY-OTP-0070-4009](#), p. 12.

³¹⁰ P-0054, [LBY-OTP-0073-0025](#), para. 86; P-0486, [LBY-OTP-0069-0584](#), para. 101; P-0497, [LBY-OTP-00007250](#), para. 39; P-0498, [LBY-OTP-0069-0506](#), paras. 19, 47; P-0568, [LBY-OTP-00018134](#), para. 51; P-0571, [LBY-OTP-0080-0169](#), paras. 122, 124, 166; P-0595, [LBY-OTP-0074-0889](#), paras. 50, 77; P-0635, [LBY-OTP-0070-6952](#), paras. 45, 51; P-0720, [LBY-OTP-0083-0052](#), para. 191; P-0724, [LBY-OTP-0085-0063](#), para. 81; P-0730, [LBY-OTP-00015125](#), para. 47; P-0872, [LBY-OTP-00007275](#), paras. 30, 56, 71-72; P-0942, [LBY-OTP-00015360](#), paras. 18, 40; P-0943, [LBY-OTP-00018075](#), paras. 79-81, 91-94; P-0990, [LBY-OTP-00015405](#), paras. 40-41, 78, 81, 92; P-1026, [LBY-OTP-00016896](#), paras. 27, 32; P-1031, [LBY-OTP-00018119](#), para. 33-34, 48, 56-58, 71-72.

detainees had a clear understanding of the charges against them”.³¹¹ On arrival, detainees would systematically be subjected to an initial period of interrogation and torture, designed to extract information, to compel their submission and subjugation, and to punish and demean.³¹² No legal assistance was provided.³¹³ Most detainees were never charged, or brought before a prosecutor or a judge,³¹⁴ with many lacking any record of their detention.³¹⁵

50. Even for those detainees eventually brought before a prosecutor, transferred to another detention site, or released,³¹⁶ these decisions were taken arbitrarily,³¹⁷ and followed no regular procedure.³¹⁸ Some detainees undertook hunger strikes as a last resort to obtain a referral; to no avail – their protest resulted only in further mistreatment.³¹⁹ Others were eventually referred to a prosecutor on fabricated charges.³²⁰ While publicly claiming that “prisoners were systematically presented to

³¹¹ P-0498, [LBY-OTP-0069-0506](#), para. 47.

³¹² P-0054, [LBY-OTP-0073-0025](#), paras. 101-113, 118, 120-126; P-0439, [LBY-OTP-0066-0951](#), paras. 23-27, 29, 33; P-0486, [LBY-OTP-0069-0584](#), paras. 95-97, 100-102; P-0497, [LBY-OTP-00007250](#), paras. 18-23, 32-36, 39; P-0498, [LBY-OTP-0069-0506](#), paras. 114-120; P-0551, [LBY-OTP-0072-0387](#), paras. 52-54; P-0568, [LBY-OTP-00018134](#), paras. 29-31, 51-53; P-0569, [LBY-OTP-0080-0032](#), paras. 70-79; P-0571, [LBY-OTP-0080-0169](#), paras. 160-175; P-0595, [LBY-OTP-0074-0889](#), paras. 52-61, 73-75, 77-82; P-0635, [LBY-OTP-0070-6952](#), paras. 48-55, 92-97; P-0667, [LBY-OTP-00001491](#), paras. 34, 39-46, 60-72, 76-87; P-0692, [LBY-OTP-0080-0608](#), paras. 67-69; P-0719, [LBY-OTP-0070-7295](#), paras. 71-74, 76, 78, 81-87; P-0720, [LBY-OTP-0083-0052](#), paras. 81-88; P-0724, [LBY-OTP-0085-0063](#), paras. 51-59, 67-69, 76-78, 81, 83; P-0730, [LBY-OTP-00015125](#), paras. 41, 46-54; P-0872, [LBY-OTP-00007275](#), paras. 25, 28-31, 40-41, 54, 56, 71-72; P-0942, [LBY-OTP-00015360](#), paras. 26-43, 99-104; P-0943, [LBY-OTP-00018075](#), paras. 79-85; P-0990, [LBY-OTP-00015405](#), paras. 42-43, 74-92; P-0992, [LBY-OTP-00018787](#), paras. 32-33; P-1026, [LBY-OTP-00016896](#), paras. 26-30, 40-44, 67-68; P-1070, [LBY-OTP-00020236](#), para. 16; P-1073, [LBY-OTP-00020267](#), paras. 32-33.

³¹³ P-0054, [LBY-OTP-0073-0025](#), para. 86; P-0486, [LBY-OTP-0069-0584](#), paras. 118, 210; P-0497, [LBY-OTP-00007250](#), para. 63; P-0551, [LBY-OTP-00001366](#), p. 30, lns. 19-20; P-0568, [LBY-OTP-00018134](#), para. 95; P-0635, [LBY-OTP-0070-6952](#), para. 125; P-0650, [LBY-OTP-0080-0468](#), para. 105; P-0692, [LBY-OTP-0080-0608](#), paras. 73-74; P-0872, [LBY-OTP-00007275](#), para. 77; P-1070, [LBY-OTP-00020236](#), paras. 16-17; P-1750, [LBY-OTP-03214454](#), para. 37.

³¹⁴ P-0371, [LBY-OTP-0065-0649](#), para. 37; P-0486, [LBY-OTP-0069-0584](#), para. 210; P-0497, [LBY-OTP-00007250](#), paras. 46, 63; P-0498, [LBY-OTP-0069-0506](#), paras. 15, 32, 47, 66, 146; P-0568, [LBY-OTP-00018134](#), para. 95; P-0569, [LBY-OTP-0080-0032](#), para. 168; P-0571, [LBY-OTP-0080-0169](#), para. 251; P-0650, [LBY-OTP-0080-0468](#), paras. 94, 105; P-0667, [LBY-OTP-00001491](#), para. 119; P-0719, [LBY-OTP-0070-7295](#), para. 142; P-0720, [LBY-OTP-0083-0052](#), para. 191; P-0724, [LBY-OTP-0085-0063](#), para. 88; P-0943, [LBY-OTP-00018075](#), para. 95; P-0990, [LBY-OTP-00015405](#), paras. 14, 91; P-1025, [LBY-OTP-00016916](#), para. 29; P-1720, [LBY-OTP-01558903](#), paras. 57, 237. *See also* [LBY-OTP-00018764](#), para. 11; UN-OHCHR, [LBY-OTP-0070-3642](#), para. 62; UNSMIL report, [LBY-OTP-0070-4075](#), para. 32.

³¹⁵ P-0486, [LBY-OTP-0069-0584](#), para. 212; P-0497, [LBY-OTP-00007250](#), para. 67; P-0498, [LBY-OTP-0069-0506](#), para. 146; P-0635, [LBY-OTP-0070-6952](#), para. 125; P-0650, [LBY-OTP-0080-0468](#), para. 123; P-0724, [LBY-OTP-0085-0063](#), paras. 90-91, 95; P-0993, [LBY-OTP-00015420](#), para. 48.

³¹⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; UN-OHCHR, [LBY-OTP-00018738](#), p. 18; UNSMIL report, [LBY-OTP-0070-4037](#), para. 35; UN-OHCHR, [LBY-OTP-0070-3758](#), para. 57; UNSMIL report, [LBY-OTP-00018741](#), para. 49; UN-OHCHR, [LBY-OTP-00018742](#), paras. 60; UN-OHCHR, [LBY-OTP-00018743](#), para. 33.

³¹⁷ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³¹⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* UN Working Group on Arbitrary Detention, [LBY-OTP-00018768](#), paras. 13-16; [REDACTED].

³¹⁹ [REDACTED]; [REDACTED]. *See also* UNSMIL report, [LBY-OTP-00018761](#), para. 51; P-0644, [LBY-OTP-00020358](#), para. 83.

³²⁰ [REDACTED]; [REDACTED].

the Attorney General in accordance with legal procedures”,³²¹ the Mitiga Perpetrators resisted external efforts to review detentions at Mitiga Prison.³²² Some detainees were eventually released without explanation,³²³ some had simply been detained by mistake.³²⁴ Others were ransomed by their families.³²⁵

51. Whatever their status, detainees were often held for years without knowing their fate.³²⁶ Mitiga Prison was as “a well with smooth walls that you cannot get out of”.³²⁷ As P-0650 stated, “there was no investigation, no attorney, no prosecution, no prisoner rights inside Mitiga”.³²⁸ Many detainees were held *incommunicado*,³²⁹ leaving families in fear for their loved ones.³³⁰ The Mitiga Perpetrators would sometimes deny that they detained a person,³³¹ or refuse all visitors.³³² More often, family contact and visits were decided arbitrarily.³³³ Visits were rare and usually short.³³⁴

³²¹ UN Panel of Experts, [LBY-OTP-00018739](#), paras. 39-43.

³²² GNA, [LBY-OTP-0069-0150](#) (trans: [LBY-OTP-0070-0008](#)); GNA, [LBY-OTP-00019128](#) (trans: [LBY-OTP-00019173](#)); GNA, [LBY-OTP-0069-0151](#) (trans: [LBY-OTP-0070-0010](#)); P-0371, [LBY-OTP-0065-0649](#), para. 49; P-0568, [LBY-OTP-00018134](#), para. 87; P-0569, [LBY-OTP-0080-0032](#), paras. 92-98; P-0595, [LBY-OTP-0074-0889](#), para. 173; P-0650, [LBY-OTP-0080-0468](#), para. 76; P-0670, [LBY-OTP-00015152](#), para. 47; P-0692, [LBY-OTP-0080-0608](#), paras. 95, 153, 214; P-0719, [LBY-OTP-0070-7295](#), paras. 117, 127, 192; P-0720, [LBY-OTP-0083-0052](#), para. 113; P-0872, [LBY-OTP-00007275](#), paras. 45, 67 and P-0872, Annex G, [LBY-OTP-00007282](#) (trans: [LBY-OTP-00018871](#)); P-0942, [LBY-OTP-00015360](#), paras. 164, 166-167; P-0990, [LBY-OTP-00015405](#), paras. 93, 111; P-0992, [LBY-OTP-00018787](#), para. 58; P-1026, [LBY-OTP-00016896](#), para. 84; P-1673, [LBY-OTP-00392926](#), paras. 213-215; P-1710, [LBY-OTP-01257853](#), paras. 249-250; P-1720, [LBY-OTP-01558903](#), paras. 213-214. See also UN-OHCHR, [LBY-OTP-0070-3642](#), para. 65; UNSMIL report, [LBY-OTP-0070-4037](#), paras. 33-34; UN-OHCHR, [LBY-OTP-0070-3758](#), para. 57; [LBY-OTP-00018764](#), paras. 10, 15; Letter from the Office of the Attorney General, [LBY-OTP-0044-0518](#) (trans: [LBY-OTP-0070-0543](#)); UN-OHCHR, [LBY-OTP-00018738](#), p. 18.

³²³ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. See also [REDACTED].

³²⁴ [REDACTED]; [REDACTED]; [REDACTED].

³²⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³²⁶ [REDACTED]; [REDACTED]. See also [REDACTED].

³²⁷ P-0486, [LBY-OTP-0069-0584](#), para. 210.

³²⁸ P-0650, [LBY-OTP-0080-0468](#), para. 105.

³²⁹ P-0439, [LBY-OTP-0066-0951](#), para. 25; P-0486, [LBY-OTP-0069-0584](#), para. 67; P-0571, [LBY-OTP-0080-0169](#), paras. 178; P-0667, [LBY-OTP-00001491](#), paras. 52-53; P-0670, [LBY-OTP-00015152](#), paras. 42, 46, 51, 109; P-0730, [LBY-OTP-00015125](#), para. 37; P-0943, [LBY-OTP-00018075](#), para. 32; P-0990, [LBY-OTP-00015405](#), paras. 110, 113-114; P-1710, [LBY-OTP-01257853](#), para. 72; P-1720, [LBY-OTP-01558903](#), paras. 58, 233-234; P-1750, [LBY-OTP-03214454](#), para. 37; UN Panel of Experts, [LBY-OTP-00020579](#), page 103, para. 4.

³³⁰ P-0571, [LBY-OTP-0080-0169](#), paras. 239, 246-249; P-0635, [LBY-OTP-0070-6952](#), paras. 106-108.

³³¹ P-0498, [LBY-OTP-0069-0506](#), para. 131; P-0670, [LBY-OTP-00015152](#), paras. 45-46; P-1720, [LBY-OTP-01558903](#), paras. 233, 250.

³³² [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³³³ P-0569, [LBY-OTP-0080-0032](#), para. 87; P-0635, [LBY-OTP-0070-6952](#), paras. 106-108; P-0667, [LBY-OTP-00001491](#), para. 122; P-0670, [LBY-OTP-00015152](#), paras. 59-60, 109; P-0724, [LBY-OTP-0085-0063](#), para. 91; P-0730, [LBY-OTP-00015125](#), para. 37.

³³⁴ P-0439, [LBY-OTP-0066-0951](#), paras. 49-58; P-0486, [LBY-OTP-0069-0584](#), paras. 116-117; P-0568, [LBY-OTP-00018134](#), para. 62; P-0569, [LBY-OTP-0080-0032](#), para. 88; P-0635, [LBY-OTP-0070-6952](#), paras. 112-114; P-0644, [LBY-OTP-00020358](#), paras. 153-154; P-0692, [LBY-OTP-0080-0608](#), para. 64; P-0724, [LBY-OTP-0085-0063](#), paras. 84-85; P-0730, [LBY-OTP-00015125](#), para. 37; P-0872, [LBY-OTP-00007275](#), paras. 45, 57; P-0925, [LBY-OTP-00018772](#), para. 86; P-0942, [LBY-OTP-00015360](#), para. 150; P-0943, [LBY-OTP-00018075](#), para. 119; P-0990, [LBY-OTP-00015405](#), para. 112; P-0992, [LBY-OTP-00018787](#), paras. 60-61; P-1025, [LBY-OTP-00016916](#), para. 41; P-1046, [LBY-OTP-00019195](#), paras. 124-125; P-1720, [LBY-OTP-01558903](#), para. 93; P-1722, [LBY-OTP-02856267](#), paras. 200, 203.

Contact was sometimes permitted via video-link, closely monitored.³³⁵

DCC, para. 28: The Mitiga Perpetrators systematically tortured all detainees at Mitiga Prison. On arrival, detainees were brought to the Naqliah for interrogation, and often subsequently returned there for further interrogation. Interrogations were accompanied by extreme physical, sexual, reproductive and psychological violence. Torture was frequently sexualised, either by threat or conduct, as also addressed further below. Following their initial interrogation and torture at the Naqliah, detainees were transferred to the Main Prison building where the mistreatment continued. Detainees (both male and female) were first subjected to degrading and humiliating strip and/or invasive cavity searches after which they were placed in a cell. At all times while detained at Mitiga Prison, extreme physical, sexual, reproductive and psychological violence was the norm.

52. As further illustrated below, during interrogation and torture sessions as well as individual or collective punishments, and through the infliction of harmful detention conditions, the Mitiga Perpetrators subjected detainees to multiple forms of physical, psychological, and sexualised torture, routinely inflicting them concurrently so as to maximise pain, fear, and coercive impact. These included, amongst others:³³⁶ beatings on all body parts,³³⁷ including in the genitals;³³⁸ suspension torture;³³⁹ other forms of positional torture;³⁴⁰ electric shocks, including in the genitals;³⁴¹ dental torture;³⁴² denailing;³⁴³ asphyxiation;³⁴⁴ gunshots;³⁴⁵ sharp force, including in the genitals;³⁴⁶

³³⁵ P-0054, [LBY-OTP-0073-0025](#), para. 161; P-0439, [LBY-OTP-0066-0951](#), paras. 49, 95; P-0486, [LBY-OTP-0069-0584](#), paras. 29, 100, 116-117; P-0569, [LBY-OTP-0080-0032](#), para. 88; P-0571, [LBY-OTP-0080-0169](#), paras. 30, 34 (K), 153, 241; P-0595, [LBY-OTP-0074-0889](#), paras. 35 (VR), 210; P-0644, [LBY-OTP-00020358](#), paras. 153-154; P-0692, [LBY-OTP-0080-0608](#), paras. 64, 214; P-0719, [LBY-OTP-0070-7295](#), para. 122; P-0720, [LBY-OTP-0083-0052](#), paras. 65, 80 (L); P-0720, [LBY-OTP-00020099](#), paras. 52-53; P-0872, [LBY-OTP-00007275](#), para. 99 (A20); P-1025, [LBY-OTP-00016916](#), para. 41; P-1736, [LBY-OTP-03703604](#), paras. 63, 108-109.

³³⁶ OHCHR Istanbul Protocol Manual (2022), paras. 372, 441, 444, 448, 450-451, 455.

³³⁷ See e.g. P-0720, [LBY-OTP-0083-0052](#), para. 179; P-1685, [LBY-OTP-00057776](#), paras. 37-41; P-1750, [LBY-OTP-03214454](#), para. 34.

³³⁸ See e.g. [REDACTED]; [REDACTED]; [REDACTED]

³³⁹ See e.g. P-0925, [LBY-OTP-00018772](#), paras. 30-34; P-1710, [LBY-OTP-01257853](#), paras. 57-71; P-1722, [LBY-OTP-02856267](#), paras. 47-49, 52-53; P-1745, [LBY-OTP-03214428](#), paras. 49-55; P-1750, [LBY-OTP-03214454](#), paras. 41-56.

³⁴⁰ See e.g. P-1673, [LBY-OTP-00392926](#), paras. 78-80; P-0650, [LBY-OTP-0080-0468](#), para. 115; P-0724, [LBY-OTP-0085-0063](#), para. 68; P-1733, [LBY-OTP-03703558](#), para. 40.

³⁴¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁴² See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁴³ See e.g. P-1722, [LBY-OTP-02856267](#), para. 133; P-0569, [LBY-OTP-0080-0032](#), para. 123; P-0992, [LBY-OTP-00018787](#), para. 47; P-1046, [LBY-OTP-00019195](#), paras. 89, 158; P-1673, [LBY-OTP-00392926](#), para. 152; P-1733, [LBY-OTP-03703558](#), para. 35.

³⁴⁴ See e.g. P-0054, [LBY-OTP-0073-0025](#), para. 102; P-0498, [LBY-OTP-0069-0506](#), paras. 89, 115; P-1685, [LBY-OTP-00057776](#), para. 79; P-1710, [LBY-OTP-01257853](#), para. 109; P-1736, [LBY-OTP-03703604](#), para. 112; P-1750, [LBY-OTP-03214454](#), paras. 81-82.

³⁴⁵ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁴⁶ See e.g. [REDACTED]; [REDACTED].

amputation;³⁴⁷ burning;³⁴⁸ chemical exposure;³⁴⁹ rape³⁵⁰ and other forms of sexual violence;³⁵¹ deprivation of essential conditions;³⁵² humiliating and degrading treatment;³⁵³ threats and intimidation;³⁵⁴ sleep deprivation;³⁵⁵ isolation and solitary confinement;³⁵⁶ sensory overload;³⁵⁷ other forms of psychological torture;³⁵⁸ and forcing victims to witness the torture of others, including relatives.³⁵⁹

53. Detainees were brought to the *Naqliah* for interrogation on arrival,³⁶⁰ and often returned there for further interrogation.³⁶¹ Questioning was accompanied by extreme physical, sexual and

³⁴⁷ See e.g. P-0568, [LBY-OTP-00018134](#), para. 76; P-0692, [LBY-OTP-0080-0608](#), para. 41; P-0872, [LBY-OTP-00007275](#), para. 63; P-0925, [LBY-OTP-00018772](#), paras. 66-67; P-1046, [LBY-OTP-00022410](#), paras. 139-140; P-1673, [LBY-OTP-00392926](#), paras. 188-189. See also P-0054, [LBY-OTP-0073-0025](#), para. 32.

³⁴⁸ See e.g. P-0054, [LBY-OTP-0073-0025](#), para. 153; P-0551, [LBY-OTP-0072-0387](#), para. 44; P-0990, [LBY-OTP-00015405](#), paras. 50, 76, 80-81; P-1026, [LBY-OTP-00016896](#), para. 74; P-1720, [LBY-OTP-01558903](#), paras. 38, 49.

³⁴⁹ See e.g. P-0644, [LBY-OTP-00020358](#), para. 64; P-0942, [LBY-OTP-00015360](#), para. 201, at [LBY-OTP-00001210-000017](#); P-0990, [LBY-OTP-00015405](#), para. 58; P-1070, [LBY-OTP-00020236](#), para. 59; P-0720, [LBY-OTP-0083-0052](#), para. 107.

³⁵⁰ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁵¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁵² See e.g. P-0498, [LBY-OTP-0069-0506](#), para. 122; P-0692, [LBY-OTP-0080-0608](#), para. 22; P-1685, [LBY-OTP-00057776](#), paras. 185-187; P-1733, [LBY-OTP-03703558](#), para. 40; P-1745, [LBY-OTP-03214428](#), paras. 45-47.

³⁵³ See e.g. P-1046, [LBY-OTP-00019195](#), para. 65; P-1673, [LBY-OTP-00392926](#), paras. 41-42, 48, 143; P-1685, [LBY-OTP-00057776](#), paras. 96, 228; P-1710, [LBY-OTP-01257853](#), para. 188; P-1720, [LBY-OTP-01558903](#), paras. 53, 206.

³⁵⁴ See e.g. P-1673, [LBY-OTP-00392926](#), paras. 132, 144, 169-170, 275; P-1710, [LBY-OTP-01257853](#), paras. 36, 52, 133; P-1733, [LBY-OTP-03703558](#), paras. 42, 84.

³⁵⁵ See e.g. P-1046, [LBY-OTP-00022410](#), para. 20; P-0667, [LBY-OTP-00001491](#), paras. 57-59; P-1736, [LBY-OTP-03703604](#), para. 76.

³⁵⁶ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁵⁷ See e.g. P-1073, [LBY-OTP-00020267](#), para. 80; P-1673, [LBY-OTP-00392926](#), paras. 31, 130; P-1733, [LBY-OTP-03703558](#), paras. 33, 97; P-1736, [LBY-OTP-03703604](#), para. 150.

³⁵⁸ P-0054, [LBY-OTP-0073-0025](#), para. 150; P-0719, [LBY-OTP-0070-7295](#), para. 80; P-1733, [LBY-OTP-03703558](#), para. 99.

³⁵⁹ See e.g. [REDACTED]; [REDACTED].

³⁶⁰ P-0054, [LBY-OTP-0073-0025](#), para. 84-85, 87; P-0486, [LBY-OTP-0069-0584](#), paras. 56-59; P-0497, [LBY-OTP-00007250](#), para. 18; P-0498, [LBY-OTP-0069-0506](#), paras. 24-25; P-0568, [LBY-OTP-00018134](#), paras. 29-31; P-0569, [LBY-OTP-0080-0032](#), para. 52; P-0595, [LBY-OTP-0074-0889](#), paras. 52-54; P-0635, [LBY-OTP-0070-6952](#), paras. 44, 46, 48-53, 55; P-0644, [LBY-OTP-00020358](#), paras. 27-38; P-0650, [LBY-OTP-0080-0468](#), paras. 88-90; P-0667, [LBY-OTP-00001491](#), paras. 39-46; P-0692, [LBY-OTP-0080-0608](#), para. 19; P-0719, [LBY-OTP-0070-7295](#), para. 71-74; P-0724, [LBY-OTP-0085-0063](#), para. 51; P-0730, [LBY-OTP-00015125](#), paras. 24-26; P-0872, [LBY-OTP-00007275](#), para. 24-25; P-0942, [LBY-OTP-00015360](#), paras. 20-21, 23-25; P-0990, [LBY-OTP-00015405](#), paras. 42-43; P-0993, [LBY-OTP-00015420](#), para. 17; P-1026, [LBY-OTP-00016896](#), para. 24; P-1031, [LBY-OTP-00018119](#), paras. 29, 32-38; P-1673, [LBY-OTP-00392926](#), paras. 31-33; P-1685, [LBY-OTP-00057776](#), paras. 19-21; P-1710, [LBY-OTP-01257853](#), paras. 40-52; P-1733, [LBY-OTP-03703558](#), paras. 31, 33-35; P-1736, [LBY-OTP-03703604](#), paras. 56-60; P-1745, [LBY-OTP-03214428](#), paras. 26-33..

³⁶¹ P-0054, [LBY-OTP-0073-0025](#), paras. 101-113; P-0486, [LBY-OTP-0069-0584](#), paras. 95-97, 100-102, 104-106; P-0497, [LBY-OTP-00007250](#), para. 39, 42; P-0498, [LBY-OTP-0069-0506](#), paras. 114-117, 119-120; P-0568, [LBY-OTP-00018134](#), paras. 49-53; P-0569, [LBY-OTP-0080-0032](#), paras. 70-79; P-0635, [LBY-OTP-0070-6952](#), paras. 92-94; P-0644, [LBY-OTP-00020358](#), paras. 41-42, 58-61, 95, 111-114, 122, 145-146; P-0667, [LBY-OTP-00001491](#), paras. 60-72, 76-87, 95; P-0692, [LBY-OTP-0080-0608](#), paras. 67-71; P-0719, [LBY-OTP-0070-7295](#), paras. 81-87; P-0720, [LBY-OTP-0083-0052](#), paras. 124-128, 130, 139-144; P-0724, [LBY-OTP-0085-0063](#), paras. 67-68, 76-78, 81-83; P-0730, [LBY-OTP-00015125](#), paras. 46-54; P-0872, [LBY-OTP-00007275](#), paras. 40-41, 56, 71-72; P-0942, [LBY-OTP-00015360](#), paras. 64-66, 101-104, 160-167; P-0990, [LBY-OTP-00015405](#), paras. 74-81, 83-

psychological violence,³⁶² inflicted by methods including beatings (with a plastic pipe known as a “PPR”, fists, steel bars, shovels, batons, electrical cables, baseball bats), such as “*falqa*” beatings,³⁶³ suspension (using techniques such as “*balanco*”,³⁶⁴ “*farrouj*” or “*roisserie chicken*”³⁶⁵), shooting by firearm, electric shocks, including in the genitals, and asphyxiation through close confinement in a metal box.³⁶⁶ Detainees were questioned about their political views and affiliations, moral and

85, 92; **P-0992**, [LBY-OTP-00018787](#), para. 32; **P-0943**, [LBY-OTP-00018075](#), paras. 96-98, 111-112; **P-1026**, [LBY-OTP-00016896](#), paras. 40-43, 67-69; **P-1031**, [LBY-OTP-00018119](#), paras. 56-58, 71-72; **P-1073**, [LBY-OTP-00020267](#), para. 64; **P-1673**, [LBY-OTP-00392926](#), paras. 47-58, 60, 64-67, 72; **P-1685**, [LBY-OTP-00057776](#), paras. 26, 32-34, 43, 46-51, 66-69, 72-82; **P-1733**, [LBY-OTP-03703558](#), paras. 36-50; **P-1745**, [LBY-OTP-03214428](#), para. 49-57.

³⁶² See e.g. **P-0054**, [LBY-OTP-0073-0025](#), paras. 53, 101-113; **P-0486**, [LBY-OTP-0069-0584](#), paras. 59, 95-97, 100-102; **P-0497**, [LBY-OTP-00007250](#), paras. 19-23, 39, 42-43, 65; **P-0498**, [LBY-OTP-0069-0506](#), paras. 89, 114-117, 119-120; **P-0551**, [LBY-OTP-00001366](#), p. 34, ln. 19 to p. 35, ln. 8; p. 37, lns. 1 to 8; p. 38, ln. 7 to p. 39, ln. 19; p. 40, lns. 1 to 11; p. 41, lns. 15 to 22; p. 42, ln. 25 to p. 44, ln. 14; p. 45, ln. 7, ln. 9 to p. 48, ln. 8; at p. 55, ln. 14 to p. 56, ln. 17; **P-0568**, [LBY-OTP-00018134](#), paras. 30-31, 52, 76; **P-0569**, [LBY-OTP-0080-0032](#), paras. 72-78; **P-0595**, [LBY-OTP-0074-0889](#), paras. 52-61, 111; **P-0635**, [LBY-OTP-0070-6952](#), paras. 47-55, 92-94; **P-0667**, [LBY-OTP-00001491](#), paras. 39-46, 60-70, 76-85, 95; **P-0692**, [LBY-OTP-0080-0608](#), paras. 67-71; **P-0719**, [LBY-OTP-0070-7295](#), paras. 71-76, 78-87; **P-0720**, [LBY-OTP-0083-0052](#), paras. 105-106, 110-111, 125-128, 130, 141, 178; **P-0724**, [LBY-OTP-0085-0063](#), paras. 51-53, 55-59, 67-69, 76-78, 81-83 and **P-0724**, Annex 2, [LBY-OTP-0085-0087](#); **P-0730**, [LBY-OTP-00015125](#), paras. 46-48; **P-0872**, [LBY-OTP-00007275](#), paras. 28-31, 40-41, 56, 71-72; **P-0925**, [LBY-OTP-00018772](#), paras. 21-23, 27, 73; **P-0942**, [LBY-OTP-00015360](#), paras. 26-43, 53, 64-66, 99-104; **P-0943**, [LBY-OTP-00018075](#), paras. 72-75, 79-85, 87, 89, 97, 111-112; **P-0990**, [LBY-OTP-00015405](#), paras. 42-43, 74-75, 78, 80-81, 83; **P-0992**, [LBY-OTP-00018787](#), paras. 19-22, 33; **P-0993**, [LBY-OTP-00015420](#), para. 17; **P-1026**, [LBY-OTP-00016896](#), paras. 26-30, 34, 67-68; **P-1031**, [LBY-OTP-00018119](#), para. 57; **P-1070**, [LBY-OTP-00020236](#), paras. 16-17; **P-1073**, [LBY-OTP-00020267](#), para. 33; **P-1673**, [LBY-OTP-00392926](#), paras. 31-33, 60-63, 74-83, 90-96, 131, 135-136, 140, 142-143, 149, 152-154; **P-1685**, [LBY-OTP-00057776](#), paras. 19-21, 26, 32-34, 43, 46-51, 66-69, 72-82; **P-1710**, [LBY-OTP-01257853](#), paras. 40-52, 85-88, 105-109, 117-141; **P-1745**, [LBY-OTP-03214428](#), paras. 26-33, 49-57.

³⁶³ This entailed the positioning of the detainee so they could be flogged on the soles of their feet, toes, legs, and buttocks. See e.g. **P-0054**, [LBY-OTP-0073-0025](#), paras. 105-108; **P-0486**, [LBY-OTP-0069-0584](#), para. 102; **P-0667**, [LBY-OTP-00001491](#), paras. 76-86; **P-0992**, [LBY-OTP-00018787](#), para. 46; **P-0990**, [LBY-OTP-00015405](#), paras. 50, 80-81, 83. See also **P-0595**, [LBY-OTP-0074-0889](#), para. 110 and **P-0595**, [LBY-OTP-03296973](#), lns. 774-783.

³⁶⁴ This entailed the detainee’s suspension from a device commonly used for lifting the engines from cars, with the detainee’s hands tied or cuffed together, usually behind their back, and bearing their weight. In and of itself, this technique caused extreme pain and could result in shoulder dislocation, and lasting injuries, disfigurement, and physical impairment. See e.g. **P-0942**, [LBY-OTP-00015360](#), para. 29. See further **P-0497**, [LBY-OTP-00007250](#), paras. 18-21; **P-0498**, [LBY-OTP-0069-0506](#), paras. 50, 52, 89, 127; **P-0568**, [LBY-OTP-00018134](#), paras. 29-31, 38(2); **P-0569**, [LBY-OTP-0080-0032](#), paras. 31, 73-74; **P-0595**, [LBY-OTP-0074-0889](#), paras. 56-57, 63, 73, 111; **P-0635**, [LBY-OTP-0070-6952](#), paras. 94, 152 and **P-0635**, Annex 6, [LBY-OTP-0070-6995](#) (trans: [LBY-OTP-00018807](#)); **P-0644**, [LBY-OTP-00020358](#), paras. 32, 41, 46, 102; **P-0667**, [LBY-OTP-00001491](#), paras. 47, 67, 81 and **P-0667**, Annex 3, [LBY-OTP-00001497](#) at ‘1(b)’; **P-0692**, [LBY-OTP-0080-0608](#), para. 46; **P-0719**, [LBY-OTP-0070-7295](#), paras. 95-96; **P-0720**, [LBY-OTP-0083-0052](#), paras. 85-86, 89, 95, 97, 105, 110, 144; **P-0724**, [LBY-OTP-0085-0063](#), paras. 56-57; **P-0872**, [LBY-OTP-00007275](#), paras. 25, 28-31, 41, 56, 72, 104 and **P-0872**, Annex E, [LBY-OTP-00007280](#) (trans: [LBY-OTP-00018804](#)), at ‘E6’; **P-0942**, [LBY-OTP-00015360](#), paras. 28-29, 200 and **P-0942**, Annex L, [LBY-OTP-00015372](#) (trans: [LBY-OTP-00018771](#)) at ‘13’; **P-0943**, [LBY-OTP-00018075](#), paras. 70, 83, 85 and **P-0943**, [LBY-OTP-03214478](#), paras. 58, 105-108, 113-114, 117-119, 121, 132-135; **P-0990**, [LBY-OTP-00015405](#), paras. 43; **P-0993**, [LBY-OTP-00015420](#), para. 17; **P-1026**, [LBY-OTP-00016896](#), paras. 29-30, 67; **P-1685**, [LBY-OTP-00057776](#), paras. 94-99; **P-1710**, [LBY-OTP-01257853](#), paras. 130-133; **P-1722**, [LBY-OTP-02488730](#), paras. 184-189; **P-1745**, [LBY-OTP-03214428](#), paras. 26-33, 49-53; **P-1750**, [LBY-OTP-03214454](#), paras. 41-47, 50, 52-55, 94-95. See also **P-0595**, [LBY-OTP-0074-0889](#), para. 111 and **P-0595**, [LBY-OTP-03296973](#), lns. 784-815.

³⁶⁵ This entailed the detainee’s suspension from a metal bar pushed between the backs of their knees and their forearms. See e.g. [REDACTED]; [REDACTED]; [REDACTED].

³⁶⁶ **P-0054**, [LBY-OTP-0073-0025](#), para. 102; **P-0498**, [LBY-OTP-0069-0506](#), paras. 89, 115; **P-0872**, [LBY-OTP-00007275](#), para. 104 and **P-0872**, Annex E, [LBY-OTP-00007280](#) (trans: [LBY-OTP-00018804](#)) at ‘E5’; **P-0943**,

54. Following their initial interrogation and torture at the *Naqliyah*, detainees were transferred to the Main Prison³⁷³ where the mistreatment continued. Detainees (both male and female) were first subjected to strip and/or cavity searches, beyond what was necessary for legitimate security reasons and carried out in a manner described by many as humiliating and degrading.³⁷⁴ They were

³⁶⁷ **P-0054**, [LBY-OTP-0073-0025](#), paras. 84-88, 101-113; **P-0486**, [LBY-OTP-0069-0584](#), paras. 95-97; **P-0569**, [LBY-OTP-0080-0032](#), paras. 53-54; **P-0635**, [LBY-OTP-0070-6952](#), paras. 48-55; **P-0667**, [LBY-OTP-00001491](#), paras. 43, 60-72; **P-0872**, [LBY-OTP-00007275](#), paras. 30-31; **P-0942**, [LBY-OTP-00015360](#), para. 18; **P-0943**, [LBY-OTP-00018075](#), paras. 79-81; **P-0992**, [LBY-OTP-00018787](#), para. 19-22; **P-0993**, [LBY-OTP-00015420](#), para. 17; **P-1026**, [LBY-OTP-00016896](#), paras. 26-32; **P-1673**, [LBY-OTP-00392926](#), paras. 32, 55, 65-67.

³⁶⁹ P-0667, [LBY-OTP-00001491](#), para. 45. *See also* P-1673, [LBY-OTP-00392926](#), paras. 56, 65-72.

371 [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁷³ **P-0054**, [LBY-OTP-0073-0025](#), para. 91; **P-0486**, [LBY-OTP-0069-0584](#), para. 62; **P-0497**, [LBY-OTP-00007250](#), paras. 18, 24; **P-0498**, [LBY-OTP-0069-0506](#), para. 30; **P-0568**, [LBY-OTP-00018134](#), paras. 31-35; **P-0569**, [LBY-OTP-0080-0032](#), paras. 53, 55-57; **P-0595**, [LBY-OTP-0074-0889](#), para. 62; **P-0635**, [LBY-OTP-0070-6952](#), para. 56; **P-0650**, [LBY-OTP-0080-0468](#), paras. 88-89, 90-91, 93; **P-0667**, [LBY-OTP-00001491](#), paras. 46, 48; **P-0692**, [LBY-OTP-0080-0608](#), paras. 19, 22; **P-0719**, [LBY-OTP-0070-7295](#), paras. 71, 78-79; **P-0724**, [LBY-OTP-0085-0063](#), paras. 60-61; **P-0730**, [LBY-OTP-00015125](#), paras. 26; **P-0872**, [LBY-OTP-00007275](#), paras. 24, 32; **P-0925**, [LBY-OTP-00018772](#), paras. 19, 23-27; **P-0942**, [LBY-OTP-00015360](#), paras. 43-44; **P-0990**, [LBY-OTP-00015405](#), para. 44; **P-0992**, [LBY-OTP-00018787](#), paras. 19, 23; **P-0993**, [LBY-OTP-00015420](#), paras. 17-18; **P-1026**, [LBY-OTP-00016896](#), paras. 26, 31-33; **P-1031**, [LBY-OTP-00018119](#), para. 39; **P-1673**, [LBY-OTP-00392926](#), para. 35; **P-1685**, [LBY-OTP-00057776](#), para. 25.

[illegible]

then placed in a section and cell.³⁷⁵ Again, throughout their time in the Main Prison, extreme physical, sexual, reproductive and psychological violence was the norm. Beatings and physical violence were an integral part of the daily life of detainees, beginning as soon as they arrived, and used routinely as detainees were moved around, to punish them for resistance, or for the entertainment of the Mitiga Perpetrators.³⁷⁶ **EL HISHRI** “welcomed” [REDACTED] to the prison by shooting [REDACTED] and ordering guards to beat [REDACTED].³⁷⁷ Mitiga Perpetrators continued to use torture methods such as beatings (including *falqa* beatings)³⁷⁸ and suspension or other positional torture to torment the detainees,³⁷⁹ often suspending them from the metal grid covering the inner

³⁷⁵ **P-0054**, [LBY-OTP-0073-0025](#), paras. 92-93; **P-0486**, [LBY-OTP-0069-0584](#), para. 63; **P-0497**, [LBY-OTP-00007250](#), para. 27; **P-0498**, [LBY-OTP-0069-0506](#), para. 33; **P-0569**, [LBY-OTP-0080-0032](#), para. 58; **P-0571**, [LBY-OTP-0080-0169](#), paras. 143-144; **P-0635**, [LBY-OTP-0070-6952](#), paras. 57-59; **P-0692**, [LBY-OTP-0080-0608](#), para. 23; **P-0720**, [LBY-OTP-0083-0052](#), paras. 89, 93-94; **P-0724**, [LBY-OTP-0085-0063](#), para. 61; **P-0872**, [LBY-OTP-00007275](#), para. 33; **P-0942**, [LBY-OTP-00015360](#), paras. 47-48; **P-0990**, [LBY-OTP-00015405](#), paras. 44-45; **P-0993**, [LBY-OTP-00015420](#), para. 18; **P-1025**, [LBY-OTP-00016916](#), para. 26.

³⁷⁶ **P-0054**, [LBY-OTP-0073-0025](#), paras. 115, 124; **P-0439**, [LBY-OTP-0066-0951](#), para. 23; **P-0498**, [LBY-OTP-0069-0506](#), paras. 75, 95, 98, 102, 121; **P-0568**, [LBY-OTP-00018134](#), paras. 51-56; **P-0571**, [LBY-OTP-0080-0169](#), paras. 160-167; **P-0595**, [LBY-OTP-0074-0889](#), paras. 62, 72-75, 78-82, 210-213 and **P-0595**, [LBY-OTP-03296974](#), lns. 10-87; **P-0635**, [LBY-OTP-0070-6952](#), paras. 95-97, 138, 158; **P-0650**, [LBY-OTP-0080-0468](#), paras. 52-53, 97-101, 103-104, 114; **P-0667**, [LBY-OTP-00001491](#), paras. 49-50, 92; **P-0692**, [LBY-OTP-0080-0608](#), paras. 39-47, 88-92; **P-0719**, [LBY-OTP-0070-7295](#), paras. 80, 153-154, 160-164, 204; **P-0720**, [LBY-OTP-0083-0052](#), paras. 176-179; **P-0730**, [LBY-OTP-00015125](#), paras. 27, 29; **P-0872**, [LBY-OTP-00007275](#), paras. 32, 43-44; **P-0925**, [LBY-OTP-00018772](#), paras. 27-28, 94; **P-0942**, [LBY-OTP-00015360](#), paras. 46, 119-120, 129-136; **P-0943**, [LBY-OTP-00018075](#), paras. 45, 96-109; **P-0990**, [LBY-OTP-00015405](#), paras. 61-62; **P-0992**, [LBY-OTP-00018787](#), para. 47; **P-1025**, [LBY-OTP-00016916](#), paras. 36, 46; **P-1026**, [LBY-OTP-00016896](#), paras. 31-33, 45, 53, 63-66; **P-1031**, [LBY-OTP-00018119](#), paras. 94-95; **P-1046**, [LBY-OTP-00019195](#), paras. 65-68; **P-1073**, [LBY-OTP-00020267](#), paras. 51, 58; **P-1673**, [LBY-OTP-00392926](#), paras. 37-41, 114-116; **P-1685**, [LBY-OTP-00057776](#), paras. 29-31, 35-43, 49-50, 58-64; **P-1710**, [LBY-OTP-01257853](#), para. 56-72, 76-83, 90-104, 109-110, 115-123, 130-132, 145-177; **P-1720**, [LBY-OTP-01558903](#), paras. 73-77, 78-82, 135-139, 187-190, 191-195; **P-1722**, [LBY-OTP-02488730](#), paras. 114-115, 138-143, 176, 178-179 and **P-1722**, [LBY-OTP-02856267](#), paras. 23-26, 27-34, 35-39, 41-69, 73-75; **P-1733**, [LBY-OTP-03703558](#), paras. 78-86; **P-1736**, [LBY-OTP-03703604](#), paras. 148-149, 153-161; **P-1745**, [LBY-OTP-03214428](#), paras. 35, 42, 49-51, 58, 85; **P-1750**, [LBY-OTP-03214454](#), para. 29-35, 36-39, 41-56, 57-68, 102.

³⁷⁷ [REDACTED].

³⁷⁸ **P-0054**, [LBY-OTP-0073-0025](#), paras. 118, 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 57; **P-0942**, [LBY-OTP-00015360](#), paras. 121-125; **P-0992**, [LBY-OTP-00018787](#), para. 46. See also **P-0993**, [LBY-OTP-00015420](#), para. 43; **P-0595**, [LBY-OTP-0074-0889](#), paras. 214-218; **P-1710**, [LBY-OTP-01257853](#), paras. 76-79.

³⁷⁹ **P-0439**, [LBY-OTP-0066-0951](#), para. 40; **P-0650**, [LBY-OTP-0080-0468](#), paras. 118-119; **P-0719**, [LBY-OTP-0070-7295](#), para. 106; **P-1673**, [LBY-OTP-00392926](#), paras. 78-80; **P-1710**, [LBY-OTP-01257853](#), paras. 41, 56-59, 90-93, 115-123, 153-155; **P-1720**, [LBY-OTP-01558903](#), paras. 124-126; **P-1722**, [LBY-OTP-02488730](#), paras. 242-244; **P-1745**, [LBY-OTP-03214428](#), para. 66-69, 196; **P-1750**, [LBY-OTP-03214454](#), paras. 41-57, 59-65, 75-76.

yards.³⁸⁰ Detainees were shot in the arms or legs, maiming or ultimately killing them.³⁸¹ **EL HISHRI** personally shot at least 27 detainees,³⁸² including [REDACTED],³⁸³ [REDACTED],³⁸⁴ [REDACTED],³⁸⁵ [REDACTED],³⁸⁶ and [REDACTED].³⁸⁷ **EL HISHRI** ordered [REDACTED] to sit on the ground, [REDACTED], and stop moving. [REDACTED] then heard a loud bang and felt his body move backward; when he [REDACTED], he saw a big hole [REDACTED].³⁸⁸

55. The Mitiga Perpetrators not only tortured male detainees, but also women and children.³⁸⁹ **EL HISHRI** would not stop beating the women “until he saw blood”;³⁹⁰ “he beat [them] almost to death”.³⁹¹ While women and younger children were segregated from the rest of the detainee population, in the “Women’s Section” controlled by **EL HISHRI**, male detainees still witnessed violent incidents occurring against the women, or against older boys in the Main Prison.³⁹² In the Women’s Section, [REDACTED] **EL HISHRI** whip fifteen women at the same time on their backs and buttocks with a long plastic pipe, shouting “[t]his is what happens when you breach the rules” – namely

³⁸⁰ **P-0486**, [LBY-OTP-0069-0584](#), paras. 91-92; **P-0497**, [LBY-OTP-00007250](#), paras. 32-36; **P-0595**, [LBY-OTP-0074-0889](#), paras. 63, 73-74; **P-0644**, [LBY-OTP-00020358](#), paras. 67-68; **P-0667**, [LBY-OTP-00001491](#), paras. 90-91; **P-0720**, [LBY-OTP-0083-0052](#), paras. 57, 84-89, 95, 97-99, 133; **P-0720**, [LBY-OTP-00020099](#), paras. 28-29; **P-0730**, [LBY-OTP-00015125](#), paras. 39-43; **P-0872**, [LBY-OTP-00007275](#), para. 43; **P-0925**, [LBY-OTP-00018772](#), paras. 29-35; **P-0942**, [LBY-OTP-00015360](#), paras. 61-64; **P-0993**, [LBY-OTP-00015420](#), para. 41; **P-1025**, [LBY-OTP-00016916](#), para. 47; **P-1031**, [LBY-OTP-00018119](#), para. 64. *See also* [LBY-OTP-00001495](#), [LBY-OTP-00016903](#), [LBY-OTP-00018631](#), [LBY-OTP-00019693](#) and [LBY-OTP-00019695](#), together with: **P-0644**, [LBY-OTP-00020358](#), para. 172 (21), 205; **P-0720**, [LBY-OTP-0083-0095](#); **P-0667**, [LBY-OTP-00001491](#), para. 49; **P-1026**, [LBY-OTP-00016896](#), para. 127; **P-1046**, [LBY-OTP-00022410](#), paras. 168, 173, 175; **P-1070**, [LBY-OTP-00020236](#), para. 115.

³⁸¹ **P-0054**, [LBY-OTP-0073-0025](#), para. 97; **P-0439**, [LBY-OTP-0066-0951](#), para. 41; **P-0486**, [LBY-OTP-0069-0584](#), paras. 108-109; **P-0498**, [LBY-OTP-0069-0506](#), para. 92; **P-0571**, [LBY-OTP-0080-0169](#), paras. 214-218; **P-0595**, [LBY-OTP-0074-0889](#), paras. 115, 117-126 and **P-0595**, [LBY-OTP-03296973](#), lns. 1054-1129; **P-0635**, [LBY-OTP-0070-6952](#), paras. 95-97; **P-0644**, [LBY-OTP-00020358](#), paras. 92-94, 118; **P-0650**, [LBY-OTP-0080-0468](#), para. 121; **P-0665**, [LBY-OTP-0083-0663](#), para. 93; **P-0667**, [LBY-OTP-00001491](#), paras. 89-91; **P-0692**, [LBY-OTP-0080-0608](#), para. 84; **P-0720**, [LBY-OTP-0083-0052](#), para. 117; **P-0720**, [LBY-OTP-00020099](#), paras. 59-64; **P-0925**, [LBY-OTP-00018772](#), para. 34; **P-0942**, [LBY-OTP-00015360](#), paras. 68-71; **P-0943**, [LBY-OTP-00018075](#), para. 105; **P-1026**, [LBY-OTP-00016896](#), paras. 65; **P-1046**, [LBY-OTP-00019195](#), para. 98; **P-1685**, [LBY-OTP-00057776](#), paras. 58-64, 122-126; **P-1710**, [LBY-OTP-01257853](#), paras. 159-167, 168-174; **P-1720**, [LBY-OTP-01558903](#), paras. 230-231; **P-1722**, [LBY-OTP-02488730](#), paras. 198-200 and **P-1722**, [LBY-OTP-02856267](#), paras. 79, 80-83, 85; **P-1745**, [LBY-OTP-03214428](#), paras. 87-88, 89-94, 96, 101, 103-104.

³⁸² *See Annex 8*, victims [REDACTED].

³⁸³ [REDACTED].

³⁸⁴ [REDACTED].

³⁸⁵ [REDACTED].

³⁸⁶ [REDACTED].

³⁸⁷ [REDACTED].

³⁸⁸ [REDACTED].

³⁸⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

³⁹⁰ **P-1733**, [LBY-OTP-03703558](#), para. 79.

³⁹¹ **P-0665**, [LBY-OTP-0083-0663](#), para. 103.

³⁹² *See e.g.* **P-0595**, [LBY-OTP-0074-0889](#), paras. 210-213; **P-0635**, [LBY-OTP-0070-6952](#), paras. 148-150; **P-0667**, [LBY-OTP-00001491](#), paras. 102, 108-111; **P-0720**, [LBY-OTP-0083-0052](#), paras. 178-179; **P-0872**, [LBY-OTP-00007275](#), para. 91; **P-0942**, [LBY-OTP-00015360](#), paras. 30, 46, 114, 119; **P-0990**, [LBY-OTP-00015405](#), paras. 78, 85, 94; **P-0993**, [LBY-OTP-00015420](#), para. 28. *See also* **P-1720**, [LBY-OTP-01558903](#), paras. 155-158, 159-160.

disrespecting the “*capo*” and staying up late – while the women screamed in pain.³⁹³ [REDACTED] a woman suspended from a wall with her hands behind her back for more than an hour.³⁹⁴ [REDACTED] **EL HISHRI** drag a young woman away and throw her against a wall. After she fell on the ground, [REDACTED], causing her to scream until she lost consciousness.³⁹⁵

56. Detainees could also hear sounds of violence in the Women’s Section.³⁹⁶ [REDACTED] described these sounds—**EL HISHRI** yelling at and insulting the women who were begging him to stop—as “terrifying” and “a daily occurrence”.³⁹⁷ [REDACTED] injuries of women and girls, including a 14-year-old girl covered in bruises and a 17-year-old girl [REDACTED].³⁹⁸

57. Conspicuous violence (including reproductive violence) on close family members—[REDACTED]—also amounted to mental torture of those forced to witness it (including the victims’ children), compounded by verbal abuse and threats.³⁹⁹ Women were often beaten in front of their children. **EL HISHRI** himself beat female detainees until they bled, while their children hid between their legs, or tried to protect them, screaming and crying.⁴⁰⁰ **EL HISHRI** shot a woman [REDACTED].⁴⁰¹

58. Discipline among detainees was maintained violently, with punishments meted out even for minor infractions such as making noise, using light when not permitted, and arguing—in short, “[a]ny excuse was used to beat us”.⁴⁰² Women were beaten for not covering themselves fast enough when **EL HISHRI** came to the Women’s Section or for crying.⁴⁰³ Detainees were punished

³⁹³ [REDACTED]. See also paras. 229-232. A “*capo*” was a trusted detainee appointed by the guards to manage and inform upon other detainees in the same cell: see e.g. **P-0439**, [LBY-OTP-0066-0951](#), para. 37.

³⁹⁴ [REDACTED].

³⁹⁵ [REDACTED].

³⁹⁶ **P-0054**, [LBY-OTP-0073-0025](#), para. 31; **P-0439**, [LBY-OTP-0066-0951](#), para. 74; **P-0486**, [LBY-OTP-0069-0584](#), para. 73; **P-0498**, [LBY-OTP-0069-0506](#), para. 129; **P-0569**, [LBY-OTP-0080-0032](#), para. 35; **P-0571**, [LBY-OTP-0080-0169](#), paras. 90-91; **P-0568**, [LBY-OTP-00018134](#), para. 69; **P-0595**, [LBY-OTP-0074-0889](#), para. 194 and **P-0595**, [LBY-OTP-03296973](#), lns. 1182-1385; **P-0692**, [LBY-OTP-0080-0608](#), para. 170; **P-0719**, [LBY-OTP-0070-7295](#), paras. 164, 171; **P-0872**, [LBY-OTP-00007275](#), para. 92; **P-0925**, [LBY-OTP-00018772](#), para. 52; **P-0942**, [LBY-OTP-00015360](#), para. 120; **P-0943**, [LBY-OTP-00018075](#), paras. 103-105; **P-0990**, [LBY-OTP-00015405](#), paras. 77, 94; **P-0992**, [LBY-OTP-00018787](#), para. 38; **P-0993**, [LBY-OTP-00015420](#), paras. 24-25; **P-1026**, [LBY-OTP-00016896](#), para. 79; **P-1031**, [LBY-OTP-00018119](#), para. 102; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80; **P-1685**, [LBY-OTP-00057776](#), para. 136; **P-1750**, [LBY-OTP-03214454](#), para. 146.

³⁹⁷ [REDACTED]

³⁹⁸ [REDACTED].

³⁹⁹ **P-0990**, [LBY-OTP-00015405](#), para. 78; **P-1736**, [LBY-OTP-03703604](#), paras. 136, 148-149. See also **P-0439**, [LBY-OTP-0066-0951](#), paras. 15, 17; **P-0486**, [LBY-OTP-0069-0584](#), paras. 36-38; **P-0872**, [LBY-OTP-00007275](#), paras. 27-31; **P-1046**, [LBY-OTP-00019195](#), para. 109.

⁴⁰⁰ [REDACTED]. See also para. 85.

⁴⁰¹ [REDACTED].

⁴⁰² **P-1026**, [LBY-OTP-00016896](#), para. 52.

⁴⁰³ [REDACTED].

individually or collectively,⁴⁰⁴ including by taking an entire cell or section outside and beating them as they were forced to roll through the mud; afterwards, they were prevented from washing and forced to remain wet and filthy.⁴⁰⁵ One guard forced prisoners to lick up their own vomit.⁴⁰⁶

DCC, para. 29: The Mitiga Perpetrators' systematic mistreatment of detainees manifested not only in specific acts of brutality, but also in the consistent imposition of an atmosphere of terror and oppression for all detainees. This resulted from the inhumane detention conditions as well as verbal abuse, death threats, and conspicuous acts of violence by the Mitiga Perpetrators against other detainees, as well as their encouragement or facilitation of detainees committing crimes against one another.

