

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: **English**

No.: ICC-02/04-01/15
Date: 6 September 2016

TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

SITUATION IN UGANDA

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

Public

Prosecution's Pre-Trial Brief

Source: Office of the Prosecutor

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

The Office of the Prosecutor

Ms Fatou Bensouda, Prosecutor
Mr James Stewart
Mr Benjamin Gumpert

Counsel for the Defence

Mr Krispus Ayena Odongo
Mr Charles Taku

Legal Representatives of the Victims

Mr Joseph Akwenu Manoba
Mr Francisco Cox
Ms Paolina Massidda

Legal Representatives of the Applicants

Unrepresented Victims

Unrepresented Applicants

The Office of Public Counsel for Victims

Ms Paolina Massidda
Ms Caroline Walter
Mr Orchlou Narantsetseg

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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I. INTRODUCTION

1. In accordance with the order of 30 May 2016 issued by Trial Chamber IX,¹ the Prosecution hereby submits its pre-trial brief. This brief sets out detailed submissions on points of fact and law: what the Prosecution considers to be the elements of the crimes and modes of liability charged, and how the evidence satisfies them.
2. The primary accusatory instrument is the Document Containing the Charges, as confirmed by the Pre-Trial Chamber.² The present document does not limit the Prosecution in the evidence it intends to call. Rather, its purpose is to facilitate the preparation for trial by summarising the principal evidence underlying the Prosecution's case.
3. The evidence summarised in this brief will demonstrate beyond reasonable doubt that Dominic Ongwen committed the crimes charged.

Structure of the Pre-Trial Brief

4. This brief is organised into thematic sections:
 - Attacks on internally displaced persons' ("IDP") camps in Pajule, paragraphs 204 to 287, Odek paragraphs 288 to 370, Lukodi paragraphs 371 to 429, and Abok paragraphs 430 to 499;
 - Sexual and gender-based crimes ("SGBC"); paragraphs 500 to 700; and
 - Conscription and use of child soldiers, paragraphs 701 to 758.

Elements of Dominic Ongwen's individual criminal responsibility common to all thematic sections above, at paragraphs 89 to 155, and the contextual elements of the crimes, at paragraphs 9 to 61, are set out separately in additional sections to reduce repetition.

¹ ICC-02/04-01/15-449.

² ICC-02/04-01/15-422, p. 71-104.

5. The brief also contains a section at paragraphs 62 to 88 that provides background to, and explains how to navigate, the evidence of intercepted LRA radio communications that the Prosecution has collected from the Ugandan Government.
6. Finally, the charges of persecution linked to the four IDP camp attacks – counts 10, 23, 36, and 49 – are addressed in a stand-alone section at paragraphs 156 to 203. To best understand Dominic Ongwen’s persecutory intent in relation to these attacks, it is helpful to detail the broader persecutory aims and activities of the LRA from at least 1 July 2002 to 31 December 2005, and Dominic Ongwen’s role in and knowledge of that campaign.

Affirmative defences

7. Dominic Ongwen has provided notice under rules 79 and 80 of his intention to raise affirmative defences under article 31(1)(a)³ and (d)⁴ to exclude criminal responsibility for the charged crimes. With regard to the attack on Pajule, the Accused further stated his intention to present an alibi defence.⁵ The Defence must bear the burden of establishing the constituent elements of each of these defences to the Court’s satisfaction.⁶ As such, the Prosecution cannot address these defences prior to consideration of the details of the evidence upon which they are based in respect of each of the crimes charged. When this evidence is communicated, subject to the directions of the Chamber, the Prosecution will respond substantively, after consideration of any additional evidence required for rebuttal.

³ ICC-02/04-01/15-518.

⁴ ICC-02/04-01/15-517-Conf.

⁵ ICC-02/04-01/15-519-Conf.

⁶ *Prosecutor v. Delalic et al*, Judgement, IT-96-21-A, 20 February 2001, para. 582.

Dominic Ongwen's names

8. Dominic Ongwen is also known as Odomi,⁷ Wai Wai (YY),⁸ or Wanyama.⁹ On the radio, one of his call signs was “Tem Wek Ibong”¹⁰ or simply “Tem”.¹¹

II. CONTEXTUAL ELEMENTS OF WAR CRIMES AND CRIMES AGAINST HUMANITY

Background

9. Yoweri Museveni took power in Uganda in 1986 at the head of the National Resistance Army (“NRA”). In the following years, various armed groups sought to contest his rule, particularly in northern Uganda and among the people of Acholi ethnicity.¹²

10. One of these was the Holy Spirit Movement begun by Alice Auma, who was believed to have become possessed by various spirits, including one usually known as *lakwena* – the messenger.¹³ Among her practices were healing rituals. She explained that war, too, was a form of healing, in which those who die are the rotten flesh which is cut away, while those who are pure cannot be killed.¹⁴ Alice Auma’s movement came to be known as The Holy Spirit Movement, or the Holy Spirit Mobile Forces. After a number

⁷ That Dominic Ongwen is also referred to as “Odomi” is an agreed fact between the parties. *See* ICC-02/04-01/15-487-Conf-AnxA , p. 4. *See also*, P-0309, [UGA-OTP-0249-0472-R01](#) at 0475; P-0040, [UGA-OTP-0209-0461-R01](#) at 0480; UPDF Report, [UGA-OTP-0026-0027](#) at 0027.

⁸ P-0245, [UGA-OTP-0244-0363-R01](#) at 0370; ISO logbook, [UGA-OTP-0063-0194](#) at 0219.

⁹ P-0258, [UGA-OTP-0243-1708](#) at 1729-1730; P-0125, [UGA-OTP-0175-0300-R01](#) at 0304.

¹⁰ P-0125, [UGA-OTP-0175-0300-R01](#) at 0304; P-0019, [UGA-OTP-0218-0594-R01](#) at 0616; P-0059, [UGA-OTP-0248-0328-R01](#) at 0332, 0334, 0335; P-0003, [UGA-OTP-0248-0094-R01](#) at 0099, 0101; P-0245, [UGA-OTP-0244-0545-R01](#) at 0546.

¹¹ P-0016, [UGA-OTP-0223-0034-R01](#) at 0055-0057; P-0003, [UGA-OTP-0069-0803-R01](#) at 0808.

¹² P-0422, [UGA-OTP-0270-0004](#) at 0009-0012.

¹³ P-0422, [UGA-OTP-0270-0004](#) at 0010; Gersony, R., “The anguish of northern Uganda. Results of a field based assessment of the civil conflicts in northern Uganda”, submitted to the United States Embassy, USAID Mission, Kampala, August 1997 (hereafter “The anguish of northern Uganda”), [UGA-OTP-0231-0271](#) at 0299; Human Rights Watch, “Abducted and abused: Renewed conflict in northern Uganda”, Vol. 15, No. 12, July 2003 (hereinafter “Abducted and abused”), [UGA-OTP-0231-0188](#) at 0200; Refugee Law Project, “Behind the violence: causes, consequences and the search for solutions to the war in northern Uganda”, Working Paper No. 11, February 2004 (hereinafter “Behind the violence”), [UGA-OTP-0231-0383](#) at 0389.

¹⁴ P-0422, [UGA-OTP-0270-0004](#) at 0010-0011; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0299; Abducted and abused, [UGA-OTP-0231-0188](#) at 0200.

of successes in confrontation with Government troops, she marched south with her forces from the Acholi region and the NRA defeated them in late 1987 at Jinja.¹⁵

11. Joseph Kony may be related to Alice Auma.¹⁶ He was born in the early 1960s and trained as a spiritual healer or *ajwaka*. Likely inspired by Alice Auma's example, Kony gathered a group of followers and joined with members of other groups who had continued armed resistance to the Ugandan Government, such as the Uganda People's Democratic Army (UPDA). Some accounts suggest that he had previously tried to form an alliance with Alice and that he claimed to have been seized by her *lakwena* spirit.¹⁷ Kony's military group was initially called the United Holy Salvation Army. A vestige of this name can be observed in the evidence of a number of witnesses in this case who refer to the Lord's Resistance Army ("LRA") as "The Holy" or "Lakwena".¹⁸ The group's name evolved through various versions of the "Uganda People's Democratic Liberation Army", or the "United Democratic Christian Army", and later settled on its current name, the LRA.¹⁹ This occurred shortly after the death of Odong Latek, a particularly influential former UPDA commander, who is likely to have played an important role in developing Kony's skill in guerilla tactics.²⁰

12. In these early years the LRA's objectives were said to be the spiritual cleansing and liberation of the Acholi people from the oppression of President Museveni by toppling

¹⁵ P-0422, [UGA-OTP-0270-0004](#) at 0012; Behind the violence, [UGA-OTP-0231-0383](#) at 0389; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0300; Abducted and abused, [UGA-OTP-0231-0188](#) at 0200.

¹⁶ Behind the violence, [UGA-OTP-0231-0383](#) at 0390; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0305.

¹⁷ P-0422, [UGA-OTP-0270-0004](#) at 0013; Behind the violence, [UGA-OTP-0231-0383](#) at 0398.

¹⁸ See e.g. P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 14; P-0352, [UGA-OTP-0260-0315-R01](#) at 0317; P-0269 [UGA-OTP-0248-0026-R01](#) at 0028. That the LRA was one of the groups referred to as "The Holy" is also an agreed fact between the parties. See ICC-02/04-01/15-487-Conf-AnxA, p.3.

¹⁹ The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0306; Abducted and abused, [UGA-OTP-0231-0188](#) at 0200; Behind the violence, [UGA-OTP-0231-0383](#) at 0388, 0390, 0398; Amnesty International, "Uganda, "Breaking God's commands": the destruction of childhood by the Lord's Resistance Army", AI index: AFR 59/01/97, 18 September 1997 (hereinafter "The destruction of childhood by LRA"), [UGA-OTP-0231-0438](#) at 0442.

²⁰ P-0422, [UGA-OTP-0270-0004](#) at 0014.

him, although veterans of other longer established groups are likely to have had more secular reasons for wishing the same end result.²¹

13. The first written statements of LRA aims began to be circulated in the mid- to late-1990s. On the radio in 2002 and again in an interview with an anthropologist in 2006, Kony spoke of the LRA's aims. These were described in conventional political terms as being the restoration of political pluralism. Kony described himself as a freedom fighter, fighting for democracy. While Kony explicitly linked the LRA with fighting for the Ten Commandments, he equally clearly rejected the idea that the spirits (or God) were dictating his actions.²²
14. From the late 1980s to February 1994 armed conflict continued at a low level of intensity. The Ugandan Government launched a military offensive called "Operation North" in 1991, which purportedly weakened Kony's insurgency but failed to extinguish it. Officials formed "bow and arrow" civil defence units, to defend against attacks by Joseph Kony's rebels.²³
15. There were unsuccessful peace negotiations in 1993 and 1994. Following this, the LRA, with the support of the Sudanese Government, established bases in southern Sudan and replenished their supply of arms.²⁴
16. Thereafter the LRA began mounting attacks in northern Uganda. There were notorious attacks at Atiak, in northern Gulu district in 1995,²⁵ and at a girls' school near Aboke town in Apac district in 1996, where over one hundred schoolgirls were abducted.²⁶

²¹ P-0422, [UGA-OTP-0270-0004](#) at 0016.

²² P-0422, [UGA-OTP-0270-0004](#) at 0019.

²³ P-0422, [UGA-OTP-0270-0004](#) at 0022.

²⁴ The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0308-0310; Behind the violence, [UGA-OTP-0231-0383](#) at 0390, 0397.

²⁵ P-0422, [UGA-OTP-0270-0004](#) at 0025.

²⁶ P-0422, [UGA-OTP-0270-0004](#) at 0027; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0313-0319; The destruction of childhood by LRA, [UGA-OTP-0231-0438](#) at 0443.

17. In the later 1990s, the effect of this armed conflict on northern Ugandan civilians escalated because of continuing LRA attacks and the Ugandan Government's decision, in September 1996, to create camps for internally displaced people. This policy was sometimes violently enforced and had severe consequences, both in health and social terms.²⁷
18. The size of the LRA at this time is a matter of speculation. Estimates vary considerably below and above a figure of 4,000 combatants. Units conducting operations in Uganda would have numbered no more than a few hundred in total.²⁸ Even in these early years, the LRA spread fear through the performance of shocking atrocities and killed and abducted civilians, including children.²⁹
19. Beginning in 2001, Uganda's national military forces, the Uganda People's Defence Force ("UPDF"), entered Sudan and raided LRA bases there. This military offensive, which the Ugandan Government from 2002 onwards called "Operation Iron Fist", followed the signing of an agreement between the Ugandan Government and the Sudanese Government, which permitted the UPDF to take action against the LRA on Sudanese territory.³⁰
20. In June 2002, as a result of the intensification of UPDF action, the LRA began crossing from Sudan back into Uganda.³¹

²⁷ P-0422, [UGA-OTP-0270-0004](#) at 0024; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0324-0328; Human Rights and Peace Center and Liu Institute for Global Issues, "The hidden war: The forgotten people. War in Acholi land and its ramifications for peace and security in Uganda", 30 October 2003 (hereinafter "War in Acholi land"), [UGA-OTP-0231-0484](#) at 0580; P-0009, [UGA-OTP-0151-0167-R01](#) at 0174.

²⁸ P-0422, [UGA-OTP-0270-0004](#) at 0020-0021.

²⁹ P-0422, [UGA-OTP-0270-0004](#) at 0021-0023; The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0299, 0306; Behind the violence, [UGA-OTP-0231-0383](#) at 0390.

³⁰ P-0422, [UGA-OTP-0270-0004](#) at 0026-0027; Behind the violence, [UGA-OTP-0231-0383](#) at 0402; War in Acholi land, [UGA-OTP-0231-0484](#) at 0573-0576.

³¹ P-0422, [UGA-OTP-0270-0004](#) at 0028; War in Acholi land, [UGA-OTP-0231-0484](#) at 0575; Abducted and abused, [UGA-OTP-0231-0188](#) at 0202; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 43.

21. On 1 July 2002, the Rome Statute (“Statute”) entered into force. Crimes committed from this time on are within the temporal jurisdiction of the Court. This date is also the start date of many of the charges against Dominic Ongwen.

Contextual elements of war crimes

22. From at least 1 July 2002 to 31 December 2005, an armed conflict not of an international character was taking place in northern Uganda.

23. Each of the war crimes charged and described in this document should be read in conjunction with this section to establish their objective and subjective elements. The conduct that amounts to charges 1, 3, 5, 6, 9, 11, 13, 15, 17, 19, 21, 22, 24, 26, 28, 30, 32, 34, 35, 37, 39, 41, 43, 45, 47, 48, 52, 54, 56, 59, 60, 63, 65, 67, 69 and 70, which are charged as war crimes, took place in the context of and were associated with that armed conflict. As a senior LRA commander and a key participant in the armed conflict, Dominic Ongwen was aware of the factual circumstances that established its existence.

The conflict was between governmental authorities and an organised armed group

24. A non-international armed conflict will exist “whenever there is [...] protracted armed violence between governmental authorities and organised armed groups”.³² The non-international armed conflict in northern Uganda from at least 1 July 2002 to 31 December 2005 was between the LRA on one side and the UPDF together with associated local armed forces raised for the purpose of resisting LRA attacks on the other. The evidence below establishes the requirements of a non-international armed conflict as set out in the *Katanga* trial judgment.³³

³² ICTY, *Prosecutor v. Dusko Tadic*, IT-94-1-A, 2, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, para. 70; *see also* ICC-01/04-01/07-3436-tENG, para. 1185-1187.

³³ ICC-01/04-01/07-3436-tENG, para. 1186-1187.

25. The UPDF was Uganda's national military. Its engagement in armed conflict with the LRA is the subject of widespread and reliable independent public record. It was sufficiently well-structured, commanded, organised and armed so to act.³⁴ The associated local armed forces were named "Amuka", local defence units ("LDUs") or "Arrow boys". They were integrated into UPDF command structures.³⁵
26. The LRA was well-structured, well-armed, and possessed the required sufficient degree of organisation that enabled it to carry out protracted armed violence. It was composed of Kony's headquarters, called Control Altar, a division, and four brigades named Stockree, Sinia, Trinkle and Gilva.³⁶ The section in this document on the common elements of modes of liability addresses the LRA command structure in more detail, as well as discipline, ranks, and promotions. The section on intercepted LRA radio communications addresses in detail a key indicator of its organisation, its means of communicating and transmitting orders, and by inference its effective internal hierarchy, command structure, and rules. The evidence in this section on contextual elements demonstrates the LRA's ability to plan military operations and put them into effect, and the extent, seriousness, and intensity of its military operations.

The non-international armed conflict was protracted

27. There is abundant evidence, covering years of ongoing clashes and attacks, demonstrating that an armed conflict took place between the LRA and the UPDF together with associated local armed forces, throughout northern Uganda from at least 1

³⁴ The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0311-0312; Abducted and abused, [UGA-OTP-0231-0188](#) at 0193, 0202, 0253; War in Acholi land, [UGA-OTP-0231-0484](#) at 0539-0540.

³⁵ The anguish of northern Uganda, [UGA-OTP-0231-0271](#) at 0305; Behind the violence, [UGA-OTP-0231-0383](#) at 0421-0425; War in Acholi land, [UGA-OTP-0231-0484](#) at 0540-0541. That the LDU were established by, and affiliated with, the Ugandan Government is an agreed fact between the parties. See ICC-02/04-01/15-487-Conf-AnxA, p. 3.

³⁶ P-0070, [UGA-OTP-0208-0214-R01](#) at 0232-0239, 0246; ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167; P-0070, [UGA-OTP-0208-0214-R01](#) at 0239-0246; P-0142, [UGA-OTP-0244-0776-R01](#) at 0779-0786, P-0142's Map, [UGA-OTP-0233-1361](#).

