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PRE-TRIAL CHAMBER II

Before: Judge Rosario Salvatore Aitala, Presiding Judge
Judge Antoine Kesia-Mbe Mindua
Judge Tomoko Akane

SITUATION IN DARFUR, SUDAN

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

Public

With Confidential Annexes A1 – A13

**Public Redacted Version of “Prosecution’s Pre-Confirmation Brief”, 16 April 2021,
ICC-02/05-01/20-346-Conf-AnxA**

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A. INTRODUCTION

1. Ali Muhammad Ali **ABD-AL-RAHMAN**, also known as Ali KUSHAYB (“**ABD-AL-RAHMAN**”),¹ was born on or about 15 October 1949 in Rahad al-Berdi, South Darfur, the Republic of the Sudan (“Sudan”).² He is a national of Sudan. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, West Darfur State (“West Darfur”), Sudan.³ This pre-confirmation brief (“PCB”) sets out the evidence that demonstrates there are substantial grounds to believe that **ABD-AL-RAHMAN** committed the crimes contained in the Document Containing the Charges (“DCC”).⁴

B. CONTEXTUAL ELEMENTS OF ARTICLE 7 AND ARTICLE 8

1) Background

2. In 2003 and 2004, Darfur was divided into three states: North, South and West Darfur.⁵ Each state was divided into localities.⁶ As at 1999, West Darfur had a population of more than 1.7 million. Together the Fur and Masalit comprised the majority of the population of West Darfur,⁷ and the Arab tribes included the Rizeigat, Beni Halba, Misseriya and Salamat.⁸ Between August 2003 and April 2004, the political leadership structure in West Darfur included a State Governor in Al Geneina, and a Commissioner within each locality. Between August 2003 and April 2004, Suleiman ABDULLAH ADAM was the Governor of West Darfur.⁹ Ja’afar ABD-AL-HAKAM (“ABD-AL-HAKAM”) was the Commissioner of Garsila in the Wadi Salih Locality, and Abdullah Al-Tayyib Muhammad TORSHEIN (“TORSHEIN”) was the Commissioner of Mukjar in the Mukjar Locality.¹⁰

3. The traditional leadership structure of Arab and non-Arab tribes in West Darfur generally included civilian leaders called *sheikhs*, *umdahs*, *shartays* and *nazirs*, as well as, in

¹ ICC-02/05-01/20-224. See also [DAR-OTP-0219-2586](#) at 2587; P-0878, [DAR-OTP-0215-9919-R01](#) at 9932 and 9935 (Arabic original at [DAR-OTP-0217-0334-R01](#)); P-0878, [DAR-OTP-0219-3062-R01](#) at 3065, para. 12; P-0905, [DAR-OTP-0219-1321-R01](#) at 1343, l. 720-728; P-0921, [DAR-OTP-0219-3146-R01](#) at 3152, l. 186-187; P-0912, [DAR-OTP-0219-0093-R01](#) at 0104, para 52.

² See Agreed Fact 1, ICC-02/05-01/20-343-AnxA.

³ See Agreed Facts 2-4, ICC-02/05-01/20-343-AnxA.

⁴ ICC-02/05-01/20-325-Conf-Anx1-Corr.

⁵ [DAR-OTP-0018-0010](#) at 0023, para. 51. In January 2012, two new states Central and Eastern Darfur were established. See [DAR-OTP-0209-0196](#) at 0205.

⁶ West Darfur Planning Map, Agreed Fact, ICC-02/05-01/20-353, para. 3; ICC-02/05-01/20-343-AnxB; [DAR-OTP-0219-3235](#) (“West Darfur Planning Map”). See also Annex A1 (Locations of Charged Crimes committed in Wadi Salih and Mukjar Localities 2003-2004).

⁷ [DAR-OTP-0003-0099](#) at 0106.

⁸ [DAR-OTP-0145-0237](#) at 0277; P-0643, [DAR-OTP-0215-0358-R01](#) at 0383, l. 843-858; P-0905, [DAR-OTP-0219-0938-R01](#) at 0972-0973, l. 1154-1184.

⁹ [DAR-OTP-0139-0033](#) at 0040; P-0044, [DAR-OTP-0095-0049-R01](#) at 0075, para. 122.

¹⁰ P-0041, [DAR-OTP-0206-0033-R01](#) at 0037, para. 16; P-0188, [DAR-OTP-0216-0060-R02](#) at 0072, para. 71.

Arab tribes, *emirs* and military leaders called *agids*.¹¹ The *sheikh* served as the administrator of villages and collected taxes that would be sent to the *umdah* who paid the locality.¹² The *umdah* represented a larger area of multiple villages, with the authority to resolve conflicts between the tribes.¹³ The *shartay* served as the chief of the *umdahs* and was also in charge of solving tribal conflicts.¹⁴

4. The *nazir* and *emir* were the heads of the other tribal leaders¹⁵ and served as the liaison with officials of the Government of Sudan (“GoS”).¹⁶ In 2003 and 2004, Hussein AL-HILU was the *emir* for all Arab tribes in Wadi Salih.¹⁷ The *agids* were the military leaders in Arab tribes¹⁸ and were responsible for commanding, mobilising, equipping and training fighters.¹⁹ The head of all the other *agids* within a particular area was called the *agid al-ogada*.²⁰ Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was the *agid al-ogada* in the Wadi Salih and Mukjar Localities.²¹

2) Contextual elements of article 8 (War crimes)

5. From at least April 2003 until at least April 2004, an armed conflict not of an international character was ongoing in Sudan, including Darfur.²² An armed conflict not of an international character exists in case of “protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.”²³

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

Parties to the armed conflict

¹¹ P-0092, [DAR-OTP-0112-0175-R01](#) at 0179, para. 13; P-0643, [DAR-OTP-0215-0440-R01](#) at 0441, l. 34-35, and [DAR-OTP-0215-0546-R01](#) at 0054-0056, l. 250-314. Alternative spellings of *agid* include *aqid* and *akid*.

¹² P-0044, [DAR-OTP-0095-0049-R01](#) at 0055, para. 26.

¹³ P-0044, [DAR-OTP-0095-0049-R01](#) at 0055, paras. 29-30.

¹⁴ P-0044, [DAR-OTP-0095-0049-R01](#) at 0056, para. 34; P-0884, [DAR-OTP-0216-0503-R01](#) at 0507, para. 20.

¹⁵ P-0040, [DAR-OTP-0094-0165-R01](#) at 0171, para. 31; P-0905, [DAR-OTP-0219-1256-R01](#) at 1289, l. 1117-1134; P-0092, [DAR-OTP-0112-0175-R01](#) at 0179, para. 13.

¹⁶ P-0092, [DAR-OTP-0112-0175-R01](#) at 0179 para. 16; P-0083, [DAR-OTP-0110-0002-R01](#) at 0027-0028, paras. 99-100.

¹⁷ P-0643, [DAR-OTP-0215-0546-R01](#) at 0554-0555, l. 250-282; P-0905, [DAR-OTP-0219-1256-R01](#) at 1288-1290, l. 1082-1160; P-0059, [DAR-OTP-0095-0095-R01](#) at 0099, para. 22; P-0129, [DAR-OTP-0128-0128-R03](#) at 0134, para. 24; P-0585, [DAR-OTP-0201-0037-R01](#) at 0044, para. 26; P-0041, [DAR-OTP-0206-0033-R01](#) at 0040, para. 25.

¹⁸ P-0643, [DAR-OTP-0215-0440-R01](#) at 0441, l. 34-35; P-0884, [DAR-OTP-0216-0503-R01](#) at 0514, para. 54.

¹⁹ P-0083, [DAR-OTP-0110-0002-R01](#) at 0031, para. 114; P-0040, [DAR-OTP-0094-0165-R01](#) at 0171, para. 32.

²⁰ P-0643, [DAR-OTP-0215-0440-R01](#) at 0442-0443, l. 47-73.

²¹ See below, paras. 59-64.

²² Agreed Fact 1, ICC-02/05-01/20-291-AnxA; [DAR-OTP-0018-0010](#) at 0025-0030, paras. 61-76; [DAR-OTP-0080-0024](#).

²³ ICC-01/04-02/06-2359, para. 701; ICC-02/04-01/15-1762-Red, para. 2683.

6. At all material times, the parties to the armed conflict in Darfur, Sudan were the GoS on one side and rebel armed groups on the other side.²⁴ The two main rebel armed groups opposing the GoS in Darfur were the Sudan Liberation Movement/Army (“SLM/A”) and the Justice and Equality Movement (“JEM”).²⁵

Government of Sudan forces

7. The GoS forces included the Sudanese Armed Forces, also known as the Sudanese People’s Armed Forces (“SAF”), the Popular Defence Forces (“PDF”), the Central Reserve Forces (“CRF”), the Popular Police Forces (“PPF”), and the Sudanese Police (“Police”) (together, the “GoS Forces”).²⁶

8. The SAF were the official armed forces of Sudan.²⁷ The SAF included the Military Intelligence Branch.²⁸ As conventional armed forces, the SAF had a hierarchical chain of command.²⁹ President Omar Hassan Ahmad AL-BASHIR (“AL-BASHIR”)³⁰ was the supreme commander of the SAF³¹ and the headquarters were in Khartoum.³²

9. The Western Area Command of the SAF, responsible for all of Darfur, was located in Al Fasher, North Darfur, under the command of Major General Ismat Abd-Al-Rahman Zein-Al-Abidin (“Major General ISMAT”).³³ Relevant units included the 6th Division, its 96th Brigade based in Zalingei, West Darfur³⁴ and its Garsila Battalion under the command of Major Muhammad Musa Adam Khatir BAKHIT (“Major BAKHIT”).³⁵ The Garsila Battalion was divided into companies and regiments based in locations including Garsila, Mukjar, Bindisi,

²⁴ Agreed Fact 2, ICC-02/05-01/20-291-AnxA.

²⁵ Agreed Facts 3-4, ICC-02/05-01/20-291-AnxA; [DAR-OTP-0018-0010](#) at 0029-0043, paras. 75-141; [DAR-OTP-0005-0308](#).

²⁶ [DAR-OTP-0018-0010](#) at 0029-0043, paras. 75-141; P-0117, [DAR-OTP-0128-0042-R01](#) at 0057-0066, paras. 87-150; P-0290, [DAR-OTP-0160-0471-R01](#) at 0537-0542, l. 2191-2359.

²⁷ [DAR-OTP-0139-0003](#) at 0026; [DAR-OTP-0103-0564](#) (Translation at [DAR-OTP-0118-0075](#)). See also Agreed Fact 9, ICC-02/05-01/20-291-AnxA.

²⁸ P-0117, [DAR-OTP-0128-0042-R01](#) at 0060, para. 105; P-0769, [DAR-OTP-0212-0018-R01](#) at 0027, para. 78; P-0883, [DAR-OTP-0218-0059-R01](#) at 0062, para. 18 and 0101, para. 224.

²⁹ [DAR-OTP-0139-0003](#) at 0009 and 0026; [DAR-OTP-0103-0564](#) (Translation at [DAR-OTP-0118-0075](#)).

³⁰ See Agreed Fact 5, ICC-02/05-01/20-343-AnxA.

³¹ [DAR-OTP-0118-0075](#) at 0084.

³² P-0118, [DAR-OTP-0125-0665-R01](#) at 0698-0699, paras. 160-164; P-0034, [DAR-OTP-0118-0002-R01](#) at 0017, para. 78.

³³ [DAR-OTP-0030-0343](#) at 0343; [DAR-OTP-0037-0025](#) at 0025. See also P-0034, [DAR-OTP-0118-0002-R01](#) at 0017, para. 77.

³⁴ P-0290, [DAR-OTP-0160-0471-R01](#) at 0495, l. 775-799; P-0103, [DAR-OTP-0107-0627-R01](#) at 0627; P-0103, [DAR-OTP-0120-0203-R01](#) at 0218, l. 583-585; P-0110, [DAR-OTP-0119-0048](#) at 0056, para. 38; P-0547, [DAR-OTP-0200-0017-R01](#) at 0046-0047, para. 86; P-0883, [DAR-OTP-0218-0059-R01](#) at 0100-0101, paras. 220-222; [DAR-OTP-0014-0187](#) at 0188.

³⁵ P-0883, [DAR-OTP-0218-0059-R01](#) at 0062, para. 18; P-0643, [DAR-OTP-0215-0417-R01](#) at 0438, l. 729.

Deleig and Arawala.³⁶

10. The PDF (*Al-Difa' Al-Sha'bi*), created pursuant to the Popular Defence Forces Act in 1989, were “[p]aramilitary forces” that were “assisting the armed forces and other regular forces when required.”³⁷ The general coordinator of the PDF was appointed by, and reported directly to, AL-BASHIR.³⁸ For operational and logistical purposes, PDF members were integrated into the SAF.³⁹

11. The CRF (*Al-Ihtiyati Al-Markazi*) were a reserve force originally created in 1970 to assist the Police, including with countering riots, combating tribal conflicts, and pursuing armed gangs.⁴⁰ The PPF (*Al-Shurta Al-Sha'bia*), established in 1990,⁴¹ were the reserve force of local citizens raised to augment the regular police.⁴² The Police were a regular national force for the protection of public order.⁴³ The CRF,⁴⁴ PPF⁴⁵ and Police⁴⁶ were all part of the Ministry of the Interior.

12. Militia/*Janjaweed*, also known as *Fursan*, *Bashmerga* or *Mujahidin*,⁴⁷ fought in the armed conflict on the GoS side.⁴⁸ Certain Militia/*Janjaweed* members were integrated into the GoS Forces, including the PDF, and received weapons and military training.⁴⁹

Organisation requirement concerning rebel armed groups

³⁶ P-0883, [DAR-OTP-0218-0059-R01](#) at 0101, para. 222.

³⁷ [DAR-OTP-0123-0426](#) at 0428; [DAR-OTP-0116-0889](#); [DAR-OTP-0139-0003](#) at 0027; P-0118, [DAR-OTP-0125-0665-R01](#) at 0707, paras. 200-203. See also P-0883, [DAR-OTP-0218-0059-R01](#) at 0101-0102, paras. 227-228; P-0091, [DAR-OTP-0112-0142-R02](#) at 0146, para. 17.

³⁸ [DAR-OTP-0123-0426](#) at 0427-0428; P-0769, [DAR-OTP-0212-0296-R01](#) at 0318, para. 174.

³⁹ [DAR-OTP-0018-0010](#) at 0031, para. 83; P-0118, [DAR-OTP-0125-0665-R01](#) at 0707, para. 201; P-0117, [DAR-OTP-0128-0042-R01](#) at 0061-0063, paras. 113-131; P-0103, [DAR-OTP-0120-0186-R01](#) at 0190, l. 137-152; P-0102, [DAR-OTP-0200-0227-R01](#) at 0244, l. 589-599; P-0883, [DAR-OTP-0218-0059-R01](#) at 0101-0102, paras. 227-228. See also P-0769, [DAR-OTP-0212-0018-R01](#), at 0040, para. 192; [DAR-OTP-0139-0003](#) at 0027.

⁴⁰ P-0769, [DAR-OTP-0212-0296-R01](#) at 0321, paras. 195-196; P-0083, [DAR-OTP-0110-0002-R01](#) at 0037, para. 144; P-0883, [DAR-OTP-0218-0059-R01](#) at 0104, paras. 243-246.

⁴¹ P-0769, [DAR-OTP-0212-0018-R01](#) at 0083, para. 553; P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 256.

⁴² P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 257.

⁴³ [DAR-OTP-0103-0598](#); [DAR-OTP-0116-0895](#) at 0901; [DAR-OTP-0139-0003](#) at 0026-0027; P-0883, [DAR-OTP-0218-0059-R01](#) at 0106-0107, paras. 0261-0269.

⁴⁴ P-0083, [DAR-OTP-0110-0002-R01](#) at 0037, para. 145; P-0883, [DAR-OTP-0218-0059-R01](#) at 0104, para. 244.

⁴⁵ P-0769, [DAR-OTP-0212-0296-R01](#) at 0318, para. 170; P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 256.

⁴⁶ P-0883, [DAR-OTP-0218-0059-R01](#) at 0106, paras. 261, 265; [DAR-OTP-0116-0895](#) at 0904.

⁴⁷ Militia/*Janjaweed* were also known as “horsemen”, “knights” or “mounted militants” (literal translations of *Fursan*), “holy warriors” or “fighters” (literal translations of *Mujahidin*) and *Murahilin*.

⁴⁸ [DAR-OTP-0018-0010](#) at 0034-0039, paras. 98-120; P-0034, [DAR-OTP-0118-0002-R01](#) at 0013, para. 53 and 0032, para. 167; P-0118, [DAR-OTP-0125-0665-R01](#) at 0705-0706, paras. 193-196; P-0117, [DAR-OTP-0128-0042-R01](#) at 0051, paras. 49-51; P-0131, [DAR-OTP-0158-0879-R02](#) at 0918-0920, l. 1303-1401; P-0102, [DAR-OTP-0200-0385-R01](#) at 0397, l. 417-418; P-0883, [DAR-OTP-0218-0059-R01](#) at 0103, paras. 238-239.

⁴⁹ [DAR-OTP-0018-0010](#) at 0038, para. 116; [DAR-OTP-0037-0016](#) at 0017-0018; P-0034, [DAR-OTP-0118-0002-R01](#) at 0020-0026, paras. 95-122; P-0091, [DAR-OTP-0112-0142-R02](#) at 0153-0156, paras. 51-66; P-0112, [DAR-OTP-0214-0582-R01](#) at 0596, para. 44; P-0112, [DAR-OTP-0125-0002-R01](#) at 0016, paras. 70-75 and 0022, para. 107.

13. At all material times, the SLM/A and JEM were sufficiently organised. JEM was founded as a political movement in or about August 2001, later establishing a military wing.⁵⁰ The SLM/A, which transformed from the Darfur Liberation Front on or about 14 March 2003,⁵¹ was divided into a political wing (the Movement) and a military wing (the Army).⁵² SLM/A and JEM had political and military leaders and issued political statements.⁵³

14. The SLM/A and JEM used military tactics and carried out large scale and coordinated operations against the GoS in Darfur.⁵⁴ They were mobile, but had military bases including in Sindu Hills, Dereissa, and Jebel Marra.⁵⁵ They exercised control over parts of the territory in Darfur⁵⁶ and had the ability to move troops, and to recruit and train their members.⁵⁷ They recruited mainly from the Fur, Zaghawa and Masalit tribes.⁵⁸ SLM/A and JEM attacked police stations and military bases, during which they obtained arms and other items.⁵⁹

15. The SLM/A and JEM had an internal disciplinary system and the ability to implement international humanitarian law.⁶⁰ The GoS considered that the rebel armed groups in Darfur had to respect the “ethics and laws of warfare.”⁶¹ The SLM/A and JEM leaders signed ceasefire and peace agreements with the GoS, which were periodically violated.⁶²

⁵⁰ [DAR-OTP-0018-0010](#) at 0042, para. 133; P-0043, [DAR-OTP-0096-0186-R01](#) at 0192, para. 28 and 0194, para. 35. *See also* Agreed Facts 15-16, ICC-02/05-01/20-291-AnxA.

⁵¹ [DAR-OTP-0018-0010](#) at 0040, para. 127; [DAR-OTP-0118-1135](#). *See also* Agreed Fact 12, ICC-02/05-01/20-291-AnxA.

⁵² [DAR-OTP-0018-0010](#) at 0041, para. 131. *See also* Agreed Fact 13, ICC-02/05-01/20-291-AnxA.

⁵³ [DAR-OTP-0018-0010](#) at 0019, para. 37 and 0040-0042, paras. 127-137; [DAR-OTP-0120-0258](#); P-0043, [DAR-OTP-0096-0186-R01](#) at 0191-0194, paras. 25-26, 28, 38; P-0065, [DAR-OTP-0100-0024-R01](#) at 0036-0037, paras. 77, 80-81; [DAR-OTP-0096-0213](#); [DAR-OTP-0096-0231](#); [DAR-OTP-0096-0233](#) (Translation at [DAR-OTP-0153-0295](#)); [DAR-OTP-0096-0209-R01](#); P-0044, [DAR-OTP-0095-0049-R01](#) at 0087-0088, para. 181; P-0060, [DAR-OTP-0097-0328-R01](#) at 0339, para. 39 and 0344, para. 62. *See also* Agreed Facts 14 and 17, ICC-02/05-01/20-291-AnxA.

⁵⁴ [DAR-OTP-0018-0010](#) at 0026, para. 65 and 0072, para. 254; P-0013, [DAR-OTP-0088-0129-R01](#) at 0134, para. 22; P-0043, [DAR-OTP-0096-0186-R01](#) at 0193, paras. 31, 34; P-0060, [DAR-OTP-0097-0328-R01](#) at 0340, paras. 45-46 and 0344, para. 64; P-0065, [DAR-OTP-0100-0024-R01](#) at 0050, para. 160. *See also* Agreed Fact 11, ICC-02/05-01/20-291-AnxA.

⁵⁵ P-0059, [DAR-OTP-0095-0095-R01](#) at 0100, para. 28; P-0091, [DAR-OTP-0112-0142-R02](#) at 0162, para. 99; P-0060, [DAR-OTP-0097-0328-R01](#) at 0338-0340, paras. 36-39, 45; P-0059, [DAR-OTP-0095-0095-R01](#) at 0100, para. 28; P-0883, [DAR-OTP-0218-0059-R01](#) at 0067, para. 42; [DAR-OTP-0116-0346](#) at 0355-0356; P-0027, [DAR-OTP-0094-0091-R01](#) at 0109, para. 72.

⁵⁶ [DAR-OTP-0152-0194](#) at 0195.

⁵⁷ P-0060, [DAR-OTP-0097-0328-R01](#) at 0338, para. 36 and 0344, para. 62; [DAR-OTP-0116-0721](#) at 0728; P-0065, [DAR-OTP-0100-0024-R01](#) at 0036, para. 70; P-0103, [DAR-OTP-0120-0161-R01](#) at 0163, l. 55-65.

⁵⁸ [DAR-OTP-0018-0010](#) at 0040-0042, paras. 127-137.

⁵⁹ P-0034, [DAR-OTP-0118-0002-R01](#) at 0032, para. 163; P-0091, [DAR-OTP-0112-0142-R02](#) at 0162, para. 99; [DAR-OTP-0116-0750](#) at 0754; P-0060, [DAR-OTP-0097-0328-R01](#) at 0338, para. 38; P-0065, [DAR-OTP-0100-0024-R01](#) at 0049, para. 153; P-0027, [DAR-OTP-0094-0091-R01](#) at 0095-0096, paras. 15-16; P-0188, [DAR-OTP-0216-0060-R02](#) at 0067-0070, paras. 44-60.

⁶⁰ P-0043, [DAR-OTP-0096-0233](#) at 0234; P-0065, [DAR-OTP-0100-0024-R01](#) at 0051, para. 170; P-0060, [DAR-OTP-0097-0328-R01](#) at 0344, para. 63.

⁶¹ [DAR-OTP-0116-0721](#) at 0728. *See also* [DAR-OTP-0080-0024](#) at 0026; [DAR-OTP-0152-0194](#) at 0195-0196.

⁶² [DAR-OTP-0018-0010](#) at 0027-0028, paras. 70-71; [DAR-OTP-0096-0214](#); [DAR-OTP-0171-0579](#); [DAR-OTP-0005-0308](#) at 0309; [DAR-OTP-0155-0016](#) at 0017; [DAR-OTP-0152-0189](#); [DAR-OTP-0154-0004](#); [DAR-OTP-](#)

Intensity requirement concerning the armed violence

16. The armed hostilities between the GoS together with the Militia/*Janjaweed* on one side and SLM/A and JEM on the other side in Darfur were protracted. The intensity of the armed hostilities exceeded internal disturbances and tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.⁶³ From at least April 2003 until at least April 2004, the parties to the armed conflict carried out serious and frequent attacks in Darfur.⁶⁴ The armed conflict in Darfur went through different operational phases.⁶⁵ The armed hostilities were spread over the territory of three states: North, West and South Darfur.⁶⁶

17. On 25 April 2003, the SLM/A carried out a major attack on the airport in Al Fasher, North Darfur.⁶⁷ As a result, the GoS increased the level of hostilities against the rebel armed groups in Darfur,⁶⁸ attacking rebel bases and areas perceived to be rebel strongholds, using heavy weapons, vehicles and military aircraft.⁶⁹ The SLM/A and JEM used small arms and light weapons, anti-aircraft weapons, and vehicles.⁷⁰

18. Given the protracted nature of the armed hostilities, the United Nations Security Council issued resolutions on the situation in Darfur, reminding the parties to the armed conflict to adhere to the principles of international humanitarian law.⁷¹ The African Union attempted to broker a political solution to the armed conflict, facilitating the signing of ceasefire and peace agreements.⁷² Thousands left the areas affected by the armed conflict, their homes were destroyed, and thousands of persons were killed.⁷³

[0080-0035](#) at 0036; P-0065, [DAR-OTP-0100-0024-R01](#) at 0036-0037, paras. 75, 83-84; [DAR-OTP-0091-0007](#). See also Agreed Facts 7-8, ICC-02/05-01/20-291-AnxA.

⁶³ See Agreed Fact 5, ICC-02/05-01/20-291-AnxA.

⁶⁴ P-0044, [DAR-OTP-0095-0049-R01](#) at 0086, paras. 175-176; P-0029, [DAR-OTP-0094-0119-R01](#) at 0128, para. 36 and 0131, paras. 49-50; P-0012, [DAR-OTP-0119-0503-R01](#) at 0514, para. 46 and 0517, para. 62; P-0013, [DAR-OTP-0088-0129-R01](#) at 0134, para. 22; P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 49; P-0027, [DAR-OTP-0094-0091-R01](#) at 0095-0096, paras. 15-17; P-0103, [DAR-OTP-0120-0244-R01](#) at 0246, l. 43-46; [DAR-OTP-0018-0010](#) at 0072, para. 254; [DAR-OTP-0116-0750](#) at 0751-0772.

⁶⁵ [DAR-OTP-0116-0721](#) at 0724-0727. See also [DAR-OTP-0116-0750](#) at 0751-0772.

⁶⁶ [DAR-OTP-0159-0672](#) at 0825; [DAR-OTP-0116-0750](#) at 0751-0772.

⁶⁷ [DAR-OTP-0018-0010](#) at 0026, para. 65; P-0131, [DAR-OTP-0158-1300-R02](#) at 1341, l. 1463-1474; P-0034, [DAR-OTP-0118-0002-R01](#) at 0028-0029, paras. 140-141; P-0112, [DAR-OTP-0125-0002-R01](#) at 0012, paras. 51-52; P-0021, [DAR-OTP-0153-1868-R01](#) at 1883, paras. 76-77; P-0117, [DAR-OTP-0128-0042-R01](#) at 0048, para. 29. See also Agreed Fact 6, ICC-02/05-01/20-291-AnxA.

⁶⁸ P-0131, [DAR-OTP-0158-1300-R02](#) at 1344-1355, l. 1579-1981. See also P-0117, [DAR-OTP-0128-0042-R01](#) at 0050, paras. 40-41.

⁶⁹ P-0112, [DAR-OTP-0214-0582-R01](#) at 0591, para. 27; P-0118, [DAR-OTP-0125-0665-R01](#) at 0707-0709, paras. 204, 206-216.

⁷⁰ P-0112, [DAR-OTP-0214-0582-R01](#) at 0591, para. 27; P-0027, [DAR-OTP-0094-0091-R01](#) at 0095-0096, paras. 15-16; [DAR-OTP-0096-0213](#); [DAR-OTP-0116-0721](#) at 0730.

⁷¹ [DAR-OTP-0080-0024](#) at 0026.

⁷² [DAR-OTP-0080-0024](#) at 0026; [DAR-OTP-0152-0194](#) at 0196-0197.

⁷³ [DAR-OTP-0018-0010](#) at 0028, para. 72; [DAR-OTP-0155-0016](#) at 0016; [DAR-OTP-0018-0010](#) at 0028, para. 72; P-0117, [DAR-OTP-0128-0042-R01](#) at 0056, para. 82.

b) Nexus requirement

19. The conduct that forms the basis of the charges took place in the context of and was associated with the armed conflict. The GoS Forces and Militia/*Janjaweed* perceived the civilians in certain villages or areas in Darfur as associated with the SLM/A and JEM, and thus an enemy, and targeted them on that basis.⁷⁴ At all material times, **ABD-AL-RAHMAN** was aware of the factual circumstances that established the existence of the armed conflict. As a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, he cooperated with civilian officials of the GoS (“GoS Officials”) and GoS Forces and participated in the military operations against the rebel armed groups in the Wadi Salih and Mukjar Localities.⁷⁵

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

20. Between at least August 2003⁷⁶ and at least April 2004,⁷⁷ GoS Forces and Militia/*Janjaweed* committed a widespread and systematic attack against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.⁷⁸ This attack was committed pursuant to, and in furtherance of, a State policy by the GoS to commit an attack against the civilian population. The acts that are charged as crimes against humanity in the DCC were committed as part of that attack and should be read in conjunction with this section to establish their objective and subjective elements.

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

21. Between at least August 2003 and at least April 2004, GoS Forces and Militia/*Janjaweed* engaged in a course of conduct that involved the multiple commission of acts referred to in article 7(1). These acts were committed against the civilian population in Bindisi, Kodoom and Deleig in the Wadi Salih Locality, and in Mukjar in the Mukjar Locality.⁷⁹ As set out at paragraph 51, the attack further comprised additional article 7(1) acts that were

⁷⁴ P-0547, [DAR-OTP-0200-0017-R01](#) at 0030-0031, paras. 37-39; P-0008, [DAR-OTP-0088-0085-R01](#) at 0092, para. 26; P-0131, [DAR-OTP-0158-1165-R02](#) at 1172-1176, l. 233-354. *See also* paras. 77-79, 108-109.

⁷⁵ *See below*, paras. 57-113.

⁷⁶ *See below*, paras. 49-52.

⁷⁷ The GoS and the SLM/A and JEM signed a humanitarian ceasefire agreement on 8 April 2004. [DAR-OTP-0018-0010](#) at 0027, para. 70. *See above*, para. 18.

⁷⁸ Between at least August 2003 and at least April 2004, Wadi Salih and Mukjar Localities were located in West Darfur State. *See* Agreed Facts 2-4, ICC-02/05-01/20-343-AnxA. As of January 2012, Wadi Salih and Mukjar Localities became part of Central Darfur State. *See* [DAR-OTP-0209-0196](#) at 0205.

⁷⁹ *See below*, paras. 50-52, 147, 157-158, 160-161, 163-164, 180-192, 202, 233, 235, 299-300, 315, 317.

committed in other locations.

22. The number of civilians targeted and the manner in which it was executed demonstrate that civilians were the object of the attack.⁸⁰ As explained below, and especially in the section on persecution, the attack was directed against civilians predominantly from the Fur tribe.⁸¹ These civilians were unarmed, wore civilian clothing and included women and children.⁸² In addition, during the course of the attack, civilian buildings and infrastructure were targeted and destroyed. In Kodoom and Bindisi,⁸³ for example, GoS Forces and Militia/*Janjaweed* burned civilian houses.⁸⁴ They also looted civilian property such as flour, clothing, tea, sugar, fuel, radios, beds, cattle, horses, camels, donkeys and livestock.⁸⁵

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

23. The attack against the civilian population was not spontaneous or isolated acts of violence.⁸⁶ Rather, the attack was carried out pursuant to, and in furtherance of, a State policy by the GoS to commit an attack against the civilian population in Wadi Salih and Mukjar Localities of West Darfur. The attack was the intended outcome of a policy devised by the GoS and executed by GoS Officials, GoS Forces and Militia/*Janjaweed*.⁸⁷

24. The State policy was part of a counter-insurgency campaign following the establishment of rebel armed group bases and the rebel attacks on Al Fasher airport⁸⁸ and other GoS installations, including in Bindisi and Mukjar in July and August 2003.⁸⁹ An integral component of this campaign was the use of GoS Forces and members of Arab tribes, in particular Militia/*Janjaweed*, to target villages and civilians that were perceived as being associated with

⁸⁰ ICC-01/04-02/06-2666-Red A A2, paras. 421-424.

⁸¹ See below, paras. 125-148.

⁸² See below, paras. 52, 147, 157-158, 160-161, 163-164, 167, 180-192, 202, 208, 233, 235, 299-300, 315, 317.

⁸³ P-0029, [DAR-OTP-0094-0119-R01](#) at 0134, para. 65 and 0135, para. 71; P-0717, [DAR-OTP-0210-0187-R01](#) at 0201, para. 74; P-0007, [DAR-OTP-0088-0060-R01](#) at 0066, para. 23; P-0011, [DAR-OTP-0088-0219-R01](#) at 0228, para. 53; P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, paras. 28-29; P-0816, [DAR-OTP-0214-0721-R01](#) at 0730, para. 40; P-0917, [DAR-OTP-0217-0071-R01](#) at 0078, para. 31. See below, paras. 176-179.

⁸⁴ See below, paras. 51, 149-151, 175-179, 205.

⁸⁵ P-0016, [DAR-OTP-0088-0150-R01](#) at 0157, para. 37; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 159-160; P-0011, [DAR-OTP-0088-0219-R01](#) at 0228, para. 53; P-0015, [DAR-OTP-0088-0187-R02](#) at 0195, para. 38; P-0850, [DAR-OTP-0216-0002-R02](#) at 0010, para. 32. See below, paras. 51, 169-174, 272.

⁸⁶ ICC-01/04-01/07-717, para. 396; ICC-02/11-01/11-656-Red, para. 215; ICC-01/09-02/11-382-Red2, para. 111; ICC-01/05-01/08-3343, para. 161.

⁸⁷ ICC-01/04-02/06-2359, para. 689.

⁸⁸ See above, paras. 14, 17.

⁸⁹ See e.g. P-0044, [DAR-OTP-0095-0049-R01](#) at 0086, paras. 175-176; P-0029, [DAR-OTP-0094-0119-R01](#) at 0128, para. 36 and 0131, para. 49; P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62; P-0878, [DAR-OTP-0215-9919-R01](#) at 9924-9925, 9928. See below, paras. 132, 150.

or supporting the rebel armed groups.⁹⁰

25. The existence of the State policy is demonstrated by the involvement of GoS Officials, institutions and other parts of the State apparatus at the national, state, and locality level⁹¹ throughout the planning, directing, organisation⁹² and implementation⁹³ of the attack. The evidence of the State policy includes: (i) official GoS documentation⁹⁴ of the State policy; (ii) preparatory meetings and public speeches to actively promote and encourage⁹⁵ the attack; (iii) use of public resources⁹⁶ to recruit, train, arm, and fund Militia/*Janjaweed*; (iv) deliberate failure⁹⁷ of GoS Officials to investigate and prosecute crimes; and (v) GoS efforts to shield known perpetrators of crimes from prosecution and destroy evidence.

26. Further, the existence of the State policy to commit an attack against the civilian population is demonstrated by the recurrent and systematic pattern of violence engaged in by GoS Forces and Militia/*Janjaweed* in Wadi Salih and Mukjar Localities between at least August 2003 and at least April 2004,⁹⁸ and the joint coordination and participation of GoS Forces and Militia/*Janjaweed* throughout the attack.⁹⁹

GoS official documentation of the State policy

27. The GoS policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities was planned and coordinated at the highest levels of the political and military State apparatus.

28. The National Security Council (“NSC”) was a body that established, supervised, coordinated, and oversaw the implementation of the security plan in Sudan.¹⁰⁰ Members included President AL-BASHIR and Minister of the Interior, Abdel Raheem Muhammad

⁹⁰ See below, paras. 130-148.

⁹¹ ICC-01/09-19-Corr, para. 89; ICC-02/11-01/11-656-Red, para. 220. See also Agreed Fact 1, ICC-02/05-01/20-343-AnxA.

⁹² ICC-01/04-01/07-717, para. 396; ICC-01/05-01/08-424, para. 81; ICC-01/09-02/11-382-Red2, para. 111; ICC-01/05-01/08-3343, para. 160; ICC-02/11-01/11-656-Red, paras. 215-216; ICC-02/04-01/15-1762-Red, para. 2679; ICC-01/09-19-Corr, paras. 87-88.

⁹³ ICC-01/04-01/07-3436-tENG, paras. 1109-1110.

⁹⁴ ICC-01/05-01/08-3343, para. 160; ICC-01/04-02/06-2359, para. 674.

⁹⁵ Elements of Crimes, article 7, Introduction, para. 3; ICC-01/04-02/06-2359, para. 674; ICC-01/09-01/11-01, para. 27; ICC-01/04-01/07-3436-tENG, para. 1109.

⁹⁶ ICC-01/04-01/07-717, para. 396; ICC-01/05-01/08-3343, para. 160; ICC-01/04-02/06-2359, para. 674.

⁹⁷ Elements of Crimes, article 7, Introduction, para. 3, footnote 6; ICC-01/05-01/08-3343, para. 159; ICC-01/04-01/07-3436-tENG, para. 1107.

⁹⁸ ICC-01/05-01/08-3343, para. 160; ICC-01/04-02/06-2359, para. 674. See also ICC-01/04-01/07-3436-tENG, paras. 1111-1113. See below, para. 52.

⁹⁹ ICC-01/04-02/06-2359, para. 674; ICC-01/05-01/08-3343, para. 160. See e.g. below, paras. 77, 107-109, 113, 336.

¹⁰⁰ [DAR-OTP-0018-0010](#) at 0033, para. 91; P-0769, [DAR-OTP-0214-0534-R01](#) at 0540, para. 22; P-0020, [DAR-OTP-0095-0002-R01](#) at 0027, para. 102. See also Agreed Fact 1, ICC-02/05-01/20-343-AnxA.

HUSSEIN (“HUSSEIN”).¹⁰¹ The NSC managed operational planning for the Darfur counter-insurgency campaign by passing instructions from the central government, including in particular the Ministry of the Interior, Ministry of Defence and the National Intelligence and Security Service (“NISS”),¹⁰² to local civilian and military officials through the Darfur Security Committee, headed by State Minister for the Ministry of the Interior Ahmad Muhammad HARUN (“HARUN”).¹⁰³

29. In around May 2003, the NSC issued an emergency plan that formed the basis for the GoS to launch its counter-insurgency campaign. The emergency plan stated that members of the SAF and PDF could not be trusted to participate in the counter-insurgency campaign because the majority were from Darfur, and police and reservist forces such as the CRF did not have sufficient numbers to combat the rebels. As a result, the GoS intended to use members of Arab tribes to target members of the non-Arab tribes that were accused of supporting the rebellion, as well as residential areas where rebels were believed to be hiding.¹⁰⁴

30. On 18 December 2003, Minister of Defence and NSC Rapporteur Bakri Hassan SALIH sent the NSC’s 2004 plan “for ending the rebellion in the states of Darfur” to the Director General for the National Security Service,¹⁰⁵ copying AL-BASHIR and HUSSEIN.¹⁰⁶ In this plan, the NSC further articulated the strategy that it had adopted to restore security in the states of Darfur by “ending the rebellion through military and security decisiveness” and impose “control over all the villages and the regions to which rebel leaders belong (Fur, Zaghawa, and Masalit).”¹⁰⁷ The GoS would create “semi-regular forces from Arab tribes,” including Militia/*Janjaweed*, arm, train and integrate them into the armed forces,¹⁰⁸ and assassinate “rebel leaders and the sympathisers from among community leaders (*umdahs*) and local administration

¹⁰¹ P-0769, [DAR-OTP-0214-0534-R01](#) at 0538-0541, paras. 19-25 and 0551, paras. 69-71; P-0769, Annex B, [DAR-OTP-0214-0565](#). See Agreed Facts 5-6, ICC-02/05-01/20-343-AnxA. HUSSEIN also held the position of Representative of the President for Darfur. See also [DAR-OTP-0016-0013](#) at 0013 and 0015; P-0547, [DAR-OTP-0196-0146-R01](#) at 0167, para. 67.

¹⁰² [DAR-OTP-0016-0013](#); P-0769, [DAR-OTP-0214-0534-R01](#) at 0539-0541, paras. 20-28.

¹⁰³ P-0769, [DAR-OTP-0214-0534-R01](#) at 0542-0543, paras. 31-35; P-0769, [DAR-OTP-0212-0018-R01](#) at 0031, paras. 114-117 and 0033, paras. 127-128 and 0083, paras. 554-557; P-0547, [DAR-OTP-0196-0146-R01](#) at 0167, para. 67; P-0883, [DAR-OTP-0218-0059-R01](#) at 0107-0108, paras. 270-273. See Agreed Fact 7, ICC-02/05-01/20-343-AnxA. See also P-0769, Annex A, [DAR-OTP-0214-0564](#) (Translation at [DAR-OTP-0219-3111](#)); P-0769, Annex B, [DAR-OTP-0214-0565](#); P-0769, Annex C, [DAR-OTP-0214-0566](#); [DAR-OTP-0016-0013](#) at 0014; P-0034, [DAR-OTP-0118-0002-R01](#) at 0020, para. 91.

¹⁰⁴ [REDACTED].

¹⁰⁵ The National Security Service was part of/connected to the NISS. .

¹⁰⁶ [REDACTED].

¹⁰⁷ [REDACTED]. See also paras. 125-148.

¹⁰⁸ [REDACTED].

officials.”¹⁰⁹ Crucially, the plan did not restrict the “field of operations” to only rebel encampments, but also authorised the targeting of the villages in which rebels were sheltered and hidden.¹¹⁰

31. The evidence demonstrates that regional civilian and military officials and Security Committees¹¹¹ undertook various measures to facilitate the attack on the civilian population pursuant to the State policy. Between August 2003 and April 2004, the State Security Committee of West Darfur formed and mobilised joint reserve forces,¹¹² ordered the mobilisation of the *Mujahidin*,¹¹³ and instructed Militia/*Janjaweed* to support GoS Forces.¹¹⁴ Local administration and Security Committee decisions regarding the counter-insurgency campaign could be overridden by **ABD-AL-RAHMAN**¹¹⁵ and other senior GoS Officials such as HARUN and HUSSEIN.¹¹⁶

Preparatory meetings and public speeches

32. Between at least August 2003 and at least April 2004, senior GoS Officials travelled extensively throughout West Darfur to conduct preparatory meetings and give public speeches that promoted and encouraged the attack. During these visits, GoS Officials met with local civilian and military leaders, including **ABD-AL-RAHMAN**,¹¹⁷ issued operational instructions, distributed arms and funding, discussed regional implementation, and delivered motivational speeches to GoS Forces and Militia/*Janjaweed* in furtherance of the State policy.¹¹⁸

33. HARUN in particular was given a wide remit and provided political cover for the GoS policy in Wadi Salih and Mukjar Localities.¹¹⁹ HARUN would travel to visit the armed forces

¹⁰⁹ [REDACTED]. In accordance with this plan, *umdahs*, *sheikhs*, *shartays*, and other tribal leaders were rounded up, detained, and executed in Mukjar and Deleig shortly thereafter in February/March 2004. *See below*, paras. 138, 207, 231-234, 238-239, 242-243, 252, 267, 269-270, 274, 290-294, 319-322, 336, 342, 354.

¹¹⁰ [REDACTED].

¹¹¹ P-0769, [DAR-OTP-0214-0534-R01](#) at 0548, paras. 55-58; P-0116, [DAR-OTP-0123-0039-R01](#) at 0067, paras. 154-155; P-0044, [DAR-OTP-0095-0049-R01](#) at 0057-0058, paras. 40-45; P-0547, [DAR-OTP-0196-0146-R01](#) at 0167-0168, paras. 69, 71-72.

¹¹² [DAR-OTP-0027-0271](#) (Translation at [DAR-OTP-0116-0346](#) at 0348, 0351, 0354-0355, 0357-0358, 0360, 0363-0365, 0367-0368).

¹¹³ [DAR-OTP-0027-0271](#) at 0278 and 0279 (Translation at [DAR-OTP-0116-0346](#) at 0354 and 0355). A more accurate translation for the term “tribal levies” is *Mujahidin*. The Prosecution will provide a revised translation of this document in due course.

¹¹⁴ [DAR-OTP-0027-0271](#) at 0287 and 0289 (Translation at [DAR-OTP-0116-0346](#) at 0363 and 0365).

¹¹⁵ P-0883, [DAR-OTP-0218-0059-R01](#) at 0080-0082, paras. 112, 116-118 and 0108, para. 273.

¹¹⁶ P-0120, [DAR-OTP-0124-0816-R01](#) at 0824-0825, paras. 34-40; P-0547, [DAR-OTP-0196-0146-R01](#) at 0165, para. 61.

¹¹⁷ [REDACTED]. *See below*, paras. 79-98.

¹¹⁸ *See e.g.* P-0034, [DAR-OTP-0118-0002-R01](#) at 0030-0031, paras. 152-157.

¹¹⁹ P-0769, [DAR-OTP-0212-0018-R01](#) at 0031, paras. 114-117; P-0769, [DAR-OTP-0214-0534-R01](#) at 0552, para. 76.

to boost morale¹²⁰ and meet with heads of the Security Committees, military commanders, Police, and local tribal leaders to convey greetings from the President in Khartoum.¹²¹ HARUN gave speeches to crowds of combined GoS Forces and Militia/*Janjaweed*, directing them to “clean this area”, “crush and wipe”, or “sweep and mop up.”¹²² These meetings frequently coincided with the distribution of weapons or money by the GoS and immediately preceded large-scale offensives against the rebel armed groups.¹²³

34. The GoS organised meetings for Arab tribal leaders throughout Darfur in which it discussed mobilisation of Militia/*Janjaweed* to attack supporters of the rebel armed groups, especially the Fur.¹²⁴ When the GoS central government sent a delegation headed by HARUN to Al Geneina in July 2003, the local government summoned political and civil associations to the meeting, including State Ministers, law enforcement, and coordinators of the PPF and PDF for the whole of West Darfur. During the meeting, HARUN gave a speech stating the GoS was ready to kill three-fourths of the people in Darfur so that one-fourth could live.¹²⁵

35. Between August 2003 and February/March 2004, HARUN travelled to Mukjar on numerous occasions to coordinate with local officials and communicate the GoS policy.¹²⁶ In August 2003, a government delegation arrived in Mukjar that included HARUN, the Governor of West Darfur, the Commander of the Western Area Command, and other senior GoS Officials and Militia/*Janjaweed* leaders, including **ABD-AL-RAHMAN**. HARUN addressed Militia/*Janjaweed* pledging GoS support to those who agreed to fight the rebels by giving them weapons and vehicles and establishing camps to train them.¹²⁷ After the meeting in Mukjar,

¹²⁰ P-0547, [DAR-OTP-0196-0146-R01](#) at 0173-0175, paras. 87-96; P-0581, [DAR-OTP-0216-0560-R01](#) at 0565, paras. 24-26; P-0083, [DAR-OTP-0218-0059-R01](#) at 0093, paras. 181-182.