59. The pervasive atmosphere of violence and cruelty in Mitiga Prison also meant that detainees lived in a state of constant fear and terror.⁴⁰⁷ Even when they were not victimised themselves, or could not see others being victimised,⁴⁰⁸ they could still often hear the sounds of torture and human suffering.⁴⁰⁹ This atmosphere was deliberately exacerbated by the conduct of the Mitiga Perpetrators, who played “psychological games”⁴¹⁰ with the detainees and humiliated, insulted, and threatened them with indefinite captivity, violence including rape and sexual assault, and death.⁴¹¹

⁴⁰⁴ P-0054, [LBY-OTP-0073-0025](#), paras. 56, 115; P-0439, [LBY-OTP-0066-0951](#), para. 40; P-0486, [LBY-OTP-0069-0584](#), paras. 65, 137, 139; P-0498, [LBY-OTP-0069-0506](#), paras. 72, 121; P-0568, [LBY-OTP-00018134](#), para. 56; P-0569, [LBY-OTP-0080-0032](#), paras. 133-135, 140; P-0571, [LBY-OTP-0080-0169](#), paras. 57, 109, 211; P-0644, [LBY-OTP-00020358](#), paras. 72, 79, 123, 170; P-0650, [LBY-OTP-0080-0468](#), paras. 107, 119; P-0670, [LBY-OTP-00015152](#), paras. 84; P-0730, [LBY-OTP-00015125](#), paras. 66, 92; P-0925, [LBY-OTP-00018772](#), para. 52; P-0993, [LBY-OTP-00015420](#), para. 44; P-1026, [LBY-OTP-00016896](#), para. 47; P-1073, [LBY-OTP-00020267](#), paras. 57; P-1070, [LBY-OTP-00020236](#), paras. 58-59; P-1673, [LBY-OTP-00392926](#), paras. 90-97, 190-193; P-1720, [LBY-OTP-01558903](#), paras. 135-139, 205-210.

⁴⁰⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* [REDACTED] and [REDACTED]; [REDACTED].

⁴⁰⁶ [REDACTED].

⁴⁰⁷ P-0667, [LBY-OTP-00001491](#), para. 76; P-0650, [LBY-OTP-0080-0468](#), para. 105; P-0692, [LBY-OTP-0080-0608](#), para. 157; P-0942, [LBY-OTP-00015360](#), para. 123; P-0990, [LBY-OTP-00015405](#), para. 72; P-1710, [LBY-OTP-01257853](#), paras. 153-157.

⁴⁰⁸ *See e.g.* P-0054, [LBY-OTP-0073-0025](#), para. 53; P-0720, [LBY-OTP-0083-0052](#), para. 141; P-0872, [LBY-OTP-00007275](#), paras. 28-31; P-0990, [LBY-OTP-00015405](#), para. 78; P-1685, [LBY-OTP-00057776](#), para. 19.

⁴⁰⁹ P-0486, [LBY-OTP-0069-0584](#), paras. 59, 73, 88, 93-94, 96, 109; P-0498, [LBY-OTP-0069-0506](#), para. 129; P-0571, [LBY-OTP-0080-0169](#), paras. 242, 244-245; P-0635, [LBY-OTP-0070-6952](#), para. 148; P-0650, [LBY-OTP-0080-0468](#), paras. 120-122; P-0692, [LBY-OTP-0080-0608](#), paras. 157, 170; P-0730, [LBY-OTP-00015125](#), para. 75; P-0942, [LBY-OTP-00015360](#), para. 120; P-0943, [LBY-OTP-00018075](#), paras. 103-104, 109; P-0990, [LBY-OTP-00015405](#), para. 94; P-1673, [LBY-OTP-00392926](#), para. 52; P-1710, [LBY-OTP-01257853](#), paras. 41, 45.

⁴¹⁰ P-0692, [LBY-OTP-0080-0608](#), para. 33. *See also* P-0719, [LBY-OTP-0070-7295](#), para. 87; P-1026, [LBY-OTP-00016896](#), para. 44.

⁴¹¹ P-0054, [LBY-OTP-0073-0025](#), paras. 55, 86, 118, 137, 150; P-0439, [LBY-OTP-0066-0951](#), paras. 23, 27-28; P-0486, [LBY-OTP-0069-0584](#), paras. 52-53, 55, 95; P-0497, [LBY-OTP-00007250](#), para. 34; P-0498, [LBY-OTP-0069-0506](#), paras. 32, 46; P-0569, [LBY-OTP-0080-0032](#), paras. 74-75; P-0571, [LBY-OTP-0080-0169](#), paras. 84, 124, 155, 166-168; P-0595, [LBY-OTP-0074-0889](#), paras. 89, 201, 203-204, 290; P-0635, [LBY-OTP-0070-6952](#), paras. 52-53, 150, 170; P-0650, [LBY-OTP-0080-0468](#), paras. 89, 93, 98, 100, 104, 143; P-0667, [LBY-OTP-00001491](#), paras. 40, 68, 84; P-0692, [LBY-OTP-0080-0608](#), paras. 33, 144, 170-171; P-0719, [LBY-OTP-0070-7295](#), paras. 74, 83, 107, 116, 205; P-0720, [LBY-OTP-0083-0052](#), paras. 87, 97, 128, 130, 142; P-0730, [LBY-OTP-00015125](#), paras. 41, 47-48, 50, 75; P-0872, [LBY-OTP-00007275](#), para. 72; P-0942, [LBY-OTP-00015360](#), paras. 29, 37, 45, 58, 77, 109-110; P-0943, [LBY-OTP-00018075](#), paras. 98, 112, 138 and P-0943, [LBY-OTP-03214478](#), para. 79; P-0990, [LBY-OTP-00015405](#), paras. 41, 43, 78, 80, 85; P-0993, [LBY-OTP-00015420](#), para. 27; P-1026, [LBY-OTP-00016896](#), paras. 27-29; P-1031, [LBY-OTP-00018119](#), para. 57; P-1073, [LBY-OTP-00020267](#), para. 95; P-1673,

60. As a result, Mitiga detainees were terrified every time a guard called their name.⁴¹² P-0990 recalls, “[w]henver a prisoner is called to the Naqlya, they become petrified and go to the bathroom with diarrhoea. Once you enter the Naqlya, you either leave in a casket or with a handicap”.⁴¹³ P-1673 states, “[e]very time I heard the guards calling my name, I knew what awaited me. I grew to hate my own name. The sound of the key turning in the lock of my Section filled me with fear, as I knew I would be going back to Naqliya”.⁴¹⁴ P-0692 confirms, stating, “I would always hear someone screaming all the time in the prison. I would hear them saying, “Stop stop, I will tell you what you want”. Everyone lived in fear”.⁴¹⁵ The Mitiga Perpetrators “tortur[ed] prisoners in order to keep them under control through terror”.⁴¹⁶ P-1026 stated that he “would rather die than go back” to Mitiga Prison.⁴¹⁷

61. Finally, the Mitiga Perpetrators, including **EL HISHRI**, also used the particularly harsh detention conditions of some cells, and deliberately exposed detainees to the psychological disturbance or sickness (tuberculosis, hepatitis, HIV, skin diseases) of some detainees, by placing other detainees in the same cells as a punishment.⁴¹⁸ This applied particularly to a cell known as “House Zero”, where the Mitiga Perpetrators housed violent detainees who committed aggressive acts against other detainees, including rape.⁴¹⁹ P-0498 states, “[i]f the guards wanted to torture someone, destroy him psychologically, intimidate him, to humiliate him, to affect his dignity, they would place him inside this cell”. Prisoners “could hear people yelling for help, banging on the door” of this cell.⁴²⁰ They were terrified of being moved to this cell.⁴²¹ [REDACTED] the death of prisoners who had been held there.⁴²²

[LBY-OTP-00392926](#), paras. 42, 48; **P-1710**, [LBY-OTP-01257853](#), paras. 80, 107, 118; **P-1722**, [LBY-OTP-02488730](#), para. 182; **P-1745**, [LBY-OTP-03214428](#), paras. 51, 194-195, 197, 199.

⁴¹² **P-0667**, [LBY-OTP-00001491](#), para. 76; **P-0650**, [LBY-OTP-0080-0468](#), para. 105.

⁴¹³ **P-0990**, [LBY-OTP-00015405](#), para. 72.

⁴¹⁴ **P-1673**, [LBY-OTP-00392926](#), para. 47.

⁴¹⁵ **P-0692**, [LBY-OTP-0080-0608](#), para. 157.

⁴¹⁶ **P-0942**, [LBY-OTP-00015360](#), para. 123.

⁴¹⁷ **P-1026**, [LBY-OTP-00016896](#), para. 44.

⁴¹⁸ **P-0486**, [LBY-OTP-0069-0584](#), paras. 86; **P-0569**, [LBY-OTP-0080-0032](#), para. 80; **P-0644**, [LBY-OTP-00020358](#), paras. 49, 88, 90; **P-0720**, [LBY-OTP-0083-0052](#), para. 72; **P-0720**, [LBY-OTP-00020099](#), paras. 54-56; **P-0724**, [LBY-OTP-0085-0063](#), paras. 69-70; **P-0993**, [LBY-OTP-00015420](#), para. 27; **P-1025**, [LBY-OTP-00016916](#), paras. 58-60; **P-1673**, [LBY-OTP-00392926](#), paras. 99-101; **P-1685**, [LBY-OTP-00057776](#), para. 27; **P-1722**, [LBY-OTP-02856267](#), paras. 70-72, 76, 101, 103-104, 147-190. *See also* **P-1073**, [LBY-OTP-00020267](#), para. 69; **P-1070**, [LBY-OTP-00020236](#), para. 34; **P-1736**, [LBY-OTP-03703604](#), paras. 75-76, 100-104; **P-1745**, [LBY-OTP-03214428](#), paras. 36-39.

⁴¹⁹ [REDACTED]; **P-0486**, [LBY-OTP-0069-0584](#), para. 21; **P-0498**, [LBY-OTP-0069-0506](#), paras. 46, 49, 51; **P-0571**, [LBY-OTP-0080-0169](#), para. 155; **P-0692**, [LBY-OTP-0080-0608](#), para. 53; **P-0872**, [LBY-OTP-00007275](#), para. 99; **P-0925**, [LBY-OTP-00018772](#), para. 54; **P-1025**, [LBY-OTP-00016916](#), para. 26; **P-1046**, [LBY-OTP-00019195](#), paras. 69-70. *See also* **P-1073**, [LBY-OTP-00020267](#), para. 50.

⁴²⁰ **P-0498**, [LBY-OTP-0069-0506](#), para. 46.

⁴²¹ **P-0571**, [LBY-OTP-0080-0169](#), paras. 153-156. *See also* **P-0439**, [LBY-OTP-0066-0951](#), paras. 36, 38; **P-0498**, [LBY-OTP-0069-0506](#), para. 46.

⁴²² [REDACTED]; [REDACTED].

DCC, para. 30: Detainees at Mitiga Prison were held in solitary or collective cells, yards, and corridors, under armed guard and constant surveillance. Detention conditions were inhumane: detainees were confined in overcrowded or extremely small cells, or in unsheltered open areas; basic hygiene was lacking, exposing detainees to widespread disease and causing serious harm to their physical and mental health. Detainees received insufficient and inadequate food and water, and little to no medical care.

62. Detainees were held in overcrowded cells; or in solitary confinement, in such small spaces that their muscles atrophied; or in open yards, exposed to the weather.⁴²³ Most detainees were “packed like sardines” into cells,⁴²⁴ sleeping head to toe; while some slept, others had to stand for hours (including on one leg), and then swap. At most, detainees had a blanket, plastic refuse or cardboard to lie on. Conditions were so cramped that detainees often fought one another over space, food, or sleeping time.⁴²⁵

63. The cells stank; they were filthy, infested, and airless.⁴²⁶ P-0568 states it was a “relief” every

⁴²³ P-0054, [LBY-OTP-0073-0025](#), paras. 95, 99-100; P-0439, [LBY-OTP-0066-0951](#), paras. 31, 34; P-0446, [LBY-OTP-0068-0003](#), paras. 20-21; P-0486, [LBY-OTP-0069-0584](#), paras. 64, 66, 70, 74; P-0497, [LBY-OTP-00007250](#), para. 27; P-0498, [LBY-OTP-0069-0506](#), paras. 38-39, 42, 67-68; P-0568, [LBY-OTP-00018134](#), paras. 40, 61, 66; P-0569, [LBY-OTP-0080-0032](#), paras. 59, 80, 86; P-0571, [LBY-OTP-0080-0169](#), paras. 144, 158; P-0595, [LBY-OTP-0074-0889](#), paras. 116, 155, 157 and P-0595, [LBY-OTP-03296973](#), lns.1387-1452; P-0635, [LBY-OTP-0070-6952](#), paras. 68, 117; P-0644, [LBY-OTP-00020358](#), paras. 48, 50-51, 105; P-0650, [LBY-OTP-0080-0468](#), paras. 94-95; P-0665, [LBY-OTP-0083-0663](#), paras. 127-128; P-0667, [LBY-OTP-00001491](#), paras. 55, 57-58, 97; P-0692, [LBY-OTP-0080-0608](#), paras. 23-24, 27-28, 62; P-0719, [LBY-OTP-0070-7295](#), paras. 79, 120; P-0730, [LBY-OTP-00015125](#), paras. 31-32, 61; P-0872, [LBY-OTP-00007275](#), paras. 33, 55, 69; P-0925, [LBY-OTP-00018772](#), paras. 36, 40, 44; P-0942, [LBY-OTP-00015360](#), paras. 49-50, 88-89; P-0943, [LBY-OTP-03214478](#), paras. 17, 19-20; P-0993, [LBY-OTP-00015420](#), paras. 19, 27; P-1025, [LBY-OTP-00016916](#), para. 29; P-1026, [LBY-OTP-00016896](#), paras. 35-37, 44, 52; P-1031, [LBY-OTP-00018119](#), paras. 43, 54; P-1046, [LBY-OTP-00019195](#), paras. 41-42, 44-45; P-1070, [LBY-OTP-00020236](#), paras. 15, 30, 33, 51; P-1073, [LBY-OTP-00020267](#), paras. 44, 56; P-1673, [LBY-OTP-00392926](#), para. 197; P-1685, [LBY-OTP-00057776](#), paras. 27, 187; P-1710, [LBY-OTP-01257853](#), paras. 72-73, 183-184; P-1720, [LBY-OTP-01558903](#), para. 54-55, 84, 88; P-1733, [LBY-OTP-03703558](#), paras. 67-68, 73, 75; P-1736, [LBY-OTP-03703604](#), paras. 75-76, 124; P-1745, [LBY-OTP-03214428](#), paras. 73-74; P-1750, [LBY-OTP-03214454](#), para. 100. For photographs and drawing of cells at Mitiga Prison, *see also* [REDACTED]; [REDACTED]; [REDACTED]. *See also* UN-OHCHR, [LBY-OTP-00018738](#), pp. 28, 30-31.

⁴²⁴ P-0644, [LBY-OTP-00020358](#), para. 48.

⁴²⁵ P-0054, [LBY-OTP-0073-0025](#), paras. 93, 95; P-0439, [LBY-OTP-0066-0951](#), paras. 34-35; P-0486, [LBY-OTP-0069-0584](#), paras. 66, 74, 111; P-0497, [LBY-OTP-00007250](#), para. 28; P-0498, [LBY-OTP-0069-0506](#), para. 42; P-0568, [LBY-OTP-00018134](#), paras. 40, 42, 44-45; P-0569, [LBY-OTP-0080-0032](#), para. 59; P-0571, [LBY-OTP-0080-0169](#), paras. 147, 159; P-0635, [LBY-OTP-0070-6952](#), para. 117; P-0644, [LBY-OTP-00020358](#), paras. 56, 105; P-0665, [LBY-OTP-0083-0663](#), paras. 128, 159; P-0667, [LBY-OTP-00001491](#), paras. 57-58, 75; P-0692, [LBY-OTP-0080-0608](#), paras. 24, 27-28, 47; P-0720, [LBY-OTP-0083-0052](#), para. 103; P-0724, [LBY-OTP-0085-0063](#), para. 71; P-0730, [LBY-OTP-00015125](#), para. 33; P-0872, [LBY-OTP-00007275](#), para. 37; P-0943, [LBY-OTP-00018075](#), para. 51; P-0990, [LBY-OTP-00015405](#), para. 60; P-0992, [LBY-OTP-00018787](#), paras. 29-30; P-1025, [LBY-OTP-00016916](#), para. 31; P-1026, [LBY-OTP-00016896](#), paras. 36, 38, 44; P-1031, [LBY-OTP-00018119](#), paras. 43-44, 49; P-1046, [LBY-OTP-00019195](#), paras. 42, 44-45; P-1685, [LBY-OTP-00057776](#), paras. 191-193; P-1710, [LBY-OTP-01257853](#), paras. 182, 184; P-1720, [LBY-OTP-01558903](#), paras. 55; P-1733, [LBY-OTP-03703558](#), para. 68; P-1736, [LBY-OTP-03703604](#), paras. 76, 124-127; P-1745, [LBY-OTP-03214428](#), para. 44; P-1750, [LBY-OTP-03214454](#), para. 93. *See also* P-0439, [LBY-OTP-0066-0991](#); P-0439, [LBY-OTP-0066-0951](#), para. 37.

⁴²⁶ P-0054, [LBY-OTP-0073-0025](#), paras. 95, 99; P-0439, [LBY-OTP-0066-0951](#), paras. 31, 37, 94; P-0446, [LBY-OTP-0068-0003](#), para. 20; P-0486, [LBY-OTP-0069-0584](#), para. 65; P-0498, [LBY-OTP-0069-0506](#), paras. 42, 71-72; P-0568, [LBY-OTP-00018134](#), para. 55; P-0569, [LBY-OTP-0080-0032](#), paras. 80-81; P-0644, [LBY-OTP-00020358](#), para. 105; P-0650, [LBY-OTP-0080-0468](#), para. 98; P-0665, [LBY-OTP-0083-0663](#), paras. 127-128, 162; P-0667, [LBY-OTP-00001491](#), para. 94; P-0692, [LBY-OTP-0080-0608](#), para. 23; P-0719, [LBY-OTP-0070-7295](#), para. 124; P-0720, [LBY-OTP-0083-0052](#), para. 103; P-0730, [LBY-OTP-00015125](#), paras. 31; P-0942, [LBY-OTP-](#)

time the guards took him and other prisoners out in the corridor to beat them, as it meant they could have some fresh air.⁴²⁷ Detainees looked “like they were living in a cave”.⁴²⁸ Wearing their only clothes, unshaven, detainees could rarely wash, and sometimes had to use the dirty water in the cell toilet.⁴²⁹ Some cells had just one toilet—often a hole in the ground, with no privacy—for up to 100 detainees.⁴³⁰ Held separately in the “Women’s Section” in the same unsanitary conditions, together with infants and children, women were denied basic menstrual care. Women gave birth in these conditions, sometimes alone in their cells, without assistance or medical care other than what other detainees could improvise.⁴³¹ Children and infants endured constant hunger.⁴³²

64. Food was inadequate and often inedible; “you wouldn’t even give it to a dog”.⁴³³ Food provided by the national authorities for the detainees was sold for the personal profit of the Mitiga

[00015360](#), paras. 49-50, 88; [P-0943](#), [LBY-OTP-00018075](#), para. 57; [P-0990](#), [LBY-OTP-00015405](#), para. 56; [P-1026](#), [LBY-OTP-00016896](#), paras. 36, 77; [P-1046](#), [LBY-OTP-00019195](#), paras. 42, 52-53; [P-1070](#), [LBY-OTP-00020236](#), para. 30; [P-1073](#), [LBY-OTP-00020267](#), para. 46; [P-1685](#), [LBY-OTP-00057776](#), para. 187; [P-1710](#), [LBY-OTP-01257853](#), paras. 188-189; [P-1736](#), [LBY-OTP-03703604](#), paras. 159-160; [P-1750](#), [LBY-OTP-03214454](#), paras. 100-103.

⁴²⁷ [P-0568](#), [LBY-OTP-00018134](#), para. 55.

⁴²⁸ [P-0670](#), [LBY-OTP-00015152](#), para. 70; [P-0692](#), [LBY-OTP-0080-0608](#), para. 24; UN-OHCHR, [LBY-OTP-00018738](#), p. 28.

⁴²⁹ [P-0439](#), [LBY-OTP-0066-0951](#), para. 31; [P-0486](#), [LBY-OTP-0069-0584](#), paras. 65-66, 77, 120; [P-0498](#), [LBY-OTP-0069-0506](#), para. 41; [P-0569](#), [LBY-OTP-0080-0032](#), paras. 60, 80; [P-0571](#), [LBY-OTP-0080-0169](#), para. 147; [P-0635](#), [LBY-OTP-0070-6952](#), paras. 88, 117; [P-0665](#), [LBY-OTP-0083-0663](#), para. 132; [P-0692](#), [LBY-OTP-0080-0608](#), paras. 24, 34; [P-0719](#), [LBY-OTP-0070-7295](#), paras. 120, 124, 128; [P-0730](#), [LBY-OTP-00015125](#), paras. 32, 34; [P-0872](#), [LBY-OTP-00007275](#), para. 38; [P-0943](#), [LBY-OTP-00018075](#), para. 57; [P-0990](#), [LBY-OTP-00015405](#), paras. 52, 60; [P-0992](#), [LBY-OTP-00018787](#), para. 39; [P-1025](#), [LBY-OTP-00016916](#), paras. 30, 32, 51; [P-1031](#), [LBY-OTP-00018119](#), para. 52; [P-1046](#), [LBY-OTP-00019195](#), para. 52; [P-1685](#), [LBY-OTP-00057776](#), para. 189; [P-1710](#), [LBY-OTP-01257853](#), para. 187.

⁴³⁰ [P-0054](#), [LBY-OTP-0073-0025](#), paras. 93, 95; [P-0439](#), [LBY-OTP-0066-0951](#), para. 35; [P-0446](#), [LBY-OTP-0068-0003](#), para. 20; [P-0486](#), [LBY-OTP-0069-0584](#), paras. 65-66, 77; [P-0497](#), [LBY-OTP-00007250](#), para. 28; [P-0498](#), [LBY-OTP-0069-0506](#), paras. 39, 74; [P-0568](#), [LBY-OTP-00018134](#), paras. 40, 46; [P-0571](#), [LBY-OTP-0080-0169](#), para. 147; [P-0635](#), [LBY-OTP-0070-6952](#), paras. 117, 164; [P-0692](#), [LBY-OTP-0080-0608](#), para. 28; [P-0719](#), [LBY-OTP-0070-7295](#), paras. 120; [P-0720](#), [LBY-OTP-0083-0052](#), para. 101; [P-0724](#), [LBY-OTP-0085-0063](#), para. 70; [P-0730](#), [LBY-OTP-00015125](#), paras. 34; [P-0872](#), [LBY-OTP-00007275](#), paras. 38, 49; [P-0925](#), [LBY-OTP-00018772](#), para. 36; [P-0942](#), [LBY-OTP-00015360](#), para. 50; [P-1025](#), [LBY-OTP-00016916](#), paras. 30, 52; [P-1026](#), [LBY-OTP-00016896](#), para. 36; [P-1046](#), [LBY-OTP-00019195](#), para. 41, 135; [P-1685](#), [LBY-OTP-00057776](#), paras. 188-189.

⁴³¹ [P-0446](#), [LBY-OTP-0068-0003](#), para. 23; [P-0486](#), [LBY-OTP-0069-0584](#), para. 88; [P-0498](#), [LBY-OTP-0069-0506](#), para. 94; [P-0569](#), [LBY-OTP-0080-0032](#), para. 35; [P-0571](#), [LBY-OTP-0080-0169](#), para. 92; [P-0595](#), [LBY-OTP-0074-0889](#), paras. 197-198; [P-0635](#), [LBY-OTP-0070-6952](#), paras. 141, 143; [P-0650](#), [LBY-OTP-0080-0468](#), para. 128; [P-0665](#), [LBY-OTP-0083-0663](#), paras. 91, 145; [P-0670](#), [LBY-OTP-00015152](#), paras. 115, 118-119; [P-0692](#), [LBY-OTP-0080-0608](#), paras. 167-168, 174, 177; [P-0719](#), [LBY-OTP-0070-7295](#), paras. 160, 164; [P-0720](#), [LBY-OTP-0083-0052](#), paras. 169, 171, 173-174, 183, 186; [P-0872](#), [LBY-OTP-00007275](#), para. 30; [P-0943](#), [LBY-OTP-00018075](#), paras. 58, 102 and [P-0943](#), [LBY-OTP-03214478](#), para. 152; [P-0990](#), [LBY-OTP-00015405](#), paras. 94-95, 100; [P-0992](#), [LBY-OTP-00018787](#), para. 40; [P-0993](#), [LBY-OTP-00015420](#), para. 24; [P-1026](#), [LBY-OTP-00016896](#), para. 78; [P-1031](#), [LBY-OTP-00018119](#), para. 102; [P-1733](#), [LBY-OTP-03703558](#), paras. 66, 71-72; [P-1736](#), [LBY-OTP-03703604](#), paras. 128-131, 132-135. See Annex 7, at “S9/WS”.

⁴³² [REDACTED].

⁴³³ [P-0486](#), [LBY-OTP-0069-0584](#), para. 122. See also [P-0644](#), [LBY-OTP-00020358](#), paras. 53-54; [P-0925](#), [LBY-OTP-00018772](#), para. 43.

Prison leadership.⁴³⁴ Detainees were malnourished and dehydrated, harming their health. Some detainees experienced fatal dehydration resulting from acute diarrhoea.⁴³⁵ According to P-0498, it was “a policy” to starve detainees until their “only focus is what [you] will eat today”.⁴³⁶ Prisoners became obsessed with food to the point of stealing small pieces of bread or fighting each other.⁴³⁷ Disease was rampant, including tuberculosis, diarrhoea, haemorrhoids, kidney failure, scabies, rashes, and other skin conditions.⁴³⁸ Detainees were “covered in spots”, “scratch[ing] until they bled”.⁴³⁹ Medical care was non-existent or inadequate, and often explicitly denied,⁴⁴⁰ including by

⁴³⁴ P-0644, [LBY-OTP-00020358](#), para. 54; P-0720, [LBY-OTP-0083-0052](#), paras. 162-165; P-0486, [LBY-OTP-0069-0584](#), paras. 113-114; P-1025, [LBY-OTP-00016916](#), para. 56; P-0993, [LBY-OTP-00015420](#), para. 38; P-0990, [LBY-OTP-00015405](#), paras. 97-98; P-0730, [LBY-OTP-00015125](#), para. 74; P-1685, [LBY-OTP-00057776](#), para. 186; P-1720, [LBY-OTP-01558903](#), paras. 179-180.

⁴³⁵ P-0054, [LBY-OTP-0073-0025](#), paras. 93-94, 114, 163; P-0439, [LBY-OTP-0066-0951](#), para. 35; P-0446, [LBY-OTP-0068-0003](#), para. 23; P-0486, [LBY-OTP-0069-0584](#), paras. 65-66, 119-124; P-0497, [LBY-OTP-00007250](#), paras. 30, 32; P-0498, [LBY-OTP-0069-0506](#), paras. 40-41, 42, 122, 143; P-0568, [LBY-OTP-00018134](#), paras. 41, 68, 97; P-0569, [LBY-OTP-0080-0032](#), para. 62; P-0571, [LBY-OTP-0080-0169](#), para. 256; P-0635, [LBY-OTP-0070-6952](#), paras. 77-79, 81, 143; P-0644, [LBY-OTP-00020358](#), para. 53; P-0665, [LBY-OTP-0083-0663](#), para. 158; P-0667, [LBY-OTP-00001491](#), paras. 60, 94; P-0692, [LBY-OTP-0080-0608](#), paras. 25, 27, 74, 83; P-0719, [LBY-OTP-0070-7295](#), paras. 121; P-0720, [LBY-OTP-0083-0052](#), paras. 86, 115, 122, 190; P-0724, [LBY-OTP-0085-0063](#), paras. 72, 89; P-0730, [LBY-OTP-00015125](#), para. 61; P-0872, [LBY-OTP-00007275](#), para. 39; P-0925, [LBY-OTP-00018772](#), para. 43; P-0942, [LBY-OTP-00015360](#), paras. 55, 89, 152; P-0943, [LBY-OTP-00018075](#), paras. 54-55, 129; P-0990, [LBY-OTP-00015405](#), paras. 51, 56, 60, 96-98; P-0992, [LBY-OTP-00018787](#), paras. 28, 35; P-1025, [LBY-OTP-00016916](#), paras. 40, 55; P-1026, [LBY-OTP-00016896](#), paras. 39, 46, 50, 96; P-1031, [LBY-OTP-00018119](#), paras. 49-51, 66-67; P-1046, [LBY-OTP-00019195](#), paras. 49, 84; P-1070, [LBY-OTP-00020236](#), para. 36; P-1673, [LBY-OTP-00392926](#), para. 194-196; P-1685, [LBY-OTP-00057776](#), paras. 28, 185-186, 231; P-1733, [LBY-OTP-03703558](#), paras. 40, 69-70, 88; P-1736, [LBY-OTP-03703604](#), paras. 77-78, 196; P-1745, [LBY-OTP-03214428](#), paras. 45-48, 101; P-1750, [LBY-OTP-03214454](#), paras. 92, 105.

⁴³⁶ P-0498, [LBY-OTP-0069-0506](#), para. 122. *See also* P-0692, [LBY-OTP-0080-0608](#), para. 27; P-1745, [LBY-OTP-03214428](#), paras. 45, 47.

⁴³⁷ P-0665, [LBY-OTP-0083-0663](#), para. 159; P-0692, [LBY-OTP-0080-0608](#), para. 27; P-1031, [LBY-OTP-00018119](#), paras. 49-50.

⁴³⁸ P-0054, [LBY-OTP-0073-0025](#), paras. 32, 162; P-0439, [LBY-OTP-0066-0951](#), paras. 31, 37, 39; P-0486, [LBY-OTP-0069-0584](#), para. 126; P-0497, [LBY-OTP-00007250](#), para. 27; P-0498, [LBY-OTP-0069-0506](#), paras. 40, 42, 49; P-0568, [LBY-OTP-00018134](#), para. 66 and P-0568, Annex A, [LBY-OTP-00018135](#), at ‘5’; P-0569, [LBY-OTP-0080-0032](#), paras. 62, 82, 86; P-0571, [LBY-OTP-0080-0169](#), para. 34; P-0595, [LBY-OTP-0074-0889](#), paras. 33-34, 180; P-0635, [LBY-OTP-0070-6952](#), para. 105; P-0644, [LBY-OTP-00020358](#), para. 63; P-0667, [LBY-OTP-00001491](#), para. 94; P-0692, [LBY-OTP-0080-0608](#), paras. 32, 34-35, 83, 227; P-0719, [LBY-OTP-0070-7295](#), paras. 128, 141; P-0720, [LBY-OTP-0083-0052](#), paras. 72, 115 and P-0720, Annex 9, [LBY-OTP-0083-0099](#), at ‘G’; P-0720, [LBY-OTP-00020099](#), paras. 54-56; P-0730, [LBY-OTP-00015125](#), para. 84; P-0872, [LBY-OTP-00007275](#), paras. 49, 60, 99-100; P-0925, [LBY-OTP-00018772](#), para. 56; P-0942, [LBY-OTP-00015360](#), para. 199 and P-0942, Annex K, [LBY-OTP-00015371](#), at ‘14’; P-0990, [LBY-OTP-00015405](#), paras. 56, 119 and P-0990, Annex 4, [LBY-OTP-00015409](#), at ‘I’; P-1025, [LBY-OTP-00016916](#), paras. 36-37, 48, 54; P-1026, [LBY-OTP-00016896](#), para. 62; P-1031, [LBY-OTP-00018119](#), paras. 40, 42, 85-86; P-1073, [LBY-OTP-00020267](#), paras. 46, 48, 67; P-1070, [LBY-OTP-00020236](#), para. 36; P-1685, [LBY-OTP-00057776](#), paras. 28, 185, 187; P-1710, [LBY-OTP-01257853](#), paras. 188, 190; P-1720, [LBY-OTP-01558903](#), para. 86-87, 90, 109-116. *See also* News article, [LBY-OTP-00018274](#) (trans: [LBY-OTP-00018814](#)).

⁴³⁹ P-0498, [LBY-OTP-0069-0506](#), para. 42. *See also* P-0719, [LBY-OTP-0070-7295](#), para. 128.

⁴⁴⁰ P-0439, [LBY-OTP-0066-0951](#), paras. 31, 36-37; P-0486, [LBY-OTP-0069-0584](#), para. 69, 126; P-0497, [LBY-OTP-00007250](#), para. 31; P-0498, [LBY-OTP-0069-0506](#), para. 42; P-0551, [LBY-OTP-00001367](#), p. 20, ln. 14 to p. 21, ln. 8; P-0569, [LBY-OTP-0080-0032](#), para. 37; P-0595, [LBY-OTP-0074-0889](#), para. 266; P-0635, [LBY-OTP-0070-6952](#), paras. 98, 105; P-0644, [LBY-OTP-00020358](#), paras. 116, 155; P-0650, [LBY-OTP-0080-0468](#), paras. 124-126; P-0665, [LBY-OTP-0083-0663](#), para. 164; P-0667, [LBY-OTP-00001491](#), paras. 88, 94; P-0692, [LBY-OTP-0080-0608](#), paras. 32, 34, 36, 56-58, 83-84; P-0719, [LBY-OTP-0070-7295](#), paras. 128, 141, 145-146; P-0720, [LBY-OTP-0083-0052](#), para. 106; P-0724, [LBY-OTP-0085-0063](#), para. 75; P-0872, [LBY-OTP-00007275](#), paras. 34,

EL HISHRI.⁴⁴¹ In P-0925's words: "[t]here was no medical treatment available there; it was simply a matter of either recovering or dying".⁴⁴² Many detainees died.⁴⁴³ Dead bodies were often left in cells with the surviving detainees for long periods before being removed⁴⁴⁴ and dumped at a hospital with no formalities or identification.⁴⁴⁵

DCC, para. 31: The institutionalised and sustained scheme of mistreatment and violent abuse at Mitiga Prison inflicted both great and severe physical and mental pain and suffering on all detainees, and caused serious injuries to body or to mental and physical health. This applied both to the treatment of each detainee considered overall, as well as specific acts of criminal violence against them. None of this conduct was inherent in or incidental to lawful sanctions. Rather, in its character, the conduct was similar in nature and gravity to other crimes against humanity.

65. Corresponding to the extreme violence inflicted upon them, detainees not only suffered extreme pain but also many other ailments and injuries including loss of consciousness, vomiting, deep lacerations, bruising and swelling, dislocation of joints, broken bones and teeth, and loss of toenails.⁴⁴⁶ Some detainees became functionally disabled, and had to rely on others to care for

52; P-0942, [LBY-OTP-00015360](#), paras. 58-59, 108; P-0925, [LBY-OTP-00018772](#), para. 58; P-0990, [LBY-OTP-00015405](#), paras. 57, 101-102; P-0992, [LBY-OTP-00018787](#), paras. 65-66; P-1025, [LBY-OTP-00016916](#), para. 43; P-1026, [LBY-OTP-00016896](#), paras. 37, 75; P-1070, [LBY-OTP-00020236](#), paras. 18, 36; P-1073, [LBY-OTP-00020267](#), paras. 54, 66, 73; P-1673, [LBY-OTP-00392926](#), paras. 43, 200-202; P-1685, [LBY-OTP-00057776](#), paras. 198-199; P-1720, [LBY-OTP-01558903](#), paras. 83, 230-231; P-1722, [LBY-OTP-02488730](#), para. 180; P-1733, [LBY-OTP-03703558](#), paras. 88-89; P-1736, [LBY-OTP-03703604](#), paras. 124-127, 136-139, 151-152, 195; P-1750, [LBY-OTP-03214454](#), para. 104; UN-OHCHR, [LBY-OTP-00018738](#), p. 29; UN Working Group on Arbitrary Detention, [LBY-OTP-00018765](#), para. 15. *See also* UN Working Group on Arbitrary Detention, [LBY-OTP-00018766](#), para. 18.

⁴⁴¹ [REDACTED].

⁴⁴² P-0925, [LBY-OTP-00018772](#), para. 58.

⁴⁴³ P-0439, [LBY-OTP-0066-0951](#), paras. 37-38; P-0486, [LBY-OTP-0069-0584](#), paras. 69-70; P-0498, [LBY-OTP-0069-0506](#), para. 65; P-0595, [LBY-OTP-0074-0889](#), paras. 140-141, 155-180, 205-209; P-0692, [LBY-OTP-0080-0608](#), para. 32; P-0719, [LBY-OTP-0070-7295](#), para. 141; P-0872, [LBY-OTP-00007275](#), paras. 51-52, 68; P-0990, [LBY-OTP-00015405](#), para. 56-57; P-1026, [LBY-OTP-00016896](#), paras. 50, 89-93; P-1070, [LBY-OTP-00020236](#), paras. 36, 52; P-1073, [LBY-OTP-00020267](#), paras. 49, 54, 65-66, 72; P-1673, [LBY-OTP-00392926](#), para. 202.

⁴⁴⁴ P-0595, [LBY-OTP-0074-0889](#), paras. 172, 179; P-1710, [LBY-OTP-01257853](#), para. 103; P-1736, [LBY-OTP-03703604](#), para. 141. *See also* P-0650, [LBY-OTP-0080-0468](#), para. 126.

⁴⁴⁵ P-0595, [LBY-OTP-0074-0889](#), para. 138; P-0670, [LBY-OTP-00015152](#), para. 73; P-0925, [LBY-OTP-00018772](#), para. 18; P-0992, [LBY-OTP-00018787](#), para. 43. *See also* P-0486, [LBY-OTP-0069-0584](#), para. 40; P-0942, [LBY-OTP-00015360](#), para. 29; P-1722, [LBY-OTP-02856267](#), para. 33.

⁴⁴⁶ P-0054, [LBY-OTP-0073-0025](#), paras. 35, 120, 124, 143-144, 148; P-0486, [LBY-OTP-0069-0584](#), paras. 92, 102-103; P-0497, [LBY-OTP-00007250](#), paras. 21, 36, 65; P-0498, [LBY-OTP-0069-0506](#), paras. 95, 127; P-0568, [LBY-OTP-00018134](#), paras. 30-31, 74, 76; P-0595, [LBY-OTP-0074-0889](#), paras. 55, 81, 110-115, 200-201 and P-0595, [LBY-OTP-03296973](#), lns. 756-774, 774-783, 783-815, 818-830, 831-940, 941-1053, 1054-1129, 1387-1452; P-0635, [LBY-OTP-0070-6952](#), para. 96; P-0644, [LBY-OTP-00020358](#), paras. 46, 81; P-0650, [LBY-OTP-0080-0468](#), paras. 101, 124; P-0665, [LBY-OTP-0083-0663](#), paras. 100-101, 108-109, 141-142, 155; P-0692, [LBY-OTP-0080-0608](#), para. 106; P-0720, [LBY-OTP-0083-0052](#), paras. 88, 95-96, 105, 108; P-0724, [LBY-OTP-0085-0063](#), para. 59; P-0730, [LBY-OTP-00015125](#), paras. 67, 75; P-0872, [LBY-OTP-00007275](#), para. 34; P-0925, [LBY-OTP-00018772](#), paras. 66-69; P-0942, [LBY-OTP-00015360](#), paras. 29, 33, 38, 53, 58-59, 81, 101, 103, 124-125; P-0943, [LBY-OTP-00018075](#), paras. 45, 82 and P-0943, [LBY-OTP-03214478](#), para. 125; P-0990, [LBY-OTP-00015405](#), paras. 80, 108; P-0993, [LBY-OTP-00015420](#), para. 43; P-1025, [LBY-OTP-00016916](#), para. 44; P-1026, [LBY-OTP-00016896](#), paras. 37, 48, 65-67, 76-77; P-1031, [LBY-OTP-00018119](#), paras. 71-72; P-1673, [LBY-OTP-00392926](#), paras. 33-34, 38, 61-63, 81-83 188-189; P-1685, [LBY-OTP-00057776](#), para. 99, 103; P-1736, [LBY-OTP-03703604](#), para. 98; P-1745, [LBY-OTP-03214428](#), paras. 49-50, 93-96, 103.

them.⁴⁴⁷ Wounds often became infected, causing further medical complications.⁴⁴⁸ Long after their release, detainees continue to suffer the lasting physical,⁴⁴⁹ psychological,⁴⁵⁰ sexual and reproductive⁴⁵¹ consequences of the torture and inhumane conditions to which they had been subjected, as well as the social consequences of their prolonged absence and the trauma and stigma associated with their detention.⁴⁵² Survivors of Mitiga Prison felt psychologically devastated or destroyed.⁴⁵³ Some tried to kill themselves while detained and/or after they were released; some died by suicide.⁴⁵⁴ The enforced separation from parental care also harmed detainees' children.⁴⁵⁵ Detainees' families frequently lost most of their income, and children's education was often disrupted.⁴⁵⁶

DCC, para. 32: Likewise, this scheme of mistreatment and violent abuse humiliated, degraded or otherwise violated the dignity of all detainees at Mitiga Prison. The severity of this humiliation, degradation or other violation was of such degree as to be generally recognised as an outrage upon personal dignity, also taking into account the cultural background of the victims.

66. In assessing whether the “perpetrator humiliated, degraded or otherwise violated the dignity” of the victim, “relevant aspects of the cultural background of the victim” are to be taken into

⁴⁴⁷ P-0486, [LBY-OTP-0069-0584](#), paras. 102-103; P-0498, [LBY-OTP-0069-0506](#), para. 127; P-0568, [LBY-OTP-00018134](#), para. 73; P-0569, [LBY-OTP-0080-0032](#), paras. 74-75; P-0644, [LBY-OTP-00020358](#), para. 46; P-0650, [LBY-OTP-0080-0468](#), para. 98; P-0665, [LBY-OTP-0083-0663](#), paras. 101, 139-142, 165; P-0692, [LBY-OTP-0080-0608](#), para. 106; P-0720, [LBY-OTP-0083-0052](#), paras. 106, 110-111; P-0730, [LBY-OTP-00015125](#), para. 67; P-0990, [LBY-OTP-00015405](#), para. 80; P-0942, [LBY-OTP-00015360](#), paras. 29, 53; P-0943, [LBY-OTP-00018075](#), para. 89; P-0993, [LBY-OTP-00015420](#), para. 43; P-1026, [LBY-OTP-00016896](#), paras. 37, 48, 77; P-1736, [LBY-OTP-03703604](#), paras. 146-147; P-1750, [LBY-OTP-03214454](#), para. 47. *See also* OHCHR, [LBY-OTP-00018738](#), p. 29.

⁴⁴⁸ P-0568, [LBY-OTP-00018134](#), para. 73; P-0635, [LBY-OTP-0070-6952](#), para. 98; P-0667, [LBY-OTP-00001491](#), para. 88-89, 96; P-0720, [LBY-OTP-0083-0052](#), paras. 88, 110-111, 120, 122; P-0872, [LBY-OTP-00007275](#), paras. 34, 63-64, 66; P-0992, [LBY-OTP-00018787](#), paras. 48-50; P-1026, [LBY-OTP-00016896](#), paras. 76-77; P-1673, [LBY-OTP-00392926](#), para. 43. *See also* P-0054, [LBY-OTP-0073-0025](#), para. 97; P-0439, [LBY-OTP-0066-0951](#), para. 41; P-0486, [LBY-OTP-0069-0584](#), paras. 102-103, 109; P-0498, [LBY-OTP-0069-0506](#), para. 92; P-0665, [LBY-OTP-0083-0663](#), paras. 93, 144; P-0692, [LBY-OTP-0080-0608](#), paras. 41, 84; P-1025, [LBY-OTP-00016916](#), para. 44.

⁴⁴⁹ *See e.g.* P-1685, [LBY-OTP-00057776](#), para. 230; P-1710, [LBY-OTP-01257853](#), paras. 314-315; P-1733, [LBY-OTP-03703558](#), paras. 75, 101; P-1736, [LBY-OTP-03703604](#), para. 214; P-1745, [LBY-OTP-03214428](#), paras. 103, 128; P-1750, [LBY-OTP-03214454](#), para. 164.

⁴⁵⁰ *See e.g.* [REDACTED]; [REDACTED]; [REDACTED].

⁴⁵¹ *See e.g.* [REDACTED]; [REDACTED]; [REDACTED].

⁴⁵² *See e.g.* P-1673, [LBY-OTP-00392926](#), para. 269, 270, 274; P-1685, [LBY-OTP-00057776](#), paras. 227-229; P-1710, [LBY-OTP-01257853](#), para. 317; P-1722, [LBY-OTP-02488730](#), para. 268; P-1745, [LBY-OTP-03214428](#), para. 126.

⁴⁵³ P-0486, [LBY-OTP-0069-0584](#), para. 206; P-0569, [LBY-OTP-0080-0032](#), para. 94; P-1026, [LBY-OTP-00016896](#), para. 97; P-1031, [LBY-OTP-00018119](#), paras. 117. *See also e.g.* P-0054, [LBY-OTP-0073-0025](#), para. 142; P-0439, [LBY-OTP-0066-0951](#), para. 99; P-0498, [LBY-OTP-0069-0506](#), para. 144; P-0551, [LBY-OTP-00001367](#), p. 48, ln. 7 to p. 49, ln. 4; P-0568, [LBY-OTP-00018134](#), para. 97; P-0571, [LBY-OTP-0080-0169](#), para. 257; P-0595, [LBY-OTP-0074-0889](#), para. 235; P-0644, [LBY-OTP-00020358](#), para. 163; P-0730, [LBY-OTP-00015125](#), para. 85; P-0872, [LBY-OTP-00007275](#), para. 79; P-0942, [LBY-OTP-00015360](#), para. 196; P-0943, [LBY-OTP-00018075](#), paras. 131-132; P-1073, [LBY-OTP-00020267](#), para. 135; P-1070, [LBY-OTP-00020236](#), para. 88.

⁴⁵⁴ [REDACTED]; [REDACTED]; [REDACTED]. *See also* [REDACTED]; [REDACTED].

⁴⁵⁵ P-0498, [LBY-OTP-0069-0506](#), paras. 147-149; P-0650, [LBY-OTP-0080-0468](#), paras. 156-157; P-1025, [LBY-OTP-00016916](#), para. 69; P-1031, [LBY-OTP-00018119](#), paras. 15, 115.

⁴⁵⁶ P-0568, [LBY-OTP-00018134](#), paras. 96-98; P-0644, [LBY-OTP-00020358](#), para. 165; P-0719, [LBY-OTP-0070-7295](#), paras. 129-130; P-1025, [LBY-OTP-00016916](#), paras. 73-74; P-1026, [LBY-OTP-00016896](#), paras. 94-95.

account.⁴⁵⁷ This applies in particular to aspects of abuse such as the use of forced nudity, the use of particular derogatory terms with sexualised and derogatory connotations (such as “mule”, a derogatory term for gay men, or “*sabiya*”, meaning female “sex slave”),⁴⁵⁸ which exacerbated the humiliation of the victims in their societal context. In any event, the inadequate detention conditions and other serious abuse in Mitiga Prison are similar to other cases which were of such degree as to be generally recognised as an outrage upon personal dignity.⁴⁵⁹

DCC, para. 33: The Mitiga Perpetrators, including EL HISHRI, were aware of the factual circumstances establishing the gravity of their conduct, such that it violated fundamental rules of international law, and the character of their acts. They knew that the persons detained at Mitiga Prison were civilians taking no active part in hostilities or fighters *hors de combat*. The Mitiga Perpetrators inflicted pain and suffering on the victims for the purposes of obtaining information or a confession, intimidation, coercion, and punishment, as well as for reasons based on discrimination.

67. The Mitiga Perpetrators could not have failed to know that the inhumane conditions in which victims were detained at Mitiga Prison, and the arbitrary nature of that detention, violated fundamental rules of international law. The evidence of the efforts made by the Mitiga Prison Leadership to avoid inspection and to conceal their crimes further demonstrates this.⁴⁶⁰ Likewise, the civilian or *hors de combat* status of the detainees was immediately apparent. The evidence shows that Mitiga Perpetrators routinely mistreated and abused detainees for the purpose of eliciting information, as well as to intimidate, coerce and punish them, and for reasons based on discrimination.⁴⁶¹

(2) Rape and sexual violence (counts 7-10)

DCC, para. 34: During the charged period, the Mitiga Perpetrators raped at least 10 detainees in Mitiga Prison, and subjected at least 49 detainees to other forms of sexual violence. In particular, forced nudity and sometimes invasive cavity searches—carried out in inappropriate and degrading conditions and beyond what may be necessary for legitimate security reasons, including by or in front of other detainees (sometimes including relatives, members of the opposite sex, and children)—were part of the systematic process for inducting each detainee. In the context of societal gender norms that applied to the detainees, these crimes were experienced as especially humiliating, and left a lasting impact on the victims. Torture was frequently sexualised and the threat of sexual violence, including rape, was also pervasive in Mitiga Prison.

68. The Mitiga Perpetrators raped at least 10 detainees in Mitiga Prison, and subjected at least

⁴⁵⁷ EoC, art. 8(2)(c)(ii), element 1 (fn. 57).

⁴⁵⁸ See below para. 106. On the meaning of “*Sabiya*”, see [REDACTED].

⁴⁵⁹ See e.g. *Kvočka*, TJ, para. 173; *Aleksovski*, TJ, paras. 184-229; *Kunarac et al* TJ, paras 746-782; *Furundžija* TJ, para. 272.

⁴⁶⁰ See below paras. 221-224. See also P-1710, [LBY-OTP-01257853](#), paras. 80, 118; P-1722, [LBY-OTP-02488730](#), paras. 15, 80; P-1745, [LBY-OTP-03214428](#), para. 51; P-1750, [LBY-OTP-03214454](#), para. 148.

⁴⁶¹ See above para. 49.

and reproductive organs.⁴⁷² **EL HISHRI** himself pulled a man's pants down [REDACTED], grabbed the man's penis [REDACTED] and calling him a "whore".⁴⁷³ [REDACTED], [REDACTED], and [REDACTED] were all kicked in the genitals, causing "unbelievable, indescribable" pain.⁴⁷⁴ Interrogators also violently grabbed [REDACTED] and [REDACTED] by the genitals and twisted them; [REDACTED] was told "I don't want you to have children".⁴⁷⁵ [REDACTED] was beaten according to the "*Falqa*" method, with his legs spread apart, when a guard said, "I will fuck this mule" and beat him on the testicles, [REDACTED].⁴⁷⁶ Another interrogator [REDACTED]'s penis while he was suspended from a "*balanco*". [REDACTED].⁴⁷⁷ Interrogators pulled, punched and electrocuted [REDACTED]'s genitals.⁴⁷⁸ Female detainee [REDACTED] was suspended by her feet by men including **EL HISHRI**, who then beat her and touched her on the breasts, the buttocks, and the genital area.⁴⁷⁹ Interrogators touched [REDACTED]'s breasts while she was blindfolded and threatened her with physical genital searches; she was terrified that they would rape her.⁴⁸⁰

70. Female detainees held in the Women's Section, controlled by **EL HISHRI**, with no female guards,⁴⁸¹ were raped and subjected to sexual abuse,⁴⁸² including by **EL HISHRI** himself. Shortly after [REDACTED]'s arrival at Mitiga Prison, **EL HISHRI** forced her to strip naked and [REDACTED] raped her.⁴⁸³ He punished another woman by [REDACTED], forcing her to lean forward before pressing himself and rubbing his penis against her, saying "[REDACTED]".⁴⁸⁴ When [REDACTED] was held near this section, he could hear "screams and noises that *sounded* like rape".⁴⁸⁵ [REDACTED] and [REDACTED] were both [REDACTED] told them they had been raped, including by **EL HISHRI** [REDACTED]. **EL HISHRI** would select women and girls from the Women's Section and take them to a "leisure" area in the Mitiga Compound at night. The

⁴⁷² [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁴⁷³ [REDACTED].

⁴⁷⁴ [REDACTED]. *See also* [REDACTED]; [REDACTED].

⁴⁷⁵ [REDACTED]. [REDACTED]. *See also* [REDACTED].

⁴⁷⁶ [REDACTED]. *See also* [REDACTED].

⁴⁷⁷ [REDACTED]. *See also* [REDACTED].

⁴⁷⁸ [REDACTED].

⁴⁷⁹ [REDACTED].

⁴⁸⁰ [REDACTED].

⁴⁸¹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* UN-OHCHR, [LBY-OTP-00018738](#), p. 5, para. 3; NGO, [LBY-OTP-0070-5942](#), para. 4.

⁴⁸² [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also*, UNSMIL report, [LBY-OTP-00018762](#), para. 63; UN-OHCHR, [LBY-OTP-00018763](#), para. 68; NGO, [LBY-OTP-0070-5942](#), para. 4.

⁴⁸³ [REDACTED].

⁴⁸⁴ [REDACTED].

⁴⁸⁵ [REDACTED].

women who returned told [REDACTED] that **EL HISHRI** had raped them.⁴⁸⁶ One of them, a [REDACTED], returned to the section severely beaten all over her body; [REDACTED].⁴⁸⁷ [REDACTED], suspended her from the ceiling, entirely naked, and “had done whatever he pleased with her”.⁴⁸⁸

71. Male detainees [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were all raped by Mitiga Perpetrators. After being arrested [REDACTED], a Mitiga prison official penetrated [REDACTED] anus with [REDACTED], telling him “we will kill you”.⁴⁸⁹ While detained, [REDACTED] was anally raped by a guard on multiple occasions, with his hands bound, and abused as “[REDACTED]” [REDACTED]. He was threatened that “[REDACTED]”. Once he was raped with [REDACTED].⁴⁹⁰ [REDACTED] was raped at gunpoint, orally and anally, after he had been tortured.⁴⁹¹ He was told, “I order and you’re not in a position to refuse”.⁴⁹² He was also forced to [REDACTED].⁴⁹³ [REDACTED] was [REDACTED] taken out of his cell by masked men who brought him to [REDACTED]; there, [REDACTED], tied him up, undressed and anally raped him. After this, they told him [REDACTED].⁴⁹⁴ [REDACTED] was anally raped with a PPR twice. One time, [REDACTED] had been beaten until he felt like he was “almost dead on the ground”. The man then started beating him on the buttocks, pulled down his pants and [REDACTED] his anus, saying “now you can scream like a whore”.⁴⁹⁵

72. Boys under 18 (but not regarded as sufficiently young to be held in the Women’s Section) and some of the younger men were held in a separate area of the prison,⁴⁹⁶ allegedly to protect them from sexual assault by adult detainees.⁴⁹⁷ Yet this was a sham. Such detainees were still targeted by guards who sexually exploited them in exchange for “favours” such as better food, leisure time, or a phone call to their mothers.⁴⁹⁸ [REDACTED]. [REDACTED].⁴⁹⁹

⁴⁸⁶ [REDACTED]; [REDACTED]. *See also* paras. 142-145.

⁴⁸⁷ [REDACTED].

⁴⁸⁸ [REDACTED].

⁴⁸⁹ [REDACTED].

⁴⁹⁰ [REDACTED].

⁴⁹¹ [REDACTED].

⁴⁹² [REDACTED].

⁴⁹³ [REDACTED].

⁴⁹⁴ [REDACTED].

⁴⁹⁵ [REDACTED]. *See also* [REDACTED].

⁴⁹⁶ Section 11: [REDACTED]; [REDACTED]; [REDACTED]. Section 12: [REDACTED]; [REDACTED]; [REDACTED]. The “Dar Hatem” cell: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. Other cells: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁴⁹⁷ [REDACTED]; [REDACTED]. *See also* [REDACTED]

⁴⁹⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also* [REDACTED].