July 2002 to 31 December 2005. The fighting was neither sporadic nor isolated nor of low intensity. It spread all over northern Uganda.

28. Perhaps the most striking evidence of the existence of this armed conflict is Kony's own admission, in December 2002, that the LRA was involved in what he called a "war with the Government of Uganda". This admission was made in the course of a public radio broadcast on the Mega FM radio station in Gulu.³⁷ Other remarks by Kony during the course of the broadcast included assertions that "[t]hose who are ambushed, shot and killed [...] should know that that is war", "I will fight until I overthrow the government of Museveni", and that "this type of war which is called guerilla warfare [...] this is the first one which happened between Kony and Museveni". Kony also makes specific reference to the LRA having shot down a Ugandan Government gunship in the recent past.³⁸

29. The Prosecution will rely upon the evidence of two witnesses, P-0355³⁹ and P-0359,⁴⁰ who are currently serving officers in the UPDF and who were, at the time relevant to the charges against Dominic Ongwen, professionally engaged in the ongoing armed conflict between the UPDF and the LRA.

30. Detailed examples of evidence of the existence of an armed conflict, and of Dominic Ongwen's participation in this conflict as an LRA commander, are also found in the records of intercepted LRA radio communications compiled by the Ugandan authorities in the course of their intelligence operations against the LRA. The continuous series of radio reports made by LRA commanders over this period, recorded in the logbooks described in detail in the evidence of P-0403,⁴¹ make it clear that the fighting was neither

³⁷ Sound recording (hereinafter "Mega FM sound recording"), [UGA-OTP-0023-0002](#); Mega FM translation and transcript, [UGA-OTP-0023-0011](#) at 0012.

³⁸ Mega FM Translation and transcript, [UGA-OTP-0023-0011](#) at 0014, 0016-0017.

³⁹ P-0355, [UGA-OTP-0257-1674](#).

⁴⁰ P-0359, [UGA-OTP-0260-0151-R01](#).

⁴¹ P-0403, [UGA-OTP-0269-0897](#) at 0922-0925.

sporadic, nor isolated, nor of low intensity. Although many of the examples below feature Dominic Ongwen, the Prosecution does not primarily seek here to establish his involvement or culpability, only the existence of an ongoing armed conflict between the LRA, of which Ongwen was a part, and Ugandan Government forces.

- On 9, 10 and 12 November 2002, Ongwen is recorded as reporting an attack upon his forces by the UPDF and receiving orders to ambush the UPDF group following his fighters,⁴² reporting that his forces had been attacked by two UPDF battalions,⁴³ and that there had been 54 casualties during fighting with the UPDF at Olung Primary School.⁴⁴
- On 9 May 2003, while Dominic Ongwen is recorded as being sick, his second-in-command continued to engage in hostilities against the UPDF, reporting that on 6 May 2003, following a failed ambush, there was a prolonged confrontation between LRA fighters and the UPDF resulting in many UPDF soldiers being killed.⁴⁵
- Entries in the logbooks for 1 and 2 January 2004 record Dominic Ongwen reporting that he had been engaged in fighting against the UPDF for the last two days, and had lost many soldiers to gunship attacks.⁴⁶
- On 20 March 2004, Okot Odhiambo, a senior LRA commander, is recorded as reporting that the previous day he, Dominic Ongwen, and a Sinia battalion commander called Labongo had combined their forces to attack the barracks at the Lira Palwo camp.⁴⁷
- On 22 August 2004, the logbooks record Dominic Ongwen exhorting Labongo that the LRA “must not spare” the UPDF, and that the UPDF “must be hit daily”.⁴⁸

⁴² ISO logbook, [UGA-OTP-0065-0002](#) at 0015, 0018.

⁴³ ISO logbook, [UGA-OTP-0065-0002](#) at 0019-0020.

⁴⁴ ISO logbook, [UGA-OTP-0065-0002](#) at 0025.

⁴⁵ ISO logbook, [UGA-OTP-0068-0146](#) at 0149.

⁴⁶ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0163, 0166.

⁴⁷ ISO logbook, [UGA-OTP-0061-0002](#) at 0165.

⁴⁸ ISO logbook, [UGA-OTP-0062-0145](#) at 0217.

- In a logbook entry dated 2 March 2005, Dominic Ongwen reported successful ambushes and attacks against the UPDF on 21 January, 30 January, and 26 February 2005, resulting in UPDF soldiers killed and equipment captured. Ongwen reported that his soldiers had very high morale. He vowed to continue attacking the UPDF.⁴⁹
- An entry dated 10 July 2005 records Dominic Ongwen's reports of five separate ambushes of UPDF forces by his fighters.⁵⁰
- An entry dated 2 December 2005 records a clash between LRA fighters and "the enemy" in which one enemy soldier was killed.⁵¹

31. Dominic Ongwen's forced wives⁵² testified to the existence of an armed conflict between the LRA and the UPDF during the article 56 proceedings.

- P-0101 gave evidence of attacks by Government soldiers on the LRA, following information given by civilians.⁵³
- P-0214 gave evidence of a UPDF attack on the LRA group of which she was a part that resulted in the wounding of one of her fellow forced wives.⁵⁴
- P-0226 gave evidence that she had been present when LRA fighters under the command of Dominic Ongwen and another more senior commander attacked a camp at Patongo sometime in late 2002 or early 2003. After an exchange of fire the Government soldiers who had been stationed at the camp ran away.⁵⁵
- P-0227 said that on the day after her abduction, the UPDF attacked the LRA group that had abducted her.⁵⁶
- P-0235 gave evidence of an attack by a group of LRA led by Dominic Ongwen on a UPDF barracks at a place called Lanyatilo.⁵⁷

⁴⁹ ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0169-0170.

⁵⁰ ISO logbook, [UGA-OTP-0163-0007](#) at 0170-0171.

⁵¹ ISO logbook, [UGA-OTP-0170-0077](#) at 0097.

⁵² See the section on direct perpetration of SGBC, para. 500-611.

⁵³ P-0101, ICC-02/04-01/15-T-14-CONF ENG, p. 3.

⁵⁴ P-0214, ICC-02/04-01/15-T-15-CONF ENG, p. 20-21.

⁵⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 56-57.

⁵⁶ P-0277, ICC-02/04-01/15-T-10-CONF-ENG, p. 28-29.

- P-0236 testified to an occasion when the LRA group of which she was a part had to flee from a UPDF attack in the course of which she was wounded.⁵⁸

32. Many former LRA commanders, fighters and abductees have made statements in which they confirm the existence and set out the detail of the armed conflict between the LRA and the UPDF from at least 1 July 2002 to 31 December 2005.

- P-0019, formerly LRA director of signals between 2002 and 2004, spoke about attacks and ambushes perpetrated by the LRA.⁵⁹ He said that these were mostly on UPDF vehicles and that the purpose of attacks upon the UPDF was, in part, to gather weapons and equipment.
- P-0070, formerly a Major and a battalion commander in the LRA, spoke about “uncountable times” when he, as a member of one of the LRA units known as “Sick-Bay”, was subject to attack by UPDF helicopters called in by Government ground troops. He described how the helicopters attacked at low altitude but were forced higher by return fire using an SPG (self-propelled grenade).⁶⁰
- P-0205, an officer in Sinia brigade, gave a graphic description of combat in November 2002 between LRA fighters and UPDF troops at Ngora, between Patongo and Kalongo. The LRA fell into an ambush and Dominic Ongwen received a gunshot wound. P-0205, his second in command, had to rescue him.⁶¹
- P-0231 served under Dominic Ongwen in Oka battalion, which Ongwen commanded before he was promoted to command the entire Sinia brigade. P-0231 spoke of battles between the LRA and Ugandan Government forces at Patongo (in 2002 and again in 2003) and Porogali in 2003.⁶²
- P-0245 fought with the LRA for many years between his initial abduction in 1992 and his final defection in 2008. He was Dominic Ongwen’s second-in-command

⁵⁷ P-0235, ICC-02/04-01/15-T-17-CONF ENG, p. 16.

⁵⁸ P-0236, ICC-02/04-01/15-T-16-CONF ENG, p. 19.

⁵⁹ P-0019, [UGA-OTP-0218-0571-R01](#) at 0579-0582.

⁶⁰ P-0070, [UGA-OTP-0228-3165-R01](#) at 3191-3197, [UGA-OTP-0228-2331-R01](#) at 2333.

⁶¹ P-0205, [UGA-OTP-0243-0544-R01](#) at 0563, [UGA-OTP-0243-0574-R01](#) at 0581-0583.

⁶² P-0231, [UGA-OTP-0243-2087-R01](#) at 2098-2104.

when Ongwen was a battalion commander and continued as Ongwen's subordinate after Ongwen became commander of Sinia brigade. He recounted numerous episodes of combat between the LRA and Government forces. One was an attack that Ongwen organised in 2003 on a camp at Labwor Omor.⁶³ The purpose of this attack was to fight the UPDF. P-0245 was present during the attack and witnessed the combat and the UPDF barracks being burned.

- P-0252, abducted during the attack on Odek in 2004 aged about 11, spoke of his participation in the Abok attack (which was in June 2004) and of his being issued with a firearm after this attack. Thereafter he was involved in combat with the UPDF at Acet, Koch, Binya, Wii-Acheng and Layoko.⁶⁴
- P-0264, abducted from his home in 2002 aged about 11, recalled serving as an escort to older commanders in the Sinia brigade, which came to be commanded by Dominic Ongwen. He recalled a particular occasion when there was an attack by Government forces on the brigade defensive position, and how bravely Ongwen fought, encouraging his fighters to do likewise, so that the Government forces were repelled.⁶⁵
- P-0330, one of Dominic Ongwen's child soldier escorts, described fighting with the UPDF during which Ongwen was shot in the leg, in which Government armoured vehicles, known as Mambas and Buffalos, were involved.⁶⁶ He also described fighting between LRA fighters and either UPDF, Amuka or Arrow Boys at various locations.⁶⁷
- P-0351, abducted from her home at the age of about 12 in 2002, recalled fighting between the LRA and Government forces during which abductees were killed by the LRA because they were trying to run away towards the Government

⁶³ P-0245 [UGA-OTP-0244-0418-R01](#) at 0441-0443.

⁶⁴ P-0252, [UGA-OTP-0243-0428-R01](#) at 0445-0450.

⁶⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

⁶⁶ P-0330, [UGA-OTP-0256-0071-R01](#) at 0091.

⁶⁷ P-0330, [UGA-OTP-0256-0071-R01](#) at 0075-0089.

soldiers.⁶⁸ She herself escaped in 2006 following an ambush on Dominic Ongwen's LRA group by the UPDF.⁶⁹

- P-0352, abducted in March 2003, and a forced wife of one of Dominic Ongwen's subordinate commanders, was part of an LRA group which was ambushed by Government soldiers, which gave her the opportunity to escape.⁷⁰
- Witnesses P-0045,⁷¹ P-0048,⁷² P-0145,⁷³ P-0280,⁷⁴ P-0286⁷⁵ and P-0309⁷⁶ give accounts of other instances of armed conflict between the LRA and the UDFP.

33. The conduct described in detail in the sections of this document concerning the four IDP camp attacks likewise involved combat between LRA forces and UPDF soldiers, and demonstrates the protracted nature of the conflict and the LRA's organisation. Similarly, the conduct described in the sections on persecution, on SGBC and on conscription and use of child soldiers, supports the existence of the armed conflict.

The conduct that is charged as war crimes took place in the context of and was associated with the non-international armed conflict

34. Each of the war crimes charged and described in this document took place in the context of and was associated with the non-international armed conflict in northern Uganda between the LRA and the UPDF. Each of the war crimes charged occurred in the time period 1 July 2002 to 31 December 2005, during which the armed conflict existed, and in northern Uganda, which was the geographical scope of the conflict at the time.

⁶⁸ P-0351, [UGA-OTP-0263-0002-R01](#) at 0011.

⁶⁹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0015.

⁷⁰ P-0352, [UGA-OTP-0260-0315-R01](#) at 0335.

⁷¹ P-0045, [UGA-OTP-0218-0223-R01](#) at 0238.

⁷² P-0048, [UGA-OTP-0209-0204-R01](#) at 0218-0219, [UGA-OTP-0209-0179-R01](#) at 0185.

⁷³ P-0145, [UGA-OTP-0219-0180-R01](#) at 0186-0187, [UGA-OTP-0219-0143-R01](#) at 0177.

⁷⁴ P-0280, [UGA-OTP-0247-1252-R01](#) at 1261-1262.

⁷⁵ P-0286, [UGA-OTP-0248-0060-R01](#) at 0074.

⁷⁶ P-0309, [UGA-OTP-0249-0472-R01](#) at 0475-0484.

35. For each of the war crimes charged, Dominic Ongwen's conduct was closely linked to the hostilities taking place in the territory of northern Uganda.⁷⁷ The four charged IDP camp attacks on Pajule, Odek, Lukodi and Abok, formed part of a continuous series of clashes between the two parties to the conflict: the LRA and the UPDF and its associated local armed forces.⁷⁸ Dominic Ongwen's conscription and use of child soldiers was closely linked to the fighting and done primarily to sustain the ranks of the LRA, and particularly the Sinia brigade, in its armed conflict against the UPDF. The sexual and gender-based crimes were committed primarily in temporary military camps by Dominic Ongwen and other LRA fighters, who were regularly participating in hostilities. The crimes occurred often immediately preceding or following armed clashes with the UPDF. The presence, use and threat of weapons heightened the coercive nature of the environment in which the victims found themselves.⁷⁹

Dominic Ongwen was aware of the factual circumstances that established the existence of the armed conflict

36. Dominic Ongwen was aware of the factual circumstances that established the existence of the non-international armed conflict. As a long-term member of the LRA who held a number of command positions, he knew about the conflict. Dominic Ongwen had access to a radio throughout this period, which allowed him to report on his own military operations, to hear the reports of other commanders of engagement with the UPDF, to receive orders from Joseph Kony and other senior commanders regarding future operations, and to issue orders to his own troops. As the primary means of communication between senior LRA commanders, the transmissions that Dominic Ongwen made and heard ensured that he was aware of the factual circumstances that

⁷⁷ See *Katanga* Trial Judgment, establishing this as a relevant factor. ICC-01/04-01/07-3436-tENG, para. 1176.

⁷⁸ See para. 204-287 (Pajule), 288-370 (Odek), 371-429 (Lukodi) and 430-499 (Abok); see *Katanga* Trial Judgment, establishing this as a relevant factor. ICC-01/04-01/07-3436-tENG, para. 1231.

⁷⁹ See *Katanga* Trial Judgment, establishing this as a relevant factor. ICC-01/04-01/07-3436-tENG, para. 1233, 1234.

established the existence of the armed conflict, in particular the breadth of the conflict and its impact across the region.

37. Further, Dominic Ongwen and fighters under his command committed many of these attacks. By virtue of his participation in these attacks, which occurred over several years and in different locations in northern Uganda, Dominic Ongwen knew about the conflict.

Contextual elements of crimes against humanity

38. From at least 1 July 2002 to 31 December 2005, the LRA committed a widespread and systematic attack directed against the civilian population of northern Uganda. It engaged in a course of conduct that involved the multiple commission of acts, pursuant to an organisational policy.

39. The conduct that amounts to charges 2, 4, 7, 8, 10, 12, 14, 16, 18, 20, 23, 25, 27, 29, 31, 33, 36, 38, 40, 42, 44, 46, 49, 50, 51, 53, 55, 57, 58, 61, 62, 64, 66 and 68, which are charged as crimes against humanity, was committed as part of that attack. Dominic Ongwen knew that his conduct was part of or intended the conduct to be part of the widespread and systematic attack directed against the civilian population of northern Uganda. Each of the crimes against humanity charged and described in this document should be read in conjunction with this section to establish their objective and subjective elements.

The LRA's conduct involved an attack directed against a civilian population

40. From at least 1 July 2002 to 31 December 2005, the LRA carried out an attack directed against the civilian population.⁸⁰ Multiple acts referred to in article 7(1) were committed. As explained below, and also in the section on persecution, the civilian population of

⁸⁰ See *Katanga* Trial Judgment, establishing this as a relevant factor, ICC-01/04-01/07-3436-tENG, para. 1101.

northern Uganda was targeted in sufficient numbers and in such a manner that it is clear it was the primary target of the attack.⁸¹

The LRA acted pursuant to an organisational policy

41. The geographical spread and frequency of LRA attacks, and the similar manner in which they were committed, demonstrates that they were not spontaneous and separate acts but instead were committed pursuant to an organisational policy. The evidence set out in paragraphs 46 to 59 below shows that the LRA intended to carry out an attack against a civilian population⁸² and actively promoted or encouraged⁸³ the attack. In particular, the evidence in paragraphs 156 to 203 shows that the LRA launched attacks to punish the civilian population for their failure to support the LRA and for their purported support of the Government. This clearly implies the existence of an organisational policy.

42. The intercepted LRA radio communications also show that the organisational policy was adopted and disseminated according to a pre-established design. For example, on 7 May 2003, Joseph Kony is recorded in a logbook of intercepted LRA radio communications as ordering that the LRA should “wage serious atrocities” in northern Uganda so that the community “blame[s] the government”.⁸⁴ On 23 January 2004, the same source records his instruction that the killing of civilians from infant to old age was to start “seriously”, because civilians are the ones who put pressure on the Government to fight the LRA.⁸⁵

43. The fact that these attacks were not random acts of violence committed by local commanders, but rather a systematic application of LRA policy that could be started

⁸¹ See *Katanga* Trial Judgment, establishing this as a relevant factor, ICC-01/04-01/07-3436-tENG, para. 1104.

⁸² See *Katanga* Trial Judgment, establishing this as a relevant factor, ICC-01/04-01/07-3436-tENG, para. 1108, 1113.

⁸³ ICC, Elements of Crimes, article 7, Introduction, para. 3.

⁸⁴ ISO logbook, [UGA-OTP-0063-0002](#) at 0191.

