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Pénale  
Internationale**



**International  
Criminal  
Court**

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Date: 4 February 2022

**TRIAL CHAMBER I**

**Before:** Judge Joanna Korner, Presiding Judge  
Judge Reine Alapini-Gansou  
Judge Althea Violet Alexis-Windsor

**SITUATION IN DARFUR, SUDAN**

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

**Public**

**With Public Redacted Annexes 9, 11-12, 14-15, 17, 19-20, 22-23 and 26**

**Public Redacted Version of  
Corrected Version of “Prosecution’s Trial Brief”, 5 January 2022, ICC-02/05-01/20-  
550-Conf-Exp-Corr**

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## A. INTRODUCTION

1. In accordance with the order of Trial Chamber I, the Prosecution hereby submits its Trial Brief (“TB”).<sup>1</sup> Pursuant to article 66(3) of the Rome Statute, the evidence summarised in this TB, in addition to that adduced during the course of the trial, will demonstrate beyond reasonable doubt that Ali Muhammad Ali ABD-AL-RAHMAN, also known as Ali KUSHAYB (“**ABD-AL-RAHMAN**”), committed the crimes charged in the Document Containing the Charges (“DCC”),<sup>2</sup> and confirmed by Pre-Trial Chamber II.<sup>3</sup>

## B. ALI MUHAMMAD ALI ABD-AL-RAHMAN IS ALSO KNOWN AS ALI KUSHAYB

2. **ABD-AL-RAHMAN** was born in Rahad Al-Berdi, South Darfur,<sup>4</sup> the Republic of the Sudan (“Sudan”).<sup>5</sup> He is a national of Sudan<sup>6</sup> and belongs to the Ta’aisha tribe.<sup>7</sup> His exact date of birth is not known but is estimated to be in or around 1949.<sup>8</sup> **ABD-AL-RAHMAN** was a member of the Sudanese Armed Forces (“SAF”) until around the early to middle 1990s and was part of the Medical Corps.<sup>9</sup> Upon retirement from the SAF, he opened a shop in Garsila situated near the Agricultural Bank from which he sold medication.<sup>10</sup> By at least 28 July 2005, **ABD-AL-RAHMAN** was affiliated with the Central Reserve Forces (“CRF”).<sup>11</sup> He resided in the Western Neighbourhood (*Al-Hay Al-Gharbi*) of Garsila.<sup>12</sup>

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<sup>1</sup> Conduct of Proceedings Directions, [ICC-02/05-01/20-478](#), paras. 5-6. Pursuant to regulation 23bis(1) of the Regulations of the Court, the Prosecution classifies the TB, and Annexes 6 and 17, as confidential, *ex parte*, available only to the Prosecution, since they contain information that might identify witnesses that were authorised for delayed disclosure of their identities. See [ICC-02/05-01/20-T-018-Conf-ENG](#), p. 51, l. 4-p. 54, l. 11. The Prosecution will simultaneously file confidential redacted versions of the TB and Annex 17.

<sup>2</sup> Document Containing the Charges, [ICC-02/05-01/20-325-Anx1-Corr2-Red](#).

<sup>3</sup> Confirmation Decision, [ICC-02/05-01/20-433-Corr](#).

<sup>4</sup> Agreed Fact 7, Annex A to Third Joint Submission on Agreed Facts, [ICC-02/05-01/20-504-AnxA](#).

<sup>5</sup> Agreed Fact 1, Annex A to Second Joint Submission on Agreed Facts, [ICC-02/05-01/20-343-AnxA](#).

<sup>6</sup> Agreed Fact 2, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>7</sup> Agreed Fact 4, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>8</sup> Agreed Fact 1, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>9</sup> Agreed Fact 10, [Annex A to Third Joint Submission on Agreed Facts](#). See also P-0883, [DAR-OTP-0218-0059-R01](#) at 0098, para. 213; P-0885, [DAR-OTP-0222-0749-R01](#) at 0770-0771, l. 716-745; P-0769, [DAR-OTP-0212-0018-R02](#) at 0086, para. 588; P-0921, [DAR-OTP-0219-3171-R02](#) at 3179, l. 276-282; P-0117, [DAR-OTP-0128-0042-R02](#) at 0071, para. 189; P-0103, [DAR-OTP-0120-0203-R02](#) at 0217, l. 536-542; P-0954, [DAR-OTP-0221-0571-R01](#) at 0581, para. 49.

<sup>10</sup> Agreed Facts 11 and 14, [Annex A to Third Joint Submission on Agreed Facts](#). See also P-0905, [DAR-OTP-0219-6379-R02](#) at 6405-6406, l. 892-924; P-0657, [DAR-OTP-0204-0592-R03](#) at 0597-0598, paras. 20, 27-28; P-0990, [DAR-OTP-0223-0217-R01](#) at 0219-0220, paras. 15-16.

<sup>11</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911); Agreed Fact 13, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>12</sup> Agreed Fact 15, [Annex A to Third Joint Submission on Agreed Facts](#); P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 79 and 0097, paras. 207, 209; P-0926, [DAR-OTP-0218-0738-R02](#) at 0741-0743, paras. 13, 16-17, 21; P-0589, [DAR-OTP-0223-0005-R01](#) at 0012-0013, para. 43.

3. Evidence from multiple sources, including **ABD-AL-RAHMAN**'s own conduct and words, establishes that at all times during the charged period, the Accused **ABD-AL-RAHMAN** was the person who was also known by the name Ali KUSHAYB.<sup>13</sup>

*Agreed facts show that ABD-AL-RAHMAN is Ali KUSHAYB*

4. **ABD-AL-RAHMAN** has agreed facts relating to his biographical information which demonstrate that he was also known as Ali KUSHAYB.<sup>14</sup>

5. **ABD-AL-RAHMAN** was interviewed by the Government of Sudan ("GoS") in November 2006 long before his interaction with the Prosecution.<sup>15</sup> The interview is signed by him and shows that he was also known as Ali KUSHAYB.<sup>16</sup> Many of the details contained in that interview match details that **ABD-AL-RAHMAN** has now agreed, for example, his ownership of a shop in Garsila situated near the Agricultural Bank from which he sold medication,<sup>17</sup> and his affiliation with the CRF.<sup>18</sup>

6. Furthermore, as set out in the following sub-sections, witnesses who knew **ABD-AL-RAHMAN** by his legal name, Ali Muhammad Ali ABD-AL-RAHMAN, as well as his alias Ali KUSHAYB, describe him in terms consistent with the biographical information that is now agreed. The possibility that all of these witnesses are wrong, or that they are speaking about an entirely different person, is implausible.

*ABD-AL-RAHMAN's words and conduct establish that he is Ali KUSHAYB*

7. The circumstances surrounding **ABD-AL-RAHMAN**'s surrender demonstrate that he is Ali KUSHAYB and that there is no question of mistaken identity. **ABD-AL-RAHMAN** voluntarily surrendered to the Court pursuant to an arrest warrant that expressly bore the name Ali KUSHAYB as the name of the suspect. To do so, he undertook a journey which he described

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<sup>13</sup> [Confirmation Decision](#), para. 60.

<sup>14</sup> See e.g. Agreed Facts 1-19, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>15</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911-6918).

<sup>16</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911, 6918). See also [DAR-OTP-0218-0231](#) at 0231 and 0239 for the original handwritten Arabic version.

<sup>17</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913); Agreed Facts 11 and 14, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>18</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913); Agreed Fact 13, [Annex A to Third Joint Submission on Agreed Facts](#).

as difficult and dangerous from Sudan to the Central African Republic.<sup>19</sup> At no point during the course of his surrender did **ABD-AL-RAHMAN** ever raise an issue of mistaken identity.<sup>20</sup>

8. On the contrary, shortly before his surrender and to confirm his identity, **ABD-AL-RAHMAN** sent a video through a third-party to the Prosecution in which he used the names **ABD-AL-RAHMAN** and Ali KUSHAYB when introducing himself.<sup>21</sup> Moreover, in two phone calls that **ABD-AL-RAHMAN** had with the Prosecution shortly before his surrender he did the same thing and used both the name **ABD-AL-RAHMAN** and “KUSHAYB” to introduce himself.<sup>22</sup>

9. At the time of his surrender to authorities of the Central African Republic (“CAR”) **ABD-AL-RAHMAN**, in the presence of Duty Counsel appointed by the Court and an interpreter, also signed a “*Procès-verbal de notification d’arrestation et de remise*” bearing the name Ali KUSHAYB.<sup>23</sup>

10. As to the reason for his surrender on the warrant for “Ali KUSHAYB”, **ABD-AL-RAHMAN** explained that he surrendered to the ICC in order to escape imminent arrest by the Sudanese authorities.<sup>24</sup> The Sudanese were about to arrest him for the crimes attributed to Ali KUSHAYB in Darfur when he fled to CAR.<sup>25</sup>

11. The argument that **ABD-AL-RAHMAN** voluntarily contacted the International Criminal Court (“Court”), sent a video to the Prosecution introducing himself by the names **ABD-AL-RAHMAN** and Ali KUSHAYB,<sup>26</sup> surrendered on an arrest warrant which contained the name Ali KUSHAYB, undertook dangerous cross-border travel to CAR, and in the presence of Duty Counsel appointed by the Court and an interpreter signed a “*Procès-verbal de notification d’arrestation et de remise*”<sup>27</sup> bearing the name Ali KUSHAYB, with the knowledge

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<sup>19</sup> Requête en vertu de l’Article 60-2, [ICC-02/05-01/20-12](#), para. 13; Requête et observations sur les réparations en vertu de l’Article 75-1, [ICC-02/05-01/20-98](#), para. 3; Réplique à la « Prosecution’s Response to ‘Requête en vertu de l’Article 60-2’ », [ICC-02/05-01/20-100](#), para. 16.

<sup>20</sup> Submissions Demonstrating Abd-Al-Rahman is Ali Kushayb, [ICC-02/05-01/20-224](#), paras. 17-21.

<sup>21</sup> [DAR-OTP-0216-0795](#) (Translation at [DAR-OTP-0216-0797](#) at 0799, l. 3-4); [Submissions Demonstrating Abd-Al-Rahman is Ali Kushayb](#), para. 23.

<sup>22</sup> [DAR-OTP-0215-6865](#) (Translation at [DAR-OTP-0215-6963](#) at 6966, l. 67-68); [DAR-OTP-0215-6873](#) (Translation at [DAR-OTP-0215-6974](#) at 0679, l. 112-115).

<sup>23</sup> Annex VIII to Registry Report on Arrest and Surrender of Abd-Al-Rahman, [ICC-02/05-01/20-90-Conf-Exp-AnxVIII-Red](#), p. 3.

<sup>24</sup> [ICC-02/05-01/20-T-009-Red-ENG](#), p. 66, l. 1-3.

<sup>25</sup> [DAR-OTP-0215-2766](#) at 2766.

<sup>26</sup> [DAR-OTP-0216-0795](#) (Translation at [DAR-OTP-0216-0797](#) at 0799, l. 3-4); [Submissions Demonstrating Abd-Al-Rahman is Ali Kushayb](#), para. 23.

<sup>27</sup> [Annex VIII to Registry Report on Arrest and Surrender of Abd-Al-Rahman](#), p. 2-3.

that the warrant was not for him or that the name Ali KUSHAYB is one he does not recognise, is incredible.

12. The evidence also shows that **ABD-AL-RAHMAN**'s use of his alias Ali KUSHAYB is not confined to his interactions with the Prosecution. He also used this name when interacting with the GoS. In a letter dated 9 December 2006 from the Ministry of Justice of the GoS to the Prosecution, the GoS stated that it had arrested a number of individuals suspected of being involved in crimes violating international humanitarian law. The name "Ali Mohammed Ali Abdul Rahman, also known as Ali Koshein [sic]" was listed as being amongst those arrested.<sup>28</sup> The Prosecution has obtained a copy of an interview with **ABD-AL-RAHMAN** conducted by a GoS investigation committee in November 2006.<sup>29</sup> The interview is signed by **ABD-AL-RAHMAN** and records his name as "Ali Muhammad 'Ali 'Abd-al-Rahman ('Ali KUSHAYB')".<sup>30</sup> It also contains details that match those that **ABD-AL-RAHMAN** now accepts are agreed facts. This includes his place of birth,<sup>31</sup> his membership of the CRF<sup>32</sup> and his ownership of a shop in Garsila from which he sold medication.<sup>33</sup>

*Multiple witnesses who knew ABD-AL-RAHMAN during the charged period state that ABD-AL-RAHMAN was also known as Ali KUSHAYB*

13. At least nine witnesses who worked for the GoS Forces<sup>34</sup> or for other government entities such as regional *zakat*<sup>35</sup> offices, and who personally knew **ABD-AL-RAHMAN**, provide evidence that he is also known as Ali KUSHAYB. P-0769, [REDACTED],<sup>36</sup> states that "Ali MOHAMED ALI ABDELRAHMAN is also known as Ali KUSHAYB."<sup>37</sup> P-0117, [REDACTED], states that "Ali Muhammad Ali Abd-Al-Rahman [...] ha[d] the nickname of

<sup>28</sup> [DAR-OTP-0123-0002](#) at 0003.

<sup>29</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911-6918).

<sup>30</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911 and 6918).

<sup>31</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913). See also Agreed Fact 7, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>32</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911). See also Agreed Fact 13, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>33</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913). See also Agreed Fact 11, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>34</sup> See below, para. 32.

<sup>35</sup> See below, paras. 70, 139, 144, 168, 218-219. *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; P-0589, [DAR-OTP-0223-0005-R01](#) at 0021, para. 93.

<sup>36</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0020, para. 17 and 0022, para. 32 and 0026, para. 68.

<sup>37</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0047-0048, paras. 248-249 and 0086, para. 585.



‘Ali Kushayb’<sup>38</sup>. Similarly, P-0012 [REDACTED], states that “Ali KUSHAYB[’s] [...] real name is Ali Muhammad ALI”.<sup>39</sup>

14. Similarly, P-0643, [REDACTED]<sup>40</sup> states, “I was asked if I knew Ali Kushayb by any other names. Ali Kushayb is more a title than his actual name but I do not know how he received it. Kushayb is a local alcoholic drink. I knew his name to be Ali Mohammed Ali.”<sup>41</sup> P-0905 explains that other names for Ali KUSHAYB were “Ali Mohammad Abd-Al-Rahman KUSHAYB.”<sup>42</sup> P-0921 states that “Ali ABD AL RAHMAN is known by the name of KUSHAYB and he is from the JANJAWOOD.”<sup>43</sup> P-0994 [REDACTED] used to refer to him by the name of Ali Kushayb and Abdul Rahman or something like that.”<sup>44</sup> P-0878 states that “Ali Muhammad Abd-Al-Rahman Ali, [was] better known as Ali Kushayb.”<sup>45</sup> He also lists “Ali Muhammad Abd-al-Rahman Ali (Ali Kushayb)” as being the leader of the *Janjaweed*.<sup>46</sup> P-0932 also states that Ali KUSHAYB has many names which include “Ali Mohammed Ahmed” and heard others call him by the name “Abd Al Rahman”.<sup>47</sup>

15. At least seven witnesses [REDACTED], where **ABD-AL-RAHMAN** [REDACTED],<sup>48</sup> state that he was known by the name Ali KUSHAYB. This includes P-0926 [REDACTED] claimed that Ali KUSHAYB was from [REDACTED] and that [REDACTED].<sup>49</sup> P-0926 also states that she “often saw Ali KUSHAYB [...] [that the] name KUSHAYB is a nickname [...] [and his] real name is Ali Mohamed Abdoul Rahman.”<sup>50</sup> P-0990 [REDACTED] knew **ABD-AL-RAHMAN** from before the conflict.<sup>51</sup> P-0990 states that he visited **ABD-AL-RAHMAN**’s pharmacy located in Garsila and had a conversation with him.<sup>52</sup> According to P-0990, **ABD-AL-RAHMAN** introduced himself as “Ali Muhammad Ali Abd-Al-Rahman.”<sup>53</sup> **ABD-AL-RAHMAN** also informed P-0990 that “he is known in the area by the name Kushayb”, and that “he was a former Master Sergeant in the Army but decided to open his own pharmacy.”<sup>54</sup>

<sup>38</sup> P-0117, [DAR-OTP-0128-0042-R02](#) at 0071, para. 189.

<sup>39</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>40</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0640, para. 12.

<sup>41</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0642, para. 26.

<sup>42</sup> P-0905, [DAR-OTP-0219-6770-R02](#) at 6792, l. 740-748.

<sup>43</sup> P-0921, [DAR-OTP-0219-3146-R02](#) at 3152, l. 182-187.

<sup>44</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0060, para. 24.

<sup>45</sup> P-0878, [DAR-OTP-0217-0334-R02](#) (Translation at [DAR-OTP-0215-9919-R03](#) at 9935).

<sup>46</sup> P-0878, [DAR-OTP-0215-9919-R03](#) at 9932.

<sup>47</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0606-0607, paras. 22-23.

<sup>48</sup> Agreed Fact 15, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>49</sup> P-0926, [DAR-OTP-0218-0738-R02](#) at 0742, para. 16.

<sup>50</sup> P-0926, [DAR-OTP-0218-0738-R02](#) at 0742, para. 17.

<sup>51</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0219, para. 15.

<sup>52</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0219, para. 15.

<sup>53</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0219, para. 15.

<sup>54</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0219, para. 15.

16. P-0903 states that “[he] knew Ali KUSHAYB from seeing him in Garsila, [REDACTED]. This was about 2 years before the conflict started. [He] recall[ed] seeing him at the local market”.<sup>55</sup> P-0903 later referred to **ABD-AL-RAHMAN** as “Ali Mohammed Ali Abdul RAHMAN (aka KUSHAYB).”<sup>56</sup> P-0935 states that he knew a person called “Ali MOHAMAD Ali Adulrahman, aka KUSHAYB [...] since around 2000-2001 when [REDACTED].”<sup>57</sup> P-0994 states that “[t]he local people in the Garsila area and surrounding towns used to refer to him by the name of Ali Kushayb and Abdul Rahman or something like that.”<sup>58</sup> P-0589, [REDACTED], states, “Ali KUSHAYB went by another name ‘*Ali something ABD-RAHMAN KUSHAYB*’ or something similar [...] However, he was commonly known as Ali KUSHAYB.”<sup>59</sup> P-0879 states [REDACTED] “Ali KUSHAYB” and that he knew Ali KUSHAYB from before the conflict.<sup>60</sup> He describes Ali KUSHAYB as having scars on his face.<sup>61</sup> P-0879 was “aware that Ali KUSHAYB [was] not his real name [and] heard from people [...] that his real name was something similar to ABDELRAHMAN.”<sup>62</sup>

*Multiple witnesses who knew ABD-AL-RAHMAN prior to or during the charged period have identified him as Ali KUSHAYB the Militia/Janjaweed leader*

17. Two witnesses who were familiar with and personally knew **ABD-AL-RAHMAN** also recognised him as Ali KUSHAYB the Militia/Janjaweed leader from publicly available videos following his surrender to the Court. P-0643 who knew **ABD-AL-RAHMAN** prior to 2003, as [REDACTED],<sup>63</sup> explains: “I have since seen television coverage of the proceedings at the International Criminal Court. It was widely reported on Sudanese television when Ali Kushayb was arrested. I instantly recognised the accused as Ali Kushayb when he was shown in the courtroom during proceedings.”<sup>64</sup> Similarly, P-0868 states that “it was probably during 2020 that I watched on Al-Jazeera TV channel that the ICC arrested Ali KUSHAYB. I saw the photo of Ali KUSHAYB during the news clip and recognised him.”<sup>65</sup>

18. In addition, four witnesses who knew **ABD-AL-RAHMAN** or Ali KUSHAYB well prior to the conflict were also shown the photograph of **ABD-AL-RAHMAN** in his passport,

<sup>55</sup> P-0903, [DAR-OTP-0221-0436-R02](#) at 0441, para. 27.

<sup>56</sup> P-0903, [DAR-OTP-0221-0436-R02](#) at 0448, para. 61.

<sup>57</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0716, para. 51.

<sup>58</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0060, para. 24.

<sup>59</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0012-0014, paras. 43, 53.

<sup>60</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0039, para. 30.

<sup>61</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0040, para. 34.

<sup>62</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0039, paras. 30-32.

<sup>63</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0640-0641, paras. 15-20.

<sup>64</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0642, para. 27.

<sup>65</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0146, para. 41.

dated 28 October 2006, that was with him at the time of his surrender to the Court.<sup>66</sup> These witnesses all recognised the passport photograph of **ABD-AL-RAHMAN** to be the same person they knew as Ali KUSHAYB. For example, P-0994, who “knew Ali Kushayb very well from before the start of the conflict [and] for more than 20 years”,<sup>67</sup> states: “The investigator showed me an image on the computer screen. I immediately recognised the person depicted in this image as being Ali Kushayb, whom I have known for many years and whom I refer to throughout this statement.”<sup>68</sup> Other witnesses, including [REDACTED],<sup>69</sup> P-0885,<sup>70</sup> and P-1021, [REDACTED],<sup>71</sup> all recognised **ABD-AL-RAHMAN**'s 2006 passport photograph to be the person they knew as Ali KUSHAYB.

*ABD-AL-RAHMAN's ownership of a shop selling medicines further identifies him as Ali KUSHAYB*

19. It is an agreed fact that **ABD-AL-RAHMAN** owned and operated a shop in Garsila which was situated near the Agricultural Bank and from which he sold medication.<sup>72</sup> It is further agreed that he was a member of the SAF<sup>73</sup> and by at least 2005 was a member of the CRF.<sup>74</sup>

20. At least three witnesses who knew **ABD-AL-RAHMAN**, and were aware that he was also called Ali KUSHAYB, corroborate these agreed facts. The agreed facts are also corroborated by evidence from multiple other witnesses who knew **ABD-AL-RAHMAN** either by that name alone or knew him by the alias Ali KUSHAYB. All of these witnesses explain that the person they knew owned and operated a shop (or pharmacy) that sold medication in Garsila. Some specify that the shop was located close to the Agricultural Bank in Garsila. Some also specify that the person they describe was a retired soldier or member of the GoS Forces.

21. P-0935 who knew **ABD-AL-RAHMAN** from before the conflict and was aware that he was also called Ali KUSHAYB states that “Ali KUSHAYB was a retired soldier, who had started a pharmacy at the local market in Garsila following his retirement.”<sup>75</sup> P-0990 who knew

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<sup>66</sup> [DAR-OTP-0216-0248](#) at 0250. See Decision on Prosecution Request for Evidence in Registry Custody, [ICC-02/05-01/20-123-Red](#), para. 9.

<sup>67</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0060, para. 23.

<sup>68</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0074, para. 93.

<sup>69</sup> [REDACTED], and [DAR-OTP-0221-0694-R01](#) at 0696, para. 16. See also [DAR-OTP-0221-0778](#).

<sup>70</sup> [REDACTED]. See also [DAR-OTP-0222-0037](#).

<sup>71</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1149-1150, l. 499-521, and [DAR-OTP-0221-1326-R01](#) at 1337-1338, l. 373-387. See also [DAR-OTP-0221-0891](#).

<sup>72</sup> Agreed Facts 11 and 14, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>73</sup> Agreed Fact 10, [Annex A to Third Joint Submission on Agreed Facts](#).

<sup>74</sup> Agreed Fact 13, [Annex A to Third Joint Submission on Agreed Facts](#). See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911).

<sup>75</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0716, para. 51. See also, para. 15 above.

**ABD-AL-RAHMAN**, and knew that he was also called Ali KUSHAYB, states that “Ali KUSHAYB’s pharmacy was the only one located near the Agricultural Bank.”<sup>76</sup> P-0878 similarly states that “Ali Muhammad Abd-Al-Rahman Ali, better known as Ali Kushayb [...] retired from the military as a warrant officer [...] started a pharmacy selling veterinary drugs.”<sup>77</sup>

22. Other witnesses who state that the Ali KUSHAYB they knew owned and operated a shop that sold medication in Garsila include: P-0987, [REDACTED] Ali KUSHAYB later [...] opened a shop for veterinary medicines at the local market in Garsila”;<sup>78</sup> P-0895, [REDACTED] Ali KUSHAYB [REDACTED] states that he lived in the Western Neighbourhood of Garsila;<sup>79</sup> P-0657, who states that Ali KUSHAYB had a scar on his face;<sup>80</sup> P-0589;<sup>81</sup> P-0643;<sup>82</sup> [REDACTED];<sup>83</sup> P-0879;<sup>84</sup> P-0894;<sup>85</sup> P-0907;<sup>86</sup> P-0926;<sup>87</sup> P-0932;<sup>88</sup> P-0955;<sup>89</sup> P-0973;<sup>90</sup> P-0986;<sup>91</sup> P-0987;<sup>92</sup> and P-0994.<sup>93</sup>

*ABD-AL-RAHMAN’s position of authority establishes that he is Ali KUSHAYB*

23. The evidence also establishes that **ABD-AL-RAHMAN** and Ali KUSHAYB are the same person because they occupied the same position of authority as a Militia/*Janjaweed* leader. Several witnesses, including P-0012,<sup>94</sup> P-0643,<sup>95</sup> P-0903<sup>96</sup> and P-0926,<sup>97</sup> who knew **ABD-AL-RAHMAN** by both names, state that he was a Militia/*Janjaweed* leader. Other witnesses, who knew **ABD-AL-RAHMAN** only by the name Ali KUSHAYB, such as P-

<sup>76</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0219, para. 15. *See also*, para. 15 above.

<sup>77</sup> P-0878, [DAR-OTP-0215-9919-R03](#) at 9935.

<sup>78</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 24.

<sup>79</sup> P-0895, [DAR-OTP-0215-7164-R02](#) at 7179-7180, paras. 57-61.

<sup>80</sup> P-0657, [DAR-OTP-0204-0592-R03](#) at 0598, paras. 24-28.

<sup>81</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0013, paras. 45-46.

<sup>82</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0640, para. 15.

<sup>83</sup> [REDACTED].

<sup>84</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0040-0041, paras. 36-40.

<sup>85</sup> P-0894, [DAR-OTP-0217-0103-R02](#) at 0117, paras. 88-90.

<sup>86</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0681-0682, paras. 72-74.

<sup>87</sup> P-0926, [DAR-OTP-0218-0738-R02](#) at 0742, para. 17.

<sup>88</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0607, paras. 24-25.

<sup>89</sup> P-0955, [DAR-OTP-0220-0620-R02](#) at 0633, para. 53.

<sup>90</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0739-0740, para. 15.

<sup>91</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0442, para. 26.

<sup>92</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 24.

<sup>93</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0060, para. 23.

<sup>94</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>95</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0641-0642, paras. 19, 26.

<sup>96</sup> P-0903, [DAR-OTP-0221-0436-R02](#) at 0448, para. 61.

<sup>97</sup> P-0926, [DAR-OTP-0218-0738-R02](#) at 0742, para. 17 and 0744, para. 26.

0060,<sup>98</sup> P-0091,<sup>99</sup> P-0092,<sup>100</sup> P-0129,<sup>101</sup> P-0585,<sup>102</sup> P-0617,<sup>103</sup> P-0895,<sup>104</sup> P-0907,<sup>105</sup> and P-0987,<sup>106</sup> also state that he was a Militia/*Janjaweed* leader.

24. Moreover, another common feature between **ABD-AL-RAHMAN** and Ali KUSHAYB is that various witnesses describe persons that they knew by these names as having had the same subordinates.<sup>107</sup> P-0883,<sup>108</sup> P-0012,<sup>109</sup> and P-1021<sup>110</sup> state that Muhammad Adam BONJOUSE (“BONJOUSE”) was known to be a common deputy. P-0012,<sup>111</sup> P-0041,<sup>112</sup> P-0606,<sup>113</sup> P-0757,<sup>114</sup> P-0877,<sup>115</sup> [REDACTED],<sup>116</sup> and P-0921<sup>117</sup> state that Al-Dayf SAMIH (“SAMIH”) was a common subordinate. P-0012<sup>118</sup> P-0601<sup>119</sup> and [REDACTED]<sup>120</sup> also state that Hamuda HAMDAN (“HAMDAN”) was a common subordinate.

25. The possibility that these witnesses are speaking about two separate individuals that occupy the same position of authority with the same subordinates is implausible.

26. In summary, the above body of evidence establishes that at all times during the charged period **ABD-AL-RAHMAN** was also known by the name Ali KUSHAYB and that any claim to the contrary is unsustainable.

### C. BACKGROUND

<sup>98</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0333, para. 19.

<sup>99</sup> P-0091, [DAR-OTP-0112-0142-R03](#) at 0161, para. 91.

<sup>100</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0189, para. 63.

<sup>101</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0134-0135, paras. 24-25.

<sup>102</sup> P-0585, [DAR-OTP-0201-0037-R02](#) at 0044, para. 26 and 0049-0050, paras. 46-47, 51 and 0065-0066, paras. 118-120.

<sup>103</sup> P-0617, [DAR-OTP-0202-1496-R02](#) at 1531, para. 96.

<sup>104</sup> P-0895, [DAR-OTP-0215-7164-R02](#) at 7174, para. 36.

<sup>105</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0682, para. 77.

<sup>106</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 24.

<sup>107</sup> See below, paras. 104-108.

<sup>108</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0103, para. 239.

<sup>109</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>110</sup> P-1021, [DAR-OTP-0221-1111-R01](#) at 1122, l. 347-375, and [DAR-OTP-0221-1247-R01](#) at 1265, l. 596-611.

<sup>111</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>112</sup> P-0041, [DAR-OTP-0206-0033-R02](#) at 0040, para. 24.

<sup>113</sup> P-0606, [DAR-OTP-0203-0193-R01](#) at 0222, para. 100.

<sup>114</sup> P-0757, [DAR-OTP-0211-0003-R02](#) at 0021, para. 70.

<sup>115</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0217, para. 34.

<sup>116</sup> [REDACTED].

<sup>117</sup> P-0921, [DAR-OTP-0219-3146-R02](#) at 3158, l. 391-409. Regarding SAMIH’s position as a Militia/*Janjaweed* leader, see also P-0932, [DAR-OTP-0222-0602-R01](#) at 0608-0609, paras. 31, 34. See below, paras. 105-106.

<sup>118</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>119</sup> P-0601, [DAR-OTP-0202-1588-R02](#) at 1605, para. 75.

<sup>120</sup> [REDACTED].

27. In 2003 and 2004, Darfur was divided into three states: North, South and West Darfur.<sup>121</sup> Each state was divided into localities.<sup>122</sup> 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.<sup>123</sup> The Arab tribes in West Darfur included the Rizeigat, Beni Halba, Misseriya and Salamat.<sup>124</sup> Between August 2003 and April 2004, the political leadership structure in West Darfur included, at the state level, a State Governor<sup>125</sup> in Al Geneina, and at the locality level, a Commissioner within each locality. Between August 2003 and April 2004, Suleiman Abdullah ADAM was the Governor of West Darfur.<sup>126</sup> 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, and each reported to Governor ADAM.<sup>127</sup>

28. 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 Arab tribes, *emirs* and military leaders called *agids*.<sup>128</sup> The *sheikh* served as the administrator of the village and collected taxes that would be sent to the *umdah* who paid the locality.<sup>129</sup> The *umdah* represented a larger area than a *sheikh*, with the authority to resolve conflicts between the tribes.<sup>130</sup> The *shartay* served as the chief of the *umdahs* and was also in charge of solving tribal conflicts.<sup>131</sup>

<sup>121</sup> [DAR-OTP-0018-0010](#) at 0023, para. 51. In January 2012, two new states, Central Darfur and Eastern Darfur, were established. See [DAR-OTP-0209-0196](#) at 0205.

<sup>122</sup> Second Joint Submission on Agreed Facts, [ICC-02/05-01/20-343](#), para. 3; Agreed Fact, Annex B to Second Joint Submission on Agreed Facts, [ICC-02/05-01/20-343-AnxB](#) ("Agreed Fact, [West Darfur Planning Map](#)"). See also Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

<sup>123</sup> [DAR-OTP-0003-0099](#) at 0106.

<sup>124</sup> [DAR-OTP-0145-0237](#) at 0277; P-0643, [DAR-OTP-0215-0358-R02](#) at 0383, l. 843-858; P-0905, [DAR-OTP-0219-6379-R02](#) at 6414, l. 1177-1208.

<sup>125</sup> A number of witnesses state that the State Governors in Darfur reported to HARUN. See e.g. P-0118, [DAR-OTP-0125-0665-R03](#) at 0696-0697, para. 154; P-0001, [DAR-OTP-0060-0247](#) at 0254-0255, para. 47; [DAR-OTP-0027-0271](#) (Translation at [DAR-OTP-0219-3573](#) at 3588).

<sup>126</sup> [DAR-OTP-0139-0033](#) at 0040; P-0044, [DAR-OTP-0095-0049-R01](#) at 0075, para. 122.

<sup>127</sup> P-0041, [DAR-OTP-0206-0033-R02](#) at 0037, para. 16; P-0188, [DAR-OTP-0216-0060-R02](#) at 0072, para. 71; P-0643, [DAR-OTP-0215-0358-R02](#) at 0370, l. 378-408, and [DAR-OTP-0215-0417-R02](#) at 0436, l. 645-650.

<sup>128</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0179, para. 13; P-0643, [DAR-OTP-0215-0440-R02](#) at 0441, l. 34-35, and [DAR-OTP-0215-0546-R02](#) at 0554-0556, l. 250-314; [REDACTED]. Alternative spellings of *agid* include *aqid*, *akid*, and *aquid*.

<sup>129</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0055, para. 26.

<sup>130</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0055, paras. 29-30; P-0884, [DAR-OTP-0216-0503-R02](#) at 0507, para. 20.

<sup>131</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0056, para. 34; P-0884, [DAR-OTP-0216-0503-R02](#) at 0507, para. 20.

29. The *nazir* and *emir* were the heads of the other Arab tribal leaders<sup>132</sup> and served as the liaison with officials of the GoS.<sup>133</sup> In 2003 and 2004, Hussein AL-HILU was the *emir* for all Arab tribes in Wadi Salih.<sup>134</sup> The *agids* were the military leaders in Arab tribes<sup>135</sup> and were responsible for security of a village, including investigating theft of cattle<sup>136</sup> or money,<sup>137</sup> as well as commanding, mobilising, equipping and training fighters.<sup>138</sup> The head of all the other *agids* within a particular area was called the *agid al-ogada*<sup>139</sup> also known as *emir*, who would lead the Janjaweed during armed conflict.<sup>140</sup> 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.<sup>141</sup>

#### D. CONTEXTUAL ELEMENTS OF ARTICLE 8 AND ARTICLE 7

##### 1) Contextual elements of article 8 (War crimes)

30. From at least April 2003 until at least April 2004, an armed conflict not of an international character was ongoing in Sudan, including Darfur.<sup>142</sup> 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”.<sup>143</sup>

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

###### Parties to the armed conflict

31. 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.<sup>144</sup> The two main rebel armed groups

<sup>132</sup> P-0040, [DAR-OTP-0094-0165-R02](#) at 0171, para. 31; P-0905, [DAR-OTP-0219-6704-R02](#) at 6738-6739, l. 1157-1180; P-0092, [DAR-OTP-0112-0175-R02](#) at 0179, paras. 13, 16.

<sup>133</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0179, para. 16; P-0083, [DAR-OTP-0110-0002-R02](#) at 0027-0028, paras. 99-100.

<sup>134</sup> P-0643, [DAR-OTP-0215-0546-R02](#) at 0554-0555, l. 250-282; P-0905, [DAR-OTP-0219-6704-R02](#) at 6737-6739, l. 1121-1208; P-0059, [DAR-OTP-0095-0095-R02](#) at 0099, para. 22; P-0129, [DAR-OTP-0128-0128-R04](#) at 0134, para. 24; P-0585, [DAR-OTP-0201-0037-R02](#) at 0044, para. 26; P-0041, [DAR-OTP-0206-0033-R02](#) at 0040, para. 25.

<sup>135</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0441, l. 34-35; P-0884, [DAR-OTP-0216-0503-R02](#) at 0514, para. 54.

<sup>136</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0576, para. 25.

<sup>137</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0682, para. 77.

<sup>138</sup> P-0083, [DAR-OTP-0110-0002-R02](#) at 0031, para. 114; P-0040, [DAR-OTP-0094-0165-R02](#) at 0171, para. 32.

<sup>139</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0442-0443, l. 47-73; P-0643, [DAR-OTP-0218-0638-R02](#) at 0641, para. 19.

<sup>140</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0576, para. 25. P-0044 states that the *agid al-ogada* would in turn report to the *agid shush* who was the highest authority within the internal structure of the Arab militias for the locality. See P-0044, [DAR-OTP-0095-0049-R01](#) at 0069, paras. 97-98. [REDACTED]. See [REDACTED].

<sup>141</sup> See below, paras. 90 to 102.

<sup>142</sup> Agreed Fact 1, Annex A to First Joint Submission on Agreed Facts, [ICC-02/05-01/20-291-AnxA](#); [DAR-OTP-0018-0010](#) at 0025-0030, paras. 61-76; [DAR-OTP-0080-0024](#).

<sup>143</sup> *Ntaganda* Trial Judgment, [ICC-01/04-02/06-2359](#), para. 701; *Ongwen* Trial Judgment, [ICC-02/04-01/15-1762-Red](#), para. 2683.

<sup>144</sup> Agreed Fact 2, [Annex A to First Joint Submission on Agreed Facts](#).

opposing the GoS in Darfur were the Sudan Liberation Movement/Army (“SLM/A”) and the Justice and Equality Movement (“JEM”).<sup>145</sup>

### Government of Sudan forces

32. The GoS forces included the SAF, also known as the Sudanese People’s Armed Forces, the Popular Defence Forces (“PDF”), the CRF, the Popular Police Forces (“PPF”), and the Sudanese Police (“Police”) (together, the “GoS Forces”).<sup>146</sup>

33. The SAF were the official armed forces of Sudan<sup>147</sup> and thereby had the necessary degree of organisation. The SAF included the Military Intelligence Branch.<sup>148</sup> As conventional armed forces, the SAF had a hierarchical chain of command.<sup>149</sup> President Omar Hassan Ahmad AL-BASHIR (“AL-BASHIR”)<sup>150</sup> was the supreme commander of the SAF.<sup>151</sup> Lieutenant General Abbas ARABI was the Chief of Staff of the SAF.<sup>152</sup> SAF headquarters were in Khartoum.<sup>153</sup>

34. The Western Area Command of the SAF, responsible for the entire region 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”) [REDACTED].<sup>154</sup> Relevant units and personnel under the Western Area Command included the 6<sup>th</sup> Division in Al Fasher, under the command of Major General Muhammad FA’IZ (“Major General FA’IZ”),<sup>155</sup> the 16<sup>th</sup> Division

<sup>145</sup> Agreed Facts 3-4, [Annex A to First Joint Submission on Agreed Facts](#); [DAR-OTP-0018-0010](#) at 0029-0043, paras. 75-141; [DAR-OTP-0005-0308](#).

<sup>146</sup> [DAR-OTP-0018-0010](#) at 0030-0034, paras. 78-97; P-0117, [DAR-OTP-0128-0042-R02](#) at 0057-0066, paras. 87-150; P-0290, [DAR-OTP-0160-0471-R01](#) at 0537-0542, l. 2191-2359.

<sup>147</sup> [DAR-OTP-0139-0003](#) at 0026 (Article 122); [DAR-OTP-0103-0564](#) (Translation at [DAR-OTP-0118-0075](#)). See also Agreed Fact 9, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>148</sup> P-0117, [DAR-OTP-0128-0042-R02](#) at 0060, para. 105; P-0769, [DAR-OTP-0212-0018-R02](#) at 0027, para. 78; P-0883, [DAR-OTP-0218-0059-R01](#) at 0062, para. 18 and 0101, para. 224; P-0935, [DAR-OTP-0218-0705-R02](#) at 0708, para. 17.

<sup>149</sup> [DAR-OTP-0139-0003](#) at 0009 and 0026 (Articles 42, 122); [DAR-OTP-0103-0564](#) (Translation at [DAR-OTP-0118-0075](#)); P-0118, [DAR-OTP-0125-0665-R03](#) at 0698-0699, paras. 160-164.

<sup>150</sup> Agreed Fact 5, [Annex A to Second Joint Submission on Agreed Facts](#).

<sup>151</sup> [DAR-OTP-0139-0003](#) at 0009 (Article 42); [DAR-OTP-0103-0564](#) (Translation at [DAR-OTP-0118-0075](#) at 0084) (Article 11).

<sup>152</sup> P-0118, [DAR-OTP-0125-0665-R03](#) at 0697, para. 155; P-0112, [DAR-OTP-0125-0002-R02](#) at 0015, para. 64.

<sup>153</sup> P-0118, [DAR-OTP-0125-0665-R03](#) at 0669, para. 18 and 0698-0699, paras. 160-164; P-0034, [DAR-OTP-0118-0002-R03](#) at 0017, para. 78.

<sup>154</sup> [REDACTED].

<sup>155</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0091-0092, para. 177 and 0100, para. 220. See also [DAR-OTP-0051-0205](#) at 0263 (Translation at [DAR-OTP-0219-4294](#) at 4353); ABD-AL-RAHMAN’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6917); P-0954, [DAR-OTP-0221-0571-R01](#) at 0581, para. 48. Major General FA’IZ was preceded by Brigadier Ya’qub Ibrahim MANZUL (at least October 2003-February 2004), see [DAR-OTP-0034-0166](#) at 0170 (Translation at [DAR-OTP-0153-0778](#) at 0783); [DAR-OTP-0051-0205](#) at 0254 (Translation at [DAR-OTP-0219-4294](#) at 4344); [DAR-OTP-0051-0205](#) at 0261 (Translation at [DAR-OTP-0219-4294](#) at 4351). In turn, Brigadier MANZUL was preceded by Colonel Ali Adam HARUN, see [DAR-OTP-0051-0205](#) at 0243 (Translation at [DAR-OTP-0219-4294](#) at 4333).



in Nyala,<sup>156</sup> and the 96<sup>th</sup> Brigade in Zalingei, under the command of Brigadier Kamaldeen FADLALLAH.<sup>157</sup> The Garsila Battalion of the 96<sup>th</sup> Brigade was under the command of Major Muhammad Musa Adam Khatir BAKHIT (“Major BAKHIT”).<sup>158</sup> The Garsila Battalion was sub-divided into companies and regiments, which were based in locations including Garsila, Mukjar, Bindisi, Deleig and Arawala.<sup>159</sup> The Head of the SAF Military Intelligence Office in Garsila was Lieutenant Hamdi Sharaf-Al-Din SID AHMAD (“HAMDI”).<sup>160</sup>

35. The PDF (*Al-Difa’ Al-Sha’bi*), created pursuant to the Popular Defence Forces Act in 1989, were “[p]aramilitary forces” that were “assist[ing] the armed forces and other regular forces when required.”<sup>161</sup> The PDF comprised two parts, a civilian coordinating body responsible for, in particular, the mobilisation of civilians into the PDF, and a military body, responsible for leading operations, training and various other duties.<sup>162</sup>

36. The civilian part of the PDF was headed by a General Coordinator appointed by, and reporting directly to, AL-BASHIR.<sup>163</sup> There were also civilian PDF coordinators at the State and locality level responsible for mobilising civilians into the PDF at the request of the GoS.<sup>164</sup> Of particular relevance in this case are [REDACTED]<sup>165</sup> and Garsila PDF officer (later Garsila

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<sup>156</sup> P-0103, [DAR-OTP-0120-0203-R02](#) at 0218, l. 591-596; P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 33 and 0580, para. 46. From around mid-March 2004, Brigadier Abdallah Muhammad ABDYOU was the Commander of the 16th Division, see [DAR-OTP-0014-0249](#) at 0250-0251; P-0954, [DAR-OTP-0221-0571-R01](#) at 0575, para. 23; [DAR-OTP-0048-0045](#) at 0052-0053; [DAR-OTP-0016-0179](#) at 0187. Brigadier ABDYOU was preceded by General Ugail MUHAMMAD, see [DAR-OTP-0014-0249](#) at 0250-0251. While [DAR-OTP-0014-0249](#) at 0250 refers to Brigadier ABDYOU and General MUHAMMAD as Commanders of the “6th” Division, the Prosecution’s position, based on the other relevant sources of evidence, is that this was intended to be a reference to the “16th” Division.

<sup>157</sup> P-0290, [DAR-OTP-0160-0471-R01](#) at 0495, l. 775-799; [DAR-OTP-0107-0627](#) at 0627; P-0103, [DAR-OTP-0120-0203-R02](#) at 0218, l. 583-585; 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; P-0905, [DAR-OTP-0219-6704-R02](#) at 6730-6731, l. 884-913; ABD-AL-RAHMAN’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6918).

<sup>158</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0062, para. 18 and 0101, para. 222; P-0643, [DAR-OTP-0215-0417-R02](#) at 0438, l. 724-729; P-0935, [DAR-OTP-0218-0705-R02](#) at 0708, para. 14. See also ABD-AL-RAHMAN’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6915).

<sup>159</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0101, para. 222; P-0987, [DAR-OTP-0221-0416-R01](#) at 0420, paras. 17-19.

<sup>160</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0062, para. 18; P-0935, [DAR-OTP-0218-0705-R02](#) at 0708, para. 16; P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 26.

<sup>161</sup> [DAR-OTP-0123-0426](#) at 0428; [DAR-OTP-0116-0889](#) at 0891; [DAR-OTP-0139-0003](#) at 0027. See also P-0118, [DAR-OTP-0125-0665-R03](#) at 0707, paras. 200-203; P-0883, [DAR-OTP-0218-0059-R01](#) at 0101-0102, paras. 227-228; P-0091, [DAR-OTP-0112-0142-R03](#) at 0146, para. 17.

<sup>162</sup> P-0547, [DAR-OTP-0204-0003-R01](#) at 0025, para. 59; P-0769, [DAR-OTP-0212-0296-R02](#) at 0319, paras. 176-177; P-0895, [DAR-OTP-0215-7164-R02](#) at 7171, para. 26.

<sup>163</sup> [DAR-OTP-0123-0426](#) at 0427-0428; P-0769, [DAR-OTP-0212-0296-R02](#) at 0318, para. 174; P-0547, [DAR-OTP-0204-0003-R01](#) at 0026, para. 61; P-0117, [DAR-OTP-0128-0042-R02](#) at 0062, para. 114.

<sup>164</sup> [REDACTED].

<sup>165</sup> [REDACTED].

PDF coordinator) Abd-Al-Rahman Dawud HAMMUDAH, also known as HASSABALLAH (“HASSABALLAH”).<sup>166</sup>

37. The military part of the PDF was headed by a General Commander who reported to the head of the Joint Chiefs of Staff of the SAF.<sup>167</sup> During the charged period, PDF units in the Wadi Salih area, including Mukjar and Garsila, were headed by the PDF unit in Nyala.<sup>168</sup> The PDF in Nyala was considered a support unit within the 16<sup>th</sup> Division of the SAF.<sup>169</sup>

38. For operational and logistical purposes, PDF members coordinated closely with the SAF.<sup>170</sup> Officers and non-commissioned officers from the SAF would be seconded to the PDF in order to organise it in a military manner in relation to supplies, training and general services.<sup>171</sup> These military officers would coordinate between the SAF and the troops of the PDF that carried out operations which, during the relevant period, were the Militia/*Janjaweed*.<sup>172</sup> During PDF operations, including in Wadi Salih, the SAF leadership would provide a small number of soldiers from the SAF to assist the PDF, who in practice were the Militia/*Janjaweed* during the relevant period. These operations would be referred to as common operations and required close coordination between the SAF and the Militia/*Janjaweed*.<sup>173</sup>

39. 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.<sup>174</sup> The PPF (*Al-Shurta Al-Sha’bia*), established in 1990,<sup>175</sup> were the reserve force of local citizens raised to augment the regular police.<sup>176</sup> The Police were a regular national force for the

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<sup>166</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0063, para. 22; P-0885, [DAR-OTP-0222-0749-R01](#) at 0765, l. 538-548 and 0775, l. 863-866, and [DAR-OTP-0222-0784-R01](#) at 0813, l. 952-954; P-0931, [DAR-OTP-0219-8682-R01](#) at 8687-8690, l. 160-163, 187-268; P-0931, [DAR-OTP-0219-8775-R01](#) at 8790 l. 488-496; P-0935, [DAR-OTP-0218-0705-R02](#) at 0718, para. 58; P-0895, [DAR-OTP-0215-7164-R02](#) at 7171, para. 27.

<sup>167</sup> P-0547, [DAR-OTP-0212-0296-R02](#) at 0318, para. 174. *See also* [REDACTED].

<sup>168</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0576, para. 27.

<sup>169</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 33.

<sup>170</sup> [DAR-OTP-0018-0010](#) at 0031, para. 83; [REDACTED]; P-0103, [DAR-OTP-0120-0186-R02](#) at 0190, l. 137-152; P-0883, [DAR-OTP-0218-0059-R01](#) at 0101-0102, paras. 227-228. *See also* P-0118, [DAR-OTP-0125-0665-R03](#) at 0707, para. 201; [DAR-OTP-0139-0003](#) at 0027.

<sup>171</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0575, para. 24.

<sup>172</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0575-0576, paras. 24, 26-27.

<sup>173</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0580, para. 46.

<sup>174</sup> P-0769, [DAR-OTP-0212-0296-R02](#) at 0321, paras. 195-196; P-0083, [DAR-OTP-0110-0002-R02](#) at 0037, para. 144; P-0883, [DAR-OTP-0218-0059-R01](#) at 0104, paras. 243-246.

<sup>175</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0083, para. 553. *See also* P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 256.

<sup>176</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 257; P-0976, [DAR-OTP-0222-0526-R01](#) at 0528, para. 12; P-0895, [DAR-OTP-0215-7164-R02](#) at 7171, para. 28.

protection of public order.<sup>177</sup> The CRF,<sup>178</sup> PPF<sup>179</sup> and Police<sup>180</sup> were all part of the Ministry of the Interior. The Minister of the Interior was Abdel Raheem Muhammad HUSSEIN (“HUSSEIN”) and his deputy was State Minister for the Ministry of the Interior Ahmad Muhammad HARUN (“HARUN”).<sup>181</sup>

40. Militia/*Janjaweed*, also known as *Fursan*, *Bashmerga* or *Mujahidin*,<sup>182</sup> fought in the armed conflict on the GoS side.<sup>183</sup> The GoS co-opted the Militia/*Janjaweed* in order to help the GoS Forces fight the SLM/A and JEM.<sup>184</sup> Certain Militia/*Janjaweed* members were integrated into the GoS Forces, including the PDF, and received funding, weapons and military training.<sup>185</sup> During the charged period, the GoS Forces and Militia/*Janjaweed* conducted joint military operations against rebel bases and areas perceived to be rebel strongholds, including Sindu, Kodoom, Bindisi, Arawala, Mukjar and Deleig.<sup>186</sup>

#### Organisation requirement concerning rebel armed groups

41. 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.<sup>187</sup> The SLM/A, which transformed from the Darfur Liberation Front on or about 14 March 2003,<sup>188</sup> was divided into a political wing (the Movement) and a military wing (the Army).<sup>189</sup>

<sup>177</sup> [DAR-OTP-0103-0598](#) (Translation at [DAR-OTP-0116-0895](#) at 0901); [DAR-OTP-0139-0003](#) at 0026-0027; P-0883, [DAR-OTP-0218-0059-R01](#) at 0106-0107, paras. 261-269.

<sup>178</sup> P-0083, [DAR-OTP-0110-0002-R02](#) at 0037, para. 145; P-0883, [DAR-OTP-0218-0059-R01](#) at 0104, para. 244.

<sup>179</sup> P-0769, [DAR-OTP-0212-0296-R02](#) at 0318, para. 170; P-0883, [DAR-OTP-0218-0059-R01](#) at 0105, para. 256.

<sup>180</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0106, paras. 261, 265; [DAR-OTP-0116-0895](#) at 0904.

<sup>181</sup> *See below*, para. 56.

<sup>182</sup> Militia/*Janjaweed* were also known as “horsemen”, “knights” or “mounted militants” (literal translations of *Fursan*), “holy warriors” or “fighters” (literal translations of *Mujahidin*), “Friendly Forces” and *Murahilin*.

<sup>183</sup> [DAR-OTP-0018-0010](#) at 0034-0039, paras. 98-120; P-0034, [DAR-OTP-0118-0002-R03](#) at 0013, para. 53 and 0032, para. 167; P-0118, [DAR-OTP-0125-0665-R03](#) at 0705-0706, paras. 193-196; P-0117, [DAR-OTP-0128-0042-R02](#) at 0051, paras. 49-51; P-0131, [DAR-OTP-0158-0879-R02](#) at 0918-0920, l. 1303-1401; P-0883, [DAR-OTP-0218-0059-R01](#) at 0103, paras. 238-239; P-0643, [DAR-OTP-0218-0638-R02](#) at 0641, para. 20 and 0648, para. 69. *See also*, paras. 67-72 below.

<sup>184</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0709, para. 19.

<sup>185</sup> [DAR-OTP-0018-0010](#) at 0038, para. 116; [DAR-OTP-0037-0016](#) at 0017-0018; P-0034, [DAR-OTP-0118-0002-R03](#) at 0020-0026, paras. 95-122; P-0091, [DAR-OTP-0112-0142-R03](#) at 0153-0156, paras. 51-66; P-0112, [DAR-OTP-0125-0002-R02](#) at 0016, paras. 70-75 and 0022, para. 107; P-0112, [DAR-OTP-0214-0582-R02](#) at 0596, para. 44; P-0954, [DAR-OTP-0221-0571-R01](#) at 0575, para. 24 and 0581, para. 50; P-0643, [DAR-OTP-0218-0638-R02](#) at 0642-0643, paras. 31-39; P-0935, [DAR-OTP-0218-0705-R02](#) at 0711, para. 25; P-0994, [DAR-OTP-0222-0055-R01](#) at 0061-0062, paras. 30-31; P-0992, [DAR-OTP-0221-0668-R01](#) at 0675, paras. 36-38.

<sup>186</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0534-0535, paras. 52-57; P-0935, [DAR-OTP-0218-0705-R02](#) at 0713-0716, paras. 32, 35-47; P-0883, [DAR-OTP-0221-0395-R01](#) at 0401, para. 28. *See also* paras. 121-123 below.

<sup>187</sup> P-0043, [DAR-OTP-0096-0186-R02](#) at 0192, para. 28 and 0194, para. 35; [DAR-OTP-0018-0010](#) at 0042, para. 133. *See also* Agreed Facts 15-16, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>188</sup> [DAR-OTP-0018-0010](#) at 0040, para. 127; [DAR-OTP-0118-1135](#). *See also* Agreed Fact 12, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>189</sup> [DAR-OTP-0018-0010](#) at 0041, para. 131. *See also* Agreed Fact 13, [Annex A to First Joint Submission on Agreed Facts](#).

SLM/A and JEM had political and military leaders and issued political statements.<sup>190</sup> During the relevant period, Abd-Al-Wahid Muhammad NUR and Minni Arko MINAWI were the leaders of the SLM/A and the JEM chairman was Dr Khalil IBRAHIM.<sup>191</sup>

42. The SLM/A and JEM used military tactics and carried out large scale and coordinated operations against the GoS in Darfur.<sup>192</sup> They were mobile, but had military bases including in Sindu Hills, Dereissa and Jebel Marra.<sup>193</sup> They exercised control over parts of the territory in Darfur<sup>194</sup> and had the ability to move troops, and to recruit and train their members.<sup>195</sup> They recruited mainly from the Fur, Zaghawa and Masalit tribes.<sup>196</sup> SLM/A and JEM attacked police stations and military bases, including in Arawala, Bindisi and Mukjar, during which they obtained arms and other items.<sup>197</sup>

43. The SLM/A and JEM had an internal disciplinary system and the ability to implement international humanitarian law.<sup>198</sup> The GoS considered that the rebel armed groups in Darfur

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<sup>190</sup> [DAR-OTP-0018-0010](#) at 0019, para. 37 and 0040-0042, paras. 127-137; [DAR-OTP-0120-0258](#); P-0043, [DAR-OTP-0096-0186-R02](#) at 0191-0194, paras. 25-26, 28, 38; P-0065, [DAR-OTP-0100-0024-R02](#) 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-R02](#) at 0339, para. 39 and 0344, para. 62; P-0935, [DAR-OTP-0218-0705-R02](#) at 0709, para. 19; P-0026, [DAR-OTP-0095-0151-R02](#) at 0176, paras. 129-131. *See also* Agreed Facts 14 and 17, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>191</sup> [DAR-OTP-0018-0010](#) at 0019, para. 37 and 0040-0042, paras. 127-137; [DAR-OTP-0116-0721](#) at 0730, 0734-0735; P-0026, [DAR-OTP-0095-0151-R02](#) at 0167, para. 77 and 0177, para. 134. *See also* Agreed Facts 14 and 17, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>192</sup> [DAR-OTP-0018-0010](#) at 0026, para. 65 and 0072, para. 254; P-0013, [DAR-OTP-0088-0129-R02](#) at 0134, para. 22; P-0043, [DAR-OTP-0096-0186-R02](#) at 0193, paras. 31, 34; P-0060, [DAR-OTP-0097-0328-R02](#) at 0340, paras. 45-46 and 0344, para. 64; P-0065, [DAR-OTP-0100-0024-R02](#) at 0050, para. 160. *See also* Agreed Fact 11, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>193</sup> P-0059, [DAR-OTP-0095-0095-R02](#) at 0100, para. 28; P-0091, [DAR-OTP-0112-0142-R03](#) at 0162, para. 99; P-0060, [DAR-OTP-0097-0328-R02](#) at 0338-0340, paras. 36-39, 45; P-0059, [DAR-OTP-0095-0095-R02](#) at 0100, para. 28; P-0883, [DAR-OTP-0218-0059-R01](#) at 0067, para. 42; [DAR-OTP-0027-0271](#) (Translation at [DAR-OTP-0219-3573](#) at 3582-3583); P-0027, [DAR-OTP-0094-0091-R02](#) at 0109, para. 72; P-0935, [DAR-OTP-0218-0705-R02](#) at 0709, paras. 19-20; P-0026, [DAR-OTP-0095-0151-R02](#) at 0178, para. 142; P-0895, [DAR-OTP-0215-7164-R02](#) at 7172, para. 30. Dereissa is also known as Dereisa, Duraysa, Darisa, Darissa, Derissa or Drissa.

<sup>194</sup> P-0026, [DAR-OTP-0095-0151-R02](#) at 0178, para. 142. *See also* [DAR-OTP-0152-0194](#) at 0195.

<sup>195</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0338, para. 36 and 0344, para. 62; [DAR-OTP-0116-0721](#) at 0728; P-0103, [DAR-OTP-0120-0161-R02](#) at 0163, l. 55-65. *See also* P-0065, [DAR-OTP-0100-0024-R02](#) at 0036, para. 70.

<sup>196</sup> [DAR-OTP-0018-0010](#) at 0040-0042, paras. 127-137; P-0987, [DAR-OTP-0221-0416-R01](#) at 0419, para. 14.

<sup>197</sup> P-0034, [DAR-OTP-0118-0002-R03](#) at 0032, para. 163; P-0091, [DAR-OTP-0112-0142-R03](#) at 0162, para. 99; [DAR-OTP-0116-0750](#) at 0754; P-0060, [DAR-OTP-0097-0328-R02](#) at 0338, para. 38; P-0065, [DAR-OTP-0100-0024-R02](#) at 0049, para. 153; P-0027, [DAR-OTP-0094-0091-R02](#) at 0095-0096, paras. 15-16; P-0992, [DAR-OTP-0221-0668-R01](#) at 0673, paras. 26-27; P-0026, [DAR-OTP-0095-0151-R02](#) at 0178, para. 139. *See also*, para. 215 below.

<sup>198</sup> [DAR-OTP-0096-0233](#) at 0234; P-0065, [DAR-OTP-0100-0024-R02](#) at 0051, para. 170; P-0060, [DAR-OTP-0097-0328-R02](#) at 0344, para. 63.

must know and respect the “ethics and laws of warfare.”<sup>199</sup> The SLM/A and JEM leaders signed ceasefire and peace agreements with the GoS, which were periodically violated.<sup>200</sup>

Intensity requirement concerning the armed violence

44. 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.<sup>201</sup> From at least April 2003 until at least April 2004, the parties to the armed conflict carried out serious and frequent attacks in Darfur.<sup>202</sup> The armed conflict in Darfur went through different operational phases.<sup>203</sup> The armed hostilities were spread over the territory of three states: North, West and South Darfur.<sup>204</sup>

45. On 25 April 2003, the SLM/A carried out a major attack on the airport in Al Fasher, North Darfur that resulted in the destruction of several military aircraft and many casualties, especially on the GoS side.<sup>205</sup> As a result, the GoS significantly increased the level of hostilities against the rebel armed groups in Darfur,<sup>206</sup> attacking rebel bases and areas perceived to be rebel strongholds, using small arms, light and heavy weapons, vehicles and military aircraft.<sup>207</sup> The SLM/A and JEM used small arms and light weapons, anti-aircraft weapons, and vehicles.<sup>208</sup>

46. 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

<sup>199</sup> [DAR-OTP-0116-0721](#) at 0728. See also [DAR-OTP-0080-0024](#) at 0026; [DAR-OTP-0152-0194](#) at 0195-0196.

<sup>200</sup> [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-0080-0035](#) at 0036; P-0065, [DAR-OTP-0100-0024-R02](#) at 0036-0037, paras. 75, 83-84; [DAR-OTP-0091-0007](#). See also Agreed Facts 7-8, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>201</sup> Agreed Fact 5, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>202</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0086, paras. 175-176; P-0029, [DAR-OTP-0094-0119-R02](#) 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-R02](#) at 0134, para. 22; P-0029, [DAR-OTP-0094-0119-R02](#) at 0131, para. 49; P-0027, [DAR-OTP-0094-0091-R02](#) at 0095-0096, paras. 15-17; P-0103, [DAR-OTP-0120-0244-R02](#) at 0246, l. 43-75; [DAR-OTP-0018-0010](#) at 0072, para. 254; [DAR-OTP-0116-0750](#) at 0751-0772.

<sup>203</sup> [DAR-OTP-0116-0721](#) at 0724-0727. See also [DAR-OTP-0116-0750](#) at 0751-0772.

<sup>204</sup> [DAR-OTP-0159-0672](#) at 0825; [DAR-OTP-0116-0750](#) at 0751-0772.

<sup>205</sup> [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-R03](#) at 0028-0029, paras. 140-141; P-0112, [DAR-OTP-0125-0002-R02](#) at 0012, paras. 51-52; P-0117, [DAR-OTP-0128-0042-R02](#) at 0048, para. 29; P-0026, [DAR-OTP-0095-0151-R02](#) at 0168, paras. 82-85. See also Agreed Fact 6, [Annex A to First Joint Submission on Agreed Facts](#).

<sup>206</sup> P-0131, [DAR-OTP-0158-1300-R02](#) at 1344-1355, l. 1579-1981; P-0935, [DAR-OTP-0218-0705-R02](#) at 0709, para. 19. See also P-0117, [DAR-OTP-0128-0042-R02](#) at 0050, paras. 40-41.

<sup>207</sup> P-0112, [DAR-OTP-0214-0582-R02](#) at 0591, para. 27; P-0118, [DAR-OTP-0125-0665-R03](#) at 0707-0709, paras. 204, 206-216; P-0935, [DAR-OTP-0218-0705-R02](#) at 0710, paras. 22-23 and 0715, paras. 41, 43; P-0976, [DAR-OTP-0222-0526-R01](#) at 0534-0535, paras. 52-55; P-0026, [DAR-OTP-0095-0151-R02](#) at 0169, para. 91. See also Agreed Facts 1-12, Annex B to Third Joint Submission on Agreed Facts, [ICC-02/05-01/20-504-AnxB](#).