⁴⁹⁹ [REDACTED].

73. Detainees were also frequently threatened with rape and sexual violence, either against themselves or against family members still at liberty.⁵⁰⁰ Thus, [REDACTED] a wooden baton [REDACTED], and threatened to rape him with it anally.⁵⁰¹ [REDACTED] was called a “*Sabiya*” and threatened with sexual abuse.⁵⁰² [REDACTED] heard an interrogator beat a woman and tell her, “[i]f you don’t stop screaming, I will insert [REDACTED] in your vagina”.⁵⁰³ Guards threatened to record and publicise degrading images or video of detainees⁵⁰⁴ or to rape family members in front of them.⁵⁰⁵

DCC, para. 35: The Mitiga Perpetrators not only carried out acts of rape and other forms of sexual violence themselves, but also deliberately exposed detainees to the risk of rape and sexual violence by other detainees known to commit sexual abuse.

74. Mitiga Prison staff deliberately subjected detainees to the risk of rape and sexual assault between detainees themselves. The deliberate overcrowding of Mitiga Prison’s cells forced detainees to sleep in such close physical proximity, lying on cell floors side by side, “packed like sardines”, that it led to frequent fights and sexual assaults.⁵⁰⁶ On his first night at Mitiga, [REDACTED] was sexually assaulted from behind by a detainee who rubbed his penis against his buttocks while the detainee in his front beat him for breathing too heavily out of distress. Mitiga Prison staff also weaponised cells housing detainees known for sexually assaulting co-detainees.⁵⁰⁷ When [REDACTED] later resisted a sexual assault [REDACTED], he was punished [REDACTED].⁵⁰⁸ [REDACTED]. [REDACTED], he was gang-raped by [REDACTED] detainees. He cried out to the guards for help, but no one came.⁵⁰⁹ **EL HISHRI** placed [REDACTED] in a narrow cell where he was forced to sleep in between [REDACTED] detainees known to sexually assault other detainees. At night, they would rub their penises against his buttocks; [REDACTED]. [REDACTED] [REDACTED].⁵¹⁰

DCC, para. 36: In relation to the crime of rape, the Mitiga Perpetrators invaded the bodies of the victims by conduct resulting in penetration of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.

⁵⁰⁰ See e.g. [REDACTED]; [REDACTED].

⁵⁰¹ [REDACTED]. See also [REDACTED].

⁵⁰² [REDACTED]. See also para. 25.

⁵⁰³ [REDACTED].

⁵⁰⁴ [REDACTED]; [REDACTED].

⁵⁰⁵ [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

⁵⁰⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. See also [REDACTED].

⁵⁰⁷ [REDACTED].

⁵⁰⁸ [REDACTED]. See also above para. 61.

⁵⁰⁹ [REDACTED]; [REDACTED].

⁵¹⁰ [REDACTED]. See also [REDACTED].

75. This is established by the evidence pertaining to each relevant incident.

DCC, para. 37: In relation to the crime of sexual violence, the Mitiga Perpetrators committed acts of a sexual nature against the victims or caused them to engage in acts of a sexual nature. This conduct was of a gravity similar to other crimes against humanity and other serious violations of common article 3 of the Geneva Conventions. The Mitiga Perpetrators, including EL HISHRI, were aware of the factual circumstances that established the gravity of the conduct.

76. The alleged acts of sexual violence (forced nudity and sometimes invasive cavity searches; sexualised torture such as beatings, torsion or traction, electric shocks, and sharp force applied to genitals; forced commission and/or witnessing of sexual violence; threats of rape and sexual violence) were comparable to, and often carried out in the same transaction as or the context of, other article 7(1) acts and violations of common article 3 of the Geneva Conventions—particularly, torture, cruel treatment, other inhumane acts, and outrages upon personal dignity. There is no doubt that all these acts were of similar gravity and that the Mitiga Perpetrators were aware of the factual circumstances establishing the gravity of this conduct.⁵¹¹

DCC, para. 38: The Mitiga Perpetrators carried out these acts of rape and sexual violence by force, or by threat of force or coercion. In any event, they took place within the context of the institutionalised and sustained scheme of mistreatment and violent abuse at Mitiga Prison, where the perpetrators took advantage of the coercive environment. Additionally, victims who were children were incapable of giving genuine consent. The Mitiga Perpetrators, including EL HISHRI, knew that the persons detained at Mitiga Prison were civilians taking no active part in hostilities or fighters *hors de combat*.

77. The rapes and other forms of sexual violence were brutal in themselves, demonstrating force and the threat of it. Moreover, the broader circumstances demonstrate the inherently coercive environment created within Mitiga Prison—characterised by various forms of violence, terror, captivity, and the physical perpetrators’ sustained impunity, which they took advantage of. The children among the victims, due to their age, could not give genuine consent.

(3) Murder and attempted murder (counts 11-12)

DCC, para. 39: During the charged period, the Mitiga Perpetrators murdered at least 88 detainees at Mitiga Prison. Some victims were executed or otherwise killed immediately. Others died in the ordinary course of events resulting from acts of torture committed against them by the Mitiga Perpetrators, or due to deliberate neglect and/or the infliction of lethally inadequate conditions of detention by the Mitiga Perpetrators, having regard to the victims’ wounds, injuries, or other vulnerabilities resulting from their torture and mistreatment.

78. The Mitiga Perpetrators murdered at least 88 detainees at Mitiga Prison and attempted to murder at least one detainee.⁵¹² [REDACTED] EL HISHRI shoot a detainee in the “Islamic Neighbourhood”, and saw him fire a machine gun at a cell block, killing at least one and injuring several

⁵¹¹ See above paras. 64-74.

⁵¹² See Annex 9, Non-exhaustive list of victims of murder and attempted murder.

others.⁵¹³ On another occasion, [REDACTED] **EL HISHRI** immediately after executing a detainee.⁵¹⁴

79. Many detainees died as a direct result of torture.⁵¹⁵ [REDACTED] prisoners die in the “Islamic Neighbourhood” when they were suspended from the metal grid there and beaten by **EL HISHRI**, **NJEEM** and **Dhawi N’ZAM**.⁵¹⁶ [REDACTED] **EL HISHRI** chain a man to the wall of an inner yard and beat him, and then leave him in the cold wearing only underwear; the man died of his injuries.⁵¹⁷ While being tortured himself, P-0497 saw another torture victim urinating on himself and struggling to breathe; the man died.⁵¹⁸ [REDACTED] a guard “beat [a female detainee] to pulp”, leaving her unconscious with blood coming from her mouth. [REDACTED]. [REDACTED] doubts she could have lived.⁵¹⁹ One evening, [REDACTED]. [REDACTED] a woman’s dead body which had already been washed, but with dried blood remaining in and around her ears. [REDACTED] believed that this resulted from internal bleeding, and that she had been beaten to death.⁵²⁰

80. Detainees also died due to the deliberate infliction of lethal conditions of detention and neglect, especially in the aftermath of torture.⁵²¹ **EL HISHRI** once shot a man in the leg and ordered, “dump him away in section 10 and let it become infected”.⁵²² Many detainees with serious injuries were simply left to die in the cells. The Mitiga Perpetrators failed to provide, and even denied, any adequate medical care. P-0692 saw the dead body of a detainee whom he knew was recently beaten;⁵²³ P-0872 likewise recalled the discovery of the body of a detainee, who had died during the night, having been beaten the previous day.⁵²⁴ Detainees were left with untreated gunshot

⁵¹³ [REDACTED]; [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

⁵¹⁴ [REDACTED].

⁵¹⁵ **P-0990**, [LBYP-OTP-00015405](#), para. 106; **P-1046**, [LBYP-OTP-00019195](#), paras. 115-116; **P-1673**, [LBYP-OTP-00392926](#), paras. 85-87, 90-96, 102-112; **P-1685**, [LBYP-OTP-00057776](#), paras. 49-53; **P-1710**, [LBYP-OTP-01257853](#), paras. 90-93, 99-104, 159-167; **P-1720**, [LBYP-OTP-01558903](#), paras. 117-118, 119-123, 124-126, 199-204; **P-1722**, [LBYP-OTP-02488730](#), paras. 173-174 and **P-1722**, [LBYP-OTP-02856267](#), para. 27-34, 35-39, 41-69, 80-89; **P-1736**, [LBYP-OTP-03703604](#), paras. 148-149; **P-1750**, [LBYP-OTP-03214454](#), paras. 119-121, 122-126.

⁵¹⁶ [REDACTED].

⁵¹⁷ [REDACTED].

⁵¹⁸ **P-0497**, [LBYP-OTP-00007250](#), paras. 32-36.

⁵¹⁹ [REDACTED].

⁵²⁰ [REDACTED].

⁵²¹ **P-0595**, [LBYP-OTP-0074-0889](#), para. 165; **P-0635**, [LBYP-OTP-0070-6952](#), paras. 162-163; **P-0644**, [LBYP-OTP-00020358](#), para. 89; **P-0719**, [LBYP-OTP-0070-7295](#), paras. 147-149; **P-0872**, [LBYP-OTP-00007275](#), paras. 60, 68; **P-1026**, [LBYP-OTP-00016896](#), paras. 91, 93; **P-1673**, [LBYP-OTP-00392926](#), paras. 88-89. See also **P-0719**, [LBYP-OTP-0070-7295](#), para. 153; **P-0692**, [LBYP-OTP-0080-0608](#), para. 40; **P-1673**, [LBYP-OTP-00392926](#), para. 202; **P-1685**, [LBYP-OTP-00057776](#), paras. 23, 66; **P-1720**, [LBYP-OTP-01558903](#), para. 182; **P-1736**, [LBYP-OTP-03703604](#), paras. 124-127, 151-152.

⁵²² [REDACTED].

⁵²³ **P-0692**, [LBYP-OTP-0080-0608](#), para. 40.

⁵²⁴ **P-0872**, [LBYP-OTP-00007275](#), para. 60.

wounds which in the ordinary course of events became infected.⁵²⁵ Guards would punish requests for help from detainees,⁵²⁶ dismissing the resulting deaths among detainees as “normal” and abusing detainees for “causing all this trouble”.⁵²⁷ [REDACTED] witnessed a man with several gunshot wounds, a broken leg, and who smelled of rotten flesh being thrown into his cell. When the cell “*capo*” asked the guards for bandages, they answered, “if you knock one more time at the door you will die next to him”. Likewise, P-0990 and P-0872 saw detainees with gunshot wounds in the legs being brought to their cells. All three detainees died in their cells because the Mitiga Perpetrators did not provide them any medical care.⁵²⁸

81. The Mitiga Perpetrators intentionally deprived tortured prisoners of adequate medical assistance. P-0990 states, “[i]f anyone asked the guards to help the wounded person, all the prisoners in the cell would be punished”.⁵²⁹ After his torture, one detainee was thrown into P-0942’s cell unconscious, covered in blood, with cuts everywhere. The next morning, he was dead. When prisoners started calling the guards for help, the guards responded, “that this was normal and asked them why they were causing all this trouble”.⁵³⁰ Another detainee was brought to P-0650’s cell covered in blood, barely conscious, unable to speak, causing the prisoners to call for help. The guards, however, warned them that if they spoke up again, they would all be taken out to be tortured. Two hours later, the prisoner died.⁵³¹

82. Guards took the same callous attitude to serious illness among the detainees.⁵³² For example, help was denied regarding two separate incidents of detainees who had contracted tuberculosis: on one occasion, the guards dismissed the request as a ‘mental’ problem;⁵³³ on the other, fellow detainees were told “not to knock on the door unless the prisoner was dead”.⁵³⁴ A similar refusal was made concerning an old and sick prisoner, who then died in the cell. When fellow detainees sought help, the guards responded, “what do you want, you mules? [...] stop banging, just wait till he goes cold”.⁵³⁵ Even if detainees reached the infirmary, they were still unlikely to be helped:

⁵²⁵ P-0571, [LBY-OTP-0080-0169](#), paras. 214-218; P-0872, [LBY-OTP-00007275](#), para. 66; P-1031, [LBY-OTP-00018119](#), paras. 59-61. *See also* P-0990, [LBY-OTP-00015405](#), para. 55.

⁵²⁶ P-0990, [LBY-OTP-00015405](#), para. 55; P-0650, [LBY-OTP-0080-0468](#), paras. 124-126.

⁵²⁷ P-0942, [LBY-OTP-00015360](#), paras. 158-159.

⁵²⁸ P-0872, [LBY-OTP-00007275](#), para. 66; P-0990, [LBY-OTP-00015405](#), para. 55; [REDACTED].

⁵²⁹ P-0990, [LBY-OTP-00015405](#), para. 55.

⁵³⁰ P-0942, [LBY-OTP-00015360](#), paras. 158-159.

⁵³¹ P-0650, [LBY-OTP-0080-0468](#), paras. 124-126.

⁵³² P-0439, [LBY-OTP-0066-0951](#), para. 37; P-0569, [LBY-OTP-0080-0032](#), para. 82; P-0595, [LBY-OTP-0074-0889](#), paras. 161-164, 174-177, 178-179; P-0644, [LBY-OTP-00020358](#), para. 117; P-1026, [LBY-OTP-00016896](#), paras. 90, 92.

⁵³³ [REDACTED]; [REDACTED]. *See also* [REDACTED]; [REDACTED].

⁵³⁴ [REDACTED]. *See also* [REDACTED].

⁵³⁵ [REDACTED].

[REDACTED].⁵³⁶ [REDACTED].⁵³⁷

83. Lethal abuse and neglect also took other forms. Some detainees were left outside to die in the cold in the middle of winter;⁵³⁸ others starved to death.⁵³⁹ [REDACTED], the guards told other detainees simply to wrap up their bodies if they died; they did not care.⁵⁴⁰ When P-0992's [REDACTED] died in his cell, the Mitiga Perpetrators dumped his body in front of the hospital where it was registered as "unidentified".⁵⁴¹

DCC, para. 40: The Mitiga Perpetrators also attempted to murder at least one detainee at Mitiga Prison, where the victim did not die because of circumstances independent of the perpetrator's intentions.

84. **EL HISHRI** pulled out a pistol when [REDACTED], who was suspended from a hook in the "Islamic Neighbourhood", began shouting and [REDACTED]. **EL HISHRI** – who was known to be "quick tempered", often targeted detainees' lower limbs when intending to cause harm,⁵⁴² but also shot to kill⁵⁴³ – pointed his pistol at the witness, shooting him in the [REDACTED] without taking the time to aim. The bullet hit [REDACTED], causing him to immediately lose consciousness.⁵⁴⁴ By intentionally firing a lethal weapon at the [REDACTED] of a restrained, defenceless detainee, **EL HISHRI** acted with the intent to kill or, at minimum, with awareness that death would occur in the ordinary course of events. **EL HISHRI** took a substantial step commencing the execution of murder, the non-occurrence of which resulted from circumstances – [REDACTED] – independent of **EL HISHRI**'s intentions.

DCC, para. 41: In all cases, the Mitiga Perpetrators, including EL HISHRI, meant to cause the victims' deaths or were aware that their deaths would occur in the ordinary course of events. They knew that the persons detained at Mitiga Prison were civilians taking no active part in hostilities or fighters *hors de combat*.

85. For each relevant incident of murder or attempted murder, the evidence shows that the perpetrator meant to cause the death of the victim, or was aware that death would occur in the ordinary course of events. These assessments are to be carried out in light of all the relevant circumstances, such as the Mitiga Perpetrators' awareness of the inadequate and inhumane detention conditions, including the very limited medical care provided to the detainees—with the result that the prognosis was poor for any serious injury and the risk of death correspondingly enhanced. Furthermore, in

⁵³⁶ [REDACTED].

⁵³⁷ [REDACTED].

⁵³⁸ **P-0486**, [LBY-OTP-0069-0584](#), para. 70.

⁵³⁹ **P-0990**, [LBY-OTP-00015405](#), para. 51; **P-1026**, [LBY-OTP-00016896](#), para. 50; **P-0670**, [LBY-OTP-00015152](#), paras. 72-76 and **NGO report**, [LBY-OTP-0066-0332](#), at 0346-0347.

⁵⁴⁰ [REDACTED].

⁵⁴¹ **P-0992**, [LBY-OTP-00018787](#), paras. 42-43. *See also* **P-0644**, [LBY-OTP-00020358](#), para. 84.

⁵⁴² *See e.g.* [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁵⁴³ [REDACTED]; [REDACTED]; [REDACTED].

⁵⁴⁴ [REDACTED].

circumstances where the objective conduct of the perpetrator is inherently dangerous and life-threatening—such as a deliberate gunshot wound at close range—there is no requirement that the perpetrator exercised any kind of value judgement as to the likelihood of death.

(4) *Enslavement (count 13)*

DCC, para. 42: During the charged period, the Mitiga Perpetrators enslaved at least 133 detainees by exercising powers attaching to the rights of ownership over them.

86. Enslavement requires the exercise of any or all powers attaching to the rights of ownership over one or more persons.⁵⁴⁵ The powers attaching to the right of ownership manifests as deprivations of liberty,⁵⁴⁶ and/or restrictions or controls over the enslaved person's autonomy.⁵⁴⁷ The exercise of ownership may take various forms;⁵⁴⁸ there is no exhaustive list of indicia to demonstrate it.⁵⁴⁹ It requires a case by case analysis, taking into account all relevant factors and circumstances holistically in their context.⁵⁵⁰

87. Relevant indicia include:⁵⁵¹ control or restrictions of someone's movement, including detention or captivity, and measures taken to prevent or deter escape; nature/control of physical environment; psychological control or pressure; force, threat of force or other forms of physical/mental coercion;⁵⁵² vulnerability;⁵⁵³ subjection to cruel treatment and abuse;⁵⁵⁴ control of sexuality⁵⁵⁵ (including sexual and reproductive autonomy); exaction of forced or compulsory labour (often, although not necessarily, without remuneration and/or physical hardship), or otherwise reducing a

⁵⁴⁵ Statute, articles 7(1)(c), 7(2)(c); EoC, Article 7(1)(c)-1. See also *Katanga TJ*, para. 975; *OLG Düsseldorf, 7 StS 3/19*, para. 661 (p. 52 of translation); *Caso no. 01: Toma de rehenes, graves privaciones de la libertad*, paras. 516-517, 519-520; *Prosecutor v. L.I.* (Stockholm District Court, 2025), p. 181, para. 20.1 of unofficial translation. The Mitiga Perpetrators enslaved at least 133 detainees by exercising powers attaching to the rights of ownership over them. See Annex 12, Non-exhaustive list of victims of enslavement.

⁵⁴⁶ Statute, article 7(2)(c); EoC, article 7(1)(c)-1: Factors include “purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty” (Emp. added).

⁵⁴⁷ *Al Hassan TJ*, para. 1193; *Ongwen TJ*, paras. 2712, 2715; *Ntaganda TJ*, para. 952; *Katanga TJ*, para. 976. Similarly *Duch TJ*, para. 342; *Taylor TJ*, para. 447; *Sesay et al. TJ*, para. 199; *Kunarac et al. TJ*, paras. 542-543; *Kunarac et al. AJ*, para. 119. See also *Hacienda Brasil Verde v. Brazil*, paras. 271-272.

⁵⁴⁸ *Ntaganda TJ*, para. 952; *Katanga TJ*, paras. 975-976; *Katanga CD*, paras. 430-431; *Al Hassan TJ*, para. 1194; *Al Hassan CD*, paras. 546-547; *Ongwen TJ*, paras. 2712, 2716; *Kunarac et al. TJ*, paras. 542-543; *Kunarac et al. AJ*, para. 119; *Sesay et al. TJ*, paras. 160-161, 199; *Taylor TJ*, para. 420; *Duch TJ*, para. 342.

⁵⁴⁹ *Ntaganda TJ*, para. 952 and fn. 2736.

⁵⁵⁰ *Katanga TJ*, paras. 976-978.

⁵⁵¹ See e.g. *Ntaganda TJ*, para. 952; *Katanga TJ*, para. 975; *Ongwen TJ*, para. 2711; and *Sesay et al. TJ*, para. 160. This is not an exhaustive list. It is not legally required to prove any of these individual *indicia*, but the existence of any of them may be relevant to determine if there was an exercise of powers of ownership.

⁵⁵² *Al Hassan TJ*, para. 1194; *Ntaganda TJ*, para. 952; *Ongwen TJ*, para. 2712; *Katanga TJ*, para. 976; *Kunarac et al. TJ*, para. 543; *Taylor TJ*, para. 420.

⁵⁵³ *Al Hassan TJ*, para. 1194; *Ntaganda TJ*, para. 952; *Kunarac et al. TJ*, para. 542. See also *Katanga TJ*, para. 976.

⁵⁵⁴ See *Al Hassan TJ*, para. 1194; *Ntaganda TJ*, para. 952; *Ongwen TJ*, para. 2712; *Kunarac et al. TJ*, para. 543; *Kunarac et al. AJ*, para. 119; *Sesay et al. TJ*, paras. 160, 199; *Taylor TJ*, para. 420; *Duch TJ*, para. 342; *Sellers and Kestenbaum*, pp. 157-158, 163-168; *Grey*, pp. 255-256.

⁵⁵⁵ See e.g. *Al Hassan TJ*, para. 1194; *Ntaganda TJ*, para. 952; *Al Hassan CD*, para. 548; *Ongwen TJ*, paras. 2712, 2715; *Kunarac et al. TJ*, para. 543.

person to a servile status;⁵⁵⁶ duration of the exercise of powers attaching to the rights of ownership; and assertion of exclusivity.⁵⁵⁷ For enslavement, it is not necessary to show any commercial transaction, the ‘acquisition’ or ‘disposal’ of somebody for monetary or other compensation.⁵⁵⁸ There is no minimum period of enslavement required: duration of exercise of powers attaching to the right of ownership is simply a factor to be considered where relevant.⁵⁵⁹ Consent of the victim is legally irrelevant to the crime of enslavement.⁵⁶⁰

88. Forced or compulsory labour or servitude can amount to enslavement when committed with exercise of powers attaching to the rights of ownership, including against victims in detention.⁵⁶¹

DCC, para. 43: For the enslaved detainees—who included East, West, Central or Southern Africans (“Black Migrants”), and other non-Libyans of different nationalities and ethnicities, as well as some Libyans, and who varied in age and gender—the Mitiga Perpetrators controlled essentially every aspect of their lives, depriving them of physical, psychological, sexual and/or reproductive autonomy exceeding normal constraints within a prison system. Their enslavement was sexualised, resulting in control of all aspects of their sexual and reproductive autonomy. Their enslavement was also gendered and racialised in nature. [...]

89. The enslaved detainees included persons of different gender, age, race, nationality and ethnicity, from Black Migrants, other non-Libyans and some Libyans. Mitiga Perpetrators controlled essentially every aspect of their lives. They exercised powers attaching to the rights of ownership, depriving them of their physical, psychological, sexual and/or reproductive autonomy. This exceeded what may have been legitimately required in a regular prison system. Moreover, the enslavement was sexualised, shown by the frequent use of sexual and reproductive violence to enslave (acts and threats), the use of sexualised and derogatory language and the overall loss of sexual and reproductive autonomy. The enslavement was also gendered, occurring on the basis of perpetrators’ perceptions of gender. Likewise, the enslavement was racialised, targeting especially the Black Migrants from their arrest through their continued enslavement.

DCC, para. 43: [...] Relevant indicia of the exercise of powers of ownership over these victims included, as follows:

DCC, para. 43.a.: Control or restrictions of movement and their physical environment—shown in the Mitiga Perpetrators’ conduct against relevant detainees including their unlawful imprisonment, measures to prevent or deter escape, the harsh and unlawful conditions of confinement in Mitiga Prison;

90. Mitiga Perpetrators controlled detainees, by unlawfully imprisoning them, and using

⁵⁵⁶ EoC: Articles 7(1)(c), fn. 11, as defined in the Supplementary Slavery Convention. See e.g. *Ntaganda* TJ, para. 952; *Al Hassan* TJ, para. 1194; *Al Hassan* CD, para. 546; *Ongwen* TJ, para. 2712; *Kunarac et al.* TJ, para. 542.

⁵⁵⁷ *Al Hassan* TJ, para. 1194; *Ongwen* TJ, para. 2712; *Ntaganda* TJ, para. 952; *Kunarac et al.* TJ, para. 543.

⁵⁵⁸ *Al Hassan* TJ, para. 1194; *Ntaganda* TJ, para. 952; *Ongwen* TJ, para. 2713; *Katanga* TJ, para. 976; *Kunarac et al.* TJ, para. 542; *Taylor* TJ, para. 420; *Brima et al.* TJ, para. 709; Mc Dougall, Gay J. (2000), para. 50.

⁵⁵⁹ *Ntaganda* TJ, para. 952; *Ongwen* TJ, para. 2714.

⁵⁶⁰ Consent is legally irrelevant for all slavery crimes.

⁵⁶¹ *Duch* TJ, para. 346.

measures to prevent or deter their escape (including by inflicting harsh punishments on those seeking to escape or those helping them to escape).⁵⁶² Mitiga Perpetrators further subjugated detainees by inhumane, physical controls over their physical environment and restrictions on movement.⁵⁶³ Most were deprived of movement or exercise beyond restrictions within a normal prison setting,⁵⁶⁴ as they were confined in overly crowded or overly small cells.⁵⁶⁵ Some developed muscular atrophy,⁵⁶⁶ or joint dysfunction.⁵⁶⁷ Others were left in exposed open spaces, in inhumane conditions, and/or where they were exposed to regular beatings and/or torture.⁵⁶⁸

DCC, para. 43.b.: Control over sexuality, sexual and reproductive autonomy—shown in the Mitiga Perpetrators’ conduct against relevant detainees in their overall sexualised and gendered enslavement. This included subjecting them to forced nudity and invasive body searches, acts of rape, gendered and racial insults, threats and humiliation, sexualised torture and threats, sexual and reproductive violence (including attacks on genitals, attacks on pregnant women, etc.). This also included imposing punishment for perceived non-conformity with the Mitiga Perpetrators’ views of gender norms and related behaviour including as relating to a person’s actual or perceived sexual orientation/gender identity or expression (such as men or boys as “homosexual” or “effeminate”, women or girls as “masculine”), persons perceived as being immoral or having inappropriate sexual relations or relations with the opposite gender. This also included imposing gendered dress and appearance rules (with or without punishment for non-compliance), and other gender-based ill-treatment;

91. Mitiga Perpetrators exercised powers of ownership over detainees through exerting controls over their sexuality and their sexual and/or reproductive autonomy. This also included aspects relating to their sexual orientation and/ or gender identity and expression, and/or other gender-based controls.⁵⁶⁹

92. Upon their arrival at Mitiga Prison, Mitiga Perpetrators subjugated detainees by blindfolding, beating, denigrating them through verbal, discriminatory gendered insults, forcing them to stand long hours, and subjecting them to body searches—all of which went beyond what was legitimately necessary for security.⁵⁷⁰ Instead, these were intimidating, humiliating controls over the

⁵⁶² See paras. 47-51. See also e.g. P-1046, [LBYP-OTP-00019195](#), para. 96; [LBYP-OTP-00022410](#), para. 40; P-0498: [LBYP-OTP-0069-0506](#), para. 37; P-0595: [LBYP-OTP-0074-0889](#), para. 297(q); P-0720, [LBYP-OTP-00020099](#), paras. 60-62; P-1720: [LBYP-OTP-01558903](#), para. 217; P-1745: [LBYP-OTP-03214428](#), para. 139; See also UN: [LBYP-OTP-00018738](#), p. 20; UN: [LBYP-OTP-00018765](#), para. 5; UN: [LBYP-OTP-00018764](#), paras. 8, 12; UN: [LBYP-OTP-00018768](#), paras. 13-16.

⁵⁶³ See fn. 552 above.

⁵⁶⁴ See e.g. P-0730: [LBYP-OTP-00015125](#), paras. 61, 63.

⁵⁶⁵ See e.g. P-0730: [LBYP-OTP-00015125](#), paras. 31-34, 61, 63; P-1026: [LBYP-OTP-00016896](#), paras. 36, 44, 53; P-1025: [LBYP-OTP-00016916](#), paras. 26, 29, 30, 31, 54; P-0719: [LBYP-OTP-0070-7295](#), paras. 120, 135; P-1673: [LBYP-OTP-00392926](#), para. 197.

⁵⁶⁶ See e.g. [REDACTED]: (F-2083).

⁵⁶⁷ See e.g. [REDACTED]: (F-2141).

⁵⁶⁸ See e.g. P-1026: [LBYP-OTP-00016896](#), para. 52; P-1025: [LBYP-OTP-00016916](#), para. 36; [REDACTED]: (F-2233).

⁵⁶⁹ See fn. 555.

⁵⁷⁰ See paras. 68-69. See e.g., [REDACTED].

detainees' autonomy, including their sexuality. Body searches were conducted in front of, and by, fellow detainees and/or Mitiga Perpetrators (such as **EL HISHRI**). Detainees were usually forced to be partially or fully nude; and, in some instances, forced to have invasive searches and touching of their intimate/private body parts.⁵⁷¹ For instance, **EL HISHRI** beat [REDACTED] and ordered another detainee to lift her clothing, touch her "intimate parts" and breasts, while he watched her naked body, which she found deeply humiliating.⁵⁷² **EL HISHRI** beat [REDACTED], forced her to strip naked in front of him and [REDACTED], [REDACTED].⁵⁷³ **EL HISHRI** watched while others were physically searched; and/or stripped naked.⁵⁷⁴ He physically searched other females himself.⁵⁷⁵ Likewise, Mitiga Perpetrators, controlled the sexual autonomy of [REDACTED] and a [REDACTED] unrelated to him ([REDACTED]), by stripping them naked and conducting invasive body searches in front of each other. **EL HISHRI** and other Mitiga Perpetrators then tortured them in front of the [REDACTED].⁵⁷⁶

93. From the outset, Mitiga Perpetrators brutally subjugated, and controlled the sexual autonomy of some detainees through acts of rape shortly before or soon after their arrival at Mitiga Prison.⁵⁷⁷ For instance, [REDACTED] had also been anally raped by a Mitiga Perpetrator, who inserted [REDACTED] into his anus, and told him: "we will kill you".⁵⁷⁸ [REDACTED], anally raped multiple times by penis by his torturer, and called a '[REDACTED]' and '[REDACTED]', was told on one occasion: "[REDACTED]".⁵⁷⁹ Soon after her arrival **EL HISHRI** subjugated [REDACTED] and controlled her sexual autonomy, by forcing her to strip naked, grabbing her breasts, [REDACTED] raping her, [REDACTED].⁵⁸⁰

94. During interrogation/torture, and/or as punishment, Mitiga Perpetrators also rendered detainees submissive, by controlling their sexuality through physical and psychological forms of torture or other cruel treatment.⁵⁸¹

95. Detainees were coerced and punished by rape and other forms of sexual violence, including related threats. For instance, [REDACTED] was punished for rejecting sexual advances of [REDACTED], by Mitiga Perpetrators [REDACTED], and ignored his pleas for help when he was

⁵⁷¹ See e.g. para. 68.

⁵⁷² [REDACTED].

⁵⁷³ [REDACTED].

⁵⁷⁴ See e.g. [REDACTED]; [REDACTED].

⁵⁷⁵ [REDACTED].

⁵⁷⁶ [REDACTED].

⁵⁷⁷ See e.g. para. 69.

⁵⁷⁸ [REDACTED].

⁵⁷⁹ [REDACTED]. See also, e.g.: para. 63 ([REDACTED] also enslaved by forced labour).

⁵⁸⁰ [REDACTED].

⁵⁸¹ See e.g. paras. 52-58, 61.

raped by a detainee.⁵⁸² Mitiga Perpetrators tortured, raped, and also placed F-2100 in cell “Zero”. He died as a result of the torture and rape.⁵⁸³ [REDACTED] was threatened with being placed in a cell to be raped by other detainees.⁵⁸⁴ [REDACTED], a boy, was threatened to be detained with “[REDACTED]”, which he understood meant they would sexually abuse him.⁵⁸⁵ Mitiga Perpetrators also tortured him;⁵⁸⁶ and detained him with adults.⁵⁸⁷ [REDACTED] was threatened with anal rape by [REDACTED].⁵⁸⁸ Victims were threatened with vaginal rape by bottle during torture.⁵⁸⁹ [REDACTED] was punished by being placed in a cell with detainees known to sexually assault other detainees, who sexually assaulted him by touching his penis and buttocks, rubbing their penises on his bottom/body and ejaculating.⁵⁹⁰

96. During torture, some men and boys were deprived of their sexual and reproductive autonomy. Mitiga Perpetrators specifically targeted the men/boys’ genitals, anus and/or buttocks, simultaneously using gendered insults designed to disempower—“feminise” and “emasculate” them. For instance, [REDACTED]’s torturer said he could “scream like a whore”, whilst he raped him in his anus.⁵⁹¹ [REDACTED]’s torturer said: “I will fuck this mule”, whilst he beat him on his testicles.⁵⁹² Others were subjected to derogatory gendered insults and attacks on their genitals during torture.⁵⁹³ After raping [REDACTED], Mitiga Perpetrators mocked him and told others that [REDACTED] was a “*Sabiya*”, which he understood meant that they had raped him and “made him a girl”.⁵⁹⁴ [REDACTED].⁵⁹⁵ **EL HISHRI** also exerted controls over the sexuality of F-2804, and emasculated him, by stripping him naked in front of an unrelated [REDACTED], [REDACTED], and calling him a “whore”.⁵⁹⁶ [REDACTED] was also emasculated by beating his testicles and forcing him to stand for hours—[REDACTED].⁵⁹⁷ [REDACTED] described how the beating on his buttocks was especially humiliating because it was seen as degrading in his Libyan culture;⁵⁹⁸

⁵⁸² [REDACTED].

⁵⁸³ **P-0498**: [LBY-OTP-0069-0506](#), para. 49.

⁵⁸⁴ [REDACTED].

⁵⁸⁵ [REDACTED].

⁵⁸⁶ [REDACTED].

⁵⁸⁷ [REDACTED].

⁵⁸⁸ [REDACTED].

⁵⁸⁹ See e.g. [REDACTED] (F-2601).

⁵⁹⁰ [REDACTED].

⁵⁹¹ [REDACTED].

⁵⁹² [REDACTED]. See also para. 51: [REDACTED].

⁵⁹³ See para. 66. See also e.g. [REDACTED]. See also para.48: [REDACTED]; [REDACTED].

⁵⁹⁴ [REDACTED].

⁵⁹⁵ [REDACTED]. See also paras. 58-60: P-1026 was enslaved in other ways, including being forced to do hard labour [REDACTED].

⁵⁹⁶ [REDACTED]: (F-2804).

⁵⁹⁷ [REDACTED].

⁵⁹⁸ [REDACTED].

and, how his torturer [REDACTED], calling him a mule and faggot.⁵⁹⁹ Similarly, [REDACTED] said “[t]he beating I endured on my buttocks and genitals made me feel I was no longer a man”.⁶⁰⁰ [REDACTED], a boy, was mocked about, and beaten on, his genitals, whilst he was tortured. His torturer repeatedly said: [REDACTED].⁶⁰¹ [REDACTED], another boy, was [REDACTED], tortured including by grabbing of his genitals, called a “mule”, a son of a bitch, and a bastard.⁶⁰² Some were explicitly told by their torturer that their aim was to emasculate them. For instance, [REDACTED] was punched and pulled on his genitals and penis whilst his torturer said he would end his “sex life” and that once he was done with him “he would no longer be a man”.⁶⁰³ They [REDACTED], whilst calling him a son of a bitch.⁶⁰⁴

97. Likewise, during torture/punishment, Mitiga Perpetrators controlled the sexual/reproductive autonomy of women and girls by rape,⁶⁰⁵ beating them on their buttocks,⁶⁰⁶ targeting their breasts and/or genitals,⁶⁰⁷ and, at the same time verbally denigrating or deriding them as immoral. For instance, [REDACTED], [REDACTED], [REDACTED], and [REDACTED] were beaten all over their bodies.⁶⁰⁸ [REDACTED] was called a “slut”, “bitch”, “*bint haram*” (bastard child), “pussy”; and her breasts and genitals forcibly touched and beaten.⁶⁰⁹ [REDACTED] was called a “*Sabiya*” and threatened with rape and invasive genital searches. Her torturers touched her breasts/body and told her [REDACTED]. She was subjected to psychological pressure and coercion [REDACTED]; and beaten when she refused. Similarly, they intimidated and coerced her by [REDACTED].⁶¹⁰ **EL HISHRI** also exerted controls over a woman’s sexuality and her sexual autonomy, by punishing her, [REDACTED], then rubbing his erect penis against her buttocks, whilst telling her [REDACTED].⁶¹¹

98. Some women and men lost their reproductive autonomy and/or ability as a result: [REDACTED] cannot have children and understands that this is due to a medical condition that was a consequence of the rapes, torture and detention conditions she endured.⁶¹² [REDACTED].⁶¹³

⁵⁹⁹ [REDACTED].

⁶⁰⁰ [REDACTED].

⁶⁰¹ [REDACTED].

⁶⁰² [REDACTED].

⁶⁰³ [REDACTED].

⁶⁰⁴ [REDACTED].

⁶⁰⁵ [REDACTED]; [REDACTED]; [REDACTED].

⁶⁰⁶ [REDACTED]; [REDACTED]; [REDACTED].

⁶⁰⁷ [REDACTED]; [REDACTED].

⁶⁰⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁰⁹ [REDACTED].

⁶¹⁰ [REDACTED].

⁶¹¹ [REDACTED]. (F-2496).

⁶¹² [REDACTED].

⁶¹³ [REDACTED].

[REDACTED] understood he was infertile because of his beatings.⁶¹⁴ [REDACTED] continues to struggle to have children after [REDACTED]. He believes that the past threats to rape him, because of the trauma, also impacts on his ability to conceive.⁶¹⁵

99. Some Mitiga Perpetrators were notorious for subjugating and controlling their victims, through acts of sexual and reproductive torture and humiliation. They attacked their genitals, thereby emasculating male detainees, during interrogation and torture. Mitiga Perpetrator Al TURKI was known to torture men and boys by grabbing and pulling their penis/testicles, and/or [REDACTED].⁶¹⁶ **EL HISHRI** tortured a detainee to death by [REDACTED].⁶¹⁷ Similarly, NJEEM was known to rape and sexually abuse women, including during torture in interrogation.⁶¹⁸

100. Mitiga Perpetrators exercised powers of ownership over detainees (men, women, children), and exerted controls over their sexuality and sexual autonomy by also raping and/or subjugating them to other sexual violence, outside interrogations. This includes vulnerable women and girls, and boys and youth, as described below. For instance, guards kissed women and touched their breasts; women/girls were taken out of cells to be raped; and, boys/youth raped/subjected to sexual violence.⁶¹⁹

101. Mitiga Perpetrators controlled the sexuality and sexual autonomy of some detainees, including for their actual or perceived sexual orientation/gender identity/expression, by punishing them for their perceived non-conformity to Mitiga Perpetrators' views regarding appropriate societal gender behaviour or norms. This included men or boys perceived as gay, 'effeminate'; or women or girls perceived as 'masculine', or those perceived as having jobs inappropriate and/or 'immoral' for their gender; and/or women, girls, men or boys perceived as having inappropriate/immoral personal relations as unmarried persons.

102. Men and boys were subjugated if they were actually, or perceived as being, gay or 'effeminate'. [REDACTED] was interrogated and punished for being gay—forced to strip naked, badly beaten, including on his buttocks, and told "[REDACTED], you deserve to be killed".⁶²⁰ Others mocked him for being gay, called him a "mule", [REDACTED].⁶²¹ Another Perpetrator [REDACTED] raped him.⁶²² [REDACTED], who was viewed as gay [REDACTED], was interrogated

⁶¹⁴ See e.g. [REDACTED]. See also, e.g. [REDACTED].

⁶¹⁵ [REDACTED].

⁶¹⁶ [REDACTED]; [REDACTED]; [REDACTED].

⁶¹⁷ [REDACTED]. See also, e.g. [REDACTED]. (F-2178)

⁶¹⁸ [REDACTED]; [REDACTED].

⁶¹⁹ See paras. 68-77.

⁶²⁰ [REDACTED].

⁶²¹ [REDACTED].

⁶²² [REDACTED].

about his sexual identity, beaten and tortured.⁶²³ [REDACTED] was punished by his torturer, [REDACTED].⁶²⁴ Mitiga Perpetrators also targeted women and girls for arrest and punishment, for behaviour they viewed as inappropriate for their gender, such as being seen publicly with boy-friends/male friends, or having jobs viewed as ‘immoral’, such as singers, journalists and politicians.⁶²⁵

103. Detainees were subjected to controls over their autonomy, including their gender identity and expression, by other forms of gender-based controls, including imposed gendered dress and appearance rules, sometimes followed by punishment for non-compliance. For instance, males were forced to shave their hair and grow beards, and some were punished for non-compliance.⁶²⁶ Likewise, some males were punished for wearing jewellery, considered inappropriate for their gender.⁶²⁷ Women and girls were forced to wear veils, robes, and gloves that fully covered them and some punished for non-compliance. EL HISHRI shot F-3024, and deprived her of medical treatment, when [REDACTED].⁶²⁸ F-2152 was arrested for [REDACTED].⁶²⁹ There were other gender-based controls. For instance, women and girls were severely mistreated, forced to walk in groups tied and pulled by rope or sticks.⁶³⁰

DCC, para. 43.c.: Subjection to torture, cruel treatment and abuse/coercion—shown in the Mitiga Perpetrators’ conduct against relevant detainees including: frequently sexualised torture and cruel treatment; other severe mistreatment and violent abuse; depriving them of sufficient or adequate food and water, depriving them of access to necessary medical care, and exploiting their bodies by forcing them to have blood extracted for purposes of transfusion;

104. Mitiga Perpetrators also exercised powers of ownership over detainees by constant torture, cruel treatment, and abuse:⁶³¹ all ways of subjugating and controlling the detainees. Constant abuse included daily beatings,⁶³² and collective punishment of detainees.⁶³³ Detainees were also

⁶²³ [REDACTED].

⁶²⁴ [REDACTED].

⁶²⁵ See e.g. para. 148.

⁶²⁶ See e.g. P-0990: [LBYP-OTP-00015405](#), para. 52; P-0692: [LBYP-OTP-0080-0608](#), para. 24; P-0992: [LBYP-OTP-00018787](#), para. 39; P-1025: [LBYP-OTP-00016916](#), para. 32; P-0730: [LBYP-OTP-00015125](#), para. 32.

⁶²⁷ [REDACTED].

⁶²⁸ P-0943: [LBYP-OTP-00018075](#), para. 69; P-0595: [LBYP-OTP-0074-0889](#), paras. 200-201; P-1722: [LBYP-OTP-02488730](#), para. 219; P-1750: [LBYP-OTP-03214454](#), para. 154; P-1733: [LBYP-OTP-03703558](#), paras. 27-28, 37, 53, 83; P-0667: [LBYP-OTP-00001491](#), para. 112. P-0692: [LBYP-OTP-0080-0608](#), paras. 171, 213-214 and [LBYP-OTP-0070-0827](#), at 03:05:16 (trans: [LBYP-OTP-00019073](#)); P-0720: [LBYP-OTP-0083-0052](#), paras. 172, 184; P-0872: [LBYP-OTP-00007275](#), para. 91; P-0925: [LBYP-OTP-00018772](#), para. 78; P-0942: [LBYP-OTP-00015360](#), para. 119; P-0992: [LBYP-OTP-00018787](#), para. 39. See also, P-1736: [LBYP-OTP-03703604](#), paras. 88, 106-110, 136-139.

⁶²⁹ [REDACTED].

⁶³⁰ See e.g. [REDACTED]; [REDACTED].

⁶³¹ See paras. 52-66.

⁶³² See paras. 54-58. See e.g. P-1685: [LBYP-OTP-00057776](#), para. 174.

⁶³³ See paras. 52, 123. See e.g. P-1685: [LBYP-OTP-00057776](#), paras. 174-179; P-1710: [LBYP-OTP-01257853](#), paras. 145-158; P-1720: [LBYP-OTP-01558903](#), paras. 139, 205-210; P-1722: [LBYP-OTP-02488730](#), paras. 85-91, 139-

controlled, by being subjected to cruel treatment/abuse through starvation: deprived of sufficient or adequate food, so that they became malnourished or ill;⁶³⁴ and, deprived of necessary medical treatment and/or medication, resulting in some detainees' deaths in custody.⁶³⁵ Similarly, Mitiga Perpetrators controlled the bodily autonomy of detainees by forcing them to give blood. Blood was taken to treat SDF/RADA soldiers wounded in combat. Detainees were so starved and badly treated, that some felt they had to give blood to receive food in exchange, or for some reprieve from their inhumane conditions. In some instances, detainees were beaten and blood forcibly taken from their bodies.⁶³⁶

DCC, para. 43.d.: Psychological control and pressure/coercion—shown in the Mitiga Perpetrators' conduct against relevant detainees such as: psychological control, pressure, and coercion, including violence or threat of violence; violent retribution or threat of violent retribution for the detainees' vulnerabilities such as race, gender, and age; [...];

105. All detainees were subjected to constant psychological control, pressure, force, coercion or threat of coercion, making detainees submissive and subservient to the will of Mitiga Perpetrators. The overall coercive environment allowed, and exacerbated, the exercise of the powers of the right of ownership over the enslaved detainees.⁶³⁷ Whether they complied with instructions or not, guards beat them. While violence was the norm, any sign of disobedience resulted in yet more severe detention conditions, torture, rape and even death.⁶³⁸ Detainees were also often subjected to psychological pressure and controls, by threats, such as to rape, kill, or to never release them.⁶³⁹

DCC, para. 43.d.: [...] using derogatory and dehumanising language; [...];

106. Mitiga Perpetrators also exerted psychological control/coercion, by using dehumanising, derogatory, gendered and/or racialised slurs, with detainees.⁶⁴⁰ Black Migrants or 'black-skinned' detainees were called "slaves" (thus, perceived by Mitiga Perpetrators and other detainees as being

141, 221-223, 228-232; **P-1722:** [LBY-OTP-02856267](#), paras. 74-76, 132-136; **P-1750:** [LBY-OTP-03214454](#), para.110.

⁶³⁴ See e.g. **P-0720:** [LBY-OTP-0083-0052](#), paras. 162-165, 190, 167-177; **P-0720:** [LBY-OTP-00020099](#), para. 42; **P-0595:** [LBY-OTP-0074-0889](#), paras.155-158; **P-0990:** [LBY-OTP-00015405](#)-0001, paras. 51, 96-98; **P-1736:** [LBY-OTP-03703604](#), paras. 77-80, 148-149, 156, 198, 201.

⁶³⁵ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶³⁶ [REDACTED]; [REDACTED]. See also [REDACTED].

⁶³⁷ See fn. 552. See e.g. **P-0720:** [LBY-OTP-0083-0052](#), para. 185; **P-0720:** [LBY-OTP-00020099](#), para. 79; **P-0439:** [LBY-OTP-0066-0951](#), para. 100; **P-0719:** [LBY-OTP-0070-7295](#), para. 87.

⁶³⁸ See e.g. paras. 52-61, 68-74, 92-99, 102-104, 121-124, 129-132, 143, 146, 149.

⁶³⁹ See e.g. paras. 48, 52-53, 57-59, 68-73, 95-97. See e.g. **P-1745:** [LBY-OTP-03214428](#), paras. 38-39; 51; **P-1736:** [LBY-OTP-03703604](#), para.188.

⁶⁴⁰ See e.g. *Prosecutor v L.I.* (Stockholm District Court, 2025), pp. 160-161, para. 18.4.7 "Insulting language" of unofficial translation; pp. 206-207, para. 22.4 "Slavery and deprivation of liberty" of unofficial translation. See e.g. **P-1720:** [LBY-OTP-01558903](#), paras. 194-195.

enslaved);⁶⁴¹ other male detainees were called, for instance, “faggots”, “mules” and/or “donkeys” (derogatory terms for gay men); “animal”, “dog”, “bastard”, “son of a whore”, “*sabiya*” (female “sex slave”),⁶⁴² and females called, for instance, “dogs”, “bastards”, “sluts”, “bitch/es”, “whore(s)”, “pussy”, and “*sabiya*”.⁶⁴³

DCC, para. 43.d.: [...] applying intense psychological pressure by means of inflicting harm on family members, or threatening harm to family members; [...];

107. Mitiga Perpetrators exerted psychological controls over the enslaved detainees, and targeted their vulnerabilities,⁶⁴⁴ through: threats of or actual harm to family members, to force detainees to comply with their demands. Detainees were controlled and pressured by: attacks, threats, pressure on, or extortion of their family;⁶⁴⁵ threats against detainees to harm family members;⁶⁴⁶ forcibly disappearing victims without informing family and/or the Attorney General or Public Prosecutor;⁶⁴⁷ prolonged denial of contacts with family and/or punishment for complaints about ill-treatment to family;⁶⁴⁸ false charges and/or forced false confessions, including those impugning reputations (impacting on family/community relations);⁶⁴⁹ other interferences with their family relationships (such as pressuring spouses to divorce detainees),⁶⁵⁰ and, other controls over family life (e.g. inability to have children as a result of torture; separation from close family members).⁶⁵¹

108. Some vulnerable detainees (including [REDACTED], the elderly, parents, grandparents, spouses) were enslaved by being abducted, imprisoned and used by Mitiga Perpetrators as a means

⁶⁴¹ See e.g. **P-0595**, [LBY-OTP-0074-0889](#), paras. 165-166; paras. 223-225; **P-0730**, [LBY-OTP-00015125](#), paras. 64-65, 124; **P-0724**, [LBY-OTP-0085-0063](#), para. 57; **P-1041**, [LBY-OTP-00020173](#), paras. 92; **P-1710**: [LBY-OTP-01257853](#), paras. 17, 42, 45, 82, 107; **P-0635**: [LBY-OTP-0070-6952](#), para. 100-101; **P-1736**: [LBY-OTP-03703604](#), para. 77.

⁶⁴² **Faggot**: e.g. [REDACTED]; [REDACTED]; **Mule**: e.g. [REDACTED]; [REDACTED]; [REDACTED]; **Donkey**: e.g. [REDACTED]; [REDACTED]; [REDACTED]; **Dog**: [REDACTED]; [REDACTED]; **Animal**: [REDACTED]; [REDACTED]; **Bastard**: [REDACTED]; **Son of a whore**: [REDACTED]; **Son of a bitch**: [REDACTED]; [REDACTED]; [REDACTED]; See also, e.g. [REDACTED] (“filthy [REDACTED]”); [REDACTED] (“filthy”; “garbage”); **Sabiya**: [REDACTED].

⁶⁴³ See e.g. **Bitch**: [REDACTED]; [REDACTED]: (calling mother/sister ‘bitches’); [REDACTED]; [REDACTED]; **Whore**: [REDACTED]; **Slut**: [REDACTED]; **Dog**: [REDACTED]; [REDACTED]; **Bastard**: [REDACTED]; **Sabiya**: [REDACTED]; **Pussy**: [REDACTED].

⁶⁴⁴ See, fns. 552-553.

⁶⁴⁵ See e.g. **P-0720**: [LBY-OTP-0083-0052](#), para. 114; **P-0665**: [LBY-OTP-0083-0663](#), paras. 32-33, 36, 38, 42-45, 59-66; **P-0644**: [LBY-OTP-00020358](#), para. 134.

⁶⁴⁶ See e.g. **P-1026**: [LBY-OTP-00016896](#), paras. 28-29; **P-1673**: [LBY-OTP-00392926](#), para. 132.

⁶⁴⁷ See e.g. **P-0720**: [LBY-OTP-0083-0052](#), paras. 157, 191. See also, e.g. **P-0720**: [LBY-OTP-0083-0052](#), para. 137; **P-0667**: [LBY-OTP-00001491](#), para. 103; **P-0644**: [LBY-OTP-00020358](#), para. 84; **P-1710**: [LBY-OTP-01257853](#), para. 72; **P-1720**: [LBY-OTP-01558903](#), paras. 58, 172, 233-235, 317; **P-1721**: [LBY-OTP-02488678](#), para. 87; **P-1722**: [LBY-OTP-02488730](#), paras. 180, 238; **P-1745**: [LBY-OTP-03214428](#), para. 171; **P-1750**: [LBY-OTP-03214454](#), para. 37.

⁶⁴⁸ See e.g. [REDACTED]; [REDACTED]. See also, e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁶⁴⁹ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁵⁰ See e.g. [REDACTED]. See also, e.g. [REDACTED].

⁶⁵¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

to force the family to comply with demands of the Mitiga Perpetrators (e.g. to surrender; to transfer land; to marry; etc).⁶⁵² These abducted family members were all subject to inhumane detention conditions. Additionally, some were further subjugated and enslaved by being subjected to forms of torture, cruel treatment and abuse.⁶⁵³

DCC, para. 43.d.: [...] forcing detainees, including by threat of force or coercion, to adopt the perpetrators' ideology and practices, irrespective of the detainees' own ideological beliefs, preferences or heritage.

109. Mitiga Perpetrators exercised powers of ownership over detainees (including Muslims, Christians and atheists), by exerting controls over their ideological/religious autonomy.⁶⁵⁴ In particular, Mitiga Perpetrators forced Mitiga detainees to adopt their ideological beliefs and/or practices, and used violence, or threatened violence, if detainees did not comply.⁶⁵⁵ Mitiga Perpetrators exerted psychological controls and coercion, and other indicia/forms of enslavement over this group of enslaved detainees as described at paragraphs 141-143 below, including: forcing detainees to adopt Mitiga Perpetrators' ideological beliefs and practices, with threats of, or actual beatings or shooting for non-compliance with forced prayers (multiple times a day) and forced reading of religious texts; torture/beatings, forced conversions, forced ideological 're-education', of those viewed as non-believers (and monitoring victims forced to convert after release); forcing males to shave heads/grow beards; forcing females to abide by their dress codes/cover up and punishments including beatings/shooting, for perceived non-compliance with the Mitiga Perpetrators' views; sensory overload/torture/cruel treatment of women/children in the Women's Section through loud, constant playing of religious prayers at regular times of the day, including during their beatings and torture.

DCC, para. 43.e.: Forced labour and subjecting detainees to servile status—shown in the Mitiga Perpetrators' conduct against relevant detainees including forcing or compelling them to engage in hard labour which was arduous, physically and/or mentally harmful, demeaning, or itself unlawful in nature.

110. Mitiga Perpetrators exercised powers of ownership over a specific group of enslaved detainees (Libyans, Black Migrants, and other Non-Libyans), men, women and children, by ordering them to do forced or compulsory labour that they could not lawfully require and/or went beyond what was otherwise allowed in prison. In this case, tasks were imposed on many detainees who were not convicted or sentenced to carry out labour. This was not lawful, as labour is only allowed when part of a convicted prisoner's lawful judicial sentence.⁶⁵⁶ Even for convicted prisoners there

⁶⁵² See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁵³ See e.g. **P-0595: LBY-OTP-0074-0889**, paras. 214-218.

⁶⁵⁴ **Controls over autonomy: Vulnerability/Sexuality:** See e.g. fns. 553, 555.

