

Annex A

Reproduction of Annex A of the
Prosecution Additional Submission
(ICC-01/09-01/11-943-AnxA)

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ¹
Article 25(3)(b) "In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: [...] (b) <u>Orders, solicits</u> [...] the commission of such a crime which in fact occurs or is attempted".	102. RUTO, in his capacity as the top of the hierarchical structure of the Network, together with other high-ranking members of the Network, as well as together with SANG, provided essential contributions to the implementation of the common plan to commit the crimes following the December 2007 elections in the Rift Valley, in Turbo town, the greater Eldoret area, Kapsabet town, and Nandi Hills. 103. RUTO's essential contributions, based on his prominent role in the Network, included activating mechanisms leading to almost automatic compliance with his orders. His role was central to organizing, coordinating and planning the attack directed against a particular part of the civilian population, namely perceived PNU supporters. RUTO created the Network for which the purposes included evicting the PNU supporters. RUTO supervised the overall planning and was responsible for the implementation of the common plan to carry out crimes in the entire Rift Valley. 105. RUTO contributed to the common plan by (1) using his authority in the Rift Valley to mobilize supporters for the Network and to implement the common plan; (2) using anti-PNU rhetoric at preparatory meetings and events to create an atmosphere of anti-PNU sentiment and fear among PNU supporters; [...]. 106. RUTO relied on certain key members of the Network, as well as on SANG, to instruct direct perpetrators to implement the common plan. They acted as his conduits and as such: (1) provided funding, weapons, food, transportation or fuel to the direct perpetrators of the crimes; (2) arranged for the distribution of materials to construct bows and arrows and other traditional weaponry; (3) identified PNU supporters as targets for attack; (4) organized transportation for perpetrators; (5) ensured the provision of sufficient funds to execute the attacks; and (6) led perpetrators during attacks while maintaining contact with RUTO to receive instructions and informing him of their progress. 108. RUTO had control over the Network and its supporters, including in the following ways: (1) RUTO was crowned Kalenjin leader, which gave him the authority to decide on matters affecting the Kalenjin community; 2) RUTO was the single most authoritative ODM figure in the Rift Valley; (3) RUTO used existing structures and roles in Kalenjin society to create a Network; (4) commanders reported directly to RUTO; (5) RUTO ensured that Network members and supporters understood and believed in the common plan; [...]. 109. RUTO exercised his control over the organization and its supporters in a manner that assured that his orders were

¹ Sourced from the Updated Document Containing the Charges (ICC-01/09-01/11-533-AnxA-Corr).

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES
	carried out by almost automatic compliance by way of at least a two-fold strategy: (1) a payment mechanism; and (2) a punishment mechanism. These Network subordinates adopted the Network's organizational policy to punish and expel PNU supporters in their specific areas and executed attacks as ordered by RUTO. 110. RUTO and other key members of the Network created an ad hoc hierarchy through which the attacks were executed. RUTO was at the top of the hierarchy, though a few other key members also played a predominant role. RUTO's authority and control over the Network was recognized by Network subordinates, supporters and direct perpetrators. 111. RUTO along with other key members of the Network and SANG exercised control over the hierarchy as evidenced by their capacity to: (1) garner supporters to create the Network; (2) provide money and weapons to their subordinates; (3) establish a localized level of subordinates who were responsible for specific geographical areas; (4) establish a functioning command structure; (5) use events and specific language on Kass FM to communicate with subordinates and direct perpetrators; (6) provide weapons training; and (7) impose order by threatening punishment in case of insubordination. 112. By virtue of his position at the top of the Network and the dominant role he played, RUTO had control over the organization and his orders to carry out the crimes committed in the different locations were secured by almost automatic compliance. 113. RUTO's Network including subordinates and direct perpetrators were linked through the organizational policy and common plan described above. 114. RUTO and other key members of the Network ensured near compliance with their instructions by: (1) indoctrinating Network perpetrators to accept and agree with the common plan by referring to PNU supporters in a derogatory manner; (2) training direct perpetrators; (3) creating localized coordination structures headed by local subordinates who ensured compliance in their respective areas; (4) paying subordinates and direct perpetrators; and (5) instilling in the subordinates and direct perpetrators fear of punishment if they did not participate. 115. As a primary goal of the common plan, RUTO and others intended to attack particular parts of the civilian population, due to their perceived political affiliation, by way of murdering, forcibly displacing and persecuting the PNU supporters in the different locations as specified herein. In so doing, the co-perpetrators acted with discriminatory intent when targeting identified members of the civilian population.

