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Before: Judge Cuno Tarfusser, Single Judge

SITUATION IN UGANDA

**IN THE CASE OF
*THE PROSECUTOR v. DOMINIC ONGWEN***

Public Redacted Document

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The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Benjamin Gumpert

Counsel for Dominic Ongwen

Mr Krispus Ayena Odongo

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

Unrepresented Applicants for Participation/Reparation

The Office of Public Counsel for Victims

The Office of Public Counsel for the Defence

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Herman von Hebel

Counsel Support Section

Victims and Witnesses Unit

Detention Section

Victims Participation and Reparations Section

Other

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Introduction

1. Pursuant to the order¹ of the Single Judge, the Prosecution provides notice of the charges it intends to bring against Dominic Ongwen. The charges are organised into thematic categories: attacks on internally displaced persons' camps, persecution, sexual and gender based crimes, and child soldier conscription and use. Each thematic category contains a concise statement of facts, followed by a legal characterisation of those facts. Additionally, elements of Dominic Ongwen's individual criminal responsibility common to all thematic categories and the contextual elements of the crimes are analysed separately.
2. This document is classified as "confidential" as it mentions the identities of witnesses, the disclosure of which may endanger their safety and well-being.² A public redacted version will be filed shortly.

Contextual Elements of War Crimes and Crimes Against Humanity

Concise statement of facts

3. The Lord's Resistance Army ("LRA") carried out a widespread or systematic attack directed against the civilian population of northern Uganda. This attack began prior to July 2002 and continued beyond December 2005. The conduct of Dominic Ongwen that forms the basis for the charges in this document was committed as part of this attack. As

¹ ICC-02/04-01/15-T-6-ENG.

² See article 68 of the Rome Statute and regulation 23bis of the Regulations of the Court.

a long-term member of the LRA who had held a number of command positions, Dominic Ongwen knew that his conduct was part of, or intended his conduct to be part of, this attack.

4. From at least July 2002 to December 2005, the overall objective of the LRA was the overthrow of the government of Uganda through armed rebellion. In order to achieve this objective and to sustain its activities, the LRA adopted a number of policies that were implemented throughout the organisation. The LRA adopted a policy of launching attacks on civilians, including those living in protected internally displaced persons' camps ("IDP camps"). The LRA launched these attacks, *inter alia*, to gain public notoriety, to discredit the Ugandan government, to punish civilians it perceived as being affiliated with or supporting the Ugandan government, and to obtain food and other supplies. Moreover, the LRA had a policy of ensuring a supply of soldiers for the LRA through the abduction of civilians, including children under the age of 15 years. There was also a policy of abducting women and girls to distribute them among LRA fighters to serve as domestic slaves and/or exclusive conjugal partners made, *inter alia*, to perform domestic duties and to submit to sexual intercourse. The common plans described in this document which feature Dominic Ongwen as a co-perpetrator were formed in the context of, and informed by, the above LRA-wide policies.
5. Additionally, from at least July 2002 to December 2005 an armed conflict not of an international character between the LRA and armed forces of the Government of Uganda existed in northern Uganda. During this time the LRA was an organised armed group. The Uganda People's Defence Force ("UPDF") was the regular military of Uganda. The

conduct of Dominic Ongwen that forms the basis for the charges in this document took place in the context of and was associated with this armed conflict. As a long-term member of the LRA who held a number of command positions, Dominic Ongwen was aware of the factual circumstances that established the existence of the above armed conflict.

Dominic Ongwen's Position of Authority from July 2002 to December 2005

6. This section provides a concise statement of facts pertaining to elements of command responsibility, ordering, and perpetration with and/or through another and indirect co-perpetration applicable to multiple categories of charges.