⁶⁵⁵ See e.g. *Prosecutor v. L.I.* (Svea Court of Appeal, 2025), pp. 16-17 of unofficial translation.

⁶⁵⁶ See e.g. ILO Convention No. 29, article 2, article 4(1). Ratified by 181 countries. E.g. ratified by Libya, 13 June 1961. See also, ICCPR, article 8(3)(a)-(c).

are limitations, as they retain their fundamental human rights, including against slave trade, slavery, torture or cruel treatment.⁶⁵⁷ Whilst the relevant standards for this Court are only those under international law, in this case Libyan national law was also violated—as regards any convicted and non-convicted detainees—as it only allows certain forms of labour from convicted prisoners,⁶⁵⁸ requires remuneration,⁶⁵⁹ and limits hours and ages.⁶⁶⁰ Under Libyan national law non-convicted detainees may not be employed.⁶⁶¹ Moreover some of the detainees who were detained, because they were viewed as political opponents/enemies, were also required to carry out forced labour, such as [REDACTED].⁶⁶² Forced labour cannot be used as a means of discrimination, political coercion, education, or punishment for holding political views or views ideologically opposed to the authorities.⁶⁶³

111. Detainees used for forced labour were not paid for their work,⁶⁶⁴ although some were promised payment.⁶⁶⁵

DCC, para. 43.e.: [...] The division of the forced labour was gendered and racialised.

112. Forced labour was gender-based and racialised: for instance, enslaved men were forced to do heavier physical hard labour, such as construction work and carrying heavy loads; participate in and/or be involved in combat/hostilities;⁶⁶⁶ and participate more actively in torture;⁶⁶⁷ enslaved women and girls were forced to do domestic labour such as cleaning and laundry, whilst at risk of beatings whenever outside their cells.⁶⁶⁸ Black Migrants (males/females) were in particular singled out for worst forms of forced labour and mistreatment, including males used more often to fight in hostilities and to carry out crimes against other detainees – and both males/females subject to especially harsh treatment.⁶⁶⁹

⁶⁵⁷ See e.g. *Stummer v. Austria*, para. 99, citing *Dickson v. United Kingdom*, para. 68.

⁶⁵⁸ [LBY-OTP-03703754/LBY-OTP-03703755](#): Libyan Penal Code: articles 17-28 (“hard labour” only upon conviction/penalty with sentencing from judge, see articles 23 and 24). Law no.5/2005, articles 28, 32.

⁶⁵⁹ [LBY-OTP-03703754/LBY-OTP-03703755](#): Libyan Penal Code, article 45 (convicted persons entitled to remuneration); Decree no. 168/2005, articles 63-65.

⁶⁶⁰ Decree no. 168/2005, articles 47, 49 (age 60 limit unless convicted inmate desires to work and their health permits; maximum 8 hours per day including half an hour at least for rest and lunch).

⁶⁶¹ Decree no. 168/2005, article 47.

⁶⁶² **Political targeting:** [REDACTED]; [REDACTED]. **Forced labour:** See para. 121.

⁶⁶³ See e.g. ILO Convention No. 105, article 1(a) and (e); ratified by 178 countries, e.g. ratified by Libya 13 June 1961.

⁶⁶⁴ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁶⁵ See e.g. [REDACTED]; [REDACTED]. See *Kunarac et al.* TJ, para. 542. False promises can also be an indicia of enslavement.

⁶⁶⁶ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁶⁶⁷ See fn. 671.

⁶⁶⁸ See e.g. [REDACTED].

⁶⁶⁹ See paras. 106, 116, 118-119, 131, 139, 144-146.

DCC, para. 44: In particular, the Mitiga Perpetrators forced relevant detainees to carry out arduous, physically or mentally harmful, demeaning, or unlawful labour of several kinds, principally in Mitiga Prison, including:

DCC, para. 44.a.: Carrying out, participating in, or facilitating the commission of crimes against other detainees, such as torture, conducting strip searches and invasive body searches;

113. Mitiga Perpetrators forced enslaved detainees to: conduct invasive bodily searches (inside others' anuses, vaginas, and/or touching testicles, breasts of other detainees);⁶⁷⁰ prepare other detainees for torture by restraining (e.g. blindfolding or handcuffing), guarding, transporting them to the torture site; assist in carrying out torture or other mistreatment;⁶⁷¹ and/or to participate in unlawful imprisonment by guarding other detainees (including detainees secretly held/forcibly disappeared).⁶⁷²

DCC, para. 44.b.: Supervising, guarding and disciplining other detainees, whether as a designated “capo” for a particular cell or area in Mitiga Prison, or *ad hoc*;

114. “Capos” were ordered to assist in unlawful mistreatment of fellow detainees, for instance by: supervising, guarding, enforcing discipline or reporting on other detainees (that risked further abuse or mistreatment by Mitiga Perpetrators), and otherwise forced to control other detainees.⁶⁷³ They were required to carry out other forced labour alongside these responsibilities, and had no agency to decide to be a “capo” or to do other forced labour.⁶⁷⁴

DCC, para. 44.c.: Carrying out unsanitary or hazardous labour within Mitiga Prison, such as removing bodies, providing rudimentary sanitation, providing healthcare including without proper equipment;

⁶⁷⁰ **Non-Libyans:** [REDACTED]; **Libyans:** [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁷¹ **Non-Libyans:** P-0872: [LBY-OTP-00007275](#), para. 42; P-0720: [LBY-OTP-00020099](#), paras. 6, 29, 108; P-1026: [LBY-OTP-00016896](#), paras. 29-30: [REDACTED]; P-1026: [LBY-OTP-00016896](#), para. 67: [REDACTED]; **Black Migrants:** P-0054, [LBY-OTP-0073-0025](#), paras. 53, 84, 88, 91, 102, 105-110: F-2480; P-0719, [LBY-OTP-0070-7295](#), para. 85: [REDACTED]; P-0569, [LBY-OTP-0080-0032](#), paras. 52-54, 56, 58: [REDACTED]; P-0992, [LBY-OTP-00018787](#), para. 93: [REDACTED]; P-0720, [LBY-OTP-0083-0052](#), paras. 126, 137-142: [REDACTED]; P-0720, [LBY-OTP-00020099](#), paras. 34, 79-80, 84: [REDACTED]; P-0595, [LBY-OTP-0074-0889](#), para. 52: [REDACTED]; P-0595: [LBY-OTP-0074-0889](#), para. 226: [REDACTED]; P-1745: [LBY-OTP-03214428](#), para. 170; P-0719, [LBY-OTP-0070-7295](#), paras. 133-138: [REDACTED]; P-0635, [LBY-OTP-0070-6952](#), para. 100: [REDACTED]. *See also* P-0724, [LBY-OTP-0085-0063](#), para. 57; P-0568, [LBY-OTP-00018134](#), para. 76; P-1736: [LBY-OTP-03703604](#), paras. 97-98: [REDACTED]; **Libyans:** P-0720: [LBY-OTP-0083-0052](#), 139, 141; P-0872: [LBY-OTP-00007275](#), para. 40, 43, and 52; P-0665: [LBY-OTP-0083-0663](#), paras. 84-88: [REDACTED]; P-0990: [LBY-OTP-00015405](#), para. 52: [REDACTED]; P-1046: [LBY-OTP-00019195](#), paras. 60, 61: [REDACTED]; P-0872, [LBY-OTP-00007275](#), paras. 41-42: [REDACTED]; P-0568: [LBY-OTP-00018134](#), para. 30: [REDACTED]; P-0730, [LBY-OTP-00015125](#), para. 41: [REDACTED]; P-0486, [LBY-OTP-0069-0584](#), paras. 101-102: [REDACTED]; P-0925, [LBY-OTP-00018772](#), paras. 30-31: [REDACTED]; P-0872, [LBY-OTP-00007275](#), paras. 40, 43; P-0498, [LBY-OTP-0069-0506](#), para. 115: [REDACTED].

⁶⁷² [REDACTED]. *See also, e.g.* [REDACTED].

⁶⁷³ *See e.g.* P-0720: [LBY-OTP-0083-0052](#), para. 137; P-1685: [LBY-OTP-00057776](#), para. 178; P-1736: [LBY-OTP-03703604](#), para. 101.

⁶⁷⁴ *See* paras. 101-121.

115. For instance, enslaved detainees were forced to dispose of dead bodies,⁶⁷⁵ or treat or be in contact with sick, contagious or badly injured detainees.⁶⁷⁶ Some were forced to clean toilets and sewers.⁶⁷⁷

DCC, para. 44.d.: Undertaking construction and other arduous or dangerous work at facilities inside or outside Mitiga Prison but under the control or for the benefit of the Mitiga Prison Leadership (including EL HISHRI) or Mitiga Perpetrators or their associates;

116. Mitiga Perpetrators exercised powers of ownership over detainees (including non-convicted persons), within and outside Mitiga Compound, including over Libyans,⁶⁷⁸ Black Migrants,⁶⁷⁹ and other Non-Libyans,⁶⁸⁰ by using them as unpaid forced or compulsory labour.⁶⁸¹ They were forced to work long hours, including in construction or other difficult or hard labour, at facilities and/or private properties of Mitiga Perpetrators (including EL HISHRI).⁶⁸²

DCC, para. 44.e.: Undertaking menial and other tasks within Mitiga Prison exposing detainees more frequently to danger or trauma associated with violence by or against other detainees (such as tasks requiring entry to or passage through areas where criminal acts were occurring);

⁶⁷⁵ **P-0568:** [LBY-OTP-00018134](#), para. 54: [REDACTED]; **P-0595:** [LBY-OTP-0074-0889](#), paras. 91-92; 97-102, 105, 118, 122-123, 129, 130, 141, 144, 163, 173, 181, 190, 213, 240, 269[REDACTED]; **P-0635:** [LBY-OTP-0070-6952](#), para. 98: [REDACTED]; **P-0692:** [LBY-OTP-0080-0608](#), paras. 36, 40, 56-57, 61: [REDACTED]; **P-0719:** [LBY-OTP-0070-7295](#), para. 141: [REDACTED]; **P-0925:** [LBY-OTP-00018772](#), paras. 40-41: [REDACTED]; **P-0595:** [LBY-OTP-0074-0889](#), paras. 83, 86-87, 90-192: [REDACTED]; **P-0720:** [LBY-OTP-00020099](#), para. 84(13[REDACTED]); **P-1736:** [LBY-OTP-03703604](#), para. 141.

⁶⁷⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁷⁷ **P-1673:** [LBY-OTP-00392926](#), para. 180; **P-0692:** [LBY-OTP-0080-0608](#), para. 164; **P-0730:** [LBY-OTP-00015125](#), para. 65.

⁶⁷⁸ **Libyans:** **P-0439:** [LBY-OTP-0066-0951](#), paras. 60-61; 63; **P-1041:** [LBY-OTP-00020173](#), paras. 85, 88-91; 92; 93, 94-100, 103-110; 115-116, 118; 120-121; **P-1026:** [LBY-OTP-00016896](#), para. 54; **P-0498:** [LBY-OTP-0069-0506](#), para. 137; **P-1710:** [LBY-OTP-01257853](#), para. 42.

⁶⁷⁹ **Black Migrants:** **P-0595:** [LBY-OTP-0074-0889](#), paras. 52, 166, 223-226; **P-0720:** [LBY-OTP-0083-0052](#), paras. 76-77, 163; 170; **P-1026:** [LBY-OTP-00016896](#), paras. 54, 56, 57, 60; [REDACTED]; **P-0498:** [LBY-OTP-0069-0506](#), para. 137.

⁶⁸⁰ **Other Non-Libyans:** **P-0719:** [LBY-OTP-0070-7295](#), paras. 133-134; **P-0595:** [LBY-OTP-0074-0889](#), paras. 223-225; **P-0720:** [LBY-OTP-0083-0052](#), paras. 76-77, 108; **P-1026:** [LBY-OTP-00016896](#), paras. 54-60.

⁶⁸¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁶⁸² **P-0439:** [LBY-OTP-0066-0951](#), para. 63 ([REDACTED]); **P-1026:** [LBY-OTP-00016896](#), paras. 58-60 ([REDACTED]); **P-0692:** [LBY-OTP-0080-0608](#), para. 39: ([REDACTED]); **P-1685:** [LBY-OTP-00057776](#), paras. 156-157 ([REDACTED]); **P-1710:** [LBY-OTP-01257853](#), para. 42: [REDACTED]; para 231: [REDACTED]; para. 237. See also **P-0719:** [LBY-OTP-0070-7295](#), para. 134; **P-0990:** [LBY-OTP-00015405](#), para. 105; **P-0498:** [LBY-OTP-0069-0506](#), paras. 136-137; **P-0720:** [LBY-OTP-0083-0052](#), para. 158; **P-0486:** [LBY-OTP-0069-0584](#), paras. 194-195; **P-0595:** [LBY-OTP-0074-0889](#), para. 225; **P-1026:** [LBY-OTP-00016896](#), para. 54; **P-1073:** [LBY-OTP-00020267](#), para. 103; **P-0720:** [LBY-OTP-0083-0052](#), paras. 20, 28, 76-77, 170; **P-1685:** [LBY-OTP-00057776](#), para. 145; **P-1710:** [LBY-OTP-01257853](#), para. 207; **P-1720:** [LBY-OTP-01558903](#), para. 133; **P-1750:** [LBY-OTP-03214454](#), para. 139.

117. Detainees who were ordered to distribute food,⁶⁸³ medically treat other detainees,⁶⁸⁴ clean, or carry out other prison-related tasks,⁶⁸⁵ received normal-sized cells or a bit more food, at the mercy of the Mitiga Perpetrators. However, because they moved across more areas of Mitiga Prison, they were exposed to additional risks of physical and/or psychological harm, compared with other detainees, as they were in more frequent contact with violent Mitiga Perpetrators or detainees, and/or suffered psychological harm from more frequent risk of seeing serious ill-treatment of others (such as beatings, torture, and killings).⁶⁸⁶

118. They include F-2500, an [REDACTED] boy, who was enslaved by Mitiga Perpetrators and targeted due to his age and vulnerability. He was imprisoned and used as child forced labour including [REDACTED], exposing him to mentally unwell [REDACTED], at times undressed. He was also made to [REDACTED].⁶⁸⁷ F-2062, [REDACTED], was required to witness deliberate killings, torture, deliberate medical neglect, and death; describing it as the worst period of his detention because of what he was forced to witness. He was also ordered to [REDACTED].⁶⁸⁸ F-2703 was forced to clean and do the laundry and whenever she left her cell to do that work she was badly beaten.⁶⁸⁹ Black Migrant women were also amongst the women and girls required to do menial labour, including in other parts of the Prison, and therefore exposed to greater risk of physical/psychological harm from violent Mitiga Perpetrators like **EL HISHRI**, to themselves or from witnessing such harm to other detainees. [REDACTED], who was put in the cell with Black Migrant women as a ‘punishment’, describes how F-3034 and other Black Migrant women were taken out

⁶⁸³ P-0568: [LBY-OTP-00018134](#), para. 54; P-1070: [LBY-OTP-00020236](#), paras. 20-21: [REDACTED]; food distribution; P-0720: [LBY-OTP-0083-0052](#), para. 173, P-0720: [LBY-OTP-00020099](#), paras. 69, 70: [REDACTED]; P-1026: [LBY-OTP-00016896](#), para. 78; P-1046: [LBY-OTP-00019195](#), para. 121: [REDACTED] (child labour); P-0719: [LBY-OTP-0070-7295](#), para. 149: [REDACTED]; Victim [REDACTED] (P-0720: [LBY-OTP-0083-0052](#), paras. 160, 162, 167): kitchen. *See also* P-0568: [LBY-OTP-00018134](#), para. 76; P-0595: [LBY-OTP-0074-0889](#), paras. 52, 166, 226; P-0486: [LBY-OTP-0069-0584](#), paras. 194-195; P-1685: [LBY-OTP-00057776](#), para. 168: [REDACTED].

⁶⁸⁴ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; *See also* P-0568: [LBY-OTP-00018134](#), para. 76; P-0595: [LBY-OTP-0074-0889](#), paras. 52, 166, 226; P-0498: [LBY-OTP-0069-0506](#), para. 67; P-0486: [LBY-OTP-0069-0584](#), paras. 194-195; P-0719: [LBY-OTP-0070-7295](#), para. 141: F-2227; P-0692: [LBY-OTP-0080-0608](#), paras. 34, 83; P-1736: [LBY-OTP-03703604](#), paras. 128-131.

⁶⁸⁵ P-1073: [LBY-OTP-00020267](#), para. 73: [REDACTED]; P-0568: [LBY-OTP-00018134](#), para. 54; P-0595: [LBY-OTP-0074-0889](#), paras. 91-92; 97-102, 105, 118, 122-123, 129, 130, 141, 144, 163, 173, 181, 190, 213, 240, 269; P-0635: [LBY-OTP-0070-6952](#), para. 98; P-0692: [LBY-OTP-0080-0608](#), paras. 36, 40, 56-57, 61; P-0719: [LBY-OTP-0070-7295](#), para. 141; P-0730: [LBY-OTP-00015125](#), paras. 29-30, 75, 80-81: [REDACTED]; P-0692: [LBY-OTP-0080-0608](#), para. 164: [REDACTED]; *See also* P-0568: [LBY-OTP-00018134](#), para. 76; P-0595: [LBY-OTP-0074-0889](#), paras. 52, 166, 226; P-0498: [LBY-OTP-0069-0506](#), para. 67; P-0486: [LBY-OTP-0069-0584](#), paras. 194-195; P-1710: [LBY-OTP-01257853](#), para. 206; P-1736: [LBY-OTP-03703604](#), para. 77.

⁶⁸⁶ *See e.g.* [REDACTED]; [REDACTED].

⁶⁸⁷ P-1046: [LBY-OTP-00019195](#), para. 121: F-2500; P-1026: [LBY-OTP-00016896](#), para. 78; P-0720: [LBY-OTP-00020099](#), paras. 69-70. *See also*, P-1736: [LBY-OTP-03703604](#), para. 190.

⁶⁸⁸ [REDACTED].

⁶⁸⁹ [REDACTED]; *see also*, para. 129 ([REDACTED]).

of the cell and brought out to clean the prison including the Women's Section. Black Migrant women were further enslaved by racialised cruel treatment and abuse: they were treated very poorly, viewed as "slaves", detained in a heavily overcrowded cell, and had less food than other detainees.⁶⁹⁰

DCC, para. 44.f.: Undertaking tasks inside or outside Mitiga Compound which involved detainees in, and exposed them to the dangers of, armed hostilities.

119. Mitiga Perpetrators exercised powers of ownership over detainees (Black Migrants,⁶⁹¹ other Non-Libyans,⁶⁹² and Libyans⁶⁹³) by forcing them to participate and/or be involved in armed hostilities, inside and outside Mitiga Compound. This included transporting heavy ammunition or weapons,⁶⁹⁴ fighting in combat (exposing them to risk of injury and death);⁶⁹⁵ and/or being shot/killed for failing to properly follow orders.⁶⁹⁶ [REDACTED], a Black Migrant forced to provide support to RADA forces within and outside Mitiga Compound, [REDACTED],⁶⁹⁷ and Libyan nationals, such as [REDACTED], asked to fight against people [REDACTED].⁶⁹⁸

DCC, para. 45: Even if some of the detainees may have received apparent 'rewards' for their subservience, their labour was, in any event, compelled by force, or by threat of force or coercion, within the context of the endemic system of enslavement and sustained scheme of mistreatment and violent abuse at Mitiga Prison.

120. Detainees who were subjected to forced labour did not have autonomy in doing tasks as ordered, regardless of whether any were eventually held in slightly better conditions or deemed sufficiently subservient to have 'rewards'.⁶⁹⁹ Even those few enslaved detainees released from Mitiga Prison for some hours as a 'reward' remained enslaved.⁷⁰⁰ Individuals can remain enslaved, even if granted some time off from working as a reward.⁷⁰¹ In assessing the imposition of 'a similar deprivation of liberty', evidence of formal imprisonment or detention is not necessary.⁷⁰² The

⁶⁹⁰ [REDACTED]. See also [REDACTED];

⁶⁹¹ **Black Migrants:** See e.g. [REDACTED]; [LBY-OTP-00020177](#), [LBY-OTP-00020179](#), [LBY-OTP-00020181](#), [LBY-OTP-00020183](#), [LBY-OTP-00020184](#), [LBY-OTP-00020185](#). See also, **P-1750:** [LBY-OTP-03214454](#), para. 132.

⁶⁹² [REDACTED]; [REDACTED].

⁶⁹³ [REDACTED].

⁶⁹⁴ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; **Libyans:** [REDACTED]; **Black Migrants/Dark-skinned detainees:** [REDACTED]; [REDACTED]. **Other Non-Libyans:** [REDACTED]; [REDACTED].

⁶⁹⁵ [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁶⁹⁶ [REDACTED].

⁶⁹⁷ [REDACTED]. See e.g. *Kunarac et al.* TJ, para. 530. TJ refers to Geneva Convention IV, article 40 concerning treatment of alien "protected persons" in the territory of a party to the conflict, according to which work must not be "directly related to the conduct of military operations".

⁶⁹⁸ [REDACTED].

⁶⁹⁹ See e.g. [REDACTED].

⁷⁰⁰ [REDACTED]; [REDACTED].

⁷⁰¹ See *Kunarac et al.* TJ, para. 523, citing *Sauckel et al.*, p. 452.

⁷⁰² See e.g. *Ongwen* TJ, para. 2713; *Ntaganda* TJ, para. 952; *Katanga* TJ, para. 977; *Taylor* TJ, para. 420. See EoC, article 7(1)(g)-2 (fn. 18) and article 8(2)(e)(vi)-2 (fn. 66). See also *Brima et al.* TJ, para. 709.

person's subjective perception of their situation and their reasonable fear are relevant,⁷⁰³ as well as situations where individuals are not physically confined but were otherwise unable to leave as they had nowhere else to go and feared for their lives.⁷⁰⁴ Acts of involuntary servitude, even if tempered by seemingly better treatment, is still enslavement when the powers of right to ownership are exercised.⁷⁰⁵ Indeed, in this case, these detainees remained subject to threat, physical and psychological pressure, rendering them submissive.⁷⁰⁶ Likewise, detention conditions were so inhumane that carrying out forced labour to obtain some, slight reprieve in those conditions, meant they were deprived of their autonomy.⁷⁰⁷ They were a resource to be used and their degradation was intended.⁷⁰⁸

121. Similarly, "*capos*" were obliged to take on the role, usually after prolonged periods of unlawful imprisonment, torture or abuse, and/or once viewed as sufficiently 'subservient'. They continued to be subjected to threats and abuse; and, did other forced labour, alongside this function.⁷⁰⁹ For instance, [REDACTED] needed to be obedient and submissive before he was 'trusted'.⁷¹⁰ He was rendered submissive by being forcibly disappeared;⁷¹¹ regularly tortured; deprived of, and beaten for asking for [REDACTED]; threatened to be raped and killed;⁷¹² and, pressured through threats against his family, [REDACTED].⁷¹³ [REDACTED] the 'privilege' of being moved to a 'worker cell'.⁷¹⁴ As a "*capo*" he continued to suffer threats, punishment and abuse.⁷¹⁵ In spite of the 'privilege' of [REDACTED], [REDACTED] left prison suffering from malnutrition and considerable weight loss.⁷¹⁶

DCC, para. 46: Within this system, various groups were enslaved through different indicia in different ways, targeted also on an intersectional basis of gender, age, race, nationality, ethnicity and migration status, with compounding effect. For example, women and children (girls and boys) in the Women's Section were isolated, and subjected to gendered forms of enslavement. [...]

122. Women and children held in the Women's Section were especially subjected to all of the various forms of enslavement. **EL HISHRI**, who was in charge of the Women's Section, and other

⁷⁰³ *Katanga* TJ, para. 977, citing, *Taylor* TJ, para. 420; *Kunarac et al.* TJ, para. 527, citing *The Tokyo Judgment*, p. 528.

⁷⁰⁴ *Al Hassan* TJ, para. 1194; *Ongwen*, TJ, para. 2713; *Ntaganda* TJ, para. 952; *Kunarac et al.*, TJ, para. 750; *Sesay et al.* TJ, paras. 160-161; *Brima et al.*, TJ, para. 709; *Taylor* TJ, para. 420.

⁷⁰⁵ *Kunarac et al.* AJ, para. 123, citing *Pohl et al.*, p. 970.

⁷⁰⁶ See e.g. [REDACTED].

⁷⁰⁷ See paras. 59-64.

⁷⁰⁸ [REDACTED]; [REDACTED]. See also [REDACTED].

⁷⁰⁹ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷¹⁰ [REDACTED]; [REDACTED].

⁷¹¹ [REDACTED].

⁷¹² [REDACTED].

⁷¹³ [REDACTED].

⁷¹⁴ [REDACTED].

⁷¹⁵ [REDACTED]; [REDACTED].

⁷¹⁶ [REDACTED]. See also, e.g. [REDACTED]; [REDACTED].

Mitiga Perpetrators exercised powers of ownership over them by controlling essentially every aspect of their daily lives, depriving them of any autonomy, including in all of the ways as described at paragraphs 86-121 such as: controls or restrictions over movement and physical environment; controls over their sexuality, sexual and reproductive autonomy; subjection to torture, cruel treatment and abuse/coercion; psychological control and pressure/coercion; and, some subjected to forced labour and to a servile status.

123. **EL HISHRI** and other Mitiga Perpetrators subjugated and enslaved detainees in the Women's Section by creating and maintaining a highly coercive environment: subjecting the detainees to extreme forms of violence or threats of violence. For women and children, beatings, and other forms of individual and collective punishments, were continuous.⁷¹⁷ For instance, F-2703 was beaten hard every time she was taken out of her cell to wash dishes or clean laundry.⁷¹⁸ [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were beaten multiple times by **EL HISHRI** and other Mitiga Perpetrators.⁷¹⁹ **EL HISHRI** and other Mitiga Perpetrators would beat, threaten, and/or abuse women and girls as they brought them to or from interrogation/torture.⁷²⁰ Women and girls were tortured on numerous occasions.⁷²¹ Women and girls were heard or seen screaming, crying, being beaten, and tortured,⁷²² including by **EL HISHRI**, **NJEEM** and **Ziad BEZIZI**.⁷²³ Some were so severely tortured that they were permanently disabled, disfigured or harmed.⁷²⁴ Some women were shot by **EL HISHRI**, and he had a violent reputation and was known for shooting detainees.⁷²⁵ Others were threatened with being shot or killed.⁷²⁶ [REDACTED] states: "Khaled **EL HISHRI** was my nightmare. He showed me what hell was, and I was beaten and tortured for no reason. [...]. **EL HISHRI** is more than evil, he is almighty".⁷²⁷

124. Children within the adult section were also subjugated and controlled by being subjected to torture and/or cruel treatment;⁷²⁸ and children in the Women's Section were subjected to torture/cruel treatment including by being hit, subjected to inhumane conditions, and/or forced to

⁷¹⁷ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁷¹⁸ [REDACTED].

⁷¹⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷²⁰ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷²¹ See paras. 48-57. See e.g. [REDACTED].

⁷²² **Heard:** P-0943: [LBY-OTP-00018075](#), paras. 103-108; P-0990: [LBY-OTP-00015405](#), paras. 94-95; P-0692: [LBY-OTP-0080-0608](#), paras. 170-171; P-1750: [LBY-OTP-03214454](#), para. 99; P-0635: [LBY-OTP-0070-6952](#), paras. 148-150; P-1046: [LBY-OTP-00019195](#), paras. 117-120. **Seen:** P-0872: [LBY-OTP-00007275](#), para. 91; P-720: [LBY-OTP-0083-0052](#), para. 178 ; P-0595: [LBY-OTP-0074-0889](#), paras. 214-218.

⁷²³ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁷²⁴ See e.g. [REDACTED]; [REDACTED].

⁷²⁵ [REDACTED]. See also, e.g. [REDACTED]; [REDACTED].

⁷²⁶ See e.g. [REDACTED].

⁷²⁷ [REDACTED].

⁷²⁸ See para. 55-57. See e.g. [REDACTED]; [REDACTED].

watch mothers/women being beaten/tortured.⁷²⁹ The women and children were also subjected to psychological pressure and coercion by being forced to watch the torture and/or murder of men and/or boys brought into the Women's Section for punishment. For instance, a group of Black Migrant men and/or boys were brutally beaten in front of them;⁷³⁰ and, [REDACTED] men hung, severely beaten, and [REDACTED].⁷³¹

125. Women and girls were subjugated by being raped, threatened with rape, or subjected to other forms of sexual violence.⁷³² **EL HISHRI** and NJEEM, and other Mitiga Perpetrators exercised powers of ownership over some women and children they deemed attractive, by taking them from their cells to "leisure"/other areas, where they were forced to drink alcohol and take drugs and then raped.⁷³³ **EL HISHRI** exercised powers of ownership over [REDACTED], [REDACTED].⁷³⁴ **EL HISHRI** and other Mitiga Perpetrators also controlled detainees by stripping them naked, beating, and then raping or attempting to rape them.⁷³⁵ Likewise, [REDACTED] saw **EL HISHRI** exercise control over the sexuality of two female detainees, by rubbing his penis against their buttocks.⁷³⁶ One female detainee was also used by **EL HISHRI**, [REDACTED].⁷³⁷ NJEEM also raped,⁷³⁸ or sexually assaulted women including by grabbing their breasts, masturbating and ejaculating.⁷³⁹ Mitiga Guards would kiss female detainees, and touch their breasts.⁷⁴⁰ Women and girls were further subjugated, and dehumanised, by the constant use of gendered, misogynistic, discriminatory language: such as whore, bitch, pussy,⁷⁴¹ and "*sabiya*".⁷⁴²

126. **EL HISHRI** strictly controlled the Women's Section, including the insufficient food supplies⁷⁴³ and medicines/medical care allowed within the Women's Section.⁷⁴⁴ This was a way in itself of subjugating and controlling the detainees in the Women's Section. Additionally, and consequently, some women and girls also lost their sexual autonomy and suffered sexual violence,

⁷²⁹ See paras. 55-58. See e.g. [REDACTED].

⁷³⁰ [REDACTED].

⁷³¹ [REDACTED].

⁷³² See paras. 59, 69-70, 73, 76-77. **Threats of rape:** See e.g. [REDACTED]; [REDACTED]; Sounds of rape: [REDACTED]; **Rape:** [REDACTED]; [REDACTED]; [REDACTED].

⁷³³ [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

⁷³⁴ [REDACTED]; [REDACTED].

⁷³⁵ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁷³⁶ [REDACTED].

⁷³⁷ [REDACTED].

⁷³⁸ [REDACTED].

⁷³⁹ [REDACTED].

⁷⁴⁰ [REDACTED].

⁷⁴¹ [REDACTED]; [REDACTED]; [REDACTED].

⁷⁴² [REDACTED]. See also para. 25.

⁷⁴³ See para. 64. See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷⁴⁴ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. See also, e.g. [REDACTED]; [REDACTED].

because they were so desperate for food and medical supplies that they felt compelled to have sexual intercourse with guards in exchange for food or medicines for themselves and/or their children.⁷⁴⁵

127. Children detained with their mothers were also subjugated and deprived of any autonomy. Like other detainees, they were unlawfully imprisoned and severely deprived of sufficient food, medicines and medical treatment. They also lacked any ideological or religious autonomy, and could either not go to school, or not go to the school of their family's choice. [REDACTED].⁷⁴⁶ Some women and children died as a result of violence from Mitiga Perpetrators and/or refusal of medical care.⁷⁴⁷ This included babies who died during childbirth because their mothers were refused medical care.⁷⁴⁸ EL HISHRI appeared to prefer baby boys over baby girls who were born, [REDACTED].⁷⁴⁹ Most suicide attempts were in the Women's Section.⁷⁵⁰ EL HISHRI ordered [REDACTED] to remove the body of a dead woman who had signs of internal bleeding from beating.⁷⁵¹ One child was left [REDACTED]. [REDACTED].⁷⁵² EL HISHRI also strictly controlled any family interactions (that were extremely limited), further isolating the detainees, and preventing them from obtaining help they needed. For instance, [REDACTED].⁷⁵³

DCC, para. 46: [...] Further, older boys and young men, within special sections or within the main Prison, were enslaved due to their isolation, age and/or gender, including by imposed “re-education” or “rehabilitation” activities”. [...]

128. Older boys and youth imprisoned and enslaved at Mitiga, for ideological/religious ‘re-education’ or ‘rehabilitation’ in separate sections, and/or for alleged crimes and held with adults in the general detainee population, were especially vulnerable, as they were isolated from parents or family and dependent on Mitiga Perpetrators. Some were children who had lived outside Mitiga, and were sent there by their parents. Once in Mitiga they were subjected to forced religious re-education, thus depriving them of their autonomy. Like other enslaved detainees, they were subjected to psychological and physical pressure, and controls over their ideological/religious autonomy: imprisoned and subjected to Mitiga Perpetrators’ own ideological beliefs and practices.⁷⁵⁴ Some children, including [REDACTED], held and enslaved within the main Prison, were also highly vulnerable – separated from parents and family; tortured and subjected to other forms of cruel treatment and abuse; and were also forced to attend the rehabilitation/re-education, and subjected to controls over

⁷⁴⁵ [REDACTED].

⁷⁴⁶ See e.g. [REDACTED]; [REDACTED]; [REDACTED]. See also, e.g. [REDACTED]; [REDACTED].

⁷⁴⁷ See paras. 64, 80-82. See e.g. [REDACTED].

⁷⁴⁸ See para. 82. See e.g. [REDACTED]; [REDACTED].

⁷⁴⁹ [REDACTED].

⁷⁵⁰ [REDACTED]; [REDACTED]; [REDACTED].

⁷⁵¹ [REDACTED].

⁷⁵² [REDACTED].

⁷⁵³ [REDACTED].

⁷⁵⁴ See e.g. [REDACTED]; [REDACTED].

their ideological/religious autonomy.⁷⁵⁵

129. Young men, especially those more isolated were also enslaved and lost their physical and psychological autonomy in all of the ways described at paragraphs 46-85. This included punishment, such as beatings/torture, for non-compliance.⁷⁵⁶ Some young men were more isolated, and thus vulnerable, as they were held in special cells designated for suspected terrorists,⁷⁵⁷ or suspected enemy fighters.⁷⁵⁸

130. Vulnerable boys and youth perceived as ‘attractive’ were further subjugated, and lost their sexual autonomy, with an exercise of powers of ownership over them and controls over their sexuality, by being targeted for exploitation, including rape and/or other sexual violence by Mitiga Perpetrators,⁷⁵⁹ some of whom were notorious.⁷⁶⁰ Reportedly, some Mitiga Perpetrators/leaders, including Abdelraof KARA, were guilty of sexual assault of boys, even before the 2011 Revolution.⁷⁶¹ **EL HISHRI** exercised control over a child [REDACTED].⁷⁶² Enslaved child detainee [REDACTED] raped by **Sheikh SEBAL**,⁷⁶³ notorious for sexually abusing boys.⁷⁶⁴ [REDACTED], was deprived of his liberty and his sexual autonomy when he was tortured/beaten and put at higher risk of sexual violence by being put in [REDACTED], because of his sexual orientation and alleged support of [REDACTED].⁷⁶⁵ He was subjected to forced nudity, torture, beating of buttocks and [REDACTED] rapes.⁷⁶⁶ Victim [REDACTED], was exploited by Mitiga Perpetrators, including [REDACTED].⁷⁶⁷ F-2094, described as attractive and “effeminate”, was sexually violated [REDACTED].⁷⁶⁸ Mitiga Perpetrators exercised powers of ownership over some of the vulnerable boys or youth by targeting them due to their isolation and separation from parents/families, using the offer of ‘rewards’ to abuse them. For example, they targeted and subjected children to sexual violence by ‘rewarding’ them with a chance to speak to their parents by phone, play games, and/or by trips such as to the beach or restaurant. The fact that **EL HISHRI** knew about the sexual abuse of

⁷⁵⁵ [REDACTED]; [REDACTED].

⁷⁵⁶ *See e.g.* [REDACTED].

⁷⁵⁷ [REDACTED].

⁷⁵⁸ *See e.g.* [REDACTED].

⁷⁵⁹ **Children:** [REDACTED]; [REDACTED]: [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷⁶⁰ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷⁶¹ [REDACTED]; [REDACTED].

⁷⁶² [REDACTED]

⁷⁶³ [REDACTED].

⁷⁶⁴ *See fn.* 760.

⁷⁶⁵ *See e.g.* [REDACTED].

⁷⁶⁶ *See e.g.* 71, 102.

⁷⁶⁷ [REDACTED].

⁷⁶⁸ [REDACTED].

young men and/or boys is demonstrated by an incident in which [REDACTED]. [REDACTED].⁷⁶⁹

DCC, para. 46: [...] Likewise, Black Migrants were enslaved because of their race, nationality, ethnicity and migration status. Their continued enslavement involved forcibly conducting degrading and hard labour, for the same reasons. [...]

131. Black Migrants were disproportionately targeted and subjected to racialised and gendered enslavement.⁷⁷⁰ Black Migrants were treated the worst and considered to be like “slaves”.⁷⁷¹ For instance, [REDACTED]. After being convicted and treated as an illegal immigrant, Mitiga Perpetrators enslaved him [REDACTED].⁷⁷² Black Migrants (men and women) were also enslaved by being singled out for particularly cruel treatment. For instance, some Black Migrant men were brought into the Women’s Section where they were severely beaten in front of the women and children.⁷⁷³ Black Migrant women and girls were held in a heavily overcrowded cell, treated and viewed as “slaves”—forced to clean and do laundry, and given less food than others. One of these women died after a fall when **EL HISHRI** refused to allow her medical treatment.⁷⁷⁴ Another female Black Migrant who fell ill (one of hundreds of Black Migrant women and girls being held in two larger cells in Mitiga), also died after **EL HISHRI** refused her medical help, saying: “Let her die. When the devil dies, it’s better for the angels”.⁷⁷⁵

DCC, para. 46: [...] Further, detainees viewed as not complying with Mitiga Perpetrators’ ideological/religious views or practices were enslaved because of their perceived religious/ideological status and/or non-compliance.

132. Mitiga Perpetrators controlled the ideological autonomy, and freedom of religion, thought and conscience of detainees—by imposing their ideological/religious beliefs and practices on detainees. This included forcing detainees to pray only what they viewed to be acceptable prayers, multiple times every day, and forcing them to read religious texts, or risk being beaten or shot.⁷⁷⁶ Guards would come to the cells early in the morning and beat detainees to force them to pray.⁷⁷⁷ P-

⁷⁶⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷⁷⁰ See e.g. paras. 112-113, 116, 118-119.

⁷⁷¹ [REDACTED]; [REDACTED]; [REDACTED]. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁷⁷² [REDACTED]. See e.g. *Kunarac et al* TJ, para. 530. TJ refers to Geneva Convention IV, art. 40 concerning treatment of alien “protected persons” in territory of a party to the conflict; work must not be “directly related to the conduct of military operations”.

⁷⁷³ [REDACTED].

⁷⁷⁴ [REDACTED].

⁷⁷⁵ [REDACTED].

⁷⁷⁶ See e.g. P-0497: [LBY-OTP-00007250](#), para. 56; P-0635: [LBY-OTP-0070-6952](#), paras. 48-55; P-0571: [LBY-OTP-0080-0169](#), para. 68; P-0692: [LBY-OTP-0080-0608](#), paras. 24, 86; P-0692: [LBY-OTP-03703752](#), paras. 1-4; P-0719: [LBY-OTP-0070-7295](#), para. 80; P-0730: [LBY-OTP-00015125](#), paras. 32, 66; P-0730: [LBY-OTP-03703751](#), paras. 1-5; P-0990: [LBY-OTP-00015405](#), para. 52; P-0992: [LBY-OTP-00018787](#), para. 39; P-1025, [LBY-OTP-00016916](#), para. 32. See also P-0644: [LBY-OTP-00020358](#), para. 78.

⁷⁷⁷ P-0571: [LBY-OTP-0080-0169](#), para. 68. See also P-0644: [LBY-OTP-00020358](#) para. 78.

0692 recalls, “[...] they'd force you to read the Koran”.⁷⁷⁸ P-0497 saw a detainee being beaten because he refused to go to prayer.⁷⁷⁹ Individuals who did not share the Mitiga Perpetrators’ beliefs, including Muslims who followed different schools of Islamic thought,⁷⁸⁰ Christians,⁷⁸¹ and atheists,⁷⁸² were forced, with others, to pray Mitiga Perpetrators’ prayers, and/or, to attend religious classes to ‘rehabilitate’ them.⁷⁸³ They were also punished for having their own, different beliefs.⁷⁸⁴ Boys and young men held in or brought to the rehabilitation/training centre were also subjected to a very strict regime, forced to pray and punished for failing to comply with the Mitiga Perpetrators’ imposed beliefs and practices (for instance, for being late/missing prayer,⁷⁸⁵ or failing to quickly memorise religious texts).⁷⁸⁶ [REDACTED], a teenager [REDACTED], and another teenager [REDACTED], were also forced to abide by the Mitiga Perpetrators’ religious beliefs/practices and attend rehabilitation/religious education sessions.⁷⁸⁷ Victim F-2787 was shot and beaten for [REDACTED].⁷⁸⁸ In the Women’s Section, **EL HISHRI** and other Mitiga Perpetrators, subjected women/children to sensory torture/cruel treatment by continuously playing loud religious prayer,⁷⁸⁹ including whilst they beat women and children. [REDACTED], a devout Muslim still finds it traumatic to hear “Koranic prayer” over the radio because it reminds her of her beatings.⁷⁹⁰ Women and children were also forced to pray and follow Mitiga Perpetrators’ ‘religious education’.⁷⁹¹ Similarly, Mitiga Perpetrators imposed their own ideological practices such as a hair code on men, who were forced to shave their heads and grow beards.⁷⁹² Likewise, they imposed a dress and appearance code on women/girls, including veils, traditional Islamic robes and gloves that covered them entirely.⁷⁹³ Some devout Muslims felt that they were unable to perform their usual ablution before prayer, because they risked being beaten for being too slow in leaving their cells for prayer.⁷⁹⁴

133. Muslims adhering to different schools of thought, Christians, and atheists were forced to

⁷⁷⁸ **P-0692**: [LBY-OTP-0080-0608](#), para. 86.

⁷⁷⁹ **P-0497**, [LBY-OTP-00007250](#), para. 56. *See also* **P-0635**: [LBY-OTP-0070-6952](#), paras. 48-55. (F-2159)

⁷⁸⁰ *See e.g.* [REDACTED].

⁷⁸¹ *See e.g.* [REDACTED]. *See also e.g.* [REDACTED]; [REDACTED].

⁷⁸² *See e.g.* [REDACTED]; [REDACTED]; [REDACTED].

⁷⁸³ *See e.g.* [REDACTED]; [REDACTED].

⁷⁸⁴ *See e.g.* [REDACTED]; [REDACTED]. *See also* [REDACTED]; [REDACTED]. *See also, e.g.* [REDACTED].

⁷⁸⁵ [REDACTED].

⁷⁸⁶ [REDACTED].

⁷⁸⁷ [REDACTED]; [REDACTED].

⁷⁸⁸ [REDACTED]. (F-2787)

⁷⁸⁹ [REDACTED]. *See also* [REDACTED]; [REDACTED]; [REDACTED].

⁷⁹⁰ [REDACTED].

⁷⁹¹ *See e.g.* [REDACTED].

⁷⁹² *See e.g.* **P-0990**: [LBY-OTP-00015405](#), para. 52; **P-0692**: [LBY-OTP-0080-0608](#), para. 24; **P-0992**: [LBY-OTP-00018787](#), para. 39; **P-1025**: [LBY-OTP-00016916](#), para. 32; **P-0730**: [LBY-OTP-00015125](#), para. 32.

⁷⁹³ *See e.g.* para. 103. *See also e.g.* [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. *See also, e.g.* [REDACTED]; [REDACTED].

⁷⁹⁴ **P-0730**: [LBY-OTP-00015125](#), para.66.

“repent” and convert to the Mitiga Perpetrators’ own religious ideology and practices.⁷⁹⁵ Even after being released, some detainees continued to be monitored to ensure conformity with, and conversion to, their beliefs.⁷⁹⁶ For example, F-2227, a [REDACTED] Christian [REDACTED] was forced by Mitiga Perpetrators to change his religion to Islam.⁷⁹⁷ [REDACTED], a Muslim man, was tortured and detained, for being perceived as not complying, and disagreeing with the Mitiga Perpetrators’ religious beliefs and practices. He was regularly interrogated, during which he was challenged about his religious beliefs, and was told to ‘repent’. [REDACTED]. [REDACTED].⁷⁹⁸ [REDACTED], an atheist [REDACTED], was tortured at Mitiga Prison, told “you either believe in God or [REDACTED]”, and threatened [REDACTED] be killed in accordance with *Sharia*.⁷⁹⁹ Another atheist, [REDACTED], was beaten while forced to explain his beliefs and asked about his knowledge of Islam, [REDACTED].⁸⁰⁰ [REDACTED] was beaten at Mitiga Prison by a man who berated him [REDACTED], and on another occasion threatened him with “slaughter” together with other Christians involved in so-called “ideological crimes”.⁸⁰¹ [REDACTED] and [REDACTED] were forced to attend, with others, religious classes to ‘rehabilitate’ them.⁸⁰² Even after their release, Mitiga Perpetrators continued to monitor victims of forced conversion.⁸⁰³

(5) Persecution (counts 14-17)

DCC, para. 47: During the charged period, the Mitiga Perpetrators persecuted at least 138 detainees, targeting them by reason of the identity of a group or collectivity, or targeting the group or collectivity as such. They were severely deprived of fundamental rights, contrary to international law. The conduct was committed in connection with article 5 crimes including as described at paragraphs 45 to 133 above, on prohibited political, religious, gender, national, racial and/or ethnic grounds.

134. Many Mitiga detainees, and at least 173, were persecuted by being targeted by reason of their identity as a group or collectivity, or by targeting the group or collectivity. Their targeting was based on political, religious, national, racial, ethnic, and gender grounds. As a result, they were severely deprived of their fundamental rights, contrary to international law.⁸⁰⁴ This included: the

⁷⁹⁵ See e.g. **Christians:** [REDACTED]; [REDACTED]; **Atheists:** [REDACTED]; [REDACTED].

⁷⁹⁶ See fn. 803. See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁷⁹⁷ [REDACTED]. (F-2227).

⁷⁹⁸ [REDACTED].

⁷⁹⁹ [REDACTED].

⁸⁰⁰ [REDACTED]. See also para. 92.

⁸⁰¹ [REDACTED].

⁸⁰² [REDACTED]; [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

⁸⁰³ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁸⁰⁴ Articles 7(1)(h), 7(2)(g). See e.g. *Al Hassan* TJ, paras. 1199-1212; *Ongwen* TJ, paras. 2730-2740; *Ntaganda* TJ, paras. 987-988, 991-994; *Ali Kushayb* TJ, paras. 778-789; *Yekatom* TJ, paras. 3837-3846, *Kupreškić et al.* TJ, para. 621; *Kordić and Čerkez* TJ, para. 195. See also international human rights treaties (and international humanitarian law) e.g. UDHR; ICCPR; ICESCR; CEDAW; UNCRC; UNCAT; Slavery Convention.

right to life;⁸⁰⁵ right to be free from torture, cruel, inhuman or degrading treatment or punishment;⁸⁰⁶ right to be free from slavery and the slave trade;⁸⁰⁷ rights to liberty, physical integrity and security of person, rights to be free from rape and/or other forms of sexual violence;⁸⁰⁸ right not to be subjected to arbitrary detention;⁸⁰⁹ right to freedom of movement;⁸¹⁰ rights to private and family life;⁸¹¹ rights to freedom of thought, conscience, religion and expression;⁸¹² rights to equality before the law;⁸¹³ and/or, the right to education.⁸¹⁴ They were targeted by persecutory conduct, constituting multiple acts, committed in connection with article 5 crimes.

135. While it is not necessary that the underlying acts themselves amount to article 5 crimes,⁸¹⁵ in this case, many of the underlying acts constitute article 5 crimes in themselves, meeting the nexus requirement. It is the persecution which must be connected with a crime and not the individual acts underlying the same.⁸¹⁶ All of the underlying acts, as described in paragraphs 45-134 and below, to other charged crimes. Moreover, since underlying acts of the alleged persecution include instances of article 5 crimes alleged above, they amount as such to deprivations of fundamental rights satisfying the minimum level of severity required.⁸¹⁷ The connection/nexus between the alleged persecution and the commission of crimes under the Statute is met.

⁸⁰⁵ See Annex 13, Non-exhaustive list of victims of persecution. See e.g. paras. 78-85. For instance, murder, attempted murder, deaths in custody, and deaths in forced fighting in hostilities.

⁸⁰⁶ See e.g. paras. 52-58. For instance, beatings, torture, rape, forced nudity, other forms of sexual violence.

⁸⁰⁷ See e.g. paras. 86-133. For instance, enslavement.

⁸⁰⁸ See e.g. paras. 47-51, 68-77. For instance, rapes, other forms of sexual violence, and unlawful imprisonment/arbitrary detention.

⁸⁰⁹ See e.g. paras. 47-51. For instance, arbitrary arrests and detention, and/or unlawfully imprisoned, and/or forcibly disappeared.

⁸¹⁰ See e.g. para. 59-64. For instance, inhumane living conditions in overcrowded or overly small cells.

⁸¹¹ See e.g. paras. 107-108, 126-128. For instance, attacks, pressure, extortion of, threats against family members; abduction, imprisonment of 'innocent' and/or vulnerable family members; threats to reputation by false charges or confessions; prolonged denials of contact; other interferences with family relations and consequential impacts on family life.

⁸¹² See e.g. paras. 141-143. For instance, imposition of the Mitiga perpetrators' ideology and/or ideological practices.

⁸¹³ See e.g. paras. 47-51. For instance, imprisonment as punishment for non-conformity with views and/or interests of the Mitiga perpetrators and failure to bring before judicial or prosecutorial authorities.

⁸¹⁴ See e.g. para. 127. For instance, children imprisoned at Mitiga were deprived of schooling, and/or were forced to have schooling in conformity with the Mitiga perpetrator's own ideological views or practices.

⁸¹⁵ See e.g. *Ali Kushayb* TJ, para. 782-783; *Al Hassan* TJ, para. 1202; *Ntaganda* TJ, para. 992; *Tadić* TJ, para. 707; *Simić et al.* TJ, para. 58; *Kupreškić et al.* TJ, paras. 609-615, 622 (persecutory acts need not be explicitly prohibited; such acts must not be considered in isolation but must be examined in their context and weighed for their cumulative effect), citing e.g. *IMT Judgment*, pp. 248-249, 297-298, 300, 305 (persecution can include a variety of acts, such as passing of discriminatory laws, exclusion of members of a group from social, political, economic life, restriction of movement and exclusion, wearing of a yellow star), *Altstötter et al.*, pp. 1062-1063 (although the plan for racial persecution was of actual extermination, lesser forms of racial persecution were universally practiced and constituted an integral part in the general policy of the Reich); *Kordić and Čerkez* TJ, para. 199 (persecution is a crime of cumulative effect. Acts must be evaluated not in isolation, but in context, looking at cumulative effect. Although individual acts may not be inhumane, their overall consequences must offend humanity in a way to be termed inhumane. A single act may consist of persecution if there is clear evidence of discriminatory intent).

⁸¹⁶ See e.g. *Ali Kushayb* TJ, paras. 782-783, 788; *Al Hassan* TJ, para. 1210.

⁸¹⁷ See e.g. *Ali Kushayb* TJ, para. 781; *Al Hassan* TJ, para. 1204; *Ntaganda* TJ, para. 994.

DCC, para. 48: The detainees persecuted by the Mitiga Perpetrators were not homogenous, and fell into several groups distinguished by their individual characteristics as well as the (sometimes intersecting) grounds on which they were persecuted. Nor did all of the Mitiga Prison Leadership or the Mitiga Perpetrators necessarily share the same discriminatory intent. Accordingly, the evidence discloses four distinct counts of persecution, with targeting on an intersectional basis, namely:

- **Count 14: persons, especially Black Migrants and Libyans, persecuted on political grounds;**
- **Count 15: persons who were perceived as non-compliant with the perpetrators' ideological views and practices, persecuted on religious grounds;**
- **Count 16: persons, primarily Black Migrants, persecuted on nationality, race and/or ethnicity grounds;**
- **Count 17: women, girls, actual and perceived LGBTQI+ persons, and men and boys subjected to sexual and/or reproductive violence as a way to emasculate and subjugate them, persecuted on gender grounds.**

136. Mitiga Detainees were persecuted on political, religious, national, racial, ethnic, and gender grounds, which were sometimes intersecting.⁸¹⁸ As set out in the distinct counts 14-17, the different targeted population faced multiple and varied intersecting forms of discrimination, which had a compounding effect. The Mitiga Perpetrators' discriminatory intent is evidenced by a holistic assessment of the underlying acts described at paragraphs 45-133 above, and below; the profiles of the targeted victims; and, the Mitiga Perpetrators' own verbal statements.⁸¹⁹

DCC, para. 49: For the purpose of count 14, on political grounds, at least 17 detainees were severely deprived of fundamental rights including: right to life; right to liberty and security of person; right to be free from torture, cruel, inhuman or degrading treatment or punishment; right to be free from slavery and the slave trade; right to freedom of thought and conscience. Victims were targeted as perceived obstacles to, or for their perceived opposition to, the political agenda of the Perpetrators, including because the victims were perceived not to have acted according to the Perpetrators' views on the proper organisation of Libyan society. This manifested in different ways depending on particular circumstances and/or characteristics of the victims in question. [...]

137. Targeting of Black Migrants and/or Libyan Mitiga Detainees on political grounds involved conduct that severely deprived the victims of their fundamental rights, including rights to freedom of thought and conscience; rights to life;⁸²⁰ rights to liberty and security of person;⁸²¹ rights to be free from torture, cruel, inhuman or degrading treatment or punishment,⁸²² and, rights to be free

⁸¹⁸ See also, e.g. *Ali Kushayb* TJ, para. 787; *Al Hassan* TJ, para. 1207.

⁸¹⁹ See e.g. P-0054: [LBY-OTP-0073-0025](#), paras. 79, 86-87, 97, 105-110, 112; P-0551: [LBY-OTP-0072-0387](#), paras. 52-54, 65, 93; P-0571: [LBY-OTP-0080-0169](#), paras. 122, 124-126, 155; P-0595: [LBY-OTP-0074-0889](#), paras. 50, 73, 75; P-0644: [LBY-OTP-00020358](#), paras. 20-21, 31-38, 57-61; P-0667: [LBY-OTP-00001491](#), paras. 43-44; P-0720: [LBY-OTP-0083-0052](#), para. 84; P-0942: [LBY-OTP-00015360](#), para. 40; P-0943: [LBY-OTP-00018075](#), para. 80; P-0990: [LBY-OTP-00015405](#), paras. 40-41, 92; P-1026: [LBY-OTP-00016896](#), paras. 27, 32.

⁸²⁰ Such as murder, attempted murder, deaths in custody.

⁸²¹ Such as unlawful imprisonment because of their perceived political opinion.