¹²¹ P-0547, [DAR-OTP-0196-0146-R01](#) at 0174-0175, paras. 90-96.

¹²² P-0769, [DAR-OTP-0212-0296-R01](#) at 0323, paras. 213-215. The expression “*amsah aksah*” or “*aksah amsah*”, meaning “wipe and sweep”, and other similar terminology was widely used by GoS Officials in reference to the counter-insurgency campaign. *See also* [DAR-OTP-0193-0530](#) (at 00:55-1:26); P-0675, [DAR-OTP-0206-0173-R01](#) at 0186, para. 46; P-0884, [DAR-OTP-0216-0503-R01](#) at 0522, para. 87; P-0601, [DAR-OTP-0202-1588-R01](#) at 1599, paras. 41-44; P-0878, [DAR-OTP-0219-3062-R01](#) at 3066, para. 16; P-0878, [DAR-OTP-0215-9919-R01](#) at 9934-9935, 9955, 9957; P-0905, [DAR-OTP-0219-0938-R01](#) at 0940, l. 43-60, [DAR-OTP-0219-1292-R01](#) at 1305-1308, l. 432-530, and [DAR-OTP-0219-0777-R01](#) at 0791-0794, l. 481-591. *See below*, paras. 76, 78, 146, 200, 209.

¹²³ P-0114, [DAR-OTP-0119-0711-R01](#) at 0716, paras. 20-22; P-0118, [DAR-OTP-0125-0665-R01](#) at 0710, para. 219; P-0643, [DAR-OTP-0215-0492-R01](#) at 0505-0507, l. 423-498; P-0883, [DAR-OTP-0218-0059-R01](#) at 0067-0071, paras. 44-62; P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105.

¹²⁴ P-0188, [DAR-OTP-0216-0060-R02](#) at 0064, para. 24; P-0878, [DAR-OTP-0215-9919-R01](#) at 9922-9923; P-0643, [DAR-OTP-0215-0358-R01](#) at 0376-0380, l. 612-727.

¹²⁵ P-0044, [DAR-OTP-0095-0049-R01](#) at 0075-0077, paras. 122-130; P-0040, [DAR-OTP-0094-0165-R01](#) at 0176-0177, paras. 54-62.

¹²⁶ HARUN also travelled to Garsila, Al Geneina and other parts of West Darfur to disseminate the policy during this period. *See e.g.* P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105; P-0032, [DAR-OTP-0100-0075-R01](#) at 0090-0091, paras. 63-66; P-0114, [DAR-OTP-0119-0711-R01](#) at 0720, paras. 47-48; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070-0071, paras. 58-62.

¹²⁷ P-0878, [DAR-OTP-0215-9919-R01](#) at 9932-9935.

HARUN stated his aim to “clean the area from Mukjar to Sindu.”¹²⁸ During one of these visits to Mukjar, a large gathering of Militia/*Janjaweed* came to welcome HARUN, including **ABD-AL-RAHMAN** and CRF Commander Abdullah HIMEIDAN (“HIMEIDAN”). HARUN then called for traditional leaders and men to gather, declaring that the Fur were rebels¹²⁹ so their belongings had become “*ghanima*” (the spoils of war).¹³⁰

36. In early 2004, GoS Officials, including the Governor of West Darfur and Commissioner of Mukjar, Abdullah TORSHEIN, and Militia/*Janjaweed* leaders, including **ABD-AL-RAHMAN** and one of his deputies Al-Dayf SAMIH (“SAMIH”), met in Mukjar in preparation for another large offensive against the rebel armed groups in Sindu.¹³¹ When HARUN arrived in Mukjar, he called for a meeting of all the local authorities, tribal leaders, civil servants and people in the market at the locality building.¹³² HARUN yet again addressed the crowd stating that the Fur fought and initiated a rebellion against the government and indicated that they should be targeted for attack.¹³³

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

37. The GoS utilised public resources to recruit, train, arm and fund Militia/*Janjaweed* pursuant to the State policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities.¹³⁴

38. Between at least August 2003 and at least April 2004, the GoS solicited assistance from local Arab tribal leaders to recruit and arm members of Militia/*Janjaweed*,¹³⁵ some of whom were later assimilated into GoS Forces, such as the CRF and PDF.¹³⁶ GoS Forces provided training to members of Militia/*Janjaweed* at PDF camps located in Mukjar, Garsila, Al Geneina,

¹²⁸ P-0123, [DAR-OTP-0209-0029-R01](#) at 0036, para. 27. See also P-0123, [DAR-OTP-0126-0005-R01](#) at 0038-0039, paras. 162-163; P-0114, [DAR-OTP-0119-0711-R01](#) at 0716, paras. 20-21; P-0008, [DAR-OTP-0088-0085-R01](#) at 0092, para. 26; P-0673, [DAR-OTP-0206-0138-R01](#) at 0141-0142, paras. 19-24.

¹²⁹ P-0012, [DAR-OTP-0119-0503-R01](#) at 0517-0519, paras. 62-71; P-0673, [DAR-OTP-0206-0138-R01](#) at 0142, para. 21.

¹³⁰ P-0015, [DAR-OTP-0088-0187-R02](#) at 0200-0201, paras. 66-68; P-0015 [DAR-OTP-0136-0006-R01](#) at 0007, para. 4; P-0756, [DAR-OTP-0211-0003-R01](#) at 0016-0019, paras. 52-62; P-0878, [DAR-OTP-0215-9919-R01](#) at 9933-9934.

¹³¹ P-0041, [DAR-OTP-0206-0033-R01](#) at 0044-0047, paras. 43-53 and 0053, para. 81; P-0041, [DAR-OTP-0096-0002-R01](#) at 0004-0006, paras. 7-13.

¹³² P-0884, [DAR-OTP-0216-0503-R01](#) at 0522, para. 87; P-0129, [DAR-OTP-0128-0128-R03](#) at 0141-0142, para. 46.

¹³³ P-0581, [DAR-OTP-0216-0560-R01](#) at 0565, paras. 25-26.

¹³⁴ P-0547, [DAR-OTP-0196-0146-R01](#) at 0183-0188, paras. 126-144; P-0769, [DAR-OTP-0214-0534-R01](#) at 0543-0545, paras. 35-36, 42.

¹³⁵ P-0547, [DAR-OTP-0196-0146-R01](#) at 0180-0181, paras. 113-115; P-0905, [DAR-OTP-0219-0989-R01](#) at 0998-0999, l. 308-318 and 1002, l. 425-438; [DAR-OTP-0016-0013](#) at 0014-0015.

¹³⁶ P-0769, [DAR-OTP-0214-0534-R01](#) at 0555-0556, paras. 89-92; P-0769, [DAR-OTP-0212-0018-R01](#) at 0041, para. 195.

Um Dukhun, and For Baranga.¹³⁷ GoS Officials including HARUN, HUSSEIN,¹³⁸ and Vice President Ali Uthman Muhammad TAHA (“TAHA”),¹³⁹ and members of Military Intelligence,¹⁴⁰ ordered and/or oversaw several weapons distributions to Militia/*Janjaweed* around Bindisi, Mukjar and Garsila.¹⁴¹ The GoS delivered weapons by aircraft with planes arriving immediately before large-scale counter-insurgency operations.¹⁴²

39. Funding for GoS Forces and Militia/*Janjaweed* attacks was arranged in many ways, including the transfer of monthly salaries from the Ministry of Finance and the Ministry of the Interior,¹⁴³ and millet and money through regional *zakat* offices¹⁴⁴ and the Herders Association of West Darfur.¹⁴⁵ The GoS further incentivised Militia/*Janjaweed* to implement the policy by authorising them to plunder and keep the *ghanima* that they seized during attacks.¹⁴⁶ The GoS also gave Militia/*Janjaweed* access to public facilities from which to base their operations, including military barracks and police stations.¹⁴⁷

40. The GoS conferred other benefits of State sponsorship and legitimisation on

¹³⁷ P-0044, [DAR-OTP-0095-0049-R01](#) at 0072, para. 111; P-0116, [DAR-OTP-0123-0039-R01](#) at 0065, para. 145; P-0034, [DAR-OTP-0118-0002-R01](#) at 0020-0021, paras. 95-96; P-0131, [DAR-OTP-0158-0820-R02](#) at 0874-0877, l. 1839-1950; P-0105, [DAR-OTP-0116-0975-R01](#) at 0978-0979, paras. 9-16; P-0769, [DAR-OTP-0212-0018-R01](#) at 0087, paras. 593-594.

¹³⁸ P-0769, [DAR-OTP-0214-0534-R01](#) at 0552, para. 72; P-0878, [DAR-OTP-0215-9919-R01](#) at 9932-9935; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070-0071, paras. 58-62.

¹³⁹ P-0105, [DAR-OTP-0116-0975-R01](#) at 0978-0979, paras. 11-16.

¹⁴⁰ P-0905, [DAR-OTP-0219-0938-R01](#) at 0947-0952, l. 303-471 and 0955-0962, l. 578-796, and [DAR-OTP-0219-1256-R01](#) at 1275-1278, l. 644-748 and 1280-1281, l. 808-839.

¹⁴¹ P-0092, [DAR-OTP-0112-0175-R01](#) at 0183-0186, paras. 37-50; P-0028, [DAR-OTP-0094-0423-R01](#) at 0437-0438, para. 60; P-0011, [DAR-OTP-0088-0219-R01](#) at 0222, para. 15; P-0029, [DAR-OTP-0094-0119-R01](#) at 0129, paras. 40-42 and 0145-0147, paras. 115-119; P-0905, [DAR-OTP-0219-1256-R01](#) at 1280-1281, l. 813-839. *See also* P-0023, [DAR-OTP-0088-0169-R01](#) at 0181, para. 69.

¹⁴² P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105; P-0105, [DAR-OTP-0116-0975-R01](#) at 0978, para. 10; P-0029, [DAR-OTP-0094-0119-R01](#) at 0129, paras. 40-42. The GoS also facilitated money transfers by plane. *See* P-0884, [DAR-OTP-0216-0503-R01](#) at 0515-0516, paras. 57-59; P-0012, [DAR-OTP-0119-0503-R01](#) at 0514-0517, paras. 49-61.

¹⁴³ P-0547, [DAR-OTP-0196-0146-R01](#) at 0180-0181, para. 114 and 0185-0186, paras. 136-137; P-0119, [DAR-OTP-0124-0196-R01](#) at 0212, paras. 97, 99; P-0884, [DAR-OTP-0216-0503-R01](#) at 0515-0516, paras. 57-60; P-0843, [DAR-OTP-0216-0600-R01](#) at 0613, paras. 64 and 0615, paras. 71-73; P-0116, [DAR-OTP-0123-0039-R01](#) at 0048, para. 46; P-0012, [DAR-OTP-0119-0503-R01](#) at 0513, para. 45; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070-0071, paras. 58-62; P-0032, [DAR-OTP-0100-0075-R01](#) at 0092, para. 68; P-0131, [DAR-OTP-0158-0879-R02](#) at 0920-0922, l. 1397-1449.

¹⁴⁴ P-0643, [DAR-OTP-0215-0476-R01](#) at 0480-0483, l. 141-238; P-0012, [DAR-OTP-0119-0503-R01](#) at 0507-0508, paras. 18-20; P-0029, [DAR-OTP-0094-0119-R01](#) at 0132, para. 57; P-0878, [DAR-OTP-0215-9919-R01](#) at 9925 and 9940. *See below*, paras. 75, 96, 174. *Zakat* is a form of Islamic charitable tax that is primarily collected to benefit the poor and needy members of the community. *See* P-0012, [DAR-OTP-0119-0503-R01](#) at 0507, paras. 16-17.

¹⁴⁵ P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105.

¹⁴⁶ P-0118, [DAR-OTP-0125-0665-R01](#) at 0703, para. 182 and 0716, para. 255; P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, para. 58; P-0087, [DAR-OTP-0133-0573-R01](#) at 0579, para. 21; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 141.

¹⁴⁷ *See e.g. below*, paras. 74, 84, 86-87, 89, 92, 100, 142-143, 228, 234-235, 238, 242-244, 250, 252, 255, 261, 267, 294-297, 301-307, 318-319, 327, 337, 339, 346-348.

Militia/*Janjaweed*,¹⁴⁸ including official GoS identification cards,¹⁴⁹ uniforms,¹⁵⁰ vehicles such as Land Cruisers,¹⁵¹ ammunition,¹⁵² food for their horses,¹⁵³ Thuraya satellite phones,¹⁵⁴ and medical treatment.¹⁵⁵ The family members of Militia/*Janjaweed* killed in action were given financial compensation by the GoS.¹⁵⁶ Moreover, GoS Forces would often coordinate and participate jointly alongside Militia/*Janjaweed* in the attacks on villages, supplying manpower, discipline and expertise to military operations.¹⁵⁷

41. The use of public resources by the GoS to recruit, arm, train and fund forces to fight in its counter-insurgency campaign was selective and excluded members of non-Arab tribes, with a few notable exceptions.¹⁵⁸ Members of the Fur, Zaghawa, and Masalit tribes were excluded from recruitment or promotion into sensitive positions in GoS institutions.¹⁵⁹ Members of the Fur tribe, in particular, were denied access to GoS resources that were being allocated to members of Arab tribes.¹⁶⁰ Even when the GoS promised Fur *umdahs* and *sheikhs* weapons for self-defence,¹⁶¹ they would be turned away on the basis that they were *tora bora* (rebels).¹⁶²

¹⁴⁸ P-0103, [DAR-OTP-0120-0203-R01](#) at 0214-0215, l. 438-484; P-0921, [DAR-OTP-0219-3202-R01](#) at 3204-3205, l. 40-80.

¹⁴⁹ P-0547, [DAR-OTP-0196-0146-R01](#) at 0185, para. 136; P-0011, [DAR-OTP-0088-0219-R01](#) at 0235, para. 91; P-0040, [DAR-OTP-0094-0165-R01](#) at 0173-0174, paras. 40-41; P-0131, [DAR-OTP-0158-1229-R02](#) at 1234, l. 148-151, and [DAR-OTP-0158-0879-R02](#) at 0923, l. 1505-1507; P-0044, [DAR-OTP-0095-0049-R01](#) at 0063, para. 70; P-0140, [DAR-OTP-0215-6268-R01](#) at 6294, l. 886-894, and [DAR-OTP-0215-5888-R01](#) at 5911-5912, l. 776-806; P-0290, [DAR-OTP-0160-0342-R01](#) at 0380, l. 1276-1280.

¹⁵⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 60; P-0905, [DAR-OTP-0219-0777-R01](#) at 0782, l. 146-163, and [DAR-OTP-0219-0974-R01](#) at 0975-0976, l. 9-55; P-0096, [DAR-OTP-0113-0138-R01](#) at 0152, para. 94; P-0921, [DAR-OTP-0219-3202-R01](#) at 3220, l. 612-626; P-0105, [DAR-OTP-0116-0975-R01](#) at 0978, para. 10; P-0290, [DAR-OTP-0160-0342-R01](#) at 0380-0381, l. 1280-1316.

¹⁵¹ P-0117, [DAR-OTP-0128-0042-R01](#) at 0074-0075, paras. 207, 214; P-0040, [DAR-OTP-0094-0165-R01](#) at 0176-0177, paras. 54-62; P-0118, [DAR-OTP-0125-0665-R01](#) at 0710, para. 219; P-0119, [DAR-OTP-0124-0196-R01](#) at 0212, para. 94.

¹⁵² P-0921, [DAR-OTP-0219-3161-R01](#) at 3165-3170, l. 103-283; P-0878, [DAR-OTP-0215-9919-R01](#) at 9925; P-0905, [DAR-OTP-0219-0974-R01](#) at 0976, l. 56-61, and [DAR-OTP-0219-0989-R01](#) at 1002-1004, l. 439-499; P-0119, [DAR-OTP-0124-0196-R01](#) at 0212, para. 95.

¹⁵³ P-0878, [DAR-OTP-0215-9919-R01](#) at 9933 and 9940.

¹⁵⁴ P-0123, [DAR-OTP-0209-0029-R01](#) at 0036, paras. 27-28.

¹⁵⁵ P-0116, [DAR-OTP-0123-0039-R01](#) at 0065, para. 148.

¹⁵⁶ P-0883, [DAR-OTP-0218-0059-R01](#) at 0067, para. 41.

¹⁵⁷ P-0769, [DAR-OTP-0214-0534-R01](#) at 0546, para. 47. *See e.g. below*, paras. 77, 107-109, 113, 336.

¹⁵⁸ [REDACTED].

¹⁵⁹ P-0769, [DAR-OTP-0212-0018-R01](#) at 0027, para. 79 and 0031-0032, paras. 118-119; P-0558, [DAR-OTP-0215-5384-R01](#) at 5401-5407, l. 541-754; P-0117, [DAR-OTP-0128-0042-R01](#) at 0061, para. 111.

¹⁶⁰ P-0116, [DAR-OTP-0123-0039-R01](#) at 0056-0057, paras. 96-97 and 0058, para. 103; P-0040, [DAR-OTP-0094-0165-R01](#) at 0178, para. 68; P-0643, [DAR-OTP-0215-0333-R01](#) at 0345-0346, l. 390-413, and [DAR-OTP-0215-0358-R01](#) at 0373-0375, l. 510-557 and 0383-0386, l. 832-944; P-0059, [DAR-OTP-0095-0095-R01](#) at 0099, para. 17; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070, para. 56; P-0905, [DAR-OTP-0219-0777-R01](#) at 0785-0786, l. 253-308, and [DAR-OTP-0219-0989-R01](#) at 1004-1006, l. 519-584; P-0011, [DAR-OTP-0088-0219-R01](#) at 0222, para. 15; P-0585, [DAR-OTP-0201-0037-R01](#) at 0044, paras. 25-27. *See also* P-0040, Annex B, [DAR-OTP-0094-0196](#) (Translation at [DAR-OTP-0116-0718](#)).

¹⁶¹ P-0106, [DAR-OTP-0116-1005-R01](#) at 1012, paras. 31-33.

¹⁶² P-0092, [DAR-OTP-0112-0175-R01](#) at 0185, para. 45; P-0027, [DAR-OTP-0094-0091-R01](#) at 0097, paras. 21-22.

Deliberate failure to investigate and prosecute crimes

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

43. Between at least August 2003 and at least April 2004, members of non-Arab tribes were turned away when they attempted to report crimes committed by GoS Forces and Militia/*Janjaweed*. Members of non-Arab tribes were often told that the Police had insufficient resources to investigate their allegations.¹⁶³ Whilst the Police would occasionally engage in initial investigations, there would be no formal enquiry or response from GoS Officials.¹⁶⁴ Police officers from non-Arab tribes who were willing to register crimes were accused of being rebels and detained.¹⁶⁵

44. Despite the lack of formal registration, the crimes committed by GoS Forces and Militia/*Janjaweed* in West Darfur were regularly reported to central military and intelligence authorities, but nothing was done to stop them.¹⁶⁶ Fur villagers and tribal leaders were told that the GoS would not be protecting them anymore because their “children [had] become rebels.”¹⁶⁷ Members of GoS Forces that attempted to intervene in the commission of crimes were actively prevented from doing so by their commanders.¹⁶⁸

GoS efforts to shield perpetrators and destroy evidence

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

46. In 2004, AL-BASHIR set up a committee called the National Commission of Inquiry (“NCOI”), ostensibly to investigate alleged war crimes committed in Darfur.¹⁶⁹ In 2005, the

¹⁶³ P-0039, [DAR-OTP-0094-0270-R01](#) at 0278, para. 41; P-0060, [DAR-OTP-0097-0328-R01](#) at 0333, para. 17. See also P-0025, [DAR-OTP-0093-0058-R01](#) at 0071, para. 68 and 0075, paras. 98-100; P-0585, [DAR-OTP-0201-0037-R01](#) at 0045, para. 29.

¹⁶⁴ P-0092, [DAR-OTP-0112-0175-R01](#) at 0190-0191, para. 67. See also P-0116, [DAR-OTP-0123-0039-R01](#) at 0051, para. 67.

¹⁶⁵ [REDACTED].

¹⁶⁶ P-0112, [DAR-OTP-0215-4903-R01](#) at 4915-4916, l. 383-429; P-0034, [DAR-OTP-0118-0002-R01](#) at 0012-0013, paras. 51-54; P-0883, [DAR-OTP-0218-0059-R01](#) at 0064, paras. 25-28, and 0087-0088, paras. 154-161 and 0107, para. 268.

¹⁶⁷ P-0029, [DAR-OTP-0094-0119-R01](#) at 0125-0126, paras. 26-28; ; P-0027, [DAR-OTP-0094-0091-R01](#) at 0096, para. 17. See also P-0643, [DAR-OTP-0215-0333-R01](#) at 0345, l. 378-380; P-0025, [DAR-OTP-0093-0058-R01](#) at 0071, para. 68 and 0075, paras. 98-100.

¹⁶⁸ [REDACTED].

¹⁶⁹ [DAR-OTP-0036-0348](#) (Translation at [DAR-OTP-0116-0380](#) at 0394-0396); P-0769, [DAR-OTP-0212-0296-R01](#) at 0304, paras. 55-56; P-0643, [DAR-OTP-0215-0454-R01](#) at 0469-0470, l. 493-559.

NCOI confirmed that a large number of villages in the Wadi Salih area had been burned either partially or completely and civilians had been executed.¹⁷⁰ Although the NCOI identified **ABD-AL-RAHMAN**, Military Intelligence officer Lieutenant Hamdi Sharaf-Al-Din SID AHMAD (“HAMDI”) and other members of the GoS Forces and Militia/*Janjaweed* as perpetrators,¹⁷¹ no one was ever prosecuted in relation to these incidents.¹⁷²

47. Several prominent leaders in the counter-insurgency campaign that the NCOI implicated in crimes were later promoted instead of facing charges.¹⁷³ NISS officers also coordinated with GoS Officials, including **ABD-AL-RAHMAN**,¹⁷⁴ to use GoS resources to exhume, cremate, and relocate bodies that were buried at mass grave sites and prevent humanitarian or international organisations from locating them.¹⁷⁵ As of at least November 2005, the GoS continued to provide arms and supplies to **ABD-AL-RAHMAN** and other Militia/*Janjaweed* leaders to fight the rebel armed groups.¹⁷⁶

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

48. The acts that are charged as crimes against humanity in the DCC and described below were committed as part of the widespread and systematic attack directed against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.¹⁷⁷ As explained below, each crime was carried out by GoS Forces and Militia/*Janjaweed* and was committed pursuant to, and in furtherance of, the GoS State policy. Each crime also shared the same targeted civilians that were predominantly from the Fur tribe.¹⁷⁸ The nexus is further established on basis of the geographical distribution of the crimes committed.

¹⁷⁰ [DAR-OTP-0036-0348](#) (Translation at [DAR-OTP-0116-0380](#) at 0389, 0398-0399 and 0406); [DAR-OTP-0055-0009](#) (Translation at [DAR-OTP-0153-0251](#) at 0256).

¹⁷¹ [DAR-OTP-0036-0348](#) (Translation at [DAR-OTP-0116-0380](#) at 0408-0409); [DAR-OTP-0055-0009](#) (Translation at [DAR-OTP-0153-0251](#) at 0255-0256).

¹⁷² P-0643, [DAR-OTP-0215-0586-R01](#) at 0588-0591, l. 57-168 and 0594, l. 268-277. *See also* P-0883, [DAR-OTP-0218-0059-R01](#) at 0093-0094, paras. 183-187.

¹⁷³ P-0643, [DAR-OTP-0215-0586-R01](#) at 0591-0592, l. 163-181 and 0594, l. 251-277; P-0905, [DAR-OTP-0219-1321-R01](#) at 1333-1334, l. 410-443 and 1336-1337, l. 505-545 and 1339-1340, l. 616-639; P-0116, [DAR-OTP-0123-0039-R01](#) at 0066-0067, para. 153; P-0116, [DAR-OTP-0127-0318-R01](#) at 0352, para. 176; P-0883, [DAR-OTP-0218-0059-R01](#) at 0098, para. 210 and 0099, para. 214 and 0104, para. 246.

¹⁷⁴ P-0883, [DAR-OTP-0218-0059-R01](#) at 0089, paras. 162-163. *See also* P-0116, [DAR-OTP-0123-0039-R01](#) at 0066-0067, para. 153; P-0116, [DAR-OTP-0127-0318-R01](#) at 0352, para. 176.

¹⁷⁵ P-0769, [DAR-OTP-0212-0296-R01](#) at 0304-0306, paras. 59-71; P-0023, [DAR-OTP-0088-0169-R01](#) at 0182, para.78; P-0717, [DAR-OTP-0210-0187-R01](#) at 0209-0210, para. 117; P-0643, [DAR-OTP-0215-0650-R01](#) at 0661-0662, l. 390-413; P-0712, [DAR-OTP-0209-1884-R01](#) at 1898, paras. 53-54; P-0028, [DAR-OTP-0088-0169-R01](#) at 0182, para. 78.

¹⁷⁶ [REDACTED]. *See also* paras. 80-89.

¹⁷⁷ *See* Agreed Facts 2-4, ICC-02/05-01/20-343-AnxA.

¹⁷⁸ *See below*, paras. 125-148.

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

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

50. The locations that form the basis of the charges against **ABD-AL-RAHMAN**, namely Bindisi, Kodoom, Deleig and Mukjar, are alone sufficient to establish the widespread nature of the attack. They encompass an area of approximately 1,400 square kilometres and were spread over two separate localities, Wadi Salih and Mukjar.¹⁷⁹ Moreover, the crimes committed at these locations took place over the course of eight to nine months between at least August 2003 and March/April 2004. The attack at these locations also resulted in hundreds of civilians being murdered, many raped and thousands forcibly displaced.¹⁸⁰

51. The attack on Bindisi, Kodoom, Deleig and Mukjar does not stand alone. As further evidence of the widespread nature of the attack on the civilian population in the Wadi Salih and Mukjar Localities, other locations were also attacked. Evidence of other locations that were part of the attack is found in the statements of victims. Their accounts are corroborated by the United Nations Commission of Inquiry on Darfur (“UNCOI”) which concluded that by the end of February 2004 “the total number of the villages that were attacked by GoS Forces and Militia/*Janjaweed* was around 53 villages.”¹⁸¹ A non-exhaustive list of other locations that are part of the attack is listed below:¹⁸²

- a. In August 2003, civilian inhabitants of Seder¹⁸³ and Gausir¹⁸⁴ in the Wadi Salih Locality, and Tiro in the Mukjar Locality,¹⁸⁵ were attacked. GoS Forces and

¹⁷⁹ See West Darfur Planning Map. See also Annex A1.

¹⁸⁰ See below, paras. 156-166, 187-192, 193-196, 242-255, 301-329.

¹⁸¹ [DAR-OTP-0013-0119](#) at 0156; [DAR-OTP-0037-0327](#) at 0327-0328.

¹⁸² The Prosecution does not charge **ABD-AL-RAHMAN** with the crimes committed in these other locations. Rather, this list is provided to demonstrate the widespread and systematic nature of the attack, in which **ABD-AL-RAHMAN** took part.

¹⁸³ P-0085, [DAR-OTP-0110-0054-R01](#) at 0061-0062, paras. 25-28; P-0757, [DAR-OTP-0211-0003-R01](#) at 0012, paras. 39-40; P-0878, [DAR-OTP-0215-9919-R01](#) at 9947-9957 (Seder).

¹⁸⁴ P-0867, [DAR-OTP-0217-0173-R01](#) at 0179-0183, paras. 32-52; P-0717, [DAR-OTP-0210-0187-R01](#) at 0202-0203, paras. 83-89.

¹⁸⁵ P-0756, [DAR-OTP-0211-0039-R01](#) at 0045-0047, paras. 27-34; P-0757, [DAR-OTP-0211-0003-R01](#) at 0009-0010, paras. 25-32; P-0717, [DAR-OTP-0210-0187-R01](#) at 0199-0200, paras. 68-70.

Militia/*Janjaweed* set fire to civilian buildings,¹⁸⁶ shot and killed civilians¹⁸⁷ and looted civilian property;¹⁸⁸

- b. In September 2003, civilian inhabitants of Fere¹⁸⁹ and Forgo¹⁹⁰ in the Wadi Salih Locality were attacked. Civilians were killed, including men, women, children,¹⁹¹ and some elderly were burnt to death.¹⁹² Civilians were also raped,¹⁹³ and villages looted and destroyed;¹⁹⁴
- c. In November 2003, civilian inhabitants in Um Jameina,¹⁹⁵ Taringa¹⁹⁶ and Andi¹⁹⁷ in the Wadi Salih Locality were attacked. Civilians were killed,¹⁹⁸ houses burnt,¹⁹⁹ and villages destroyed;²⁰⁰
- d. In December 2003, civilian inhabitants in Arawala²⁰¹ and Kaskeidi²⁰² in the Wadi Salih Locality were attacked. GoS Forces and Militia/*Janjaweed* killed civilians,²⁰³ raped

¹⁸⁶ P-0756, [DAR-OTP-0211-0039-R01](#) at 0046, para. 30 (Tiro); P-0717, [DAR-OTP-0210-0187-R01](#) at 0200, para. 69 (Tiro); P-0085, [DAR-OTP-0110-0054-R01](#) at 0061, para. 26 (Seder); P-0757, [DAR-OTP-0211-0003-R01](#) at 0012, para. 40 (Seder); P-0867, [DAR-OTP-0217-0173-R01](#) at 0180, para. 40 (Gausir).

¹⁸⁷ P-0717, [DAR-OTP-0210-0187-R01](#) at 0200, para. 69 (Tiro); P-0878, [DAR-OTP-0215-9919-R01](#) at 9952 (Seder); P-0867, [DAR-OTP-0217-0173-R01](#) at 0180-0181, para. 40 and 0184, para. 55 (Gausir).

¹⁸⁸ P-0867, [DAR-OTP-0217-0173-R01](#) at 0181, para. 40 (Gausir).

¹⁸⁹ P-0651, [DAR-OTP-0205-0015-R01](#) at 0020-0022, paras. 18-24

¹⁹⁰ P-0607, [DAR-OTP-0203-0164-R01](#) at 0169, para. 17; P-0725, [DAR-OTP-0210-0122-R01](#) at 0124-0127, paras. 15-38

¹⁹¹ P-0651, [DAR-OTP-0205-0015-R01](#) at 0021, para. 21 (Fere); P-0725, [DAR-OTP-0210-0122-R01](#) at 0125-0126, paras. 25-33 (Forgo); P-0726, [DAR-OTP-0210-0346-R02](#) at 0353, paras. 23-25 and 0355, para. 32.

¹⁹² P-0726, [DAR-OTP-0210-0346-R02](#) at 0354, para. 32 (Forgo).

¹⁹³ P-0725, [DAR-OTP-0210-0122-R01](#) at 0125, para. 27 (Forgo); P-0726, [DAR-OTP-0210-0346-R02](#) at 0355-0357, paras. 34-35, 38 (Forgo).

¹⁹⁴ P-0726, [DAR-OTP-0210-0346-R02](#) at 0355, paras. 31-33 (Forgo).

¹⁹⁵ P-0584, [DAR-OTP-0200-1540-R01](#) at 1550-1554, paras. 34-50.

¹⁹⁶ P-0651, [DAR-OTP-0205-0015-R01](#) at 0023-0024, paras. 28-30; P-0697, [DAR-OTP-0209-0155-R01](#) at 0164-0165, paras. 40-45; P-0718, [DAR-OTP-0209-2004-R01](#) at 2007-2011, paras. 15-44.

¹⁹⁷ P-0671, [DAR-OTP-0206-0105-R01](#) at 0108-0109, paras. 14-19.

¹⁹⁸ P-0584, [DAR-OTP-0200-1540-R01](#) at 1153-1554, paras. 45-48 (Um Jameina); P-0905, [DAR-OTP-0219-1256-R01](#) at 1261, l. 146-171 (Um Jameina); P-0718, [DAR-OTP-0209-2004-R01](#) at 2009-2010, paras. 32-38 (Taringa); P-0651, [DAR-OTP-0205-0015-R01](#) at 0023, para. 29 (Taringa); P-0671, [DAR-OTP-0206-0105-R01](#) at 0108-0109, paras. 15-19 (Andi).

¹⁹⁹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1554, para. 46 (Um Jameina); P-0671, [DAR-OTP-0206-0105-R01](#) at 0109, para. 16 (Andi).

²⁰⁰ P-0651, [DAR-OTP-0205-0015-R01](#) at 0024, para. 30 (Taringa).

²⁰¹ P-0010, [DAR-OTP-0088-0306-R01](#) at 0314-0317, paras. 57-81; P-0013, [DAR-OTP-0088-0129-R01](#) at 0135-0136, paras. 26-32; P-0016, [DAR-OTP-0088-0150-R01](#) at 0156-0157, paras. 28-38.

²⁰² P-0850, [DAR-OTP-0216-0002-R02](#) at 0009-0012, paras. 27-42.

²⁰³ P-0010, [DAR-OTP-0088-0306-R01](#) at 0322, paras. 126-127 (Arawala); P-0013, [DAR-OTP-0088-0129-R01](#) at 0136, para. 27 and 0138, para. 43 (Arawala); P-0016, [DAR-OTP-0088-0150-R01](#) at 0156-0158, paras. 28-32, 39 and 0160, para. 53 (Arawala); P-0850, [DAR-OTP-0216-0002-R02](#) at 0009, para. 30 (Kaskeidi).

women²⁰⁴ and destroyed civilian buildings and infrastructure;²⁰⁵ and

- e. In January/February 2004, civilian inhabitants in Tendy²⁰⁶ in the Mukjar Locality were attacked. Civilians were shot and killed,²⁰⁷ raped²⁰⁸ and the village was looted and destroyed²⁰⁹ by GoS Forces and Militia/*Janjaweed*.

52. The attack against the civilian population in Wadi Salih and Mukjar Localities was also systematic. As set out above at paragraphs 27 to 41, the attack was planned, organised and carried out pursuant to, and in furtherance of, a GoS State policy. The attack was executed according to a pattern in which GoS Forces and Militia/*Janjaweed* acted together to target civilians who were predominantly members of the Fur tribe. The towns and villages of Kodoom,²¹⁰ Bindisi,²¹¹ Arawala,²¹² Tiro,²¹³ Fere,²¹⁴ Kaskeidi,²¹⁵ Um Jameina²¹⁶ and Tendy,²¹⁷ amongst others, were attacked. The pattern also involved GoS Forces and Militia/*Janjaweed* acting together to search for, detain, torture and, in many cases, murder predominantly Fur males in Mukjar and Deleig.²¹⁸

d) ABD-AL-RAHMAN knew that his conduct was part of, or intended his conduct to be part of, the widespread and systematic attack directed against the civilian population

53. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed*.²¹⁹ By virtue of his position and role, he knew and intended for his conduct to be part of the widespread and systematic attack directed against the civilian

²⁰⁴ P-0010, [DAR-OTP-0088-0306-R01](#) at 0318-0321, paras. 87-113 (Arawala); P-0016, [DAR-OTP-0088-0150-R01](#) at 0159, paras. 45-48 and 0161, paras. 61-62 (Arawala).

²⁰⁵ P-0010, [DAR-OTP-0088-0306-R01](#) at 0316, para. 70 (Arawala); P-0013, [DAR-OTP-0088-0129-R01](#) at 0138, para. 41 (Arawala); P-0016, [DAR-OTP-0088-0150-R01](#) at 0160, paras. 51-52 (Arawala); P-0850, [DAR-OTP-0216-0002-R02](#) at 0010, para. 32 (Kaskeidi).

²⁰⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0137-0138, paras. 35-38; P-0675, [DAR-OTP-0206-0173-R01](#) at 0178-0184, paras. 20-38 and 0190-0194, paras. 62-74.

²⁰⁷ P-0129, [DAR-OTP-0128-0128-R03](#) at 0137-0138, paras. 36-38 (Tendy); P-0675, [DAR-OTP-0206-0173-R01](#) at 0192-0194, paras. 69-71, 74-75 (Tendy).

²⁰⁸ P-0675, [DAR-OTP-0206-0173-R01](#) at 0194-0195, paras. 76-78 (Tendy).

²⁰⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0136, para. 31 (Tendy); P-0675, [DAR-OTP-0206-0173-R01](#) at 0194, para. 74 (Tendy).

²¹⁰ See below, paras. 149-151.

²¹¹ See below, paras. 149-151.

²¹² P-0010, [DAR-OTP-0088-0306-R01](#) at 0314-0317, paras. 57-81; P-0013, [DAR-OTP-0088-0129-R01](#) at 0135-0136, paras. 26-32; P-0016, [DAR-OTP-0088-0150-R01](#) at 0156-0157, paras. 28-38.

²¹³ P-0756, [DAR-OTP-0211-0039-R01](#) at 0045-0047, paras. 27-34; P-0757, [DAR-OTP-0211-0003-R01](#) at 0009-0010, paras. 25-32; P-0717, [DAR-OTP-0210-0187-R01](#) at 0199-0200, paras. 68-70.

²¹⁴ P-0651, [DAR-OTP-0205-0015-R01](#) at 0020-0022, paras. 18-24.

²¹⁵ P-0850, [DAR-OTP-0216-0002-R02](#) at 0009-0012, paras. 27-42.

²¹⁶ P-0584, [DAR-OTP-0200-1540-R01](#) at 1550-1554, paras. 34-50.

²¹⁷ P-0675, [DAR-OTP-0206-0173-R01](#) at 0178-0184, paras. 20-38 and 0191-0194, paras. 65-75.

²¹⁸ See below, paras. 225-300 and 280-294.

²¹⁹ See below, paras. 59-78.

population in Wadi Salih and Mukjar Localities of West Darfur.

54. **ABD-AL-RAHMAN** had knowledge of the GoS State policy and demonstrated his subscription to it. He attended meetings with GoS Officials, during which the State policy was discussed.²²⁰ He also received express instructions from GoS Officials to implement the State policy. In August 2003 and in advance of an attack, HARUN told **ABD-AL-RAHMAN** “I don't want you to leave a human or a single tree. Burn it all.”²²¹ Similarly, at a meeting in Mukjar, for example, HARUN gave **ABD-AL-RAHMAN** money and told him, “You are the decision maker now [...] [a]nd now you treat any Fur village as a [...] rebel village.”²²² **ABD-AL-RAHMAN** also informed others that “HARUN had met with them in Mukjar and had authorised them to eliminate the Fur and take their livestock.”²²³

55. **ABD-AL-RAHMAN**'s knowledge of and willingness to implement the State policy is evidenced by his own words and conduct. In Garsila in early 2003, **ABD-AL-RAHMAN** addressed a crowd and said “[w]e will destroy villages and clean the area. We will exterminate the Fur.”²²⁴ In or about December 2003, two days after an attack at Arawala, **ABD-AL-RAHMAN** told a crowd that “the Bashmerga went to fight the Tora Bora from Marra to Arawala and the animals and livestock they came with belong to the Tora Bora and not the poor people.”²²⁵

56. **ABD-AL-RAHMAN**'s knowledge may also be deduced from his position as head of the Mujahidin Committee,²²⁶ involvement in the recruitment, training, arming and funding of Militia/*Janjaweed* in order to execute the GoS State policy²²⁷ as well as his personal involvement in the attack on Bindisi, Kodoom, Mukjar, and Deleig.²²⁸

C. COMMON ELEMENTS OF MODES OF INDIVIDUAL CRIMINAL RESPONSIBILITY

1) **ABD-AL-RAHMAN**'s position of authority and influence

57. This section addresses the aspects of **ABD-AL-RAHMAN**'s position and personal conduct which are common to the different criminal episodes charged against him, and relevant to elements of his individual criminal responsibility under articles 25(3)(a), 25(3)(b), 25(3)(c)

²²⁰ See above, paras. 32-36.

²²¹ [REDACTED].

²²² [REDACTED].

²²³ [REDACTED].

²²⁴ P-0843, [DAR-OTP-0216-0600-R01](#) at 0618, para. 88

²²⁵ P-0092, [DAR-OTP-0112-0175-R01](#) at 0193-0194, para. 79.

²²⁶ P-0643, [DAR-OTP-0215-0440-R01](#) at 0442-0445, l. 44-126 and 171-175.

²²⁷ See below, paras. 71-75.

²²⁸ See below, paras. 198-224, 258-279, 331-371.

and 25(3)(d) of the Rome Statute. This should be read in conjunction with the sub-sections related to individual criminal responsibility in Sections E, F and G, regarding the crimes committed in Kodoom, Bindisi, Mukjar and Deleig.

58. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN**: a) was a senior Militia/*Janjaweed* leader; b) cooperated with senior GoS Officials and senior members of GoS Forces; c) cooperated with GoS Officials at the locality level; d) cooperated with and/or exerted influence over certain members of the GoS Forces at the locality level; and e) issued orders to members of GoS Forces including, in particular, those of lower rank. The combination of these factors placed **ABD-AL-RAHMAN** in a position of authority and influence. This, in turn, enabled **ABD-AL-RAHMAN** to contribute to the charged crimes in the manner described in this PCB.²²⁹

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

59. **ABD-AL-RAHMAN**'s role as a senior leader or *agid al-ogada* in the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, between at least August 2003 and at least April 2004, is confirmed by multiple witnesses. P-0883, [REDACTED], states that in around August 2003, **ABD-AL-RAHMAN** was the leader of the Militia/*Janjaweed* in Garsila.²³⁰ P-0905, [REDACTED], states that **ABD-AL-RAHMAN** held the highest leadership position in the Militia/*Janjaweed* in these areas and referred to him as the "big chief".²³¹ P-0878, [REDACTED], describes him as the leader of the Militia/*Janjaweed*²³² and as the highest commander on the ground [REDACTED].²³³

60. P-0921, [REDACTED]²³⁴ [REDACTED], states that **ABD-AL-RAHMAN** was the chief commander of the Militia/*Janjaweed*.²³⁵ and that "the whole of WADI SALIH is under [his] command, so everything is under his control."²³⁶ P-0012 states that the "position of 'aqid ogada made KUSHAYB the highest ranking 'aqid in Wadi SALIH, and the campaign for the

²²⁹ See in this context Annexes A1 (Locations of Charged Crimes committed in Wadi Salih and Mukjar Localities 2003-2004), A2 (Timeline of key events April 2003-April 2004), A3 (**ABD-AL-RAHMAN**'s activities in Wadi Salih and Mukjar Localities August 2003-April 2004), A4 (Overview of **ABD-AL-RAHMAN**'s network August 2003-April 2004), and A5 (Involvement of **ABD-AL-RAHMAN** and key individuals in the criminal episodes underpinning the charges).

²³⁰ P-0883, [DAR-OTP-0218-0059-R01](#) at 0065, paras. 33-34.

²³¹ P-0905, [DAR-OTP-0219-1202-R01](#) at 1206-1207, l. 135-144, [DAR-OTP-0219-1292-R01](#) at 1315, l. 773-778; [DAR-OTP-0219-1074-R01](#) at 1104-1106, l. 1019-1078.

²³² P-0878, [DAR-OTP-0215-9919-R01](#) at 9932.

²³³ P-0878, [DAR-OTP-0219-3062-R01](#) at 3072, para. 44.

²³⁴ P-0921, [DAR-OTP-0219-3146-R01](#) at 3147-3148, l. 33-49.

²³⁵ P-0921, [DAR-OTP-0219-3202-R01](#) at 3205-3206, l. 102-112.

²³⁶ P-0921, [DAR-OTP-0219-3185-R01](#) at 3198, l. 419-421.

destruction [REDACTED] was headed by him.”²³⁷ **ABD-AL-RAHMAN**’s senior leadership position is further confirmed by a number of other witnesses.²³⁸

61. Many witnesses confirm that even before August 2003, **ABD-AL-RAHMAN** held the position of “colonel of colonels” or *agid al-ogada* in the Wadi Salih Locality.²³⁹ P-0643 states that prior to August 2003, **ABD-AL-RAHMAN** was already known as “the commander of all the tribal leaders”²⁴⁰ and that all “Umdahs of the Arab tribes and Agids” were operating under his command.²⁴¹ P-0012 states that **ABD-AL-RAHMAN** was appointed *agid al-ogada* “because of his military experience and education” in around March 2003.²⁴²

62. **ABD-AL-RAHMAN** gained military experience while serving in the SAF, including in South Sudan during the 1980s and/or 1990s when he was deployed with the medical corps and attained the rank of master sergeant.²⁴³ **ABD-AL-RAHMAN** earned a reputation as an experienced military officer and a “fearless warrior”.²⁴⁴ After **ABD-AL-RAHMAN** left the SAF, he opened a pharmacy in Garsila in around 2002.²⁴⁵ P-0905 explains that during this time, as someone with significant military experience, **ABD-AL-RAHMAN** was a prominent member of the community with ambitions to act as the “chief of the Arabs” and Arab *umda* would come to his pharmacy for advice.²⁴⁶ In Garsila, in around August 2003, **ABD-AL-RAHMAN** was appointed to head a newly created Mujahidin Committee, which was used to recruit and arm Militia/*Janjaweed*. This appointment was based on **ABD-AL-RAHMAN**’s

²³⁷ P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

²³⁸ P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 52; P-0131, [DAR-OTP-0158-0820-R02](#) at 0860, l. 1360-1363, and [DAR-OTP-0158-1091-R02](#) at 1094, l. 79-81, and [DAR-OTP-0215-0279](#) at 0286-0287; P-0059, [DAR-OTP-0095-0095-R01](#) at 0113, para. 120; P-0044, [DAR-OTP-0095-0049-R01](#) at 0071-0072, paras. 106-108; P-0756, [DAR-OTP-0211-0039-R01](#) at 0053-0055, paras. 63-67; P-0607, [DAR-OTP-0203-0164-R01](#) at 0181, para. 60; P-0118, [DAR-OTP-0125-0665-R01](#) at 0706, para. 198; P-0712, [DAR-OTP-0209-1884-R01](#) at 1899-1900, paras. 58, 60; P-0592, [DAR-OTP-0209-0825-R01](#) at 0844, para. 106; P-0714, [DAR-OTP-0209-1916-R02](#) at 1933, para. 63; P-0834, [DAR-OTP-0214-0686-R01](#) at 0691, para. 28; P-0725, [DAR-OTP-0210-0122-R01](#) at 0134, para. 97; P-0718, [DAR-OTP-0209-2004-R01](#) at 2016, para. 78; P-0666, [DAR-OTP-0209-2099-R01](#) at 2115-2116, para. 49; P-0719, [DAR-OTP-0210-0154-R01](#) at 0158, para. 23; P-0015, [DAR-OTP-0088-0187-R02](#) at 0201-0202, para. 71; P-0106, [DAR-OTP-0116-1005-R01](#) at 1011, para. 25; P-0092, [DAR-OTP-0112-0175-R01](#) at 0189, para. 63.

