

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Judgment - Courtroom 1
9 Monday, 6 October 2025
10 (The hearing starts in open session at 2.05 p.m.)
11 THE COURT USHER: [14:05:55] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [14:06:39] Good afternoon.
15 Madam Registrar, call the case, please.
16 THE COURT OFFICER: [14:06:48] Good afternoon, Madam President.
17 Your Honours.
18 Situation in Darfur, in the case of The Prosecutor versus Ali Muhammad Ali
19 Abd-Al-Rahman ("Ali Kushayb"), case reference ICC-02/05-01/20.
20 And for the record, we are in open session.
21 PRESIDING JUDGE KORNER: [14:07:08] Yes. Thank you very much.
22 Appearances, please, from the Prosecution.
23 MS KHAN: [14:07:13] Good afternoon, Madam President, your Honours. I am
24 Deputy Prosecutor Nazhat Shameem Khan and I appear for the Prosecution with
25 Mr Julian Nicholls, senior trial lawyer; Mr Edward Jeremy, trial lawyer;

1 Ms Alison Whitford, trial lawyer; Ms Laura Morris, trial lawyer; Ms Diana Saba,
2 associate trial lawyer; Ms Rachel Mazzarella, associate trial lawyer; Mr Hai Do Duc,
3 associate trial lawyer; Ms Claire Sabatini, case manager; and Mr Dahirou Sant-Anna,
4 international cooperation adviser.

5 PRESIDING JUDGE KORNER: [14:07:51] I see you really do have the full team here
6 today. Thank you.

7 Yes, appearances from the Defence.

8 MR LAUCCI: [14:08:02](Interpretation) *Good afternoon, Madam President,
9 your Honours. Next to Mr Ali Muhammad Ali Abd-Al-Rahman, who is present in
10 the courtroom today, the Defence team is made up of: Ms Valerija Holub, our new
11 intern; Mr Mohamed Manaa, linguistic assistant; legal advisers Nina Guilloux and
12 Ahmed Issa; Eva Kalb, Haneen Ghali, and Marcela Velarde. Ms Audrey Mateo,
13 adviser; Mr Iain Edwards and myself, Cyril Laucci, counsel.

14 PRESIDING JUDGE KORNER: [14:09:02] Well, not quite as many as the Prosecution,
15 but still quite a lot, Mr Laucci.

16 And finally, the appearances for the victims, please.

17 MS VON WISTINGHAUSEN: [14:09:13] Good afternoon, Madam President,
18 your Honours. Good afternoon to everyone in and around the courtroom.

19 The participating victims are represented by Mélissa Beaulieu Lussier, next to me
20 from the Quebec Bar; Saif Kassis, our case manager; and most importantly, Imran and
21 Oumda, our field assistants, who are out there watching in big rooms with our clients
22 of participating victims. Thank you. And myself, Natalie von Wistinghausen.

23 PRESIDING JUDGE KORNER: [14:09:41] Yes, thank you very much,
24 Ms von Wistinghausen.

25 Yes, we are here today to deliver a summary of the judgment in this case.

1 The case relates to crimes against humanity and war crimes which took place between
2 August 2003 and March 2004, in Darfur, Sudan. The Sudan situation was referred to
3 the International Criminal Court by the UN Security Council, by its Resolution 1593,
4 on 31 March 2005. Whilst, as is well known, arrest warrants were issued for other
5 leading actors in that conflict in Darfur, none have been executed, so that the trial of
6 this accused, who surrendered himself in 2020, is the only one which has taken place.
7 The evidence given by the many innocent civilians, mainly from the Fur tribe, who
8 were victims of the grave and undisputed crimes, has revealed the suffering they
9 underwent at the time, which still continues today. This trial has for the first time
10 allowed them a voice with which to inform the world of what has happened to them
11 as a result of this conflict.

12 Moreover, it should not be forgotten that since April of 2023, another as yet
13 unresolved and under-reported armed conflict has visited yet further misery upon
14 the innocent citizens of Sudan.

15 What follows is a summary of the full judgment, intended to convey the main
16 findings made therein for the benefit of the Accused and for the public.

17 The judgment contains the Chamber's analysis of the evidence and its detailed
18 reasoning and is the only authoritative document.

19 I turn now to the background.

20 During the time relevant to the charges, a non-international armed conflict took place
21 between the Government of Sudan, using primarily a semi-regular force,
22 the Janjaweed, on the one side, and the Sudanese Liberation Movement/Army and
23 the Justice and Equality Movement on the others. Jointly I'm going to refer to them
24 as "the rebels" from hereon in.

25 Whilst the causes of the conflict went back many years, the catalyst for the outbreak of

1 concerted violence was an attack on the Al Fasher Airport by the rebels on
2 25 April 2003.

3 This led the Government of Sudan to decide to quash the rebellion by force. In
4 December 2003, the Government of Sudan issued an Emergency Plan designed to
5 achieve that objective and further to impose control over areas inhabited by, or
6 belonging to, perceived "rebellious" non-Arab tribes, which included the Fur,
7 the Masalit and the Zaghawa. I should pause for a moment, I apologise in advance
8 for any mispronunciation of some of the names in this case.

9 The Emergency Plan was encapsulated in a high level top secret document.

10 The political strategy elaborated therein by the National Security Council was based
11 on the understanding that the non-Arab tribes, in particular the Fur, Zaghawa, and
12 the Masalit, were leading the rebellion in Darfur and the objectives of the plan were to
13 restore security in the states of Darfur and end the rebellion through military and
14 security decisiveness, to fight the rebels, and to impose control over all the villages
15 and regions to which rebel leaders belong, and also the areas inhabited by
16 the rebellious tribes.