Concise statement of facts

7. From at least July 2002 to December 2005, the LRA, and the Sinia brigade in particular, was an organised and hierarchical apparatus of power. The LRA forces were divided into four brigades named Stockree, Sinia, Trinkle and Gilva, each of which was headed by a brigade commander. Some of the LRA forces from these brigades were also assigned to a "division" headed by a division commander. The leader and commander-in-chief of the LRA was Joseph Kony. His headquarters was titled Control Altar. The LRA including the Sinia brigade was based on hierarchical relations between superiors and subordinates. LRA fighters were conditioned under threat of physical punishment to obey hierarchy and to follow orders issued by superior commanders. The LRA, and the Sinia brigade in particular, was composed of sufficient subordinates to guarantee that the orders of superiors would be carried out, if not by one subordinate, then by another. During the period between July 2002 and

December 2005, Dominic Ongwen was a military commander within the LRA.

8. Ranks: During the above period, Dominic Ongwen was promoted from the rank of Major to Brigadier General. As late as December 2002, Ongwen was a Major. He was promoted to Lieutenant Colonel in November 2003, Colonel in June 2004 and Brigadier General in December 2004. Many of these promotions followed shortly after a successful attack carried out by Ongwen and his troops.

9. Units Commanded: Dominic Ongwen commanded a battalion in Sinia brigade in 2002 and 2003. In or about September 2003 he moved to Control Altar, the central command of the LRA. On or about 17 September 2003 Ongwen was appointed second-in-command of the Sinia brigade. At the time of the Pajule attack on or about 10 October 2003, Dominic Ongwen was a commander in Control Altar. Shortly afterwards, he led a battalion of the Sinia brigade in the Labwor Omer (Palaro) attack on or about 23 November 2003. In March 2004, Ongwen was put in charge of the Sinia brigade. He commanded this brigade during numerous operations in 2004 and 2005. This included the attacks that form the basis for charges in this document, such as the attack on Odek IDP camp on or about 29 April 2004, on Lukodi IDP camp on or about 20 May 2004, and on Abok IDP camp on or about 8 June 2004. Towards the end of 2005, since many LRA commanders had left Uganda, Ongwen was the most senior LRA commander in Uganda.

10. Dominic Ongwen had effective command and control, or authority and control, over his subordinates. Regarding these subordinates, he had: a) the power to issue or give orders; b) the capacity to ensure compliance

with the orders issued; c) the capacity to order forces or units under his command, whether under his immediate command or at a lower level, to engage in hostilities; d) the power to discipline any member of the forces; and e) the authority to send forces to the site of hostilities and to withdraw them at any time.

11. Dominic Ongwen's command authority was manifest in his subordinates' compliance with his orders. From at least July 2002 to December 2005, Ongwen used his control over the units he commanded to execute the crimes set out in this document. He secured automatic compliance, *inter alia, via* his control of the units he commanded through strict and violent disciplinary and training regimens. Dominic Ongwen was part of a structured and efficient reporting mechanism, which enabled subordinates to receive orders from, and report to, superiors.

Attack on Pajule IDP Camp

Concise statement of facts

12. On or about 10 October 2003, at approximately 5:30 a.m., Dominic Ongwen together with other senior members of the LRA, including Vincent Otti, Raska Lukwiya, and Bogi Bosco ("Pajule co-perpetrators") put into action a common plan to attack the Pajule IDP camp and its environs including the barracks, trading centre and Catholic mission, to loot items, and to abduct camp residents to carry the looted items as well as to serve within the LRA ("Pajule common plan"). Pajule IDP Camp was then located in Pajule Sub-County, Aruu County, Pader District. Pajule IDP Camp was across a road from Lapul IDP Camp, which is in

Lapul Sub-County.³ The LRA forces that attacked the camp consisted of hundreds of fighters who were mostly young men but also included women and young boys.

13. The Pajule co-perpetrators had agreed that LRA members would be selected and organised to attack different parts of the camp. One group was to attack the barracks, another the trading centre area. A third group was to attack the Catholic mission, and a fourth to ambush UPDF reinforcements. Dominic Ongwen was to lead the group of LRA fighters selected to attack the trading centre area and carry out abductions. At the time of the attack, Dominic Ongwen had effective command and control, or authority and control, over his subordinates that participated in the attack at the trading centre.⁴ The co-perpetrators acted in a coordinated manner to implement their common plan. Dominic Ongwen contributed to the implementation of the common plan by, *inter alia*, leading a group of LRA fighters to attack the trading centre at the camp, ordering LRA fighters under his command to commit crimes, and encouraging through his presence LRA fighters to commit crimes.
14. During the course of the attack, Dominic Ongwen ordered LRA fighters under his command to pillage items from shops and homes within the camp. Items were pillaged as a result of his order and civilian residents within the camp were abducted and forced to carry the pillaged items. LRA fighters under the control of Dominic Ongwen, and other LRA fighters who participated in the attack at the Pajule IDP camp, committed acts of violence against civilian residents by, *inter alia*, forcibly removing them from their home; physically assaulting them and