⁸⁵ ISO logbook, [UGA-OTP-0061-0002](#) at 0016.

and stopped in accordance with orders ultimately dictated by Joseph Kony, is demonstrated by an instruction from Kony to his subordinates on 19 November 2004. At this time, peace talks were being discussed and a complaint had been received of LRA attacks that were in breach of the conditions of the talks. Kony's instruction was that LRA forces in Uganda should not, at this time, continue attacks on civilians.⁸⁶ Attacks resumed at the start of 2005.⁸⁷

44. The existence of this policy is further proved by the systematic targeting of civilians to obtain food and other supplies. The abduction of civilians, including children under the age of 15 years, ensured a supply of fighters for the LRA, while women and girls were abducted and distributed among LRA fighters, to serve as their forced wives and/or domestic slaves. This evidence is discussed in detail in the sections of this document on the IDP camp attacks at Pajule, Odek, Lukodi and Abok, as well as in the sections on SGBC and on conscription and use of child soldiers

45. With its military structure, established means of communications, and access to weapons, the LRA was an organisation that had the capacity to commit the attack.⁸⁸ As a result of the attack, from at least 1 July 2002 to 31 December 2005, thousands of civilians were killed, wounded, abducted, or otherwise victimised.⁸⁹

⁸⁶ ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0049.

⁸⁷ ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0121, 0122, 0123-0124.

⁸⁸ See *Katanga* Trial Judgment, establishing this as a relevant factor. ICC-01/04-01/07-3436-tENG, para. 1119.

⁸⁹ Atrocities Committed by LRA Rebels in Northern and Eastern Uganda, August 2004 (hereinafter "List of LRA atrocities"), [UGA-OTP-0037-0153](#); The Uganda Human Rights Commission Annual Report, 2003, [UGA-OTP-0044-0044](#) at 0044.

The attack on the civilian population of northern Uganda was widespread and systematic

46. The leaders of the LRA left the public in no doubt about their systematic policy of abducting children.

47. Joseph Kony, in the December 2002 Mega FM public radio broadcast in Gulu,⁹⁰ purported to deny the abduction of children by the LRA, but eventually conceded, “that’s the way we recruit”. He continued “we took them because of difficulties; this is the same way Museveni was doing it when he was in the bush by abducting”.⁹¹

48. Vincent Otti spoke in the same broadcast. He said, “I want to assure you that the girls whom we collect and send to the bush are our mothers. We always collect the young ones who are not infected with HIV”.⁹² The only reasonable interpretation of these words is that the LRA was implementing a policy of abducting young girls for sex and procreation.

49. Without more, the four attacks at Pajule, Odek, Lukodi and Abok, which form the basis for many of the charges in this case, alone constitute a widespread and systematic attack on the civilian population of northern Uganda. The four attacks occurred in multiple administrative districts. Their locations form a roughly equilateral triangle of which the sides are approximately 80 kilometres long; the widespread nature of these four components of the attack is thereby demonstrated.⁹³

50. Each of the four attacks, like many other LRA attacks during the conflict, occurred according to a similar pattern and *modus operandi*. Defending soldiers were engaged and the civilian population was then attacked. Civilians were murdered or gravely

⁹⁰ Mega FM sound recording, [UGA-OTP-0023-0002](#); Mega FM translation and transcript, [UGA-OTP-0023-0011](#).

⁹¹ Mega FM translation and transcript, [UGA-OTP-0023-0011](#) at 0013.

⁹² Mega FM translation and transcript, [UGA-OTP-0023-0011](#) at 0020.

⁹³ See UN Map, [UGA-OTP-0252-0352](#). The location of Abok IDP camp and the red triangle are not part of the map originally prepared by the United Nations Office for the Coordination of Humanitarian Affairs (see the original map at [UGA-OTP-0252-0353](#)). These elements were added to the map by the OTP Forensic Science Section.

wounded, and civilian stocks of foodstuffs, cooking utensils, and other goods were pillaged. Surviving members of the camp population were enslaved either temporarily, to act as porters for the pillaged goods, or permanently, to be used as fighters, child soldiers or domestic and sex slaves in the LRA.

51. These attacks, however, do not stand alone. They are simply four examples of a much larger number of attacks by LRA fighters on civilian targets in northern Uganda from at least 1 July 2002 to 31 December 2005.

52. Other examples found in the intercepted radio communications contained in the logbooks are listed immediately below. Again, the Prosecution does not primarily seek here to establish Dominic Ongwen's involvement or culpability, only the existence of a widespread and systematic attack, in which Dominic Ongwen took part.

- In the months from July to August 2002 there were LRA attacks on civilians in Cwero,⁹⁴ Pajule,⁹⁵ and in Mucwini sub-county.⁹⁶
- On 24 November 2002, Kony ordered the LRA to "concentrate on killing" so that Acholiland would become depopulated of civilians so as to facilitate the LRA's struggle against the UPDF.⁹⁷
- On 5 April 2003, Dominic Ongwen (in what was apparently a direct response to an order from Kony to attack the civilian inhabitants of a camp at Lagile who had become a "problem"⁹⁸) reported that he had attacked Lagile, burning many houses, killing twenty civilians and abducting many others. Criticised for having engaged in fighting with UPDF forces during the attack, Dominic Ongwen responded that had he not done so he would not have been able to attack the civilians.⁹⁹

⁹⁴ ISO logbook, [UGA-OTP-0063-0194](#) at 0219.

⁹⁵ ISO logbook, [UGA-OTP-0063-0194](#) at 0221.

⁹⁶ ISO logbook, [UGA-OTP-0063-0194](#) at 0327.

⁹⁷ ISO logbook, [UGA-OTP-0065-0002](#) at 0058.

⁹⁸ ISO logbook, [UGA-OTP-0063-0002](#) at 0079, 0123.

⁹⁹ ISO logbook, [UGA-OTP-0063-0002](#) at 0083.

- On 5 May 2003, Vincent Otti told Joseph Kony that his major objectives were to “step up serious operations” so that the “entire northern Uganda will all cry”, and that, as per Kony's instructions, he was deploying forces in all parts of Acholi, Lango, and Madi to attack camps, schools, centres, and towns.¹⁰⁰
- In June 2003, during an LRA attack at a location in Otuboi, Kaberamaido, 56 schoolgirls were abducted.¹⁰¹ A far larger abduction of children, both boys and girls, is reported to have occurred between Gere Gere and Lira Palwo on 2 July 2003.¹⁰²
- In September 2003 there were LRA attacks on civilians on the Soroti-Lira road and in the area of Wera.¹⁰³ On 16 September, Dominic Ongwen reported that he had attacked Opit church mission, pillaging money and radios.¹⁰⁴
- On 25 November 2003, Dominic Ongwen was reported to have recently led an attack at Labwor Omor (Palaro) in which his fighters posed as UPDF soldiers before opening fire on drinkers in a bar. Many civilians were reported as having been killed, others abducted, and houses were set ablaze.¹⁰⁵
- On 13 February 2004, Dominic Ongwen reported that in the course of an attack on the UPDF at Koc Ongako he had burned “all houses”.¹⁰⁶
- In August 2004, Dominic Ongwen reported to Buk Abudema, a senior LRA commander, that he had ambushed and killed people on the Awach road including a “boda boda” (motorcycle taxi).¹⁰⁷
- On 10 July 2005, Dominic Ongwen indicated that he was aware of Kony’s continuing order to abduct young girls and that he was “going to work on that himself”.¹⁰⁸

¹⁰⁰ ISO logbook, [UGA-OTP-0063-0002](#) at 0185.

¹⁰¹ ISO logbook, [UGA-OTP-0060-0149](#) at 0154.

¹⁰² ISO logbook, [UGA-OTP-0060-0149](#) at 0178.

¹⁰³ ISO logbook, [UGA-OTP-0060-0149](#) at 0274.

¹⁰⁴ UPDF logbook, [UGA-OTP-0197-1078](#) at 1085.

¹⁰⁵ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0087.

¹⁰⁶ UPDF logbook, [UGA-OTP-0197-0697](#) at 0780.

¹⁰⁷ ISO logbook, [UGA-OTP-0062-0145](#) at 0181.

¹⁰⁸ ISO logbook, [UGA-OTP-0163-0007](#) at 0169.

53. Other examples of evidence from intercepted LRA radio communications can be found in logbook entries between July 2002 and November 2005.¹⁰⁹

54. Many former LRA commanders, fighters and abductees have made statements in which they confirm the existence and set out the detail of attacks on civilian targets taking place between 1 July 2002 and 31 December 2005.

- P-0040 recalled hearing Kony giving orders in December 2003 that civilians be killed in large numbers to draw the attention of the international community and to put pressure on the Ugandan Government to talk to the LRA.¹¹⁰
- P-0200 said that shortly after the attack on Barlonyo IDP camp, when food ran short as the group he was leading approached the border with Sudan, Dominic Ongwen forced young abductees under his control to hack a middle-aged woman to death, boil her in a pot, and eat her.¹¹¹
- P-0205 spoke of an open order from Kony, which Dominic Ongwen relayed to his subordinates, to abduct children as young as 10 or 12. The order was issued in 2003, and was in force until peace negotiations in 2006.¹¹²
- P-0231 spoke of an attack at Ojwii, in which he took part in 2002 on Dominic Ongwen's orders. The purpose of the attack was to obtain food. The witness was aware that abductions were being carried out at this time by other units.¹¹³
- P-0233, an LRA fighter in Stockree brigade, took part in an abduction mission at Acet that was carried out pursuant to Ongwen's orders. The targets of the mission were boys and girls between 13 and 15.¹¹⁴
- P-0245 listed 10 locations where abductions, particularly of young girls, had taken place between 2002 and 2004, either under Ongwen's direct command or by troops under his control.¹¹⁵

¹⁰⁹ ISO logbook, [UGA-OTP-0060-0002](#) at 0012, 0103, 0123; ISO logbook, [UGA-OTP-0061-0002](#) at 0093; ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0179, 0183; ISO logbook, [UGA-OTP-0170-0077](#) at 0088.

¹¹⁰ P-0040, [UGA-OTP-0220-0678-R01](#) at 0685-0686.

¹¹¹ P-0200, [UGA-OTP-0243-0133-R01](#) at 0138-0147.

¹¹² P-0205, [UGA-OTP-0243-0819-R01](#) at 0825-0833.

¹¹³ P-0231, [UGA-OTP-0243-2025-R01](#) at 2039-2040.

¹¹⁴ P-0233, [UGA-OTP-0243-1149-R01](#) at 1151-1162.

- P-0252 was abducted during the attack on Odek in April 2004 at the age of 11. He was part of an abortive attack on Acet IDP camp by soldiers under Ongwen's command. Women and children formerly abducted were ordered to arm themselves with logs to assault the people who lived in the camp.¹¹⁶
- P-0264 was abducted by the LRA from his home village in Kirombe in 2002 when he was about 11 years old. He became an escort for various officers within the Sinia brigade. He recalled that Dominic Ongwen planned regular attacks on civilians, which made him very popular and respected.¹¹⁷ He remembered attacks on civilians at Atiak, Abim and Pader.¹¹⁸
- P-0314 was abducted in September 2002 from Palabek Gem camp aged about 14. He became a member of Terwanga battalion in Sinia brigade. He recalled that Dominic Ongwen ordered young children to kill civilian abductees including a girl called Lajok, and on one memorable occasion ordered the witness to kill an old man by biting him and then stoning him to death.¹¹⁹
- P-0340 was abducted from his home along with two of his cousins in July 2002, when he was around 15 years old. The commander of the group which abducted them was Dominic Ongwen. The day after being abducted, P-0340 witnessed abductees being caned to beat the civilian nature out of them.¹²⁰ As the group moved towards Sudan two children were killed along the way because they became too weak to walk any further.¹²¹ Later, as the group was moving from Lango towards Teso, a young abductee tried to escape. To make an example of him to others, another abductee was forced to beat the boy to death with a stick.¹²²
- P-0351 was 12 years old when she was abducted in December 2002 from Ongalo village. She witnessed other abductees who could not walk being killed. She

¹¹⁵ P-0245, [UGA-OTP-0244-0520-R01](#) at 0523-0536.

¹¹⁶ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443-0446.

¹¹⁷ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

¹¹⁸ P-0264, [UGA-OTP-0256-0139-R01](#) at 0158-0162.

¹¹⁹ P-0314, [UGA-OTP-0258-0841-R01](#) at 0850-0857.

¹²⁰ P-0340, [UGA-OTP-0270-0341-R01](#) at 0347.

¹²¹ P-0340, [UGA-OTP-0270-0317-R01](#) at 0337.

¹²² P-0340, [UGA-OTP-0270-0439-R01](#) at 0444-0445.

herself was forced to kill a civilian who tried to escape.¹²³ She was allocated to the group commanded by Dominic Ongwen, under his subordinate Kalalang. She witnessed an attack on a Catholic mission at Bario where the priest was beaten and goods looted. Civilians were abducted to carry the loot. Dominic Ongwen was the senior commander present at the attack.¹²⁴

55. Other witnesses speaking of attacks on civilian targets include P-0250,¹²⁵ P-0286,¹²⁶ P-0309,¹²⁷ P-0330,¹²⁸ P-0340¹²⁹, P-0352,¹³⁰ P-0366¹³¹ and P-0396.¹³²

56. On 14 December 2004, P-0038, a UPDF officer assigned by the Ugandan Government to liaise with the Prosecution, provided¹³³ a copy of a document¹³⁴ listing attacks on the civilian population attributed to the LRA between July 2002 and August 2004. There were 51 attacks in Apac district, 164 in Lira district, 88 in Pader district, 118 in Gulu district, 126 in Kitgum district, 32 in a district that is not identified, and 133 in the combined districts of Soroti, Katakwi, Kabermaido and Kotido.¹³⁵ The attacks include murder, abductions and pillaging.

57. The conduct described in detail in the sections in this document on persecution, SGBC, and on the conscription and use of child soldiers, also proves the existence of the widespread and systematic attack.

¹²³ P-0351, [UGA-OTP-0263-0002-R01](#) at 0007.

¹²⁴ P-0351, [UGA-OTP-0263-0002-R01](#) at 0015.

¹²⁵ P-0250, [UGA-OTP-0243-1353-R01](#) at 1364-1365.

¹²⁶ P-0286, [UGA-OTP-0248-0060-R01](#) at 0079-0081.

¹²⁷ P-0309, [UGA-OTP-0249-0472-R01](#) at 0483-0489.

¹²⁸ P-0330, [UGA-OTP-0256-0071-R01](#) at 0083-0090.

¹²⁹ P-0340, [UGA-OTP-0270-0317-R01](#) at 0324-0325.

¹³⁰ P-0352, [UGA-OTP-0260-0315-R01](#) at 0329-0330.

¹³¹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0305-0306.

¹³² P-0396, [UGA-OTP-0267-0246-R01](#) at 0254.

¹³³ P-0038, [UGA-OTP-0244-0912-R01](#) at 0916, para. 29 (“Update Atrocities Report Aug 04”).

¹³⁴ List of LRA atrocities, [UGA-OTP-0037-0153](#).

¹³⁵ List of LRA atrocities, [UGA-OTP-0037-0153](#) at 0159-0280.

The conduct that is charged as crimes against humanity was committed as part of a widespread and systematic attack directed against a civilian population of northern Uganda

58. Each of the crimes against humanity charged and described in this document was committed as part of this widespread and systematic attack directed against the civilian population of northern Uganda. Each crime against humanity charged occurred in the period 1 July 2002 to 31 December 2005, during which the attack took place. Each crime against humanity charged occurred in northern Uganda, which was the geographical scope of the attack.

59. For each of the crimes against humanity charged, Dominic Ongwen's conduct was consistent with the other acts that formed the basis of the widespread and systematic attack. The aims of the four IDP camp attacks were consistent and the consequences, for example the pattern of the crimes and the type of victims they occasioned, were similar.¹³⁶ Dominic Ongwen's conscription and use of child soldiers occurred on a regular basis and in the same manner to bolster the ranks of the LRA, and particularly the Sinia brigade. Dominic Ongwen's commission of sexual and gender-based crimes on women and girls who had been abducted from civilian centres was a facet of the LRA's organisational policy to attack civilians.

Dominic Ongwen knew that his conduct was part of or intended the conduct to be part of the widespread and systematic attack directed against the civilian population of northern Uganda

60. Dominic Ongwen 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 of northern Uganda.

61. By his words and conduct, including those described in the section of this document dealing with persecution, and in the sections on the four IDP camp attacks, Dominic

¹³⁶ See *Katanga* Trial Judgment, establishing this as a relevant factor. ICC-01/04-01/07-3436-tENG, para. 1124.

Ongwen had knowledge of the LRA's organisational policy and demonstrated his subscription to it. He deliberately carried out the IDP camp attacks in furtherance of it. Similarly, understanding the LRA's policy with respect to the abduction of boys and girls to use primarily as child soldiers and forced wives respectively, Dominic Ongwen continued with the commission of these crimes because he personally benefited from the policy: by having forced wives to fulfil conjugal duties and by obtaining praise and promotion for carrying out attacks pursuant to or in furtherance of the policy.

III. INTERCEPTED RADIO COMMUNICATIONS

62. In addition to evidence from witnesses that the Prosecution is tendering to support the charged crimes, the Chamber will also have access to the LRA's own radio communications, which were intercepted and recorded contemporaneously by several Ugandan military and security organisations during the charged period. This body of intercepted communications is too voluminous and its sources too diverse to be anything other than genuine and highly probative evidence of the LRA's words and conduct at relevant times.¹³⁷

63. From at least the early 1990s, the LRA used high-frequency radios to communicate internally.¹³⁸ They looted these radios from Catholic missions or NGO vehicles, or they received them from collaborators.¹³⁹ After Operation Iron Fist destroyed the LRA's base of operations in Sudan, communication through these radios became critical to the LRA's survival.