⁸²² Such as beatings, torture, due to perceived political opinion.

from slavery.⁸²³

138. ‘Political grounds’ do not pertain only to the victim’s membership of a political party or adherence to a particular ideology, but also to differences of opinion over public affairs or (actual or presumed) political affiliations. Persons may also be targeted on political grounds when they are perceived as (potential) opponents or otherwise as obstacles to the implementation of the perpetrator’s political agenda, even if the targeted persons do not hold any particular political views. The perpetrator may define the targeted victims based on a subjective assessment as to what group or groups pose a political threat or danger. In this instance, Mitiga Perpetrators further targeted victims because they were perceived as not acting in accordance with the Mitiga Perpetrators’ views on the proper organisation of Libyan society.⁸²⁴

DCC, para. 49: [...] In particular:

DCC, para. 49.a.: Black Migrants were targeted because they were perceived as inferior to Libyans and because their perceived irregular situation in Libya was seen as inconsistent with the Perpetrators’ political agenda and views on migration. In particular, they were targeted for enslavement, including by compelling them to undertake more onerous or potentially hazardous types of forced labour, to participate or be involved in armed hostilities, and/or subjected to other forms of physical and/or psychological abuse or mistreatment, including being forced to commit or participate in crimes against other detainees, including torture.

139. Black Migrants were targeted for arrest, detention and mistreatment on political grounds because they were seen as obstacles to the implementation of the perpetrators’ political agenda against irregular migration. The Black Migrants were accordingly targeted for their perceived inferiority to Libyans and perceived irregular situation in Libya. For instance, [REDACTED], a Black Migrant, [REDACTED],⁸²⁵ [REDACTED],⁸²⁶ [REDACTED]⁸²⁷ He was accused of illegal entry into Libya, [REDACTED];⁸²⁸ and sentenced to imprisonment [REDACTED].⁸²⁹ SDF/RADA forces imprisoned him, and then persecuted him by subjecting him to [REDACTED], and using him as forced labour for construction [REDACTED].⁸³⁰ SDF/RADA transferred him to Mitiga, where Mitiga Perpetrators targeted him for persecution for being a Black Migrant and as an unwanted immigrant, by enslaving him, including by forcing him to [REDACTED], like many Black

⁸²³ Such as forced labour, forced to fight, and other controls over autonomy.

⁸²⁴ See e.g., **EL HISHRI** Warrant Arrest, paras. 89-90.

⁸²⁵ [REDACTED].

⁸²⁶ [REDACTED].

⁸²⁷ [REDACTED].

⁸²⁸ [REDACTED].

⁸²⁹ [REDACTED]. He was told he was suspected of being a [REDACTED].

⁸³⁰ [REDACTED].

Migrants; and some Libyan,⁸³¹ and non-Libyan detainees.⁸³²

DCC, para. 49.b: Libyans—including women, men and children —were targeted for their perceived opposition to or non-compliance with the Perpetrators’ political views and/or agenda, or for their perceived affiliation with the Perpetrators’ opponents or enemies, and thus included victims such as: persons believed to have attended protests; persons believed to have criticised the Mitiga Perpetrators and/or SDF/RADA; persons perceived to support enemies/opponents of the Mitiga Perpetrators, SDF/RADA, and/or the GNC/GNA, such as persons from or otherwise linked to the east of Libya.

140. Libyan detainees (women, men and children) were targeted for persecutory acts on political grounds, based on their perceived non-compliance with Mitiga Perpetrators’ political stance, such as perceived opposition to Mitiga Perpetrators’ own agenda or interests, and/or perceived affiliation to their enemies.⁸³³ This included individuals arrested and detained for attending protests and/or criticising the Mitiga Perpetrators, and/or those perceived as supporting their enemies. For instance, [REDACTED], [REDACTED], [REDACTED] and [REDACTED] were arrested and detained after attending demonstrations in Tripoli.⁸³⁴ [REDACTED], [REDACTED], and F-2997 were targeted arrested and mistreated for being openly critical of SDF/RADA, Salafi *Madkhalism*, and/or the militias in Tripoli.⁸³⁵ **EL HISHRI** shot F-2787 for [REDACTED].⁸³⁶ Anyone from or otherwise linked to the east of Libya might be suspected of being an ISIS or LNA supporter⁸³⁷ and potentially detained.⁸³⁸ For instance, [REDACTED] was arrested while passing through Tripoli merely because he was from Benghazi and [REDACTED].⁸³⁹ [REDACTED] was arrested and detained after [REDACTED] from Benghazi to Tripoli.⁸⁴⁰ Many detainees were interrogated about their political allegiances, and accused of criticising SDF/RADA, its allies, or of being a member of an enemy militia.⁸⁴¹ These enslaved detainees were subjected to torture, cruel treatment and abuse.⁸⁴²

⁸³¹ See paras. 86-133. [REDACTED]. **Black Migrants:** paras. 92, 94, 100, 104-105, 117, 122, 163, 165, 167-168; **Libyans:** 94-95, 99, 115-116, 118, 120-121. See also, [REDACTED]; [REDACTED].

⁸³² [REDACTED]. See also e.g. [REDACTED].

⁸³³ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸³⁴ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸³⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸³⁶ [REDACTED] (F-2787).

⁸³⁷ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. See also, e.g. [REDACTED]; [REDACTED].

⁸³⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸³⁹ [REDACTED].

⁸⁴⁰ [REDACTED].

⁸⁴¹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁴² See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; see above paras. 95-96; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

DCC, para. 50: For the purpose of count 15, on religious grounds, at least 14 detainees were severely deprived of fundamental rights including: right to freedom of thought, conscience, and religion; right to freedom of expression; right to be free from torture, cruel, inhuman or degrading treatment or punishment; right to be free from slavery and the slave trade. Victims were targeted due to their perceived non-compliance with the Perpetrators' ideological views and/or practices, including because they were perceived to profess other faiths, and/or not to conform with certain practices including with regard to prayer, dress, and/or appearance. Perpetrators sought to force victims to convert to the perpetrators' own ideological views, and/or to adopt the perpetrators' religious practices, and/or punished victims or threatened them with punishment for perceived non-compliance.

141. Mitiga Perpetrators targeted detainees for arrest, detention and mistreatment on the grounds of religion, based on their perceived non-compliance with the Mitiga Perpetrators' own imposed ideological views and/or practices.⁸⁴³ Mitiga Perpetrators, including **EL HISHRI**, held religious/ideological views and/or practices, that differed to those of the detainees, and/or which they imposed on detainees targeted for persecution: in particular, in their beliefs and/or practices, such as in prayer, dress and/or appearance. Mitiga Perpetrators' beliefs were purportedly Salafist/Madkhali-based. For instance, the 'Sheikhs' usually had long beards and wore traditional Islamic dress.⁸⁴⁴

142. Detainees who were targeted for non-compliance included those who professed faiths that did not conform to the ideological views of the Mitiga Perpetrators and/or were otherwise viewed as non-conforming: Christians, adherents of other schools of Islam,⁸⁴⁵ those who had no faith at all,⁸⁴⁶ or were otherwise viewed as non-conforming. For instance: those involved in religious healings⁸⁴⁷ and perceived 'sorcery'.⁸⁴⁸ Mitiga Perpetrators imposed their own practices on the detainees, and punished those perceived as not complying, regardless of their actual beliefs. For instance, beating those viewed as going too slow for prayers. Likewise, some devout Muslims felt they were unable to perform their usual ablution before prayer, because they risked being beaten by Mitiga Perpetrators for being too slow in leaving their cells for prayer.⁸⁴⁹

143. As described at paragraphs 132-133, Mitiga Perpetrators forced detainees (Libyans, Black

⁸⁴³ Lacher: [LBY-OTP-0070-4009](#), p. 9; UN-WGAD: [LBY-OTP-00018767](#), paras. 10-11; UN-WGAD: [LBY-OTP-00018765](#), para. 6; UN-WGAD: [LBY-OTP-00018764](#), para. 13.

⁸⁴⁴ See e.g. **P-0054**: [LBY-OTP-0073-0025](#), para. 14; **P-0486**: [LBY-OTP-0069-0584](#), paras. 31-32, 129-135; **P-0961**: [LBY-OTP-00019245](#), para. 58; **P-1685**: [LBY-OTP-00057776](#), para. 138; **P-1721**: [LBY-OTP-02488678](#), para.40; **P-1722**: [LBY-OTP-02488730](#), paras. 34, 81; **P-1733**: [LBY-OTP-03703558](#), paras. 27, 33, 37-38, 53, 96-97; **P-1736**: [LBY-OTP-03703604](#), para.60; 194.

⁸⁴⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁴⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁴⁷ [REDACTED].

⁸⁴⁸ [REDACTED]; [REDACTED]; [REDACTED].

⁸⁴⁹ See e.g., **P-0730**: [LBY-OTP-00015125](#), para. 66; **P-0990**: [LBY-OTP-00015405](#), para. 64; **P-0943**: [LBY-OTP-00018075](#), paras. 34, 107. See also **P-0665**: [LBY-OTP-0083-0663](#), para. 161; **P-1736**: [LBY-OTP-03703604](#), para. 150; **P-1733**: [LBY-OTP-03703558](#), paras. 96-97.

Migrants and most non-Libyans, women, men and children), through torture and severe abuse, to adopt their religious practices: including types of prayer, frequency of prayer (multiple times per day), and the reading of specific religious texts, all at the risk of being beaten or shot if they did not comply.⁸⁵⁰ They forced detainees in the Women's Section to listen to loud, constant prayers, played including whilst they were tortured/beaten (a sensory form of torture); forced the women/children to have 'religious education'; and, imposed, dress and appearance codes. They also forced those who did not practice their ideology or practices (e.g. Christians, other Muslims, atheists) to attend religious classes to 'rehabilitate them'; punished them for their different beliefs; forced them to "repent", convert to the perpetrator's ideological views and/or practices, and/or punished or threatened them with punishment for non-compliance. Some detainees forced to convert continued to be monitored even after their release.⁸⁵¹

DCC, para. 51: For the purpose of count 16, on grounds of nationality, race and/or ethnicity, at least 47 Black Migrants were severely deprived of fundamental rights including: right to life; right to liberty and security of person; right to be free from torture, cruel, inhuman or degrading treatment or punishment; right to be free from slavery and the slave trade. Black Migrants were targeted for arrest, detention and mistreatment, by reason of a combination of their nationality (from countries in East, West, Central and Southern Africa) and their racialized ethnicity (as Black Africans not from Northern Africa). They were seen and treated as inferior to the perpetrators and other detainee population. Their perceived status as irregular migrants in the country led them to be targeted according to the perpetrators' purported objective to suppress "illegal migrant smuggling". They were compelled to undertake more onerous or potentially hazardous types of forced labour, and subjected to other forms of physical and/or psychological abuse or mistreatment, including being forced to commit or participate in crimes against other detainees, including torture.

144. Mitiga Perpetrators targeted detainees, especially the Black Migrants for arrest, detention and mistreatment on grounds of nationality, race and/or ethnicity. This involved conduct that severely deprived the victims of their fundamental rights, including rights to life;⁸⁵² rights to liberty and security of person,⁸⁵³ rights to be free from torture, cruel, inhuman or degrading treatment or punishment,⁸⁵⁴ and, rights to be free from slavery and the slave trade.

145. Primarily Black Migrants were persecuted on grounds of their nationality, race and/or ethnicity. They were targeted for arrest, detention and mistreatment, by reason of a combination of their nationality (from countries in East, West, Central and Southern Africa) and their racialized ethnicity (as Black Africans not from Northern Africa), compounding the discrimination they faced. Mitiga Perpetrators viewed them as being inferior, including because of their perception that dark-

⁸⁵⁰ See paras. 132-133.

⁸⁵¹ See para. 133.

⁸⁵² For instance, those killed due to deaths in forced fighting in hostilities; other deaths in custody.

⁸⁵³ For instance, those unlawfully imprisoned because of their nationality, race or ethnic origin.

⁸⁵⁴ For instance, beatings, torture; forced to participate in torture and/or sexual violence of others.

skinned people were ‘slaves’.⁸⁵⁵ Their perceived status as irregular migrants in the country led them to be targeted according to the Mitiga Perpetrators’ purported objective to suppress “illegal migrant smuggling”. They were assigned to do forced hard labour including construction work, carry heavy weapons, ammunition or supplies, and do unwanted cleaning jobs (e.g. toilets, sewers),⁸⁵⁶ while being subjected to physical and psychological abuse, mistreatment and appalling detention conditions, including an extremely poor diet. [REDACTED] described this as “a form of torture”.⁸⁵⁷ [REDACTED] described discriminatory treatment suffered by almost all of the Non-Libyans (with few exceptions), including him as an [REDACTED]. For instance, they were given the worst types of forced labour.⁸⁵⁸

146. Nevertheless, Black Migrants received the worst treatment.⁸⁵⁹ Black Migrants and other “black-skinned” detainees were called “slaves”,⁸⁶⁰ and were perceived and treated like slaves.⁸⁶¹ Black Migrants were forced as well to fight in combat, and without the protective equipment given to Libyans. They were punished, including by beating, if they were not fast or strong enough to keep assisting in the combat/fighting, or refused to comply with orders.⁸⁶² Black Migrants were further subjected to persecutory acts by being forced to commit crimes against other detainees, including made to torture and/or assist in the torture of other detainees. This included blindfolding other detainees, undressing and conducting invasive searches of them, suspending them in stress positions, beating them with the “*Falqa*” method, or putting them in the metal coffin-like box at the *Naqliah*.⁸⁶³

⁸⁵⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁵⁶ See e.g. para. 110-121. See e.g. [REDACTED].

⁸⁵⁷ [REDACTED]. See also [REDACTED].

⁸⁵⁸ [REDACTED]. See also, [REDACTED] (Black Migrants/ [REDACTED] detained in secret, underground prison at leisure farm).

⁸⁵⁹ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

⁸⁶⁰ See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁶¹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁶² See e.g. [REDACTED].

⁸⁶³ See para. 113. See also, e.g. Victims F-2177, F-2221, F-2226, F-2231, F-2236, F-2474, F-2475, F-2480, F-2527, F-2671, F-2672, F-2673, F-2674, F-2675, F-2676, F-2677, F-2678, F-2681. See Annex 12, List of victims. See also e.g. P-0992: [LBY-OTP-00018787](#), para. 93; P-0720, [LBY-OTP-00020099](#), para. 84; P-0054, [LBY-OTP-0073-0025](#), para. 91; P-0569: [LBY-OTP-0080-0032](#), paras. 52-54, 56, 58; P-0595: [LBY-OTP-0074-0889](#), para. 226: (F-3068).

DCC, para. 52: For the purpose of count 17, on gender grounds, at least 60 detainees were severely deprived of fundamental rights including: right to be free from torture, cruel, inhuman or degrading treatment or punishment; right to be free from slavery and the slave trade; right to liberty; right to physical integrity and security of person; right to private and family life. These included: (i) women and girls targeted for arrest, detention, and mistreatment, including acts and threats of sexual and reproductive violence in the Women's Section of Mitiga Prison, because of their gender; (ii) actual or perceived LGBTQI+ persons targeted for arrest, detention and mistreatment, including acts of sexual and reproductive violence at Mitiga Prison, because they did not comply or were perceived not to comply with the perpetrators' views and expectations on sex and/or gender, and; (iii) men and boys who were subjected to sexual and/or reproductive violence as a means to emasculate and/or feminise them. The perpetrators targeted these victims based on the perpetrators' expectations and/or views of gender roles, gender hierarchies, and behaviour associated with the actual or perceived sexual orientation and/or gender identity and expression, within the context of society. [...]

147. Mitiga Perpetrators targeted women and girls for arrest, detention and mistreatment, including acts and threats of sexual and reproductive violence, because of their gender. They also targeted actual or perceived LGBTQI+ persons for arrest, detention and mistreatment, including acts of sexual and reproductive violence, because they did not comply or were perceived not to comply with the Mitiga Perpetrators' views and expectations on sex and/or gender. They also targeted detained men and boys, by subjecting them to sexual and/or reproductive violence to emasculate and/or feminise them. The persecutory conduct severely deprived the victims of their fundamental rights, including rights to be free from torture, cruel, inhuman or degrading treatment or punishment;⁸⁶⁴ rights to be free from slavery; rights to freedom from liberty, physical integrity and security of person;⁸⁶⁵ right to private and family life.⁸⁶⁶

DCC, para. 52: [...] In particular:

DCC, para. 52.a.: Women and girls were targeted for arrest and detention because of perceived behaviour considered inappropriate for their gender, including with regard to their social and personal relations. Irrespective of the reasons for their initial arrest, women and girls were isolated in the Women's Section where, because of their gender, they were not only arbitrarily detained and mistreated but also subjected to acts and threats of sexual and reproductive violence. They were subjected to sexual violence as a means to punish and/or retaliate or because they were seen as inferior in the perpetrators' gender hierarchy. They were enslaved and treated as disposable, their bodies targeted for sexual and reproductive violence, and gendered acts of forced labour.

148. Women and girls were arrested for conduct seen to deviate from the Mitiga Perpetrators' expectations or views of appropriate societal behaviour for their gender: for instance, social activities, work, dress or appearance, and/or personal relations between unmarried couples. Mitiga

⁸⁶⁴ For instance, beating, torture, rape, other sexual violence, due to perceptions/views of expected behaviours based on gender.

⁸⁶⁵ For instance, unlawfully imprisoned because of their perceived non-conformity to societal gender norms; rapes and/or other sexual violence.

⁸⁶⁶ For instance, attacks on family, family relations; reproductive rights.

Perpetrators denigrated as ‘immoral’ women who were seen to have inappropriate employment, such as singers, journalists and politicians.⁸⁶⁷ Other women and girls were arrested for behaviour seen as inappropriate for their gender, including arrests for singing,⁸⁶⁸ being with their boyfriends or men/boys,⁸⁶⁹ or appearing on social media.⁸⁷⁰ **EL HISHRI** mocked a woman calling her “[REDACTED]”, [REDACTED].⁸⁷¹ Similarly, F-2152 was arrested for [REDACTED].⁸⁷² Only women were detained for alleged prostitution and/or adultery.⁸⁷³

149. Particular means and methods by which women and girls were tortured and/or punished were chosen in gendered ways according to the perpetrators’ views of societal gender norms. Women and girls were raped vaginally, or anally, and/or subjected to violence targeting their breasts, buttocks, and/or genitals.⁸⁷⁴ While she was being tortured, [REDACTED], a devout Muslim, had her veil ripped off, which made her feel “completely powerless and vulnerable”. Based on her culture and views on women and girls, this implied that her torturers could do anything with her.⁸⁷⁵ Women were treated inhumanely “like cattle”, and pulled around the prison with a rope or sticks.⁸⁷⁶ Women and girls were abused with misogynistic references to their sex, and called for instance, “bitch”, “whore”, “slut”, “pussy”,⁸⁷⁷ and “*sabiya*”.⁸⁷⁸ Women’s reproductive autonomy were also targeted during torture/interrogations or punishment. For instance, [REDACTED].⁸⁷⁹ [REDACTED] is no longer able to have children because of a medical complaint that she understands resulted from her rapes, torture and inhumane conditions in detention.⁸⁸⁰

150. Women and girls were also targeted for sexual abuse, when they were compelled to seek food or medicines for themselves or their children in exchange for sexual intercourse; and/or brought to locations where they were raped.⁸⁸¹ Likewise, women and girls were mistreated based on gender discrimination, and intersecting grounds such as race. This included F-3028 and F-3021 the Black Migrant women and a baby girl F-3025 who were deliberately denied medical treatment

⁸⁶⁷ **P-0054**: [LBY-OTP-0073-0025](#), para. 112; **P-1720**: [LBY-OTP-01558903](#), paras. 157-158; **P-1721**: [LBY-OTP-02488678](#), para.33; **P-1736**: [LBY-OTP-03703604](#), para.86; **P-0692**: [LBY-OTP-0080-0608](#), para. 177.

⁸⁶⁸ See Victims F-2111, F-2517 and F-2518, See Annex 12, List of victims.

⁸⁶⁹ [REDACTED]; [REDACTED].

⁸⁷⁰ [REDACTED].

⁸⁷¹ [REDACTED].

⁸⁷² [REDACTED].

⁸⁷³ **P-0595**, [LBY-OTP-0074-0889](#), paras. 194, 200-204; **P-0692**, [LBY-OTP-0080-0608](#), para. 170; **P-0719**, [LBY-OTP-0070-7295](#), para. 160.

⁸⁷⁴ See e.g. paras. 52-59. See also e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁷⁵ [REDACTED].

⁸⁷⁶ See Victim F-2706, See Annex 12, List of victims. See also [REDACTED]; [REDACTED]; [REDACTED].

⁸⁷⁷ See paras.96-97, 106. See e.g [REDACTED]; [REDACTED]; [REDACTED].

⁸⁷⁸ [REDACTED].

⁸⁷⁹ [REDACTED]. See also [REDACTED].

⁸⁸⁰ [REDACTED].

⁸⁸¹ See paras. 72, 126.

because of their gender and/or race.⁸⁸²

151. Forced labour was divided along gendered lines. Women and girls were made to do domestic chores such as laundry work.⁸⁸³ The imposed codes on dress/appearance were also gendered, often involving punishment for non-conformity.⁸⁸⁴ Women and girls were forced to cover themselves fully in dark clothing wearing an ‘*abaya*’ or ‘*jellabaya*’, veils and gloves.⁸⁸⁵

DCC, para. 52.b.: Actual and perceived LGBTQI+ persons were targeted for arrest and detention because they did not comply or were perceived not to comply with the perpetrators’ views and expectations on gender. Irrespective of the initial reason for their arrest, LGBTQI+ persons were targeted for sexualised torture and reproductive violence, including attacks on reproductive organs. These attacks were accompanied by discriminatory verbal abuse and threats.

152. Mitiga Perpetrators targeted by persecutory acts for being gay or perceived as such;⁸⁸⁶ and men whose appearance, societal behaviour, or relations with unmarried persons of the opposite gender, was considered inappropriate for their gender. [REDACTED]—a gay man, who had initially been detained otherwise—was stripped naked, badly beaten including on his buttocks, told to [REDACTED], and repeatedly asked [REDACTED]. He was forced to [REDACTED], called a “mule”, and mocked by other Mitiga Perpetrators who attempted to [REDACTED]. [REDACTED], another Mitiga Perpetrator [REDACTED] raped him.⁸⁸⁷ Mitiga Perpetrators also targeted men perceived as having an inappropriate appearance, [REDACTED].⁸⁸⁸ [REDACTED]—who was not gay, [REDACTED] — was detained and questioned on what “type of gay” he was, and beaten for his “unsatisfactory” answers until he falsely confessed. [REDACTED].⁸⁸⁹ [REDACTED].⁸⁹⁰

DCC, para. 52.c.: Men and boys were subjected to sexual and/or reproductive violence as a means to emasculate and/or feminise them. During acts of punishment and torture, the acts of sexual violence, accompanied often by violent and/or gendered verbal abuse, were specifically used to diminish and subjugate them.

153. During punishment and/or torture, men and boys were targeted by persecutory acts intended to feminise or emasculate them. They were denigrated by gendered insults and called, “mule” or

⁸⁸² See paras. 124-127, 151-152 and 136-139

⁸⁸³ See paras. 112, 117, 123.

⁸⁸⁴ See para. 103.

⁸⁸⁵ See paras. 102-103. See also, e.g. P-0667: [LBY-OTP-00001491](#), para. 112; P-0692: [LBY-OTP-0080-0608](#), paras. 171, 213-214 and [LBY-OTP-0070-0827](#), at 03:05:16 (trans: [LBY-OTP-00019073](#)); P-0720: [LBY-OTP-0083-0052](#), paras. 172, 184; P-0872: [LBY-OTP-00007275](#), para. 91; P-0925: [LBY-OTP-00018772](#), para. 78; P-0942: [LBY-OTP-00015360](#), para. 119; P-0992: [LBY-OTP-00018787](#), para. 39.

⁸⁸⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁸⁷ [REDACTED]; [REDACTED].

⁸⁸⁸ [REDACTED].

⁸⁸⁹ [REDACTED].

⁸⁹⁰ [REDACTED]. The victim was aged about [REDACTED] years old at the time.

“donkey”; son of a whore and son of a bitch⁸⁹¹ and “[REDACTED]”.⁸⁹² Some were subjected to anal rape and/or targeted on their genitals and/or buttocks to emasculate them.⁸⁹³ [REDACTED] said “[t]he beating I endured on my buttocks and genitals made me feel I was no longer a man”.⁸⁹⁴ After [REDACTED] was raped, he was called a “[REDACTED]”, implying that he had been made a girl.⁸⁹⁵ [REDACTED]’s torturer said he could “scream like a whore”, while he raped him in his anus.⁸⁹⁶ [REDACTED]’s torturer said: “I will fuck this mule, while beating him on his testicles.”⁸⁹⁷ Some men’s reproductive autonomy was targeted when their testicles or penises were deliberately attacked. [REDACTED] became infertile from his beatings.⁸⁹⁸ [REDACTED] struggled to have children after being stomped on his testicles. Similarly, he believes that the impact of the trauma from the threats to rape him have impacted on his ability to conceive.⁸⁹⁹

C. INDIVIDUAL CRIMINAL RESPONSIBILITY

DCC, para. 53: EL HISHRI is responsible for the charged crimes under articles 25(3)(a), 25(3)(b), 25(3)(c) and 25(3)(d) of the Statute. Central allegations concerning EL HISHRI’s personal conduct are relevant to all the charged modes of responsibility, and these are first set out below. They are followed by pleadings specific to each charged mode. The Prosecution seeks confirmation of *all* charged modes of responsibility, based on the evidence presented. This will allow the Trial Chamber to determine which mode or combination of modes is most appropriate in light of the evidence presented at trial, in order to fully capture EL HISHRI’s individual criminal responsibility.

154. Since the Statute recognises no hierarchy in modes of liability,⁹⁰⁰ the Prosecution requests that the Chamber confirms the charges based on *each* of the alleged modes. This promotes procedural economy.⁹⁰¹

155. Consistent with the Chambers Practice Manual, the Prosecution “may plead alternative legal characterisations, both in terms of the crime(s) and the person’s mode(s) of liability”, and these charges should *all* be confirmed by the Chamber when the evidence supports each alternative. It is for the Trial Chamber, after a full trial, to determine which one, if any, of the confirmed alternatives

⁸⁹¹ See paras. 96, 106.

⁸⁹² [REDACTED]; [REDACTED].

⁸⁹³ See paras. 100, *See also e.g.* para. 126; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁸⁹⁴ [REDACTED].

⁸⁹⁵ [REDACTED].

⁸⁹⁶ [REDACTED].

⁸⁹⁷ [REDACTED]. *See also* para. 51: other powers of ownership exerted over [REDACTED], e.g. forced to [REDACTED].

⁸⁹⁸ *See e.g.* [REDACTED]. *See also, e.g.* [REDACTED].

⁸⁹⁹ [REDACTED]. *See also*, [REDACTED].

⁹⁰⁰ *Bemba et al.* Sentencing AJ, paras. 59-60.

⁹⁰¹ It also ensures prompt notice where possible of all crimes and modes of liability for which a suspect might be convicted.

applies.⁹⁰² Likewise, the Chamber should “confirm cumulative charges when [there is sufficient evidence] and each crime cumulatively charged contains a materially distinct legal element. In doing so, the Pre-Trial Chamber [defers] to the Trial Chamber which, following a full trial, will be better placed to resolve questions of concurrence of offences.”⁹⁰³

156. In this case, where multiple modes are charged for a particular count, they are not always alternatives but may also be cumulative—for example, **EL HISHRI** is allegedly responsible for *contributing* to the torture of *all* detainees in Mitiga Prison, but also for *directly perpetrating* the torture of *some* detainees.

(1) Central allegations concerning EL HISHRI’s personal conduct

DCC, para. 54: EL HISHRI contributed to the commission of the charged crimes during the charged period, including as part of the Mitiga Prison Leadership. In particular:

DCC, para. 54.a.: EL HISHRI exercised general authority and influence throughout Mitiga Prison, where charged crimes were committed against detainees;

DCC, para. 54.b.: EL HISHRI exercised direct control of the Women’s Section of Mitiga Prison, where charged crimes were committed against detainees; and

DCC, para. 54.c.: EL HISHRI directly perpetrated acts, principally in Mitiga Prison, which amounted to the commission of charged crimes against Mitiga Prison detainees or persons otherwise in the custody or control of the Mitiga Perpetrators.

157. Each of these allegations will be addressed in this PCB in turn and will be proven at trial. While these allegations are mutually corroborative, each alone suffices to establish **EL HISHRI**’s criminal responsibility.

i. EL HISHRI exercised general authority and influence throughout Mitiga Prison

DCC, para. 55: At all material times, and notwithstanding NJEEM’s role as director of Mitiga Prison, EL HISHRI exercised general authority and influence throughout Mitiga Prison. As a senior member of SDF/RADA, EL HISHRI was directly subordinate to KARA. EL HISHRI was at least NJEEM’s peer within the SDF/RADA hierarchy. In any event, EL HISHRI was part of the Mitiga Prison Leadership, together with persons such as KARA, N’ZAM, and NJEEM.

158. As one of SDF/RADA’s top leaders,⁹⁰⁴ a “Sheikh”,⁹⁰⁵ and one of the most powerful

⁹⁰² See Chambers Practice Manual, para. 67.

⁹⁰³ See Chambers Practice Manual, para. 68.

⁹⁰⁴ **P-1673**, [LBYP-OTP-00392926](#), para. 223; **P-1720**, [LBYP-OTP-01558903](#), para. 59; **P-0054**, [LBYP-OTP-0073-0025](#), para. 22; **P-0568**, [LBYP-OTP-00018134](#), para. 85; **P-0595**, [LBYP-OTP-0074-0889](#), para. 244; **P-0635**, [LBYP-OTP-0070-6952](#), paras. 129, 137; **P-0692**, [LBYP-OTP-0080-0608](#), paras. 43, 142-143; **P-0719**, [LBYP-OTP-0070-7295](#), para. 183; **P-0720**, [LBYP-OTP-0083-0052](#), para. 30; **P-0925**, [LBYP-OTP-00018772](#), para. 94 (18); **P-0942**, [LBYP-OTP-00015360](#), paras. 35-36; **P-0961**: [LBYP-OTP-00019245](#), para. 75; **P-1025**, [LBYP-OTP-00016916](#), para. 65; **P-1046**, [LBYP-OTP-00019195](#), paras. 53, 95; **P-1070**, [LBYP-OTP-00020236](#), paras. 62, 72.

⁹⁰⁵ See e.g. **P-1673**, [LBYP-OTP-00392926](#), paras. 39, 163; **P-0486**, [LBYP-OTP-0069-0584](#), paras. 131, 159; **P-0498**, [LBYP-OTP-0069-0506](#), para. 92; **P-0571**, [LBYP-OTP-0080-0169](#), paras. 45, 85; **P-0692**, [LBYP-OTP-0080-0608](#), paras. 43, 142, 179; **P-0925**, [LBYP-OTP-00018772](#), paras. 29, 49; **P-0644**, [LBYP-OTP-00020358](#), para. 73. Regarding the meaning within SDF/RADA of the term “Sheikh”, see **P-0439**, [LBYP-OTP-0066-0951](#), para. 76; **P-0486**, [LBYP-OTP-0069-0584](#), para. 131; **P-0498**, [LBYP-OTP-0069-0506](#), para. 80; **P-0571**, [LBYP-OTP-0080-0169](#), para. 48; **P-0720**, [LBYP-OTP-0083-0052](#), para. 165; **P-0925**, [LBYP-OTP-00018772](#), para. 32.

officials in the Mitiga Prison Leadership,⁹⁰⁶ **EL HISHRI** exercised general authority and influence throughout the prison. Many detainees characterised him as “control[ing] everything”,⁹⁰⁷ with “*de facto* authority of Mitiga [P]rison and [W]omen’s Section”,⁹⁰⁸ and who “held absolute power” over them and often managed “daily matters of detainees, transferring detainees, and overseeing torture”.⁹⁰⁹

159. Within SDF/RADA, KARA was the undisputed leader, and **EL HISHRI**, NJEEM and N’ZAM were his close associates.⁹¹⁰ Notwithstanding his ostensible role as director of Mitiga Prison, NJEEM treated KARA, **EL HISHRI**, and N’ZAM with deference,⁹¹¹ and sometimes sought their assent for decisions.⁹¹² Some detainees even considered that NJEEM worked under the authority of KARA and **EL HISHRI**.⁹¹³ Several detainees stated that **EL HISHRI** was superior to NJEEM,⁹¹⁴ or at least that his orders could not be overturned by NJEEM.⁹¹⁵ Some said that **EL**

⁹⁰⁶ See e.g. **P-1673**, [LBY-OTP-00392926](#), para. 163; **P-1685**, [LBY-OTP-00057776](#), para. 131; **P-1750**, [LBY-OTP-03214454](#), paras. 129-130; **P-0486**, [LBY-OTP-0069-0584](#), paras. 32, 159; **P-0497**, [LBY-OTP-00007250](#), para. 60; **P-0498**, [LBY-OTP-0069-0506](#), paras. 88, 93; **P-0569**, [LBY-OTP-0080-0032](#), paras. 120-122; **P-0595**, [LBY-OTP-0074-0889](#), para. 244; **P-0925**, [LBY-OTP-00018772](#), para. 49; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-0644**, [LBY-OTP-00020358](#), paras. 62, 70.

⁹⁰⁷ **P-1673**, [LBY-OTP-00392926](#), para. 166; **P-1685**, [LBY-OTP-00057776](#), paras. 136, 148; **P-1750**, [LBY-OTP-03214454](#), para. 129; **P-0569**, [LBY-OTP-0080-0032](#), paras. 120-121. See also **P-0486**, [LBY-OTP-0069-0584](#), para. 159-160; **P-0498**, [LBY-OTP-0069-0506](#), para. 93-94; **P-0569**, [LBY-OTP-0080-0032](#), para. 122; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-0925**, [LBY-OTP-00018772](#), para. 49.

⁹⁰⁸ **P-1685**, [LBY-OTP-00057776](#), para. 161; **P-0498**, [LBY-OTP-0069-0506](#), para. 93-94.

⁹⁰⁹ **P-1673**, [LBY-OTP-00392926](#), para. 163.

⁹¹⁰ **P-0635**, [LBY-OTP-0070-6952](#), paras. 128-129, 137; **P-0498**, [LBY-OTP-0069-0506](#), paras. 81-82, 87; **P-0692**, [LBY-OTP-0080-0608](#), paras. 43, 142, 151; **P-0720**, [LBY-OTP-00020099](#), para. 34; **P-1031**, [LBY-OTP-00018119](#), paras. 96-98; **P-1026**, [LBY-OTP-00016896](#), paras. 104-105; **P-1025**, [LBY-OTP-00016916](#), para. 65; **P-0990**, [LBY-OTP-00015405](#), paras. 36, 53; **P-0719**, [LBY-OTP-0070-7295](#), paras. 181, 183-185; **P-0595**, [LBY-OTP-0074-0889](#), para. 253; **P-0568**, [LBY-OTP-00018134](#), paras. 78-79, 85. See also **P-0497**, [LBY-OTP-00007250](#), paras. 60-61; **P-0571**, [LBY-OTP-0080-0169](#), para. 44. Concerning **EL HISHRI** specifically, see e.g. **P-1685**, [LBY-OTP-00057776](#), paras. 160-161; **P-1710**, [LBY-OTP-01257853](#), para. 219; **P-1750**, [LBY-OTP-03214454](#), paras. 129, 130; **P-0720**, [LBY-OTP-0083-0052](#), para. 30; **P-0720**, [LBY-OTP-00020099](#), para. 34; **P-0724**, [LBY-OTP-0085-0063](#), para. 37; **P-1025**, [LBY-OTP-00016916](#), para. 65; **P-0993**, [LBY-OTP-00015420](#), para. 37; **P-0498**, [LBY-OTP-0069-0506](#), para. 90; **P-0872**, [LBY-OTP-00007275](#), paras. 80; **P-1673**, [LBY-OTP-00392926](#), para. 163; **P-1685**, [LBY-OTP-00057776](#), para. 144; **P-0720**, [LBY-OTP-0083-0052](#), para. 134; **P-0498**, [LBY-OTP-0069-0506](#), paras. 92-93. Concerning N’ZAM, see e.g. **P-0692**, [LBY-OTP-0080-0608](#), paras. 142, 151; **P-0635**, [LBY-OTP-0070-6952](#), para. 129; **P-0650**, [LBY-OTP-0080-0468](#), para. 139.

⁹¹¹ See e.g. **P-0692**, [LBY-OTP-0080-0608](#), para. 151 (NJEEM may have reported to N’ZAM), 151-152 (NJEEM was respectful to KARA). NJEEM produced detainees for KARA’s inspection: **P-0993**, [LBY-OTP-00015420](#), para. 40; **P-0990**, [LBY-OTP-00015405](#), para. 121. NJEEM produced detainees for **EL HISHRI**’s inspection: **P-0571**, [LBY-OTP-0080-0169](#), paras. 87-88.

⁹¹² **P-0942**, [LBY-OTP-00015360](#), paras. 94-95; **P-0993**, [LBY-OTP-00015420](#), para. 40; **P-0990**, [LBY-OTP-00015405](#), para. 121; **P-0571**, [LBY-OTP-0080-0169](#), paras. 87-88; **P-0720**, [LBY-OTP-00020099](#), para. 41; **P-0635**, [LBY-OTP-0070-6952](#), 129; **P-0595**, [LBY-OTP-0080-0032](#), paras. 120-121; **P-0720**, [LBY-OTP-0083-0052](#), para. 134; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-0692**, [LBY-OTP-0080-0608](#), para. 142.

⁹¹³ **P-1685**, [LBY-OTP-00057776](#), para. 161.

⁹¹⁴ **P-1720**, [LBY-OTP-01558903](#), paras. 212, 215; **P-0692**, [LBY-OTP-0080-0608](#), para. 142; **P-0943**, [LBY-OTP-00018075](#), paras. 69-86; **P-0990**, [LBY-OTP-00015405](#), paras. 50, 53; **P-1046**, [LBY-OTP-00022410](#), para. 40; **P-1685**, [LBY-OTP-00057776](#), para. 136, 161.

⁹¹⁵ **P-1722**, [LBY-OTP-02856267](#), paras. 167, 168.

HISHRI had more power than KARA himself in the prison's daily functioning.⁹¹⁶

160. EL HISHRI's senior role in SDF/RADA is further underlined by his own family's prominence which helped cement SDF/RADA as an organisation.⁹¹⁷ EL HISHRI's uncle, N'ZAM, is a top-level SDF/RADA member;⁹¹⁸ his brother, Mounir EL HISHRI, was a shift commander at Mitiga Prison;⁹¹⁹ and his other brother, Mohamed EL HISHRI, also worked at Mitiga Prison.⁹²⁰

DCC, para. 56: In particular, EL HISHRI's authority and influence manifested in: his hierarchical superiority over relevant Mitiga Perpetrators; his working relationship with KARA and other members of the Mitiga Prison Leadership, and; his absolute power over Mitiga Prison detainees or persons otherwise in the custody or control of the Mitiga Perpetrators. Thus:

DCC, para. 56.a.: EL HISHRI's senior position in the SDF/RADA hierarchy and/or Mitiga Prison Leadership enabled him to issue orders to relevant Mitiga Perpetrators, which were obeyed. EL HISHRI's personal violent reputation meant that he was feared and respected. EL HISHRI could take personal measures to punish Mitiga Perpetrators (other than those in the Mitiga Prison Leadership) who acted against his wishes.

161. EL HISHRI's senior position enabled him to issue orders to Mitiga Perpetrators. Detainees observed him ordering various kinds of prison staff, including shift commanders, guards, medical staff, interrogators, enslaved detainees and arrest units.⁹²¹ All obeyed him,⁹²² and no one could

⁹¹⁶ P-0497, [LBYP-OTP-00007250](#), para. 60; P-0498, [LBYP-OTP-0069-0506](#), para. 93; P-0569, [LBYP-OTP-0080-0032](#), para. 99; P-0720, [LBYP-OTP-0083-0052](#), paras. 134. *But see* P-0486, [LBYP-OTP-0069-0584](#), para. 160; P-0571, [LBYP-OTP-0080-0169](#), para. 44; P-1046, [LBYP-OTP-00019195](#), para. 87.

⁹¹⁷ *See e.g.* P-1710, [LBYP-OTP-01257853](#), para. 220; P-1750, [LBYP-OTP-03214454](#), para. 134; P-0569, [LBYP-OTP-0080-0032](#), para. 125; P-0990, [LBYP-OTP-00015405](#), para. 53.

⁹¹⁸ P-0486, [LBYP-OTP-0069-0584](#), paras. 32, 136; P-0498, [LBYP-OTP-0069-0506](#), paras. 95-96; P-0568, [LBYP-OTP-00018134](#), para. 79; P-0569, [LBYP-OTP-0080-0032](#), paras. 120-121, 125; P-0667, [LBYP-OTP-00001491](#), paras. 117, 150; P-0720, [LBYP-OTP-0083-0052](#), paras. 30, 34; P-0993, [LBYP-OTP-00015420](#), para. 35; P-1026, [LBYP-OTP-00016896](#), para. 105; P-1031, [LBYP-OTP-00018119](#), para. 97; P-0667, [LBYP-OTP-00001491](#), para. 117; P-0692, [LBYP-OTP-0080-0608](#), para. 151; P-1026, [LBYP-OTP-00016896](#), para. 105; P-1070, [LBYP-OTP-00020236](#), para. 72; P-1073, [LBYP-OTP-00020267](#), para. 130.

⁹¹⁹ P-0054, [LBYP-OTP-0073-0025](#), para. 32; P-0486, [LBYP-OTP-0069-0584](#), para. 158; P-0498, [LBYP-OTP-0069-0506](#), para. 95; P-0569, [LBYP-OTP-0080-0032](#), para. 146; P-0571, [LBYP-OTP-0080-0169](#), para. 108; P-0730, [LBYP-OTP-00015125](#), para. 101; P-0872, [LBYP-OTP-00007275](#), para. 95; P-0942, [LBYP-OTP-00015360](#), para. 64; P-0992, [LBYP-OTP-00018787](#), para. 93; P-0993, [LBYP-OTP-00015420](#), para. 35; P-1031, [LBYP-OTP-00018119](#), para. 95; P-0650, [LBYP-OTP-0080-0468](#), para. 139(g); P-0719, [LBYP-OTP-0070-7295](#), para. 205; P-0720, [LBYP-OTP-0083-0052](#), para. 35; P-0595, [LBYP-OTP-0074-0889](#), para. 254; P-0571, [LBYP-OTP-0080-0169](#), para. 108; P-1070, [LBYP-OTP-00020236](#), para. 58; P-1073, [LBYP-OTP-00020267](#), para. 89; P-0644, [LBYP-OTP-00020358](#), para. 62.

⁹²⁰ P-0720, [LBYP-OTP-0083-0052](#), para. 35; P-0569, [LBYP-OTP-0080-0032](#), para. 147.

⁹²¹ P-1710, [LBYP-OTP-01257853](#), paras. 57, 65, 69, 71, 83, 91, 108, 154, 162-163; P-1046, [LBYP-OTP-00022410](#), para. 40; P-1685, [LBYP-OTP-00057776](#), paras. 16, 34, 61, 71, 131, 133; P-1750, [LBYP-OTP-03214454](#), paras. 27-29, 50-52, 78, 89, 120; P-1720, [LBYP-OTP-01558903](#), para. 218; P-1720, [LBYP-OTP-03214454](#), paras. 73-76, 189-190; P-1722, [LBYP-OTP-02856267](#), paras. 17, 52, 59, 87, 130; P-0667, [LBYP-OTP-00001491](#), para. 113; P-0635, [LBYP-OTP-0070-6952](#), paras. 92-93, 137; P-0595, [LBYP-OTP-0074-0889](#), paras. 129-130, 205-206, 208; P-0571, [LBYP-OTP-0080-0169](#), paras. 85, 96; P-1673, [LBYP-OTP-00392926](#), para. 163; P-0498, [LBYP-OTP-0069-0506](#), para. 88; P-0942, [LBYP-OTP-00015360](#), para. 37; P-1026, [LBYP-OTP-00016896](#), para. 30; P-0667, [LBYP-OTP-00001491](#), para. 112; P-0943, [LBYP-OTP-00018075](#), para. 96; P-1722, [LBYP-OTP-02488730](#), paras. 76-84, 185, 186; P-1733, [LBYP-OTP-03703558](#), para. 63.

⁹²² P-0497, [LBYP-OTP-00007250](#), para. 60; P-1710, [LBYP-OTP-01257853](#), paras. 219, 221; P-1720, [LBYP-OTP-01558903](#), para. 216. *See also e.g.* P-0571, [LBYP-OTP-0080-0169](#), paras. 88; P-0635, [LBYP-OTP-0070-6952](#), paras. 92-93, 98, 137. *See also e.g.* P-0595, [LBYP-OTP-0074-0889](#), paras. 129-130, 205-206; P-0667, [LBYP-OTP-00001491](#),

challenge him.⁹²³

162. **EL HISHRI**'s personal violent reputation further ensured that he was feared and respected. As described by detainees: **EL HISHRI** "ruled by fear"⁹²⁴, his "name alone instilled fear among both prisoners and guards",⁹²⁵ "guards were very afraid of him whenever he entered."⁹²⁶ They would do anything to avoid interacting with him and observed that he was "well known to be quick tempered and could always grab his gun and kill or shoot anyone he wanted".⁹²⁷ Even NJEEM was intimidated by **EL HISHRI** and sought to impress him.⁹²⁸ Judicial police members under NJEEM's authority could not go against **EL HISHRI**'s orders. For example, when Judicial Police members arrested **EL HISHRI**'s friend—a lion tamer and dealer—and seized his lions, **EL HISHRI** released him, shot at the Judicial Police officers in Mitiga Compound, and returned the seized lions.⁹²⁹

163. **EL HISHRI** took personal measures to punish shift commanders, guards and enslaved detainees who acted against his instructions, further illustrating his control over them. **EL HISHRI**'s measures aligned with the self-interested and abusive priorities of the Mitiga Prison Leadership and SDF/RADA. Thus, guards were beaten, imprisoned or re-assigned from Mitiga Prison for: being too "nice" to detainees;⁹³⁰ for taking unauthorised bribes from detainees' families,⁹³¹ and; for lack of discipline such as stealing,⁹³² attempting to punish other guards without authorisation,⁹³³ and conduct perceived as inappropriate or immoral.⁹³⁴

164. **EL HISHRI** sometimes carried out these punishments directly. For example, he imprisoned and shot a guard [REDACTED],⁹³⁵ and punished a shift commander and his guards for [REDACTED].⁹³⁶ **EL HISHRI** and N'ZAM also shot the guards they perceived to be responsible when a prisoner escaped [REDACTED].⁹³⁷ **EL HISHRI** knew about allegations of sexual abuse of

paras. 108-111; **P-1046**, [LBYP-OTP-00022410](#), para. 105; **P-1673**, [LBYP-OTP-00392926](#), para. 163, 166; **P-1685**, [LBYP-OTP-00057776](#), paras. 131, 132; **P-0498**, [LBYP-OTP-0069-0506](#), para. 72.

⁹²³ **P-1745**, [LBYP-OTP-03214428](#), para. 33; **P-0497**, [LBYP-OTP-00007250](#), para. 60; **P-1673**, [LBYP-OTP-00392926](#), para. 166; **P-0498**, [LBYP-OTP-0069-0506](#), para. 72.

⁹²⁴ **P-1046**, [LBYP-OTP-00022410](#), para. 105.

⁹²⁵ **P-1673**, [LBYP-OTP-00392926](#), para. 163.

⁹²⁶ **P-1685**, [LBYP-OTP-00057776](#), para. 131.

⁹²⁷ **P-1685**, [LBYP-OTP-00057776](#), paras. 138, 139.

⁹²⁸ [REDACTED]; [REDACTED]; [REDACTED].

⁹²⁹ [REDACTED].

⁹³⁰ **P-0720**, [LBYP-OTP-0083-0052](#), para. 79; **P-1722**, [LBYP-OTP-02856267](#), para. 64; **P-1710**, [LBYP-OTP-01257853](#), paras. 191, 225, 226; **P-1720**, [LBYP-OTP-01558903](#), para. 217; **P-1750**, [LBYP-OTP-03214454](#), para. 120.

⁹³¹ **P-0720**, [LBYP-OTP-0083-0052](#), paras. 66, 69; **P-0498**, [LBYP-OTP-0069-0506](#), para. 37; **P-0990**, [LBYP-OTP-00015405](#), para. 109.

⁹³² **P-0595**, [LBYP-OTP-0074-0889](#), para. 72.

⁹³³ **P-0990**, [LBYP-OTP-00015405](#), paras. 68-69; **P-0054**, [LBYP-OTP-0073-0025](#), paras. 29, 34.

⁹³⁴ See e.g. when a guard offered another guard to have sex in exchange for money. **P-0942**, [LBYP-OTP-00015360](#), paras. 94-95; **P-0990**, [LBYP-OTP-00015405](#), paras. 64-66.

⁹³⁵ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁹³⁶ [REDACTED].

⁹³⁷ [REDACTED]. See also [REDACTED].

young men and/or boys who were brought to the beach by Sheikh KHAIRI and Sheikh SEBAI, because he was aware that his brother shift commander, Mounir AL BOOTI, had an altercation with them. Instead of taking action against Sheikh KHAIRI and Sheikh SEBAI however, **EL HISHRI** intervened by temporarily banning his brother from working at the Prison.⁹³⁸ In one instance, enslaved detainees, following orders from [REDACTED], [REDACTED] detainees who had been [REDACTED] on EL HISHRI's orders. When **EL HISHRI** found out, he became angry and beat the enslaved detainees with a PPR for disobeying him.⁹³⁹

DCC, para. 56.b.: EL HISHRI's senior position in the SDF/RADA hierarchy and/or Mitiga Prison Leadership enabled him to coordinate with other senior SDF/RADA and/or Mitiga Prison Leadership members, including KARA, N'ZAM, and NJEEM regarding the detention and mistreatment of Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators.

165. **EL HISHRI's** senior position meant that he coordinated with and worked alongside other members of the Mitiga Prison Leadership, including KARA, N'ZAM, and NJEEM. This furthered and enabled the systematic mistreatment of Mitiga Prison detainees, including their induction, initial torture, and subsequent mistreatment. He also promoted similar use of torture techniques (including sexualised forms), and helped ensure the effective use of the Mitiga Perpetrators to carry out or facilitate the commission of the crimes.⁹⁴⁰ In particular:

- While **EL HISHRI** maintained and exercised direct control of the Women's Section, he also used his general authority alongside NJEEM to manage many aspects of the detainees' lives, including their detention, cell allocation, and the conditions they experienced.⁹⁴¹ With other members of the Mitiga Prison Leadership, like N'ZAM, **EL HISHRI** and NJEEM also contributed to controlling Mitiga Prison, and maintaining its independent functioning as part of the larger Mitiga Compound.⁹⁴²
- **EL HISHRI** embraced and implemented KARA's instructions as the SDF/RADA leader.⁹⁴³

⁹³⁸ P-0054, [LBY-OTP-0073-0025](#), para. 29, 34; P-0872, [LBY-OTP-00007275](#), para. 95; P-0990, [LBY-OTP-00015405](#), para. 69; P-1031, [LBY-OTP-00018119](#), para. 102.

⁹³⁹ [REDACTED].

⁹⁴⁰ See above paras. 49-64.

⁹⁴¹ See e.g., P-1710, [LBY-OTP-01257853](#), para. 227; P-1722, [LBY-OTP-02856267](#), paras. 167-168, 212; P-1673, [LBY-OTP-00392926](#), paras. 163, 168; P-1685, [LBY-OTP-00057776](#), paras. 131, 155; P-1720, [LBY-OTP-01558903](#), paras. 43, 119, 120, 215; P-0571, [LBY-OTP-0080-0169](#), para. 87; P-0569, [LBY-OTP-0080-0032](#), paras. 121-122; P-0665, [LBY-OTP-0083-0663](#), paras. 76, 80, 105; P-0692, [LBY-OTP-0080-0608](#), paras. 142, 151; P-0943, [LBY-OTP-00018075](#), paras. 103, 122, 124-126.

⁹⁴² See paras. 159 (fn.910, 911), 192 (fn. 1094) 207-209. See e.g. P-0872, [LBY-OTP-00007275](#), paras. 40-41, 43; P-1046, [LBY-OTP-00019195](#), para. 96; P-1673, [LBY-OTP-00392926](#), paras. 169-170; P-1720, [LBY-OTP-01558903](#), para. 215; P-1745, [LBY-OTP-03214428](#), paras. 76-85.

⁹⁴³ P-1722, [LBY-OTP-02856267](#), paras. 101-104; P-0635, [LBY-OTP-0070-6952](#), paras. 128-129; P-0692, [LBY-OTP-0080-0608](#), paras. 142, 151; P-0720, [LBY-OTP-0083-0052](#), para. 30; P-0720, [LBY-OTP-00020099](#), para. 34; P-1031, [LBY-OTP-00018119](#), paras. 96-98; P-1026, [LBY-OTP-00016896](#), paras. 104-105; P-1025, [LBY-OTP-](#)

When KARA personally attended Mitiga Prison—and interrogated detainees,⁹⁴⁴ ordered their torture,⁹⁴⁵ or issued other instructions (such as refusing to refer detainees to the Tripoli authorities [REDACTED],⁹⁴⁶ or refusing medical care⁹⁴⁷)—he often passed his orders through **EL HISHRI**, **NJEEM** and others of the Mitiga Prison Leadership.⁹⁴⁸ KARA helped divide the work between the Mitiga Prison Leadership,⁹⁴⁹ and endorsed their violent commission of crimes.⁹⁵⁰ He was often seen with **EL HISHRI** and others, overseeing the prison's management.⁹⁵¹

- **EL HISHRI** personally carried out numerous acts of torture and violence, with other members of the Mitiga Prison Leadership including **NJEEM** and **N'ZAM**.⁹⁵² Collectively, they ensured that the Mitiga Perpetrators obeyed their orders to maintain harsh detention conditions and commit abuses. Those who disobeyed were severely punished.⁹⁵³
- **EL HISHRI** used his senior position to ensure the systematic mistreatment of detainees by encouraging other members of the Mitiga Prison Leadership, and other Mitiga Perpetrators, to carry out crimes.⁹⁵⁴ He intervened to prevent lenient treatment even if suggested by others.⁹⁵⁵

[00016916](#), para. 65; **P-0990**, [LBY-OTP-00015405](#), paras. 36, 53; **P-0719**, [LBY-OTP-0070-7295](#), paras. 181, 183-185; **P-0595**, [LBY-OTP-0074-0889](#), para. 253; **P-0568**, [LBY-OTP-00018134](#), paras. 78-79, 85. *See also* **P-0569**, [LBY-OTP-0080-0032](#), paras. 20-122, 125; **P-0650**, [LBY-OTP-0080-0468](#), para. 139.

⁹⁴⁴ [REDACTED]; [REDACTED]; [REDACTED].

⁹⁴⁵ [REDACTED].