17 The Emergency Plan stated that this aim was to be achieved through the creation of
18 the semi-regular forces from Arab tribes, which were to be provided with training
19 and arms, assigned to a commander, and be assisted by the Sudanese Armed Forces,
20 with, and I quote, "fire support and air assets during military operations". In
21 addition, the plan stated that one of the purposes of creating these semi-regular forces
22 from the Arab tribes was to, and again I quote, "assassinate sympathisers from
23 amongst community leaders, the *umdahs*, and local administration officials".

24 This semi-regular force was known as the Janjaweed, although it was also referred to
25 by other names such as the Fursan, Arab militias, Bashmerga or Mujahidin. Other

1 semi-regular forces included the Popular Defence Forces, the PDF, the Central
2 Reserve Forces, the CRF, and the Popular Police Forces, the PPF.
3 The Chamber finds that it was this Emergency Plan which provided the blueprint for
4 the commission of the crimes which then took place.
5 Acting on Government of Sudan instructions, the Janjaweed carried out armed
6 operations against several predominantly Fur and non-Arab villages in Darfur.
7 Some of these operations were carried out jointly with the GoS Forces. And during
8 these operations, villages were pillaged and destroyed, civilians were murdered,
9 raped, persecuted, mistreated, and forcibly displaced.
10 Whilst many more villages were targeted, the operations charged in this case concern
11 Kodoom, Bindisi, Mukjar and Deleig. Particularly in Mukjar and Deleig, Fur men,
12 all of ages, who had fled with their families to Mukjar and Deleig from the ravaged
13 villages, were detained, tortured, and subsequently taken to areas outside the towns
14 where they were executed, by members of the Janjaweed together with Government
15 of Sudan forces.
16 I turn next to the Accused.
17 The Accused, Ali Muhammad Ali Abd-Al-Rahman, was born in Rahad Al-Berdi,
18 South Darfur, in 1949. He belongs to the Ta'aisha tribe, which is generally
19 considered to be an Arab tribe in Sudan. A major issue in the case was whether,
20 during the charged period, the Accused was the man known by the nickname
21 Ali Kushayb and, as such, was the leader of the Janjaweed forces.
22 The Accused is a former member of the Medical Corps of the Sudanese Armed Forces,
23 from which he retired in the early to mid-90s. A certificate from the Council of
24 Medical Assistance and Technical Professions of Sudan states that Ali Muhammad Ali
25 qualified as a medical assistant in 1984, and the highest rank held by the Accused

1 while in the Sudanese Armed Forces was that of a *musa'id*, in other words, a warrant
2 officer.

3 Upon his retirement from the Sudanese Armed Forces, the Accused lived for the main
4 part in Garsila, a town located in the Wadi Salih area of West Darfur. And he
5 opened a shop in Garsila market from which he sold medication.

6 And what clearly emerged from the evidence in this case is that the Accused was
7 a person of some renown, highly respected in the Wadi Salih area, even before
8 the conflict.

9 Sometime in 2004, after the events of this case, he became a member of the
10 Central Reserve Forces, the CRF, in which organisation it appears he remained until
11 shortly before his surrender to this court on 9 June 2020. That surrender came about
12 as a result of arrest warrants being issued, by the Pre-Trial Chamber as long ago, first
13 of all, as 2007, and then again in 2018.

14 The arrest warrants were issued in his legal name but also with the nickname
15 Ali Kushayb.

16 And so let me turn to that name, Ali Kushayb.

17 During the course of communications with the Prosecution for his surrender,
18 the Accused made a video recording, in which he clearly and unequivocally stated
19 "I am Ali Muhammad Ali Abd-Al-Rahman, and my nickname is Kushayb".

20 However, from the time of his arrival at this court, he denied that he was in fact
21 Ali Kushayb.

22 Accordingly, the Chamber heard from a number of witnesses who had known
23 the Accused well, either as friends, army colleagues, or because they were with him
24 during the period of the charged events. The Chamber also heard from witnesses
25 who had been to his pharmacy in Garsila and subsequently recognised him as both

1 present and taking part in the commission of the crimes charged.

2 The witnesses whom the Chamber found to be the most persuasive were those who
3 knew the full name of Ali Kushayb to be Ali Muhammad Ali Abd-Al-Rahman, or
4 a variant thereof; further, that they had a credible and reliable basis for their
5 knowledge of his name and nickname; and gave evidence of interacting with, and/or
6 seeing or being in the presence of Ali Kushayb during the charged period.

7 It is right to point out that a number of witnesses called by the Defence, who had
8 known the Accused in Rahad Al-Berdi, stated that they did not know him by that
9 nickname, nor had ever heard it applied to him.

10 The Chamber was unpersuaded by the evidence of the witnesses called by
11 the Defence and is satisfied that the Accused was the person known before and
12 during the period of the charges as Ali Kushayb.