²³⁹ P-0060, [DAR-OTP-0097-0328-R01](#) at 0333, para. 19; P-0617, [DAR-OTP-0202-1496-R01](#) at 1531, para. 96; P-0091, [DAR-OTP-0112-0142-R02](#) at 0159, para. 80; P-0129, [DAR-OTP-0128-0128-R03](#) at 0134-0135, paras. 24-25; P-0585, [DAR-OTP-0201-0037-R01](#) at 0044, para. 26 and 0049, para. 47 and 0065, para. 118; P-0091, [DAR-OTP-0112-0142-R02](#) at 0150, para. 41 and 0151, para. 43 and 0159, para. 80 and 0161, para. 91.

²⁴⁰ P-0643, [DAR-OTP-0215-0440-R01](#) at 0442-0443, l. 44-73 and 0452, l. 404.

²⁴¹ P-0643, [DAR-OTP-0215-0440-R01](#) at 0442-0443, l. 44-72.

²⁴² P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 35.

²⁴³ P-0883, [DAR-OTP-0218-0059-R01](#) at 0098 para. 213; P-0769, [DAR-OTP-0212-0018-R01](#) at 0086, para. 588; P-0921, [DAR-OTP-0219-3171-R01](#) at 3179, l. 276-282; P-0107, [DAR-OTP-0128-0042-R01](#) at 0071, para. 189; P-0131, [DAR-OTP-0120-0203-R01](#) at 0217, l. 536-542.

²⁴⁴ P-0883, [DAR-OTP-0218-0059-R01](#) at 0091, para. 175.

²⁴⁵ ICC-02/05-01/20-224, para. 14; P-0905, [DAR-OTP-0219-0938-R01](#) at 0964-0965, l. 872-910.

²⁴⁶ P-0905, [DAR-OTP-0219-0938-R01](#) at 0965-0966, l. 911-942.

existing role as *agid al-ogada* of the Arab tribes.²⁴⁷

63. In early August 2003, rebel armed groups attacked the police station and the CRF base in Mukjar.²⁴⁸ Immediately following this attack, **ABD-AL-RAHMAN** entered Mukjar with his Militia/*Janjaweed*.²⁴⁹ The arrival of **ABD-AL-RAHMAN** and his Militia/*Janjaweed* prevented the rebels from controlling the area.²⁵⁰ Following this attack, a high level delegation of GoS Officials, including HARUN and senior members of GoS Forces, arrived in Mukjar and held a meeting with **ABD-AL-RAHMAN**, among others.²⁵¹

64. P-0643, [REDACTED], explains that before this meeting, **ABD-AL-RAHMAN** was the head of the Mujahidin Committee in the Wadi Salih Locality, which he described as a small committee at the locality level. However after this meeting “he became directly linked to senior people.”²⁵² P-0643 explains that when **ABD-AL-RAHMAN** went to Mukjar and met HARUN, he “started to operate outside the area of Wadi Salih” and “the area under his control expanded.”²⁵³

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

65. **ABD-AL-RAHMAN** was feared and respected by Arab tribes in the Wadi Salih and Mukjar Localities. P-0883 states that **ABD-AL-RAHMAN** was able to unite them under his command to fight and prevent the rebels from taking control over the whole region, which “would have happened without Ali KUSHAYB’s intervention.”²⁵⁴ P-0012 states that **ABD-AL-RAHMAN** functioned as the link between the “aqids and the politicians” and adds that the “government gives him the weapons, salaries and uniforms to be given out to the other ‘aqid[s].”²⁵⁵

66. As a senior leader/*agid al-ogada* in the Militia/*Janjaweed*, **ABD-AL-RAHMAN** had authority over other *agids* operating in the region, including in particular SAMIH, and Muhammad Adam BONJOUSE (“BONJOUSE”),²⁵⁶ as well as multiple other *agids* during

²⁴⁷ P-0643, [DAR-OTP-0215-0440-R01](#) at 0452, l. 401-404, and [DAR-OTP-0215-0492-R01](#) at 0509, l. 569-571.

²⁴⁸ P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 49; P-0755, [DAR-OTP-0211-0072-R01](#) at 0080-0081, paras. 27-31; P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62.

²⁴⁹ P-0755, [DAR-OTP-0211-0072-R01](#) at 0082, paras. 34-35.

²⁵⁰ P-0103, [DAR-OTP-0120-0203-R01](#) at 0218-0219, l. 600-615; P-0643, [DAR-OTP-0215-0492-R01](#) at 0511-0512, l. 665-691.

²⁵¹ See above, paras. 35, 81-82.

²⁵² P-0643, [DAR-OTP-0215-0492-R01](#) at 0509, l. 569-571.

²⁵³ P-0643, [DAR-OTP-0215-0531-R01](#) at 0534, l. 85-92, and [DAR-OTP-0215-0604-R01](#) at 0606-0607, l. 41-104.

²⁵⁴ P-0883, [DAR-OTP-0218-0059-R01](#) at 0089, para. 166.

²⁵⁵ P-0012, [DAR-OTP-0119-0503-R01](#) at 0513, para. 45.

²⁵⁶ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, paras 33-37.

armed operations.

67. P-0012 refers to SAMIH as one of **ABD-AL-RAHMAN**'s deputies in Mukjar.²⁵⁷ P-0606, states that SAMIH introduced himself as a deputy to **ABD-AL-RAHMAN**.²⁵⁸ Both P-0877 and P-0757 state that **ABD-AL-RAHMAN** was senior to SAMIH.²⁵⁹ According to P-0883, SAMIH was closely affiliated with **ABD-AL-RAHMAN**, "as they both coordinated and carried out the attacks on the villages in the area between Mukjar and Sindu."²⁶⁰ P-0921, [REDACTED] **ABD-AL-RAHMAN** and SAMIH, states that the latter was a "JANJAWOOD commander" who took orders from **ABD-AL-RAHMAN** and conveyed them to men under his command.²⁶¹

68. P-0883 states that BONJOUSE was **ABD-AL-RAHMAN**'s deputy in the Garsila area and that in early 2004, **ABD-AL-RAHMAN** "accused [BONJOUSE] of being a coward, demoted him from his position and seized [his] heavy weaponry."²⁶² P-0012 also states that **ABD-AL-RAHMAN**'s other deputies were BONJOUSE, in an area called Zame Bayaa, Hamdan UMAR, in Garsila, and Hamuda HAMDAN ("HAMDAN"), in Bindisi.²⁶³ Similarly, P-0029 states that HAMDAN was a "Janjaweed leader" in Bindisi.²⁶⁴ P-0601 states that on one occasion, HAMDAN introduced himself and stated "we are officers of Ali KUSHAYB, we will not kill you until he tells us."²⁶⁵

69. During armed operations led by **ABD-AL-RAHMAN**, some of which involved thousands of Militia/*Janjaweed*, he would give orders to the various sub-leaders/*agids* to relay to one another and to their men. In the course of the operation that included the attack on Kodoom and Bindisi, [REDACTED] **ABD-AL-RAHMAN** blow his whistle to summon 20 to 30 Militia/*Janjaweed* leaders to give them orders.²⁶⁶ [REDACTED] during the operation to attack Sindu, which involved thousands of Militia/*Janjaweed*, when **ABD-AL-RAHMAN** would give orders, all the *agids* of the Militia/*Janjaweed* would come to him²⁶⁷ and his orders were passed from *agid* to *agid*.²⁶⁸ [REDACTED] **ABD-AL-RAHMAN** ordered the *agids* to

²⁵⁷ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

²⁵⁸ P-0606, [DAR-OTP-0203-0193-R01](#) at 0222, para. 100. *See also* P-0041, [DAR-OTP-0206-0033-R01](#) at 0040, para. 24.

²⁵⁹ P-0877, [DAR-OTP-0217-0211-R02](#) at 0217, para. 34; P-0757, [DAR-OTP-0211-0003-R01](#) at 0021, para. 70.

²⁶⁰ P-0883, [DAR-OTP-0218-0059-R01](#) at 0065-0066, para. 35 and 0090, para. 172.

²⁶¹ P-0921, [DAR-OTP-0219-3146-R01](#) at 3158, l. 391-409.

²⁶² P-0883, [DAR-OTP-0218-0059-R01](#) at 0103, para. 239.

²⁶³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

²⁶⁴ P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 52.

²⁶⁵ P-0606, [DAR-OTP-0202-1588-R01](#) at 1605, para. 75.

²⁶⁶ [REDACTED].

²⁶⁷ [REDACTED].

²⁶⁸ [REDACTED].

pass a specific signal that indicated to their men the start of the attack on Sindu.²⁶⁹ P-0012 recalled that during a meeting on 7 August 2003 in Mukjar, every *agid* stood in front of their men, while **ABD-AL-RAHMAN** would always stand in front of everyone.²⁷⁰

70. **ABD-AL-RAHMAN**'s orders, including orders to commit crimes, were obeyed by other members of the Militia/*Janjaweed*. P-0643 states that because of **ABD-AL-RAHMAN**'s position as the "main leader", no one could refuse to implement his instructions.²⁷¹ According to P-0012, Arabs did not go to operations unless approved by **ABD-AL-RAHMAN**, and he adds that other members of the Militia/*Janjaweed* "refer to the war as Ali KUSHAYB's war."²⁷²

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

71. P-0547²⁷³ and P-0131²⁷⁴ both state that **ABD-AL-RAHMAN** played a prominent role in the recruitment of Militia/*Janjaweed*. P-0643 confirms that **ABD-AL-RAHMAN** was appointed the head of the Mujahidin Committee in Garsila, which was responsible for recruiting and arming the Militia/*Janjaweed*.²⁷⁵ P-0547 also states that **ABD-AL-RAHMAN** was also one of the key officials to supervise their training.²⁷⁶ P-0105 states that in Mukjar, there was a training ground for the Militia/*Janjaweed* where **ABD-AL-RAHMAN** attended graduation ceremonies and gave graduation speeches to the Militia/*Janjaweed*.²⁷⁷

72. In addition, P-0105 saw **ABD-AL-RAHMAN** bringing weapons and uniforms to the new recruits of the Militia/*Janjaweed* in Mukjar on multiple occasions in around 2002 and later in 2003.²⁷⁸ P-0606 states that [REDACTED] he heard SAMIH tell a group of Militia/*Janjaweed* they were being trained because **ABD-AL-RAHMAN** needed new personnel.²⁷⁹

73. P-0092 attended a meeting between **ABD-AL-RAHMAN**, **ABD-AL-HAKAM** and **BONJOUSE** in Amar, near Garsila, in around October 2003, during which **ABD-AL-HAKAM** gave a speech and claimed that he was supplying weapons and other military equipment to

²⁶⁹ [REDACTED].

²⁷⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

²⁷¹ P-0643, [DAR-OTP-0215-0358-R01](#) at 0395, l. 1251-1252.

²⁷² P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

²⁷³ P-0547, [DAR-OTP-0196-0146-R01](#) at 0184, paras. 129-130.

²⁷⁴ P-0131, [DAR-OTP-0158-0964-R02](#) at 0988, l. 866-71.

²⁷⁵ P-0643, [DAR-OTP-0215-0440-R01](#) at 0443-0445, l. 99-109, 174-175 and 0452, l. 398-402; [DAR-OTP-0215-0279](#) at 0286-0287.

²⁷⁶ P-0547, [DAR-OTP-0196-0146-R01](#) at 0183-0184, paras. 129-130. *See below*, para. 83.

²⁷⁷ P-0105, [DAR-OTP-0116-0975-R01](#) at 0978, paras. 10-12.

²⁷⁸ P-0105, [DAR-OTP-0116-0975-R01](#) at 0978, paras. 10-12.

²⁷⁹ P-0606, [DAR-OTP-0203-0193-R01](#) at 0222-0223, para. 102.

ABD-AL-RAHMAN.²⁸⁰ **ABD-AL-RAHMAN** then addressed the crowd, stating “I am the Agid Ougada of the Fursan. I supplied you with weapons, military equipment and everything.”²⁸¹

74. **ABD-AL-RAHMAN** was also directly involved in coordinating and participating in the distribution of weapons and other military equipment to Militia/*Janjaweed*, including, in particular, around the same time of armed operations in August 2003.²⁸² [REDACTED]²⁸³ Before the armed operations in February/March 2004, [REDACTED] **ABD-AL-RAHMAN** coordinating the distribution of weapons and ammunition to Militia/*Janjaweed* in the Garsila SAF Base.²⁸⁴ P-0028 witnessed **ABD-AL-RAHMAN** arrive in Mukjar in around February/March 2004 with 6,000 Militia/*Janjaweed* soldiers and set up camp. On the next day after their arrival, P-0028 witnessed helicopters deliver heavy boxes that were taken to the CRF and Police.²⁸⁵

75. **ABD-AL-RAHMAN** provided money to members of the Militia/*Janjaweed*. P-0736 witnessed around 30 members of the Militia/*Janjaweed* lining up outside **ABD-AL-RAHMAN**'s pharmacy in Garsila at the end of each month. The witness was later told by others that they were awaiting their monthly salary payments.²⁸⁶ P-0843 also saw a long line of members of the Militia/*Janjaweed* waiting in front of the pharmacy in Garsila owned by **ABD-AL-RAHMAN** to receive payment in around 2004.²⁸⁷ **ABD-AL-RAHMAN** was also involved in procuring supplies for the Militia/*Janjaweed* from the *zakat* office in Bindisi.²⁸⁸

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

76. **ABD-AL-RAHMAN** led armed Militia/*Janjaweed* operations in the Wadi Salih and Mukjar Localities. These included armed operations in Sindu, Kodoom, Bindisi, Arawala, Mukjar and Deleig. [REDACTED] **ABD-AL-RAHMAN** led this operation and decided the route, the tactics and the duration.²⁸⁹ [REDACTED] **ABD-AL-RAHMAN** issue instructions

²⁸⁰ P-0092, [DAR-OTP-0112-0175-R01](#) at 0189, para. 62.

²⁸¹ P-0092, [DAR-OTP-0112-0175-R01](#) at 0189, para. 63.

²⁸² P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105; P-0106, [DAR-OTP-0116-1005-R01](#) at 1012, paras. 31-33; P-0085, [DAR-OTP-0110-0054-R01](#) at 0060, para. 23 and 0066, para. 44; P-0092, [DAR-OTP-0112-0175-R01](#) at 0184, para. 40.

²⁸³ [REDACTED].

²⁸⁴ [REDACTED].

²⁸⁵ P-0028, [DAR-OTP-0094-0423-R01](#) at 0437-0438, paras. 59-60.

²⁸⁶ P-0736, [DAR-OTP-0210-0248-R01](#) at 0255, paras. 29-30.

²⁸⁷ P-0843, [DAR-OTP-0216-0600-R01](#) at 0613, para. 64. *See also* P-0883, [DAR-OTP-0218-0059-R01](#) at 0071, paras. 59-60.

²⁸⁸ [REDACTED]. *See above*, para. 83.

²⁸⁹ [REDACTED].

and orders to Militia/*Janjaweed*, using a whistle, and shouting “Allahu Akbar!” and “wipe out and sweep away!”²⁹⁰ [REDACTED] **ABD-AL-RAHMAN** summon 20 to 30 Militia/*Janjaweed* sub-leaders to relay orders, encourage, and also criticise those who expressed reluctance to continue the attacks.²⁹¹ [REDACTED] **ABD-AL-RAHMAN** ordering and commanding Militia/*Janjaweed*, including “to push back the elderly and the civilians into their own houses, and then they would set fire to the house.”²⁹²

77. In around early 2004, **ABD-AL-RAHMAN** led Militia/*Janjaweed* in a joint operation with the SAF that focused on attacking locations in the Sindu village area. This operation, which originated from Garsila, also included attacks on other locations, including Arawala, and culminated in the execution of men in Mukjar and Deleig in February/March 2004.²⁹³ Together with **ABD-AL-RAHMAN**’s forces, the convoy also included around 50 members of the SAF and PDF, [REDACTED].²⁹⁴ As it left Garsila, the convoy, led by **ABD-AL-RAHMAN**’s vehicle,²⁹⁵ included about 800 Militia/*Janjaweed*.²⁹⁶ As the convoy progressed towards Sindu, via Mukjar, over the following days, the numbers increased to thousands of Militia/*Janjaweed*.²⁹⁷

78. Throughout this operation **ABD-AL-RAHMAN** issued orders and instructions, occasionally through speeches, to Militia/*Janjaweed*, including to “[e]liminate” men captured in Arawala,²⁹⁸ to “wipe and sweep”²⁹⁹ and to “just shoot, just kill” in Um Jameina.³⁰⁰ [REDACTED] **ABD-AL-RAHMAN** giving orders to the various *agids* during this operation.³⁰¹ In Sindu, a man who identified himself as the second-in-command in the Sindu rebel camp, surrendered himself to the Militia/*Janjaweed*. He was brought before **ABD-AL-RAHMAN** who interrogated him about the whereabouts of rebel leader Abd-Al-Wahid Muhammad NUR and the location of weapons. After this, the man was handed over to a Military Intelligence officer, before being taken by **ABD-AL-RAHMAN** back to Mukjar police station and used to identify suspected rebels.³⁰²

²⁹⁰ [REDACTED].

²⁹¹ [REDACTED].

²⁹² [REDACTED].

²⁹³ See below, paras. 242, 306.

²⁹⁴ P-0905, [DAR-OTP-0219-0989-R01](#) at 1014, l. 840-866.

²⁹⁵ P-0905, [DAR-OTP-0219-1045-R01](#) at 1047-1048, l. 61-100.

²⁹⁶ P-0905, [DAR-OTP-0219-0777-R01](#) at 0792, l. 520-524.

²⁹⁷ P-0905, [DAR-OTP-0219-1109-R01](#) at 1125-1126, l. 552-553, 575, and [DAR-OTP-0219-0800-R01](#) at 0808, l. 258-265.

²⁹⁸ [REDACTED].

²⁹⁹ [REDACTED].

³⁰⁰ [REDACTED].

³⁰¹ [REDACTED].

³⁰² P-0905, [DAR-OTP-0219-1155-R01](#) at 1156, l. 10-31. See below, para. 267.

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

79. Between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** cooperated with senior GoS Officials, including HARUN, whom he met in Mukjar and Garsila on a number of occasions. **ABD-AL-RAHMAN** also received public expressions of support from GoS Officials, including from HARUN. He also communicated with senior GoS Officials, including during armed operations. **ABD-AL-RAHMAN** also received weapons and money from HARUN which he distributed to the Militia/*Janjaweed*. **ABD-AL-RAHMAN** also cooperated with senior members of GoS Forces. In particular, he met with a number of high-ranking officials from the SAF in Mukjar and Garsila.

ABD-AL-RAHMAN cooperated with senior GoS Officials and senior members of GoS Forces who provided public support, weapons and money

80. P-0883 explained that “KUSHAYB would always do whatever he wanted as people were afraid to challenge him because of his authority and his affiliation and connections with some official of the Sudanese government, such as Ministers of Interior and Defence.”³⁰³ [REDACTED]³⁰⁴

81. In Mukjar in early August 2003, shortly after the attack by rebel forces on the police station and the CRF base in Mukjar,³⁰⁵ multiple witnesses observed the arrival by helicopter of a delegation of senior GoS Officials and senior members of the GoS Forces.³⁰⁶

82. [REDACTED] **ABD-AL-RAHMAN** waiting to receive this high-level delegation, which included HARUN, Major General ISMAT and Ali KARTI (“KARTI”), the general PDF coordinator in Sudan, as well as senior members of the NISS and the Police. **ABD-AL-RAHMAN** was standing with other Militia/*Janjaweed* leaders, including SAMIH and BONJOUSE, as well as Mukjar PDF coordinator, Al-Sadiq Ahmad Uthman ZAKARIYA (“ZAKARIYA”). The delegation held a private meeting with **ABD-AL-RAHMAN** and others in the Mukjar Locality Building, followed by a public meeting in front of the Locality Building.³⁰⁷

83. At this public meeting, [REDACTED] HARUN express thanks to the assembled

³⁰³ P-0883, [DAR-OTP-0218-0059-R01](#) at 0073, para. 71.

³⁰⁴ [REDACTED].

³⁰⁵ P-0029, [DAR-OTP-0094-0119-R01](#) at 0131, para. 49; P-0755, [DAR-OTP-0211-0072-R01](#) at 0080-0081, paras. 27-31; P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62.

³⁰⁶ See above, para. 35.

³⁰⁷ [REDACTED].

Militia/*Janjaweed* for providing support to the GoS and GoS Forces and said that, “as of today, we consider you as government forces”.³⁰⁸ HARUN also promised Militia/*Janjaweed* weapons, training camps, vehicles, salaries and food for their horses.³⁰⁹ [REDACTED] HARUN say to **ABD-AL-RAHMAN**: “Ali, from Dogodussa to Foro Baranga – I don’t want you to leave a human or a single tree. Burn it all.”³¹⁰ P-0012, who was also present during HARUN’s speech, noticed that **ABD-AL-RAHMAN** was standing in front of his men, very close to HARUN.³¹¹ Multiple witnesses refer to HARUN expressing an intention to provide money to Militia/*Janjaweed*.³¹² KARTI also made a speech in front of the assembled Militia/*Janjaweed*. He stated that “we consider you part of the People’s Defence Forces” and promised to establish camps and provide training, weapons and money.³¹³

84. In around December 2003, [REDACTED], Major BAKHIT, refer to a signal communication received from Vice President TAHA. The signal stated that weapons and uniforms for **ABD-AL-RAHMAN** and his forces would be delivered to the base.³¹⁴ Towards the end of 2003, [REDACTED] a number of senior members of the GoS Forces arrive by helicopter to the SAF base in Garsila. The delegation included a Major, a Lieutenant Colonel, and a Colonel. [REDACTED] **ABD-AL-RAHMAN** enter a private meeting with this delegation that went on for a considerable amount of time.³¹⁵

85. In Mukjar, in around early 2004, in preparation for the armed operation to attack the Sindu area, another large meeting was held with Militia/*Janjaweed* and GoS Officials who arrived by helicopter. Witnesses saw **ABD-AL-RAHMAN** and HARUN arrive in Mukjar at this time.³¹⁶ [REDACTED] **ABD-AL-RAHMAN** unloading boxes, which he assumed contained weapons and ammunition, from a helicopter into **ABD-AL-RAHMAN**’s vehicle.³¹⁷ [REDACTED] HARUN get out of the helicopter, greet **ABD-AL-RAHMAN** and speak with him for a short while.³¹⁸ P-0041 states that a few weeks after the large meeting in Mukjar attended by **ABD-AL-RAHMAN** and HARUN, a number of villages between Mukjar and

³⁰⁸ [REDACTED].

³⁰⁹ [REDACTED].

³¹⁰ [REDACTED].

³¹¹ P-0012, [DAR-OTP-0119-0503-R01](#) at 0517-0518, paras. 62-67. See also P-0755, [DAR-OTP-0211-0072-R01](#) at 0088-0089, para. 55.

³¹² [REDACTED].

³¹³ [REDACTED].

³¹⁴ [REDACTED].

³¹⁵ [REDACTED].

³¹⁶ P-0188, [DAR-OTP-0216-0060-R02](#) at 0078, para. 112; P-0757, [DAR-OTP-0211-0003-R01](#) at 0021, para. 71; P-0041, [DAR-OTP-0206-0033-R01](#) at 0044-0046, paras. 43-53 and 0053, para. 81.

³¹⁷ [REDACTED].

³¹⁸ [REDACTED].

Sindu were attacked.³¹⁹

86. Also in around February 2004, [REDACTED] HARUN, together with a PDF Brigadier General, arrive by helicopter at the SAF base in Garsila. There, [REDACTED] them meet with **ABD-AL-RAHMAN**, together with the Garsila NISS Director, Commander of the Garsila SAF Batallion, Major BAKHIT, the Garsila Police Director, PDF officer (later Garsila PDF coordinator) Abd-Al-Rahman Dawud HAMMUDAHA, also known as HASSABALLAH (“HASSABALLAH”) and HAMDI.³²⁰

87. The following day, HARUN and the PDF Brigadier General again visited the base by helicopter and were welcomed by **ABD-AL-RAHMAN**, Major BAKHIT and HAMDI. [REDACTED] HARUN give instructions for boxes containing money to be distributed and saw that **ABD-AL-RAHMAN** was given three large boxes, while other high ranking officials were given one small box.³²¹ More generally, [REDACTED] support HARUN provided to **ABD-AL-RAHMAN** and his Militia/*Janjaweed* during the relevant period, including speeches to boost the morale of his forces.³²²

88. [REDACTED].³²³

89. [REDACTED].³²⁴

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

90. [REDACTED].³²⁵

91. [REDACTED].³²⁶

92. During the operation to execute men in Mukjar in February/March 2004, **ABD-AL-RAHMAN** was also in direct telephone contact with HARUN.³²⁷ In addition, P-0769 was told that **ABD-AL-RAHMAN** had been in direct communication with HUSSEIN regarding an attack on Bindisi in 2003, during which “HUSSEIN had offered him air support prior to ground forces attacking.”³²⁸

³¹⁹ P-0041, [DAR-OTP-0206-0033-R01](#) at 0047-0050, paras. 56-69.

³²⁰ [REDACTED].

³²¹ [REDACTED].

³²² [REDACTED].

³²³ [REDACTED].

³²⁴ [REDACTED].

³²⁵ [REDACTED].

³²⁶ [REDACTED].

³²⁷ See below, para. 261.

³²⁸ P-0769, [DAR-OTP-0212-0018-R01](#) at 0088, para. 603.

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

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

94. In Garsila, towards the beginning of the charged events and following increased rebel activity in the area, a series of committees were created.³²⁹ At the suggestion of **ABD-AL-HAKAM**, **ABD-AL-RAHMAN** was appointed to head the Mujahidin Committee in charge of recruiting and arming.³³⁰ Despite being created at a public meeting and with the support of representatives of Arab and Fur tribes,³³¹ **ABD-AL-RAHMAN**'s Mujahidin Committee held meetings in the Garsila SAF base³³² and only armed members of Arab tribes.³³³ Witnesses also refer to **ABD-AL-RAHMAN** and **ABD-AL-HAKAM** working together to arm the Militia/*Janjaweed* in Garsila and surrounding areas during the relevant period.³³⁴

95. During the charged period **ABD-AL-RAHMAN** was regularly seen in other meetings with **ABD-AL-HAKAM**, including in Garsila,³³⁵ Deleig³³⁶ and Amar.³³⁷ In Amar, **ABD-AL-HAKAM** publicly stated "Ali KOSHEIB these Bashmarga who we recruited, I have given you everything for them; I gave you the weapons, I gave you the khaki, face caps and boots."³³⁸

96. [REDACTED].³³⁹ [REDACTED].³⁴⁰

97. [REDACTED]³⁴¹ [REDACTED]³⁴²

98. P-0905 also refers to the close relationship between **ABD-AL-HAKAM** and **ABD-AL-RAHMAN**. He explains that **ABD-AL-HAKAM** was a senior political figure who armed

³²⁹ P-0643, [DAR-OTP-0215-0440-R01](#) at 0442-0447, l. 66-126, 170-218.

³³⁰ P-0643, [DAR-OTP-0215-0440-R01](#) at 0452, l. 395-404.

³³¹ P-0643, [DAR-OTP-0215-0440-R01](#) at 0450, l. 321-341 and 0452, l. 395-418.

³³² P-0643, [DAR-OTP-0215-0440-R01](#) at 0451, l. 367-372.

³³³ P-0643, [DAR-OTP-0215-0454-R01](#) at 0456-0457, l. 67-77; P-0092, [DAR-OTP-0112-0175-R01](#) at 0185, paras. 43-46; P-0059, [DAR-OTP-0095-0095-R01](#) at 0099, para. 17.

³³⁴ P-0091, [DAR-OTP-0112-0142-R02](#) at 0155, para. 61; P-0085, [DAR-OTP-0110-0054-R01](#) at 0060, para. 23.

³³⁵ P-0883, [DAR-OTP-0218-0059-R01](#) at 0074, para. 73.

³³⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0135, paras. 25-27.

³³⁷ P-0092, [DAR-OTP-0112-0175-R01](#) at 0188-0190, paras. 58-67.

³³⁸ P-0092, [DAR-OTP-0112-0175-R01](#) at 0188-0190, para. 62.

³³⁹ [REDACTED].

³⁴⁰ [REDACTED].

³⁴¹ [REDACTED].

³⁴² [REDACTED].

Militia/*Janjaweed* and helped **ABD-AL-RAHMAN**. In reference to their relationship, he states that ABD-AL-HAKAM was “in charge of everyone” and **ABD-AL-RAHMAN** was “chief of war” and during “the operations, it’s Ali KUSHAYB who’s responsible.”³⁴³

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

99. **ABD-AL-RAHMAN** also cooperated with, and at times exerted influence over, members of GoS Forces in the Wadi Salih and Mukjar Localities. This included Police and CRF officers in Mukjar, including HIMEIDAN and Mustafa Ahmad AL-TAYYIB (“AL-TAYYIB”). In the SAF, this included Military Intelligence personnel, including the head of the Military Intelligence Office in Garsila, HAMDI, and Military Intelligence officers Mussadiq Hassan MANSUR (“MANSUR”) and ABD-AL-MUN’IM, also known as ABU LAHAB (“ABD-AL-MUN’IM”), as well as various other SAF personnel.

Relationship with the Police and CRF

100. [REDACTED] AL-TAYYIB, the head of CRF in Mukjar, [REDACTED]. When **ABD-AL-RAHMAN** spoke with AL-TAYYIB, “[e]ven though [AL-TAYYIB] was quite high ranking, it was clear that KUSHAYB did not give him any importance. KUSHAYB was far higher ranking than [AL-TAYYIB]. He reports to HARUN.”³⁴⁴ The police chief’s subservience to **ABD-AL-RAHMAN** is evident from the behavior of both of them at Mukjar police station. Once detainees at Mukjar police station had been interviewed, “[AL-TAYYIB] [...] provided KUSHAYB with the short statements for the 123 persons detained [...] KUSHAYB looked at a few of these statements and then he ripped them all up”.³⁴⁵ [REDACTED] **ABD-AL-RAHMAN**’s scope of power: “KUSHAYB [...] could kill and loot as he liked.”³⁴⁶

101. [REDACTED], describes **ABD-AL-RAHMAN**’s relationship with the Police in a similar way. In March 2004, and shortly after a helicopter landed with weapons and ammunition, **ABD-AL-RAHMAN** arrived at the Police camp.³⁴⁷ **ABD-AL-RAHMAN** arrived in his Land Cruiser with trucks loaded with Militia/*Janjaweed* and met with the head of the CRF in Mukjar, AL-TAYYIB.³⁴⁸ AL-TAYYIB provided **ABD-AL-RAHMAN** with boxes of ammunition, which had been brought by helicopter.³⁴⁹ [REDACTED] also describes AL-

³⁴³ P-0905, [DAR-OTP-0219-1321-R01](#) at 1332-1333, l. 349-383.

³⁴⁴ [REDACTED].

³⁴⁵ [REDACTED].

³⁴⁶ [REDACTED].

³⁴⁷ [REDACTED].

³⁴⁸ [REDACTED].

³⁴⁹ [REDACTED].

TAYYIB's cooperation and compliance when **ABD-AL-RAHMAN** requested him to hand over the prisoners detained in Mukjar.³⁵⁰ [REDACTED] before **ABD-AL-RAHMAN** left Mukjar towards Sindu on an operation in early 2004, he warned the police chief in Mukjar that any man coming from Sindu must be registered and kept in Mukjar. In case of non-compliance, **ABD-AL-RAHMAN** added, the police chief would be held accountable. In turn, the head of police told all the *Sheikhs* in Mukjar that if any man came from Sindu, he should be brought to the Police.³⁵¹

102. [REDACTED],³⁵² [REDACTED].³⁵³[REDACTED].³⁵⁴ This statement by the Mukjar CRF Commander highlights the influence and authority of **ABD-AL-RAHMAN** and, at the very least, the acceptance of his behaviour by GoS Forces.

Relationship with the SAF

103. **ABD-AL-RAHMAN** also cooperated with, and at times exerted influence over, SAF personnel in the Wadi Salih and Mukjar Localities. For example, numerous witnesses confirm **ABD-AL-RAHMAN**'s close cooperation with Military Intelligence officers during the period of the charges. This was especially true of HAMDI, the officer in charge of the Military Intelligence Office in Garsila. [REDACTED] also described meetings between HAMDI and **ABD-AL-RAHMAN** inside the SAF military base in Garsila.³⁵⁵ [REDACTED]. HAMDI was in charge of supplying **ABD-AL-RAHMAN** with different weapons and provisions, and sometimes he would go with him on patrols outside the base.³⁵⁶

104. [REDACTED] saw HAMDI and **ABD-AL-RAHMAN** together "[m]any, many times. From the time that his orders came and he knew that he has weapons [...] there is always communication between Ali KUSHAYB and HAMDI."³⁵⁷ [REDACTED] HAMDI allowed for the provision of weapons and money to **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates.³⁵⁸

105. Civilians arrested on the orders of **ABD-AL-RAHMAN** were detained at the SAF base at Garsila on a regular basis. This included Hassan Adam Musa (a Fur neighbour of **ABD-AL-**

³⁵⁰ [REDACTED].

³⁵¹ [REDACTED].

³⁵² [REDACTED].

³⁵³ [REDACTED].

³⁵⁴ [REDACTED].

³⁵⁵ [REDACTED].

³⁵⁶ [REDACTED].

³⁵⁷ [REDACTED].

³⁵⁸ [REDACTED].

RAHMAN),³⁵⁹ [REDACTED], *Umdah* Mohamed Suleiman Abdelshafa from Tanako, and [REDACTED], who were detained in the detention room for political prisoners.³⁶⁰ They had been arrested by [REDACTED], on his orders.³⁶¹ [REDACTED] Commander, Major BAKHIT.³⁶² Indeed, at the SAF base in Garsila, the detention room for “political prisoners” was made operational as of March 2004, on the order of the Battalion Commander, “when KUSHAYB started rounding up and arresting Oumdahs, Sheikhs and other community leaders, teachers, doctors”.³⁶³

106. As described in detail in the sections on Mukjar and Deleig, there was also extensive cooperation between HAMDY and **ABD-AL-RAHMAN** during the course of the criminal episodes which underpin the charges. **ABD-AL-RAHMAN** also maintained a close relationship with other Military Intelligence officers. [REDACTED] describes, for example, that Military Intelligence officers ABD-AL-MUN’IM and [REDACTED] “were very close with Ali KUSHAYB”.³⁶⁴ [REDACTED] “was always with Ali KUSHAYB when the latter was moving around” and would “always participate in Ali KUSHAYB’s operations”.³⁶⁵ **ABD-AL-RAHMAN** also cooperated with MANSUR.³⁶⁶

ABD-AL-RAHMAN also coordinated with, and exerted influence over, members of GoS Forces during the course of armed operations

107. [REDACTED] **ABD-AL-RAHMAN** commanded military convoys comprising both GoS Forces and Militia/*Janjaweed*. Regarding one such joint convoy that deployed during the period of the charged crimes, [REDACTED], “Ali KUSHAYB” was one of “the chiefs [...] of this convoy.”³⁶⁷ **ABD-AL-RAHMAN**’s forces travelled ahead and were followed by GoS Forces.³⁶⁸ [REDACTED], due to **ABD-AL-RAHMAN**’s high level contacts and connections within the GoS, **ABD-AL-RAHMAN** did not take instructions from GoS Forces that deployed with him.³⁶⁹ On the same convoy, **ABD-AL-RAHMAN** was also accompanied by SAF soldier ABD-AL-MUN’IM, who distributed weapons and ammunition to Militia/*Janjaweed* in the

³⁵⁹ [REDACTED].

³⁶⁰ [REDACTED].

³⁶¹ [REDACTED].

³⁶² [REDACTED].

³⁶³ [REDACTED].

³⁶⁴ [REDACTED].

³⁶⁵ [REDACTED].

³⁶⁶ [REDACTED].

³⁶⁷ [REDACTED].

³⁶⁸ [REDACTED].

³⁶⁹ [REDACTED].

convoy.³⁷⁰

108. Similarly, P-0883 refers to “Ali KUSHAYB and his Janjaweed” launching attacks on Bindisi, Mukjar and Sindu, while also attacking villages on their way.³⁷¹ He describes how **ABD-AL-RAHMAN**’s forces were supported by the PDF and SAF, which were commanded by Muqaddam IDRIS (“IDRIS”), an SAF soldier from Garsila appointed to this operation by Battalion Commander Major BAKHIT “on Ali KUSHAYB’s request”.³⁷² [REDACTED]³⁷³

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

109. **ABD-AL-RAHMAN**, at times, issued orders to certain personnel of the GoS Forces, including to personnel of the SAF and PDF. These orders were obeyed.³⁷⁴ In the SAF, this included soldiers IDRIS³⁷⁵ [REDACTED], as well as certain officers within the Military Intelligence Office in Garsila. [REDACTED] the significant nature of **ABD-AL-RAHMAN**’s *de facto* powers, stating that “even if there is a Brigadier, he can give him orders.”³⁷⁶ [REDACTED] the orders issued by **ABD-AL-RAHMAN** during the course of joint SAF and Militia/*Janjaweed* armed operations: “Ali KUSHAYB [...] he has instructions [...] for any of the Zurga tribe. You see, you kill. You see anyone, you kill. [...] you see a young man like that [...] you kill him – whether he’s armed or not armed.”³⁷⁷ [REDACTED], “[a]nd, automatically, you can’t say anything to [ABD-AL-RAHMAN].”³⁷⁸ Notably, in this context, *Zurga* is a derogatory term used to describe black Africans.³⁷⁹ This included persons of the Fur ethnic group.³⁸⁰

110. [REDACTED] Hassan Adam Musa and *Sheikh* Ismail Abdulaziz (also known as Dikobi) were arrested [REDACTED] on **ABD-AL-RAHMAN**’s orders. [REDACTED].³⁸¹ [REDACTED].³⁸² [REDACTED]³⁸³

³⁷⁰ [REDACTED].

³⁷¹ P-0883, [DAR-OTP-0218-0059-R01](#) at 0078, para. 97.

³⁷² P-0883, [DAR-OTP-0218-0059-R01](#) at 0078, para. 98 and 0103, para. 237.

³⁷³ [REDACTED].

³⁷⁴ [REDACTED].

³⁷⁵ See below, paras. 249 and 272 (in the context of crimes in committed in Mukjar and surrounding areas).

³⁷⁶ P-0905, [DAR-OTP-0219-1109-R01](#) at 1121, l. 414-415.

³⁷⁷ P-0905, [DAR-OTP-0219-0777-R01](#) at 0797, l. 726-730.

³⁷⁸ P-0905, [DAR-OTP-0219-0777-R01](#) at 0798, l. 737-738. (See e.g. P-0905, [DAR-OTP-0219-1292-R01](#) at 1307, l. 485–502.

³⁷⁹ P-0070, [DAR-OTP-0107-0313-R01](#) at 0320-0321, paras. 28-32.

³⁸⁰ P-0905, [DAR-OTP-0219-1292-R01](#) at 1307, l. 485–502; P-0070, [DAR-OTP-0107-0313-R01](#) at 0324-0325, paras. 45-48; P-0034, [DAR-OTP-0118-0002-R01](#) at 0014, para 58.

³⁸¹ [REDACTED].

³⁸² [REDACTED].

³⁸³ [REDACTED].

111. It is clear that **ABD-AL-RAHMAN**'s orders were followed by Military Intelligence. [REDACTED]³⁸⁴ [REDACTED].³⁸⁵ [REDACTED] Military Intelligence Officers [REDACTED] were powerless against Ali KUSHAYB. Commander [BAKHIT] did not like the situation either, but I believe his hands were also tied because he knew that Ali KUSHAYB was backed up by the then Sudanese government."³⁸⁶ [REDACTED] the situation was the same with the Police, stating "[t]he Police in GARSILA, including the Security Police, was [...] powerless to investigate, prevent or sanction crimes committed by Ali KUSHAYB and his men, as they knew he was almighty and supported by the Government."³⁸⁷

112. **ABD-AL-RAHMAN** was also able to issue orders to leaders and other personnel of the PDF. For example, [REDACTED] **ABD-AL-RAHMAN** issued orders to PDF officer (later Garsila PDF coordinator) HASSABALLAH to accompany **ABD-AL-RAHMAN** to Bindisi "from one village to the next", shortly prior to **ABD-AL-RAHMAN**'s attack on Bindisi.³⁸⁸ [REDACTED].³⁸⁹ The same was the case regarding **ABD-AL-RAHMAN**'s relationship with Mukjar PDF coordinator ZAKARIYA.³⁹⁰

113. **ABD-AL-RAHMAN** could issue orders to Police personnel. [REDACTED] before a joint convoy left Mukjar, shortly prior to the charged events in Mukjar, "Ali KUSHAYB [...] warned [...] the commander of the police [...] '[a]ny man coming down from SINDU, he has to be registered [...] and kept [...] if this does not happen, we come and he's not there, you are going to bear responsibility."³⁹¹ The head of police accordingly passed on this instruction to the *sheikhs* of Mukjar.³⁹² [REDACTED] during the course of the attack on Kodoom in mid-August 2003, **ABD-AL-RAHMAN** "told [REDACTED] to give the ammunition [REDACTED] to the Janjaweed force."³⁹³ [REDACTED].³⁹⁴

2) **ABD-AL-RAHMAN's individual criminal responsibility**

114. **ABD-AL-RAHMAN**'s position of authority within the Militia/*Janjaweed* and his cooperation with and influence over the GoS Officials and GoS Forces enabled him to, among other things, instruct his subordinates to commit crimes and/or exert influence over the physical

³⁸⁴ [REDACTED].

³⁸⁵ [REDACTED].

³⁸⁶ [REDACTED].

³⁸⁷ [REDACTED].

³⁸⁸ [REDACTED].

³⁸⁹ [REDACTED].

³⁹⁰ [REDACTED].

³⁹¹ [REDACTED].

³⁹² [REDACTED].

³⁹³ [REDACTED].

³⁹⁴ [REDACTED].

perpetrators of crimes and/or facilitate the commission of crimes and/or otherwise contribute to the commission of crimes in the Wadi Salih and Mukjar Localities during the charged period.³⁹⁵

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

115. **ABD-AL-RAHMAN** is charged with direct co-perpetration, pursuant to article 25(3)(a), for crimes committed in connection with Mukjar and Deleig.³⁹⁶ The elements of co-perpetration are:³⁹⁷ (a) the existence of a common plan or agreement between two or more persons, including the accused,³⁹⁸ that includes “a critical element of criminality”;³⁹⁹ (b) the accused provided an essential contribution to the common plan;⁴⁰⁰ (c) the accused meant to engage in the conduct which constituted his essential contribution;⁴⁰¹ (d) the accused intended the execution of the material elements of the crime or was aware that the implementation of the agreement between the co-perpetrators would in the ordinary course of events result in execution of the material elements of the crimes;⁴⁰² and (e) the accused was aware (i) that the common plan or agreement involved an element of criminality;⁴⁰³ and (ii) of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise control over the crime.⁴⁰⁴

116. **ABD-AL-RAHMAN**’s position of authority and influence as detailed at paragraphs 58 to 113 enabled **ABD-AL-RAHMAN** to make an essential contribution to the Mukjar and Deleig common plans as described at paragraphs 260 and 331 respectively: it allowed him to

³⁹⁵ A summary of the charged crimes and modes of liability can be found in Annex A13.

³⁹⁶ See below, paras. 259 (Mukjar) and 331 (Deleig).

³⁹⁷ The concerns raised by Judges Morrison and Eboe-Osuji in their separate opinions to the Ntaganda Appeals Judgement with respect to indirect co-perpetration (and specifically the “control over the crime” theory) in article 25(3)(a) do not arise in this case, because the Prosecution alleges that **ABD-AL-RAHMAN** is liable as a *direct* co-perpetrator of the crimes. See ICC-01/04-02/06-2666-Anx2 (“Judge Morrison Separate Opinion on Ntaganda’s appeal”) and ICC-01/04-02/06-2666-Anx5-Corr (“Judge Eboe-Osuji Partly Concurring Opinion”), paras. 13-102. Moreover, the test proposed by Judge Morrison (based on Judge Fulford’s separate opinion in *Lubanga*) and the test set out in this brief for liability for direct co-perpetration under article 25(3)(a) would in any event lead to the same conclusion on these facts. See Judge Morrison Separate Opinion on Ntaganda’s appeal, paras. 33, 36 and ICC-01/04-01/06-2842 (“Judge Fulford Separate Opinion”), para. 16.

³⁹⁸ ICC-01/04-01/07-717, para. 522.

³⁹⁹ ICC-01/04-01/06-2842, para. 984; ICC-01/04-01/06-803-tEN, para. 344.