⁹⁴⁶ [REDACTED]

⁹⁴⁷ [REDACTED]. *See also above* para. 82.

⁹⁴⁸ **P-1722**, [LBY-OTP-02856267](#), paras. 101-104; **P-0571**, [LBY-OTP-0080-0169](#), para. 44; **P-0439**, [LBY-OTP-0066-0951](#), para. 75; **P-0498**, [LBY-OTP-0069-0506](#), para. 88; **P-0942**, [LBY-OTP-00015360](#), paras. 113-114

⁹⁴⁹ [REDACTED]

⁹⁵⁰ **P-0990**, [LBY-OTP-00015405](#), para. 121; **P-1026**, [LBY-OTP-00016896](#), para. 101; **P-0595**, [LBY-OTP-0074-0889](#), paras. 117-126

⁹⁵¹ **P-1722**, [LBY-OTP-02856267](#), paras. 91-95; **P-1046**, [LBY-OTP-00019195](#), para. 87; **P-1046**, [LBY-OTP-00022410](#), para. 34; **P-1720**, [LBY-OTP-01558903](#), para. 168.

⁹⁵² *See e.g.* **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-0595**, [LBY-OTP-0074-0889](#), para. 297; **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91, 92; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 101, 103, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80; **P-0942**, [LBY-OTP-00015360](#), paras. 72-73, 74-79.

⁹⁵³ *See e.g.* **P-0692**, [LBY-OTP-0080-0608](#), paras. 138, 144; **P-0486**, [LBY-OTP-0069-0584](#), para. 138, 160; **P-0925**, [LBY-OTP-00018772](#), para. 65; **P-1046**, [LBY-OTP-00019195](#), paras. 97, 104; **P-0644**, [LBY-OTP-00020358](#), para. 71; **P-0571**, [LBY-OTP-0080-0169](#), para. 90; **P-0635**, [LBY-OTP-0070-6952](#), para. 137; **P-1745**, [LBY-OTP-03214428](#), para. 33; **P-0569**, [LBY-OTP-0080-0032](#), paras. 121-122; **P-1685**, [LBY-OTP-00057776](#), paras. 52-57, 59, 115-116, 122-126.

⁹⁵⁴ **P-0486**, [LBY-OTP-0069-0584](#), para. 160; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-1750**, [LBY-OTP-03214454](#), para. 64; **P-0943**, [LBY-OTP-00018075](#), para. 103.

⁹⁵⁵ *See e.g.*, [REDACTED].

DCC, para. 56.c.: EL HISHRI's senior position in the SDF/RADA hierarchy and/or Mitiga Prison Leadership, and his personal reputation and propensity for violence, ensured that his power was absolute over Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators. He consistently monitored for and punished non-compliance with prison rules. He vetted detainees and exercised his power to detain or release them or to transfer them to different cells.

166. **EL HISHRI's** authority over detainees was absolute. He “could do whatever he wanted, including shoot people in the prison”.⁹⁵⁶ In his exercise of his authority, **EL HISHRI** mistreated, tortured, suspended, and beat detainees.⁹⁵⁷ **EL HISHRI** was notorious for using a torture technique referred to by detainees as “*Falaqat al-Rass*”, where detainees were suspended upside down, with their legs tied.⁹⁵⁸ He was also known to use a shovel in beating detainees.⁹⁵⁹ **EL HISHRI** imposed severe detention conditions on the detainees, denying family visits, and subjecting them to harsh punishments, individually or collectively.⁹⁶⁰

167. **EL HISHRI** attended Mitiga Prison frequently, almost daily.⁹⁶¹ Detainees saw him go around the sections, sometimes multiple times a day,⁹⁶² monitoring compliance with prison rules (for example, concerning noise), and severely punishing any breaches.⁹⁶³ He inspected the prisoners,⁹⁶⁴ gathered them for KARA to inspect,⁹⁶⁵ and took steps to ascertain and verify why detainees were held at Mitiga, often beating them in the process.⁹⁶⁶

168. **EL HISHRI** had the authority to transfer detainees into different cells.⁹⁶⁷ **EL HISHRI** was frequently in the CCTV room monitoring the cameras.⁹⁶⁸ **EL HISHRI** interrogated detainees and

⁹⁵⁶ **P-1046**, [LBY-OTP-00019195](#), para. 95; *see also* **P-1685**, [LBY-OTP-00057776](#), paras. 20, 59, 122-126, 131.

⁹⁵⁷ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁹⁵⁸ [REDACTED].

⁹⁵⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

⁹⁶⁰ *See above* paras.58(fn. 404-406), 123 (fn. 717), 104. **P-0650**, [LBY-OTP-0080-0468](#), para. 119; **P-1685**, [LBY-OTP-00057776](#), paras. 115-116, 127-128; **P-1046**, [LBY-OTP-00019195](#), paras. 53, 87; **P-0925**, [LBY-OTP-00018772](#), para. 94(18); **P-0498**, [LBY-OTP-0069-0506](#), para. 72; **P-0595**, [LBY-OTP-0074-0889](#), para. 247; **P-0872**, [LBY-OTP-00007275](#), para. 37; **P-0990**, [LBY-OTP-00015405](#), paras. 102, 106; **P-1722**, [LBY-OTP-02488730](#), paras. 221-222, 228-232.

⁹⁶¹ **P-1685**, [LBY-OTP-00057776](#), para. 132; **P-0719**, [LBY-OTP-0070-7295](#), para. 175. *See also* **P-1046**, [LBY-OTP-00022410](#), para. 51; **P-1710**, [LBY-OTP-01257853](#), paras. 145-154; **P-1720**, [LBY-OTP-01558903](#), para. 66; **P-1745**, [LBY-OTP-03214428](#), para. 106; **P-1750**, [LBY-OTP-03214454](#), para. 133.

⁹⁶² **P-0720**, [LBY-OTP-0083-0052](#), para. 175.

⁹⁶³ **P-0635**, [LBY-OTP-0070-6952](#), para. 138; **P-0498**, [LBY-OTP-0069-0506](#), para. 72; **P-0595**, [LBY-OTP-0074-0889](#), para. 247; **P-0720**, [LBY-OTP-0083-0052](#), para. 131; **P-0925**, [LBY-OTP-00018772](#), para. 52; **P-1673**, [LBY-OTP-00392926](#), paras. 164-166; **P-1710**, [LBY-OTP-01257853](#), paras. 169, 191, 248; **P-1720**, [LBY-OTP-01558903](#), para. 66.

⁹⁶⁴ **P-1710**, [LBY-OTP-01257853](#), para. 228; **P-0943**, [LBY-OTP-00018075](#), para. 108; **P-0650**, [LBY-OTP-0080-0468](#), para. 119; **P-0571**, [LBY-OTP-0080-0169](#), para. 87;

⁹⁶⁵ [REDACTED]; [REDACTED].

⁹⁶⁶ **P-0942**, [LBY-OTP-00015360](#), para. 37; **P-1685**, [LBY-OTP-00057776](#), paras. 134-135, **P-0720**, [LBY-OTP-0083-0052](#), para. 131; **P-1685**, [LBY-OTP-00057776](#), paras. 134-135.

⁹⁶⁷ **P-1673**, [LBY-OTP-00392926](#), paras. 163, 167, 168 ; **P-1685**, [LBY-OTP-00057776](#), paras. 34-37, 131; **P-1710**, [LBY-OTP-01257853](#), paras. 71, 94, 227.

⁹⁶⁸ [REDACTED].

attempted to extract confessions from them, including under torture;⁹⁶⁹ he also monitored and issued orders to others who interrogated prisoners.⁹⁷⁰ He had the power to detain and release detainees,⁹⁷¹ including without consulting NJEEM.⁹⁷²

DCC, para. 57: EL HISHRI used his general authority and influence in Mitiga Prison to: DCC, para. 57.a.: order Mitiga Perpetrators to commit crimes against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators;

169. On multiple occasions, **EL HISHRI** was seen or heard to order Mitiga Perpetrators to commit crimes against detainees.⁹⁷³ For example, **EL HISHRI** ordered the guards to handcuff [REDACTED]'s arms behind his back, and to suspend him by those handcuffs from a hook high on the wall so he could not touch the ground, causing excruciating pain.⁹⁷⁴ **EL HISHRI** ordered guards and other detainees to suspend and beat detainees as he interrogated them, forbidding provision of medicine or food, stating that they should be "left without food until they died".⁹⁷⁵

DCC, para. 57.b.: prompt or encourage members of the Mitiga Prison Leadership and Mitiga Perpetrators to commit crimes against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators;

170. By his conduct—including his control over Mitiga Perpetrators, his regular presence at Mitiga Prison, his own conspicuous commission of violent crimes, his decisions to continue the systematic and prolonged mistreatment of detainees, and his opposition to any leniency—**EL HISHRI** promoted or encouraged members of the Mitiga Prison Leadership and other Mitiga Perpetrators to commit crimes against Mitiga Prison detainees and persons otherwise in their custody or control. For instance, **EL HISHRI**'s mere presence was enough for NJEEM to commit crimes so as to impress him.⁹⁷⁶ As [REDACTED] described, as soon as NJEEM saw **EL HISHRI** arrive, overseeing an operation where detainees were donating blood in Mitiga, "[NJEEM] just started beating the

⁹⁶⁹ See e.g. **P-0595**, [LBY-OTP-0074-0889](#), paras. 142-151; **P-0635**, [LBY-OTP-0070-6952](#), paras. 92-93, 95-96; **P-0872**, [LBY-OTP-00007275](#), para. 30; **P-0925**, [LBY-OTP-00018772](#), paras. 32-34; **P-1046**, [LBY-OTP-00019195](#), para. 108; **P-1685**, [LBY-OTP-00057776](#), paras. 34-37, 41-42; **P-1710**, [LBY-OTP-01257853](#), paras. 60, 62-70; **P-1745**, [LBY-OTP-03214428](#), paras. 49-51.

⁹⁷⁰ **P-0498**, [LBY-OTP-0069-0506](#), para. 88; **P-0942**, [LBY-OTP-00015360](#), para. 37; **P-1026**, [LBY-OTP-00016896](#), para. 30.

⁹⁷¹ **P-0569**, [LBY-OTP-0080-0032](#), para. 121; **P-0665**, [LBY-OTP-0083-0663](#), paras. 76, 80, 105; **P-0692**, [LBY-OTP-0080-0608](#), paras. 142, 151; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-0943**, [LBY-OTP-00018075](#), para. 122, 124-126; **P-1685**, [LBY-OTP-00057776](#), paras. 134-135; **P-1720**, [LBY-OTP-01558903](#), paras. 212-213.

⁹⁷² **P-1046**, [LBY-OTP-00019195](#), para. 95. See also **P-0644**, [LBY-OTP-00020358](#), para. 70.

⁹⁷³ See e.g. **P-1710**, [LBY-OTP-01257853](#), paras. 57, 91, 154, 162; **P-1720**, [LBY-OTP-01558903](#), para. 189; **P-1750**, [LBY-OTP-03214454](#), paras. 50, 77; **P-1722**, [LBY-OTP-02488730](#), paras. 242, 244; **P-1722**, [LBY-OTP-02856267](#), paras. 49, 52; **P-1710**, [LBY-OTP-01257853](#), paras. 154, 162.

⁹⁷⁴ [REDACTED]. See also **P-1710**, [LBY-OTP-01257853](#), paras. 154, 162; **P-1750**, [LBY-OTP-03214454](#), paras. 50, 77; **P-1722**, [LBY-OTP-02488730](#), paras. 242, 244; **P-1722**, [LBY-OTP-02856267](#), para. 49; **P-1682**, [LBY-OTP-03703580](#), p. 1.

⁹⁷⁵ **P-1722**, [LBY-OTP-02856267](#), paras. 49-52. See also **P-1046**, [LBY-OTP-00022410](#), para. 105; **P-1673**, [LBY-OTP-00392926](#), para. 163; **P-1685**, [LBY-OTP-00057776](#), para. 131; **P-1710**, [LBY-OTP-01257853](#), paras. 154, 162.

⁹⁷⁶ [REDACTED]; [REDACTED]; [REDACTED].

prisoners without a reason” and “his attitude changed”.⁹⁷⁷ Likewise, **EL HISHRI** prompted or encouraged Mitiga Perpetrators to commit crimes jointly with him through specific acts,⁹⁷⁸ either by initiating the criminal conduct in which they then participated,⁹⁷⁹ or by bringing or handing detainees to be tortured by them.⁹⁸⁰

171. **EL HISHRI** also prompted or encouraged members of the Mitiga Prison Leadership and Mitiga Perpetrators to commit the crimes by his own express words. For instance, after beating and questioning detainees [REDACTED], **EL HISHRI** noticed that NJEEM, Ziad BEZIZI and ALKUJI were not taking part, and “asked them if they were just going to watch” and told them that they “should come and beat” the detainees with him. As a result, NJEEM, Ziad BEZIZI and ALKUJI joined **EL HISHRI** in beating the detainees for nearly an hour.⁹⁸¹ On another occasion, **EL HISHRI** called NJEEM to beat female detainees, or to stop them from escaping.⁹⁸² **EL HISHRI** blamed NJEEM for referring certain detainees to the Tripoli authorities, prompting him to stop it: “RADA made huge efforts to arrest them and that this referral to the prosecution should stop”.⁹⁸³

DCC, para. 57.c.: personally commit crimes against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators;

172. **EL HISHRI** personally tortured and mistreated numerous Mitiga detainees throughout the charged period, victimising more than 159 detainees, as set out below.⁹⁸⁴ He directly contributed to their systematic violent mistreatment and set a negative example for the Mitiga Prison guards, creating a culture of impunity for the alleged crimes.

DCC, para. 57.d.: impose and/or enforce inhumane conditions of detention in Mitiga Prison and systematically oppose any attempt at improvement;

173. **EL HISHRI** participated in imposing and enforcing inhumane and inadequate prison conditions which increased the detainees’ suffering, and systematically opposed attempts at

⁹⁷⁷ [REDACTED].

⁹⁷⁸ See e.g. **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-1722**, [LBY-OTP-02856267](#), paras. 57-59; **P-0595**, [LBY-OTP-0074-0889](#), para. 297; **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80.

⁹⁷⁹ See e.g. **P-1710**, [LBY-OTP-01257853](#), paras 90-94; **P-1750**, [LBY-OTP-03214454](#), para. 59 ; **P-0872**, [LBY-OTP-00007275](#), para. 30.

⁹⁸⁰ **P-1750**, [LBY-OTP-03214454](#), para. 59 ; **P-0943**, [LBY-OTP-00018075](#), paras.96-98 .

⁹⁸¹ [REDACTED].

⁹⁸² [REDACTED].

⁹⁸³ [REDACTED].

⁹⁸⁴ See above para. 192 and Annex 14.

leniency.⁹⁸⁵ For example, [REDACTED].⁹⁸⁶ Like NJEEM and other prison officials, **EL HISHRI** oversaw the regular use of Black Migrants and other Non-Libyans for other tasks including physical abuse of other detainees,⁹⁸⁷ and used detainees to provide free labour on his private residences.⁹⁸⁸ In overcrowded cells, where detainees were gasping for air and despite their pleas, **EL HISHRI** would turn off the air ventilator to punish them and instruct them to shut up. P-0498 stated that “no one else could turn it on because it was [**EL HISHRI**] who switched it off”.⁹⁸⁹ On other occasions, **EL HISHRI** deliberately broke the ventilation fans in the cells, and smashed any small fans which might be possessed by detainees, causing many detainees to faint due to insufficient air ventilation.⁹⁹⁰

DCC, para. 57.e.: contribute to the creation of a coercive atmosphere in Mitiga Prison conducive to the commission of the charged crimes, in which torture and mistreatment of Mitiga Prison detainees was institutionalised and sustained;

174. **EL HISHRI** regularly imposed both individual and collective punishment of detainees, creating a culture of intimidation and terror.⁹⁹¹ Among the methods favoured by **EL HISHRI** was suspending groups of detainees from a high ceiling, making them climb a ladder to reach a hook where they would be hung from their handcuffs, suspending them like sheep. This method caused a number of deaths among detainees.⁹⁹² Whipping groups of detainees was another common practice for collective punishment. For instance, **EL HISHRI** whipped up to fifteen women on their backs and buttocks with a long plastic pipe, shouting “[t]his is what happens when you breach the rules” while the women screamed in pain.⁹⁹³

175. **EL HISHRI** sought to ensure a coercive atmosphere in Mitiga Prison from when detainees first arrived, and throughout their entire detention. For instance, **EL HISHRI** “welcomed” [REDACTED] to the prison by shooting him [REDACTED] and ordering guards to beat him.⁹⁹⁴ Similarly, [REDACTED] was arrested by those under **EL HISHRI**’s command, who assaulted him and brought him to Mitiga Prison. Shortly after [REDACTED]’s arrival, **EL HISHRI** beat him

⁹⁸⁵ P-0498, [LBY-OTP-0069-0506](#), para. 72; P-0595, [LBY-OTP-0074-0889](#), para. 247; P-0872, [LBY-OTP-00007275](#), para. 37; P-0990, [LBY-OTP-00015405](#), paras. 102, 106; P-1046, [LBY-OTP-00019195](#), para. 53; P-1685, [LBY-OTP-00057776](#), paras. 115-116; P-1720, [LBY-OTP-01558903](#), para. 66.

⁹⁸⁶ [REDACTED].

⁹⁸⁷ P-0571, [LBY-OTP-0080-0169](#), para. 95; P-0925, [LBY-OTP-00018772](#), paras. 32-34, 70; P-1673, [LBY-OTP-00392926](#), paras. 167-168.

⁹⁸⁸ [REDACTED]; [REDACTED]; [REDACTED].

⁹⁸⁹ P-0498, [LBY-OTP-0069-0506](#), para. 72.

⁹⁹⁰ P-0595, [LBY-OTP-0074-0889](#), para. 247; P-1046, [LBY-OTP-00019195](#), para. 53; P-0990, [LBY-OTP-00015405](#), para. 106.

⁹⁹¹ See above, para.166 (fn. 960); below para. 192 and Annex 14.

⁹⁹² [REDACTED].

⁹⁹³ [REDACTED].

⁹⁹⁴ [REDACTED].

with a thick PPR until he passed out. [REDACTED] said that there was an unwritten rule that when **EL HISHRI** is beating someone “no one else interferes”.⁹⁹⁵ When a detainee resisted handcuffing on his first day in detention, **EL HISHRI** immediately picked up a shovel and hit him several times on his head with the shovel’s metal part, saying “I will kill you”.⁹⁹⁶

176. **EL HISHRI** was himself a notorious torturer,⁹⁹⁷ he also worked with and supported other Mitiga Perpetrators with similarly violent reputations. One such was **EL HISHRI**’s brother Mounir. Together with Mohamed BEZIZI and Ziad BEZIZI, Mounir **EL HISHRI** beat [REDACTED] severely, before taking them to the *Naqlia* where **EL HISHRI** interrogated and beat them [REDACTED]. Mounir **EL HISHRI**, Mohamed BEZIZI, and Ziad BEZIZI watched, [REDACTED]. **EL HISHRI** joined them [REDACTED]. [REDACTED] heard Mounir telling **EL HISHRI** that the detainees were going to die, and **EL HISHRI** reply “let them rot”.⁹⁹⁸ Subsequently, **EL HISHRI** [REDACTED], and Mounir **EL HISHRI** [REDACTED].⁹⁹⁹

DCC, para. 57.f.: create or maintain or contribute to the creation and/or maintenance of a culture of impunity among the Mitiga Perpetrators for crimes against detainees or persons otherwise in their custody or control; and

177. Together with other members of the Mitiga Prison Leadership, **EL HISHRI** created, maintained and/or otherwise contributed to the creation and/or maintenance of a culture of impunity among the Mitiga Perpetrators, enabling and facilitating the system of institutionalised and sustained mistreatment and violent abuse. Very often, **EL HISHRI** personally carried out crimes in front of KARA and other members of the Mitiga Prison Leadership,¹⁰⁰⁰ signalling to Mitiga Perpetrators and detainees alike that such actions were not only permitted but encouraged, and would not result in punishment. **EL HISHRI** also punished detainees who dared to resist the commission of the crimes or to complain about the detention conditions.¹⁰⁰¹ He exploited the coercive environment of the Mitiga Prison to compel detainees to help cover up his own crimes, including by torturing

⁹⁹⁵ [REDACTED].

⁹⁹⁶ [REDACTED].

⁹⁹⁷ **P-0054**, [LBY-OTP-0073-0025](#), para. 32; **P-0439**, [LBY-OTP-0066-0951](#), paras. 41, 73; **P-0571**, [LBY-OTP-0080-0169](#), para. 95; **P-0635**, [LBY-OTP-0070-6952](#), paras. 129, 140; **P-0650**, [LBY-OTP-0080-0468](#), para. 51; **P-1685**, [LBY-OTP-00057776](#), para. 44; **P-1710**, [LBY-OTP-01257853](#), para. 221.

⁹⁹⁸ [REDACTED].

⁹⁹⁹ [REDACTED].

¹⁰⁰⁰ See e.g. **P-1736**, [LBY-OTP-03703604](#), para. 143; **P-1750**, [LBY-OTP-03214454](#), paras. 29-35, 53-55, 101-102; **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-0595**, [LBY-OTP-0074-0889](#), paras. 117-126, 297; **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80; **P-0990**, [LBY-OTP-00015405](#), para. 121; **P-1026**, [LBY-OTP-00016896](#), para. 101.

¹⁰⁰¹ See e.g. **P-1736**, [LBY-OTP-03703604](#), paras. 172-173; **P-0439**, [LBY-OTP-0066-0951](#), paras. 44-48; **P-1722**, [LBY-OTP-02856267](#), paras. 147-190, 192-194.

them and forcing them to make false statements.¹⁰⁰²

178. **EL HISHRI** took measures to prevent any judicial oversight over the detention and mistreatment of the detainees. For instance, **EL HISHRI** opposed referring Mitiga Prison detainees to the Tripoli authorities, telling NJEEM that “RADA made huge efforts to arrest them and that this referral to the prosecution should stop”.¹⁰⁰³ **EL HISHRI** [REDACTED],¹⁰⁰⁴ demonstrating the truth of his observation on another occasion that “ALSOUR [the Attorney General of Libya] has no power. He is no one compared to us. We have the power”.¹⁰⁰⁵

179. **EL HISHRI** also helped conceal the commission of crimes from the outside world. Notably, for example, when a human rights organisation sought to inspect Mitiga Prison, **EL HISHRI** oversaw the removal of almost 200 detained women and children from the Women’s Section to another location, leaving only a reduced number of detainees. Together with KARA and NJEEM, **EL HISHRI** then accompanied the inspectors to the Women’s Section, ensuring that the remaining detainees did not inform inspectors of the reality of the detention conditions. **EL HISHRI** did this, for example, by making [REDACTED]. The same was repeated with other detainees. After the visit was over, **EL HISHRI** returned the 200 detainees.¹⁰⁰⁶

DCC, para. 57.g.: contribute to the continued independent functioning of SDF/RADA, and its control over Mitiga Prison and the detainees therein, enabling the continued commission of crimes against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators.

180. In addition to his direct perpetration of the charged crimes, **EL HISHRI** also contributed to the continued independent functioning of SDF/RADA, enabling and perpetuating its control over Mitiga Prison and further criminality against the detainees therein and persons otherwise in the custody or control of the Mitiga Perpetrators or SDF/RADA. **EL HISHRI** did this by participating in the administration and control of the prison,¹⁰⁰⁷ helping ensure its independent operation beyond the reach of the judicial authorities,¹⁰⁰⁸ participating in activities that resulted in financial gains for both him and SDF/RADA,¹⁰⁰⁹ and by taking part in defending Mitiga Prison from military attacks.¹⁰¹⁰

¹⁰⁰² [REDACTED].

¹⁰⁰³ [REDACTED].

¹⁰⁰⁴ [REDACTED].

¹⁰⁰⁵ [REDACTED].

¹⁰⁰⁶ [REDACTED].

¹⁰⁰⁷ See above, paras. 158-179; below paras. 181-187.

¹⁰⁰⁸ See above, paras. 171, 178.

¹⁰⁰⁹ P-0719, [LBYP-OTP-0070-7295](#), para. 30; P-0595, [LBYP-OTP-0074-0889](#), para. 225 ; P-1059, [LBYP-OTP-03218972](#), p. 9 ; P-0692, [LBYP-OTP-0080-0608](#), paras. 80, 81; P-0990, [LBYP-OTP-00015405](#), para. 105.

¹⁰¹⁰ P-1750, [LBYP-OTP-03214454](#), paras. 127-128; P-1673, [LBYP-OTP-00392926](#), paras. 169-170.

ii. EL HISHRI exercised direct control over the Women's Section of Mitiga Prison

DCC, para. 58: At all material times, EL HISHRI exercised direct control over the Women's Section of Mitiga Prison. He was regularly present at and strictly controlled access to the section, including personally overseeing such access by Mitiga Perpetrators and personally handcuffing, blindfolding, and escorting girls and women out of the section. He exercised daily administrative control over the girls and women held in the Women's Section, as well as the young children held there with their mothers. EL HISHRI assisted in processing girls and women in the Mitiga Perpetrators' custody when they were brought to Mitiga Prison, including by carrying out and/or overseeing their searches and assigning them to a cell in the Women's Section. He also controlled the circumstances of their release.

181. Among the Mitiga Prison Leadership, EL HISHRI had particular charge of the Women's Section, over which he exercised direct control.¹⁰¹¹ He exercised this authority with an iron fist. He literally held the keys to the section¹⁰¹² and strictly controlled access,¹⁰¹³ closely watching any guard or enslaved detainee whom he instructed to go there.¹⁰¹⁴ In his absence, no one could enter or exit the section.¹⁰¹⁵ HISHRI was in control even when he was not physically present.¹⁰¹⁶ KARA banned anyone but EL HISHRI from entering, including NJEEM.¹⁰¹⁷ EL HISHRI's grasp on the section was so tight that guards were prohibited from entering the section in his absence even to serve food

¹⁰¹¹ P-0054, [LBYP-OTP-0073-0025](#), paras. 31, 33; P-0486, [LBYP-OTP-0069-0584](#), para. 130; P-0497, [LBYP-OTP-00007250](#), para. 53; P-0498, [LBYP-OTP-0069-0506](#), para. 94; P-0569, [LBYP-OTP-0080-0032](#), paras. 35, 120-121; P-0571, [LBYP-OTP-0080-0169](#), para. 90; P-0595, [LBYP-OTP-0074-0889](#), paras. 193, 245; P-0635, [LBYP-OTP-0070-6952](#), paras. 137, 145; P-0665, [LBYP-OTP-0083-0663](#), paras. 94, 120; P-0667, [LBYP-OTP-00001491](#), para. 112; P-0670, [LBYP-OTP-00015152](#), para. 115; P-0692, [LBYP-OTP-0080-0608](#), paras. 43, 135; P-0719, [LBYP-OTP-0070-7295](#), para. 162; P-0720, [LBYP-OTP-0083-0052](#), paras. 35, 173; P-0730, [LBYP-OTP-00015125](#), paras. 93, 101; P-0872, [LBYP-OTP-00007275](#), paras. 80, 84; P-0925, [LBYP-OTP-00018772](#), para. 78; P-0942, [LBYP-OTP-00015360](#), para. 113; P-0943, [LBYP-OTP-00018075](#), paras. 137; P-0992, [LBYP-OTP-00018787](#), para. 56; P-1025, [LBYP-OTP-00016916](#), para. 61; P-1026, [LBYP-OTP-00016896](#), para. 105; P-1031, [LBYP-OTP-00018119](#), para. 98; P-1046, [LBYP-OTP-00019195](#), para. 122; P-1070, [LBYP-OTP-00020236](#), para. 72; P-1073, [LBYP-OTP-00020267](#), para. 76; P-0644, [LBYP-OTP-00020358](#), para. 125; P-1673, [LBYP-OTP-00392926](#), para. 172; P-1685, [LBYP-OTP-00057776](#), paras. 136, 160; P-1710, [LBYP-OTP-01257853](#), para. 222; P-1720, [LBYP-OTP-01558903](#), paras. 59, 154; P-1745, [LBYP-OTP-03214428](#), paras. 22, 111, 115; P-1750, [LBYP-OTP-03214454](#), para. 146; P-1733, [LBYP-OTP-03703558](#), paras. 32, 58.

¹⁰¹² P-0498, [LBYP-OTP-0069-0506](#), paras. 94, 129; P-0571, [LBYP-OTP-0080-0169](#), paras. 90-91; P-0720, [LBYP-OTP-0083-0052](#), para. 186; P-0942, [LBYP-OTP-00015360](#), paras. 113-114; P-0644, [LBYP-OTP-00020358](#), para. 125; P-1710, [LBYP-OTP-01257853](#), para. 222; P-1720, [LBYP-OTP-01558903](#), paras. 155, 161, 162; P-1750, [LBYP-OTP-03214454](#), para. 146.

¹⁰¹³ P-0054, [LBYP-OTP-0073-0025](#), para. 31; P-0486, [LBYP-OTP-0069-0584](#), para. 88; P-0568, [LBYP-OTP-00018134](#), paras. 70-71; P-0571, [LBYP-OTP-0080-0169](#), paras. 90-91; P-0595, [LBYP-OTP-0074-0889](#), para. 193; P-0692, [LBYP-OTP-0080-0608](#), para. 135; P-0872, [LBYP-OTP-00007275](#), para. 84; P-0942, [LBYP-OTP-00015360](#), paras. 113-114. *See also*, P-0595, [LBYP-OTP-0074-0889](#), para. 199; P-0925, [LBYP-OTP-00018772](#), paras. 81, 134; P-1031, [LBYP-OTP-00018119](#), para. 100; P-0990, [LBYP-OTP-00015405](#), para. 95; P-1685, [LBYP-OTP-00057776](#), para. 136; P-1046, [LBYP-OTP-00022410](#), para. 105; P-1710, [LBYP-OTP-01257853](#), para. 222; P-1720, [LBYP-OTP-01558903](#), paras. 155-157, 159-162; P-1750, [LBYP-OTP-03214454](#), para. 146.

¹⁰¹⁴ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹⁰¹⁵ P-0498, [LBYP-OTP-0069-0506](#), para. 94; P-0569, [LBYP-OTP-0080-0032](#), para. 121; P-0595, [LBYP-OTP-0074-0889](#), para. 193; P-0692, [LBYP-OTP-0080-0608](#), para. 43; P-0720, [LBYP-OTP-0083-0052](#), paras. 18, 179; [REDACTED]; P-1046, [LBYP-OTP-00022410](#), paras. 101, 105, 110.

¹⁰¹⁶ *See e.g.* [REDACTED]; P-0498, [LBYP-OTP-0069-0506](#), para. 94; P-0569, [LBYP-OTP-0080-0032](#), para. 121; P-0595, [LBYP-OTP-0074-0889](#), para. 193; P-0692, [LBYP-OTP-0080-0608](#), para. 43; P-0720, [LBYP-OTP-0083-0052](#), paras. 18, 179; [REDACTED]; P-1046, [LBYP-OTP-00022410](#), paras. 101, 105, 110.

¹⁰¹⁷ [REDACTED].

or attend to medical emergencies—which meant that detainees went hungry and, on occasion, even died due to a lack of prompt medical care.¹⁰¹⁸

182. **EL HISHRI** exercised daily administrative control over the women, girls and young children held in the Women’s Section, determining their cell allocation and the conditions of their detention,¹⁰¹⁹ and the circumstances of their release.¹⁰²⁰ As such, **EL HISHRI**’s personal conduct (his acts and omissions) was arguably the primary factor determining the actual treatment of women and young children for their welfare and vital interests such as: the quantity and quality of food; access to medical care; the conditions of detention, and their release. He was also in charge of the young children held with their mothers,¹⁰²¹ some of whom were made to work.¹⁰²²

183. **EL HISHRI** was ‘hands on’ in physically managing the women, girls, and young children. He was frequently present at the Women’s Section,¹⁰²³ and personally handcuffed, blindfolded,¹⁰²⁴ and escorted women and girls in and out.¹⁰²⁵ As below, **EL HISHRI** oversaw and/or carried out the searches of female detainees.¹⁰²⁶

DCC, para. 59: EL HISHRI closely monitored the women, girls and young children held in the Women’s Section and punished them for defying his authority, or for perceived breaches of prison rules, or non-compliance with his wishes. He supervised the inspection of the cells and presented the detainees to other members of the Mitiga Prison Leadership. He controlled the detention conditions in the Women’s Section, including by overseeing the distribution of food, clothing, hygiene supplies, and limited medical care. He facilitated and strictly monitored yard time, telephone calls, and visits with family members.

184. **EL HISHRI** closely monitored the women, girls, and young children held in the Women’s Section and punished them for defying his authority or for perceived misconduct.¹⁰²⁷ Perceived

¹⁰¹⁸ P-0054, [LBY-OTP-0073-0025](#), para. 31; P-0498, [LBY-OTP-0069-0506](#), para. 129; P-0569, [LBY-OTP-0080-0032](#), paras. 35, 121; P-0571, [LBY-OTP-0080-0169](#), paras. 90-91; [REDACTED]; P-0692, [LBY-OTP-0080-0608](#), para. 135; P-0942, [LBY-OTP-00015360](#), paras. 113-114; [REDACTED].

¹⁰¹⁹ See e.g. [REDACTED].

¹⁰²⁰ [REDACTED].

¹⁰²¹ P-0486, [LBY-OTP-0069-0584](#), para. 88; P-0569, [LBY-OTP-0080-0032](#), paras. 35, 121; P-0571, [LBY-OTP-0080-0169](#), paras. 86, 92; P-0595, [LBY-OTP-0074-0889](#), para. 198; [REDACTED]; P-0720, [LBY-OTP-00020099](#), paras. 69-70, 173; P-0990, [LBY-OTP-00015405](#), para. 95; P-1070, [LBY-OTP-00020236](#), para. 74; P-1720, [LBY-OTP-01558903](#), para. 163.

¹⁰²² P-1046, [LBY-OTP-00019195](#), para. 121; P-0720, [LBY-OTP-0083-0052](#), para. 173; P-0720, [LBY-OTP-00020099](#), paras. 69-70. See also P-0990, [LBY-OTP-00015405](#), para. 100; P-1026, [LBY-OTP-00016896](#), para. 78; P-1673, [LBY-OTP-00392926](#), para. 175.

¹⁰²³ P-0692, [LBY-OTP-0080-0608](#), para. 135; P-0942, [LBY-OTP-00015360](#), paras. 113-114; [REDACTED]; P-0644, [LBY-OTP-00020358](#), paras. 73, 125. See also P-0719, [LBY-OTP-0070-7295](#), para. 175. P-1046, [LBY-OTP-00022410](#), para. 51; P-1720, [LBY-OTP-01558903](#), para. 66; P-1750, [LBY-OTP-03214454](#), para. 146.

¹⁰²⁴ [LBY-OTP-00018075](#), paras. 31, 33, 69, 70, 72.

¹⁰²⁵ See e.g. P-0498, [LBY-OTP-0069-0506](#), para. 94; P-0635, [LBY-OTP-0070-6952](#), para. 146; P-0719, [LBY-OTP-0070-7295](#), para. 164; P-0925, [LBY-OTP-00018772](#), para. 78; [REDACTED]; P-1046, [LBY-OTP-00019195](#), para. 123; P-1073, [LBY-OTP-00020267](#), para. 124.

¹⁰²⁶ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹⁰²⁷ See below, paras. 184-187. See also [REDACTED]; P-1722, [LBY-OTP-02488730](#), paras. 221, 222, 229, 230; P-1710, [LBY-OTP-01257853](#), para. 191; P-1750, [LBY-OTP-03214454](#), para. 146.

miscreants were whipped personally by **EL HISHRI** and told: “This is what happens when you stay up late. [...] This is what happens when you breach the rules.”¹⁰²⁸ **EL HISHRI** processed new detainees, such as [REDACTED] and [REDACTED], when they were brought to Mitiga Prison.¹⁰²⁹ He did this by physically searching women himself,¹⁰³⁰ or by ordering other women to undress and touch their (intimate) body parts while he was watching.¹⁰³¹ When **EL HISHRI** first took [REDACTED] to her cell, he told her, “this is where [you] will die”.¹⁰³² He also supervised the inspection of cells,¹⁰³³ and presented the detainees to senior SDF/RADA members, such as KARA.¹⁰³⁴ Day-to-day, **EL HISHRI** personally supervised the provision of food,¹⁰³⁵ clothes from the detainees’ families,¹⁰³⁶ as well as limited medical care¹⁰³⁷ and menstrual pads.¹⁰³⁸ He facilitated and strictly monitored yard time,¹⁰³⁹ phone calls,¹⁰⁴⁰ and family visits.¹⁰⁴¹

DCC, para. 60: EL HISHRI personally beat and mistreated the women, girls, and young children held in the Women’s Section. He also took them out of the section to notorious sites in Mitiga Prison such as the “Islamic Neighbourhood” and the *Naqliah*, and participated in their interrogation and torture. In managing the section, EL HISHRI enforced conditions according to his own views and expectations of gender and punished conduct perceived to deviate from them. In particular, he severely mistreated women, including by pulling them around Mitiga Prison, blindfolded and tied to a rope, while beating them along the way.

185. **EL HISHRI** personally beat girls and women on a regular basis.¹⁰⁴² He took them out of

¹⁰²⁸ [REDACTED].

¹⁰²⁹ [REDACTED]; [REDACTED]. See also **P-0692**, [LBY-OTP-0080-0608](#), para. 178; **P-0719**, [LBY-OTP-0070-7295](#), para. 139.

¹⁰³⁰ [REDACTED]; [REDACTED].

¹⁰³¹ [REDACTED]; [REDACTED]; [REDACTED].

¹⁰³² [REDACTED].

¹⁰³³ [REDACTED]; [REDACTED].

¹⁰³⁴ [REDACTED].

¹⁰³⁵ [REDACTED]; [REDACTED]; **P-1070**, [LBY-OTP-00020236](#), para. 72; **P-1685**, [LBY-OTP-00057776](#), para. 132; **P-1710**, [LBY-OTP-01257853](#), para. 222; **P-1720**, [LBY-OTP-01558903](#), para. 161.

¹⁰³⁶ **P-1025**, [LBY-OTP-00016916](#), para. 61.

¹⁰³⁷ [REDACTED]; [REDACTED]; **P-1720**, [LBY-OTP-01558903](#), para. 155-157, 159-160; **P-1750**, [LBY-OTP-03214454](#), para. 146.

¹⁰³⁸ [REDACTED]; [REDACTED].

¹⁰³⁹ [REDACTED].

¹⁰⁴⁰ [REDACTED]; [REDACTED].

¹⁰⁴¹ [REDACTED].

¹⁰⁴² See Annex 14, e.g. F-2831, F-2379, F-2517, F-2518, F-2590, F-2835, F-3039, F-3040, F-3030, F-2216, F-2217, F-2706, F-2505, F-2798, F-2830; see further, [REDACTED]; **P-0872**, [LBY-OTP-00007275](#), paras. 91, 92; [REDACTED]. See also [REDACTED]; [REDACTED]; **P-0569**, [LBY-OTP-0080-0032](#), para. 35; **P-0571**, [LBY-OTP-0080-0169](#), paras. 90-91; **P-0595**, [LBY-OTP-0074-0889](#), paras. 194, 244; **P-0719**, [LBY-OTP-0070-7295](#), paras. 164, 171; **P-1031**, [LBY-OTP-00018119](#), para. 102; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80. See also **P-0054**, [LBY-OTP-0073-0025](#), para. 31; **P-0486**, [LBY-OTP-0069-0584](#), paras. 73, 88; **P-0498**, [LBY-OTP-0069-0506](#), para. 129; **P-0925**, [LBY-OTP-00018772](#), para. 52; **P-0942**, [LBY-OTP-00015360](#), para. 120; **P-0990**, [LBY-OTP-00015405](#), paras. 77, 94; **P-0993**, [LBY-OTP-00015420](#), paras. 24-25; [REDACTED]; **P-0644**, [LBY-OTP-00020358](#), para. 127; **P-1046**, [LBY-OTP-00022410](#), paras. 102, 105-107; **P-0692**, [LBY-OTP-0080-0608](#), para. 42.

the Women's Section to the "Islamic Neighbourhood"¹⁰⁴³ or the *Naqliah*,¹⁰⁴⁴ or elsewhere,¹⁰⁴⁵ and participated in their interrogation¹⁰⁴⁶ and torture.¹⁰⁴⁷ Once he took girls and women out of their cells, he often returned them hours later covered with bruises and swellings.¹⁰⁴⁸ He told one woman he took out that she was going to be suspended from a "*balanco*" and added that "[REDACTED]".¹⁰⁴⁹

186. When female detainees were out of their cells, **EL HISHRI**'s beatings were continuous and brutal:¹⁰⁵⁰ "[t]he PPR was always in his hand"¹⁰⁵¹ and he "beat the females almost to death".¹⁰⁵² Detainees held in or near the Women's Section describe regularly hearing **EL HISHRI** and guards beating the women;¹⁰⁵³ the women's screams were often so overwhelming that these prisoners would cry and cover their ears.¹⁰⁵⁴ Some of the women died of their beatings.¹⁰⁵⁵ **EL HISHRI** also shot women in the lower limbs.¹⁰⁵⁶ He insulted¹⁰⁵⁷ and threatened them with physical, psychological and sexual and/or reproductive violence as well as death.¹⁰⁵⁸ He watched the women closely, sometimes sneaking up on them by opening the door very quietly,¹⁰⁵⁹ and severely punished them for arguing with him or complaining.¹⁰⁶⁰

187. In managing the Women's Section, **EL HISHRI** applied strict religious and gender norms.

¹⁰⁴³ P-0498, [LBYP-OTP-0069-0506](#), para. 129.

¹⁰⁴⁴ P-0635, [LBYP-OTP-0070-6952](#), para. 146; P-0667, [LBYP-OTP-00001491](#), para. 112; P-0720, [LBYP-OTP-0083-0052](#), para. 178; P-0872, [LBYP-OTP-00007275](#), para. 91; [REDACTED]; [REDACTED].

¹⁰⁴⁵ [REDACTED]; [REDACTED].

¹⁰⁴⁶ P-0692, [LBYP-OTP-0080-0608](#), paras. 171-178; P-0719, [LBYP-OTP-0070-7295](#), para. 139; P-0872, [LBYP-OTP-00007275](#), para. 29.

¹⁰⁴⁷ P-0872, [LBYP-OTP-00007275](#), para. 29; P-1046, [LBYP-OTP-00019195](#), para. 109; P-1073, [LBYP-OTP-00020267](#), para. 80. *See also* [LBYP-OTP-00015420](#), paras. 24-25; P-1750, [LBYP-OTP-03214454](#), para. 146.

¹⁰⁴⁸ [REDACTED].

¹⁰⁴⁹ [REDACTED].

¹⁰⁵⁰ P-0595, [LBYP-OTP-0074-0889](#), paras. 200-204, 210-213; [REDACTED]; P-0719, [LBYP-OTP-0070-7295](#), para. 164; P-0720, [LBYP-OTP-0083-0052](#), para. 178; P-0872, [LBYP-OTP-00007275](#), para. 91; P-0942, [LBYP-OTP-00015360](#), para. 119; [REDACTED]; P-1073, [LBYP-OTP-00020267](#), paras. 77, 79-80; P-0644, [LBYP-OTP-00020358](#), para. 126.

¹⁰⁵¹ [REDACTED].

¹⁰⁵² [REDACTED].

¹⁰⁵³ P-0569, [LBYP-OTP-0080-0032](#), para. 35; P-0571, [LBYP-OTP-0080-0169](#), paras. 90-91; P-0595, [LBYP-OTP-0074-0889](#), paras. 194, 244; P-0692, [LBYP-OTP-0080-0608](#), para. 170; P-0719, [LBYP-OTP-0070-7295](#), paras. 164, 171; P-0872, [LBYP-OTP-00007275](#), para. 92; P-1031, [LBYP-OTP-00018119](#), para. 102; P-1073, [LBYP-OTP-00020267](#), paras. 77, 79-80. *See also* P-0054, [LBYP-OTP-0073-0025](#), para. 31; P-0486, [LBYP-OTP-0069-0584](#), paras. 73, 88; P-0498, [LBYP-OTP-0069-0506](#), para. 129; P-0925, [LBYP-OTP-00018772](#), para. 52; P-0942, [LBYP-OTP-00015360](#), para. 120; P-0990, [LBYP-OTP-00015405](#), paras. 77, 94; P-0993, [LBYP-OTP-00015420](#), paras. 24-25; P-1026, [LBYP-OTP-00016896](#), para. 79; P-0644, [LBYP-OTP-00020358](#), para. 127; P-1046, [LBYP-OTP-00022410](#), paras. 102, 105-107.

¹⁰⁵⁴ P-0943, [LBYP-OTP-00018075](#), para. 103; P-1046, [LBYP-OTP-00019195](#), para. 109; P-1073, [LBYP-OTP-00020267](#), paras. 77, 79-80; P-1673, [LBYP-OTP-00392926](#), para. 172; P-1750, [LBYP-OTP-03214454](#), para. 146.

¹⁰⁵⁵ [REDACTED].

¹⁰⁵⁶ [REDACTED].

¹⁰⁵⁷ P-0595, [LBYP-OTP-0074-0889](#), paras. 200-204; P-0692, [LBYP-OTP-0080-0608](#), paras. 170-171; P-1073, [LBYP-OTP-00020267](#), paras. 77, 79-80.

¹⁰⁵⁸ [REDACTED]; [REDACTED]; [REDACTED] [REDACTED].

¹⁰⁵⁹ [REDACTED].

¹⁰⁶⁰ [REDACTED]; [REDACTED].

He beat male detainees caught looking at women when they were being moved around the prison,¹⁰⁶¹ and required women to fully cover themselves in dark clothing.¹⁰⁶² He prevented [REDACTED].¹⁰⁶³ Likewise, **EL HISHRI** personally targeted women for conduct seen to deviate from his expectations of gender. He took a [REDACTED] out for interrogation daily, telling her he would not release her “[REDACTED]” and beating her on their way back from the *Naqliah*. When he caught [REDACTED] women singing inside their cell, he beat them so hard with his PPR that they fainted.¹⁰⁶⁴ Another time, **EL HISHRI** brought a woman [REDACTED]. He threatened her saying, [REDACTED], and his brother Mounir EL HISHRI called her “a big whore”.¹⁰⁶⁵ **EL HISHRI** treated women “like cattle”, pulling them around the prison, blindfolded and tied to a rope, while beating them along the way.¹⁰⁶⁶ **EL HISHRI** would often beat female detainees while playing religious recitations on the radio.¹⁰⁶⁷

iii. EL HISHRI directly perpetrated acts amounting to the commission of crimes

DCC, para. 61: During the charged period, EL HISHRI was widely known and feared as a notorious torturer by Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators. He personally committed crimes victimising at least 159 detainees, principally in Mitiga Prison. This not only directly contributed to the institutionalised and sustained scheme of mistreatment and violent abuse at Mitiga Prison, but also set a negative example for other Mitiga Perpetrators, creating a culture of impunity for the alleged crimes. EL HISHRI’s responsibility for directly perpetrating some of the charged crimes is set out at paragraphs 63 to 65 below.

188. **EL HISHRI** was widely known in Mitiga as a notorious torturer,¹⁰⁶⁸ who was “[a]mong the wors[t] instigators of [...] violence” at Mitiga Prison.¹⁰⁶⁹ Former detainees invariably describe him as a violent, cruel, and sadistic person who “enjoyed torturing people”.¹⁰⁷⁰ As one detainee said

¹⁰⁶¹ **P-0667**, [LBY-OTP-00001491](#), para. 112.

¹⁰⁶² **P-0667**, [LBY-OTP-00001491](#), para. 112; **P-0692**, [LBY-OTP-0080-0608](#), paras. 171, 213-214, [LBY-OTP-0070-0827](#), at 03:05:16 (trans: [LBY-OTP-00019073](#)); **P-0720**, [LBY-OTP-0083-0052](#), paras. 172, 184; **P-0872**, [LBY-OTP-00007275](#), para. 91; **P-0925**, [LBY-OTP-00018772](#), para. 78; **P-0942**, [LBY-OTP-00015360](#), para. 119; **P-0992**, [LBY-OTP-00018787](#), para. 39; **P-1722**, [LBY-OTP-02488730](#), para. 219.

¹⁰⁶³ [REDACTED].

¹⁰⁶⁴ [REDACTED]; [REDACTED]; [REDACTED]. *See also* [REDACTED].

¹⁰⁶⁵ [REDACTED].

¹⁰⁶⁶ **P-0635**, [LBY-OTP-0070-6952](#), para. 146; **P-0719**, [LBY-OTP-0070-7295](#), para. 164; **P-1046**, [LBY-OTP-00019195](#), para. 123; **P-1046**, [LBY-OTP-00022410](#), para. 102.

¹⁰⁶⁷ **P-0635**, [LBY-OTP-0070-6952](#), paras. 146, 148-150; **P-0667**, [LBY-OTP-00001491](#), para. 112; **P-0692**, [LBY-OTP-0080-0608](#), para. 171; **P-0719**, [LBY-OTP-0070-7295](#), para. 164; **P-0872**, [LBY-OTP-00007275](#), para. 91; [REDACTED]; **P-1046**, [LBY-OTP-00019195](#), para. 123; [REDACTED]; **P-1046**, [LBY-OTP-00022410](#), para. 106.

¹⁰⁶⁸ **P-0054**, [LBY-OTP-0073-0025](#), para. 32; **P-0439**, [LBY-OTP-0066-0951](#), paras. 41, 73; **P-0571**, [LBY-OTP-0080-0169](#), para. 95; **P-0635**, [LBY-OTP-0070-6952](#), paras. 129, 140; **P-0650**, [LBY-OTP-0080-0468](#), para. 51; **P-1685**, [LBY-OTP-00057776](#), para. 44; **P-1710**, [LBY-OTP-01257853](#), para. 221; **P-1736**, [LBY-OTP-03703604](#), para. 94.

¹⁰⁶⁹ **P-1046**, [LBY-OTP-00019195](#), para. 104 (together with NJEEM and BEZIZI). *See also* [LBY-OTP-00007250](#), para. 60.

¹⁰⁷⁰ **P-0635**, [LBY-OTP-0070-6952](#), para. 137; **P-0595**, [LBY-OTP-0074-0889](#), paras. 245, 246; **P-0571**, [LBY-OTP-0080-0169](#), paras. 94-95; **P-0054**, [LBY-OTP-0073-0025](#), paras. 31-32; **P-0990**, [LBY-OTP-00015405](#), paras. 50, 53. *See also* **P-0498**, [LBY-OTP-0069-0506](#), para. 93; **P-1073**, [LBY-OTP-00020267](#), para. 80; **P-0993**, [LBY-OTP-00015420](#), para. 49; **P-1031**, [LBY-OTP-00018119](#), para. 98; **P-1046**, [LBY-OTP-00019195](#), para. 53.

of **EL HISHRI**, “people feared him more than God himself”.¹⁰⁷¹ Everyone feared **EL HISHRI** and “no one in prison wanted to hear his voice”,¹⁰⁷² because “he always [wore] his gun and [was] ready to execute people”.¹⁰⁷³ He was particularly known for shooting—and killing—people,¹⁰⁷⁴ for suspending detainees with their hands behind their backs,¹⁰⁷⁵ and beating them with a shovel.¹⁰⁷⁶ **EL HISHRI**’s violent reputation was justified by the abundant evidence of his repeated criminal conduct,¹⁰⁷⁷ victimising more than 159 detainees.¹⁰⁷⁸ By these acts, he also set a negative example for the Mitiga Perpetrators, creating a culture of impunity, and often jointly mistreated detainees with others, such as **NJEEM** and **N’ZAM**,¹⁰⁷⁹ as well as other notorious perpetrators such as his brother **Mounir EL HISHRI**,¹⁰⁸⁰ shift commander **Ziad BEZIZI**,¹⁰⁸¹ and interrogators **Mohamed AL KEEB** and **Mustapha AL TURKI**.¹⁰⁸²

¹⁰⁷¹ **P-0569**, [LBY-OTP-0080-0032](#), para. 121.

¹⁰⁷² **P-0498**, [LBY-OTP-0069-0506](#), para. 92.

¹⁰⁷³ **P-0692**, [LBY-OTP-0080-0608](#), para. 138. *See also* **P-0595**, [LBY-OTP-0074-0889](#), paras. 135, 247; **P-0667**, [LBY-OTP-00001491](#), para. 109; **P-0644**, [LBY-OTP-00020358](#), para. 70; **P-1745**, [LBY-OTP-03214428](#), para. 89; **P-1685**, [LBY-OTP-00057776](#), para. 139; **P-1710**, [LBY-OTP-01257853](#), para. 161.

¹⁰⁷⁴ *See e.g.* **P-0054**, [LBY-OTP-0073-0025](#), paras. 32, 97; **P-0486**, [LBY-OTP-0069-0584](#), paras. 130, 138; **P-0498**, [LBY-OTP-0069-0506](#), para. 92; **P-0692**, [LBY-OTP-0080-0608](#), paras. 43, 144; **P-0990**, [LBY-OTP-00015405](#), para. 50; **P-0992**, [LBY-OTP-00018787](#), paras. 50, 56; **P-0644**, [LBY-OTP-00020358](#), paras. 92-94; **P-0571**, [LBY-OTP-0080-0169](#), paras. 94-95, 218; **P-0650**, [LBY-OTP-0080-0468](#), para. 121; **P-1046**, [LBY-OTP-00019195](#), para. 95; **P-0665**, [LBY-OTP-0083-0663](#), para. 93; **P-0667**, [LBY-OTP-00001491](#), para. 108-111; **P-0635**, [LBY-OTP-0070-6952](#), para. 97-98; **P-0595**, [LBY-OTP-0074-0889](#), paras. 117-123, 127-135, 139, 297 (q); **P-0720**, [LBY-OTP-0083-0052](#), para. 36, 117; **P-0943**, [LBY-OTP-00018075](#), para. 105; **P-0925**, [LBY-OTP-00018772](#), paras. 34, 52, 65; **P-0720**, [LBY-OTP-00020099](#), paras. 44-45, 60-64; **P-1721**, [LBY-OTP-02488678](#), paras. 84-85; **P-1745**, [LBY-OTP-03214428](#), paras. 79-84, 87-88, 91-97, 101-105, 113.

¹⁰⁷⁵ **P-0990**, [LBY-OTP-00015405](#), para. 50; **P-0992**, [LBY-OTP-00018787](#), para. 56; **P-0925**, [LBY-OTP-00018772](#), paras. 30-34. *See also*, **P-1046**, [LBY-OTP-00019195](#), para. 106-112; **P-1722**, [LBY-OTP-02856267](#), paras. 38-39.

¹⁰⁷⁶ **P-1673**, [LBY-OTP-00392926](#), paras. 115-121; **P-0497**, [LBY-OTP-00007250](#), para. 60; **P-0635**, [LBY-OTP-0070-6952](#), paras. 137-138; **P-0571**, [LBY-OTP-0080-0169](#), para. 245; **P-1685**, [LBY-OTP-00057776](#), paras. 118-121; **P-1710**, [LBY-OTP-01257853](#), paras. 90-94, 221; **P-1750**, [LBY-OTP-03214454](#), paras. 34, 121; **P-1722**, [LBY-OTP-02488730](#), paras. 229-231.