<sup>208</sup> P-0112, [DAR-OTP-0214-0582-R02](#) at 0591, para. 27; P-0027, [DAR-OTP-0094-0091-R02](#) at 0095-0096, paras. 15-16; [DAR-OTP-0096-0213](#) at 0213; [DAR-OTP-0116-0721](#) at 0730.

adhere to the principles of international humanitarian law.<sup>209</sup> The African Union attempted to broker a political solution to the armed conflict, facilitating the signing of ceasefire and peace agreements.<sup>210</sup> Thousands left the areas affected by the armed conflict, their homes were destroyed, and thousands of persons were killed.<sup>211</sup>

## b) Nexus requirement

47. 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.<sup>212</sup> At all material times, the perpetrators of the crimes underlying the charges, including **ABD-AL-RAHMAN**, were aware, and could not have failed to be aware, of the factual circumstances that established the existence of the armed conflict. In particular, as a senior leader of the Militia/*Janjaweed* in the Wadi Salih and Mukjar Localities, **ABD-AL-RAHMAN** 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.<sup>213</sup>

## 2) Contextual elements of article 7 (Crimes against humanity)

48. Between at least August 2003<sup>214</sup> and at least April 2004,<sup>215</sup> GoS Forces and Militia/*Janjaweed* committed a widespread and systematic attack against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.<sup>216</sup> This attack was committed 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. The acts that are charged as crimes against humanity in the DCC<sup>217</sup> and confirmed by Pre-Trial Chamber II<sup>218</sup> were committed as

<sup>209</sup> See e.g. [DAR-OTP-0080-0024](#) at 0026; [DAR-OTP-0152-0194](#) at 0195-0196.

<sup>210</sup> [DAR-OTP-0080-0024](#) at 0026; [DAR-OTP-0152-0194](#) at 0196-0197.

<sup>211</sup> [DAR-OTP-0018-0010](#) at 0028, para. 72; [DAR-OTP-0155-0016](#) at 0016; P-0117, [DAR-OTP-0128-0042-R02](#) at 0056, para. 82; P-0976, [DAR-OTP-0222-0526-R01](#) at 0538, para. 79.

<sup>212</sup> P-0547, [DAR-OTP-0200-0017-R01](#) at 0030-0031, paras. 37-39; P-0008, [DAR-OTP-0088-0085-R02](#) at 0092, para. 26; P-0131, [DAR-OTP-0158-1165-R02](#) at 1172-1176, l. 233-354; P-0643, [DAR-OTP-0218-0638-R02](#) at 0645, para. 49. See also, paras. 122-124, 163-164.

<sup>213</sup> See below, paras. 88-169.

<sup>214</sup> See below, paras. 80-83.

<sup>215</sup> The GoS and the SLM/A and JEM signed a humanitarian ceasefire agreement on 8 April 2004. See [DAR-OTP-0018-0010](#) at 0027, para. 70. See above, paras. 43, 46.

<sup>216</sup> 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, [Annex A to Second Joint Submission on Agreed Facts](#). As of January 2012, Wadi Salih and Mukjar Localities became part of Central Darfur State. See [DAR-OTP-0209-0196](#) at 0205.

<sup>217</sup> [Document Containing the Charges](#).

<sup>218</sup> [Confirmation Decision](#), p. 50-70.

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**

49. 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).<sup>219</sup> 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.<sup>220</sup> As set out below, the attack further comprised additional non-charged acts under article 7(1) that were committed in Arawala, Forgo, Taringa, Andi, Fere, Seder, Gausir, Kaskeidi and Um Jameina in the Wadi Salih Locality, and Tendy and Tiro in the Mukjar Locality.<sup>221</sup>

50. The number of civilians targeted and the manner in which the attack was executed demonstrate that the civilian population was the object of the attack.<sup>222</sup> As explained below, and especially in the section on persecution, the attack was directed against civilians predominantly from the Fur tribe in a discriminatory nature.<sup>223</sup> These civilians were unarmed, wore civilian clothing and included women and children.<sup>224</sup> In addition, during the course of the attack, civilian buildings and infrastructure were targeted and destroyed.<sup>225</sup> In Kodoom and Bindisi,<sup>226</sup> for example, GoS Forces and Militia/Janjaweed burned civilian houses.<sup>227</sup> They also

<sup>219</sup> See e.g. Annex 4, Timeline of key events (April 2003-April 2004).

<sup>220</sup> Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004. See below, paras. 235-251, 279-312, 345-377, 431-493.

<sup>221</sup> Annex 3, Locations forming part of the widespread and systematic attack against the civilian population between at least August 2003 and at least April 2004. See below, para. 82.

<sup>222</sup> *Ntaganda Appeals Judgment*, [ICC-01/04-02/06-2666-Red A A2](#), paras. 7-8, 421-424.

<sup>223</sup> *Burundi Article 15 Decision*, [ICC-01/17-9-Red](#), para. 48. See below, paras. 178-210.

<sup>224</sup> See e.g. paras. 191, 209, 236, 241, 246, 249, 280, 282-284, 290-301, 323, 325, 441, 469, 471 below.

<sup>225</sup> *Ntaganda Trial Judgment*, para. 668 (“When crimes against humanity are alleged to have been committed during an armed conflict, as in the present case, the presence within a civilian population of individuals who do not fall under the definition of ‘civilians’ does not deprive the population of its civilian character. The requirement that the attack be directed against the civilian population however means that the civilian population must be the *primary*, as opposed to an incidental, object of the attack. The Chamber may therefore consider whether a military operation, alleged to form part of the alleged attack against a civilian population, complied with the requirements of IHL, including the principle of distinction between legitimate targets and protected persons or objects and the duty to take precautionary measures.” (fn. omitted)). See also *Ntaganda Appeals Judgment*, para. 9.

<sup>226</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0134, para. 65 and 0135, para. 71; P-0717, [DAR-OTP-0210-0187-R02](#) at 0201, para. 74; P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 23; P-0011, [DAR-OTP-0088-0219-R02](#) at 0228, para. 53; P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, paras. 28-29; P-0816, [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; P-0917, [DAR-OTP-0217-0071-R02](#) at 0078, para. 31.

<sup>227</sup> See e.g. paras. 121, 192, 240, 269-277, 320, 325, 328 below.

looted civilian property<sup>228</sup> such as sugar, tea, blankets, beds, clothing, medicine, televisions, radios and livestock.<sup>229</sup>

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

51. The attack against the civilian population was not spontaneous or isolated acts of violence.<sup>230</sup> 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.<sup>231</sup>

52. 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 airport<sup>232</sup> and other GoS installations, including in Bindisi and Mukjar in July and August 2003.<sup>233</sup> 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 or supporting the rebel armed groups.<sup>234</sup>

53. 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 level<sup>235</sup> throughout the planning, directing, organisation<sup>236</sup> and implementation<sup>237</sup> of the attack. The evidence of the State policy includes: (i) official GoS documentation<sup>238</sup> of the State policy; (ii)

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<sup>228</sup> *Bemba* Trial Judgment, [ICC-01/05-01/08-3343](#), paras. 151, 673 (“In addition to the multiple commission of acts specified in Article 7(1), the Chamber finds that the acts of pillaging committed against civilians are also indicative of the attack being directed against the civilian population.”). See also [Ntaganda Trial Judgment](#), para. 663.

<sup>229</sup> See e.g. P-0016, [DAR-OTP-0088-0150-R02](#) at 0157, para. 37; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 159-160; P-0011, [DAR-OTP-0088-0219-R02](#) at 0228, para. 53; P-0015, [DAR-OTP-0088-0187-R03](#) at 0195, para. 38; P-0850, [DAR-OTP-0216-0002-R03](#) at 0010, para. 32. See e.g. paras. 255-256, 259, 261-263 below.

<sup>230</sup> *Katanga* Confirmation Decision, [ICC-01/04-01/07-717](#), para. 396; *Gbagbo* Confirmation Decision, [ICC-02/11-01/11-656-Red](#), para. 215; *Kenyatta* Confirmation Decision, [ICC-01/09-02/11-382-Red](#), para. 111; [Bemba Trial Judgment](#), para. 161.

<sup>231</sup> [Ntaganda Trial Judgment](#), para. 689.

<sup>232</sup> See above, para. 45.

<sup>233</sup> See e.g. P-0044, [DAR-OTP-0095-0049-R01](#) at 0086, paras. 175-176; P-0029, [DAR-OTP-0094-0119-R02](#) 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-R03](#) at 9924-9925, 9928. See above, para. 42.

<sup>234</sup> See below, paras. 178-182.

<sup>235</sup> *Kenya* Article 15 Decision, [ICC-01/09-19-Corr](#), para. 89; [Gbagbo Confirmation Decision](#), para. 220. See also Agreed Fact 1, [Annex A to Second Joint Submission on Agreed Facts](#). See also paras. 124-147 below.

<sup>236</sup> [Katanga Confirmation Decision](#), para. 396; *Bemba* Confirmation Decision, [ICC-01/05-01/08-424](#), para. 81; [Kenyatta Confirmation Decision](#), para. 111; [Bemba Trial Judgment](#), para. 160; [Gbagbo Confirmation Decision](#), paras. 215-216; [Ongwen Trial Judgment](#), para. 2679; *Kenya Article 15 Decision*, paras. 87-88.

<sup>237</sup> *Katanga* Trial Judgment, [ICC-01/04-01/07-3436-tENG](#), paras. 1109-1110.

<sup>238</sup> [Bemba Trial Judgment](#), para. 160; [Ntaganda Trial Judgment](#), para. 674.



preparatory meetings and public speeches to actively promote and encourage<sup>239</sup> the attack; (iii) use of public resources<sup>240</sup> to recruit, train, arm, and fund Militia/*Janjaweed*; (iv) deliberate failure<sup>241</sup> of GoS Officials to investigate and prosecute crimes; and (v) GoS efforts to shield known perpetrators of crimes from prosecution and destroy evidence.<sup>242</sup>

54. Further, the existence of the State policy to commit an attack against the civilian population in Wadi Salih and Mukjar Localities 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,<sup>243</sup> and the joint coordination and participation of GoS Forces and Militia/*Janjaweed* throughout the attack.<sup>244</sup>

*GoS official documentation of the State policy*

55. The GoS State 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.

56. The National Security Council (“NSC”) was a body that established the security plan in Sudan and oversaw its implementation.<sup>245</sup> Members of the NSC included President AL-BASHIR<sup>246</sup> and Minister of the Interior HUSSEIN.<sup>247</sup> 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

<sup>239</sup> Elements of Crimes, article 7, Introduction, para. 3; [Ntaganda Trial Judgment](#), para. 674; *Ruto* Summons Decision, [ICC-01/09-01/11-1](#), para. 27; [Katanga Trial Judgment](#), para. 1109.

<sup>240</sup> [Katanga Confirmation Decision](#), para. 396; [Bemba Trial Judgment](#), para. 160; [Ntaganda Trial Judgment](#), para. 674.

<sup>241</sup> Elements of Crimes, article 7, Introduction, para. 3, fn. 6; [Bemba Trial Judgment](#), para. 159; [Katanga Trial Judgment](#), para. 1107.

<sup>242</sup> *See below*, paras. 55-78.

<sup>243</sup> [Bemba Trial Judgment](#), para. 160; [Ntaganda Trial Judgment](#), para. 674. *See also* [Katanga Trial Judgment](#), paras. 1111-1113. *See below*, para. 83.

<sup>244</sup> [Ntaganda Trial Judgment](#), para. 674; [Bemba Trial Judgment](#), para. 160. *See e.g.* paras. 162-169 below.

<sup>245</sup> [DAR-OTP-0018-0010](#) at 0033, para. 91; P-0769, [DAR-OTP-0214-0534-R02](#) at 0540, para. 22; P-0020, [DAR-OTP-0095-0002-R02](#) at 0027, para. 102; P-0087, [DAR-OTP-0133-0573-R02](#) at 0609, para. 139; P-0087, [DAR-OTP-0222-0631-R01](#) at 0640-0641, paras. 68-72. *See also* Agreed Fact 1, [Annex A to Second Joint Submission on Agreed Facts](#).

<sup>246</sup> P-0087, [DAR-OTP-0133-0573-R02](#) at 0608, para. 137; P-0087, [DAR-OTP-0222-0631-R01](#) at 0636, para. 32 and 0640-0641, paras. 67, 69; P-0769, [DAR-OTP-0214-0534-R02](#) at 0538-0539, paras. 19, 21.

<sup>247</sup> P-0769, [DAR-OTP-0214-0534-R02](#) at 0538-0541, paras. 19-25; P-0769, Annex B, [DAR-OTP-0214-0565](#); P-0087, [DAR-OTP-0133-0573-R02](#) at 0608, para. 137; P-0087, [DAR-OTP-0222-0631-R01](#) at 0640, para. 67. *See* Agreed Facts 5-6, [Annex A to Second Joint Submission on Agreed Facts](#). HUSSEIN also held the position of Representative of the President for Darfur. *See* [DAR-OTP-0016-0013](#) at 0013 and 0015; P-0769, [DAR-OTP-0214-0534-R02](#) at 0551, paras. 69-71; P-0547, [DAR-OTP-0196-0146-R01](#) at 0167, para. 67; P-0087, [DAR-OTP-0133-0573-R02](#) at 0583, para. 41 and 0605, paras. 121-122.

NISS,<sup>248</sup> to local civilian and military officials through the Darfur Security Committee, headed by State Minister for the Ministry of the Interior HARUN.<sup>249</sup>

57. 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.<sup>250</sup>

58. 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,<sup>251</sup> copying AL-BASHIR and HUSSEIN.<sup>252</sup> 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)."<sup>253</sup>

59. The GoS would create "semi-regular forces from Arab tribes", including Militia/*Janjaweed*, arm, train and integrate them into the armed forces,<sup>254</sup> and assassinate "rebel leaders and the sympathisers from among community leaders (*umdahs*) and local administration officials."<sup>255</sup> Crucially, the plan did not restrict the "field of operations" to only rebel

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<sup>248</sup> [DAR-OTP-0016-0013](#) at 0013; P-0769, [DAR-OTP-0214-0534-R02](#) at 0539-0541, paras. 20-28. The NISS was also known as the *Jihaz*, or "Service." See e.g. P-0769, [DAR-OTP-0212-0018-R02](#) at 0023-0024, para. 47.

<sup>249</sup> P-0769, [DAR-OTP-0214-0534-R02](#) at 0542-0543, paras. 31-35; P-0769, [DAR-OTP-0212-0018-R02](#) 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. 270-271; P-0087, [DAR-OTP-0222-0631-R01](#) at 0634-0635, paras. 18, 22; P-0001, [DAR-OTP-0060-0247](#) at 0254-0255, para. 47. See Agreed Fact 7, [Annex A to Second Joint Submission on Agreed Facts](#). See also P-0769, Annex A, [DAR-OTP-0214-0564](#) (Translation at [DAR-OTP-0219-5708](#)); 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-R03](#) at 0020, para. 91; P-0087, [DAR-OTP-0133-0573-R02](#) at 0595-0596, para. 88 and 0605, paras. 121-122.

<sup>250</sup> [REDACTED].

<sup>251</sup> The National Security Service was part of/connected to the NISS. [REDACTED].

<sup>252</sup> [REDACTED].

<sup>253</sup> [REDACTED]. See also, paras. 178-210 below.

<sup>254</sup> [REDACTED].

<sup>255</sup> [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. 361-371, 473-488.

encampments, but also authorised the targeting of the villages in which rebels were sheltered and hidden.<sup>256</sup>

60. The evidence demonstrates that regional civilian and military officials and Security Committees<sup>257</sup> 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,<sup>258</sup> ordered the mobilisation of the *Mujahidin*,<sup>259</sup> and instructed Militia/*Janjaweed* to support GoS Forces.<sup>260</sup> Local administration and Security Committee decisions regarding the counter-insurgency campaign could be overridden by **ABD-AL-RAHMAN**<sup>261</sup> and senior GoS Officials such as HARUN and HUSSEIN.<sup>262</sup>

*Preparatory meetings and public speeches to promote and encourage the attack*

61. 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**,<sup>263</sup> 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.<sup>264</sup>

62. HARUN in particular was given a wide remit and provided political cover for the GoS policy in Wadi Salih and Mukjar Localities.<sup>265</sup> HARUN would travel to visit the armed forces

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<sup>256</sup> [REDACTED].

<sup>257</sup> P-0769, [DAR-OTP-0214-0534-R02](#) 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; P-0643, [DAR-OTP-0218-0638-R02](#) at 0641, para. 22.

<sup>258</sup> [DAR-OTP-0027-0271](#) (Translation at [DAR-OTP-0219-3573](#) at 3575, 3578, 3581-3582, 3584-3585, 3587, 3591-3592, 3595-3596).

<sup>259</sup> [DAR-OTP-0027-0271](#) at 0278-0279 (Translation at [DAR-OTP-0219-3573](#) at 3581-3582).

<sup>260</sup> [DAR-OTP-0027-0271](#) at 0287 and 0289 (Translation at [DAR-OTP-0219-3573](#) at 3592 and 3594).

<sup>261</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0080-0082, paras. 112, 116-118 and 0108, para. 273; [REDACTED]; P-0643, [DAR-OTP-0218-0638-R02](#) at 0642-0643, paras. 24-25, 29-30, 32.

<sup>262</sup> P-0120, [DAR-OTP-0124-0816-R02](#) at 0824-0825, paras. 34-40; P-0547, [DAR-OTP-0196-0146-R01](#) at 0165, para. 61; P-0087, [DAR-OTP-0133-0573-R02](#) at 0611, para. 148.

<sup>263</sup> [REDACTED]. See below, paras. 124-140.

<sup>264</sup> See e.g. P-0034, [DAR-OTP-0118-0002-R03](#) at 0030-0031, paras. 152-157; [REDACTED]; P-1021, [DAR-OTP-0221-1134-R01](#) at 1145-1146, l. 345-392, and [DAR-OTP-0221-1296-R01](#) at 1317-1321, l. 700-823, and [DAR-OTP-0221-1326-R01](#) at 1327-1329, l. 21-79; P-0932, [DAR-OTP-0222-0602-R01](#) at 0613, paras. 58-62; P-0885, [DAR-OTP-0222-1088-R01](#) at 1089-1095, l. 20-123, 148-227; P-0087, [DAR-OTP-0133-0573-R02](#) at 0605, para. 123; P-0087, [DAR-OTP-0222-0631-R01](#) at 0644, paras. 93-94.

<sup>265</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0031, paras. 114-117; P-0769, [DAR-OTP-0214-0534-R02](#) at 0552, para. 76; P-0087, [DAR-OTP-0133-0573-R02](#) at 0605-0606, paras. 121-126; P-0087, [DAR-OTP-0222-0631-R01](#) at 0635, para. 23; P-0001, [DAR-OTP-0060-0247](#) at 0254-0255, para. 47.

to boost morale<sup>266</sup> and meet with heads of the Security Committees, military commanders, Police, and local tribal leaders to convey greetings from the President in Khartoum.<sup>267</sup> 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.”<sup>268</sup> 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.<sup>269</sup>

63. 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.<sup>270</sup> When the GoS central government sent a delegation with 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 that the GoS was ready to kill three-fourths of the people in Darfur so that one-fourth could live.<sup>271</sup>

64. Between August 2003 and February/March 2004, HARUN travelled to Mukjar on numerous occasions to coordinate with local officials and communicate the GoS policy.<sup>272</sup>

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<sup>266</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0173-0175, paras. 87-96; P-0083, [DAR-OTP-0218-0059-R01](#) at 0093, paras. 181-182.

<sup>267</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0173-0174, paras. 90-91.

<sup>268</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0174, para. 90; P-0769, [DAR-OTP-0212-0296-R02](#) at 0323, paras. 213-215; P-0581, [DAR-OTP-0216-0560-R02](#) at 0565, paras. 25-26; P-0884, [DAR-OTP-0216-0503-R02](#) at 0522, para. 87; P-0878, [DAR-OTP-0215-9919-R03](#) at 9933; P-0984, [DAR-OTP-0222-0084-R01](#) at 0089-0090, para. 29; P-0087, [DAR-OTP-0133-0573-R02](#) at 0606, para. 126; P-0589, [DAR-OTP-0223-0005-R01](#) at 0025, para. 113. 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-R02](#) at 0186, para. 46; P-0601, [DAR-OTP-0202-1588-R02](#) at 1599, paras. 41-44; P-0878, [DAR-OTP-0219-3062-R02](#) at 3066, para. 16; P-0878, [DAR-OTP-0215-9919-R03](#) at 9934-9935, 9955, 9957; P-0905, [DAR-OTP-0219-6214-R01](#) at 6229, l. 503-615, and [DAR-OTP-0219-6379-R02](#) at 6381, l. 44-56, and [DAR-OTP-0219-6741-R01](#) at 6754-6757, l. 441-540; P-1021, [DAR-OTP-0221-1134-R01](#) at 1145-1146, l. 345-392. See below, paras. 121, 123, 190, 208, 289, 316-317, 323, 330-331.

<sup>269</sup> P-0114, [DAR-OTP-0119-0711-R02](#) at 0716, paras. 20-22; P-0118, [DAR-OTP-0125-0665-R03](#) at 0710, para. 219; P-0643, [DAR-OTP-0215-0492-R02](#) at 0505-0507, l. 423-498; P-0643, [DAR-OTP-0218-0638-R02](#) at 0641-0642, paras. 21, 29-30; 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; P-0878, [DAR-OTP-0215-9919-R03](#) at 9934; [REDACTED]; P-0984, [DAR-OTP-0222-0084-R01](#) at 0090, para. 30; P-0976, [DAR-OTP-0222-0526-R01](#) at 0536, paras. 62-63; P-0885, [DAR-OTP-0222-1066-R01](#) at 1076-1082, l. 343-540 and 1084-1087, l. 605-638, 664-672, 694-711; ABD-AL-RAHMAN’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6915). See also Agreed Facts 1-8, [Annex B to Third Joint Submission on Agreed Facts](#).

<sup>270</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0064, para. 24; P-0878, [DAR-OTP-0215-9919-R03](#) at 9922-9923; P-0643, [DAR-OTP-0215-0358-R02](#) at 0376-0380, l. 612-727; P-0643, [DAR-OTP-0218-0638-R02](#) at 0645, paras. 49-50.

<sup>271</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0075-0077, paras. 122-130; P-0040, [DAR-OTP-0094-0165-R02](#) at 0176-0177, paras. 54-62.

<sup>272</sup> 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-0114, [DAR-OTP-0119-0711-R02](#) at 0720, paras. 47-48; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070-0071, paras. 58-62; P-0984, [DAR-OTP-0222-0084-R01](#) at 0094, paras. 63-64; P-0980, [DAR-OTP-0221-0553-R01](#) at 0558, para. 25; P-1021, [DAR-OTP-0221-1134-R01](#) at 1144-1145, l. 302-339 and 1152-1153, l. 596-604 and 1155, l. 668-677; P-0931, [DAR-OTP-](#)

During one of these visits to Mukjar, a large gathering of Militia/*Janjaweed* came to welcome HARUN, including **ABD-AL-RAHMAN** and CRF Commander Colonel Abdullah HIMEIDAN (“HIMEIDAN”). HARUN then called for traditional leaders and men to gather, declaring that the Fur were rebels<sup>273</sup> so their belongings had become “*ghanima*” (the spoils of war).<sup>274</sup>

65. 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.<sup>275</sup>

66. In early 2004, GoS Officials, including the Commissioner of Garsila, ABD-AL-HAKAM, Commissioner of Mukjar, TORSHEIN, and Militia/*Janjaweed* leaders, including **ABD-AL-RAHMAN** and one of his deputies SAMIH, met in Mukjar in preparation for another large offensive against the rebel armed groups in Sindu.<sup>276</sup> 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.<sup>277</sup> 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.<sup>278</sup>

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

[0219-8598-R01](#) at 8611, l. 439-466, and [DAR-OTP-0219-8682-R01](#) at 8700-8701, l. 602-650, and [DAR-OTP-0219-8702-R01](#) at 8704-8705, l. 66-90 and 8714, l. 404-416, and [DAR-OTP-0219-8720-R01](#) at 8734-8735, l. 483-495; P-0087, [DAR-OTP-0133-0573-R02](#) at 0588-0591, paras. 61-71 and 0605, para. 123; P-0589, [DAR-OTP-0223-0005-R01](#) at 0025, paras. 112-113.

<sup>273</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0517-0519, paras. 62-71; P-0673, [DAR-OTP-0206-0138-R02](#) at 0142, para. 21.

<sup>274</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0200-0201, paras. 66-68; P-0015, [DAR-OTP-0136-0006-R01](#) at 0007, para. 4; P-0756, [DAR-OTP-0211-0003-R02](#) at 0016-0019, paras. 52-62; P-0878, [DAR-OTP-0215-9919-R03](#) at 9933-9934.

<sup>275</sup> P-0878, [DAR-OTP-0215-9919-R03](#) at 9932-9935. *See also* P-0114, [DAR-OTP-0119-0711-R02](#) at 0716, paras. 20-21; P-0673, [DAR-OTP-0206-0138-R02](#) at 0141-0142, paras. 19-24. *See also*, paras. 215-217 below.

<sup>276</sup> P-0041, [DAR-OTP-0206-0033-R02](#) at 0044-0047, paras. 43-53 and 0053, para. 81; P-0041, [DAR-OTP-0096-0002-R01](#) at 0004-0006, paras. 7-13; P-0976, [DAR-OTP-0222-0526-R01](#) at 0535-0536, paras. 59-65.

<sup>277</sup> P-0884, [DAR-OTP-0216-0503-R02](#) at 0522, para. 87; P-0129, [DAR-OTP-0128-0128-R04](#) at 0141-0142, para. 46.

<sup>278</sup> P-0581, [DAR-OTP-0216-0560-R02](#) at 0565, paras. 25-26.

67. 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.<sup>279</sup>

68. 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*,<sup>280</sup> some of whom were assimilated into GoS Forces, such as the CRF, PPF and PDF.<sup>281</sup> GoS Forces provided training to members of Militia/*Janjaweed* at PDF camps located in Mukjar, Garsila, Al Geneina, Um Dukhun, and For Baranga.<sup>282</sup>

69. GoS Officials including HARUN, HUSSEIN,<sup>283</sup> and Vice President Ali Uthman Muhammad TAHA (“TAHA”),<sup>284</sup> and members of the PDF<sup>285</sup> and Military Intelligence,<sup>286</sup> ordered and/or oversaw several weapons distributions to Militia/*Janjaweed* around Bindisi, Mukjar and Garsila.<sup>287</sup> The GoS delivered weapons by aircraft with planes arriving immediately before large-scale counter-insurgency operations.<sup>288</sup>

<sup>279</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0183-0188, paras. 126-144; P-0769, [DAR-OTP-0214-0534-R02](#) at 0543-0545, paras. 35-36, 42; [DAR-OTP-0016-0013](#) at 0014.

<sup>280</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0180-0181, paras. 113-115; P-0905, [DAR-OTP-0219-6431-R02](#) at 6440-6441, l. 316-326 and 6444, l. 433-445; [DAR-OTP-0016-0013](#) at 0014-0015; P-0087, [DAR-OTP-0222-0631-R01](#) at 0649, paras. 144-146; P-0001, [DAR-OTP-0060-0247](#) at 0258-0260, paras. 73, 79, 81; **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913-6914).

<sup>281</sup> P-0769, [DAR-OTP-0214-0534-R02](#) at 0555-0556, paras. 89-92; P-0769, [DAR-OTP-0212-0018-R02](#) at 0041, para. 195; P-0878, [DAR-OTP-0215-9919-R03](#) at 9934; P-0643, [DAR-OTP-0218-0638-R02](#) at 0642, para. 31; [REDACTED]; P-0885, [DAR-OTP-0222-0907-R01](#) at 0920-0921, l. 438-451; P-0087, [DAR-OTP-0222-0631-R01](#) at 0649, para. 142; P-0001, [DAR-OTP-0060-0247](#) at 0259, paras. 75, 79 and 0262, para. 99; P-0558, [DAR-OTP-0215-5700-R02](#) at 5722-5723 l. 734-749. In particular, both **ABD-AL-RAHMAN** and SAMIH were promoted to the rank of master sergeant in the CRF after the events of 2004. See [REDACTED].

<sup>282</sup> 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-R03](#) 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-R03](#) at 0978-0979, paras. 10-12, 16; P-0769, [DAR-OTP-0212-0018-R02](#) at 0087, paras. 593-594. See also P-0984, [DAR-OTP-0222-0084-R01](#) at 0090, para. 34; [REDACTED].

<sup>283</sup> P-0769, [DAR-OTP-0214-0534-R02](#) at 0552, para. 72; P-0878, [DAR-OTP-0215-9919-R03](#) at 9932-9934; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070-0071, paras. 58-62; P-0922, [DAR-OTP-0222-0312-R01](#) at 0331, para. 78; [REDACTED].

<sup>284</sup> P-0105, [DAR-OTP-0116-0975-R03](#) at 0978-0979, paras. 11-12; [REDACTED].

<sup>285</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0575-0576, para. 24 and 0579, paras. 40, 42 and 0581-0583, paras. 50-56.

<sup>286</sup> P-0905, [DAR-OTP-0219-6379-R02](#) at 6388-6393, l. 311-482, and 6397-6403, l. 591-813; P-0905, [DAR-OTP-0219-6704-R02](#) at 6723-6726, l. 663-767 and 6728-6729, l. 828-859; P-0643, [DAR-OTP-0218-0638-R02](#) at 0643, para. 36.

<sup>287</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0183-0186, paras. 37-50; P-0028, [DAR-OTP-0094-0423-R01](#) at 0437-0438, para. 60; P-0011, [DAR-OTP-0088-0219-R02](#) at 0222, para. 15; P-0029, [DAR-OTP-0094-0119-R02](#) at 0129, paras. 40-42 and 0145-0147, paras. 115-119; P-0905, [DAR-OTP-0219-6704-R02](#) at 6728-6729, l. 833-859; P-0643, [DAR-OTP-0218-0638-R02](#) at 0643-0644, paras. 33, 36, 39, 41; P-0935, [DAR-OTP-0218-0705-R02](#) at 0710-0711, paras. 22-25. See also P-0926, [DAR-OTP-0218-0738-R02](#) at 0753-0754, paras. 58-62; P-0992, [DAR-OTP-0221-0668-R01](#) at 0675, paras. 36-37; P-0885, [DAR-OTP-0222-0996-R01](#) at 0997-0998, l. 24-37.

<sup>288</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105; P-0105, [DAR-OTP-0116-0975-R03](#) at 0978, para. 10; P-0029, [DAR-OTP-0094-0119-R02](#) at 0129, paras. 40-42; P-0643, [DAR-OTP-0218-0638-R02](#) at 0644, para. 42; [REDACTED]. See also P-0922, [DAR-OTP-0222-0312-R01](#) at 0331, paras. 78-79; P-0926, [DAR-OTP-0218-0738-R02](#) at 0753, para. 59; P-0885, [DAR-OTP-0222-0996-R01](#) at 1004-1005, l. 254-264. The GoS also facilitated

70. 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,<sup>289</sup> and millet and money through regional *zakat* offices<sup>290</sup> and the Herders Association of West Darfur.<sup>291</sup> The GoS further incentivised Militia/*Janjaweed* to implement the policy by authorising them to plunder and keep the *ghanima* that they seized during attacks.<sup>292</sup> The GoS also gave Militia/*Janjaweed* access to public facilities from which to base their operations, including military barracks and police stations.<sup>293</sup>

71. The GoS conferred other benefits of State sponsorship and legitimisation on Militia/*Janjaweed*,<sup>294</sup> including official GoS identification cards,<sup>295</sup> uniforms,<sup>296</sup> vehicles such

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money transfers by plane. See P-0884, [DAR-OTP-0216-0503-R02](#) at 0515-0516, paras. 57-59; P-0012, [DAR-OTP-0119-0503-R01](#) at 0514-0517, paras. 49-61. See also Agreed Facts 1-9, [Annex B to Third Joint Submission on Agreed Facts](#).

<sup>289</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0180-0181, para. 114 and 0185-0186, paras. 136-137; P-0119, [DAR-OTP-0124-0196-R02](#) at 0212, paras. 97, 99; P-0884, [DAR-OTP-0216-0503-R02](#) at 0515-0516, paras. 57-60; P-0843, [DAR-OTP-0216-0600-R03](#) at 0613, para. 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-0131, [DAR-OTP-0158-0879-R02](#) at 0920-0922, l. 1397-1449; P-1021, [DAR-OTP-0221-1134-R01](#) at 1144-1145, l. 302-339 and 1152-1153, l. 596-604 and 1155-1156, l. 668-677, 685-705. See also P-0984, [DAR-OTP-0222-0084-R01](#) at 0091, para. 39; P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 36.

<sup>290</sup> P-0643, [DAR-OTP-0215-0476-R02](#) at 0480-0483, l. 141-238; P-0643, [DAR-OTP-0218-0638-R02](#) at 0644, para. 47; P-0012, [DAR-OTP-0119-0503-R01](#) at 0507-0508, paras. 18-20; P-0029, [DAR-OTP-0094-0119-R02](#) at 0132, para. 57; P-0878, [DAR-OTP-0215-9919-R03](#) at 9925 and 9940; P-0922, [DAR-OTP-0222-0312-R01](#) at 0316-0317, paras. 16-17 and 0319-0320, paras. 27-29; P-0921, [DAR-OTP-0219-8188-R01](#) at 8193-8195, l. 134-194, and [DAR-OTP-0219-8233-R01](#) at 8242, l. 247-248; P-0984, [DAR-OTP-0222-0084-R01](#) at 0094, para. 59. See below, paras. 144, 218-220, 225, 263-265.

<sup>291</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105.

<sup>292</sup> P-0118, [DAR-OTP-0125-0665-R03](#) at 0703, para. 182 and 0716, para. 255; P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, para. 58; P-0087, [DAR-OTP-0133-0573-R02](#) at 0579, para. 21; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 141; [REDACTED]; [REDACTED].

<sup>293</sup> See e.g. paras. 195, 201, 342, 350, 352-359, 392, 439-440, 445, 473-474 below.

<sup>294</sup> P-0103, [DAR-OTP-0120-0203-R02](#) at 0214-0215, l. 438-484; P-0921, [DAR-OTP-0219-8253-R01](#) at 8256-8257, l. 44-97.

<sup>295</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0185, para. 136; P-0011, [DAR-OTP-0088-0219-R02](#) at 0235, para. 91; P-0040, [DAR-OTP-0094-0165-R02](#) at 0173-0174, paras. 40-41; P-0131, [DAR-OTP-0158-0879-R02](#) at 0923, l. 1505-1507, and [DAR-OTP-0158-1229-R02](#) at 1234, l. 148-151; P-0044, [DAR-OTP-0095-0049-R01](#) at 0063, para. 70; P-0140, [DAR-OTP-0215-5888-R01](#) at 5911-5912, l. 776-806, and [DAR-OTP-0215-6268-R01](#) at 6294, l. 886-894; P-0290, [DAR-OTP-0160-0342-R01](#) at 0380, l. 1276-1279; P-0954, [DAR-OTP-0221-0571-R01](#) at 0579-0580, para. 42.

<sup>296</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 60; P-0905, [DAR-OTP-0219-6214-R01](#) at 6219, l. 149-167; P-0905, [DAR-OTP-0219-6416-R01](#) at 6417-6419, l. 12-55; P-0096, [DAR-OTP-0113-0138-R02](#) at 0152, para. 94; P-0921, [DAR-OTP-0219-8253-R01](#) at 8274-8275, l. 734-753; P-0105, [DAR-OTP-0116-0975-R03](#) at 0978, para. 10; P-0290, [DAR-OTP-0160-0342-R01](#) at 0380-0381, l. 1280-1316; P-0922, [DAR-OTP-0222-0312-R01](#) at 0331, para. 79.

as Land Cruisers,<sup>297</sup> fuel,<sup>298</sup> ammunition,<sup>299</sup> food for their horses,<sup>300</sup> Thuraya satellite phones,<sup>301</sup> and medical treatment.<sup>302</sup> The family members of Militia/*Janjaweed* killed in action were given financial compensation by the GoS.<sup>303</sup> Moreover, GoS Forces would often coordinate and participate jointly alongside Militia/*Janjaweed* in the attacks on villages, supplying manpower, logistics, discipline and expertise to military operations.<sup>304</sup>

72. 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,<sup>305</sup> with a few notable exceptions.<sup>306</sup> Members of the Fur tribe, in particular, were denied access to GoS resources that were being allocated to members of Arab tribes.<sup>307</sup> Even when the GoS promised Fur *umdahs* and *sheikhs* weapons for self-defence,<sup>308</sup> they would be turned away on

<sup>297</sup> P-0117, [DAR-OTP-0128-0042-R02](#) at 0074-0075, paras. 207, 214; P-0040, [DAR-OTP-0094-0165-R02](#) at 0176, paras. 54-56; P-0118, [DAR-OTP-0125-0665-R03](#) at 0710, para. 219; P-0119, [DAR-OTP-0124-0196-R02](#) at 0212, para. 94; P-0984, [DAR-OTP-0222-0084-R01](#) at 0090-0091, paras. 38, 40; P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 34; P-0976, [DAR-OTP-0222-0526-R01](#) at 0534, para. 50. *See also* Agreed Fact 10, [Annex B to Third Joint Submission on Agreed Facts](#).

<sup>298</sup> P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 35.

<sup>299</sup> P-0921, [DAR-OTP-0219-8205-R01](#) at 8210-8216, l. 114-328; P-0878, [DAR-OTP-0215-9919-R03](#) at 9925; P-0905, [DAR-OTP-0219-6416-R01](#) at 6418, l. 56-61, and [DAR-OTP-0219-6431-R02](#) at 6444-6446, l. 446-506; P-0119, [DAR-OTP-0124-0196-R02](#) at 0212, para. 95; P-0885, [DAR-OTP-0222-0975-R01](#) at 0982-0984, l. 239-276, 305-307, and 0988-0989, l. 429-442, 455-462, and [DAR-OTP-0222-1066-R01](#) at 1069-1076, l. 100-151, 169-327. The GoS kept records of the ammunition that was provided to **ABD-AL-RAHMAN** and the Militia/*Janjaweed* under his command. *See e.g.* [REDACTED]. *See also*, paras. 154, 161 below.

<sup>300</sup> P-0878, [DAR-OTP-0215-9919-R03](#) at 9933 and 9940; P-1021, [DAR-OTP-0221-1111-R01](#) at 1126-1127, l. 480-500, 517-534, and [DAR-OTP-0221-1247-R01](#) at 1253-1254, l. 193-213 and 1270-1271, l. 782-803. *See also* [REDACTED].

<sup>301</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0646-0647, paras. 54-59; [REDACTED]. *See also* Agreed Facts 11-12, [Annex B to Third Joint Submission on Agreed Facts](#).

<sup>302</sup> P-0116, [DAR-OTP-0123-0039-R01](#) at 0065, para. 148; P-0885, [DAR-OTP-0222-0996-R01](#) at 1015-1016, l. 612-620, and [DAR-OTP-0222-1046-R01](#) at 1052-1053, l. 201-209; P-0878, [DAR-OTP-0215-9919-R03](#) at 9958.

<sup>303</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0067, para. 41; P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 37.

<sup>304</sup> P-0769, [DAR-OTP-0214-0534-R02](#) at 0546, para. 47; [REDACTED]; P-0921, [DAR-OTP-0219-8253-R01](#) at 8273, l. 693-694; P-0954, [DAR-OTP-0221-0571-R01](#) at 0575-0576, paras. 24, 27; P-1021, [DAR-OTP-0221-1134-R01](#) at 1141-1142, l. 231-262 and 1162, l. 920-924; [REDACTED]; P-0026, [DAR-OTP-0095-0151-R02](#) at 0179, paras. 149-150; P-0001, [DAR-OTP-0060-0247](#) at 0263, paras. 106, 108. *See also* **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914-6918). *See e.g.* paras. 124-169 below.

<sup>305</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0640, para. 17 and 0643, para. 35; P-0087, [DAR-OTP-0222-0631-R01](#) at 0648, para. 131.

<sup>306</sup> [REDACTED].

<sup>307</sup> P-0116, [DAR-OTP-0123-0039-R01](#) at 0056-0058, paras. 96-97, 103; P-0040, [DAR-OTP-0094-0165-R02](#) at 0178, para. 68; P-0643, [DAR-OTP-0215-0333-R02](#) at 0345-0346, l. 390-413, and [DAR-OTP-0215-0358-R02](#) at 0373-0375, l. 510-557 and 0383-0386, l. 832-944; P-0059, [DAR-OTP-0095-0095-R02](#) at 0099, para. 17; P-0883, [DAR-OTP-0218-0059-R01](#) at 0070, para. 56; P-0883, [DAR-OTP-0221-0395-R01](#) at 0398-0399, paras. 20-21; P-0883, Annex II, [DAR-OTP-0221-0407-R01](#) (Translation at [DAR-OTP-0219-5245-R01](#)); P-0905, [DAR-OTP-0219-6214-R01](#) at 6222-6223, l. 262-321, and [DAR-OTP-0219-6431-R02](#) at 6446-6448, l. 526-591; P-0011, [DAR-OTP-0088-0219-R02](#) at 0222, para. 15; P-0585, [DAR-OTP-0201-0037-R02](#) at 0044, paras. 25-27; P-0114, [DAR-OTP-0119-0777-R01](#) at 0799 (Translation at [DAR-OTP-0153-1222-R01](#) at 1223); P-0895, [DAR-OTP-0215-7164-R02](#) at 7175, para. 41; **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913-6914). *See also* P-0040, Annex B, [DAR-OTP-0094-0196](#) (Translation at [DAR-OTP-0116-0718](#)).

<sup>308</sup> P-0106, [DAR-OTP-0116-1005-R02](#) at 1012, paras. 31-33.



the basis that they were *tora bora* (rebels).<sup>309</sup> Members of the Fur, Zaghawa, and Masalit tribes were also excluded from recruitment or promotion into sensitive positions in GoS institutions.<sup>310</sup>

*Deliberate failure to investigate and prosecute crimes*

73. 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.

74. 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.<sup>311</sup> Whilst the Police would occasionally engage in initial investigations, there would be no formal enquiry or response from GoS Officials.<sup>312</sup> Police officers from non-Arab tribes who were willing to register criminal complaints were prevented from doing so,<sup>313</sup> and those who did were accused of being rebels and detained.<sup>314</sup>

75. Despite the effort to prevent police reports, the crimes committed by GoS Forces and Militia/*Janjaweed* in West Darfur were regularly relayed to central military and intelligence authorities, but nothing was done to stop them.<sup>315</sup> Fur villagers and tribal leaders were told that

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<sup>309</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0185, para. 45; P-0027, [DAR-OTP-0094-0091-R02](#) at 0097, paras. 21-22; P-0643, [DAR-OTP-0218-0638-R02](#) at 0643-0644, paras. 39-40. The phrase *tora bora* referred to the members of rebel armed groups in Darfur and their supporters. See [REDACTED]; [REDACTED]; P-0001, [DAR-OTP-0060-0247](#) at 0264, para. 114; P-0589, [DAR-OTP-0223-0005-R01](#) at 0016, paras. 66-67. See also, paras. 86, 191, 195-196, 199, 201-202, 205, 209, 280, 283, 297-298, 349, 362, 429, 431, 437 below.

<sup>310</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0027, para. 79 and 0031-0032, paras. 118-119; P-0558, [DAR-OTP-0215-5384-R02](#) at 5401-5407, l. 541-754; P-0117, [DAR-OTP-0128-0042-R02](#) at 0061, para. 111; P-0954, [DAR-OTP-0221-0571-R01](#) at 0574, para. 20.

<sup>311</sup> P-0039, [DAR-OTP-0094-0270-R02](#) at 0278, para. 41; P-0060, [DAR-OTP-0097-0328-R02](#) at 0333, para. 17; P-0878, [DAR-OTP-0215-9919-R03](#) at 9920. See also P-0585, [DAR-OTP-0201-0037-R02](#) at 0045, para. 29; P-0931, [DAR-OTP-0219-8645-R01](#) at 8657-8658, l. 417-456; P-0895, [DAR-OTP-0215-7164-R02](#) at 7170, paras. 24-25.

<sup>312</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0190-0191, para. 67. See also P-0116, [DAR-OTP-0123-0039-R01](#) at 0051, para. 67; P-0643, [DAR-OTP-0218-0638-R02](#) at 0644-0645, paras. 45, 51; [REDACTED]; P-0907, [DAR-OTP-0220-0668-R02](#) at 0675, para. 36. Notably, most police reports in West Darfur State from this time period did not identify a perpetrator. See [DAR-OTP-0027-0387](#) (Translation at [DAR-OTP-0219-5515](#) at 5517-5570). See also [REDACTED].

<sup>313</sup> P-0976, [DAR-OTP-0222-0526-R01](#), at 0530, para. 26 and 0533, para. 43 and 0537, paras. 68-72 and 0541, para. 97; P-0987, [DAR-OTP-0221-0416-R01](#) at 0419-0420, paras. 14, 16.

<sup>314</sup> [REDACTED]; **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913-6914).

<sup>315</sup> P-0112, [DAR-OTP-0215-4903-R02](#) at 4915-4916, l. 383-429; P-0034, [DAR-OTP-0118-0002-R03](#) 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; P-0954, [DAR-OTP-0221-0571-R01](#) at 0580, para. 43. See also [REDACTED]; [REDACTED]; P-0087, [DAR-OTP-0222-0631-R01](#) at 0636-0637, paras. 33, 41; P-0558, [DAR-OTP-0215-5499-R02](#) at 5506, l. 208-229 and 5513, l. 441-458 and 5515-5516, l. 526-562.

the GoS would not be protecting them anymore because their “children [had] become rebels.”<sup>316</sup> Members of GoS Forces that attempted to intervene in the commission of crimes were actively prevented from doing so by their commanders.<sup>317</sup>

GoS efforts to shield perpetrators and destroy evidence

76. 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.

77. In 2004, AL-BASHIR set up a committee called the National Commission of Inquiry (“NCOI”), ostensibly to investigate alleged war crimes committed in Darfur.<sup>318</sup> In 2005, the 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.<sup>319</sup> Although the NCOI identified **ABD-AL-RAHMAN**, Military Intelligence officer **HAMDI** and other members of the GoS Forces and Militia/*Janjaweed* as perpetrators,<sup>320</sup> no one was ever prosecuted in relation to these incidents.<sup>321</sup>

78. Several prominent leaders in the counter-insurgency campaign that the NCOI implicated in crimes were later promoted instead of facing charges.<sup>322</sup> NISS officers also coordinated with GoS Officials, including **ABD-AL-RAHMAN**,<sup>323</sup> 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.<sup>324</sup> As of at least November

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<sup>316</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0125-0126, paras. 26-28; P-0027, [DAR-OTP-0094-0091-R02](#) at 0096, para. 17. See also P-0643, [DAR-OTP-0215-0333-R02](#) at 0345, l. 378-380; P-0878, [DAR-OTP-0215-9919-R03](#) at 9965.

<sup>317</sup> [REDACTED].

<sup>318</sup> [DAR-OTP-0036-0348](#) (Translation at [DAR-OTP-0116-0380](#) at 0394-0396); P-0769, [DAR-OTP-0212-0296-R02](#) at 0304, paras. 55-56; P-0643, [DAR-OTP-0215-0454-R02](#) at 0469-0470, l. 493-559.

<sup>319</sup> [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).

<sup>320</sup> [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).

<sup>321</sup> P-0643, [DAR-OTP-0215-0586-R02](#) 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; P-0643, [DAR-OTP-0218-0638-R02](#) at 0645-0646, para. 51 and 0646, para. 53; P-0087, [DAR-OTP-0133-0573-R02](#) at 0600, para. 104. See also P-0087, [DAR-OTP-0133-0573-R02](#) at 0603, para. 114.

<sup>322</sup> P-0643, [DAR-OTP-0215-0586-R02](#) at 0591-0592, l. 163-181 and 0594, l. 251-277; P-0905, [DAR-OTP-0219-6770-R02](#) at 6783-6784, l. 422-460 and 6786-6787, l. 524-564 and 6789-6790, l. 635-659; 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 0098-0099, paras. 210, 214 and 0104, para. 246; P-0885, [DAR-OTP-0215-5499-R02](#) at 5522-5524, l. 763-839. Both **ABD-AL-RAHMAN** and **SAMIH** were promoted after taking part in the attacks in Wadi Salih and Mukjar Localities. See [REDACTED].

<sup>323</sup> 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.

<sup>324</sup> P-0769, [DAR-OTP-0212-0296-R02](#) at 0304-0306, paras. 59-71; P-0717, [DAR-OTP-0210-0187-R02](#) at 0209-0210, para. 117; P-0643, [DAR-OTP-0215-0650-R02](#) at 0661-0662, l. 390-413; P-0712, [DAR-OTP-0209-1884-](#)

2005, the GoS continued to provide arms and supplies to **ABD-AL-RAHMAN** and other Militia/*Janjaweed* leaders, to fight the rebel armed groups.<sup>325</sup>

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

79. The acts that are charged as crimes against humanity in the DCC<sup>326</sup> and confirmed by Pre-Trial Chamber II<sup>327</sup> were committed as part of an attack that was not only widespread but systematic<sup>328</sup> and directed against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.<sup>329</sup> 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.<sup>330</sup> The nexus is further established on the basis of the geographical distribution of the crimes committed in villages inhabited primarily by members of the Fur tribe.<sup>331</sup>

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

80. 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.

81. 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

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[R02](#) at 1898, paras. 53-54; P-0885, [DAR-OTP-0222-0749-R01](#) at 0767-0768, l. 597-634; P-0885, [DAR-OTP-0222-0784-R01](#) at 0829, l. 1526-1529; P-0087, [DAR-OTP-0133-0573-R02](#) at 0622, no. 23; P-0087, [DAR-OTP-0222-0631-R01](#) at 0654-0655, paras. 192-204; [DAR-OTP-0118-1521](#) (Translation at [DAR-OTP-0219-3371](#) at 3372-3373).

<sup>325</sup> [REDACTED]; **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913). [REDACTED].

<sup>326</sup> [Document Containing the Charges](#).

<sup>327</sup> [Confirmation Decision](#), p. 50-70.

<sup>328</sup> As a matter of law, it is necessary only that the attack satisfies one of these thresholds. See [Bemba Confirmation Decision](#), para. 82 ("The Chamber notes that the terms 'widespread' and 'systematic' appearing in the chapeau of article 7 of the Statute are presented in the alternative. The Chamber considers that if it finds the attack to be widespread, it needs not consider whether the attack was also systematic [...]"). See also [Bemba Trial Judgment](#), para. 162.

<sup>329</sup> See Agreed Facts 2-4, [Annex A to Second Joint Submission on Agreed Facts](#).

<sup>330</sup> See below, paras. 178-210.

<sup>331</sup> [DAR-OTP-0145-0237](#) at 0271, 0335, 0308, 0276, 0319, 0270, 0275, 0308 and 0303.

over two separate localities, Wadi Salih and Mukjar.<sup>332</sup> 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.<sup>333</sup>

82. 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.”<sup>334</sup> A non-exhaustive list of other locations that are part of the attack is listed below:<sup>335</sup>

- a. In August 2003, civilian inhabitants of Seder<sup>336</sup> and Gausir<sup>337</sup> in the Wadi Salih Locality, and Tiro in the Mukjar Locality,<sup>338</sup> were attacked. GoS Forces and Militia/*Janjaweed* set fire to civilian buildings,<sup>339</sup> shot and killed civilians<sup>340</sup> and looted civilian property.<sup>341</sup>
- b. Between September and October 2003, civilian inhabitants of Fere<sup>342</sup> and Forgo<sup>343</sup> in the Wadi Salih Locality were attacked. Civilians were killed, including men, women,

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<sup>332</sup> See Agreed Fact, [West Darfur Planning Map](#). See also Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

<sup>333</sup> See below, paras. 235-251, 305-309, 361-375, 443-503.

<sup>334</sup> [DAR-OTP-0013-0119](#) at 0156; [DAR-OTP-0037-0327](#) at 0327-0328.

<sup>335</sup> See Annex 3, Locations forming part of the widespread and systematic attack against the civilian population between at least August 2003 and at least April 2004. 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.

<sup>336</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0061-0062, paras. 25-28; P-0757, [DAR-OTP-0211-0003-R02](#) at 0012, paras. 39-40; P-0878, [DAR-OTP-0215-9919-R03](#) at 9947-9957. See also P-1021, [DAR-OTP-0221-1111-R01](#) at 1129, l. 602-609. Seder in the Wadi Salih Locality is also known as Sede, Sidir or Sedier.

<sup>337</sup> P-0867, [DAR-OTP-0217-0173-R02](#) at 0179-0183, paras. 32-52; P-0717, [DAR-OTP-0210-0187-R02](#) at 0202-0203, paras. 83-89. Gausir in the Wadi Salih Locality is also known as Gosir, Qausiri or Gausiri.

<sup>338</sup> P-0756, [DAR-OTP-0211-0039-R02](#) at 0045-0047, paras. 27-34; P-0757, [DAR-OTP-0211-0003-R02](#) at 0009-0010, paras. 25-32; P-0717, [DAR-OTP-0210-0187-R02](#) at 0199-0200, paras. 68-70. Tiro in the Mukjar Locality is also known as Tiru or Terow.

<sup>339</sup> P-0756, [DAR-OTP-0211-0039-R02](#) at 0046, para. 30 (Tiro); P-0717, [DAR-OTP-0210-0187-R02](#) at 0200, para. 69 (Tiro); P-0085, [DAR-OTP-0110-0054-R02](#) at 0061, para. 26 (Seder); P-0757, [DAR-OTP-0211-0003-R02](#) at 0012, para. 40 (Seder); P-0867, [DAR-OTP-0217-0173-R02](#) at 0180, paras. 39-40 (Gausir).

<sup>340</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0200, para. 69 (Tiro); P-0878, [DAR-OTP-0215-9919-R03](#) at 9952 (Seder); P-0867, [DAR-OTP-0217-0173-R02](#) at 0180-0181, para. 40 and 0184, para. 55 (Gausir).

<sup>341</sup> P-0867, [DAR-OTP-0217-0173-R02](#) at 0180-0181, para. 40 (Gausir).

<sup>342</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0020-0022, paras. 18-24.

<sup>343</sup> P-0726, [DAR-OTP-0210-0346-R03](#) at 0352-0352, paras. 22-25 and 0355, para. 32; P-0725, [DAR-OTP-0210-0122-R02](#) at 0124-0127, paras. 15-38; P-0907, [DAR-OTP-0220-0668-R02](#) at 0672-0674, paras. 21-31.

children,<sup>344</sup> and some elderly were burnt to death.<sup>345</sup> Women were also raped,<sup>346</sup> and villages looted and destroyed.<sup>347</sup>

- c. Between the end of October and November 2003, civilian inhabitants in Um Jameina,<sup>348</sup> Taringa<sup>349</sup> and Andi<sup>350</sup> in the Wadi Salih Locality were attacked. Civilians were killed,<sup>351</sup> houses burnt,<sup>352</sup> and villages destroyed.<sup>353</sup>
- d. In December 2003, civilian inhabitants in Arawala<sup>354</sup> and Kaskeidi<sup>355</sup> in the Wadi Salih Locality were attacked. GoS Forces and Militia/*Janjaweed* killed civilians,<sup>356</sup> raped women<sup>357</sup> and destroyed civilian buildings and infrastructure.<sup>358</sup>

<sup>344</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0021, para. 21 (Fere); P-0725, [DAR-OTP-0210-0122-R02](#) at 0125-0126, paras. 25-33 (Forgo); P-0726, [DAR-OTP-0210-0346-R03](#) at 0353, paras. 23-25 and 0355, para. 32 (Forgo); P-0907, [DAR-OTP-0220-0668-R02](#) at 0672, para. 23 (Forgo); P-0607, [DAR-OTP-0203-0164-R02](#) at 0169, para. 17 (Forgo).

<sup>345</sup> P-0726, [DAR-OTP-0210-0346-R03](#) at 0354, para. 30 (Forgo).

<sup>346</sup> P-0725, [DAR-OTP-0210-0122-R02](#) at 0125, para. 27 (Forgo); P-0726, [DAR-OTP-0210-0346-R03](#) at 0355-0357, paras. 34-35, 38 (Forgo).

<sup>347</sup> P-0726, [DAR-OTP-0210-0346-R03](#) at 0355, paras. 31-33 (Forgo); P-0907, [DAR-OTP-0220-0668-R02](#) at 0672, para. 23 (Forgo).

<sup>348</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1550-1554, paras. 34-50. Um Jameina in the Wadi Salih Locality is also known as Um-Jameina or Um Jamina.

<sup>349</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0023-0024, paras. 28-30; P-0697, [DAR-OTP-0209-0155-R02](#) at 0164-0165, paras. 40-45; P-0718, [DAR-OTP-0209-2004-R02](#) at 2007-2011, paras. 15-44. Taringa in the Wadi Salih Locality is also known as Taranga.

<sup>350</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0108-0109, paras. 14-19.

<sup>351</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1553-1554, paras. 45-48 (Um Jameina); P-0905, [DAR-OTP-0219-6704-R02](#) at 6709, l. 146-172 (Um Jameina); P-0718, [DAR-OTP-0209-2004-R02](#) at 2009-2010, paras. 32-38 (Taringa); P-0651, [DAR-OTP-0205-0015-R02](#) at 0023, para. 29 (Taringa); [DAR-OTP-0221-0280](#) (Translation at [DAR-OTP-0219-8280](#) at 8281) (Taringa); P-0671, [DAR-OTP-0206-0105-R02](#) at 0108-0109, paras. 15-19 (Andi).

<sup>352</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1553-1554, para. 46 (Um Jameina); P-0671, [DAR-OTP-0206-0105-R02](#) at 0108-0109, para. 16 (Andi).

<sup>353</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0023-0024, para. 30 (Taringa).

<sup>354</sup> P-0010, [DAR-OTP-0088-0306-R01](#) at 0314-0317, paras. 57-81; P-0013, [DAR-OTP-0088-0129-R02](#) at 0135-0136, paras. 26-32; P-0016, [DAR-OTP-0088-0150-R02](#) at 0156-0157, paras. 28-38; P-0895, [DAR-OTP-0215-7164-R02](#) at 0781-0782, paras. 65-69. Arawala in the Wadi Salih Locality is also known as Arula, Arwal, Arawalla or Arwalla.

<sup>355</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0009-0012, paras. 27-42. Kaskeidi in the Wadi Salih Locality is also known as Kaskeldi, Kaskildo, Kaskeldu, Kaskeldi or Kaskildu.

<sup>356</sup> P-0010, [DAR-OTP-0088-0306-R01](#) at 0322, paras. 126-127 (Arawala); P-0013, [DAR-OTP-0088-0129-R02](#) at 0136, para. 27 and 0138, para. 43 (Arawala); P-0016, [DAR-OTP-0088-0150-R02](#) at 0156-0159, paras. 28-32, 39 and 0160, para. 53 (Arawala); P-0850, [DAR-OTP-0216-0002-R03](#) at 0009, para. 30 (Kaskeidi).

<sup>357</sup> P-0010, [DAR-OTP-0088-0306-R01](#) at 0318-0321, paras. 87-113 (Arawala); P-0016, [DAR-OTP-0088-0150-R02](#) at 0159, paras. 45-48 and 0161-0162, paras. 61-62 (Arawala).

<sup>358</sup> P-0010, [DAR-OTP-0088-0306-R01](#) at 0316, para. 70 (Arawala); P-0013, [DAR-OTP-0088-0129-R02](#) at 0138, para. 41 (Arawala); P-0016, [DAR-OTP-0088-0150-R02](#) at 0160, paras. 51-52 (Arawala); P-0850, [DAR-OTP-0216-0002-R03](#) at 0010, para. 32 (Kaskeidi).

e. In January/February 2004, civilian inhabitants in Tendy<sup>359</sup> in the Mukjar Locality were attacked. Civilians were shot and killed,<sup>360</sup> raped<sup>361</sup> and the village was looted and destroyed<sup>362</sup> by GoS Forces and Militia/*Janjaweed*.

83. The attack against the civilian population in Wadi Salih and Mukjar Localities was also systematic. As set out above, the attack was planned, organised and carried out pursuant to, and in furtherance of, a GoS State policy.<sup>363</sup> 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. In addition to the towns and villages that are the subject of the charged crimes, including Kodoom and Bindisi,<sup>364</sup> the towns and villages of Arawala,<sup>365</sup> Tiro,<sup>366</sup> Fere,<sup>367</sup> Kaskeidi,<sup>368</sup> Um Jameina<sup>369</sup> and Tendy,<sup>370</sup> amongst others, were also attacked.<sup>371</sup> 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.<sup>372</sup>

**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**

84. At all material times, the perpetrators of the crimes underlying the charges, including **ABD-AL-RAHMAN**, knew that their conduct was part of, or intended their conduct to be part of, the widespread and systematic attack directed against the civilian population in Wadi Salih and Mukjar Localities of West Darfur.<sup>373</sup> In particular, between at least August 2003 and at least April 2004, **ABD-AL-RAHMAN** was a senior leader of the Militia/*Janjaweed*.<sup>374</sup> By

<sup>359</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0137-0139, paras. 35-38; P-0675, [DAR-OTP-0206-0173-R02](#) at 0190-0194, paras. 62-75. P-0903 refers to the attack in Tendy on 25 March 2004. See P-0903, [DAR-OTP-0221-0436-R02](#) at 0438-0442, paras. 11, 17-28. Tendy in the Mukjar Locality is also known as Tendi or Tindi.

<sup>360</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 36-38 (Tendy); P-0675, [DAR-OTP-0206-0173-R02](#) at 0192-0194, paras. 69-71, 74-75 (Tendy).

<sup>361</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0194-0195, paras. 76-78 (Tendy).

<sup>362</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0136, para. 31 (Tendy); P-0675, [DAR-OTP-0206-0173-R02](#) at 0194, para. 74 (Tendy).

<sup>363</sup> See above, paras. 51-78.

<sup>364</sup> See below, paras. 211-i).

<sup>365</sup> P-0010, [DAR-OTP-0088-0306-R01](#) at 0314-0317, paras. 57-81; P-0013, [DAR-OTP-0088-0129-R02](#) at 0135-0136, paras. 26-32; P-0016, [DAR-OTP-0088-0150-R02](#) at 0156-0157, paras. 28-38.

<sup>366</sup> P-0756, [DAR-OTP-0211-0039-R02](#) at 0045-0047, paras. 27-34; P-0757, [DAR-OTP-0211-0003-R02](#) at 0009-0010, paras. 25-32; P-0717, [DAR-OTP-0210-0187-R02](#) at 0199-0200, paras. 68-70.

<sup>367</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0020-0022, paras. 18-24.

<sup>368</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0009-0012, paras. 27-42.

<sup>369</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1550-1554, paras. 34-50.

<sup>370</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0178-0184, paras. 20-38 and 0191-0194, paras. 65-75.

<sup>371</sup> See e.g. P-0921, [DAR-OTP-0219-8253-R01](#) at 8271, l. 620-638.

<sup>372</sup> See below, paras. 336-402, 403-550.

<sup>373</sup> Elements of Crimes, article 7, para. 2; [Bemba Trial Judgment](#), paras. 166-167; [Ongwen Trial Judgment](#), para. 2691.

<sup>374</sup> See below, paras. 90-102.

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 population in Wadi Salih and Mukjar Localities.<sup>375</sup>

85. **ABD-AL-RAHMAN** had knowledge of the GoS State policy and demonstrated his subscription to and active participation in it. He attended meetings with GoS Officials, during which the State policy was discussed.<sup>376</sup> **ABD-AL-RAHMAN** 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.”<sup>377</sup> Similarly, at a meeting in Mukjar, 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.”<sup>378</sup> **ABD-AL-RAHMAN** informed others that “HARUN had met with them in Mukjar and had authorised them to eliminate the Fur and take their livestock.”<sup>379</sup>

86. **ABD-AL-RAHMAN**'s knowledge of and willingness to implement the State policy is demonstrated by his own words and conduct.<sup>380</sup> 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.”<sup>381</sup> 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.”<sup>382</sup> In or about December 2003, upon arriving in Bindisi, **ABD-AL-RAHMAN** stated, “I am Ali KUSHAYB and I am the leader of the Janjaweed. We are going to kill and rape.”<sup>383</sup>

87. **ABD-AL-RAHMAN**'s knowledge may also be inferred from his position as head of the Mujahidin Committee,<sup>384</sup> involvement in the recruitment, training, arming and funding of

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<sup>375</sup> When interviewed by the GoS, **ABD-AL-RAHMAN** acknowledged that he had received money, arms and ammunition from the GoS and participated in operations in Mukjar and Deleig jointly with GoS Forces. **ABD-AL-RAHMAN** also indicated that Fur *Umdahs* were responsible for leading the rebellion. See **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6913-6917).

<sup>376</sup> See above, paras. 61, 64-66.

<sup>377</sup> [REDACTED].

<sup>378</sup> [REDACTED].

<sup>379</sup> [REDACTED].

<sup>380</sup> See below Section 87 (Common elements of modes of individual criminal responsibility). See also Annex 5, **ABD-AL-RAHMAN**'s activities in Wadi Salih and Mukjar Localities (August 2003 – April 2004); Annex 6, Overview of political and military actors and **ABD-AL-RAHMAN**'s interactions with key individuals (August 2003 – April 2004); Annex 7, Involvement of **ABD-AL-RAHMAN** and key individuals in the criminal episodes underpinning the charges.