⁴⁰⁰ ICC-01/04-01/06-3121-Red A5, para. 469. See further, ICC-02/11-02/11-186, paras. 135-136. In other words, the contribution must be such that some or all of the crimes resulting from the implementation of the common plan “would not have been committed or would have been committed in a significantly different way” (See ICC-02/11-01/11-656-Red, para. 230; ICC-02/11-02/11-186, para. 135; ICC-01/04-02/06-2666-Red, paras. 22, 1041). As to the assessment of the essential nature of a contribution, See ICC-01/04-01/06-2842, paras. 1000-1001. This is consistent with the Court’s jurisprudence, which holds that “[n]one of the participants [in a common plan] exercises, individually, control over the crime as a whole but, instead, the control over the crime falls in the hands of a collective as such. See ICC-01/04-01/06-2842, para. 994; ICC-02/11-02/11-186, para. 136; ICC-01/04-01/07-717, paras. 448(b) and 524 referring to control “together with others” and “joint control over the crime”.

⁴⁰¹ ICC-02/04-01/15-1762-Red, para. 2788.

⁴⁰² ICC-02/04-01/15-1762-Red, para. 2788; ICC-01/04-01/07-717, para. 533; ICC-01/09-01/11-373, para. 292.

⁴⁰³ ICC-01/04-01/06-803, paras. 361-365.

⁴⁰⁴ ICC-01/04-01/06-803, paras. 366-367; ICC-01/04-01/07-717, para. 538.

obtain the cooperation of members of the GoS Forces regarding, among other things, the arrest and detention of persons, the questioning and mistreatment by **ABD-AL-RAHMAN** and his subordinates of detainees in the custody of GoS Forces and/or Militia/*Janjaweed*, and the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his subordinates. It also allowed him to, among other things, order or induce his Militia/*Janjaweed* subordinates, as well as certain members of the GoS Forces, to physically assault, transport, and execute detainees. The evidence summarised above at paragraphs 58 to 113, read with the sub-sections titled “**ABD-AL-RAHMAN’s** individual criminal responsibility” in the sections concerning Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** as a co-perpetrator.

Ordering under article 25(3)(b)

117. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) (“ordering”) for crimes committed in connection with Mukjar and Deleig.⁴⁰⁵ To establish responsibility under ordering, it is necessary to prove that: (i) the accused was in a position of authority; (ii) the accused instructed another person in any form to either: commit a crime which in fact occurs or is attempted or perform an act or omission in the execution of which a crime is carried out; (iii) the order had a direct effect on the commission or attempted commission of the crime; and (iv) the accused was at least aware that the crime will be committed in the ordinary course of events as a consequence of the execution or implementation of the order.⁴⁰⁶

118. In light of his leadership position in the Militia/*Janjaweed* in the Mukjar and the Wadi Salih Localities in 2003 and 2004, and his relationship with GoS Officials and GoS Forces at the national and local level, **ABD-AL-RAHMAN** was in a position of authority within the Militia/*Janjaweed*. This made it possible for him to issue orders to his Militia/*Janjaweed* subordinates in the context of the crimes committed in Mukjar and surrounding areas and in Deleig and surrounding areas. It also placed him in a position of authority over certain GoS Forces, including in particular those of lower rank, during the criminal episodes concerning Mukjar and Deleig. This enabled him to issue orders to certain GoS Forces personnel during the Mukjar and Deleig criminal episodes. In this latter context, a *de facto* position of authority is sufficient to establish criminal responsibility pursuant to the mode of liability of “ordering”.⁴⁰⁷

⁴⁰⁵ See below, paras. 275 (Mukjar) and 361 (Deleig).

⁴⁰⁶ ICC-01/04-02/06-309, para. 145; ICC-01/04-01/12-1-Red, para. 63.

⁴⁰⁷ See ICC-01/04-02/06-309, fn. 598 (“article 25(3)(b) does not require a formal superior-subordinate relationship and concurs with the Appeals Chamber of the ad hoc tribunals that “[i]t is sufficient that there is proof of a position of authority [...] that would compel another person to commit a crime following the [...] order.”); ICC-02/11-02/11-186, para. 160 (“while Blé Goudé may not have been a superior of the Patriotic Galaxy in the formal sense,

119. The evidence summarised above at paragraphs 58 to 113, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** for ordering the charged crimes.

Inducing under article 25(3)(b)

120. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) (“inducing”) for crimes committed in connection with Bindisi, Kodoom, Mukjar and Deleig.⁴⁰⁸ To establish responsibility under “inducing”, it is necessary to prove that the accused induced another person either to commit a crime which occurs or is attempted, or to perform an act or omission in the execution of which a crime is carried out.⁴⁰⁹ In the case of “inducing”, “the accessorial perpetrator exerts influence over the physical perpetrator [...] implying the prompting of the commission of the [crime]”.⁴¹⁰ The act of inducement does not need to be direct⁴¹¹ and can be performed by any means, either implied or express, provided that it had the requisite effect on the physical perpetrator.⁴¹² The accused must have meant to induce the commission of the crime, or must have been at least aware that the crime(s) would be committed “in the ordinary course of events” as a consequence of the fulfilment of his act or omission.⁴¹³

121. **ABD-AL-RAHMAN**’s position of authority and influence as set out at paragraphs 58 to 113 enabled **ABD-AL-RAHMAN** to exert influence over Militia/*Janjaweed* members in the context of the Kodoom, Bindisi, Mukjar and Deleig criminal episodes. It also made it possible, in the same context, for him to exert influence over GoS Forces and GoS Officials regardless of whether or not he was their *de jure* hierarchical superior. The evidence summarised above at

he had the capacity to define the mobilization activities of the youth, and through this, to compel their conduct.”). The Appeals Chamber of the ad hoc tribunals held that “[w]hether such authority [for ordering] exists is a question of fact.” See [ICTR-97-20-A](#), para. 363 and [ICTR-04-81-A](#), para. 240. See also [IT-95-14/2-A](#), para. 28; [ICTR-97-20-A](#), paras. 361, 363; [ICTR-99-54A-A](#), para. 75; [ICTR-2001-64-A](#), paras. 181-185; [IT-98-29-A](#), para. 176; [ICTR-99-52-A](#), para. 481, fn. 1162; [ICTR-01-74-A](#), para. 211; [IT-04-82-A](#), para. 164; [ICTR-04-81-A](#), para. 240; [ICTR-97-31-A](#), para. 315.

⁴⁰⁸ See paras. 198 (Kodoom and Bindisi), 276 (Mukjar) and 367 (Deleig).

⁴⁰⁹ ICC-01/04-02/06-309, para. 153.

⁴¹⁰ ICC-01/05-01/13-1989-Red, para. 76.

⁴¹¹ ICC-01/05-01/13-2275-Red, para. 847.

⁴¹² ICC-01/05-01/13-2275-Red, para. 848. Chambers of this Court have found “inducing” under article 25(3)(b) of the Statute to be established where there was direct participation to the crimes by the accused (see ICC-01/04-02/06-309, para. 155; ICC-01/05-01/13-1989-Red, paras. 854, 856, 860-861), where the accused was present at the crime scene while in a position of authority (see ICC-01/05-01/13-1989-Red, para. 857), where the accused created a climate conducive to the commission of crimes (see ICC-01/04-02/06-309, para. 155; ICC-02/11-01/11-656-Red, paras. 246-248), where the accused failed to take all necessary and reasonable measures to prevent and/or repress the crimes (see ICC-01/04-02/06-309, para. 155). In addition, the inducement does not need to be performed directly on the physical perpetrator, but may be committed through intermediaries. See ICC-01/05-01/13-2275-Red, paras. 17, 848.

⁴¹³ ICC-01/12-01/18-35-Red2-tENG, para. 186; ICC-01/05-01/13-1989-Red, para. 82.

paragraphs 58 to 113, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Kodoom, Bindisi, Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** for inducing charged crimes.

Aiding, abetting or otherwise assisting under article 25(3)(c)

122. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(c) (“aiding, abetting or otherwise assisting”) for crimes committed in connection with Kodoom, Bindisi, Mukjar and Deleig.⁴¹⁴ To establish responsibility under “aiding, abetting or otherwise assisting”, it is necessary to prove that: (i) the accused facilitated or furthered the commission of the crime;⁴¹⁵ (ii) the accused acted for the purpose of facilitating the commission of the crime;⁴¹⁶ and (iii) the accused was at least aware that the physical perpetrator’s offence was to occur in the ordinary course of events.⁴¹⁷ **ABD-AL-RAHMAN**’s position of authority and influence as detailed at paragraphs 58 to 113 enabled **ABD-AL-RAHMAN** to aid, abet or otherwise assist in the commission of the charged crimes including by means of his conspicuous presence (in the capacity of a person of authority) and implicit or explicit approval of the crimes.⁴¹⁸ The evidence summarised above at paragraphs 58 to 113, read with the sub-sections titled “**ABD-AL-RAHMAN**’s individual criminal responsibility” in the sections concerning Kodoom, Bindisi, Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** for aiding, abetting or otherwise assisting the charged crimes.

Contributing to crimes by a group of persons under article 25(3)(d)

123. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(d) (“common purpose”) for crimes committed in connection with Bindisi, Kodoom, Mukjar and Deleig.⁴¹⁹ To establish responsibility under “common purpose”, it is necessary to prove that: (i) the accused contributed to the commission of the crime,⁴²⁰ which was attempted or committed by a group of people

⁴¹⁴ See paras. 210 (Kodoom and Bindisi), 277 (Mukjar) and 368 (Deleig).

⁴¹⁵ ICC-01/05-01/13-2275-Red, para. 1327.

⁴¹⁶ ICC-01/05-01/13-1989-Red, para. 97.

⁴¹⁷ ICC-01/05-01/13-1989-Red, para. 98. As per the same source, the aider or abettor does not need to know the precise intended offence nor the specific circumstances in what it was committed, but needs only to be aware of its essential elements.

⁴¹⁸ ICC-01/05-01/13-1989-Red, para. 89 (“The encouragement or support shown need not be explicit. Under certain circumstances, even the act of being present at the crime scene (or in its vicinity) as a ‘silent spectator’ can be construed as tacit approval or encouragement of the crime.”); [IT-95-14/1-A](#), paras. 36-37; [IT-99-36-A](#), para. 273.

⁴¹⁹ See below, paras. 218 (Bindisi and Kodoom), 278 (Mukjar) and 369 (Deleig).

⁴²⁰ ICC-01/04-01/10-1, para. 39; ICC-01/04-01/07-3436-tENG, para. 1632. There is no need to establish a direct nexus between the conduct of the accused and that of the physical perpetrator, meaning that the contribution may be made through either the physical perpetrator or other members of the group. See ICC-01/04-01/07-3436-tENG, para. 1635.

acting with a common purpose;⁴²¹ (ii) the contribution was intentional;⁴²² and (iii) the contribution was made either with the aim of furthering the criminal activity or criminal purpose of the group, or in the knowledge of the intention of the group to commit the crime.⁴²³

124. **ABD-AL-RAHMAN**'s position of authority and influence as set out at paragraphs 58 to 113 enabled **ABD-AL-RAHMAN** to contribute to the commission of the charged crimes, including by means of his conspicuous presence (in the capacity of a person of authority) and implicit or explicit approval of the crimes. The evidence summarised above at paragraphs 58 to 113, read with the sub-sections titled "**ABD-AL-RAHMAN**'s individual criminal responsibility" in the sections concerning Kodoom, Bindisi, Mukjar and Deleig, establishes the liability of **ABD-AL-RAHMAN** pursuant to article 25(3)(d).

D. PERSECUTION

1) Introduction

125. As detailed below, **ABD-AL-RAHMAN** committed the crime of persecution with respect to each of the three charged incidents, as charged in Counts 11, 21 and 31. These counts are dealt with separately in this stand-alone section. The persecutory campaign of the GoS Forces and Militia/*Janjaweed*, and the criminal conduct and discriminatory intent of the perpetrators, including **ABD-AL-RAHMAN**, is described below.

126. During the charged period, GoS Forces and Militia/*Janjaweed* targeted for attack that part of the population of Darfur perceived tribes.⁴²⁴ as supporting the rebel armed groups, particularly civilians from the Fur, Zaghawa, and Masalit In the Wadi Salih and Mukjar Localities of West Darfur, this discriminatory targeting particularly affected the Fur tribe, given that the ethnic composition of the area was predominantly Fur.⁴²⁵ As in other parts of Darfur, the Fur in Wadi Salih and Mukjar Localities were assumed to be supporters of the rebels and

⁴²¹ ICC-01/04-01/10-465-Red, para. 271; ICC-01/04-01/10-1, para. 39. The notion of "common purpose" is here to be considered as functionally identical to that of "common plan" of article 25(3)(a), (*see* ICC-01/04-01/10-465-Red, para. 271). The underlying agreement does not need to be explicit, meaning that its existence may be inferred from circumstantial evidence, (*see* ICC-01/04-01/10-465-Red, para. 271). The common purpose must also include an element of criminality, but does not need to be straightforwardly directed at the commission of a crime (*see* ICC-01/04-01/10-465-Red, para. 271). This means that "a group with a political and strategic goal which also entails criminality or the execution of a crime may constitute a group acting with a common purpose within the meaning of article 25(3)(d)", (*see* ICC-01/04-01/07-3436-tENG, para. 1627). The accused's membership of the group of persons acting with a common purpose is not necessary for him to be held liable under article 25(3)(d), (*see* ICC-01/04-01/07-3436-tENG, para. 1631).

⁴²² ICC-01/04-01/10-1, para. 39. The intentionality requirement applies only to the conduct which constitutes the contribution and not to the general activity, purpose or criminal intention of the group (*see* ICC-01/04-01/07-3436-tENG, para. 1638).

⁴²³ ICC-01/04-01/10-1, para. 39.

⁴²⁴ *See above*, paras. 29-30; [REDACTED].

⁴²⁵ P-0021, [DAR-OTP-0153-1868-R01](#) at 1886, para. 89; [DAR-OTP-0013-0119](#) at 0123 and 0151-0152; [DAR-OTP-0090-0173](#) at 0178.

therefore opposed to the GoS. For that reason, as described below, **ABD-AL-RAHMAN**, together with GoS Forces and Militia/*Janjaweed*, targeted members of the Fur tribe, and places where they resided, for violent crimes.

127. Bindisi and Kodoom were both predominantly Fur villages presumed to support the rebel armed groups, and the attacks there were carried out against the civilian population, resulting in mass murder, rape, destruction of property, and forced transfer of Fur persons. The men and boys abused and executed at Mukar and Deleig, who were predominantly Fur, were handpicked by the perpetrators because of their perceived support for the rebels. The charged crimes at each incident constitute the underlying conduct of the counts of persecution since they amounted to severe deprivations of fundamental rights, including the rights to life, bodily integrity, private property, freedom of movement and residence, and not to be subjected to rape, torture, or cruel, inhuman or degrading treatment.

128. Persecution is charged on political and ethnic grounds for the Kodoom and Bindisi incident, and on political, ethnic, and gender grounds for the Mukjar and Deleig incidents.⁴²⁶ These multiple intersecting discriminatory grounds best describe and fully capture all aspects of the discriminatory targeting. All three targeted groups (the predominantly Fur population of Bindisi and Kodoom, and predominantly Fur males in Mukjar and Deleig, respectively) were targeted for their perceived support for, or association with, the rebel armed groups. This targeting was on political grounds.⁴²⁷ The targeting was also on ethnic grounds, since Fur ethnicity was used as a proxy for identifying rebel supporters, and members of the Fur tribe were therefore targeted on the basis of their ethnicity.⁴²⁸

129. Furthermore, the targeting of males during the Mukjar and Deleig incidents because of their presumed role in society as current or potential future rebel fighters was on the ground of gender.⁴²⁹ At Mukjar and Deleig, the victims' Fur ethnicity, combined with the socially-constructed gender role presuming males to be fighters, underpinned the perpetrators'

⁴²⁶ Persecution may be charged on the basis of multiple grounds for the same conduct. *See e.g.* ICC-02/11-01/11-656-Red, para. 205; ICC-01/12-01/18-461-Corr-Red, para. 667; ICC-01/04-02/06-2659, para. 60.

⁴²⁷ *See* ICC-02/04-01/15-1762-Red, para. 2737.

⁴²⁸ *See* ICC-02/11-01/11-656-Red, para. 205.

⁴²⁹ Statute, article 7(3) (the term "gender" refers to the two sexes, male and female, within the context of society); ICC-01/12-01/18-461-Corr-Red, paras. 666-667 (gender persecution against male members of a group may be expressed differently than that against female members of the group, and the killing of the male members of a group can be one example); ICC-01/04-02/06-2659, para. 63 ("Gender-based crimes are those committed against persons because of their sex and/gender expression or identity. They are not always manifested as a form of sexual violence."); C.K. Hall et. al., 'Article 7', in O. Triffterer and K. Ambos (ed.), *Commentary to the Rome Statute of the International Criminal Court* (2016), p. 225 (the killing of military age men within a group as one example of gender persecution).

perception of them as rebels or rebel sympathisers.⁴³⁰

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

130. That the charged crimes in this case were committed with discriminatory intent is demonstrated by: (i) public speeches of **ABD-AL-RAHMAN** and prominent GoS Officials and Militia/*Janjaweed* leaders during the charged period; (ii) acts and language used during the charged incidents, including by **ABD-AL-RAHMAN**; and (iii) the pattern of conduct during other incidents involving **ABD-AL-RAHMAN** during the charged period.⁴³¹

ABD-AL-RAHMAN and other prominent GoS Officials and Militia/Janjaweed leaders demonstrated their discriminatory intent through their public speeches during the charged period

131. During the charged period, **ABD-AL-RAHMAN** was encouraged by GoS Officials to target the Fur because of their presumed support for the rebels. P-0643 states that HARUN authorised **ABD-AL-RAHMAN** to treat “any Fur village” as a rebel village.⁴³² [REDACTED] **ABD-AL-RAHMAN** received instructions from Vice President TAHA to kill anyone from the Fur tribe, whether they were armed or not.⁴³³ [REDACTED] HARUN instruct **ABD-AL-RAHMAN** to kill and burn in Wadi Salih Locality, telling him “I don’t want you to leave a human or a single tree. Burn it all.”⁴³⁴

132. Around 7 August 2003, following a rebel attack on Mukjar police station, HARUN gave a public speech to the people where he said that “since the children of the Fur had become rebels, all the Fur and what they had, had become booty (*ghanema*) for the Mujahidin.”⁴³⁵ During the speech, **ABD-AL-RAHMAN** was standing in front of his men very close to

⁴³⁰ Fur men who were members of, or were forced to join, the GoS Forces or Militia/*Janjaweed* were often still perceived as rebels or rebel sympathisers as a result of their ethnicity. [REDACTED].

⁴³¹ That a perpetrator had discriminatory intent can be inferred from the language used by the perpetrators during the attacks or in the surrounding period; it can also be inferred from a pattern of attacks. *See* ICC-02/04-01/15-1762-Red, para. 1092.

⁴³² P-0643, [DAR-OTP-0215-0604-R01](#) at 0607, l. 104.

⁴³³ [REDACTED].

⁴³⁴ [REDACTED].

⁴³⁵ P-0012, [DAR-OTP-0119-0503-R01](#) at 0518, para. 65. *See above*, para. 35; P-0757, [DAR-OTP-0211-0003-R01](#) at 0016, paras. 52, 57, 61; P-0114, [DAR-OTP-0119-0711-R01](#) at 0716, para. 21; P-0015, [DAR-OTP-0136-0006-R01](#) at 0007, para. 4; P-0015, [DAR-OTP-0088-0187-R02](#) at 0201, para. 68; P-0601, [DAR-OTP-0202-1588-R01](#) at 1599, paras. 41-44; P-0673, [DAR-OTP-0206-0138-R01](#) at 0141-0142, paras. 19-21.

HARUN.⁴³⁶ Within days of this speech, Militia/*Janjaweed* began attacking Fur villages outside Mukjar, including Bindisi and Kodoom.⁴³⁷

133. After these attacks, GoS Officials continued encouraging the targeting of the Fur. For example, during a meeting in November 2003, P-0012 heard the Commissioner of Mukjar, TORSHEIN, informing the attendees, on behalf of the GoS, that “if the rebels did not return from the mountains, the Janjaweed had the power to destroy the area” because “the children of the Fur had become rebels.”⁴³⁸

134. The Militia/*Janjaweed*, including **ABD-AL-RAHMAN**, made clear their intent to target members of the Fur tribe throughout this period. In addition to their acts and language at the charged incidents described below, witnesses report hearing Militia/*Janjaweed* talking openly in public gatherings about eliminating the Fur. For example, P-0843 heard **ABD-AL-RAHMAN** himself address a large crowd in Garsila in early 2003, saying something similar to “[w]e will exterminate people in Arawala” and “I will not keep a single Fur alive in Arawala.”⁴³⁹

ABD-AL-RAHMAN and other perpetrators of the charged incidents demonstrated their discriminatory intent during the charged incidents

Kodoom and Bindisi

135. **ABD-AL-RAHMAN** and other GoS Forces and Militia/*Janjaweed* targeted Kodoom and Bindisi for attacks because they were predominantly Fur villages⁴⁴⁰ and therefore assumed to harbor supporters of the rebel armed groups. In early August 2003, HARUN requested **ABD-AL-RAHMAN** to form a “committee” to destroy “B[i]ndisi locality”⁴⁴¹ and **ABD-AL-RAHMAN** replied in the affirmative.⁴⁴² As noted above, the attacks on Kodoom and Bindisi were carried out shortly after HARUN’s speech against the Fur.⁴⁴³

136. During the attacks, **ABD-AL-RAHMAN** used language demonstrating his intent to

⁴³⁶ P-0012, [DAR-OTP-0119-0503-R01](#) at 0518, para. 67.

⁴³⁷ See below, paras. 149-196.

⁴³⁸ P-0012, [DAR-OTP-0119-0503-R01](#) at 0523, para. 88. See also P-0015, [DAR-OTP-0088-0187-R02](#) at 0202, para. 77.

⁴³⁹ P-0843, [DAR-OTP-0216-0600-R01](#) at 0619, para. 90. See also P-0041, [DAR-OTP-0206-0033-R01](#) at 0047, para. 53.

⁴⁴⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, paras. 11, 13; P-0029, [DAR-OTP-0094-0119-R01](#) at 0122, para. 13; P-0007, [DAR-OTP-0088-0060-R01](#) at 0063, para. 10; P-0011, [DAR-OTP-0088-0219-R01](#) at 0226, para. 38; P-0015, [DAR-OTP-0088-0187-R02](#) at 0190, para. 11; P-0918, [DAR-OTP-0218-0120-R01](#) at 0124, para. 12; P-0816, [DAR-OTP-0214-0721-R01](#) at 0724, para. 17; P-0834, [DAR-OTP-0214-0686-R01](#) at 0688, para. 16.

⁴⁴¹ P-0131, [DAR-OTP-0158-1024-R02](#) at 1073-1085, l. 1082-1084.

⁴⁴² P-0131, [DAR-OTP-0158-1024-R02](#) at 1085-1090; [DAR-OTP-0158-1091-R02](#) at 1092-1096.

⁴⁴³ See above, para. 132.

carry out an indiscriminate attack where the villages would be wiped out.⁴⁴⁴ Witnesses on the ground heard the attackers referring to the mostly Fur victims with derogatory terms like “slaves”⁴⁴⁵ and saying that they wanted to kill every “black person.”⁴⁴⁶ The attackers also accused the villagers of being associated with the rebel armed groups. P-0015, [REDACTED], heard Militia/*Janjaweed* calling the Bindisi victims “black Nubas” and *tora bora* and saying that they had permission from the government to kill them and chase them away.⁴⁴⁷ P-0015 also witnessed women being raped while the attackers were saying “we have taken Tora Bora’s wives, praise be to god.”⁴⁴⁸

Mukjar

137. Numerous witnesses describe how **ABD-AL-RAHMAN** and the other perpetrators of the charged crimes at Mukjar demonstrated their intent to target Fur males because they were perceived as supporting, or associated with, the rebel armed groups. P-0188 describes how Fur males, mostly those displaced from recent attacks outside of Mukjar, were arrested at checkpoints and during house to house searches.⁴⁴⁹ P-0919 describes being arrested and detained along with over 100 Fur males,⁴⁵⁰ while P-0129 states that most of the prisoners were Fur, with three or four Masalit.⁴⁵¹ Several other witnesses similarly describe the targeting of young males for arrests in this period.⁴⁵²

138. Multiple eyewitnesses report that **ABD-AL-RAHMAN** visited the Fur male prisoners at the Mukjar detention site and beat them viciously while insulting them and accusing them of being rebels. For example, P-0188 saw **ABD-AL-RAHMAN** hitting *Umdah* Yahya Ahmad Zarruq on the head and saying “here is one of the great rebels.”⁴⁵³ P-0919 describes how **ABD-AL-RAHMAN** came into his cell along with other Militia/*Janjaweed*, sat close to the *Umdahs* in the cell, told them “I am going to fuck you today,” and then started beating them.⁴⁵⁴ P-0129

⁴⁴⁴ See below, para. 200 (describing **ABD-AL-RAHMAN**’s use of the language “wipe out and swipe away”).

⁴⁴⁵ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0011, [DAR-OTP-0088-0219-R01](#) at 0230, para. 66.

⁴⁴⁶ P-0007, [DAR-OTP-0088-0060-R01](#) at 0065, para. 21; P-0011, [DAR-OTP-0088-0219-R01](#) at 0230, para. 66.

⁴⁴⁷ P-0015, [DAR-OTP-0088-0187-R02](#) at 0197, para. 47.

⁴⁴⁸ P-0015, [DAR-OTP-0088-0187-R02](#) at 0196, para. 43. See also P-0011, [DAR-OTP-0088-0219-R01](#) at 0230, para. 65 and 0232, paras. 77-79 and 0236, para. 98; P-0029, [DAR-OTP-0094-0119-R01](#) at 0139, para. 89.

⁴⁴⁹ P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, paras. 135, 140; See also P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-98.

⁴⁵⁰ P-0919, [DAR-OTP-0217-0423-R01](#) at 0430, paras. 31, 39.

⁴⁵¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 45.

⁴⁵² P-0129, [DAR-OTP-0128-0128-R03](#) at 0138, para. 39; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 141; P-0892, [DAR-OTP-0217-0384-R01](#) at 0392, paras. 41-42; P-0913, [DAR-OTP-0218-0021-R01](#) at 0030, para. 61.

⁴⁵³ P-0188, [DAR-OTP-0216-0060-R02](#) at 0084, para. 153. Similarly, P-0913 remembers seeing **ABD-AL-RAHMAN** hit *Umdah* Yahya Ahmad Zarruq and call him a “criminal.” See P-0913, [DAR-OTP-0218-0021-R01](#) at 0037, para. 105.

⁴⁵⁴ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 41. See also P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 143.

describes how he and other detainees were beaten by **ABD-AL-RAHMAN**. While this was happening, **ABD-AL-RAHMAN** used the term “*magus*” to refer to the Fur (a derogatory term used to refer to idol worshippers).⁴⁵⁵ **ABD-AL-RAHMAN** also told the prisoners that HARUN had authorised them to take the property of the Fur and eliminate the Fur.⁴⁵⁶

139. In addition to seeing **ABD-AL-RAHMAN** and other Militia/*Janjaweed* abuse detainees, witnesses also heard the perpetrators call for the detainees to be executed and use derogatory language while detainees were killed. For example, shortly before the Mukjar prisoners were taken to the execution site, P-0913 saw **ABD-AL-RAHMAN** walking toward a convoy of vehicles containing detainees and shouting “Allahu Akbar, Tora Boro is over, prepare their graves.”⁴⁵⁷ P-0919, [REDACTED]; he could hear [REDACTED] detainees crying and screaming while Militia/*Janjaweed* were saying “torabora we are going to fuck you.”⁴⁵⁸ Later, at the execution site—where **ABD-AL-RAHMAN** was present—Militia/*Janjaweed* shouted “*criminals criminals*” while they shot at the detainees,⁴⁵⁹ and referred to them as “slaves.”⁴⁶⁰

Deleig

140. As in Mukjar, in Deleig, GoS Forces and Militia/*Janjaweed*, including **ABD-AL-RAHMAN**, targeted Fur males for abuse and execution on account of their perceived support for the rebels. Fur males who had been displaced to Deleig from locations in the surrounding areas were rounded up in the streets and during house to house searches.⁴⁶¹ As they were arrested, these men were referred to as *tora bora*,⁴⁶² “slaves”,⁴⁶³ and “donkeys”.⁴⁶⁴ While hiding from arrest in his aunt’s house, P-0850 could hear Militia/*Janjaweed* yelling words like “fuck the Fur” and “kill the slaves.”⁴⁶⁵

141. As was the case in Mukjar, it was well understood that the GoS Forces and

⁴⁵⁵ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47.

⁴⁵⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47. For additional references to detainees being beaten while being accused of being a rebel, see P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 41; P-0675, [DAR-OTP-0206-0173-R01](#) at 0208, para. 124; P-0015, [DAR-OTP-0088-0187-R02](#) at 0198, para. 55.

⁴⁵⁷ P-0913, [DAR-OTP-0218-0021-R01](#) at 0038, para. 110.

⁴⁵⁸ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 52. See also P-0029, [DAR-OTP-0094-0119-R01](#) at 0154, para. 148.

⁴⁵⁹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0434, para. 55.

⁴⁶⁰ P-0129, [DAR-OTP-0128-0128-R03](#) at 0144, para. 56.

⁴⁶¹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1564-1565, para. 90; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 49; P-0591, [DAR-OTP-0202-0026-R01](#) at 0043, para. 62; P-0726, [DAR-OTP-0210-0346-R02](#) at 0364, para. 63; P-0905, [DAR-OTP-0219-0828-R01](#) at 0835, l. 235-236.

⁴⁶² P-0592, [DAR-OTP-0209-0825-R01](#) at 0841, para. 92; P-0584, [DAR-OTP-0200-1540-R01](#) at 1565, para. 92.

⁴⁶³ P-0592, [DAR-OTP-0209-0825-R01](#) at 0840, para. 89; P-0718, [DAR-OTP-0209-2004-R01](#) at 2013, para. 60.

⁴⁶⁴ P-0718, [DAR-OTP-0209-2004-R01](#) at 2013, para. 60.

⁴⁶⁵ P-0850, [DAR-OTP-0216-0002-R02](#) at 0018, paras. 65, 67.

Militia/*Janjaweed* were looking only for males.⁴⁶⁶ Indeed, P-0726 was given a woman's dress by a local resident and told to put it on for his protection to prevent him from being arrested.⁴⁶⁷

142. Once arrested, **ABD-AL-RAHMAN** and other GoS Forces and Militia/*Janjaweed* questioned the males near the Deleig police station, calling them "criminals" and "slaves."⁴⁶⁸ Numerous witnesses describe seeing males lying on the ground under armed guard;⁴⁶⁹ the GoS Forces and Militia/*Janjaweed*, including **ABD-AL-RAHMAN**,⁴⁷⁰ were walking on them, calling them derogatory terms⁴⁷¹ and accusing them of being rebels.⁴⁷²

143. P-0106 saw **ABD-AL-RAHMAN** arrive at the open area near the police station where detained males were being held. **ABD-AL-RAHMAN** spoke loudly and said "you Fur kept saying Allah, Allah but your God will not protect you from us. Bashir is our God!"⁴⁷³ P-0585 was told by Militia/*Janjaweed* accompanying **ABD-AL-RAHMAN** that the males lying face down on the ground near the Deleig police station were *tora bora* and that they were all going to be killed.⁴⁷⁴ Ultimately, as described in detail below,⁴⁷⁵ many of these males were indeed executed. As P-0651 understood it, the reason they were killed was because the Militia/*Janjaweed* "accused them of having links with the rebels, despite there being no information to suggest that was the case."⁴⁷⁶

GoS Forces and Militia/Janjaweed, including ABD-AL-RAHMAN, also demonstrated their discriminatory intent during other incidents in the charged period

144. In addition to the evidence described above, relating to the three charged incidents, evidence relating to other events during the charged period further supports the inference that GoS Forces and Militia/*Janjaweed*, including **ABD-AL-RAHMAN**, targeted members of the Fur tribe in Wadi Salih and Mukjar Localities.

Mukjar 2003

⁴⁶⁶ See e.g. P-0651, [DAR-OTP-0205-0015-R01](#) at 0027, paras. 41-42.

⁴⁶⁷ P-0726, [DAR-OTP-0210-0346-R02](#) at 0364, para. 64. This was a tactic applied in other instances as well. See e.g. P-0905, [DAR-OTP-0219-1109-R01](#) at 1148, l. 1346-1351.

⁴⁶⁸ P-0718, [DAR-OTP-0209-2004-R01](#) at 2014, para. 67; P-0905, [DAR-OTP-0219-0828-R01](#) at 0838, l. 329, 351.

⁴⁶⁹ P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, paras. 70-71; P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, paras. 68-69; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 50 and 0105, para. 58; P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86; P-0651, [DAR-OTP-0205-0015-R01](#) at 0027-0029, paras. 43, 47, 49; P-0718, [DAR-OTP-0209-2004-R01](#) at 2014, paras. 63, 66.

⁴⁷⁰ P-0617, [DAR-OTP-0202-1496-R01](#) at 1525, para. 84.

⁴⁷¹ P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, para. 58.

⁴⁷² P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 68.

⁴⁷³ P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 70.

⁴⁷⁴ P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86.

⁴⁷⁵ See below, paras. 301-329.

⁴⁷⁶ P-0651, [DAR-OTP-0205-0015-R01](#) at 0032, para. 61.

145. [REDACTED] in around August 2003, GoS Forces started arresting and torturing Fur males in Mukjar on suspicion of being rebels.⁴⁷⁷ Around this same time, P-0913 was hiding in a relative's house in Mukjar because he had learned that **ABD-AL-RAHMAN**'s forces and government intelligence were targeting young Fur males as they were considered to be rebels.⁴⁷⁸ Around September 2003, P-0918 recalls using his sister's clothes to dress as a female in order to leave Mukjar, saying that he did this because he knew "they were still arresting males in Mukjar."⁴⁷⁹

Arawala and Um Jameina 2003

146. [REDACTED] a 2003 attack⁴⁸⁰ on the predominantly Fur village of Arawala.⁴⁸¹ During the attack, **ABD-AL-RAHMAN** instructed Militia/*Janjaweed* to "wipe and sweep",⁴⁸² which meant to kill and destroy the area.⁴⁸³

147. During the Arawala attack, [REDACTED] **ABD-AL-RAHMAN** order his men to "eliminate" five men in civilian clothes whom his men had described as *tora bora*.⁴⁸⁴ In Um Jameina, [REDACTED] the murder of a man accused of being *tora bora* and his wife, who was in the middle of labour.⁴⁸⁵

Mukjar 2004 – Locality Building

148. Around the same time as the charged incident in Mukjar, P-0892 was stopped at a checkpoint by the PPF and directed to the Mukjar Locality Building where **ABD-AL-RAHMAN** was present.⁴⁸⁶ **ABD-AL-RAHMAN** then ordered him and other men to be beaten.⁴⁸⁷ The GoS Forces and Militia/*Janjaweed* who carried out **ABD-AL-RAHMAN**'s orders called the men (the majority of whom were Fur⁴⁸⁸) "rebels" and "slaves" while they were beating them.⁴⁸⁹ P-0892 understood from his time in detention that "everyone from Sindu and [the] eastern side of Mukjar and everyone from the Fur tribe, were perceived as being affiliated

⁴⁷⁷ [REDACTED].

⁴⁷⁸ P-0913, [DAR-OTP-0218-0021-R01](#) at 0030, para. 61.

⁴⁷⁹ P-0918, [DAR-OTP-0218-0120-R01](#) at 0133, para. 47.

⁴⁸⁰ [REDACTED].

⁴⁸¹ [REDACTED].

⁴⁸² [REDACTED]. *See above*, para. 33.

⁴⁸³ [REDACTED].

⁴⁸⁴ [REDACTED].

⁴⁸⁵ [REDACTED].

⁴⁸⁶ P-0892, [DAR-OTP-0217-0384-R01](#) at 0392, para 41 and 0395, para. 53.

⁴⁸⁷ P-0892, [DAR-OTP-0217-0384-R01](#) at 0395, para. 55.

⁴⁸⁸ P-0892, [DAR-OTP-0217-0384-R01](#) at 0395, para. 55.

⁴⁸⁹ P-0892, [DAR-OTP-0217-0384-R01](#) at 0396, paras. 57-59.

to the rebels or supporting the rebels.”⁴⁹⁰

E. CRIMES COMMITTED IN KODOOM, BINDISI AND SURROUNDING AREAS

1) Introduction

149. During the charged period, Kodoom, Bindisi and surrounding areas were located in the Wadi Salih Locality, West Darfur.⁴⁹¹ Kodoom had separate areas, including Kodoom Ronga Tass, Kodoom Tineh and Kodoom Derliwa.⁴⁹² Kodoom was located approximately 15 kilometres northeast of Bindisi. Bindisi was a large town separated by at least one *wadi* (a river bed or valley).⁴⁹³ These separated areas were identified as old Bindisi and new Bindisi⁴⁹⁴ or alternatively as north and south Bindisi.⁴⁹⁵ Bindisi was surrounded by several villages, such as Daguina,⁴⁹⁶ Gausir,⁴⁹⁷ Kodoom, Gartaga,⁴⁹⁸ Seder,⁴⁹⁹ Tiro and others.⁵⁰⁰ Bindisi was located approximately 19 kilometres west of Mukjar, a town to which many fled following the attack in Kodoom, Bindisi and surrounding areas.⁵⁰¹

150. Prior to the conflict, the population of Kodoom was around 1,600 families⁵⁰² and Bindisi was around 1,800 families.⁵⁰³ Their populations were predominantly Fur.⁵⁰⁴ Bindisi, including the Police Station, was attacked by rebels in around July or early August 2003.⁵⁰⁵ During the period of the charged crimes, there was no rebel presence in Kodoom, Bindisi and surrounding

⁴⁹⁰ P-0892, [DAR-OTP-0217-0384-R01](#) at 0392, para. 41.

⁴⁹¹ P-0007, [DAR-OTP-0088-0060-R01](#) at 0063, paras. 9-10. *See also* Annex A1.

⁴⁹² P-0029, [DAR-OTP-0094-0119-R01](#) at 0122-0123, para. 13; P-0878, [DAR-OTP-0215-9919-R01](#) at 9947-9948; P-0878, [DAR-OTP-0219-3062-R01](#) at 3068, para. 28; P-0882, [DAR-OTP-0218-0165-R01](#) at 0184, para. 94.

⁴⁹³ P-0007, [DAR-OTP-0088-0060-R01](#) at 0063, para. 9.

⁴⁹⁴ P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, para. 11; P-0015, [DAR-OTP-0088-0187-R02](#) at 0190, para. 10.

⁴⁹⁵ P-0868, [DAR-OTP-0217-0137-R01](#) at 0140, para. 16; P-0878, [DAR-OTP-0215-9919-R01](#) at 9956.

⁴⁹⁶ [DAR-OTP-0145-0237](#) at 0302 (60% Fur, 20% Borgo, 10% Tama, 4% Masalit, 4% Mararit, 2% Gimier); P-0882, [DAR-OTP-0218-0165-R01](#) at 0182, para. 85.

⁴⁹⁷ [DAR-OTP-0145-0237](#) at 0303 (100% Fur); P-0882, [DAR-OTP-0218-0165-R01](#) at 0182, para. 85.

⁴⁹⁸ [DAR-OTP-0145-0237](#) at 0302-0303 (80% Fur, 20% Tama).

⁴⁹⁹ [DAR-OTP-0145-0237](#) at 0308 (100% Fur); P-0882, [DAR-OTP-0218-0165-R01](#) at 0182, para. 85.

⁵⁰⁰ P-0011, [DAR-OTP-0088-0219-R01](#) at 0225-0226, paras. 32, 38; P-0007, [DAR-OTP-0088-0060-R01](#) at 0063, para. 10.

⁵⁰¹ P-0882, [DAR-OTP-0218-0165-R01](#) at 0184, para. 92; *See also* P-0007, [DAR-OTP-0088-0060-R01](#) at 0066, para. 23; P-0011, [DAR-OTP-0088-0219-R01](#) at 0233, para. 80; P-0816, [DAR-OTP-0214-0721-R01](#) at 0728, para. 33 and 0730, para. 40; P-0834, [DAR-OTP-0214-0686-R01](#) at 0695, para. 50.

⁵⁰² [DAR-OTP-0145-0237](#) at 0305-0306 (100% Fur).

⁵⁰³ [DAR-OTP-0145-0237](#) at 0300 (97% Fur, Masalit 2%, Dajo 1%).

⁵⁰⁴ [DAR-OTP-0145-0237](#) at 0300 (97% Fur, Masalit 2%, Dajo 1%); [DAR-OTP-0145-0237](#) at 0305-0306 (100% Fur); P-0011, [DAR-OTP-0088-0219-R01](#) at 0226, para. 38; P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, paras. 11, 13; P-0015, [DAR-OTP-0088-0187-R02](#) at 0190, para. 11; P-0816, [DAR-OTP-0214-0721-R01](#) at 0724, para. 17; P-0834, [DAR-OTP-0214-0686-R01](#) at 0688, para. 16; P-0868, [DAR-OTP-0217-0137-R01](#) at 0140, para. 16; P-0913, [DAR-OTP-0218-0021-R01](#) at 0027, para. 43.

⁵⁰⁵ *See e.g.* P-0012, [DAR-OTP-0119-0503-R01](#) at 0514, paras. 46-48; P-0029, [DAR-OTP-0094-0119-R01](#) at 0128, para. 36; P-0878, [DAR-OTP-0215-9919-R01](#) at 9924-9925.

areas.⁵⁰⁶ [REDACTED] present during the attacks between about 15 and about 16 August 2003, states that he did not witness any armed defence during the operation.⁵⁰⁷ He also explains that “[t]here were many youngsters from Kodoom who joined the rebel movement. That is why Kodoom was targeted by Janjaweed and their allies.”⁵⁰⁸

151. Between about 15 and about 16 August 2003, **ABD-AL-RAHMAN** led Militia/*Janjaweed* and GoS Forces on an armed operation against the civilians of Kodoom, Bindisi and surrounding areas.⁵⁰⁹ In the course of this single continuous attack, Militia/*Janjaweed* and GoS Forces committed the crimes detailed below. Annex A6 contains a satellite image identifying Kodoom, Bindisi and surrounding areas, as well as a number of other locations attacked during the same armed operation.⁵¹⁰

a) The crimes

Count 1: Intentionally directing attacks against the civilian population as such, as a war crime

152. **ABD-AL-RAHMAN**, between about 15 and about 16 August 2003, led Militia/*Janjaweed* and GoS Forces on an attack against the civilian population of Kodoom, Bindisi and surrounding areas as such, or against individual civilians not taking direct part in the hostilities. **ABD-AL-RAHMAN** and the perpetrators of the attack intended the civilian population to be the object of the attack or knew that this would occur in the ordinary course of events.⁵¹¹

153. Militia/*Janjaweed* and GoS Forces, under the direction of **ABD-AL-RAHMAN**, entered Kodoom, Bindisi and surrounding areas with ground forces arriving in “camouflaged-

⁵⁰⁶ P-0015, [DAR-OTP-0088-0187-R02](#) at 0206, para. 97; P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 35; P-0868, [DAR-OTP-0217-0137-R01](#) at 0147, para. 47. *See also* P-0717, [DAR-OTP-0210-0187-R01](#) at 0195, para. 46.

⁵⁰⁷ [REDACTED].

⁵⁰⁸ [REDACTED].

⁵⁰⁹ [REDACTED].

⁵¹⁰ Annex A6.

⁵¹¹ ICC-01/04-01/07-3436-tENG, para. 802, Trial Chamber II in *Prosecutor v. Katanga* held that, pursuant to article 8(2)(e)(i), the civilian population does not need to be the sole target of the attack, but it must be the primary target. In addition, the Trial Chamber found that indiscriminate attacks could, in certain circumstances, constitute an intentional attack against civilian population within the meaning of article 8(2)(e)(i). *See also* P-0007, [DAR-OTP-0088-0060-R01](#) at 0065-0066, para. 22; P-0029, [DAR-OTP-0094-0119-R01](#) at 0135, para. 71; P-0717, [DAR-OTP-0210-0187-R01](#) at 0202, para. 83; P-0878, [DAR-OTP-0215-9919-R01](#) at 9949.

coloured Toyota Land Cruisers”,⁵¹² some mounted with *Dushkas* (a heavy machine gun),⁵¹³ others on horses, camels and on foot.⁵¹⁴ They were armed with high calibre weapons, such as Kalashnikovs and Gims (an assault rifle),⁵¹⁵ as well as edged weapons, which they intentionally used to injure and kill persons.⁵¹⁶

154. [REDACTED] **ABD-AL-RAHMAN** led Militia/*Janjaweed* and GoS Forces in the attack on Kodoom, Bindisi and other villages.⁵¹⁷ P-0029 states that **ABD-AL-RAHMAN** was present in Kodoom Tineh during the attack and that he observed as **ABD-AL-RAHMAN** “got off the truck and got on a horse and used a whistle to give orders to Janjaweed and [CRF].”⁵¹⁸

155. Militia/*Janjaweed* and GoS Forces directed numerous acts of violence against the civilian population of Kodoom, Bindisi and the surrounding areas. The attack caused actual death, injury, and destruction, as described further under Counts 2-3 (murder), Count 5 (destruction of property), Count 6 (other inhumane acts), Count 7 (outrages upon personal dignity), Counts 8-9 (rape), Count 10 (forcible transfer) and Count 11 (persecution).