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES
	116. RUTO's awareness and knowledge is demonstrated by: (1) his anti-PNU rhetoric at meetings and rallies, inciting anti-PNU sentiment among the direct perpetrators; (2) statements to Network perpetrators to attack PNU supporters and expel them from their land, killing them if necessary; [...]. 117. During the planning meetings and thereafter during the phase of the implementation of the criminal plan, RUTO gave oral and written instructions to the coordinators for the physical perpetrators to carry out acts of killings and displacement against the PNU supporters. [...] 118. The common plan of RUTO and other members of the organization was to "evict" the PNU supporters from the entire Rift Valley, Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills town. This plan is evidenced in part by the fact that these locations were in fact subjected to the attack, which took place between 30 December 2007 and 16 January 2008, and that RUTO appointed divisional commanders or coordinators tasked with the implementation and coordination of the attack on the ground in the four locations. 63. Perpetrators who attended the preparatory meetings and events identified herein participated in attacks in the greater Eldoret area (Kiambaa, Kimumu, Langas, Yamumbi, and Huruma), Turbo Town, Kapsabet Town and Nandi Hills. [...] (Cf. also paragraphs 51 to 55 of the Updated Document Containing the Charges relating to the military structure of the Network).
Article 25(3)(b) "In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person: [...] (b) [...] <u>induces</u> the commission of such a crime which in fact occurs or is attempted".	8. From at least 2005, RUTO was "generally acknowledged to be one of the most important Kalenjin politician[s]" and "the principal Kalenjin spokesman". 18. From at least 2006 through January 2008, RUTO was a senior politician. During the 2007 elections, RUTO was the Kalenjin representative in "the Pentagon", the ODM's top leadership structure. 108. [...] RUTO was crowned Kalenjin leader, which gave him the authority to decide on matters affecting the Kalenjin community; (2) RUTO was the single most authoritative ODM figure in the Rift Valley; [...]. 22. As early as December 2006 through January 2008, RUTO, together with SANG and other Network associates, held or participated in no less than eight preparatory meetings and events. During these meetings they formulated their plans to

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ¹
Article 25(3)(c) [...] aids, abets or otherwise assists in its commission or attempted commission, including providing the means for its commission”.	attack PNU supporters. They encouraged the direct perpetrators to permanently drive out Kikuyu, Kamba and Kisii from the Rift Valley by using derogatory terms such as ‘madoadoa’, ‘kimoriok’, and ‘kamama’ or parables to refer to the target groups. [...] 57. RUTO and Network affiliates promised perpetrators immunity for the crimes and/or monetary awards or land if they succeeded. 105. RUTO contributed to the common plan by (1) using his authority in the Rift Valley to mobilize supporters for the Network and to implement the common plan; (2) using anti-PNU rhetoric at preparatory meetings and events to create an atmosphere of anti-PNU sentiment and fear among PNU supporters; [...]. 114. RUTO and other key members of the Network ensured near compliance with their instructions by: (1) indoctrinating Network perpetrators to accept and agree with the common plan by referring to PNU supporters in a derogatory manner; [...] 116. RUTO’s awareness and knowledge is demonstrated by: (1) his anti-PNU rhetoric at meetings and rallies, inciting anti-PNU sentiment among the direct perpetrators; (2) statements to Network perpetrators to attack PNU supporters and expel them from their land, killing them if necessary; [...]. 63. Perpetrators who attended the preparatory meetings and events identified herein participated in attacks in the greater Eldoret area (Kiambaa, Kimumu, Langas, Yamumbi, and Huruma), Turbo Town, Kapsabet Town and Nandi Hills. [...]
	100. RUTO hosted a series of meetings, some at his house in Sugoi, where SANG and high-ranking members of the organization, including politicians, businessmen and former police and military officials were present. During the course of these meetings RUTO together with other key members of the organization, agreed upon several aspects that were crucial for the development and implementation of the common plan. 101. At these preparatory meetings and events, RUTO and other key members of the Network, partly supported by SANG, decided on certain aspects to carry out the common plan: (1) the appointment of commanders and divisional commanders responsible for the operations on the field, assigning them specific geographical areas to control; (2) the production of maps marking out the areas most densely inhabited by communities perceived to be or actually siding with the PNU, as well as the identification of houses and business premises with a view toward targeting them; (3) the purchase of weapons and