<sup>381</sup> P-0843, [DAR-OTP-0216-0600-R03](#) at 0618, para. 88.

<sup>382</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0193-0194, para. 79.

<sup>383</sup> P-0917, [DAR-OTP-0217-0071-R02](#) at 0083, para. 55.

<sup>384</sup> The Mujahidin Committee was used to recruit and arm members of the Militia/*Janjaweed* in Wadi Salih Locality. P-0643, [DAR-OTP-0215-0440-R02](#) at 0442-0445, l. 44-126, 171-175; P-0643, [DAR-OTP-0218-0638-R02](#) at 0641, para. 20. See also, paras. 99, 101, 112, 142 below.

Militia/*Janjaweed* in order to execute the GoS State policy<sup>385</sup> as well as his acts and conduct contributing to the charged crimes in the attack on Bindisi, Kodoom, Mukjar, and Deleig.<sup>386</sup>

## **E. COMMON ELEMENTS OF MODES OF INDIVIDUAL CRIMINAL RESPONSIBILITY**

88. 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) and 25(3)(b) of the Statute. This section should be read in conjunction with the sub-sections related to individual criminal responsibility in Sections G, H and I, regarding the crimes committed in Kodoom, Bindisi, Mukjar and Deleig, respectively.

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

89. 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 TB.<sup>387</sup>

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

90. **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, as set out below.

91. P-0883, [REDACTED], states that in around August 2003, **ABD-AL-RAHMAN** was the leader of the Militia/*Janjaweed* in Garsila.<sup>388</sup> P-0935, [REDACTED], states that **ABD-AL-**

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<sup>385</sup> See below, paras. 112-120.

<sup>386</sup> See below, paras. 314-333, 381-398, 512-528.

<sup>387</sup> See, in this context, Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004, Annex 4, Timeline of key events (April 2003-April 2004), Annex 5, ABD-AL-RAHMAN's activities in Wadi Salih and Mukjar Localities (August 2003-April 2004), Annex 6, Overview of political and military actors and ABD-AL-RAHMAN's interactions with key individuals (August 2003 – April 2004) and Annex 7, Involvement of ABD-AL-RAHMAN and key individuals in the criminal episodes underpinning the charges.

<sup>388</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0065, paras. 33-34.



**RAHMAN** was also well known as the leader of the Militia/*Janjaweed* by him and his fellow soldiers.<sup>389</sup>

92. P-1021, [REDACTED]<sup>390</sup> [REDACTED], states that “Ali Muhammad Ali KUSHAYB” was the commander of the “JANJAWEED” who he describes as “the horsemen who would scorch the towns and kill the civilians.”<sup>391</sup> He further states that the Militia/*Janjaweed* “are tribes ... armed by the Government ... and given salaries. Then Ali KUSHAYB gives the instructions or orders to these forces ... to go to this place, and that place, and this place. This is what the JANJAWEED has [...] done, this is their role.”<sup>392</sup>

93. P-0905, [REDACTED], states that **ABD-AL-RAHMAN** was the “highest leader”.<sup>393</sup> [REDACTED] witnessed **ABD-AL-RAHMAN** lead the attacks on Kodoom and Bindisi, describes him as the leader of the Militia/*Janjaweed*<sup>394</sup> and as the highest commander on the ground [REDACTED].<sup>395</sup> P-0885, [REDACTED], states that between 2003 and 2004, [REDACTED], “ALI KUSHAYB [was] the commander of the JANJAWEED.”<sup>396</sup>

94. P-0921, [REDACTED]<sup>397</sup> [REDACTED], states that **ABD-AL-RAHMAN** was the chief commander of the Militia/*Janjaweed*<sup>398</sup> and that “the whole of WADI SALIH is under [his] command, so everything is under his control.”<sup>399</sup> P-0012 states that the “position of ‘aqid ogada made KUSHAYB the highest ranking ‘aqid in Wadi SALIH, and the campaign for the destruction [REDACTED] was headed by him.”<sup>400</sup>

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<sup>389</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0708-0709, paras. 17, 19 and 0714, para. 38 and 0716-0717, paras. 51, 53.

<sup>390</sup> [REDACTED].

<sup>391</sup> P-1021, [DAR-OTP-0221-1111-R01](#) at 1121, l. 331-335

<sup>392</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1157, l. 749-765.

<sup>393</sup> P-0905, [DAR-OTP-0219-6648-R01](#) at 6653, l. 141-154; P-0905, [DAR-OTP-0219-6741-R01](#) at 6764, l. 787-792; P-0905, [DAR-OTP-0219-6516-R01](#) at 6546-6548, l. 1027-1086.

<sup>394</sup> [REDACTED].

<sup>395</sup> [REDACTED].

<sup>396</sup> P-0885, [DAR-OTP-0222-0749-R01](#) at 0764, l. 489-490, 511 and 0766, l. 554, 570, 573 and 0767, l. 586-606 and 0775, l. 863-864 and 0776, l. 910-913.

<sup>397</sup> P-0921, [DAR-OTP-0219-8188-R01](#) at 8190-8191, l. 36-54.

<sup>398</sup> P-0921, [DAR-OTP-0219-8253-R01](#) at 8258, l. 126-137.

<sup>399</sup> P-0921, [DAR-OTP-0219-8233-R01](#) at 8248, l. 484-486.

<sup>400</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

95. [REDACTED] **ABD-AL-RAHMAN** [REDACTED]<sup>401</sup> refers to him as an “Emir” with his own Mujahidin/*Janjaweed*<sup>402</sup> [REDACTED].<sup>403</sup> **ABD-AL-RAHMAN**’s senior leadership position is further confirmed by a number of other witnesses.<sup>404</sup>

96. Many witnesses confirm that even before August 2003, **ABD-AL-RAHMAN** was already a prominent person in Garsila, renowned for his previous military experience in the SAF and his position of “colonel of colonels” or *agid al-ogada* in the Wadi Salih Locality.<sup>405</sup>

97. **ABD-AL-RAHMAN** had a reputation as an experienced military officer and a “fearless warrior”.<sup>406</sup> After **ABD-AL-RAHMAN** left the SAF in the early to middle 1990s,<sup>407</sup> he opened a shop in Garsila from which he sold medication.<sup>408</sup> P-0905 explains that, as someone with significant military experience, **ABD-AL-RAHMAN** was a leading member of the community with ambitions to act as the “chief of the Arabs” and Arab *umdahs* would come to his pharmacy for advice.<sup>409</sup>

98. P-0643 states that prior to August 2003, **ABD-AL-RAHMAN** was already known as “the commander of all the tribal leaders”<sup>410</sup> and that all “Umdahs of the Arab tribes and Agids” were operating under his command.<sup>411</sup> P-0643 further states that before 2003 “Ali Kushayb was elected by the local Colonel *agids* to be the Colonel of Colonel’s *agid oqada*.”<sup>412</sup> P-0012 states

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<sup>401</sup> [REDACTED].

<sup>402</sup> [REDACTED].

<sup>403</sup> [REDACTED].

<sup>404</sup> See e.g. P-0029, [DAR-OTP-0094-0119-R02](#) at 0131, para. 52; P-0131, [DAR-OTP-0158-0820-R02](#) at 0860, l. 1360-1363, and [DAR-OTP-0158-1091-R03](#) at 1094, l. 79-81, and [DAR-OTP-0215-0279](#) at 0286-0287; P-0059, [DAR-OTP-0095-0095-R02](#) at 0113, para. 120; P-0044, [DAR-OTP-0095-0049-R01](#) at 0071-0072, paras. 106-108; P-0756, [DAR-OTP-0211-0039-R02](#) at 0053-0055, paras. 63-67; P-0607, [DAR-OTP-0203-0164-R02](#) at 0181, para. 60; P-0118, [DAR-OTP-0125-0665-R03](#) at 0706, para. 198; P-0712, [DAR-OTP-0209-1884-R02](#) at 1899-1900, paras. 58, 60; P-0592, [DAR-OTP-0209-0825-R02](#) at 0844, para. 106; P-0714, [DAR-OTP-0209-1916-R03](#) at 1933, para. 63; P-0834, [DAR-OTP-0214-0686-R02](#) at 0691, para. 28; P-0725, [DAR-OTP-0210-0122-R02](#) at 0134, para. 97; P-0718, [DAR-OTP-0209-2004-R02](#) at 2016, para. 78; P-0015, [DAR-OTP-0088-0187-R03](#) at 0201-0202, para. 71; P-0106, [DAR-OTP-0116-1005-R02](#) at 1011, para. 25; P-0092, [DAR-OTP-0112-0175-R02](#) at 0189, para. 63; P-0903, [DAR-OTP-0221-0436-R02](#) at 0441, para. 27; P-0926, [DAR-OTP-0218-0738-R02](#) at 0744-0745, paras. 26, 31; P-0907, [DAR-OTP-0220-0668-R02](#) at 0672, para. 19.

<sup>405</sup> See above, para. 2. See also P-0060, [DAR-OTP-0097-0328-R02](#) at 0333, para. 19; P-0617, [DAR-OTP-0202-1496-R02](#) at 1531, para. 96; P-0091, [DAR-OTP-0112-0142-R03](#) at 0159, para. 80; P-0129, [DAR-OTP-0128-0128-R04](#) at 0134-0135, paras. 24-25; P-0585, [DAR-OTP-0201-0037-R02](#) at 0044, para. 26 and 0049, para. 47 and 0065, para. 118; P-0091, [DAR-OTP-0112-0142-R03](#) at 0150, para. 41 and 0151, para. 43 and 0159, para. 80 and 0161, para. 91. [REDACTED]. [REDACTED]. See above, fn. 140.

<sup>406</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0091, para. 175.

<sup>407</sup> See above, para. 2.

<sup>408</sup> See above, para. 2.

<sup>409</sup> P-0905, [DAR-OTP-0219-6379-R02](#) at 6406-6407, l. 931-962; P-0926, [DAR-OTP-0218-0738-R02](#) at 0745, para. 30.

<sup>410</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0442-0443, l. 44-73 and 0452, l. 404.

<sup>411</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0442-0443, l. 44-73.

<sup>412</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0641, para.19.

that **ABD-AL-RAHMAN** was appointed *agid al-ogada* “because of his military experience and education” in around March 2003.<sup>413</sup>

99. In Garsila, in around early 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 existing role as *agid al-ogada* of the Arab tribes.<sup>414</sup>

100. In early August 2003, rebel armed groups attacked the police station and the CRF base in Mukjar.<sup>415</sup> In response, immediately following this attack, **ABD-AL-RAHMAN** entered Mukjar with his Militia/*Janjaweed*.<sup>416</sup> The arrival of **ABD-AL-RAHMAN** and his Militia/*Janjaweed* provided support to the GoS Forces in Mukjar and prevented the rebels from controlling the area.<sup>417</sup> 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.<sup>418</sup>

101. P-0643, [REDACTED], explains that [REDACTED] **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 [REDACTED] “he became directly linked to senior people.”<sup>419</sup> 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.”<sup>420</sup>

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<sup>413</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 35. See also P-0643, [DAR-OTP-0218-0638-R02](#) at 0640, para. 16. See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6911), where he states that in the area of Garsila, he was “the Emir of the *Fursan* of the Mujahidin in Garsila, West Darfur”.

<sup>414</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0452, l. 401-404, and [DAR-OTP-0215-0492-R02](#) at 0509, l. 569-571.

<sup>415</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0131, para. 49; P-0755, [DAR-OTP-0211-0072-R02](#) at 0080-0081, paras. 27-31; P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62.

<sup>416</sup> P-0755, [DAR-OTP-0211-0072-R02](#) at 0082, paras. 34-35; P-1021, [DAR-OTP-0221-1111-R01](#) at 1124, l. 426-432; P-0931, [DAR-OTP-0219-8598-R01](#) at 8611, l. 444-454; P-0931, [DAR-OTP-0219-8702-R01](#) at 8708, l. 200-202 and 8714, l. 407-416. See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914).

<sup>417</sup> P-0103, [DAR-OTP-0120-0203-R02](#) at 0218-0219, l. 600-615; P-0643, [DAR-OTP-0215-0492-R02](#) at 0511-0512, l. 665-691; [REDACTED].

<sup>418</sup> See above, paras. 64-65, 127-129. See also P-0931, [DAR-OTP-0219-8598-R01](#) at 8611, l. 444-454; **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6915).

<sup>419</sup> P-0643, [DAR-OTP-0215-0492-R02](#) at 0509, l. 569-571.

<sup>420</sup> P-0643, [DAR-OTP-0215-0531-R02](#) at 0534, l. 85-92, and [DAR-OTP-0215-0604-R02](#) at 0606-0607, l. 41-104.

102. Other indicia of **ABD-AL-RAHMAN**'s authority include his use of an axe or stick-like object during armed operations,<sup>421</sup> his Thuraya satellite phone<sup>422</sup> and his Land Cruiser vehicle, drivers and security escorts/bodyguards.<sup>423</sup>

*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*

103. **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.”<sup>424</sup> P-0992, [REDACTED], states that even before the events, he heard there “was someone from Garsila called Ali KUSHAYB who was going to erase the villages.”<sup>425</sup> 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].”<sup>426</sup>

104. 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 BONJOUSE,<sup>427</sup> as well as multiple other *agids* during armed operations.

105. P-0012 refers to SAMIH as one of **ABD-AL-RAHMAN**'s deputies in Mukjar.<sup>428</sup> P-0606 states that SAMIH introduced himself as a deputy to **ABD-AL-RAHMAN**.<sup>429</sup> Both P-

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<sup>421</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1933-1934, para. 64; P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 68; P-0651, [DAR-OTP-0205-0015-R02](#) at 0022-0023, para. 26; P-0643, [DAR-OTP-0218-0638-R02](#) at 0646-0647, paras. 54-58; P-0986, [DAR-OTP-0222-0437-R01](#) at 0448, para. 52 and 0453, para. 74; P-0589, [DAR-OTP-0223-0005-R01](#) at 0017-0018, para. 72. *See below* paras. 352, 356-357, 362, 392, 393-394 (Mukjar), 438, 443-446, 448, 529, 537-539, 548 (Deleig).

<sup>422</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0646, para. 58; P-0905, [DAR-OTP-0219-6648-R01](#) at 6669-6670, l. 724-738; P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-45; P-1021, [DAR-OTP-0221-1164-R01](#) at 1186, l. 731-733; P-0885, [DAR-OTP-0222-0784-R01](#) at 0800-0801, l. 523-554; P-0584, [DAR-OTP-0200-1540-R02](#) at 1570, para. 110; P-0027, [DAR-OTP-0216-0738-R02](#) at 0743-0744, para. 28; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 32; P-0954, [DAR-OTP-0221-0571-R01](#) at 0579-0580, paras. 41, 43; [REDACTED]. *See below*, paras. 327 (Kodoom and Bindisi), 548 (Deleig).

<sup>423</sup> *See e.g.* P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, para. 23 and 0425-0426 paras. 42, 52-54; P-0584, [DAR-OTP-0200-1540-R02](#) at 1568, para. 106; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083, para. 127; P-0935, [DAR-OTP-0218-0705-R02](#) at 0717-0718, paras. 52, 58; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, paras. 47-48; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, para. 23; P-0726, [DAR-OTP-0210-0346-R03](#) at 0367-0368, paras. 76-77; P-0059, [DAR-OTP-0095-0095-R02](#) at 0113, para. 120; P-0592, [DAR-OTP-0209-0825-R02](#) at 0844-0845, paras. 107-109; P-0885, [DAR-OTP-0222-0784-R01](#) at 0803-0804, l. 608-655; P-0589, [DAR-OTP-0223-0005-R01](#) at 0019, para. 78.

<sup>424</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0089, para. 166.

<sup>425</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0676, para. 42.

<sup>426</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0513, para. 45.

<sup>427</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, paras. 33-37.

<sup>428</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>429</sup> P-0606, [DAR-OTP-0203-0193-R01](#) at 0222, para. 100. *See also* P-0041, [DAR-OTP-0206-0033-R02](#) at 0040, para. 24.

0877 and P-0757 state that **ABD-AL-RAHMAN** was senior to SAMIH.<sup>430</sup> 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.”<sup>431</sup> P-0921, [REDACTED] **ABD-AL-RAHMAN** and SAMIH, states that the latter was a “JANJAWEEED commander” who took orders from **ABD-AL-RAHMAN** and conveyed them to men under his command.<sup>432</sup>

106. [REDACTED], describes SAMIH as a commander of the Janjaweed and the “deputy of Ali KUSHAYB.”<sup>433</sup> [REDACTED].<sup>434</sup> Similarly, [REDACTED] P-0976 explains that **ABD-AL-RAHMAN** was in charge of the Militia/*Janjaweed* base in Garsila and that he later joined forces with SAMIH for joint operations. During such joint operations, “Ali KUSHAYB was the leader” and P-0976 observed that **ABD-AL-RAHMAN** “would be saluted by the JJW and Al Dayfe SAMIH during the morning gatherings.”<sup>435</sup>

107. 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.”<sup>436</sup> P-1021 describes SAMIH and BONJOUSE as assistants of **ABD-AL-RAHMAN**, referring to SAMIH as “his deputy.”<sup>437</sup>

108. P-0012 also states that **ABD-AL-RAHMAN**’s other deputies were BONJOUSE, in an area called Zame Bayaa, Hamdan UMAR, in Garsila, and HAMDAN, in Bindisi.<sup>438</sup> Similarly, P-0029 states that HAMDAN was a “Janjaweed leader” in Bindisi<sup>439</sup> and [REDACTED] describes HAMDAN as a “[c]ommander of the Janjaweed.”<sup>440</sup> 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.”<sup>441</sup>

109. During armed operations led by **ABD-AL-RAHMAN**, some of which involved thousands of Militia/*Janjaweed*,<sup>442</sup> he would give orders to the various sub-leaders/*agids* to

<sup>430</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0217, para. 34; P-0757, [DAR-OTP-0211-0003-R02](#) at 0021, para. 70.

<sup>431</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0065-0066, para. 35 and 0090, para. 172.

<sup>432</sup> P-0921, [DAR-OTP-0219-8188-R01](#) at 8202, l. 434-437. See also P-0932, [DAR-OTP-0222-0602-R01](#) at 0608-0609, paras. 31, 34.

<sup>433</sup> [REDACTED].

<sup>434</sup> [REDACTED].

<sup>435</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0533, paras. 46-48 and 0536, para. 63. See also P-0992, [DAR-OTP-0221-0668-R01](#) at 0674, para. 32.

<sup>436</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0103, para. 239.

<sup>437</sup> P-1021, [DAR-OTP-0221-1111-R01](#) at 1122, l. 362-375, and [DAR-OTP-0221-1247-R01](#) at 1265, l. 596-611.

<sup>438</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0511, para. 33.

<sup>439</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0131, para. 52.

<sup>440</sup> [REDACTED].

<sup>441</sup> P-0606, [DAR-OTP-0202-1588-R02](#) at 1605, para. 75.

<sup>442</sup> **ABD-AL-RAHMAN**’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914).

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.<sup>443</sup> [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 him<sup>444</sup> and his orders were passed from *agid* to *agid*.<sup>445</sup>

110. [REDACTED] **ABD-AL-RAHMAN** ordered the *agids* to pass a specific signal that indicated to their men the start of the attack on Sindu.<sup>446</sup> [REDACTED] 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.<sup>447</sup>

111. As a respected and influential figure in the Wadi Salih and Mukjar Localities, **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<sup>448</sup> and that the consequences of not following his orders "could be as severe as execution."<sup>449</sup> Similarly, P-0935 believes that **ABD-AL-RAHMAN** was chosen by Major BAKHIT to lead a particular operation because he "was the only one the Janjaweed would obey."<sup>450</sup> 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."<sup>451</sup>

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

112. P-0547<sup>452</sup> and P-0131<sup>453</sup> 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

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<sup>443</sup> [REDACTED].

<sup>444</sup> [REDACTED].

<sup>445</sup> [REDACTED].

<sup>446</sup> [REDACTED].

<sup>447</sup> [REDACTED].

<sup>448</sup> P-0643, [DAR-OTP-0215-0358-R02](#) at 0395, l. 1251-1252. See also P-0926, [DAR-OTP-0218-0738-R02](#) at 0745, para. 30.

<sup>449</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0643, para. 32.

<sup>450</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0712, para. 28.

<sup>451</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0512, para. 37.

<sup>452</sup> P-0547, [DAR-OTP-0196-0146-R01](#) at 0184, paras. 129-130.

<sup>453</sup> P-0131, [DAR-OTP-0158-0964-R02](#) at 0988, l. 866-871.

and arming the Militia/*Janjaweed*.<sup>454</sup> [REDACTED] **ABD-AL-RAHMAN** was also one of the key officials to supervise [REDACTED] training.<sup>455</sup> 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*.<sup>456</sup> [REDACTED] SAMIH tell a group of Militia/*Janjaweed* they were being trained because **ABD-AL-RAHMAN** needed new personnel.<sup>457</sup>

113. [REDACTED] **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.<sup>458</sup> In late 2003 or early 2004 in Garsila, [REDACTED] **ABD-AL-RAHMAN** on several occasions entering the military base to “collect some wood boxes with Kalashnikovs from the weapons storage” and further states that **ABD-AL-RAHMAN** was present when the Militia/*Janjaweed* took those boxes and loaded them onto their vehicles.<sup>459</sup>

114. [REDACTED] a meeting attended by **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 **ABD-AL-RAHMAN**.<sup>460</sup> **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.”<sup>461</sup>

115. **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.<sup>462</sup> [REDACTED].<sup>463</sup>

116. [REDACTED].<sup>464</sup> [REDACTED]<sup>465</sup>

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<sup>454</sup> P-0643, [DAR-OTP-0215-0440-R02](#) at 0443-0445, l. 99-109, 174-175 and 0452, l. 398-402; [DAR-OTP-0215-0279](#) at 0286-0287.

<sup>455</sup> [REDACTED].

<sup>456</sup> [REDACTED].

<sup>457</sup> [REDACTED].

<sup>458</sup> [REDACTED].

<sup>459</sup> [REDACTED].

<sup>460</sup> [REDACTED].

<sup>461</sup> [REDACTED].

<sup>462</sup> P-0044, [DAR-OTP-0095-0049-R01](#) at 0070-0071, para. 105; P-0106, [DAR-OTP-0116-1005-R02](#) at 1012, paras. 31-33; P-0085, [DAR-OTP-0110-0054-R02](#) at 0060, para. 23 and 0066, para. 44; P-0092, [DAR-OTP-0112-0175-R02](#) at 0184, para. 40.

<sup>463</sup> [REDACTED].

<sup>464</sup> [REDACTED].

<sup>465</sup> [REDACTED].

117. 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.<sup>466</sup> **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, helicopters deliver heavy boxes that were taken to the CRF and Police.<sup>467</sup>

118. **ABD-AL-RAHMAN** also provided money to members of the Militia/*Janjaweed*. P-1021 states that in Mukjar, HARUN would “give the salaries [of the Militia/*Janjaweed*] to Ali KUSHAYB”, whereas in Garsila and Zalingei, **ABD-AL-RAHMAN** would receive money from an SAF “Captain SEIF.”<sup>468</sup> P-1021 explains that **ABD-AL-RAHMAN** would then “give a [c]ommander of a group of 400, or 500, or 1000, or 2,000 fighters [...] and tell him: ‘Give them the money and go back with the names, lists of names.’”<sup>469</sup>

119. The commanders that **ABD-AL-RAHMAN** distributed this money to included SAMIH and BONJOUSE, and [REDACTED] **ABD-AL-RAHMAN** would distribute this money based on ranks and the groups of fighters, who were divided into units, battalions and brigades.<sup>470</sup> In 2003, after the attack on Kodoom and Bindisi, on a number of occasions [REDACTED] HARUN arrive in Mukjar by helicopter, from which boxes of money were distributed to SAMIH, as deputy of **ABD-AL-RAHMAN**. The distribution of these salaries was based on a list of names of Militia/*Janjaweed*.<sup>471</sup>

120. [REDACTED] around 30 members of the Militia/*Janjaweed* lining up outside **ABD-AL-RAHMAN**’s pharmacy in Garsila at the end of each month. [REDACTED] they were awaiting their monthly salary payments.<sup>472</sup> [REDACTED] 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.<sup>473</sup> **ABD-AL-RAHMAN** was also involved in procuring supplies for the Militia/*Janjaweed* from the *Zakat* Office in Bindisi.<sup>474</sup>

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<sup>466</sup> [REDACTED].

<sup>467</sup> [REDACTED].

<sup>468</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1153-1155, l. 603-694. “Captain SEIF” is likely a reference to Seif Al-Din Ali BAKHIT, Head of Military Intelligence in Zalingei. See P-0883, [DAR-OTP-0221-0395-R01](#) at 0400, para. 26; P-0083, [DAR-OTP-0218-0059-R01](#) at 0075, para. 77; P-0905, [DAR-OTP-0219-6431-R02](#) at 6434-6435, l. 103-132.

<sup>469</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1155, l. 692-694.

<sup>470</sup> [REDACTED].

<sup>471</sup> [REDACTED].

<sup>472</sup> [REDACTED].

<sup>473</sup> [REDACTED].

<sup>474</sup> [REDACTED]. See below, paras. 218-219.



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

121. **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. In the course of these operations, **ABD-AL-RAHMAN** was observed by a number of witnesses to relay orders to other members of Militia/Janjaweed, which were always complied with.<sup>475</sup> [REDACTED]. [REDACTED] **ABD-AL-RAHMAN** led this operation and decided the route, the tactics and the duration.<sup>476</sup> [REDACTED] **ABD-AL-RAHMAN** issue instructions and orders to Militia/Janjaweed, using a whistle, and shouting “Allahu Akbar!” and “wipe out and sweep away!”<sup>477</sup> [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.<sup>478</sup> [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.”<sup>479</sup>

122. 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 mass execution of men in Mukjar and Deleig in February/March 2004.<sup>480</sup> Together with **ABD-AL-RAHMAN**’s forces, the convoy also included around 50 members of the SAF and PDF, [REDACTED].<sup>481</sup> As it left Garsila, the convoy, led by **ABD-AL-RAHMAN**’s vehicle,<sup>482</sup> included about 800 Militia/Janjaweed.<sup>483</sup> As the convoy progressed towards Sindu, via Mukjar, over the following days, the numbers increased to thousands of Militia/Janjaweed.<sup>484</sup>

123. Throughout this operation **ABD-AL-RAHMAN** issued orders and instructions, occasionally through speeches, to Militia/Janjaweed, including to “[e]liminate” men captured

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<sup>475</sup> See e.g. paras. 314, 316, 318-323, 327 (Kodoom and Bindisi), 395, 396, 401 (Mukjar), 521-522, 528, 530-532 (Deleig) below. See also P-0885, [DAR-OTP-0222-0749-R01](#) at 0776-0777, l. 910-929, and [DAR-OTP-0222-0784-R01](#) at 0795, l. 343-351.

<sup>476</sup> [REDACTED].

<sup>477</sup> [REDACTED].

<sup>478</sup> [REDACTED].

<sup>479</sup> [REDACTED].

<sup>480</sup> See e.g. paras. 370, 503 below.

<sup>481</sup> [REDACTED].

<sup>482</sup> [REDACTED].

<sup>483</sup> [REDACTED].

<sup>484</sup> [REDACTED].

in Arawala,<sup>485</sup> to “wipe and sweep”<sup>486</sup> and in Um Jameina to “just shoot, just kill”.<sup>487</sup> [REDACTED] **ABD-AL-RAHMAN** giving orders to the various *agids* during this operation.<sup>488</sup> 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 captured 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.<sup>489</sup>

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

124. 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*

125. 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 the Ministers of Interior and Defence”.<sup>490</sup> [REDACTED].<sup>491</sup>

126. P-1021 states that “[a]ll the governors and [...] state and the District Commissioners knew [**ABD-AL-RAHMAN**] in WADI SALIH [...] knew that he was the Commander.”<sup>492</sup> P-1021 also recalls [REDACTED] **ABD-AL-RAHMAN** prior to the attack on Kodoom and

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<sup>485</sup> [REDACTED].

<sup>486</sup> [REDACTED].

<sup>487</sup> [REDACTED].

<sup>488</sup> [REDACTED].

<sup>489</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6600, l. 10-35. *See below*, para. 392.

<sup>490</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0073, para. 71.

<sup>491</sup> [REDACTED].

<sup>492</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1152, l. 575-582.

Bindisi during which **ABD-AL-RAHMAN** [REDACTED] was appointed as commander of the Militia/*Janjaweed* by HUSSEIN.<sup>493</sup> On another occasion, **ABD-AL-RAHMAN** [REDACTED].<sup>494</sup> [REDACTED] **ABD-AL-RAHMAN** state that “he will not obey any instructions except those from Omar AL BASHIR, Abduraheem Mohammed HUSSEIN, and Ahmad HARUN.”<sup>495</sup>

127. In Mukjar in early August 2003, shortly after the attack by rebel forces on the police station and the CRF base in Mukjar,<sup>496</sup> multiple witnesses observed the arrival by helicopter of a delegation of senior GoS Officials and senior members of the GoS Forces.<sup>497</sup>

128. [REDACTED] **ABD-AL-RAHMAN** waiting to receive this high-level delegation, which included HARUN, Major General ISMAT [REDACTED] and Ali KARTI (“KARTI”), then general PDF coordinator in Sudan, as well as senior members of the NISS and the Police.<sup>498</sup> **ABD-AL-RAHMAN** was standing with other Militia/*Janjaweed* leaders, including SAMIH and BONJOUSE, as well [REDACTED] the Mukjar PDF coordinator. [REDACTED] **ABD-AL-RAHMAN** introduced himself as an “[e]x warrant Officer or something like that” and he recalls congratulating **ABD-AL-RAHMAN** for denying the rebels from controlling Mukjar.<sup>499</sup>

129. 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.<sup>500</sup> At this public meeting, [REDACTED] HARUN express thanks to the assembled Militia/*Janjaweed* for providing support to the GoS and GoS Forces and said that, “as of today, we consider you as government forces”.<sup>501</sup> HARUN also promised Militia/*Janjaweed* weapons, training camps, vehicles, salaries and food for their horses<sup>502</sup> and encouraged **ABD-AL-RAHMAN** to “[b]urn it all.”<sup>503</sup>

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<sup>493</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1157-1158, l. 766-797.

<sup>494</sup> P-1021, [DAR-OTP-0221-1134-R01](#) at 1159, l. 825-841.

<sup>495</sup> [REDACTED].

<sup>496</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0131, para. 49; P-0755, [DAR-OTP-0211-0072-R02](#) at 0080-0081, paras. 27-31; P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62.

<sup>497</sup> See e.g. paras. 64 and 127-129 above.

<sup>498</sup> [REDACTED]. See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914-6915), where **ABD-AL-RAHMAN** refers to a meeting in Mukjar in August 2003, following the attack on the police station, with GoS Officials and senior members of GoS Forces, including HARUN, Lieutenant General ARABI and general PDF coordinator Kamal [EDDINE] IBRAHIM.

<sup>499</sup> [REDACTED].

<sup>500</sup> [REDACTED].

<sup>501</sup> [REDACTED].

<sup>502</sup> [REDACTED]. See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914-6915).

<sup>503</sup> [REDACTED].

130. [REDACTED] **ABD-AL-RAHMAN** was standing in front of his men, very close to HARUN.<sup>504</sup> Multiple witnesses refer to HARUN expressing an intention to provide money to Militia/*Janjaweed*.<sup>505</sup> 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.<sup>506</sup>

131. [REDACTED] that from this time, HARUN offered financial and logistical support to **ABD-AL-RAHMAN** and enabled **ABD-AL-RAHMAN** to circumvent the official chain of command.<sup>507</sup> [REDACTED] **ABD-AL-RAHMAN** refused to report to ABD-AL-HAKAM, stating that “he only reported directly to Ahmed Haroun.”<sup>508</sup> [REDACTED] in the early stage of the conflict, **ABD-AL-RAHMAN** was supplied by the Garsila police with around eighty pieces of weaponry, including Kalashnikovs. However, once he began reporting to HARUN, the “supply chain changed” and he began receiving weapons from military intelligence, coordinated by HAMDI.<sup>509</sup>

132. 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.<sup>510</sup> 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.<sup>511</sup>

133. 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.<sup>512</sup> [REDACTED] **ABD-AL-RAHMAN** unloading boxes, which he assumed contained weapons and ammunition, from a helicopter into **ABD-AL-RAHMAN**’s vehicle.<sup>513</sup> [REDACTED] HARUN get out of the helicopter, greet **ABD-AL-RAHMAN** and speak with

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<sup>504</sup> [REDACTED].

<sup>505</sup> [REDACTED].

<sup>506</sup> [REDACTED].

<sup>507</sup> [REDACTED].

<sup>508</sup> [REDACTED].

<sup>509</sup> [REDACTED].

<sup>510</sup> [REDACTED].

<sup>511</sup> [REDACTED].

<sup>512</sup> [REDACTED].

<sup>513</sup> [REDACTED].

him for a short while.<sup>514</sup> 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 Sindu were attacked.<sup>515</sup>

134. 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 Battalion, Major BAKHIT, the Garsila Police Director, PDF officer (later Garsila PDF coordinator) HASSABALLAH and HAMDI.<sup>516</sup>

135. 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.<sup>517</sup> 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.<sup>518</sup>

136. [REDACTED].<sup>519</sup>

137. [REDACTED].<sup>520</sup>

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

138. [REDACTED].<sup>521</sup> [REDACTED].<sup>522</sup>

139. [REDACTED],<sup>523</sup> [REDACTED].<sup>524</sup>

140. During the operation to execute men in Mukjar in February/March 2004, **ABD-AL-RAHMAN** was also in direct telephone contact with HARUN.<sup>525</sup> In addition, P-0769 was told that **ABD-AL-RAHMAN** had been in direct communication with HUSSEIN regarding an

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<sup>514</sup> [REDACTED].

<sup>515</sup> P-0041, [DAR-OTP-0206-0033-R02](#) at 0047-0050, paras. 56-69.

<sup>516</sup> [REDACTED]. See also **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914-6915).

<sup>517</sup> [REDACTED].

<sup>518</sup> [REDACTED].

<sup>519</sup> [REDACTED].

<sup>520</sup> [REDACTED].

<sup>521</sup> [REDACTED].

<sup>522</sup> [REDACTED]. See also, paras. 220 and 221 below.

<sup>523</sup> See below, paras. 218-221.

<sup>524</sup> [REDACTED].

<sup>525</sup> See below, paras. 382-383.

attack on Bindisi in 2003, during which “HUSSEIN had offered him air support prior to ground forces attacking.”<sup>526</sup>

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

141. **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**.

142. In Garsila in 2003, prior to the charged events, and following increased rebel activity in the area, a series of committees were created.<sup>527</sup> In early 2003, representatives of the NCP in Garsila formed a Mujahidin Committee and later that year, following a nomination by **ABD-AL-HAKAM**, **ABD-AL-RAHMAN** was appointed to head this committee.<sup>528</sup> This Mujahidin Committee was in charge of recruiting and arming.<sup>529</sup> A Mobilisation Committee, responsible for Wadi Salih, was also established in response to the rebel activity. This committee, which was separate to the permanent Security Committee, was headed by **ABD-AL-HAKAM** and included students, women, security services and local administration and paramilitary, such as the PDF and PPF.<sup>530</sup> This Mobilisation Committee, comprised of representatives of Arab and Fur tribes, appointed members to various sub-committees, including the appointment of **ABD-AL-RAHMAN** to head the Mujahidin Committee.<sup>531</sup> However, despite being created by representatives of all communities and tribes, **ABD-AL-RAHMAN**'s Mujahidin Committee held meetings in the Garsila SAF base<sup>532</sup> and only armed members of Arab tribes.<sup>533</sup> 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.<sup>534</sup>

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<sup>526</sup> P-0769, [DAR-OTP-0212-0018-R02](#) at 0088, para. 603.

<sup>527</sup> [REDACTED].

<sup>528</sup> [REDACTED].

<sup>529</sup> [REDACTED].

<sup>530</sup> [REDACTED].

<sup>531</sup> [REDACTED].

<sup>532</sup> [REDACTED].

<sup>533</sup> [REDACTED].

<sup>534</sup> P-0091, [DAR-OTP-0112-0142-R03](#) at 0155, para. 61; P-0085, [DAR-OTP-0110-0054-R02](#) at 0060, para. 23; P-0926, [DAR-OTP-0218-0738-R02](#) at 0747-0746, paras. 36-37

143. During the charged period, **ABD-AL-RAHMAN** was regularly seen in other meetings with ABD-AL-HAKAM, including in Garsila,<sup>535</sup> Deleig<sup>536</sup> and Amar.<sup>537</sup> 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.”<sup>538</sup>

144. [REDACTED].<sup>539</sup> [REDACTED].<sup>540</sup>

145. [REDACTED]. [REDACTED].<sup>541</sup> [REDACTED].<sup>542</sup>

146. 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 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.”<sup>543</sup>

147. [REDACTED].<sup>544</sup>

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

148. **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 Lieutenant Colonel 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. **ABD-AL-RAHMAN**’s cooperation with, and exertion of influence over, members of GoS Forces in the Wadi Salih and Mukjar Localities, is explored in detail below.

*Relationship with the Police and CRF*

<sup>535</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0074, para. 73.

<sup>536</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0135, paras. 25-27.

<sup>537</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0188-0190, paras. 58-67.

<sup>538</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0189, para. 62.

<sup>539</sup> [REDACTED].

<sup>540</sup> [REDACTED].

<sup>541</sup> [REDACTED].

<sup>542</sup> [REDACTED].

<sup>543</sup> P-0905, [DAR-OTP-0219-6770-R02](#) at 6781-6782, l. 364-398.

<sup>544</sup> [REDACTED].

149. [REDACTED] **ABD-AL-RAHMAN**'s relationship with 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."<sup>545</sup> The police chief's subservience to **ABD-AL-RAHMAN** is evident from the behaviour 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".<sup>546</sup> [REDACTED] **ABD-AL-RAHMAN**'s scope of power: "KUSHAYB [...] could kill and loot as he liked."<sup>547</sup> [REDACTED] describes similarly how, around this time, when AL-TAYYIB asked that he be consulted by KUSHAYB, the response from KUSHAYB was that "I communicate with Jaffar ABD AL HAKAM, HAROUN and BASHIR I have no interaction with you".<sup>548</sup> [REDACTED] adds that "[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."<sup>549</sup> Witnesses [REDACTED] and [REDACTED] also confirm, in the context of Deleig, that Police were the powerless to stop **ABD-AL-RAHMAN**.<sup>550</sup>

150. **ABD-AL-RAHMAN** was even able to arrest police officers within police stations at that time. For example, [REDACTED] police officers were arrested, and had weapons confiscated, by **ABD-AL-RAHMAN** at Mukjar police station in the presence of Lieutenant Colonel Al-Tayyib, the head of CRF in Mukjar, to whom police personnel in Mukjar reported.<sup>551</sup> [REDACTED] noted in this context that " "I think [AL-TAYYIB] was scared to cross Ali KUSHAYB [REDACTED]."<sup>552</sup>

151. [REDACTED] describes **ABD-AL-RAHMAN**'s relationship with the Police. In March 2004, and shortly after a helicopter landed with weapons and ammunition, **ABD-AL-RAHMAN** arrived at the Police camp.<sup>553</sup> **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-

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<sup>545</sup> [REDACTED].

<sup>546</sup> [REDACTED].

<sup>547</sup> [REDACTED].

<sup>548</sup> [REDACTED].

<sup>549</sup> [REDACTED].

<sup>550</sup> [REDACTED].

<sup>551</sup> [REDACTED].

<sup>552</sup> [REDACTED].

<sup>553</sup> [REDACTED].



TAYYIB.<sup>554</sup> AL-TAYYIB provided **ABD-AL-RAHMAN** with boxes of ammunition, which had been brought by helicopter.<sup>555</sup> [REDACTED] AL-TAYYIB's cooperation and compliance when **ABD-AL-RAHMAN** requested him to hand over the prisoners detained in Mukjar.<sup>556</sup> Similarly, [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.<sup>557</sup>

152. [REDACTED],<sup>558</sup> [REDACTED].<sup>559</sup> [REDACTED].<sup>560</sup> 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.

153. **ABD-AL-RAHMAN**'s position of authority is also demonstrated by the fact he was able to assault members of the Police within Mukjar police station. He was able to do so with impunity, and the only person detained as a result by police chief Mustafa Al-Tayyib was the police officer who was assaulted.<sup>561</sup>

154. [REDACTED]. Six Land Cruisers were used by the CRF to deliver this ammunition to **ABD-AL-RAHMAN**, [REDACTED]. This took place shortly after the attack on Kodoom and Bindisi, at a location to the south of Mukjar. [REDACTED].<sup>562</sup>

155. [REDACTED].<sup>563</sup> [REDACTED].<sup>564</sup>

#### Relationship with the SAF and the PDF

156. **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

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<sup>554</sup> [REDACTED].

<sup>555</sup> [REDACTED].

<sup>556</sup> [REDACTED].

<sup>557</sup> [REDACTED].

<sup>558</sup> [REDACTED].

<sup>559</sup> [REDACTED].

<sup>560</sup> [REDACTED].

<sup>561</sup> [REDACTED].

<sup>562</sup> [REDACTED].

<sup>563</sup> [REDACTED].

<sup>564</sup> [REDACTED].

**ABD-AL-RAHMAN** inside that base.<sup>565</sup> [REDACTED] **HAMDI** and **ABD-AL-RAHMAN** maintained a very close relationship and that he would “often see them together and chatting in the base” in Garsila.<sup>566</sup> [REDACTED] **HAMDI** to supply them with weapons, he saw **HAMDI** with **ABD-AL-RAHMAN**. **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.<sup>567</sup>

157. [REDACTED]. [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**.”<sup>568</sup> [REDACTED] **HAMDI** allowed for the provision of weapons to **ABD-AL-RAHMAN** and his Militia/*Janjaweed* subordinates.<sup>569</sup>

158. Civilians arrested on the orders of **ABD-AL-RAHMAN** were detained at the SAF base in Garsila on a regular basis. [REDACTED],<sup>570</sup> [REDACTED], who were detained in the detention room for political prisoners.<sup>571</sup>

159. These individuals had been arrested by [REDACTED], on his orders.<sup>572</sup> [REDACTED] Commander, Major **BAKHIT**.<sup>573</sup> 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 **Oumdass**, **Sheikhs** and other community leaders, teachers, doctors”.<sup>574</sup>

160. As described in detail in the sections on **Mukjar** and **Deleig**, there was also extensive cooperation between **HAMDI** 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] describe, for example, that Military Intelligence officers **ABD-AL-MUN’IM** and [REDACTED] “were very close with Ali **KUSHAYB**”.<sup>575</sup> [REDACTED] “was always with Ali **KUSHAYB** when the latter was moving

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<sup>565</sup> [REDACTED].

<sup>566</sup> [REDACTED].

<sup>567</sup> [REDACTED].

<sup>568</sup> [REDACTED].

<sup>569</sup> [REDACTED].

<sup>570</sup> [REDACTED].

<sup>571</sup> [REDACTED].

<sup>572</sup> [REDACTED].

<sup>573</sup> [REDACTED].

<sup>574</sup> [REDACTED].

<sup>575</sup> [REDACTED].

around” and would “always participate in Ali KUSHAYB’s operations”.<sup>576</sup> **ABD-AL-RAHMAN** also cooperated with MANSUR.<sup>577</sup>

161. **ABD-AL-RAHMAN** also cooperated closely with the PDF. [REDACTED],<sup>578</sup> recalled that around the end of 2003 and the beginning of 2004, **ABD-AL-RAHMAN** came to the headquarters of the PDF in Nyala, to meet with the Commander, Major Abu Al-Qasim HAREIKA (“HAREIKA”),<sup>579</sup> and to request arms, ammunition and uniforms. Following an order from the latter, [REDACTED]. **ABD-AL-RAHMAN** signed an acknowledgement receipt on the 12C form and the supplies were loaded onto **ABD-AL-RAHMAN**’s vehicle.<sup>580</sup> Witnesses also describe **ABD-AL-RAHMAN**’s proximate relationship with Mukjar PDF coordinator ZAKARIYA.<sup>581</sup>

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

162. [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.”<sup>582</sup> **ABD-AL-RAHMAN**’s forces travelled ahead and were followed by GoS Forces.<sup>583</sup> [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.<sup>584</sup> 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 convoy.<sup>585</sup>

163. Similarly, P-0883 refers to “Ali KUSHAYB and his Janjaweed” launching attacks on Bindisi, Mukjar and Sindu, while also attacking villages on their way.<sup>586</sup> [REDACTED].<sup>587</sup> [REDACTED] that when he was travelling with **ABD-AL-RAHMAN** in a joint SAF and Militia/*Janjaweed* convoy, there was a Major who had a radio through which he was

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<sup>576</sup> [REDACTED].

<sup>577</sup> [REDACTED].

<sup>578</sup> [REDACTED].

<sup>579</sup> Regarding additional examples of cooperation between **ABD-AL-RAHMAN** and HAREIKA, *see below* para.

163.

<sup>580</sup> [REDACTED].

<sup>581</sup> [REDACTED].

<sup>582</sup> [REDACTED].

<sup>583</sup> [REDACTED].

<sup>584</sup> [REDACTED].

<sup>585</sup> P-0905, [DAR-OTP-0219-6214-R01](#) at 6233, l. 677-679.

<sup>586</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0078, para. 97.

<sup>587</sup> [REDACTED].

communicating with aircraft. [REDACTED], the Major was “receiving [...] his instruction from Ali KUSHAYB.”<sup>588</sup> [REDACTED]<sup>589</sup> [REDACTED].<sup>590</sup> [REDACTED],<sup>591</sup> [REDACTED] **ABD-AL-RAHMAN**.<sup>592</sup> [REDACTED], refers to him as a PDF commander in Nyala holding the rank of Major, and also describes HAREIKA’s interactions with **ABD-AL-RAHMAN**, including overseeing the provision of weapons.<sup>593</sup>

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

164. **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.<sup>594</sup> [REDACTED]<sup>595</sup> [REDACTED]. [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.”<sup>596</sup> In reference to **ABD-AL-RAHMAN**’s powers, [REDACTED].<sup>597</sup>

165. [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.”<sup>598</sup> [REDACTED], “[a]nd, automatically, you can’t say anything to [**ABD-AL-RAHMAN**].”<sup>599</sup> Notably, in this context, *Zurga* is a derogatory term used to describe black Africans.<sup>600</sup> This included persons of the Fur ethnic group.<sup>601</sup> [REDACTED].<sup>602</sup>

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<sup>588</sup> [REDACTED].

<sup>589</sup> [REDACTED].

<sup>590</sup> [REDACTED].

<sup>591</sup> [REDACTED].

<sup>592</sup> [REDACTED].

<sup>593</sup> [REDACTED]. *See also* **ABD-AL-RAHMAN**’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6915), where he states that before mobilising in Nyala for the operation in Mukjar, he was under the command of “Major HARIKA” of Nyala garrison.

<sup>594</sup> *See* P-0643, [DAR-OTP-0218-0638-R02](#) at 0643, para. 36.

<sup>595</sup> *See below*, paras. 368, 398 (in the context of crimes in committed in Mukjar and surrounding areas).

<sup>596</sup> [REDACTED].

<sup>597</sup> [REDACTED].

<sup>598</sup> [REDACTED].

<sup>599</sup> [REDACTED].

<sup>600</sup> P-0070, [DAR-OTP-0107-0313-R02](#) at 0320-0321, paras. 28-32.

<sup>601</sup> P-0905, [DAR-OTP-0219-6741-R01](#) at 6756, l. 494-511; P-0070, [DAR-OTP-0107-0313-R02](#) at 0324-0325, paras. 45-48; P-0034, [DAR-OTP-0118-0002-R03](#) at 0014, para. 58.

<sup>602</sup> [REDACTED].

166. [REDACTED] Hassan Adam Musa and *Sheikh* Ismail Abdulaziz (also known as Dikobi) were arrested [REDACTED], on **ABD-AL-RAHMAN**'s orders. [REDACTED].<sup>603</sup> [REDACTED].<sup>604</sup> [REDACTED].<sup>605</sup>

167. It is clear that **ABD-AL-RAHMAN**'s orders were followed by Military Intelligence. [REDACTED]. [REDACTED].<sup>606</sup> [REDACTED].<sup>607</sup> [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."<sup>608</sup>

168. **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.<sup>609</sup> [REDACTED].<sup>610</sup> The same was the case regarding **ABD-AL-RAHMAN**'s relationship with Mukjar PDF coordinator ZAKARIYA.<sup>611</sup>

169. **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."<sup>612</sup> The head of the Police accordingly passed on this instruction to the *sheikhs* of Mukjar.<sup>613</sup> [REDACTED], during the course of the attack on Kodoom in mid-August 2003, **ABD-AL-RAHMAN** [REDACTED].<sup>614</sup> [REDACTED].<sup>615</sup>

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

170. **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

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<sup>603</sup> [REDACTED].

<sup>604</sup> [REDACTED].

<sup>605</sup> [REDACTED].

<sup>606</sup> [REDACTED].

<sup>607</sup> [REDACTED].

<sup>608</sup> [REDACTED].

<sup>609</sup> [REDACTED].

<sup>610</sup> [REDACTED].

<sup>611</sup> [REDACTED].

<sup>612</sup> [REDACTED].

<sup>613</sup> [REDACTED].

<sup>614</sup> [REDACTED].

<sup>615</sup> [REDACTED].

other things, instruct his subordinates to commit crimes and/or exert influence over the physical 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.

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

171. **ABD-AL-RAHMAN** is charged with direct co-perpetration, pursuant to article 25(3)(a), for crimes committed in connection with Mukjar and Deleig.<sup>616</sup> The elements of co-perpetration are:<sup>617</sup> (a) the existence of a common plan or agreement between two or more persons, including the accused,<sup>618</sup> that includes “a critical element of criminality”<sup>619</sup> (notably, in this context, there is “no legal impediment to inferring the common plan from the wider circumstances, including the events on the ground”<sup>620</sup>); (b) the accused provided an essential contribution to the common plan;<sup>621</sup> (c) the accused meant to engage in the conduct which constituted his essential contribution;<sup>622</sup> (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;<sup>623</sup> and (e) the accused was aware (i) that the common plan or agreement involved

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<sup>616</sup> See below, paras. 380 (Mukjar) and 508 (Deleig).

<sup>617</sup> The concerns raised by Judges Morrison and Eboe-Osuji in their separate opinions to the *Ntaganda* Appeals Judgment 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 *Ntaganda* Appeals Judgment, Judge Morrison Separate Opinion, [ICC-01/04-02/06-2666-Anx2](#); *Ntaganda* Appeals Judgment, Judge Eboe-Osuji Partly Concurring Opinion, [ICC-01/04-02/06-2666-Anx5-Corr](#), 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 *Ntaganda* Appeals Judgment, Judge Morrison Separate Opinion, paras. 33, 36; *Lubanga* Trial Judgment, Judge Fulford Separate Opinion, [ICC-01/04-01/06-2842](#), para. 16.

<sup>618</sup> [Katanga Confirmation Decision](#), para. 522. See also [Confirmation Decision](#), p. 61, para. 85 and p. 65, para. 121.

<sup>619</sup> *Lubanga* Trial Judgment, [ICC-01/04-01/06-2842](#), para. 984; *Lubanga* Confirmation Decision, [ICC-01/04-01/06-803-tEN](#), para. 344.

<sup>620</sup> See [Ntaganda Appeals Judgment](#), para. 19.

<sup>621</sup> *Lubanga* Appeals Judgment, [ICC-01/04-01/06-3121-Red A5](#), para. 469. See also *Blé Goudé* Confirmation Decision, [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 [Gbagbo Confirmation Decision](#), para. 230; [Blé Goudé Confirmation Decision](#), para. 135; [Ntaganda Appeals Judgment](#), paras. 22, 1041. As to the assessment of the essential nature of a contribution, see [Lubanga Trial Judgment](#), 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 [Lubanga Trial Judgment](#), para. 994; [Blé Goudé Confirmation Decision](#), para. 136; [Katanga Confirmation Decision](#), paras. 448(b) and 524 referring to control “together with others” and “joint control over the crime”. See also [Confirmation Decision](#), p. 61, para. 88 and p. 66, para. 124.

<sup>622</sup> [Ongwen Trial Judgment](#), para. 2788. See also [Confirmation Decision](#), p. 62, para. 89 and p. 66, para. 125.

<sup>623</sup> [Ongwen Trial Judgment](#), para. 2788; [Katanga Confirmation Decision](#), para. 533; *Ruto, Kosgey & Sang* Confirmation Decision, [ICC-01/09-01/11-373](#), para. 292.

an element of criminality;<sup>624</sup> and (ii) of the factual circumstances that enabled him, together with other co-perpetrators, to jointly exercise control over the crime.<sup>625</sup>

172. **ABD-AL-RAHMAN**'s position of authority and influence as detailed at paragraphs 89 to 169 enabled **ABD-AL-RAHMAN** to make an essential contribution to the Mukjar and Deleig common plans as described at paragraphs 381 and 508 respectively: it allowed him to 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 89 to 169, 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)

173. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) ("ordering") for crimes committed in connection with Mukjar and Deleig.<sup>626</sup> 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.<sup>627</sup>

174. 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

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<sup>624</sup> [Lubanga Confirmation Decision](#), paras. 361-365.

<sup>625</sup> [Lubanga Confirmation Decision](#), paras. 366-367; [Katanga Confirmation Decision](#), para. 538.

<sup>626</sup> See below, paras. 401 (Mukjar) and 542 (Deleig).

<sup>627</sup> *Ntaganda* Confirmation Decision, [ICC-01/04-02/06-309](#), para. 145; *Mudacumura* Article 58 Decision, [ICC-01/04-01/12-1-Red](#), para. 63. See also [Confirmation Decision](#), p. 62, paras. 92-93 and p. 67, paras. 129-130.

Mukjar and Deleig. This enabled him to issue orders to certain GoS Forces personnel during the Mukjar and Deleig criminal episodes. Notably, in this latter context, a *de facto* position of authority is sufficient to establish criminal responsibility pursuant to the mode of liability of “ordering”.<sup>628</sup>

175. The evidence summarised above at paragraphs 89 to 169, 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)

176. **ABD-AL-RAHMAN** is charged, pursuant to article 25(3)(b) (“inducing”) for crimes committed in connection with Bindisi, Kodoom, Mukjar and Deleig.<sup>629</sup> 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.<sup>630</sup> In the case of “inducing”, “the accessorial perpetrator exerts influence over the physical perpetrator [...] implying the prompting of the commission of the [crime]”.<sup>631</sup> The act of inducement does not need to be direct<sup>632</sup> and can be performed by any means, either implied or express, provided that it had the requisite effect on the physical perpetrator.<sup>633</sup> The accused must have meant to induce the commission of the

<sup>628</sup> See [Ntaganda Confirmation Decision](#), 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.”); [Blé Goudé Confirmation Decision](#), para. 160 (“while Blé Goudé may not have been a superior of the Patriotic Galaxy in the formal sense, 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 [Semanza Appeals Judgment](#), [ICTR-97-20-A](#), para. 363; [Setako Appeals Judgment](#) [ICTR-04-81-A](#), para. 240. See also [Kordić & Čerkez Appeals Judgment](#), [IT-95-14/2-A](#), para. 28; [Semanza Appeals Judgment](#), paras. 361, 363; [Kamuhanda Appeals Judgment](#), [ICTR-99-54A-A](#), para. 75; [Gacumbitsi Appeals Judgment](#), [ICTR-2001-64-A](#), paras. 181-185; [Galić Appeals Judgment](#), [IT-98-29-A](#), para. 176; [Nahimana, Barayagwiza & Ngeze Appeals Judgment](#) [ICTR-99-52-A](#), para. 481, fn. 1162; [Karera Appeals Judgment](#), [ICTR-01-74-A](#), para. 211; [Boskoski & Tarculovski Appeals Judgment](#), [IT-04-82-A](#), para. 164; [Setako Appeals Judgment](#), [ICTR-04-81-A](#), para. 240; [Renzaho Appeals Judgment](#), [ICTR-97-31-A](#), para. 315.

<sup>629</sup> See *below*, paras. 313 (Kodoom and Bindisi), 402 (Mukjar) and 550 (Deleig).

<sup>630</sup> [Ntaganda Confirmation Decision](#), para. 153.

<sup>631</sup> [Bemba et al. Trial Judgment](#), [ICC-01/05-01/13-1989-Red](#), para. 76. See also [Confirmation Decision](#), p. 57-58, paras. 55-56 and p. 62, para. 94 and p. 67, para. 131.

<sup>632</sup> [Bemba Appeals Judgment](#), [ICC-01/05-01/13-2275-Red](#), para. 847.

<sup>633</sup> [Bemba Appeals Judgment](#), 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 [Ntaganda Confirmation Decision](#), para. 155; [Bemba et al. Trial Judgment](#), paras. 854, 856, 860-861), where the accused was present at the crime scene while in a position of authority (see [Bemba et al. Trial Judgment](#), para. 857), where the accused created a climate conducive to the commission of crimes (see [Ntaganda Confirmation Decision](#), para. 155; [Gbagbo Confirmation Decision](#), paras. 246-248), where the accused failed to take all necessary and reasonable measures to prevent and/or repress the crimes (see [Ntaganda Confirmation Decision](#), para. 155). In



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.<sup>634</sup>

177. **ABD-AL-RAHMAN**'s position of authority and influence as set out at paragraphs 89 to 169 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 paragraphs 89 to 169, 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.

## F. PERSECUTION

### 1) Introduction

178. 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.

179. During the charged period, GoS Forces and Militia/*Janjaweed* targeted for attack that part of the population of Darfur perceived as supporting the rebel armed groups, particularly civilians from the Fur, Zaghawa, and Masalit tribes.<sup>635</sup> 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.<sup>636</sup> As in other parts of Darfur, the Fur in Wadi Salih and Mukjar Localities were assumed to be supporters of the rebels and 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, by committing violent crimes against them.

180. Kodoom and Bindisi were both predominantly Fur villages presumed to support the rebel armed groups, and the attacks there were carried out against the civilian population,

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addition, the inducement does not need to be performed directly on the physical perpetrator, but may be committed through intermediaries, see [Bemba Appeals Judgment](#), paras. 17, 848.

<sup>634</sup> *Al Hassan* Article 58 Decision, [ICC-01/12-01/18-35-Red2-tENG](#), para. 186; [Bemba et al. Trial Judgment](#), para. 82. See also [Confirmation Decision](#), p. 58, para. 57 and p. 63, para. 95 and p. 67, para. 132.

<sup>635</sup> See above, paras. 57-58. [REDACTED].

<sup>636</sup> [DAR-OTP-0013-0119](#) at 0123 and 0151-0152; [DAR-OTP-0090-0173](#) at 0178.

resulting in mass murder, rape, destruction of property, and forced transfer of Fur persons.<sup>637</sup> The men and boys abused and executed at Mukjar 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.

181. 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.<sup>638</sup> These multiple intersecting discriminatory grounds best describe and fully capture all aspects of the discriminatory targeting.<sup>639</sup> All three targeted groups (the predominantly Fur population of Kodoom and Bindisi, 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.<sup>640</sup> 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.<sup>641</sup>

182. 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.<sup>642</sup> At Mukjar and Deleig, the victims' Fur ethnicity, combined with the socially-

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<sup>637</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 17 and 0532, para. 43; P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15.

<sup>638</sup> Persecution may be charged on the basis of multiple grounds for the same conduct. See e.g. [Gbagbo Confirmation Decision](#), para. 205; *Al Hassan* Confirmation Decision, [ICC-01/12-01/18-461-Corr-Red](#), para. 667; *Ntaganda* Reparations Order, [ICC-01/04-02/06-2659](#), para. 60; [Confirmation Decision](#), p. 57, para. 51 and p. 60, para. 80 and p. 65, para. 116.

<sup>639</sup> *Gonzales Lluy v. Ecuador* Judgment, Judge Eduardo Ferrer Mac-Gregor Poisot Concurring Opinion, [Serie C No. 298](#), para. 11 (“[...] intersectional discrimination refers to multiple reasons or factors that interact to create a unique and distinct burden or risk of discrimination [...] the reasons or the factors are analytically inseparable because the experience of discrimination cannot be disaggregated into [separate] reasons”).

<sup>640</sup> See [Ongwen Trial Judgment](#), para. 2737. See e.g. [Confirmation Decision](#), p. 57, para. 51 and p. 60, para. 80 and p. 65, para. 116.

<sup>641</sup> See [Gbagbo Confirmation Decision](#), para. 205. See e.g. [Confirmation Decision](#), p. 57, para. 51 and p. 60, para. 80 and p. 65, para. 116.

<sup>642</sup> Statute, article 7(3) (the term “gender” refers to the two sexes, male and female, within the context of society); [Al Hassan Confirmation Decision](#), 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); [Ntaganda Reparations Order](#), para. 63 (“Gender-based crimes are those committed against persons because of their sex and/or 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* (2021), p. 233 (“It is important to note that the gender-based persecution is not limited to women and girls.”) and p. 234 (“[...] gender discrimination under article 7(1)(h) extends to situations where male or female members of a group are targeted on the basis of gender roles as understood in the context of society, i.e. the killing only of all military age men within a group [...]”).

constructed gender role presuming males to be fighters, underpinned the perpetrators' perception of them as rebels or rebel sympathisers.<sup>643</sup>

- 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 Kodoom and Bindisi because they were perceived as supporting the rebel armed groups**

183. 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.<sup>644</sup>

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

184. 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.<sup>645</sup> [REDACTED] **ABD-AL-RAHMAN** received instructions from Vice President TAHA to kill anyone from the Fur tribe, whether they were armed or not.<sup>646</sup>

185. 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 (*ghanima*) for the Mujahidin.”<sup>647</sup> During the speech, **ABD-AL-RAHMAN** was standing in front of his men, and very close to

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<sup>643</sup> Fur males 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].

<sup>644</sup> 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 [Ongwen Trial Judgment](#), para. 1092.

<sup>645</sup> P-0643, [DAR-OTP-0215-0604-R02](#) at 0607, l. 104.

<sup>646</sup> [REDACTED].

<sup>647</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0518, para. 65; P-0757, [DAR-OTP-0211-0003-R02](#) at 0016-0018, paras. 52, 57, 61; P-0114, [DAR-OTP-0119-0711-R02](#) at 0716, para. 21; P-0015, [DAR-OTP-0136-0006-R01](#) at 0007, para. 4; P-0015, [DAR-OTP-0088-0187-R03](#) at 0201, para. 68; P-0601, [DAR-OTP-0202-1588-R02](#) at 1599, paras. 41-44; P-0673, [DAR-OTP-0206-0138-R02](#) at 0141-0142, paras. 19-21. See *above*, para. 64.

HARUN.<sup>648</sup> Within days of this speech, Militia/*Janjaweed* began attacking Fur villages and towns outside Mukjar, including Kodoom and Bindisi.<sup>649</sup>

186. After these attacks, GoS Officials continued encouraging the targeting of the Fur. Towards the end of August 2003, [REDACTED] witnessed a gathering of Militia/*Janjaweed* near the intermediary school in Mukjar. He listened as Minister HUSSEIN told them “if an Arab kills a Fur then he will have killed a Kafir [non-believer] and if he takes their money then it is a war gain for the Arabs.”<sup>650</sup> [REDACTED].<sup>651</sup> Following the speech by HARUN, SAMIH proclaimed “we will deliver the land without Fur.”<sup>652</sup>

187. During a meeting in November 2003, [REDACTED] 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.”<sup>653</sup> Witness P-0903 recalls similarly that on around late February to early March 2004, HARUN stated “[t]he Fur people and their money are your prize. We will clear the whole area. We are not even going to leave a single tree.”<sup>654</sup> P-0903 adds that “[w]hen I heard this, I got scared as I am of Fur ethnicity and HAROUN’s speech was obviously targeting the Fur.”<sup>655</sup>

188. 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.”<sup>656</sup>

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

Kodoom and Bindisi

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<sup>648</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0518, para. 67.

<sup>649</sup> See below, paras. 211-310.

<sup>650</sup> [REDACTED].

<sup>651</sup> [REDACTED].

<sup>652</sup> [REDACTED].

<sup>653</sup> [REDACTED].

<sup>654</sup> P-0903, [DAR-OTP-0221-0436-R02](#) at 0448, para. 59.

<sup>655</sup> P-0903, [DAR-OTP-0221-0436-R02](#) at 0448, para. 59.