Count 2: Murder as a crime against humanity

156. Between about 15 and about 16 August 2003, Militia/*Janjaweed* and GoS Forces killed at least 100 persons from Kodoom, Bindisi and surrounding areas, including the 52 persons identified in Annex A7.⁵¹⁹ These persons were either civilians taking no active part in hostilities or were persons *hors de combat*. The perpetrators of the killings were aware of the factual circumstances that established their status.⁵²⁰

157. In Tiro, a village close to Kodoom, [REDACTED] states that Militia/*Janjaweed* and GoS Force “started taking revenge on the children, women, the elderly and the nomads through murder, beating and chasing.”⁵²¹ Militia/*Janjaweed* and GoS Forces “chased them the way a

⁵¹² P-0007, [DAR-OTP-0088-0060-R01](#) at 0065, para. 21; P-0015, [DAR-OTP-0088-0187-R02](#) at 0192, para. 23; P-0834, [DAR-OTP-0214-0686-R01](#) at 0693, para. 39.

⁵¹³ P-0007, [DAR-OTP-0088-0060-R01](#) at 0065, para. 21; P-0011, [DAR-OTP-0088-0219-R01](#) at 0228, para. 51; P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 36. *See also* P-0868, [DAR-OTP-0217-0137-R01](#) at 0147, para. 45.

⁵¹⁴ P-0717, [DAR-OTP-0210-0187-R01](#) at 0201, para. 77; P-0757, [DAR-OTP-0211-0003-R01](#) at 0009, para. 26.

⁵¹⁵ P-0029, [DAR-OTP-0094-0119-R01](#) at 0135, para. 70.

⁵¹⁶ ICC-02/04-01/15-1762-Red, para. 2698 (“while the Prosecutor must demonstrate, to the extent possible, the location, date and means of killing, she is not required to demonstrate for each killing the identity of the victim or that the corpse of the deceased has been found.”). *See also* ICC-01/04-02/06-2359, para. 862; ICC-01/04-01/07-3436-tENG, para. 768.

⁵¹⁷ [REDACTED].

⁵¹⁸ P-0029, [DAR-OTP-0094-0119-R01](#) at 0133, para. 61.

⁵¹⁹ *See also* Annex 1A to the DCC, ICC-02/05-01/20-325-Conf-Anx1A-Corr.

⁵²⁰ ICC-01/05-01/08-3343, para. 92.

⁵²¹ [REDACTED].

dog would chase a rabbit.”⁵²² [REDACTED] came across two bodies in the area of the Tiro-Kodoom road.⁵²³

158. **ABD-AL-RAHMAN** then led Militia/*Janjaweed* and GoS Forces to Kodoom.⁵²⁴ [REDACTED] Militia/*Janjaweed* and GoS Forces “intensified their gunfire at the escaping people from a far distance.”⁵²⁵ [REDACTED] states that “revenge of Ali Kushayb and his comrades against the village of Kodoom was immense.”⁵²⁶ [REDACTED] remembers that people were being shot at from all directions and saw two dead bodies in the street whom he later learnt were *Faqih* Umar Ya'qub Musa, the *Imam* of the Kodoom Tinah Mosque and *Faqih* Abd-al-Rahman Abdallah, an elderly man.⁵²⁷ [REDACTED] provides names of the other victims killed during the attack in Kodoom and its surrounding areas.⁵²⁸

159. From his hiding place in the *wadi* on the outskirts of Kodoom, P-0918 saw Militia/*Janjaweed* and/or GoS Forces enter Kodoom and heard gunshots.⁵²⁹ P-0918 states that three persons were killed during this attack.⁵³⁰ P-0918 heard sounds of “heavy weapon artillery fire coming from the direction of Bindisi”, after Militia/*Janjaweed* and GoS Forces left Kodoom.⁵³¹

160. **ABD-AL-RAHMAN** then led Militia/*Janjaweed* and GoS Forces to Bindisi, where civilians were displaced and killed.⁵³² P-0007 was in Bindisi as Militia/*Janjaweed* and GoS Forces entered the town and began “killing people and set fire to the huts.”⁵³³ They used the term *nuba* (a pejorative term for black persons) and stated that “they did not want any black person to survive.”⁵³⁴ P-0007 states that Militia/*Janjaweed* and GoS Forces did not differentiate between targets, as they killed “[y]oung boys, men, women and children.”⁵³⁵ P-0007 saw Militia/*Janjaweed* and/or GoS Forces rape and kill Kony Harun and Darasalam Husayn. P-0007 saw Militia/*Janjaweed* and/or GoS Forces kill Halima Isa, after she resisted rape.⁵³⁶ P-0007 returned to Bindisi after the attack ended and saw 17 bodies of men, women, and children. P-

⁵²² [REDACTED].

⁵²³ [REDACTED].

⁵²⁴ [REDACTED].

⁵²⁵ [REDACTED].

⁵²⁶ [REDACTED].

⁵²⁷ [REDACTED].

⁵²⁸ See Annex A7.

⁵²⁹ P-0918, [DAR-OTP-0218-0120-R01](#) at 0127-0128, paras. 26-27.

⁵³⁰ P-0918, [DAR-OTP-0218-0120-R01](#) at 0128-0129, para. 31.

⁵³¹ P-0918, [DAR-OTP-0218-0120-R01](#) at 0129, para. 31.

⁵³² P-0878, [DAR-OTP-0215-9919-R01](#) at 9953.

⁵³³ P-0007, [DAR-OTP-0088-0060-R01](#) at 0065, para. 21.

⁵³⁴ P-0007, [DAR-OTP-0088-0060-R01](#) at 0065, para. 21.

⁵³⁵ P-0007, [DAR-OTP-0088-0060-R01](#) at 0066, para. 22.

⁵³⁶ P-0007, [DAR-OTP-0088-0060-R01](#) at 0071, para. 43.

0007 observed gun-shot wounds to some of the bodies, while others were burnt beyond recognition.⁵³⁷ [REDACTED].⁵³⁸

161. P-0011 states that Militia/*Janjaweed* and/or GoS Forces shot her uncle in the chest as they were fleeing across the *wadi* and he fell. She later received news that he had died.⁵³⁹ Militia/*Janjaweed* and/or GoS Forces eventually caught up with [REDACTED] fleeing civilians, including about 50 men.⁵⁴⁰ In relation to the men, [REDACTED] the Militia/*Janjaweed* “tied their hands behind their backs, laid them face down and shot them with Kalashnikovs.”⁵⁴¹ P-0011 states that Rashid Issa and Adam Bosch were among those killed, as well as Abd-al-Nasir, who was beaten to death in the same incident.⁵⁴²

162. P-0012 states that **ABD-AL-RAHMAN** was part of the attack on Bindisi.⁵⁴³ P-0012 witnessed the shooting to death of Mohammed Khamiss, also known as tailor Khamiss, and saw other deceased victims, noting that “[f]ive of the bodies were of old men, two were young men [...], one was a little girl and one was a woman.”⁵⁴⁴ P-0012 estimates that he buried about 22 bodies and noted that some of them had “bullet wounds”, while two of the bodies bore “sword wounds” and that all the victims appeared to be civilians, as the bodies were not clad in Militia/*Janjaweed* and/or GoS Forces uniforms and they did not have any weapons.⁵⁴⁵ P-0816 fled the attack in Bindisi⁵⁴⁶ and on his return, saw the body of Mohammed Khamiss (tailor Khamiss), with blood stains.⁵⁴⁷ P-0816 assisted with the burial of some Bindisi victims, such as [REDACTED], Daoud Ali Yusif, and [REDACTED], Ismail Abdulmukaram.⁵⁴⁸ P-0816 names other deceased victims, such as [REDACTED], Ismail Muhammad Abdulrahman, fellow villagers such as Abdu Mohammad Abdulrahman, Ahmad Abbaker aka Jebna, Omar and a lady known to him as Hawa, who had a gunshot wound to her body.⁵⁴⁹

163. P-0015 states that Militia/*Janjaweed* and/or GoS Forces killed her father, [REDACTED], as they attempted to flee the attack.⁵⁵⁰ P-0015’s uncle [REDACTED] was killed

⁵³⁷ P-0007, [DAR-OTP-0088-0060-R01](#) at 0071, para. 42.

⁵³⁸ [REDACTED].

⁵³⁹ P-0011, [DAR-OTP-0088-0219-R01](#) at 0229, para. 57.

⁵⁴⁰ P-0011, [DAR-OTP-0088-0219-R01](#) at 0229, para. 61.

⁵⁴¹ P-0011, [DAR-OTP-0088-0219-R01](#) at 0231, para. 73.

⁵⁴² P-0011, [DAR-OTP-0088-0219-R01](#) at 0231, para. 74.

⁵⁴³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84.

⁵⁴⁴ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85.

⁵⁴⁵ P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 81.

⁵⁴⁶ P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 36.

⁵⁴⁷ P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 38.

⁵⁴⁸ P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 38.

⁵⁴⁹ P-0816, [DAR-OTP-0214-0721-R01](#) at 0729-0730, para. 38.

⁵⁵⁰ P-0015, [DAR-OTP-0088-0187-R02](#) at 0193, paras. 26-27.

during the attack, as well as “those who could not run such as the elderly and the children.”⁵⁵¹ P-0085 saw Militia/*Janjaweed* and/or GoS Forces shoot to death four of his neighbours during the Bindisi attack.⁵⁵²

164. P-0717, who fled the Kodoom attack to Bindisi,⁵⁵³ states that as he arrived he saw Militia/*Janjaweed* and/or GoS Forces and signs of an ongoing attack.⁵⁵⁴ P-0717 states that when he came out of the house [REDACTED], where he had been hiding during the attack, he saw 18 bodies bearing signs of gunshot wounds to “various parts of their bodies.”⁵⁵⁵ P-0717 and his neighbours buried the bodies of the victims into “two holes”, consisting of men, women and children.⁵⁵⁶

165. P-0834 received reports that her relatives [REDACTED] were killed during the Bindisi attack and later confirmed their deaths after viewing their bodies, which were brought to Gartaga village for burial.⁵⁵⁷

166. While fleeing Bindisi, P-0868 saw Militia/*Janjaweed* and/or GoS Forces shoot Mudassir Ibrahim Garat in his back and he died.⁵⁵⁸ P-0868 was told that [REDACTED] Adam and another man, Abdo, were among the persons killed and he later confirmed Adam’s death.⁵⁵⁹ Upon returning to Bindisi, P-0913 found six deceased victims, known to him as Imam Baher Harun Atim, Zakariya Isaaq Adam, Hussein Mohamed Abdulrahman, Khamis Adam Idris, Adam Abdallah Imam and Kathouma Yahia Ahmed.⁵⁶⁰ When P-0913 buried these victims, he observed that the bodies had what appeared to be gunshot wounds.⁵⁶¹

Count 3: Murder as a war crime (violation of common article 3)

167. The material facts relevant to the crime of murder as a crime against humanity described at paragraphs 156 to 166 are incorporated by reference in relation to Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003. In particular, incidents of the killing of children, men, women and elderly persons taking no active part in hostilities.⁵⁶² The

⁵⁵¹ P-0015, [DAR-OTP-0088-0187-R02](#) at 0194, para. 32.

⁵⁵² P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, para. 31.

⁵⁵³ P-0717, [DAR-OTP-0210-0187-R01](#) at 0200-0201, para. 73.

⁵⁵⁴ P-0717, [DAR-OTP-0210-0187-R01](#) at 0201, para. 77.

⁵⁵⁵ P-0717, [DAR-OTP-0210-0187-R01](#) at 0202, para. 79.

⁵⁵⁶ P-0717, [DAR-OTP-0210-0187-R01](#) at 0202, para. 80.

⁵⁵⁷ P-0834, [DAR-OTP-0214-0686-R01](#) at 0695, para. 52.

⁵⁵⁸ P-0868, [DAR-OTP-0217-0137-R01](#) at 0147-0148, para 48.

⁵⁵⁹ P-0868, [DAR-OTP-0217-0137-R01](#) at 0149, para. 60.

⁵⁶⁰ P-0913, [DAR-OTP-0218-0021-R01](#) at 0029, paras. 52-53.

⁵⁶¹ P-0913, [DAR-OTP-0218-0021-R01](#) at 0029, paras. 55-56.

⁵⁶² P-0007, [DAR-OTP-0088-0060-R01](#) at 0070-0071, paras. 38, 42; P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85; P-0015, [DAR-OTP-0088-0187-R02](#) at 0194, para. 32; P-0717, [DAR-OTP-0210-0187-R01](#) at 0202, para.

Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** wilfully killed non-combatant protected persons in their power after intentionally directing attacks against the civilian population and taking control of the targeted town, villages and surrounding areas. These persons were victims of murder, as a violation of common article 3 of the Geneva Conventions.⁵⁶³

168. P-0007 witnessed the capture, rape and murder of Kony Harun and Darasalam Husayn and the attempted rape and murder of Halima Isa by Militia/*Janjaweed* and/or GoS Forces.⁵⁶⁴ P-0011 saw Militia/*Janjaweed* and/or GoS Forces kill a number of men, including Rashid Issa and Adam Bosch, and also Abd-al-Nasir who was beaten to death in the same incident while being detained and/or otherwise restrained.⁵⁶⁵ Thus, demonstrating the intent of the Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN**, to kill protected persons, as they perceived them as belonging to, or being associated with, or supporting the rebel armed groups.

Count 4: Pillaging as a war crime

169. Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** pillaged Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003. Militia/*Janjaweed* and GoS Forces appropriated food items, medicine, livestock and other personal property belonging primarily to the Fur civilians. They intended the appropriation of property for their private or personal use and with the intent to permanently deprive the owners of their property.

170. In Kodoom, [REDACTED] **ABD-AL-RAHMAN** instructing Militia/*Janjaweed* and/or GoS Forces to collect and take away medicine belonging to a business owner.⁵⁶⁶ [REDACTED] “[t]here was one specific group of *Janjaweed*, who were in charge of pillaging; collecting

80; P-0816, [DAR-OTP-0214-0721-R01](#) at 0729-0730, para. 38; P-0878, [DAR-OTP-0215-9919-R01](#) at 9949; P-0918, [DAR-OTP-0218-0120-R01](#) at 0128-0129, para. 31.

⁵⁶³ ICC-01/04-01/07-3436-tENG, para. 784, in accordance with the Elements of Crimes, in addition to the fact that it must be established that the conduct took place in the context of and was associated with an armed conflict not of an international character and that the perpetrator was aware of the factual circumstances that established the existence of an armed conflict, the constituent elements of that crime are as follows: (1) the perpetrator killed one or more persons; (2) such person or persons were either *hors de combat*, or were civilians, medical personnel or religious personnel taking no active part in the hostilities; and (3) the perpetrator was aware of the factual circumstances that established this status.

⁵⁶⁴ P-0007, [DAR-OTP-0088-0060-R01](#) at 0071, para. 43.

⁵⁶⁵ P-0011, [DAR-OTP-0088-0219-R01](#) at 0231, paras. 73-74.

⁵⁶⁶ [REDACTED].

livestock [...]”⁵⁶⁷ P-0918 saw Militia/*Janjaweed* and/or GoS Forces pillaging homes in his neighbourhood and taking away “crops, clothes and anything of value in addition to livestock.”⁵⁶⁸

171. In Bindisi, P-0007 observed Militia/*Janjaweed* and/or GoS Forces take away “goats that returned to BENDISI town after fleeing the town on the first day of attack” and was later told that buildings and livestock were looted during the course of the attack.⁵⁶⁹ P-0011 saw Militia/*Janjaweed* and/or GoS Forces enter the homes of villagers and take away, “beds, bags, radios, big iron boxes and other things”, which they carried away in vehicles.⁵⁷⁰

172. P-0012 states that collaborators of the Militia/*Janjaweed* and/or GoS Forces placed “green cloth” and special markings on the shops owned by the Mararit and the Tama tribes in advance of the attack and that all the shops in the market were looted, except the shops that were specially marked.⁵⁷¹ P-0012 watched as Militia/*Janjaweed* and/or GoS Forces looted “kebkebay [...] sugar and tea and other things” [REDACTED].⁵⁷² P-0012 observed a pattern in the attack, as the attackers split in three groups and one targeted the collection of livestock.⁵⁷³

173. P-0015 saw Militia/*Janjaweed* and GoS Forces taking and carrying away “furniture, televisions, mattresses, blankets, mats” on their Land Cruisers, camels, donkeys and horses.⁵⁷⁴ P-0015 later discovered that medicine had been looted from the hospital and items taken from the veterinary clinic.⁵⁷⁵ P-0029 saw Militia/*Janjaweed* and/or GoS Forces looting shops in Bindisi and taking and carrying away “goods on their camels.”⁵⁷⁶ P-0106 was in [REDACTED] village, located [REDACTED] of Bindisi, and saw Militia/*Janjaweed* and/or GoS Forces transporting what appeared to be “looted goods and livestock” from Bindisi.⁵⁷⁷

174. P-0816 states that in Bindisi “most houses were looted”, [REDACTED], where all “belongings were gone.”⁵⁷⁸ P-0834 states that his home in [REDACTED] Bindisi was looted and their food supplies taken.⁵⁷⁹ [REDACTED], Militia/*Janjaweed* and/or GoS Forces pillaged the warehouses, the *Zakat* Office, the Municipality Building and houses, and identified that

⁵⁶⁷ [REDACTED].

⁵⁶⁸ P-0918, [DAR-OTP-0218-0120-R01](#) at 0128, para. 27.

⁵⁶⁹ P-0007, [DAR-OTP-0088-0060-R01](#) at 0066, para. 23.

⁵⁷⁰ P-0011, [DAR-OTP-0088-0219-R01](#) at 0228, para. 53.

⁵⁷¹ P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

⁵⁷² P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

⁵⁷³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0878, [DAR-OTP-0219-3062-R01](#) at 3067, para. 26.

⁵⁷⁴ P-0015, [DAR-OTP-0088-0187-R02](#) at 0193, para. 29.

⁵⁷⁵ P-0015, [DAR-OTP-0088-0187-R02](#) at 0205, para. 92.

⁵⁷⁶ P-0029, [DAR-OTP-0094-0119-R01](#) at 0135, para. 71.

⁵⁷⁷ P-0106, [DAR-OTP-0116-1005-R01](#) at 1013, para. 36.

⁵⁷⁸ P-0816, [DAR-OTP-0214-0721-R01](#) at 0729, para. 37.

⁵⁷⁹ P-0834, [DAR-OTP-0214-0686-R01](#) at 0694, para. 47.

they were “[l]ike a beehive, [...] moving the commodities and the possessions from the market, the houses and the offices.”⁵⁸⁰

Count 5: Destruction of the property of an adversary as a war crime

175. Between about 15 and about 16 August 2003, Militia/*Janjaweed* and GoS Forces under the instructions of **ABD-AL-RAHMAN** carried out a systematic destruction of properties belonging predominantly to Fur persons in Kodoom, Bindisi and surrounding areas. These properties were protected under the law of armed conflict and their destruction was not justified by military necessity.

176. P-0029 fled the attack and returned to Kodoom immediately after Militia/*Janjaweed* and GoS Forces left, where he noted that at least 72 houses were destroyed.⁵⁸¹ P-0717, before escaping the attack in Kodoom, saw Militia/*Janjaweed* and/or GoS Forces “setting everything alight in the village.”⁵⁸² P-0717 returned to Kodoom and observed that [REDACTED] house was partially damaged, while nearby houses were completely destroyed.⁵⁸³ P-0757, who moved from village to village to escape the attacking Militia/*Janjaweed* and GoS Forces, went to Kodoom and observed that “most of the village had been burned down.”⁵⁸⁴

177. P-0007, P-0012, P-0029, P-0085, and P-0917 are survivors of the attack on Bindisi and saw Militia/*Janjaweed* and/or GoS Forces destroy houses, buildings and other property during the attack.⁵⁸⁵ P-0007 discovered that the warehouse which stored their millet and other food items, as well as the mosque and its collection of Islamic books, had been destroyed.⁵⁸⁶ P-0012 states that Militia/*Janjaweed* “destroyed the station and burned down all documents and also the house of the chief of police”. Militia/*Janjaweed* and GoS Forces then separated into three attacking groups and he saw one group “breaking into houses and torching them.”⁵⁸⁷

178. P-0015 fled Bindisi when it was attacked. Upon returning she found only “ashes and bricks.” The fences, shops in the market, zinc roofs, books, benches in the school and the veterinary clinic had all been burnt to the ground, except structures belonging to collaborators

⁵⁸⁰ [REDACTED].

⁵⁸¹ P-0029, [DAR-OTP-0094-0119-R01](#) at 0134, paras. 64-65.

⁵⁸² P-0717, [DAR-OTP-0210-0187-R01](#) at 0201, para. 74.

⁵⁸³ P-0717, [DAR-OTP-0210-0187-R01](#) at 0203, para. 90.

⁵⁸⁴ P-0757, [DAR-OTP-0211-0003-R01](#) at 0012, para. 41.

⁵⁸⁵ P-0007, [DAR-OTP-0088-0060-R01](#) at 0066, para. 23; P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0029, [DAR-OTP-0094-0119-R01](#) at 0135, para. 71; P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, para. 28; P-0917, [DAR-OTP-0217-0071-R01](#) at 0078, para. 31.

⁵⁸⁶ P-0007, [DAR-OTP-0088-0060-R01](#) at 0070, para. 41.

⁵⁸⁷ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83.

of the Militia/*Janjaweed* and/or GoS Forces.⁵⁸⁸ P-0085 saw Militia/*Janjaweed* and/or GoS Forces torch houses belonging to [REDACTED], and a “big hut” [REDACTED].⁵⁸⁹ P-0816 who fled the Bindisi attack to Mukjar received news that Militia/*Janjaweed* and GoS Forces burned down [REDACTED] houses.⁵⁹⁰

179. [REDACTED] Militia/*Janjaweed* and GoS Forces recalls that one group of Militia/*Janjaweed* was in charge of “burning down the houses and destroying the crops of the villagers.”⁵⁹¹ He saw a school and a mosque burned down in Nyerli,⁵⁹² as well as houses burned in both Kodoom and Bindisi.⁵⁹³

Count 6: Other inhumane acts as a crime against humanity; Count 7: Outrages upon personal dignity as a war crime

180. In Bindisi or surrounding areas, Militia/*Janjaweed* and GoS Forces between about 15 and about 16 August 2003, detained fleeing men and women, forced them to stand in separate lines according to their sex and ordered the men to keep their backs turned to their female counterparts.⁵⁹⁴

181. According to [REDACTED], Militia/*Janjaweed* and/or GoS Forces “stripped [...] our outer clothing or tiban which is the long cloth that Sudanese women wrap around their bodies”, and [REDACTED] searched them. [REDACTED]. Militia/*Janjaweed* and/or GoS Forces selected the girls from the women. The women were asked about their *tora bora* husbands and were called *khadim* (servants). Militia/*Janjaweed* and/or GoS Forces told them, “we will take the beautiful ones as wives and the ugly ones will be servants to our wives”, and beat some of the women who refused to remove their clothing.⁵⁹⁵

182. [REDACTED] saw about 20 Militia/*Janjaweed* and/or GoS Forces beat and search the men, calling them “*abeed*, meaning slaves/servant, [*khadim*], and *nuba*” and threaten that “they were sent to kill every black thing except the Laloba and Daylabe trees which are also black.”⁵⁹⁶ [REDACTED] saw Militia/*Janjaweed* and/or GoS Forces kill four men. They “tied their hands behind their backs, laid them face down and shot them with Kalashnikovs.” Militia/*Janjaweed*

⁵⁸⁸ P-0015, [DAR-OTP-0088-0187-R02](#) at 0205, para. 92.

⁵⁸⁹ P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, paras. 28-29.

⁵⁹⁰ P-0816, [DAR-OTP-0214-0721-R01](#) at 0732, para. 49. *See also* P-0643, [DAR-OTP-0215-0333-R01](#) at 0349, l. 541-543 and 0352, l. 648.

⁵⁹¹ [REDACTED].

⁵⁹² [REDACTED].

⁵⁹³ [REDACTED].

⁵⁹⁴ [REDACTED].

⁵⁹⁵ [REDACTED].

⁵⁹⁶ [REDACTED].

and/or GoS Forces used the butt of their guns to beat one of the men to death.⁵⁹⁷

183. After some of the women and girls were partially stripped of their clothing, searched, robbed and slapped, Militia/*Janjaweed* and GoS Forces ordered them to return in the direction of Bindisi, towards some farms.⁵⁹⁸ [REDACTED] saw Militia/*Janjaweed* and/or GoS Forces capture a woman who was running away and “took out either a sword or a machete and cut off her arm at the elbow,” and robbed the dismembered arm of its jewellery.⁵⁹⁹

184. Militia/*Janjaweed* and GoS Forces caught [REDACTED] fleeing civilians. Militia/*Janjaweed* and/or GoS Forces stripped [REDACTED], pulled the *tiban* off the women, leaving them in only their inner clothing, and took their shoes. [REDACTED] witnessed a baby being pulled off the back of a woman [REDACTED]. After the attacker realised that it was a boy he threw the baby in the air and the baby landed one metre and a half away.⁶⁰⁰ Militia/*Janjaweed* and GoS Forces insulted them during the course of the attack by calling them wives and mothers of *tora bora*, and addressed them as black *nubas*. They were told that they would be wiped out, that they were of “no benefit” and that the government gave them permission “to wipe us out, to kill us, to chase us away.”⁶⁰¹

185. [REDACTED] states that the women who were raped had their mouths stuffed with their clothing [REDACTED] the women were held down and raped. The young girls were held down by one Militia/*Janjaweed* while the other one penetrated the victims. If the victim resisted, a third Militia/*Janjaweed* would join in to restrain them.⁶⁰²

186. The facts set out at paragraphs 187 to 192 detailing the rape of women and girls belonging to the Fur tribe also constitute other inhumane acts.

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

187. In Bindisi or surrounding areas, Militia/*Janjaweed* and GoS Forces raped at least 17 women, including the persons in Annex A8,⁶⁰³ between about 15 and about 16 August 2003. P-0007 saw Militia/*Janjaweed* and/or GoS Forces rape two women (Kony Harun and Darasalam Husayn) and a third woman (Halima Isa) was killed because she resisted being raped.⁶⁰⁴

⁵⁹⁷ [REDACTED].

⁵⁹⁸ [REDACTED].

⁵⁹⁹ [REDACTED].

⁶⁰⁰ [REDACTED].

⁶⁰¹ [REDACTED].

⁶⁰² [REDACTED].

⁶⁰³ [REDACTED].

⁶⁰⁴ P-0007, [DAR-OTP-0088-0060-R01](#) at 0071, para. 43.

188. [REDACTED] saw Militia/*Janjaweed* and/or GoS Forces take four females known to her [REDACTED] and rape them. [REDACTED] states that [REDACTED] was raped in her view, while the other three girls were taken further away, but she could hear their screams and when next she saw them their “clothes were torn and bloody.”⁶⁰⁵

189. [REDACTED].⁶⁰⁶

190. [REDACTED] witnessed Militia/*Janjaweed* and/or GoS Forces select women and girls, including [REDACTED], and take them to “an area where groundnuts were being grown” to be raped. As some of the women and girls were being raped, [REDACTED] heard members of the Militia/*Janjaweed* and/or GoS Forces saying, “we have taken Tora Bora's wives, praise be to God”. Some fired guns in the air and shouted, “I have found a virgin woman”.⁶⁰⁷ [REDACTED] states that the “rape and detention” went on for about 30 minutes after which she “heard the sound of gunshots and sirens and some people calling” the Militia/*Janjaweed* and GoS Forces away.⁶⁰⁸

191. P-0085 received reports that members of Militia/*Janjaweed* and/or GoS Forces raped women and girls during the attack on Bindisi.⁶⁰⁹ P-0834 was told by [REDACTED] that Militia/*Janjaweed* and/or GoS Forces took her from Bindisi and raped her. P-0834 was also told by [REDACTED] that she was raped by Militia/*Janjaweed* and/or GoS Forces, as she fled to Mukjar.⁶¹⁰ P-0882 states that when he returned to Bindisi, he received reports that women and girls were raped during the attack.⁶¹¹

192. [REDACTED], received reports that women and girls were raped in Kodoom and surrounding areas during the attack.⁶¹² [REDACTED] overheard at least three members of the Militia/*Janjaweed* and/or GoS Forces recounting details of raping women in Bindisi during the attack.⁶¹³ P-0921, [REDACTED], saw at least 50 women without clothing and/or wearing torn clothing in Mukjar, after they fled the attack in Bindisi and surrounding areas.⁶¹⁴

Count 10: Forcible transfer as a crime against humanity

⁶⁰⁵ [REDACTED].

⁶⁰⁶ [REDACTED].

⁶⁰⁷ [REDACTED].

⁶⁰⁸ [REDACTED].

⁶⁰⁹ P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, para. 31.

⁶¹⁰ P-0834, [DAR-OTP-0214-0686-R01](#) at 0697, paras. 65-66.

⁶¹¹ P-0882, [DAR-OTP-0218-0165-R01](#) at 0196, para. 153.

⁶¹² [REDACTED].

⁶¹³ [REDACTED].

⁶¹⁴ P-0921, [DAR-OTP-0219-3171-R01](#) at 3183, l. 399-416.

193. The conduct of Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN**, between about 15 and about 16 August 2003 in Kodoom, Bindisi and surrounding areas, served to expel or coerce persons present into leaving these areas, in particular the predominantly Fur population.

194. P-0029 and others fled the attack in Kodoom and surrounding areas to the forest.⁶¹⁵ P-0717 first fled Kodoom, as a result of the Militia/*Janjaweed* and GoS Forces attack, to Bindisi but then had to flee Bindisi after Militia/*Janjaweed* and GoS Forces continued their offensive into Bindisi. P-0717 and P-0834 both recall that many villagers fled from Bindisi to Mukjar.⁶¹⁶

195. P-0011 states that prior to the attack on Bindisi, about 20,000 civilians from nearby villages flooded into Bindisi seeking shelter.⁶¹⁷ However, after Militia/*Janjaweed* and GoS Forces started attacking Bindisi, P-0011 eventually fled with other villagers to Mukjar.⁶¹⁸ P-0012 and P-0015 share similar narratives, as after the attack started they fled to Old Bindisi.⁶¹⁹ However, as the attack intensified they fled into the forest and/or surrounding areas and eventually journeyed to Mukjar.⁶²⁰ P-0015 encountered other villagers who were fleeing attacks on Kodoom and other nearby areas.⁶²¹

196. P-0085 observed most of the attack in Bindisi [REDACTED] where he hid until it was safe to escape. At the earliest opportunity, P-0085 escaped to the mountains, where he found his family and other escaping villagers.⁶²² Most persons made the decision to journey onto Mukjar seeking shelter. P-0882 states that he and his family were forced to flee to the forest,⁶²³ where he encountered other fleeing villagers and heard of attacks in areas surrounding Bindisi.⁶²⁴ P-0868 was also forced to flee and took refuge in the mountains, where he encountered other persons who had fled the Bindisi area.⁶²⁵ P-0913 first fled the northern part of Bindisi to the southern area of the town,⁶²⁶ [REDACTED].⁶²⁷

⁶¹⁵ P-0029, [DAR-OTP-0094-0119-R01](#) at 0133, paras. 60, 62.

⁶¹⁶ P-0717, [DAR-OTP-0210-0187-R01](#) at 0202, para. 81; P-0834, [DAR-OTP-0214-0686-R01](#) at 0696, para. 55; P-0882, [DAR-OTP-0218-0165-R01](#) at 0188, para. 113.

⁶¹⁷ P-0011, [DAR-OTP-0088-0219-R01](#) at 0227, para. 43.

⁶¹⁸ P-0011, [DAR-OTP-0088-0219-R01](#) at 0233, paras. 80-81.

⁶¹⁹ P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79; P-0015, [DAR-OTP-0088-0187-R02](#) at 0194, paras. 33-34.

⁶²⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0523, para. 87; P-0015, [DAR-OTP-0088-0187-R02](#) at 0197, paras. 46, 48.

⁶²¹ P-0015, [DAR-OTP-0088-0187-R02](#) at 0194, para. 34.

⁶²² P-0085, [DAR-OTP-0110-0054-R01](#) at 0063, para. 35.

⁶²³ P-0882, [DAR-OTP-0218-0165-R01](#) at 0183, paras. 86-87.

⁶²⁴ P-0882, [DAR-OTP-0218-0165-R01](#) at 0183, para. 90.

⁶²⁵ P-0868, [DAR-OTP-0217-0137-R01](#) at 0148, para. 50.

⁶²⁶ P-0913, [DAR-OTP-0218-0021-R01](#) at 0026, paras. 36-37.

⁶²⁷ P-0913, [DAR-OTP-0218-0021-R01](#) at 0027-0028, paras. 41-42, 45, 50.

Count 11: Persecution as a crime against humanity

197. This section should be read in conjunction with Section D (Persecution), in particular, paragraphs 135 to 136, relating specifically to the events in Kodoom and Bindisi. The facts described under Count 1 (intentionally directing attacks against the civilian population as such), Counts 2-3 (murder), Count 4 (pillaging), Count 5 (destruction of property), Count 6 (other inhumane acts), Count 7 (outrages upon personal dignity), Counts 8-9 (rape) and Count 10 (forcible transfer) form the underlying conduct of the crime of persecution.

b) ABD-AL-RAHMAN's individual criminal responsibility***Inducing under article 25(3)(b) of the Rome Statute***

198. Through the actions described below at paragraphs 200 to 208, **ABD-AL-RAHMAN** induced Militia/*Janjaweed* and GoS Forces to commit the crimes charged under Counts 1 to 5, 10 and 11 in Kodoom, Bindisi and surrounding areas and the crimes charged under Counts 6 to 9 in Bindisi or surrounding areas.

199. As detailed above in Section C, **ABD-AL-RAHMAN** was a senior Militia/*Janjaweed* leader in the Wadi Salih and Mukjar Localities.⁶²⁸ He orchestrated the attacks on Kodoom, Bindisi and surrounding areas by deciding the route, the duration of the operation and by giving regular orders and instructions to Militia/*Janjaweed* and GoS Forces in the course of the attack. He also responded angrily to a Militia/*Janjaweed* leader who openly expressed reluctance to continue the attack on Bindisi.⁶²⁹

Orders and instructions

200. During the attack, **ABD-AL-RAHMAN** was seen riding in front of the attackers.⁶³⁰ [REDACTED],⁶³¹ [REDACTED].⁶³² He recalls that **ABD-AL-RAHMAN** was “escorted by two or three horsemen, as if they were his bodyguards.”⁶³³ [REDACTED], **ABD-AL-RAHMAN** encouraged Militia/*Janjaweed* and GoS Forces by shouting “Allahu Akbar, wipe up and swipe away”,⁶³⁴ while they burned homes, looted and killed civilians. In the village of Nyerli, [REDACTED] **ABD-AL-RAHMAN**, and heard him shout, “Allahu Akbar! Allahu Akbar! Wipe out and sweep away!” Dense white smoke started rising from the village as **ABD-**

⁶²⁸ See above, Section C (1), **ABD-AL-RAHMAN**'s position of authority and influence.

⁶²⁹ [REDACTED].

⁶³⁰ P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84; P-0085, [DAR-OTP-0110-0054-R01](#) at 0063, para. 33.

⁶³¹ [REDACTED].

⁶³² [REDACTED].

⁶³³ [REDACTED].

⁶³⁴ [REDACTED].

AL-RAHMAN shouted his instructions.⁶³⁵ He further recalls that when they arrived in the village of Kodoom Derliwa, **ABD-AL-RAHMAN** “blew his whistle and shouted: “Let’s go, Allahu Akbar! Wipe out and swipe away!” [REDACTED].⁶³⁶

201. According to multiple witnesses, **ABD-AL-RAHMAN** also gave orders and instructions to the attackers on the ground during the operation.⁶³⁷ In Nyerli, [REDACTED] **ABD-AL-RAHMAN** and saw him “riding his horse, waving his arms and giving instructions [...] making sure that his forces were moving forward.”⁶³⁸ [REDACTED] **ABD-AL-RAHMAN** in Nyerli and heard him tell his forces “to loot everything on their way [...] and not to leave anything intact.”⁶³⁹ [REDACTED].⁶⁴⁰ [REDACTED] **ABD-AL-RAHMAN** order the attackers to force persons into their houses so that they could set the house ablaze and stand by the entrance, shooting anyone inside.⁶⁴¹ [REDACTED] state that **ABD-AL-RAHMAN** divided Militia/*Janjaweed* and GoS Forces into different groups in order to increase the efficiency of the attack.⁶⁴²

202. These accounts regarding **ABD-AL-RAHMAN**’s instructions to the Militia/*Janjaweed* and GoS Forces are corroborated by P-0085 and P-0029. In Bindisi on about 16 August 2003, P-0085 saw **ABD-AL-RAHMAN** point in different directions. Militia/*Janjaweed* and/or GoS Forces ran in the direction indicated by **ABD-AL-RAHMAN** and shot men, terrorised women, burned houses and looted items.⁶⁴³ P-0029 was in Kodoom Tinah during the attack. He saw **ABD-AL-RAHMAN** get out of a Land Cruiser and onto a horse and use a whistle to give orders to Militia/*Janjaweed* so that they would spread out in the different areas in the village.⁶⁴⁴

203. [REDACTED] near Bindisi market—called Souq Dagainia—[REDACTED] heard **ABD-AL-RAHMAN** give orders to his men to loot and attack the market by saying “*Amsah Aksah*” which the witness understood to mean “loot and destroy as you wish”.⁶⁴⁵

204. [REDACTED].⁶⁴⁶ [REDACTED].⁶⁴⁷

⁶³⁵ [REDACTED].

⁶³⁶ [REDACTED].

⁶³⁷ P-0029, [DAR-OTP-0094-0119-R01](#) at 0133, para. 61; P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, para. 30.

⁶³⁸ [REDACTED].

⁶³⁹ [REDACTED].

⁶⁴⁰ [REDACTED].

⁶⁴¹ [REDACTED].

⁶⁴² [REDACTED].

⁶⁴³ P-0085, [DAR-OTP-0110-0054-R01](#) at 0062, para. 30.

⁶⁴⁴ P-0029, [DAR-OTP-0094-0119-R01](#) at 0133, para. 61.

⁶⁴⁵ [REDACTED].

⁶⁴⁶ [REDACTED].

⁶⁴⁷ [REDACTED].

The route of the attack

205. **ABD-AL-RAHMAN** made decisions in relation to the route to be followed and regularly conveyed them to PDF officer HASSABALLAH. [REDACTED]⁶⁴⁸ [REDACTED]⁶⁴⁹ Similarly, in Tiro, **ABD-AL-RAHMAN** told HASSABALLAH to go to the village of Kodoom.⁶⁵⁰ [REDACTED].⁶⁵¹

206. In Bindisi, **ABD-AL-RAHMAN** instructed the GoS Forces to take up positions at the northern border of the city next to the Garsila-Zalingei road.⁶⁵² In the evening, after Bindisi market was attacked, **ABD-AL-RAHMAN** called the 20 to 30 Militia/*Janjaweed* leaders present to a meeting in order to inform them that the next morning, they would be heading to Garsila where ABD-AL-HAKAM would organise a celebration for the forces.⁶⁵³ [REDACTED].⁶⁵⁴ However, the next morning **ABD-AL-RAHMAN** summoned his forces again and informed them that he had received different instructions from the “higher command”. Instead of returning to Mukjar, they would attack the lower part of Bindisi on the same day and destroy other villages on their way back to Mukjar.⁶⁵⁵ [REDACTED]⁶⁵⁶

Overriding of objections

207. **ABD-AL-RAHMAN**'s authority remained unchallenged through the course of the attack. [REDACTED].⁶⁵⁷ [REDACTED].⁶⁵⁸ [REDACTED].⁶⁵⁹

208. **ABD-AL-RAHMAN**'s personal conduct, including his orders and instructions, during the attack on Kodoom and Bindisi directly impacted the commission of the crimes by Militia/*Janjaweed* and GoS Forces during the attack. By the actions described above, **ABD-AL-RAHMAN** clearly communicated not only his tolerance of crimes committed by Militia/*Janjaweed* and GoS Forces but also his approval, expressly and/or tacitly. According to P-0921, **ABD-AL-RAHMAN** was shooting, destroying and looting⁶⁶⁰ and personally murdered elderly people in Kodoom.⁶⁶¹

⁶⁴⁸ [REDACTED].

⁶⁴⁹ [REDACTED].

⁶⁵⁰ [REDACTED].

⁶⁵¹ [REDACTED].

⁶⁵² [REDACTED].

⁶⁵³ [REDACTED].

⁶⁵⁴ [REDACTED].

⁶⁵⁵ [REDACTED].

⁶⁵⁶ [REDACTED].

⁶⁵⁷ [REDACTED].

⁶⁵⁸ [REDACTED].

⁶⁵⁹ [REDACTED].

⁶⁶⁰ P-0921, [DAR-OTP-0219-3171-R01](#) at 3181, l. 321-322.

⁶⁶¹ P-0921, [DAR-OTP-0219-3171-R01](#) at 3175, l. 126.

209. **ABD-AL-RAHMAN** was aware that Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes charged and that his actions contributed to their commission. **ABD-AL-RAHMAN**'s intent and/or awareness can be inferred from his instructions to perpetrators "to wipe out and sweep away" (paragraph 200) and his leadership role during the attack, including the orders and instructions that he gave to Militia/*Janjaweed* and PDF and CRF officers present on the ground (paragraphs 201 to 208).

Aiding, abetting, or otherwise assisting in the commission or attempted commission of crimes under article 25(3)(c) of the Rome Statute

210. Through the actions described above at paragraphs 200 to 208 and below at paragraphs 211 to 217, **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces in the commission of the crimes charged under Counts 1-5, 10 and 11 in Kodoom, Bindisi and surrounding areas and the crimes charged under Counts 6-9 in Bindisi or surrounding areas.

211. **ABD-AL-RAHMAN** aided, abetted or otherwise assisted the commission of those crimes by: a) being present in Mukjar and coordinating operations with senior members of the GoS in early August 2003; b) leading the attacks on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003; c) coordinating operations with members of the GoS Forces and other Militia/*Janjaweed* leaders during the attack on Kodoom, Bindisi and surrounding areas; d) carrying on with the attack, despite the objections expressed by some of those involved in the attack; and e) encouraging members of the Militia/*Janjaweed* and GoS Forces in the commission of crimes by his conspicuous tolerance of criminality during the course of the attack.

Coordination with senior GoS Officials in Mukjar in early August 2003

212. As discussed in detail above,⁶⁶² **ABD-AL-RAHMAN** was present to welcome the delegation of GoS Officials and senior GoS Forces on the day they arrived in Mukjar. He attended the private meeting that took place in the Mukjar Locality Building and stood in front of his men, close to HARUN at the public meeting that immediately followed.⁶⁶³ Given the surrounding circumstances, including the conduct of the subsequent attack on Kodoom and Bindisi, it can be reasonably inferred that this meeting served to coordinate and organise the attack on Kodoom and Bindisi and surroundings areas, and that **ABD-AL-RAHMAN** and

⁶⁶² See above, paras. 82-83, 90-91.

⁶⁶³ P-0012, [DAR-OTP-0119-0503-R01](#) at 0517-0518, paras. 62-67. See also P-0755, [DAR-OTP-0211-0072-R01](#) at 0088-0089, para. 55.

HARUN participated in this process.

213. As discussed in more detail above,⁶⁶⁴ this inference is strongly supported by the correspondence between **ABD-AL-RAHMAN** and HARUN [REDACTED].⁶⁶⁵

Leadership position during the attack and coordination with other members of the PDF, CRF and GoS Forces

214. As detailed above at paragraphs 200 to 208, **ABD-AL-RAHAMAN** led the attack on Kodoom, Bindisi and surrounding areas. He determined the route, timing and deployment of the Militia/*Janjaweed* and GoS Forces during the attack.

Overriding of objections

215. As detailed above at paragraph 207, during the attack on Kodoom, Bindisi and surrounding areas, **ABD-AL-RAHMAN** dismissed any attempt by other Militia/*Janjaweed* leaders to voice disagreement with his methods and/or chosen route.

Conspicuous presence

216. As evidenced by the facts described at paragraphs 200 to 208, **ABD-AL-RAHMAN** was a conspicuous presence during the attack in which crimes were committed by members of the Militia/*Janjaweed* and GoS Forces in his vicinity. His tolerance of these crimes, including his failure to take any action to prevent or halt these crimes, constituted tacit approval and encouragement of the crimes.⁶⁶⁶

217. **ABD-AL-RAHMAN** meant to engage in the conduct described above and provided this assistance for the purpose of facilitating the commission of the charged crimes. **ABD-AL-RAHMAN** was aware that members of the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the types of crimes charged, and was aware that his conduct would contribute to their commission. **ABD-AL-RAHMAN**'s intent and/or awareness can be inferred from the same factors as identified above at paragraph 209. **ABD-AL-RAHMAN**'s intent and/or awareness is also evidenced by the coordination of the attacks with senior GoS Officials, HARUN in particular, as detailed at paragraph 212 to 214, as well as by the fact that he carried on with the attack, despite the objections of other Militia/*Janjaweed* leaders and/or PDF officers present, as detailed at paragraph 207 above.

⁶⁶⁴ See above, paras. 82-83, 90-91.

⁶⁶⁵ [REDACTED].

⁶⁶⁶ See e.g. [ICTR-01-68-A](#), paras. 147, 149 and fn. 526; [ICTR-95-1-A](#), paras 201-202; [IT-99-36-A](#), paras. 273, 277; [IT-03-68-A](#), para 42.

Common purpose liability under article 25(3)(d) of the Rome Statute

218. Between about 15 and about 16 August 2003, **ABD-AL-RAHMAN** intentionally contributed to the commission of crimes by a group of persons acting with a common purpose. The common purpose was to attack the predominantly Fur population of Kodoom, Bindisi and surrounding areas, including through the commission of the crimes of intentionally directing attacks against a civilian population as such, murder, pillaging, destruction of property, other inhumane acts, outrages upon personal dignity, rape, forcible transfer, and persecution (“Kodoom/Bindisi Common Purpose”).

219. The members of the group acting with the Kodoom/Bindisi Common Purpose included PDF officer HASSABALLAH, Militia/*Janjaweed* leader SAMIH, and other members of the Militia/*Janjaweed* and GoS Forces.