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES
	material to produce crude weapons and their distribution as well as their storage before the attacks; (4) the transportation of the perpetrators to and from target locations and other related logistics; (5) the establishment of a stipendiary scheme and a rewarding mechanism to motivate the perpetrators to kill and displace the largest number of persons belonging to the targeted communities as well as to destroy their properties; (6) the identification of callers for future broadcasts to incite messages on Kass FM; (7) the provision of information to participants regarding the plans to attack other areas and the progress of those plans; and (8) the compensation of participants for attending meetings or events. 104. RUTO and other key members of the Network, together with SANG, carried out coordinated essential contributions including: (1) attending preparatory meetings and events where the attacks were planned; (2) contributing funds; and (3) creating the organization that would allow them to systematically construct roadblocks, distribute weaponry and attack multiple locations in a limited time frame. 105. RUTO contributed to the common plan by (1) using his authority in the Rift Valley to mobilize supporters for the Network and to implement the common plan; (2) using anti-PNU rhetoric at preparatory meetings and events to create an atmosphere of anti-PNU sentiment and fear among PNU supporters; (3) providing direct perpetrators with weapons, food and other logistical necessities; (4) financing the Network; (5) coordinating the implementation of the common plan via coordination of logistics (transportation/communication/perpetrators); and (6) providing instructions to subordinates and direct perpetrators on where to obtain instructions (e.g. SANG/Kass FM), how to communicate with one other, and how to execute the plan. 106. RUTO relied on certain key members of the Network, as well as on SANG, to instruct direct perpetrators to implement the common plan. They acted as his conduits and as such: (1) provided funding, weapons, food, transportation or fuel to the direct perpetrators of the crimes; (2) arranged for the distribution of materials to construct bows and arrows and other traditional weaponry; (3) identified PNU supporters as targets for attack; (4) organized transportation for perpetrators; (5) ensured the provision of sufficient funds to execute the attacks; and (6) led perpetrators during attacks while maintaining contact with RUTO to receive instructions and informing him of their progress. 107. Along with other key figures in the Network and SANG, RUTO also operated as a "hub" of the organization by: (1) obtaining information from groups located in various locations in the Rift Valley; (2) sharing plans and information from group to group regarding targeted locations; (3) reporting on the progress of the overall plan; and (4) financially supporting the attacks.

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ¹
	111. RUTO along with other key members of the Network and SANG exercised control over the hierarchy as evidenced by their capacity to: (1) garner supporters to create the Network; (2) provide money and weapons to their subordinates; (3) establish a localized level of subordinates who were responsible for specific geographical areas; (4) establish a functioning command structure; (5) use events and specific language on Kass FM to communicate with subordinates and direct perpetrators; (6) provide weapons training; and (7) impose order by threatening punishment in case of insubordination. 116. RUTO's awareness and knowledge is demonstrated by: [...] (3) obtaining and distributing funds and other means to Network subordinates and perpetrators to punish and expel the PNU supporters from the Rift Valley; and (4) his requests to recruit ex-soldiers who were already trained. 117. [...] Furthermore, RUTO's contributions of planning and providing fuel, weaponry, and training ensured that PNU supporters would be physically attacked and permanently expelled from the Rift Valley. 118. [...] RUTO appointed divisional commanders or coordinators tasked with the implementation and coordination of the attack on the ground in the four locations. 56. RUTO provided logistical support including (1) providing telephones to subordinates, (2) providing guns and gas/fuel to perpetrators, and (3) coordinating transportation to take perpetrators to and from locations previously identified for attacks.
Article 25(3)(d) (i) "a crime within the jurisdiction of the Court was attempted or committed"²	The Prosecution refers to sub-section V(B) of the "Updated Document Containing the Charges": - For Turbo, paras. 65 to 70; - For Kimumu, Langas, Yamumbi and Huruma, paras. 71 to 74. - For Kiambaa, paras. 75 to 79. - For Kapsabet Town, paras. 80 to 85. - For Nandi Hills Town, paras. 86 to 89.
Article 25(3)(d) (ii) "a group of persons acting with a common purpose"	59. From at least December 2006 through December 2007, RUTO and other Network associates, including but not limited to Jackson Kibor, Farouk Kibet, Henry Kosgey, Jackson Bett, Philip Murey, Augustin Cheruiyot, Samson Cheramboss, John Koech, Fred Kapondi, Isaac Maiyo, Christopher Kisorio, Solomon Tilawen, Henry Talam, Sammy Ruto, Lucas Sang, Ishmael Choge, A. Chelogoi, A.K. Bor, Arap Keen, Jacob Kata and supported by SANG and others, planned and coordinated the

² Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute, ICC-01/09-01/11-373, para. 351.