13 I turn now to list the charges:

14 The Accused stood trial on 31 charges divided into the areas in which the crimes
15 occurred, namely:

16 First, Kodoom and Bindisi.

17 Count 1: Intentionally directing attacks against the civilian population as a war crime.

18 Count 2: Murder as a crime against humanity.

19 Count 3: Murder as a war crime.

20 Count 4: Pillaging as a war crime.

21 Count 5: Destruction of the property of an adversary, without military necessity, as
22 a war crime.

23 Count 6: Other inhumane acts as a crime against humanity.

24 Count 7: Outrages upon personal dignity as a war crime.

25 Count 8: Rape as a crime against humanity.

- 1 Count 9: Rape as a war crime.
- 2 Count 10: Forcible transfer as a crime against humanity.
- 3 Count 11: Persecution as a crime against humanity on political and ethnic grounds.
- 4 Mukjar.
- 5 Count 12: Torture as a crime against humanity.
- 6 Count 13: Torture as a war crime.
- 7 Count 14: Other inhumane acts as a crime against humanity.
- 8 Count 15: Cruel treatment as a war crime.
- 9 Count 16: Outrages upon personal dignity as a war crime.
- 10 Count 17: Murder as a crime against humanity.
- 11 Count 18: Murder as a war crime.
- 12 Count 19: Attempted murder as a crime against humanity.
- 13 Count 20: Attempted murder as a war crime.
- 14 Count 21: Persecution as a crime against humanity, on political, ethnic and gender
- 15 grounds.
- 16 As far as Deleig is concerned:
- 17 Count 22: Torture as a crime against humanity.
- 18 Count 23: Torture as a war crime.
- 19 Count 24: Other inhumane acts as a crime against humanity.
- 20 Count 25: Cruel treatment as a war crime.
- 21 Count 26: Outrages upon personal dignity as a war crime.
- 22 Count 27: Murder as a crime against humanity.
- 23 Count 28: Murder as a war crime.
- 24 Count 29: Attempted murder as a crime against humanity.
- 25 Count 30: Attempted murder as a war crime.

1 And Count 31: Persecution as a crime against humanity, on political, ethnic and
2 gender grounds.

3 Next, I turn to the formation and arming of the Janjaweed.

4 The Chamber finds that the mobilisation and arming of the Arab tribes started after
5 a meeting in September 2002. This meeting, which gathered members of all Arab
6 tribes in Darfur, was prompted by security violations and tribal conflicts and had,
7 among its objectives, to eradicate tensions, malpractices and direct or indirect causes
8 of security issues.

9 However, it was after the promulgation of the Emergency Plan that the Government
10 of Sudan, exploiting existing tribal tensions, used the Janjaweed to assist them in
11 countering the rebels. In the early stages of the conflict, the Janjaweed used camels,
12 horses, and donkeys as their mode of transport. But the Government of Sudan later
13 provided them with more military equipment and vehicles such as Land Cruisers and
14 trucks mounted with a gun, known as a DShK, on the back.

15 During the period of the charges, the Janjaweed received funding, training, such as it
16 was, and weapons from the Government of Sudan. Numerous witnesses spoke of
17 weapons distribution taking place in the Wadi Salih area during and after 2003.

18 Weapons and other military materiel were distributed on government premises,
19 including on the Sudanese Armed Forces premises, the CRF and the PDF bases.

20 Although in 2003, those were largely distributed by a man called Lieutenant Hamdi,
21 the head of intelligence in Mukjar, the Accused was also involved. On at least one

22 occasion shortly before the Kodoom/Bindisi operation, Minister Harun, then state
23 minister for the Ministry of the Interior, together with other senior army

24 Commanders, arrived at Mukjar in a helicopter and delivered weapons and funds for
25 the Janjaweed. Members of the Fur tribe were denied the weapons, as they were, on

1 each weapons distribution.

2 According to at least one witness, the reason for the Government of Sudan using
3 the Janjaweed was that they were not constrained by any of the rules and regulations
4 which applied to the regular Government of Sudan forces.

5 Next, the question of state policy.

6 The Chamber is satisfied that the attack against the civilian population mounted by
7 the Government of Sudan forces and other semi-regular forces, including
8 the Janjaweed, was part of a plan designed at the highest level of State and
9 encapsulated, as already mentioned, in the Emergency Plan adopted on

10 18 December 2003. That plan does show that the conflict had an ethnic dimension;
11 entire communities of the Fur, Zaghawa and Masalit tribes were to be targeted and
12 attacked, because their members were all perceived as associated with the rebels, and
13 thus as the enemy.

14 And as already stated, the Emergency Plan specifically stated that the project
15 included the assassination of sympathisers from amongst community leaders and
16 local administration officials. Such orders made no distinction between fighters and
17 civilians, who all seemed to be the target of the planned military operations. And
18 there can be no doubt that the execution of that plan would involve the commission of
19 crimes.

20 Moreover, the commencement of each of the criminal operations was preceded by
21 a visit to the relevant area from high-ranking Government of Sudan officials.

22 The evidence of the crimes shows that they came about within two distinct, but linked
23 phases. The first which culminated in the attacks on Kodoom and Bindisi took place
24 in August 2003. The second, involving the towns of Mukjar and Deleig, took place
25 in February, March 2004.

1 I start with Kodoom and Bindisi.

2 In early August 2003, the rebels mounted limited - in the sense of few casualties were
3 caused by these attacks - limited attacks on Bindisi and then Mukjar. One of
4 the results of those attacks was that the police stationed in Kodoom and Bindisi
5 withdrew to Mukjar. A few days later, the Accused arrived in Mukjar with a large
6 contingent of the Janjaweed.

7 On or around 9 August 2003, a Government of Sudan delegation arrived in Mukjar,
8 comprised of Minister Harun and other high-ranking officials. After a closed
9 meeting attended by the Accused, these officials held a public meeting attended
10 largely by members of the Janjaweed but also present were local citizens from the Fur
11 ethnic group. The Accused, standing near the minister, addressed the crowd saying
12 that he spoke, and I quote, "on behalf of the Janjaweed", and, further, "the Janjaweed
13 were there to defend the property of the government and that they were alongside
14 the armed forces".

15 The minister told the crowd to, as he put it, "wipe out and sweep away" - the words in
16 Arabic being "*amsah aksah*", which are words that figured very strongly through this
17 case - and "the Fur do not keep anybody alive", and said that the Fur and their money
18 were war booty or a "prize" for the Janjaweed. P-0903, a witness who was present at
19 the time and who is a member of the Fur tribe, interpreted Harun's statements as
20 "dangerous" and stated that he felt "afraid" and "immediately" left the place.