64. After Operation Iron Fist Joseph Kony remained in Sudan, while his forces streamed into northern Uganda. Kony was often hundreds of kilometres away from his troops, who operated as far south as Soroti. Because of this geographical isolation, Kony used

¹³⁷ A summary of this body of evidence has been made by P-0403, [UGA-OTP-0269-0897](#).

¹³⁸ P-0301, [UGA-OTP-0249-0423-R01](#) at 0426; P-0029, [UGA-OTP-0027-0231-R01](#) at 0235; ISO logbook, [UGA-OTP-0063-0194](#) at 0208.

¹³⁹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0224; P-0059, [UGA-OTP-0027-0244](#) at 0251.

high-frequency radio to issue orders to and communicate with his senior commanders, who were spread over large distances.¹⁴⁰

65. By 2002, the LRA had developed a sophisticated method of communicating by radio.¹⁴¹ The LRA transmitted punctually: every day at set hours, on pre-determined frequencies (both of which changed over time).¹⁴² They communicated in Acholi.¹⁴³ Joseph Kony required senior LRA commanders to call in their location¹⁴⁴ and to report on their activities since the previous communication time. He also used the radio to give orders and to enforce discipline.¹⁴⁵ Kony issued radios to commanders of the Division and the brigades¹⁴⁶ and lower-ranked commanders who were particularly active.¹⁴⁷ From at least 1 July 2002 to 31 December 2005, this included Dominic Ongwen: intercepted LRA communications record Dominic Ongwen reporting on the radio consistently in this period,¹⁴⁸ particularly after successfully carrying out an attack.¹⁴⁹

66. Commanders were incentivised to report their operations on the radio because it brought them recognition, promotion, and rewards, such as more wives.¹⁵⁰ Commanders occasionally inflated enemy casualty counts or did not make timely reports,¹⁵¹ but this was exceptional. They reported accurately because of the threat of

¹⁴⁰ P-0003, [UGA-OTP-0027-0214-R01](#) at 0226; P-0059, [UGA-OTP-0027-0244](#) at 0249.

¹⁴¹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0224; P-0059, [UGA-OTP-0027-0244](#) at 0250-0251.

¹⁴² P-0059, [UGA-OTP-0027-0244](#) at 0249, [UGA-OTP-0258-0699](#) at 0709; P-0291, [UGA-OTP-0246-0061-R01](#) at 0066; P-0003, [UGA-OTP-0027-0214-R01](#) at 0221, 0224, [UGA-OTP-0246-0077-R01](#) at 0083; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 33-36.

¹⁴³ P-0291, [UGA-OTP-0246-0061-R01](#) at 0066; P-0003, [UGA-OTP-0027-0214-R01](#) at 0226.

¹⁴⁴ P-0291, [UGA-OTP-0246-0061-R01](#) at 0066.

¹⁴⁵ P-0003, [UGA-OTP-0027-0214-R01](#) at 0226.

¹⁴⁶ P-0003, [UGA-OTP-0027-0214-R01](#) at 0225; P-0029, [UGA-OTP-0027-0231-R01](#) at 0239.

¹⁴⁷ P-0059, [UGA-OTP-0027-0244](#) at 0250.

¹⁴⁸ P-0003, [UGA-OTP-0027-0214-R01](#) at 0225; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 33-36, 38-39; P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 33 (P-0099's rape occurred prior to 1 July 2002, *see* section on direct perpetration of SGBC, para. 500-611); ISO logbook, [UGA-OTP-0064-0002](#) at 0077 (Ongwen reporting on the radio on 27 August 2002); ISO logbook, [UGA-OTP-0064-0093](#) at 0130 (Ongwen reporting on the radio on 10 September 2002); ISO logbook, [UGA-OTP-0163-0007](#) at 0247 (Ongwen reporting on the radio on 20 August 2005), *see also* 0090, 0155-0156, 0187, 0230.

¹⁴⁹ P-0059, [UGA-OTP-0150-0037-R01](#) at 0041; P-0019, [UGA-OTP-0218-0594-R01](#) at 0597-0598.

¹⁵⁰ ISO logbook, [UGA-OTP-0232-0234](#) at 0477.

¹⁵¹ P-0027, [UGA-OTP-0207-0256-R01](#) at 0259; P-0032, [UGA-OTP-0150-0030-R01](#) at 0033.

reprimand or punishment if they were found not to be truthful.¹⁵² They knew that Kony was able to cross-check their reports against Mega FM and other public radio broadcasts.¹⁵³

67. The LRA knew that their unencrypted radio communications were being intercepted, so they talked in code to hide their more sensitive communications.¹⁵⁴ The LRA used three main types of code:

- First, call-signs instead of commanders' names. For example, one of Dominic Ongwen's call-signs was "Tem Wek Ibong".¹⁵⁵
- Second, Acholi proverbs or LRA jargon. For example, P-0003, a UPDF radio operator, explained that the LRA would say "ram" – as in a male sheep – to mean retreat. This is because the way rams fight is to first back up, then attack. The LRA also used the word "aunty" to mean civilian, and "recruits" for abductees.¹⁵⁶
- Third, the LRA used "Tonfas".¹⁵⁷ The word "Tonfas" is a radio signals acronym. It stands for Time, Operator, Nicknames, Frequencies, Address, Security.¹⁵⁸ Tonfas codes were pages of random words that LRA commanders referred to in order to transmit its most sensitive communications.¹⁵⁹ The LRA distributed these pages of words by hand to the commanders with a radio.¹⁶⁰

¹⁵² P-0003, [UGA-OTP-0027-0214-R01](#) at 0227; P-0032, [UGA-OTP-0150-0030-R01](#) at 0032.

¹⁵³ UPDF logbook, [UGA-OTP-0197-0697](#) at 0709-0710.

¹⁵⁴ P-0291, [UGA-OTP-0246-0061-R01](#) at 0066; P-0301, [UGA-OTP-0249-0423-R01](#) at 0426; ISO logbook, [UGA-OTP-0068-0146](#) at 0222-0223; UPDF logbook, [UGA-OTP-0197-0697](#) at 0732-0733.

¹⁵⁵ P-0125, [UGA-OTP-0175-0300-R01](#) at 0304; P-0003, [UGA-OTP-0248-0094-R01](#) at 0101; P-0059, [UGA-OTP-0248-0328-R01](#) at 0332.

¹⁵⁶ P-0003, [UGA-OTP-0027-0214-R01](#) at 0224 (Nyoke (ram) = retreat); P-0059, [UGA-OTP-0027-0244](#) at 0251 (recruit = abductee); P-0059, [UGA-OTP-0248-0328-R01](#) at 0335 (waya (aunty) = civilian); *see also* P-0003, [UGA-OTP-0248-0094-R01](#) at 0098; P-0059, [UGA-OTP-0248-0328-R01](#) at 0335.

¹⁵⁷ P-0003, [UGA-OTP-0246-0077-R01](#) at 0085; P-0301, [UGA-OTP-0249-0423-R01](#) at 0430; P-0059, [UGA-OTP-0258-0699](#) at 0710-0713; UPDF Logbook, [UGA-OTP-0197-0697](#) at 0732-0733. The LRA did not call their system Tonfas; they called it "Kitabu", which means "book" in Swahili. P-0339, [UGA-OTP-0258-0732](#) at 0744.

¹⁵⁸ P-0301, [UGA-OTP-0249-0423-R01](#) at 0430.

¹⁵⁹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0217-0220, [UGA-OTP-0069-0803-R01](#) at 0805-0806; P-0059, [UGA-OTP-0027-0244](#) at 0250; P-0291, [UGA-OTP-0246-0061-R01](#) at 0067; P-0125, [UGA-OTP-0170-0047-R01](#) at 0053-0054; ISO logbook, 8 July 2003 at 1300, [UGA-OTP-0068-0146](#) at 0303; See an example of LRA Tonfas code at [UGA-OTP-0053-0082](#); see also P-0003, [UGA-OTP-0246-0077-R01](#) at 0085; see other examples of Tonfas at [UGA-OTP-0053-0092](#), [UGA-OTP-0053-0105](#), [UGA-OTP-0053-0118](#), [UGA-OTP-0053-0137](#).

¹⁶⁰ P-0291, [UGA-OTP-0246-0061-R01](#) at 0067.

68. In the mid-1990s, the Ugandan Government recognised the strategic significance of the radio communications to its military campaign against the LRA.¹⁶¹ Three independent radio interception operations were established: by the Internal Security Organisation (“ISO”), by the UPDF and by the Ugandan Police force. The Ugandan Government set up the ISO¹⁶² and the UPDF operations in the mid- and late-1990s, respectively.¹⁶³ The Police intercepted communications from August 2003. Its operation was more modest.¹⁶⁴
69. By 2001, the ISO and the UPDF had permanent offices at the UPDF barracks in Gulu, and were intercepting LRA radio communications daily, with trained staff, on a full-time basis.¹⁶⁵ Gulu was selected as the permanent operating base because that region was the main theatre of LRA operations and closest to the UPDF decision-makers.¹⁶⁶ Their mandate was to intercept and record radio communications to inform UPDF military decisions.¹⁶⁷ The UPDF also intercepted LRA radio communications from various locations in Sudan and northern Uganda, mirroring the LRA’s movements as its centre of operations shifted.¹⁶⁸
70. The Prosecution has interviewed and relies on eighteen persons involved at all levels of the ISO’s, UPDF’s, and Police’s interception operation.¹⁶⁹ These persons, particularly the radio operators, were intimately familiar with the LRA.

¹⁶¹ P-0059, [UGA-OTP-0027-0244](#) at 0246; P-0301, [UGA-OTP-0249-0423-R01](#) at 0426, 0428.

¹⁶² P-0027, [UGA-OTP-0249-0444-R01](#) at 0446, 0449.

¹⁶³ P-0003, [UGA-OTP-0027-0214-R01](#) at 0216; P-0029, [UGA-OTP-0027-0231-R01](#) at 0234, [UGA-OTP-0267-0455](#) at 0458.

¹⁶⁴ P-0125, [UGA-OTP-0170-0047-R01](#) at 0050-0055; P-0125, [UGA-OTP-0253-0780](#) at 0788; P-0370, [UGA-OTP-0258-0687](#) at 0690-0694.

¹⁶⁵ P-0003, [UGA-OTP-0246-0077-R01](#) at 0081; P-0027, [UGA-OTP-0207-0256-R01](#) at 0257.

¹⁶⁶ P-0027, [UGA-OTP-0249-0444-R01](#) at 0449.

¹⁶⁷ P-0291, [UGA-OTP-0246-0061-R01](#) at 0064; P-0027, [UGA-OTP-0249-0444-R01](#) at 0446, 0448-0449, [UGA-OTP-0207-0256-R01](#) at 0257-0258; P-0029, [UGA-OTP-0267-0455](#) at 0457-0458.

¹⁶⁸ P-0029, [UGA-OTP-0267-0455](#) at 0459-0460; P-0337, [UGA-OTP-0267-0445-R01](#) at 0447-0451; P-0339, [UGA-OTP-0258-0732](#) at 0734, 0739-0743; P-0400, [UGA-OTP-0264-0015](#) at 0019-0020.

¹⁶⁹ P-0003, P-0029, P-0337, P-0339, P-0400, P-0404 (UPDF); P-0027, P-0032, P-0059, P-0291, P-0301, P-0303, P-0384, P-0385, P-0386 (ISO); P-0125, P-0126, P-0370 (Police).

71. P-0059 was—and still is—an ISO radio operator, a trained signaller, and a native Acholi speaker. He was the ISO's most experienced and best interceptor.¹⁷⁰ P-0059 listened to LRA radio communications for over ten years.¹⁷¹ He could break the LRA's Tonfas code,¹⁷² he knew the LRA's command structure,¹⁷³ and he could identify LRA commanders on the radio by their voices alone.¹⁷⁴

72. P-0003 was one of the most skilled radio operators in the UPDF.¹⁷⁵ He listened to LRA radio communications almost every day for over six years.¹⁷⁶ Like P-0059, P-0003 was intimately familiar with the LRA. He could break the Tonfas code,¹⁷⁷ he knew their command structure,¹⁷⁸ and he could identify commanders by their voices alone.¹⁷⁹

73. P-0339 intercepted LRA radio communications for the UPDF from 1996 to 2011.¹⁸⁰ He worked out of various UPDF barracks around northern Uganda including at Achol Pii, Soroti and Lira, following the same interception procedure as P-0003 in Gulu.¹⁸¹ P-0339 could break the LRA's Tonfas code,¹⁸² and he could identify commanders by their voices alone.¹⁸³

74. P-0125 was a Police constable, trained in radio communications. He intercepted at a Police station in Kamdini, which is about 60 km south of Gulu, from about 2003.¹⁸⁴

¹⁷⁰ P-0386, [UGA-OTP-0260-0508](#) at 0511, 0512.

¹⁷¹ P-0059, [UGA-OTP-0027-0244](#) at 0246, [UGA-OTP-0248-0328-R01](#) at 0331; [UGA-OTP-0258-0699](#) at 0701.

¹⁷² P-0059, [UGA-OTP-0027-0244](#) at 0250, [UGA-OTP-0258-0699](#) at 0710-0713; ISO logbook, [UGA-OTP-0068-0146](#) at 0222-0223.

¹⁷³ P-0032, [UGA-OTP-0246-0003-R01](#) at 0008; P-0059, [UGA-OTP-0150-0022-R01](#) at 0023; a photograph of an ISO list of LRA commanders dated 25 January 2005 on the wall of the ISO interception office in Gulu, [UGA-OTP-0244-3328](#).

¹⁷⁴ P-0059, [UGA-OTP-0027-0244](#) at 0251.

¹⁷⁵ P-0003, [UGA-OTP-0246-0077-R01](#) at 0081.

¹⁷⁶ P-0003, [UGA-OTP-0027-0214-R01](#) at 0216, [UGA-OTP-0248-0094-R01](#) at 0096.

¹⁷⁷ P-0003, [UGA-OTP-0027-0214-R01](#) at 0217-0220; ISO logbook, [UGA-OTP-0068-0146](#) at 0222-0223.

¹⁷⁸ P-0003, [UGA-OTP-0027-0214-R01](#) at 0227; P-0029, [UGA-OTP-0027-0231-R01](#) at 0234.

¹⁷⁹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0225.

¹⁸⁰ P-0339, [UGA-OTP-0258-0732](#) at 0735-0743.

¹⁸¹ P-0339, [UGA-OTP-0258-0732](#) at 0735-0743; P-0400, [UGA-OTP-0264-0015](#) at 0020-0021.

¹⁸² P-0339, [UGA-OTP-0258-0732](#) at 0744-0745, [UGA-OTP-0258-0751](#).

¹⁸³ P-0339, [UGA-OTP-0258-0732](#) at 0743.

¹⁸⁴ P-0125, [UGA-OTP-0253-0780](#) at 0782, 0784; P-0126, [UGA-OTP-0253-0764](#) at 0773.

Whereas P-0059 and P-0003 worked in teams, P-0125 worked mostly on his own.¹⁸⁵ He could not break the Tonfas code,¹⁸⁶ but he knew the LRA structure and he could identify LRA commanders by their voices.¹⁸⁷ Although he was dozens of kilometres away and had almost no interaction with P-0003, P-0339 or P-0059, P-0125 wrote down identical material in his logbook.

75. The interception process was similar across the UPDF, the ISO and the Police. Immediately prior to the LRA's set communication time, radio operators P-0059, P-0003, P-0339 and P-0125 sat down at their desks and switched on the radio.¹⁸⁸ As the LRA talked, the operators took, in short-hand, rough notes of the conversations.¹⁸⁹ If commanders talked in codes, operators would write the codes down and break them after the communication had finished. Radio operators monitored the radio seven days a week, 24 hours a day.¹⁹⁰

76. After the communication ended, radio operators de-coded their short-hand rough notes. They then hand-wrote the intelligible content into logbooks, in English.¹⁹¹ These logbook entries were the most important record that the organisations produced.¹⁹² ISO operators faxed copies of each entry to their superiors in Kampala to brief politicians

¹⁸⁵ P-0125, [UGA-OTP-0253-0780](#) at 0787; P-0370, [UGA-OTP-0258-0687](#) at 0690-0694.

¹⁸⁶ P-0125, [UGA-OTP-0170-0047-R01](#) at 0051, 0054.

¹⁸⁷ P-0125, [UGA-OTP-0170-0047-R01](#) at 0049, 0053, 0054, [UGA-OTP-0253-0780](#) at 0787, 0788.

¹⁸⁸ P-0003, [UGA-OTP-0246-0077-R01](#) at 0083; P-0291, [UGA-OTP-0246-0061-R01](#) at 0067-0068; P-0059, [UGA-OTP-0027-0244](#) at 0246; P-0125, [UGA-OTP-0170-0047-R01](#) at 0051; a photograph of the ISO radio, [UGA-OTP-0244-3325](#).

¹⁸⁹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0222-0223; P-0339, [UGA-OTP-0258-0732](#) at 0736, 0739, 0740, 0741, 0742; P-0291, [UGA-OTP-0246-0061-R01](#) at 0068; P-0059, [UGA-OTP-0027-0244](#) at 0247, [UGA-OTP-0258-0699](#) at 0716-0717; P-0125, [UGA-OTP-0253-0780](#) at 0785. See an example of the short-hand rough notes at [UGA-OTP-0197-2319](#).

¹⁹⁰ P-0125, [UGA-OTP-0253-0780](#) at 0785; P-0126, [UGA-OTP-0253-0764](#) at 0774; P-0029, [UGA-OTP-0267-0455](#) at 0458; P-0059, [UGA-OTP-0258-0699](#) at 0706.