³ For the purposes of this submission, the term “Pajule IDP Camp” is used for both Pajule and Lapul IDP camps, unless otherwise stated.

⁴ See further the section “Dominic Ongwen’s Position of Authority from July 2002 to December 2005”.

tying them up; shooting at them, and forcing them to carry pillaged items. These acts of violence resulted in at least two deaths.

15. During the course of the attack, LRA fighters under the control of Dominic Ongwen, and other LRA fighters who participated in the attack, abducted hundreds of civilian residents many of whom were made to carry looted items and other equipment. After being abducted, the civilians were taken to an LRA meeting point where they were addressed by senior LRA commanders including Dominic Ongwen. Some of the abducted civilians were retained to serve as recruits within the LRA.
16. Dominic Ongwen also failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes committed at or near Pajule during the attack or during its aftermath.

Legal characterisation of the facts

- 1) **Attacks against the civilian population as such** as a war crime, pursuant to articles 8(2)(e)(i) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 2) **Murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 3) **Murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 4) **Torture** as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.

- 5) **Torture** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (c) or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 6) **Cruel treatment** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 7) **Other inhumane acts** as a crime against humanity, pursuant to articles 7(1)(k) and 25(3)(a), or (c), or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 8) **Enslavement** as a crime against humanity, pursuant to articles 7(1)(c) and 25(3)(a), or (b), or (c) or (d), or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.
- 9) **Pillaging** as a war crime, pursuant to articles 8(2)(e)(v) and 25(3)(a), or (b), or (c), or (d) or 28, of the Rome Statute, on or about 10 October 2003, at or near Pajule IDP camp.

Attack on Odek IDP camp

Concise statement of facts

17. On or about 29 April 2004, Dominic Ongwen, Joseph Kony, the Sinia brigade leadership, [REDACTED] and other LRA commanders (Odek co-perpetrators) put into action a common plan to attack Odek IDP Camp, situated in Odek Sub-County, Omoro County, Gulu District. The plan was to attack the military detachment, to loot goods from the camp and to attack and abduct civilians (“Odek common plan”). The implementation of the Odek common plan was effected by an organised hierarchy, comprised of Joseph Kony as the leader of the LRA, Ongwen as operational commander of the attack and commanding officer of Sinia brigade, with other commanders relaying orders to subordinates who participated in the attack on Odek.

18. Dominic Ongwen contributed to the Odek common plan by, *inter alia*, briefing and instructing the troops prior to the attack, planning the attack itself, ordering soldiers under his command to commit crimes in Odek, deploying troops to Odek, commanding and coordinating the Odek attack on the ground, and liaising by radio with his superiors before and after the attack.

19. At approximately 5 p.m. on or about 29 April 2004, LRA fighters under the command of Dominic Ongwen attacked Odek IDP camp pursuant to his order. Children under the age of 15 were among the LRA attackers. LRA soldiers first attacked the barracks. They then pillaged food and enslaved civilians, who were used to carry the food away. LRA soldiers spread throughout the camp targeting and killing civilians. Dominic Ongwen told his soldiers that any civilian found was to be shot. This order was executed. Men, women and children were abducted. Men were later murdered by LRA soldiers, while children were conscripted into the LRA. In the aftermath of the attack, abducted persons were forced to kill other abductees and forced to eat while sitting on dead bodies. As a result of the attack on Odek, at least 61 civilians were killed.

20. Ongwen took responsibility for the attack on Odek IDP camp in intercepted radio conversations with LRA commanders. Dominic Ongwen also failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes committed at or near Odek during the attack or during its aftermath.