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ³
attempted to commit or committed this crime". ³	attacks at a series of preparatory meetings and events held in Uasin Gishu and Nandi Districts. The preparatory meetings and events included those held in the Uasin Gishu District on 30 December 2006, 15 April 2007, 2 September 2007, 2 November 2007, 6 December 2007 and 14 December 2007, and 22 December 2007, in the presence of RUTO, among others. In the Nandi District, no less than four preparatory meetings and/or events were held in December 2007, including meetings on 6 and 16 December 2007 at Mr. Cheram boss' house. 63. Perpetrators who attended the preparatory meetings and events identified herein participated in attacks in the greater Eldoret area (Kiambaa, Kimumu, Langas, Yamumbi, and Huruma), Turbo Town, Kapsabet Town and Nandi Hills. [...]. 90. [...] RUTO, together with other key members of the Network had a common plan that was carried out through the Network's subordinates and direct perpetrators, and was supported by SANG. 91. As the anointed leader of the Kalenjin people, RUTO, together with other key members of the Network including but not limited to Jackson Kibor, Farouk Kibet, Henry Kosgey, Jackson Bett, Philip Murey, Augustin Cheruiyot, Samson Cheram boss, John Koech, Fred Kapondi, Isaac Maiyo, Christopher Kisorio, Solomon Tilawen, Henry Talam, Sammy Ruto, Lucas Sang, Ishmael Choge, A. Chelogoi, A.K. Bor, Arap Keen, Jacob Kata and together with SANG, carried out essential contributions to the common plan that resulted in the commission of the crimes by subordinates, including direct perpetrators. 98. RUTO and other key members of the Network, together with SANG and others, adopted and implemented an organizational policy between 30 December 2006 and 22 December 2007 with the purpose of evicting members of the Kikuyu, Kisii, and Kamba communities in particular because they were perceived to be PNU supporters. 99. Members of the Network and others who, together with RUTO, supported the common plan included: (1) political representatives (ODM MPs, Councilors); (2) members of the media including SANG who used Kass FM to incite and coordinate the PEV; (3) financial contributors including businessmen; (4) tribal leaders including Elders; and (5) police and military personnel. 118. The common plan of RUTO and other members of the organization was to "evict" the PNU supporters from the entire

³ Ibid.

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ⁴
	Rift Valley, Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills town. This plan is evidenced in part by the fact that these locations were in fact subjected to the attack, which took place between 30 December 2007 and 16 January 2008, and that RUTO appointed divisional commanders or coordinators tasked with the implementation and coordination of the attack on the ground in the four locations.
Article 25(3)(d) (iii) the individual contributed to the crime, in any way other than those set out in article 25(3)(a) to (c) of the Statute (objective elements).⁴	22. As early as December 2006 through January 2008, RUTO, together with SANG and other Network associates, held or participated in no less than eight preparatory meetings and events. During these meetings they formulated their plans to attack PNU supporters. They encouraged the direct perpetrators to permanently drive out Kikuyu, Kamba and Kisii from the Rift Valley by using derogatory terms such as 'madoadoa', 'kimoriok', and 'kamama' or parables to refer to the target groups. Their planning included: (1) selecting Commanders (Samson Cheramboss, Augustin Cheruiyot and John Koech) to oversee attacks in specific areas in the Rift Valley; (2) creating a hierarchy below each Commander; (3) coordinating transportation and logistics to and from the targeted locations; (4) announcing preparatory meeting and event locations; (5) fundraising to purchase weapons; (6) paying perpetrators and promising rewards for every PNU supporter killed or whose property was destroyed; (7) identifying target areas; (8) identifying callers to broadcast the Network's message on SANG's show on Kass FM; and (9) providing crude weapons, guns and ammunition to the direct perpetrators. 57. RUTO and Network affiliates promised perpetrators immunity for the crimes and/or monetary awards or land if they succeeded. 100. RUTO hosted a series of meetings, some at his house in Sugoi, where SANG and high-ranking members of the organization, including politicians, businessmen and former police and military officials were present. During the course of these meetings RUTO together with other key members of the organization, agreed upon several aspects that were crucial for the development and implementation of the common plan. 101. At these preparatory meetings and events, RUTO and other key members of the Network, partly supported by SANG, decided on certain aspects to carry out the common plan: (1) the appointment of commanders and divisional commanders responsible for the operations on the field, assigning them specific geographical areas to control; (2) the production of maps marking out the areas most densely inhabited by communities perceived to be or actually siding with the PNU, as well as the identification of houses and business premises with a view toward targeting them; (3) the purchase of weapons and material to produce crude weapons and their distribution as well as their storage before the attacks; (4) the transportation of