<sup>656</sup> P-0843, [DAR-OTP-0216-0600-R03](#) at 0619, para. 90. Although this event may not have taken place during the period of the charges, it is included since it is proximate in time. See also P-0041, [DAR-OTP-0206-0033-R02](#) at 0047, para. 53.

189. **ABD-AL-RAHMAN** and other GoS Forces and Militia/*Janjaweed* targeted Kodoom and Bindisi for attack because they were predominantly Fur villages<sup>657</sup> and therefore assumed to harbour supporters of the rebel armed groups. In early August 2003, HARUN requested that **ABD-AL-RAHMAN** form a “committee” to destroy “B[i]ndisi locality”<sup>658</sup> and **ABD-AL-RAHMAN** replied in the affirmative.<sup>659</sup> As noted above, the attacks on Kodoom and Bindisi were carried out shortly after HARUN’s speech against the Fur.<sup>660</sup>

190. During the attack on Kodoom and Bindisi, **ABD-AL-RAHMAN** used language demonstrating his intent to carry out an indiscriminate attack in which the villages would be wiped out.<sup>661</sup> Witnesses on the ground heard the attackers, including **ABD-AL-RAHMAN** himself,<sup>662</sup> referring to the mostly Fur victims using derogatory terms like “slaves”<sup>663</sup> and saying that they wanted to kill every “black person.”<sup>664</sup> The attackers also accused the villagers of being associated with the rebel armed groups.

191. P-0015, [REDACTED], heard Militia/*Janjaweed* calling the Bindisi victims “black Nubas” (*nuba* is a pejorative term for black persons) and *tora bora*, stating that they had permission from the government to kill them and chase them away.<sup>665</sup> P-0015 also witnessed women being raped while the attackers were saying “we have taken Tora Bora’s wives, praise be to god.”<sup>666</sup>

192. While hiding on the outskirts of Bindisi on the second day of the attack, P-0927 heard rape victims describing how the Militia/*Janjaweed* attackers had humiliated them repeatedly by calling them *abid* (meaning slave/servant) and saying that they were going to exterminate their husbands.<sup>667</sup> When P-0927 later returned to Bindisi in October 2003, the only neighbourhood

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<sup>657</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, paras. 11, 13; P-0029, [DAR-OTP-0094-0119-R02](#) at 0122, para. 13; P-0011, [DAR-OTP-0088-0219-R02](#) at 0226, para. 38; P-0015, [DAR-OTP-0088-0187-R03](#) at 0190, para. 11; P-0918, [DAR-OTP-0218-0120-R03](#) at 0123-0124, para. 12; P-0816, [DAR-OTP-0214-0721-R02](#) at 0724, para. 17; P-0834, [DAR-OTP-0214-0686-R02](#) at 0688, para. 16; P-0986, [DAR-OTP-0222-0437-R01](#) at 0446, para. 44; P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15. *See also* [REDACTED]. *See also* [REDACTED].

<sup>658</sup> P-0131, [DAR-OTP-0158-1024-R02](#) at 1082-1083, l. 1954-2007.

<sup>659</sup> P-0131, [DAR-OTP-0158-1024-R02](#) at 1085-1090; [DAR-OTP-0158-1091-R03](#) at 1092-1096.

<sup>660</sup> *See above*, para. 185.

<sup>661</sup> *See below*, para. 316 (describing **ABD-AL-RAHMAN**’s use of the language “wipe out and swipe away”).

<sup>662</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0447, para. 50.

<sup>663</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0011, [DAR-OTP-0088-0219-R02](#) at 0230, para. 66; P-0986, [DAR-OTP-0222-0437-R01](#) at 0445, para. 39 and 0447, paras. 47, 49-50.

<sup>664</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0065, para. 21; P-0011, [DAR-OTP-0088-0219-R02](#) at 0230, para. 66.

<sup>665</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0197, para. 47.

<sup>666</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0196, para. 43. *See also* P-0011, [DAR-OTP-0088-0219-R02](#) at 0230, para. 65 and 0232, paras. 77-79 and 0236, para. 98; P-0029, [DAR-OTP-0094-0119-R02](#) at 0139, para. 89.

<sup>667</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0530, para. 32.

in which people were still living and the houses had not been destroyed was an area in upper Bindisi where the Tama tribe resided.<sup>668</sup>

193. [REDACTED] heard **ABD-AL-RAHMAN** state that all the Fur would die and their livestock should become spoils of war.<sup>669</sup> While putting his foot on [REDACTED] neck, **ABD-AL-RAHMAN** called him *abid* and other members of the Militia/*Janjaweed* beat and whipped him saying “[y]ou slaves, it is your year, this year you will all die!”<sup>670</sup>

194. During the attack on Kodoom and Bindisi, even members of the GoS were afraid that they would be targeted by **ABD-AL-RAHMAN**’s forces because of their ethnicity. [REDACTED].<sup>671</sup>

### Mukjar

195. 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.<sup>672</sup> [REDACTED], [REDACTED] **ABD-AL-RAHMAN** of being “*Tora Bora*”.<sup>673</sup> [REDACTED] **ABD-AL-RAHMAN**.<sup>674</sup> P-0919 describes being arrested and detained along with over 100 Fur males,<sup>675</sup> while P-0129 states that most of the prisoners were Fur, with three or four Masalit.<sup>676</sup> Several other witnesses similarly describe the targeting of young males for arrests in this period.<sup>677</sup> P-0984 also

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<sup>668</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0532, para. 43. The Tama and Gimir tribes were considered by some to be allies of the GoS Forces and Militia/*Janjaweed*. See e.g. P-0008, [DAR-OTP-0088-0085-R02](#) at 0096, para. 41; P-0085, [DAR-OTP-0110-0054-R02](#) at 0065, para. 43; P-0092, [DAR-OTP-0112-0175-R02](#) at 0183-0184, paras. 39-41; P-0878, [DAR-OTP-0215-9919-R03](#) at 9925; [DAR-OTP-0215-9373-R01](#) at 9384; P-0926, [DAR-OTP-0218-0738-R02](#) at 0744, para. 28.

<sup>669</sup> [REDACTED].

<sup>670</sup> [REDACTED].

<sup>671</sup> [REDACTED].

<sup>672</sup> 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; P-0903, [DAR-OTP-0221-0436-R02](#) at 0443, para. 33; P-0984, [DAR-OTP-0222-0084-R01](#) at 0096, para. 72; P-0976, [DAR-OTP-0222-0526-R01](#) at 0537, para. 75

<sup>673</sup> [REDACTED].

<sup>674</sup> [REDACTED].

<sup>675</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0430, paras. 31, 39. See also P-0885, [DAR-OTP-0222-0784-R01](#) at 0797, l. 420-432, and [DAR-OTP-0222-0855-R01](#) at 0872-0873, l. 563-598; P-0931, [DAR-OTP-0219-8720-R01](#) at 8727-8729, l. 223-299.

<sup>676</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 45. P-0129 also describes the targeting of young males for arrests in this period, see P-0129, [DAR-OTP-0128-0128-R04](#) at 0138, para. 39. See also P-0932, [DAR-OTP-0222-0602-R01](#) at 0619-0620, paras. 100, 107.

<sup>677</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 141; P-0892, [DAR-OTP-0217-0384-R02](#) at 0392, paras. 41-42; P-0913, [DAR-OTP-0218-0021-R03](#) at 0030, para. 61; P-0984, [DAR-OTP-0222-0084-R01](#) at 0096-0097, paras. 75-79. See also P-0885, [DAR-OTP-0222-0784-R01](#) at 0797-0798, l. 433-453.

describes how armed soldiers “targeted all the males who had fled to Mukjar, they considered them to be rebels.”<sup>678</sup>

196. Multiple eyewitnesses report that **ABD-AL-RAHMAN** visited the Fur, male prisoners at the Mukjar police station and beat them while insulting them and accusing them of being rebels. For example, P-0992 heard **ABD-AL-RAHMAN** call *Umdah* Yahya Ahmad Zarruq “Kabir El Tora Bora”, meaning the leader of the *tora bora*, and then hit the *Umdah* with his axe.<sup>679</sup> P-0976 saw **ABD-AL-RAHMAN** pull on *Umdah* Zarruq’s ears and say “I am going to ride the donkey.”<sup>680</sup> P-0188 saw **ABD-AL-RAHMAN** hitting *Umdah* Yahya Ahmad Zarruq on the head saying “here is one of the great rebels.”<sup>681</sup> P-0919 describes how **ABD-AL-RAHMAN** came into his cell along with other Militia/*Janjaweed*, and told the *Umdahs* “I am going to fuck you today,” and then started beating them.<sup>682</sup> Notably, the *Umdahs* were leaders within the Fur community. Therefore, harm directed against such leaders of the Fur community, was, in a symbolic sense, harm directed against the Fur community as a whole. As discussed at paragraph 59 above, targeting such civilian community leaders was an explicit policy of the GoS. Community leaders were similarly targeted in Deleig, as discussed at paragraphs 473 and 474 below.

197. [REDACTED] 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 meaning idol worshippers).<sup>683</sup> **ABD-AL-RAHMAN** also told the prisoners that HARUN had authorised them to take the property of the Fur and eliminate the Fur.<sup>684</sup>

198. 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 “Tora Boro is over, prepare their

<sup>678</sup> P-0984, [DAR-OTP-0222-0084-R01](#) at 0097, para. 79.

<sup>679</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 70.

<sup>680</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 92

<sup>681</sup> 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 also P-0913, [DAR-OTP-0218-0021-R03](#) at 0037, para. 105; P-0976, [DAR-OTP-0222-0526-R01](#) at 0535, para. 57.

<sup>682</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 41. See also P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 47; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 143.

<sup>683</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 47.

<sup>684</sup> [REDACTED]. For additional references to detainees being beaten while being accused of being a rebel, see P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 41; P-0675, [DAR-OTP-0206-0173-R02](#) at 0208, para. 124; P-0015, [DAR-OTP-0088-0187-R03](#) at 0198, para. 55.

graves.”<sup>685</sup> P-0919, [REDACTED]; he could hear [REDACTED] detainees crying and screaming while Militia/*Janjaweed* were saying “torabora we are going to fuck you.”<sup>686</sup> Later, at the execution site—where **ABD-AL-RAHMAN** was present—Militia/*Janjaweed* shouted “*criminals criminals*” while they shot at the detainees,<sup>687</sup> and referred to them as “slaves.”<sup>688</sup>

### Deleig

199. As in Mukjar, in Deleig, Militia/*Janjaweed* and GoS Forces, 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.<sup>689</sup> The Militia/*Janjaweed* and GoS Forces referred to the arrested men as *tora bora*,<sup>690</sup> slaves,<sup>691</sup> and donkeys.<sup>692</sup> [REDACTED], P-0850 could hear Militia/*Janjaweed* yelling words like “fuck the Fur”, “kill the slaves” and “fuck the Fur, fuck the slaves.”<sup>693</sup> [REDACTED], [REDACTED] saw Militia/*Janjaweed* arresting other men and heard them shouting that they were “going to take all Fur men and clean out all Nuba.”<sup>694</sup>

200. As was the case in Mukjar, it was well understood that the GoS Forces and Militia/*Janjaweed* were only looking for males.<sup>695</sup> Indeed, [REDACTED] 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.<sup>696</sup> The Militia/*Janjaweed* and GoS Forces primarily targeted adult males,<sup>697</sup> but also arrested some boys under the age of 18 years and some elderly men.<sup>698</sup>

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<sup>685</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0038, para. 110.

<sup>686</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, para. 52. *See also* P-0029, [DAR-OTP-0094-0119-R02](#) at 0154, para. 148.

<sup>687</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0434, para. 55.

<sup>688</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0144, para. 56.

<sup>689</sup> *See below*, para. 427.

<sup>690</sup> P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, para. 92; P-0584, [DAR-OTP-0200-1540-R02](#) at 1565, para. 92; P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 28.

<sup>691</sup> P-0592, [DAR-OTP-0209-0825-R02](#) at 0840, para. 89; P-0718, [DAR-OTP-0209-2004-R02](#) at 2013-2014, paras. 60, 67.

<sup>692</sup> P-0718, [DAR-OTP-0209-2004-R02](#) at 2013, para. 60.

<sup>693</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0018, paras. 64-65, 67.

<sup>694</sup> [REDACTED].

<sup>695</sup> *See e.g.* P-0651, [DAR-OTP-0205-0015-R02](#) at 0027, paras. 41-42.

<sup>696</sup> [REDACTED]. This was a tactic applied in other instances as well. *See e.g.* P-0905, [DAR-OTP-0219-6551-R01](#) at 6593, l. 1433-1440.

<sup>697</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 25; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742, para. 26; P-0924, [DAR-OTP-0218-0455-R02](#) at 0465, para. 53; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 40; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 20; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, paras. 74-76; P-0714, [DAR-OTP-0209-1916-R03](#) at 1931, para. 53.

<sup>698</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 44 and 0678, para. 54; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 88; P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, para. 92.



201. Once arrested, the Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, brought the males to the Deleig police station, where they mistreated them and verbally abused them using derogatory language, such as *tora bora*.<sup>699</sup> **ABD-AL-RAHMAN** personally used humiliating and derogatory language towards the detainees, for example:

- a. 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!”<sup>700</sup>
- b. P-0973 saw **ABD-AL-RAHMAN** walking on the detainees’ backs as they were lying face down on the ground, saying things like “God creates and I kill” and “flies are worth more than you.”<sup>701</sup>
- c. P-0924 heard **ABD-AL-RAHMAN** order a group of arrested men, including P-0924, to lie down on the ground and then **ABD-AL-RAHMAN** said, “FUR this is your last day, we are taking you to God.”<sup>702</sup>
- d. P-0905 heard **ABD-AL-RAHMAN** calling Jenif a “criminal” before he struck him to the head with his axe.<sup>703</sup>
- e. P-0718 saw **ABD-AL-RAHMAN** questioning his [REDACTED], calling them “criminals” and “slaves”, and asking where they were from.<sup>704</sup>

202. In addition, P-0585 was told by Militia/*Janjaweed* 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.<sup>705</sup>

203. Ultimately, as described in detail below,<sup>706</sup> 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.”<sup>707</sup>

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<sup>699</sup> See below, para. 437.

<sup>700</sup> P-0106, [DAR-OTP-0116-1005-R02](#) at 1019, para. 70.

<sup>701</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0742, para. 30.

<sup>702</sup> P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 61.

<sup>703</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6276-6277, l. 335-339, 360-374. See below, para. 445.

<sup>704</sup> P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 67.

<sup>705</sup> P-0585, [DAR-OTP-0201-0037-R02](#) at 0058, para. 86.

<sup>706</sup> See below, paras. 443-503.

<sup>707</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0032, para. 61.

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

204. 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

205. [REDACTED] in or around August 2003, GoS Forces started arresting and torturing Fur males in Mukjar on suspicion of being rebels.<sup>708</sup> [REDACTED] recalls that around this time, all government officials and Arab tribes referred to all members of the Fur tribe as *tora bora*. Commissioner TORSHEIN referred to his own employees, [REDACTED], as *tora bora*.<sup>709</sup> Around this same time, [REDACTED] **ABD-AL-RAHMAN**'s forces and government intelligence were targeting young Fur males as they were considered to be rebels.<sup>710</sup> Around September 2003, [REDACTED] "they were still arresting males in Mukjar."<sup>711</sup>

206. [REDACTED] also describes that in August 2003 the Militia/Janjaweed "were looking for males amongst the people that were trying to enter Mukjar."<sup>712</sup> [REDACTED] was told by the Militia/Janjaweed that "men and boys aged over fifteen years were not allowed to enter."<sup>713</sup> However, according to [REDACTED], "some men and boys did manage to enter Mukjar, by covering themselves with a long female piece of clothing, which they had wrapped around their bodies."<sup>714</sup> [REDACTED] finally saw the Militia/Janjaweed "arresting 4 men from [the] group of villagers from Bindisi, when entering Mukjar."<sup>715</sup>

207. [REDACTED], while trying to enter Mukjar in August 2003, was told by people coming from Mukjar that "it was dangerous for men to go to Mukjar as the Janjaweed and the Sudanese armed forces were searching houses and looking for men."<sup>716</sup> [REDACTED] stated:

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<sup>708</sup> [REDACTED].

<sup>709</sup> [REDACTED].

<sup>710</sup> [REDACTED].

<sup>711</sup> [REDACTED].

<sup>712</sup> [REDACTED].

<sup>713</sup> [REDACTED].

<sup>714</sup> [REDACTED].

<sup>715</sup> [REDACTED].

<sup>716</sup> [REDACTED].

“Men could enter Mukjar only if they managed to disguise as women by wrapping themselves in ‘toub’”, which is a long piece of fabric that women wrap around themselves.<sup>717</sup>

### Arawala and Um Jameina 2003

208. [REDACTED] a 2003 attack<sup>718</sup> on the predominantly Fur<sup>719</sup> village of Arawala. During the attack, **ABD-AL-RAHMAN** instructed Militia/*Janjaweed* to “wipe and sweep”,<sup>720</sup> which P-0905 understood to mean “to kill”<sup>721</sup> and “don’t bring [them] alive”<sup>722</sup> or “don’t leave anything behind.”<sup>723</sup>

209. 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*.<sup>724</sup> In Um Jameina, [REDACTED] the murder of a man accused of being *tora bora* and his wife, who was in the middle of labour.<sup>725</sup>

### Mukjar 2004 – Locality Building

210. Around the same time as the charged incident in Mukjar, [REDACTED] was stopped at a checkpoint by the PPF and directed to the Mukjar Locality Building where **ABD-AL-RAHMAN** was present.<sup>726</sup> **ABD-AL-RAHMAN** then ordered him and other men to be beaten.<sup>727</sup> The GoS Forces and Militia/*Janjaweed* who carried out **ABD-AL-RAHMAN**’s orders called the men (the majority of whom were Fur<sup>728</sup>) “rebels” and “slaves” while they were beating them.<sup>729</sup> [REDACTED] 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 to the rebels or supporting the rebels.”<sup>730</sup>

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<sup>717</sup> [REDACTED].

<sup>718</sup> [REDACTED].

<sup>719</sup> [REDACTED].

<sup>720</sup> [REDACTED].

<sup>721</sup> [REDACTED].

<sup>722</sup> [REDACTED].

<sup>723</sup> [REDACTED].

<sup>724</sup> [REDACTED].

<sup>725</sup> [REDACTED].

<sup>726</sup> [REDACTED].

<sup>727</sup> [REDACTED].

<sup>728</sup> [REDACTED].

<sup>729</sup> [REDACTED].

<sup>730</sup> [REDACTED].

## G. CRIMES COMMITTED IN KODOOM, BINDISI AND SURROUNDING AREAS

### 1) Introduction

211. During the charged period, Kodoom, Bindisi and surrounding areas were located in the Wadi Salih Locality, West Darfur.<sup>731</sup> The populations of Kodoom and Bindisi were predominantly Fur.<sup>732</sup>

212. Kodoom had a population of around 1,600 families<sup>733</sup> and was composed of separate areas or neighbourhoods, including Kodoom Ronga Tass, Kodoom Tineh and Kodoom Derliwa.<sup>734</sup> Kodoom was located approximately nine kilometres northeast of Bindisi.<sup>735</sup>

213. Bindisi was a large town with a population of around 1,800 families.<sup>736</sup> Bindisi was separated by the Wadi Salih riverbed or valley into two areas,<sup>737</sup> often referred to as “New” Bindisi and “Old” Bindisi.<sup>738</sup> New Bindisi is also known as “North” (or “upper”<sup>739</sup>) Bindisi. Old Bindisi is also referred to as “South” (or “lower”<sup>740</sup>) Bindisi.<sup>741</sup> Bindisi was surrounded by

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<sup>731</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, paras. 9-10; P-1021, [DAR-OTP-0221-1111-R01](#) at 1117, l. 196-206. *See also* Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004; Agreed Facts 1-2, Annex C to Third Joint Submission on Agreed Facts, [ICC-02/05-01/20-504-AnxC](#).

<sup>732</sup> [DAR-OTP-0145-0237](#) at 0300 (97% Fur, 2% Masalit, 1% Dajo) and 0305-0306 (100% Fur); P-0011, [DAR-OTP-0088-0219-R02](#) at 0226, para. 38; P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, paras. 11, 13; P-0015, [DAR-OTP-0088-0187-R03](#) at 0190, para. 11; P-0589, [DAR-OTP-0223-0005-R01](#) at 0010, para. 25 and 0011, para. 35; P-0816, [DAR-OTP-0214-0721-R02](#) at 0724, para. 17; P-0834, [DAR-OTP-0214-0686-R02](#) at 0688, para. 16; P-0868, [DAR-OTP-0217-0137-R02](#) at 0140, para. 16; [REDACTED]; P-0918, [DAR-OTP-0218-0120-R03](#) at 0124, para. 12; P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 17; P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15; P-0986, [DAR-OTP-0222-0437-R01](#) at 0446, para. 44.

<sup>733</sup> [DAR-OTP-0145-0237](#) at 0305-0306 (100% Fur); P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15.

<sup>734</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0122-0123, para. 13; P-0878, [DAR-OTP-0215-9919-R03](#) at 9947-9948; P-0878, [DAR-OTP-0219-3062-R02](#) at 3068, para. 28; P-0882, [DAR-OTP-0218-0165-R02](#) at 0184, para. 94; P-0986, [DAR-OTP-0222-0437-R01](#) at 0441, para. 21.

<sup>735</sup> *See* Agreed Fact, [West Darfur Planning Map](#). *See also* Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

<sup>736</sup> [DAR-OTP-0145-0237](#) at 0300 (97% Fur, 2% Masalit, 1% Dajo).

<sup>737</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 9; P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 20; P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

<sup>738</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0505-0506, para. 11; P-0015, [DAR-OTP-0088-0187-R03](#) at 0190, para. 10; P-0589, [DAR-OTP-0223-0005-R01](#) at 0011, para. 36; P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

<sup>739</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 15; P-0878, [DAR-OTP-0219-3062-R02](#) at 3070, para. 35.

<sup>740</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

<sup>741</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0140, para. 16; P-0878, [DAR-OTP-0215-9919-R03](#) at 9956; P-0922, [DAR-OTP-0222-0312-R01](#) at 0318, para. 22; P-0927, [DAR-OTP-0221-0523-R01](#) at 0526, para. 15.

several villages, including Kodoom, Drangal,<sup>742</sup> Gartaga,<sup>743</sup> Gausir,<sup>744</sup> Merly,<sup>745</sup> Seder,<sup>746</sup> Tiro<sup>747</sup> and others.<sup>748</sup> Bindisi was located approximately 19 kilometres west of Mukjar,<sup>749</sup> a town to which many inhabitants fled following the attack on Kodoom, Bindisi and surrounding areas.<sup>750</sup>

214. Annex 9 contains a satellite image of Bindisi with a number of key locations marked, including the area of "North" or "upper" or "New" Bindisi, which includes Daguina, the area of "South" or "lower" or "Old" Bindisi, and the roads to Garsila, Um Dukhun, and Mukjar.<sup>751</sup> Annex 10 contains a satellite image of Kodoom with a number of key locations marked, including Kodoom Ronga Tass, Kodoom Tineh, Kodoom Derliwa neighbourhoods, and the road to Garsila.<sup>752</sup>

#### *Meetings in Mukjar following the rebel attacks on Bindisi and Mukjar*

215. Around July or early August 2003, rebel armed groups attacked locations in Bindisi, including a police station and the *Zakat* Office.<sup>753</sup> Days later, in early August, rebel armed groups attacked the police station and the CRF base in Mukjar.<sup>754</sup> Immediately after these attacks, **ABD-AL-RAHMAN** came to Mukjar with the Militia/*Janjaweed* under his command

<sup>742</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 22; P-0882, [DAR-OTP-0218-0165-R02](#) at 0182, para. 85; P-0927, [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0991, [DAR-OTP-0223-0059-R01](#) at 0063, para. 18.

<sup>743</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 22; P-0991, [DAR-OTP-0223-0059-R01](#) at 0063, para. 18.

<sup>744</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 23; P-0882, [DAR-OTP-0218-0165-R02](#) at 0182, para. 85; P-0922, [DAR-OTP-0222-0312-R01](#) at 0319, para. 26; P-0991, [DAR-OTP-0223-0059-R01](#) at 0063, para. 19.

<sup>745</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0182, para. 85; P-0927, [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0932, [DAR-OTP-0222-0602-R01](#) at 0610, para. 43; P-0991, [DAR-OTP-0223-0059-R01](#) at 0063, para. 18.

<sup>746</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 22; P-0882, [DAR-OTP-0218-0165-R02](#) at 0182, para. 85; P-0927, [DAR-OTP-0221-0523-R01](#) at 0528, para. 23; P-0991, [DAR-OTP-0223-0059-R01](#) at 0063-0064, paras. 18, 24-25.

<sup>747</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0757, [DAR-OTP-0211-0003-R02](#) at 0010, para. 28; P-0717, [DAR-OTP-0210-0187-R02](#) at 0199-0200, paras. 68-69. *See above*, para. 82.

<sup>748</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0063, para. 10; P-0011, [DAR-OTP-0088-0219-R02](#) at 0225, para. 32 and 0226, para. 38; P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 22, P-0991, [DAR-OTP-0223-0059-R01](#) at 0063, para. 18.

<sup>749</sup> *See* Agreed Fact, [West Darfur Planning Map](#).

<sup>750</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0184, para. 92. *See also* P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 23; P-0011, [DAR-OTP-0088-0219-R02](#) at 0233, paras. 80-81; P-0589, [DAR-OTP-0223-0005-R01](#) at 0024, para. 107; P-0816, [DAR-OTP-0214-0721-R02](#) at 0728, para. 33 and 0730, para. 40; P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 50; P-0922, [DAR-OTP-0222-0312-R01](#) at 0320, para. 31; P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15.

<sup>751</sup> *See* Annex 9, Key locations in Bindisi town.

<sup>752</sup> *See* Annex 10, Neighbourhoods of Kodoom.

<sup>753</sup> [REDACTED].

<sup>754</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0517, para. 62; P-0044, [DAR-OTP-0095-0049-R01](#) at 0075, para. 121; P-0720, [DAR-OTP-0210-0291-R02](#) at 0299, para. 53; P-0755, [DAR-OTP-0211-0072-R02](#) at 0080-0081, paras. 27-29; P-0756, [DAR-OTP-0211-0039-R02](#) at 0044-0045, para. 23; P-0878, [DAR-OTP-0215-9919-R03](#) at 9928.

to provide support to GoS Forces.<sup>755</sup> A high-level delegation of GoS Officials and senior members of GoS Forces, including HARUN, also arrived in Mukjar around this time.<sup>756</sup> **ABD-AL-RAHMAN**, other Militia/*Janjaweed* leaders, GoS Officials and senior members of the GoS Forces then held a series of meetings to plan and coordinate the response to the rebel attacks, including the operation in Kodoom, Bindisi and surrounding areas.

216. **ABD-AL-RAHMAN** was present to welcome the delegation of GoS Officials and senior GoS Forces on the day they arrived, along with two of his deputies, SAMIH and BONJOUSE.<sup>757</sup> **ABD-AL-RAHMAN** 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.<sup>758</sup> At the public meeting, [REDACTED] recalls HARUN saying to **ABD-AL-RAHMAN**: “I don’t want you to leave a human or a single tree. Burn it all.”<sup>759</sup>

217. [REDACTED].<sup>760</sup> [REDACTED].<sup>761</sup> [REDACTED].<sup>762</sup> [REDACTED].<sup>763</sup>  
[REDACTED].<sup>764</sup>

*Preparation to attack Kodoom, Bindisi and surrounding areas*

218. **ABD-AL-RAHMAN** was involved in implementing the planned operation in Kodoom, Bindisi and surrounding areas. As set out below, multiple witnesses refer to a letter, or written instruction, that authorised **ABD-AL-RAHMAN** to obtain food from the *Zakat* Office in Bindisi for the animals of Militia/*Janjaweed* who had come to Mukjar to provide support to the GoS Forces following the rebel attack. Shortly after the Mukjar Security Committee meeting, [REDACTED].<sup>765</sup>

219. [REDACTED].<sup>766</sup> [REDACTED].<sup>767</sup> [REDACTED].<sup>768</sup>

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<sup>755</sup> [REDACTED]. See also **ABD-AL-RAHMAN**’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914).

<sup>756</sup> [REDACTED]. See above, paras. 127-130.

<sup>757</sup> [REDACTED]. See above, paras. 128-129.

<sup>758</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0518, para. 67.

<sup>759</sup> [REDACTED]. See also **ABD-AL-RAHMAN**’s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6914 and 6915).

<sup>760</sup> [REDACTED].

<sup>761</sup> [REDACTED].

<sup>762</sup> [REDACTED].

<sup>763</sup> [REDACTED].

<sup>764</sup> [REDACTED].

<sup>765</sup> [REDACTED].

<sup>766</sup> [REDACTED].

<sup>767</sup> [REDACTED].

<sup>768</sup> [REDACTED].

220. [REDACTED], [REDACTED], [REDACTED] **ABD-AL-RAHMAN** and HARUN communicated in relation to the Bindisi operation shortly before it began. [REDACTED].<sup>769</sup> One of these documents was a signed letter on official GoS notepaper from HARUN to **ABD-AL-RAHMAN** entitled “Destruction of the locality of [Bindisi].”<sup>770</sup> The other document was a reply from **ABD-AL-RAHMAN** to HARUN providing details on the planned operation as part of the “Zakat Collection Project”, [REDACTED].<sup>771</sup>

221. This correspondence suggests that both HARUN and **ABD-AL-RAHMAN** intended to destroy the Bindisi area and further informs the content of their private meeting in Mukjar in August 2003.<sup>772</sup> [REDACTED].<sup>773</sup>

222. Given the surrounding circumstances, including the conduct of the subsequent attack on Kodoom, Bindisi and surrounding areas, it can be reasonably inferred that this correspondence and the meetings in Mukjar served to coordinate and organise this attack and that **ABD-AL-RAHMAN**, HARUN, ABD-AL-HAKAM, HIMEIDAN, HASSABALLAH, SAMIH and BONJOUSE were all involved in this process.

#### *Sequence of attacks from Mukjar to Bindisi*

223. In furtherance of this plan, on or about 15 and 16 August 2003, **ABD-AL-RAHMAN** led Militia/*Janjaweed* in coordination with GoS Forces in a single continuous attack against the civilian population of Kodoom, Bindisi and surrounding areas.<sup>774</sup>

224. On or about 15 August 2003, Militia/*Janjaweed* and GoS Forces left Mukjar and attacked several villages on their way to Kodoom and Bindisi. These other villages included Nyerli, Tiro, Seder and Merly.<sup>775</sup> Although the attacks on these other locations are not charged, the crimes committed and the conduct of the Militia/*Janjaweed* and/or GoS Forces in these locations, and indeed during this whole operation, provide relevant context as well as a *modus operandi* for the entire operation that culminated in the attack on Kodoom and Bindisi.

225. Upon arriving in North Bindisi in the afternoon, shortly after attacking Kodoom, Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, SAMIH and

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<sup>769</sup> [REDACTED].

<sup>770</sup> [REDACTED].

<sup>771</sup> [REDACTED]. *See above*, para. 144.

<sup>772</sup> *See above*, paras. 129, 216.

<sup>773</sup> [REDACTED]. *See above*, para. 139. [REDACTED]. *See below*, para. 480.

<sup>774</sup> [REDACTED].

<sup>775</sup> [REDACTED]. *See above*, para. 82.

HAMDAN,<sup>776</sup> attacked the town and pillaged the *Zakat* Office in Bindisi.<sup>777</sup> Militia/*Janjaweed* and GoS Forces then set up camp near the *souq* (local market) to spend the night.<sup>778</sup> The following morning, on or about 16 August 2003, on **ABD-AL-RAHMAN**'s orders, as set out below, the Militia/*Janjaweed* and GoS Forces continued their attack on civilians in South Bindisi.<sup>779</sup>

226. [REDACTED].<sup>780</sup> Despite the fact that there was no rebel presence in Kodoom, [REDACTED] explains that “[s]ome of its people might have taken part in the [July or early August rebel] attack against the town of [Bindisi].”<sup>781</sup> As a result, the “revenge of Ali Kushayb and his comrades against the village of Kodoom was immense.”<sup>782</sup> When questioned by a GoS investigation committee in November 2006, **ABD-AL-RAHMAN** refers to his presence in Bindisi after he met HARUN and other senior figures in Mukjar. He states: “Abdul Wahid’s camp that was known was the one in Bundis, [REDACTED]. We got from it a rifle and three RPGs [...] and from --- there we returned to Garsila”.<sup>783</sup> [REDACTED].<sup>784</sup> [REDACTED] recalls that [REDACTED] told HASSABALLAH, a former student, that he should be “ashamed” for the “murder, pillaging and rape.”<sup>785</sup> [REDACTED] also recalls being told by [REDACTED].<sup>786</sup>

227. Other witnesses that were present during the attack on Kodoom and Bindisi on or about 15 and 16 August 2003 also attest that there was no rebel presence or armed resistance in those villages at that time.<sup>787</sup> P-0012 believes that, while the Police did attempt to defend Old Bindisi, “the exchange did not last for more than five minutes” after which the Militia/*Janjaweed* destroyed the police station.<sup>788</sup>

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<sup>776</sup> [REDACTED].

<sup>777</sup> See below, paras. 260, 263-265, 323.

<sup>778</sup> [REDACTED].

<sup>779</sup> See below, paras. 275-276. See also Annex 8, Locations relevant to the attack on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003.

<sup>780</sup> [REDACTED].

<sup>781</sup> [REDACTED]. [REDACTED]; [REDACTED].

<sup>782</sup> [REDACTED].

<sup>783</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6915).

<sup>784</sup> [REDACTED].

<sup>785</sup> [REDACTED].

<sup>786</sup> [REDACTED].

<sup>787</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0206, para. 97; P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 35; P-0868, [DAR-OTP-0217-0137-R02](#) at 0147, para. 47; [REDACTED]; P-0927, [DAR-OTP-0221-0523-R01](#) at 0527, para. 18; P-0986, [DAR-OTP-0222-0437-R01](#) at 0441-0442, para. 23. See also P-0717, [DAR-OTP-0210-0187-R02](#) at 0196, para. 46.

<sup>788</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83.



228. The crimes committed during this continuous attack are detailed below. Annex 8 contains a satellite image identifying Kodoom, Bindisi and surrounding areas, as well as a number of additional villages attacked during the same operation.<sup>789</sup>

## 2) The crimes

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

229. **ABD-AL-RAHMAN**, on or about 15 and 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.<sup>790</sup>

230. Militia/*Janjaweed* and GoS Forces, under the command and at the direction of **ABD-AL-RAHMAN**, entered Kodoom, Bindisi and surrounding areas with ground forces arriving in “camouflaged-coloured Toyota Land Cruisers”,<sup>791</sup> some mounted with *Dushkas* (a heavy machine gun),<sup>792</sup> others on horses, camels and on foot.<sup>793</sup> They were armed with high calibre weapons, such as Kalashnikovs and GiMs (an assault rifle),<sup>794</sup> as well as edged weapons, which they intentionally used to injure and kill persons.<sup>795</sup>

231. Multiple witnesses saw **ABD-AL-RAHMAN** lead the attack on the civilian population at various phases of the operation and as set out below, observed him either in a vehicle, on a

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<sup>789</sup> See Annex 8, Locations relevant to the attack on Kodoom, Bindisi and surrounding areas between about 15 and about 16 August 2003. Due to difficulties in obtaining a high resolution satellite image from the period 2003-2004 that would cover the whole area of interest, the OTP has used a satellite image from December 2020 obtained from ESRI.

<sup>790</sup> *Katanga Trial Judgment*, 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-R02](#) at 0065-0066, para. 22; P-0029, [DAR-OTP-0094-0119-R02](#) at 0135, para. 71; P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, para. 83; P-0878, [DAR-OTP-0215-9919-R03](#) at 9949.

<sup>791</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0065, para. 21; P-0015, [DAR-OTP-0088-0187-R03](#) at 0192, para. 23; P-0834, [DAR-OTP-0214-0686-R02](#) at 0693, para. 39.

<sup>792</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0065, para. 21; P-0011, [DAR-OTP-0088-0219-R02](#) at 0228, para. 51; P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 36. See also P-0868, [DAR-OTP-0217-0137-R02](#) at 0147, para. 45.

<sup>793</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0201, para. 77; P-0757, [DAR-OTP-0211-0003-R02](#) at 0009, para. 26; P-0986, [DAR-OTP-0222-0437-R01](#) at 0445, para. 39.

<sup>794</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0135, para. 70; P-0932, [DAR-OTP-0222-0602-R01](#) at 0610, para. 42.

<sup>795</sup> *Ongwen Trial Judgment*, 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 *Ntaganda Trial Judgment*, para. 862; *Katanga Trial Judgment*, para. 768.

horse or on foot.<sup>796</sup> P-0029 states that **ABD-AL-RAHMAN** was present in Kodoom Tineh during the attack and 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].”<sup>797</sup> [REDACTED].<sup>798</sup> [REDACTED] **ABD-AL-RAHMAN** during the first day of the attack, states that **ABD-AL-RAHMAN** was leading the Militia/*Janjaweed* and GoS Forces.<sup>799</sup>

232. **ABD-AL-RAHMAN** also demonstrated that the civilian population was the intended target of the attack. [REDACTED], who knew **ABD-AL-RAHMAN** prior to the attack on Kodoom, recalls that **ABD-AL-RAHMAN** [REDACTED].<sup>800</sup> [REDACTED].<sup>801</sup> [REDACTED].<sup>802</sup> [REDACTED].<sup>803</sup>

233. The evidence establishes that 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).

234. Based on the facts set out in paragraphs 229 to 233 above, it is the only reasonable inference that the perpetrators intended the civilian population of Kodoom, Bindisi and surrounding areas to be the object of the attack.

### ***Count 2: Murder as a crime against humanity***

235. On or about 15 and 16 August 2003, Militia/*Janjaweed* and GoS Forces killed at least 63 persons from Kodoom, Bindisi and surrounding areas, as listed in Annex 11.<sup>804</sup> These

<sup>796</sup> See e.g. paras. 319, 322, 324, 327, 329 below.

<sup>797</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0133, para. 61.

<sup>798</sup> [REDACTED].

<sup>799</sup> [REDACTED].

<sup>800</sup> [REDACTED].

<sup>801</sup> [REDACTED].

<sup>802</sup> [REDACTED].

<sup>803</sup> [REDACTED].

<sup>804</sup> See Annex 11, Non-exhaustive list of persons killed in Kodoom, Bindisi and surrounding areas (“Annex 11”). Of the names/identities listed, 51 were listed in Annex 1 to the Confirmation Decision and the remaining 12 are established by evidence obtained by the Prosecution since the DCC was filed. See Annex 1 to Confirmation Decision, [ICC-02/05-01/20-433-Conf-Anx1-Corr](#), p. 2. In cases involving mass criminality, it may be impracticable or unnecessary for the Prosecution to exhaustively identify every victim by name. See [Bemba Trial Judgment](#), para. 43; [Mbarushimana Confirmation Decision](#), [ICC-01/04-01/10-465-Red](#), para. 112; [Kupreškić et al. Appeals Judgment](#), [IT-95-16-A](#), paras. 89-90; [Sainović et al. Appeals Judgment](#), para. 235; [Ndindabahizi Appeals Judgment](#), [ICTR-01-71-A](#), para. 16; [Ntakirutimana et al. Appeals Judgment](#), [ICTR-96-10-A & ICTR-96-17-A](#), para. 73; [Rukundo Appeals Judgment](#), [ICTR-2001-70-A](#), paras. 158-160; [Sesay et al. Appeals Judgment](#), [SCSL-04-15-A](#), para. 52; [Brima et al. Appeals Judgment](#), [SCSL-2004-16-A](#), para. 41. Moreover, it is not a legal requirement that the Prosecution establish the identity of the victim by name in order to prove the crime of murder.

persons were either civilians taking no active part in hostilities or were persons *hors de combat*. They included men, women, children and elderly persons.<sup>805</sup> The perpetrators of the killings were aware of the factual circumstances that established their status.<sup>806</sup>

236. In Tiro, a village close to Kodoom,<sup>807</sup> [REDACTED] states that Militia/*Janjaweed* and GoS Forces “started taking revenge on the children, women, the elderly and the nomads by means of murder, beating and chasing.”<sup>808</sup> Militia/*Janjaweed* and GoS Forces “chased them the way a dog would chase a rabbit.”<sup>809</sup> [REDACTED] later came across two bodies near the Tiro-Kodoom road.<sup>810</sup>

237. After attacking Tiro, **ABD-AL-RAHMAN** then led Militia/*Janjaweed* and GoS Forces to Kodoom.<sup>811</sup> According to [REDACTED], in Kodoom “[t]he scenes were repeated all over again, as had happened before in the previously mentioned villages,” including Tiro.<sup>812</sup> [REDACTED] was with **ABD-AL-RAHMAN** and saw him kill elderly civilians during the attack.<sup>813</sup> [REDACTED] was also present in Kodoom when it was attacked. He states that the “whole town was scorched” and that civilians were killed.<sup>814</sup>

238. In Kodoom, [REDACTED] observed that Militia/*Janjaweed* and GoS Forces “intensified their gunfire at the escaping people from a far distance”<sup>815</sup> and described the scale of the attack by **ABD-AL-RAHMAN** and his forces as “immense.”<sup>816</sup> [REDACTED] saw people 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.<sup>817</sup> [REDACTED] also provides names of the other

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See [Bemba Trial Judgment](#), para. 88. In relation to this count and all counts of murder as a crime against humanity and as a war crime, the Prosecution intends to make submissions to include all named and unnamed victims in addition to those named/identified victims confirmed in the [Confirmation Decision](#).

<sup>805</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0070-0071, paras. 38, 42; P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85; P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, para. 32; P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, para. 80; P-0816, [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38; [REDACTED]; P-0918, [DAR-OTP-0218-0120-R03](#) at 0128-0129, para. 31; [REDACTED]; [REDACTED].

<sup>806</sup> [Bemba Trial Judgment](#), para. 92.

<sup>807</sup> See above, para. 82.

<sup>808</sup> [REDACTED].

<sup>809</sup> [REDACTED].

<sup>810</sup> [REDACTED].

<sup>811</sup> [REDACTED].

<sup>812</sup> [REDACTED].

<sup>813</sup> [REDACTED].

<sup>814</sup> [REDACTED].

<sup>815</sup> [REDACTED].

<sup>816</sup> [REDACTED].

<sup>817</sup> [REDACTED].

victims killed during the attack in Kodoom and its surrounding areas.<sup>818</sup> The murder of *Faqih Umar Ya'qub Musa* is corroborated by P-0029,<sup>819</sup> P-0918<sup>820</sup> and P-0932.<sup>821</sup>

239. [REDACTED] was present during the attack in Kodoom and saw [REDACTED], Isa Ahmad get shot in the chest and head.<sup>822</sup> He also states that another person was killed, named “Bakhit Ibrahim”.<sup>823</sup> [REDACTED] helped bury individuals that were killed during the attack.<sup>824</sup> The murder of Isa Ahmad is corroborated by P-0932,<sup>825</sup> and the murder of Bakhit Ibrahim is corroborated by P-0918.<sup>826</sup>

240. Similarly, P-0986 was present in Kodoom when it was attacked. He saw that “Arabs were armed with guns, as well as burning sticks that they used to set houses on fire.”<sup>827</sup> He also saw “Arabs on horseback firing their guns.”<sup>828</sup> [REDACTED], Dafalla Abdelaziz Hassan and Muslim Mohammed Ibrahim, both of whom had been killed and were on the ground and covered in blood.<sup>829</sup>

241. **ABD-AL-RAHMAN** then led Militia/*Janjaweed* and GoS Forces to Bindisi, where civilians were displaced and killed.<sup>830</sup> P-0007 was in Bindisi as Militia/*Janjaweed* and GoS Forces entered the town on or about 15 August and began “killing people and set fire to the huts.”<sup>831</sup> He was also present when Militia/*Janjaweed* and GoS Forces returned and attacked Bindisi the next day.<sup>832</sup> P-0007 states that the attackers used the term *nuba* and said that “they did not want any black person to survive.”<sup>833</sup> P-0007 states that Militia/*Janjaweed* and GoS Forces did not differentiate between targets, as they killed “[y]oung boys, men, women and

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<sup>818</sup> [REDACTED].

<sup>819</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0134, para. 66. P-0029 refers to this person as *Faqih Umar Ya'qub Musa*. See also Annex 11, no. 5.

<sup>820</sup> P-0918, [DAR-OTP-0218-0120-R03](#) at 0128-0129, para. 31 and 0135, para. 51; P-0918, Annex F, [DAR-OTP-0218-0158-R01](#) at 0159. P-0918 refers to this person as Omar Yagub (aka Toriya). See also Annex 11, no. 5.

<sup>821</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0624, paras. 129-132. P-0932 refers to this person as *Faqih Umar Ya'qub Musa*. See also Annex 11, no. 5.

<sup>822</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0134, para. 66. P-0029 refers to this person as Isa Ahmad. See also Annex 11, no. 7.

<sup>823</sup> [REDACTED]. See also Annex 11, no. 2

<sup>824</sup> [REDACTED].

<sup>825</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0612, para. 51 and 0624, paras. 121-131; P-0932 refers to this person as Issa Ahmed Bekhit. See also Annex 11, no. 7.

<sup>826</sup> P-0918, [DAR-OTP-0218-0120-R03](#) at 0128-0129, para. 31 and 0135, para. 51; P-0918, Annex F, [DAR-OTP-0218-0158-R01](#) at 0159; P-0932 refers to this person as Bakhit Ibrahim Ali. See also Annex 11, no. 2.

<sup>827</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0444, para. 37.

<sup>828</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0445, para. 39.

<sup>829</sup> [REDACTED]. See also Annex 11, no. 52, 54.

<sup>830</sup> P-0878, [DAR-OTP-0215-9919-R03](#) at 9953.

<sup>831</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0065, para. 21.

<sup>832</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 23.

<sup>833</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0065, para. 21.

children.”<sup>834</sup> P-0007 saw Militia/*Janjaweed* and/or GoS Forces rape and kill Kony Harun<sup>835</sup> and Darasalam Husayn<sup>836</sup> and kill Halima Isa,<sup>837</sup> after she resisted rape.<sup>838</sup> After escaping to Mukjar following the attack, P-0007 returned to Bindisi several days later.<sup>839</sup> He states that he saw 17 bodies of men, women, and children. P-0007 observed gunshot wounds to some of the bodies, while others were burnt beyond recognition.<sup>840</sup>

242. 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.<sup>841</sup> Militia/*Janjaweed* and/or GoS Forces eventually caught up with [REDACTED], her family members and other fleeing civilians, including about 50 men.<sup>842</sup> In relation to the men, [REDACTED] the Militia/*Janjaweed* “tied their hands behind their backs, laid them face down and shot them with Kalashnikovs.”<sup>843</sup> P-0011 states that Rashid Issa<sup>844</sup> and Adam Bosch<sup>845</sup> were among those killed, as well as Abd-al-Nasir, who was beaten to death during the same incident.<sup>846</sup>

243. P-0012 states that **ABD-AL-RAHMAN** was part of the attack on Bindisi.<sup>847</sup> P-0012 witnessed the shooting to death of Mohammed Khamiss, also known as tailor Khamiss,<sup>848</sup> 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.”<sup>849</sup> P-0012 estimates that he buried about 22 bodies and noted that most of them had “bullet wounds”, while two of the bodies bore “sword wounds”.<sup>850</sup> All the victims appeared to be civilians, as the bodies were not clad in uniforms and they did not have any weapons.<sup>851</sup>

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<sup>834</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 22.

<sup>835</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43. *See also* Annex 11, no. 40.

<sup>836</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43. *See also* Annex 11, no. 27.

<sup>837</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43. *See also* Annex 11, no. 29.

<sup>838</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43.

<sup>839</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0070-0071, para. 41.

<sup>840</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 42.

<sup>841</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0229, para. 57.

<sup>842</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0229, para. 61.

<sup>843</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0231, para. 73.

<sup>844</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0231, para. 74. *See also* Annex 11, no. 47.

<sup>845</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0231, para. 74. *See also* Annex 11, no. 21.

<sup>846</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0231, para. 74. *See also* Annex 11, no. 17.

<sup>847</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84.

<sup>848</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85. P-0012 refers to this person as Khamis. *See also* Annex 11, no. 42.

<sup>849</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85.

<sup>850</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 81.

<sup>851</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 81.

244. P-0816 fled the attack in Bindisi,<sup>852</sup> and on his return, he saw the body of Mohammed Khamiss (tailor Khamiss) with blood stains.<sup>853</sup> Similarly, [REDACTED] was present on the day of the attack and names a “tailor called KHAMIS” as being amongst those killed.<sup>854</sup> This is corroborated by P-0991.<sup>855</sup>

245. P-0816 assisted with the burial of some Bindisi victims, such as [REDACTED], Daoud Ali Yusif,<sup>856</sup> and [REDACTED], Ismail Abdulmukaram.<sup>857</sup> P-0816 names other deceased victims, such as [REDACTED], Ismail Muhammad Abdulrahman,<sup>858</sup> fellow villagers such as Abdu Mohammad Abdulrahman,<sup>859</sup> Ahmad Abbaker aka Jebna,<sup>860</sup> [REDACTED], Omar<sup>861</sup> and a lady who he believes might be called Hawa, who had a gunshot wound to her body.<sup>862</sup> The murder of Ahmad Abbaker aka Jebna is corroborated by P-0882 who was present in Bindisi on the day of the attack.<sup>863</sup> [REDACTED] further explains that other civilians killed during the attack included “Haj BAHREDDINE”<sup>864</sup> and “HUSSEIN”.<sup>865</sup>

246. P-0015 states that Militia/*Janjaweed* and/or GoS Forces killed [REDACTED], Omar Suleiman Muhammad, as they attempted to flee the attack.<sup>866</sup> [REDACTED], Ahmed Muhammed,<sup>867</sup> was killed during the attack, together with “those who could not run such as the elderly and the children.”<sup>868</sup> P-0085 saw Militia/*Janjaweed* and/or GoS Forces shoot to death four of his neighbours during the Bindisi attack.<sup>869</sup>

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<sup>852</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 36.

<sup>853</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. P-0816 refers to this person as Mohammed Khamis. *See also* Annex 11, no. 42.

<sup>854</sup> [REDACTED]. *See also* Annex 11, no. 42.

<sup>855</sup> P-0991, [DAR-OTP-0223-0059-R01](#) at 0075, para. 87. P-0991 refers to this person as Mohammed Khamis. *See also* Annex 11, no. 42.

<sup>856</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. *See also* Annex 11, no. 26.

<sup>857</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. P-0816 refers to this person as Ismail Abdulmukaram. *See also* Annex 11, no. 34.

<sup>858</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. *See also* Annex 11, no. 35.

<sup>859</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 38. P-0816 refers to this person as Abdu Muhammad Abdulrahman. *See also* Annex 11, no. 18.

<sup>860</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38. P-0816 refers to this person as “Ahmad nicknamed Gebna”. *See also* Annex 11, no. 23.

<sup>861</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38. *See also* Annex 11, no. 45.

<sup>862</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38.

<sup>863</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0169, para. 20 and 0182, para. 85. *See also* Annex 11, no. 23.

<sup>864</sup> [REDACTED]. *See also* Annex 11, no. 58.

<sup>865</sup> [REDACTED]. *See also* Annex 11, no. 59.

<sup>866</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0193, paras. 26-27. *See also* Annex 11, no. 46.

<sup>867</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, para. 32. *See also* Annex 11, no. 24.

<sup>868</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, para. 32.

<sup>869</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, para. 31.

247. While he was fleeing the attack on Bindisi [REDACTED], P-0589 saw that a little girl called Zahara<sup>870</sup> and Suleiman Adam Yacoub,<sup>871</sup> who looked after P-0589's cows, had been shot.<sup>872</sup> As they fled, P-0589 could hear bullets coming from different directions and then he saw [REDACTED] Abdu Issa collapse.<sup>873</sup> P-0589 saw that Abdu Issa was shot in the back.<sup>874</sup>

248. After the attack, P-0589 returned to help bury the dead and he recalls that “[p]eople would go and find bodies in different areas and would dig graves as the bodies were found.”<sup>875</sup> P-0589 buried [REDACTED], Abdu Issa in a single grave. In another, he buried Kalthouma Yahia<sup>876</sup> who was a midwife, Abo Hawa<sup>877</sup> who was a grandmother in her 70s, and Fatima Adam.<sup>878</sup> P-0589 also buried the little girl, Zahara and Suleiman Adam Yacoub together in a single grave.<sup>879</sup> P-0589 explained that the bodies of those he buried “had been hit with bullets [...] on the back, chest, head and waist, all of them from behind [...]. They were hit while running away.”<sup>880</sup> P-0589 also found bodies of people lying in their shops and in front of their homes and could see the bullet wounds in their bodies.<sup>881</sup>

249. P-0717, who fled during the Kodoom attack,<sup>882</sup> states that as he arrived in Bindisi, he saw Militia/*Janjaweed* and/or GoS Forces and signs of an ongoing attack.<sup>883</sup> 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.”<sup>884</sup> P-0717 and his neighbours buried the bodies of the victims in “two holes”, consisting of men, women and children.<sup>885</sup>

<sup>870</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 85. *See also* Annex 11, no. 62.

<sup>871</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 85. *See also* Annex 11, no. 61.

<sup>872</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 85.

<sup>873</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 86. *See also* Annex 11, no. 55.

<sup>874</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 86.

<sup>875</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0023, para. 102.

<sup>876</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0023, para. 102. P-0589 refers to this person as Kalthouma Yahia. *See also* Annex 11, no. 38.

<sup>877</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0023, para. 102. *See also* Annex 11, no. 56.

<sup>878</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0023, para. 102. *See also* Annex 11, no. 57.

<sup>879</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0023, paras. 102-103.

<sup>880</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0020, para. 86.

<sup>881</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0021, para. 92.

<sup>882</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0200-0201, para. 73.

<sup>883</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0201, para. 77.

<sup>884</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, paras. 78-79.

<sup>885</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, para. 80.

250. P-0834 received reports that [REDACTED] Ismael Abdulkaram,<sup>886</sup> Abakar Mohammad Abdulrahman,<sup>887</sup> Suliman Mohammad Abdulrahman,<sup>888</sup> Abdu Mohammad Abdulrahman,<sup>889</sup> Mohammed Adam<sup>890</sup> and Ismael Abdoumoula<sup>891</sup> were killed during the Bindisi attack [REDACTED], [REDACTED].<sup>892</sup>

251. While fleeing Bindisi, P-0868 saw Militia/*Janjaweed* and/or GoS Forces shoot Mudassir Ibrahim Garat<sup>893</sup> in his back and he died.<sup>894</sup> P-0868 was told that [REDACTED] Adam<sup>895</sup> and another man, Abdo, were among the persons killed.<sup>896</sup> Upon returning to Bindisi, P-0913 found six deceased victims, known to him as Imam Baher Harun Atim,<sup>897</sup> Zakariya Isaaq Adam,<sup>898</sup> Hussein Mohamed Abdulrahman,<sup>899</sup> Khamis Adam Idris,<sup>900</sup> Adam Abdallah Imam<sup>901</sup> and Kathouma Yahia Ahmed.<sup>902</sup> When P-0913 buried these victims, he observed that the bodies had what appeared to be gunshot wounds.<sup>903</sup> The murder of civilians in Bindisi is further corroborated by P-0029 who, on or about 17 August, saw “the corpses of Kaltuma and Ibrahim Gibna who had been shot [and an old woman].”<sup>904</sup>

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

252. The material facts relevant to the crime of murder as a crime against humanity described at paragraphs 235 to 251 are incorporated by reference in relation to Kodoom, Bindisi and surrounding areas on or about 15 and 16 August 2003. In particular, the killing of children,

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<sup>886</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. P-0834 refers to this person as Ismael Abdulkaram. *See also* Annex 11, no. 34.

<sup>887</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. *See also* Annex 11, no. 15.

<sup>888</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. *See also* Annex 11, no. 48.

<sup>889</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. P-0834 refers to this person as Abdou Mohammad Abdulrahman. *See also* Annex 11, no. 18.

<sup>890</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. *See also* Annex 11, no. 41.

<sup>891</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52. *See also* Annex 11, no. 33.

<sup>892</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 52.

<sup>893</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0147-0148, para. 48. P-0868 refers to this person as Mudassir Ibrahim Garat. *See also* Annex 11, no. 44.

<sup>894</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0147-0148, para. 48. *See also* P-0991, [DAR-OTP-0223-0059-R01](#) at 0075, para. 85 (who states that the body of Mudather (son of Ibrahim Garard) was found in Bindisi town after the first day of the attack).

<sup>895</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0149, para. 60. *See also* Annex 11, no. 20.

<sup>896</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0149, para. 60.

<sup>897</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 52. *See also* Annex 11, no. 25.

<sup>898</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 52. *See also* Annex 11, no. 49.

<sup>899</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 52. *See also* Annex 11, no. 31.

<sup>900</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 52. *See also* Annex 11, no. 39.

<sup>901</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 52. *See also* Annex 11, no. 19.

<sup>902</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, para. 53. P-0913 refers to this person as Kathouma Yahia Ahmed. *See also* Annex 11, no. 38.

<sup>903</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0029, paras. 55-56.

<sup>904</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0136, para. 73. *See also* Annex 11, no. 32.



men, women and elderly persons taking no active part in hostilities.<sup>905</sup> The 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.<sup>906</sup>

253. Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** intended to kill protected persons, as they perceived them as belonging to, or being associated with, or supporting the rebel armed groups. P-0007 witnessed Militia/*Janjaweed* and GoS Forces in Bindisi capture, rape and murder Kony Harun and Darasalam Husayn and attempt to rape and murder Halima Isa.<sup>907</sup> 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 while being detained and/or otherwise restrained.<sup>908</sup>

254. Based on the facts set out in paragraphs 235 to 253 above, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the status of the victims as *hors de combat* or civilians.

#### ***Count 4: Pillaging as a war crime***

255. Militia/*Janjaweed* and GoS Forces under the direction of **ABD-AL-RAHMAN** pillaged Kodoom and Bindisi on or about 15 and 16 August 2003. Militia/*Janjaweed* and GoS Forces appropriated food items, medicine, livestock and other personal property belonging to the primarily Fur civilian population. They intended to appropriate property for their private or personal use and deprive the owners of their property.

256. In Kodoom, [REDACTED] **ABD-AL-RAHMAN** instructing Militia/*Janjaweed* and/or GoS Forces to collect and take away medicine belonging to a business owner.<sup>909</sup> [REDACTED]

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<sup>905</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0070-0071, paras. 38, 42; P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 85; P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, para. 32; P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, para. 80; P-0816, [DAR-OTP-0214-0721-R02](#) at 0729-0730, para. 38; P-0878, [DAR-OTP-0215-9919-R03](#) at 9949.

<sup>906</sup> *Katanga Trial Judgment*, 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.

<sup>907</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43.

<sup>908</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0231, paras. 73-74; P-0991, [DAR-OTP-0223-0059-R01](#) at 0075, para. 86.

<sup>909</sup> [REDACTED].

“[t]here was one specific group of Janjaweed, who were in charge of pillaging; collecting livestock [...].”<sup>910</sup> 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.”<sup>911</sup>

257. [REDACTED]<sup>912</sup> [REDACTED].<sup>913</sup> [REDACTED] also saw other Militia/*Janjaweed* and/or GoS Forces taking away beds, blankets and “anything inside the houses.”<sup>914</sup> They also took away animals, such as cows and sheep.<sup>915</sup>

258. P-0986, who was in Kodoom during the attack, saw Militia/*Janjaweed* and/or GoS Forces “searching through the houses” and taking away animals, such as goats and sheep.<sup>916</sup> The Militia/*Janjaweed* and/or GoS Forces also took away 4 sheep, 12 goats and 16 cows belonging to P-0986 and his family.<sup>917</sup> P-0986 further recalls that **ABD-AL-RAHMAN** was present during the looting and that another member of the Militia/*Janjaweed* and/or GoS Forces stated “Jenabu Ali Kushayb, I want to shoot this person [REDACTED] because the cows, goats and sheep are running away and we want to catch them.”<sup>918</sup> Before **ABD-AL-RAHMAN** left the area, he instructed Militia/*Janjaweed* and/or GoS Forces, “Don’t kill him. Let’s catch the livestock running away [...].”<sup>919</sup>

259. P-0932 states that the Militia/*Janjaweed* and/or GoS Forces took away “all of the livestock, cows, sheep, camels, donkeys and house contents” from Kodoom, including money.<sup>920</sup> P-0932 found his house emptied of all its contents after returning after the attack.<sup>921</sup> [REDACTED].<sup>922</sup>

260. On or about 15 August 2003, P-0012 saw **ABD-AL-RAHMAN**, HASSABALLAH [REDACTED] arrive in Bindisi in a Land Cruiser from the *Zakat* Office in Garsila. The Militia/*Janjaweed* with them immediately started to loot and destroy the Bindisi market.<sup>923</sup> P-0012 states that collaborators of the Militia/*Janjaweed* and/or GoS Forces placed “green cloth”

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<sup>910</sup> [REDACTED].

<sup>911</sup> P-0918, [DAR-OTP-0218-0120-R03](#) at 0128, para. 27.

<sup>912</sup> [REDACTED].

<sup>913</sup> [REDACTED].

<sup>914</sup> [REDACTED].

<sup>915</sup> [REDACTED].

<sup>916</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0045-0446, paras. 39, 44-45.

<sup>917</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0446, para. 46.

<sup>918</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0448, para. 53.

<sup>919</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0448, para. 55.

<sup>920</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0610, para. 41.

<sup>921</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0611, para. 47.

<sup>922</sup> [REDACTED].

<sup>923</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0520-0521, paras. 78-79.

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.<sup>924</sup>

261. P-0012 watched as Militia/*Janjaweed* and/or GoS Forces looted “[...] sugar and tea and other things” [REDACTED].<sup>925</sup> [REDACTED], P-0012 observed the attackers splitting into three groups, with one group targeting the collection of livestock.<sup>926</sup> P-0011 saw Militia/*Janjaweed* and/or GoS Forces enter the homes of villagers and take “beds, bags, radios, big iron boxes and other things”, which they carried away in vehicles.<sup>927</sup>

262. P-0015 saw Militia/*Janjaweed* and/or GoS Forces taking and carrying away “furniture, televisions, mattresses, blankets, mats” on their Land Cruisers, camels, donkeys and horses.<sup>928</sup> P-0015 later discovered that medicine had been looted from the hospital and items taken from the veterinary clinic.<sup>929</sup> P-0029 saw Militia/*Janjaweed* and/or GoS Forces looting shops in Bindisi and taking and carrying away “goods on their camels.”<sup>930</sup>

263. P-0589 hid in the mountains after fleeing the attack on Bindisi and from there he could see Militia/*Janjaweed* loading things from the Daguina<sup>931</sup> market and the *Zakat* Office in North Bindisi.<sup>932</sup> When he returned to Bindisi after the attack, P-0589 discovered that the shops in Daguina market had been “emptied.”<sup>933</sup> He saw that the shops that were locked had been shot open with guns and that “[t]hey had taken the vegetables, clothing, whatever they wanted.”<sup>934</sup> When he returned home, P-0589 found that Militia/*Janjaweed* had taken “everything” from his house, including blankets, beds and his wife’s wedding ring.<sup>935</sup> Militia/*Janjaweed* also took [REDACTED] cows that belonged to P-0589.<sup>936</sup>

<sup>924</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

<sup>925</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79.

<sup>926</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0878, [DAR-OTP-0219-3062-R02](#) at 3067-3068, para. 26.

<sup>927</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0228, para. 53.

<sup>928</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0193, para. 29.

<sup>929</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0205, para. 92.

<sup>930</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0135, para. 71.

<sup>931</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0724, para. 16. Daguina or Dagina is the area of North Bindisi, where the government buildings and main market are located. According to P-0589, Daguina was formerly known as Debeneira and sometimes referred to by that name. See P-0589, [DAR-OTP-0223-0005-R01](#) at 0010, para. 28. See also P-0816, [DAR-OTP-0214-0721-R02](#) at 0724, para. 15; P-0834, [DAR-OTP-0214-0686-R02](#) at 0694-0695, para. 47.

<sup>932</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0022-0023, para. 100.

<sup>933</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0021, para. 91.

<sup>934</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0021-0022, paras. 91, 93, 100.

<sup>935</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0022 at para. 97.

<sup>936</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0022 at para. 98.