Legal characterisation of the facts

- 10) **Attacks against the civilian population as such** as a war crime, pursuant to articles 8(2)(e)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 11) **Murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 12) **Murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 13) **Attempted murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(f) and 25(3)(a), or (b), or (d) or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 14) **Attempted murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a), or (b), or (d) or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 15) **Torture** as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 16) **Torture** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.
- 17) **Other inhumane acts** as a crime against humanity, pursuant to articles 7(1)(k) and 25(3)(a), or (b), or (d) or 28, of the Rome Statute, on or about on or about 29 April 2004, at or near Odek IDP camp.
- 18) **Cruel treatment** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute on or about 29 April 2004, at or near Odek IDP camp.
- 19) **Enslavement** as a crime against humanity, pursuant to articles 7(1)(c), and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

20) Pillaging as a war crime, pursuant to articles 8(2)(e)(v) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

21) Outrages upon personal dignity as a war crime, pursuant to articles 8(2)(c)(ii), and 25(3)(a), or (b), or (d) or 28, of the Rome Statute, on or about 29 April 2004, at or near Odek IDP camp.

Attack on Lukodi IDP camp

Concise statement of facts

21. On or about 20 May 2004 at approximately 6.00 p.m. Dominic Ongwen, Joseph Kony, the Sinia brigade leadership and other LRA commanders including commander Tulu (Otulu) (“Lukodi co-perpetrators”) put into action a common plan to attack the UPDF barracks, to loot goods, and to attack and abduct civilians (“Lukodi common plan”) at Lukodi IDP camp in Bungatira Sub-county, Aswa County, Gulu District. Ongwen contributed to its implementation by planning and organising the attack, and selecting and providing fighters. The attackers included members of the Sinia and Gilva brigades, as well as Control Altar. They were under the effective command and authority, or control and authority, of Dominic Ongwen.⁵ Ongwen had appointed the LRA fighters Ocaka [REDACTED] to lead the attack on the ground.

22. LRA fighters assaulted and killed civilians, burned huts and looted. Civilians who were found inside the huts, including women and children, were killed (some in front of their family members), wounded or abducted. During the attack and its aftermath approximately 45 civilians including at least 12 children died, and approximately 14 were

⁵ *Ibid.*

wounded. Many civilians, including children, were burnt alive in huts that LRA fighters set on fire. Some escaped from the flames and survived, but were left for dead by the attackers. The attackers abducted people and forced them to carry looted goods under armed guard and threat of death. Civilians who refused to go with the attackers, or who lost or could not carry luggage, were killed. Abducted mothers were separated from their children by force and made to carry luggage instead. The attackers threw more than 20 babies into the bush. Children who tried to reunite with their mothers were kicked away. Others were put in sacks, including children whose necks were broken first, and thrown into the bush.

23. After the attack, the attackers reported back to Dominic Ongwen. Ongwen took responsibility for the attack on Lukodi IDP camp in radio conversations with LRA commanders. Dominic Ongwen also failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes committed at or near Lukodi IDP camp during the attack or during its aftermath. A few days after the attack Kony promoted Dominic Ongwen from Lieutenant Colonel to Colonel and Tulu (Otulu) from Major to Lieutenant Colonel.

Legal characterisation of the facts

22) Attacks against the civilian population as such as a war crime pursuant to articles 8(2)(e)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.

- 23) **Murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 24) **Murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 25) **Attempted murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 26) **Attempted murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 27) **Torture** as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 28) **Torture** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 29) **Other inhumane acts** as a crime against humanity, pursuant to articles 7(1)(k) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 30) **Cruel treatment** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 31) **Enslavement** as a crime against humanity, pursuant to articles 7(1)(c) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004 at or near Lukodi IDP Camp.
- 32) **Pillaging** as a war crime, pursuant to articles 8(2)(e)(v) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.
- 33) **Destruction of property** as a war crime, pursuant to articles 8(2)(e)(xii) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 20 May 2004, at or near Lukodi IDP Camp.