¹⁰⁷⁷ *See below* para. 192 and Annex 14.

¹⁰⁷⁸ *See below* para. 192 and Annex 14.

¹⁰⁷⁹ *See e.g.* **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-0595**, [LBY-OTP-0074-0889](#), para. 297; **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91-92; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96, 106; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80; **P-1745**, [LBY-OTP-03214428](#), paras. 91-93; **P-1722**, [LBY-OTP-02856267](#), para. 42; [LBY-OTP-01257853](#), para. 146-158, 177; **P-1685**, [LBY-OTP-00057776](#), para. 43.

¹⁰⁸⁰ **P-1685**, [LBY-OTP-00057776](#), paras. 29-31, 41-42; **P-1673**, [LBY-OTP-00392926](#), para. 193; **P-1745**, [LBY-OTP-03214428](#), paras. 194-198; **P-0595**, [LBY-OTP-0074-0889](#), para. 81; **P-0719**, [LBY-OTP-0070-7295](#), para. 205; **P-0730**, [LBY-OTP-00015125](#), paras. 27, 29; **P-0925**, [LBY-OTP-00018772](#), para. 94 (18); **P-0644**, [LBY-OTP-00020358](#), paras. 62-66.

¹⁰⁸¹ *See e.g.* **P-0595**, [LBY-OTP-0074-0889](#), paras. 117-123; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30; **P-0925**, [LBY-OTP-00018772](#), para. 94 (18); **P-0942**, [LBY-OTP-00015360](#), para. 119; **P-1046**, [LBY-OTP-00019195](#), paras. 106-107; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80.

¹⁰⁸² **P-0692**, [LBY-OTP-0080-0608](#), para. 171; **P-0942**, [LBY-OTP-00015360](#), paras. 23-29, 32-40, 82-83, 100-104; **P-1026**, [LBY-OTP-00016896](#), para. 30. *See also* **P-0730**, [LBY-OTP-00015125](#), paras. 47-48; **P-0993**, [LBY-OTP-00015420](#), para. 28; **P-0635**, [LBY-OTP-0070-6952](#), paras. 153-154; **P-0724**, [LBY-OTP-0085-0063](#), paras. 51-59; **P-1685**, [LBY-OTP-00057776](#), para. 133.

189. As a member of the Mitiga Prison Leadership,¹⁰⁸³ **EL HISHRI** was well known by all detainees,¹⁰⁸⁴ many of whom were held for a prolonged period and saw **EL HISHRI** frequently. Consequently, the detainees' recognition of **EL HISHRI**, including as he carried out crimes, was reliable. He was active in carrying out his duties in the prison (including various dealings with the detainees directly),¹⁰⁸⁵ was present almost every day,¹⁰⁸⁶ and could be seen around in the prison as he or the detainees moved about.¹⁰⁸⁷ While **EL HISHRI** would vary his dress, either in uniform or civilian clothes,¹⁰⁸⁸ he is often described as having an imposing, highly recognisable physical appearance,¹⁰⁸⁹ and no witness ever appears to have been in doubt of his identity. Indeed, even when **EL HISHRI** could not be seen, he could still sometimes be heard. He spoke loudly¹⁰⁹⁰ and from the cells, he could be heard screaming and shouting.¹⁰⁹¹

(2) Charged forms of criminal responsibility

DCC, para. 62: EL HISHRI is individually responsible for the charged crimes pursuant to article 25(3)(a) (direct perpetration, indirect perpetration, joint perpetration), article 25(3)(b) (ordering, inducing), article 25(3)(c) (aiding, abetting or otherwise assisting), and article 25(3)(d) (contributing to crimes committed by one or more groups acting with a common purpose).

190. There are substantial grounds to believe that **EL HISHRI** is responsible for the charged crimes by each alleged mode of responsibility, sufficient to confirm the charges and commit **EL HISHRI** for trial on all counts and all modes. For all allegations that **EL HISHRI** was responsible as a perpetrator under article 25(3)(a), the Prosecution asserts that he could not have failed to have

¹⁰⁸³ See above paras. 160-168; below paras. 202-204.

¹⁰⁸⁴ P-0925, [LBY-OTP-00018772](#), para. 49; P-1673, [LBY-OTP-00392926](#), para. 163.

¹⁰⁸⁵ See above paras. 162-167, 181-185.

¹⁰⁸⁶ P-0942, [LBY-OTP-00015360](#), para. 116; P-0719, [LBY-OTP-0070-7295](#), para. 175; P-0720, [LBY-OTP-0083-0052](#), para. 175; P-0635, [LBY-OTP-0070-6952](#), para. 138; P-0571, [LBY-OTP-0080-0169](#), para. 89; P-1685, [LBY-OTP-00057776](#), para. 132; P-1720, [LBY-OTP-01558903](#), para. 66; P-1046, [LBY-OTP-00022410](#), para. 102; P-0943, [LBY-OTP-00018075](#), para. 65; P-1710, [LBY-OTP-01257853](#), paras. 145-154; P-1745, [LBY-OTP-03214428](#), para. 106; P-1750, [LBY-OTP-03214454](#), para. 133.

¹⁰⁸⁷ See e.g. P-0942, [LBY-OTP-00015360](#), paras. 35-37, 116; P-0571, [LBY-OTP-0080-0169](#), paras. 86, 117; P-0925, [LBY-OTP-00018772](#), para. 78.

¹⁰⁸⁸ P-0054, [LBY-OTP-0073-0025](#), paras. 31, 60; P-0439, [LBY-OTP-0066-0951](#), para. 73; P-0486, [LBY-OTP-0069-0584](#), paras. 32, 131, 159; P-0497, [LBY-OTP-00007250](#), para. 60; P-0498, [LBY-OTP-0069-0506](#), paras. 81, 93; P-0571, [LBY-OTP-0080-0169](#), para. 86; P-0595, [LBY-OTP-0074-0889](#), paras. 210, 247; P-0635, [LBY-OTP-0070-6952](#), para. 139; P-0667, [LBY-OTP-00001491](#), para. 109; P-0692, [LBY-OTP-0080-0608](#), para. 43; P-0872, [LBY-OTP-00007275](#), para. 84.

¹⁰⁸⁹ P-0054, [LBY-OTP-0073-0025](#), para. 31; P-0486, [LBY-OTP-0069-0584](#), para. 131; P-0497, [LBY-OTP-00007250](#), para. 60; P-0498, [LBY-OTP-0069-0506](#), para. 93; P-0595, [LBY-OTP-0074-0889](#), paras. 127, 210, 247; P-0635, [LBY-OTP-0070-6952](#), para. 139; P-0665, [LBY-OTP-0083-0663](#), para. 73; P-0692, [LBY-OTP-0080-0608](#), para. 43; P-0719, [LBY-OTP-0070-7295](#), para. 171; P-0720, [LBY-OTP-0083-0052](#), para. 133; P-0872, [LBY-OTP-00007275](#), para. 84; P-0942, [LBY-OTP-00015360](#), paras. 35-36; P-0943, [LBY-OTP-00018075](#), para. 30.

¹⁰⁹⁰ P-0054, [LBY-OTP-0073-0025](#), para. 31; P-0644, [LBY-OTP-00020358](#), para. 125.

¹⁰⁹¹ See e.g. P-0571, [LBY-OTP-0080-0169](#), paras. 94, 213-216, 245; P-0650, [LBY-OTP-0080-0468](#), para. 120; P-0720, [LBY-OTP-0083-0052](#), para. 36; P-0992, [LBY-OTP-00018787](#), para. 56; P-1046, [LBY-OTP-00019195](#), paras. 106-107; P-1073, [LBY-OTP-00020267](#), paras. 77, 79-80; P-1673, [LBY-OTP-00392926](#), para. 39; P-1685, [LBY-OTP-00057776](#), para. 132; P-1710, [LBY-OTP-01257853](#), paras. 56, 65.

the required contextual knowledge like other Mitiga Perpetrators.¹⁰⁹² The victims' protected status as civilians or fighters *hors de combat* would have been evident from the circumstances of their arrest and detention, and their own words.

i. Direct perpetration of charged crimes: article 25(3)(a)

DCC, para. 63: During the charged period, EL HISHRI directly perpetrated the crimes charged in counts 1-17 against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators. These incidents occurred principally at Mitiga Prison, but also at other locations in and around Tripoli.

DCC, para. 64: Given the defined geographic and temporal parameters in which EL HISHRI directly perpetrated these crimes, the great number of specific victims, and the context in which the crimes were committed (as part of the institutionalised and sustained scheme of mistreatment and violent abuse), notice of particular incidents and the identities of the victims concerned (where known) is provided in the Pre-Confirmation Brief. However, these incidents and victims do not represent an exhaustive summary of the scope of this charge, which is defined by the parameters above. If additional incidents and victim identities become known, supplementary notice will be provided to the Defence, under control of the Trial Chamber as necessary.

191. **EL HISHRI** is responsible for the direct perpetration of crimes against certain victims falling within the scope of counts 1-17. These counts, read with relevant passages of the DCC, adequately specify “a period of time during which and an area where criminal acts were allegedly committed” against an “identifiable group of victims”.¹⁰⁹³ Within those parameters, specific incidents of victimisation are not—and need not be—charged exhaustively.

192. The evidence shows that **EL HISHRI** personally killed, tortured, imprisoned, enslaved, persecuted, and otherwise mistreated Mitiga Prison detainees and others in the custody or control of the Mitiga Perpetrators on numerous occasions, victimising more than 159 persons. Among others,¹⁰⁹⁴ **EL HISHRI**'s direct victims included all victims listed in Annex 14. In these circumstances,

¹⁰⁹² See *above* paras. 23, 44.

¹⁰⁹³ See *Ntaganda* AJ, paras. 326-327. See further Statute, art. 74(2); ICC RPE, rule 121(3); Regulations of the Court, reg. 52. The adequacy of the specification in the charges—for the purpose of their formal validity under article 74(2), rather than for the purpose of notice to the suspect or accused under article 67(2)—is to be assessed on a case-by-case basis, taking into account the nature of the crime charged and the circumstances of the case: *Ntaganda* TJ, paras. 38-41. While some chambers of the Court have suggested that a “high degree of proximity” between the acts and conduct of the suspect or accused and the crimes charged requires the scope of victimisation to be limited to criminal acts specified in the DCC, this consideration alone should not be dispositive, and rather represents one factor within the context of the relevant circumstances more broadly. Furthermore, significantly, chambers have disagreed about how such proximity is to be assessed in the circumstances of a detention centre: *compare e.g. Said* Trial Chamber Decision, paras. 15-17, with *Said* Pre-Trial Chamber Decision, paras. 23-25.

¹⁰⁹⁴ A number of witnesses referred to the frequency with which **EL HISHRI** could be seen or heard beating detainees: see e.g. **P-0569**, [LBY-OTP-0080-0032](#), para. 35; **P-0571**, [LBY-OTP-0080-0169](#), paras. 90-91; **P-0595**, [LBY-OTP-0074-0889](#), paras. 194, 244; **P-0692**, [LBY-OTP-0080-0608](#), para. 170; **P-0719**, [LBY-OTP-0070-7295](#), paras. 164, 171; **P-0872**, [LBY-OTP-00007275](#), para. 91-92; **P-1031**, [LBY-OTP-00018119](#), para. 102; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-81. See also **P-0054**, [LBY-OTP-0073-0025](#), para. 31; **P-0486**, [LBY-OTP-0069-0584](#), paras. 73, 88; **P-0498**, [LBY-OTP-0069-0506](#), para. 129; **P-0925**, [LBY-OTP-00018772](#), para. 52; **P-0942**, [LBY-OTP-00015360](#), para. 120; **P-0943**, [LBY-OTP-00018075](#), para. 103; **P-0990**, [LBY-OTP-00015405](#), paras. 77, 94; **P-0993**,

and given the scale of the criminality at Mitiga Prison, this information gives adequate notice to the Defence of the persons alleged to have been directly victimised by **EL HISHRI** with “the greatest degree of specificity possible”,¹⁰⁹⁵ as well as providing sufficient evidence for the Chamber to confirm these charges for the purpose of article 61.¹⁰⁹⁶ However, this is without prejudice to the provision of supplementary notice of additional victim information for the purpose of trial.

193. While **EL HISHRI**’s acts often obviously amounted to the commission of charged crimes, such as the killing of detainees, his conduct directly exercising powers of ownership over victims—and thus enslaving them—must equally be considered in the context of all the relevant circumstances as a whole, as described above. Thus, many of **EL HISHRI**’s acts directly perpetrating charged crimes such as imprisonment, torture, murder, rape, and sexual violence, as well as other kinds of mistreatment, also amounted to his direct perpetration of enslavement and (in the context of his discriminatory intent) persecution.

DCC, para. 65: EL HISHRI meant to engage in the charged conduct. He meant to cause the consequences of this conduct or was aware that these consequences would occur in the ordinary course of events. He had the necessary intent to discriminate on political, religious, national, ethnic, racial, and gender grounds. He had the required contextual knowledge, as described in paragraphs 16, 24, 33, 37-38, and 41 above.

194. **EL HISHRI**’s intention to engage in the conduct underlying the crimes he directly carried out, and to cause the consequences of that conduct (or his knowledge that those consequences would occur in the ordinary course of events), is unmistakable.

- First, it is evident from **EL HISHRI**’s personal and direct participation in conduct which is *mala in se*,¹⁰⁹⁷ as well as his use of weapons and tools (such as pistols, shovels, PPRs) which were specifically designed—or, in the context of Mitiga Prison—commonly used to cause the intended harm.¹⁰⁹⁸ The same applies to **EL HISHRI**’s use of specific torture methods (such as *balanco*, *Falaqat al-Rass*, *Farrouj* or “roisserie chicken”) which could only be intended to inflict severe pain.¹⁰⁹⁹ Furthermore, some of the locations in which **EL HISHRI** mistreated

[LBY-OTP-00015420](#), paras. 24-25; **P-1026**, [LBY-OTP-00016896](#), para. 79; **P-1046**, [LBY-OTP-00019195](#), para. 109.

¹⁰⁹⁵ See *Lubanga* AJ, para. 123, see also paras. 124, 130. See further e.g. *Kupreškić* AJ, paras. 89-90.

¹⁰⁹⁶ See e.g. *Said* Pre-Trial Chamber Decision, paras. 11-20, 26; *Abd-Al-Rahman* Decision, paras. 14-18, 20-23.

¹⁰⁹⁷ See para. 192 and Annex 14; see further, e.g. [REDACTED].

¹⁰⁹⁸ See e.g., **P-1722**, [LBY-OTP-02488730](#), paras. 229, 230 (shovel); **P-1673**, [LBY-OTP-00392926](#), paras. 115, 121 (shovel); **P-0595**, [LBY-OTP-0074-0889](#), para. 130 (pistol); **P-0925**, [LBY-OTP-00018772](#), para. 34 (pistol); **P-1720**, [LBY-OTP-02856267](#), paras. 27-34 (firearm, PPR)); **P-1710**, [LBY-OTP-01257853](#), para. 221(whatever he had in his hands, whether a hammer/shovel/PPR). See also, **P-1673**, [LBY-OTP-00392926](#), para. 121; **P-0497**, [LBY-OTP-00007250](#), para. 60; **P-0635**, [LBY-OTP-0070-6952](#), paras. 137-138; **P-0571**, [LBY-OTP-0080-0169](#), para. 245; **P-1685**, [LBY-OTP-00057776](#), paras. 115-116, 118-121; **P-1750**, [LBY-OTP-03214454](#), paras. 34, 121.

¹⁰⁹⁹ See e.g., [REDACTED](*balanco*); [REDACTED] (*Falaqat al-Rass*: a torture method whereby the detainee was suspended upside down, their legs were tied, and their head was being beaten with a PPR); [REDACTED] (an iron

detainees were specifically designated, or commonly known to be used, for torture (such as the area known as the “Islamic Neighbourhood” and “*Laryeas*”).¹¹⁰⁰

- Second, **EL HISHRI**’s criminal conduct was often compound in nature, victimising the same detainee in multiple ways. For example, frequently, **EL HISHRI** not only beat detainees, but also restrained them, suspended them, shot them, and/or raped or committed sexual and reproductive violence against them.¹¹⁰¹
- Third, **EL HISHRI** repeatedly and persistently carried out similar criminal acts over a period of years,¹¹⁰² in circumstances where he was frequently confronted with the consequences of his actions.
- Fourth, **EL HISHRI**’s actions were often contextualised or explained by his own statements,¹¹⁰³ as well as orders, instructions or other criminal conduct which confirmed his determination and zeal to carry out these acts.¹¹⁰⁴
- Fifth, **EL HISHRI**’s conduct did not occur in a vacuum, but took place in the broader context of his conduct as a member of the Mitiga Prison Leadership. In that role, he actively and

bar was slid under the detainee’s knees and overtop of the inside of the detainee’s elbows, *Farrouj* or “rotisserie chicken”)

¹¹⁰⁰ See e.g., **P-1710**, [LBY-OTP-01257853](#), para. 156 (**EL HISHRI** was infamous for using the “Islamic Neighbourhood” often to torture detainees); **P-1720**, [LBY-OTP-02856267](#), paras. 35-39 (**EL HISHRI** together with another tortured detainee [REDACTED] for refusing to collaborate with SDF/RADA. They suspended his body in the “Islamic neighbourhood” and beat him. [REDACTED].); **P-0650**, [LBY-OTP-0080-0468](#), para. 119 (When heard commotion in one cell, **EL HISHRI** took the detainees of this cell out into the *Laryea* and started torturing them, subjecting them to stress plank position and beating with PPR.); **P-0720**, [LBY-OTP-0083-0052](#), paras. 132-133 (**EL HISHRI** had chains fixed into the wall in the open air “*Laryea*”. **EL HISHRI** tied a detainee with his back to the wall and left him there for three days with his hands and feet chained to the wall. **EL HISHRI** beat him with his own hands and left him bleeding. [REDACTED].); **P-0571**, [LBY-OTP-0080-0169](#), para. 51 (**EL HISHRI** would torture people in the *Laryea*, like NJEEM).

¹¹⁰¹ See e.g., **P-0635**, [LBY-OTP-0070-6952](#), paras. 92-93, 95-98 (seeking to coerce P-0635 into confessing by [REDACTED]); **P-0720**, [LBY-OTP-0083-0052](#), para. 133 (chaining the detainee’s hands and feet to the wall, [REDACTED]); [REDACTED]; **P-1750**, [LBY-OTP-03214454](#), paras. 45-47, (grabbing suspended detainees by the legs, lifting them up so that they get unhooked and fall to the ground, tying their hands from the back to exert more pain when suspended, lifting them again and suspending them with their hands tied in the back, increasing the pressure on the shoulders causing unbearable pain, pulling their bodies down until the shoulders were dislocated; **P-1710**, [LBY-OTP-01257853](#), para. 173 ([REDACTED]); [REDACTED]; **P-0925**, [LBY-OTP-00018772](#), paras. 29-34 (interrogating **P-0925**, [REDACTED]).

¹¹⁰² See e.g., **P-0720**, [LBY-OTP-0083-0052](#), para. 178 (with others, **EL HISHRI** beat [REDACTED] with a water pipe made out of hard plastic and with an iron pipe [REDACTED]).

¹¹⁰³ See e.g., **P-0720**, [LBY-OTP-0083-0052](#), para. 36 (after having a disagreement with a detainee [REDACTED], **EL HISHRI** told the detainee “[REDACTED]”. Shortly thereafter, **EL HISHRI** came back and shot this detainee in his head); **P-0571**, [LBY-OTP-0080-0169](#), paras. 214-216 (**EL HISHRI** once shot a detainee in the leg and ordered, “[REDACTED]”); [REDACTED]. See further, **P-1673**, [LBY-OTP-00392926](#), paras. 37-38; **P-1685**, [LBY-OTP-00057776](#), paras. 41-42, 118-121; **P-1710**, [LBY-OTP-01257853](#), paras. 57, 60, 65, 79-80, 118, 162-163, 169; **P-1745**, [LBY-OTP-03214428](#), paras. 26-30, 51; **P-1750**, [LBY-OTP-03214454](#), para. 121; **P-1736**, [LBY-OTP-03703604](#), paras. 125-127, 148-152; **P-1046**, [LBY-OTP-00022410](#), para. 107.

¹¹⁰⁴ See e.g., **P-1722**, [LBY-OTP-02488730](#), paras. 229, 230 (when **EL HISHRI** [REDACTED], ordered all the women detainees out of their cells, and hit them with the shovel, causing the women’s screams to echo through the prison); **P-1720**, [LBY-OTP-02856267](#), paras. 27-34 (**EL HISHRI** shot [REDACTED]); **P-1673**, [LBY-OTP-00392926](#), paras. 37-41; **P-0054**, [LBY-OTP-0073-0025](#), para. 32; **P-0720**, [LBY-OTP-0083-0052](#), para. 117.

intentionally participated in creating and sustaining the institutionalised mistreatment and abuse of all Mitiga Prison detainees.¹¹⁰⁵

- Sixth, **EL HISHRI** exhibited particular zeal in carrying out and otherwise contributing to the charged crimes. When he heard [REDACTED] detainees singing, and angrily ordered them out of the cell, [REDACTED]—but he chased them, pushed them down against the wall and beat them so hard with a PPR [REDACTED].¹¹⁰⁶ When interrogating [REDACTED], and [REDACTED], **EL HISHRI** not only beat her all over but also tortured and inflicted sexual violence [REDACTED] who was also present.¹¹⁰⁷ Likewise, as part of the Mitiga Prison Leadership, **EL HISHRI** systematically opposed any effort to make the detention conditions less harsh.¹¹⁰⁸
- Seventh, **EL HISHRI**'s charged conduct formed part of a broader pattern of similar but uncharged violent conduct against detainees, both before and after the charged period. Notably, for instance, between 2011 and 2013, **EL HISHRI** tortured [REDACTED], killed a [REDACTED], collectively punished numerous detainees on a daily basis over the course of several months.¹¹⁰⁹ Likewise, on returning to visit Mitiga Prison in 2021, he criticised apparent measures to improve the conditions of detention.¹¹¹⁰ In 2022, **EL HISHRI** instructed a guard to beat [REDACTED] with a PPR, and then to suspend him [REDACTED].¹¹¹¹ In 2024, **EL HISHRI** ordered Mitiga Perpetrators to arrest, detain and punish other detainees in Mitiga Prison.¹¹¹²

195. **EL HISHRI** exhibited the necessary specific intent to persecute on political, religious, national, ethnic, racial, and gender grounds. This was the only reasonable inference from his conduct, and utterances. In particular, **EL HISHRI**'s intent to discriminate on gender grounds is apparent from factors including the circumstances in which he personally committed crimes, his oversight of the targeting of detainees in Mitiga for specific types of victimisation according to their gender and/or perceived non-compliance with his views on gender, and the manner in which he exercised

¹¹⁰⁵ See above paras. 174-176.

¹¹⁰⁶ [REDACTED].

¹¹⁰⁷ [REDACTED] (**EL HISHRI** pulled [REDACTED], held his penis [REDACTED] “[w]e brought the whore”).

¹¹⁰⁸ **P-0498**, [LBY-OTP-0069-0506](#), para. 72; **P-0595**, [LBY-OTP-0074-0889](#), para. 247; **P-0872**, [LBY-OTP-00007275](#), para. 37; **P-0990**, [LBY-OTP-00015405](#), paras. 102, 106; **P-1046**, [LBY-OTP-00019195](#), para. 53; **P-1685**, [LBY-OTP-00057776](#), paras. 115-116; **P-1720**, [LBY-OTP-01558903](#), para. 66; **P-1750**, [LBY-OTP-03214454](#), paras. 102-104, 120; **P-1736**, [LBY-OTP-03703604](#), paras 79, 128-135, 156-157, 159-161; **P-1710**, [LBY-OTP-01257853](#), paras 182, 188, 191.

¹¹⁰⁹ [REDACTED].

¹¹¹⁰ [REDACTED].

¹¹¹¹ [REDACTED].

¹¹¹² [REDACTED].

DCC, para. 66: During the charged period, EL HISHRI used Mitiga Perpetrators with access to the Women's Section to ensure that the crimes charged in counts 1-17 would be committed against the women, girls and young children detained therein.

197. Specifically, **EL HISHRI** used Mitiga Perpetrators with access to the Women’s Section to commit some of the charged crimes against detained women, girls, and young children, held there in extremely poor conditions which the Mitiga Perpetrators maintained.¹¹¹⁶

¹¹¹³ See below paras.148-153, 185-187. See further, [REDACTED]; **P-0692**, [LBY-OTP-0080-0608](#), paras. 170-171; **P-0571**, [LBY-OTP-0080-0169](#), para. 91. Annex 14, e.g. F-2517, F-2518, F-3033, 2336, F-3015, F-2023, F-2137, F-2787, F-2986, F-2091, F-2804, F-2515, F-3028, F-2471, F-2496.

[illegible]

¹¹¹⁸ [REDACTED]; See also [REDACTED]; **P-1673**, [LBY-OTP-00392926](#), para. 172; **P-1722**, [LBY-OTP-02488730](#), para. 230; **P-0054**, [LBY-OTP-0073-0025](#), para. 31.

1120 [REDACTED].

¹¹²¹ See e.g. [REDACTED]; [REDACTED].

at them saying that, “if he comes and sees that the girl is still alive, he will hang all the girls outside”.¹¹²² The severity of the mistreatment caused some women to attempt to take their own lives,¹¹²³ and forced others to submit to sexual acts by the guards in exchange for food or medicine, including for their babies.¹¹²⁴ The evidence also shows efforts to conceal violent deaths in the Women’s Section—for example, [REDACTED]. [REDACTED].¹¹²⁵

199. Under **EL HISHRI**’s control, and consistent with the manner in which Mitiga Prison was run more broadly, the Women’s Section was run in accordance with discriminatory ideological beliefs about gender, intersecting with political, religious, national, ethnic, and racial discrimination. For example, as described by [REDACTED], “[**EL HISHRI**]’s guards were escorting the women to the investigative office using ropes” because males are not supposed to touch a woman who is not related to them.¹¹²⁶ This followed the same pattern set by **EL HISHRI** himself in treating female detainees.¹¹²⁷ **EL HISHRI** ensured that strict rules were applied to the detainees in the Women’s Section, derived from his religious views, and enforced them harshly.¹¹²⁸ Likewise, **EL HISHRI** frequently used Black Migrant detainees who were enslaved to carry out or facilitate crimes, and to carry out other arduous and demeaning labour, reflecting his view of their inferiority.¹¹²⁹

DCC, para. 67: EL HISHRI controlled the crimes committed by the Mitiga Perpetrators with access to the Women’s Section by subjugating their will to his own. The SDF/RADA hierarchy and/or the hierarchy by which the Mitiga Prison Leadership controlled the Mitiga Perpetrators constituted an organised apparatus of power. EL HISHRI used this apparatus to ensure the occurrence in the Women’s Section of the crimes charged in counts 1-17, irrespective of the will of individual perpetrators. Further, or alternatively, EL HISHRI’s own status within the SDF/RADA and/or Mitiga Prison Leadership, including his personal violent reputation, enabled him to dominate the will of the Mitiga Perpetrators with access to the Women’s Section, causing them to commit these crimes, irrespective of their will.

DCC, para 68: EL HISHRI ensured that the Mitiga Perpetrators with access to the Women’s Section would commit the relevant crimes, as set out further in paragraphs 54-61 above, by means including: his exercise of general authority and influence throughout Mitiga Prison; his direct control of the Women’s Section of Mitiga Prison, and; his direct perpetration of acts amounting to the commission of charged crimes.

200. As described above, **EL HISHRI** not only exercised general authority and influence

¹¹²² [REDACTED].

¹¹²³ [REDACTED]; [REDACTED].

¹¹²⁴ [REDACTED].

¹¹²⁵ [REDACTED].

¹¹²⁶ [REDACTED]; **P-1046**, [LBY-OTP-00019195](#), para. 123.

¹¹²⁷ **P-0719**, [LBY-OTP-0070-7295](#), para. 164; **P-1046**, [LBY-OTP-00019195](#), para. 123; **P-1046**, [LBY-OTP-00022410](#), para. 102; **P-1722**, [LBY-OTP-02488730](#), para. 231.

¹¹²⁸ See above paras. 148-151, 181-187, fn. 1114.

¹¹²⁹ **P-0925**, [LBY-OTP-00018772](#), paras. 31-34, 70; **P-0595**, [LBY-OTP-0074-0889](#), para. 225; **P-0571**, [LBY-OTP-0080-0169](#), paras. 88, 95; **P-0719**, [LBY-OTP-0070-7295](#), para. 134.

throughout Mitiga Prison, but also directly controlled the Women's Section.¹¹³⁰ In this capacity, he controlled the Mitiga Perpetrators with access to the Women's Section, using them to commit some of the charged crimes.¹¹³¹

201. **EL HISHRI** could and did issue orders to all Mitiga Perpetrators, including those with access to the Women's Section. They had access to the Women's Section only under his strict control and supervision¹¹³²—backed up by KARA's prohibition of anyone but **EL HISHRI** entering, including NJEEM.¹¹³³ Even in a medical emergency, the Women's Section could not be opened unless **EL HISHRI** was present.¹¹³⁴ [REDACTED] stated that: "There was an incident where a female prisoner [REDACTED] and with all the screaming for help, no one would dare open the door unless [EL HISHRI] arrived".¹¹³⁵ Similarly, new detainees could not be admitted to the Women's Section while **EL HISHRI** was away.¹¹³⁶

202. The SDF/RADA hierarchy and/or the hierarchy by which the Mitiga Prison Leadership controlled the Mitiga Perpetrators constituted an organised apparatus of power. The Mitiga Perpetrators feared and obeyed **EL HISHRI**,¹¹³⁷ and no one could challenge him.¹¹³⁸ If one did not obey his instructions, another one would. Detainees were no less subject to this *de facto* hierarchy, since they were compelled to work by the Mitiga Prison Leadership and the Mitiga Perpetrators; the coercive environment was such that, again, if one refused, another could be forced to take their place. For instance, on different occasions, **EL HISHRI** instructed female detainees to strip search [REDACTED], [REDACTED], [REDACTED] and [REDACTED] while he was watching.¹¹³⁹ The female detainees conducting the strip search had to comply with **EL HISHRI**'s orders; [REDACTED] described that the female detainee conducting the strip search was clearly "afraid of him".¹¹⁴⁰ [REDACTED] stated she could not blame the female detainee conducting the strip search because she had to obey **EL HISHRI**'s orders.¹¹⁴¹

¹¹³⁰ See above paras. 158-160, 181-187.

¹¹³¹ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

¹¹³² See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹¹³³ [REDACTED].

¹¹³⁴ P-0054, [LBY-OTP-0073-0025](#), para. 31.

¹¹³⁵ [REDACTED].

¹¹³⁶ [REDACTED].

¹¹³⁷ See also e.g. P-0571, [LBY-OTP-0080-0169](#), paras. 44, 88, 214; P-0635, [LBY-OTP-0070-6952](#), paras. 92-93, 98; P-0595, [LBY-OTP-0074-0889](#), paras. 129-130, 205-206, 208; P-0667, [LBY-OTP-00001491](#), paras. 108-112; P-1046, [LBY-OTP-00022410](#), para. 105; P-1673, [LBY-OTP-00392926](#), para. 163; P-1685, [LBY-OTP-00057776](#), paras. 131-132.

¹¹³⁸ P-0497, [LBY-OTP-00007250](#), para. 60; P-1673, [LBY-OTP-00392926](#), para. 166; P-0498, [LBY-OTP-0069-0506](#), para. 72.

¹¹³⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹¹⁴⁰ [REDACTED].

¹¹⁴¹ [REDACTED].

203. In any event, **EL HISHRI** “ruled by fear”¹¹⁴², “ among both prisoners and guards”,¹¹⁴³ since he was “well known to be quick tempered and could always grab his gun and kill or shoot anyone he wanted”.¹¹⁴⁴ **EL HISHRI** took personal measures to punish both guards and detainees who acted against his wishes or instructions, further illustrating his control over them.¹¹⁴⁵ This personal violent reputation enabled **EL HISHRI** to dominate the will of the Mitiga Perpetrators, causing them to commit the charged crimes, irrespective of any hierarchy.

204. **EL HISHRI** ensured that the Mitiga Perpetrators with access to the Women’s Section would carry out the charged crimes in the Women’s Section by the violent and abusive example that he personally set, as well as his express instructions.¹¹⁴⁶

DCC, para. 69: EL HISHRI meant to engage in the charged conduct and was aware of the relevant circumstances (including relevant features of the SDF/RADA and Mitiga Prison). He meant to cause the crimes committed by the Mitiga Perpetrators with access to the Women’s Section, or was aware that they would occur in the ordinary course of events. He had the necessary intent to discriminate on political, religious, national, ethnic, racial, and gender grounds. He had the required contextual knowledge, as described in paragraphs 16, 24, 33, 37-38, and 41 above.

205. The evidence shows that **EL HISHRI** meant to engage in the charged conduct, to cause the consequences of that conduct (or knew that those consequences would occur in the ordinary course of events), and had the specific intent to discriminate on grounds of politics, religion, nationality, ethnicity, race, and gender. This is apparent both from the manifold evidence of **EL HISHRI**’s own *mens rea* as a direct physical perpetrator of crimes throughout Mitiga Prison,¹¹⁴⁷ as well as his general exercise of authority and influence in Mitiga Prison,¹¹⁴⁸ and his conduct in using Mitiga Perpetrators with access to the Women’s Section to carry out crimes in the Women’s Section.¹¹⁴⁹ Likewise, given his role in the Mitiga Prison Leadership, and his conspicuous use of violence to punish and instil fear in the Mitiga Perpetrators, **EL HISHRI** cannot have failed to know of the factual circumstances enabling him to control the will of the Mitiga Perpetrators with access to the Women’s Section.¹¹⁵⁰

¹¹⁴² **P-1046**, [LBY-OTP-00022410](#), para. 105.

¹¹⁴³ **P-1673**, [LBY-OTP-00392926](#), para. 163. *See also* **P-1685**, [LBY-OTP-00057776](#), para. 131.

¹¹⁴⁴ **P-1685**, [LBY-OTP-00057776](#), para. 139.

¹¹⁴⁵ *See above*, paras. 161-168.

¹¹⁴⁶ *See* paras. 181-187.

¹¹⁴⁷ *See above* paras. 194-195.

¹¹⁴⁸ *See above* paras. 158-180.

¹¹⁴⁹ *See above* paras. 181-187; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹¹⁵⁰ *See above* paras. 158-164.

iii. Joint perpetration of charged crimes, directly and/or indirectly: article 25(3)(a)

DCC, para. 70: During the charged period, EL HISHRI worked with others to jointly carry out the crimes charged in counts 1-17 against Mitiga Prison detainees and persons otherwise in the custody or control of the Mitiga Perpetrators, principally at Mitiga Prison.

206. EL HISHRI is responsible for the joint perpetration of crimes against all Mitiga Prison detainees falling within the scope of counts 1-17.

DCC, para. 71: Other co-perpetrators and members of the Mitiga Prison Leadership included at least some or all of the following:

DCC, para. 71.a.: Abdalraouf KARA, the leader of SDF/RADA;

207. Abdalraouf KARA is a founding member and the leader of SDF/RADA, and in this capacity he exercised overall control of Mitiga Prison, through the Mitiga Prison Leadership including EL HISHRI, N'ZAM, and NJEEM.¹¹⁵¹ KARA personally attended the prison and interrogated detainees,¹¹⁵² ordered their torture,¹¹⁵³ refused to allow medical care,¹¹⁵⁴ and permitted the violent commission of crimes by other co-perpetrators such as EL HISHRI, and NJEEM.¹¹⁵⁵

DCC, para. 71.b.: Dhawi N'ZAM, a close associate of KARA and senior member or close associate of SDF/RADA;

208. N'ZAM collaborated closely with KARA, his nephew EL HISHRI, and NJEEM. N'ZAM helped maintain control of Mitiga Prison and the Mitiga Compound more broadly; he disciplined SDF/RADA members, and again participated in the torture of detainees together with EL HISHRI and NJEEM.¹¹⁵⁶

DCC, para. 71.c.: Osama NJEEM, a close associate of KARA and senior member or close associate of SDF/RADA, also known as director of the Mitiga Prison.

¹¹⁵¹ P-0486, [LBY-OTP-0069-0584](#), para. 129; P-0571, [LBY-OTP-0080-0169](#), paras. 19, 44; P-0720, [LBY-OTP-0083-0052](#), paras. 26-30; P-0942, [LBY-OTP-00015360](#), paras. 42, 72-79; P-1059, [LBY-OTP-03218972](#), p.8; P-1044, [LBY-OTP-00018699](#), para. 43. *See also* Pack, [LBY-OTP-00000570](#), p.0027; Cole and Mangan, [LBY-OTP-0070-3941](#), p.3952.

¹¹⁵² [REDACTED].

¹¹⁵³ [REDACTED]; [REDACTED].

¹¹⁵⁴ [REDACTED].

¹¹⁵⁵ *See also e.g.* P-0990, [LBY-OTP-00015405](#), paras. 54, 121; P-1026, [LBY-OTP-00016896](#), paras. 48-49, 64-68, 76, 87, 101; P-0595, [LBY-OTP-0074-0889](#), paras. 117-126, 238; P-0667, [LBY-OTP-00001491](#), paras. 90-92; P-0497, [LBY-OTP-00007250](#), para. 62; P-0872, [LBY-OTP-00007275](#), paras. 27-31, 43, 64, 91; P-0942, [LBY-OTP-00015360](#), paras. 71, 78, 80, 81; P-1026, [LBY-OTP-00016916](#), para. 49; P-0943, [LBY-OTP-00018075](#), paras. 76-86; P-1031, [LBY-OTP-00018119](#), para. 99; P-0498, [LBY-OTP-0069-0506](#), paras. 90, 126; P-0486, [LBY-OTP-0069-0584](#), paras. 63, 90-92, 100-103, 108-109, 135; P-0635, [LBY-OTP-0070-6952](#), para. 135; P-0719, [LBY-OTP-0070-7295](#), para. 208; P-0569, [LBY-OTP-0080-0032](#), paras. 99, 102-104; P-0650, [LBY-OTP-0080-0468](#), paras. 48, 141-142; P-0692, [LBY-OTP-0080-0608](#), paras. 89, 91; P-0720, [LBY-OTP-0083-0052](#), para. 178.

¹¹⁵⁶ *See above* paras. 79, 159. *See e.g.* P-0872, [LBY-OTP-00007275](#), paras. 40-41, 43; P-0692, [LBY-OTP-0080-0608](#), paras. 142, 151; P-0635, [LBY-OTP-0070-6952](#), para. 129; P-0650, [LBY-OTP-0080-0468](#), para. 139; P-0720, [LBY-OTP-0083-0052](#), para. 30; P-0720, [LBY-OTP-00020099](#), para. 34; P-1031, [LBY-OTP-00018119](#), paras. 96-98; P-1026, [LBY-OTP-00016896](#), paras. 104-105; P-1025, [LBY-OTP-00016916](#), para. 65; P-0990, [LBY-OTP-00015405](#), paras. 36, 53; P-0719, [LBY-OTP-0070-7295](#), paras. 181, 183-185; P-0595, [LBY-OTP-0074-0889](#), para. 253; P-0568, [LBY-OTP-00018134](#), paras. 78-79, 85; P-0569, [LBY-OTP-0080-0032](#), paras. 99, 120-122, 125; P-0497, [LBY-OTP-00007250](#), paras. 60-61; P-1044, [LBY-OTP-00018699](#), para. 44.

DCC, para. 72: The co-perpetrators, including EL HISHRI, shared a common plan or agreement to exercise control—through means such as punishment, coercion, and other forms of exploitation—of persons in the Mitiga Perpetrators’ custody or control, principally at Mitiga Prison, in pursuit of SDF/RADA’s interests or views and/or those of its members (“Common Plan”). The Common Plan resulted in the commission of the crimes charged in counts 1-17 (“Common Plan Crimes”). Irrespective of the co-perpetrators’ individual motives for participating in the Common Plan, they agreed not only on the crimes but that they would be committed on discriminatory political, religious, national, ethnic, racial, and gender grounds targeting certain victims, consistent with their use of Mitiga Prison to exercise control over a variety of different persons and groups.

210. The crimes alleged in counts 1-17 were committed as part of a common plan between the Mitiga Prison Leadership, including KARA, **EL HISHRI**, N'ZAM, and NJEEM, to exercise control—through means such as punishment, coercion, and exploitation—over persons in the Mitiga Perpetrators' custody or control, principally at Mitiga prison, in pursuit of SDF/RADA interests or views and/or those of its members. This entailed agreement among the Mitiga Prison Leadership not only that the charged violent crimes (such as imprisonment, torture, murder, rape, sexual violence and enslavement) would be committed in execution of their goals—or at least their mutual awareness that this would occur in the ordinary course of events—but also that crimes would be committed against certain persons on discriminatory political, religious, national, ethnic, racial, and gender grounds. This was implicit in the use of Mitiga Prison to exercise control over a variety of different persons and groups, according to the interests or views of SDF/RADA and/or those of its members.¹¹⁵⁹

211. The Mitiga Prison Leadership agreed that Mitiga Prison was a weapon to be used in pursuit of their collective goals, irrespective of any differences of individual motive. Even if some individuals may have seemed ‘non-ideological’—and even participated in the charged crimes for self-interested motives—they nevertheless accepted and agreed with the use of Mitiga Prison to commit, *inter alia*, crimes against certain detainees on discriminatory grounds such as those pertaining to religion and/or politics. The different strands of victimisation were part and parcel of the same plan, from which individual members of the Mitiga Prison Leadership benefited according to their own

[illegible]

¹¹⁵⁹ See above paras. 47-51, 68, 78, 86-153; below paras.215-217.

views and interests.¹¹⁶⁰

212. Likewise, not only persecution but also enslavement was integral to the common plan, since it aimed not only to punish victims but also to coerce and subjugate them. This took many forms—not only to perpetuate the execution of the common plan itself (by forcing detainees to carry out or facilitate crimes against other detainees), but also to deprive victims of autonomy and thus to exercise coercive control over them, and to gain benefits from them whether in the form of services, labour, money, and so on.¹¹⁶¹

213. This common plan came into existence at least in May 2014 and continued with at least this membership until at least June 2020.¹¹⁶² For the purpose of article 25(3)(a), a common plan need not be written or explicit and may be inferred from circumstantial evidence, including the concerted action of the co-perpetrators and the actual commission of the alleged crimes.¹¹⁶³ It may be previously arranged, or extemporary,¹¹⁶⁴ and the co-perpetrators' contributions may differ in nature and timing.¹¹⁶⁵

214. As set out below, the existence and scope of the common plan is shown primarily by four factors: (1) the use of Mitiga Prison as a tool to serve the interests or views of SDF/RADA and its members; (2) the systematic nature of the alleged crimes at Mitiga Prison, and the prolonged period of their commission; (3) the co-perpetrators' own conduct participating in the crimes at Mitiga Prison; and (4) the measures taken to conceal the crimes at Mitiga Prison, demonstrating the co-perpetrators' consciousness of guilt.

a. The use of Mitiga Prison as a tool to serve the interests or views of SDF/RADA and its members

215. In pursuit of its interests in Tripoli (and Libya) more broadly, through the Mitiga Prison Leadership, SDF/RADA exploited its position in the GNC/GNA security architecture to punish or neutralise perceived opponents, to coerce or intimidate persons in support of SDF/RADA interests or views and those of its members, and to exploit persons perceived as useful (for example, to the direct benefit of SDF/RADA or its members by extorting information, labour, goods, or money, or

¹¹⁶⁰ See below paras. 215-217.

¹¹⁶¹ See above paras. 86-153.

¹¹⁶² See e.g. P-1720, [LBY-OTP-01558903](#), para. 26; P-1722, [LBY-OTP-02488730](#), paras. 76-93, 115; P-1722, [LBY-OTP-02856267](#), paras. 15-19, 23, 42, 52-65, 105; P-1745, [LBY-OTP-03214428](#), paras. 19, 27-34, 49-54, 58, 69, 130, 134, 137, 140, 141; P-0692, [LBY-OTP-0080-0608](#), paras. 43, 133, 142; P-1685, [LBY-OTP-00057776](#), paras. 115-116; P-1046, [LBY-OTP-00019195](#), para. 122; P-1046, [LBY-OTP-00022410](#), para. 101; P-0730, [LBY-OTP-00015125](#), para. 101. See also above, paras. 192, 207-209, Annex 14.

¹¹⁶³ Lubanga TJ, paras. 984, 988; Bemba et al. TJ, para. 66; Lubanga CD, para. 345; Kenyatta et al. CD, para. 399; Ruto et al. CD, para. 301.

¹¹⁶⁴ Lubanga AJ, para. 445.

¹¹⁶⁵ See e.g. Bemba et al. AJ, paras. 810, 819-820.

to their indirect benefit by targeting persons on behalf of a third party and thus securing greater social or political ‘currency’). SDF/RADA aimed “to make money and to have power”.¹¹⁶⁶ KARA, likewise, expressly ordered crimes so the victim “knows who RADA is and understands the consequences of speaking ill about RADA”.¹¹⁶⁷

216. Senior members and/or close associates of SDF/RADA—including co-perpetrators such as KARA, **EL HISHRI**, N’ZAM, and NJEEM—exploited their role in the Mitiga Prison Leadership to use Mitiga Prison as a tool to serve this purpose, through the commission of the charged crimes. In particular, this is evident not only from the circumstances in which persons were arrested by the Mitiga Perpetrators,¹¹⁶⁸ but also the circumstances in which crimes were then committed against detainees in Mitiga Prison.¹¹⁶⁹ This included the widespread discriminatory targeting of different persons and groups.¹¹⁷⁰

217. The continued use of Mitiga Prison to hold detainees on behalf of the Tripoli authorities—including within the framework of the Libyan criminal justice system—does not contradict this common plan. First, since the Mitiga Prison Leadership sought to conceal its criminal conduct, and to cloak itself with State authority, including ‘official’ detainees was entirely consistent with the aims of the common plan. By accommodating ‘official’ detainees of this kind in Mitiga Prison, SDF/RADA and/or the Mitiga Prison Leadership helped secure favourable relations with the Tripoli authorities. Second, even ‘official’ detainees in Mitiga Prison were still subject to the criminal aspects of the common plan—for example, they were subject to the same inadequate and inhumane conditions as the other detainees, to the same overcrowding, to the same torture and abuse. The ‘official’ status of a detainee did not mean that they remained under the control of the Tripoli authorities; to the contrary, once in Mitiga Prison, they were in the power of the Mitiga Prison Leadership, who could and on occasions did maintain their detention to serve their own interests, even once the detainee should have been released or referred for onward processing in the Libyan criminal justice system.¹¹⁷¹

b. The systematic nature of the alleged crimes at Mitiga Prison, and the prolonged period of their commission

218. The institutionalised and sustained criminality at Mitiga Prison reflects a high degree of organisation. As senior members and/or close associates both of SDF/RADA and the Mitiga Prison

¹¹⁶⁶ [REDACTED].

¹¹⁶⁷ [REDACTED]; [REDACTED].

¹¹⁶⁸ See above paras. 48, 71, 102, 139, 148. See also e.g., [REDACTED].

¹¹⁶⁹ See above paras. 49-66, 86-133.

¹¹⁷⁰ See e.g. above paras. 137-139 (political grounds), paras. 141-143 (religious grounds), paras. 144-146 (national, ethnic, and/or racial grounds), paras. 147-153 (gender grounds).

¹¹⁷¹ [REDACTED]; [REDACTED]. See also [REDACTED].

Leadership, the co-perpetrators were the architects and executors of this criminal design.

219. In particular, the evidence shows a striking degree of similarity in the treatment of detainees by the Mitiga Perpetrators, including in their induction, initial torture, subsequent mistreatment, and in the conspicuous and sustained nature of the abuse.¹¹⁷² This could not have transpired by accident, and none of the Mitiga Prison Leadership or the Mitiga Perpetrators could have failed to understand how the system worked—especially as this criminal system was maintained for more than six years. Notably, the layout and operating procedures of Mitiga Prison made it impossible not to know what was going on. Mitiga Prison staff had offices along the prison’s western wall opposite the entrances of the detention sections and inner yards.¹¹⁷³ Guards monitored detainees via cameras installed throughout the prison, in corridors, hallways, inner yards, and in specific cells.¹¹⁷⁴ Guards were also stationed in watchtowers and conducted regular patrols overlooking detention areas.¹¹⁷⁵ The Mitiga Prison Leadership and/or Mitiga Perpetrators also used detainees to work as section and cell “*capos*” who served as informants to collect information,¹¹⁷⁶ and the use of other enslaved detainees

¹¹⁷² See above paras. 48-66, 68-74, 78-83.

¹¹⁷³ See Annex 7, at “R1”. See also P-0439, [LBYP-OTP-0066-0951](#), paras. 42-43, 93, 95; P-0498, [LBYP-OTP-0069-0506](#), para. 88; P-0568, [LBYP-OTP-00018134](#), para. 38 and [LBYP-OTP-00018135](#), at ‘23’, ‘24’, ‘25’; P-0571, [LBYP-OTP-0080-0169](#), paras. 32, 34, 37, 97, 114 and [LBYP-OTP-0080-0262](#) (trans: [LBYP-OTP-00018813](#)) at ‘D’; P-0595, [LBYP-OTP-0074-0889](#), paras. 35-37, 124, 218, 238, 271 and [LBYP-OTP-0074-0997](#) at ‘Osama’s office’, ‘N’, ‘C’; P-0635, [LBYP-OTP-0070-6952](#), para. 160 and [LBYP-OTP-0070-6996](#) (trans: [LBYP-OTP-00018808](#)) at H; P-0650, [LBYP-OTP-0080-0468](#), paras. 72, 74, 110, 141, [LBYP-OTP-0080-0540](#) at ‘Offices for RADA’ and [LBYP-OTP-0080-0541](#); P-0665, [LBYP-OTP-0083-0663](#), paras. 119, 136; P-0667, [LBYP-OTP-00001491](#), para. 94; P-0692, [LBYP-OTP-0080-0608](#), paras. 44, 183 and [LBYP-OTP-0080-0656](#), at ‘Guards Room’; P-0720, [LBYP-OTP-0083-0052](#), paras. 65, 80, 90, 184 and [LBYP-OTP-0083-0099](#) at ‘L’; P-0730, [LBYP-OTP-00015125](#), paras. 100-101 and [LBYP-OTP-00015139](#), at ‘10’, ‘11’; P-0872, [LBYP-OTP-00007275](#), paras. 46, 99 and [LBYP-OTP-00007276](#) (trans: [LBYP-OTP-00018802](#)), at ‘A14’; P-0925, [LBYP-OTP-00018772](#), para. 36; P-0942, [LBYP-OTP-00015360](#), para. 199 and [LBYP-OTP-00015371](#) at ‘27’; P-0992, [LBYP-OTP-00018787](#), para. 36; P-0993, [LBYP-OTP-00015420](#), para. 40; P-1025, [LBYP-OTP-00016916](#), para. 77 and [LBYP-OTP-00016918](#) (trans: [LBYP-OTP-00018806](#)) at C.

¹¹⁷⁴ See Annex 7, at “R5”. See also P-0439, [LBYP-OTP-0066-0951](#), paras. 42-43, 94; P-0498, [LBYP-OTP-0069-0506](#), para. 88; P-0571, [LBYP-OTP-0080-0169](#), paras. 32, 34 and [LBYP-OTP-0080-0262](#) (trans: [LBYP-OTP-00018813](#)) at ‘Q’; P-0595, [LBYP-OTP-0074-0889](#), paras. 35, 92, 182 and [LBYP-OTP-0074-0997](#) at ‘CR’; P-0650, [LBYP-OTP-0080-0468](#), paras. 72, 110, 119; P-0665, [LBYP-OTP-0083-0663](#), paras. 77, 119, 136; P-0667, [LBYP-OTP-00001491](#), para. 94; P-0692, [LBYP-OTP-0080-0608](#), para. 183; P-0720, [LBYP-OTP-0083-0052](#), para. 184; P-0925, [LBYP-OTP-00018772](#), para. 36; P-0942, [LBYP-OTP-00015360](#), paras. 94, 199 and [LBYP-OTP-00015371](#) at ‘27’; P-0992, [LBYP-OTP-00018787](#), para. 36.

¹¹⁷⁵ P-0571, [LBYP-OTP-0080-0169](#), para. 56; P-0650, [LBYP-OTP-0080-0468](#), para. 126; P-0665, [LBYP-OTP-0083-0663](#), para. 135; P-0720, [LBYP-OTP-0083-0052](#), paras. 56, 131; P-0724, [LBYP-OTP-0085-0063](#), para. 70; P-0990, [LBYP-OTP-00015405](#), para. 47.