21 During this gathering, a Fur *sheikh* in the crowd urged the minister to stop
22 the Janjaweed from looting the houses and properties of the inhabitants of Mukjar.
23 P-878, who was also present, recalled the minister replying that the people of Mukjar
24 must return the property of the state that has been looted by their, as he said, their
25 "children", meaning in fact the rebels, and that if they did not return the property,

1 "you will be looted, you will be killed, you will be raped". After this speech, a joint
2 Janjaweed/Government of Sudan operation took place in villages to the north and east
3 of Mukjar, which were then burnt.

4 On 15 August 2003, a large, heavily armed contingent, estimated to be over a
5 thousand men, of the Janjaweed, led by the Accused and accompanied by a few
6 vehicles containing CRF personnel, set out towards Kodoom and Bindisi, which were
7 administrative regions situated in the Wadi Salih area. Their route took them via
8 the villages of Nyerli, Tiro, Merly, Drangal and Seder. Kodoom and Bindisi and
9 the other villages all had predominantly Fur populations and none had any kind of
10 rebel presence. In August 2003, approximately 1,600 families were residing in
11 Kodoom and approximately 1,800 in Bindisi. In both places, only some men
12 possessed basic weapons to protect their cattle.

13 Over the following two days, the Janjaweed swept through all these inhabited places.
14 Whilst only the attacks on Kodoom and Bindisi are charged in the present case,
15 the attacks on all the places took the same form. The Accused, when ordering
16 the Janjaweed to commence the attacks, accompanied those orders using chants like
17 "*Allahu Akbar*" and "*amsah aksah*". The Janjaweed fired at and chased away
18 the inhabitants, looted properties, taking livestock and household goods before
19 burning down houses.

20 A vivid description was provided by P-0012. He said, and I quote:

21 "There was a lot of fire. Ninety per cent of the homes in Bindisi are constructed
22 using local materials. They are wooden materials, flammable, so the entire town was
23 on fire. It was a terrifying situation. Smoke was coming up everywhere; it's
24 beyond words to describe this. After the attack it was a rabble of ashes. Corpses
25 scattered everywhere. It's the destruction that results from war. All that was left in

1 Bindisi were smithereens and ashes. During the attack there were senior people and
2 children, and it's difficult for such people to leave. Someone who's 90 years old
3 during the attack in not in a position to flee. So when war happens, you can imagine
4 what that person's fate is. This is what I saw with my own eyes in Bindisi." End
5 quote.

6 In both Kodoom and Bindisi, members of the Janjaweed shot and killed people.

7 Some people burned to death inside their homes. In Kodoom, P-29 recounted that
8 they, that's the Janjaweed, starting firing ammunition in the town and people started
9 running away and that the members of the Janjaweed were firing at the citizens.

10 P-986 explained that whenever the Janjaweed found anybody, they would shoot.

11 Those captured were beaten and mistreated and generally insulted.

12 An inevitable consequence of this eruption of violence was that women and girls who
13 were captured were raped, some jointly and several times. In Bindisi, P-11 and P-15
14 described how the Janjaweed acted together, some members undressed the women,
15 others threatened and held them down, whilst others penetrated them. Members of
16 the Janjaweed stripped the women of their clothes, using their own clothing to stuff
17 their mouthings to stop them from screaming. And moreover, in some instances,
18 the Janjaweed used their weapons or deployed violence upon the victims; for instance,
19 a girl resisting would be held down by two men, one on her legs, another on her chest,
20 so that the third man could penetrate her.

21 P-1073 was one of the women who was raped and described her ordeal:

22 "I was taken to a deserted residence alone. I was whipped and beaten down,
23 the beating was so severe that I got injured. After that I was taken to a room. My
24 hands were tied. [And] after I was raped in the same room, they took me by my
25 hand and took me out of the room and threw me out of the door."

1 P-1073 still suffers from long-term physical, social and physiological consequences,
2 particularly since she was only 15 years old when the Janjaweed raped her multiple
3 times.

4 Some women were penetrated out in the open and in front of others who witnessed
5 what was happening, including children. And the members of the Janjaweed forced
6 some of the women and children, at gunpoint, to watch as they committed these acts.

7 The further consequence of these attacks was that the inhabitants of Kodoom fled first
8 to the surrounding forest, valleys or nearby villages. Many of them could not return
9 to Kodoom after this attack because there was nothing left there, so they sought

10 refuge in Mukjar and elsewhere. The same happened to the inhabitants of Bindisi.

11 One of the more egregious actions carried out by the attacking forces was to send
12 a CRF member, who was known to the inhabitants of these villages, ahead of
13 the attacking convoy to falsely reassure the inhabitants of Kodoom and Bindisi that
14 they need not flee, as the Janjaweed were only coming to collect fodder for the horses
15 in Bindisi. And unfortunately for the survivors, Mukjar did not prove to be the place of
16 safety which they believed it to be.

17 There has been no dispute in this case that those who were the victims of crimes in
18 Kodoom and Bindisi were civilians. No fewer than 46 people were killed during
19 these attacks.

20 Despite the imprecision of the evidence tendered, the Chamber was able to identify
21 a number of victims. Rather than simply giving a number, the victims deserve that
22 some of the names are given public acknowledgement. These are but a few of the
23 persons killed during the attacks on Kodoom and Bindisi, and more are identified in
24 the judgment: Abdullah Hassan; Bakhit Ibrahim; Mohammed Ibrahim Muslim; Hasan
25 Muhammad Hasan; *Faqih* Umar Ya'qub, the imam of Kodoom Tineh mosque; Halima

1 Isa; Kony Harun; Mohammed Khamiss; Hussein, nicknamed "Jourgi"; and Adam
2 Suleiman.

3 I turn now to the crimes in Mukjar.

4 The population of Mukjar again was predominantly Fur. According to a UNHCR
5 report, there were around 1,800 households in Mukjar before 2003. But during
6 the events of 2003 and 2004, as a result of the forced displacement from other villages
7 and towns, this number increased to over 4,100.