Attack on Abok IDP camp

Concise statement of facts

24. On or about 8 June 2004, in the evening, Dominic Ongwen, Joseph Kony, the Sinia brigade leadership, Okello Kalalang and other LRA commanders (“Abok co-perpetrators”) put into action a common plan (“Abok common plan”) to attack Abok IDP camp, then situated in Ngai sub-county, in Apac district.⁶ The plan was to attack the military detachment, loot goods from the camp, and attack and abduct civilians. Ongwen contributed to the implementation of the Abok common plan by planning and organising the attack and selecting and providing fighters.
25. The attackers caused the death of approximately 25 persons, including children. Some attackers assaulted a baby left behind by its fleeing mother. The attackers also abducted approximately 26 persons and burned hundreds of huts, destroying the victims’ food stocks in the process.
26. In radio conversations with other LRA leaders, Ongwen took responsibility for the attack on Abok IDP camp. Additionally, Ongwen told other members of the LRA that he had attacked Abok camp. He also failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes committed at or near Abok during the attack or during its aftermath.

⁶ The district and sub-county cited here are those applicable at the time of the charged crimes. Currently, the attacked location is in Abok sub-county in Oyam district.

Legal characterisation of the facts

- 34) Attacks against the civilian population as such** as a war crime, pursuant to articles 8(2)(e)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 35) Murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 36) Murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 37) Attempted murder** as a crime against humanity, pursuant to articles 7(1)(a) and 25(3)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 38) Attempted murder** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 39) Torture** as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 40) Torture** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 41) Other inhumane acts** as a crime against humanity, pursuant to articles 7(1)(k) and 25(3)(a), or (b), or (d) or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 42) Cruel treatment** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.
- 43) Enslavement** as a crime against humanity, pursuant to articles 7(1)(c) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

44) Pillaging as a war crime, pursuant to articles 8(2)(e)(v) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

45) Destruction of property as a war crime, pursuant to articles 8(2)(e)(xii) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, on or about 8 June 2004, at or near Abok IDP camp.

Persecution

Concise statement of facts

27. From at least July 2002 to December 2005 Dominic Ongwen, together with Joseph Kony, the Sinia Brigade leadership, and other senior LRA leaders, pursued a common plan to carry out persecutory attacks on civilians they perceived as being affiliated with or supporting the Ugandan government. The co-perpetrators targeted such civilians as a group or a collectivity based on political grounds, *i.e.*, their perceived affiliation with or support for the Ugandan government. The co-perpetrators identified the targeted group by, *inter alia*, their residence in government-protected IDP camps. The acts of persecution committed included attacks against the civilian population as such, murder, attempted murder, torture, cruel treatment, enslavement, sexual slavery, rape, other inhumane acts (including forced marriage), pillaging, conscription of children under 15 into armed forces and use of children under 15 to participate actively in hostilities, outrages upon personal dignity and destruction of property.

28. The co-perpetrators agreed that the implementation of the common plan would result in the severe deprivation of fundamental rights of the targeted civilians. These rights included the right to life, the right not to

be subjected to torture or to cruel, inhuman or degrading treatment, the right not to be held in slavery or servitude, the right to liberty and security of person, the right to freedom of movement, the right to sexual autonomy and the right to private property. The co-perpetrators acted in a coordinated manner to implement the common plan through a hierarchically organised structure of the LRA fighters.

29. Joseph Kony as the leader of the LRA issued standing orders to carry out attacks on civilians perceived to be affiliated with or supporting the Ugandan government. For example, in late 2002 or early 2003 Kony instructed a senior commander, Tabuley, to continue with fighting and to kill civilians who were “not cooperating”. Similarly, in an intercepted radio conversation on 10 October 2003, Kony stated that because civilians requested UPDF support, and volunteered to join local militias, they were “very bad people” who “seriously plan”. Kony told Otti: “You should have brought for me civilians from the camps [...] Civilians are the ones [...] who arrange for the army to be brought”. Additionally, shortly after Division Commander Tabuley was killed in late October 2003, Kony ordered that everyone in the Teso and Lango regions be killed. Kony blamed the residents of the Teso and Lango regions for Tabuley’s death. Kony stated repeatedly that those who did not want to join him in the fight should be killed.