¹¹⁷⁶ P-0439, [LBYP-OTP-0066-0951](#), paras. 37, 40, 44-45; P-0486, [LBYP-OTP-0069-0584](#), paras. 64, 77-78, 162; P-0498, [LBYP-OTP-0069-0506](#), paras. 35, 42, 44, 49, 70, 73, 85, 121, 123-124, 138; L P-0568, [LBYP-OTP-00018134](#), paras. 40-41, 46-48, 59-60, 64, 82-83; P-0571, [LBYP-OTP-0080-0169](#), paras. 53, 146, 148, 152, 157-158, 176; P-0730, [LBYP-OTP-00015125](#), paras. 33, 66; P-0942, [LBYP-OTP-00015360](#), paras. 133-134; P-0993, [LBYP-OTP-00015420](#), para. 22. See also P-0054, [LBYP-OTP-0073-0025](#), paras. 93, 96, 99-100, 114; P-0497, [LBYP-OTP-00007250](#), para. 29; P-0569, [LBYP-OTP-0080-0032](#), paras. 63, 83, 171; P-0595, [LBYP-OTP-0074-0889](#), paras. 85-86; P-0692, [LBYP-OTP-0080-0608](#), paras. 24, 166; P-0719, [LBYP-OTP-0070-7295](#), paras. 81-82, 162, 164; P-0720, [LBYP-OTP-0083-0052](#), paras. 139-141; P-0724, [LBYP-OTP-0085-0063](#), paras. 63-66, 69-70; P-0992, [LBYP-OTP-00018787](#), paras. 31, 34-36; P-0993, [LBYP-OTP-00015420](#), para. 22; P-1025, [LBYP-OTP-00016916](#), paras. 27-28, 34-35, 37, 40, 45, 52, 60, 76; P-1026, [LBYP-OTP-00016896](#), paras. 45, 78, 84; P-1031, [LBYP-OTP-00018119](#), paras. 44-45, 52, 56, 58-59, 64, 71, 85-86, 101-102; P-1046, [LBYP-OTP-00019195](#), paras. 43, 45-48, 50, 54-57, 60, 100, 118, 137, 158.

such as Black Migrants to carry out other forms of forced labour was conspicuous.¹¹⁷⁷ There is no reasonable basis to consider that the widespread commission of the alleged crimes could have been mistaken or overlooked by any person within the prison, whether guard or detainee.

c. The co-perpetrators' own conduct participating in the crimes at Mitiga Prison

220. From their personal conduct, it is clear that KARA, NJEEM, and N'ZAM—like **EL HISHRI**¹¹⁷⁸—all embraced and participated in the commission of the alleged crimes in Mitiga, demonstrating the existence of the common plan and their shared intent, including to discriminate on political, religious, national, ethnic, racial, and gender grounds. Thus, as leader of SDF/RADA, KARA exercised overall control of Mitiga Prison, through the Mitiga Prison Leadership including **EL HISHRI**, N'ZAM, and NJEEM. KARA personally attended the prison and interrogated detainees,¹¹⁷⁹ ordered their torture,¹¹⁸⁰ refused to allow medical care,¹¹⁸¹ and encouraged the violent commission of crimes, including by co-perpetrators such as **EL HISHRI** and NJEEM.¹¹⁸² For his part, NJEEM ostensibly served as the director of Mitiga Prison, and directly carried out or supervised numerous acts of torture and abuse.¹¹⁸³ N'ZAM collaborated closely with KARA, his nephew **EL HISHRI**, and NJEEM. N'ZAM not only helped maintain control of Mitiga Prison but also the Mitiga Compound more broadly; he disciplined SDF/RADA members, and again participated in torturing detainees with **EL HISHRI** and NJEEM.¹¹⁸⁴ Several members of the Mitiga Prison Leadership benefited directly and personally from the use of enslaved detainees to provide forced labour.¹¹⁸⁵ Many of them made express statements or carried out acts directly illustrating their discriminatory intent.¹¹⁸⁶

d. The co-perpetrators' consciousness of guilt is demonstrated by the measures taken to conceal the crimes at Mitiga Prison

221. SDF/RADA consciously sought to preserve the distinction between its public reputation and its private misdeeds,¹¹⁸⁷ and thus the Mitiga Prison Leadership—including the co-perpetrators—sought to conceal the commission of crimes at Mitiga Prison. To this end, and consistently,

¹¹⁷⁷ See above paras. 110, 113, (fn. 671), 146, 173 (fns. 986, 987). See further, **P-0925**, [LBY-OTP-00018772](#), paras. 31-34; **P-0595**, [LBY-OTP-0074-0889](#), para. 225; **P-0571**, [LBY-OTP-0080-0169](#), paras. 88, 95; **P-0719**, [LBY-OTP-0070-7295](#), para. 134.

¹¹⁷⁸ See above paras. 207-209, fn. 1000.

¹¹⁷⁹ [REDACTED].

¹¹⁸⁰ [REDACTED].

¹¹⁸¹ [REDACTED].

¹¹⁸² [REDACTED]; [REDACTED]; [REDACTED].

¹¹⁸³ See above fn. 1158.

¹¹⁸⁴ See above paras. 79, 159, 160, 164, 165, fn. 1079. See e.g. [REDACTED]; [REDACTED].

¹¹⁸⁵ See above para. 116 (fn. 682).

¹¹⁸⁶ See e.g. below fn. 1270.

¹¹⁸⁷ See e.g. **P-0571**, [LBY-OTP-0080-0169](#), para. 199; **P-0650**, [LBY-OTP-0080-0468](#), paras. 134-136; **P-0692**, [LBY-OTP-0080-0608](#), para. 70; **P-1733**, [LBY-OTP-03703558](#), para. 87; **P-0942**, [LBY-OTP-00015360](#), para. 125.

Mitiga Perpetrators often sought to conceal their own identity when committing crimes, by hooding victims,¹¹⁸⁸ masking themselves,¹¹⁸⁹ and using nicknames.¹¹⁹⁰ They threatened or extorted detainees to remain quiet even once released,¹¹⁹¹ and adopted torture methods which could be more easily concealed.¹¹⁹² These characteristics all reflected the co-perpetrators' consciousness of guilt and continued aim to commit crimes with impunity. As the Appeals Chamber has recognised, such measures may help demonstrate the existence of a common plan.¹¹⁹³

222. At all times, the Mitiga Prison Leadership sought to maintain the public impression that it treated detainees properly and lawfully.¹¹⁹⁴ This was a deliberate and self-serving falsehood. On the one hand, SDF/RADA and/or the Mitiga Prison Leadership regularly published online videos of alleged confessions to unlawful behaviour.¹¹⁹⁵ However, these alleged confessions were coerced,¹¹⁹⁶ and this was concealed.¹¹⁹⁷ Likewise, other videos were published online in an apparent attempt to reassure detainees' families of their wellbeing—yet images showing well-equipped clinics, abundant food, and sporting opportunities for detainees were a lie.¹¹⁹⁸ On release, the Mitiga Prison Leadership and/or Mitiga Perpetrators refused to provide detainees with proof of their detention¹¹⁹⁹ and destroyed evidence.¹²⁰⁰

¹¹⁸⁸ P-0054, [LBYP-OTP-0073-0025](#), paras. 101-102; P-0439, [LBYP-OTP-0066-0951](#), paras. 21, 26; P-0446, [LBYP-OTP-0068-0003](#), para. 17; P-0486, [LBYP-OTP-0069-0584](#), paras. 95-97; P-0497, [LBYP-OTP-00007250](#), paras. 18-22-27, 43; P-0498, [LBYP-OTP-0069-0506](#), paras. 19, 24, 114-117, 119-120; P-0569, [LBYP-OTP-0080-0032](#), paras. 53-55; P-0571, [LBYP-OTP-0080-0169](#), para. 124; P-0635, [LBYP-OTP-0070-6952](#), paras. 44, 48; P-0667, [LBYP-OTP-00001491](#), paras. 61-62, 67-70, 76-78; P-0692, [LBYP-OTP-0080-0608](#), paras. 19, 67-68; P-0719, [LBYP-OTP-0070-7295](#), paras. 81-87; P-0720, [LBYP-OTP-0083-0052](#), paras. 124-128, 139-144; P-0724, [LBYP-OTP-0085-0063](#), paras. 67-69, 76-78; P-0730, [LBYP-OTP-00015125](#), paras. 46-47, 49, 54; P-0872, [LBYP-OTP-00007275](#), paras. 26, 28, 32-33, 42, 54, 72; P-0942, [LBYP-OTP-00015360](#), paras. 20-21, 23-25, 99-104; P-0990, [LBYP-OTP-00015405](#), paras. 42, 75, 78, 81, 83-85; P-0992, [LBYP-OTP-00018787](#), paras. 19, 63; P-1026, [LBYP-OTP-00016896](#), paras. 29, 32, 40; P-1031, [LBYP-OTP-00018119](#), paras. 56-58.

¹¹⁸⁹ P-0054, [LBYP-OTP-0073-0025](#), para. 84; P-0439, [LBYP-OTP-0066-0951](#), para. 26; P-0486, [LBYP-OTP-0069-0584](#), paras. 100-102; P-0595, [LBYP-OTP-0074-0889](#), paras. 54-56, 63; P-0667, [LBYP-OTP-00001491](#), para. 36; P-0730, [LBYP-OTP-00015125](#), paras. 51-52; P-0872, [LBYP-OTP-00007275](#), para. 44.

¹¹⁹⁰ P-0498, [LBYP-OTP-0069-0506](#), para. 118; P-0568, [LBYP-OTP-00018134](#), paras. 52, 55; P-0571, [LBYP-OTP-0080-0169](#), para. 199; P-0692, [LBYP-OTP-0080-0608](#), para. 70; [LBYP-OTP-0083-0189](#), para. 141; P-0724, [LBYP-OTP-0085-0063](#), para. 56; P-0730, [LBYP-OTP-00015125](#), paras. 24, 47; P-0942, [LBYP-OTP-00015360](#), para. 32.

¹¹⁹¹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹¹⁹² [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

¹¹⁹³ *Bemba et al.* AJ, para. 781.

¹¹⁹⁴ P-0650, [LBYP-OTP-0080-0468](#), para. 133; P-0942, [LBYP-OTP-00015360](#), para. 149. See also [LBYP-OTP-00018318](#) (trans: [LBYP-OTP-00018816](#)); P-1733, [LBYP-OTP-03703558](#), para. 87.

¹¹⁹⁵ [REDACTED]; [REDACTED]; [REDACTED]. See also UN-OHCHR, [LBYP-OTP-00018738](#), p. 26; UNSMIL, [LBYP-OTP-0070-4059](#), para. 41.

¹¹⁹⁶ See also e.g. [REDACTED]; NGO report, [LBYP-OTP-0066-0332](#), at 0346-0347; [REDACTED]; [REDACTED].

¹¹⁹⁷ [REDACTED].

¹¹⁹⁸ [REDACTED]; [LBYP-OTP-0070-0827](#) at 04:05:15 to 06:02:23 (trans: [LBYP-OTP-00019073](#), pp. 1-2). See also [REDACTED]; [REDACTED].

¹¹⁹⁹ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]. See also [REDACTED].

¹²⁰⁰ [REDACTED]; [REDACTED]; [REDACTED]. See also UNSMIL, [LBYP-OTP-00018761](#), para. 51.

223. Detainees were instructed to tell relatives that they were doing well, and to say nothing of torture or the conditions of detention.¹²⁰¹ Visits were strictly monitored.¹²⁰² Before one visit, [REDACTED] was warned that if he “cried or [said] anything, [...] things [would] not be good”.¹²⁰³ [REDACTED], [REDACTED] to conceal signs of his torture.¹²⁰⁴ Another victim covered his own bruises for fear of being denied his family visit.¹²⁰⁵

224. Likewise, the Mitiga Prison Leadership limited external access to Mitiga Prison; if such access could not be avoided,¹²⁰⁶ they controlled what was seen.¹²⁰⁷ Entire sections were physically hidden from inspection,¹²⁰⁸ and detainees instructed not to make any noise.¹²⁰⁹ During one visit, members of the Mitiga Prison Leadership and/or Mitiga Perpetrators showed inspectors a new and well-equipped clinic—but omitted that it was reserved for SDF/RADA members and their families, and that detainees were not treated there.¹²¹⁰ As needed, the Mitiga Prison Leadership temporarily renovated parts of the prison;¹²¹¹ removed detainees from cells,¹²¹² and left cell doors open,¹²¹³ to give the misleading impression that cells were not crowded. The Mitiga Prison Leadership would only let inspectors meet pre-selected prisoners whose cases had been transferred to a prosecutor,¹²¹⁴ and whom they were confident would speak only as instructed.¹²¹⁵ “As soon as [they] left, things would go back to how they were”.¹²¹⁶

¹²⁰¹ P-0054, [LBY-OTP-0073-0025](#), paras. 116-117; P-0486, [LBY-OTP-0069-0584](#), para. 200; P-0595, [LBY-OTP-0074-0889](#), paras. 210-213; P-0635, [LBY-OTP-0070-6952](#), para. 124; P-0667, [LBY-OTP-00001491](#), paras. 52-53; P-1031, [LBY-OTP-00018119](#), para. 76. See also P-0498, [LBY-OTP-0069-0506](#), para. 98.

¹²⁰² P-0571, [LBY-OTP-0080-0169](#), para. 241; P-0595, [LBY-OTP-0074-0889](#), para. 213; P-0670, [LBY-OTP-00015152](#), para. 66; P-0692, [LBY-OTP-0080-0608](#), para. 64; P-0720, [LBY-OTP-0083-0052](#), para. 65; P-0872, [LBY-OTP-00007275](#), para. 45; P-0943, [LBY-OTP-00018075](#), para. 118.

¹²⁰³ [REDACTED].

¹²⁰⁴ [REDACTED].

¹²⁰⁵ [REDACTED]. See also [REDACTED].

¹²⁰⁶ UNSMIL, [LBY-OTP-0070-4253](#), para. 32; UN-OHCHR, [LBY-OTP-0070-3642](#), para. 65; UN-OHCHR, [LBY-OTP-00018738](#), pp. 5, 18; UNSMIL, [LBY-OTP-0070-4059](#), para. 39; UNSMIL, [LBY-OTP-0070-4075](#), para. 32; UN-OHCHR, [LBY-OTP-0070-3758](#), para. 64.

¹²⁰⁷ [REDACTED].

¹²⁰⁸ P-0486, [LBY-OTP-0069-0584](#), para. 115; P-0569, [LBY-OTP-0080-0032](#), para. 98; P-0667, [LBY-OTP-00001491](#), paras. 101, 103; P-0720, [LBY-OTP-0083-0052](#), paras. 67, 74, 113; P-0720, [LBY-OTP-00020099](#), paras. 37-38; P-0942, [LBY-OTP-00015360](#), paras. 105-112; P-0993, [LBY-OTP-00015420](#), paras. 20, 22, 33; P-1026, [LBY-OTP-00016896](#), para. 88; P-1070, [LBY-OTP-00020236](#), para. 23; P-0644, [LBY-OTP-00020358](#), paras. 109, 172 (24).

¹²⁰⁹ P-0993, [LBY-OTP-00015420](#), para. 22; P-0942, [LBY-OTP-00015360](#), paras. 108, 112; P-1031, [LBY-OTP-00018119](#), para. 101.

¹²¹⁰ [REDACTED].

¹²¹¹ P-0439, [LBY-OTP-0066-0951](#), para. 39; P-0498, [LBY-OTP-0069-0506](#), para. 45; P-0942, [LBY-OTP-00015360](#), para. 105.

¹²¹² P-1026, [LBY-OTP-00016896](#), para. 88.

¹²¹³ P-0730, [LBY-OTP-00015125](#), para. 74.

¹²¹⁴ [REDACTED]; [REDACTED].

¹²¹⁵ [REDACTED]; [REDACTED]; [REDACTED].

¹²¹⁶ [REDACTED]. See also [REDACTED].

DCC, para. 73: The co-perpetrators, including EL HISHRI, jointly controlled the commission of the Common Plan Crimes, which were either carried out directly by one or more of the co-perpetrators or by persons whom they controlled and used as tools such as the Mitiga Perpetrators.

225. Members of the Mitiga Prison Leadership—including KARA, **EL HISHRI**, N’ZAM, and NJEEM¹²¹⁷—jointly controlled the commission of the crimes within the framework of the common plan, either by their own direct conduct (such as carrying out crimes, or personally contributing to the creation and maintenance of the criminal system at Mitiga Prison) or indirectly through the Mitiga Perpetrators.¹²¹⁸ While many of the Mitiga Perpetrators may in fact have shared the intent of the Mitiga Prison Leadership, this was not legally required—to the extent they were tools controlled by one or more of the co-perpetrators, the intent of individual Mitiga Perpetrators is irrelevant for the present charges.

226. Notwithstanding any ostensible official position of any co-perpetrator,¹²¹⁹ the foundation for the common plan and the relationship between the co-perpetrators was their membership in the Mitiga Prison Leadership, and the close association with SDF/RADA.¹²²⁰ As noted, KARA was the undisputed leader of SDF/RADA, and **EL HISHRI**, N’ZAM, and NJEEM were his close associates.¹²²¹ In this context, the co-perpetrators decided on the mutual allocation of tasks, which is the framework for the mutual imputation of responsibility. **EL HISHRI** had direct control of the Women’s Section and was one of the most senior officials in Mitiga Prison.¹²²² **EL HISHRI**’s senior role in SDF/RADA is further underlined by his own family’s prominence among the various family networks which helped cement SDF/RADA as an organisation. **EL HISHRI**’s uncle, N’ZAM, is a top-level SDF/RADA member; his brother, Mounir EL HISHRI, was a shift commander at Mitiga Prison; and his other brother, Mohamed EL HISHRI, also worked at Mitiga Prison.¹²²³

¹²¹⁷ See e.g. P-0569, [LBY-OTP-0080-0032](#), para. 122; P-0439, [LBY-OTP-0066-0951](#), paras. 71, 73, 75; P-0595, [LBY-OTP-0074-0889](#), paras. 237, 244, 253; P-0571, [LBY-OTP-0080-0169](#), para. 40; P-0720, [LBY-OTP-0083-0052](#), paras. 26, 30.

¹²¹⁸ See above paras. 158-189, 192 and (Annex 14), 207-209, fn. 1000.

¹²¹⁹ Notably, consistent with his function as the ostensible director of Mitiga Prison, NJEEM was appointed to positions in the Judicial Police: see e.g. [REDACTED]; [REDACTED]; [REDACTED]. While the Judicial Police was subordinated to the Ministry of Justice, other SDF/RADA members, like **EL HISHRI**, may have been assigned a commission in the Ministry of Interior: see e.g. P-0439, [LBY-OTP-0066-0951](#), paras. 71, 73; P-0595, [LBY-OTP-0074-0889](#), para. 27; P-0486, [LBY-OTP-0069-0584](#), para. 159; P-0498, [LBY-OTP-0069-0506](#), para. 81. But see P-0720, [LBY-OTP-0083-0052](#), paras. 33, 92.

¹²²⁰ P-0486, [LBY-OTP-0069-0584](#), paras. 159-160. See also P-0571, [LBY-OTP-0080-0169](#), paras. 44-45, 85; P-0498, [LBY-OTP-0069-0506](#), paras. 80-83; P-0990, [LBY-OTP-00015405](#), para. 53; P-0692, [LBY-OTP-0080-0608](#), paras. 142, 151.

¹²²¹ See e.g. P-0720, [LBY-OTP-0083-0052](#), para. 30; P-0720, [LBY-OTP-00020099](#), para. 34; P-0724, [LBY-OTP-0085-0063](#), para. 37; P-1025, [LBY-OTP-00016916](#), para. 65; P-0993, [LBY-OTP-00015420](#), para. 37; P-0498, [LBY-OTP-0069-0506](#), paras. 87, 90, 92; P-0872, [LBY-OTP-00007275](#), paras. 80.

¹²²² See above paras. 158-189.

¹²²³ See paras. 130, 160, fns 917-920.

DCC, para. 74: EL HISHRI made an essential contribution to the commission of the Common Plan Crimes, as set out further in paragraphs 54-61 above, including by: his exercise of general authority and influence throughout Mitiga Prison; his direct control of the Women's Section of Mitiga Prison; and his direct perpetration of acts amounting to the commission of charged crimes. Without EL HISHRI's contribution, the charged crimes would not have occurred, or would have occurred in a significantly different way.

227. EL HISHRI made an essential contribution to the common plan. While EL HISHRI's contributions were made throughout the charged period, his essential role was clear to the co-perpetrators from the outset, even if some activities were shaped by later events.¹²²⁴ Without EL HISHRI's contribution, "the crime[s] could not have been committed or would have been committed in a significantly different way."¹²²⁵

228. Specifically, and as stated above, EL HISHRI: (1) exercised general authority and influence throughout Mitiga Prison; (2) exercised direct control over the Women's Section, and; (3) directly perpetrated acts amounting to the commission of charged crimes against more than 159 detainees.¹²²⁶ By this conduct, EL HISHRI not only made an essential contribution to the commission of the crimes directly (through his personal acts and omissions), but also indirectly (at least through controlling the Mitiga Perpetrators with access to the Women's Section).

DCC, para. 75: EL HISHRI meant to engage in the charged conduct, and was aware of the relevant circumstances (including relevant features of the SDF/RADA and Mitiga Prison). He meant to cause the Common Plan Crimes, or was aware that they would occur in the ordinary course of events. He had the necessary intent to discriminate on political, religious, national, ethnic, racial, and gender grounds. He had the required contextual knowledge, as described in paragraphs 16, 24, 33, 37-38, and 41 above.

229. The evidence shows that EL HISHRI's various contributions to the common plan were intentional, and that he meant for the Common Plan Crimes to occur, or at least knew that they would occur in the ordinary course of events in the implementation of the common plan.¹²²⁷ Given EL HISHRI's role in the Mitiga Prison Leadership, he cannot have failed to know of the factual circumstances enabling the co-perpetrators' joint control over the crimes.¹²²⁸

230. First, EL HISHRI meant for persons to be detained unlawfully in Mitiga Prison in inadequate conditions, and to suffer severe physical or mental pain or suffering amounting to torture. This is evident from his personal, repeated, enthusiastic, and direct participation in such conduct,

¹²²⁴ See e.g. *Bemba et al.* AJ, paras. 780-784.

¹²²⁵ *Bemba et al.* AJ, para. 820.

¹²²⁶ See above paras. 158-189, 192; Annex 14.

¹²²⁷ See Statute, art. 30.

¹²²⁸ See also *Ongwen* TJ, para. 2691; *Bemba* TJ, para. 167. Even if EL HISHRI himself were not considered to be a perpetrator of the alleged crimes, similar evidence and reasoning shows that the direct perpetrators in any event had the required knowledge of the relevant *chapeaux* under articles 7-8 of the Statute.

and the clear evidence of his intent in this respect,¹²²⁹ and his encouragement of such conduct by others. **EL HISHRI** beat numerous detainees himself, or shot them, or caused them to be beaten.¹²³⁰ He carried out, supervised and ordered detainees' unlawful arrests.¹²³¹ **EL HISHRI** knew and intended that the detention conditions were wholly inadequate and often inhumane, because at every opportunity he took measures to worsen them and increase the detainees' suffering.¹²³² He knew that the detainees were provided with inadequate food, because he oversaw its distribution.¹²³³ He knew that sick detainees did not receive adequate medical treatment, because he prohibited it.¹²³⁴

231. Moreover, even if he had done none of these things, **EL HISHRI** could still not have failed to see the conspicuous signs of the violent, prolonged, and systematic mistreatment of the detainees, day in, day out, as he carried out his duties in the prison, year after year. CCTV surveillance was widespread.¹²³⁵ **EL HISHRI** was frequently in the CCTV room monitoring the cameras.¹²³⁶ Detainees were abused not only during interrogations but also in common space and outside.¹²³⁷ Their wounds—not to mention the overcrowded and inadequate conditions—would have been inescapable signs of the crimes being committed.

232. Second, with this knowledge and intent for the violent, prolonged, and systematic mistreatment of detainees in Mitiga, **EL HISHRI** must have meant for detainees (or other persons in the Mitiga Perpetrators' custody or control) to die as a consequence, or at least have known that this would occur in the ordinary course of events. The frequent infliction of serious violence on detainees—including by the use of firearms and clubs, sometimes repeatedly or on a prolonged basis, leaving victims bleeding or injured—clearly and unequivocally established the risk of death. This was further underlined by the limited medical care available, the poor nutrition provided for the detainees, and the prolonged period for which many detainees were confined in unhealthy and

¹²²⁹ See above paras. 194-195.

¹²³⁰ See above paras. 161-164, 192; below paras. 238-244; Annex 14.

¹²³¹ **P-1685**, [LBY-OTP-00057776](#), paras. 16, 71; **P-1722**, [LBY-OTP-02856267](#), paras. 17, 59, 87, 130; **P-1750**, [LBY-OTP-03214454](#), paras. 27-29; **P-0667**, [LBY-OTP-00001491](#), para. 113; **P-1720**, [LBY-OTP-01558903](#), para. 218.

¹²³² See **P-0498**, [LBY-OTP-0069-0506](#), para. 72; **P-0595**, [LBY-OTP-0074-0889](#), para. 247; **P-0720**, [LBY-OTP-0083-0052](#), para. 131; **P-0872**, [LBY-OTP-00007275](#), para. 37; **P-0943**, [LBY-OTP-00018075](#), para. 58; **P-0990**, [LBY-OTP-00015405](#), paras. 102, 106; **P-1046**, [LBY-OTP-00019195](#), para. 53.

¹²³³ See above paras. 126 (fn. 744), 182 (fn. 1021), 184 (fn. 1037); below para. 240 (fn. 1276). **P-0665**, [LBY-OTP-0083-0663](#), paras. 89, 157-159; **P-0943**, [LBY-OTP-00018075](#), paras. 52, 65, 68; **P-1070**, [LBY-OTP-00020236](#), para. 7.

¹²³⁴ See above paras. 126 (fn. 744), 127 (fns. 748, 749), 181 (fn. 1018), 182 (fn. 1021), 184 (fn. 1037), 198 (fns. 1121-1122), 201 (fn. 1134). See **P-0054**, [LBY-OTP-0073-0025](#), para. 31; **P-0571**, [LBY-OTP-0080-0169](#), paras. 94, 213-216; **P-0720**, [LBY-OTP-0083-0052](#), para. 131. See also e.g. **P-0667**, [LBY-OTP-00001491](#), paras. 108-111; **P-0635**, [LBY-OTP-0070-6952](#), para. 98.

¹²³⁵ [REDACTED]; [REDACTED]; [REDACTED].

¹²³⁶ [REDACTED].

¹²³⁷ See above paras. 185 (fns. 1043-1045), 194 (fn. 1100), 249 (fn. 1293).

dangerous conditions.¹²³⁸ **EL HISHRI** not only summarily executed and inflicted obviously life-threatening injuries by shooting detainees,¹²³⁹ but was also present as they were shot by others.¹²⁴⁰ He denied medical care to sick detainees.¹²⁴¹ He personally participated in acts of torture which led to the deaths of detainees.¹²⁴² After tying a man to a wall in an open yard and personally beating him, **EL HISHRI** left him hanging there, bleeding and in the cold, wearing only his boxers; the man died after three days.¹²⁴³ **EL HISHRI** was known to some as the “angel of death”¹²⁴⁴ and regularly threatened to kill detainees.¹²⁴⁵

233. Third, **EL HISHRI** meant for some detainees and other persons in the Mitiga Perpetrators’ custody or control to be raped and subjected to other sexual violence (such as forced nudity, and other sexualised forms of torture), or at least knew that this would occur in the ordinary course of events. **EL HISHRI** personally raped and/or committed acts of sexual violence against detainees.¹²⁴⁶ Furthermore, similar conduct took place in at least three contexts in which **EL HISHRI** was personally involved, such as: (i) the “scanner” procedure for new arrivals (strip searches and internal cavity examination),¹²⁴⁷ which **EL HISHRI** personally carried out or supervised;¹²⁴⁸ (ii) the torture of detainees and other persons in SDF/RADA’s custody or control including sexualised torture and threats of rape and sexual violence,¹²⁴⁹ which **EL HISHRI** at least knew would occur in the ordinary course of events;¹²⁵⁰ and (iii) the ongoing detention of detainees, where they were at constant risk of rape and sexual and reproductive violence even when not actively under interrogation.¹²⁵¹ **EL HISHRI** must have known of this risk, because it was used as an ostensible

¹²³⁸ See above paras. 55-58, 62-65, 80, 82-83.

¹²³⁹ See above para. 188. See e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹²⁴⁰ See e.g. **P-0872**, [LBY-OTP-00007275](#), para. 43.

¹²⁴¹ [REDACTED]; [REDACTED].

¹²⁴² [REDACTED]; [REDACTED].

¹²⁴³ [REDACTED].

¹²⁴⁴ **P-1031**, [LBY-OTP-00018119](#), para. 98. See also **P-0497**, [LBY-OTP-00007250](#), para. 60.

¹²⁴⁵ **P-0595**, [LBY-OTP-0074-0889](#), paras. 200-204; **P-0665**, [LBY-OTP-0083-0663](#), paras. 84-90, 141-142; **P-0720**, [LBY-OTP-0083-0052](#), paras. 36, 131; **P-1673**, [LBY-OTP-00392926](#), para. 171; **P-1733**, [LBY-OTP-03703558](#), para. 37.

¹²⁴⁶ [REDACTED].

¹²⁴⁷ See above paras. 54, 68-73. The absence of any legal justification was apparent from the degrading manner in which these searches were carried out, including performatively in front of other detainees or guards.

¹²⁴⁸ [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

¹²⁴⁹ See above paras. 55, 59-60, 68-73.

¹²⁵⁰ See above para. 188 (**EL HISHRI** as one of the most notorious torturers at Mitiga). See also e.g. fn. 1044 (**EL HISHRI** escorting women to the *Naqliyah*; checking on and issuing orders in relation to the interrogation of prisoners, including prisoners being interrogated and/or tortured by Mustapha AL TURKI, an interrogator widely known for targeting sexual organs and uttering threats of sexual nature: see e.g. [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]).

¹²⁵¹ See above paras. 68-77. See also [REDACTED].

justification for the practice of segregating young male detainees (including children)¹²⁵²—and **EL HISHRI** was a member of the Mitiga Prison Leadership with direct control over the Women’s Section.¹²⁵³ In reality, the segregated detainees were among those most vulnerable to rape and other sexual violence by guards, such as Abdel Rauf AL SEBAI—[REDACTED].¹²⁵⁴ **EL HISHRI** also knew about allegations of sexual abuse of young detainees in instances including when they were taken from the prison to the beach by Al SEBAI, Sheikh KHAIRI and others.¹²⁵⁵ **EL HISHRI**’s acceptance of such conduct is apparent from the fact that, when his brother Mounir EL HISHRI had an altercation with Sheikh KHAIRI and Sheikh SEBAI because of it, **EL HISHRI** did not take action against AL SEBAI, but temporarily suspended his brother.¹²⁵⁶

234. Fourth, **EL HISHRI** must at least have known that mistreatment and sexual violence including rape would occur in the ordinary course of events during arrest operations carried out by the Mitiga Perpetrators. These operations leading to detention at Mitiga Prison were a precursor to and extension of the same institutionalised and sustained scheme of mistreatment prevailing at Mitiga Prison, and were often carried out by the same individuals,¹²⁵⁷ including by one described as **EL HISHRI**’s assistant.¹²⁵⁸ Likewise, **EL HISHRI** himself carried out, supervised and ordered detainees’ unlawful arrests.¹²⁵⁹ As in Mitiga Prison, during arrest operations, victims were tied up

¹²⁵² **P-0054**, [LBYP-OTP-0073-0025](#), paras. 159-160; **P-0569**, [LBYP-OTP-0080-0032](#), para. 34; **P-0730**, [LBYP-OTP-00015125](#), para. 44.

¹²⁵³ *See above*, paras. 158, 181-184.

¹²⁵⁴ *See above* para. 72(fn. 499).

¹²⁵⁵ **P-0872**, [LBYP-OTP-00007275](#), para. 95; **P-0990**, [LBYP-OTP-00015405](#), para. 69; **P-0711**, [LBYP-OTP-0083-0189](#), paras. 126-144, 145-150; **P-0692**, [LBYP-OTP-0080-0608](#), paras. 102-104.

¹²⁵⁶ **P-0054**, [LBYP-OTP-0073-0025](#), paras. 29, 34; **P-0872**, [LBYP-OTP-00007275](#), para. 95; **P-0990**, [LBYP-OTP-00015405](#), para. 69; **P-1031**, [LBYP-OTP-00018119](#), para. 102.

¹²⁵⁷ **P-0872**, [LBYP-OTP-00007275](#), para. 23; **P-1745**, [LBYP-OTP-03214428](#), para. 21-22.

¹²⁵⁸ [REDACTED]; [REDACTED]; [REDACTED].

¹²⁵⁹ **P-1685**, [LBYP-OTP-00057776](#), paras. 16, 71; **P-1722**, [LBYP-OTP-02856267](#), paras. 17, 59, 87, 130; **P-1750**, [LBYP-OTP-03214454](#), paras. 27-30; **P-0667**, [LBYP-OTP-00001491](#), para. 113; **P-1720**, [LBYP-OTP-01558903](#), para. 218.

or handcuffed,¹²⁶⁰ blindfolded or hooded,¹²⁶¹ threatened,¹²⁶² insulted,¹²⁶³ [REDACTED],¹²⁶⁴ beaten,¹²⁶⁵ subjected to sexual violence including rape,¹²⁶⁶ and otherwise mistreated.¹²⁶⁷

235. Fifth, **EL HISHRI** meant for Mitiga Prison detainees to be enslaved, or at least knew that this would occur in the ordinary course of events. He knew that detainees were subjected to powers attaching to the right of ownership, such as the obligation to carry out arduous or degrading labour, or to give blood, in circumstances precluding any genuine consent, because he exercised such powers himself.¹²⁶⁸ **EL HISHRI** knew that the Common Plan Crimes yielded financial and other gains both to the Mitiga Prison Leadership in general and to individuals (including himself) personally, including access to assets and free labour.¹²⁶⁹

236. Sixth, **EL HISHRI** meant for Mitiga Prison detainees or other persons in the Mitiga Perpetrators' custody or control to be persecuted, and shared the discriminatory intent to target persons on political, religious, national, ethnic, racial, and gender grounds. He manifested this intent in his own words and conduct, including in his personal commission of crimes,¹²⁷⁰ the ideologically-informed requirements he imposed and enforced on detainees especially in the Women's Section, and

¹²⁶⁰ P-0439, [LBYP-OTP-0066-0951](#), para. 15; P-0446, [LBYP-OTP-0068-0003](#), para. 14; P-0486, [LBYP-OTP-0069-0584](#), paras. 34-39; P-0667, [LBYP-OTP-00001491](#), para. 26; P-0711, [LBYP-OTP-0083-0189](#), paras. 114-125; P-0720, [LBYP-OTP-0083-0052](#), paras. 19, 21-23; P-0724, [LBYP-OTP-0085-0063](#), para. 48; P-0872, [LBYP-OTP-00007275](#), para. 19; P-0925, [LBYP-OTP-00018772](#), paras. 17-18; P-0990, [LBYP-OTP-00015405](#), para. 34; P-0993, [LBYP-OTP-00015420](#), para. 16.

¹²⁶¹ P-0439, [LBYP-OTP-0066-0951](#), para. 15; P-0486, [LBYP-OTP-0069-0584](#), paras. 34-39; P-0667, [LBYP-OTP-00001491](#), para. 26; P-0720, [LBYP-OTP-0083-0052](#), paras. 19, 21-23; P-0724, [LBYP-OTP-0085-0063](#), para. 49; P-0872, [LBYP-OTP-00007275](#), para. 19; P-0943, [LBYP-OTP-00018075](#), para. 31; P-0990, [LBYP-OTP-00015405](#), para. 34; P-0942, [LBYP-OTP-00015360](#), paras. 14-18; P-0993, [LBYP-OTP-00015420](#), para. 16; P-1025, [LBYP-OTP-00016916](#), para. 17; P-1026, [LBYP-OTP-00016896](#), para. 23.

¹²⁶² P-0486, [LBYP-OTP-0069-0584](#), paras. 34-39; P-0498, [LBYP-OTP-0069-0506](#), paras. 12-14; P-0571, [LBYP-OTP-0080-0169](#), paras. 121-122; P-0595, [LBYP-OTP-0074-0889](#), paras. 40-49; P-0667, [LBYP-OTP-00001491](#), paras. 24-26; P-0719, [LBYP-OTP-0070-7295](#), para. 70; P-0720, [LBYP-OTP-0083-0052](#), paras. 19, 21-23; P-0724, [LBYP-OTP-0085-0063](#), para. 49; P-1710, [LBYP-OTP-01257853](#), paras. 35-36.

¹²⁶³ P-0054, [LBYP-OTP-0073-0025](#), para. 78; P-0446, [LBYP-OTP-0068-0003](#), paras. 14-15; P-0486, [LBYP-OTP-0069-0584](#), paras. 34-39; P-0571, [LBYP-OTP-0080-0169](#), paras. 121-122; P-0650, [LBYP-OTP-0080-0468](#), paras. 84-85; P-1673, [LBYP-OTP-00392926](#), para. 29.

¹²⁶⁴ [REDACTED].

¹²⁶⁵ P-0054, [LBYP-OTP-0073-0025](#), paras. 77-80; P-0486, [LBYP-OTP-0069-0584](#), paras. 34-39; P-0568, [LBYP-OTP-00018134](#), paras. 23-24; P-0595, [LBYP-OTP-0074-0889](#), para. 50; P-0724, [LBYP-OTP-0085-0063](#), para. 48; P-0872, [LBYP-OTP-00007275](#), para. 19; P-0925, [LBYP-OTP-00018772](#), paras. 17-18; P-1685, [LBYP-OTP-00057776](#), paras. 16-18.

¹²⁶⁶ [REDACTED].

¹²⁶⁷ P-0054, [LBYP-OTP-0073-0025](#), paras. 76-80; P-0720, [LBYP-OTP-0083-0052](#), paras. 19, 21-23; P-1720, [LBYP-OTP-01558903](#), paras. 32-51.

¹²⁶⁸ See [REDACTED] (**EL HISHRI** ordering Black Migrant prisoners to suspend prisoners from the ceiling); [REDACTED] and [REDACTED] (**EL HISHRI** ordering a female detainee to physically search another female detainee); [REDACTED] (**EL HISHRI** and NJEEM jointly overseeing the exploitation of some detainees' bodies for their own purposes by requiring them to provide blood); [REDACTED] (**EL HISHRI** using detainees for work outside the prison).

¹²⁶⁹ P-0595, [LBYP-OTP-0074-0889](#), para. 225; P-1059, [LBYP-OTP-03218972](#), p. 9. See also P-0692, [LBYP-OTP-0080-0608](#), paras. 80, 81; P-0990, [LBYP-OTP-00015405](#), para. 105.

¹²⁷⁰ See above para. 149. See further, [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED].

his use of enslaved detainees to carry out acts of forced labour.¹²⁷¹

iv. Ordering and/or inducing the commission of the charged crimes: article 25(3)(b)

237. Additionally and/or alternatively, **EL HISHRI** is responsible for ordering or inducing the commission of the crimes alleged in counts 1-17 under article 25(3)(b).

DCC, para. 76: During the charged period, EL HISHRI instructed Mitiga Perpetrators to commit the crimes charged in counts 1-17. He held authority over these persons based on his senior role in SDF/RADA and/or in the Mitiga Prison Leadership.

238. **EL HISHRI** was in a position of authority over Mitiga Perpetrators throughout the charged period, based on his position of authority as a senior of SDF/RADA and/or the Mitiga Prison Leadership.¹²⁷²

239. **EL HISHRI** used his position of authority to give express instructions to Mitiga Perpetrators to commit charged crimes, which they did. The evidence shows that both guards and detainees feared **EL HISHRI** and complied with his instructions.¹²⁷³

240. In particular, **EL HISHRI** instructed Mitiga Perpetrators to commit specific acts of sexual violence¹²⁷⁴ and torture.¹²⁷⁵ He also instructed other measures calculated to increase the suffering of detainees, such as: prohibiting guards from removing rubbish from overcrowded cells, to maintain a foul smell; ordering solitary confinement; and denying communications, family visits, and access to food, medication and healthcare.¹²⁷⁶

DCC, para. 77: Further, or alternatively, during the charged period, EL HISHRI prompted members of the Mitiga Prison Leadership and/or Mitiga Perpetrators to commit the charged crimes. EL HISHRI prompted the commission of crimes both expressly and implicitly through his personal conduct, including by his own conspicuous participation in violent crimes against detainees and his failure to address or punish similar violent crimes committed by the Mitiga Perpetrators.

241. Notwithstanding his position of authority, **EL HISHRI** also held a position of influence within Mitiga Prison, based on his notorious violent reputation and the fear which it engendered.

¹²⁷¹ See above paras. 142-143. See further, [REDACTED]. See also [REDACTED]; [REDACTED]; [REDACTED].

¹²⁷² See above paras. 158-164, fn. 1162.

¹²⁷³ See e.g. **P-0571**, [LBYP-OTP-0080-0169](#), paras. 44, 88, 214; **P-0635**, [LBYP-OTP-0070-6952](#), paras. 92-93, 98; **P-0595**, [LBYP-OTP-0074-0889](#), paras. 129-130, 205-206, 208; **P-0667**, [LBYP-OTP-00001491](#), paras. 108-111; **P-1046**, [LBYP-OTP-00022410](#), para. 105; **P-1673**, [LBYP-OTP-00392926](#), para. 163; **P-1685**, [LBYP-OTP-00057776](#), para. 131, 132, 139; **P-0497**, [LBYP-OTP-00007250](#), para. 60; **P-1673**, [LBYP-OTP-00392926](#), para. 163-166; **P-0498**, [LBYP-OTP-0069-0506](#), para. 72.

¹²⁷⁴ [REDACTED]; [REDACTED].

¹²⁷⁵ See e.g. **P-1710**, [LBYP-OTP-01257853](#), paras. 57, 91, 153, 162; **P-1720**, [LBYP-OTP-01558903](#), para. 189; **P-1685**, [LBYP-OTP-00057776](#), para. 128; **P-1750**, [LBYP-OTP-03214454](#), paras. 50, 77; **P-1722**, [LBYP-OTP-02488730](#), paras. 242, 244; **P-1722**, [LBYP-OTP-02856267](#), paras. 49, 52; **P-0571**, [LBYP-OTP-0080-0169](#), paras. 88, 94, 214; **P-0925**, [LBYP-OTP-00018772](#), paras. 32-34.

¹²⁷⁶ **P-1722**, [LBYP-OTP-02488730](#), paras. 146, 180; **P-1722**, [LBYP-OTP-02856267](#), paras. 30, 50, 76; **P-1673**, [LBYP-OTP-00392926](#), para. 165; **P-1685**, [LBYP-OTP-00057776](#), para. 115.

242. **EL HISHRI** prompted members of the Mitiga Prison Leadership such as KARA, NJEEM, and N’ZAM and/or Mitiga Perpetrators to commit charged crimes. For example, **EL HISHRI**’s mere presence was enough for NJEEM to commit crimes in an attempt to impress him,¹²⁷⁷ [REDACTED].¹²⁷⁸

243. **EL HISHRI** prompted senior SDF/RADA members to commit the crimes by his own words, calling them out to take part in the commission of the crimes. For instance, after beating and questioning detainees [REDACTED], **EL HISHRI** noticed that NJEEM, Ziad BEZIZI and ALKUJI were standing there but not beating the detainees with him. He “asked them if they were just going to watch”. When NJEEM asked if the detainees had admitted their crimes, **EL HISHRI** told NJEEM, Ziad BEZIZI and ALKUJI that they “should come and beat” the detainees. As a result, NJEEM, Ziad BEZIZI and ALKUJI joined **EL HISHRI** in beating the detainees for nearly an hour.¹²⁷⁹ On another occasion, **EL HISHRI** called out to NJEEM to participate in beating female detainees or to stop them from escaping the beatings.¹²⁸⁰ In keeping with the practice of detaining detainees without judicial oversight, **EL HISHRI** blamed NJEEM for referring certain detainees to the prosecution office prompting him to stop it: “RADA made huge efforts to arrest them and that this referral to the prosecution should stop”.¹²⁸¹

244. **EL HISHRI** further prompted members of the Mitiga Prison Leadership and/or Mitiga Perpetrators to commit crimes through his joint conduct with them,¹²⁸² or by initiating the criminal conduct which they followed,¹²⁸³ or by bringing or detainees to be tortured by them.¹²⁸⁴

DCC, para. 78: EL HISHRI meant to engage in this conduct and, to the extent relevant, was aware of his position of authority over the perpetrators of the crimes. He intended the charged crimes or was aware that the crimes would be committed in the ordinary course of events as a result of the implementation of his orders or otherwise as a result of his acts or omissions.

245. The evidence shows that **EL HISHRI** meant to engage in the charged conduct, and to cause the consequences of that conduct (or knew that those consequences would occur in the ordinary course of events). This is apparent both from the evidence of his own *mens rea* as a direct physical

¹²⁷⁷ [REDACTED]; [REDACTED]; [REDACTED].

¹²⁷⁸ [REDACTED].

¹²⁷⁹ [REDACTED].

¹²⁸⁰ [REDACTED].

¹²⁸¹ [REDACTED].

¹²⁸² See e.g. **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-0595**, [LBY-OTP-0074-0889](#), para. 297(q); **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80.

¹²⁸³ See e.g. **P-1710**, [LBY-OTP-01257853](#), paras 90-94; **P-1750**, [LBY-OTP-03214454](#), para. 59; **P-0872**, [LBY-OTP-00007275](#), para. 30.

¹²⁸⁴ **P-1750**, [LBY-OTP-03214454](#), para. 59; **P-0943**, [LBY-OTP-00018075](#), paras.96-98.

perpetrator,¹²⁸⁵ and his repeated conduct in ordering or inducing Mitiga Perpetrators to carry out crimes.¹²⁸⁶ Given his role in the Mitiga Prison Leadership, his conspicuous reputation for violence (and the fear which it instilled), the widespread compliance with his orders,¹²⁸⁷ and his propensity for punishing both guards and detainees,¹²⁸⁸ **EL HISHRI** cannot have failed to know of the circumstances establishing his positions of authority and influence.

v. Aiding, abetting, or otherwise assisting the commission of the charged crimes: article 25(3)(c)

246. Additionally and/or alternatively, **EL HISHRI** is responsible for the crimes alleged in counts 1-17 as an aider and abettor under article 25(3)(c).

DCC, para. 79: EL HISHRI aided, abetted or otherwise assisted the Mitiga Prison Leadership and/or Mitiga Perpetrators to commit the crimes in counts 1-17. Through the conduct described in paragraphs 54 to 61 above, EL HISHRI facilitated and/or provided moral encouragement for the relevant crimes.

247. By all the acts described above, as well as by his mere conspicuous presence at times and places where criminal activity was occurring,¹²⁸⁹ **EL HISHRI** facilitated, encouraged, and/or otherwise assisted the commission of all the charged crimes.¹²⁹⁰

DCC, para. 80: EL HISHRI meant to engage in the relevant conduct and did so with the purpose of facilitating the commission of such crimes. EL HISHRI was aware that the Mitiga Prison Leadership and/or Mitiga Perpetrators would, in the ordinary course of events, commit the type of crimes charged, and was aware that his conduct would contribute to their commission.

248. **EL HISHRI** meant to engage in the relevant conduct and did so with the purpose of facilitating the commission of such crimes. The sustained nature of **EL HISHRI**'s conduct over the duration of the charged period precludes any possibility that his acts were not deliberate.

249. Throughout the charged period, **EL HISHRI** played a leading role in Mitiga Prison, and participated in carrying out crimes against numerous detainees.¹²⁹¹ In this context, when he brought

¹²⁸⁵ See above paras. 194-195.

¹²⁸⁶ See above paras. 238-245.

¹²⁸⁷ See e.g. **P-1710**, [LBY-OTP-01257853](#), paras. 57, 91, 153, 162; **P-1720**, [LBY-OTP-01558903](#), para. 189; **P-1685**, [LBY-OTP-00057776](#), para. 128; **P-0720**, [LBY-OTP-00020099](#), paras. 59-63; [LBY-OTP-03214454](#), paras. 50, 77; **P-1722**, [LBY-OTP-02488730](#), paras. 242, 244; **P-1722**, [LBY-OTP-02856267](#), paras. 49, 52.

¹²⁸⁸ **P-0486**, [LBY-OTP-0069-0584](#), para. 138; **P-0650**, [LBY-OTP-0080-0468](#), para. 116, 139 (p); **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0925**, [LBY-OTP-00018772](#), para. 65; **P-1046**, [LBY-OTP-00019195](#), paras. 96, 97; **P-0595**, [LBY-OTP-0074-0889](#), para. 297(q); **P-1722**, [LBY-OTP-02856267](#), para. 64. See also **P-0498**, [LBY-OTP-0069-0506](#), para. 37; **P-0990**, [LBY-OTP-00015405](#), paras. 68-69, 109; **P-0942**, [LBY-OTP-00015360](#), para. 92. **P-0720**, [LBY-OTP-0083-0052](#), paras. 66, 69, 79.

¹²⁸⁹ See *Bemba et al.* TJ, para. 89.

¹²⁹⁰ See above paras. 192-195, 197-205, 210-235, 240-245.

¹²⁹¹ See above paras. 158-164, 192 (Annex 14); (fn. 1162).

or handed detainees to Mitiga Perpetrators¹²⁹²—often in locations such as the *Naqliah*, “Islamic Neighbourhood”, and “*Laryeas*” where he himself participated in acts of torture and mistreatment¹²⁹³—this can only have been deliberate. Likewise, given his violent reputation, **EL HISHRI** knew that his mere presence facilitated and encouraged Mitiga Perpetrators to commit the charged crimes.¹²⁹⁴

250. Nor is there any reasonable possibility that **EL HISHRI**’s conduct was not carried out for the purpose of facilitating the charged crimes. For example, he often initiated criminal conduct himself and encouraged other Mitiga Perpetrators to follow,¹²⁹⁵ or jointly committed crimes with others.¹²⁹⁶ Given his intimate knowledge of Mitiga Prison and the institutionalised practices of torture and mistreatment,¹²⁹⁷ even acts of ostensible maintenance such as fixing or ordering others to fix chains, metal bars and rings to the walls could only be for one purpose.¹²⁹⁸

251. **EL HISHRI** knew that the Mitiga Prison Leadership and/or the Mitiga Perpetrators would commit the type of crimes charged in the ordinary course of events, and that his conduct would contribute to their commission. His long and zealous service in Mitiga Prison, and the consistent pattern by which the charged crimes were committed—reflecting their institutionalisation within the prison system—made this knowledge inescapable. Likewise, **EL HISHRI** could not have failed to know of the intent of the Mitiga Prison Leadership and/or Mitiga Perpetrators to target detainees on the basis of political, religious, national, ethnic, racial, and gender grounds. This was manifest given the profile of the Mitiga detainees, the circumstances in which they were targeted for particular crimes (including the matters on which they were interrogated or the reasons ostensibly provided for their mistreatment), and the frequent use of discriminatory insults and slurs.

vi. Contributing to the charged crimes committed by a group acting with a common purpose: article 25(3)(d)

252. Additionally and/or alternatively, **EL HISHRI** is responsible as an accessory to the crimes

¹²⁹² **P-1750**, [LBY-OTP-03214454](#), para. 59; **P-0665**, [LBY-OTP-0083-0663](#), paras. 84-88; **P-0943**, [LBY-OTP-00018075](#), paras. 37, 39-43, 96-98; **P-1073**, [LBY-OTP-00020267](#), para. 77; **P-1733**, [LBY-OTP-03703558](#), para. 52; **P-1736**, [LBY-OTP-03703604](#), paras. 72-75.

¹²⁹³ See above fn. 1100.

¹²⁹⁴ **P-0486**, [LBY-OTP-0069-0584](#), para. 160; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-1046**, [LBY-OTP-00019195](#), para. 95.

¹²⁹⁵ See e.g. [REDACTED]; [REDACTED]; [REDACTED].

¹²⁹⁶ See e.g. **P-0569**, [LBY-OTP-0080-0032](#), para. 120; **P-0571**, [LBY-OTP-0080-0169](#), para. 31; **P-0595**, [LBY-OTP-0074-0889](#), para. 297(q); **P-0692**, [LBY-OTP-0080-0608](#), para. 144; **P-0720**, [LBY-OTP-00020099](#), paras. 40-41; **P-0872**, [LBY-OTP-00007275](#), paras. 29-30, 43, 91; **P-0925**, [LBY-OTP-00018772](#), para. 65, 94 (18); **P-0943**, [LBY-OTP-00018075](#), paras. 68-70, 72-75, 103; **P-1026**, [LBY-OTP-00016896](#), para. 87, 105; **P-1046**, [LBY-OTP-00019195](#), para. 96; **P-1073**, [LBY-OTP-00020267](#), paras. 77, 79-80.

¹²⁹⁷ **P-1722**, [LBY-OTP-02856267](#), paras. 49-65; **P-1710**, [LBY-OTP-01257853](#), paras. 162-163.

¹²⁹⁸ **P-0720**, [LBY-OTP-0083-0052](#), paras. 132-133; **P-1722**, [LBY-OTP-02856267](#), para. 47; **P-1710**, [LBY-OTP-01257853](#), para. 162.

alleged in counts 1-17 committed by a group acting with a common purpose.¹²⁹⁹

DCC, para. 81: EL HISHRI is responsible as an accessory to the crimes charged in counts 1-17 which were carried out by a group acting with a common purpose.

DCC, para. 82: The charged crimes were carried out by the Mitiga Prison Leadership (including KARA, N'ZAM, and NJEEM) and/or Mitiga Perpetrators, as a group acting with a common purpose. The purpose was to exercise control—through means such as punishment, coercion, and other forms of exploitation—of persons in the Mitiga Perpetrators' custody or control, principally at Mitiga Prison, in pursuit of SDF/RADA's interests or views and/or those of its members ("Common Purpose"). The Common Purpose resulted in the commission of the crimes charged in counts 1-17 ("Common Purpose Crimes"). Members of the Common Purpose agreed not only on the crimes but that they would be committed on discriminatory political, religious, national, ethnic, racial, and gender grounds targeting certain victims, consistent with their use of Mitiga Prison to exercise control over a variety of different persons and groups.

253. The evidence shows that the crimes charged in counts 1-17 were carried out by the Mitiga Prison Leadership, and/or Mitiga Perpetrators in the context of the Common Purpose. This is demonstrated by: (1) the use of Mitiga Prison as a tool to serve the interests or views of SDF/RADA and its members; (2) the systematic nature of the alleged crimes at Mitiga Prison, and the prolonged period of their commission; (3) the conduct of members of the group participating in the crimes at Mitiga Prison; and (4) the measures taken to conceal the crimes at Mitiga Prison, demonstrating the group's consciousness of guilt.¹³⁰⁰

DCC, para. 82.a.: During the charged period, EL HISHRI contributed to the commission of the charged crimes through the conduct described at paragraphs 54 to 61 above.

254. By all the acts described above, **EL HISHRI** contributed to the commission of the charged crimes carried out by a group acting with a common purpose.¹³⁰¹

DCC, para. 83: EL HISHRI made these contributions intentionally with the aim of furthering the criminal activity or criminal purpose of the group, and/or in the knowledge of the intention of the group to commit the crimes charged.

255. For the reasons set out above, **EL HISHRI** meant to engage in the relevant conduct, which can only have been deliberate given the scope, scale, and duration of his relevant acts.¹³⁰² **EL HISHRI** aimed to further the criminal activity or criminal purpose of the group, or at least could not have failed to know of the intention to commit the charged crimes. In particular, this is shown by **EL HISHRI**'s own violent conduct combined with the systematic and flagrant manner in which the crimes were committed, their prolonged duration, and **EL HISHRI**'s active role in the Mitiga

¹²⁹⁹ This is the case if the alleged crimes were all committed by a single group whose activities or purpose involved all of the alleged crimes, but no less if some of the alleged crimes were committed by additional groups with a narrower scope of activities or purpose specific to those crimes.

¹³⁰⁰ See above paras. 215-224.

¹³⁰¹ See above paras. 192-195, 197-205, 210-235, 240-245.

¹³⁰² See above paras. 192-195, 205, 229-235, 245, 248-251.

Prison Leadership—in the course of which he could not have failed to see not only the crimes, but also the equipment used for the purpose (such as the *balanco* equipment), the inadequate prison conditions, the effects on the detainees (including their state of health, injuries, deaths, complaints, and so on), the use of detainees to provide forced labour, and the circumstances in which they were targeted for particular crimes (including the matters on which they were interrogated or the reasons ostensibly provided for their mistreatment), and the frequent use of discriminatory insults and slurs.¹³⁰³

III. CONCLUSION

256. The evidence cited in this PCB demonstrates substantial grounds to believe that **EL HISHRI** committed the crimes charged in the DCC. The Prosecution respectfully requests that the Chamber confirm all charges against **EL HISHRI** and to commit this case for trial.



Nazhat Shameem Khan
Deputy Prosecutor

Dated this 1st day of May 2026

At The Hague, The Netherlands

¹³⁰³ See above paras. 46-74, 78-84, 89-134, 138-153, 159-188.