8 Between August 2003 and February 2004, further attacks by the Janjaweed and
9 Government of Sudan forces took place not only in Kodoom and Bindisi, but on
10 the outskirts of Mukjar and other villages surrounding Mukjar, including Arada,
11 Tendy, Abirla, Dembow Kabdy, Kirarow, Sigigir, and Nyerli. This resulted in
12 the mass displacement of people living in those villages towards Mukjar and
13 the nearby mountains. Some displaced villagers had to live on the streets in Mukjar.

14 During the same period, military equipment and money were distributed to
15 the Janjaweed in Mukjar. The weapons were delivered at various locations,
16 including at the police station, where the Janjaweed would come to collect them.

17 Around February 2004, the Accused coordinated the onward distribution of weapons
18 to *umdaqs* of the Arab tribes and the Janjaweed at the SAF base in Garsila over
19 a period of two days. Although the SAF commander in Garsila oversaw
20 the distribution from a distance, the Accused was the one deciding who should
21 receive weapons, which included Kalashnikovs and machine guns.

22 On the last day of this weapons distribution, again a delegation of high-ranking GoS
23 officials, including Minister Harun, arrived by helicopter at the Garsila SAF base and
24 distributed money to the Janjaweed.

25 In early 2004, the Accused and the Janjaweed, together with the Government of Sudan

1 forces, left Garsila going towards Mukjar. Their route took them through
2 the villages of Arawala and Um Jameina. The villages were also looted and burned.
3 The contingent, including approximately 6,000 members of the Janjaweed, arrived at
4 Mukjar in late February 2004. They arrived in vehicles filled with military
5 equipment, as well as on camel and horseback, and had weapons, again, such as
6 Kalashnikovs, machine guns and DShKs. The Accused was also personally armed
7 with a Kalashnikov and an axe.

8 After some days, a contingent comprising the Janjaweed and the Government of
9 Sudan forces, led by the Accused, attacked various locations between Mukjar and
10 Sindu in a joint operation, the purpose of which was to destroy a rebel stronghold in
11 Sindu. Before leaving, at Mukjar police station, the Accused held a meeting with
12 high-ranking officials. And during that meeting, the Accused told the police chief
13 that anyone coming from the direction of Sindu to Mukjar must be registered and
14 detained until their return from the operation.

15 The Sindu operation was successful and a few days later the Accused and his forces
16 returned to Mukjar, attacking various villages on the way. After arriving in Mukjar,
17 the Janjaweed looted and burned down the houses, before most of them left the town.
18 Checkpoints had already been set up in and around Mukjar in February and
19 continued in March 2004. They were manned by members of the Janjaweed and
20 the Government of Sudan forces and intended to control the arrival of people who
21 were fleeing the previous attacks on the surrounding villages.

22 People were stopped and searched at the checkpoints. Men were separated from
23 women and children, systematically arrested, taken to the police station and its prison.
24 Young men in particular were searched for weapons or physical signs that they had
25 carried weapons. Community leaders from Mukjar and the surrounding areas, such

1 as the *umdahs* and *sheikhs*, were arrested. These community leaders were detained
2 immediately without being questioned. Sometimes children were arrested and
3 detained. At the checkpoints, the internally displaced people from surrounding
4 villages were often accused of being rebels. Terms such as "*tora bora*", "*nujus*" and
5 "criminals" were used by the people manning the checkpoints, all of which being
6 terms of abuse. And around 400, again predominantly Fur, people were arrested
7 during this period.

8 During the same period, the Janjaweed and the Sudanese forces conducted
9 house-to-house searches and arrested people in their homes, the market and other
10 places. Indeed, the Accused personally arrested a Fur man on about 1 March 2004.
11 When four policemen of Fur ethnicity were brought to and detained at the police
12 station, the Accused was standing in front of the door of the detention room and was
13 heard saying "tomorrow we will show you who you are, and who we are".

14 Following these systematic arrests, at least 100 men and boys, predominantly from
15 the Fur tribe, were taken to and detained at Mukjar police station. Again,
16 the detainees, who came from different villages, included a number of *sheikhs* and
17 *umdahs*, two examples being *Umdah* Yahya Ahmad Zarruq and *Umdah* Issa Harun
18 Nour. They were held in several rooms or cells, including the prison, the police
19 presidency and headquarters.

20 The detention cells were overcrowded, dirty and hot. There was no place to lie
21 down or move around. Whenever new detainees were brought in, they would be
22 pushed into the cell, so that people were actually positioned on top of each other.
23 The detainees were scared, hungry, thirsty and tired. They had limited or no access
24 to a toilet or other sanitary facilities and were forced to urinate and defecate in
25 the overcrowded cells. They were given little to no food or water and were not

1 provided with any kind of medical treatment.

2 Again, Minister Harun visited Mukjar on or around 1 March of 2004. He gave
3 a speech in which he saluted the Government of Sudan forces and thanked
4 the Janjaweed. He told them "you did a good job chasing away the rebels and
5 cleaning the area". He also visited the police station at Mukjar and, during his visit,
6 the detainees were ordered to leave their cell and stand outside between
7 the roundabout and the cell, where government officials had gathered. The Accused
8 was heard telling Harun, "These people are rebels. We arrested them with their
9 *umdahs*". They were photographed, the detainees, and filmed by a cameraman,
10 while other government officials again called them *tora bora* and accused them of
11 being rebels. And Harun was heard telling the detainees "today and tonight I am
12 going to destroy you all".