30. These persecutory orders were conveyed to LRA commanders including Dominic Ongwen at, *inter alia*, brigade and battalion level. The commanders then deployed troops to implement the orders. For example, having abducted civilians from Pajule IDP camp on or about 10 October 2003, Ongwen told one of the abductees that the LRA was going to kill the abductees because of their support for the Government.

31. Dominic Ongwen contributed to these persecutory attacks by, *inter alia*, (a) ordering troops under his command to carry out such attacks, including at or around Palaro on or about 23 November 2003, Koc Ongako on or about 2 February 2004, Alero on or about 2 March 2004, Odek on or about 29 April 2004, Lukodi on or about 20 May 2004 and Abok on or about 8 June 2004; (b) providing troops and other resources for such attacks, including at or near Lira Palwo on or about 19 March 2004 and at or near Ojwii in July 2004; (c) reporting to and coordinating with Joseph Kony and senior LRA leadership about such attacks; and (d) encouraging and endorsing such attacks. Additionally, during the period from July 2002 until December 2005 Dominic Ongwen failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the above persecutory acts.

Legal Characterisation of the facts

46) Persecution of civilians in northern Uganda perceived by the LRA as being affiliated with, or supporting the Ugandan government, by attacks against the civilian population as such, murder, attempted murder, torture, cruel treatment, enslavement, sexual slavery, rape, other inhumane acts (including forced marriage), pillaging, conscription of children under 15 into armed forces and use of children under fifteen to participate actively in hostilities, outrages upon personal dignity and destruction of property, from July 2002 until December 2005, as a crime against humanity, pursuant to articles 7(1)(h) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute.

Sexual and gender based crimes

Concise statement of facts [REDACTED]

32. From at least July 2002 to December 2005, in northern Uganda, Dominic Ongwen, Joseph Kony, Sinia brigade leadership, and other senior LRA leaders (the “co-perpetrators”) pursued a common plan that involved the abduction of women and girls by Sinia brigade and other LRA fighters, with the purpose of distributing them among themselves and to other LRA fighters to serve as forced exclusive conjugal partners, by, *inter alia*, performing domestic duties and submitting to sexual intercourse (“common plan for sexual and gender-based crimes”).
33. The victims had no choice but to submit to rape, enslavement and sexual slavery. Non-compliance with demands for sex and the performance of domestic tasks would result in harsh beatings or other forms of abuse, as would attempts at escape. LRA fighters implementing the common plan for sexual and gender-based crimes inflicted severe physical or mental pain or suffering upon these women and girls. They did so by, *inter alia*, having sexual intercourse with the abducted women and girls by force, or by threat of force or coercion, or by taking advantage of the coercive environment of the LRA. The LRA troops to whom the abducted women and girls were given as forced exclusive conjugal partners exercised powers attaching to the right of ownership over them, by imposing on them a deprivation of liberty which included exacting forced domestic labour and causing them to engage in acts of a sexual nature including sexual intercourse.

34. The co-perpetrators acted in a coordinated manner to implement their common plan and to carry out the material elements of the crime through a hierarchically organised structure of LRA fighters that was jointly controlled by the co-perpetrators.⁷ Joseph Kony, as the overall leader of the LRA, issued standing orders to abduct women and girls, with the aim of ensuring that men in the LRA were supplied with forced exclusive conjugal partners. As a senior commander holding various positions of authority⁸ at different times within the LRA, Ongwen (a) ordered troops under his command to abduct women and girls with the purpose of enslaving them as “wives”⁹; (b) supervised and received information about abductions carried out by subordinates; (c) distributed or consented to the distribution of abductees to other fighters; and (d) reported to Kony about the abductions by fighters who were his subordinates.

35. Dominic Ongwen ordered his subordinates to conduct abductions of women and girls at locations including: (a) Otwal in 2003; (b) Odek on or about 29 April 2004; (c) Lukodi on or about 20 May 2004; (d) Acet in 2004 or 2005; and (e) Labora, Unyama, Opit, Pade, Ugal, Bario, and Acokara, likely in 2004. On other occasions, LRA troops under Dominic Ongwen abducted women and girls for the purposes described above at locations including: (a) Paicho in about April or May 2004; (b) Onekgwok in about May 2004; (c) Acholibur in 2003; and (d) Omia Pachwa in December 2004 where, following abductions by LRA fighters, Ongwen approved and supervised the distribution of abducted girls to different commanders.