220. PDF officer HASSABALLAH was present during the attack on Kodoom, Bindisi and surrounding areas on about 15 August 2003. [REDACTED].⁶⁶⁷ [REDACTED]. The Militia/*Janjaweed* with them immediately started to loot and destroy the Bindisi market.⁶⁶⁸

221. Militia/*Janjaweed* leader SAMIH was also present with **ABD-AL-RAHMAN** during the attack on Kodoom and Bindisi. [REDACTED].⁶⁶⁹ [REDACTED].⁶⁷⁰

222. SAMIH shot at P-0029 and his relatives while they fled the Kodoom attack on 15 August 2003.⁶⁷¹ Likewise, P-0012 saw SAMIH with **ABD-AL-RAHMAN** during the attack on Bindisi on 16 August 2003.⁶⁷² P-0012’s account is corroborated by P-0085 and P-0918. P-0918 recalls seeing SAMIH during the attack on Kodoom. He waved his arms, indicating to his forces that they should “hurry up and keep moving into the village.”⁶⁷³ P-0085 saw Militia/*Janjaweed* torch houses in Bindisi on 16 August 2003 and recognised **ABD-AL-RAHMAN** and SAMIH amongst the attackers.⁶⁷⁴

223. Through the conduct described above at paragraphs 200 to 216, **ABD-AL-RAHMAN** intentionally contributed to the commission of the crimes charged under Counts 1 to 5, 10 and 11 in Kodoom, Bindisi and surrounding areas and the crimes charged through Counts 6 to 9 in Bindisi or surrounding areas, by this group of persons acting with a common purpose.

⁶⁶⁷ [REDACTED].

⁶⁶⁸ [REDACTED].

⁶⁶⁹ [REDACTED].

⁶⁷⁰ [REDACTED].

⁶⁷¹ P-0029, [DAR-OTP-0094-0119-R01](#) at 0133-0134, para. 63.

⁶⁷² P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84.

⁶⁷³ P-0918, [DAR-OTP-0218-0120-R01](#) at 0128, para. 28.

⁶⁷⁴ P-0085, [DAR-OTP-0110-0054-R01](#) at 0063, para. 33.

224. **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit these crimes. **ABD-AL-RAHMAN**'s intent and/or awareness can be inferred from the same factors as identified above at paragraph 209 and 217.

F. CRIMES COMMITTED IN MUKJAR AND SURROUNDING AREAS

1) Introduction

225. During the charged period, Mukjar was a town located in the Mukjar Administrative Unit of Mukjar Locality in West Darfur.⁶⁷⁵ Mukjar was approximately 49 kilometres southeast of the town of Garsila, approximately 59 kilometres south of the town of Deleig, and approximately 19 kilometres east of the town of Bindisi.

226. Between at least February and March 2004, as part of the armed operation to attack Sindu,⁶⁷⁶ Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Mukjar, including Tendy,⁶⁷⁷ Abirla,⁶⁷⁸ Arada,⁶⁷⁹ Dembow Kabdy,⁶⁸⁰ Kirarow,⁶⁸¹ Sigirgir,⁶⁸² and Nyerli.⁶⁸³ These attacks caused hundreds of civilians to seek shelter in Mukjar.⁶⁸⁴

227. In February 2004, Militia/*Janjaweed* and GoS Forces set up checkpoints to the north and east of Mukjar.⁶⁸⁵ Militia/*Janjaweed* and GoS Forces arrested hundreds of predominantly Fur males at locations including the checkpoints and during house to house searches.⁶⁸⁶ The Militia/*Janjaweed* and GoS Forces perceived displaced Fur males as belonging to, or being

⁶⁷⁵ See West Darfur Planning Map. See also Annex A1.

⁶⁷⁶ See above, paras. 77-78.

⁶⁷⁷ P-0129, [DAR-OTP-0128-0128-R03](#) at 0137-0138, paras. 35-38; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129; P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, paras. 69-71; P-0675, [DAR-OTP-0206-0173-R01](#) at 0191-0194, paras. 65-75.

⁶⁷⁸ P-0919, [DAR-OTP-0217-0423-R01](#) at 0427-0428, paras. 20-25.

⁶⁷⁹ P-0892, [DAR-OTP-0217-0384-R01](#) at 0390-0392, paras. 32-39; P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, para. 69; P-0755, [DAR-OTP-0211-0072-R01](#) at 0090, para. 59.

⁶⁸⁰ P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129; P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, para. 69.

⁶⁸¹ P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129.

⁶⁸² P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, para. 69; P-0755, [DAR-OTP-0211-0072-R01](#) at 0090, para. 59.

⁶⁸³ P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, para. 69.

⁶⁸⁴ P-0919, [DAR-OTP-0217-0423-R01](#) at 0429, para. 27; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 130; P-0129, [DAR-OTP-0128-0128-R03](#) at 0138, paras. 38-39; P-0877, [DAR-OTP-0217-0211-R02](#) at 0223, para. 72; P-0892, [DAR-OTP-0217-0384-R01](#) at 0391, para. 37; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0197, para. 84.

⁶⁸⁵ P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, paras. 132-133.

⁶⁸⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0138-0139, paras. 39, 41; P-0919, [DAR-OTP-0217-0423-R01](#) at 0429, paras. 27-29; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 135; P-0913, [DAR-OTP-0218-0021-R01](#) at 0034-0035, paras. 88-91; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 66; P-0877, [DAR-OTP-0217-0211-R02](#) at 0224, paras. 77-80; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, para. 65; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0197, paras. 84-88; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 141; P-0105, [DAR-OTP-0116-0975-R01](#) at 0983-0984, paras. 36-39; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-99; P-0720, [DAR-OTP-0210-0291-R01](#) at 0305-0306, paras. 89-96; P-0008, [DAR-OTP-0088-0085-R01](#) at 0097, para. 46; P-0755, [DAR-OTP-0211-0072-R01](#) at 0091, para. 62; P-0717, [DAR-OTP-0210-0187-R01](#) at 0206, paras. 104-107.

associated with, or supporting the rebel armed groups.⁶⁸⁷

228. The Militia/*Janjaweed* and GoS Forces continued to arrest predominantly Fur males in Mukjar until at least early March 2004. Some of them were detained at the Mukjar police station and adjacent detention facilities (referred to in this document as “Mukjar police station”) where they were mistreated and kept in inhumane conditions.⁶⁸⁸ At least 50 predominantly Fur men were executed.⁶⁸⁹

229. Annex A9 contains a satellite image of Mukjar with a number of key locations marked, including the Mukjar police station, the locality premises, the market area, checkpoints, the road from Mukjar to Garsila, and the direction of the execution sites.

230. The specific GoS Forces that participated in the operation in Mukjar between at least late February and early March 2004 included the SAF (including Military Intelligence),⁶⁹⁰ the PDF,⁶⁹¹ the PPF,⁶⁹² the CRF⁶⁹³ and the Police.⁶⁹⁴

a) The crimes

Counts 12-13: Torture as a crime against humanity and a war crime; Count 14: Other inhumane acts as a crime against humanity; Count 15: Cruel treatment as a war crime; Count 16: Outrages upon personal dignity as a war crime

231. Between late February and early March 2004, **ABD-AL-RAHMAN**, Militia/*Janjaweed*

⁶⁸⁷ P-0755, [DAR-OTP-0211-0072-R01](#) at 0091, para. 62; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0197, para. 84.

⁶⁸⁸ See below, paras. 231-241.

⁶⁸⁹ See below, paras. 242-251.

⁶⁹⁰ P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para 128 (HAMDI is a Military Intelligence officer); P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 41 and 0141-0142, para. 46 and 0142-0143, paras. 50-52. See below, para. 249 (IDRISS is an SAF soldier).

⁶⁹¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0138, para. 39; P-0877, [DAR-OTP-0217-0211-R02](#) at 0224, para. 77. P-0008, [DAR-OTP-0088-0085-R01](#) at 0097, para. 46; P-0717, [DAR-OTP-0210-0187-R01](#) at 0207, para. 106.

⁶⁹² P-0913, [DAR-OTP-0218-0021-R01](#) at 0036, para. 102; P-0877, [DAR-OTP-0217-0211-R02](#) at 0224-0225 paras. 77, 84; P-0675, [DAR-OTP-0206-0173-R01](#) at 0197, para. 86 and 0202, para. 105; P-0755, [DAR-OTP-0211-0072-R01](#) at 0091, para. 63; P-0188, [DAR-OTP-0216-0060-R02](#) at 0074, para. 86 and 0082, para. 135; P-0919, [DAR-OTP-0217-0423-R01](#) at 0429-0430, para. 31 and 0436, para. 67; P-0913, [DAR-OTP-0218-0021-R01](#) at 0036, para. 102.

⁶⁹³ P-0877, [DAR-OTP-0217-0211-R02](#) at 0224-0225, paras. 77, 84; P-0012, [DAR-OTP-0119-0503-R01](#) at 0524-0525, paras. 94-95, 99, 102; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439-0440, paras. 66-68; P-0675, [DAR-OTP-0206-0173-R01](#) at 0198, para. 89; P-0188, [DAR-OTP-0216-0060-R02](#) at 0076, paras. 99-100 and 0081, para. 133; P-0919, [DAR-OTP-0217-0423-R01](#) at 0432, paras. 48-49 and 0435-0436 paras. 61-62, 64, 67; P-0913, [DAR-OTP-0218-0021-R01](#) at 0037, para. 106.

⁶⁹⁴ P-0755, [DAR-OTP-0211-0072-R01](#) at 0090, para 60; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 97; P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, para 51; P-0913, [DAR-OTP-0218-0021-R01](#) at 0036-0037, para 101, 103; P-0905, [DAR-OTP-0219-0800-R01](#) at 0805, l. 161-164, l. 168-170.

and GoS Forces arrested at least 100 males, including community leaders such as *Umdahs*, *Sheikhs*, doctors and teachers, of predominantly Fur ethnicity, at checkpoints around Mukjar and in the course of house to house searches.⁶⁹⁵ This included *Umdah* Yahya Ahmad Zarruq (*Umdah* of Mukjar town and surrounding villages).⁶⁹⁶ The men were given no reason for their arrest.⁶⁹⁷

232. P-0129 and P-0919 were among those singled out and arrested at checkpoints as they attempted to enter Mukjar. P-0919, [REDACTED], fled to Mukjar [REDACTED] after the Militia/*Janjaweed* attacked his village [REDACTED]. [REDACTED].⁶⁹⁸

233. Similarly, P-0129, [REDACTED], was arrested as he [REDACTED] attempted to enter Mukjar.⁶⁹⁹ [REDACTED].⁷⁰⁰ A few days later, [REDACTED] would be executed by **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces.⁷⁰¹ According to P-0129, their only crime was that they fled the war and had returned to Mukjar.⁷⁰²

234. Upon their arrest, at least 100 Fur men, including *Umdah* Yahya Ahmad Zarruq, P-0129 and P-0919, were taken to the Mukjar police station and imprisoned.⁷⁰³

235. At the Mukjar police station, short statements were taken about each detainee: recording their name, tribe, address, whether they had a weapon and why they were in Mukjar.⁷⁰⁴ According to [REDACTED]⁷⁰⁵ [REDACTED] **ABD-AL-RAHMAN** reviewed a few of the

⁶⁹⁵ P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136; P-0675, [DAR-OTP-0206-0173-R01](#) at 0198, para. 90; P-0919, [DAR-OTP-0217-0423-R01](#) at 0430, para. 31; P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 44; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, paras. 65, 67; P-0755, [DAR-OTP-0211-0072-R01](#) at 0091, para. 62; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-98; P-0008, [DAR-OTP-0088-0085-R01](#) at 0097, para. 46; P-0720, [DAR-OTP-0210-0291-R01](#) at 0304-0306, paras. 78-79, 95-96; P-0757, [DAR-OTP-0211-0003-R01](#) at 0015, para. 51.

⁶⁹⁶ P-0720, [DAR-OTP-0210-0291-R01](#) at 0305, para. 92; P-0756, [DAR-OTP-0211-0039-R01](#) at 0055, para. 71; P-0008, [DAR-OTP-0088-0085-R01](#) at 0097-0098, paras. 46-48; P-0044, [DAR-OTP-0095-0049-R01](#) at 0065, para. 79; P-0085, [DAR-OTP-0110-0054-R01](#) at 0067, para. 51; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 68.

⁶⁹⁷ P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 41; P-0919, [DAR-OTP-0217-0423-R01](#) at 0429, para. 29.

⁶⁹⁸ P-0919, [DAR-OTP-0217-0423-R01](#) at 0429, paras. 27-29.

⁶⁹⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0137-0138, paras. 37-39.

⁷⁰⁰ P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 41; P-0720, [DAR-OTP-0210-0291-R01](#) at 0305, para. 92.

⁷⁰¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 41. *See* Annex A10.

⁷⁰² P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 44.

⁷⁰³ P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, paras. 135-136; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 97; P-0757, [DAR-OTP-0211-0003-R01](#) at 0022, para. 76; P-0129, [DAR-OTP-0128-0128-R03](#) at 0138, para. 39; P-0919, [DAR-OTP-0217-0423-R01](#) at 0429, paras. 28-29; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0199, paras. 84-92; P-0717, [DAR-OTP-0210-0187-R01](#) at 0206 para. 104; P-0105, [DAR-OTP-0116-0975-R01](#) at 0984-0985, paras. 38-39; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, paras. 65-66; P-0720, [DAR-OTP-0210-0291-R01](#) at 0305, para. 89; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 142; P-0905, [DAR-OTP-0219-0800-R01](#) at 0813, l. 459-463 and 466-467; P-0877, [DAR-OTP-0217-0211-R02](#) at 0229 at para. 103.

⁷⁰⁴ P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136; P-0675, [DAR-OTP-0206-0173-R01](#) at 0198, para. 90; P-0919, [DAR-OTP-0217-0423-R01](#) at 0430, para. 31; P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 44; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67.

⁷⁰⁵ [REDACTED].

statements then ripped them all up and threw them on the floor, because they indicated that the men were innocent Fur civilians.⁷⁰⁶

236. Militia/*Janjaweed* and GoS Forces took detainees out in groups of six or seven and accused them of being rebels.⁷⁰⁷ They were beaten with water hoses and verbally abused.⁷⁰⁸ Some of the detainees were visibly injured and had dried blood stuck to their skin and clothes.⁷⁰⁹ P-0675 recalls that after being tortured, detainees Mohamed, Zacharia and Serri were brought back into the cell and died from their injuries.⁷¹⁰ P-0892's cousin said he was tortured so badly that his resulting injuries have changed his life. To this day he cannot sleep on his back. He told P-0892 that he was so severely tortured, he preferred to have been killed.⁷¹¹

237. [REDACTED].⁷¹²

238. Inside Mukjar police station, over the course of at least two days, detainees were beaten and mistreated by **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces, including SAMIH and HAMD I.⁷¹³ **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces beat and verbally abused the detainees using sticks, whips and an axe.⁷¹⁴ **ABD-AL-RAHMAN** informed the *Umdahs* that he was "Ali KUSHAYB, leader of the *Janjaweed*" and told them "I am going to fuck you today".⁷¹⁵ Then **ABD-AL-RAHMAN** beat the *Umdahs* with his axe.⁷¹⁶

239. *Umdah* Yahya Ahmad Zarruq was severely injured when **ABD-AL-RAHMAN** struck his skull and shoulder bone with an axe.⁷¹⁷ **ABD-AL-RAHMAN** struck *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri) on the head with his axe.⁷¹⁸ **ABD-AL-RAHMAN** also used his axe to strike *Sheikh* Muhammad Ali Bolot (also

⁷⁰⁶ [REDACTED].

⁷⁰⁷ P-0675, [DAR-OTP-0206-0173-R01](#) at 0198-0199, paras. 91-92.

⁷⁰⁸ P-0675, [DAR-OTP-0206-0173-R01](#) at 0198-0199, paras. 91-92.

⁷⁰⁹ P-0877, [DAR-OTP-0217-0211-R02](#) at 0229, para. 104.

⁷¹⁰ P-0675, [DAR-OTP-0206-0173-R01](#) at 0199, para. 94.

⁷¹¹ P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67.

⁷¹² [REDACTED].

⁷¹³ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, paras. 46-49; P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, paras. 41-45; P-0877, [DAR-OTP-0217-0211-R02](#) at 0230-0231, paras. 110-114; P-0913, [DAR-OTP-0218-0021-R01](#) at 0037, paras. 105-106; P-0757, [DAR-OTP-0211-0003-R01](#) at 0019, para. 65.

⁷¹⁴ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 45; P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, paras. 47-48; P-0188, [DAR-OTP-0216-0060-R02](#) at 0084, para. 153.

⁷¹⁵ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 41.

⁷¹⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, paras. 47-49; P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, paras. 41-43; P-0755, [DAR-OTP-0211-0072-R01](#) at 0091, para. 64.

⁷¹⁷ P-0188, [DAR-OTP-0216-0060-R02](#), at 0084, para. 153; P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 43; P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47.

⁷¹⁸ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 43; P-0129, [DAR-OTP-0128-0128-R03](#) at 0141, para. 46.

known as Jabbor),⁷¹⁹ *Sheikh* Abdallah Ahmad Hasan,⁷²⁰ Muhammad Umar Ahmad Zarruq,⁷²¹ Ahmad Muhammad Barbayi,⁷²² Adam Nahid Numan⁷²³ and Yusuf Muhajir.⁷²⁴

240. The detainees cowered on the floor as **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces interrogated, beat and mistreated them.⁷²⁵ **ABD-AL-RAHMAN** referred to them as *magus*.⁷²⁶ [REDACTED].⁷²⁷ [REDACTED].⁷²⁸ Militia/*Janjaweed* and GoS Forces cut off the ears of two detainees known to P-0919, alongside a third unknown man.⁷²⁹ Militia/*Janjaweed* and GoS Forces used knives to shave the heads of two detainees.⁷³⁰ Detainees cried in pain and bled profusely.⁷³¹ None received any medical treatment.⁷³²

241. The conditions of detention were inhumane. The cells were filthy and cramped. Over the course of at least 2 days, 100 mostly Fur men were detained in rooms measuring around 5 by 7 metres.⁷³³ The men were scared, thirsty and tired.⁷³⁴ They had no access to toilets and were forced to urinate and defecate where they squatted.⁷³⁵ The temperature was stiflingly hot, as air only entered through one small window.⁷³⁶ Some detainees were given dirty water to drink and a loaf of stale bread to share among 10 prisoners, while others received nothing.⁷³⁷

Counts 17-18: Murder as a crime against humanity and a war crime; Counts 19-20:

⁷¹⁹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 43.

⁷²⁰ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 49.

⁷²¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 49.

⁷²² P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 49.

⁷²³ P-0877, [DAR-OTP-0217-0211-R02](#) at 0230, paras. 110-111 and 0234, para. 127; P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, para. 45; P-0877, [DAR-OTP-0215-7304](#) at 7305, victim 3; P-0028, [DAR-OTP-0153-1434](#) at 1445, victim 32.

⁷²⁴ P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, para. 113; P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, para. 45.

⁷²⁵ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, paras. 41-45; P-0129, [DAR-OTP-0128-0128-R03](#) at 0141-0142, paras. 46-49; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0197, paras. 84-92.

⁷²⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47. *See above*, para. 138.

⁷²⁷ [REDACTED].

⁷²⁸ [REDACTED].

⁷²⁹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 45.

⁷³⁰ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 45.

⁷³¹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 45.

⁷³² P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 45.

⁷³³ P-0919, [DAR-OTP-0217-0423-R01](#) at 0429-0430, paras. 31, 39; P-0129, [DAR-OTP-0128-0128-R03](#) at 0139, para. 45; P-0675, [DAR-OTP-0206-0173-R01](#) at 0196-0197, paras. 84-92; P-0877, [DAR-OTP-0217-0211-R02](#) at 0229, para. 103; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136; P-0905, [DAR-OTP-0219-0800-R01](#) at 0813, l. 459-463.

⁷³⁴ P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 41; P-0877, [DAR-OTP-0217-0211-R02](#) at 0229, paras. 103-104; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67.

⁷³⁵ P-0919, [DAR-OTP-0217-0423-R01](#) at 0430, para. 40; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 140; P-0675, [DAR-OTP-0206-0173-R01](#) at 0198, paras. 91-92; P-0877, [DAR-OTP-0217-0211-R02](#) at 0229, paras. 103-104; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67.

⁷³⁶ P-0877, [DAR-OTP-0217-0211-R02](#) at 0229, paras. 103-104; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 140.

⁷³⁷ P-0919, [DAR-OTP-0217-0423-R01](#) at 0430, para. 40; P-0877, [DAR-OTP-0217-0211-R02](#) at 0229 at paras. 103-104; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398, para. 67; P-0675, [DAR-OTP-0206-0173-R01](#) at 0199, para. 92.

Attempted murder as a crime against humanity and a war crime

242. Between late February and early March 2004, Militia/*Janjaweed* and GoS Forces took at least 50 predominantly Fur men detained at the Mukjar police station and killed them. Among the detainees killed were community leaders, including *Umdah* Yahya Ahmad Zarruq,⁷³⁸ *Umdah* Issa Harun Nour,⁷³⁹ *Umdah* Adam Husayn Abdelmahmoud (also known as Doori),⁷⁴⁰ and *Sheikh* Abdallah Ahmad Hasan.⁷⁴¹

243. **ABD-AL-RAHMAN** was present at the Mukjar police station and ordered Militia/*Janjaweed* and GoS Forces to take the detainees from their cells and load them onto vehicles.⁷⁴² **ABD-AL-RAHMAN** personally ordered some detainees to leave their cells, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelmahmoud (also known as Doori).⁷⁴³ As *Umdah* Yahya Ahmad Zarruq walked outside, **ABD-AL-RAHMAN** struck him with his axe⁷⁴⁴ and said “you criminal”.⁷⁴⁵ *Umdah* Yahya Ahmad Zarruq fell to the ground bleeding and members of Militia/*Janjaweed* beat him with sticks and whips, then brought him to the vehicle.⁷⁴⁶ Similarly, **ABD-AL-RAHMAN** hit *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelmahmoud (also known as Doori), Ahmed Mohamed Barbayi and Yusuf Muhajir with an axe around their head, neck and shoulder.⁷⁴⁷ The Militia/*Janjaweed* and GoS Forces continued to beat the detainees on their way to the vehicle.⁷⁴⁸

244. The Militia/*Janjaweed* and GoS Forces stacked the detainees on top of one another in

⁷³⁸ P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, para. 45(f) and 0143-1044, para. 53; P-0877, [DAR-OTP-0217-0211-R02](#) at 0230-0231, para. 112; P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51, 52; P-0905, [DAR-OTP-0219-0800-R01](#) at 0815-0816, l. 551-570, and [DAR-OTP-0219-1155-R01](#) at 1166, l. 387-391 and 1177, l. 754-760; P-0892, [DAR-OTP-0217-0384-R01](#) at 0398-0399, paras. 68, 72; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 156-157; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 144; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 101. *See also* Annex A10, no. 39.

⁷³⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, para. 45(g) and 0143-1044, para. 53; P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, para. 113; P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51, 52; P-0892, [DAR-OTP-0217-0384-R01](#) at 0397-0399, paras. 64, 68, 70; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 156-157; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 101. *See also* Annex A10, no. 28.

⁷⁴⁰ P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, paras. 45(h) and 0143-1044, para. 53; P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51, 52; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 156-157; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 101; P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, para. 113. *See also* Annex A10, no. 15.

⁷⁴¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0140, paras. 45(i) and 0142, para. 49 and 0143-0144, para. 53. P-0877, [DAR-OTP-0216-0492](#) (Translation at [DAR-OTP-0215-7304](#) at 7305, no.4). *See also* Annex A10, no. 6.

⁷⁴² P-0905, [DAR-OTP-0219-1155-R01](#) at 1164-1166, l. 301-391.

⁷⁴³ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51-52; P-0877, [DAR-OTP-0217-0211-R02](#) at 0230, para. 112; P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, para. 51.

⁷⁴⁴ P-0877, [DAR-OTP-0217-0211-R02](#) at 0230, para. 112.

⁷⁴⁵ P-0913, [DAR-OTP-0218-0021-R01](#) at 0037, paras. 105-106.

⁷⁴⁶ [REDACTED].

⁷⁴⁷ [REDACTED]. *See also* Annex A10, no. 15, 20, 28, 41.

⁷⁴⁸ [REDACTED].

the back of several vehicles and ordered them to lay face down and not to raise their heads.⁷⁴⁹ Some were blindfolded,⁷⁵⁰ while others were crying and screaming.⁷⁵¹ One of the vehicles carrying detainees included a *Sheikh* who was teaching the Quran in Sindu and his five students.⁷⁵² Any vehicles that were fully loaded with detainees left the Mukjar police station, followed by others soon after.⁷⁵³ **ABD-AL-RAHMAN** and **HAMDI** were part of the convoy.⁷⁵⁴ Members of the Militia/*Janjaweed* and GoS Forces accompanied the detainees in the vehicles⁷⁵⁵ and continued beating and insulting them throughout the journey.⁷⁵⁶

245. The Militia/*Janjaweed* and GoS Forces drove the detainees north of Mukjar in the direction of Garsila⁷⁵⁷ and brought them to several locations outside of Mukjar.⁷⁵⁸ **ABD-AL-RAHMAN** ordered some of the detainees, including community leaders, to exit the vehicles.⁷⁵⁹ While doing so, **ABD-AL-RAHMAN** beat them with his axe, while **SAMIH** beat them with a Kalashnikov, whip and stick.⁷⁶⁰

246. The Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, ordered the detainees to lie face down in several lines.⁷⁶¹ **ABD-AL-RAHMAN** told them *ajiro argodo*, meaning to run and sleep on their stomach.⁷⁶² **ABD-AL-RAHMAN** ordered the

⁷⁴⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, paras. 51, 52; P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, paras. 115-116; P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51, 52; P-0913, [DAR-OTP-0218-0021-R01](#) at 0036-0037, paras. 94-108; P-0913, Annex C1, C2, [DAR-OTP-0218-0047](#) (Translation at [DAR-OTP-0219-0142](#)); P-0905, [DAR-OTP-0219-0800-R01](#) at 0815, l. 527-545, and [DAR-OTP-0219-1155-R01](#) at 1166, l. 389-391 and 1169, l. 464-469; *See also* P-0892, [DAR-OTP-0217-0384-R01](#) at 0397, paras. 63-64; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, para. 67; P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 144; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100; P-0675, [DAR-OTP-0206-0173-R01](#) at 0203-0204, paras. 108, 111; P-0756, [DAR-OTP-0211-0039-R01](#) at 0056, para. 72.

⁷⁵⁰ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, paras. 51, 52.

⁷⁵¹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 52.

⁷⁵² P-0905, [DAR-OTP-0219-0800-R01](#) at 0818, l. 654-663.

⁷⁵³ P-0877, [DAR-OTP-0217-0211-R02](#) at 0231-0232, paras. 116-117; P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, para. 51; P-0905, [DAR-OTP-0219-1155-R01](#) at 1178-1179, l. 796-808.

⁷⁵⁴ P-0905, [DAR-OTP-0219-1155-R01](#) at 1170, l. 516-526 and 1177, l. 743-755; P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, para. 51; P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100.

⁷⁵⁵ P-0905, [DAR-OTP-0219-1155-R01](#) at 1176, l. 704-714.

⁷⁵⁶ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 52; P-0919, Annex H, [DAR-OTP-0217-0450](#).

⁷⁵⁷ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, para. 52; P-0129, Annex A, [DAR-OTP-0128-0163](#); P-0905, [DAR-OTP-0219-1155-R01](#) at 1179, l. 819-820; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 157-158; P-0188, Annex B, [DAR-OTP-0216-0094-R01](#); P-0029, [DAR-OTP-0094-0119-R01](#) at 0153, para. 145; P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0675, [DAR-OTP-0206-0173-R01](#) at 0205, para. 113; P-0913, [DAR-OTP-0218-0021-R01](#) at 0037-0038, para. 110.

⁷⁵⁸ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143-0144, paras. 52, 55; P-0905, [DAR-OTP-0219-0800-R01](#) at 0816-0817, l. 576-601, and [DAR-OTP-0219-1155-R01](#) at 1172-1173, l. 580-626; P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, 0434, paras. 52, 58.

⁷⁵⁹ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 53. *See also* P-0129: [DAR-OTP-0128-0128-R03](#) at 0143, para. 53.

⁷⁶⁰ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143-0144, paras. 53-54.

⁷⁶¹ P-0905, [DAR-OTP-0219-0800-R01](#) at 0816-0817, l. 598-603 and 0820, l. 716-741, and [DAR-OTP-0219-1155-R01](#) at 1174, l. 645-659 and 1176, l. 724; P-0129, [DAR-OTP-0128-0128-R03](#) at 0144, paras. 54, 55.

⁷⁶² P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 53.

Militia/*Janjaweed* and GoS Forces to kill the detainees and ensure that no one was left alive.⁷⁶³ **ABD-AL-RAHMAN**, together with SAMIH, stood next to the Militia/*Janjaweed* and GoS Forces as they opened fire⁷⁶⁴ and ordered them to repeat the shooting until the detainees were dead.⁷⁶⁵ Following **ABD-AL-RAHMAN**'s order, Militia/*Janjaweed* and GoS Forces shot and killed the detainees.⁷⁶⁶

247. [REDACTED] after the shooting, members of the Militia/*Janjaweed* and GoS Forces walked on top of the bodies to make sure they were dead.⁷⁶⁷ One soldier said that one of the "slaves", referring to a victim, had money on him and took it.⁷⁶⁸ [REDACTED] recalls that many detainees died, [REDACTED].⁷⁶⁹

248. At least eight detainees in the last vehicle, including the *Sheikh* and five of his students, were brought to the execution location [REDACTED].⁷⁷⁰ By that time, the head of the Mukjar police heard the shooting and arrived at the scene.⁷⁷¹ The head of police told **ABD-AL-RAHMAN** that he had handed over the detainees under the condition that **ABD-AL-RAHMAN** would take them to Garsila and Zalingei for interrogation, not for them to be killed.⁷⁷² The head of police tried to negotiate with **ABD-AL-RAHMAN** that the detainees from this vehicle not be killed.⁷⁷³

249. After driving some distance, **ABD-AL-RAHMAN** ordered that the detainees be taken out of the vehicle and killed.⁷⁷⁴ The *Sheikh* asked that his five students be spared⁷⁷⁵ and requested that he perform a prayer.⁷⁷⁶ [REDACTED].⁷⁷⁷ At **ABD-AL-RAHMAN**'s orders, [REDACTED] shot and killed all of them.⁷⁷⁸ One boy tried to run away but was killed.⁷⁷⁹ Once the *Sheikh* finished his prayer, he was also shot dead.⁷⁸⁰

⁷⁶³ P-0905, [DAR-OTP-0219-0800-R01](#) at 0817-0818, l. 608-642, and [DAR-OTP-0219-1155-R01](#) at 1184-1187, l. 1011-1116.

⁷⁶⁴ P-0129, [DAR-OTP-0128-0128-R03](#) at 0144, para. 54.

⁷⁶⁵ P-0905, [DAR-OTP-0219-1155-R01](#) at 1187-1188, l. 1095-1112, and 1134-1144.

⁷⁶⁶ P-0129, [DAR-OTP-0128-0128-R03](#) at 0144, para. 54; P-0905, [DAR-OTP-0219-0800-R01](#) at 0817-0818, l. 608-641.

⁷⁶⁷ [REDACTED].

⁷⁶⁸ [REDACTED].

⁷⁶⁹ [REDACTED].

⁷⁷⁰ [REDACTED].

⁷⁷¹ [REDACTED].

⁷⁷² [REDACTED].

⁷⁷³ [REDACTED].

⁷⁷⁴ [REDACTED].

⁷⁷⁵ [REDACTED].

⁷⁷⁶ [REDACTED].

⁷⁷⁷ [REDACTED].

⁷⁷⁸ [REDACTED].

⁷⁷⁹ [REDACTED].

⁷⁸⁰ [REDACTED].

250. Several witnesses who had seen the detainees being loaded into the vehicles at the Mukjar police station reported hearing gunshots soon after.⁷⁸¹ Later that day, some of the vehicles that transported the detainees returned to Mukjar police station empty of detainees.⁷⁸²

251. To date, the Prosecution has identified 49 persons killed during the Mukjar incident. These persons are listed in Annex 1C to the DCC,⁷⁸³ and Annex A10 to this PCB lists the evidence relating to each person.

Discovery of corpses of the victims

252. About 10 days after the killings, P-0877 discovered bodies at a *chor* (small dried riverbed) about 700 metres north of the Mukjar police station.⁷⁸⁴ The decaying corpses were lined up next to each other, all face down.⁷⁸⁵ There were cartridges around the bodies.⁷⁸⁶ P-0877 recognised from their clothing the bodies of *Umdah* Yahya Ahmad Zarruq, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doori), and Adam Nahid Numan,⁷⁸⁷ all of whom he had seen being loaded onto the vehicles at the Mukjar police station.⁷⁸⁸ [REDACTED].⁷⁸⁹

Survivors of the executions

253. At least two detained Fur males survived, despite the intention of the perpetrators to kill them. The perpetrators attempted to murder these two males, and any other persons who survived the conduct described above.

254. [REDACTED].⁷⁹⁰ [REDACTED].⁷⁹¹ [REDACTED].⁷⁹² [REDACTED].⁷⁹³
[REDACTED].⁷⁹⁴ [REDACTED].⁷⁹⁵

⁷⁸¹ P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0029, [DAR-OTP-0094-0119-R01](#) at 0153, para. 145; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100; P-0675, [DAR-OTP-0206-0173-R01](#) at 0205, para. 114; P-0756, [DAR-OTP-0211-0039-R01](#) at 0056-0057, paras. 74, 77; P-0877, [DAR-OTP-0217-0211-R02](#) at 0232, para. 117; P-0913, [DAR-OTP-0218-0021-R01](#) at 0038, para. 112.

⁷⁸² P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0029, [DAR-OTP-0094-0119-R01](#) at 0153, para. 145; P-0756, [DAR-OTP-0211-0039-R01](#) at 0057, para. 78; P-0877, [DAR-OTP-0217-0211-R02](#) at 0232, para. 118.

⁷⁸³ ICC-02/05-01/20-325-Conf-Anx1C.

⁷⁸⁴ P-0877, [DAR-OTP-0217-0211-R02](#) at 0233-0234, paras. 126-127; P-0877, Annex E, [DAR-OTP-0217-0256](#) at 0257 (Translation at [DAR-OTP-0217-0483](#) at 0485); P-0877, [DAR-OTP-0215-8889](#) at 8890, l. 11-12 (Translation at [DAR-OTP-0215-8891](#) at 8893, l. 15-16).

⁷⁸⁵ P-0877, [DAR-OTP-0217-0211-R02](#) at 0233-0234, paras. 126-127.

⁷⁸⁶ P-0877, [DAR-OTP-0217-0211-R02](#) at 0234, para. 127.

⁷⁸⁷ P-0877, [DAR-OTP-0217-0211-R02](#) at 0234, para. 127. *See also* Annex A10, no. 15, 18, 39.

⁷⁸⁸ P-0877, [DAR-OTP-0217-0211-R02](#) at 0230-0231, paras. 110-113.

⁷⁸⁹ [REDACTED].

⁷⁹⁰ [REDACTED].

⁷⁹¹ [REDACTED].

⁷⁹² [REDACTED].

⁷⁹³ [REDACTED].

⁷⁹⁴ [REDACTED].

⁷⁹⁵ [REDACTED].

255. [REDACTED].⁷⁹⁶ [REDACTED].⁷⁹⁷ [REDACTED].⁷⁹⁸ [REDACTED].⁷⁹⁹
[REDACTED].⁸⁰⁰ [REDACTED].⁸⁰¹ [REDACTED].⁸⁰²

Count 21: Persecution as a crime against humanity

256. This section should be read in conjunction with Section D (Persecution), in particular, paragraphs 137 to 139 relating specifically to the events in Mukjar.

257. The facts described above under Counts 12-13 (torture), Count 14 (other inhumane acts), Count 15 (cruel treatment), Count 16 (outrages upon personal dignity), Counts 17-18 (murder), and Counts 19-20 (attempted murder) constitute the underlying conduct of the crime against humanity of persecution.

b) ABD-AL-RAHMAN'S individual criminal responsibility

258. **ABD-AL-RAHMAN** is individually criminally responsible for the charged crimes pursuant to article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing), and/or article 25(3)(c) (aiding, abetting or otherwise assisting), and/or article 25(3)(d)(i) and (ii) (common purpose liability). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f).⁸⁰³

Co-perpetration under article 25(3)(a) of the Rome Statute

i) ABD-AL-RAHMAN was part of a common plan or an agreement with one or more persons

259. **ABD-AL-RAHMAN** committed the crimes charged in Counts 12 to 21 of the DCC in concert with others through his participation in, and essential contributions to, a common plan.

260. At least between late February and early March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Mukjar, including those displaced to Mukjar from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane

⁷⁹⁶ [REDACTED].

⁷⁹⁷ [REDACTED].

⁷⁹⁸ [REDACTED].

⁷⁹⁹ [REDACTED].

⁸⁰⁰ [REDACTED].

⁸⁰¹ [REDACTED].

⁸⁰² [REDACTED].

⁸⁰³ This section should be read in conjunction with Section C (Common Elements of Modes of Individual Criminal Responsibility).

acts, cruel treatment, outrages upon personal dignity, murder and persecution (“Mukjar Common Plan”). Other persons sharing the Mukjar Common Plan included Militia/*Janjaweed* leader SAMIH, Military Intelligence officer HAMDI, and several other members of Militia/*Janjaweed* and GoS Forces. The Mukjar Common Plan came into existence, at the latest, between late February and early March 2004.

261. As described in Section C,⁸⁰⁴ **ABD-AL-RAHMAN** had a close, cooperative relationship with several of the co-perpetrators. Moreover, the existence of the Mukjar Common Plan is evident⁸⁰⁵ in the joint and coordinated nature of the actions of the co-perpetrators, and the statements made by them, as summarised at paragraphs 231 to 257 and 263 to 274. [REDACTED] during the period of the charged crimes, in the presence of HAMDI and others, **ABD-AL-RAHMAN** spoke to HARUN on the telephone and then declared to those around him that “there is an order to kill all the people”.⁸⁰⁶ Similarly, as per detainee P-0129, shortly after Minister Ahmad HARUN visited Mukjar, **ABD-AL-RAHMAN**, SAMIH and HAMDI arrived at the Mukjar police station and started beating and insulting the detainees.⁸⁰⁷ **ABD-AL-RAHMAN** introduced himself by his name and “said that AHMAD HARUN had authorised them to confiscate the property of the Fur and eliminate the Fur.”⁸⁰⁸ SAMIH also introduced himself as the “deputy of Ali KUSHAYB”.⁸⁰⁹ The next day there was a meeting in the yard⁸¹⁰ of the police station featuring, among other persons, **ABD-AL-RAHMAN**, HAMDI and SAMIH.⁸¹¹ P-0129 opined that “they must have taken a decision at the meeting because immediately after it ended, they asked the storekeeper to open the door to our detention room.”⁸¹² Shortly after this, **ABD-AL-RAHMAN** and several co-perpetrators assaulted detainees at the police station, loaded them onto a number of vehicles, drove them away, and shot them.⁸¹³

- ii) *ABD-AL-RAHMAN carried out an essential contribution in a coordinated manner with other co-perpetrators that resulted in the fulfilment of the material elements of the crimes*

⁸⁰⁴ See esp. paras. 66-67, 72, 82 (regarding SAMIH) and paras. 86-87, 99, 103-106, 110-111 (regarding HAMDI).

⁸⁰⁵ Notably, in this context, “there is no legal impediment to inferring the common plan from the wider circumstances, including the events on the ground.” See ICC-01/04-02/06-2666-Red, para. 19.

⁸⁰⁶ [REDACTED].

⁸⁰⁷ P-0129, [DAR-OTP-0128-0128-R03](#) at 0141-0142, para. 46. See also P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, para. 115.

⁸⁰⁸ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47; P-0919, [DAR-OTP-0217-0423-R01](#) at 0431, para. 41.

⁸⁰⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142, para. 47.

⁸¹⁰ The yard is marked as “7” on Annex A. See P-0129, Annex A, [DAR-OTP-0128-0163](#).

⁸¹¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142-0144, paras. 50-54.

⁸¹² P-0129, [DAR-OTP-0128-0128-R03](#) at 0142-0143, para. 50.

⁸¹³ P-0129, [DAR-OTP-0128-0128-R03](#) at 0142-0144, paras. 50-54. See also P-0877, [DAR-OTP-0217-0211-R02](#) at 0226, para. 91 and 0227, para 98.

262. **ABD-AL-RAHMAN** made an essential contribution to the Mukjar Common Plan and to the charged crimes through the conduct described below.

a. Instructing GoS Forces to arrest persons fleeing to Mukjar from other locations, personally conducting arrests of men in Mukjar, as well as contributing to such arrests by way of his presence

263. Sometime in late February or early March 2004, shortly prior to the executions carried out pursuant to the Mukjar Common Plan, **ABD-AL-RAHMAN** and SAMIH conducted arrests in Mukjar.⁸¹⁴ As per P-0012, “Yahya Ahmad ZARRUQ, the brother of the Shartay was arrested by KUSHAYB himself”⁸¹⁵ around the same time. P-0105 saw **ABD-AL-RAHMAN** present on two or three occasions when people were arrested and taken in vehicles to the detention centres.⁸¹⁶ Moreover, as per P-0905, prior to departing from Mukjar to Sindu, **ABD-AL-RAHMAN** instructed the Mukjar head of police, “Any man coming down from SINDU, he has to be [...] kept [...] And if this does not happen [...] you are going to bear responsibility.”⁸¹⁷ **ABD-AL-RAHMAN** returned to Mukjar following the Sindu operation.⁸¹⁸

b. Threatening and verbally abusing the detainees in Mukjar police detention facilities in February/early March 2004 in the presence of members of the Militia/*Janjaweed* and/or GoS Forces

264. This conduct is described at paragraphs 238, 240, 243, and 261 above.

c. Physically assaulting detainees at Mukjar police station, including community leaders, in the presence of members of the Militia/*Janjaweed* and/or GoS Forces

265. This conduct is described at paragraphs 238 to 240, 243, 261 and 269. Notably, **ABD-AL-RAHMAN** carried out some assaults in the presence of TORSHEIN, the Commissioner of Mukjar.⁸¹⁹

d. Obtaining the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his co-perpetrators

⁸¹⁴ P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 99.

⁸¹⁵ P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 99.

⁸¹⁶ P-0105, [DAR-OTP-0116-0975-R01](#) at 0986, para. 48.

⁸¹⁷ P-0905, [DAR-OTP-0219-0800-R01](#) at 0805, l. 161-164. *See also* P-0905, [DAR-OTP-0219-0800-R01](#) at 0805, l. 168-170. *See also* P-0905, [DAR-OTP-0219-1109-R01](#) at 1120, l. 349-356. Similarly, P-0755 heard that **ABD-AL-RAHMAN** gave instructions to the police that anyone coming from Sindu area should be arrested on the basis that they are rebels. *See* P-0755, [DAR-OTP-0211-0072-R01](#) at 0090, para. 60.

⁸¹⁸ *See above* paras. 77 and 78.

⁸¹⁹ [REDACTED].

266. **ABD-AL-RAHMAN** played a key role in obtaining the transfer of detainees into the custody of **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates. [REDACTED], **ABD-AL-RAHMAN** did so by stating to the head of police in Mukjar that “[t]hese people [the detainees], we want to take them to GARSILA, and then we take them to ZALINGEI to investigate with them [...] because they’re all accused [...] they’re all suspects.”⁸²⁰ [REDACTED] corroborates [REDACTED], stating “[REDACTED] [...] told me that ALI KUSHAYB with his JANJAWEEED came to the Police Camp and asked [AL-TAYYIB] to collect the prisoners as he wanted to transfer them to GARSILA.”⁸²¹

e. Selecting detainees, including community leaders, to be removed from Mukjar police station and executed

267. **ABD-AL-RAHMAN** selected many of the detainees to be removed from the police station and executed.⁸²² [REDACTED], **ABD-AL-RAHMAN** arrived and started calling out the names of the *Umdahs*. **ABD-AL-RAHMAN** stood inside the cell, near the door.⁸²³ [REDACTED].⁸²⁴ **ABD-AL-RAHMAN** and some of his men were in the cell getting detainees out [REDACTED].⁸²⁵ Similarly, [REDACTED] **ABD-AL-RAHMAN** ordered a police officer to open the doors to the Mukjar police detention facilities⁸²⁶ in the presence of the head of police in Mukjar, as well as other local GoS Forces leadership.⁸²⁷ Though a rebel informant captured in Sindu and taken by **ABD-AL-RAHMAN** to Mukjar pointed out certain prisoners,⁸²⁸ instead of only taking the persons who were indicated, **ABD-AL-RAHMAN** ordered “[a]ll these are no good. All of them, put them out for us. Pack them up for us.”⁸²⁹ Many of the prisoners were then taken out, and not only the ones pointed out by the rebel informant.
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f. Providing vehicles that were used to transport detainees to locations outside of Mukjar where they were killed or attempted to be killed

268. **ABD-AL-RAHMAN** provided some of the vehicles that were used to transport

⁸²⁰ [REDACTED].

⁸²¹ [REDACTED].

⁸²² [REDACTED].

⁸²³ [REDACTED].

⁸²⁴ [REDACTED].

⁸²⁵ [REDACTED].

⁸²⁶ P-0905, [DAR-OTP-0219-1155-R01](#) at 1165-1166, l. 333-360.

⁸²⁷ P-0905, [DAR-OTP-0219-1155-R01](#) at 1165, l. 346-353.

⁸²⁸ P-0905, [DAR-OTP-0219-1155-R01](#) at 1164, l. 0301-0310 and 1166, l. 361-376. *See also*, para. 78 above.

⁸²⁹ P-0905, [DAR-OTP-0219-1155-R01](#) at 1166, l. 361-377.