¹⁹¹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0219, 0223, [UGA-OTP-0246-0077-R01](#) at 0084-0085; P-0339, [UGA-OTP-0258-0732](#) at 0736, 0739, 0740, 0741, 0742; P-0291, [UGA-OTP-0246-0061-R01](#) at 0068-0069; P-0059, [UGA-OTP-0027-0244](#) at 0247; P-0125, [UGA-OTP-0170-0047-R01](#) at 0051-0052.

¹⁹² P-0003, [UGA-OTP-0246-0077-R01](#) at 0084. See an example of a UPDF logbook entry at [UGA-OTP-0197-0308](#).

and senior military figures.¹⁹³ The UPDF reported to Kampala by telephone.¹⁹⁴ Both the ISO and the UPDF physically took the logbooks to show the UPDF Division Commander in the barracks after each communication time.¹⁹⁵

77. From at least 2003, in Gulu, the UPDF and the ISO sound-recorded LRA radio communications.¹⁹⁶ Sound recordings were not intended to cover the entirety of each communication;¹⁹⁷ instead, they were used as a back-up, in case radio operators missed the meaning or content of communications during the live transmission.¹⁹⁸ They could use these sound recordings to go back to check what had been said, to complete their logbook entry. The Police did not sound-record.¹⁹⁹

78. The UPDF²⁰⁰ and the Police²⁰¹ compiled typed intelligence reports. UPDF reports were used to brief senior military officials in Kampala. They contained summaries of the logbooks, human intelligence reports from UPDF units stationed in the field and geographic coordinates pinpointed by UPDF direction-finding equipment.²⁰² The Prosecution does not rely on this direction-finding evidence;²⁰³ the Prosecution is not satisfied as to the reliability of the process by which direction finding information was

¹⁹³ P-0291, [UGA-OTP-0246-0061-R01](#) at 0069; P-0032, [UGA-OTP-0069-0796-R01](#) at 0799, [UGA-OTP-0246-0003-R01](#) at 0010; P-0059, [UGA-OTP-0027-0244](#) at 0248; P-0303, [UGA-OTP-0258-0723](#) at 0727-0728; P-0385, [UGA-OTP-0260-0498](#) at 0500-0502.

¹⁹⁴ P-0003, [UGA-OTP-0027-0214-R01](#) at 0217, 0223; P-0029, [UGA-OTP-0267-0455](#) at 0458, 0459.

¹⁹⁵ P-0003, [UGA-OTP-0027-0214-R01](#) at 0223, [UGA-OTP-0069-0803-R01](#) at 0804, [UGA-OTP-0246-0077-R01](#) at 0083; P-0339, [UGA-OTP-0258-0732](#) at 0737, 0739, 0740, 0741, 0742; P-0291, [UGA-OTP-0246-0061-R01](#) at 0069; P-0029, [UGA-OTP-0027-0231-R01](#) at 0237; P-0032, [UGA-OTP-0069-0796-R01](#) at 0799, [UGA-OTP-0246-0003-R01](#) at 0010; P-0059, [UGA-OTP-0027-0244](#) at 0248, [UGA-OTP-0258-0699](#) at 0714; P-0125, [UGA-OTP-0170-0047-R01](#) at 0053; P-0303, [UGA-OTP-0258-0723](#) at 0726, 0727; P-0384, [UGA-OTP-0260-0491](#) at 0495.

¹⁹⁶ P-0003, [UGA-OTP-0246-0077-R01](#) at 0083; P-0291, [UGA-OTP-0246-0061-R01](#) at 0068-0069; P-0032, [UGA-OTP-0069-0796-R01](#) at 0800.

¹⁹⁷ P-0003, [UGA-OTP-0246-0077-R01](#) at 0083-0084; P-0059, [UGA-OTP-0258-0699](#) at 0703-0704.

¹⁹⁸ P-0003, [UGA-OTP-0246-0077-R01](#) at 0083; P-0291, [UGA-OTP-0246-0061-R01](#) at 0068; P-0059, [UGA-OTP-0027-0244](#) at 0247; a photograph of the ISO tape recorder, [UGA-OTP-0244-3325](#). See an example of a UPDF tape at [UGA-OTP-0038-0065](#).

¹⁹⁹ P-0125, [UGA-OTP-0170-0047-R01](#) at 0055.

²⁰⁰ P-0029, [UGA-OTP-0267-0455](#) at 0464-0467.

²⁰¹ P-0126, [UGA-OTP-0253-0764](#) at 0775, [UGA-OTP-0264-0002](#).

²⁰² P-0003, [UGA-OTP-0246-0077-R01](#) at 0082-0083, 0086; P-0029, [UGA-OTP-0027-0231-R01](#) at 0240, P-0029, [UGA-OTP-0267-0455](#) at 0458-0459. See an example of a UPDF intelligence report at [UGA-OTP-0017-0017](#).

²⁰³ See P-0337, [UGA-OTP-0256-0201](#) at 0204-0211; P-0029, [UGA-OTP-0267-0455](#) at 0463-0464; P-0404, [UGA-OTP-0267-0470](#) at 0474; P-0339, [UGA-OTP-0258-0732](#) at 0737-0738.

obtained, but has disclosed the material relating to this aspect of the Ugandan authorities' operations to the Defence. The Police intelligence reports were based on the summaries of LRA radio communications that P-0125 sent from his interception post at Kamdini Police station.²⁰⁴

79. The Prosecution has collected the records that radio operators P-0059, P-0003, P-0339, P-0125 and others from these organisations generated, covering the period 2002-2005: approximately 4,954 pages of short-hand rough notes, 7,782 pages of logbooks, 5,070 pages of ISO faxed copies, 300 UPDF intelligence reports, 15 Police intelligence reports and 610 sound recordings.

80. Following collection, the Prosecution enhanced the quality of original sound recordings using state-of-the-art audio enhancement software.²⁰⁵ Digital enhancement gives translators and witnesses the best possible opportunity to understand the content of the sound recordings. The enhancement of original audios has in most cases resulted in an improvement in the clarity of speakers. Reports have been produced with respect to each enhanced sound recording, which describe the enhancement procedure and detail the filters used.²⁰⁶

81. Sound recordings that contain communications on dates most relevant to the charges against Dominic Ongwen were transcribed and translated, using the enhanced audios. Because of the LRA's use of coded language, the Prosecution verified their content with the same radio operators who first de-coded those communications,²⁰⁷ and with LRA

²⁰⁴ P-0126, [UGA-OTP-0264-0002](#) at 0004. See an example of a Police intelligence report at [UGA-OTP-0256-0241](#) (commented on by P-0126 at [UGA-OTP-0264-0002](#) at 0006).

²⁰⁵ P-0242, [UGA-OTP-0261-0333](#); P-0256, [UGA-OTP-0269-0015](#).

²⁰⁶ P-0242, [UGA-OTP-0261-0333](#) at 0339-0340, [UGA-OTP-0261-0349](#) at 0349-0352.

²⁰⁷ For example, P-0003, [UGA-OTP-0132-0002-R01](#), [UGA-OTP-0248-0094-R01](#); P-0059, [UGA-OTP-0150-0037-R01](#), [UGA-OTP-0248-0328-R01](#), [UGA-OTP-0258-0755](#), [UGA-OTP-0266-0074](#).

fighters familiar with the system of radio communication.²⁰⁸ These witnesses have confirmed that those conversations took place and that the interceptions were accurate.

82. The Prosecution has created two documents to assist the Chamber, the Defence, and the victims' representatives to navigate the body of collected material. These tools help to identify other sources that relate to the same day to find corroboration for any single source of intercept evidence. The first is the Intercept Books Timeline, a visual representation of all the written records produced by the UPDF, the ISO and the Police, in timeline format.²⁰⁹ The timeline helps to identify how many and which written records cover a particular date. The second navigational aid is the Intercepts Master Table.²¹⁰ It is structured around the sound recordings. The table links these sound recordings to the other intercept evidence recorded on the same day. These documents are available to the Chamber, the Defence and the Victims Representatives in TRIM, and continue to be improved and updated by the addition of further information.

83. Understandably, there were shortcomings in the radio intercept operations. The collected material was intercepted and recorded with rudimentary equipment, over 10 years ago, in the context of an armed conflict.²¹¹ These circumstances hampered the ability of radio operators to intercept and record all the LRA's communications.²¹² Record-keeping was not always meticulous. For example, P-0027 from the ISO stated that sometimes labels fell off sound recordings,²¹³ and P-0059 said that the ISO's archive

²⁰⁸ For example, P-0016, [UGA-OTP-0228-3535-R01](#) at 3541, [UGA-OTP-0167-0042-R01](#), [UGA-OTP-0259-0011-R01](#), [UGA-OTP-0265-0318](#); P-0019, [UGA-OTP-0262-0176-R01](#).

²⁰⁹ The intercepts books timeline is available to all parties and participants at TRIM record number W16/03294.

²¹⁰ The master table of intercept evidence is available to all parties and participants at TRIM record number W16/03294.

²¹¹ See photographs of the interception house in Gulu, [UGA-OTP-0244-3308](#) to [UGA-OTP-0244-3358](#).

²¹² The ISO or UPDF did not intercept mobile phone or satellite phone communications (P-0029, [UGA-OTP-0267-0455](#) at 0463; P-0059, [UGA-OTP-0258-0699](#) at 0717-0718; P-0027, [UGA-OTP-0249-0444-R01](#) at 0449; P-0032, [UGA-OTP-0150-0030-R01](#) at 0033), or hand-passed letters (P-0032, [UGA-OTP-0150-0030-R01](#) at 0033). Weather and geography also impacted upon the radio operatives' capacity to intercept radio signals (P-0032, [UGA-OTP-0246-0003-R01](#) at 0012; P-0059, [UGA-OTP-0258-0699](#) at 0708-0709).

²¹³ P-0027, [UGA-OTP-0207-0256-R01](#) at 0259-0260.

at one stage was affected by damp.²¹⁴ Corroboration between the different sources of intercept evidence is not always consistent. For example, sometimes communications recorded in one logbook are not recorded in another, or cannot be discerned on the corresponding sound recording.²¹⁵

84. Staff from the ISO and the UPDF worked in close proximity at Gulu barracks, and worked together at times.²¹⁶ Between some radio operators, this caused tension.²¹⁷ In 2006, the Prosecution provided assistance to the UPDF's interception operation by providing pens, books, batteries and a tape recorder.²¹⁸ During the course of uploading the sound recordings into its Ringtail evidence database, the Prosecution mislabelled some of the audio files. This has been remedied, and an explanatory report on the issue disclosed to the Parties.²¹⁹

85. These issues do not affect the integrity of this evidence. The intercepted LRA radio communications represent a unique opportunity to step inside the mind of Dominic Ongwen and other LRA commanders at a time before any prospect of prosecution could have influenced their thoughts or actions.²²⁰ For example, the Chamber can hear Dominic Ongwen's voice on the radio, recorded over 15 years ago, claiming responsibility for the Odek, Lukodi, and Abok IDP camp attacks.²²¹

86. The evidence was collected for intelligence-gathering purposes: to fight a war, not to build a criminal case. The intercepted communications were used successfully to

²¹⁴ P-0059, [UGA-OTP-0027-0244](#) at 0248; photographs of the ISO archive in Gulu, [UGA-OTP-0244-3320](#), [UGA-OTP-0244-3355](#).

²¹⁵ P-0027, [UGA-OTP-0207-0256-R01](#) at 0259; P-0003, [UGA-OTP-0246-0077-R01](#) at 0083-0084.

²¹⁶ P-0291, [UGA-OTP-0246-0061-R01](#) at 0064-0065, 0070-0071; P-0032, [UGA-OTP-0246-0003-R01](#) at 0006-0007, 0013; P-0027, [UGA-OTP-0249-0444-R01](#) at 0449; P-0003, [UGA-OTP-0246-0077-R01](#) at 0087; P-0029, [UGA-OTP-0267-0455](#) at 0462-0463; P-0059, [UGA-OTP-0258-0699](#) at 0707-0708; P-0337, [UGA-OTP-0267-0445-R01](#) at 0452.

²¹⁷ P-0339, [UGA-OTP-0258-0732](#) at 0738; *See also* P-0029, [UGA-OTP-0267-0455](#) at 0460; P-0059, [UGA-OTP-0258-0699](#) at 0708; P-0059's letter, [UGA-OTP-0242-0219](#).

²¹⁸ P-0003, [UGA-OTP-0246-0077-R01](#) at 0088.

²¹⁹ *See* OTP Evidence Unit Report, [UGA-OTP-0269-0841](#), Spreadsheet of audio files, [UGA-OTP-0269-0845](#).

²²⁰ ICC arrest warrants for five LRA commanders were unsealed on 13 October 2005.

²²¹ *See* para. 343-352 (Odek), 407-414 (Lukodi), 480-486 (Abok).

prevent LRA attacks, which demonstrates the accuracy of the radio operators' interception and the authenticity of the recorded material.²²² For example, in 2002 or 2003, P-0059 intercepted and de-coded an LRA radio communication about an upcoming attack on Abim. P-0059 gave that information to the UPDF prior to the attack. When the LRA arrived, UPDF forces ambushed them and killed an LRA commander.²²³

87. P-0059, P-0003, P-0339, P-0125 and the other radio operators were trained professionals, who listened to the LRA for years without break. Personal differences—later resolved²²⁴—between radio operators did not have an impact on the quality of their work. These radio operators said that the material they produced was distinct and independently compiled; indeed, occasional inconsistencies in the records are proof of this.

88. The intercept evidence is unaffected by human memory's fallibility, and free of the bias or suspect motivations that have the potential to taint witness testimony. Any gaps in the collection in no way affect the reliability of those records that were obtained, which the Chamber should rely on to make key findings in this case.

²²² P-0029, [UGA-OTP-0267-0455](#) at 0458; P-0126, [UGA-OTP-0253-0764](#) at 0776; P-0059, [UGA-OTP-0258-0699](#) at 0717; UPDF Logbook, [UGA-OTP-0242-7309](#) at 7455-7456, [UGA-OTP-0242-6018](#) at 6123.

²²³ P-0059, [UGA-OTP-0258-0699](#) at 0717.

²²⁴ P-0059, [UGA-OTP-0258-0699](#) at 0708.

IV. COMMON ELEMENTS OF MODES OF LIABILITY

Introduction

89. This section addresses the evidence relevant to key common elements of the modes of liability linking Dominic Ongwen to the charged crimes pursuant to articles 25(3)(a), 25(3)(b), 25(3)(d), and 28(a). The section addresses the evidence in the following sequence:

- The organised and hierarchical structure of the LRA, including the Sinia brigade where Dominic Ongwen spent much of his career;
- Dominic Ongwen's position of authority and control over troops within this military structure from July 2002 to December 2005; and
- The relevance of the above evidence for Dominic Ongwen's individual criminal responsibility to the charged crimes pursuant to articles 25(3)(a), 25(3)(b), 25(3)(d), and 28(a).

90. The submissions in this section should be read in conjunction with the discussions of modes of liability in the sections on sexual and gender-based crimes, child soldier conscription and use, and the attacks on Pajule, Odek, Lukodi and Abok.²²⁵

The LRA including the Sinia brigade was an organised and hierarchical structure

91. During the period between July 2002 and December 2005, the LRA, including the Sinia brigade, was an organised and hierarchical structure. The LRA had a well-defined structure that mirrored broadly that of conventional national military forces. Joseph Kony was the spiritual leader and commander-in-chief of the LRA.²²⁶ Kony's headquarters was called "Control Altar". Control Altar was composed of multiple departments including political affairs, operations, religious affairs, support, and

²²⁵ See para. 246-287 (Pajule), 332-370 (Odek), 400-429 (Lukodi), 476-499 (Abok), 656-700 (SGBC) and 739-758 (child soldiers).

²²⁶ It is an agreed fact between the Parties that "between 1 July 2002 and 31 December 2005, Joseph Kony was in charge of the LRA and was also its spiritual leader". See also, P-0032, [UGA-OTP-0150-0030-R01](#) at 0032.

personnel administration.²²⁷ Each of these had a director or leader.²²⁸ Some of the LRA fighters were also assigned to a “division”. The division was an operational unit, headed by a commander, with constituent troops separate from the brigades. The remaining LRA fighters were divided into four brigades: Stockree, Sinia, Trinkle and Gilva.²²⁹ Each brigade had a commander who commanded through a brigade headquarters.²³⁰ Each brigade was composed of battalions, each of which also had a commander.²³¹ Regular and widespread conscription of children and young adults, described also in the section on conscription of children, ensured that the organisation had at its disposal a large number of easily replaceable individuals.

92. LRA commanders coordinated their activities carefully, both vertically and horizontally in the organisation, by communicating daily using high frequency radios.²³² The organised and hierarchical nature of these communications are evidenced by an intercepted communication that records Joseph Kony giving detailed instructions on how radio communications were to take place.²³³ In this communication, Kony sets out rules for how a message must be communicated to or received by a brigade commander,²³⁴ how communications should be relayed up the LRA hierarchy,²³⁵ the type of information to be reported²³⁶ and how to report killings of civilians.²³⁷ Like many other rules in the LRA, these changed over time. However, their promulgation and existence is an indicator of the organised and hierarchical nature of the LRA.

²²⁷ P-0070, [UGA-OTP-0208-0214-R01](#) at 0232-0239, 0246.

²²⁸ P-0070, [UGA-OTP-0208-0214-R01](#) at 0232-0239.

²²⁹ ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167; P-0070, [UGA-OTP-0208-0214-R01](#) at 0239-0246; P-0142, [UGA-OTP-0244-0776-R01](#) at 0779-0786, P-0142’s Diagram, [UGA-OTP-0233-1361](#).

²³⁰ ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167; P-0070, [UGA-OTP-0208-0214-R01](#) at 0239-0246.

²³¹ ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167.

²³² See the section on Intercepted Radio Communications, para. 62-88.

²³³ ISO Tape 724/G, [UGA-OTP-0047-0026](#) (originally “UGA.00047.029”). See transcript annotated by P-0003, [UGA-OTP-0132-0174](#) at 0179-0184.