⁴ *Ibid.*

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES
	the perpetrators to and from target locations and other related logistics; (5) the establishment of a stipendiary scheme and a rewarding mechanism to motivate the perpetrators to kill and displace the largest number of persons belonging to the targeted communities as well as to destroy their properties; (6) the identification of callers for future broadcasts to incite messages on Kass FM; (7) the provision of information to participants regarding the plans to attack other areas and the progress of those plans; and (8) the compensation of participants for attending meetings or events. 102. RUTO, in his capacity as the top of the hierarchical structure of the Network, together with other high-ranking members of the Network, as well as together with SANG, provided essential contributions to the implementation of the common plan to commit the crimes following the December 2007 elections in the Rift Valley, in Turbo town, the greater Eldoret area, Kapsabet town, and Nandi Hills. 103. RUTO's essential contributions, based on his prominent role in the Network, included activating mechanisms leading to almost automatic compliance with his orders. His role was central to organizing, coordinating and planning the attack directed against a particular part of the civilian population, namely perceived PNU supporters. RUTO created the Network for which the purposes included evicting the PNU supporters. RUTO supervised the overall planning and was responsible for the implementation of the common plan to carry out crimes in the entire Rift Valley. 104. RUTO and other key members of the Network, together with SANG, carried out coordinated essential contributions including: (1) attending preparatory meetings and events where the attacks were planned; (2) contributing funds; and (3) creating the organization that would allow them to systematically construct roadblocks, distribute weaponry and attack multiple locations in a limited time frame. 105. RUTO contributed to the common plan by (1) using his authority in the Rift Valley to mobilize supporters for the Network and to implement the common plan; (2) using anti-PNU rhetoric at preparatory meetings and events to create an atmosphere of anti-PNU sentiment and fear among PNU supporters; (3) providing direct perpetrators with weapons, food and other logistical necessities; (4) financing the Network; (5) coordinating the implementation of the common plan via coordination of logistics (transportation/communication/perpetrators); and (6) providing instructions to subordinates and direct perpetrators on where to obtain instructions (e.g. SANG/Kass FM), how to communicate with one other, and how to execute the plan. 106. RUTO relied on certain key members of the Network, as well as on SANG, to instruct direct perpetrators to implement

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES
	the common plan. They acted as his conduits and as such: (1) provided funding, weapons, food, transportation or fuel to the direct perpetrators of the crimes; (2) arranged for the distribution of materials to construct bows and arrows and other traditional weaponry; (3) identified PNU supporters as targets for attack; (4) organized transportation for perpetrators; (5) ensured the provision of sufficient funds to execute the attacks; and (6) led perpetrators during attacks while maintaining contact with RUTO to receive instructions and informing him of their progress. 107. Along with other key figures in the Network and SANG, RUTO also operated as a "hub" of the organization by: (1) obtaining information from groups located in various locations in the Rift Valley; (2) sharing plans and information from group to group regarding targeted locations; (3) reporting on the progress of the overall plan; and (4) financially supporting the attacks. 111. RUTO along with other key members of the Network and SANG exercised control over the hierarchy as evidenced by their capacity to: (1) garner supporters to create the Network; (2) provide money and weapons to their subordinates; (3) establish a localized level of subordinates who were responsible for specific geographical areas; (4) establish a functioning command structure; (5) use events and specific language on Kass FM to communicate with subordinates and direct perpetrators; (6) provide weapons training; and (7) impose order by threatening punishment in case of insubordination. 116. RUTO's awareness and knowledge is demonstrated by: (1) his anti-PNU rhetoric at meetings and rallies, inciting anti-PNU sentiment among the direct perpetrators; (2) statements to Network perpetrators to attack PNU supporters and expel them from their land, killing them if necessary; (3) obtaining and distributing funds and other means to Network subordinates and perpetrators to punish and expel the PNU supporters from the Rift Valley; and (4) his requests to recruit ex-soldiers who were already trained. 117. [...] Furthermore, RUTO's contributions of planning and providing fuel, weaponry, and training ensured that PNU supporters would be physically attacked and permanently expelled from the Rift Valley. 118. [...] RUTO appointed divisional commanders or coordinators tasked with the implementation and coordination of the attack on the ground in the four locations. 56. RUTO provided logistical support including (1) providing telephones to subordinates, (2) providing guns and gas/fuel to perpetrators, and (3) coordinating transportation to take perpetrators to and from locations previously identified for attacks.