13 Over the course of at least two days, the Accused, as well as the Janjaweed, the police,
14 and CRF personnel, entered the cells and physically and verbally abused
15 the detainees. The Accused introduced himself as Ali Kushayb and as the leader of
16 the Janjaweed. He proceeded to hit the detained *umdahs* and *sheikhs*, as well as other
17 detainees with his axe. In particular, he hit *Umdah* Yahya Ahmad Zarruq on
18 the shoulder, thereby breaking it, whilst threatening to kill him. On other detainees,
19 the Accused used a whip.

20 Again, while hitting them, the Accused hurled derogatory terms at them, such as
21 slaves, *magus*, *tora bora* and rebels. And again the Janjaweed, the police, CRF
22 personnel also beat detained persons at the police station. All were beaten, without
23 exception. Some with sticks, others with some kind of whip. The detainees fell
24 over each other in their attempts to escape the beating. And at least one witness still
25 bore the scar from the beating when he gave evidence. The assaults were not limited

1 to beatings, one detainee was burnt with an iron, another had what felt like hot plastic
2 thrown at him and other men had their ears cut off.

3 Due to the appalling conditions of detention and the abuse inflicted by the Janjaweed
4 and the Government of Sudan forces, many detainees suffered physical harm and at
5 least three died as a result of their injuries.

6 The culmination of these events in Mukjar were the summary executions. On or
7 around 2 March of 2004, several officials and officers held a meeting at the police
8 station compound, Lieutenant Hamdi and the Accused were both present.

9 During the meeting, the Accused was heard to say that he wanted all the displaced
10 persons in Mukjar dead, and when there was an objection to the effect that they
11 should not kill these who came down from the mountains to surrender, the Accused
12 was heard answering, "I can communicate directly with the minister. Who are you
13 to tell me this? I would only waste one bullet to get rid of you."

14 Thereafter, the Accused, accompanied by members of the Janjaweed and Government
15 of Sudan forces, went to the cells and ordered a number of the detainees to be taken
16 out. He hit several of them with his axe as they were exiting the cell, including
17 *Umdah* Yahya Zarruq and *Umdah* Issa Harun Nour. At least 52 people were loaded
18 into several vehicles.

19 The Janjaweed and the GoS Forces continued beating and insulting the detainees,
20 including the *umdahs*, throughout the journey. The convoy travelled approximately
21 1 kilometre or about 10 minutes before making a first stop at a place called *Khor*
22 *Talaba*. After the vehicles stopped, the Accused ordered some of the detainees to get
23 out of the vehicles.

24 He then ordered the detainees to lie down in a line and then instructed the Janjaweed
25 and the Government of Sudan forces to shoot and kill detainees. The Janjaweed and

1 Government of Sudan forces started shooting. It lasted approximately 20 minutes.

2 Thereafter, the convoy moved to a second site near Nyerli and the remainder of
3 the detainees were shot. After the shooting, the executioners walked over
4 the bodies.

5 No fewer than 50 people were executed at these sites.

6 There has been no dispute in this case that the men detained and/or later executed
7 were civilians.

8 The following persons were amongst those killed outside of Mukjar: Mohammed
9 Abdelkarim; Abdu Mini; Hassan Abdalla; Ibrahim Muhammad Ali Ballut; Adel Bady;
10 Yusuf Muhajer; Adam Mohamed Babay; *Umdah* Yahya Ahmad Zarruq; *Umdah* Adam
11 Husayn Abdelmahmoud; and *Umdah* Issa Harun Nour.

12 Finally, I turn to the crimes in Deleig.

13 At the time of the events between 5 and 7 March 2004, the town of Deleig was located
14 in the Wadi Salih locality. It's approximately 17 kilometres north-east of Garsila and
15 was predominantly Fur. By early March 2004, there were more than 16,000
16 internally displaced persons living in Deleig.

17 And following the Sindu and Mukjar operations in February and March of 2004,
18 the forces which conducted them had returned to Garsila. And around this time,
19 many people who were suspected of being connected with the rebels were arrested
20 and detained at the Garsila SAF base. The Accused issued the orders for people to
21 be arrested and provided the intelligence to the SAF on suspected insurgents, which
22 led to these arrests. He also personally brought some detainees to the Garsila SAF
23 base.

24 Those detained again included community leaders, ordinary citizens, policemen from
25 the Fur community, officials, civil servants, secretaries, administrative officers and

1 tradesmen. Amongst the leaders were a number of *umdahs*, *sheikhs* and a man called
2 Jenif, the PDF coordinator in Garsila. *Umdahs* Kindiri, Khamis and Jenif, having
3 been interviewed, were released. And the three men fled to Deleig to join their
4 families.

5 Around early March of 2004, a delegation of high-ranking officers arrived at Garsila
6 SAF base by helicopter. The Accused often accompanied the delegation during its
7 stay. And thereafter, the same force which had taken part in the Mukjar operation,
8 namely members of the SAF and Janjaweed, deployed to Deleig. Between the late
9 evening of Thursday, 4 March 2004 and the early morning of Friday, 5 March, armed
10 Janjaweed and Government of Sudan forces surrounded and then entered Deleig.

11 Following an identical pattern of events as Mukjar, checkpoints were set up,
12 house-to-house searches took place. During the operation, the Janjaweed and
13 GoS Forces arrested predominantly Fur men and boys from the streets, outside
14 mosques, and from houses. Arrested without interrogation or explanation. Others
15 were questioned about where they came from, their affiliation with the rebels, and
16 the whereabouts of weapons, prior to being arrested. The Janjaweed accused the Fur
17 people of being *tora bora* and used further denigrating language when addressing
18 them, referring to them as *abid*, meaning slave, and *himar*, meaning donkey, which is
19 a particularly demeaning insult in the region. The Janjaweed also threatened, beat,
20 kicked and hit with sticks and rifle butts both men and women while executing
21 the search and arrest operation.