264. P-0816 states that in Bindisi “most houses were looted”, [REDACTED], where all “belongings were gone.”<sup>937</sup> P-0834's home in [REDACTED] in North Bindisi, was looted and her food supplies were taken.<sup>938</sup> [REDACTED], Militia/*Janjaweed* and/or GoS Forces pillaged the warehouses, the *Zakat* Office, the Municipality Building and civilian houses. Militia/*Janjaweed* were “[l]ike a beehive, [...] moving the commodities and the possessions from the market, the houses and the offices.”<sup>939</sup> While in Bindisi, [REDACTED].<sup>940</sup>

265. P-0927 heard Militia/*Janjaweed* and/or GoS Forces encouraging each other “to take anything of value” during the course of the attack.<sup>941</sup> [REDACTED].<sup>942</sup> [REDACTED].<sup>943</sup>

266. In Bindisi, on the second day of the attack, 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.” P-0007 was later told the looting and taking away of livestock continued for five days.<sup>944</sup>

267. Based on the facts set out in paragraphs 256 to 266 above, it is the only reasonable inference that the perpetrators intended to deprive the owners of the property and to appropriate it for their private and personal use.

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

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

269. P-0029 fled the attack in Kodoom and returned immediately after Militia/*Janjaweed* and GoS Forces left, where he noted that at least 72 houses were destroyed.<sup>945</sup> P-0717, before escaping the attack in Kodoom, saw Militia/*Janjaweed* and/or GoS Forces “setting everything alight in the village.”<sup>946</sup> P-0717 returned to Kodoom and observed that [REDACTED] house

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<sup>937</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0729, para. 37.

<sup>938</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0694-0695, para. 47.

<sup>939</sup> [REDACTED].

<sup>940</sup> [REDACTED].

<sup>941</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0529, para. 27.

<sup>942</sup> [REDACTED].

<sup>943</sup> [REDACTED].

<sup>944</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 23.

<sup>945</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0134, paras. 64-65.

<sup>946</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0201, para. 74.

was partially damaged, while nearby houses were completely destroyed.<sup>947</sup> 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.”<sup>948</sup>

270. [REDACTED].<sup>949</sup> [REDACTED].<sup>950</sup>

271. From his hiding place in a dried up *wadi* (river bed or valley), P-0918 saw Militia/*Janjaweed* and/or GoS Forces set his family home on fire, [REDACTED].<sup>951</sup> P-0986 had to leave his hiding place under a fallen fence when it was set on fire and the heat had become too intense. He also observed fire in other areas in Kodoom.<sup>952</sup> P-0932 states that his house was destroyed by fire and that the Militia/*Janjaweed* and/or GoS Forces “burned what was made of straw,” forced their way into homes and caused damage to the homes.<sup>953</sup> P-0932 further clarified that “everything was burnt in the village all of the houses, not a single house was spared.”<sup>954</sup> [REDACTED]<sup>955</sup> [REDACTED].<sup>956</sup>

272. P-0007, P-0012, P-0015, P-0085, P-0589, P-0601, P-0816, P-0922 and P-0927 are survivors of the attack on Bindisi and surrounding areas and saw Militia/*Janjaweed* and/or GoS Forces destroy houses, buildings and other property during the attack.<sup>957</sup> [REDACTED], corroborate the evidence provided by survivors that Bindisi was attacked and buildings were destroyed.<sup>958</sup> P-0029 and P-0922, who were on the outskirts of Bindisi, similarly corroborate the evidence that areas in Bindisi had been burned down.<sup>959</sup>

273. 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.<sup>960</sup> P-0012 states that Militia/*Janjaweed* “destroyed the station and burned down all documents and also the

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<sup>947</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0203, para. 90.

<sup>948</sup> P-0757, [DAR-OTP-0211-0003-R02](#) at 0012, para. 41; P-0834, [DAR-OTP-0214-0686-R02](#) at 0695, para. 49.

<sup>949</sup> [REDACTED].

<sup>950</sup> [REDACTED].

<sup>951</sup> P-0918, [DAR-OTP-0218-0120-R03](#) at 0128, para. 27.

<sup>952</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0444-0445, paras. 37-38.

<sup>953</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0611, para. 47.

<sup>954</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0612, para. 53.

<sup>955</sup> [REDACTED].

<sup>956</sup> [REDACTED].

<sup>957</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0066, para. 23; P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83; P-0015, [DAR-OTP-0088-0187-R03](#) at 0193, para. 29; P-0085, [DAR-OTP-0110-0054-R02](#) at 0061-0062, para. 28; P-0589, [DAR-OTP-0223-0005-R01](#) at 0020-0021, paras. 84, 90-94; P-0601, [DAR-OTP-0202-1588-R02](#) at 1602-1603, paras. 62, 64-65; P-0816, [DAR-OTP-0214-0721-R02](#) at 0730, para. 40; P-0922, [DAR-OTP-0222-0312-R01](#) at 0319, para. 26; P-0927, [DAR-OTP-0221-0523-R01](#) at 0529, para. 27.

<sup>958</sup> [REDACTED].

<sup>959</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0135, para. 71; P-0922, [DAR-OTP-0222-0312-R01](#) at 0319, para. 26.

<sup>960</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0070, para. 41.

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.”<sup>961</sup>

274. 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 of the Militia/*Janjaweed* and/or GoS Forces.<sup>962</sup> From his vantage point in a tree just outside of Bindisi, P-0029 saw the Militia/*Janjaweed* and/or GoS Forces setting the houses on fire.<sup>963</sup> P-0085 saw Militia/*Janjaweed* and GoS Forces torch houses belonging to [REDACTED], and a “big hut” [REDACTED].<sup>964</sup> He recognised **ABD-AL-RAHMAN** and SAMIH amongst the attackers.<sup>965</sup> P-0816, who fled the Bindisi attack to Mukjar, received news that Militia/*Janjaweed* and GoS Forces burned down [REDACTED].<sup>966</sup>

275. On returning to Bindisi after the attack, P-0589 found that most of the houses in his neighbourhood had been burned, including his own, and that “[s]ome houses survived but most did not.”<sup>967</sup> P-0589 explains that the Militia/*Janjaweed* would light a match and throw it on the straw of a hut and that they would also “shoot at a house or hut several times [...] [to] set it on fire.”<sup>968</sup> P-0589 also saw that the market in Daguina, the locality building, the *Zakat* Office and the mosques in North Bindisi and South Bindisi had been destroyed and burned.<sup>969</sup> According to P-0589, if the Militia/*Janjaweed* could not take items away, they burned or damaged them, including water sources, generators and machines to produce oil from sesame or peanuts.<sup>970</sup> P-0601 was hiding in the mountains behind Hay Jebel near Bindisi<sup>971</sup> during the two days of the attack on Bindisi. He states that, on or about 15 August 2003, around 4:00 pm, he saw Militia/*Janjaweed* and GoS Forces arrive from the direction of Mukjar.<sup>972</sup> They could not cross the valley due to the heavy rain and spent the night in North Bindisi. That night, he could hear smashing of property and gunfire coming from the market area of Bindisi.<sup>973</sup> While in the

<sup>961</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 83.

<sup>962</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0205, para. 92.

<sup>963</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0135, para. 71.

<sup>964</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, paras. 28-29.

<sup>965</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0062-0063, paras. 29, 33.

<sup>966</sup> P-0816, [DAR-OTP-0214-0721-R02](#) at 0732, para. 49. *See also* P-0643, [DAR-OTP-0215-0333-R02](#) at 0349, l. 541-543 and 0352, l. 648.

<sup>967</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0022, para. 97.

<sup>968</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0021, para. 94.

<sup>969</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0021-0022, paras. 94-95.

<sup>970</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0022 at para. 96.

<sup>971</sup> P-0601 explains that Hay Jebel is a small village attached to Bindisi. *See* P-0601, [DAR-OTP-0202-1588-R02](#) at 1592-1593, paras. 13 and 15.

<sup>972</sup> P-0601, [DAR-OTP-0202-1588-R02](#) at 1601, para. 54-55.

<sup>973</sup> P-0601, [DAR-OTP-0202-1588-R02](#) at 1602, para. 57.

mountains, P-0601 came down in the evenings to find some food for his family and saw that “[t]he whole of Bindisi appeared to be destroyed.”<sup>974</sup>

276. P-0922 observed that the southern area of Bindisi had been burned down and he also saw smoke rising in the area.<sup>975</sup> P-0927 rescued a baby from a burning house located in lower Bindisi and came across Militia/*Janjaweed* and/or GoS Forces torching a house while encouraging each other to “[b]urn down the houses but make sure to take anything of value with you first.”<sup>976</sup>

277. [REDACTED] states that Militia/*Janjaweed* and/or GoS Forces went to North Bindisi and destroyed the shops.<sup>977</sup> [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.”<sup>978</sup> He saw a school and a mosque burned down in Nyerli,<sup>979</sup> as well as houses burned in both Kodoom and Bindisi.<sup>980</sup>

278. Based on the facts set out in paragraphs 269 to 277 above, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the protected status of the destroyed property.

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

279. During the attack on Bindisi and surrounding areas on or about 15 and 16 August 2003, **ABD-AL-RAHMAN**, Militia/*Janjaweed* and/or GoS Forces subjected civilians not taking part in hostilities to great suffering, serious injury to mental or physical health, and humiliating and degrading treatment that violated their dignity. The conduct underlying these crimes included abducting and detaining civilians, forcibly removing their clothing, threatening acts of violence or using acts of violence against civilians, tying up civilians and separating civilian residents from family members, as well as separating them according to their sex under threat of death.<sup>981</sup>

280. 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”,

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<sup>974</sup> P-0601, [DAR-OTP-0202-1588-R02](#) at 1603, para. 65.

<sup>975</sup> P-0922, [DAR-OTP-0222-0312-R01](#) at 0319, para. 26.

<sup>976</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0529, para. 27.

<sup>977</sup> [REDACTED].

<sup>978</sup> [REDACTED].

<sup>979</sup> [REDACTED].

<sup>980</sup> [REDACTED].

<sup>981</sup> [REDACTED].

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.<sup>982</sup>

281. [REDACTED] saw about 20 Militia/*Janjaweed* and/or GoS Forces beat and search the men, calling them “[*abid*], [*khadim*], and *nuba*” and threaten that “they were sent to kill every black thing except the Laloba and Daylabe trees which are also black.”<sup>983</sup> [REDACTED] saw Militia/*Janjaweed* and/or GoS Forces kill three men. They “tied their hands behind their backs, laid them face down and shot them with Kalashnikovs.” Militia/*Janjaweed* and/or GoS Forces used the butt of their guns to beat one of the men to death.<sup>984</sup>

282. After some of the fleeing 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 the farms.<sup>985</sup> [REDACTED] saw Militia/*Janjaweed* and/or GoS Forces capture a woman who was running away and saw them “[take] out either a sword or a machete and cut off her arm at the elbow,” and then remove the jewellery from the dismembered arm.<sup>986</sup>

283. Militia/*Janjaweed* and GoS Forces caught [REDACTED], [REDACTED] other civilians as they fled. Militia/*Janjaweed* and/or GoS Forces [REDACTED], pulled the *tiban* off the women, leaving them in only their inner clothing, and took their shoes. [REDACTED] states that they searched her breast, and when she resisted, they hit her with the butt of a gun. [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.<sup>987</sup> 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 had given permission “to wipe us out, to kill us, to chase us away.”<sup>988</sup>

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<sup>982</sup> [REDACTED].

<sup>983</sup> [REDACTED].

<sup>984</sup> [REDACTED].

<sup>985</sup> [REDACTED].

<sup>986</sup> [REDACTED].

<sup>987</sup> [REDACTED].

<sup>988</sup> [REDACTED].



284. [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.<sup>989</sup>

285. As [REDACTED] wife, mother and father fled to the southeast of Bindisi in the course of the attack, they were stopped by the Militia/*Janjaweed* [REDACTED]. [REDACTED] mother told him that [REDACTED].<sup>990</sup> [REDACTED] explains that “[w]omen who are raped feel a lot of shame for something that was forced on them. This also affects their families.”<sup>991</sup>

286. The facts set out at paragraphs 288 to 301 detailing the rape of women and girls belonging to the Fur tribe are also relevant to these Counts and are incorporated by reference. The victims were raped in public view and suffered the humiliation of having their clothing torn and stuffed in their mouths, amounting to great suffering and a violation of their dignity (in addition to the crime of rape). Moreover, as in the case of [REDACTED], onlookers were forced to watch others being raped or the baby being thrown in the air: the witnessing of such violent acts also amounted to great suffering and humiliation. Likewise, other acts of violence and sexual violence (for instance, searching of breasts, forced removal of clothes) and the use of derogatory language, also amounted to other inhumane acts and outrages upon personal dignity.<sup>992</sup>

287. Based on the facts set out in paragraphs 279 to 286 above, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the character of the acts and of the factual circumstances that established the victims’ status as *hors de combat* or civilians.

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

288. The evidence establishes that on or about 15 and 16 August 2003 Militia/*Janjaweed* and/or GoS Forces raped women during the attack on Bindisi and surrounding areas, including the 16 persons listed in Annex 12.<sup>993</sup>

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<sup>989</sup> [REDACTED].

<sup>990</sup> [REDACTED].

<sup>991</sup> [REDACTED].

<sup>992</sup> See e.g. [Dorđević AJ](#), para. 852 (“Often the parts of the body commonly associated with sexuality are targeted or involved. Physical contact is, however, not required for an act to be qualified as sexual in nature. Forcing a person to perform or witness certain acts may be sufficient, so long as the acts humiliate and/or degrade the victim in a sexual manner.”)

<sup>993</sup> See Annex 12, Non-exhaustive list of persons raped in Bindisi or surrounding areas. See also [Annex 1 to Confirmation Decision](#), p. 2.

289. **ABD-AL-RAHMAN**'s words and conduct, including in the villages attacked immediately prior to the attack to Bindisi, contributed to a coercive environment conducive to the rape of women and girls in Bindisi and surrounding areas, and facilitated the commission of these crimes.

*Militia/Janjaweed and/or GoS Forces raped women at locations immediately before the attack on Bindisi and surrounding areas*

290. In Nyerli, the first village attacked in the operation that culminated in the attacks on Kodoom and Bindisi, [REDACTED] heard **ABD-AL-RAHMAN** shouting "Allah Akbar Amsah Aksah which means 'wipe out and sweep away'".<sup>994</sup> [REDACTED] states that "[j]udging from the orders Ali KUSHAYB gave to his men, I understand that he was giving them a free pass to do what they wanted, cleansing the whole area, and I understood that this included rape."<sup>995</sup> In relation to incidents of rape, [REDACTED] observed that the Militia/Janjaweed "chased the villagers the way a hunting dog would chase its prey."<sup>996</sup> He witnessed 40 Militia/Janjaweed on horses and donkeys pursuing women who were fleeing the attack on Nyerli and seeking refuge in nearby farms.<sup>997</sup> [REDACTED].<sup>998</sup>

291. In Gausir, a village neighbouring Bindisi,<sup>999</sup> P-0867 saw attackers rape [REDACTED], on the day of the attack on Kodoom and Bindisi.<sup>1000</sup> This rape victim later told P-0867 that many other women had been raped in Gausir.<sup>1001</sup>

292. [REDACTED] received reports that women "were raped by the JANJAWEED during the time that they were fleeing from [...] DORGULA".<sup>1002</sup> These reports of rape prior to or during the attack on Kodoom, Bindisi and surrounding areas are corroborated by [REDACTED].<sup>1003</sup>

293. When **ABD-AL-RAHMAN** and the Militia/Janjaweed reached Kodoom, [REDACTED] states that "girls and women were raped [...]. It was raining incessantly and no father or mother was able to meet their children; people were running for their lives." [REDACTED] was later told [REDACTED] that he personally knew four women who were

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<sup>994</sup> [REDACTED].

<sup>995</sup> [REDACTED].

<sup>996</sup> [REDACTED].

<sup>997</sup> [REDACTED].

<sup>998</sup> [REDACTED].

<sup>999</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0009, para. 23.

<sup>1000</sup> P-0867, [DAR-OTP-0217-0173-R02](#) at 0183, paras. 51-52.

<sup>1001</sup> P-0867, [DAR-OTP-0217-0173-R02](#) at 0183, para. 52.

<sup>1002</sup> [REDACTED].

<sup>1003</sup> [REDACTED].

raped in Kodoom that day.<sup>1004</sup> P-0932 similarly heard that a woman called Hawwa Ya'qub Mohammed Ahmed was taken, raped and killed during the attack on Kodoom.<sup>1005</sup>

Militia/Janjaweed and/or GoS Forces raped women in Bindisi and surrounding areas

294. After Kodoom, [REDACTED] saw that “Ali Kushayb ordered his forces to move to the north of the town of Bindisi” where “women and girls were raped.”<sup>1006</sup> [REDACTED] recalls that during the evening of 15 August 2003, following the attack on one part of Bindisi, he overheard discussions between three or four members of the Militia/Janjaweed “saying they had slept with some women” and heard one of them say they had raped women and “they should have learned a lesson.”<sup>1007</sup>

295. During the attack on Bindisi, P-0007 saw Militia/Janjaweed and/or GoS Forces rape two women ([REDACTED]) and a third woman ([REDACTED]) was killed because she resisted being raped.<sup>1008</sup>

296. [REDACTED] saw Militia/Janjaweed and/or GoS Forces take four girls known to her as [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.”<sup>1009</sup>

297. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED].<sup>1010</sup>

298. [REDACTED] witnessed Militia/Janjaweed and/or GoS Forces select women and girls, including [REDACTED] and a girl called [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”.<sup>1011</sup> [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.<sup>1012</sup>

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<sup>1004</sup> [REDACTED].

<sup>1005</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0611, para. 49.

<sup>1006</sup> [REDACTED].

<sup>1007</sup> [REDACTED].

<sup>1008</sup> P-0007, [DAR-OTP-0088-0060-R02](#) at 0071, para. 43.

<sup>1009</sup> [REDACTED].

<sup>1010</sup> [REDACTED].

<sup>1011</sup> [REDACTED].

<sup>1012</sup> [REDACTED].

299. P-0085 received reports that members of Militia/*Janjaweed* and/or GoS Forces raped women and girls during the attack on Bindisi.<sup>1013</sup> 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.<sup>1014</sup> P-0882 states that when he returned to Bindisi, he received reports that women and girls were raped during the attack.<sup>1015</sup>

300. [REDACTED].<sup>1016</sup> [REDACTED],<sup>1017</sup> [REDACTED].<sup>1018</sup> [REDACTED] stated that “people were killed and displaced, the village [of Bindisi] was pillaged and women and girls were raped.”<sup>1019</sup> He also overheard at least three members of the Militia/*Janjaweed* and/or GoS Forces recounting details of raping women in Bindisi during the attack.<sup>1020</sup> [REDACTED] saw at least 50 women in Mukjar who had fled the attack in Bindisi and surrounding areas.<sup>1021</sup> [REDACTED] believed that these women were raped because some were without their clothing and others wore torn clothes.<sup>1022</sup> According to [REDACTED], **ABD-AL-RAHMAN**’s forces were responsible for the rape of those women in Bindisi. [REDACTED] states that **ABD-AL-RAHMAN** was “the one that mobilizes the forces. [...] Ali KUSHAYB is the man who was entrusted with Wadi Salih [...] all of Wadi Salih. He is the one responsible for its destructions [...] He’s the one who destroys, burns, rapes and kills.”<sup>1023</sup>

301. P-0927 states that on 17 August 2003, he saw Militia/*Janjaweed* and/or GoS Forces look for villagers in the meadows around Bindisi and capture a group of women.<sup>1024</sup> Two of these women were dragged from the group while resisting and he heard their screams as if they were in pain. P-0927 spoke to the women after the Militia/*Janjaweed* and/or GoS Forces left the area and they reported to him that two of the women had just been raped.<sup>1025</sup>

### ***Count 10: Forcible transfer as a crime against humanity***

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<sup>1013</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, para. 31.

<sup>1014</sup> P-0834, [DAR-OTP-0214-0686-R02](#) at 0697, paras. 65-66.

<sup>1015</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0196, para. 153.

<sup>1016</sup> [REDACTED].

<sup>1017</sup> [REDACTED].

<sup>1018</sup> [REDACTED].

<sup>1019</sup> [REDACTED].

<sup>1020</sup> [REDACTED].

<sup>1021</sup> [REDACTED].

<sup>1022</sup> [REDACTED].

<sup>1023</sup> [REDACTED].

<sup>1024</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0530, para. 31.

<sup>1025</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0530, para. 32.

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

303. P-0932 states that the displacement of predominantly Fur inhabitants from Kodoom to other areas, such as Mukjar, was so complete that the village “sadly no longer exists”.<sup>1026</sup> During the attack on Kodoom, P-0932 was forced to flee the attack to the forest and observed the flight of other villagers as the Militia/*Janjaweed* overran the village.<sup>1027</sup>

304. P-0029 and others fled the attack in Kodoom and surrounding areas to the forest.<sup>1028</sup> P-0717 first fled the Militia/*Janjaweed* and GoS Forces attack in Kodoom to Bindisi but then had to flee Bindisi after Militia/*Janjaweed* and GoS Forces continued their offensive. P-0717 and P-0834 both recall that many villagers fled from Bindisi to Mukjar.<sup>1029</sup>

305. P-0922 states that he fled Kodoom to the forest where he found others who had also fled Kodoom, as well as villagers from Seder, Merly and Drangal. Together, the villagers travelled to Mukjar for their safety.<sup>1030</sup> P-0986, recounts that he and his family had to flee Kodoom to the mountains to escape the attack.<sup>1031</sup> P-0986 also states that no one returned to Kodoom to live after fleeing the attack.<sup>1032</sup>

306. [REDACTED]<sup>1033</sup> [REDACTED].<sup>1034</sup> [REDACTED].<sup>1035</sup>

307. P-0011 states that prior to the attack on Bindisi about 20,000 civilians from nearby villages flooded into Bindisi seeking shelter.<sup>1036</sup> However, after Militia/*Janjaweed* and GoS Forces started attacking Bindisi, P-0011 eventually fled with other villagers to Mukjar.<sup>1037</sup> P-0012 and P-0015 share similar narratives, as after the attack started they initially fled to Old Bindisi.<sup>1038</sup> As the attack intensified, both P-0012 and P-0015 fled into surrounding areas,

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<sup>1026</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0605, para. 15.

<sup>1027</sup> P-0932, [DAR-OTP-0222-0602-R01](#) at 0609-0610, para. 38.

<sup>1028</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0133, paras. 60, 62.

<sup>1029</sup> P-0717, [DAR-OTP-0210-0187-R02](#) at 0202, para. 81; P-0834, [DAR-OTP-0214-0686-R02](#) at 0696, para. 55; P-0882, [DAR-OTP-0218-0165-R02](#) at 0188, para. 113.

<sup>1030</sup> P-0922, [DAR-OTP-0222-0312-R01](#) at 0320, para. 31.

<sup>1031</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0444-0445, para. 38.

<sup>1032</sup> P-0986, [DAR-OTP-0222-0437-R01](#) at 0446, para. 46.

<sup>1033</sup> [REDACTED].

<sup>1034</sup> [REDACTED].

<sup>1035</sup> [REDACTED].

<sup>1036</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0227, para. 43.

<sup>1037</sup> P-0011, [DAR-OTP-0088-0219-R02](#) at 0233, paras. 80-81.

<sup>1038</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0521, para. 79; P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, paras. 33-34.

including the forest and eventually journeyed to Mukjar.<sup>1039</sup> During her flight to Mukjar, P-0015 encountered other villagers who were fleeing attacks on Kodoom and other nearby areas.<sup>1040</sup>

308. P-0927 corroborates evidence relating to villagers fleeing the attack in Kodoom to Bindisi on or about 15 August 2003.<sup>1041</sup> On or about 16 August 2003, he and other members of his family also had to flee, after Militia/*Janjaweed* and GoS Forces started attacking Bindisi.<sup>1042</sup>

309. 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 fleeing villagers.<sup>1043</sup> Most persons made the decision to journey on to Mukjar seeking shelter.<sup>1044</sup>

310. P-0882 states that he and his family were forced to flee to the forest,<sup>1045</sup> where he encountered other fleeing villagers and heard of attacks in areas surrounding Bindisi.<sup>1046</sup> P-0868 was also forced to flee and took refuge in the mountains, where he encountered other persons who had fled the Bindisi area.<sup>1047</sup> P-0913 first fled the northern part of Bindisi to the southern area of the town,<sup>1048</sup> [REDACTED].<sup>1049</sup>

311. Based on the facts set out in paragraphs 303 to 310 above, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the victims' lawful presence in Kodoom, Bindisi and surrounding areas.

### ***Count 11: Persecution as a crime against humanity***

312. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 189 to 190, relating specifically to the events in Kodoom, Bindisi and surrounding areas. 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-

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<sup>1039</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0523, para. 87; P-0015, [DAR-OTP-0088-0187-R03](#) at 0197, paras. 46, 48.

<sup>1040</sup> P-0015, [DAR-OTP-0088-0187-R03](#) at 0194, para. 34.

<sup>1041</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0528, para. 25.

<sup>1042</sup> P-0927, [DAR-OTP-0221-0523-R01](#) at 0529-0530, paras. 26, 29.

<sup>1043</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0063, para. 35.

<sup>1044</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0523, para. 87; P-0015, [DAR-OTP-0088-0187-R03](#) at 0197, para. 48; P-0927, [DAR-OTP-0221-0523-R01](#) at 0530-0531, para. 34.

<sup>1045</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0183, paras. 86-87.

<sup>1046</sup> P-0882, [DAR-OTP-0218-0165-R02](#) at 0183, para. 90.

<sup>1047</sup> P-0868, [DAR-OTP-0217-0137-R02](#) at 0148, para. 49-50.

<sup>1048</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0026, paras. 36-37.

<sup>1049</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0027-0028, paras. 41-42, 45, 50.

9 (rape) and Count 10 (forcible transfer) form the underlying conduct of the crime of persecution.

### 3) **ABD-AL-RAHMAN's individual criminal responsibility**

#### *Inducing under article 25(3)(b) of the Rome Statute*

313. Through the actions described below at paragraphs 315 to 333, **ABD-AL-RAHMAN** induced Militia/*Janjaweed* and GoS Forces to commit the crimes charged under Counts 1 to 3 and 11 in Kodoom, Bindisi and surrounding areas, the crimes charged under Counts 4, 5 and 10 in Kodoom and Bindisi, and the crimes charged under Counts 6 to 9 in Bindisi and surrounding areas.

314. This section should be read in conjunction with Section E (Common elements of modes of individual criminal responsibility).

315. **ABD-AL-RAHMAN** was a senior Militia/*Janjaweed* leader in the Wadi Salih and Mukjar Localities.<sup>1050</sup> **ABD-AL-RAHMAN** orchestrated the attack on Kodoom, Bindisi and surrounding areas by regularly giving orders and instructions to Militia/*Janjaweed* and GoS Forces, including by deciding the route and duration of the operation. In a demonstration of his absolute authority, a member of the Militia/*Janjaweed* asked **ABD-AL-RAHMAN** for permission to shoot [REDACTED] and in response, **ABD-AL-RAHMAN** instructed [REDACTED].<sup>1051</sup> **ABD-AL-RAHMAN** also responded angrily and overrode the objections of subordinate leaders of the Militia/*Janjaweed* and GoS Forces who questioned **ABD-AL-RAHMAN's** *modus operandi* or were openly reluctant to continue the attack on Bindisi on or about 16 August 2003.<sup>1052</sup>

#### Orders and instructions

316. **ABD-AL-RAHMAN** regularly conveyed orders and instructions to Militia/*Janjaweed* and GoS Forces under his command. [REDACTED].<sup>1053</sup> He recalls that **ABD-AL-RAHMAN** was “escorted by two or three horsemen, as if they were his bodyguards.”<sup>1054</sup> [REDACTED], **ABD-AL-RAHMAN** encouraged Militia/*Janjaweed* and GoS Forces by shouting “Allahu Akbar, wipe up and swipe away”, while they burned homes, looted, and killed civilians.<sup>1055</sup>

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<sup>1050</sup> See above Section E (1), **ABD-AL-RAHMAN's** position of authority and influence.

<sup>1051</sup> [REDACTED].

<sup>1052</sup> [REDACTED].

<sup>1053</sup> [REDACTED].

<sup>1054</sup> [REDACTED].

<sup>1055</sup> [REDACTED].

317. In the village of Nyerli, [REDACTED] **ABD-AL-RAHMAN** when he heard him shout, “Allahu Akbar! Allahu Akbar! Wipe out and sweep away!” Dense white smoke started rising from the village as **ABD-AL-RAHMAN** shouted his instructions.<sup>1056</sup> He further recalls that when they arrived in Kodoom Derliwa, **ABD-AL-RAHMAN** “blew his whistle and shouted: ‘Let’s go, Allahu Akbar! Wipe out and swipe away!’” [REDACTED].<sup>1057</sup>

318. According to multiple witnesses, **ABD-AL-RAHMAN** also gave orders and instructions to the attackers on the ground during the operation.<sup>1058</sup> [REDACTED] **ABD-AL-RAHMAN** divided Militia/*Janjaweed* and GoS Forces into different groups in order to coordinate and increase the efficiency of the attack.<sup>1059</sup>

319. 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.”<sup>1060</sup> [REDACTED].<sup>1061</sup> [REDACTED].<sup>1062</sup>

320. [REDACTED].<sup>1063</sup> [REDACTED].<sup>1064</sup> [REDACTED].<sup>1065</sup>

321. When one of the members of the Militia/*Janjaweed* who was taking part in the attack on Kodoom told **ABD-AL-RAHMAN** that he wanted to kill [REDACTED], **ABD-AL-RAHMAN** ordered him to “just torture him until he tells us where the other people are”.<sup>1066</sup> [REDACTED].<sup>1067</sup> [REDACTED], **ABD-AL-RAHMAN** encouraged the attackers to appropriate the spoils of the attack for their own use, promising that all the Fur would die and their livestock would become the Militia/*Janjaweed*’s reward.<sup>1068</sup>

322. These accounts regarding **ABD-AL-RAHMAN**’s instructions to Militia/*Janjaweed* and GoS Forces are corroborated by P-0029, P-0085, P-0589 and [REDACTED]. 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

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<sup>1056</sup> [REDACTED].

<sup>1057</sup> [REDACTED].

<sup>1058</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0133, para. 61; P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, para. 30.

<sup>1059</sup> [REDACTED]; [REDACTED].

<sup>1060</sup> [REDACTED].

<sup>1061</sup> [REDACTED].

<sup>1062</sup> [REDACTED].

<sup>1063</sup> [REDACTED].

<sup>1064</sup> [REDACTED].

<sup>1065</sup> [REDACTED].

<sup>1066</sup> [REDACTED].

<sup>1067</sup> [REDACTED].

<sup>1068</sup> [REDACTED].



in the different areas in the village.<sup>1069</sup> In Bindisi, multiple witnesses saw **ABD-AL-RAHMAN** riding in front of the attackers.<sup>1070</sup>

323. [REDACTED] **ABD-AL-RAHMAN** and the Militia/*Janjaweed* and GoS Forces arrived in the north of Bindisi, near the Daguina market. **ABD-AL-RAHMAN** ordered his men to take up positions and he gave 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”.<sup>1071</sup> Then [REDACTED] the *Zakat* warehouse, which was located in that part of Bindisi, near the market, was pillaged and that Bindisi was “burned, people were killed and displaced, [...] pillaged and women and girls were raped.”<sup>1072</sup>

324. P-0589 was at the Daguina market in Bindisi when he saw **ABD-AL-RAHMAN** arrive in a convoy of Land Cruisers and Militia/*Janjaweed* on approximately 400 to 500 horses, as well as some camels and donkeys.<sup>1073</sup> P-0589 states that **ABD-AL-RAHMAN** was acting like the leader of the Militia/*Janjaweed* and “had people surrounding him, like they were protecting him.”<sup>1074</sup>

325. In Bindisi on the second day of the attack, P-0085 saw **ABD-AL-RAHMAN** point in different directions and Militia/*Janjaweed* and/or GoS Forces then ran in the direction indicated by **ABD-AL-RAHMAN** and went on to “shoot men, terrorise women, burn houses and loot items.”<sup>1075</sup>

326. **ABD-AL-RAHMAN** also issued orders to other senior Militia/*Janjaweed* leaders. SAMIH and BONJOUSE, **ABD-AL-RAHMAN**’s deputies, rode in front of the convoy with Militia/*Janjaweed* during the attack on Kodoom and Bindisi.<sup>1076</sup> Throughout the attack, **ABD-AL-RAHMAN** gave orders and instructions to SAMIH, BONJOUSE and HAMDAN who, in turn, relayed them to their forces. [REDACTED] **ABD-AL-RAHMAN**.<sup>1077</sup> During the attack on the village of Nyerli, [REDACTED] **ABD-AL-RAHMAN** give orders to SAMIH for him to relay to the Militia/*Janjaweed* under his command.<sup>1078</sup>

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<sup>1069</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0133, para. 61.

<sup>1070</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84; P-0085, [DAR-OTP-0110-0054-R02](#) at 0063, para. 33. [REDACTED].

<sup>1071</sup> [REDACTED].

<sup>1072</sup> [REDACTED].

<sup>1073</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0017-0018, paras. 70-76.

<sup>1074</sup> P-0589, [DAR-OTP-0223-0005-R01](#) at 0018-0019, paras. 77-78.

<sup>1075</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0062, para. 30.

<sup>1076</sup> [REDACTED].

<sup>1077</sup> [REDACTED].

<sup>1078</sup> [REDACTED].

327. [REDACTED].<sup>1079</sup> [REDACTED]<sup>1080</sup>

328. On the day before the Militia/*Janjaweed* left Mukjar, [REDACTED].<sup>1081</sup> [REDACTED].<sup>1082</sup> Likewise, P-0012 saw SAMIH with **ABD-AL-RAHMAN** during the attack on Bindisi on or about 16 August 2003.<sup>1083</sup> P-0085 observed Militia/*Janjaweed* torch houses in Bindisi on or about 16 August 2003 and recognised **ABD-AL-RAHMAN** and SAMIH amongst the attackers.<sup>1084</sup> In Kodoom on or about 15 August 2003, SAMIH shot at P-0029 and his relatives while they fled the attack.<sup>1085</sup> P-0918 recalled 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.”<sup>1086</sup>

#### The route of the attack

329. **ABD-AL-RAHMAN** made decisions in relation to the route to be followed and conveyed these decisions to Militia/*Janjaweed* and GoS Forces, including PDF officer HASSABALLAH. [REDACTED]<sup>1087</sup> [REDACTED].<sup>1088</sup> Similarly, in Tiro, **ABD-AL-RAHMAN** told HASSABALLAH to go to the village of Kodoom.<sup>1089</sup> [REDACTED].<sup>1090</sup>

330. In Bindisi, **ABD-AL-RAHMAN** ordered his forces to move to the north of Bindisi where the market was located, instructed them to take up positions and then the attack on Bindisi began.<sup>1091</sup> In the evening, following the first phase of the attack on Bindisi, **ABD-AL-RAHMAN** [REDACTED]. He told them “Wipe out and sweep away! Allahu Akbar! Allahu Akbar! Folks, I’d like to say thank you. You’ve made an achievement and taught our enemies a lesson they’ll never forget. By the will of Allah, tomorrow morning we head for Garsila, and the government will welcome us under the presidency of brother Ja’afar ‘Abd-al-Hakam the governor of the region.”<sup>1092</sup> [REDACTED] **ABD-AL-RAHMAN** was the only one who spoke

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<sup>1079</sup> [REDACTED].

<sup>1080</sup> [REDACTED].

<sup>1081</sup> [REDACTED].

<sup>1082</sup> [REDACTED].

<sup>1083</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0522, para. 84.

<sup>1084</sup> P-0085, [DAR-OTP-0110-0054-R02](#) at 0063, para. 33.

<sup>1085</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0133-0134, para. 63.

<sup>1086</sup> P-0918, [DAR-OTP-0218-0120-R03](#) at 0128, para. 28.

<sup>1087</sup> [REDACTED].

<sup>1088</sup> [REDACTED].

<sup>1089</sup> [REDACTED].

<sup>1090</sup> [REDACTED].

<sup>1091</sup> [REDACTED].

<sup>1092</sup> [REDACTED].

at [REDACTED] and following this speech, the Militia/*Janjaweed* and GoS Forces spent the night in Bindisi.<sup>1093</sup>

331. However, the next morning **ABD-AL-RAHMAN** summoned his forces again and informed them that he had received different instructions from the “high command”<sup>1094</sup> and that the attack would continue that day, this time on the south of Bindisi. [REDACTED] **ABD-AL-RAHMAN** say “Forget about what was said last night [...] new instructions have been received. Folks, today (Saturday 16/8/2003) no one will go to Garsila. The instructions are that we won’t start from Bendisi right here in the north, and that we’ll immediately start from the south. We’ll wipe out and sweep away and return again to Mukjar in the other direction.”<sup>1095</sup> [REDACTED].<sup>1096</sup>

### Overriding of objections

332. **ABD-AL-RAHMAN**’s authority remained unchallenged through the course of the attack. [REDACTED],<sup>1097</sup> [REDACTED].<sup>1098</sup> [REDACTED].<sup>1099</sup> [REDACTED].<sup>1100</sup>

333. [REDACTED].<sup>1101</sup> [REDACTED].<sup>1102</sup> [REDACTED].<sup>1103</sup> [REDACTED].<sup>1104</sup>

334. **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 tacit and express approval [REDACTED]<sup>1105</sup> [REDACTED].<sup>1106</sup> To establish **ABD-AL-RAHMAN**’s individual criminal responsibility for rape during the attack on Bindisi and surrounding areas, the Prosecution incorporates, by reference, the above sections setting out his conduct contributing to the other charged crimes in Kodoom, Bindisi and surrounding areas. **ABD-AL-RAHMAN**’s words and conduct thus contributed to a coercive environment conducive to the rape of women and girls and facilitated

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<sup>1093</sup> [REDACTED].

<sup>1094</sup> [REDACTED].

<sup>1095</sup> [REDACTED].

<sup>1096</sup> [REDACTED].

<sup>1097</sup> [REDACTED].

<sup>1098</sup> [REDACTED].

<sup>1099</sup> [REDACTED].

<sup>1100</sup> [REDACTED].

<sup>1101</sup> [REDACTED].

<sup>1102</sup> [REDACTED].

<sup>1103</sup> [REDACTED].

<sup>1104</sup> [REDACTED].

<sup>1105</sup> [REDACTED].

<sup>1106</sup> [REDACTED].

the commission of these crimes. The evidence shows that rape was an integral part of the attack on Kodoom, Bindisi and surrounding areas. As Chambers have found, rape and other sexual and gender based violence must not be treated differently from other violent crimes charged in this case, for instance by regarding them as merely opportunistic acts unrelated to the prevailing context.<sup>1107</sup>

- i) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

335. **ABD-AL-RAHMAN** meant to engage in his conduct and 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 overall conduct, such as his instructions to perpetrators "to wipe out and sweep away" (paragraph 316) and his leadership role during the attack, including the orders and instructions that he gave to Militia/*Janjaweed* and GoS Forces, including high-ranking PDF and CRF officers present on the ground (paragraphs 318 to 334). In particular, **ABD-AL-RAHMAN** was also aware that rape would be committed in the ordinary course of events as part of the attack on Bindisi and surrounding areas. His knowledge can be inferred from the massive and violent nature of other crimes committed during the

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<sup>1107</sup> See e.g. *Gbagbo & Blé Goudé* Appeals Judgment, Judge Ibáñez Dissenting Opinion, [ICC-02/11-01/15-1400-Anx4-Red](#), paras. 395-404 (395: finding the Trial Chamber's approach "worrying" for applying a higher threshold for crimes of rape, and 404: finding error for concluding the motivations for sexual violence was different from other crimes); *Gbagbo & Blé Goudé* Appeals Judgment, Judge Eboe-Osuji Partly Concurring Opinion, [ICC-01/04-02/06-2666-Anx5-Corr](#), para. 334 (finding the Trial Chamber erred in allowing the question of personal motives of the rapists—even as opportunistic—to detract from considering that rapes were part of a policy to attack the civilian population: "Notably, 'a personal or sexual motive' does not preclude findings that there was intent to commit a crime or a policy to attack civilians"); *Ntaganda Trial Judgment*, para. 805 ("*Regarding acts of sexual violence*, the Chamber notes that the unfolding of the operations shows that these acts were, *like the acts of killings and other acts of physical violence*, a tool used by UPC/FPLC soldiers and commanders alike to achieve their objective to destroy the Lendu community [...] (emphasis added)), para. 806; ICTY: *Dorđević* Appeals Judgment, [IT-05-87/1](#), para. 852 (agreeing "with the *Milutinović et al.* Trial Chamber that 'it would be inappropriate to place emphasis on the sexual gratification of the perpetrator [...]. In the context of an armed conflict, the sexual humiliation and degradation of the victim is a more pertinent factor than the gratification of the perpetrator' [...] any form of coercion, including [...] generally oppressive circumstances, may constitute proof of lack of consent and usually is an indication thereof [...]"), para. 887 ("The Appeals Chamber further recalls that personal motive does not preclude a perpetrator from also having the requisite specific intent [...] the same applies to sexual crimes, which in this regard must not be treated differently from other violent acts simply because of their sexual component. Thus, a perpetrator may be motivated by sexual desire but at the same time also possess the intent [...]"), paras. 892-893, 895, 897-898 (finding that the sexual assaults of five women were carried out with discriminatory intent, and that whether the perpetrators also acted out of sexual desire did not alter that conclusion); *Sainović et al.* Appeals Judgment, [IT-05-87](#), para. 580 ("[...] In these circumstances [...] the Trial Chamber failed to properly consider the context in which the rapes occurred and erred in finding that there was *no evidence* from which the discriminatory intent of the perpetrators could be inferred [...] (emphasis added)); ICTR: *Karemura et al.* Appeals Judgment, [ICTR-98-44](#), paras. 624-626 (upholding that the rapes and sexual assaults were a foreseeable consequence of the joint criminal enterprise, including the Trial Chamber's finding that during a war there was a "heightened risk" that combatants would commit rapes), paras. 627-633 (recalling that an individual's high-ranking position, coupled with the open and notorious manner in which criminal acts unfold, can provide a sufficient basis for inferring knowledge of the crimes (in this case, the rapes and sexual violence)).

attack,<sup>1108</sup> as well as from his failure to challenge or punish any of his Militia/*Janjaweed*. [REDACTED].<sup>1109</sup> [REDACTED] [REDACTED].<sup>1110</sup>

## H. CRIMES COMMITTED IN MUKJAR AND SURROUNDING AREAS

### 1) Introduction

336. During the charged period, Mukjar was a town located in the Mukjar Administrative Unit of Mukjar Locality in West Darfur. 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.<sup>1111</sup> The population of the town of Mukjar was predominantly Fur.<sup>1112</sup>

337. In early 2004, GoS Officials, including HARUN, Commissioner of Garsila, Ja'afar ABD-AL-HAKAM, Commissioner of Mukjar, Abdullah TORSHEIN, and Militia/*Janjaweed* leaders, including **ABD-AL-RAHMAN** and one of his deputies, SAMIH, met in Mukjar in preparation for another armed operation against the rebel armed groups in Sindu.<sup>1113</sup>

338. **ABD-AL-RAHMAN** led the Militia/*Janjaweed* in a joint operation with the SAF attacking locations in the Sindu area. This operation, which originated from Garsila, culminated in the execution of men in Mukjar and Deleig and surrounding areas in February/March 2004.<sup>1114</sup> In addition to **ABD-AL-RAHMAN**'s forces, the convoy included around 50 members of the SAF and PDF.<sup>1115</sup> The convoy, led by **ABD-AL-RAHMAN**'s vehicle,<sup>1116</sup> included about 800 Militia/*Janjaweed*.<sup>1117</sup> As the convoy progressed towards Sindu, via Mukjar, over the following days, the numbers of Militia/*Janjaweed* increased to thousands.<sup>1118</sup>

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<sup>1108</sup> [Dorđević Appeals Judgment](#), paras. 920-926. See also [Karemera et al. Appeals Judgment](#), paras. 624 and following.

<sup>1109</sup> [REDACTED].

<sup>1110</sup> [REDACTED].

<sup>1111</sup> See Agreed Fact 3, Annex C to [Third Joint Submission on Agreed Facts](#); Agreed Fact, [West Darfur Planning Map](#). See also Annex 3, Locations forming part of the widespread and systematic attack against the civilian population between at least August 2003 and at least April 2004.

<sup>1112</sup> [DAR-OTP-0145-0237](#) at 0317 (1800 households in total, of which 66% Fur, 12% Massalit, 12% Tama and 10% Gimir, around August 2003 – the population size and the percentage of Fur population further increased during the charged period due to the influx of internally displaced persons (“IDPs”) from the destroyed surrounding villages, many of which were 100% Fur). See also [DAR-OTP-0145-0237](#) at 0311 (Arada, Artala), 0312 (Balda), 0314 (Dembow Kabdy, Denow), 0315-0316 (Gorolla, Indry) and 0319 (Tendy).

<sup>1113</sup> P-0041, [DAR-OTP-0206-0033-R02](#) at 0044-0047, paras. 43-53 and 0053, para. 81; P-0041, [DAR-OTP-0096-0002-R01](#) at 0004-0006, paras. 7-13; P-0976, [DAR-OTP-0222-0526-R01](#) at 0535-0536, paras. 59-65.

<sup>1114</sup> See below, paras. 361-369 (Mukjar), 443-488 (Deleig).

<sup>1115</sup> P-0905, [DAR-OTP-0219-6431-R02](#) at 6456-6457, l. 848-874.

<sup>1116</sup> P-0905, [DAR-OTP-0219-6487-R01](#) at 6489-6491, l. 61-105.

<sup>1117</sup> P-0905, [DAR-OTP-0219-6214-R01](#) at 6230, l. 541-545.

<sup>1118</sup> P-0905, [DAR-OTP-0219-6551-R01](#) at 6569, l. 590-591, 613, and [DAR-OTP-0219-6238-R01](#) at 6246, l. 266-273.

339. Before leaving Mukjar, **ABD-AL-RAHMAN** warned the “Commander of the Police” 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.<sup>1119</sup>

340. Between at least February and March 2004, as part of the armed operation to attack Sindu,<sup>1120</sup> Militia/*Janjaweed* and GoS Forces attacked several villages in the areas surrounding Mukjar, including but not limited to Tendy,<sup>1121</sup> Abirla,<sup>1122</sup> Arada,<sup>1123</sup> Dembow Kabdy,<sup>1124</sup> Kirarow,<sup>1125</sup> Sigigir,<sup>1126</sup> and Nyerli.<sup>1127</sup> These attacks caused hundreds, if not thousands, of civilians to seek shelter in Mukjar, including a number of Prosecution witnesses.<sup>1128</sup>

341. In February 2004, Militia/*Janjaweed* and GoS Forces set up a number of checkpoints, including to the north and east of Mukjar.<sup>1129</sup> Militia/*Janjaweed* and GoS Forces arrested hundreds of predominantly Fur males at locations including the checkpoints and during house

<sup>1119</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6243, l. 166-175.

<sup>1120</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6240-6043, l. 45-175; P-0188, [DAR-OTP-0216-0060-R02](#) at 0078, para. 111.

<sup>1121</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 35-38; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129; P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, paras. 69-71; P-0675, [DAR-OTP-0206-0173-R02](#) at 0191-0194, paras. 65-75; P-0903, [DAR-OTP-0221-0436-R02](#) at 0443, para. 33; P-0885, [DAR-OTP-0222-0784-R01](#) at 0785-0786, l. 32-35; P-0976, [DAR-OTP-0222-0526-R01](#) at 0534-0535, paras. 52-56.

<sup>1122</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0427-0429, paras. 20-25; P-0884, [DAR-OTP-0216-0503-R02](#) at 0523, para. 92.

<sup>1123</sup> P-0892, [DAR-OTP-0217-0384-R02](#) at 0390-0392, paras. 32-39; P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, para. 69; P-0755, [DAR-OTP-0211-0072-R02](#) at 0090, para. 59; P-0913, [DAR-OTP-0218-0021-R03](#) at 0034, paras. 86-87; P-0992, [DAR-OTP-0221-0668-R01](#) at 0676, para. 43; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220, para. 18.

<sup>1124</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129; P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, para. 69; P-0885, [DAR-OTP-0222-0784-R01](#) at 0785-0786, l. 29-35.

<sup>1125</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 129; P-0913, [DAR-OTP-0218-0021-R03](#) at 0034, para. 90; P-0885, [DAR-OTP-0222-0784-R01](#) at 0785-0786, l. 32-35.

<sup>1126</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, para. 69; P-0755, [DAR-OTP-0211-0072-R02](#) at 0090, para. 59; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 128.

<sup>1127</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, para. 69; P-0884, [DAR-OTP-0216-0503-R02](#) at 0523, para. 92.

<sup>1128</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0429, para. 27; P-0129, [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 38-39; P-0129, [DAR-OTP-0223-0157-R01](#) at 0164, para. 35; P-0877, [DAR-OTP-0217-0211-R03](#) at 0223, para. 72; P-0892, [DAR-OTP-0217-0384-R02](#) at 0391, para. 37; P-0675, [DAR-OTP-0206-0173-R02](#) at 0196-0197, para. 84; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444, para. 35; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221, paras. 19-20; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 130; P-0976, [DAR-OTP-0222-0526-R01](#) at 0537-0538, paras. 74-75, 79-80 and 0539, paras. 84, 88; P-0885, [DAR-OTP-0222-0907-R01](#) at 0908-0910, l. 33-100; [DAR-OTP-0145-0237](#) at 0311 (Arada, Artala), 0312 (Balda), 0314 (Dembow Kabdy, Denow), 0315-0316 (Gorolla, Indry), 0317 (Mukjar) and 0319 (Tendy). See also Annex 13, Displacement of civilians to Mukjar between at least February and March 2004, and ABD-AL-RAHMAN’s attack on Sindu.

<sup>1129</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0535, para. 57; P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, paras. 132-133; P-0984, [DAR-OTP-0222-0084-R01](#) at 0096, para. 72. See also Annex 14, Key locations in Mukjar town.

to house searches.<sup>1130</sup> The Militia/*Janjaweed* and GoS Forces perceived displaced Fur males as belonging to, or being associated with, or supporting the rebel armed groups.<sup>1131</sup>

342. The Militia/*Janjaweed* and GoS Forces continued to arrest predominantly Fur males in Mukjar until at least early March 2004.<sup>1132</sup> 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.<sup>1133</sup> At least 122 predominantly Fur males were executed.<sup>1134</sup>

343. Annex 13 depicts the displacement of civilians to Mukjar and **ABD-AL-RAHMAN**’s attack on Sindu.<sup>1135</sup> Annex 14 contains a satellite image of Mukjar with a number of key locations marked, including the Mukjar police station, the locality premises, the market area, the primary school, the road from Mukjar to Garsila, and the direction of the checkpoints and the execution sites.<sup>1136</sup> Annex 15 is a close-up image of the Mukjar police station, including the office building which housed, among others, the office of AL-TAYYIB (the head of CRF in Mukjar, to whom police personnel in Mukjar reported) and the detention facilities where a number of Fur males were detained.<sup>1137</sup> Annex 16 marks locations relevant to known execution sites outside Mukjar.<sup>1138</sup> Annex 17 is a non-exhaustive list of persons killed outside of Mukjar.<sup>1139</sup>

<sup>1130</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0138-0139, paras. 39, 41; P-0129, [DAR-OTP-0223-0157-R01](#) at 0164, paras. 35, 37-39; P-0919, [DAR-OTP-0217-0423-R03](#) at 0429, paras. 27-29; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 135; P-0913, [DAR-OTP-0218-0021-R03](#) at 0034-0035, paras. 88-91; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 66; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224, paras. 77-80; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221, paras. 20-22; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, para. 65; P-0675, [DAR-OTP-0206-0173-R02](#) at 0196-0198, paras. 84-88; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 141; P-0105, [DAR-OTP-0116-0975-R03](#) at 0983-0984, paras. 36-39; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-99; P-0720, [DAR-OTP-0210-0291-R02](#) at 0305-0306, paras. 89-96; P-0008, [DAR-OTP-0088-0085-R02](#) at 0097, para. 46; P-0755, [DAR-OTP-0211-0072-R02](#) at 0091, para. 62; P-0717, [DAR-OTP-0210-0187-R02](#) at 0206-0207, paras. 104-107; P-0903, [DAR-OTP-0221-0436-R02](#) at 0443, para. 33; P-0976, [DAR-OTP-0222-0526-R01](#) at 0535, para. 57. Other Fur males were arrested by Militia/*Janjaweed* and GoS forces during the Sindu operation in the villages that were attacked, and brought to Mukjar. [REDACTED].

<sup>1131</sup> P-0755, [DAR-OTP-0211-0072-R02](#) at 0091, para. 62; P-0675, [DAR-OTP-0206-0173-R02](#) at 0196-0197, para. 84; P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, para. 21.

<sup>1132</sup> P-0931, [DAR-OTP-0219-8720-R01](#) at 8727-8729, l. 223-299; P-0931, [DAR-OTP-0219-8702-R01](#) at 8707, l. 152-155; P-0976, [DAR-OTP-0222-0526-R01](#) at 0537, para. 74; P-0990, [DAR-OTP-0223-0217-R01](#) at 0222-0223, para. 25.

<sup>1133</sup> See below, paras. 345-359. See also P-0931, [DAR-OTP-0219-8702-R01](#) at 8706, l. 107-136 and 8708, l. 185-192 and 8713-8714, l. 387-399; P-0931, [DAR-OTP-0219-8720-R01](#) at 8729-8730, l. 300-318. See also Annex 14, Key locations in Mukjar town; Annex 15, Close-up of Mukjar police station and adjacent detention facilities.

<sup>1134</sup> See below, paras. 361-370. See also Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1135</sup> Annex 13, Displacement of civilians to Mukjar between at least February and March 2004, and ABD-AL-RAHMAN’s attack on Sindu.

<sup>1136</sup> Annex 14, Key locations in Mukjar town.

<sup>1137</sup> Annex 15, Close-up of Mukjar police station and adjacent detention facilities.

<sup>1138</sup> Annex 16, Locations relevant to known execution sites outside Mukjar.

<sup>1139</sup> Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

344. The specific GoS Forces that participated in the operation in Mukjar between at least late February and early March 2004 included, among others, the SAF (including Military Intelligence),<sup>1140</sup> the PDF,<sup>1141</sup> the PPF,<sup>1142</sup> the CRF<sup>1143</sup> and the Police.<sup>1144</sup>

## 2) 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*

345. Between late February and early March 2004, **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces arrested at least 122 males, including community leaders such as *umdahs*, *sheikhs* and *imams*, as well as doctors, teachers, farmers and students, of predominantly Fur ethnicity, including at checkpoints around Mukjar – manned by, among others, Hassan Muhammad JOMA (CARTER),<sup>1145</sup> Abakar SALIH (KOREIN)<sup>1146</sup> and Al-Sadiq BASHAR<sup>1147</sup> from the PPF – and in the course of house to house searches.<sup>1148</sup> The arrested persons included

<sup>1140</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0081, para. 128; P-0931, [DAR-OTP-0219-8702-R01](#) at 8714-8715, l. 404-428; P-0129, [DAR-OTP-0128-0128-R04](#) at 0139-0143, paras. 41, 46, 50-52. [REDACTED].

<sup>1141</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0138, para. 39; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224, para. 77; P-0008, [DAR-OTP-0088-0085-R02](#) at 0097, para. 46; P-0717, [DAR-OTP-0210-0187-R02](#) at 0207, para. 106.

<sup>1142</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0036-0037, para. 102; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224-0225 paras. 77, 84; P-0675, [DAR-OTP-0206-0173-R02](#) at 0197, para. 86 and 0202, para. 105; P-0755, [DAR-OTP-0211-0072-R02](#) 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-R03](#) at 0429-0430, para. 31 and 0436, para. 67; P-0913, [DAR-OTP-0218-0021-R03](#) at 0036-0037, para. 102.

<sup>1143</sup> P-0877, [DAR-OTP-0217-0211-R03](#) 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-R02](#) 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-R03](#) at 0432, paras. 48-49 and 0435-0436 paras. 61-62, 64, 67; P-0913, [DAR-OTP-0218-0021-R03](#) at 0037, para. 106.

<sup>1144</sup> P-0755, [DAR-OTP-0211-0072-R02](#) at 0090, para. 60; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 97; P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, para. 51; P-0913, [DAR-OTP-0218-0021-R03](#) at 0036-0037, para. 101, 103; P-0905, [DAR-OTP-0219-6238-R01](#) at 6243, l. 166-169, 173-175.

<sup>1145</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0535, para. 58; P-0188, [DAR-OTP-0216-0060-R02](#) at 0074, para. 86 and 0082, para. 135; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224, para. 77; P-0720, [DAR-OTP-0210-0291-R02](#) at 0305, para. 93; P-0892, [DAR-OTP-0217-0384-R02](#) at 0392, para. 42; P-0129, [DAR-OTP-0223-0157-R01](#) at 0164, para. 37; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221, para. 20. For affiliation, *see also* P-0755, [DAR-OTP-0211-0072-R02](#) at 0091, para. 63; P-0044, [DAR-OTP-0095-0049-R01](#) at 0059, para. 50; P-0919, [DAR-OTP-0217-0423-R03](#) at 0437, para. 78. Alternative references: Hassan Mohammed Jomaa/Jumaa/Juma aka Carter, Hassan Jooma, Hasan Carter/Kartar/Kartal.

<sup>1146</sup> P-0892, [DAR-OTP-0217-0384-R02](#) at 0392, para. 42; P-0675, [DAR-OTP-0206-0173-R02](#) at 0196-0197, paras. 84, 87; P-0129, [DAR-OTP-0223-0157-R01](#) at 0164, para. 39; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221, para. 20. For affiliation, *see also* P-0755, [DAR-OTP-0211-0072-R02](#) at 0091, para. 63; P-0919, [DAR-OTP-0217-0423-R03](#) at 0437, para. 78. Alternative references: Abakar Salih Issa aka Korin, Abakar Korein/Korain/Kurean/Koreen/Korin/Korinqey.

<sup>1147</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0074, para. 86 and 0082, para. 135; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221, para. 20. For affiliation, *see also* P-0913, [DAR-OTP-0218-0021-R03](#) at 0036, para. 102; P-0919, [DAR-OTP-0217-0423-R03](#) at 0437, para. 78. Alternative references: Al Sadiq Mohammed Bashar, Al Daro, Bashar.

<sup>1148</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0197, para. 85; P-0919, [DAR-OTP-0217-0423-R03](#) at 0429-0430, para. 31; P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 44; P-0990, [DAR-OTP-0223-0217-R01](#) at 0220-0221,



*Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelmahmoud (aka Doori), and a number of Prosecution witnesses.<sup>1149</sup> Many of the males were given no reason for their arrest,<sup>1150</sup> while others were accused of being rebels.<sup>1151</sup>

346. P-0919 and P-0129 were among those singled out and arrested at checkpoints as they attempted to enter Mukjar. [REDACTED].

347. P-0919, [REDACTED], fled to Mukjar [REDACTED] after the Militia/*Janjaweed* attacked his village, [REDACTED]. [REDACTED].<sup>1152</sup>

348. Similarly, P-0129, [REDACTED], was arrested as he [REDACTED] attempted to enter Mukjar.<sup>1153</sup> [REDACTED] would all be executed.<sup>1154</sup> According to P-0129, their only crime was that they fled the war and had returned to Mukjar.<sup>1155</sup>

349. [REDACTED] were subject to arrest and mistreatment by **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces.<sup>1156</sup> [REDACTED].<sup>1157</sup> [REDACTED]. Tora Bora was a nickname for the rebels.<sup>1158</sup> [REDACTED].<sup>1159</sup>

350. Upon their arrest, at least 122 predominantly Fur males, including P-0129, P-0675, P-0877, P-0903, P-0919, P-0932, P-0976, P-0990 and P-0992, and the victims listed in Annex 17, were taken to Mukjar police station and imprisoned in various cells and converted rooms within

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paras. 20-22; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, paras. 65, 67; P-0755, [DAR-OTP-0211-0072-R02](#) at 0091, para. 62; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 97-98; P-0008, [DAR-OTP-0088-0085-R02](#) at 0097, para. 46; P-0720, [DAR-OTP-0210-0291-R02](#) at 0304-0306, paras. 78-79, 95-96; P-0757, [DAR-OTP-0211-0003-R02](#) at 0015, para. 51, P-0984, [DAR-OTP-0222-0084-R01](#) at 0097, paras.73, 78-79; P-0976, [DAR-OTP-0222-0526-R01](#) at 0535, paras. 57-58; P-0932, [DAR-OTP-0222-0602-R01](#) at 0620, para.107; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224, paras. 77-78; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136. Moreover, as noted in the introduction above, other Fur males were arrested by Militia/*Janjaweed* and GoS forces during the Sindu operation, in the villages that were attacked, and brought to Mukjar. See P-0885, [DAR-OTP-0222-0885-R01](#) at 0898-0903, l. 429-591. See also Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1149</sup> P-0720, [DAR-OTP-0210-0291-R02](#) at 0305, para. 92; P-0756, [DAR-OTP-0211-0039-R02](#) at 0055, para. 71; P-0008, [DAR-OTP-0088-0085-R02](#) at 0097-0098, paras. 46-48; P-0044, [DAR-OTP-0095-0049-R01](#) at 0065, para. 79; P-0085, [DAR-OTP-0110-0054-R02](#) at 0067, para. 51; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398-0399, para. 68; P-0717, [DAR-OTP-0210-0187-R02](#) at 0207, para. 107; P-0903, [DAR-OTP-0221-0436-R02](#) at 0445, para. 40.

<sup>1150</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 41; P-0919, [DAR-OTP-0217-0423-R03](#) at 0429, para. 29; P-0903, [DAR-OTP-0221-0436-R02](#) at 0443, para. 33.

<sup>1151</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, para. 21.

<sup>1152</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0429, paras. 27-29. See also Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1153</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0137-0138, paras. 37-39.

<sup>1154</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 41; P-0129, [DAR-OTP-0223-0157-R01](#) at 0160-0161, paras. 15-16 and 0164, para. 35 and 0167, para. 49 and 0179, para. 116; P-0720, [DAR-OTP-0210-0291-R02](#) at 0305, para. 92. See also Annex 17, no. 4, 22, 24 and 38.

<sup>1155</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 44.

<sup>1156</sup> [REDACTED].

<sup>1157</sup> [REDACTED].

<sup>1158</sup> [REDACTED].

<sup>1159</sup> [REDACTED].

the detention facilities.<sup>1160</sup> At Mukjar police station, detainees were registered and interrogated by, among others, John KOJ (CRF).<sup>1161</sup> They were asked their name, tribe, address, whether they had a weapon and why they were in Mukjar.<sup>1162</sup> This served as the basis for the register of detainees suspected as being rebels or perceived as supporting them.<sup>1163</sup>

351. According to [REDACTED]. [REDACTED]. [REDACTED].<sup>1164</sup> [REDACTED] **ABD-AL-RAHMAN** reviewed a few of the statements then ripped them all up and threw them on the floor, because they indicated that the males were innocent Fur civilians.<sup>1165</sup>

352. 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 HAMDY.<sup>1166</sup> They beat and verbally abused the detainees using sticks, whips and an axe.<sup>1167</sup>

353. Militia/*Janjaweed* and GoS Forces took detainees out in groups and accused them of being rebels.<sup>1168</sup> Some were beaten with water hoses or sticks and verbally abused.<sup>1169</sup>

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<sup>1160</sup> 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-R02](#) at 0022, para. 76; P-0129, [DAR-OTP-0128-0128-R04](#) at 0138, para. 39; P-0919, [DAR-OTP-0217-0423-R03](#) at 0429, paras. 28-29; P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, paras. 22-23; P-0675, [DAR-OTP-0206-0173-R02](#) at 0196-0199, paras. 84-92; P-0717, [DAR-OTP-0210-0187-R02](#) at 0206 para. 104; P-0105, [DAR-OTP-0116-0975-R03](#) at 0984-0985, paras. 38-39; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, paras. 65-66; P-0720, [DAR-OTP-0210-0291-R02](#) at 0305, para. 89; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 142; P-0905, [DAR-OTP-0219-6238-R01](#) at 6251, l. 467-471, 474-475; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, para. 103; P-0903, [DAR-OTP-0221-0436-R02](#) at 0449, para. 62; P-0984, [DAR-OTP-0222-0084-R01](#) at 0098-0909, para. 84; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619, paras. 97-100. *See also* Annex 15, Close-up of Mukjar police station and adjacent detention facilities.