⁸³⁰ P-0905, [DAR-OTP-0219-1155-R01](#) at 1167, l. 398-399. *See also* P-0877, [DAR-OTP-0217-0211-R02](#) at 0231, para 116.

detainees to locations outside of Mukjar where they were killed or attempted to be killed.⁸³¹

g. Supervising the transport of a group of detained men, including community leaders, from Mukjar police station to execution sites

269. **ABD-AL-RAHMAN** supervised the transport of the detainees to the execution sites, striking them with his axe before they were placed on the vehicles.⁸³² The prisoners were piled up like sacks in the cars.⁸³³ [REDACTED].⁸³⁴ **ABD-AL-RAHMAN** distributed his men among the Land Cruisers.⁸³⁵ His men were in several of the vehicles, to escort the prisoners.⁸³⁶ **ABD-AL-RAHMAN** was in the first vehicle⁸³⁷ as was *Umdah* Yahya Ahmad Zarruq.⁸³⁸ Similarly, detainee P-0129 describes how **ABD-AL-RAHMAN** struck the detained men and ordered them to get into the back of one of the Land Cruisers. The *Umdahs* were in the first vehicle. **HAMDI** was in the second.⁸³⁹ P-0029, too, saw vehicles being loaded with detainees. **ABD-AL-RAHMAN** stood with an axe in hand at the entrance of the prison and struck the detainees with his axe as the men came out. The vehicles drove off and were joined by others carrying armed soldiers. Some time after the vehicles left, P-0029 heard shooting. After the shooting stopped vehicles returned to the station.⁸⁴⁰

h. Physically assaulting detainees, including community leaders, at one or more execution sites in the presence of members of the Militia/*Janjaweed* and/or GoS Forces, and instructing members of the Militia/*Janjaweed* and/or GoS Forces to kill detainees at execution sites and/or exerting influence over the Militia/*Janjaweed* and/or GoS Forces, prompting them to carry out the killings

270. Having been brought to one of the execution sites, detainee P-0129 saw the *Umdahs* being unloaded from the first vehicle. **ABD-AL-RAHMAN** used his axe and **SAMIH** used a Kalashnikov, whip and stick to assault the prisoners as they came out of the vehicle. **HAMDI**

⁸³¹ P-0905, [DAR-OTP-0219-1155-R01](#) at 1170, l. 497, 516-517; P-0913, [DAR-OTP-0218-0021-R01](#) at 0036, para. 100; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, para. 157.

⁸³² [REDACTED].

⁸³³ [REDACTED].

⁸³⁴ [REDACTED]

⁸³⁵ [REDACTED]

⁸³⁶ [REDACTED].

⁸³⁷ [REDACTED].

⁸³⁸ [REDACTED].

⁸³⁹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143, paras. 51-52. See also P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 157-158.

⁸⁴⁰ P-0029, [DAR-OTP-0094-0119-R01](#) at 0152, para. 143 and 0153, paras. 145-146. These accounts are corroborated by that of P-0012 who also saw detainees being transported while **ABD-AL-RAHMAN** was watching the loading of detainees, including community leaders. When the detainees were driven off, **ABD-AL-RAHMAN** accompanied them out of town in a smaller vehicle (See P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 100-101). See also P-0105, [DAR-OTP-0116-0975-R01](#) at 0986, para. 48.

stayed inside the second vehicle.⁸⁴¹ The prisoners were then told to lie face down on the ground. Militia/*Janjaweed* and/or GoS Forces opened fire on the prisoners. P-0129 saw **ABD-AL-RAHMAN** and SAMIH standing next to them as they opened fire. The first vehicle reversed and then fired a heavy machine gun at the prisoners.⁸⁴² Similarly, [REDACTED] P-0905 describes what he saw at an execution site. **ABD-AL-RAHMAN** was “standing with his cane, with his stick. The car comes and stops and he says, ‘you, lie down, lie down, lie down’”.⁸⁴³ **ABD-AL-RAHMAN** ordered “immediately, come down, come down, come down! Shoot! Shoot! Shoot! Immediately! Shoot immediately!”⁸⁴⁴ He continued “Repeat! Repeat for these people. Maybe there are some you have missed. Repeat for these people.”⁸⁴⁵

271. [REDACTED]⁸⁴⁶ P-0905 adds “around him are his guards with their weapons.”⁸⁴⁷ **ABD-AL-RAHMAN** orders “bullet them”, meaning “kill them”.⁸⁴⁸ Complying with his orders, the “people of Ali Kushayb”⁸⁴⁹ commence firing.⁸⁵⁰ **ABD-AL-RAHMAN** added “don’t leave me 1 person alive”.⁸⁵¹ As a result, P-0905 concludes “[a]ll these people who were down were shot”.⁸⁵² The accounts of P-0129 and P-0905 are corroborated by detainee P-0919. En route to the execution sites “Janjaweed were saying [...] torabora we are going to fuck you.”⁸⁵³ [REDACTED].⁸⁵⁴ [REDACTED].⁸⁵⁵ [REDACTED].⁸⁵⁶

272. [REDACTED].⁸⁵⁷ [REDACTED].⁸⁵⁸ [REDACTED].⁸⁵⁹ [REDACTED].⁸⁶⁰ [REDACTED].⁸⁶¹ [REDACTED].⁸⁶² [REDACTED].⁸⁶³ [REDACTED].⁸⁶⁴ [REDACTED].⁸⁶⁵

⁸⁴¹ P-0129, [DAR-OTP-0128-0128-R03](#) at 0143-0144, paras. 53-54.

⁸⁴² P-0129, [DAR-OTP-0128-0128-R03](#) at 0144, para. 54.

⁸⁴³ P-0905, [DAR-OTP-0219-1155-R01](#) at 1174, l. 658-659. *See also* P-0905, [DAR-OTP-0219-1155-R01](#) at 1187, l. 1116.

⁸⁴⁴ P-0905, [DAR-OTP-0219-1155-R01](#) at 1187, l. 1095-1096.

⁸⁴⁵ P-0905, [DAR-OTP-0219-1155-R01](#) at 1187, l. 1098-1099.

⁸⁴⁶ [REDACTED].

⁸⁴⁷ P-0905, [DAR-OTP-0219-0800-R01](#) at 0817, l. 624-633.

⁸⁴⁸ P-0905, [DAR-OTP-0219-0800-R01](#) at 0817, l. 624-633.

⁸⁴⁹ P-0905, [DAR-OTP-0219-1155-R01](#) at 1192, l. 1272-1278.

⁸⁵⁰ P-0905, [DAR-OTP-0219-0800-R01](#) at 0818, l. 640-642.

⁸⁵¹ P-0905, [DAR-OTP-0219-0800-R01](#) at 0818, l. 640-642.

⁸⁵² P-0905, [DAR-OTP-0219-0800-R01](#) at 0818, l. 640-642.

⁸⁵³ P-0919, [DAR-OTP-0217-0423-R01](#) at 0433, para. 52.

⁸⁵⁴ [REDACTED].

⁸⁵⁵ [REDACTED].

⁸⁵⁶ [REDACTED].

⁸⁵⁷ [REDACTED].

⁸⁵⁸ [REDACTED].

⁸⁵⁹ [REDACTED].

⁸⁶⁰ [REDACTED].

⁸⁶¹ [REDACTED].

⁸⁶² [REDACTED].

⁸⁶³ [REDACTED].

⁸⁶⁴ [REDACTED].

⁸⁶⁵ [REDACTED].

[REDACTED].⁸⁶⁶ [REDACTED].⁸⁶⁷ [REDACTED].⁸⁶⁸

iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

273. As is evident from, among other things, his statements (threats to kill, and orders to kill, detainees), conduct (arresting and assaulting detainees) and related context (his presence at detention and execution sites, cooperative relationship with co-perpetrators) summarised above, in particular at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 255, and 258 to 274, **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events in implementing the Mukjar Common Plan. For the same reasons, and due to his position of authority and influence,⁸⁶⁹ he was further aware of his essential role in the Mukjar Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

Direct perpetration under article 25(3)(a) of the Rome Statute

274. As described at paragraphs 238 to 240, 243, 261, 264 to 265, and 269 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 12-13), other inhumane acts as a crime against humanity (Count 14), cruel treatment as a war crime (Count 15), and outrages upon personal dignity as a war crime (Count 16) by threatening, verbally abusing, and physically assaulting detainees at Mukjar police station, including P-0129, P-0919, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doori), *Umdah* Yahya Ahmad Zarruq, *Sheikh* Muhammad Ali Bolot (aka Jabbor), *Sheikh* Abdallah Ahmad Hasan, Muhammad Umar Ahmad Zarruq, Ahmad Muhammad Barbayi, Adam Nahid Numan and Yusuf Muhajir. Through this conduct, **ABD-AL-RAHMAN** also directly perpetrated the crime against humanity of persecution (Count 21). As is evident from the context, and his statements and actions, described in particular at paragraphs 238 to 240, 243, 261, and 264 to 265, **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes would occur in the ordinary course of events as a result of his conduct.

⁸⁶⁶ [REDACTED].

⁸⁶⁷ [REDACTED].

⁸⁶⁸ [REDACTED].

⁸⁶⁹ See further Section C (Common Elements of Modes of Individual Criminal Responsibility) above.

Ordering under article 25(3)(b) of the Rome Statute

275. **ABD-AL-RAHMAN**, while being in a position of authority, ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill detained Fur males, as described above at paragraphs 246, 249, and 270 to 272. Several of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a crime against humanity and a war crime (Counts 17-18), persecution as a crime against humanity (Count 21) and the attempted commission of the crimes of murder as a crime against humanity and a war crime (Counts 19-20). As is evident from the context, and from his statements and conduct summarised at paragraphs 238 to 240, 243, 246, 249, 261, 261, 269 and 270 to 273, **ABD-AL-RAHMAN** meant to engage in the conduct described above and was aware of his position of authority over the physical perpetrators of the crimes.⁸⁷⁰ For the same reasons, **ABD-AL-RAHMAN** meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Inducing under article 25(3)(b) of the Rome Statute

276. Through the conduct described above, in particular at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 255, and 258 to 274, carried out in the presence of Militia/*Janjaweed* and GoS Forces, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in Counts 12 to 21 of the DCC. Using his position of authority and influence,⁸⁷¹ **ABD-AL-RAHMAN** exerted influence over the Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes. As is evident from the context, and from his statements and conduct summarised at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 255, and 258 to 274, **ABD-AL-RAHMAN** meant to engage in the conduct described above and meant for the Militia/*Janjaweed* and GoS Forces to commit the crimes and/or was aware that the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the crimes, and was aware that his conduct would contribute to their commission.

Aiding, abetting or otherwise assisting in the commission or attempted commission of crimes under article 25(3)(c) of the Rome Statute

277. Through the conduct described above, in particular at paragraphs 231, 235, 238 to 240,

⁸⁷⁰ See further Section C (Common Elements of Modes of Individual Criminal Responsibility) above.

⁸⁷¹ See further Section C (Common Elements of Modes of Individual Criminal Responsibility) above.

243 to 246, 248 to 249, 255, and 258 to 274, carried out in the presence of Militia/*Janjaweed* and GoS Forces, while he was in a position of authority and influence,⁸⁷² **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces in the commission, or attempted commission, of the crimes charged in Counts 12 to 21 of the DCC. As is evident from the context, and his statements and conduct summarised above, in particular at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 255, and 258 to 274, **ABD-AL-RAHMAN** meant to engage in the relevant conduct and provided this assistance with the aim of facilitating the commission of the charged crimes. For the same reasons, **ABD-AL-RAHMAN** was aware that members of the Militia/*Janjaweed* and GoS Forces would, in the ordinary course of events, commit the types of crimes charged, and was aware that his conduct would contribute to their commission.

Common purpose liability under article 25(3)(d) of the Rome Statute

278. At least between late February and early March 2004, **ABD-AL-RAHMAN** intentionally contributed to the commission and attempted commission of crimes by a group of persons acting with a common purpose. The common purpose was to target persons in Mukjar, including persons displaced to Mukjar from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, cruel treatment, other inhumane acts, outrages upon personal dignity, murder, and persecution (“Mukjar Common Purpose”). The other members of the group acting with the Mukjar Common Purpose included Militia/*Janjaweed* leader SAMIH, Military Intelligence officer HAMDI, and other members of the Militia/*Janjaweed* and GoS Forces.

279. Through the conduct described above, in particular at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 255, and 258 to 274, carried out in the presence of Militia/*Janjaweed* and GoS Forces, while he was in a position of authority and influence,⁸⁷³ **ABD-AL-RAHMAN** intentionally contributed to the commission, or attempted commission, of the crimes charged in Counts 12 to 21 of the DCC, by this group of persons acting with a common purpose. As is evident from the context, and from his statements and conduct summarised above, in particular at paragraphs 231, 235, 238 to 240, 243 to 246, 248 to 249, 249, 255, and 258 to 274, **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit

⁸⁷² See further Section C (Common Elements of Modes of Individual Criminal Responsibility) above.

⁸⁷³ See further Section C (Common Elements of Modes of Individual Criminal Responsibility) above.

the crimes charged.

G. CRIMES COMMITTED IN DELEIG AND SURROUNDING AREAS

1) Introduction

280. During the charged period, Deleig was a town located in the Garsila-Deleig Administrative Unit of Wadi Salih Locality, West Darfur.⁸⁷⁴ Deleig was approximately 17 kilometres northeast of the town of Garsila, approximately 53 kilometres southwest of the town of Zalingei, and approximately 59 kilometres north of Mukjar and Bindisi.⁸⁷⁵ The population of Deleig was predominantly Fur.⁸⁷⁶

281. Between at least August 2003 and March 2004, Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Deleig, including Arawala, Forgo, Taringa, Andi, Fere, Kaskeidi and Um Jameina.⁸⁷⁷ These attacks caused thousands of civilians from predominantly Fur villages⁸⁷⁸ to seek shelter in Deleig, Garsila and other towns.⁸⁷⁹

282. By early March 2004, more than 16,000 internally displaced persons were staying in Deleig,⁸⁸⁰ almost quadrupling the pre-conflict population of Deleig of several thousand people.⁸⁸¹ The displaced persons stayed in the streets, under trees, in empty fields, in and around the primary school, around the market, in camps, and in the houses of relatives or other Deleig residents.⁸⁸² Members of Militia/*Janjaweed* and GoS Forces often harassed the displaced

⁸⁷⁴ See West Darfur Planning Map. See also Annex A1.

⁸⁷⁵ Specifically, Deleig is approximately 62 kilometres north of Bindisi.

⁸⁷⁶ P-0651, [DAR-OTP-0205-0015-R01](#) at 0019, para. 14; [DAR-OTP-0145-0237](#) at 0273.

⁸⁷⁷ See above, para. 51.

⁸⁷⁸ See e.g. [DAR-OTP-0145-0237](#) at 0271-0272 (Arawala), 0275 (Fere), 0276 (Forgo), 0278-0279 (Kaskeidi), and 0285 (Taringa).

⁸⁷⁹ P-0643, [DAR-OTP-0215-0333-R01](#) at 0353, l. 668-673. Deleig: P-0592, [DAR-OTP-0209-0825-R01](#) at 0839, para. 81; P-0718, [DAR-OTP-0209-2004-R01](#) at 2012, para. 51; P-0651, [DAR-OTP-0205-0015-R01](#) at 0024-0025, paras. 33-35; P-0671, [DAR-OTP-0206-0105-R01](#) at 0110, paras. 20-22; P-0712, [DAR-OTP-0209-1884-R01](#) at 1890-1891, paras. 25-26; P-0726, [DAR-OTP-0210-0346-R02](#) at 0363-0364, paras. 59-62; P-0060, [DAR-OTP-0097-0328-R01](#) at 0341, para. 50; P-0736, [DAR-OTP-0210-0248-R01](#) at 0260-0261, para. 49; P-0714, [DAR-OTP-0209-1916-R02](#) at 1927-1928, paras. 40, 44; P-0697, [DAR-OTP-0209-0155-R01](#) at 0165-0167, paras. 45-48, 50. Garsila: P-0092, [DAR-OTP-0112-0175-R01](#) at 0194, para. 82; P-0591, [DAR-OTP-0202-0026-R01](#) at 0054, para. 107; P-0585, [DAR-OTP-0201-0037-R01](#) at 0056, para. 78; P-0895, [DAR-OTP-0215-7164-R01](#) at 7168, para. 16 and 7181-7182, paras. 66 and 70-71.

⁸⁸⁰ [DAR-OTP-0162-0042](#) at 0074; [DAR-OTP-0145-0237](#) at 0273 (5,150 households).

⁸⁸¹ P-0651, [DAR-OTP-0205-0015-R01](#) at 0019, para. 14; P-0714, [DAR-OTP-0209-1916-R02](#) at 1927, para. 40. See also [DAR-OTP-0162-0042](#) at 0074; [DAR-OTP-0145-0237](#) at 0273; [DAR-OTP-0209-0014](#) at 0015.

⁸⁸² P-0725, [DAR-OTP-0210-0122-R01](#) at 0130-0131, paras. 64-67; P-0718, [DAR-OTP-0209-2004-R01](#) at 2011-2012, paras. 45 and 47-50; P-0651, [DAR-OTP-0205-0015-R01](#) at 0026, paras. 39-40; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 69; P-0607, [DAR-OTP-0203-0164-R01](#) at 0175, para. 40; P-0712, [DAR-OTP-0209-1884-R01](#) at 1890-1891, paras. 25-26; P-0726, [DAR-OTP-0210-0346-R02](#) at 0363-0364, paras. 59-62; P-0879, [DAR-OTP-0217-0033-R01](#) at 0046, paras. 67-69 and 0047, para. 73; P-0736, [DAR-OTP-0210-0248-R01](#) at 0260-0261, para. 49; P-0697, [DAR-OTP-0209-0155-R01](#) at 0165-0166, paras. 45-48; P-0718, [DAR-OTP-0209-2004-R01](#) at 2011-2012, paras. 45 and 47-50; P-0671, [DAR-OTP-0206-0105-R01](#) at 0110, paras. 20-22; P-0712, [DAR-OTP-0209-1884-R01](#) at 1901, paras. 66-67.

people in Deleig.⁸⁸³

283. Annex A11 contains a satellite image of Deleig with a number of key locations marked,⁸⁸⁴ including the police station, Ansar Al-Sunna Mosque, the school, the market area, and an open field used for playing football. Ansar Al-Sunna Mosque was one of two main mosques in Deleig,⁸⁸⁵ in addition to a number of smaller mosques or praying places.⁸⁸⁶

284. The police station was located on a small hill in the middle of Deleig, in an elevated position compared to other buildings nearby.⁸⁸⁷ In March 2004, there was no fence around the police station.⁸⁸⁸ An aerial photograph taken by members of the UNCOI in January 2005 shows the police station, the school, Ansar Al-Sunna Mosque, and the open field used for playing football.⁸⁸⁹

Search and arrest operation starting on or about 5 March 2004

285. On or about Friday, 5 March 2004, from the early morning, Militia/*Janjaweed* and GoS Forces surrounded Deleig⁸⁹⁰ and prevented people from leaving or entering the town.⁸⁹¹ Militia/*Janjaweed* and GoS Forces went through the streets⁸⁹² and from house to house⁸⁹³

⁸⁸³ P-0879, [DAR-OTP-0217-0033-R01](#) at 0047, para. 72; P-0651, [DAR-OTP-0205-0015-R01](#) at 0025-0026, paras. 37-38; P-0712, [DAR-OTP-0209-1884-R01](#) at 1891, para. 27; P-0736, [DAR-OTP-0210-0248-R01](#) at 0261, para. 50.

⁸⁸⁴ Annex A11.

⁸⁸⁵ P-0671, [DAR-OTP-0206-0105-R01](#) at 0115, para. 39; P-0718, [DAR-OTP-0209-2004-R01](#) at 2012, para. 55; P-0651, [DAR-OTP-0205-0015-R01](#) at 0027, para. 43

⁸⁸⁶ See e.g. P-0725, [DAR-OTP-0210-0122-R01](#) at 0131-0133, paras. 71-75, 77-80; P-0697, [DAR-OTP-0209-0155-R01](#) at 0167, para. 51.

⁸⁸⁷ P-0651, [DAR-OTP-0205-0015-R01](#) at 0028, para. 46; P-0651, Annex A, [DAR-OTP-0205-0040](#) (Translation at [DAR-OTP-0219-1684](#)); P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 68; P-0671, [DAR-OTP-0206-0105-R01](#) at 0115, para. 39; P-0714, [DAR-OTP-0209-1916-R02](#) at 1932, para. 57; P-0584, [DAR-OTP-0200-1540-R01](#) at 1566, para. 97; P-0584, Annex G, [DAR-OTP-0200-1591](#) at 1593 (Translation at [DAR-OTP-0219-1670](#)); P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86.

⁸⁸⁸ P-0714, [DAR-OTP-0209-1916-R02](#) at 1942, para. 90; P-0714, Annex C, [DAR-OTP-0209-1951-R01](#).

⁸⁸⁹ [DAR-OTP-0215-9393](#) at 9395.

⁸⁹⁰ P-0592, [DAR-OTP-0209-0825-R01](#) at 0839-0840, paras. 81-83; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176, para. 42; P-0712, [DAR-OTP-0209-1884-R01](#) at 1891-1892, paras. 28-31; P-0714, [DAR-OTP-0209-1916-R02](#) at 1929, para. 45; P-0584, [DAR-OTP-0200-1540-R01](#) at 1564, para. 90; P-0718, [DAR-OTP-0209-2004-R01](#) at 2012, para. 53; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 68; P-0671, [DAR-OTP-0206-0105-R01](#) at 0111, para. 24; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 48.

⁸⁹¹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1565, para. 91; P-0651, [DAR-OTP-0205-0015-R01](#) at 0027, para. 41; P-0726, [DAR-OTP-0210-0346-R02](#) at 0364, para. 62; P-0736, [DAR-OTP-0210-0248-R01](#) at 0261-0262, paras. 53-54; P-0714, [DAR-OTP-0209-1916-R02](#) at 1929, para. 45; P-0712, [DAR-OTP-0209-1884-R01](#) at 1891-1892, paras. 28-31; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176, para. 42.

⁸⁹² P-0584, [DAR-OTP-0200-1540-R01](#) at 1567, para. 100; P-0592, [DAR-OTP-0209-0825-R01](#) at 0841, paras. 92-93; P-0712, [DAR-OTP-0209-1884-R01](#) at 1893, para. 32; P-0714, [DAR-OTP-0209-1916-R02](#) at 1929, para. 46; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 68; P-0726, [DAR-OTP-0210-0346-R02](#) at 0363-0364, paras. 60-63.

⁸⁹³ P-0584, [DAR-OTP-0200-1540-R01](#) at 1565, para. 90; P-0591, [DAR-OTP-0202-0026-R01](#) at 0043-0044, paras. 62-63; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176-0177, paras. 43-46; P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, para. 56; P-0850, [DAR-OTP-0216-0002-R02](#) at 0018-0019, paras. 64, 67-69; P-0736, [DAR-OTP-0210-0248-R01](#) at 0266, para. 70.

searching for Fur males who had been displaced to Deleig from locations in the surrounding areas.⁸⁹⁴ The Militia/*Janjaweed* and GoS Forces perceived Fur males coming from these locations as belonging to, or being associated with, or supporting the rebel armed groups.⁸⁹⁵

286. Many Fur males, in particular those who had been displaced to Deleig, hid to avoid arrest.⁸⁹⁶ P-0850, [REDACTED], hid in a *dabanga* (a small dry storage area) with four other boys from morning until late afternoon. They crouched in the hot, small space too terrified to move or make a sound, and were forced to urinate and defecate inside the *dabanga*.⁸⁹⁷

287. On this day, Militia/*Janjaweed* and GoS Forces arrested between 100 and 200 predominantly Fur males⁸⁹⁸ from the streets, houses, the mosques, and camps for displaced people.⁸⁹⁹

288. The Militia/*Janjaweed* and GoS Forces released some of the arrested males after accepting that they were from Deleig,⁹⁰⁰ were studying in Deleig,⁹⁰¹ after they paid money,⁹⁰² or after their relatives intervened.⁹⁰³ Some detainees were released by sympathetic members of the Militia/*Janjaweed* or GoS Forces.⁹⁰⁴ Prosecution witnesses refer to a list or register of names being used in some cases to decide who to detain and who to release.⁹⁰⁵

289. While the main search and arrest operation took place on Friday, 5 March 2004, the

⁸⁹⁴ P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 49 and 0104, para. 53; P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, para. 56; P-0591, [DAR-OTP-0202-0026-R01](#) at 0044, para. 65; P-0592, [DAR-OTP-0209-0825-R01](#) at 0841, paras. 92-93; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176-0177, paras. 43-46; P-0671, [DAR-OTP-0206-0105-R01](#) at 0112-0114, paras. 25-34; P-0736, [DAR-OTP-0210-0248-R01](#) at 0264-0265, paras. 61-67.

⁸⁹⁵ See above, paras. 126-128, 130-134, 140-143.

⁸⁹⁶ P-0592, [DAR-OTP-0209-0825-R01](#) at 0840, paras. 86-87; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 70; P-0591, [DAR-OTP-0202-0026-R01](#) at 0043, para. 62; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 71 and 1020, para. 75; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176, para. 44; P-0726, [DAR-OTP-0210-0346-R02](#) at 0364, paras. 63-64; P-0617, [DAR-OTP-0202-1496-R01](#) at 1523, para. 80.

⁸⁹⁷ P-0850, [DAR-OTP-0216-0002-R02](#) at 0018-0019, paras. 66-68.

⁸⁹⁸ See below, fn. 950. Although the large majority of the arrested men were Fur, some were from the Zaghawa and Dago tribes. See P-0924, [DAR-OTP-0218-0455-R01](#) at 0466, para. 58.

⁸⁹⁹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1565-1567, paras. 93-96, 100; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 68; P-0592, [DAR-OTP-0209-0825-R01](#) at 0841, paras. 89, 92-93; P-0591, [DAR-OTP-0202-0026-R01](#) at 0044, paras. 63, 65; P-0027, [DAR-OTP-0094-0091-R01](#) at 0104, para. 55; P-0607, [DAR-OTP-0203-0164-R01](#) at 0177, para. 46; P-0060, [DAR-OTP-0097-0328-R01](#) at 0341, para. 51; P-0718, [DAR-OTP-0209-2004-R01](#) at 2013, para. 60; P-0671, [DAR-OTP-0206-0105-R01](#) at 0112-0113, paras. 26-27, 30-36; P-0697, [DAR-OTP-0209-0155-R01](#) at 0167-0168, para. 54; P-0718, [DAR-OTP-0209-2004-R01](#) at 2012-2013, paras. 55-60; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 72; P-0714, [DAR-OTP-0209-1916-R02](#) at 1930-1932, paras. 51-57; P-0924, [DAR-OTP-0218-0455-R01](#) at 0465, paras. 53-55.

⁹⁰⁰ [REDACTED].

⁹⁰¹ [REDACTED].

⁹⁰² [REDACTED].

⁹⁰³ [REDACTED].

⁹⁰⁴ [REDACTED].

⁹⁰⁵ P-0584, [DAR-OTP-0200-1540-R01](#) at 1566-1567, paras. 98-100; P-0092, [DAR-OTP-0112-0175-R01](#) at 0196-0197, paras. 89-90; P-0027, [DAR-OTP-0094-0091-R01](#) at 0107, para. 63; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083_01, para. 129.

Militia/*Janjaweed* and GoS Forces continued to arrest people in Deleig until at least Sunday, 7 March 2004.⁹⁰⁶ The GoS Forces that participated in the Deleig operation between about 5 and about 7 March 2004 included the SAF (including Military Intelligence), the PDF, the CRF and the Police.⁹⁰⁷

Arrests in Garsila and transport of detainees to Deleig

290. On or about 5 March 2004, **ABD-AL-RAHMAN** went to the Military Intelligence Office in Garsila. He was “very upset” to learn [REDACTED] that *Umdah* Adam Kindiri (also known as Adam Adam Deguis⁹⁰⁸), *Umdah* Jiddo Khamis and Jenif, the PDF coordinator in Garsila, had been released.⁹⁰⁹ These three men had been arrested and detained on the orders of the Security Committee.⁹¹⁰ [REDACTED].⁹¹¹ However, later that day they had been released [REDACTED] and had left Garsila for Deleig.⁹¹²

291. After learning of the men’s release, **ABD-AL-RAHMAN** [REDACTED] detainees *Sheikh* Ismail Abdulaziz (also known as Dikobi), *Umdah* Mohamed Suleiman Abdulshafa (also known as Dirbo⁹¹³), and Hassan Adam Musa.⁹¹⁴ [REDACTED]. The detainees were put on the back of one of the Land Cruiser vehicles in **ABD-AL-RAHMAN**’s convoy.⁹¹⁵ **ABD-AL-RAHMAN** told [REDACTED] that he intended to take the detainees to Zalingei. Shortly after, [REDACTED] **ABD-AL-RAHMAN**’s convoy depart in the direction of Deleig.⁹¹⁶

292. *Umdah* Mohamed Suleiman Abdulshafa had been arrested and detained on the orders of the Security Committee, following an allegation by **ABD-AL-RAHMAN** that he had

⁹⁰⁶ P-0027, [DAR-OTP-0094-0091-R01](#) at 0106-0107, paras. 61-64; P-0651, [DAR-OTP-0205-0015-R01](#) at 0032-0033, paras. 62-64; P-0850, [DAR-OTP-0216-0002-R02](#) at 0020, para. 71; P-0697, [DAR-OTP-0209-0155-R01](#) at 0168, paras. 57-58.

⁹⁰⁷ P-0905, [DAR-OTP-0219-1202-R01](#) at 1234-1238, l. 1116-1219 and 1245, l. 1461-1479 (PDF, MI, SAF); P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 15 (SAF, PDF, CRF, Police); P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, paras. 52-53 (SAF); P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 88 (SAF, CRF); P-0119, [DAR-OTP-0124-0196-R01](#) at 0214, para. 108 (MI, PDF); P-0584, [DAR-OTP-0200-1540-R01](#) at 1567, paras. 99-102 (SAF, Police); P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86 (Police); P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 69 (PDF, Police); P-0592, [DAR-OTP-0209-0825-R01](#) at 0840-0841, paras. 84-89 (SAF); P-0617, [DAR-OTP-0202-1496-R01](#) at 1523, para. 80 (SAF); P-0697, [DAR-OTP-0209-0155-R01](#) at 0167, para. 52 (SAF); P-0714, [DAR-OTP-0209-1916-R02](#) at 1930, para. 51 (SAF, Police); P-0726, [DAR-OTP-0210-0346-R02](#) at 0364, para. 63 (SAF); P-0736, [DAR-OTP-0210-0248-R01](#) at 0261, para. 53 (SAF); P-0850, [DAR-OTP-0216-0002-R02](#) at 0018, paras. 64-66 (SAF); P-0883, [DAR-OTP-0218-0059-R01](#) at 0083_01-0085, paras. 132-136, 141 (MI, SAF).

⁹⁰⁸ [REDACTED].

⁹⁰⁹ [REDACTED].

⁹¹⁰ [REDACTED].

⁹¹¹ [REDACTED].

⁹¹² [REDACTED].

⁹¹³ [REDACTED].

⁹¹⁴ [REDACTED].

⁹¹⁵ [REDACTED].

⁹¹⁶ [REDACTED].

collaborated with the rebels.⁹¹⁷ *Sheikh* Ismail Abdulaziz and Hassan Adam Musa had been arrested [REDACTED] on **ABD-AL-RAHMAN**'s orders.⁹¹⁸ Their detention had been approved by **HAMDI**.⁹¹⁹

293. **ABD-AL-RAHMAN** also transported [REDACTED] from Garsila to Deleig on or about 5 March 2004.⁹²⁰ **ABD-AL-RAHMAN** had arrested [REDACTED] in Garsila in the previous days.⁹²¹

294. Jenif, *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis were arrested in Deleig on or about 5 March 2004.⁹²² As detailed below, **ABD-AL-RAHMAN** killed Jenif in Deleig on or about 5 March 2004,⁹²³ while *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Sheikh* Ismail Abdulaziz, *Umdah* Mohamed Suleiman Abdulshafa, and Hassan Adam Musa were seen in a convoy in Deleig with **ABD-AL-RAHMAN** on or about 7 March 2004, and later killed.⁹²⁴ [REDACTED].⁹²⁵

a) The crimes

Counts 22-23: Torture as a crime against humanity and a war crime; Count 24: Other inhumane acts as a crime against humanity; Count 25: Cruel treatment as a war crime; Count 26: Outrages upon personal dignity as a war crime

295. On or about 5 March 2004, the Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**,⁹²⁶ brought the predominantly Fur arrested males to an open area near the Deleig police station where they were made to lie face down on the ground.⁹²⁷ Some had their hands

⁹¹⁷ [REDACTED].

⁹¹⁸ [REDACTED].

⁹¹⁹ [REDACTED].

⁹²⁰ [REDACTED].

⁹²¹ [REDACTED].

⁹²² P-0592, [DAR-OTP-0209-0825-R01](#) at 0840-0841, paras. 85-91; P-0592, Annex 2, [DAR-OTP-0209-0850](#).

⁹²³ See below, paras. 303-305.

⁹²⁴ See below, paras. 319-323.

⁹²⁵ [REDACTED].

⁹²⁶ P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75. [REDACTED]. See [DAR-OTP-0217-0033-R01](#) at 0039-0040, paras. 30-31, 36.

⁹²⁷ P-0905, [DAR-OTP-0219-0828-R01](#) at 0836, l. 251-254 and 0838, l. 342-345; P-0584, [DAR-OTP-0200-1540-R01](#) at 1566-1567, paras. 96-97, 100; P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, paras. 87-88; P-0725, [DAR-OTP-0210-0122-R01](#) at 0131-0132, paras. 71, 75; P-0591, [DAR-OTP-0202-0026-R01](#) at 0043-0045, paras. 62-63, 66, 68; P-0718, [DAR-OTP-0209-2004-R01](#) at 2013-2014, paras. 61, 63; P-0651, [DAR-OTP-0205-0015-R01](#) at 0027-0028, paras. 42-44, 47, 49; P-0671, [DAR-OTP-0206-0105-R01](#) at 0114-0116, paras. 38-42, 46; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 50; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, paras. 14-15; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 71; P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86; P-0607, [DAR-OTP-0203-0164-R01](#) at 0178-0179, paras. 48, 51; P-0060, [DAR-OTP-0097-0328-R01](#) at 0341-0342, paras. 51-52; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048-0049, para. 74-75, 77-78; P-0736, [DAR-OTP-0210-0248-R01](#)

tied behind their backs⁹²⁸ and some were blindfolded.⁹²⁹ The detainees were made to lie directly in the hot sun for several hours,⁹³⁰ and were denied food, water and access to toilet facilities.⁹³¹ Some persons were detained for longer periods of time. For example, [REDACTED] recalls being detained in the area of the police station for approximately four days,⁹³² during which time he was forced to defecate and urinate on himself.⁹³³

296. The Militia/*Janjaweed* and GoS Forces walked on the backs and heads of the detained males,⁹³⁴ beat them with rifle butts and sticks,⁹³⁵ and verbally abused them using terms such as *tora bora* and “slave”.⁹³⁶ [REDACTED] saw a member of the GoS Forces stab [REDACTED] detainee in the eye with a bayonet.⁹³⁷ **ABD-AL-RAHMAN** stood and walked on the backs of the detainees,⁹³⁸ hit them with a stick or axe-like object,⁹³⁹ kicked them,⁹⁴⁰ and verbally abused them using words such as “slave” and “criminal”.⁹⁴¹ The Militia/*Janjaweed* later threw some of the detainees onto the backs of vehicles like objects.⁹⁴²

297. Some of the arrested males, including some community leaders, were detained for up to several days inside the police station, in overcrowded conditions.⁹⁴³ On or about 7 March 2004,

at 0266, para. 71; P-0714, [DAR-OTP-0209-1916-R02](#) at 1932, paras. 57-58; P-0924, [DAR-OTP-0218-0455-R01](#) at 0466, para. 57.

⁹²⁸ P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 88; P-0591, [DAR-OTP-0202-0026-R01](#) at 0044, para. 66; P-0718, [DAR-OTP-0209-2004-R01](#) at 2014, para. 63; P-0671, [DAR-OTP-0206-0105-R01](#) at 0115, para. 40; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 71; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R02](#) at 1934, para. 66 and 1937, para. 75.

⁹²⁹ P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 88.

⁹³⁰ P-0584, [DAR-OTP-0200-1540-R01](#) at 1566, para. 97; P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 88; P-0725, [DAR-OTP-0210-0122-R01](#) at 0132, para. 75; P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, para. 43; P-0617, [DAR-OTP-0202-1496-R01](#) at 1525, para. 84; P-0905, [DAR-OTP-0219-1202-R01](#) at 1243, l. 1425-1426, and [DAR-OTP-0219-0828-R01](#) at 0836, l. 251-254 and 0838, l. 342-345; P-0924, [DAR-OTP-0218-0455-R01](#) at 0467, paras. 62-63.

⁹³¹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1567, para. 102; P-0092, [DAR-OTP-0112-0175-R01](#) at 0197, para. 90.

⁹³² [REDACTED].

⁹³³ [REDACTED].

⁹³⁴ P-0725, [DAR-OTP-0210-0122-R01](#) at 0131, para. 71; P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 68; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 50 and 0105, para. 58; P-0736, [DAR-OTP-0210-0248-R01](#) at 0267, para. 72; P-0714, [DAR-OTP-0209-1916-R02](#) at 1932, para. 58.

⁹³⁵ P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, paras. 43-44; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 15; P-0027, [DAR-OTP-0094-0091-R01](#) at 0103, para. 50; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 76; P-0924, [DAR-OTP-0218-0455-R01](#) at 0467, para. 63.

⁹³⁶ P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, para. 58; P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 68.

⁹³⁷ [REDACTED].

⁹³⁸ P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, para. 44; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 15; P-0607, [DAR-OTP-0203-0164-R01](#) at 0178, para. 48; P-0617, [DAR-OTP-0202-1496-R01](#) at 1525, para. 84.

⁹³⁹ P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, para. 44; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0714, [DAR-OTP-0209-1916-R02](#) at 1935-1936, para. 69; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 76.

⁹⁴⁰ P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, para. 44

⁹⁴¹ P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0718, [DAR-OTP-0209-2004-R01](#) at 2014, para. 67; P-0617, [DAR-OTP-0202-1496-R01](#) at 1525, para. 84.

⁹⁴² P-0725, [DAR-OTP-0210-0122-R01](#) at 0132, para. 76; P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, para. 56.

⁹⁴³ P-0924, [DAR-OTP-0218-0455-R01](#) at 0466, para. 58 and 0468-0469, paras. 68-71 and 0473-0473, paras. 93-98; P-0027, [DAR-OTP-0094-0091-R01](#) at 0106-0107, paras. 62-63; P-0725, [DAR-OTP-0210-0122-R01](#) at 0134,

[REDACTED] members of the Militia/*Janjaweed* and/or GoS Forces whipped, threatened to kill (while brandishing a firearm), and beat [REDACTED].⁹⁴⁴ They told [REDACTED] that his name was on their list, that he was a criminal who gave information to the rebels, [REDACTED].⁹⁴⁵

298. Members of the Militia/*Janjaweed* and/or GoS Forces questioned detained Fur males about who they were, where they were from, what they did, and whether they were *tora bora*.⁹⁴⁶

299. During the search and arrest operation in different areas of Deleig, the Militia/*Janjaweed* and GoS Forces whipped and beat people,⁹⁴⁷ and insulted them using terms such as “slave”, “donkey” and *tora bora*.⁹⁴⁸ In a residential compound, **ABD-AL-RAHMAN** kicked one arrested male, identified as [REDACTED], while members of the Militia/*Janjaweed* and GoS Forces beat him with the backs of their firearms, and others restrained his screaming wife and children.⁹⁴⁹

300. The total number of detained Fur males was between 100 and 200.⁹⁵⁰ One of the detained Fur males, [REDACTED], was a member of the SLM/A.⁹⁵¹ [REDACTED], who were among those detained in Deleig, were civilians taking no active part in the hostilities.⁹⁵² Witnesses state that there was no armed rebel presence in Deleig,⁹⁵³ although some members of the rebel armed groups may have accompanied civilians who were displaced to Deleig.⁹⁵⁴ The detained males were wearing civilian clothes,⁹⁵⁵ as were many of the corpses later found

paras. 94-96; P-0714, [DAR-OTP-0209-1916-R02](#) at 1940, para. 83; P-0592, [DAR-OTP-0209-0825-R01](#) at 0842, paras. 94, 96-97; P-0617, [DAR-OTP-0202-1496-R01](#) at 1503, para. 22 and 1525, para. 83 and 1527, para. 86.

⁹⁴⁴ [REDACTED].

⁹⁴⁵ [REDACTED].

⁹⁴⁶ P-0607, [DAR-OTP-0203-0164-R01](#) at 0179, para. 52; P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 87; P-0027, [DAR-OTP-0094-0091-R01](#) at 0107, para. 63.

⁹⁴⁷ P-0591, [DAR-OTP-0202-0026-R01](#) at 0043-0044, para. 62-63; P-0736, [DAR-OTP-0210-0248-R01](#) at 0264-0265, paras. 61-67; P-0712, [DAR-OTP-0209-1884-R01](#) at 1893-1894, paras. 32-35.

⁹⁴⁸ *See above*, para. 140.

⁹⁴⁹ P-0714, [DAR-OTP-0209-1916-R02](#) at 1932-1934, paras. 60-65. [REDACTED]. *See* P-0714, [DAR-OTP-0209-1916-R02](#) at 1933, para. 63 and 1935, para. 69.

⁹⁵⁰ P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 89; P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 68; P-0651, [DAR-OTP-0205-0015-R01](#) at 0029, para. 49; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019, para. 71; P-0585, [DAR-OTP-0201-0037-R01](#) at 0058, para. 86; P-0607, [DAR-OTP-0203-0164-R01](#) at 0178-0179, paras. 48, 51; P-0060, [DAR-OTP-0097-0328-R01](#) at 0341, para. 51; P-0879, [DAR-OTP-0217-0033-R01](#) at 0047-0048, para. 74; P-0736, [DAR-OTP-0210-0248-R01](#) at 0266 para. 71; P-0905, [DAR-OTP-0219-1202-R01](#) at 1244, l. 1427-1430; P-0924, [DAR-OTP-0218-0455-R01](#) at 0465-0466, paras. 55, 57.

⁹⁵¹ [REDACTED].

⁹⁵² P-0027, [DAR-OTP-0094-0091-R01](#) at 0096, para. 16 and 0105, paras. 55-58; P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, paras. 87-89 and 0200, para. 106; P-0584, [DAR-OTP-0200-1540-R01](#) at 1558, para. 64 and 1565-1567, paras. 92-95, 100; P-0607, [DAR-OTP-0203-0164-R01](#) at 0176-0177, paras. 43-46 and 0182 para. 65; P-0718, [DAR-OTP-0209-2004-R01](#) at 2010, para. 43 and 2013, paras. 55-60.

⁹⁵³ P-0607, [DAR-OTP-0203-0164-R01](#) at 0182, para. 65; P-0712, [DAR-OTP-0209-1884-R01](#) at 1901, para. 68.

⁹⁵⁴ [REDACTED].

⁹⁵⁵ P-0697, [DAR-OTP-0209-0155-R01](#) at 0167-0168, paras. 51-56; P-0714, [DAR-OTP-0209-1916-R02](#) at 1941, para. 85; P-0671, [DAR-OTP-0206-0105-R01](#) at 0111-0114, paras. 25-34; P-0725, [DAR-OTP-0210-0122-R01](#) at

outside of Deleig.⁹⁵⁶ There is no evidence of armed resistance to the search and arrest operation in Deleig.

Counts 27-28: Murder as a crime against humanity and a war crime; Counts 29-30: Attempted murder as a crime against humanity and a war crime

Killings of detainees by ABD-AL-RAHMAN in or near Deleig police station

301. Several witnesses saw **ABD-AL-RAHMAN** killing Fur male detainees in or near Deleig police station on or about 5 March 2004 by striking them to the head with a stick or axe-like object.

302. In the open area near the police station, P-0584 and P-0924 saw **ABD-AL-RAHMAN** strike a man identified as *Sheikh* Motor of Massa village to the head with a stick or axe-like object, causing him to fall to the ground where he became silent and lay motionless.⁹⁵⁷

303. In or near the police station, P-0905, P-0924 and P-0879 saw **ABD-AL-RAHMAN** strike a man multiple times to the head with a stick or axe-like object, causing him to fall to the ground and his head to bleed profusely.⁹⁵⁸ These witnesses describe the man they saw **ABD-AL-RAHMAN** strike in different terms: [REDACTED] identified the man as Jenif, the Fur PDF coordinator in Garsila (real name Mohamed Issa), whose family was from Arawala;⁹⁵⁹ [REDACTED] identified the man as Adam Abdulrahman, also known as Jinef, a Fur public official based in Garsila who worked as an agricultural advisor and was about 45 years old;⁹⁶⁰ and [REDACTED], who was present with him, identified the man as Adam Jinet, a public officer working with the health services in Arawala.⁹⁶¹

304. Other witnesses state that the PDF coordinator in Garsila was a Fur man named Adam Abdelrahman or Adam Abdul Haman, also known as Jinef, who was originally from

0131, para. 71; P-0591, [DAR-OTP-0202-0026-R01](#) at 0044-0045, paras. 66, 68; P-0651, [DAR-OTP-0205-0015-R01](#) at 0031, para. 55; P-0671, [DAR-OTP-0206-0105-R01](#) at 0116-0117, paras. 45-46; P-0905, [DAR-OTP-0219-1202-R01](#) at 1246, l. 1506-1509.

⁹⁵⁶ P-0671, [DAR-OTP-0206-0105-R01](#) at 0118-0119, paras. 51-56; P-0697, [DAR-OTP-0209-0155-R01](#) at 0169, paras. 60-61.

⁹⁵⁷ P-0584, [DAR-OTP-0200-1540-R01](#) at 1568-1569, paras. 106-109; P-0924, [DAR-OTP-0218-0455-R01](#) at 0469, paras. 72-73. *See also* P-0114, [DAR-OTP-0119-0711-R01](#) at 0717, paras. 25-26; P-0114, Annex D-1, [DAR-OTP-0119-0732-R01](#) (Translation at [DAR-OTP-0153-1139-R01](#) at 1144).