22 Those arrested, all of them men, were taken to the Deleig police station. Some were
23 taken in vehicles; others were taken by armed Janjaweed and GoS Forces on foot and
24 horseback. They kicked and beat some of the detainees en route to the police station,
25 using whips and wooden sticks. *Umdah* Kindiri was personally arrested by

1 the Accused.

2 From around 7 a.m. on 5 March, the Janjaweed and the Government of Sudan forces
3 detained the arrested men and boys, aged from about 13 to over 60, in a large,
4 unfenced area outside Deleig police station. On their arrival at the police station, or
5 soon thereafter, the detainees were ordered to lie face down on the ground in
6 systematic rows. They were not permitted to raise their heads or look to either side.
7 All appeared to be wearing civilian clothes, some had their hands bound behind their
8 back. Numerous members of the Janjaweed and the Government of Sudan forces
9 surrounded the detainees, keeping them under close guard. At least 100 detainees
10 were detained outside the police station.

11 The Accused arrived there at sometime before 1 o'clock in the afternoon. It was a hot
12 day, and the detainees were forced to lie on the ground in the sun for several hours.
13 They received no food or water and were denied all requests, including access to
14 a toilet. Whilst they were lying on the ground, the Janjaweed walked on their backs,
15 stamped on them and hit them with fists, whips and sticks. And the Accused
16 personally stepped on them and struck them with what was described as a stick-like
17 object, almost certainly his axe.

18 Sometime later that day, he stood at the entrance of the detention room where Jenif
19 was held. After questioning him briefly, the Accused told a police officer to get him
20 out of the detention room. When the cell was opened, Jenif came out and
21 the Accused hit him with his axe three times on the side of his head. He fell to the
22 ground, bleeding very heavily from his nose, mouth and the wounds on his head.
23 Jenif died some 10 minutes later. The Accused then told the first sergeant at the
24 station to lift him and throw him outside.

25 Adam Adam Abd-Al-Rahman, the *sheikh* of Massa, also known as *Sheikh* Motor, was

1 brought to the police station with a group of about six or seven people. After asking
2 who he was, the Accused then struck *Sheikh* Motor in the head with the same axe that
3 he had used to hit Jenif, causing *Sheikh* Motor to fall to the ground. The Accused
4 instructed his men from the Janjaweed to throw *Sheikh* Motor in the back of a vehicle.
5 He died as well as a result of being struck by the Accused.

6 Events in Deleig culminated in an identical fashion to those a few days earlier in
7 Mukjar. Whilst the sequence of events is not entirely clear, they began in the late
8 afternoon of 5 March. The Accused instructed his men to load the detainees onto
9 waiting Land Cruisers. The Janjaweed and the GoS Forces shoved them forcefully
10 onto the open backs of at least two Land Cruisers while beating them. And they
11 were packed tightly in the open backs of the vehicles. The Accused supervised
12 the process, counting the number of men being loaded onto the vehicles until the
13 capacity of each vehicle was reached. One of the vehicles contained a man named
14 Issa Harun and his son, aged 13 or 14. The vehicles drove away, returned sometime
15 later empty and the process was repeated on a number of occasions. The following
16 day, over 40 bodies, including that of Issa Harun, were found in an area near
17 the Tolda mountain -- near Tolda, a mountain just south of Deleig, and it was clear
18 that they had been shot.

19 On the same afternoon, 5 March, a convoy of approximately 13 Land Cruisers
20 departed from the police station, collectively carrying between 70 to 80 detainees.
21 The convoy stopped in an area identified by the Accused, near a village called Fere.
22 The Accused then issued instructions for the detainees to be taken off the vehicles.
23 They were then made to lie on their stomachs on the ground in a line, the Accused
24 issued instructions for the convoy to, as he put it, "execute the instructions" and
25 members of the convoy shot dead all of the detainees present. Following the killings,

1 the bodies were left on the ground. No one survived.

2 At roughly the same time, at least two vehicles transported at least 40 to 45 detainees
3 from Deleig police station towards an area called Koska. At that stage one of
4 the detainees escaped by jumping out of the open back of the vehicle. On arrival,
5 the Janjaweed and Government of Sudan forces removed the detainees from
6 the vehicles and told them to lie on their stomachs on the ground. They then
7 threatened to kill them if they did not tell them about people carrying weapons.
8 The response from the detainees was that they did not see or hear of anyone carrying
9 weapons.

10 Surrounding the prone detainees, the Janjaweed and GoS Forces started shooting
11 them, then they stopped and then they resumed shooting. Most were shot in the
12 head, some in the shoulder, while at least two were shot in the abdomen area. After
13 the shooting had ceased, the Janjaweed and the Government of Sudan forces started
14 smoking and chatting. They checked that the detainees were dead, shooting those
15 who were not. In fact three men managed to survive, one uninjured, two with grave
16 injuries and one of those two later died. The bodies later found there and identified
17 included those of two young boys.

18 This was not the end. Detainees still remained at the police station and the beatings
19 and assaults continued. On the morning of 7 March, several detainees, including
20 *umdahs* and community leaders, were removed from the cell inside Deleig police
21 station and placed on the open back of a khaki-coloured vehicle similar to ones which
22 had been used two days earlier. The vehicle and its occupants were seen by several
23 witnesses in the Deleig area. And in the days that followed, word spread amongst
24 the local population that the community leaders had been killed near Fere. These
25 men have never been seen again.