<sup>1161</sup> P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, paras. 22-23. For presence at the Mukjar police station and affiliation, *see also* P-0913, [DAR-OTP-0218-0021-R03](#) at 0038, para. 111; P-0992, [DAR-OTP-0221-0668-R01](#) at 0678-0679, paras. 58-59; P-0976, [DAR-OTP-0222-0526-R01](#) at 0537, para. 69. Alternative references: John Kott, John.

<sup>1162</sup> P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136; P-0675, [DAR-OTP-0206-0173-R02](#) at 0198, para. 90; P-0877, [DAR-OTP-0217-0211-R03](#) at 0224, para. 79; P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, para. 23.

<sup>1163</sup> [REDACTED]; P-0675, [DAR-OTP-0206-0173-R02](#) at 0198, para. 90; P-0919, [DAR-OTP-0217-0423-R03](#) at 0429-0430, para. 31; P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 44; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 69 and 0681, para.73 and 0681, para.77; P-0913, [DAR-OTP-0218-0021-R03](#) at 0036-0037, paras. 102-104; P-0877, [DAR-OTP-0217-0211-R03](#) at 0227, para. 98 and 0230 at para. 112.

<sup>1164</sup> [REDACTED].

<sup>1165</sup> [REDACTED].

<sup>1166</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-49; P-0129, [DAR-OTP-0223-0157-R01](#) at 0165, para. 45 and 0167-0170, paras. 50, 53, 55-58; P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, paras. 41-45; P-0877, [DAR-OTP-0217-0211-R03](#) at 0230-0231, paras. 110-114; P-0990, [DAR-OTP-0223-0217-R01](#) at 0224, paras. 32-33; P-0913, [DAR-OTP-0218-0021-R03](#) at 0037, paras. 105-106; P-0757, [DAR-OTP-0211-0003-R02](#) at 0019, para. 65; P-0990, [DAR-OTP-0223-0217-R01](#) at 0223-0224, paras. 28, 35.

<sup>1167</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, para. 45; P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, paras. 47-48; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168-0170, paras. 53, 55-58; P-0990, [DAR-OTP-0223-0217-R01](#) at 0224, paras. 32-33; P-0188, [DAR-OTP-0216-0060-R02](#) at 0084, para. 153.

<sup>1168</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0198-0199, paras. 91-92; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 90; P-0877, [DAR-OTP-0217-0211-R03](#) at 0226-0227, paras. 88-90, 94-98.

<sup>1169</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0198-0199, paras. 91-92; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446, para. 50.

[REDACTED] witnessed detainees being interrogated, whipped and beaten.<sup>1170</sup> He knew two of the NISS interrogators.<sup>1171</sup>

354. **ABD-AL-RAHMAN** ordered guards to unlock the room where Fur [REDACTED] was detained, so as to personally interrogate him.<sup>1172</sup> He showed [REDACTED] a photo of someone wearing a khaki uniform and accused [REDACTED] of “attacking his people between Sindu and Tendy.”<sup>1173</sup> When [REDACTED] told him he had never been to Sindu during this time, **ABD-AL-RAHMAN** slapped him so hard across the face that [REDACTED] fell to the floor.<sup>1174</sup> Fearful that **ABD-AL-RAHMAN** might kill him, two CRF officers hurriedly returned [REDACTED] back to his cell.<sup>1175</sup>

355. Some detainees were visibly injured after being interrogated and had dried blood stuck to their skin and clothes.<sup>1176</sup> [REDACTED] was detained in the police station for four days, [REDACTED], who would both be executed, as well as P-0129.<sup>1177</sup> P-0675 recalled that after being tortured, detainees Mohamed, Zacharia and Serri were brought back into the cell and died from their injuries.<sup>1178</sup> P-0892’s [REDACTED] 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.<sup>1179</sup>

356. P-0919 describes how, while P-0919 sat close to the *umdahs* in the cell, **ABD-AL-RAHMAN** entered his cell and told the *umdahs* “I am going to fuck you today,” then started beating them.<sup>1180</sup> *Umdah* Yahya Ahmad Zarruq was severely injured when **ABD-AL-RAHMAN** struck his skull and shoulder bone with an axe.<sup>1181</sup> **ABD-AL-RAHMAN** struck *Umdah* Issa Harun Nour and *Umdah* Adam Husayn Abdelmahmoud (also known as Doori) on

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<sup>1170</sup> [REDACTED].

<sup>1171</sup> [REDACTED].

<sup>1172</sup> [REDACTED].

<sup>1173</sup> [REDACTED].

<sup>1174</sup> [REDACTED].

<sup>1175</sup> [REDACTED].

<sup>1176</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, para. 104; P-0976, [DAR-OTP-0222-0526-R01](#) at 0538, paras. 76; P-0931, [DAR-OTP-0219-8702-R01](#) at 8706, l. 107-136, 8708, l. 185-192 and 8713-8714, l. 387-399.

<sup>1177</sup> [REDACTED]. *See also* Annex 17, Non-exhaustive list of persons killed outside of Mukjar (“Annex 17”), no. 17 and 30.

<sup>1178</sup> P-0675, [DAR-OTP-0206-0173-R02](#) at 0199, para. 94; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446, para. 50.

<sup>1179</sup> P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446, para. 50.

<sup>1180</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 41. *See also* P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 47; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168-0169, paras. 53, 57; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 143.

<sup>1181</sup> P-0188, [DAR-OTP-0216-0060-R02](#), at 0084, para. 153; P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 43; P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 47; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168-0169, paras. 53, 57; P-0877, [DAR-OTP-0217-0211-R03](#) at 0230, para. 112. *See also* Annex 17, no. 39.

the head with his axe.<sup>1182</sup> **ABD-AL-RAHMAN** also used his axe to strike *Sheikh* Muhammad Ali Bolot (also known as Jabbor),<sup>1183</sup> *Sheikh* Abdallah Ahmad Hasan,<sup>1184</sup> Doctor Muhammad Umar Ahmad Zarruq,<sup>1185</sup> *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa),<sup>1186</sup> Adam Nahid Numan<sup>1187</sup> and Yusuf Muhajir.<sup>1188</sup>

357. The detainees covered on the floor as **ABD-AL-RAHMAN**, Militia/*Janjaweed* and GoS Forces interrogated, beat and mistreated them.<sup>1189</sup> **ABD-AL-RAHMAN** insulted them, calling them *magus* (a derogatory term used to refer to idol worshippers).<sup>1190</sup> [REDACTED].<sup>1191</sup> [REDACTED].<sup>1192</sup> Militia/*Janjaweed* and GoS Forces cut off the ears of two detainees known to P-0919, alongside a third unknown man.<sup>1193</sup> Militia/*Janjaweed* and GoS Forces used knives to shave the heads of two detainees.<sup>1194</sup> Detainees cried in pain and bled profusely.<sup>1195</sup> None received any medical treatment.<sup>1196</sup>

358. [REDACTED]. [REDACTED].<sup>1197</sup>

359. The conditions of detention were inhumane. The cells were filthy and cramped.<sup>1198</sup> Over the course of at least two days, at least 122 predominantly Fur males were detained in several

<sup>1182</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 43; P-0129, [DAR-OTP-0128-0128-R04](#) at 0141, para. 46; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168, para. 53; P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113. *See also* Annex 17, no. 15, 28.

<sup>1183</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 43; P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113. *See also* Annex 17, no. 33.

<sup>1184</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 49; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168, para. 53. *See also* Annex 17, no. 6.

<sup>1185</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 49. *See also* Annex 17, no. 37.

<sup>1186</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 49; P-0129, [DAR-OTP-0223-0157-R01](#) at 0166, para. 49 and 0168, para. 53 and 0182, para. 130 (including a clarification regarding the community leader status of the victim). *See also* Annex 17, no. 20.

<sup>1187</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0230, paras. 110-111 and 0234, para. 127; P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45; P-0877, [DAR-OTP-0215-7304](#) at 7305, victim 3; P-0028, [DAR-OTP-0153-1434](#) at 1445, victim 32. *See also* Annex 17, no. 18.

<sup>1188</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113; P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45. *See also* Annex 17, no. 41.

<sup>1189</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, paras. 41-45; P-0129, [DAR-OTP-0128-0128-R04](#) at 0141-0142, paras. 46-49.

<sup>1190</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0142, para. 47; P-0129, [DAR-OTP-0223-0157-R01](#) at 0169, para. 56.

<sup>1191</sup> [REDACTED].

<sup>1192</sup> [REDACTED].

<sup>1193</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, para. 45.

<sup>1194</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, para. 45.

<sup>1195</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, para. 45.

<sup>1196</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431-0432, para. 45; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446, para. 51.

<sup>1197</sup> [REDACTED].

<sup>1198</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0539, para. 84; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619, paras. 98-100, 111, 110; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446-0447, para. 51; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, para. 103-104; P-0990, [DAR-OTP-0223-0217-R01](#) at 0221, para. 24.

rooms.<sup>1199</sup> The males were scared, thirsty and tired.<sup>1200</sup> They had no access to toilets and were forced to urinate and defecate where they squatted.<sup>1201</sup> The temperature was stiflingly hot, as air only entered through one small window.<sup>1202</sup> Some detainees were given dirty water to drink and a loaf of stale bread to share among 10 prisoners, while others received nothing.<sup>1203</sup>

360. In light of the facts set out in paragraphs 336 to 359, the only reasonable inference is that the perpetrators inflicted severe physical or mental pain or suffering for prohibited purposes. The perpetrators inflicted the pain and suffering to obtain information or a confession, punish, intimidate, or coerce the detained predominantly Fur males or for reasons based on political, ethnic and gender discrimination. They were aware of the factual circumstances that established the status of the victims of torture, cruel treatment and outrages upon personal dignity as *hors de combat* or civilians. They were also aware of the factual circumstances that established the character of other inhumane acts.

***Counts 17-18: Murder as a crime against humanity and a war crime; Counts 19-20: Attempted murder as a crime against humanity and a war crime***

*Removal from Mukjar police station and transport to execution sites*

361. Between late February and early March 2004, Militia/*Janjaweed* and GoS Forces removed at least 122 predominantly Fur males detained at the Mukjar police station and killed them. Among the detainees killed were community leaders, including *Umdah* Yahya Ahmad

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<sup>1199</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0429-0430, paras. 31, 39; P-0129, [DAR-OTP-0128-0128-R04](#) at 0139, para. 45; P-0990, [DAR-OTP-0223-0217-R01](#) at 0222, para. 25; P-0675, [DAR-OTP-0206-0173-R02](#) at 0198, para. 91; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, para. 103; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 136; P-0905, [DAR-OTP-0219-6238-R01](#) at 6251, l. 467-471; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619, para. 99; P-0903, [DAR-OTP-0221-0436-R02](#) at 0443, para. 34. *See also* Annex 15, Close-up of Mukjar police station and adjacent detention facilities; Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1200</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0431, para. 41; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, paras. 103-104; P-0990, [DAR-OTP-0223-0217-R01](#) at 0221-0222, para. 24; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67.

<sup>1201</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0430-0431, para. 40; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 140; P-0675, [DAR-OTP-0206-0173-R02](#) at 0198-0199, paras. 91-92; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, paras. 103-104; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0903, [DAR-OTP-0221-0436-R02](#) at 0446-0447, para. 51; P-0932, [DAR-OTP-0222-0602-R01](#) at 0621, para. 110.

<sup>1202</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0229, paras. 103-104; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0188, [DAR-OTP-0216-0060-R02](#) at 0082, para. 140.

<sup>1203</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0430-0431, para. 40; P-0877, [DAR-OTP-0217-0211-R03](#) at 0229 at paras. 103-104; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398, para. 67; P-0675, [DAR-OTP-0206-0173-R02](#) at 0199, para. 92; P-0932, [DAR-OTP-0222-0602-R01](#) at 0621, para. 110.

Zarruq,<sup>1204</sup> *Umdah* Issa Harun Nour,<sup>1205</sup> *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doori),<sup>1206</sup> *Sheikh* Abdallah Ahmad Hasan,<sup>1207</sup> *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa),<sup>1208</sup> *Sheikh* Muhammad Ali Bolot (also known as Jabbor)<sup>1209</sup> and *Imam* Ahmad Muhammad Yahya Abakar,<sup>1210</sup> as well as doctors, teachers, farmers and students.<sup>1211</sup>

362. **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.<sup>1212</sup> **ABD-AL-RAHMAN** personally ordered some detainees to leave their cells, including *Umdah* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour and *Umdah* Adam Husayn

<sup>1204</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45(f) and 0143-1044, para. 53; P-0129, [DAR-OTP-0223-0157-R01](#) at 0166-0169, paras. 49, 51, 53, 55, 57 and 0171, para. 66 and 0173, paras. 76-77 and 0182, para. 130; P-0877, [DAR-OTP-0217-0211-R03](#) at 0230-0231, para. 112; P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51, 52; P-0905, [DAR-OTP-0219-6238-R01](#) at 6253-6254, l. 560-579, and [DAR-OTP-0219-6599-R01](#) at 6611, l. 412-419 and 6622, l. 795-801; P-0892, [DAR-OTP-0217-0384-R02](#) at 0398-0399, paras. 68, 72; P-0188, [DAR-OTP-0216-0060-R02](#) at 0085, paras. 156-157; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 144; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 101; P-0984, [DAR-OTP-0222-0084-R01](#) at 0100, para. 98; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444, para. 38 and 0449, para. 62; P-0932, [DAR-OTP-0222-0602-R01](#) at 0621, para. 108 and 0622, para. 116; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540-0541, paras. 92-93. *See also* Annex 17, no. 39.

<sup>1205</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45(g) and 0143-1044, para. 53; P-0129, [DAR-OTP-0223-0157-R01](#) at 0166-0169, paras. 49, 51, 53, 55-56 and 0171, para. 66 and 0173, paras. 76-77 and 0181, paras. 127-128; P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113; P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51, 52; P-0892, [DAR-OTP-0217-0384-R02](#) 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; P-0984, [DAR-OTP-0222-0084-R01](#) at 0097, para. 83 and 0100, para. 98; P-0903, [DAR-OTP-0221-0436-R02](#) at 0445, para. 40; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540-0541, paras. 92-93. *See also* Annex 17, no. 28.

<sup>1206</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, paras. 45(h) and 0143-1044, para. 53; P-0129, [DAR-OTP-0223-0157-R01](#) at 0167-0169, paras. 51, 53, 55-56 and 0171, para. 66 and 0173, paras. 76-77 and 0183, para. 141; P-0919, [DAR-OTP-0217-0423-R03](#) 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-R03](#) at 0231, para. 113; P-0932, [DAR-OTP-0222-0602-R01](#) at 0621, para. 109 and 0622, para. 116; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540-0541, paras. 92-93. *See also* Annex 17, no. 15.

<sup>1207</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, paras. 45(i) and 0142, para. 49 and 0143-0144, para. 53; P-0129, [DAR-OTP-0223-0157-R01](#) at 0168, para. 53 and 0170-0171, paras. 59, 66 and 0173, para. 77 and 0178, para. 115; P-0877, [DAR-OTP-0216-0492](#) (Translation of handwritten notes at [DAR-OTP-0215-7304](#) at 7305, no.4). *See also* Annex 17, no. 6.

<sup>1208</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45 and 0142-0144, paras. 49, 53; P-0129, [DAR-OTP-0223-0157-R01](#) at 0166-0168, paras. 49, 51, 53 and 0171, para. 66 and 0173, para. 77 and 0182, para. 130 and 0184-0185, para. 147; P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113; P-0877, Annex K, [DAR-OTP-0217-0273](#) (Translation of handwritten notes at [DAR-OTP-0217-0498](#) at 0499). *See also* Annex 17, no. 20.

<sup>1209</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0430-0431, paras. 31, 38 and 43; P-0992, [DAR-OTP-0221-0668-R01](#) at 0681, paras. 73-74; P-0877, Annex A, [DAR-OTP-0217-0244-R02](#) at 0246; P-0877, Annex K, [DAR-OTP-0217-0274](#) (Translation of handwritten notes at [DAR-OTP-0217-0500](#) at 0501); [DAR-OTP-0116-0340](#) at 0344; [DAR-OTP-0215-4269](#) at 4271, l. 7-8. *See also* Annex 17, no. 33.

<sup>1210</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0140, para. 45; P-0129, [DAR-OTP-0223-0157-R01](#) at 0166, para. 49 and 0178, para. 115; P-0877, [DAR-OTP-0216-0492](#) (Translation of handwritten notes at [DAR-OTP-0215-7304](#) at 7305). *See also* Annex 17, no. 21.

<sup>1211</sup> *See* Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1212</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6609-6611, l. 322-419; P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 69; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444-0445, paras. 38, 41; P-0885, [DAR-OTP-0222-0885-R01](#) at 0892-0893, l. 233-242, and [DAR-OTP-0222-0784-R01](#) at 0794-0795, l. 320-345; P-0990, [DAR-OTP-0223-0217-R01](#) at 0225, para. 38.

Abdelmahmoud (also known as Doori).<sup>1213</sup> **ABD-AL-RAHMAN** beat several detainees with his axe.<sup>1214</sup> As *Umdah* Yahya Ahmad Zarruq walked outside, **ABD-AL-RAHMAN** struck him with his axe<sup>1215</sup> and said to him “you criminal”<sup>1216</sup> and “*Kabir El Tora Bora*” meaning the leader of the rebels.<sup>1217</sup> *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.<sup>1218</sup> Similarly, **ABD-AL-RAHMAN** hit *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelmahmoud (also known as Doori), *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa), and Yusuf Muhajir with an axe around their head, neck and shoulder.<sup>1219</sup> The Militia/*Janjaweed* and GoS Forces continued to beat the detainees on their way to the vehicle.<sup>1220</sup>

363. In **ABD-AL-RAHMAN**’s presence, the Militia/*Janjaweed* and GoS Forces stacked the detainees on top of one another in the back of several vehicles and ordered them to lay face down and not to raise their heads.<sup>1221</sup> Some were blindfolded,<sup>1222</sup> while others were crying and screaming.<sup>1223</sup> SAMIH, HAMD I and ABD-AL-MUN’IM participated in the loading of detainees,<sup>1224</sup> while TORSHEIN was present.<sup>1225</sup> Any vehicles that were fully loaded with

<sup>1213</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51-52; P-0877, [DAR-OTP-0217-0211-R03](#) at 0230, para. 112; P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, para. 51; P-0129, [DAR-OTP-0223-0157-R01](#) at 0171, paras. 65-66. *See also* P-0992, [DAR-OTP-0221-0668-R01](#) at 0680-0681, paras. 71-72; P-0903, [DAR-OTP-0221-0436-R02](#) at 0445, para. 40. *See also* Annex 17, no. 15, 28, 39.

<sup>1214</sup> P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 91; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619-0620, para. 102, 104.

<sup>1215</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0230, para. 112; P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 70; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444, para. 38; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 92.

<sup>1216</sup> P-0913, [DAR-OTP-0218-0021-R03](#) at 0037, paras. 105-106; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 92.

<sup>1217</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 70.

<sup>1218</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0230-0231, para. 112; P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 70; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444, para. 38; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 92.

<sup>1219</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113. *See also* P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 92 (in relation to *Umdah* Doori). *See also* Annex 17, no. 15, 20, 28, 41.

<sup>1220</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 113; P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51, 52.

<sup>1221</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, paras. 51, 52; P-0129, [DAR-OTP-0223-0157-R01](#) at 0171-0172, paras. 67-70; P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, paras. 115-116. P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51, 52; P-0913, [DAR-OTP-0218-0021-R03](#) 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-0219-6238-R01](#) at 6253, l. 536-554, and [DAR-OTP-0219-6599-R01](#) at 6611, l. 417-419 and 6613-6614, l. 493-499. *See also* P-0892, [DAR-OTP-0217-0384-R02](#) at 0397, paras. 63-64; P-0028, [DAR-OTP-0094-0423-R01](#) at 0439, para. 67; P-0029, [DAR-OTP-0094-0119-R02](#) at 0152, para. 144; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100; P-0675, [DAR-OTP-0206-0173-R02](#) at 0203-0204, paras. 108, 111; P-0756, [DAR-OTP-0211-0039-R02](#) at 0056, para. 72; P-0992, [DAR-OTP-0221-0668-R01](#) at 0680-0681, paras. 71, 74; P-0984, [DAR-OTP-0222-0084-R01](#) at 0097, paras. 82-86; P-0903, [DAR-OTP-0221-0436-R02](#) at 0444, paras. 37-38.

<sup>1222</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, paras. 51, 52.

<sup>1223</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0433, para. 52.

<sup>1224</sup> P-0129, [DAR-OTP-0223-0157-R01](#) at 0171, para. 67; P-0885, [DAR-OTP-0222-0885-R01](#) at 0894, l. 285-302.

<sup>1225</sup> P-0885, [DAR-OTP-0222-0885-R01](#) at 0892-0893, l. 233-256; P-0129, [DAR-OTP-0223-0157-R01](#) at 0173, para. 80.

detainees left the Mukjar police station, followed by others soon after.<sup>1226</sup> **ABD-AL-RAHMAN**,<sup>1227</sup> **HAMDI**,<sup>1228</sup> **HASSABALLAH**,<sup>1229</sup> **HAREIKA** ([REDACTED]),<sup>1230</sup> **AL-JILLI** ([REDACTED]),<sup>1231</sup> **SAMIH**<sup>1232</sup> and **TORSHEIN**<sup>1233</sup> were part of the convoy. Members of the Militia/*Janjaweed* and GoS Forces accompanied the detainees in several of the vehicles<sup>1234</sup> and continued beating and insulting them throughout the journey.<sup>1235</sup>

### Execution of detainees

364. The Militia/*Janjaweed* and GoS Forces drove the detainees north of Mukjar in the direction of Garsila<sup>1236</sup> and brought them to several locations outside of Mukjar.<sup>1237</sup>

365. At a location close to where UNAMID was later based, **ABD-AL-RAHMAN** ordered one group of detainees, including community leaders and [REDACTED], to exit the vehicles.<sup>1238</sup> While doing so, **ABD-AL-RAHMAN** beat them with his axe, while **SAMIH** beat them with a Kalashnikov, whip and stick.<sup>1239</sup> The Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**, ordered the detainees to step off of the vehicles<sup>1240</sup> and to lie face down in several lines.<sup>1241</sup> **ABD-AL-RAHMAN** told them *ajiro argodo*, meaning to run and sleep on their stomach.<sup>1242</sup> **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces to kill the detainees and ensure that no one was left alive.<sup>1243</sup> **ABD-AL-RAHMAN**, together with

<sup>1226</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0231-0232, paras. 116-117; P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, para. 51; P-0129, [DAR-OTP-0223-0157-R01](#) at 0171-0172, paras. 68-70; P-0905, [DAR-OTP-0219-6599-R01](#) at 6623-6624, l. 837-849.

<sup>1227</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6615, l. 548-559 and 6622, l. 784-796; P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, para. 51; P-0129, [DAR-OTP-0223-0157-R01](#) at 0171-0173, paras. 68, 75, 80; P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100; P-0984, [DAR-OTP-0222-0084-R01](#) at 0098, para. 88; P-0903, [DAR-OTP-0221-0436-R02](#) at 0445, para. 43; P-0931, [DAR-OTP-0219-8617-R01](#) at 8621, l. 114-117 and 8628, l. 368-372 and 8635, l. 584-588; P-0885, [DAR-OTP-0222-0784-R01](#) at 0801-0803, l. 569-606.

<sup>1228</sup> P-0129, [DAR-OTP-0128-0128-R04](#) at 0143, para. 51; P-0129, [DAR-OTP-0223-0157-R01](#) at 0172-0173, paras. 75, 80; P-0931, [DAR-OTP-0219-8617-R01](#) at 8621, l. 105-117 and 8628, l. 368-372 and 8635, l. 584-588; P-0885, [DAR-OTP-0222-0784-R01](#) at 0825, l. 1356-1367.

<sup>1229</sup> P-0931, [DAR-OTP-0219-8617-R01](#) at 8621, l. 105-117 and 8628, l. 368-372 and 8635, l. 584-588. P-0885, [DAR-OTP-0222-0784-R01](#) at 0803, l. 608-613; P-1021, [DAR-OTP-0221-1187-R01](#) at 1207, l. 667-681.

<sup>1230</sup> [REDACTED].

<sup>1231</sup> [REDACTED].

<sup>1232</sup> P-0129, [DAR-OTP-0223-0157-R01](#) at 0171-0173, paras. 68, 75, 80.

<sup>1233</sup> P-0129, [DAR-OTP-0223-0157-R01](#) at 0173, para. 80.

<sup>1234</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6621, l. 742-752; P-0129, [DAR-OTP-0128-0128-R04](#) at 0144, para. 56; P-0129, [DAR-OTP-0223-0157-R01](#) at 0171-0172, para. 69.

<sup>1235</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0433-0434, paras. 52, 56; P-0919, Annex H, [DAR-OTP-0217-0450](#).

<sup>1236</sup> [REDACTED].

<sup>1237</sup> [REDACTED]. See also Annex 16, Locations relevant to known execution sites outside Mukjar.

<sup>1238</sup> [REDACTED]. See also Annex 16, Locations relevant to known execution sites outside Mukjar.

<sup>1239</sup> [REDACTED].

<sup>1240</sup> [REDACTED].

<sup>1241</sup> [REDACTED].

<sup>1242</sup> [REDACTED].

<sup>1243</sup> [REDACTED].



SAMIH, HAMD, HASSABALLAH and others, stood next to the Militia/*Janjaweed* and GoS Forces as they opened fire<sup>1244</sup> and ordered them to repeat the shooting until the detainees were dead.<sup>1245</sup> Following **ABD-AL-RAHMAN**'s order, Militia/*Janjaweed* and GoS Forces – [REDACTED],<sup>1246</sup> [REDACTED],<sup>1247</sup> [REDACTED]<sup>1248</sup> [REDACTED]<sup>1249</sup> [REDACTED].<sup>1250</sup> P-0919, [REDACTED], recalls that many detainees died, [REDACTED] *Umdahs* Ahmed Yahya Zarruq, Issa Harun Nour and Adam Husayn Abdelm Mahmoud (also known as Doori).<sup>1251</sup>

366. After witnessing the first execution, [REDACTED], was transported further north on the road to Garsila in a convoy including **ABD-AL-RAHMAN** and HAMD, to a location between Nyerli and Gogoma Shargiya (Eastern Juguma).<sup>1252</sup> As in the previous location, **ABD-AL-RAHMAN** was heard saying “unload them”,<sup>1253</sup> after which the detainees were told to get off the vehicles and lie down, while they were being hit.<sup>1254</sup> As the detainees were lying next to each other in a riverbed, soldiers opened fire on them “spraying with every type of gun they had”.<sup>1255</sup> [REDACTED] Bahr-al-Deen Idriss Muhammad Abd-Al-Rahman was shot [REDACTED].<sup>1256</sup> [REDACTED] Abd-al-Karim Abd-al-Rahman and Abakar Adam Isa (also known as Abakar Yahya) were also shot, [REDACTED].<sup>1257</sup> [REDACTED] recalls that after the shooting, members of the Militia/*Janjaweed* and GoS Forces walked on top of the bodies to make sure they were dead.<sup>1258</sup> One soldier said that one of the “slaves”, referring to a victim, had money on him and took it.<sup>1259</sup>

367. By that time, the head of the Mukjar police had heard the shooting and arrived at the scene.<sup>1260</sup> 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

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<sup>1244</sup> [REDACTED].

<sup>1245</sup> [REDACTED].

<sup>1246</sup> [REDACTED].

<sup>1247</sup> [REDACTED].

<sup>1248</sup> [REDACTED].

<sup>1249</sup> [REDACTED].

<sup>1250</sup> [REDACTED].

<sup>1251</sup> P-0919, [DAR-OTP-0217-0423-R03](#) at 0430, paras. 31-32 and 0433-0434, paras. 52, 57; P-0919, [DAR-OTP-0219-5119-R01](#). See also Annex 17, no. 15, 28, 31, 39, 84.

<sup>1252</sup> [REDACTED]. See also Annex 16, Locations relevant to known execution sites outside Mukjar.

<sup>1253</sup> [REDACTED].

<sup>1254</sup> [REDACTED].

<sup>1255</sup> [REDACTED].

<sup>1256</sup> [REDACTED]. See also Annex 17, no. 22.

<sup>1257</sup> [REDACTED]. See also Annex 17, no. 4, 11.

<sup>1258</sup> [REDACTED].

<sup>1259</sup> [REDACTED].

<sup>1260</sup> [REDACTED].

interrogation, not for them to be killed.<sup>1261</sup> One of the vehicles carrying detainees included a *Sheikh* who was teaching the Quran in Sindu, five of his students and at least two other men.<sup>1262</sup> The head of police tried to negotiate with **ABD-AL-RAHMAN**, seeking to ensure that the detainees from the above vehicle would not be killed.<sup>1263</sup>

368. Notwithstanding the efforts of the head of police, the detainees, including the *Sheikh*, five of his students and at least two other men, were brought to an execution location not far from the site where community leaders were executed.<sup>1264</sup> After driving some distance, **ABD-AL-RAHMAN** ordered that the detainees be taken out of the vehicle and killed.<sup>1265</sup> The *Sheikh* asked that his five students be spared<sup>1266</sup> and requested that he perform a prayer.<sup>1267</sup> [REDACTED].<sup>1268</sup> [REDACTED].<sup>1269</sup> [REDACTED].<sup>1270</sup> [REDACTED].<sup>1271</sup>

369. Several witnesses who had seen the detainees being loaded into the vehicles at the Mukjar police station reported hearing gunshots soon after.<sup>1272</sup> Later that day, some of the vehicles that transported the detainees returned to Mukjar police station empty of detainees.<sup>1273</sup>

370. In sum, in the events described above, between late February and early March 2004, Militia/*Janjaweed* and GoS forces killed at least 122 persons in several locations outside of Mukjar.<sup>1274</sup>

#### *Discovery of corpses of the victims*

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<sup>1261</sup> [REDACTED].

<sup>1262</sup> [REDACTED].

<sup>1263</sup> [REDACTED].

<sup>1264</sup> [REDACTED].

<sup>1265</sup> [REDACTED].

<sup>1266</sup> [REDACTED].

<sup>1267</sup> [REDACTED].

<sup>1268</sup> [REDACTED].

<sup>1269</sup> [REDACTED].

<sup>1270</sup> [REDACTED].

<sup>1271</sup> [REDACTED].

<sup>1272</sup> P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0029, [DAR-OTP-0094-0119-R02](#) at 0153, para. 145; P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 100; P-0675, [DAR-OTP-0206-0173-R02](#) at 0205, para. 114; P-0756, [DAR-OTP-0211-0039-R02](#) at 0056-0057, paras. 74, 77; P-0877, [DAR-OTP-0217-0211-R03](#) at 0232, para. 117; P-0913, [DAR-OTP-0218-0021-R03](#) at 0038, para. 112; P-0976, [DAR-OTP-0222-0526-R01](#) at 0541, para. 93; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619, para. 102.

<sup>1273</sup> P-0028, [DAR-OTP-0094-0423-R01](#) at 0440, para. 68; P-0029, [DAR-OTP-0094-0119-R02](#) at 0153, para. 145; P-0756, [DAR-OTP-0211-0039-R02](#) at 0057, para. 78; P-0877, [DAR-OTP-0217-0211-R03](#) at 0232, para. 118; P-0903, [DAR-OTP-0221-0436-R02](#) at 0045-0046, paras. 45, 47.

<sup>1274</sup> Of these, 49 names were listed in Annex 1C to the DCC at ICC-02/05-01/20-325-Conf-Anx1C and Annex A10 to the PCB at ICC-02/05-01/20-346-Conf and confirmed by the PTC in the Confirmation Decision. The remaining 73 names are established by evidence obtained by the Prosecution since the DCC/PCB were filed (*See* Annex 17, Non-exhaustive list of persons killed outside of Mukjar, to this TB).

371. [REDACTED] local women found a number of the victims listed in Annex 17 soon after the executions.<sup>1275</sup> Moreover, about 10 days after the killings, P-0877 discovered bodies at a *chor* (small dry riverbed) about 700 metres north of the Mukjar police station.<sup>1276</sup> The decaying corpses were lined up next to each other, all face down.<sup>1277</sup> There were cartridges around the bodies.<sup>1278</sup> P-0877 recognised from their clothing the bodies of *Umdah* Yahya Ahmad Zarruq, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri), and Adam Nahid Numan,<sup>1279</sup> all of whom he had seen being loaded onto the vehicles at the Mukjar police station.<sup>1280</sup> [REDACTED].<sup>1281</sup>

### Survivors of the executions

372. 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.

373. [REDACTED].<sup>1282</sup> [REDACTED].<sup>1283</sup> [REDACTED].<sup>1284</sup> [REDACTED].<sup>1285</sup>  
[REDACTED].<sup>1286</sup> [REDACTED].<sup>1287</sup> [REDACTED].<sup>1288</sup>

374. [REDACTED].<sup>1289</sup> [REDACTED].<sup>1290</sup> [REDACTED].<sup>1291</sup> [REDACTED].<sup>1292</sup>  
[REDACTED].<sup>1293</sup> [REDACTED].<sup>1294</sup>

375. Based on the facts set out in paragraphs 336 to 374, the only reasonable inference is that the perpetrators were aware of the victims' status as *hors de combat* or civilians.

<sup>1275</sup> See Annex 17, no. 6, 13, 15, 23, 24, 28, 31, 37, 39, 40, 62, 63, 78, 84, 88, 106, 117.

<sup>1276</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0233-0234, paras. 126-130; P-0877, Annex E, [DAR-OTP-0217-0256](#) at 0257 (Translation at [DAR-OTP-0217-0483](#) at 0485); P-0877, [DAR-OTP-0215-8889](#) (Translation of the transcript of a video recorded at the alleged location in 2020 at [DAR-OTP-0215-8891](#) at 8893, l. 15-16); P-0877, [DAR-OTP-0215-4260](#).

<sup>1277</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0233-0234, paras. 126-127.

<sup>1278</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0234, para. 127.

<sup>1279</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0234, para. 127. See also Annex 17, no. 15, 18, 39.

<sup>1280</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0230-0231, paras. 110-113.

<sup>1281</sup> [REDACTED].

<sup>1282</sup> [REDACTED].

<sup>1283</sup> [REDACTED].

<sup>1284</sup> [REDACTED].

<sup>1285</sup> [REDACTED].

<sup>1286</sup> [REDACTED].

<sup>1287</sup> [REDACTED].

<sup>1288</sup> [REDACTED].

<sup>1289</sup> [REDACTED].

<sup>1290</sup> [REDACTED].

<sup>1291</sup> [REDACTED].

<sup>1292</sup> [REDACTED].

<sup>1293</sup> [REDACTED].

<sup>1294</sup> [REDACTED].

***Count 21: Persecution as a crime against humanity***

376. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 195 to 198 relating specifically to the events in Mukjar.

377. 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.

**3) ABD-AL-RAHMAN'S individual criminal responsibility**

378. **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). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f).

379. This section should be read in conjunction with Section E (Common elements of modes of 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*

380. **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.

381. 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 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.

382. As described in Section E,<sup>1295</sup> **ABD-AL-RAHMAN** had a close, cooperative relationship with several of the co-perpetrators. Moreover, the existence of the Mukjar Common Plan is evident<sup>1296</sup> in the joint and coordinated nature of the actions of the co-perpetrators, and the statements made by them, as summarised at paragraphs 345 to 400. [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”.<sup>1297</sup>

383. Similarly, [REDACTED], **ABD-AL-RAHMAN**, SAMIH and HAMDI arrived at the Mukjar police station and started beating and insulting the detainees.<sup>1298</sup> **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.”<sup>1299</sup> SAMIH also introduced himself as the “deputy of Ali KUSHAYB”.<sup>1300</sup> The next day there was a meeting in the yard<sup>1301</sup> of the police station featuring, among other persons, **ABD-AL-RAHMAN**, HAMDI and SAMIH.<sup>1302</sup> Around the same time, P-0877 observed **ABD-AL-RAHMAN** entering and exiting the offices at the Mukjar police station, including that of AL-TAYYIB, and subsequently being followed by a number of individuals, including SAMIH.<sup>1303</sup> [REDACTED] opined that they must have taken a decision at the meeting because immediately after it ended, they asked that the door to the detention room be opened.<sup>1304</sup> 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.<sup>1305</sup>

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*

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<sup>1295</sup> Regarding SAMIH, *see esp.* paras. 104-107, 112, 119, 128 above. *See also*, in the context of the attack on Kodoom, and Bindisi, paras. 216, 217, 222, 225, 274, 326-328 above. Regarding HAMDI, *see esp.* paras. 131, 134, 135, 148, 156, 157, 160, 166, 167 above.

<sup>1296</sup> In this context, as already noted in Section E at paragraph 171, “there is no legal impediment to inferring the common plan from the wider circumstances, including the events on the ground.” *See* [Ntaganda Appeals Judgment](#), para. 19.

<sup>1297</sup> [REDACTED].

<sup>1298</sup> [REDACTED].

<sup>1299</sup> [REDACTED].

<sup>1300</sup> [REDACTED].

<sup>1301</sup> [REDACTED]. *See also* Annex 15, Close-up of Mukjar police station and adjacent detention facilities.

<sup>1302</sup> [REDACTED].

<sup>1303</sup> P-0877, [DAR-OTP-0217-0211-R03](#) at 0229-0230, para. 107. *See also* Annex 15, Close-up of Mukjar police station and adjacent detention facilities.

<sup>1304</sup> [REDACTED]. *See also* P-0877, [DAR-OTP-0217-0211-R03](#) at 0230, para. 112.

<sup>1305</sup> *See* the detailed description of these events at paras. 345-375.

384. **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 males in Mukjar, as well as contributing to such arrests by way of his presence

385. 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.<sup>1306</sup> As per P-0012, “Yahya Ahmad ZARRUQ, the brother of the Shartay was arrested by KUSHAYB himself” around the same time.<sup>1307</sup> **ABD-AL-RAHMAN** was even able to arrest police officers within the Mukjar police station at that time. [REDACTED].<sup>1308</sup>

386. P-0105 and P-0720 saw **ABD-AL-RAHMAN** present on several occasions when people were arrested and taken to the detention facilities.<sup>1309</sup> Moreover, [REDACTED], prior to departing from Mukjar to Sindu, **ABD-AL-RAHMAN** instructed the head of police in Mukjar: “[a]ny man coming down from SINDU, he has to be [...] kept [...] [a]nd if this does not happen [...] you are going to bear responsibility.”<sup>1310</sup>

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

387. This conduct is described at paragraphs 352, 354, 356, 357, 362 and 382 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

388. This conduct is described at paragraphs 352 to 357, 362, 383, 393, 394. Notably, **ABD-AL-RAHMAN** carried out some assaults in the presence of TORSHEIN, the Commissioner of Mukjar.<sup>1311</sup>

<sup>1306</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 99.

<sup>1307</sup> P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, para. 99. *See also* Annex 17, no. 39.

<sup>1308</sup> [REDACTED].

<sup>1309</sup> P-0105, [DAR-OTP-0116-0975-R03](#) at 0986, para. 48; P-0720, [DAR-OTP-0210-0291-R02](#) at 0307, para. 105.

<sup>1310</sup> [REDACTED]. 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-R02](#) at 0090, para. 60.

<sup>1311</sup> [REDACTED].

d. Obtaining the transfer of detainees into the custody of ABD-AL-RAHMAN and his co-perpetrators

389. **ABD-AL-RAHMAN** played a key role in obtaining the transfer of detainees into his custody and that of 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.”<sup>1312</sup> [REDACTED] corroborates [REDACTED], stating “[REDACTED] [...] told me that ALI KUSHAYB with his JANJAWEED came to the Police Camp and asked [AL-TAYYIB] to collect the prisoners as he wanted to transfer them to GARSILA.”<sup>1313</sup> Detainee [REDACTED] confirms the use of this ruse by **ABD-AL-RAHMAN**. He describes hearing **ABD-AL-RAHMAN** tell detainees “if you hear your name, leave the cell and we will transfer you to Garsila.”<sup>1314</sup>

e. Selecting detainees, including community leaders, to be removed from Mukjar police station and executed

390. **ABD-AL-RAHMAN** selected many of the detainees to be removed from the police station and executed. [REDACTED], **ABD-AL-RAHMAN** arrived and started calling out the names of the *Umdahs*. **ABD-AL-RAHMAN** stood inside the cell, near the door.<sup>1315</sup> Notably, and as mentioned already in the section on Persecution above, the *Umdahs* were leaders within the Fur community. Therefore, harm directed against such leaders of the Fur community, was, in a symbolic sense, harm directed against the Fur community as a whole. As discussed at paragraph 59 above, targeting such civilian community leaders was an explicit policy of the GoS. Community leaders were similarly targeted in Deleig, as discussed at paragraphs 473 and 474 below.

391. [REDACTED].<sup>1316</sup> **ABD-AL-RAHMAN** and some of his men were in the cell getting detainees out while [REDACTED] and others were put in a number of vehicles.<sup>1317</sup>

392. [REDACTED] **ABD-AL-RAHMAN** “stood in front of our jail” holding “the same axe he had before.”<sup>1318</sup> Similarly, [REDACTED] **ABD-AL-RAHMAN** ordered a police officer to

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<sup>1312</sup> [REDACTED].

<sup>1313</sup> [REDACTED].

<sup>1314</sup> [REDACTED].

<sup>1315</sup> [REDACTED].

<sup>1316</sup> [REDACTED].

<sup>1317</sup> [REDACTED].

<sup>1318</sup> [REDACTED].

open the doors to the Mukjar police detention facilities<sup>1319</sup> in the presence of the head of police in Mukjar, as well as other local GoS Forces leadership.<sup>1320</sup> Though a rebel informant captured in Sindu and taken by **ABD-AL-RAHMAN** to Mukjar pointed out certain prisoners,<sup>1321</sup> 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.”<sup>1322</sup> Many of the prisoners were then taken out, and not only the ones pointed out by the rebel informant.<sup>1323</sup> Finally, **ABD-AL-RAHMAN** instructed a CRF officer to “stop here” since “the vehicles are full” and walked away from the detention cells.<sup>1324</sup> [REDACTED].<sup>1325</sup>

f. Supervising the transport of a group of detained males, including community leaders, from Mukjar police station to execution sites

393. Having provided some of the vehicles that were used to transport detainees,<sup>1326</sup> **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.<sup>1327</sup> The prisoners were piled up like sacks in the cars.<sup>1328</sup> [REDACTED].<sup>1329</sup> **ABD-AL-RAHMAN** distributed his men among the Land Cruisers.<sup>1330</sup> His men were in several of the vehicles, to escort the prisoners.<sup>1331</sup> **ABD-AL-RAHMAN** was in the first vehicle<sup>1332</sup> as was *Umdah* Yahya Ahmad Zarruq<sup>1333</sup> and the other *Umdahs*.<sup>1334</sup> **HAMDI** was in the second.<sup>1335</sup> [REDACTED], too, describes how **ABD-AL-RAHMAN** struck the detained males and ordered them to get into the back of one of the Land Cruisers. The *Umdahs* were in the first vehicle.<sup>1336</sup> P-0992 adds that **ABD-AL-RAHMAN** stationed vehicles next to the jail to carry the prisoners,<sup>1337</sup> assaulted some of the prisoners,

<sup>1319</sup> [REDACTED].

<sup>1320</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6610, l. 370-377.

<sup>1321</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6600-6603, l.10-139 and 6609-6611, l. 322-332, 386-401. *See also* para. 123 above.

<sup>1322</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6610-6611, l. 386-402.

<sup>1323</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6612, l. 426-427. *See also* P-0877, [DAR-OTP-0217-0211-R03](#) at 0231, para. 116; P-0976, [DAR-OTP-0222-0526-R01](#) at 0540-0542, paras. 90-92, 93, 99-102.

<sup>1324</sup> [REDACTED].

<sup>1325</sup> [REDACTED].

<sup>1326</sup> [REDACTED].

<sup>1327</sup> [REDACTED].

<sup>1328</sup> [REDACTED].

<sup>1329</sup> [REDACTED].

<sup>1330</sup> [REDACTED].

<sup>1331</sup> [REDACTED].

<sup>1332</sup> [REDACTED].

<sup>1333</sup> [REDACTED].

<sup>1334</sup> [REDACTED]. *See also* [REDACTED].

<sup>1335</sup> [REDACTED].

<sup>1336</sup> [REDACTED].

<sup>1337</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0680, para. 69.



loaded them onto a vehicle and ordered them to lie down in the vehicle.<sup>1338</sup> P-0992 confirms that **ABD-AL-RAHMAN** “was present the whole time the people were being loaded onto the vehicles.”<sup>1339</sup>

394. 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. Sometime after the vehicles left, P-0029 heard shooting. After the shooting stopped vehicles returned to the station.<sup>1340</sup>

g. 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

395. En route to one of the execution sites, [REDACTED] heard “Janjaweed [...] saying [...] torabora we are going to fuck you.”<sup>1341</sup> Once [REDACTED] vehicle halted, **ABD-AL-RAHMAN** addressed the detainees, saying “step down umdas”, “step down boys” and “run and sleep on your stomach.”<sup>1342</sup> [REDACTED].<sup>1343</sup> [REDACTED], too, saw **ABD-AL-RAHMAN** step out of his vehicle and order detainees to move.<sup>1344</sup> Similarly, detainee P-0129 saw the group of detainees including community leaders being unloaded from the first vehicle. **ABD-AL-RAHMAN** used his axe and SAMIH used a Kalashnikov, whip and stick to assault the detainees as they came out of the vehicle.<sup>1345</sup> The detainees were then told to lie face down on the ground. Militia/Janjaweed and/or GoS Forces, some of whom were identified by [REDACTED] and [REDACTED], opened fire on the detainees under the orders of **ABD-AL-RAHMAN**.<sup>1346</sup> Then, “there was a lot of shooting” and [REDACTED] heard people crying.<sup>1347</sup>

<sup>1338</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0680-0681, paras. 70-71. See also P-0976, [DAR-OTP-0222-0526-R01](#) at 0540, para. 91; P-0932, [DAR-OTP-0222-0602-R01](#) at 0619-0620, paras. 102, 104; P-0913, [DAR-OTP-0218-0021-R03](#) at 0037, paras. 105-106.

<sup>1339</sup> P-0992, [DAR-OTP-0221-0668-R01](#) at 0681, para. 74.

<sup>1340</sup> P-0029, [DAR-OTP-0094-0119-R02](#) at 0152-0153, paras. 143, 145. These accounts are corroborated by P-0012, who also saw detainees being transported while **ABD-AL-RAHMAN** was watching the loading of detainees, including community leaders. See P-0012, [DAR-OTP-0119-0503-R01](#) at 0525, paras. 100-101. See also P-0105, [DAR-OTP-0116-0975-R03](#) at 0986, para. 48.

<sup>1341</sup> [REDACTED].

<sup>1342</sup> [REDACTED].

<sup>1343</sup> [REDACTED].

<sup>1344</sup> [REDACTED].

<sup>1345</sup> [REDACTED].

<sup>1346</sup> [REDACTED].

<sup>1347</sup> [REDACTED].

[REDACTED] saw **ABD-AL-RAHMAN**, SAMIH, HASSABALLAH and others, at the same execution site, standing next to the Militia/*Janjaweed* and/or GoS forces, as they opened fire. The first vehicle reversed and then fired a heavy machine gun at the detainees.<sup>1348</sup> [REDACTED], too, saw **ABD-AL-RAHMAN**, SAMIH, HASSABALLAH and others where the shootings took place.<sup>1349</sup> As [REDACTED] and [REDACTED],<sup>1350</sup> **ABD-AL-RAHMAN** was “standing in front of them.”<sup>1351</sup> [REDACTED] explains “[t]hat means he issued the orders.”<sup>1352</sup>

396. Similarly, [REDACTED] P-0905 describes what he saw at the 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’.”<sup>1353</sup> **ABD-AL-RAHMAN** ordered “immediately, come down, come down, come down! Shoot! Shoot! Shoot! Immediately! Shoot immediately!”<sup>1354</sup> He continued “Repeat! Repeat for these people. Maybe there are some you have missed. Repeat for these people.”<sup>1355</sup> [REDACTED].<sup>1356</sup> P-0905 adds, “around him are his guards with their weapons.”<sup>1357</sup> **ABD-AL-RAHMAN** orders “bullet them”, meaning “kill them.”<sup>1358</sup> Complying with his orders, the “people of Ali Kushayb”<sup>1359</sup> commenced firing.<sup>1360</sup> **ABD-AL-RAHMAN** added “don’t leave me 1 person alive.”<sup>1361</sup> As a result, P-0905 concludes “[a]ll these people who were down were shot.”<sup>1362</sup>

397. After the shooting, **ABD-AL-RAHMAN** instructed **HAMDI** to move, and **HAMDI** followed (in the vehicle which was carrying [REDACTED]) the convoy led by **ABD-AL-RAHMAN** to the site where [REDACTED].<sup>1363</sup> As they reached their destination, **ABD-AL-RAHMAN**’s vehicle stopped and [REDACTED].<sup>1364</sup> In turn, detainees were told to get off the vehicles and lie down, while they were beaten in the presence of **ABD-**

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<sup>1348</sup> [REDACTED].

<sup>1349</sup> [REDACTED].

<sup>1350</sup> See the details regarding each of these individuals at paragraph 365.

<sup>1351</sup> [REDACTED].

<sup>1352</sup> [REDACTED].

<sup>1353</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6619, l. 694-695.

<sup>1354</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6632, l. 1151-1152.

<sup>1355</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6632, l. 1154-1155.

<sup>1356</sup> [REDACTED].

<sup>1357</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6256, l. 636-644.

<sup>1358</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6256, l. 636-644.

<sup>1359</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6638, l. 1339.

<sup>1360</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6256, l. 652-654.

<sup>1361</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6256, l. 652-654.

<sup>1362</sup> P-0905, [DAR-OTP-0219-6238-R01](#) at 6256, l. 652-654. [REDACTED].

<sup>1363</sup> [REDACTED].

<sup>1364</sup> [REDACTED].

**AL-RAHMAN**.<sup>1365</sup> Soon after, **ABD-AL-RAHMAN**'s men started shooting at the detainees.<sup>1366</sup>

398. P-0905 adds that, before at least eight people, including the *Sheikh*, his five students and at least two other men, in one of the vehicles were killed, the Mukjar head of police arrived.<sup>1367</sup> The head of police asked **ABD-AL-RAHMAN** why they were killing the prisoners when he had been told that the prisoners would be taken to Garsila for interrogation.<sup>1368</sup> **ABD-AL-RAHMAN** did not respond, and merely said "Let's go."<sup>1369</sup> [REDACTED].<sup>1370</sup>  
[REDACTED].<sup>1371</sup> [REDACTED].<sup>1372</sup> [REDACTED].<sup>1373</sup> [REDACTED].<sup>1374</sup>  
[REDACTED].<sup>1375</sup> [REDACTED].<sup>1376</sup> [REDACTED].<sup>1377</sup> [REDACTED].<sup>1378</sup>  
[REDACTED].<sup>1379</sup>

iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

399. 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, and cooperative relationship with co-perpetrators) summarised above, in particular at paragraphs 339, 345, 349, 351 to 352, 354, 356 to 357, 362 to 363, 365 to 367, 368, 373 and 378 to 400, **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. In light of the same facts, and due to his position of authority and influence,<sup>1380</sup> he was further aware of his essential role in the Mukjar Common Plan, the Mukjar Common Plan's critical criminal component, the essential nature of his contributions to it, as set out above, and of his ability, jointly with other co-perpetrators, to control the commission of the crimes.

<sup>1365</sup> [REDACTED].

<sup>1366</sup> [REDACTED].

<sup>1367</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6635, l. 1235-1255.

<sup>1368</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6635-6636, l. 1259-1265.

<sup>1369</sup> P-0905, [DAR-OTP-0219-6599-R01](#) at 6636-6637, l. 1294-1303.

<sup>1370</sup> [REDACTED].

<sup>1371</sup> [REDACTED].

<sup>1372</sup> [REDACTED].

<sup>1373</sup> [REDACTED].

<sup>1374</sup> [REDACTED].

<sup>1375</sup> [REDACTED].

<sup>1376</sup> [REDACTED].

<sup>1377</sup> [REDACTED].

<sup>1378</sup> [REDACTED].

<sup>1379</sup> [REDACTED].

<sup>1380</sup> See also Section E (Common elements of modes of individual criminal responsibility) above.

*Direct perpetration under article 25(3)(a) of the Rome Statute*

400. As described at paragraphs 346 to 357, 362, 382, 387, 388, 393 and 394 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* Yahya Ahmad Zarruq, *Umdah* Issa Harun Nour, *Umdah* Adam Husayn Abdelm Mahmoud (also known as Doorri), *Sheikh* Muhammad Ali Bolot (aka Jabbor), *Sheikh* Abdallah Ahmad Hasan, Doctor Muhammad Umar Ahmad Zarruq, *Sheikh* Ahmad Muhammad Barbayi (also known as Ablawa), 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 352 to 357, 362, 382, 383, and 387 to 398, **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.

*Ordering under article 25(3)(b) of the Rome Statute*

401. **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 365 to 368, and 395 to 398. 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 352 to 357, 362, 365 to 368, 373, 382, 388, and 393 to 400, **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.<sup>1381</sup> 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

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<sup>1381</sup> See also Section E (Common elements of modes of individual criminal responsibility) above.

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***

402. Through the conduct described above, in particular at paragraphs 345, 350 to 357, 362, 365 to 368, 373 and 378 to 400 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,<sup>1382</sup> **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 345, 349 to 357, 362, 365 to 368, 373, 378 to 400, **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.

## **I. CRIMES COMMITTED IN DELEIG AND SURROUNDING AREAS**

### **1) Introduction**

403. During the charged period, Deleig was a town located in the Garsila-Deleig Administrative Unit of Wadi Salih Locality, West Darfur.<sup>1383</sup> 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 62 kilometres north of Bindisi. The population of Deleig was predominantly Fur.<sup>1384</sup>

404. 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,

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<sup>1382</sup> See also Section E (Common elements of modes of individual criminal responsibility) above.

<sup>1383</sup> See Agreed Fact, [West Darfur Planning Map](#); Agreed Fact 4, [Annex C to Third Joint Submission on Agreed Facts](#). See also Annex 2, Locations of charged crimes in Wadi Salih and Mukjar Localities 2003/2004.

<sup>1384</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0019, para. 14; P-0907, [DAR-OTP-0220-0668-R02](#) at 0675, para. 37; [DAR-OTP-0145-0237](#) at 0273.

Andi, Fere, Kaskeidi and Um Jameina.<sup>1385</sup> These attacks caused thousands of civilians from predominantly Fur villages<sup>1386</sup> to seek shelter in Deleig, Garsila and other towns.<sup>1387</sup>

405. By early March 2004, more than 16,000 internally displaced persons were staying in Deleig,<sup>1388</sup> significantly increasing the pre-conflict population of Deleig of several thousand.<sup>1389</sup> Among the displaced persons were 24 Prosecution witnesses,<sup>1390</sup> as well as community leaders *Sheikh* Ismail Muhammad Ahmad<sup>1391</sup> and *Sheikh* Adam Adam Abd-Al-Rahman (known as Motor) (“*Sheikh* Motor”),<sup>1392</sup> both of Massa, and *Sheikh* Zakariya Abakar Adam of Gaba.<sup>1393</sup> 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

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<sup>1385</sup> See above, paras. 82-83.

<sup>1386</sup> See e.g. [DAR-OTP-0145-0237](#) at 0270 (Andi, Um Jameina), 0271 (Arawala), 0275 (Fere), 0276 (Forgo), 0278 (Kaskeidi, spelled Kaskildo) and 0285 (Taringa).

<sup>1387</sup> Deleig and Garsila: P-0643, [DAR-OTP-0215-0333-R02](#) at 0353, l. 668-673; P-0935, [DAR-OTP-0218-0705-R02](#) at 0717, para. 55; P-0973, [DAR-OTP-0220-0736-R01](#) at 0741, paras. 22-23; P-0994, [DAR-OTP-0222-0055-R01](#) at 0059-0060, paras. 20-22; P-0060, [DAR-OTP-0097-0328-R02](#) at 0341, para. 50. Deleig: P-0592, [DAR-OTP-0209-0825-R02](#) at 0839, para. 81; P-0718, [DAR-OTP-0209-2004-R02](#) at 2012, para. 51; P-0651, [DAR-OTP-0205-0015-R02](#) at 0024-0025, paras. 33-34; P-0671, [DAR-OTP-0206-0105-R02](#) at 0110, paras. 20-22; P-0712, [DAR-OTP-0209-1884-R02](#) at 1890-1891, paras. 25-26; P-0726, [DAR-OTP-0210-0346-R03](#) at 0363-0364, paras. 59-62; P-0736, [DAR-OTP-0210-0248-R02](#) at 0260-0261, para. 49; P-0714, [DAR-OTP-0209-1916-R03](#) at 1927-1928, paras. 40, 44; P-0697, [DAR-OTP-0209-0155-R02](#) at 0165-0167, paras. 45-48, 50; P-0955, [DAR-OTP-0220-0620-R02](#) at 0627, paras. 28, 30; P-0907, [DAR-OTP-0220-0668-R02](#) at 0674-0675, paras. 34, 37; P-0987, [DAR-OTP-0221-0416-R01](#) at 0420-0421, para. 20; P-0980, [DAR-OTP-0221-0553-R01](#) at 0556, paras. 15-16; P-0924, [DAR-OTP-0218-0455-R02](#) at 0463-0464, paras. 45-47. Garsila: P-0092, [DAR-OTP-0112-0175-R02](#) at 0194, para. 82; P-0591, [DAR-OTP-0202-0026-R02](#) at 0054, para. 107; P-0585, [DAR-OTP-0201-0037-R02](#) at 0056, para. 78; P-0895, [DAR-OTP-0215-7164-R02](#) at 7168, para. 16 and 7181-7182, paras. 66, 70-71; P-0926, [DAR-OTP-0218-0738-R02](#) at 0751, para. 51. See also Annex 19, Displacement of civilians to Deleig between September 2003 and March 2004.

<sup>1388</sup> [DAR-OTP-0162-0042](#) at 0074 (16,345 IDPs in 2003/2004). See also [DAR-OTP-0145-0237](#) at 0273 (5,150 households of IDPs in 2005).

<sup>1389</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0019, para. 14; P-0714, [DAR-OTP-0209-1916-R03](#) at 1927, para. 40. See also [DAR-OTP-0162-0042](#) at 0074; [DAR-OTP-0145-0237](#) at 0273; [DAR-OTP-0209-0014](#) at 0015.

<sup>1390</sup> See Annex 19, Displacement of civilians to Deleig between September 2003 and March 2004.

<sup>1391</sup> P-0607, [DAR-OTP-0203-0164-R02](#) at 0182, para. 63 (it is inferred from his presence in Deleig following the attack on Massa that he was one of the displaced persons).

<sup>1392</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1568, para. 106; P-0924, [DAR-OTP-0218-0455-R02](#) at 0469, para. 72; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 47 (it is inferred from his presence in Deleig following the attack on Massa that he was one of the displaced persons).

<sup>1393</sup> P-0980, [DAR-OTP-0221-0553-R01](#) at 0556-0557, paras. 15-17, 19.

residents.<sup>1394</sup> Members of the Militia/*Janjaweed* and GoS Forces often harassed the displaced people in Deleig.<sup>1395</sup>

406. Annex 20 contains a satellite image of Deleig marked with a number of key locations relevant to the Deleig incident: the police station, Ansar Al-Sunna Mosque, the primary school premises, the market area, and an open field used for playing football.<sup>1396</sup> Annex 21 contains an aerial photograph of Deleig taken by members of the UNCOI in January 2005, with these same key locations marked.<sup>1397</sup>

407. The police station was located on a small incline in the middle of Deleig, in an elevated position compared to other buildings nearby.<sup>1398</sup> In March 2004, there was no fence around the police station, although one can be seen in satellite imagery from 2012.<sup>1399</sup> Ansar Al-Sunna Mosque was one of two main mosques in Deleig,<sup>1400</sup> in addition to a number of smaller mosques or praying places.<sup>1401</sup>

#### Arrests in Garsila prior to the Deleig operation

<sup>1394</sup> P-0725, [DAR-OTP-0210-0122-R02](#) at 0130-0131, paras. 64-67; P-0718, [DAR-OTP-0209-2004-R02](#) at 2011-2012, paras. 45, 47-50; P-0651, [DAR-OTP-0205-0015-R02](#) at 0026, paras. 39-40; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019, para. 69; P-0607, [DAR-OTP-0203-0164-R02](#) at 0175, para. 40; P-0712, [DAR-OTP-0209-1884-R02](#) at 1890-1891, paras. 25-26 and 1901, paras. 66-67; P-0726, [DAR-OTP-0210-0346-R03](#) at 0363-0364, paras. 59-62; P-0879, [DAR-OTP-0217-0033-R02](#) at 0046, paras. 67-69 and 0047, para. 73; P-0736, [DAR-OTP-0210-0248-R02](#) at 0260-0261, para. 49; P-0697, [DAR-OTP-0209-0155-R02](#) at 0165-0166, paras. 45-48; P-0671, [DAR-OTP-0206-0105-R02](#) at 0110, paras. 20-21; P-0973, [DAR-OTP-0220-0736-R01](#) at 0741, para. 24; P-0994, [DAR-OTP-0222-0055-R01](#) at 0062-0063, para. 34; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628, para. 33; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421, para. 20; P-0924, [DAR-OTP-0218-0455-R02](#) at 0464-0465, paras. 49-52.

<sup>1395</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0047, para. 72; P-0651, [DAR-OTP-0205-0015-R02](#) at 0025-0026, paras. 37-38; P-0712, [DAR-OTP-0209-1884-R02](#) at 1891, para. 27; P-0736, [DAR-OTP-0210-0248-R02](#) at 0261, para. 50.

<sup>1396</sup> Annex 20, Satellite image showing key locations in Deleig town.

<sup>1397</sup> Annex 21, Aerial photograph showing key locations in Deleig town. *See also* [DAR-OTP-0215-9393](#) at 9395.

<sup>1398</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0028, para. 46; P-0651, Annex A, [DAR-OTP-0205-0040](#) (Translation at [DAR-OTP-0219-1684](#)); P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 68; P-0671, [DAR-OTP-0206-0105-R02](#) at 0115, para. 39; P-0714, [DAR-OTP-0209-1916-R03](#) at 1932, para. 57; P-0584, [DAR-OTP-0200-1540-R02](#) 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-R02](#) at 0058, para. 86; P-0955, [DAR-OTP-0220-0620-R02](#) at 0630, para. 44; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0994, [DAR-OTP-0222-0055-R01](#) at 0071, para. 75.

<sup>1399</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1942, para. 90; P-0714, Annex C, [DAR-OTP-0209-1951-R01](#); P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 39.

<sup>1400</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0115, para. 39 (two main mosques in Deleig); P-0651, [DAR-OTP-0205-0015-R02](#) at 0027, para. 43 (two main mosques in Deleig); P-0987, [DAR-OTP-0221-0416-R01](#) at 0420, para. 18 (main mosque in Deleig).

<sup>1401</sup> *See e.g.* P-0725, [DAR-OTP-0210-0122-R02](#) at 0131-0133, paras. 71-75, 77-78; P-0697, [DAR-OTP-0209-0155-R02](#) at 0167, para. 51.

408. By early March 2004, **ABD-AL-RAHMAN**, along with Militia/*Janjaweed* and GoS Forces, had carried out the attack on the Sindu area, and the arrests and executions in Mukjar, and had returned to Garsila.<sup>1402</sup>

409. Among the persons displaced to Garsila by attacks in the surrounding areas were the following community leaders:

- a. *Umdah* Adam Adam Deguis Ahmed Abdulshafa (widely known by the nickname Kindiri) of Forgo (“*Umdah* Adam Kindiri”);<sup>1403</sup>
- b. *Umdah* Jiddo Khamis Abdelkarim of Gaba (“*Umdah* Jiddo Khamis”);<sup>1404</sup> and
- c. *Umdah* Mohamed Suleiman Abdulshafa (nickname Dirbo) of Tanako (“*Umdah* Mohamed Suleiman”).<sup>1405</sup>

410. Adam Abd-Al-Rahman, widely known by the nickname Jenif, the PDF coordinator in Garsila (“Jenif”), was originally from Arawala and would frequently travel to Arawala, where his family was residing. He and his family were also displaced to Garsila.<sup>1406</sup>

411. In the days prior to 5 March 2004, the Security Committee held a meeting in Garsila during which it decided to arrest and detain *Umdah* Mohamed Suleiman at the Military Intelligence Office in the SAF base in Garsila for further investigation.<sup>1407</sup> This order was motivated by an allegation by **ABD-AL-RAHMAN** that *Umdah* Mohamed Suleiman had collaborated with the rebels.<sup>1408</sup> Shortly thereafter, *Umdah* Mohamed Suleiman was brought to

<sup>1402</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6295-6296, l. 1008-1033; P-0643, [DAR-OTP-0215-0563-R02](#) at 0569-0570, l. 200-212; P-0935, [DAR-OTP-0218-0705-R02](#) at 0717-0718, paras. 55, 57; P-0885, [DAR-OTP-0222-0749-R01](#) at 0766-0767, l. 554-597, and [DAR-OTP-0222-0832-R01](#) at 0834-0835, l. 56-93 and 0837-0840, l. 152-245.