⁹⁵⁸ P-0905, [DAR-OTP-0219-1202-R01](#) at 1233, l. 1052-1078 and 1239-1243, l. 1277-1419, and [DAR-OTP-0219-0828-R01](#) at 0838-0839, l. 325-332 and 350-370; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 76; P-0924, [DAR-OTP-0218-0455-R01](#) at 0467-0468, paras. 64-68.

⁹⁵⁹ [REDACTED].

⁹⁶⁰ [REDACTED].

⁹⁶¹ [REDACTED].

Arawala.⁹⁶² In addition, P-0714 identified one of the Fur males arrested and brought to the open area near the police station as [REDACTED].⁹⁶³

305. Based on the above, there are substantial grounds to believe that **ABD-AL-RAHMAN** killed either two or three Fur males detainees—a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man known as Adam Jinet or Jinef, a public officer working with the health services in Arawala.

Killings of detainees in locations outside of Deleig on or about 5 March 2004

306. In the open area near the police station, **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces to load the detained Fur males who were lying on the ground onto the backs of vehicles.⁹⁶⁴ The Militia/*Janjaweed* and GoS Forces loaded groups of the detainees onto the vehicles,⁹⁶⁵ including at least two motionless bodies.⁹⁶⁶ **ABD-AL-RAHMAN** was present during, and supervised, the loading of the detainees.⁹⁶⁷ The vehicles then drove out of Deleig in different directions.⁹⁶⁸

307. As detailed below, the vehicles carrying detainees drove to different locations outside of Deleig. At these locations, the Militia/*Janjaweed* and GoS Forces unloaded the detained Fur males from the vehicles and shot at them, killing most or all of the detainees in each group.⁹⁶⁹ The vehicles returned empty of detainees to the open area near the Deleig police station.⁹⁷⁰

⁹⁶² See e.g. P-0643, [DAR-OTP-0215-0546-R01](#) at 0553, l. 214; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0883, [DAR-OTP-0218-0059-R01](#) at 0080-0081, para. 112, 115.

⁹⁶³ P-0714, [DAR-OTP-0209-1916-R02](#) at 1933-1934, paras. 62-65.

⁹⁶⁴ [REDACTED].

⁹⁶⁵ P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, paras. 52-55; P-0879, [DAR-OTP-0217-0033-R01](#) at 0047-0049, paras. 74, 77-80; P-0584, [DAR-OTP-0200-1540-R01](#) at 1569, paras. 108-109; P-0714, [DAR-OTP-0209-1916-R02](#) at 1936-1937, paras. 70-74; P-0725, [DAR-OTP-0210-0122-R01](#) at 0132, para. 76; P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, paras. 56-57; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0607, [DAR-OTP-0203-0164-R01](#) at 0179-0180, para. 53-56; P-0092, [DAR-OTP-0112-0175-R01](#) at 0197, para. 90; P-0651, [DAR-OTP-0205-0015-R01](#) at 0029-0030, paras. 50-53; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019-1020, para. 72; P-0617, [DAR-OTP-0202-1496-R01](#) at 1525-1527, paras. 84-86; P-0924, [DAR-OTP-0218-0455-R01](#) at 0470-0472, paras. 81, 85, 87.

⁹⁶⁶ P-0905, [DAR-OTP-0219-0828-R01](#) at 0839, l. 368-370; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0725, [DAR-OTP-0210-0122-R01](#) at 0132, para. 76; P-0584, [DAR-OTP-0200-1540-R01](#) at 1568, para. 106.

⁹⁶⁷ P-0924, [DAR-OTP-0218-0455-R01](#) at 0473, para. 91; P-0584, [DAR-OTP-0200-1540-R01](#) at 1569, para. 108; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048-0049, paras. 77-80; P-0714, [DAR-OTP-0209-1916-R02](#) at 1936-1937, paras. 70-74; P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, paras. 52-53; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0106, [DAR-OTP-0116-1005-R01](#) at 1019-1020, para. 72 (vehicle only); P-0651, [DAR-OTP-0205-0015-R01](#) at 0030, para. 53 (vehicle only).

⁹⁶⁸ P-0617, [DAR-OTP-0202-1496-R01](#) at 1525-1526, paras. 84-85; P-0714, [DAR-OTP-0209-1916-R02](#) at 1936-1937, paras. 70-74; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0591, [DAR-OTP-0202-0026-R01](#) at 0051, para. 92; P-0106, [DAR-OTP-0116-1005-R01](#) at 1020, para. 74; P-0879, [DAR-OTP-0217-0033-R01](#) at 0049, paras. 78-79; P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, para. 54. See also P-0712, [DAR-OTP-0209-1884-R01](#) at 1896, paras. 43-44.

⁹⁶⁹ See below, paras. 308-313.

⁹⁷⁰ P-0591, [DAR-OTP-0202-0026-R01](#) at 0051, para. 93; P-0651, [DAR-OTP-0205-0015-R01](#) at 0029-0030, paras. 50-53; P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, paras. 52-55; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048-

Onlookers realised that the vehicles could not have taken the detainees to Garsila, the nearest town, in this short space of time.⁹⁷¹ Some people in Deleig heard shooting coming from outside of the town.⁹⁷² The process of loading detainees onto vehicles, transporting them to locations outside of Deleig, unloading them, and shooting them to death was repeated several times on or about 5 March 2004.⁹⁷³

308. At one or more of these locations, **ABD-AL-RAHMAN** was present and ordered the Militia/*Janjaweed* and/or GoS Forces to unload the males and to shoot and kill them. [REDACTED].⁹⁷⁴ [REDACTED].⁹⁷⁵

309. **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces, “Pour them. Kill them immediately here.”⁹⁷⁶ The detainees got out of the vehicles and lay down on the ground on their stomachs.⁹⁷⁷ The Militia/*Janjaweed* stood with their Kalashnikovs ready so that the detainees could not escape.⁹⁷⁸ One member of the PDF held a machine gun.⁹⁷⁹ **ABD-AL-RAHMAN** said, “Implement the orders on these people”, by which he meant to kill them.⁹⁸⁰ The Militia/*Janjaweed* and the PDF member with the machine gun shot at the detainees, killing all or most of them.⁹⁸¹ **ABD-AL-RAHMAN** said, “Finish” and the convoy departed. They left the bodies of the detainees in the *chor*.⁹⁸²

310. Other vehicles carrying detainees drove to the area south of Deleig. [REDACTED].⁹⁸³ [REDACTED].⁹⁸⁴ [REDACTED].⁹⁸⁵ [REDACTED].⁹⁸⁶ He heard cries for help in Fur and walked in that direction. He found bodies lying face down in a long row, possibly more than 40, including his cousin. There was a large pool of blood and the bodies had all been shot. Among the bodies, he found Abdallah Mussa, also known as Mulenqwe, alive but severely

0049, paras. 77-80; P-0714, [DAR-OTP-0209-1916-R02](#) at 1936-1937, paras. 70-74; P-0736, [DAR-OTP-0210-0248-R01](#) at 0268, para. 76; P-0924, [DAR-OTP-0218-0455-R01](#) at 0471-0472, paras. 82, 85, 87.

⁹⁷¹ P-0651, [DAR-OTP-0205-0015-R01](#) at 0030, para. 52; P-0591, [DAR-OTP-0202-0026-R01](#) at 0047, para. 76; P-0617, [DAR-OTP-0202-1496-R01](#) at 1526, para. 85.

⁹⁷² P-0879, [DAR-OTP-0217-0033-R01](#) at 0049, paras. 78-80; P-0585, [DAR-OTP-0201-0037-R01](#) at 0059, paras. 90-91.

⁹⁷³ P-0607, [DAR-OTP-0203-0164-R01](#) at 0179-0180, paras. 53-56; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048-0049, paras. 77-80; P-0736, [DAR-OTP-0210-0248-R01](#) at 0268, para. 76.

⁹⁷⁴ [REDACTED].

⁹⁷⁵ [REDACTED].

⁹⁷⁶ [REDACTED].

⁹⁷⁷ [REDACTED].

⁹⁷⁸ [REDACTED].

⁹⁷⁹ [REDACTED].

⁹⁸⁰ [REDACTED].

⁹⁸¹ [REDACTED].

⁹⁸² [REDACTED].

⁹⁸³ [REDACTED].

⁹⁸⁴ [REDACTED].

⁹⁸⁵ [REDACTED].

⁹⁸⁶ [REDACTED].

injured, [REDACTED].⁹⁸⁷

311. On arrival in Deleig, Abdallah Mussa entered a small mosque or praying place where [REDACTED] he was in a terrible condition with an apparent gunshot wound to his temple and a hole in his eye socket. Three of his fingers were missing and he was bleeding heavily. Abdallah Mussa [REDACTED] that everyone who had been taken away from Deleig had been executed. He died later that night.⁹⁸⁸

312. Also to the south of Deleig, [REDACTED] to a brook by Koska mountain. [REDACTED].⁹⁸⁹ [REDACTED]. On the way, he met a man, [REDACTED], who told him he had survived an execution at a brook near Douro, to the west of Deleig. [REDACTED].⁹⁹⁰

313. The following day, on or about 6 March 2004, P-0850 heard that a man from his village had been found wounded on the outskirts of Deleig and brought into town. P-0850 visited the man, [REDACTED], and saw that his intestines were spilling out and he was in great pain.⁹⁹¹ [REDACTED] said that he had been taken with other detainees to a riverbed between Koska and Ordo, to the south of Deleig. Their hands were tied and they were blindfolded before being shot. He said that the other detainees with him had all been executed and their families should stop looking for them.⁹⁹²

Discovery of corpses outside of Deleig after about 5 March 2004

314. On or about 6 March 2004, P-0651 found more than 40 dead bodies lined up next to each other in a *chor* at Tolda mountain, to the south of Deleig. The bodies were lying face down on the ground, uncovered, with their hands tied behind their backs. They all appeared to have been shot to the back or side of the head, and there were large pools of blood amongst them. Tyre tracks led from the dirt road to the bodies.⁹⁹³

315. Several days later, P-0671 also found between 20 and 40 dead bodies lined up next to each other in a *chor* near Tolda mountain, to the south of Deleig. Most were lying face down and all had suffered gunshot wounds, mostly to their backs and heads. They were wearing civilian clothes, some had their hands tied behind their backs, and there was a large amount of

⁹⁸⁷ [REDACTED].

⁹⁸⁸ [REDACTED]; P-0726, [DAR-OTP-0210-0346-R02](#) at 0366-0367, paras. 70, 73-74; P-0617, [DAR-OTP-0202-1496-R01](#) at 1526, para. 85; P-0924, [DAR-OTP-0218-0455-R01](#) at 0471-0472, para. 86.

⁹⁸⁹ [REDACTED].

⁹⁹⁰ [REDACTED].

⁹⁹¹ P-0850, [DAR-OTP-0216-0002-R02](#) at 0019-0020, paras. 70-72.

⁹⁹² P-0850, [DAR-OTP-0216-0002-R02](#) at 0019-0020, paras. 70-72.

⁹⁹³ P-0651, [DAR-OTP-0205-0015-R01](#) at 0031, paras. 56-58; P-0651, Annex B, [DAR-OTP-0205-0042](#) (Translation at [DAR-OTP-0219-1687](#) at 1689).

dried blood around them. Among the bodies, P-0671 found his father and brother, who had been arrested by **ABD-AL-RAHMAN** in Deleig on or about 5 March 2004. He helped to bury them.⁹⁹⁴

316. Approximately two weeks later, P-0714 found about 20 dead bodies lying face down in a line in an area near Koska mountains, to the south of Deleig. Most of them appeared to have bullet marks in the backs of their heads, and their clothing was soaked with blood.⁹⁹⁵

317. Dead bodies were also found to the west of Deleig. Several days after on or about 6 March 2004, [REDACTED] found five dead bodies lying next to each other in a *khor* near Fere village. A few metres away was another group of about three or four dead bodies, and further along another five to six. They had all been shot in different parts of their bodies. They were wearing civilian clothing, possibly *jallabia*, which is usually worn when attending Friday prayers.⁹⁹⁶

318. Among the bodies found near Fere were P-0718's three cousins,⁹⁹⁷ who **ABD-AL-RAHMAN** had refused to release near the police station on or about 5 March 2004.⁹⁹⁸

Killings of community leaders and other detainees outside of Deleig on or about 7 March 2004

319. On or about Sunday, 7 March 2004, [REDACTED] saw a vehicle with a red cloth arrive from the south. In the vehicle he saw *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Sheikh* Ismail Abdulaziz (also known as Dikobi), *Umdah* Mohamed Suleiman Abdulshafa,⁹⁹⁹ and Hassan Adam Musa.¹⁰⁰⁰ They were wearing white *jallabia* and their hands were tied.¹⁰⁰¹

320. [REDACTED].¹⁰⁰² [REDACTED].¹⁰⁰³ [REDACTED].¹⁰⁰⁴ [REDACTED].¹⁰⁰⁵

321. The same day, P-0725 was in Deleig market when he saw *Umdah* Kindiri, *Umdah* Jiddo Khamis and a third man in the back of a Land Cruiser being driven towards Zalingei.¹⁰⁰⁶ Also in the market, P-0585 saw two vehicles pass by. **ABD-AL-RAHMAN** was in the first

⁹⁹⁴ P-0671, [DAR-OTP-0206-0105-R01](#) at 0118-0119, paras. 51-56.

⁹⁹⁵ P-0714, [DAR-OTP-0209-1916-R02](#) at 1940, para. 84; P-0714, Annex D, [DAR-OTP-0209-1953-R01](#).

⁹⁹⁶ [REDACTED].

⁹⁹⁷ P-0718, [DAR-OTP-0209-2004-R01](#) at 2017, paras. 89-90.

⁹⁹⁸ See below, para. 348.

⁹⁹⁹ [REDACTED]. *Umdah* Mohamed Suleiman Abdulshafa of Tanako was also known as "Dirbo". [REDACTED].

¹⁰⁰⁰ [REDACTED].

¹⁰⁰¹ [REDACTED].

¹⁰⁰² [REDACTED].

¹⁰⁰³ [REDACTED].

¹⁰⁰⁴ [REDACTED].

¹⁰⁰⁵ [REDACTED].

¹⁰⁰⁶ P-0725, [DAR-OTP-0210-0122-R01](#) at 0134, paras. 94-95. P-0725 refers these persons as *Umdah* Adam Kinderi and *Umdah* Jido.

vehicle.¹⁰⁰⁷ In the second vehicle, five important looking people wearing Sudanese garments were being guarded by Militia/*Janjaweed*. He [REDACTED] identified four of the five men as *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman Abdulshafa and *Sheikh* Ismail Abdulaziz (also known as Dikobi).¹⁰⁰⁸

322. While hiding in the south of Deleig in the three days following on or about 5 March 2004, P-0060 saw what appears to be the same convoy of vehicles passing by in the direction of Deleig. One of the vehicles resembled **ABD-AL-RAHMAN**'s vehicle. In the vehicles, he saw *Sheikh* Ismail Abdulaziz (also known as Dikobi) and *Umdah* Mohamed Suleiman Abdulshafa,¹⁰⁰⁹ wearing white *jallabias*, and Hassan Adam Musa,¹⁰¹⁰ wearing a white shirt, along with other men. They were handcuffed.¹⁰¹¹

323. Within days, news reached the inhabitants of Deleig that the group of detainees had been killed and their bodies found in a location near Fere, in the direction of Zalingei.¹⁰¹² Despite **ABD-AL-RAHMAN**'s assurances [REDACTED], there is no evidence that these detainees ever reached the Military Intelligence Office in Zalingei.¹⁰¹³ To the contrary, [REDACTED] these five detainees were killed outside of Deleig.¹⁰¹⁴

Survivors

324. On or about 5 March 2004, at least 12 detained Fur males survived, despite the intention of the perpetrators to kill them. The perpetrators attempted to murder these at least 12 males, and any other persons who survived the conduct described above.

325. [REDACTED].¹⁰¹⁵ [REDACTED].¹⁰¹⁶ On or about 6 March 2004, P-0850 visited

¹⁰⁰⁷ P-0585, [DAR-OTP-0201-0037-R01](#) at 0059, para. 92. [REDACTED]. See P-0585, [DAR-OTP-0201-0037-R01](#) at 0048-0050, paras. 43-51 and 0052, paras. 59-61.

¹⁰⁰⁸ P-0585, [DAR-OTP-0201-0037-R01](#) at 0059, para. 92. P-0585 refers to these persons as *Umdah* Kindiri, *Umdah* Jiddo, *Umdah* Muhamed Suleiman of Tanako and *Sheikh* Diokabe from Garsila.

¹⁰⁰⁹ P-0060 identifies this person as "Umdah Dirbo". *Umdah* Mohamed Suleiman Abdulshafa of Tanako was also known as "Dirbo". See above, fn. 913.

¹⁰¹⁰ P-0060 identifies this person as "Hassan Adam 'FARJA', [...] an intellectual in the Fur community". See P-0060, [DAR-OTP-0097-0328-R01](#) at 0337, para. 30 and 0343, para. 58.

¹⁰¹¹ P-0060, [DAR-OTP-0097-0328-R01](#) at 0343, para. 58. P-0060 refers to the third man as Isma'il Doikabe.

¹⁰¹² P-0725, [DAR-OTP-0210-0122-R01](#) at 0134, paras. 95-96; P-0879, [DAR-OTP-0217-0033-R01](#) at 0050, para. 82; P-0712, [DAR-OTP-0209-1884-R01](#) at 1897, paras. 47-48; P-0617, [DAR-OTP-0202-1496-R01](#) at 1528-1529, paras. 89-90; P-0671, [DAR-OTP-0206-0105-R01](#) at 0117, para. 50. See also P-0850, [DAR-OTP-0216-0002-R02](#) at 0020, para. 73; P-0895, [DAR-OTP-0215-7164-R01](#) at 7172, paras. 31-32 and 7180, para. 63; P-0714, [DAR-OTP-0209-1916-R02](#) at 1940, para. 83; P-0726, [DAR-OTP-0210-0346-R02](#) at 0365, para. 69; P-0651, [DAR-OTP-0205-0015-R01](#) at 0033, para. 64; P-0643, [DAR-OTP-0215-0358-R01](#) at 0393-0394, l. 1192-1206 and 0396-0402, l. 1266-1485.

¹⁰¹³ [REDACTED].

¹⁰¹⁴ [REDACTED].

¹⁰¹⁵ [REDACTED].

¹⁰¹⁶ [REDACTED].

[REDACTED] in Deleig and saw that his intestines were spilling out and he was in great pain.¹⁰¹⁷ [REDACTED].¹⁰¹⁸

326. [REDACTED].¹⁰¹⁹ [REDACTED].¹⁰²⁰

327. [REDACTED].¹⁰²¹ [REDACTED].¹⁰²²

At least 100 Fur males were killed between about 5 and about 7 March 2004

328. Shortly after the Deleig operation, [REDACTED], indicating that 101 persons had been detained and killed during the operation.¹⁰²³ Subsequently, several organisations, including the UNCOI, compiled or collected lists of persons killed in Deleig/Wadi Salih between 5 and 7 March 2004.¹⁰²⁴ These lists, which contain between 120 and 131 names, are substantially similar and may largely be based on the same source/s.¹⁰²⁵ Estimates given by Prosecution witnesses of the numbers of males arrested and detained, loaded onto trucks, transported to execution sites, and the large number of corpses found at locations outside of Deleig, corroborate that at least 100 persons were killed.¹⁰²⁶

329. To date, the Prosecution has established the identities of 34 persons killed during the Deleig incident, listed in Annex 1D to the DCC.¹⁰²⁷ Annex A12 to this PCB lists the evidence establishing the deaths of these persons.¹⁰²⁸ As detailed above, the Fur males who were detained, and later killed, were either persons *hors de combat* or were civilians taking no active part in the hostilities.¹⁰²⁹

Count 31: Persecution as a crime against humanity

330. This section should be read in conjunction with Section D (Persecution), in particular,

¹⁰¹⁷ [REDACTED].

¹⁰¹⁸ [REDACTED].

¹⁰¹⁹ [REDACTED].

¹⁰²⁰ [REDACTED].

¹⁰²¹ [REDACTED].

¹⁰²² [REDACTED].

¹⁰²³ [REDACTED].

¹⁰²⁴ Amnesty International, [DAR-OTP-0002-0201](#) at 0201-0202; UNCOI, [DAR-OTP-0020-0216](#) at 0245-0247; Sudan Advisory Council on Human Rights (received from Sudan Organisation against Torture), [DAR-OTP-0053-0068](#) (Translation at [DAR-OTP-0153-0211](#) at 0212-0218); Darfur Peace and Development Organization, [DAR-OTP-0060-0222](#) (Translation at [DAR-OTP-0153-0917](#) at 0918-0927); International Federation for Human Rights, [DAR-OTP-0090-0377](#) at 0384-0385; Human Rights Watch, [DAR-OTP-0003-0099](#) at 0122-1023 and 0172-0175.

¹⁰²⁵ While some lists contain additional names, and the transliteration of some names from Arabic into English varies, the lists are generally similar in relation to both content and sequence of names. At least two of the names relate to persons killed outside of Mukjar: *Umdah* Yahya Ahmad Zarruq and Muhammad Umar Ahmad Zarruq. See ICC-02/05-01/20-325-Conf-Anx1C.

¹⁰²⁶ See above, paras. 287, 300, 306-307, 310, 314-317/323.

¹⁰²⁷ ICC-02/05-01/20-325-Conf-Anx1D.

¹⁰²⁸ Annex A12.

¹⁰²⁹ See above, para. 300.

paragraphs 140 to 143 relating specifically to the events in Deleig. The facts described above under Counts 22-23 (torture), Count 24 (other inhumane acts), Count 25 (cruel treatment), Count 26 (outrages upon personal dignity), Counts 27-28 (murder), and Counts 29-30 (attempted murder) constitute the underlying conduct of the crime against humanity of persecution.

b) ABD-AL-RAHMAN's individual criminal responsibility

Co-perpetration under article 25(3)(a) of the Rome Statute

i) ABD-AL-RAHMAN was part of a common plan or an agreement with one or more persons

331. **ABD-AL-RAHMAN** committed the crimes charged in Counts 22 to 31 of the DCC in concert with others through his participation in, and essential contribution to, a common plan.

332. At least between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** shared a common plan or agreement with a group consisting of members of the Militia/*Janjaweed* and GoS Forces to target persons in Deleig, including those displaced to Deleig from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder, and persecution (“Deleig Common Plan”). The Deleig Common Plan came into existence, at the latest, on or about 5 March 2004.

333. Other persons sharing the Deleig Common Plan included Military Intelligence officer HAMDI, Military Intelligence officer MANSUR, PDF officer HASSABALLAH, and other members of the Militia/*Janjaweed* and GoS Forces.

334. Pursuant to the Deleig Common Plan, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** and his co-perpetrators engaged in conduct which led to the commission of the charged crimes.

335. On or about 5 March 2004, **ABD-AL-RAHMAN** and co-perpetrators HAMDI, HASSABALLAH and MANSUR travelled to Deleig in two convoys of vehicles from the Military Intelligence Office in Garsila.¹⁰³⁰ Also in the convoys were Military Intelligence officers ABD-AL-MUN’IM and IDRIS.¹⁰³¹

¹⁰³⁰ [REDACTED].

¹⁰³¹ [REDACTED].

336. [REDACTED],¹⁰³² [REDACTED] HAMDI and **ABD-AL-RAHMAN** had carried out a “joint crackdown” on young males displaced to Deleig.¹⁰³³ MANSUR assisted them to target and arrest these displaced young males by identifying those from the region of Arawala, where he had been previously deployed.¹⁰³⁴ [REDACTED] following the rounding up of more than 101 displaced males, **ABD-AL-RAHMAN** ordered a further house to house search to locate and arrest *Umdah Adam Kindiri*, *Umdah Jiddo Khamis* and the PDF coordinator, Jenif, which was carried out.¹⁰³⁵

337. HAMDI was seen in Deleig on or about 5 March 2004, including at the open area near the police station where the Fur males were detained.¹⁰³⁶ He participated in arrests¹⁰³⁷ and was seen in the passenger seat of one of the vehicles transporting detainees to execution sites.¹⁰³⁸

338. MANSUR was also present in Deleig on or about 5 March 2004¹⁰³⁹ and was involved in arrests.¹⁰⁴⁰

339. HASSABALLAH was present in Deleig, including at the open area near the police station where the Fur males were detained, on or about 5 March 2004.¹⁰⁴¹ [REDACTED].¹⁰⁴² [REDACTED] **ABD-AL-RAHMAN** killed Jenif in Deleig in the presence of HASSABALLAH.¹⁰⁴³ HAMDI later appointed HASSABALLAH as PDF coordinator.¹⁰⁴⁴ HASSABALLAH was also present at one of the execution sites outside of Deleig when **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces, including a member of the PDF, to shoot and kill detainees.¹⁰⁴⁵

ii) *ABD-AL-RAHMAN carried out an essential contribution in a coordinated manner with other co-perpetrators that resulted in the fulfilment of the material elements of*

¹⁰³² [REDACTED].

¹⁰³³ [REDACTED].

¹⁰³⁴ [REDACTED].

¹⁰³⁵ [REDACTED].

¹⁰³⁶ P-0060, [DAR-OTP-0097-0328-R01](#) at 0342, para. 53; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R02](#) at 1934-1935, para. 66; P-0617, [DAR-OTP-0202-1496-R01](#) at 1524-1525, paras. 81, 83.

¹⁰³⁷ P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75.

¹⁰³⁸ P-0714, [DAR-OTP-0209-1916-R02](#) at 1936-1937, para. 73.

¹⁰³⁹ P-0027, [DAR-OTP-0094-0091-R01](#) at 0105, para. 56; P-0617, [DAR-OTP-0202-1496-R01](#) at 1524-1525, paras. 81-83, 1529, para. 92 and 1533, paras. 102-103; P-0924, [DAR-OTP-0218-0455-R01](#) at 0466-0467, paras. 59-60.

¹⁰⁴⁰ P-0617, [DAR-OTP-0202-1496-R01](#) at 1529, para. 92 and 1533, paras. 102-103; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083_01-0084, paras. 133, 136.

¹⁰⁴¹ P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75; P-0905, [DAR-OTP-0219-1021-R01](#) at 1038-1039, l. 568-623, and [DAR-OTP-0219-1202-R01](#) at 1232, l. 1024-1043 and 1237, l. 1195-1196.

¹⁰⁴² [REDACTED].

¹⁰⁴³ [REDACTED].

¹⁰⁴⁴ [REDACTED].

¹⁰⁴⁵ [REDACTED].

the crimes

340. **ABD-AL-RAHMAN** made an essential contribution to the Deleig Common Plan and the charged crimes through the conduct described below.

a. Arresting and ordering the arrest of Fur males in Garsila and transporting them to Deleig where they were detained, mistreated, and killed or attempted to be killed in Deleig or surrounding areas

341. This conduct is described above at paragraphs 290 to 294.

b. Ordering, being present during, and participating in the search and arrest operation in Deleig

342. **ABD-AL-RAHMAN** ordered, was present during, and participated in the search and arrest operation at several locations in Deleig. He ordered a house to house search to locate and arrest *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and the PDF coordinator, Jenif, which was carried out.¹⁰⁴⁶

343. At one of the mosques, **ABD-AL-RAHMAN** was present in a Land Cruiser vehicle with a large number of Militia/*Janjaweed* and GoS Forces.¹⁰⁴⁷ A man wearing civilian clothing and a turban stood in the back of the Land Cruiser, pointing out males leaving the mosque. Militia/*Janjaweed* and GoS Forces then arrested these males and put them into vehicles.¹⁰⁴⁸

344. At a camp for displaced persons in the eastern part of Deleig, a GoS soldier arrested the father and brother of P-0671 from their shelter. He walked to the first of three Land Cruisers and said, “Your honour Ali KUSHAYB where do you want us to put these”. **ABD-AL-RAHMAN** replied, “Put them in this vehicle”. Two soldiers then threw P-0671’s father and brother into the vehicle. One of the vehicles already carried three or four detainees, and males from other shelters were also arrested and placed in the vehicles.¹⁰⁴⁹

345. At the Deleig market, **ABD-AL-RAHMAN** arrived in a vehicle with Militia/*Janjaweed* to where a convoy of four buses had stopped. **ABD-AL-RAHMAN** spoke to the driver of the first bus. Then **ABD-AL-RAHMAN** came to the third bus, [REDACTED], and he and two members of the Militia/*Janjaweed* asked each of the passengers where they came from. **ABD-AL-RAHMAN** ordered all of the passengers to board the bus and to leave without anyone

¹⁰⁴⁶ [REDACTED].

¹⁰⁴⁷ P-0697, [DAR-OTP-0209-0155-R01](#) at 0168, para. 55. [REDACTED]. See P-0697, [DAR-OTP-0209-0155-R01](#) at 0158-0159, paras. 15-18.

¹⁰⁴⁸ P-0697, [DAR-OTP-0209-0155-R01](#) at 0167-0168, paras. 53-54.

¹⁰⁴⁹ P-0671, [DAR-OTP-0206-0105-R01](#) at 0111-0114, paras. 25-34; P-0671, Annex C, [DAR-OTP-0206-0130](#) (Translation at [DAR-OTP-0219-1693](#)).

being off-loaded in Deleig or taken on board. Then **ABD-AL-RAHMAN** moved to the fourth bus. While questioning people on the fourth bus, **ABD-AL-RAHMAN** saw that the three other buses were not moving and he started shouting. The buses promptly departed.¹⁰⁵⁰

346. As detailed above, in a residential compound in Deleig, **ABD-AL-RAHMAN** participated with members of the Militia/*Janjaweed* in the violent arrest of a Fur male.¹⁰⁵¹ **ABD-AL-RAHMAN** also brought arrested males to the open area near the police station.¹⁰⁵²

c. Being present in the open area near Deleig police station where the Fur males were being detained

347. **ABD-AL-RAHMAN** was present at the open area near the police station where the Fur males were being detained.¹⁰⁵³ He was also present inside the police station.¹⁰⁵⁴

d. Inspecting and questioning detainees, and deciding whether they would be released or not

348. **ABD-AL-RAHMAN** inspected new batches of detainees arriving at the open area near the police station.¹⁰⁵⁵ **ABD-AL-RAHMAN** also questioned detainees, and decided whether they would be released or not. For example, P-0718 was arrested with three of his cousins and brought to the area near the police station. After a teacher from Deleig school showed **ABD-AL-RAHMAN** his name in the school register, **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* to untie P-0718. However, he refused to release P-0718's cousins because their names were on a previous register and not this one. Instead, he ordered the Militia/*Janjaweed* to put them where the other detainees were lying on the ground. P-0718's cousins were later killed.¹⁰⁵⁶

e. Killing two or three Fur males by striking them to the head with a stick or axe-like object

¹⁰⁵⁰ [REDACTED].

¹⁰⁵¹ See above, para. 299.

¹⁰⁵² P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75. [REDACTED]. See P-0879, [DAR-OTP-0217-0033-R01](#) at 0039-0040, paras. 30-31, 36.

¹⁰⁵³ P-0092, [DAR-OTP-0112-0175-R01](#) at 0196, para. 88; P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 69 and 0046, para. 72; P-0718, [DAR-OTP-0209-2004-R01](#) at 2013, para. 62; P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, para. 43; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, paras. 15-16; P-0607, [DAR-OTP-0203-0164-R01](#) at 0177-0178, paras. 47, 49; P-0879, [DAR-OTP-0217-0033-R01](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R02](#) at 1935-1936, para. 69. See also P-0651, [DAR-OTP-0205-0015-R01](#) at 0028-0029, paras. 45-48; P-0584, [DAR-OTP-0200-1540-R01](#) at 1568-1569, paras. 103-109.

¹⁰⁵⁴ P-0584, [DAR-OTP-0200-1540-R01](#) at 1569, para. 107; P-0905, [DAR-OTP-0219-1202-R01](#) at 1233, l. 1052-1053, 1071 and 1241-1243, l. 1354-1355 and 1391-1398.

¹⁰⁵⁵ P-0607, [DAR-OTP-0203-0164-R01](#) at 0178, para. 50.

¹⁰⁵⁶ P-0718, [DAR-OTP-0209-2004-R01](#) at 2014-2015, paras. 67-71; P-0718, Annex B, [DAR-OTP-0209-2022](#) (Translation at [DAR-OTP-0219-1699](#)). A friend later pointed out **ABD-AL-RAHMAN** and told P-0718 who he was. See P-0718, [DAR-OTP-0209-2004-R01](#) at 2016, para. 78. See also P-0924, [DAR-OTP-0218-0455-R01](#) at 0473-0474, paras. 94-98.

349. This conduct is described above at paragraphs 301 to 305.

f. Mistreating detainees by standing and walking on their backs, hitting them with a stick or axe-like object, kicking them, and verbally abusing them

350. This conduct is described above at paragraphs 295 to 296.

g. Providing vehicles that were used to transport detainees, including to locations outside of Deleig where they were killed or attempted to be killed

351. The convoy of 12 vehicles led by **ABD-AL-RAHMAN** was used to transport detained Fur males to locations outside of Deleig where Militia/*Janjaweed* and GoS Forces unloaded, shot at and killed them. This convoy included two Land Cruiser vehicles belonging to **ABD-AL-RAHMAN**.¹⁰⁵⁷ Vehicles belonging to, or under the control of, **ABD-AL-RAHMAN** were also used to transport detainees from Garsila to Deleig,¹⁰⁵⁸ and within the town of Deleig.¹⁰⁵⁹

h. Ordering, being present during, and supervising the loading of detainees onto vehicles that transported them to locations outside of Deleig where they were killed or attempted to be killed

352. This conduct is described above at paragraphs 306 to 307.

i. Ordering the Militia/*Janjaweed* and/or GoS Forces to unload and then shoot and kill detained Fur males at one or more locations outside of Deleig

353. This conduct is described above at paragraphs 308 to 309.

j. Being present at one or more of the locations outside of Deleig where detainees were transported and then killed

354. This conduct is described above at paragraphs 308 to 309.

iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

355. **ABD-AL-RAHMAN** meant to engage in the conduct described above and intended to bring about the objective elements of the charged crimes and/or was aware that these crimes

¹⁰⁵⁷ [REDACTED].

¹⁰⁵⁸ See above, paras. 290-293.

¹⁰⁵⁹ P-0697, [DAR-OTP-0209-0155-R01](#) at 0167-0168, paras. 53-55; P-0671, [DAR-OTP-0206-0105-R01](#) at 0112-0114, paras. 26-34; P-0718, [DAR-OTP-0209-2004-R01](#) at 2013, paras. 58-62; P-0585, [DAR-OTP-0201-0037-R01](#) at 0059, para. 92.

would occur in the ordinary course of events in implementing the Deleig Common Plan. **ABD-AL-RAHMAN** was aware that the Deleig Common Plan involved an element of criminality. He was further aware of his essential role in the Deleig Common Plan, the essential nature of his contributions, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

356. **ABD-AL-RAHMAN**'s knowledge and intent is inferred from his close relationship with his co-perpetrators **HAMDI**, **HASSABALLAH** and **MANSUR** (paragraphs 86 to 87, 99, 103 to 106, and 110 to 112), direct perpetration of certain crimes (paragraphs 358 to 360), orders to perpetrators to commit crimes (paragraphs 361 to 366), presence at locations where crimes were being committed (paragraphs 306, 308 to 309, and 342 to 347), participation in the arrests and questioning of detainees (paragraph 348), and presence and involvement, with co-perpetrator **HAMDI**, in similar crimes committed in Mukjar and surrounding areas in the days or weeks preceding the charged crimes in Deleig (Section F, Crimes committed in Mukjar and surrounding areas).

357. More specifically, in relation to the killing of the group of detainees that included several Fur community leaders, on or about 7 March 2004, **ABD-AL-RAHMAN**'s knowledge and intent is inferred from a combination of factors, including:

- a. **ABD-AL-RAHMAN**'s direct involvement in their arrest, detention and, in the case of *Sheikh* Ismail Abdulaziz, *Umdah* Mohamed Suleiman Abdelshafa and Hassan Adam Musa, their transport to Deleig where more than 100 Fur males were arrested, detained and killed;¹⁰⁶⁰
- b. **ABD-AL-RAHMAN**'s reaction to the news that *Umdah* Kindiri, *Umdah* Jiddo Khamis and Jenif had been released in Garsila, and his subsequent orders to arrest them in Deleig, which were complied with;¹⁰⁶¹
- c. **ABD-AL-RAHMAN**'s killing of Jenif following his arrest in Deleig;¹⁰⁶²
- d. **ABD-AL-RAHMAN**'s prior involvement in the killing of Fur community leaders, including *Sheikh* Motor of Massa village, and several community leaders in Mukjar in late February/early March 2004, just days or weeks prior to the events in Deleig;¹⁰⁶³

¹⁰⁶⁰ See above, paras. 290-294.

¹⁰⁶¹ See above, paras. 290, 342.

¹⁰⁶² See above, paras. 303-305.

¹⁰⁶³ See above, para. 302 and Section F (Crimes committed in Mukjar and surrounding areas).

- e. **ABD-AL-RAHMAN**'s presence in the convoy of vehicles carrying the detainees in Deleig on or about 7 March 2004, and the discovery of their bodies shortly thereafter,¹⁰⁶⁴ and
- f. **ABD-AL-RAHMAN**'s statement [REDACTED] that the detainees would be taken to the Military Intelligence Office in Zalingei, and the failure of the detainees to ever arrive there.¹⁰⁶⁵

Direct perpetration under article 25(3)(a) of the Rome Statute

358. As described at paragraphs 301 to 305 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of murder as a crime against humanity and a war crime (Counts 27-28) by striking two or three Fur male detainees—a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man from Arawala known as Adam Jinet—to the head with a stick or axe-like object, killing them.

359. As described at paragraphs 295 to 296 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a crime against humanity (Count 24), cruel treatment as a war crime (Count 25), and outrages upon personal dignity as a war crime (Count 26) by standing or walking on the backs of detainees—who had been made to lie face down on the ground in the hot sun, some with their hands tied behind their backs and some blindfolded, for prolonged periods of time without access to food, water and sanitary facilities—hitting them with a stick or axe-like object, kicking them, and verbally abusing them.

360. Through this conduct, **ABD-AL-RAHMAN** also directly perpetrated the crime against humanity of persecution (Count 31). **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the facts and circumstances relating to this conduct, within the overall context.

Ordering under article 25(3)(b) of the Rome Statute

361. As detailed above at paragraphs 308 to 309, on or about 5 March 2004, in a location outside of Deleig, **ABD-AL-RAHMAN** ordered members of the Militia/*Janjaweed* and/or the GoS Forces to shoot and kill a group of detained Fur males. One or more of these members carried out **ABD-AL-RAHMAN**'s orders, which led to the commission of the crimes of murder as a crime against humanity and a war crime (Counts 27-28), attempted murder as a crime

¹⁰⁶⁴ See above, paras. 319-323.

¹⁰⁶⁵ See above, paras. 291, 323.

against humanity and a war crime (Counts 29-30), and persecution as a crime against humanity (Count 31).

362. **ABD-AL-RAHMAN** gave this order from a position of authority. As detailed in Section C, between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN**, as a senior Militia/*Janjaweed* leader, had a position of authority and influence.¹⁰⁶⁶ During the events in Deleig, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** had the authority to compel members of the Militia/*Janjaweed* and GoS Forces to commit crimes pursuant to his orders, notwithstanding that in some instances the superior-subordinate relationship may have been informal or temporary in nature.

363. **ABD-AL-RAHMAN** led one of the convoys that travelled from Garsila to Deleig to carry out the operation.¹⁰⁶⁷ His convoy contained approximately 12 vehicles and included members of both the Militia/*Janjaweed* and GoS Forces.¹⁰⁶⁸ [REDACTED].¹⁰⁶⁹

364. When **ABD-AL-RAHMAN** gave orders to Militia/*Janjaweed* and/or GoS Forces during the Deleig operation—for example, to put arrested persons into a vehicle,¹⁰⁷⁰ to beat detainees,¹⁰⁷¹ to release or continue to detain persons,¹⁰⁷² to bring a detainee out from a police cell,¹⁰⁷³ to load detainees into trucks,¹⁰⁷⁴ and to unload and then shoot and kill detainees¹⁰⁷⁵—his orders were immediately complied with.

365. Furthermore, witnesses observed that **ABD-AL-RAHMAN** appeared to be in charge during the operation.¹⁰⁷⁶ The Militia/*Janjaweed* and GoS Forces came to attention and saluted him when he arrived at a location.¹⁰⁷⁷ They addressed him as “*Jenabu* Ali” (meaning “commander Ali”).¹⁰⁷⁸ In addition, **ABD-AL-RAHMAN** had an escort of protection,¹⁰⁷⁹

¹⁰⁶⁶ See above, Section C (1), **ABD-AL-RAHMAN**’s position of authority and influence.

¹⁰⁶⁷ [REDACTED].

¹⁰⁶⁸ [REDACTED].

¹⁰⁶⁹ [REDACTED].

¹⁰⁷⁰ [REDACTED].

¹⁰⁷¹ [REDACTED].

¹⁰⁷² [REDACTED].

¹⁰⁷³ [REDACTED].

¹⁰⁷⁴ [REDACTED].

¹⁰⁷⁵ [REDACTED].

¹⁰⁷⁶ P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 69; P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, paras. 43-44; P-0027, [DAR-OTP-0216-0738-R01](#) at 0741, para. 16; P-0607, [DAR-OTP-0203-0164-R01](#) at 0178, para. 49.

¹⁰⁷⁷ P-0584, [DAR-OTP-0200-1540-R01](#) at 1568, para. 105.

¹⁰⁷⁸ P-0584, [DAR-OTP-0200-1540-R01](#) at 1568, para. 105.

¹⁰⁷⁹ P-0584, [DAR-OTP-0200-1540-R01](#) at 1568, para. 106. See also P-0059, [DAR-OTP-0095-0095-R01](#) at 0113, para. 120; P-0592, [DAR-OTP-0209-0825-R01](#) at 0844-0845, paras. 107-109; P-0671, [DAR-OTP-0206-0105-R01](#) at 0119-0120, paras. 59-60.

carried and used a Thuraya satellite phone,¹⁰⁸⁰ and held a stick or axe-like object,¹⁰⁸¹ all of which signalled his status as a senior leader.

366. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes is inferred from the facts and circumstances relating to this conduct, within the overall context.

Inducing under article 25(3)(b) of the Rome Statute

367. As detailed above at paragraphs 362 to 365, during the events in Deleig, between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** exerted influence over Militia/*Janjaweed* and GoS Forces, prompting them to commit the relevant crimes. Through the conduct described above, in particular at paragraphs 340 to 354, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in Counts 22 to 31 of the DCC. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 356 to 357.

Aiding, abetting or otherwise assisting in the commission or attempted commission of crimes under article 25(3)(c) of the Rome Statute

368. Through the conduct described above, in particular at paragraphs 340 to 354, **ABD-AL-RAHMAN** aided, abetted or otherwise assisted members of the Militia/*Janjaweed* and GoS Forces in the commission, or attempted commission, of the crimes charged in Counts 22 to 31 of the DCC. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 356 to 357.

Common purpose liability under article 25(3)(d) of the Rome Statute

369. Between about 5 and about 7 March 2004, **ABD-AL-RAHMAN** intentionally contributed to the commission and attempted commission of crimes by a group of persons acting with a common purpose. The common purpose was to target persons in Deleig, including persons displaced to Deleig from locations in the surrounding areas, perceived as belonging to, or being associated with, or supporting the rebel armed groups, including through the commission of the crimes of torture, other inhumane acts, cruel treatment, outrages upon personal dignity, murder, and persecution (“Deleig Common Purpose”).

370. The members of the group acting with the Deleig Common Purpose included Military

¹⁰⁸⁰ P-0591, [DAR-OTP-0202-0026-R01](#) at 0045, para. 69; P-0671, [DAR-OTP-0206-0105-R01](#) at 0116, paras. 43-45; P-0027, [DAR-OTP-0216-0738-R01](#) at 0743, para. 28; P-0584, [DAR-OTP-0200-1540-R01](#) at 1570, para. 110; P-0924, [DAR-OTP-0218-0455-R01](#) at 0470, para. 77.

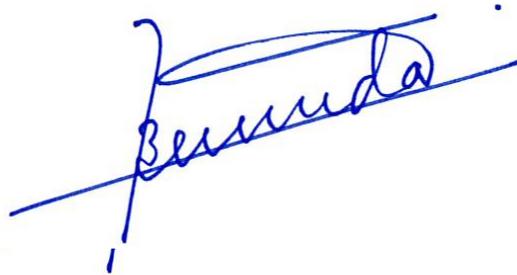
¹⁰⁸¹ P-0718, [DAR-OTP-0209-2004-R01](#) at 2014, para. 68.

Intelligence officer HAMDI, Military Intelligence officer MANSUR, and PDF officer HASSABALLAH, and other members of Militia/*Janjaweed* and GoS Forces. The presence and involvement of these persons is described above at paragraphs 335 to 339.

371. Through the conduct described above, in particular at paragraphs 340 to 354, **ABD-AL-RAHMAN** intentionally contributed to the commission, or attempted commission, of the crimes charged in Counts 22 to 31 of the DCC, by this group of persons acting with a common purpose. **ABD-AL-RAHMAN** made these contributions with the aim of furthering the criminal activity or criminal purpose of this group, and/or in the knowledge of the intention of the group to commit these crimes. **ABD-AL-RAHMAN**'s knowledge and intent with respect to these crimes can be inferred from the same factors identified above at paragraphs 356 to 357.

H. CONCLUSION

372. The facts set out in this PCB demonstrate substantial grounds to believe that **ABD-AL-RAHMAN** committed the crimes charged in the DCC. The Prosecution requests the Chamber to confirm all charges against **ABD-AL-RAHMAN** and commit this case for trial.



Ms Fatou Bensouda
Prosecutor

Dated this 21st day of May 2021

At The Hague, The Netherlands