1 There has been no dispute -- there has been no dispute in this case that the men
2 detained and/or later executed were civilians or, at the very least, *hors de combat*.

3 The following persons were amongst those killed at Deleig police station and outside
4 of Deleig: Adam Abd-Al-Rahman, nicknamed Jenif; Abdallah Mussa; Issa Harun and
5 his son; Abu Bakar Suleiman Abakar and Zakaria Abdelmawla Abakar, both of
6 whom were no more than 12 or 13 years old; *Umdah* Jiddo Khamis Abd-Al-Karim;
7 *Umdah* Mohamed Suleiman Abdulshafa; *Umdah* Adam Adam Degges Ahmed
8 Abdulshafa; and *Sheikh* Ismail Abdulaziz.

9 Finally, I turn to the role and responsibility of the Accused.

10 As already stated, the Chamber is convinced beyond a reasonable doubt that
11 the Accused was the man who bore the nickname Ali Kushayb, and the crimes that I
12 have just described demonstrate the role that he played in those crimes.

13 But there is additional evidence which establishes his position and influence:

14 (i) His relationship with the leadership of the Government of Sudan, in particular,
15 Minister Harun. Before each of the attacks, Minister Harun and/or other top level
16 military and civilian leaders arrived in the Wadi Salih area and held meetings
17 attended by the Accused. The Accused himself explained on more than one occasion
18 that his instructions came from the top and only took instructions from Harun and
19 Hussein;

20 (ii) His relationship with leaders at the more local level, such as the commissioners of
21 Garsila, the head of the CRF in Mukjar, and in particular Lieutenant Hamdi, the head
22 of the military intelligence branch in Garsila;

23 (iii) The fact that many people believed that he was an *agid al-ogada*, translated as
24 a colonel of colonels, but a senior tribal leadership position;

25 (iv) His role in the recruitment of and distribution of military materiel to the members

1 of the Janjaweed and as importantly the fact that he exercised authority and control
2 over those who were known to be his deputies as well as the rank and file in the
3 Janjaweed who were heard to address him as "Commander Ali";

4 (v) And indeed there was public recognition of his role, a Government of Sudan
5 report referred to him as "Commander of the 'Al Fursan'", In other words,
6 the Janjaweed.

7 As demonstrated by the facts relating to the crimes, the Accused played an active role
8 in their commission. He encouraged and gave instructions that resulted in
9 the killings, the rapes and destruction committed by the Janjaweed in Kodoom and
10 Bindisi, mainly by the exhortations which accompanied his orders to "wipe out and
11 sweep away" or "God is great" - "*Allahu Akbar*" - and the words "don't leave anyone
12 behind and bring no one alive". When one brave man objected to what was
13 happening, the Accused told him to leave.

14 In the crimes committed in Mukjar and Deleig, the Accused was not only giving
15 orders for the arrests and subsequent incarceration of those arrested, but was
16 personally involved in the beatings and later was physically present and giving
17 orders for the execution of those detained.

18 Accordingly, the Accused is convinced that -- the Chamber is convinced that
19 the Accused is guilty beyond reasonable doubt of the crimes with which he has been
20 charged. Its verdicts are unanimous.

21 Stand up, please, Ali Muhammad Ali Abd-Al-Rahman.

22 The Chamber's verdicts are as follows:

23 For the war crime of attack against a civilian population, Count 1, under
24 Articles 8(2)(e)(i) and 25(3)(b) of the Statute, committed during the Kodoom and
25 Bindisi operation: Guilty.

1 For the war crime of pillaging, Count 4, under the relevant articles and committed
2 during the Kodoom and Bindisi operation: Guilty.

3 For the war crime of destroying the enemy's property, Count 5, under the relevant
4 articles of the Statute, again committed during the Kodoom and Bindisi operation:
5 Guilty.

6 For the crime against humanity of other inhumane acts, Count 6, under the relevant
7 articles of the Statute, committed during the Kodoom and Bindisi operation: Guilty.

8 For the war crime of outrages upon personal dignity, Counts 7, 16 and 26, under the
9 relevant articles of the Statute, again committed during the Kodoom and Bindisi,
10 Mukjar and Deleig operations: Guilty.

11 For rape as a crime against humanity and a war crime, Counts 8 and 9, under
12 the relevant articles, committed during the Kodoom and Bindisi operation: guilty.

13 For the crime against humanity of forcible transfer of population, Count 10,
14 committed during Kodoom and Bindisi: Guilty.

15 For torture as a crime against humanity and a war crime, Counts 12 and 13 and 22
16 and 23, under the relevant articles of the Statute, committed during the Mukjar and
17 Deleig operations: Guilty.

18 For murder (and attempted murder) as a crime against humanity and a war crime,
19 Counts 2 to 3, 17 to 20, 27 to 30, under the relevant articles, committed during
20 the Kodoom and Bindisi, Mukjar and Deleig operations: Guilty.

21 For the crime against humanity of persecution, Counts 11, 21 and 31, under
22 the relevant articles of the Statute: on political and ethnic grounds during Kodoom
23 and Bindisi, and on political, ethnic and gender grounds during Mukjar and Deleig:
24 Guilty.

25 In respect of the charges under Counts 14 and 24, for the crime against humanity of

1 other inhumane acts, and the charges under Counts 15 and 25, for the war crime of
2 cruel treatment, the Chamber concluded that cumulative conviction was
3 impermissible and therefore did not pronounce a guilty verdict.

4 The Accused may sit down.

5 An order will be issued today which will deal with the procedure to be followed upon
6 sentence.

7 And that concludes today's hearing.

8 THE COURT USHER: [15:18:58] All rise.

9 (The hearing ends in open session at 3.19 p.m.)