⁷ See further the section “Dominic Ongwen’s Position of Authority from July 2002 to December 2005”.

⁸ *Ibid.*

⁹ Note: The Prosecution does not intend, by referring to a person as a “wife,” or to persons as “wives”, or by making reference to “marriage” to legitimise the sexual and gender-based crimes perpetrated upon women in the LRA. The intention, rather, is to describe a forced exclusive conjugal partnership that inflicted great suffering, or serious injury to body or to mental or physical health.

From at least July 2002 to December 2005 Dominic Ongwen failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes described in this section.

Legal characterisation of the facts [REDACTED]

- 47) Forced marriage**, an inhumane act of a character similar to the acts set out in articles 7(1)(a)-(j), as a crime against humanity, pursuant to articles 7(1)(k), and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.¹⁰
- 48) Torture** as a crime against humanity, pursuant to articles 7(1)(f) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 49) Torture** as a war crime, pursuant to articles 8(2)(c)(i) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 50) Rape** as a crime against humanity, pursuant to articles 7(1) (g) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 51) Rape** as a war crime, pursuant to articles 8(2)(e)(vi) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 52) Sexual slavery** as a crime against humanity, pursuant to articles 7(1)(g) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 53) Sexual slavery** as a war crime, pursuant to articles 8(2)(e)(vi) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.
- 54) Enslavement** as a crime against humanity, pursuant to articles 7(1)(c) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, from at least July 2002 to December 2005.

¹⁰ See footnote 9 above regarding the use of the term “marriage”, “wife” and “wives”.

[REDACTED]

[REDACTED]

36. [REDACTED].

37. [REDACTED].

[REDACTED]

38. [REDACTED].

39. [REDACTED].

[REDACTED]

40. [REDACTED].

41. [REDACTED].

[REDACTED]

42. [REDACTED].

43. [REDACTED].

[REDACTED]

44. [REDACTED].

[REDACTED]

45. [REDACTED].

[REDACTED]

46. [REDACTED].¹¹

[REDACTED]

55) [REDACTED].¹²

56) [REDACTED].

57) [REDACTED].

58) [REDACTED].

59) [REDACTED].

60) [REDACTED].

61) [REDACTED].

62) [REDACTED].

63) [REDACTED].

64) [REDACTED].

65) [REDACTED].

Conscription and use of child soldiers

Concise statement of facts

47. From at least July 2002 to December 2005, Dominic Ongwen, Joseph Kony, the Sinia brigade leadership, and other senior LRA leaders

¹¹ [REDACTED].

¹² [REDACTED].

pursued a common plan to ensure a constant supply of soldiers for the LRA through the abduction of civilians including children under the age of 15 years. The co-perpetrators agreed that the implementation of the common plan would result in children under the age of 15 years being conscripted into the LRA and used to participate actively in hostilities. During this time, Dominic Ongwen was a military commander in the LRA.¹³ The co-perpetrators acted in a coordinated manner to implement the common plan through a hierarchically organised structure of LRA fighters who were jointly controlled by the co-perpetrators.¹⁴ Joseph Kony as the leader of the LRA issued standing orders to abduct civilians with the aim of replenishing LRA forces, at times with the specific objective of targeting individuals under 15 years. The orders were conveyed to commanders including Dominic Ongwen at, *inter alia*, brigade and battalion level, who deployed troops to carry out the abductions and then retained the abductees in their ranks, trained them, and made use of them to participate actively in hostilities.

48. The abductions targeted children under the age of 15 years, sometimes as young as 9 years, who were then forcibly integrated into the LRA. The LRA environment was coercive; the children would be beaten or killed if caught trying to escape. Children, predominantly boys, frequently received military training aimed at preparing them for active participation in hostilities. They were also trained on the front line. Some were given uniforms and arms. They acted as escorts and porters and would accompany LRA soldiers during operations. Children under the age of 15 years were abducted and forcibly integrated into the LRA military structure at various locations in northern Uganda including at

¹³ See further the section “Dominic Ongwen’s Position of Authority from July 2002 to December 2005”.