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ⁵
Article 25(3)(d) (iv) the said contribution was intentional.⁵	94. RUTO intentionally engaged in conduct with other key members of the Network, as well as with SANG, with the awareness and acceptance that implementation of the common plan would result in the commission of crimes and with the intention that the crimes be committed. 115. As a primary goal of the common plan, RUTO and others intended to attack particular parts of the civilian population, due to their perceived political affiliation, by way of murdering, forcibly displacing and persecuting the PNU supporters in the different locations as specified herein. [...]. 116. RUTO's awareness and knowledge is demonstrated by: (1) his anti-PNU rhetoric at meetings and rallies, inciting anti-PNU sentiment among the direct perpetrators; (2) statements to Network perpetrators to attack PNU supporters and expel them from their land, killing them if necessary; (3) obtaining and distributing funds and other means to Network subordinates and perpetrators to punish and expel the PNU supporters from the Rift Valley; and (4) his requests to recruit ex-soldiers who were already trained. 117. During the planning meetings and thereafter during the phase of the implementation of the criminal plan, RUTO gave oral and written instructions to the coordinators for the physical perpetrators to carry out acts of killings and displacement against the PNU supporters. Furthermore, RUTO's contributions of planning and providing fuel, weaponry, and training ensured that PNU supporters would be physically attacked and permanently expelled from the Rift Valley. 118. The common plan of RUTO and other members of the organization was to "evict" the PNU supporters from the entire Rift Valley, Turbo town, the greater Eldoret area, Kapsabet town and Nandi Hills town. This plan is evidenced in part by the fact that these locations were in fact subjected to the attack, which took place between 30 December 2007 and 16 January 2008, and that RUTO appointed divisional commanders or coordinators tasked with the implementation and coordination of the attack on the ground in the four locations.

⁵ *Ibid.*

PROPOSED RECHARACTERISATION	RELEVANT FACTS AND CIRCUMSTANCES DESCRIBED IN THE CHARGES ⁶
Article 25(3)(d) (v-a) the "contribution was made either (a) with the aim of furthering the criminal activity or criminal purpose of the group [...]".⁶ (Article 25(3)(d)(i) reads as follows: "[s]uch contribution shall be intentional and shall either: (i) [b]e made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court".)	94. RUTO intentionally engaged in conduct with other key members of the Network, as well as with SANG, with the awareness and acceptance that implementation of the common plan would result in the commission of crimes and with the intention that the crimes be committed. 96. [...] RUTO, together with other co-perpetrators, acted with the requisite discriminatory intent in their persecution of the targeted population. A primary goal of the common plan was to attack particular segments of the civilian population due to their perceived political affiliation, by way of murdering, forcibly displacing and persecuting PNU supporters in specific areas of the Rift Valley as identified herein. (Cf also <i>inter alia</i> paragraphs 20, 22, 38, 39, 50, 61, 98, 100, 101, 115 to 119).
Article 25(3)(d) (v-b) [...] or in the knowledge of the intention of the group to commit the crime (subjective elements).⁷	94. RUTO intentionally engaged in conduct with other key members of the Network, as well as with SANG, with the awareness and acceptance that implementation of the common plan would result in the commission of crimes and with the intention that the crimes be committed. 96. [...] RUTO, together with other co-perpetrators, acted with the requisite discriminatory intent in their persecution of the targeted population. A primary goal of the common plan was to attack particular segments of the civilian population due to their perceived political affiliation, by way of murdering, forcibly displacing and persecuting PNU supporters in specific areas of the Rift Valley as identified herein. (Cf also <i>inter alia</i> paragraphs 20, 22, 38, 39, 50, 61, 98, 100, 101, 115 to 119).

⁶ *Ibid.*

⁷ *Ibid.*