<sup>1403</sup> Identity/position: P-0955, [DAR-OTP-0220-0620-R02](#) at 0623, paras. 11, 13-14; P-0955, Annex A, [DAR-OTP-0220-0638-R02](#) at 0639; P-0643, [DAR-OTP-0218-0638-R02](#) at 0647, paras. 62-63; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 46 and 0072, para. 80; P-0980, [DAR-OTP-0221-0553-R01](#) at 0555-0556, paras. 12, 15; P-0924, [DAR-OTP-0218-0455-R02](#) at 0465, para. 56; P-0907, [DAR-OTP-0220-0668-R02](#) at 0681, paras. 70-71; P-0987, [DAR-OTP-0221-0416-R01](#) at 0424-0425, para. 38. Displacement to Garsila: P-0643, [DAR-OTP-0215-0358-R02](#) at 0389, l. 1062-1075, and 0391, l. 1121-1124, and [DAR-OTP-0215-0403-R02](#) at 0404-0405, l. 20-58; P-0883, [DAR-OTP-0218-0059-R01](#) at 0080, para. 112. *See also* P-0955, [DAR-OTP-0220-0620-R02](#) at 0625, para. 18 and 0627, para. 27. For alternative references, *see* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 7.

<sup>1404</sup> Identity/position: P-0955, [DAR-OTP-0220-0620-R02](#) at 0630, para. 41; P-0907, [DAR-OTP-0220-0668-R02](#) at 0681, para. 70; P-0973, [DAR-OTP-0220-0736-R01](#) at 0739, para. 15; P-0987, [DAR-OTP-0221-0416-R01](#) at 0424, para. 38; P-0994, [DAR-OTP-0222-0055-R01](#) at 0072, para. 80; P-0924, [DAR-OTP-0218-0455-R02](#) at 0473, para. 92. Displacement to Garsila: P-0643, [DAR-OTP-0215-0358-R02](#) at 0389, l. 1062-1075, and 0391, l. 1121-1124, [DAR-OTP-0215-0403-R02](#) at 0404-0405, l. 20-58. For alternative references, *see* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 18.

<sup>1405</sup> [REDACTED].

<sup>1406</sup> [REDACTED]. *See also* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 17.

<sup>1407</sup> [REDACTED].

<sup>1408</sup> [REDACTED].



the Military Intelligence Office. [REDACTED],<sup>1409</sup> received *Umdah* Mohamed Suleiman, and HAMDI approved his detention.<sup>1410</sup> *Umdah* Mohamed Suleiman was subsequently interrogated by HAMDI and First Lieutenant Seif-Al-Din BAKHIT, head of Military Intelligence from the SAF 96<sup>th</sup> Brigade in Zalingei.<sup>1411</sup>

412. After the arrest of *Umdah* Mohamed Suleiman, **ABD-AL-RAHMAN** ordered [REDACTED] (a member of the Militia/*Janjaweed*<sup>1412</sup>), to arrest *Sheikh* Ismail Abdulaziz (also known as Dikobi)<sup>1413</sup> and Hassan Adam Musa,<sup>1414</sup> which he did.<sup>1415</sup> Both men [REDACTED] **ABD-AL-RAHMAN**.<sup>1416</sup> [REDACTED].<sup>1417</sup>

413. P-0926, [REDACTED], saw *Sheikh* Ismail Abdulaziz and Hassan Adam Musa in **ABD-AL-RAHMAN**'s custody inside the base around this time.<sup>1418</sup> [REDACTED] **ABD-AL-RAHMAN**[REDACTED].<sup>1419</sup> [REDACTED] **ABD-AL-RAHMAN**, who told [REDACTED] he would teach Hassan Adam Musa a lesson.<sup>1420</sup> [REDACTED].<sup>1421</sup>

414. Subsequently, the Security Committee held another meeting in Garsila during which it decided to arrest and detain *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and Jenif at the Military Intelligence Office for further investigation.<sup>1422</sup> **ABD-AL-RAHMAN** was present at

<sup>1409</sup> [REDACTED].

<sup>1410</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0074, paras. 74-76; P-0883, [DAR-OTP-0221-0395-R01](#) at 0400, para. 26 and 0403, para. 34; P-0883, Annex 5, [DAR-OTP-0221-0410-R01](#) (Translation at [DAR-OTP-0219-5251-R01](#)); P-0883, Annex 6, [DAR-OTP-0221-0411-R01](#) (Translation at [DAR-OTP-0219-5253-R01](#)).

<sup>1411</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 77; P-0883, [DAR-OTP-0221-0395-R01](#) at 0400, para. 26; P-0883, Annex 5, [DAR-OTP-0221-0410-R01](#) (Translation at [DAR-OTP-0219-5251-R01](#)). *See also* P-0905, [DAR-OTP-0219-0989-R01](#) at 0992-0993, l. 101-130.

<sup>1412</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 80.

<sup>1413</sup> P-0643, [DAR-OTP-0218-0638-R02](#) at 0647, para. 64; P-0955, [DAR-OTP-0220-0620-R02](#) at 0632, para. 49; P-0926, [DAR-OTP-0218-0738-R02](#) at 0754, para. 65; P-0973, [DAR-OTP-0220-0736-R01](#) at 0745, para. 41; P-0987, [DAR-OTP-0221-0416-R01](#) at 0424, para. 38; P-0994, [DAR-OTP-0222-0055-R01](#) at 0072, para. 80; P-0895, [DAR-OTP-0215-7164-R02](#) at 7172, para. 31; P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 79; P-0883, [DAR-OTP-0221-0395-R01](#) at 0399, para. 23; P-0883, Annex 3, [DAR-OTP-0221-0408-R01](#) (Translation at [DAR-OTP-0219-5247-R01](#)); P-0027, [DAR-OTP-0216-0738-R02](#) at 0742, para. 21. For alternative references, *see* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 15.

<sup>1414</sup> [REDACTED].

<sup>1415</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075-0077, paras. 79-84, 89, 93-94. *See also* P-0011, [DAR-OTP-0088-0219-R02](#) at 0234, para. 88.

<sup>1416</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 79 and 0097, paras. 207, 209; P-0926, [DAR-OTP-0218-0738-R02](#) at 0741-0743, paras. 13, 16, 21 and 0754, para. 65; P-0589, [DAR-OTP-0223-0005-R01](#) at 0012-0013, para. 43; P-0843, [DAR-OTP-0216-0600-R03](#) at 0611, para. 50.

<sup>1417</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075-0077, paras. 81-83, 93-94; P-0883, [DAR-OTP-0221-0395-R01](#) at 0403, para. 34; P-0883, Annex 6, [DAR-OTP-0221-0411-R01](#) (Translation at [DAR-OTP-0219-5253-R01](#)).

<sup>1418</sup> [REDACTED].

<sup>1419</sup> [REDACTED].

<sup>1420</sup> [REDACTED].

<sup>1421</sup> [REDACTED].

<sup>1422</sup> [REDACTED].

this meeting and convinced the Security Committee to arrest the three men on suspicion of collaborating with the rebels.<sup>1423</sup>

415. [REDACTED] and Military Intelligence officers ABD-AL-MUN'IM and ABD-AL-BANAT.<sup>1424</sup> [REDACTED].<sup>1425</sup> However, Major BAKHIT later ordered [REDACTED] to release *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and Jenif on the basis that there was no evidence supporting the accusations against them. [REDACTED].<sup>1426</sup>

416. Also in the days prior to 5 March 2004, **ABD-AL-RAHMAN** arrested P-0092 from his home in Garsila, on suspicion that he was a rebel.<sup>1427</sup> P-0092 was detained at the police station in Garsila, but was interrogated and tortured at the Military Intelligence Office in the SAF base.<sup>1428</sup>

*ABD-AL-RAHMAN's deployment from Garsila and transport of detainees to Deleig on or about 5 March 2004*

417. About one or two days before the Deleig operation, a delegation of high-ranking SAF officers arrived at the SAF base in Garsila by helicopter, including: Major General Muhammad FA'IZ, Commander of the 6<sup>th</sup> Division in Al Fasher; Brigadier General Muhammad KHAMIS, Deputy Commander of Military Intelligence headquarters in Khartoum; and Major General Muhammad Abbas Ahmad AL-SA'AD, the General PDF Commander in Khartoum ("Major General ABBAS").<sup>1429</sup> The delegation had been deployed to Garsila on the orders of Khartoum to monitor combat operations in Wadi Salih.<sup>1430</sup> This delegation remained at the SAF base in Garsila during the period of the Deleig operation.<sup>1431</sup>

418. Around this time, **ABD-AL-RAHMAN** and the GoS Forces prepared to deploy to Deleig.<sup>1432</sup> **ABD-AL-RAHMAN** assembled his Militia/*Janjaweed* for the operation.<sup>1433</sup> **ABD-**

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<sup>1423</sup> [REDACTED].

<sup>1424</sup> [REDACTED].

<sup>1425</sup> [REDACTED].

<sup>1426</sup> [REDACTED].

<sup>1427</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0195-0196, paras. 85-86.

<sup>1428</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0195-1096, para. 86.

<sup>1429</sup> [REDACTED].

<sup>1430</sup> [REDACTED].

<sup>1431</sup> [REDACTED].

<sup>1432</sup> [REDACTED]; P-0905, [DAR-OTP-0219-6266-R01](#) at 6273, l. 232-242; P-0935, [DAR-OTP-0218-0705-R02](#) at 0717, para. 55.

<sup>1433</sup> [REDACTED].

**AL-RAHMAN**'s convoy that deployed to Deleig contained members of the SAF, including Military Intelligence, the PDF, and a large number of Militia/*Janjaweed*.<sup>1434</sup>

419. On or about 5 March 2004, in the early morning, [REDACTED] saw soldiers in the SAF base in Garsila preparing to deploy to Deleig. The soldiers were lined up in the courtyard in front of HAMDY, Major BAKHIT and two other SAF officers. [REDACTED] heard the soldiers receiving instructions to prepare for a mission.<sup>1435</sup> [REDACTED].<sup>1436</sup> On the same morning, [REDACTED] also recalls seeing HAMDY in the SAF base in Garsila. HAMDY was preparing a mission to Kailek, a town to the southeast of Deleig.<sup>1437</sup>

420. Later that morning, **ABD-AL-RAHMAN** arrived at the SAF base in Garsila with two or three vehicles, one of which was used by PDF officer HASSABALLAH.<sup>1438</sup> **ABD-AL-RAHMAN** went into the Military Intelligence Office where ABD-AL-MUN'IM and ABD-AL-BANAT were present.<sup>1439</sup> He was "very upset" to learn [REDACTED] that *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and Jenif had been released.<sup>1440</sup>

421. After learning of their release, **ABD-AL-RAHMAN** [REDACTED] detainees *Sheikh* Ismail Abdulaziz, *Umdah* Mohamed Suleiman and Hassan Adam Musa.<sup>1441</sup> **ABD-AL-RAHMAN** claimed to have the approval of Major BAKHIT, [REDACTED].<sup>1442</sup> [REDACTED] the detainees [REDACTED] were put on the back of one of the Land Cruiser vehicles in **ABD-AL-RAHMAN**'s convoy.<sup>1443</sup>

422. [REDACTED] saw Military Intelligence officers bring a total of about 10 detainees from the detention room and put them on the back of **ABD-AL-RAHMAN**'s two vehicles.<sup>1444</sup> P-0092 had been brought to the Military Intelligence Office from Garsila police station earlier that morning, and was one of the detainees loaded onto **ABD-AL-RAHMAN**'s vehicles.<sup>1445</sup>

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<sup>1434</sup> P-0885, [DAR-OTP-0222-0832-R01](#) at 0846-0850, l. 467-593; P-0905, [DAR-OTP-0219-6431-R02](#) at 6456-6457, l. 849-874, and [DAR-OTP-0219-6487-R01](#) at 6496-6497, l. 293-331, and [DAR-OTP-0219-6648-R01](#) at 6680, l. 1077-1092 and 6682-6685, l. 1165-1201, 1239-1277; P-0935, [DAR-OTP-0218-0705-R02](#) at 0718-0719, paras. 56-60. *See also* P-0907, [DAR-OTP-0220-0668-R02](#) at 0675, para. 38; P-0027, [DAR-OTP-0094-0091-R02](#) at 0103, para. 48; P-0736, [DAR-OTP-0210-0248-R02](#) at 0261-0262, para. 53.

<sup>1435</sup> [REDACTED].

<sup>1436</sup> [REDACTED].

<sup>1437</sup> [REDACTED].

<sup>1438</sup> [REDACTED].

<sup>1439</sup> [REDACTED].

<sup>1440</sup> [REDACTED].

<sup>1441</sup> [REDACTED].

<sup>1442</sup> [REDACTED].

<sup>1443</sup> [REDACTED].

<sup>1444</sup> [REDACTED].

<sup>1445</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 87. *See also* P-0926, [DAR-OTP-0218-0738-R02](#) at 0755, para. 68.

423. **ABD-AL-RAHMAN** told [REDACTED] that he intended to take the detainees to Zalingei.<sup>1446</sup> [REDACTED] soldiers saying that this is where the detainees were being taken.<sup>1447</sup> [REDACTED] **ABD-AL-RAHMAN**'s intentions, [REDACTED] Military Intelligence officers, Bakhit Abdo MAIGARI and Abdullah Musa ABDULLAH, to escort **ABD-AL-RAHMAN**'s convoy to Zalingei.<sup>1448</sup>

424. [REDACTED] HAMDI's convoy leaving the SAF base in the direction of Deleig.<sup>1449</sup> ABD-AL-MUN'IM and MANSUR were assigned to HAMDI's convoy.<sup>1450</sup> Shortly afterwards, [REDACTED] **ABD-AL-RAHMAN**'s convoy depart in the same direction as HAMDI, which is also the way to Zalingei.<sup>1451</sup> HASSABALLAH also travelled to Deleig in these convoys.<sup>1452</sup>

425. Subsequently, as detailed below, on or about 5 March 2004, **ABD-AL-RAHMAN** arrested and mistreated Jenif in Deleig,<sup>1453</sup> and then directly killed or seriously injured him.<sup>1454</sup> *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis were also arrested in Deleig on or about 5 March 2004<sup>1455</sup> and, along with *Sheikh* Ismail Abdulaziz, *Umdah* Mohamed Suleiman, and Hassan Adam Musa, were detained inside the Deleig police station until about 7 March 2004.<sup>1456</sup> On or about 7 March 2004, **ABD-AL-RAHMAN** and/or his men took the five detainees out of the police station.<sup>1457</sup> They were last seen in a convoy in Deleig with **ABD-AL-RAHMAN** on that day, and then killed.<sup>1458</sup>

426. [REDACTED].<sup>1459</sup>

*Search and arrest operation starting on or about 5 March 2004*

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<sup>1446</sup> [REDACTED].

<sup>1447</sup> [REDACTED].

<sup>1448</sup> [REDACTED].

<sup>1449</sup> [REDACTED].

<sup>1450</sup> [REDACTED].

<sup>1451</sup> [REDACTED].

<sup>1452</sup> [REDACTED].

<sup>1453</sup> See below, paras. 433, 445.

<sup>1454</sup> See below, para. 445.

<sup>1455</sup> P-0955, [DAR-OTP-0220-0620-R02](#) at 0628-0629, paras. 34-38; P-0592, [DAR-OTP-0209-0825-R02](#) at 0840-0841, paras. 85-91; P-0592, Annex 2, [DAR-OTP-0209-0850](#).

<sup>1456</sup> See below, para. 439.

<sup>1457</sup> See below, paras. 473-478.

<sup>1458</sup> See below, paras. 479-488.

<sup>1459</sup> See below, paras. 462, 491.

427. On or about Friday, 5 March 2004, from the early morning, Militia/*Janjaweed* and GoS Forces surrounded Deleig<sup>1460</sup> and prevented people from leaving or entering the town.<sup>1461</sup> Militia/*Janjaweed* and GoS Forces went through the streets<sup>1462</sup> and from house to house<sup>1463</sup> searching for Fur males who had been displaced to Deleig from locations in the surrounding areas.<sup>1464</sup> 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.<sup>1465</sup>

428. On this day, Militia/*Janjaweed* and GoS Forces arrested at least 100, and likely more than 200, predominantly Fur males<sup>1466</sup> from the streets, houses, the mosques, and camps for displaced people.<sup>1467</sup> Many Fur males, in particular those who had been displaced to Deleig,

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<sup>1460</sup> P-0592, [DAR-OTP-0209-0825-R02](#) at 0839-0840, paras. 81-83; P-0607, [DAR-OTP-0203-0164-R02](#) at 0176, para. 42; P-0712, [DAR-OTP-0209-1884-R02](#) at 1891-1892, paras. 28-31; P-0714, [DAR-OTP-0209-1916-R03](#) at 1929, para. 45; P-0584, [DAR-OTP-0200-1540-R02](#) at 1564, para. 90; P-0718, [DAR-OTP-0209-2004-R02](#) at 2012, para. 53; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 68; P-0671, [DAR-OTP-0206-0105-R02](#) at 0111, para. 24; P-0027, [DAR-OTP-0094-0091-R02](#) at 0103, para. 48; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628, para. 32; P-0907, [DAR-OTP-0220-0668-R02](#) at 0675, para. 38; P-0973, [DAR-OTP-0220-0736-R01](#) at 0741, para. 25; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421, para. 21; P-0994, [DAR-OTP-0222-0055-R01](#) at 0062-0063, paras. 32-33, 35.

<sup>1461</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1565, para. 91; P-0651, [DAR-OTP-0205-0015-R02](#) at 0027, para. 41; P-0726, [DAR-OTP-0210-0346-R03](#) at 0364, para. 62; P-0736, [DAR-OTP-0210-0248-R02](#) at 0261-0262, paras. 53-54; P-0714, [DAR-OTP-0209-1916-R03](#) at 1929, para. 45; P-0712, [DAR-OTP-0209-1884-R02](#) at 1891-1892, paras. 28-31; P-0607, [DAR-OTP-0203-0164-R02](#) at 0176, para. 42; P-0994, [DAR-OTP-0222-0055-R01](#) at 0062, para. 32.

<sup>1462</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1567, para. 100; P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, paras. 92-93; P-0712, [DAR-OTP-0209-1884-R02](#) at 1893, para. 32; P-0714, [DAR-OTP-0209-1916-R03](#) at 1929, para. 46; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 68; P-0726, [DAR-OTP-0210-0346-R03](#) at 0364, para. 63; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 44; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628, para. 33; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742, para. 26.

<sup>1463</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1565, para. 90; P-0591, [DAR-OTP-0202-0026-R02](#) at 0043-0044, paras. 62-63; P-0607, [DAR-OTP-0203-0164-R02](#) at 0176-0177, paras. 43-46; P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, para. 56; P-0850, [DAR-OTP-0216-0002-R03](#) at 0018-0019, paras. 64, 67-69; P-0736, [DAR-OTP-0210-0248-R02](#) at 0266, para. 70; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628, para. 33; P-0907, [DAR-OTP-0220-0668-R02](#) at 0675-0676, paras. 41-42; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, paras. 19, 21.

<sup>1464</sup> P-0027, [DAR-OTP-0094-0091-R02](#) at 0103-0104, paras. 49, 53 (men displaced to Deleig); P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, para. 56 (boys and men); P-0591, [DAR-OTP-0202-0026-R02](#) at 0044, paras. 65-66 (men displaced to Deleig); P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, para. 92 (men displaced to Deleig); P-0607, [DAR-OTP-0203-0164-R02](#) at 0176, para. 43 (men displaced to Deleig); P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 45 (males); P-0973, [DAR-OTP-0220-0736-R01](#) at 0742, paras. 26, 30 (men displaced to Deleig); P-0980, [DAR-OTP-0221-0553-R01](#) at 0557-0558, paras. 19, 24 (men displaced to Deleig); P-0987, [DAR-OTP-0221-0416-R01](#) at 0422-0424, paras. 23, 31, 37 (men displaced to Deleig); P-0907, [DAR-OTP-0220-0668-R02](#) at 0676 paras. 44-45 (Fur males); P-0924, [DAR-OTP-0218-0455-R02](#) at 0464-0466, paras. 51, 55-57 and 0473, para. 92 (Fur males displaced to Deleig); P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 40, 44 (males displaced to Deleig, predominantly Fur).

<sup>1465</sup> See above, paras. 179-182, 184-188, 199-203.

<sup>1466</sup> See below, fn. 1527. Although the large majority of the arrested men were Fur, some were from the Zaghawa, Masalit and Dago tribes. See P-0924, [DAR-OTP-0218-0455-R02](#) at 0466, para. 58; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 40.

<sup>1467</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1565-1567, paras. 93-96, 100; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 68; P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, paras. 89, 92; P-0591, [DAR-OTP-0202-0026-R02](#) at 0044, paras. 63, 65; P-0027, [DAR-OTP-0094-0091-R02](#) at 0104, para. 55; P-0607, [DAR-OTP-0203-0164-R02](#) at 0177, para. 46; P-0060, [DAR-OTP-0097-0328-R02](#) at 0341, para. 51; P-0718, [DAR-OTP-0209-2004-R02](#) at 2013, para. 60; P-0671, [DAR-OTP-0206-0105-R02](#) at 0112-0114, paras. 26-36; P-0697, [DAR-OTP-0209-0155-R02](#) at 0167-0168, para. 54; P-0718, [DAR-OTP-0209-2004-R02](#) at 2013, paras. 56-60; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 72; P-0714, [DAR-OTP-0209-1916-R03](#) at 1930-1932, paras. 51-57; P-0924, [DAR-OTP-0218-](#)

hid to avoid arrest.<sup>1468</sup> P-0850, [REDACTED], hid in a *dabanga* (a small dry storage area) with four 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*.<sup>1469</sup>

429. 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*.<sup>1470</sup> The Militia/*Janjaweed* and GoS Forces released some of the arrested males after accepting that they were from Deleig,<sup>1471</sup> were studying in Deleig,<sup>1472</sup> after they paid money,<sup>1473</sup> or after their relatives intervened.<sup>1474</sup> Some detainees were released by sympathetic members of the Militia/*Janjaweed* or GoS Forces.<sup>1475</sup> Prosecution witnesses refer to a list or register of names being used in some cases to decide who to detain and who to release.<sup>1476</sup>

430. While the main search and arrest operation took place on Friday, 5 March 2004, the Militia/*Janjaweed* and GoS Forces continued to arrest people in Deleig until at least Sunday, 7 March 2004.<sup>1477</sup> 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 and the

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[0455-R02](#) at 0465, paras. 53-55; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 42; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742, paras. 26-28; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 44; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, paras. 19, 21; P-0924, [DAR-OTP-0218-0455-R02](#) at 0464-0465, paras. 51, 53-55.

<sup>1468</sup> P-0592, [DAR-OTP-0209-0825-R02](#) at 0840, paras. 86-87; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 70; P-0591, [DAR-OTP-0202-0026-R02](#) at 0043, para. 62; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019-1020, paras. 71, 75; P-0607, [DAR-OTP-0203-0164-R02](#) at 0176, para. 44; P-0726, [DAR-OTP-0210-0346-R03](#) at 0364, paras. 63-64; P-0617, [DAR-OTP-0202-1496-R02](#) at 1523-1524, para. 80; P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, para. 56.

<sup>1469</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0018-0019, paras. 66-68.

<sup>1470</sup> P-0607, [DAR-OTP-0203-0164-R02](#) at 0179, para. 52; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 87; P-0027, [DAR-OTP-0094-0091-R02](#) at 0107, para. 63; P-0736, [DAR-OTP-0210-0248-R02](#) at 0265, paras. 64-67; P-0714, [DAR-OTP-0209-1916-R03](#) at 1938, para. 76.

<sup>1471</sup> P-0712, [DAR-OTP-0209-1884-R02](#) at 1895, para. 40; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677, para. 49; P-0973, [DAR-OTP-0220-0736-R01](#) at 0745-0748, paras. 44, 46, 49, 53-54; P-0987, [DAR-OTP-0221-0416-R01](#) at 0424, para. 37.

<sup>1472</sup> P-0718, [DAR-OTP-0209-2004-R02](#) at 2014-2015, paras. 69-71; P-0607, [DAR-OTP-0203-0164-R02](#) at 0179, para. 52; P-0617, [DAR-OTP-0202-1496-R02](#) at 11524, paras. 81-82; P-0924, [DAR-OTP-0218-0455-R02](#) at 0473-0474, paras. 94-98; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 47; P-0980, [DAR-OTP-0221-0553-R01](#) at 0559-0560, paras. 29-30.

<sup>1473</sup> P-0736, [DAR-OTP-0210-0248-R02](#) at 0266, para. 68; P-0027, [DAR-OTP-0094-0091-R02](#) at 0104, para. 52; P-0973, [DAR-OTP-0220-0736-R01](#) at 0747-0748, paras. 53-54. *See also* P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 42 (arrested after telling a member of the Militia/*Janjaweed* who demanded money that he did not have any).

<sup>1474</sup> P-0585, [DAR-OTP-0201-0037-R02](#) at 0059, para. 90; P-0994, [DAR-OTP-0222-0055-R01](#) at 0072, para. 81.

<sup>1475</sup> P-0027, [DAR-OTP-0094-0091-R02](#) at 0106, para. 59; P-0129, [DAR-OTP-0128-0128-R04](#) at 0151, para. 85; P-0994, [DAR-OTP-0222-0055-R01](#) at 0066, para. 57 and 0072, para. 81.

<sup>1476</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 98-100; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196-0197, paras. 89-90; P-0027, [DAR-OTP-0094-0091-R02](#) at 0107, para. 63; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083\_01, para. 129.

<sup>1477</sup> P-0027, [DAR-OTP-0094-0091-R02](#) at 0106-0107, paras. 61-64; P-0651, [DAR-OTP-0205-0015-R02](#) at 0032-0033, paras. 62-64; P-0850, [DAR-OTP-0216-0002-R03](#) at 0020, para. 71; P-0697, [DAR-OTP-0209-0155-R02](#) at 0168, paras. 57-58; P-0924, [DAR-OTP-0218-0455-R02](#) at 0474, para. 100.

CRF.<sup>1478</sup> While the Police were powerless to stop the Deleig operation,<sup>1479</sup> some members of the Police did participate,<sup>1480</sup> albeit sometimes unwillingly.<sup>1481</sup>

## 2) 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*

### Mistreatment during the search and arrest operation in different areas of Deleig

431. During the search and arrest operation, in different areas of Deleig, the Militia/*Janjaweed* and GoS Forces whipped and beat people,<sup>1482</sup> and insulted them using terms such as “slave”, “donkey” and *tora bora*.<sup>1483</sup>

432. P-0955, [REDACTED], was present when **ABD-AL-RAHMAN** and his men arrested [REDACTED] in Deleig.<sup>1484</sup> **ABD-AL-RAHMAN** ordered [REDACTED] to stand up, kicked him and then instructed his men to tie [REDACTED] hands and take him to a vehicle outside.<sup>1485</sup> P-0955 and other family members started to cry as [REDACTED] was dragged to the vehicle. **ABD-AL-RAHMAN** ordered them to stay inside, saying “if you step out and follow the vehicles you will be shot”.<sup>1486</sup> [REDACTED] was put on the back of one of two Land Cruiser vehicles, which then drove off in the direction of Deleig police station.<sup>1487</sup>

433. [REDACTED].<sup>1488</sup> Later, in a residential compound, **ABD-AL-RAHMAN** kicked Jenif, while members of the Militia/*Janjaweed* and GoS Forces beat him with the backs of their

<sup>1478</sup> [REDACTED].

<sup>1479</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0419, para. 14 and 0422-0424, paras. 27, 30, 35-36; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 37, 41, 44; P-0905, [DAR-OTP-0219-6266-R01](#) at 6277, l. 372-374, and [DAR-OTP-0219-6648-R01](#) at 6687-6688, 1346-1359; P-0585, [DAR-OTP-0201-0037-R02](#) at 0058, para. 86; P-0671, [DAR-OTP-0206-0105-R02](#) at 0115, para. 40; P-0736, [DAR-OTP-0210-0248-R02](#) at 0261, para. 50; P-0651, [DAR-OTP-0205-0015-R02](#) at 0030, para. 54; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 43; P-0973, [DAR-OTP-0220-0736-R01](#) at 0744, para. 36.

<sup>1480</sup> P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 15; P-0584, [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 98-102; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, paras. 69-70 and 0050-0051, paras. 90, 92, 94; P-0714, [DAR-OTP-0209-1916-R03](#) at 1930, paras. 51, 57-58.

<sup>1481</sup> P-0712, [DAR-OTP-0209-1884-R02](#) at 1893-1894, paras. 33-36. *See also* P-0973, [DAR-OTP-0220-0736-R01](#) at 0747, paras. 51-52 (Police were given instructions by Militia/*Janjaweed*).

<sup>1482</sup> P-0591, [DAR-OTP-0202-0026-R02](#) at 0043-0044, para. 62-63; P-0736, [DAR-OTP-0210-0248-R02](#) at 0264-0265, paras. 61-67; P-0712, [DAR-OTP-0209-1884-R02](#) at 1893-1894, paras. 32-35; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, paras. 35-36; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 42; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 21; P-0924, [DAR-OTP-0218-0455-R02](#) at 0464-0465, paras. 51, 53.

<sup>1483</sup> *See above*, para. 199.

<sup>1484</sup> [REDACTED].

<sup>1485</sup> P-0955, [DAR-OTP-0220-0620-R02](#) at 0629, para. 36.

<sup>1486</sup> P-0955, [DAR-OTP-0220-0620-R02](#) at 0629, para. 36.

<sup>1487</sup> P-0955, [DAR-OTP-0220-0620-R02](#) at 0629, para. 37. [REDACTED].

<sup>1488</sup> [REDACTED].

firearms, kicked him, and restrained his screaming wife and children.<sup>1489</sup> **ABD-AL-RAHMAN** and his forces then brought Jenif to the open area near Deleig police station.<sup>1490</sup>

434. After his arrest, [REDACTED] was taken to a location to the north of Deleig where the Militia/*Janjaweed* made him and five other detainees lie face down on the ground. The Militia/*Janjaweed* beat the detainees and one of them [REDACTED].<sup>1491</sup> **ABD-AL-RAHMAN** arrived and walked on the detainees' backs, saying "God creates and I kill" and "flies are worth more than you".<sup>1492</sup> [REDACTED] was then taken to the police station, but was brought back to the same location a couple of days later, where the Militia/*Janjaweed* [REDACTED].<sup>1493</sup>

435. After his arrest, Militia/*Janjaweed* [REDACTED] to a place outside of Deleig [REDACTED]. The Militia/*Janjaweed* beat the men and one of them [REDACTED].<sup>1494</sup>

*Mistreatment at the open area near the Deleig police station*

436. On or about 5 March 2004, the Militia/*Janjaweed* and GoS Forces, including **ABD-AL-RAHMAN**,<sup>1495</sup> brought at least 100, and likely more than 200, predominantly Fur arrested males to an open area near the Deleig police station where they were made to lie face down on

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<sup>1489</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1932-1934, paras. 60-65. P-0714 was told by his friend as they watched the beating that the man holding the black stick was "Ali KUSHAYB" and he later recognised **ABD-AL-RAHMAN** near the police station. See P-0714, [DAR-OTP-0209-1916-R03](#) at 1933, para. 63 and 1935-1936, para. 69.

<sup>1490</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1933-1934, paras. 62-65; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, paras. 47-48; P-0987, [DAR-OTP-0221-0416-R01](#) at 0423, paras. 32-33; P-1018, [DAR-OTP-0221-1535-R01](#) at 1538, l. 80-86, and [DAR-OTP-0221-1545-R01](#) at 1556, l. 382-383. P-0924 recalls Jenif being arrested from the primary school in Deleig. See P-0924, [DAR-OTP-0218-0455-R02](#) at 0465, para. 56.

<sup>1491</sup> [REDACTED].

<sup>1492</sup> [REDACTED]. [REDACTED].

<sup>1493</sup> [REDACTED].

<sup>1494</sup> [REDACTED].

<sup>1495</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 36. P-0879 knew of **ABD-AL-RAHMAN** from Garsila and Jeddo village, and he went to his pharmacy many times. See [DAR-OTP-0217-0033-R02](#) at 0039-0040, paras. 30-31, 36.



the ground.<sup>1496</sup> Some had their hands tied behind their backs<sup>1497</sup> and some were blindfolded.<sup>1498</sup> The detainees were made to lie directly in the hot sun for several hours,<sup>1499</sup> and were denied food, water and access to toilet facilities.<sup>1500</sup> Some persons were detained for longer periods of time. [REDACTED] recalls being detained in the area of the police station for approximately four days,<sup>1501</sup> during which time he was forced to defecate and urinate on himself.<sup>1502</sup>

437. The Militia/*Janjaweed* and GoS Forces walked on the backs and heads of the detained males,<sup>1503</sup> kicked them,<sup>1504</sup> beat them with rifle butts, whips, fists and sticks,<sup>1505</sup> and verbally

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<sup>1496</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6274, l. 260-263 and 6276, l. 352-355; P-0584, [DAR-OTP-0200-1540-R02](#) at 1566-1567, paras. 96-97, 100; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, paras. 87-88; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131-0132, paras. 71, 75; P-0591, [DAR-OTP-0202-0026-R02](#) at 0043-0045, paras. 62-63, 66, 68; P-0718, [DAR-OTP-0209-2004-R02](#) at 2013-2014, paras. 61, 63; P-0651, [DAR-OTP-0205-0015-R02](#) at 0027-0029, paras. 42-44, 47, 49; P-0671, [DAR-OTP-0206-0105-R02](#) at 0115-0117, paras. 40-42, 46; P-0027, [DAR-OTP-0094-0091-R02](#) at 0103, para. 50; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, paras. 14-15; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019, para. 71; P-0585, [DAR-OTP-0201-0037-R02](#) at 0058, para. 86; P-0607, [DAR-OTP-0203-0164-R02](#) at 0178-0179, paras. 48, 51; P-0060, [DAR-OTP-0097-0328-R02](#) at 0341-0342, paras. 51-52; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 74-75, 77-78; P-0736, [DAR-OTP-0210-0248-R02](#) at 0266, para. 71; P-0714, [DAR-OTP-0209-1916-R03](#) at 1932, paras. 57-58; P-0924, [DAR-OTP-0218-0455-R02](#) at 0466-0467, paras. 57, 61-63; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, paras. 36-39; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, paras. 42-45; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742-0743, para. 30; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, paras. 21-22; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0423, paras. 23, 28; P-0955, [DAR-OTP-0220-0620-R02](#) at 0630-0631, paras. 44-45; P-0931, [DAR-OTP-0219-8645-R01](#) at 8650, l. 150-156 and 8652, l. 220-243.

<sup>1497</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 88; P-0591, [DAR-OTP-0202-0026-R02](#) at 0044, para. 66; P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 63; P-0671, [DAR-OTP-0206-0105-R02](#) at 0115, para. 40; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019, para. 71; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R03](#) at 1934, para. 66 and 1937, para. 75; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 45. See also P-0924, [DAR-OTP-0218-0455-R02](#) at 0470-0471, paras. 81, 85.

<sup>1498</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 88. See also P-0924, [DAR-OTP-0218-0455-R02](#) at 0470, para. 81.

<sup>1499</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1566, para. 97; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 88; P-0725, [DAR-OTP-0210-0122-R02](#) at 0132, para. 75; P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, para. 43; P-0617, [DAR-OTP-0202-1496-R02](#) at 1525, para. 84; P-0905, [DAR-OTP-0219-6648-R01](#) at 6691, l. 1487-1488, and [DAR-OTP-0219-6266-R01](#) at 6274, l. 260-263 and 6276, l. 352-355; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, paras. 62-63 and 0469, para. 72; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 22; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 37-38. See also P-0987, [DAR-OTP-0221-0416-R01](#) at 0423, para. 31 (rounding up of civilians lasted from around 10:00 to 14:00).

<sup>1500</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1567, para. 102; P-0092, [DAR-OTP-0112-0175-R02](#) at 0197, para. 90; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 22; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 63 and 0469, para. 72; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 38.

<sup>1501</sup> [REDACTED].

<sup>1502</sup> [REDACTED].

<sup>1503</sup> P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 71; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 68; P-0027, [DAR-OTP-0094-0091-R02](#) at 0103, para. 50 and 0105, para. 58; P-0736, [DAR-OTP-0210-0248-R02](#) at 0267, para. 72; P-0714, [DAR-OTP-0209-1916-R03](#) at 1932, para. 58; P-0924, [DAR-OTP-0218-0455-R02](#) at 0469, para. 72; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, paras. 38-39.

<sup>1504</sup> P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 63 and 0469, para. 72; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 38 and 0067, para. 55.

<sup>1505</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-44; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 15; P-0027, [DAR-OTP-0094-0091-R02](#) at 0103, para. 50; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 76; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 63; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, paras. 38-39 and 0067, para. 55; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 46; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 45; P-0973, [DAR-OTP-0220-0736-R01](#) at 0744, para. 37; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 22; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467-0478, paras. 63, 68 and 0469, para. 72.

abused them using terms such as *tora bora* and “slave”.<sup>1506</sup> [REDACTED] saw a member of the GoS Forces stab [REDACTED] detainee in the eye with a bayonet.<sup>1507</sup> The Militia/*Janjaweed* later threw some of the detainees onto the backs of vehicles like objects.<sup>1508</sup> After the detained males were removed from the open area near the police station, P-0994 saw that there was blood on the ground.<sup>1509</sup>

438. **ABD-AL-RAHMAN** stood and walked on the backs of the detainees,<sup>1510</sup> hit them with a stick or axe-like object,<sup>1511</sup> kicked them,<sup>1512</sup> and verbally abused them using words such as “slave” and “criminal”.<sup>1513</sup> P-0924 heard **ABD-AL-RAHMAN** tell the detainees, “FUR this is your last day, we are taking you to God”.<sup>1514</sup> Among the persons **ABD-AL-RAHMAN** struck to the head were Adam Mousa Youssef from Gaba, and the [REDACTED].<sup>1515</sup> **ABD-AL-RAHMAN** also struck Jenif, *Sheikh* Motor and Musa Youssef with a stick or axe-like object, killing or seriously injuring them, as detailed below.<sup>1516</sup>

#### Mistreatment inside the Deleig police station

439. Some of the arrested males were detained for up to several days inside the police station, in overcrowded conditions.<sup>1517</sup> [REDACTED],<sup>1518</sup> [REDACTED],<sup>1519</sup> [REDACTED].<sup>1520</sup> [REDACTED].<sup>1521</sup> The detainees inside the police station were denied food, water and access

<sup>1506</sup> P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, para. 58; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 68; P-0987, [DAR-OTP-0221-0416-R01](#) at 0422-0423, para. 28; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 63. [REDACTED].

<sup>1508</sup> P-0725, [DAR-OTP-0210-0122-R02](#) at 0132, para. 76; P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, para. 56.

<sup>1509</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0067-0068, para. 59.

<sup>1510</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, para. 44; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 15; P-0607, [DAR-OTP-0203-0164-R02](#) at 0178, para. 48; P-0617, [DAR-OTP-0202-1496-R02](#) at 1525, para. 84; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677, para. 48; P-0924, [DAR-OTP-0218-0455-R02](#) at 0469, para. 73.

<sup>1511</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, para. 44; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0714, [DAR-OTP-0209-1916-R03](#) at 1935-1936, para. 69; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 76; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 48; P-0980, [DAR-OTP-0221-0553-R01](#) at 0558, para. 24; P-0591, [DAR-OTP-0202-0026-R02](#) at 0049, para. 86.

<sup>1512</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, para. 44; P-0924, [DAR-OTP-0218-0455-R02](#) at 0473, para. 91.

<sup>1513</sup> P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 67; P-0617, [DAR-OTP-0202-1496-R02](#) at 1525, para. 84.

<sup>1514</sup> P-0924, [DAR-OTP-0218-0455-R02](#) at 0467, para. 61.

<sup>1515</sup> [REDACTED]. See P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 19.

<sup>1516</sup> See below, paras. 443-447.

<sup>1517</sup> [REDACTED]; [REDACTED]; P-0987, [DAR-OTP-0221-0416-R01](#) at 0424, para. 34; P-0617, [DAR-OTP-0202-1496-R02](#) at 1502-1503, para. 22 and 1525, para. 83 and 1527, para. 86.

<sup>1518</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0424-0425, paras. 38-41 and 0427, paras. 51-53; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, paras. 45-46 and 0072-0073, para. 84; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 47; P-0725, [DAR-OTP-0210-0122-R02](#) at 0134, paras. 94-95; P-0714, [DAR-OTP-0209-1916-R03](#) at 1940, para. 83; P-0592, [DAR-OTP-0209-0825-R02](#) at 0842, paras. 96-97; [REDACTED].

<sup>1519</sup> [REDACTED].

<sup>1520</sup> [REDACTED].

<sup>1521</sup> [REDACTED]; P-0987, [DAR-OTP-0221-0416-R01](#) at 0423-0424, paras. 33-34; P-0905, [DAR-OTP-0219-6266-R01](#) at 6276, l. 335-339, and [DAR-OTP-0219-6648-R01](#) at 6680, l. 1101-1102. See also P-0643, [DAR-OTP-0215-0563-R02](#) at 0583, l. 674.

to toilet facilities.<sup>1522</sup> [REDACTED] they were “treated as animals”.<sup>1523</sup> [REDACTED] **ABD-AL-RAHMAN** say, “today we’ll kill your fathers and grandfathers and tomorrow it will be your last day”.<sup>1524</sup>

440. Inside the police station, on or about 7 March 2004, [REDACTED], members of the Militia/*Janjaweed* and/or GoS Forces whipped, threatened to kill (while brandishing a firearm), and beat [REDACTED].<sup>1525</sup> They told [REDACTED] that his name was on their list, that he was a criminal who gave information to the rebels, [REDACTED].<sup>1526</sup>

*Number and civilian status of males arrested and detained*

441. The total number of detained Fur males in the open area near the police station on or about 5 March 2004 was at least 100, and likely more than 200, and varied throughout the day.<sup>1527</sup> A large number of males were also detained inside the police station.<sup>1528</sup> Although one of the detained Fur males, [REDACTED], was a member of the SLM/A,<sup>1529</sup> most of the arrested males were civilians taking no active part in the hostilities,<sup>1530</sup> including [REDACTED].<sup>1531</sup> Witnesses state that there was no armed rebel presence in Deleig,<sup>1532</sup> although some members of the rebel armed groups may have accompanied civilians who were displaced to Deleig.<sup>1533</sup>

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<sup>1522</sup> [REDACTED].

<sup>1523</sup> [REDACTED].

<sup>1524</sup> [REDACTED].

<sup>1525</sup> [REDACTED].

<sup>1526</sup> [REDACTED].

<sup>1527</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 37; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 45; P-0987, [DAR-OTP-0221-0416-R01](#) at 0423-0424, paras. 31, 37; P-0092, [DAR-OTP-0112-0175-R02](#) at 0196-0197, paras. 89, 93; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 68; P-0651, [DAR-OTP-0205-0015-R02](#) at 0029, para. 49; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019, para. 71; P-0585, [DAR-OTP-0201-0037-R02](#) at 0058, para. 86; P-0607, [DAR-OTP-0203-0164-R02](#) at 0178-0179, paras. 48, 51; P-0060, [DAR-OTP-0097-0328-R02](#) at 0341, para. 51; P-0879, [DAR-OTP-0217-0033-R02](#) at 0047-0048, para. 74; P-0736, [DAR-OTP-0210-0248-R02](#) at 0266-0267, para. 71; P-0905, [DAR-OTP-0219-6648-R01](#) at 6691-6692, l. 1487-1492; P-0924, [DAR-OTP-0218-0455-R02](#) at 0465-0466, paras. 55, 57; P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, para. 21; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 45; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742-0743, para. 30.

<sup>1528</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0744, para. 37; P-0924, [DAR-OTP-0218-0455-R02](#) at 0478, para. 69; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064-0065, para. 45.

<sup>1529</sup> [REDACTED].

<sup>1530</sup> [REDACTED].

<sup>1531</sup> [REDACTED].

<sup>1532</sup> P-0935, [DAR-OTP-0218-0705-R02](#) at 0717, para. 55; P-0607, [DAR-OTP-0203-0164-R02](#) at 0182, para. 65; P-0712, [DAR-OTP-0209-1884-R02](#) at 1901, para. 68; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 36.

<sup>1533</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0341, para. 50.

There was no armed resistance to the search and arrest operation in Deleig.<sup>1534</sup> The detained males were wearing civilian clothes,<sup>1535</sup> as were the corpses later found outside of Deleig.<sup>1536</sup>

442. Based on the facts set out in paragraphs 427 to 441, it is the only reasonable inference that the perpetrators inflicted severe physical or mental pain or suffering for prohibited purposes (such as obtaining information or a confession, punishment, intimidation, coercion, or for reasons based on political, ethnic and gender discrimination), and were aware of the factual circumstances that established the status of the victims of torture, other inhumane acts, cruel treatment and outrages upon personal dignity as *hors de combat* or civilians. They were also aware of the factual circumstances establishing the character (nature and gravity) of their acts.

***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 on or about 5 March 2004*

443. 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.

444. In the open area near the police station, P-0584, P-0907 and P-0924 saw **ABD-AL-RAHMAN** strike *Sheikh* Adam Adam Abd-Al-Rahman, nickname 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.<sup>1537</sup> While P-0924 recalls that *Sheikh* Motor's body remained lying in the open area after the other detainees were taken away, P-0907 states that **ABD-AL-RAHMAN**

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<sup>1534</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0063-0064, paras. 36, 41. See e.g. P-0924, [DAR-OTP-0218-0455-R02](#) at 0465, para. 53.

<sup>1535</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, paras. 23, 25; P-0697, [DAR-OTP-0209-0155-R02](#) at 0167-0168, para. 54; P-0714, [DAR-OTP-0209-1916-R03](#) at 1941, para. 85; P-0671, [DAR-OTP-0206-0105-R02](#) at 0114, para. 34 and 0116, para. 46; P-0725, [DAR-OTP-0210-0122-R02](#) at 0131, para. 71; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 68; P-0651, [DAR-OTP-0205-0015-R02](#) at 0031, para. 55; P-0905, [DAR-OTP-0219-6648-R01](#) at 6694, l. 1573-1577; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064, para. 41; P-0955, [DAR-OTP-0220-0620-R02](#) at 0630, para. 41; P-0980, [DAR-OTP-0221-0553-R01](#) at 0556, para. 18.

<sup>1536</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 51-56; P-0697, [DAR-OTP-0209-0155-R02](#) at 0169-0170, paras. 60-61; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631-0632, para. 49.

<sup>1537</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1568-1569, paras. 106-109; P-0584, Annex F, [DAR-OTP-0200-1591](#) at 1593 (Translation at [DAR-OTP-0219-1670](#) at 1673); P-0924, [DAR-OTP-0218-0455-R02](#) at 0469, paras. 72-73; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 47. See also P-0114, [DAR-OTP-0119-0711-R02](#) at 0717, paras. 25-26; P-0114, Annex D-1, [DAR-OTP-0119-0732-R01](#) (Translation at [DAR-OTP-0153-1139-R01](#) at 1144). See also Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 26.

ordered the Militia/*Janjaweed* to put his body onto one of the vehicles loaded with detainees, which they did.<sup>1538</sup>

445. In or near the police station, P-0905, P-0907, P-0924, P-0994 and P-0879 saw **ABD-AL-RAHMAN** strike Adam Abd-Al-Rahman, nickname Jenif, the PDF coordinator in Garsila, at least once to the head with a stick or axe-like object, causing him to fall to the ground and his head to bleed profusely.<sup>1539</sup> Jenif either died immediately,<sup>1540</sup> or was transported on a vehicle outside of Deleig with other detainees to an execution site where he subsequently died or was killed.<sup>1541</sup>

446. In the open area near the police station, P-0973 saw **ABD-AL-RAHMAN** strike Musa Youssef from Gaba village to the head with an axe. P-0973 saw Musa Youssef fall to the ground with blood coming out of his head and believes that he may already have been dead.<sup>1542</sup> While P-0973 recalls that the Militia/*Janjaweed* then threw Musa Youssef's body into the back of a vehicle loaded with detainees, P-0924 states that his body was still lying in the open area after all of the detainees had been taken away.<sup>1543</sup>

447. Pre-Trial Chamber II confirmed that, in and/or near the Deleig police station, **ABD-AL-RAHMAN** struck three Fur male detainees to the head with a stick or axe-like object, and that

<sup>1538</sup> P-0924, [DAR-OTP-0218-0455-R02](#) at 0469-0470, para. 73, 76; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 47.

<sup>1539</sup> P-0905, [DAR-OTP-0219-6648-R01](#) at 6680-6681, l. 1101-1127 and 6687-6691, l. 1337-1481, and [DAR-OTP-0219-6266-R01](#) at 6276-6277, l. 335-342, 360-384; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 76; P-0924, [DAR-OTP-0218-0455-R02](#) at 0467-0468, paras. 64-68; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676-0677, para. 48; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 48 and 0070, para. 73; P-0994, Annex 1, [DAR-OTP-0222-0077](#). See also P-0926, [DAR-OTP-0218-0738-R02](#) at 0758, para. 78; P-0935, [DAR-OTP-0218-0705-R02](#) at 0717, para. 54; P-0931, [DAR-OTP-0219-8682-R01](#) at 8690, l. 265-279.

<sup>1540</sup> P-0905, [DAR-OTP-0219-6648-R01](#) at 6681, l. 1116-1118 and 6687, l. 1337-1338 and 6691, l. 1475-1481, and [DAR-OTP-0219-6266-R01](#) at 6277, l. 378; P-0924, [DAR-OTP-0218-0455-R02](#) at 0468, paras. 67-68; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 76, 78; P-0643, [DAR-OTP-0215-0546-R02](#) at 0553, l. 224-242 and 0561, l. 497-500; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16. See also P-0907, [DAR-OTP-0220-0668-R02](#) at 0676-0677, para. 48 and 0681, para. 70 (Jenif did not die immediately and was left lying on the ground); P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 48 (Jenif was placed in a cell after being struck by **ABD-AL-RAHMAN**).

<sup>1541</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6277, l. 378-384; P-0987, [DAR-OTP-0221-0416-R01](#) at 0423, para. 33 and 0426, para. 45; P-0883, [DAR-OTP-0218-0059-R01](#) at 0085-0086, paras. 142-148. See also P-0994, [DAR-OTP-0222-0055-R01](#) at 0065-0066, para. 49 (on Saturday P-0994 heard that Jenif had been executed and on Sunday he saw that the detention room in the police station was empty); P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 76, 78 (Jenif's body was thrown among others who were lying on the ground then loaded onto a vehicle); P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16 (Jenif's dead body was loaded onto a vehicle); P-0924, [DAR-OTP-0218-0455-R02](#) at 0470, para. 76 (Jenif's body was left lying in the yard until early the next morning); P-0895, [DAR-OTP-0215-7164-R02](#) at 7180, para. 63 (Jenif's dead body was left lying on the ground).

<sup>1542</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 34. P-0980 was with Musa Youssef when he was arrested and brought to the Deleig police station. See P-0980, [DAR-OTP-0221-0553-R01](#) at 0557, paras. 19, 21. See also Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 112.

<sup>1543</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 34; P-0924, [DAR-OTP-0218-0455-R02](#) at 0469-0470, paras. 74, 76.

these males died as a consequence of this conduct.<sup>1544</sup> In the DCC, the Prosecution identified these three males as a community leader known as Motor, the PDF coordinator in Garsila known as Jenif, and a man from Arawala known as Adam Jinet.<sup>1545</sup> Additional evidence obtained by the Prosecution confirms that the person referred to as Adam Jinet is the same person as Jenif. The evidence detailed above now establishes that the three Fur males struck and killed by **ABD-AL-RAHMAN** were *Sheikh* Adam Adam Abd-Al-Rahman (known as Motor), Adam Abd-Al-Rahman (the PDF coordinator in Garsila known as Jenif), and Musa Youssef. Although Musa Youssef was not named in the DCC, his killing falls squarely within the factual parameters of the charges as confirmed by Pre-Trial Chamber II.<sup>1546</sup>

*Killings of detainees in locations outside of Deleig on or about 5 March 2004*

448. 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.<sup>1547</sup> **ABD-AL-RAHMAN** also directly instructed detainees to get onto the vehicles, and poked them with his axe as they did so.<sup>1548</sup> [REDACTED] **ABD-AL-RAHMAN** tell the detainees, “you are going to your God”.<sup>1549</sup>

449. The Militia/*Janjaweed* and GoS Forces loaded groups of the detainees onto the vehicles,<sup>1550</sup> including at least two motionless bodies.<sup>1551</sup> **ABD-AL-RAHMAN** was present

<sup>1544</sup> [Confirmation Decision](#), paras. 109 and p. 64, para. 109 and p. 67, para. 126; [Annex 1 to Confirmation Decision](#), p. 4, no. 7, 18, 27.

<sup>1545</sup> [Document Containing the Charges](#), paras. 129, 146.

<sup>1546</sup> *Al Hassan* Amendment Decision, [ICC-01/12-01/18-608-Red-tENG](#), paras. 44-47. See also *Al Hassan* Regulation 55(2) Judgment, [ICC-01/12-01/18-1562-Red](#), paras. 92-94, 106; *Katanga & Ngudjolo* Summary of Charges Decision, [ICC-01/04-01/07-1547-tENG](#), para. 25.

<sup>1547</sup> P-0905, [DAR-OTP-0219-6648-R01](#) at 6691, l. 1487-1488 and 6694-6695, l. 1562-1598; P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42, 45; P-0994, [DAR-OTP-0222-0055-R01](#) at 0066-0067, paras. 51, 56, 58. See also P-0883, [DAR-OTP-0218-0059-R01](#) at 0085, para. 142; P-0924, [DAR-OTP-0218-0455-R02](#) at 0470, paras. 77-81.

<sup>1548</sup> P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, paras. 33-34; P-0924, [DAR-OTP-0218-0455-R02](#) at 0473, para. 91.

<sup>1549</sup> [REDACTED].

<sup>1550</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0067, paras. 55-57; P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42, 45-48; P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, paras. 52-55; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 77-80; P-0584, [DAR-OTP-0200-1540-R02](#) at 1569, paras. 108-109; P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, paras. 70-74; P-0725, [DAR-OTP-0210-0122-R02](#) at 0132, para. 76; P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, para. 56; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0607, [DAR-OTP-0203-0164-R02](#) at 0179-0180, paras. 53-55; P-0092, [DAR-OTP-0112-0175-R02](#) at 0197, para. 90; P-0651, [DAR-OTP-0205-0015-R02](#) at 0029-0030, paras. 50-53; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019-1020, para. 72; P-0617, [DAR-OTP-0202-1496-R02](#) at 1525-1527, paras. 84-86; P-0924, [DAR-OTP-0218-0455-R02](#) at 0470-0472, paras. 81, 85, 87; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676-0677, paras. 47, 51-52; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0980, [DAR-OTP-0221-0553-R01](#) at 0558-0559, para. 27; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, paras. 33-34; P-0591, [DAR-OTP-0202-0026-R02](#) at 0050-0052, paras. 91, 95-97.

<sup>1551</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6677, l. 378-380; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0725, [DAR-OTP-0210-0122-R02](#) at 0132, para. 76; P-0584, [DAR-OTP-0200-1540-R02](#) at 1569, para. 107; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 47; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 34.

during, and supervised, the loading of the detainees.<sup>1552</sup> P-0907 heard **ABD-AL-RAHMAN** order the driver of one of the vehicles loaded with detainees to drive for an hour, then kill all of the prisoners and come back.<sup>1553</sup> [REDACTED] **ABD-AL-RAHMAN** instructing the Militia/*Janjaweed* to drive the detainees to Garsila. He later deduced that this could have been a kind of passcode.<sup>1554</sup> He further states that **ABD-AL-RAHMAN**'s driver [REDACTED] was driving a vehicle that transported detainees outside of Deleig four times.<sup>1555</sup>

450. The vehicles then drove out of Deleig in different directions.<sup>1556</sup> **ABD-AL-RAHMAN** went with some of the vehicles,<sup>1557</sup> along with his [REDACTED].<sup>1558</sup> At least one of his Land Cruisers was used to transport detainees to execution sites.<sup>1559</sup> 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.<sup>1560</sup> Annex 22 contains a map showing locations relevant to known execution sites outside of Deleig.<sup>1561</sup>

451. The vehicles returned empty of detainees to the open area near the Deleig police station between about 15 and 60 minutes later.<sup>1562</sup> Onlookers realised that the vehicles could not have

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<sup>1552</sup> P-0905, [DAR-OTP-0219-6266-R01](#) at 6677, l. 378-380; P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42-48; P-0924, [DAR-OTP-0218-0455-R02](#) at 0470, paras. 77-80 and 0472-0473, paras. 88, 91; P-0584, [DAR-OTP-0200-1540-R02](#) at 1569, paras. 108-109; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 77-80; P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, paras. 70-74; P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, paras. 52-53; P-0994, [DAR-OTP-0222-0055-R01](#) at 0067-0068, paras. 56, 62; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677, paras. 50-51; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, paras. 33-34; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051-0052, paras. 92, 97; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0106, [DAR-OTP-0116-1005-R02](#) at 1019-1020, paras. 72-73; P-0651, [DAR-OTP-0205-0015-R02](#) at 0030, para. 53 (vehicle only).

<sup>1553</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0677, para. 50. *See also* P-0883, [DAR-OTP-0218-0059-R01](#) at 0085, para. 143.

<sup>1554</sup> [REDACTED].

<sup>1555</sup> [REDACTED].

<sup>1556</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, paras. 70-74; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051, para. 92; P-0106, [DAR-OTP-0116-1005-R02](#) at 1020, para. 74; P-0879, [DAR-OTP-0217-0033-R02](#) at 0049, paras. 78-79; P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, para. 54; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677-0678, para. 52; P-0924, [DAR-OTP-0218-0455-R02](#) at 0470-0472, paras. 81, 85, 87; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42, 45; P-0994, [DAR-OTP-0222-0055-R01](#) at 0067, para. 57; P-0980, [DAR-OTP-0221-0553-R01](#) at 0558-0559, para. 27. *See also* P-0712, [DAR-OTP-0209-1884-R02](#) at 1896, paras. 43-44; P-0617, [DAR-OTP-0202-1496-R02](#) at 1525-1526, paras. 84-85.

<sup>1557</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42-48; P-0905, [DAR-OTP-0219-6648-R01](#) at 6694-6697, l. 1562-1678; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743-0744, paras. 33, 37. *See also* P-0994, [DAR-OTP-0222-0055-R01](#) at 0068, para. 62 and 0070, para. 71.

<sup>1558</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42-48.

<sup>1559</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0425-0426, paras. 42-48; P-0905, [DAR-OTP-0219-6648-R01](#) at 6682, l. 1163-1177 and 6684, l. 1239-1246 and 6691, l. 1487-1492 and 6694-6696, l. 1562-1651. *See also* P-0935, [DAR-OTP-0218-0705-R02](#) at 0718-0719, paras. 58, 60; P-0954, [DAR-OTP-0221-0571-R01](#) at 0578, para. 34; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045-0046, paras. 71-72.

<sup>1560</sup> *See below*, paras. 454-466.

<sup>1561</sup> Annex 22, Locations relevant to known execution sites outside Deleig.

<sup>1562</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0426-0428, paras. 43-45, 47; P-0994, [DAR-OTP-0222-0055-R01](#) at 0067, paras. 56-57; P-0651, [DAR-OTP-0205-0015-R02](#) at 0030, paras. 52-53; P-0060, [DAR-OTP-0097-0328-](#)

taken the detainees to Garsila, the nearest town, in this short space of time.<sup>1563</sup> Some people in Deleig heard shooting coming from outside of the town.<sup>1564</sup> 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.<sup>1565</sup>

452. When the first vehicle returned empty, [REDACTED] saw that one of **ABD-AL-RAHMAN**'s [REDACTED], was very upset, and heard him complaining and saying that he refused to go back. [REDACTED] heard **ABD-AL-RAHMAN** calling [REDACTED] a coward and telling him he could stay behind.<sup>1566</sup> While the second group of detainees was being loaded, [REDACTED] why he was so upset. [REDACTED] told him that the detainees were not being taken to Garsila but towards Koska mountains, where they were being killed.<sup>1567</sup>

453. [REDACTED] corroborates that **ABD-AL-RAHMAN**'s [REDACTED] were present during the Deleig operation.<sup>1568</sup>

#### Execution site to the northwest of Deleig

454. At an execution site to the northwest of Deleig, **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].<sup>1569</sup> [REDACTED].<sup>1570</sup>

455. **ABD-AL-RAHMAN** ordered the Militia/*Janjaweed* and GoS Forces, "Pour them. Kill them immediately here."<sup>1571</sup> The detainees got out of the vehicles and lay down on the ground on their stomachs.<sup>1572</sup> The Militia/*Janjaweed* stood with their Kalashnikovs ready so that the

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[R02](#) at 0342, para. 55; P-0879, [DAR-OTP-0217-0033-R02](#) at 0049, paras. 79-80; P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, paras. 72-74; P-0736, [DAR-OTP-0210-0248-R02](#) at 0268-0269, para. 76; P-0924, [DAR-OTP-0218-0455-R02](#) at 0471-0472, paras. 82, 85, 87; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677-0678, para. 52; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051-0052, paras. 93, 95-96.

<sup>1563</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0030, para. 52; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051, paras. 94-95; P-0617, [DAR-OTP-0202-1496-R02](#) at 1526, para. 85; P-0987, [DAR-OTP-0221-0416-R01](#) at 0426, para. 46.

<sup>1564</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0049, paras. 78-80; P-0585, [DAR-OTP-0201-0037-R02](#) at 0059, paras. 90-91; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051, para. 94.

<sup>1565</sup> P-0607, [DAR-OTP-0203-0164-R02](#) at 0179-0180, paras. 53-55; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048-0049, paras. 77-80; P-0736, [DAR-OTP-0210-0248-R02](#) at 0268, para. 76; P-0907, [DAR-OTP-0220-0668-R02](#) at 0677-0678, para. 52; P-0924, [DAR-OTP-0218-0455-R02](#) at 0470-0472, paras. 81-87; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 46; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 33; P-0987, [DAR-OTP-0221-0416-R01](#) at 0426, para. 48; P-0994, [DAR-OTP-0222-0055-R01](#) at 0067, para. 57; P-0591, [DAR-OTP-0202-0026-R02](#) at 0051-0052, paras. 95-96.

<sup>1566</sup> [REDACTED].

<sup>1567</sup> [REDACTED].

<sup>1568</sup> [REDACTED].

<sup>1569</sup> [REDACTED].

<sup>1570</sup> [REDACTED].

<sup>1571</sup> [REDACTED].

<sup>1572</sup> [REDACTED].



detainees could not escape.<sup>1573</sup> One member of the PDF held a machine gun.<sup>1574</sup> **ABD-AL-RAHMAN** said, “Implement the orders on these people”, by which he meant to kill them.<sup>1575</sup> The Militia/*Janjaweed* and the PDF member with the machine gun shot at the detainees, killing all or most of them.<sup>1576</sup> **ABD-AL-RAHMAN** said, “Finish” and the convoy departed. They left the bodies of the detainees in the *khor*.<sup>1577</sup>

456. [REDACTED], one of the Military Intelligence officers that [REDACTED] accompany **ABD-AL-RAHMAN**’s convoy, later reported [REDACTED] that he was present at a location northwest of Deleig where 101 detainees were transported from Deleig police station on the orders of **ABD-AL-RAHMAN**. At this location, **ABD-AL-RAHMAN** ordered his men to take the detainees out in groups of 10. The detainees were lined up and shot to death by **ABD-AL-RAHMAN**’s men. As the second group of detainees was being lined up, MAIGARI, shocked by what he had seen, ran away. Later, when **ABD-AL-RAHMAN** returned to Garsila, he asked [REDACTED] about [REDACTED] and called him a coward.<sup>1578</sup>

#### Execution sites in the area of Koska, to the south of Deleig

457. [REDACTED]<sup>1579</sup> were both on vehicles that transported detainees to an area near Koska, to the south of Deleig. [REDACTED] was loaded onto a vehicle with about 26 other detainees, including Abdallah Mussa, also known as Molenqwe.<sup>1580</sup> The vehicle drove to a small creek or valley near Koska mountains. The Militia/*Janjaweed* ordered the detainees to get out of the vehicle and lie down on the ground. There was an old man among them. [REDACTED] heard one of the soldiers saying that once they finished the execution, they would make a detour to pretend they had complied with **ABD-AL-RAHMAN**’s order to drive one hour away from Deleig.<sup>1581</sup>

458. The Militia/*Janjaweed* surrounded the detainees, shot at them and then left the area. [REDACTED] stayed without moving, pretending to be dead, and survived uninjured. His

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<sup>1573</sup> [REDACTED].