²³⁴ Transcript of ISO Tape 724/G annotated by P-0003, [UGA-OTP-0132-0174](#) at 0182.

²³⁵ Transcript of ISO Tape 724/G annotated by P-0003, [UGA-OTP-0132-0174](#) at 0184.

²³⁶ Transcript of ISO Tape 724/G annotated by P-0003, [UGA-OTP-0132-0174](#) at 0180.

²³⁷ Transcript of ISO Tape 724/G annotated by P-0003, [UGA-OTP-0132-0174](#) at 0181.

93. The LRA had a well-defined, hierarchical command structure. Orders travelled from the top of the hierarchy to the bottom. Lower officers challenging higher commanders would be punished.²³⁸ Joseph Kony sat at the top of the LRA command structure; he issued orders and communicated his strategies and policies over the radio.²³⁹ Vincent Otti relayed these messages and also issued orders himself, to brigade commanders and other commanders with a radio.²⁴⁰ Brigade commanders then communicated these orders to their battalion commanders.²⁴¹ Battalion commanders issued orders to officers in the battalion, who communicated them to the rank and file.²⁴²

94. Commanders ensured that orders and policies were implemented by selecting the specific village, road, or IDP camp to attack. They reported up the chain of command their movements, their engagements with the UPDF, and their attacks upon civilians.²⁴³ LRA fighters were promoted and demoted according to their performance.²⁴⁴

95. The LRA maintained a disciplinary system designed to secure adherence to a superior's orders and LRA policies and practice. It was applied to all aspects of life in the LRA. P-0070, a former LRA officer in the Stockree brigade stated that people were often killed for disobeying orders.²⁴⁵ P-0226 said that she never saw "any officer of a lower rank who was given orders and who disobeyed the orders [if they did] they are badly beaten or

²³⁸ UPDF logbook, [UGA-OTP-0197-1866](#) at 1931 (Kony said that orders need to be followed from top to bottom and that lower officers challenging higher commanders would be punished).

²³⁹ P-0003, [UGA-OTP-0027-0214-R01](#) at 0226; P-0059, [UGA-OTP-0027-0244](#) at 0249-0251; P-0016, [UGA-OTP-0221-1100-R01](#) at 1139-1140, [UGA-OTP-0221-1142-R01](#) at 1150.

²⁴⁰ P-0003, [UGA-OTP-0027-0214-R01](#) at 0226-0227; P-0205, [UGA-OTP-0247-0481-R01](#) at 0493; *See also* P-0029, [UGA-OTP-0027-0231-R01](#) at 0239; P-0059, [UGA-OTP-0150-0022-R01](#) at 0023, [UGA-OTP-0027-0244](#) at 0250; P-0032, [UGA-OTP-0150-0030-R01](#) at 0031; P-0231, [UGA-OTP-0243-1972-R01](#) at 1981.

²⁴¹ P-0016, [UGA-OTP-0221-1142-R01](#) at 1147 ("[i]f there was any message from KONY, he would communicate to those who had radios, say to the Brigade Commanders who had radios [...] all those who have no radios would be put under a unit with a radio").

²⁴² P-0379, [UGA-OTP-0266-0050](#) at 0052.

²⁴³ P-0016, [UGA-OTP-0221-1142-R01](#) at 1147 ("If there is [...] anything to talk, they would communicate to the Brigade Commander. So he would [...] then relay that message back to Kony"), [UGA-OTP-0221-1100-R01](#) at 1130 ("I was hearing how civilians were being killed. I was even hearing orders coming through the radio"); P-0142, [UGA-OTP-0228-4542-R01](#) at 4555 ("[y]ou know what happen after any operation, if you see the aerial of the radio call being thrown up, then you just know they are sending the information to Kony"); *see also* P-0003, [UGA-OTP-0027-0214-R01](#) at 0227, para. 76; P-0291, [UGA-OTP-0246-0061-R01](#) at 0066; P-0029, [UGA-OTP-0027-0231-R01](#) at 0239.

²⁴⁴ ISO logbook, [UGA-OTP-0063-0194](#) at 0246, 0248.

²⁴⁵ P-0070, [UGA-OTP-0208-0254-R01](#) at 0260.

they kill them".²⁴⁶ Intercepted communications are replete with similar examples. On 18 December 2002, "Kony ordered that [... a] woman be beaten 50 strokes for defying his order".²⁴⁷ On 21 January 2004, "Lukwiya told Otti that he called Lagoga and solved the problem which his soldiers were complaining that he is too rude to them. But Kony said [the] ring leader of those soldiers who started misbehaving to Lagoga should be killed. [...] Otti said if he comes back to Uganda, such p[eo]ple who misbehave to their com[man]d[er]s, he will kill them all".²⁴⁸

Executing attacks

96. P-0070 added that persons who ran away from a fight would usually be jailed.²⁴⁹ On 10 June 2003, intercepted communications record that "Otti said the operation should be marred with massive killing of civilians and burning of all houses in those areas. He said that if this is not done, then he will use his position as LRA A/C [army commander] to punish those com[man]d[er]s who can't concur [sic] with his orders."²⁵⁰

Escapees

97. Soon after they were abducted, abductees were warned that any attempt to escape would be punished with death.²⁵¹ This was done by beating, hacking, or shooting to death. A commander's order to kill was typically carried out in view of all fighters, so everyone saw the punishment being carried out. P-0226 recalled that one day a girl attempted to escape. She was killed and her head was cut off. Okot Odhiambo made each abductee carry the severed head for one day to dissuade them from escaping.²⁵² P-0070 confirms that abductees who tried to escape were "immediately killed" and that

²⁴⁶ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 36.

²⁴⁷ ISO logbook, [UGA-OTP-0065-0002](#) at 0115. *See further* P-0224, [UGA-OTP-0244-2961-R01](#) at 2979 (P-0224 was given 120 lashes for refusing an order to kill").

²⁴⁸ ISO logbook, [UGA-OTP-0061-0002](#) at 0011.

²⁴⁹ P-0070, [UGA-OTP-0208-0254-R01](#) at 0260-0261.

²⁵⁰ ISO logbook, [UGA-OTP-0068-0146](#) at 0238.

²⁵¹ P-0205, [UGA-OTP-0247-0130-R01](#) at 0143.

²⁵² P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 4-5.

“there was even no talking about it.”²⁵³ This was due to the order that “rebels do not release people.”²⁵⁴ On 26 April 2004, “Kony ordered Kapere to punish the comm[an]d[e]r who was commanding [an] escapee seriously.”²⁵⁵

Sexual relations

98. As explained in detail in the section on sexual and gender-based crimes, the LRA’s organised nature included maintaining a code on sexual relations, which was strictly enforced. On 14 April 2003, “Odyambo [...] said Sgt. Onen raped a woman with [a] very young kid and gave her STD. Kony said Odyambo should beat him 100 canes and make him carry B10 gun for three weeks.”²⁵⁶ P-0236, one of Dominic Ongwen’s forced wives, was taken to Kony when it was suspected that she had had a relationship with Ongwen’s escort. She was caned 100 times and the escort was killed.²⁵⁷

The Sinia brigade

99. The Sinia brigade consisted of three battalions: Oka, Terwanga, and Siba.²⁵⁸ It also had a brigade headquarters composed of various departments including an operations room,²⁵⁹ an intelligence officer, a brigade Major, and a brigade administrator.²⁶⁰ Battalions were composed of more than one hundred men.²⁶¹ Each battalion had a commander, a deputy commander²⁶², an intelligence officer,²⁶³ a commander for support weapons,²⁶⁴ and an adjutant who maintained records.²⁶⁵ Each battalion was composed of

²⁵³ P-0070, [UGA-OTP-0208-0254-R01](#) at 0266.

²⁵⁴ P-0070, [UGA-OTP-0208-0254-R01](#) at 0267.

²⁵⁵ UPDF logbook, [UGA-OTP-0197-1670](#) at 1681.

²⁵⁶ ISO logbook, [UGA-OTP-0063-0002](#) at 0116. *See also* ISO logbook, [UGA-OTP-0063-0194](#) at 0339-0340.

²⁵⁷ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 13, 14, 15, 16. *See further*, P-0224, [UGA-OTP-0248-0712-R01](#) at 0733-0735 (a fighter would be killed if he approached a girl and indicated that he was interested in her, observing that “LRA killed so many people because of this reason, more than even a war”).

²⁵⁸ P-0205, [UGA-OTP-0243-0520-R01](#) at 0531; P-0054, [UGA-OTP-0221-1722-R01](#) at 1754-1755; P-0142, [UGA-OTP-0244-0667-R01](#) at 0680, P-0264, [UGA-OTP-0256-0139-R01](#) at -0150.

²⁵⁹ P-0205, [UGA-OTP-0247-0418-R01](#) at 0438.

²⁶⁰ P-0205, [UGA-OTP-0247-0076-R01](#) at 0085.

²⁶¹ P-0205, [UGA-OTP-0247-0197-R01](#) at 0213.

²⁶² P-0379, [UGA-OTP-0266-0050](#) at 0052.

²⁶³ P-0205, [UGA-OTP-0247-0316-R01](#) at 0331, 0335.

²⁶⁴ P-0205, [UGA-OTP-0247-0418-R01](#) at 0441-0442, 0445.

²⁶⁵ P-0205, [UGA-OTP-0247-0447-R01](#) at 0453-0456.

a number of companies.²⁶⁶ Each company had a commander and a deputy commander.²⁶⁷ Each battalion had a radio for communication.²⁶⁸ Each battalion also had an operations room.²⁶⁹ The operations room would, *inter alia*, select troops to carry out patrols, and provide and receive briefings.²⁷⁰

Discipline within the Sinia brigade

100. As in the LRA more generally, discipline was enforced strictly in Sinia brigade. There were many rules and breaking them was punishable by caning and sometimes death.²⁷¹ If an infraction was suspected, the battalion intelligence officer and adjutant would investigate and report to the battalion commander.²⁷² People who attempted to escape from Sinia brigade were often punished with death.²⁷³ Those who committed other serious infractions, such as sleeping with the wife of another commander, were often beaten or killed.²⁷⁴ A fighter could not act on his own, unless his commander authorised it.²⁷⁵

Operational capacity

101. Sinia brigade was able to carry out complex operations. Sinia brigade fighters gathered intelligence prior to conducting an attack.²⁷⁶ They did this through intelligence officers, personnel familiar with the area, and by capturing civilians for information.

²⁶⁶ P-0205, [UGA-OTP-0243-0819-R01](#) at 0820-0821; P-0379, [UGA-OTP-0266-0050](#) at -0052; P-0054, [UGA-OTP-0221-1722-R01](#) at 1754; P-0245, [UGA-OTP-0244-0256-R01](#) at 0263.

²⁶⁷ P-0245, [UGA-OTP-0244-0256-R01](#) at 0263-0266.

²⁶⁸ P-0245, [UGA-OTP-0244-0313-R01](#) at 0317.

²⁶⁹ P-0379, [UGA-OTP-0266-0050](#) at 0052.

²⁷⁰ P-0379, [UGA-OTP-0260-0039](#) at 0051.

²⁷¹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0152.

²⁷² P-0205, [UGA-OTP-0247-0447-R01](#) at 0454-0455; P-0142, [UGA-OTP-0244-0667-R01](#) at 0689, [UGA-OTP-0244-0693-R01](#) at 0695-0696.

²⁷³ P-0205, [UGA-OTP-0247-0130-R01](#) at 0143-0144, [UGA-OTP-0247-0147-R01](#) at 0167; P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 23-24; *see further* P-0264, [UGA-OTP-0256-0139-R01](#) at 0152 (beating as a punishment for attempting to escape).

²⁷⁴ P-0205, [UGA-OTP-0247-0147-R01](#) at 0170-0171; P-0142, [UGA-OTP-0244-0693-R01](#) at 0702.

²⁷⁵ P-0142, [UGA-OTP-0244-0693-R01](#) at 0701.

²⁷⁶ P-0205, [UGA-OTP-0247-0147-R01](#) at 0153.

Attacks were planned, fighters were selected,²⁷⁷ and a tactical command was established to oversee the operation. Special tactics were developed, for example, for ambushes²⁷⁸ and other types of attacks.²⁷⁹ Sinia brigade maintained a standby force that would be used if attacking forces were compromised. This force rotated over time. It was led by an appointed senior Sinia brigade fighter.²⁸⁰

Military training

102. P-0379, a former Sinia fighter, described how new recruits were taught how to serve as armed escorts, perform guard duty, and patrol while in the battalion in Sinia that Ongwen commanded before he was made brigade commander.²⁸¹ P-0379 described how Dominic Ongwen ordered soldiers to march, learn how to salute the senior personnel and show respect.²⁸² P-0309, a child soldier and Ongwen escort, also described receiving training on how to salute a senior officer.²⁸³ Sinia child soldiers P-0330, P-0252 and P-0264 each described how they received training in the brigade.²⁸⁴

Organised Distribution and use of ammunition / weapons

103. Ammunition was distributed within the Sinia brigade in an organised and hierarchical manner. The “operations room” of the brigade, which included administrative personnel from the brigade headquarters, the brigade Major, and the intelligence officer, was responsible for re-supplying the fighters with ammunition. The brigade commander then instructed the operations room to distribute it to the different battalions.²⁸⁵ Similarly, when a battalion commander ordered a heavy weapon to be

²⁷⁷ P-0205, [UGA-OTP-0247-0147-R01](#) at 0153; P-0142, [UGA-OTP-0244-0693-R01](#) at 0700; *See also*, P-0224, [UGA-OTP-0244-2995-R01](#) at 3012

²⁷⁸ P-0205, [UGA-OTP-0247-0147-R01](#) at 0154-0156; P-0054, [UGA-OTP-0221-1796-R01](#) at 1812, 1821.

²⁷⁹ P-0205, [UGA-OTP-0247-0147-R01](#) at 0157-0158. *See a similar description of LRA attack tactics in a 2003 report by the ISO following interviews with escaped LRA fighters:* [UGA-OTP-0242-0195](#) at 0196-0197.

²⁸⁰ P-0205, [UGA-OTP-0247-0147-R01](#) at 0172-0174; P-0224, [UGA-OTP-0244-2995-R01](#) at 3018-3019.

²⁸¹ P-0379 [UGA-OTP-0260-0039](#) at 0051.

²⁸² P-0379, [UGA-OTP-0266-0050](#) at 0056.

²⁸³ P-0309, [UGA-OTP-0249-0472-R01](#) at 0479.

²⁸⁴ P-0330, [UGA-OTP-0256-0071-R01](#) at 0076; P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0264, [UGA-OTP-0256](#) at 0151.

²⁸⁵ P-0205, [UGA-OTP-0247-0418-R01](#) at 0438.

used in an attack, he instructed the support commander in the battalion to ensure that the weapon was available along with personnel trained to deploy it.²⁸⁶

Dominic Ongwen was in a position of authority and had control over LRA units under his command

104. From at least 1 July 2002 to 31 December 2005, Dominic Ongwen was a military commander in the LRA, commanding units first at the battalion, and then at the brigade level. This period is characterised by Ongwen's rapid, continuous rise in rank, position and authority - with him eventually rising to the rank of Brigadier in charge of all LRA forces in Uganda.²⁸⁷

July 2002 to March 2004

105. This period began with Dominic Ongwen already being in a position of authority and control. On 1 July 2002, he was promoted by Joseph Kony from Captain to Major in the Sinia brigade by Joseph Kony.²⁸⁸ He served as a battalion commander in the Sinia brigade from mid-2002 to March 2004. This meant that he could both:

- exert control over the activities of the unit supervised by him (usually a battalion in the Sinia brigade); and
- contribute to the overall operations of the Sinia brigade, including Sinia units not directly supervised by him, thereby acting as an integral part of the brigade leadership.

106. Dominic Ongwen's position at the apex of his unit during this period is illustrated in a diagram²⁸⁹ by witness P-0379, who had served with Ongwen since mid-2002. P-0330 described how Ongwen would issue instructions to his second-in-command, and the second-in-command would in turn pass on the instructions to the commanders below

²⁸⁶ P-0205, [UGA-OTP-0247-0418-R01](#) at 0441-0442; P-0054, [UGA-OTP-0221-1796-R01](#) at 1806-1807.

²⁸⁷ P-0233, [UGA-OTP-0243-1149-R01](#) at 1157; Police Logbook, [UGA-OTP-0151-0016](#); Police Intelligence Report, [UGA-OTP-0256-0241](#).

²⁸⁸ ISO Logbook, [UGA-OTP-0063-0194](#) at 0248.

²⁸⁹ P-0379, [UGA-OTP-0266-0070](#).

him.²⁹⁰ P-0379 described how Ongwen would make decisions regarding the battalion's deployment, planning and movement, coordinating with his second-in-command, company commanders and the operations room.²⁹¹

107. Dominic Ongwen's leadership of his unit at various attacks also underscores his command authority at the time. P-0379 described an attack on Pajule camp sometime in mid-2002 by soldiers of Oka battalion led by Ongwen.²⁹² P-0245 confirmed that in August 2002, at the attack on Acholi Pii IDP camp, Ongwen was the commander of Oka battalion in Sinia brigade.²⁹³ Several witnesses also describe Ongwen leading his battalion into battle at Lanyatido²⁹⁴ and Atanga²⁹⁵ around September 2002.²⁹⁶ On 20 September 2002, Kony confirmed on the radio that Ongwen was a battalion commander in Sinia brigade,²⁹⁷ under the command of Buk Abudema and Lapanyikwara, also known as Lapaico,²⁹⁸ who was second-in-command of Sinia brigade. The same was confirmed again on air on 2 December 2002.²⁹⁹ P-0205, who served as a battalion commander in Sinia, stated that Ongwen was the commander of Oka battalion at the time of the Patongo attack in late-2002 or early 2003.³⁰⁰

108. Dominic Ongwen was injured in approximately November 2002,³⁰¹ and stayed for some time in "sick-bay". In the LRA, sick-bay was where injured LRA fighters would convalesce. It would not always remain in a fixed location. Ongwen's continued

²⁹⁰ P-0330, [UGA-OTP-0256-0071-R01](#) at 0075.