¹⁴ *Ibid.*

Pajule (in or around October 2002 and on or about 10 October 2003), Acholibur (in 2003 or 2004), at Odek (on or about 29 April 2004), Barlonyo (in February 2004), Acet (sometime in late 2004 or 2005) and elsewhere.

49. From at least July 2002 to December 2005, children under the age of 15 years were present in troops under Dominic Ongwen's command. During the period in which Dominic Ongwen commanded the Sinia Brigade, every battalion in the brigade, as well as the brigade headquarters, contained children under the age of 15 years. Children under the age of 15 were also regularly deployed for active use in hostilities. Dominic Ongwen himself used children under the age of 15 years serving as, *inter alia*, escorts. His escorts participated in fighting. Instances where children were used to participate actively in hostilities included the attack on Patongo in approximately late 2002, the attack on Acholi Pii in August 2002, the hostilities in Ngora on the way to Abim in late 2002, the attack in Palaro in November 2003, the Pajule attack on or about 10 October 2003, the Odek attack on or about 29 April 2004, the Lukodi attack on or about 20 May 2004, the Abok attack on or about 8 June 2004, the attack in Omia Pachwa (in late 2004 or early 2005), the attack on Acet (2004), the battle at Binya around late 2004 or the beginning of 2005, the ambush at Layoko in 2005 and elsewhere. During these events children under the age of 15 were, *inter alia*, used to abduct and kill, to burn houses, to pillage and to carry pillaged goods, to assist soldiers in ambushes and to sound alarms. They also actively fought in battles against government forces. During ambushes laid by the LRA against Government forces, children assisted the soldiers and would be told to collect firearms. Children under 15 died as a result of taking active part in hostilities.

50. Dominic Ongwen contributed to the conscription and use of children to participate actively in hostilities by, *inter alia*, (a) having boys under the age of 15 years in his personal entourage, using them as escorts and using them to participate actively in hostilities; (b) ordering troops under his command to carry out abductions, *inter alia*, of children under 15 years of age for the purpose of conscription; (c) planning, coordinating and deploying troops under his command to carry out attacks in which children under 15 years of age actively participated; (d) reporting to and coordinating with Joseph Kony and senior LRA leaders about attacks and abductions; and (e) encouraging and endorsing abductions of civilians.

51. Dominic Ongwen ordered his subordinates to abduct civilians, including children under the age of 15 years, in order to replenish the LRA forces. He also ordered his subordinates to engage in attacks, being aware that children under the age of 15 would participate actively in those attacks in the ordinary course of events as a consequence of the execution of his orders. His orders were implemented by his subordinates and had a direct effect on the conscription of children under the age of 15 years into the LRA and their active use in hostilities.

52. Instances of Dominic Ongwen ordering abductions included the following: (a) during the briefing for the attack on Odek IDP camp on or about 29 April 2004 Ongwen said to his troops that if they find good boys and girls, they should return with them. Children under 15 years were then abducted in Odek and conscripted into the LRA (b) Ongwen issued orders to his subordinates to get food and abduct in Acet in late 2004 or early 2005, where the abductees should be between 13 and 15

years old. Children under 15 were then abducted in Acet and conscripted into the LRA.

53. Additionally, during the period from July 2002 until December 2005, Dominic Ongwen failed, while under a duty stemming from his superior position, to take adequate steps to prevent, repress, or punish the perpetrators of the crimes described in this section.

Legal characterisation of the facts

66) Conscription of children under the age of 15 into an armed group as a war crime, pursuant to articles 8(2)(e)(vii) and 25(3)(a), or (b), or (d), or 28, of the Rome Statute, between July 2002 and December 2005.

67) Use of children under the age of 15 to participate actively in hostilities as a war crime, pursuant to articles 8(2)(e)(vii) and 25(3)(a), or (b) or (d), or 28, of the Rome Statute, between July 2002 and December 2005.



**Fatou Bensouda,
Prosecutor**

Dated this 24th day of September 2015
At The Hague, The Netherlands