<sup>1574</sup> [REDACTED].

<sup>1575</sup> [REDACTED].

<sup>1576</sup> [REDACTED].

<sup>1577</sup> [REDACTED].

<sup>1578</sup> [REDACTED].

<sup>1579</sup> [REDACTED].

<sup>1580</sup> P-0907, [DAR-OTP-0220-0668-R02](#) at 0677-0678, paras. 51- 53. *See also* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 2.

<sup>1581</sup> [REDACTED].

clothes were covered in the blood of the men lying next to him. He later discovered that all but one of the other detainees had been shot in the head.<sup>1582</sup>

459. When he stood up, [REDACTED] Adam Ahmed Abakar Musa had been shot in the flank. He told [REDACTED], stood up, walked about five or six steps, then fell down and died.<sup>1583</sup> [REDACTED] also found Abdallah Mussa, who had been shot in the head but was alive. Scared and shocked, [REDACTED] returned to Deleig without helping him.<sup>1584</sup> Some days later, [REDACTED] in Deleig and told him that he had survived an execution.<sup>1585</sup>

460. At around the same time, [REDACTED].<sup>1586</sup> [REDACTED]. [REDACTED].<sup>1587</sup> [REDACTED]. [REDACTED].<sup>1588</sup> [REDACTED].<sup>1589</sup> 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, [REDACTED].<sup>1590</sup> There was a large pool of blood and the bodies had all been shot. Among the bodies, he found Abdallah Mussa, alive but severely injured, [REDACTED].<sup>1591</sup>

461. 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 through 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.<sup>1592</sup> [REDACTED] his burial the following day.<sup>1593</sup>

462. Also to the south of Deleig, [REDACTED] to a brook by Koska mountain. [REDACTED]. [REDACTED]. [REDACTED].<sup>1594</sup>

463. The following day, on or about 6 March 2004, P-0850 heard that a man from his village [REDACTED] 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.<sup>1595</sup> [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

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<sup>1582</sup> [REDACTED].

<sup>1583</sup> [REDACTED].

<sup>1584</sup> [REDACTED].

<sup>1585</sup> [REDACTED].

<sup>1586</sup> [REDACTED].

<sup>1587</sup> [REDACTED].

<sup>1588</sup> [REDACTED].

<sup>1589</sup> [REDACTED].

<sup>1590</sup> See also Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 30.

<sup>1591</sup> [REDACTED].

<sup>1592</sup> [REDACTED].

<sup>1593</sup> [REDACTED].

<sup>1594</sup> [REDACTED].

<sup>1595</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0019-0020, paras. 70-72.

blindfolded before being shot. He said that the other detainees with him had all been executed and their families should stop looking for them.<sup>1596</sup>

Execution site near Douro, to the west of Deleig

464. After surviving the execution in the area of Koska to the south of Deleig,<sup>1597</sup> [REDACTED].<sup>1598</sup>

Execution site near Andi, to the east of Deleig

465. [REDACTED].<sup>1599</sup> [REDACTED]. [REDACTED].<sup>1600</sup>

466. A few days after 5 March 2004, P-0924 [REDACTED]. He told P-0924 that he was taken in a group of 40 detainees to an area near Andi where they were divided into two groups of 20. [REDACTED] was in the group that could speak proper Arabic, which was brought back to Deleig and then taken by **ABD-AL-RAHMAN** to Garsila. The group of detainees that could not speak Arabic were shot and killed.<sup>1601</sup>

Discovery of corpses outside of Deleig from about 5 March 2004

467. [REDACTED].<sup>1602</sup>

468. On or about 6 March 2004, P-0651 found more than 40 dead bodies lined up next to each other in a *khore* at Tolda mountain, to the south of Deleig near Koska. 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.<sup>1603</sup>

469. Several days later, P-0671 also found between 20 and 40 dead bodies lined up next to each other in a *khore* 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 dried blood around them. Among the bodies, P-0671 found his father and brother, who had

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<sup>1596</sup> P-0850, [DAR-OTP-0216-0002-R03](#) at 0019-0020, paras. 70-72. *See below* para. 491.

<sup>1597</sup> *See above*, para. 462.

<sup>1598</sup> [REDACTED].

<sup>1599</sup> *See below*, para. 493.

<sup>1600</sup> [REDACTED].

<sup>1601</sup> P-0924, [DAR-OTP-0218-0455-R02](#) at 0472, para. 90.

<sup>1602</sup> *See above*, para. 460.

<sup>1603</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0031, paras. 56-58; P-0651, Annex B, [DAR-OTP-0205-0042](#) (Translation at [DAR-OTP-0219-1687](#) at 1689).

been arrested by **ABD-AL-RAHMAN** in Deleig on or about 5 March 2004. He helped to bury the bodies near the areas where they were found, including those of his father and brother.<sup>1604</sup>

470. 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 they were dressed in *jallabiya* clothing, which was soaked with blood.<sup>1605</sup> The timing of the discovery of these bodies about two weeks after the Deleig events indicates that this was a different execution site than the location where bodies were discovered near Tolda mountain, since P-0671 indicates that the bodies at Tolda mountain were buried several days after the executions.<sup>1606</sup>

471. 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 *chor* 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 *jallabiya*, which is usually worn when attending Friday prayers.<sup>1607</sup>

472. Among the bodies found near Fere were P-0718's [REDACTED],<sup>1608</sup> who **ABD-AL-RAHMAN** had refused to release near the police station on or about 5 March 2004.<sup>1609</sup>

*Killings of community leaders and other detainees outside of Deleig on or about 7 March 2004*

473. Between about Friday, 5 March and about Sunday, 7 March 2004, *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz and Hassan Adam Musa were detained inside the Deleig police station,<sup>1610</sup> on the orders of **ABD-AL-RAHMAN**.<sup>1611</sup> On or about 5 March 2004, [REDACTED] heard **ABD-AL-RAHMAN** tell

<sup>1604</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 51-56. *See below*, para. 524. *See also* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 24, 29.

<sup>1605</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1940, para. 84; P-0714, Annex D, [DAR-OTP-0209-1953-R01](#).

<sup>1606</sup> P-0671, [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 54-56.

<sup>1607</sup> [REDACTED].

<sup>1608</sup> P-0718, [DAR-OTP-0209-2004-R02](#) at 2017, paras. 89-90.

<sup>1609</sup> *See below*, para. 528.

<sup>1610</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0424-0425, paras. 38-41 and 0427, para. 51; P-0994, [DAR-OTP-0222-0055-R01](#) at 0064-0065, paras. 45-46 and 0072-0073, paras. 80, 84; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631, para. 47; P-0725, [DAR-OTP-0210-0122-R02](#) at 0134, paras. 94-96; P-0714, [DAR-OTP-0209-1916-R03](#) at 1940, para. 83; P-0592, [DAR-OTP-0209-0825-R02](#) at 0842, paras. 96-97; P-0973, [DAR-OTP-0220-0736-R01](#) at 0744-0745, paras. 38, 40. For the full names, nicknames and positions of these persons, *see above* para. 409. For the different spellings used for the names of these persons, *see* Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas, no. 7, 12, 15, 18 and 21.

<sup>1611</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0424-0425, paras. 38-39.

*Umdah* Adam Kindiri, while he was detained in the cell: “This is your last day on Earth, get ready for the doomsday”.<sup>1612</sup>

474. As detailed in the following section, on or about 7 March 2004, witnesses saw **ABD-AL-RAHMAN** and/or his men take these five detainees from inside the Deleig police station. Several witnesses last saw them alive in a convoy of vehicles with **ABD-AL-RAHMAN**, and news then quickly reached people in Deleig that they had been killed.

Detainees taken out of the Deleig police station by ABD-AL-RAHMAN and/or his men, and driven outside of Deleig

475. On or about 7 March 2004, [REDACTED], saw **ABD-AL-RAHMAN**’s Land Cruiser arrive at the police station, [REDACTED].<sup>1613</sup> Sitting next to [REDACTED] was ABD-AL-MUN’IM, and in the back of the vehicle were three of **ABD-AL-RAHMAN**’s [REDACTED] and ABD-AL-MUN’IM entered the police station and asked [REDACTED] to hand over *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz and Hassan Adam Musa. They said they were taking them to the main prison in Zalingei.<sup>1614</sup>

476. [REDACTED] the detainees put on the back of the Land Cruiser, which took off in the direction of Zalingei.<sup>1615</sup> The community leaders were wearing *jallabiya*, while Hassan Adam Musa was wearing a shirt and trousers.<sup>1616</sup>

477. Shortly after they left, [REDACTED] went to the market where he saw **ABD-AL-RAHMAN** sitting. About 15 minutes later, [REDACTED] **ABD-AL-RAHMAN**’s [REDACTED] arrive at the market in **ABD-AL-RAHMAN**’s vehicle, but without the detainees. [REDACTED] saw them meet **ABD-AL-RAHMAN** and have lunch together, while laughing and chitchatting. Later, [REDACTED] saw them leaving the market together in **ABD-AL-RAHMAN**’s vehicle, in the direction of Garsila.<sup>1617</sup>

478. On the same day, [REDACTED], saw **ABD-AL-RAHMAN** arrive at the police station in a vehicle. **ABD-AL-RAHMAN** stood outside the cell door and read the names of *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz

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<sup>1612</sup> [REDACTED].

<sup>1613</sup> [REDACTED].

<sup>1614</sup> [REDACTED].

<sup>1615</sup> [REDACTED].

<sup>1616</sup> [REDACTED].

<sup>1617</sup> [REDACTED].

and Hassan Adam Musa from a piece of paper.<sup>1618</sup> These five people then left the cell as ordered and [REDACTED] saw them being placed in the vehicle parked out the front. He saw **ABD-AL-RAHMAN** enter the vehicle, while armed Militia/*Janjaweed* got into the back of the vehicle with the detainees, and the vehicle then drove away.<sup>1619</sup> About four hours later, [REDACTED] saw **ABD-AL-RAHMAN** return to the police station with the same vehicle, but the detainees were no longer in the back.<sup>1620</sup>

Detainees last seen alive in a convoy of vehicles with ABD-AL-RAHMAN

479. The same day, [REDACTED] saw a Land Cruiser parked next to a restaurant at the Deleig market with six detainees on the back. **ABD-AL-RAHMAN** and his driver [REDACTED] were there, along with other Militia/*Janjaweed*.<sup>1621</sup> The six detainees in the vehicle were *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz, Hassan Adam Musa and Sherif Mohammedin. [REDACTED] some of the *Umdahs* were wearing *jallabiya*, while *Umdah* Adam Kindiri was wearing a cotton vest that is usually worn underneath the *jallabiya*.<sup>1622</sup>

480. [REDACTED] saw [REDACTED] **ABD-AL-RAHMAN** to release Sherif Mohammedin. [REDACTED] **ABD-AL-RAHMAN** that Sherif Mohammedin was [REDACTED] not a rebel. **ABD-AL-RAHMAN** agreed to release Sherif Mohammedin and instructed him to get off the vehicle, which he did.<sup>1623</sup> [REDACTED] **ABD-AL-RAHMAN** instruct Militia/*Janjaweed* leader, [REDACTED], to take the detainees to a bus stop queue travelling to Nyala. [REDACTED] this could be a type of passcode. [REDACTED] got inside the vehicle with other members of the Militia/*Janjaweed*, and it drove off in the direction northwest of the market. **ABD-AL-RAHMAN** did not go with the vehicle.<sup>1624</sup>

481. Also that day, [REDACTED] saw a vehicle arrive containing detainees *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Sheikh* Ismail Abdulaziz (also known as Dikobi), *Umdah* Mohamed Suleiman,<sup>1625</sup> and Hassan Adam Musa.<sup>1626</sup> They were wearing *jallabiya* and their

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<sup>1618</sup> [REDACTED].

<sup>1619</sup> [REDACTED].

<sup>1620</sup> [REDACTED].

<sup>1621</sup> [REDACTED].

<sup>1622</sup> [REDACTED].

<sup>1623</sup> [REDACTED].

<sup>1624</sup> [REDACTED].

<sup>1625</sup> [REDACTED].

<sup>1626</sup> [REDACTED].

hands were tied.<sup>1627</sup> [REDACTED]. [REDACTED]. [REDACTED].<sup>1628</sup> [REDACTED].<sup>1629</sup>  
[REDACTED].<sup>1630</sup>

482. The same day, [REDACTED] was in Deleig market when he saw *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and a third man in the back of a Land Cruiser being driven towards Zalingei.<sup>1631</sup> Also in the market, [REDACTED] saw two vehicles pass by. **ABD-AL-RAHMAN** was in the first vehicle.<sup>1632</sup> In the second vehicle, five important looking people wearing Sudanese garments were being guarded by Militia/*Janjaweed*. He a [REDACTED] identified four of the five men as *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman and *Sheikh* Ismail Abdulaziz.<sup>1633</sup>

483. Also that day, [REDACTED] was on a bus in Deleig waiting for it to leave when he saw a Land Cruiser drive past, which he believes was the same Land Cruiser that had transported him and other detainees to an execution site two days before.<sup>1634</sup> In the Land Cruiser he saw the same driver and armed men as on Friday, along with seven detainees. [REDACTED] did not recognise three of the detainees, but among the others he identified *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis.<sup>1635</sup>

484. While hiding in the south of Deleig in the three days following on or about 5 March 2004, P-0060 saw a 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 and *Umdah* Mohamed Suleiman, wearing *jallabiyas*, and Hassan Adam Musa, wearing a white shirt, along with other men. They were handcuffed.<sup>1636</sup>

485. [REDACTED] seeing a Land Cruiser in Deleig, on or about 6 March 2004, carrying detainees *Umdah* Adam Kindiri and *Umdah* Jiddo Khamis.<sup>1637</sup>

News that the group of detainees was killed and their bodies found near Fere

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<sup>1627</sup> [REDACTED].

<sup>1628</sup> [REDACTED].

<sup>1629</sup> [REDACTED].

<sup>1630</sup> [REDACTED].

<sup>1631</sup> [REDACTED].

<sup>1632</sup> [REDACTED].

<sup>1633</sup> [REDACTED].

<sup>1634</sup> [REDACTED].

<sup>1635</sup> [REDACTED].

<sup>1636</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0336-0337, para. 30 and 0343, para. 58. P-0060 refers to these persons as *Umdah* Dirbo, Hassan Adam "FARJA" and Isma'il Doikabe.

<sup>1637</sup> [REDACTED].

486. On the afternoon of on or about 7 March 2004, [REDACTED] was at Deleig market when he heard people saying that the group of detainees had been killed in the area of Fere.<sup>1638</sup> Within days, news spread among the local population that the group had been killed and their bodies found in a location near Fere, in the direction of Zalingei.<sup>1639</sup> [REDACTED] learnt from people in the Western Neighbourhood of Garsila that *Sheikh* Ismail Abdulaziz and Hassan Adam Musa had both been killed near Deleig, just two or three days after she saw **ABD-AL-RAHMAN** with them in the SAF base in Garsila. She attended condolence ceremonies at their families' homes.<sup>1640</sup>

487. [REDACTED], was present when **ABD-AL-RAHMAN** [REDACTED] on or about 5 March 2004,<sup>1641</sup> and later saw [REDACTED] *Umdah* Jiddo Khamis in a convoy of two Land Cruiser vehicles outside the Deleig police station. **ABD-AL-RAHMAN** was in the passenger seat of the vehicle containing *Umdah* Adam Kindiri, whose hands were tied behind his back. The vehicles drove away. This was the last time [REDACTED].<sup>1642</sup> On or about 7 March 2004, [REDACTED] learnt that the body [REDACTED] of *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz and Hassan Adam Musa, had been found near Fere.<sup>1643</sup>

488. Despite **ABD-AL-RAHMAN**'s assurances [REDACTED], there is no evidence that these detainees ever reached the Military Intelligence Office in Zalingei.<sup>1644</sup> To the contrary, [REDACTED] these five detainees were killed outside of Deleig.<sup>1645</sup> [REDACTED] heard soldiers returning to the SAF base in Garsila say that they had gone to Deleig instead of Zalingei, and that **ABD-AL-RAHMAN** and his men had killed the detainees who had been taken out of the base.<sup>1646</sup>

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<sup>1638</sup> [REDACTED].

<sup>1639</sup> P-1018, [DAR-OTP-0221-1535-R01](#) at 1540, l. 143-157, and [DAR-OTP-0221-1545-R01](#) at 1550, l. 149-150; P-0725, [DAR-OTP-0210-0122-R02](#) at 0134, paras. 95-96; P-0879, [DAR-OTP-0217-0033-R02](#) at 0050, para. 82; P-0712, [DAR-OTP-0209-1884-R02](#) at 1897, paras. 47-48; P-0617, [DAR-OTP-0202-1496-R02](#) at 1528-1529, paras. 89-90; P-0671, [DAR-OTP-0206-0105-R02](#) at 0117, para. 50; P-0994, [DAR-OTP-0222-0055-R01](#) at 0072, paras. 80-83; P-0643, [DAR-OTP-0215-0358-R02](#) at 0393-0402, l. 1192-1485; P-0643, [DAR-OTP-0218-0638-R02](#) at 0647, paras. 62-64 and 0649, para. 73; P-0926, [DAR-OTP-0218-0738-R02](#) at 0755-0756, paras. 69-70; P-0907, [DAR-OTP-0220-0668-R02](#) at 0681, para. 71; P-0973, [DAR-OTP-0220-0736-R01](#) at 0745, paras. 40-42. *See also* P-0850, [DAR-OTP-0216-0002-R03](#) at 0020, para. 73; P-0895, [DAR-OTP-0215-7164-R02](#) at 7172-7173, paras. 31-32 and 7180, para. 63; P-0714, [DAR-OTP-0209-1916-R03](#) at 1940, para. 83; P-0726, [DAR-OTP-0210-0346-R03](#) at 0365, para. 69; P-0651, [DAR-OTP-0205-0015-R02](#) at 0033, para. 64.

<sup>1640</sup> [REDACTED].

<sup>1641</sup> *See above*, para. 432.

<sup>1642</sup> [REDACTED].

<sup>1643</sup> [REDACTED].

<sup>1644</sup> [REDACTED].

<sup>1645</sup> [REDACTED].

<sup>1646</sup> [REDACTED].



489. Based on the evidence described above,<sup>1647</sup> and as detailed further below,<sup>1648</sup> the only reasonable inference is that **ABD-AL-RAHMAN** engaged in the relevant conduct intending that this group of detainees would be killed or with the awareness that they would be killed in the ordinary course of events.

### Survivors

490. 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.

491. As detailed above, [REDACTED]. [REDACTED].<sup>1649</sup> [REDACTED].<sup>1650</sup> [REDACTED].<sup>1651</sup> On or about 6 March 2004, P-0850 visited [REDACTED] in Deleig and saw that his intestines were spilling out and he was in great pain.<sup>1652</sup>

492. [REDACTED].<sup>1653</sup> [REDACTED].<sup>1654</sup>

493. [REDACTED]. [REDACTED].<sup>1655</sup>

### Events following the killings in Deleig

#### Intelligence reports concerning the Deleig incident

494. About one or two days after [REDACTED] Military Intelligence officer [REDACTED] to accompany **ABD-AL-RAHMAN**'s convoy, [REDACTED] at the Military Intelligence Office in Garsila. [REDACTED] was distressed and upset, and [REDACTED] about the execution he had witnessed to the northwest of Deleig, as described above.<sup>1656</sup> [REDACTED] immediately informed Major BAKHIT, [REDACTED]. The following day, [REDACTED] returned and gave a full account of what he had witnessed to [REDACTED] Major BAKHIT.<sup>1657</sup>

495. On that day, [REDACTED] the Military Intelligence officer based in Deleig, [REDACTED]. [REDACTED] stated in his report that he had counted 101 detained displaced

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<sup>1647</sup> See above, paras. 409-416, 420-426, 432-433, 444-445, 473-488, 502.

<sup>1648</sup> See below, paras. 535-536.

<sup>1649</sup> See above, para. 462.

<sup>1650</sup> See above, paras. 457-459. [REDACTED].

<sup>1651</sup> [REDACTED].

<sup>1652</sup> [REDACTED].

<sup>1653</sup> See above, para. 460.

<sup>1654</sup> [REDACTED].

<sup>1655</sup> [REDACTED].

<sup>1656</sup> See above, para. 456.

<sup>1657</sup> [REDACTED].

persons being taken away by **ABD-AL-RAHMAN** to the northwest of Deleig where, according to his intelligence sources, they were executed.<sup>1658</sup>

496. [REDACTED] Major BAKHIT, and the two of them took the report to the high-ranking GoS delegation that was visiting the SAF base in Garsila at that time: Major General FA'IZ, Brigadier General KHAMIS and Major General ABBAS.<sup>1659</sup> Brigadier General KHAMIS told Major BAKHIT that, "This is a war and such incidents happen" and qualified the incident as "collateral damage".<sup>1660</sup> Major General FA'IZ became furious and ordered Major BAKHIT to immediately summon the Military Intelligence officer who had written the report, [REDACTED].<sup>1661</sup>

497. [REDACTED] was brought from Deleig, and Major General FA'IZ then took steps to confirm that the handwriting on the intelligence report was his.<sup>1662</sup> Shortly afterwards, the GoS delegation departed from the SAF base by helicopter to Al Fasher.<sup>1663</sup> Major General FA'IZ took the original intelligence report, while Major BAKHIT retained a copy.<sup>1664</sup>

498. [REDACTED] ABD-AL-MUN'IM and MANSUR (the two Military Intelligence officers who accompanied HAMDI's convoy), and the intelligence report of Abubakar BAKHIT (the Military Intelligence officer stationed in Deleig). According to this intelligence, HAMDI and **ABD-AL-RAHMAN**'s convoys joined in Deleig. On **ABD-AL-RAHMAN**'s orders, HAMDI and his subordinates from the SAF, together with **ABD-AL-RAHMAN** and his Militia/*Janjaweed*, carried out a "joint crackdown" on young males who had been displaced to Deleig from villages such as Arawala, Gaba and Forgo.<sup>1665</sup>

499. According to the intelligence [REDACTED] MANSUR and ABD-AL-MUN'IM assisted **ABD-AL-RAHMAN** and HAMDI to target and arrest these displaced young males by identifying those from the region of Arawala, where they had previously been deployed.<sup>1666</sup> The young males were arrested and detained at the Deleig police station. 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

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<sup>1658</sup> [REDACTED].

<sup>1659</sup> [REDACTED]. *See above*, para. 417.

<sup>1660</sup> [REDACTED].

<sup>1661</sup> [REDACTED].

<sup>1662</sup> [REDACTED].

<sup>1663</sup> [REDACTED].

<sup>1664</sup> [REDACTED].

<sup>1665</sup> [REDACTED].

<sup>1666</sup> [REDACTED].

coordinator Jenif, which was carried out. All three were arrested and later executed.<sup>1667</sup> Subsequently, on the orders of **ABD-AL-RAHMAN**, 101 detainees were loaded onto vehicles, driven outside of Deleig, and executed by **ABD-AL-RAHMAN**'s men, on his orders.<sup>1668</sup>

#### Destruction of mass graves and execution sites

500. Sometime after the Deleig incident, mass graves and execution sites in the areas surrounding Deleig were intentionally destroyed to remove evidence of the crimes,<sup>1669</sup> with the involvement of **ABD-AL-RAHMAN**.<sup>1670</sup>

#### ABD-AL-RAHMAN's interview with a GoS investigation committee in 2006

501. When questioned by a GoS investigation committee in November 2006, **ABD-AL-RAHMAN** stated that after they got close to the camp of Abd-Al-Wahid Muhammad NUR (leader of the SLA/M<sup>1671</sup>) in Sindu, NUR and the rebels went to Deleig with their weapons. Instructions were received from Major General ABBAS and Major General FA'IZ to surround and search Deleig, and to capture NUR. The search was led by HAMDI and Seif-Al-Din BAKHIT (head of Military Intelligence from the SAF 96<sup>th</sup> Brigade in Zalingei<sup>1672</sup>). They searched the area but did not find NUR, though some weapons were seized and transferred to Garsila. A second search was ordered in the same way as the first and under the same command. **ABD-AL-RAHMAN** stated that: "In this search, nobody was arrested, but we did take some weapons". He also stated: "We did not select 100 people in the area".<sup>1673</sup>

502. In relation to *Umdah* Jiddo Khamis, **ABD-AL-RAHMAN** stated that he had known him for a long time and that he never saw *Umdah* Jiddo Khamis at any battle. He stated that *Umdah* Jiddo Khamis was a Fur *umdah*, that "[t]hey are the ones leading the rebellion", and that he did not know where he was presently. **ABD-AL-RAHMAN** stated: "I have never detained any Fur *umdah*. I do not have a [prison]. I just take all my orders from the commanders, who are the commanders for the mobile force." He further stated: "As for prisoners, they were the

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<sup>1667</sup> [REDACTED].

<sup>1668</sup> [REDACTED].

<sup>1669</sup> P-0885, [DAR-OTP-0222-0749-R01](#) at 0767-0768, l. 597-634, and [DAR-OTP-0222-0832-R01](#) at 0837, l. 138-144; P-0955, [DAR-OTP-0220-0620-R02](#) at 0631-0632, para. 49; P-0712, [DAR-OTP-0209-1884-R02](#) at 1898, paras. 53-54; P-0116, [DAR-OTP-0127-0318-R01](#) at 0352, para. 176; P-0671, [DAR-OTP-0206-0105-R02](#) at 0119, para. 58. *See also* para. 78 above.

<sup>1670</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0089, paras. 162-164; P-1018, [DAR-OTP-0221-1535-R01](#) at 1541-1543, l. 185-192, 208-284.

<sup>1671</sup> *See above*, para. 41.

<sup>1672</sup> P-0883, [DAR-OTP-0218-0059-R01](#) at 0075, para. 77.

<sup>1673</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6917).

commander's responsibility. The commander is always the one who gives orders, and we obey him. We do not act of our own accord. The truth is that no prisoners were ever held."<sup>1674</sup>

At least 137 Fur males were killed between about 5 and about 7 March 2004

503. At least 137 Fur males were killed between about 5 and about 7 March 2004 during the Deleig incident.<sup>1675</sup> The Prosecution has established the identities of 137 of these persons, and Annex 23 to this TB lists the evidence proving their deaths.<sup>1676</sup> The totality of the evidence, assessed in the overall context, demonstrates that the total number of persons killed during the Deleig incident was at least 137. This evidence includes the following:

- a. [REDACTED].<sup>1677</sup> [REDACTED].<sup>1678</sup>
- b. [REDACTED],<sup>1679</sup> who states that the detainees outside the police station were loaded onto **ABD-AL-RAHMAN**'s vehicle in groups of about 25, driven outside of Deleig, and the vehicles then returned empty each time. [REDACTED] saw four such transports.<sup>1680</sup>
- c. [REDACTED], who states that he saw four batches of detainees driven away from the police station, containing about 100 detainees in total.<sup>1681</sup>
- d. [REDACTED], who states that the detainees outside the police station were loaded in groups of 25 to 27 onto a vehicle, which made three trips and returned empty of detainees each time. [REDACTED].<sup>1682</sup> The vehicle drove to an execution site near Koska outside of Deleig where the men were unloaded and shot. [REDACTED].<sup>1683</sup> As detailed above, Abdallah Mussa was severely injured, and later died after returning to Deleig.<sup>1684</sup>

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<sup>1674</sup> **ABD-AL-RAHMAN**'s GoS Interview, [DAR-OTP-0218-0386](#) (Translation at [DAR-OTP-0219-6910](#) at 6917).

<sup>1675</sup> Of these, 33 names were listed in Annex 1 to the Confirmation Decision, and the remaining 104 are established by evidence obtained by the Prosecution since the DCC was filed. See [Annex 1 to Confirmation Decision](#), p. 4. Although the list contained 34 entries, the Prosecution has obtained new evidence since the confirmation of charges establishing that entries 7 and 18 in fact relate to one person (Jenif).

<sup>1676</sup> Annex 23, Non-exhaustive list of persons killed in Deleig and surrounding areas.

<sup>1677</sup> [REDACTED].

<sup>1678</sup> [REDACTED].

<sup>1679</sup> [REDACTED].

<sup>1680</sup> [REDACTED].

<sup>1681</sup> [REDACTED].

<sup>1682</sup> [REDACTED].

<sup>1683</sup> [REDACTED].

<sup>1684</sup> See above, para. 461.

- e. [REDACTED]. [REDACTED]. [REDACTED]. [REDACTED]. Among them, he found Abdallah Mussa, [REDACTED] who later died.<sup>1685</sup> [REDACTED].<sup>1686</sup>
- f. P-0651, who observed that between 150 and 200 detainees were lying face down outside the police station, and that the process of loading vehicles and the vehicles returning empty was repeated at least twice until all of the detainees were gone.<sup>1687</sup>
- g. [REDACTED], who saw the detainees outside the police station loaded in three groups of about 70, about 90 and about 40 detainees onto nine vehicles. The vehicles drove out of Deleig and returned empty of detainees, except for the final time when the vehicles returned with about half of the detainees.<sup>1688</sup>
- h. [REDACTED], who states that he was detained with 170 people outside of the police station and that, over several days, names were called out and the persons who responded were loaded onto vehicles. [REDACTED].<sup>1689</sup>
- i. [REDACTED], who states that the detainees outside the police station were loaded onto vehicles in groups of 20, and when the vehicles returned empty the process was repeated. He estimates that approximately 116 people were killed.<sup>1690</sup>
- j. [REDACTED], who observed many people, possibly over 100, lying face down outside the police station. These people were loaded in groups of seven or eight onto the backs of many vehicles, which returned empty and the process was repeated multiple times.<sup>1691</sup>
- k. [REDACTED], who saw a vehicle carrying 16 or 17 males drive out of Deleig and return empty of detainees after approximately 30 minutes. He then saw another vehicle carrying 16 or 17 males drive out in the same direction and again return empty of detainees after some time. [REDACTED] saw the vehicles going and coming back four times on this day.<sup>1692</sup>

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<sup>1685</sup> [REDACTED]. *See also*, paras. 457-461 above.

<sup>1686</sup> [REDACTED].

<sup>1687</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0029-0030, paras. 49-53.

<sup>1688</sup> [REDACTED].

<sup>1689</sup> [REDACTED].

<sup>1690</sup> [REDACTED].

<sup>1691</sup> [REDACTED].

<sup>1692</sup> [REDACTED].

- l. P-1018, [REDACTED],<sup>1693</sup> who compiled a list of 116 persons killed during the Deleig incident [REDACTED].<sup>1694</sup>
- m. [REDACTED],<sup>1695</sup> [REDACTED] indicating that 101 persons had been detained and killed during the operation.<sup>1696</sup>
- n. [REDACTED], states that 109 persons were executed in the area of Fere near Deleig.<sup>1697</sup>
- o. Several Prosecution witnesses, who give additional estimates of the number of vehicles loaded, and the number of trips these vehicles made on Friday, 5 March 2004.<sup>1698</sup>
- p. Several other Prosecution witnesses, who state that they discovered dead bodies in separate locations outside of Deleig: near Tolda mountain (between 20 and more than 40 bodies)<sup>1699</sup> and Koska mountain to the south (about 20 bodies),<sup>1700</sup> and near Fere village to the west (13 to 15 bodies).<sup>1701</sup>
- q. Lists compiled or collected by several organisations, including the United Nations Commission of Inquiry on Darfur (“UNCOI”), containing the names of between 120 and 131 persons killed in Deleig/Wadi Salih between 5 and 7 March 2004.<sup>1702</sup>

<sup>1693</sup> P-1018, [DAR-OTP-0221-1530-R01](#) at 1532, l. 12-14, and [DAR-OTP-0221-1535-R01](#) at 1537, l. 11-13 and 1543-1544, l. 288-331.

<sup>1694</sup> P-1018, [DAR-OTP-0221-1545-R01](#) at 1547-1548, l. 13-39 and 1552-1555, l. 197-238, 264-330 and 1557, l. 431-502, and [DAR-OTP-0221-1561-R01](#) at 1563-1570, l. 18-284 and 1573-1574, l. 394-428; [DAR-OTP-0219-9002](#) (Translation at [DAR-OTP-0219-9405](#)); [DAR-OTP-0219-9003](#) (Translation at [DAR-OTP-0219-9407](#)); [DAR-OTP-0219-9004](#) (Translation at [DAR-OTP-0219-9409](#)); [DAR-OTP-0219-9005](#) (Translation at [DAR-OTP-0219-9411](#)). *See also* P-0714, [DAR-OTP-0209-1916-R03](#) at 1939-1940, para. 82 (in relation to P-1018’s creation of a list with assistance from others).

<sup>1695</sup> [REDACTED].

<sup>1696</sup> *See above*, paras. 494-499.

<sup>1697</sup> [REDACTED].

<sup>1698</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, paras. 52-55 (seven trucks were loaded with detainees, of which three returned empty and were reloaded); P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, paras. 56-57; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, para. 16 (five vehicles were loaded with detainees); P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, paras. 70-74 (vehicles loaded with detainees left four times); P-0607, [DAR-OTP-0203-0164-R02](#) at 0179-0180, paras. 53-55 (vehicles were loaded with detainees three times); P-0106, [DAR-OTP-0116-1005-R02](#) at 1019-1020, paras. 72-73 (vehicles loaded with detainees made several trips); P-0591, [DAR-OTP-0202-0026-R02](#) at 0050-0052, paras. 91-96 (three vehicles, at least two trips each).

<sup>1699</sup> P-0651, [DAR-OTP-0205-0015-R02](#) at 0031, paras. 56-58; P-0651, Annex B, [DAR-OTP-0205-0042](#) (Translation at [DAR-OTP-0219-1687](#) at 1689); P-0671, [DAR-OTP-0206-0105-R02](#) at 0118-0119, paras. 51-56.

<sup>1700</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1940, para. 84; P-0714, Annex D, [DAR-OTP-0209-1953-R01](#).

<sup>1701</sup> P-0697, [DAR-OTP-0209-0155-R02](#) at 0169-0170, paras. 60-61.

<sup>1702</sup> 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.

- r. The conclusion of the UNCOI that over 120 men were killed during the Deleig incident.<sup>1703</sup>
- s. Approximations given by multiple other Prosecution witnesses of the total number of persons killed during the Deleig incident, ranging from 116 to 153.<sup>1704</sup>

504. 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.<sup>1705</sup>

505. Based on the facts set out in paragraphs 427 to 441, and 448 to 466, it is the only reasonable inference that the perpetrators were aware of the factual circumstances that established the status of the victims as *hors de combat* or civilians.

### ***Count 31: Persecution as a crime against humanity***

506. This section should be read in conjunction with Section F (Persecution), in particular, paragraphs 199 to 203 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.

### **3) ABD-AL-RAHMAN's individual criminal responsibility**

507. **ABD-AL-RAHMAN** is criminally responsible for the charged crimes under article 25(3)(a) (direct perpetration and co-perpetration), and/or article 25(3)(b) (ordering and/or inducing). In addition, he is responsible for the crime of attempted murder pursuant to article 25(3)(f). This section should be read in conjunction with Section E (Common elements of modes of individual criminal responsibility).

### ***Co-perpetration under article 25(3)(a) of the Rome Statute***

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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 Annex 17, Non-exhaustive list of persons killed outside of Mukjar.

<sup>1703</sup> [DAR-OTP-0018-0010](#) at 0078, para. 275.

<sup>1704</sup> P-0059, [DAR-OTP-0095-0095-R02](#) at 0115, para. 129 (153); P-0119, [DAR-OTP-0124-0196-R02](#) at 0214-0215, para. 116 (135); P-0592, [DAR-OTP-0209-0825-R02](#) at 0841, para. 92 (125); P-0617, [DAR-OTP-0202-1496-R02](#) at 1526, para. 85 (116); P-0129, [DAR-OTP-0128-0128-R04](#) at 0151, para. 86 (128); P-0091, [DAR-OTP-0112-0142-R03](#) at 0163, para. 102 (123).

<sup>1705</sup> See above, para. 441.

i) *ABD-AL-RAHMAN* was part of a common plan or an agreement with one or more persons

508. **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.

509. 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.

510. Other persons sharing the Deleig Common Plan included Military Intelligence officer HAMDI, Military Intelligence officers MANSUR and ABD-AL-MUN’IM, PDF officer HASSABALLAH, and other members of the Militia/*Janjaweed* and GoS Forces.

511. 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.

512. As detailed above, HAMDI led a convoy which deployed from the SAF base in Garsila and joined **ABD-AL-RAHMAN** in Deleig, where together they carried out the Deleig operation.<sup>1706</sup> HAMDI was seen in Deleig on or about 5 March 2004 at the local SAF base,<sup>1707</sup> which was about 150 to 200 metres from the police station,<sup>1708</sup> and at the open area near the police station where the Fur males were detained.<sup>1709</sup> Along with the forces under his command,<sup>1710</sup> HAMDI participated in arrests<sup>1711</sup> and was seen in the passenger seat of one of the vehicles transporting detainees to execution sites.<sup>1712</sup>

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<sup>1706</sup> [REDACTED].

<sup>1707</sup> [REDACTED].

<sup>1708</sup> [REDACTED].

<sup>1709</sup> P-0060, [DAR-OTP-0097-0328-R02](#) at 0342, para. 53; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R03](#) at 1934-1935, para. 66; P-0617, [DAR-OTP-0202-1496-R02](#) at 1524-1525, paras. 81, 83; P-1018, [DAR-OTP-0221-1535-R01](#) at 1539, l. 92-96. *See also* P-0994, [DAR-OTP-0222-0055-R01](#) at 0069, para. 66.

<sup>1710</sup> [REDACTED].

<sup>1711</sup> [REDACTED].

<sup>1712</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1936-1937, para. 73.



513. MANSUR travelled in HAMDI's convoy that deployed from Garsila to Deleig.<sup>1713</sup> He was present in Deleig on or about 5 March 2004<sup>1714</sup> and was involved in arrests.<sup>1715</sup> [REDACTED] MANSUR, saw MANSUR with **ABD-AL-RAHMAN** in the open area outside Deleig police station. [REDACTED] MANSUR stayed at the police station all day, did not beat people, and left only in the evening with **ABD-AL-RAHMAN**.<sup>1716</sup>

514. ABD-AL-MUN'IM, along with **ABD-AL-RAHMAN**'s [REDACTED], brought *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis and Jenif to be detained at the Military Intelligence Office in Garsila after the Security Committee meeting.<sup>1717</sup> He was present when **ABD-AL-RAHMAN** arrived at the SAF base in Garsila on or about 5 March 2004 and took custody of several detainees, including *Sheikh* Ismail Abdulaziz, *Umdah* Mohamed Suleiman and Hassan Adam Musa, who he then transported to Deleig.<sup>1718</sup> ABD-AL-MUN'IM travelled to Deleig in HAMDI's convoy.<sup>1719</sup> In Deleig, ABD-AL-MUN'IM assisted **ABD-AL-RAHMAN** and HAMDI to target and arrest displaced young males by identifying those from the region of Arawala, where he had previously been deployed.<sup>1720</sup> ABD-AL-MUN'IM was seen at the Deleig police station during the operation,<sup>1721</sup> and [REDACTED] states that he participated in the rounding up of civilians.<sup>1722</sup>

515. ABD-ALMUN'IM was also present in Deleig on or about 7 March 2004. Along with **ABD-AL-RAHMAN**'s other men, he took *Umdah* Adam Kindiri, *Umdah* Jiddo Khamis, *Umdah* Mohamed Suleiman, *Sheikh* Ismail Abdulaziz and Hassan Adam Musa out of Deleig police station, drove them out of Deleig, and returned a short time later without the detainees.<sup>1723</sup> Based on the relevant facts,<sup>1724</sup> and in the overall context of the Deleig operation, it can reasonably be inferred that ABD-AL-MUN'IM had knowledge and involvement in the killing of this group of detainees in a location outside of Deleig on or about 7 March 2004.

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<sup>1713</sup> [REDACTED].

<sup>1714</sup> P-0027, [DAR-OTP-0094-0091-R02](#) at 0105, para. 56; P-0617, [DAR-OTP-0202-1496-R02](#) at 1524-1525, paras. 81-83, 1529-1530, para. 92 and 1533, paras. 102-103; P-0924, [DAR-OTP-0218-0455-R02](#) at 0466-0467, paras. 59-60.

<sup>1715</sup> P-0617, [DAR-OTP-0202-1496-R02](#) at 1529-1530, para. 92 and 1533, paras. 102-103; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083\_01-0084, paras. 133, 136.

<sup>1716</sup> [REDACTED].

<sup>1717</sup> [REDACTED].

<sup>1718</sup> [REDACTED].

<sup>1719</sup> [REDACTED].

<sup>1720</sup> [REDACTED].

<sup>1721</sup> P-0980, [DAR-OTP-0221-0553-R01](#) at 0559, para. 28.

<sup>1722</sup> [REDACTED].

<sup>1723</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0425, para. 40 and 0427-0428, paras. 52-57.

<sup>1724</sup> See above, paras. 409-416, 420-426, 473-488.

516. HASSABALLAH travelled in the convoys of **ABD-AL-RAHMAN** and HAMDI that deployed from Garsila to Deleig on or about 5 March 2004.<sup>1725</sup> In coordination with **ABD-AL-RAHMAN** and HAMDI, HASSABALLAH led the PDF during the Deleig operation.<sup>1726</sup> He was present in Deleig, including at the open area near the police station where the Fur males were detained.<sup>1727</sup> Along with other members of the PDF, he participated in the arrests and rounding up of displaced persons,<sup>1728</sup> and generally assisted **ABD-AL-RAHMAN** during the operation.<sup>1729</sup> 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.<sup>1730</sup>

517. HASSABALLAH beat PDF coordinator Jenif at the open area near Deleig police station.<sup>1731</sup> [REDACTED], [REDACTED] **ABD-AL-RAHMAN** against Jenif, because he wanted to remove him to become the PDF coordinator himself.<sup>1732</sup> **ABD-AL-RAHMAN** killed Jenif in Deleig in the presence of HASSABALLAH.<sup>1733</sup> HAMDI later appointed HASSABALLAH as PDF coordinator.<sup>1734</sup>

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*

518. **ABD-AL-RAHMAN** made an essential contribution to the Deleig Common Plan and the charged crimes through the conduct described below. Annex 24 contains a diagram depicting **ABD-AL-RAHMAN**'s contributions.<sup>1735</sup>

519. As detailed in the following section, this conduct includes **ABD-AL-RAHMAN**'s approving presence during the search and arrest operation in Deleig, at the open area near Deleig police station where the Fur males were being detained, during the loading of detainees onto vehicles that transported them to locations outside of Deleig where they were killed or attempted to be killed, and at one or more of the locations outside of Deleig where detainees

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<sup>1725</sup> [REDACTED].

<sup>1726</sup> [REDACTED].

<sup>1727</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0905, [DAR-OTP-0219-6463-R01](#) at 6480-6481, l. 573-628, and [DAR-OTP-0219-6648-R01](#) at 6680, l. 1077-1092 and 6684, l. 1245-1246; P-0987, [DAR-OTP-0221-0416-R01](#) at 0422, para. 26; P-0994, [DAR-OTP-0222-0055-R01](#) at 0069-0070, paras. 68, 71.

<sup>1728</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0423, para. 29.

<sup>1729</sup> P-0994, [DAR-OTP-0222-0055-R01](#) at 0069, para. 68.

<sup>1730</sup> [REDACTED].

<sup>1731</sup> [REDACTED].

<sup>1732</sup> [REDACTED].

<sup>1733</sup> [REDACTED].

<sup>1734</sup> [REDACTED].

<sup>1735</sup> Annex 24, **ABD-AL-RAHMAN**'s contributions to the Deleig Common Plan.

were transported and then killed. **ABD-AL-RAHMAN**'s conspicuous presence at these places and times contributed to the implementation of the Deleig Common Plan, due to his position of authority and influence,<sup>1736</sup> since his failure to intervene or protest criminal acts exhibited his encouragement and tacit approval of the other co-perpetrators' conduct.

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

520. This conduct is described above at paragraphs 411 to 416 and 420 to 426.

b. Ordering, being present during, and participating in the search and arrest operation in Deleig

521. **ABD-AL-RAHMAN** ordered, was present during, and participated in the search and arrest operation at several locations in Deleig.

522. **ABD-AL-RAHMAN** 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.<sup>1737</sup> As described above, **ABD-AL-RAHMAN** personally participated in the search for and violent arrests of *Umdah* Adam Kindiri<sup>1738</sup> and PDF coordinator Jenif.<sup>1739</sup>

523. 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.<sup>1740</sup> 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.<sup>1741</sup>

524. 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". [REDACTED]. One of the vehicles already carried three or four detainees, and males from other shelters were also arrested and placed in the vehicles.<sup>1742</sup>

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<sup>1736</sup> See below, paras. 543-548.

<sup>1737</sup> [REDACTED].

<sup>1738</sup> See above, para. 432.

<sup>1739</sup> See above, para. 433.

<sup>1740</sup> P-0697, [DAR-OTP-0209-0155-R02](#) at 0167-0168, paras. 52, 55. [REDACTED]. See P-0697, [DAR-OTP-0209-0155-R02](#) at 0158-0159, paras. 15-18.

<sup>1741</sup> P-0697, [DAR-OTP-0209-0155-R02](#) at 0167-0168, paras. 53-54.

<sup>1742</sup> [REDACTED].

525. 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 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.<sup>1743</sup>

526. **ABD-AL-RAHMAN** also brought arrested males to the open area near the police station.<sup>1744</sup>

c. Being present in the open area near Deleig police station where the Fur males were being detained

527. **ABD-AL-RAHMAN** was present at the open area near the police station where the Fur males were being detained.<sup>1745</sup> He was also present inside the police station.<sup>1746</sup>

d. Inspecting and questioning detainees, and deciding whether they would be released or not

528. **ABD-AL-RAHMAN** inspected new batches of detainees arriving at the open area near the police station.<sup>1747</sup> **ABD-AL-RAHMAN** also questioned detainees, and decided whether they would be released or not. For example:

a. [REDACTED] 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 [REDACTED]. However,

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<sup>1743</sup> [REDACTED].

<sup>1744</sup> P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0994, [DAR-OTP-0222-0055-R01](#) at 0063, para. 36. [REDACTED]. [REDACTED].

<sup>1745</sup> P-0092, [DAR-OTP-0112-0175-R02](#) at 0196, para. 88; P-0591, [DAR-OTP-0202-0026-R02](#) at 0045-0046, paras. 69, 72 and 0051, para. 92; P-0718, [DAR-OTP-0209-2004-R02](#) at 2013, para. 62; P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, para. 43; P-0027, [DAR-OTP-0216-0738-R02](#) at 0741, paras. 15-16; P-0607, [DAR-OTP-0203-0164-R02](#) at 0177-0178, paras. 47, 49; P-0879, [DAR-OTP-0217-0033-R02](#) at 0048, para. 75; P-0714, [DAR-OTP-0209-1916-R03](#) at 1935-1936, para. 69; P-0907, [DAR-OTP-0220-0668-R02](#) at 0676, para. 45; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743-0744, paras. 31, 37; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0423, para. 23, 25, 28, 31; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065-0068, paras. 47, 51, 56, 59; P-0980, [DAR-OTP-0221-0553-R01](#) at 0558-0559, paras. 27-28; P-0924, [DAR-OTP-0218-0455-R02](#) at 0466-0469, paras. 59, 61, 64-67, 70-73; P-0651, [DAR-OTP-0205-0015-R02](#) at 0028-0029, paras. 45-48; P-0584, [DAR-OTP-0200-1540-R02](#) at 1568-1570, paras. 103-110.

<sup>1746</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1569, para. 107; P-0905, [DAR-OTP-0219-6648-R01](#) at 6680-6681, l. 1101-1120, and 6689-6691, l. 1414-1417, 1447-1461; P-0987, [DAR-OTP-0221-0416-R01](#) at 0423, paras. 32-33; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 48; P-0973, [DAR-OTP-0220-0736-R01](#) at 0745, para. 40.

<sup>1747</sup> P-0607, [DAR-OTP-0203-0164-R02](#) at 0178, para. 50; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, para. 23.

he refused to release [REDACTED]. Instead, he ordered the Militia/*Janjaweed* to put them where the other detainees were lying on the ground. [REDACTED].<sup>1748</sup>

- b. [REDACTED], was informed that a former [REDACTED] was among the men detained at the open area near the police station. [REDACTED] told the Militia/*Janjaweed* to release [REDACTED] but they refused, claiming he was a rebel. [REDACTED] took [REDACTED] hand and pulled him out of the group of detainees, while arguing with the Militia/*Janjaweed*. When **ABD-AL-RAHMAN** noticed the situation, he asked [REDACTED] about the problem. [REDACTED] told **ABD-AL-RAHMAN** that he knew [REDACTED] and that he was a [REDACTED]. **ABD-AL-RAHMAN** told [REDACTED] as well as any other detainees that he knew. As [REDACTED], he did not know many of the detainees so he told his [REDACTED]. As a result, most of the detainees were released leaving behind about 100 men who [REDACTED] believed were people displaced to Deleig.<sup>1749</sup>
- c. [REDACTED], saw and heard a police officer telling **ABD-AL-RAHMAN** that some [REDACTED] from the secondary school in Deleig had been mistakenly arrested as they were not among the displaced people seeking refuge. **ABD-AL-RAHMAN** replied that he knew [REDACTED]. **ABD-AL-RAHMAN** told the police officer to take [REDACTED] to the cell to identify his [REDACTED] so that they could be released, and this subsequently occurred.<sup>1750</sup>
- d. [REDACTED], saw **ABD-AL-RAHMAN** come to the cell door and ask, “[REDACTED]”. [REDACTED] raised their hands, and **ABD-AL-RAHMAN** ordered them to leave the cell. **ABD-AL-RAHMAN** asked them, “what is your name and where are you from?” [REDACTED] named villages that were considered part of [REDACTED]. **ABD-AL-RAHMAN** said they would be taken to the house of the *Umdah* of [REDACTED] to confirm [REDACTED]. **ABD-AL-RAHMAN** said, “if you are from [REDACTED] you will be freed, if you are not you will be killed”.<sup>1751</sup> The *Umdah* of [REDACTED] was not home but his son said he knew the two men. **ABD-AL-RAHMAN** said this was not good enough. The vehicle drove to another area where **ABD-AL-RAHMAN** ordered his men to detain

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<sup>1748</sup> [REDACTED].

<sup>1749</sup> [REDACTED].

<sup>1750</sup> [REDACTED].

<sup>1751</sup> [REDACTED].

the males until the *Umdah* arrived to confirm they were from [REDACTED], and if he did not know them then to kill them both.<sup>1752</sup>

- e. [REDACTED] **ABD-AL-RAHMAN** to release his [REDACTED], explaining that [REDACTED] and he was not a rebel. **ABD-AL-RAHMAN** accepted to release [REDACTED], and instructed him to get off the back of the vehicle, which he did.<sup>1753</sup>

- e. Killing three Fur males by striking them to the head with a stick or axe-like object

529. This conduct is described above at paragraphs 443 to 447.

- 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

530. This conduct is described above at paragraphs 432 to 434, 438 and 443 to 447.

- g. 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

531. This conduct is described above at paragraphs 448 to 453.

- h. Ordering the Militia/*Janjaweed* and/or GoS Forces to unload and then shoot and kill detained Fur males at one location outside of Deleig

532. This conduct is described above at paragraphs 454 to 456.

- i. Being present at one or more of the locations outside of Deleig where detainees were transported and then killed

533. This conduct is described above at paragraphs 454 to 456.

- iii) *ABD-AL-RAHMAN had knowledge and intent as prescribed by article 30 and specific to the crimes*

534. **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 Deleig Common Plan. **ABD-AL-RAHMAN** was aware that the Deleig Common Plan involved an element of criminality.

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<sup>1752</sup> [REDACTED].

<sup>1753</sup> [REDACTED].

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.

535. **ABD-AL-RAHMAN**'s knowledge and intent is inferred from his close relationship with his co-perpetrators **HAMD**I, **HASSABALLAH**, **MANSUR** and **ABD-AL-MUN'IM** (paragraphs 134, 148, 156 to 160, and 168), direct perpetration of certain crimes (paragraphs 537 to 541), orders to perpetrators to commit crimes (paragraphs 542 to 549), presence at locations where crimes were being committed (paragraphs 432 to 434, 438, 448 to 453, and 521 to 527), participation in the arrests and questioning of detainees (paragraph 521 to 526, and 528), and presence and involvement in the attack on **Kodoom**, **Bindisi** and surrounding areas in August 2003 (with **HASSABALLAH**),<sup>1754</sup> and in the arrests and killings in **Mukjar** and surrounding areas in the days or weeks preceding the charged crimes in **Deleig** (with **HASSABALLAH** and **HAMD**I).<sup>1755</sup>

536. 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 Abdulshafa** and **Hassan Adam Musa**, their transport to **Deleig** where more than 100 **Fur** males were arrested, detained and killed;<sup>1756</sup>
- b. **ABD-AL-RAHMAN**'s reaction to the news that *Umdah* **Adam Kindiri**, *Umdah* **Jiddo Khamis** and **Jenif** had been released in **Garsila**, and his subsequent orders to arrest them in **Deleig**, which were complied with;<sup>1757</sup>
- c. **ABD-AL-RAHMAN**'s direct participation in the arrest and mistreatment of *Umdah* **Adam Kindiri** in **Deleig**;<sup>1758</sup>
- d. **ABD-AL-RAHMAN**'s direct participation in the arrest and mistreatment, and then killing or serious injury of **Jenif** in **Deleig**;<sup>1759</sup>

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<sup>1754</sup> See Section G, Crimes committed in **Kodoom**, **Bindisi** and surrounding areas.

<sup>1755</sup> See Section H, Crimes committed in **Mukjar** and surrounding areas.

<sup>1756</sup> See above, paras. 411-416, 420-426.

<sup>1757</sup> See above, paras. 420, 522.

<sup>1758</sup> See above, para. 432.

<sup>1759</sup> See above, paras. 433, 445.

- e. **ABD-AL-RAHMAN**'s direct participation in the killing of another community leader, *Sheikh Motor* of Massa village, in Deleig;<sup>1760</sup>
- f. **ABD-AL-RAHMAN**'s presence at the Deleig police station on or about 7 March 2004 and the involvement of **ABD-AL-RAHMAN** and/or his men in taking the five detainees out of the police station;<sup>1761</sup>
- g. **ABD-AL-RAHMAN**'s presence in the convoy of vehicles carrying the detainees in Deleig on or about 7 March 2004;<sup>1762</sup>
- h. **ABD-AL-RAHMAN**'s presence in Deleig when the vehicle, driven by persons under his command, drove the detainees out of Deleig and returned without them;<sup>1763</sup>
- i. **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;<sup>1764</sup> and
- j. **ABD-AL-RAHMAN**'s prior involvement in the killings of several Fur community leaders in Mukjar in late February/early March 2004, just days or weeks prior to the events in Deleig.<sup>1765</sup>

***Direct perpetration under article 25(3)(a) of the Rome Statute***

537. As described at paragraphs 443 to 447 above, **ABD-AL-RAHMAN** directly perpetrated the crimes of murder as a crime against humanity and a war crime (Counts 27-28) by striking three Fur male detainees—*Sheikh Adam Adam Abd-Al-Rahman* (known as Motor), Adam Abd-Al-Rahman (the PDF coordinator in Garsila known as Jenif), and Musa Youssef—to the head with a stick or axe-like object, killing them.

538. In the event that the evidence adduced at trial does not establish that each of these three persons died as a consequence of **ABD-AL-RAHMAN**'s conduct in striking them to the head with a stick or axe-like object, then **ABD-AL-RAHMAN** would nonetheless be responsible for their murders as a direct co-perpetrator or for ordering or inducing their murders. In that case, **ABD-AL-RAHMAN** would also be responsible, as a direct perpetrator, for the crimes of torture as a crime against humanity and a war crime (Counts 22-23), other inhumane acts as a

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<sup>1760</sup> See above, para. 444.

<sup>1761</sup> See above, paras. 475-478.

<sup>1762</sup> See above, paras. 479-485.

<sup>1763</sup> See above, paras. 476-485.

<sup>1764</sup> See above, paras. 423, 488.

<sup>1765</sup> See Section H, Crimes committed in Mukjar and surrounding areas.



crime against humanity (Count 24), cruel treatment as a war crime (Count 25), and/or outrages upon personal dignity as a war crime (Count 26) for his conduct in relation to these three victims.

539. As described at paragraphs 432 to 434, 438, and 443 to 447 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.

540. Through this conduct, **ABD-AL-RAHMAN** also directly perpetrated the crime against humanity of persecution (Count 31).

541. **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*

542. As detailed above at paragraphs 454 to 456, 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 against humanity and a war crime (Counts 29-30), and persecution as a crime against humanity (Count 31).

543. **ABD-AL-RAHMAN** gave this order from a position of authority. As detailed in Section E, 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.<sup>1766</sup> 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

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<sup>1766</sup> See above Section E (1), **ABD-AL-RAHMAN**'s position of authority and influence.

been informal or temporary in nature. The evidence demonstrating **ABD-AL-RAHMAN**'s authority is summarised in the following paragraphs.

544. **ABD-AL-RAHMAN**'s convoy that travelled from Garsila to Deleig to carry out the operation contained members of both the Militia/*Janjaweed* and GoS Forces.<sup>1767</sup> [REDACTED].<sup>1768</sup>

545. When **ABD-AL-RAHMAN** gave orders to Militia/*Janjaweed* and/or GoS Forces during the Deleig operation—for example, to tie up an arrested person and take him to a vehicle,<sup>1769</sup> to put arrested persons into a vehicle,<sup>1770</sup> to beat detainees,<sup>1771</sup> to release or continue to detain persons,<sup>1772</sup> to bring a detainee out from a police cell,<sup>1773</sup> to bring a vehicle to load detainees,<sup>1774</sup> to load detainees into vehicles,<sup>1775</sup> to put bodies into vehicles,<sup>1776</sup> to drive detainees outside of Deleig and kill them,<sup>1777</sup> and to unload and then shoot and kill detainees<sup>1778</sup>—his orders were immediately complied with.

546. Multiple witnesses observed that **ABD-AL-RAHMAN** was in charge during the operation.<sup>1779</sup> [REDACTED], states that **ABD-AL-RAHMAN** was present throughout the operation, and he saw him giving instructions while people were being rounded up outside the police station, which made it clear that he was in charge of the operation.<sup>1780</sup> When one of the detainees challenged **ABD-AL-RAHMAN** about who he was to arrest these people and put them on the ground, [REDACTED] heard him reply, “I am the one in charge here and I do whatever I want”.<sup>1781</sup>

547. In relation to **ABD-AL-RAHMAN**'s authority during the Deleig operation, another [REDACTED], [REDACTED], states:

“I believe Ali Kushayb was commanding the Janjaweed on that day because he was the main commander, he was the one and only commander. [...] He was supervising the

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<sup>1767</sup> See above, para. 418.

<sup>1768</sup> [REDACTED].

<sup>1769</sup> [REDACTED].

<sup>1770</sup> [REDACTED].

<sup>1771</sup> [REDACTED].

<sup>1772</sup> [REDACTED].

<sup>1773</sup> [REDACTED].

<sup>1774</sup> [REDACTED].

<sup>1775</sup> [REDACTED].

<sup>1776</sup> [REDACTED].

<sup>1777</sup> [REDACTED].

<sup>1778</sup> [REDACTED].

<sup>1779</sup> [REDACTED].

<sup>1780</sup> [REDACTED].

<sup>1781</sup> [REDACTED].

Janjaweed and monitoring their work. [...] It was obvious and very clear to me that Ali Kushayb was giving instructions. [...] He was the main commander and people were approaching him, listening to his instructions. This is common knowledge. The instructions I am talking about are all the different actions that the Janjaweed carried out on that day: bringing the detainees, forcing them to lie on the ground, beating them and loading them onto the truck.”<sup>1782</sup>

548. Several other indicators signalled **ABD-AL-RAHMAN**'s status as a senior leader during the Deleig operation. The Militia/*Janjaweed* and GoS Forces came to attention and saluted him when he arrived at a location.<sup>1783</sup> They addressed him as “*Jenabu Ali*” (meaning “commander Ali”).<sup>1784</sup> In addition, **ABD-AL-RAHMAN** had an escort of protection,<sup>1785</sup> carried and used a Thuraya satellite phone,<sup>1786</sup> and held a stick or axe-like object<sup>1787</sup> signifying that he was a military leader or person of importance.<sup>1788</sup>

549. **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*

550. As detailed above at paragraphs 543 to 548, 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 518 to 533, **ABD-AL-RAHMAN** induced the Militia/*Janjaweed* and GoS Forces to commit, or attempt to commit, the crimes charged in

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<sup>1782</sup> [REDACTED].

<sup>1783</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1568, para. 105.

<sup>1784</sup> P-0584, [DAR-OTP-0200-1540-R02](#) at 1568, para. 105.

<sup>1785</sup> P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, para. 23 and 0425-0428, paras. 42, 52, 55; P-0584, [DAR-OTP-0200-1540-R02](#) at 1568, para. 106; P-0883, [DAR-OTP-0218-0059-R01](#) at 0083, para. 127; P-0935, [DAR-OTP-0218-0705-R02](#) at 0718, para. 58. *See also* P-0059, [DAR-OTP-0095-0095-R02](#) at 0113, para. 120; P-0592, [DAR-OTP-0209-0825-R02](#) at 0844-0845, paras. 107-109; P-0671, [DAR-OTP-0206-0105-R02](#) at 0119-0120, para. 59.

<sup>1786</sup> P-0591, [DAR-OTP-0202-0026-R02](#) at 0045, para. 69; P-0671, [DAR-OTP-0206-0105-R02](#) at 0116, paras. 43-44; P-0027, [DAR-OTP-0216-0738-R02](#) at 0743, para. 28; P-0584, [DAR-OTP-0200-1540-R02](#) at 1570, para. 110; P-0924, [DAR-OTP-0218-0455-R02](#) at 0466, para. 59 and 0470, para. 77; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628-0629, paras. 35-38; P-0973, [DAR-OTP-0220-0736-R01](#) at 0743, para. 32.

<sup>1787</sup> P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 68; P-0924, [DAR-OTP-0218-0455-R02](#) at 0466-0467, para. 59; P-0955, [DAR-OTP-0220-0620-R02](#) at 0628-0629, paras. 35-38; P-0714, [DAR-OTP-0209-1916-R03](#) at 1933-1934, paras. 64-65 and 1935-1936, para. 69; P-0907, [DAR-OTP-0220-0668-R02](#) at 0675-0677, paras. 46-48; P-0973, [DAR-OTP-0220-0736-R01](#) at 0742-0743, paras. 29, 33-34 and 0745, paras. 40, 43; P-0987, [DAR-OTP-0221-0416-R01](#) at 0421-0422, para. 23; P-0994, [DAR-OTP-0222-0055-R01](#) at 0065, para. 47.

<sup>1788</sup> P-0714, [DAR-OTP-0209-1916-R03](#) at 1932-1933, para. 64; P-0718, [DAR-OTP-0209-2004-R02](#) at 2014, para. 68; P-0651, [DAR-OTP-0205-0015-R02](#) at 0022-0023, para. 26.

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 534 to 536.

## **J. CONCLUSION**

551. The evidence summarised in this TB, in addition to the evidence to be adduced during the course of the trial, will prove beyond reasonable doubt that **ABD-AL-RAHMAN** is criminally responsible for Counts 1 to 31, as alleged in the DCC and confirmed by Pre-Trial Chamber II.



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**Karim A. A. Khan QC**  
**Prosecutor**

Dated this 4<sup>th</sup> day of February 2022

At The Hague, The Netherlands