²⁹¹ P-0379, [UGA-OTP-0266-0050](#) at 0052.

²⁹² P-0379, [UGA-OTP-0266-0050](#) at 0058.

²⁹³ P-0245, [UGA-OTP-0244-0227-R01](#) at 0246-0247, [UGA-OTP-0248-0911-R01](#) at 0929.

²⁹⁴ P-0309, [UGA-OTP-0249-0472-R01](#) at 0477, 0478 (P-0309 described Ongwen leading his battalion in the attack on Lanyatido); P-0379, [UGA-OTP-0260-0039](#) at 0055-0056 (P-0379 described Ongwen leading his battalion in the attack on Lanyatido).

²⁹⁵ P-0309, [UGA-OTP-0249-0472-R01](#) at 0478.

²⁹⁶ ISO Logbook, [UGA-OTP-0068-0002](#) at 0021-0022.

²⁹⁷ ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167.

²⁹⁸ P-0070, [UGA-OTP-0208-0371](#) at 0394.

²⁹⁹ ISO Logbook, [UGA-OTP-0065-0002](#) at 0079.

³⁰⁰ P-0205, [UGA-OTP-0243-0644-R01](#) at 0651, 0654-0656, 0660-0662; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 56, 58-59, 61-63.

³⁰¹ P-0379, [UGA-OTP-0266-0050](#) at 0059; P-0205, [UGA-OTP-0243-0544-R01](#) at 0563, [UGA-OTP-0243-0564-R01](#) at 0566; P-0406, [UGA-OTP-0270-0994-R01](#) at 0998-1000.

position of authority is indicated by the fact that he was visited during this time by the then head of Sinia brigade, Abudema,³⁰² and other senior commanders such as Tabuley.³⁰³ Sinia signaller P-0016 also visited Ongwen during this time, to provide intermittent services as a signaller.³⁰⁴ P-0016 adds that once Ongwen's health began improving he was sent a signaller called Otto who then stayed with him in the sick-bay.³⁰⁵ Ongwen remained active while in the sick-bay, ordering and later (when he could walk) leading troops under his command on attacks and abduction operations.³⁰⁶ By February 2003, Ongwen was reporting attacks carried out by his subordinates.³⁰⁷ Ongwen's status as an active leader in the LRA hierarchy at this time is evidenced by the fact that on 10 March 2003, Kony instructed Otti to tell Ongwen to retrieve hidden weapons from where P-0245 (who escaped from the LRA for the first time shortly before this) had hidden them.³⁰⁸

109. Shortly afterwards, as described by Sinia (Oka battalion) fighter P-0379, Dominic Ongwen personally deployed for the attacks on Opit and Awere.³⁰⁹ For the attack on Awere, Ongwen gave orders that the LRA soldiers going to the centre were to abduct people and loot. They were told to kill anything that they could not bring back alive.³¹⁰ Another witness confirms that by the time of the LRA's move to the Teso region in the spring of 2003, Ongwen was once more operational.³¹¹ Intercepted communications confirm Ongwen's authority at this time. In April 2003, Kony referred to Ongwen as a battalion commander³¹² during a rare critique of Ongwen's performance. A Police

³⁰² P-0379, [UGA-OTP-0266-0050](#) at 0059.

³⁰³ P-0379, [UGA-OTP-0266-0050](#) at 0060.

³⁰⁴ P-0016, [UGA-OTP-0259-0011-R01](#) at 0016.

³⁰⁵ P-0016, [UGA-OTP-0259-0011-R01](#) at 0016.

³⁰⁶ P-0379, [UGA-OTP-0266-0050](#) at 0060.

³⁰⁷ UPDF logbook, [UGA-OTP-0197-2162](#) at 2220.

³⁰⁸ ISO logbook, [UGA-OTP-0065-0143](#) at 0190.

³⁰⁹ P-0379, [UGA-OTP-0266-0050](#) at 0060.

³¹⁰ P-0379, [UGA-OTP-0266-0050](#) at 0060. *See further* in this context, UPDF logbook, [UGA-OTP-0197-2162](#) at 2305, 2306, UPDF logbook, [UGA-OTP-0242-6212](#) at 6259.

³¹¹ P-0245, [UGA-OTP-0244-0341-R01](#) at 0344.

³¹² UPDF logbook, [UGA-OTP-0197-1224](#) at 1241-1242, ISO Logbook, [UGA-OTP-0063-0002](#) at 0124.

intelligence report dated 30 May 2003 confirmed that Ongwen was a battalion commander in Sinia brigade.³¹³

110. During this period, Dominic Ongwen and P-0231 were arrested briefly for obtaining a mobile phone, allegedly to talk to the Government.³¹⁴ However, after release, Ongwen continued to retain his position of authority and communicated on air about his activities.³¹⁵ He also continued to lead LRA troops in attacks. P-0205 said that Ongwen was the commander of Oka battalion at the time of the attacks on Opit in late-May and early-June 2003.³¹⁶ Witnesses and intercepted radio communications³¹⁷ confirm that Ongwen ordered the Opit attack³¹⁸ and prepared the plan of attack.³¹⁹ In mid-2003, Ongwen participated in and led troops during the Teso campaign. Witness P-0200, who was abducted by Ongwen's troops in Teso in June 2003, confirms that Ongwen was leading a group of fighters at this time and led the attack on Obalanga.³²⁰ P-0200 stated regarding Ongwen that "since he [Ongwen] abducted me he had been very active". Similarly, Ongwen was pointed out as "one of the senior commanders" to Sinia child soldier P-0264 when P-0264 deployed to Teso.³²¹

111. Despite being reported as being in sick-bay in August 2003, Ongwen reported ambushes and attacks again from 6 September 2003 onwards. For example, Ongwen reported to Otti that he attacked Te-Okic mission on 6 September 2003 and Oaii Bar Onyio on 14 September 2003.³²² On or about 17 September 2003, Ongwen was appointed

³¹³ Police intelligence report, [UGA-OTP-0256-0340](#).

³¹⁴ P-0231, [UGA-OTP-0243-1972-R01](#) at 1986-1987.

³¹⁵ ISO Logbook, [UGA-OTP-0060-0002](#) at 0141.

³¹⁶ P-0205, [UGA-OTP-0243-0520-R01](#) at 0541-0542.

³¹⁷ ISO logbook, [UGA-OTP-0068-0146](#) at 0199, 0202, [UGA-OTP-0060-0002](#) at 0074, 0077 (24 May 2003 attack); UPDF logbook, [UGA-OTP-0197-1224](#) at 1328-1329; ISO logbook, [UGA-OTP-0068-0146](#) at 0228-0229, [UGA-OTP-0060-0002](#) at 0100-0101 (4 June 2003 attack). *See further* UPDF logbook, [UGA-OTP-0242-6212](#) at 6366, 6367.

³¹⁸ P-0205, [UGA-OTP-0243-0520-R01](#) at 0540-0541, [UGA-OTP-0243-0602-R01](#) at 0615.

³¹⁹ P-0205, [UGA-OTP-0243-0602-R01](#) at 0616, [UGA-OTP-0243-0602-R01](#) at 0621-0622.

³²⁰ P-0200, [UGA-OTP-0243-0043-R01](#) at 0053.

³²¹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0160.

³²² UPDF Logbook [UGA-OTP-0254-0725](#) at 0990, UPDF logbook [UGA-OTP-0242-6018](#) at 6136, UPDF Logbook [UGA-OTP-0254-0725](#) at 1025.

second-in-command of the Sinia brigade. On 18 September 2003, Vincent Otti confirmed that Ongwen was now capable of handling the second-in-command slot.³²³ Around this period Dominic Ongwen moved to Control Altar, the central command of the LRA.³²⁴ Sinia fighters accompanied Ongwen to Control Altar.³²⁵ On 30 September 2003, Kony instructed that “Dominic should remain behind with Otti”, who was in Control Altar, because “he has good plans which can help Otti”.³²⁶ Hence, at the time of the Pajule attack on or about 10 October 2003 (described in detail below), Ongwen was also a commander in Control Altar. During this attack, Ongwen was a person of significant rank (a Major), of high position (being second-in-command of Sinia) and had sufficient authority to lead one of the prongs of this large-scale, coordinated attack involving multiple LRA brigades and Control Altar. Sinia fighters, including Ongwen’s subordinates, participated³²⁷ in the Pajule attack.

112. Shortly after the successful attack on Pajule, in November 2003, Dominic Ongwen was promoted to Lieutenant Colonel, in November 2003. This pattern was repeated throughout Ongwen’s career: participating or leading successful attacks, and then receiving a promotion shortly thereafter. After Pajule, Ongwen continued to be in a position of authority, and continued to use his control over LRA forces to carry out further attacks and other operations. For example, shortly after the Pajule attack, on or

³²³ ISO logbook, [UGA-OTP-0232-0234](#) at 0422.

³²⁴ P-0144, [UGA-OTP-0228-1450-R01](#) at 1452-1456, P-0105, [UGA-OTP-0228-4952-R01](#) at 4986-4987, [UGA-OTP-0228-4996-R01](#) at 5036-5038, [UGA-OTP-0228-5212-R01](#) at 5221-5228.

³²⁵ P-0309, [UGA-OTP-0258-0818-R01](#) at 0821-0822 (P-0309 was with Ongwen in his unit prior to Ongwen joining Otti, and remained with Ongwen when he participated in the Pajule attack after joining Control Altar).

³²⁶ ISO Logbook, [UGA-OTP-0232-0234](#) at 0501. Notably, in the same communication, Kony removed another Sinia battalion commander, Alfred Okello Pokot, from his post, replacing him with Ocan Laboingo so that Pokot can start learning how to command afresh (ISO Logbook, [UGA-OTP-0232-0234](#) at 0501.). This is in stark contrast to the manner in which Dominic Ongwen was treated at the same time, and is indicative of Dominic Ongwen’s position of authority at this time.

³²⁷ P-0309, [UGA-OTP-0258-0818-R01](#) at 0821. Similarly, former Oka battalion fighter P-0379, who was a resident of Pajule IDP camp when it was attacked on 10 October 2003, confirms seeing a subordinate of Ongwen, an Oka battalion fighter named Okello Tango, amongst the attackers. See P-0379, [UGA-OTP-0266-0050](#) at 0064.

about 23 November 2003, he led a battalion of the Sinia brigade to attack Labwor Omor (Palaro).³²⁸ He continued this pattern of attacks in 2004.

113. Even in the period before Ongwen became the commander of Sinia brigade, he had the ability to make an essential contribution to the functioning of the entire Sinia brigade. This is evidenced by the regular coordination, cooperation and resource-sharing that took place between him and other senior officers of the brigade, including Sinia brigade commander Buk Abudema³²⁹ and former Sinia second-in-command, Lapanyikwara (Lapaico).³³⁰ Intercepted communications are replete with examples of such coordination. This included sharing of resources,³³¹ receiving mission instructions,³³² reporting up the chain of command³³³ and simultaneous coordination with multiple senior officers in Sinia.³³⁴ The shared resource would, on occasion, include abductees. Sinia fighter P-0379 who served under Ongwen in Oka battalion described how abductees from an abduction operation carried out by one of Ongwen's subordinates were divided between Ongwen's battalion and another Sinia battalion.³³⁵

March 2004 to December 2005

114. Having participated in a number of attacks in early 2004, on or about 5 March 2004, Dominic Ongwen took another step upwards in position and authority. He became the

³²⁸ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0087; P-0245, [UGA-OTP-0244-0445-R01](#) at 0446-0460; *see also* UPDF Intelligence Report, [UGA-OTP-0025-0656](#) at 0657, 0660, P-0309, [UGA-OTP-0249-0472-R01](#) at 0488, 0489.

³²⁹ ISO logbook, [UGA-OTP-0068-0002](#) at 0031, 0036, 0060; [UGA-OTP-0065-0002](#) at 0040.

³³⁰ ISO logbook, [UGA-OTP-0064-0093](#) at 0121, [UGA-OTP-0064-0093](#) at 0140, [UGA-OTP-0064-0093](#) at -0161, [UGA-OTP-0064-0093](#) at 0174, [UGA-OTP-0068-0002](#) at 0004, 0021-0022, 0063-0096 (Ongwen and Lapanyikwara coordinating the context of sharing money and other items), UPDF Logbook, [UGA-OTP-0197-1224](#) at 1225, 1228 (Ongwen and Lapanyikwara are noted as sharing a call sign).

³³¹ ISO logbook, [UGA-OTP-0068-0002](#) at 0079 (Lukwiya was told by Kony to collect items from Ongwen, Lapanyikwara and Abudema).

³³² ISO logbook, [UGA-OTP-0068-0002](#) at 0101 (Buk sends Ongwen on missions).

³³³ ISO logbook, [UGA-OTP-0065-0002](#) at 0014 (Ongwen reports up the chain of command through Abudema).

³³⁴ ISO logbook, [UGA-OTP-0065-0002](#) at 0129 ("ABUDEMA said KALALANG joined him and DOMINIC sh[sic]ld know about it.").

³³⁵ P-0379, [UGA-OTP-0260-0039](#) at 0046 ("After the older abductees were sent away, some of the remaining abductees were divided between the Oka and Terwanga Battalions and further into coys within the battalions.").

commander of Sinia brigade.³³⁶ He took over the brigade from Labongo, who had been acting commander after Buk Abudema was transferred.³³⁷ Witness P-0016,³³⁸ who previously served as Ongwen's signaller, and P-0059,³³⁹ an ISO radio operative, both confirm that an intercepted radio transmission records Ongwen's promotion to commander of Sinia brigade.³⁴⁰

115. At this point, Dominic Ongwen gained control over the hierarchical military structure of the entire Sinia brigade.

116. He was now at the apex of the brigade structure and in full control of its activities. He commanded this brigade during numerous operations in 2004 and 2005, including in three of the four attacks that form the basis for charges in this document: on Odek IDP camp on or about 29 April 2004, on Lukodi IDP camp on or about 19 May 2004, and on Abok IDP camp on or about 8 June 2004.

117. Dominic Ongwen personally led the Odek attack.³⁴¹ His central role in the Odek attack and position of authority at the time is highlighted by the fact that it was he who reported and claimed credit for the Odek attack.³⁴² Shortly afterwards, Ongwen's soldiers attacked Lukodi.³⁴³ Here, he exerted sole control over the hierarchical structure of the LRA units deployed for the attack. Unlike at Odek, he no longer found it necessary to participate on the ground; instead he sent a direct subordinate to supervise the attack. Again, Ongwen's position of authority is highlighted by the fact that it was he who reported the Lukodi attack to Kony, Otti, and other senior LRA leaders.

³³⁶ ISO logbook, [UGA-OTP-0061-0002](#) at 0122; *see also* [UGA-OTP-0242-1032](#) at 1033; *see further* a list made by a Police radio operative, who intercepted LRA radio communications, in early 2004, [UGA-OTP-0170-0034](#) at 0036 (explanation at [UGA-OTP-0175-0300-R01](#) at 0303-0304).

³³⁷ ISO logbook, [UGA-OTP-0061-0002](#) at 0128; P-0224, [UGA-OTP-0244-2995-R01](#) at 3003-3004; P-0142, [UGA-OTP-0228-4513-R01](#) at 4521-4523.

³³⁸ P-0016, [UGA-OTP-0259-0011-R01](#) at 0029.

³³⁹ P-0059, [UGA-OTP-0258-0755](#) at 0761.

³⁴⁰ Sound recording, [UGA-OTP-0239-0085](#) (enhanced), [UGA-OTP-0047-0044](#) (original).

³⁴¹ *See further*, section on Odek IDP camp, para. 288-370.

³⁴² *See further*, section on Odek IDP camp, para. 343-352.

³⁴³ *See further*, section on Lukodi IDP camp, para. 371-429.

The Lukodi attack resulted in yet another step upward in Ongwen's rise as a leader. Kony promoted Ongwen to the rank of Colonel on 2 June 2004.³⁴⁴ On 8 June 2004, Ongwen's soldiers attacked Abok.³⁴⁵ He did not find it necessary to participate on the ground, choosing to send one of his subordinate battalion commanders. Again, his position of authority is highlighted by the fact that it was he who reported, and took credit for, the Abok attack on the radio to Kony, Otti, and other LRA leaders.

118. The Odek, Lukodi and Abok attacks are examples of Dominic Ongwen's control over his subordinate troops. Ben Acellam, one of the commanders of the Odek attack under Ongwen,³⁴⁶ Alex Ocaka, an officer in Sinia brigade and the ground-commander of the Lukodi attack, and Okello Franco Kalalang, the ground-commander of the Abok attack, reported to Ongwen and were his direct subordinates. Ben Acellam was the commander of Oka battalion, Alex Ocaka was the support commander in Sinia brigade³⁴⁷ and Okello Franco Kalalang was initially the brigade Major in Sinia brigade headquarters³⁴⁸ and then Terwanga battalion commander.³⁴⁹

119. After Abok, Dominic Ongwen retained, and continued to increase, his authority and control over LRA units. He was promoted to Brigadier in December 2004.³⁵⁰ On 16 March 2005, Kony's signaller reported that Ongwen and P-0164³⁵¹ were appointed deputies to Otti.³⁵² In the latter half of 2005, Ongwen was the most senior LRA

³⁴⁴ ISO logbook, [UGA-OTP-0062-0002](#) at 0004; Sound recording, [UGA-OTP-0248-0143-R01](#) at 0179-0182 (see explanation by P-0003, [UGA-OTP-0248-0094-R01](#) at 0099-0100); Audio transcript annotation by P-0059, [UGA-OTP-0248-0381-R01](#) at 0417-0420 (see explanation by P-0059, [UGA-OTP-0248-0328-R01](#) at 0336-0337); Police intelligence report, [UGA-OTP-0256-0309](#).

³⁴⁵ See further, section on Abok IDP camp, para. 430-499.

³⁴⁶ P-0264, [UGA-OTP-0256](#) at 0152. At the time of the Odek attack, P-0264 was an escort to Ben Acellam.

³⁴⁷ P-0205, [UGA-OTP-0247-0089-R01](#) at 0106, [UGA-OTP-0243-0786-R01](#) at 0809 (P-0205 confirms Oka was led by "Ben"); P-0054, [UGA-OTP-0221-1796-R01](#) at 1810.

³⁴⁸ P-0205, [UGA-OTP-0247-0089-R01](#) at 0090-0091.

³⁴⁹ P-0054, [UGA-OTP-0251-0101-R01](#) at 0122.

³⁵⁰ ISO logbook, [UGA-OTP-0163-0007](#) at 0165; see also UPDF logbook, [UGA-OTP-0254-1077](#) at 1363-1364.

³⁵¹ P-0164 also bears the Defence witness code D-26-0030.

³⁵² UPDF logbook, [UGA-OTP-0254-1077](#) at 1207.

commander in Uganda.³⁵³ For example, on 20 June 2005, Omona, a senior LRA commander, gave Ongwen command of fighters from brigades other than Sinia, namely those formerly under senior LRA commanders Okello Okuti and Thomas Kwoyelo.³⁵⁴ Ongwen was Sinia brigade commander until at least 31 December 2005.³⁵⁵

Other indicators of Dominic Ongwen's position of authority and control over troops

120. Dominic Ongwen's position of authority and control was obvious to the LRA soldiers who served under him. Sinia child soldier P-0252, who was abducted from Odek, explains that "I knew he was the leader of our group because everyone was giving him respect and when he is moving there were about five people around him [...] his 'escorts'."³⁵⁶ He adds "Dominic was well respected in the bush and whatever he said, generally people would follow. [...]. During my time in the LRA I did not meet any other person that outranked Dominic."³⁵⁷ Ongwen's tent was always in the centre of the group. The other commanders would set their tents close to Ongwen surrounding him.³⁵⁸ The authority and control that Ongwen wielded over the units that he commanded manifested itself in a number of ways.

Discipline and respect for hierarchy

121. Dominic Ongwen ensured the maintenance of discipline in his units by punishing brutally any infraction or insubordination.³⁵⁹ This was the case both when he commanded at battalion level and at brigade level. P-0379 described punishments ordered by Ongwen as a Sinia battalion commander (e.g. lashes for losing weaponry), as

³⁵³ P-0233, [UGA-OTP-0243-1149-R01](#) at 1157; Police Logbook, [UGA-OTP-0151-0016](#); Police Intelligence Report, [UGA-OTP-0256-0241](#).

³⁵⁴ ISO logbook, [UGA-OTP-0163-0007](#) at 0130-0131.

³⁵⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0164 (P-0264 states that Ongwen was still Brigade commander even after 2005); P-0003, [UGA-OTP-0027-0214-R01](#) at 0227; P-0032, [UGA-OTP-0150-0030-R01](#) at 0032; *see also* a list made by ISO radio operatives, who intercepted LRA radio communications, in January 2005: [UGA-OTP-0242-1021](#) at 1021, which is commented on by P-0059, [UGA-OTP-0258-0699](#) at 0706.

³⁵⁶ P-0252, [UGA-OTP-0243-0428-R01](#) at 0437.

³⁵⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0439.

³⁵⁸ P-0252, [UGA-OTP-0243-0428-R01](#) at 0439.

³⁵⁹ P-0142, [UGA-OTP-0228-4620-R01](#) at 4623; P-0245, [UGA-OTP-0244-0363-R01](#) at 0387-0388; P-0037, [UGA-OTP-0221-0731-R01](#) at 0762.

well as punishments carried out in Ongwen's battalion by his subordinate officers³⁶⁰ including his second-in-command.³⁶¹ P-0330 was forced to beat a man who had fled during an attack "until blood was flowing down" on the orders of his commander, who was a subordinate of Ongwen. P-0330 explains that "if it was something important then the seasoned soldiers like [P-0330's superior] would report it to Odomi. If not they would order the punishment and it would end there."³⁶² P-0330 described the chain of command for this purpose: When a punishment was implemented in a "*dog adaki*" (a sub-group within a battalion), its leader would report what had happened to a mid-level leader, who would report it to Ongwen's second-in-command, who would in turn report to Ongwen.³⁶³

122. P-0309, a child soldier who became an escort of Dominic Ongwen, heard him state that anyone who tried to escape would be killed.³⁶⁴ P-0309 "always did what [Ongwen] asked me to do" and explains "You cannot refuse to do anything they tell you because you would be too scared."³⁶⁵ He described how a soldier who started a relationship with one of the girls in Ongwen's home was beaten and had his gun taken away.³⁶⁶ P-0330, a child who served in Ongwen's household, detailed how an escort who accidentally shot Ongwen's son was executed on Ongwen's orders.³⁶⁷ Ongwen's authority to order disciplinary killings within his unit is also evident in intercepted communications. For example, on 24 March 2003, Ongwen reported on air that "the Karamajong girls and Sudanese girls he kept became stubborn and therefore he decided to kill all of them."³⁶⁸ On 3 April 2003, "Kony also asked Comm Dominic whether he have already killed Obalim as per his instruction of y/day b[ecau]se that rebel was the ring leader of

³⁶⁰ P-0379, [UGA-OTP-0266-0050](#) at 0061.

³⁶¹ P-0379, [UGA-OTP-0260-0039](#) at 0052.

³⁶² P-0330, [UGA-OTP-0256-0071-R01](#) at 0080.

³⁶³ P-0330, [UGA-OTP-0256-0071-R01](#) at 0080.

³⁶⁴ P-0309, [UGA-OTP-0249-0472-R01](#) at 0477.

³⁶⁵ P-0309, [UGA-OTP-0249-0472-R01](#) at 0499.

³⁶⁶ P-0309, [UGA-OTP-0249-0472-R01](#) at 0499.

³⁶⁷ P-0330, [UGA-OTP-0256-0071-R01](#) at 0078. See further ICC-02/04-01/15-T-17-CONF-ENG, p. 24.

³⁶⁸ ISO Logbook, [UGA-OTP-0065-0143](#) at 0208.

indiscipline[d] rebel but Dominic said that he have killed Obalim y/day through firing sq[ua]d".³⁶⁹

123. Several of Dominic Ongwen's forced wives were beaten, sometimes to a state of unconsciousness, by Ongwen personally or by his escorts on his order, for reasons such as failing to make his bed, giving food to other women when preparing a meal for him, or appearing to look dirty.³⁷⁰ On occasions when the escorts did the beating, he would sit and watch.³⁷¹ P-0226 recalled an occasion in which Ongwen ordered an escort to beat her and when the escort fell, he started to beat the escort.³⁷² P-0227, another forced wife, gave evidence that guards beat her brothers so that they would forget their homes.³⁷³

124. Dominic Ongwen himself ordered beatings. P-0379 described how Ongwen, while a battalion commander, ordered the beating of one of his wives by three or four persons for defecating near a well.³⁷⁴ When Ongwen was the commander of Sinia brigade, he was solely responsible for communicating disciplinary issues to Kony.³⁷⁵ P-0142 recounted that on one occasion, Ongwen indicated that if anyone committed a crime he would send that person's name to Kony.³⁷⁶ The punishment often took place in the operations room at brigade headquarters, in front of the intelligence officer and the brigade commander. A young fighter was usually picked to administer the punishment.³⁷⁷ P-0142, Terwanga battalion intelligence officer,³⁷⁸ observed that he was

³⁶⁹ UPDF logbook, [UGA-OTP-0197-2162](#) at 2303-2304. *See further* UPDF logbook, [UGA-OTP-0197-1670](#) at 1767.

³⁷⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 41-45; P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 5-6; P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 12-14; P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 55, 61.

³⁷¹ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 6; P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 13.

³⁷² P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 50, 52, ICC-02/04-01/15-T-9-CONF-ENG, p. 52.

³⁷³ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 21.

³⁷⁴ P-0379, [UGA-OTP-0266-0050](#) at 0054.

³⁷⁵ P-0142, [UGA-OTP-0244-0693-R01](#) at 0702.

³⁷⁶ P-0142, [UGA-OTP-0244-0776-R01](#) at 0807 (commanders did not think, for example, that killing a civilian was a crime), 0807-0808 (in the LRA, it was a failure to kill civilians or abduct, enslave and rape young girls which would likely be perceived as a crime).

³⁷⁷ P-0205, [UGA-OTP-0247-0175-R01](#) at 0178.

³⁷⁸ P-0205, [UGA-OTP-0243-0690-R01](#) at 0695-0697, [UGA-OTP-0247-0109-R01](#) at 0112; P-0245, [UGA-OTP-0244-0363-R01](#) at 0384-0385; P-0224, [UGA-OTP-0244-2995-R01](#) at 3014-3017; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 30.

compelled to follow Ongwen's orders: "And of course I fear if I don't act to his orders, then I will actually [be] punished for that".³⁷⁹

125. Sinia child soldier P-0330 described how two men suspected of plotting to escape were killed by one of Dominic Ongwen's subordinate officers. The subordinate officer reported the killing to Ongwen after the fact. He did not need to receive a direct order from Ongwen to do something like this, as P-0330 explained, "because Odomi had already given orders that everybody knew, like if you find someone from Holy trying to escape you should kill that person immediately."³⁸⁰

126. P-0226 witnessed escapees being killed by other boys and girls.³⁸¹ P-0236, one of Dominic Ongwen's forced wives, witnessed the execution of two escapees.³⁸² P-0101, one of Ongwen's forced wives, observed attempted escapees who were "killed without mercy".³⁸³ P-0099 said that the difference between escaping and being caught trying to escape was the difference between life and death.³⁸⁴ P-0227, another forced wife, gave evidence that Ongwen gave orders to beat a wife who allowed a babysitter to escape.³⁸⁵ P-0227 was severely beaten when suspected of trying to escape³⁸⁶ and P-0235, another one of Ongwen's forced wife, was ordered to be beaten severely when attempting to do so.³⁸⁷

127. Dominic Ongwen regularly exercised his power (thereby demonstrating its existence) to also prevent crimes being committed in relation to abductees. P-0202, an LRA fighter

³⁷⁹ P-0142, [UGA-OTP-0228-4620-R01](#) at 4623.

³⁸⁰ P-0330, [UGA-OTP-0256-0071-R01](#) at 0079.

³⁸¹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 64; P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 3-5.

³⁸² P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 10-12.

³⁸³ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 44.

³⁸⁴ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 62-63.

³⁸⁵ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 37.

³⁸⁶ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 54-55.

³⁸⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 10-11.

abducted before the Lukodi IDP attack, recalled that Dominic Ongwen once stopped an escort from killing an abducted girl.³⁸⁸

Initiation and command of attacks.

128. Dominic Ongwen's continuous command authority and his control over his troops is manifest in the active operational tempo maintained by him and his units from at least 1 July 2002 to 31 December 2005. Reports of Ongwen's attacks were made frequently, either by him or by other LRA commanders on the radio, in 2002,³⁸⁹ 2003,³⁹⁰ 2004,³⁹¹ and 2005.³⁹² For each reported attack, Ongwen had authority and exercised control over his troops. Ongwen planned these attacks and gave orders to his fighters.³⁹³ At each of these attacks, he had the authority to send forces to the site of hostilities and to withdraw them at any time. The fact that Ongwen led or co-led these attacks is an important indicator of his position of authority throughout these years, as well as his control over LRA troops.

³⁸⁸ P-0202, [UGA-OTP-0243-1062-R01](#) at 1079.

³⁸⁹ See e.g., ISO logbook, [UGA-OTP-0064-0002](#) at 0024 (9 August 2002, Lukwiya reported attack carried out by Dominic Ongwen), 0060 (22 August 2002, Lukwiya reported an attack carried out by his splinter group under Dominic Ongwen), [UGA-OTP-0064-0093](#) at 0105 (5 September 2002, Lukwiya reported an attack carried out by his splinter group under Dominic Ongwen), 0121 (8 September 2002, Lapanikwara reported an attack deployment by Dominic Ongwen on his instructions), 0129-0130 (10 September 2002, Bunia reported an ambush carried out by Dominic Ongwen on 6 September 2002), 0158 (17 September 2002, Dominic Ongwen reportedly killed two UN staff), [UGA-OTP-0068-0002](#) at 0021-0022 (Lapanikwara reports attacks carried out by Dominic Ongwen including in Pader on 13 September 2002, Lanyatido on 16 September 2002, Pajule on 25 September 2002. Joseph Kony said that he is very happy with Dominic), 0073 (15 October 2002, Buk Abudema reported that Dominic Ongwen has attacked Acholibur).

³⁹⁰ See e.g., UPDF logbook, [UGA-OTP-0197-2162](#) at 2220 (Ambush between Opit and Lagogi on or about 12 February 2003), 2308 (Attack on Lagile on or about 5 April 2003); ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0087 (Dominic Ongwen's attack on Labwor Omor (Palaro) on or about 23 November 2003); ISO logbook, [UGA-OTP-0068-0146](#) at 0199, 0202, [UGA-OTP-0060-0002](#) at 0074, 0077 (Dominic Ongwen's 24 May 2003 attack on Opit); UPDF logbook, [UGA-OTP-0197-1224](#) at 1328; ISO logbook, [UGA-OTP-0068-0146](#) at 0228, 0229, [UGA-OTP-0060-0002](#) at 0100, 0101 (Dominic Ongwen's 4 June 2003 attack on Opit).

³⁹¹ See e.g., ISO logbook, [UGA-OTP-0061-0002](#) at 0069 (Dominic Ongwen's attack on Koc Ongako on or about 2 February 2004), 0128 (Dominic Ongwen's attack on Alero on or about 6 March 2004), 0165 (Dominic Ongwen's attack on Lira Palwo on or about 20 March 2004), [UGA-OTP-0061-0206](#) at 0270 (Dominic Ongwen's attack on Odek on or about 29 April 2004), 0300 (Dominic Ongwen's attack on Opit on or around 10 May 2004), 0321 (Dominic Ongwen's attack on Lukodi on or about 19 May 2004), [UGA-OTP-0062-0002](#) at 0007 (Dominic Ongwen's attack on the UPDF on 31 May 2004), 0023 (Dominic Ongwen's attack on Abok on or about 8 June 2004), 0106 (Dominic Ongwen's attack on Ojwii IDP camp on or about 16 July 2004), [UGA-OTP-0062-0145](#) at 0205-0206 (Dominic Ongwen's ambush on Odek road on or about 17 August 2004), 0273 (Dominic Ongwen reported the killing of a boda boda driver).

³⁹² See e.g., ISO logbook, [UGA-OTP-0163-0292](#) at 0314-0315 (Dominic Ongwen's attack on Obalanga on or about 2 October 2005).

³⁹³ P-0142, [UGA-OTP-0228-4542-R01](#) at 4562, [UGA-OTP-0228-4620-R01](#) at 4629; P-0224, [UGA-OTP-0244-2995-R01](#) at 3018-3020.

Receipt of attack reports.

129. Subordinate commanders reported to Dominic Ongwen after operations. For example, after the Lukodi IDP camp attack, Ongwen received both an oral and written report from the person who led the attack on the ground and the intelligence officer who participated in the attack.³⁹⁴ Subordinate officers also reported to Ongwen following the Odek attack.³⁹⁵ Similarly, on 24 July 2004 and 2 August 2004, battalion commander Labongo reported on the radio to his brigade commander, Ongwen, that he had carried out two ambushes, hitting both the UPDF and civilians.³⁹⁶

Authority to distribute women and girls

130. Dominic Ongwen controlled the distribution of women and girls to troops in his battalion and later his brigade. P-0379, who served in Oka battalion when it was commanded by Ongwen, recalled that if a girl was abducted it would be Ongwen who would decide whether she stayed with the man who abducted her or whether she should be given to someone else. Ongwen would decide based on rank and time in the bush, whether his subordinates deserved to be given a wife.³⁹⁷ P-0309 also described how Ongwen distributed abducted women to his subordinate commanders.³⁹⁸

131. For example, P-0205, who served at different times as commander of Terwanga and Oka battalions when Ongwen was brigade commander, described how, having received Kony's approval, Dominic Ongwen authorised P-0205 to have a wife.³⁹⁹ When P-0205 reported abductions to Dominic Ongwen, Ongwen gave permission to P-0205 to distribute the women and girls to men within P-0205's unit.⁴⁰⁰ P-0235 gave evidence that, "at times Ongwen would say that girls should be distributed" and that she observed

³⁹⁴ P-0142, [UGA-OTP-0228-4620-R01](#) at 4622, [UGA-OTP-0228-4542-R01](#) at 4568-4571; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 31-33; P-0205, [UGA-OTP-0247-0109-R01](#) at 0118-0120.

³⁹⁵ P-0142, [UGA-OTP-0228-4542-R01](#) at 4551-4556, [UGA-OTP-0244-0710-R01](#) at 0712-0713.

³⁹⁶ ISO logbook, [UGA-OTP-0062-0145](#) at 0156.

³⁹⁷ P-0379, [UGA-OTP-0266-0050](#) at 0053-0054.

³⁹⁸ P-0309, [UGA-OTP-0249-0472-R01](#) at 0488, 0498.

³⁹⁹ P-0205, [UGA-OTP-0247-0504-R01](#) at 0526.

⁴⁰⁰ P-0205, [UGA-OTP-0243-0819-R01](#) at 0830-0831.

Ongwen distributing girls in Uganda. She said that, “At times he would just decide on his own and give women to soldiers who didn't have wives. Then he would inform Kony afterwards that this is what he had done”.⁴⁰¹ Ongwen also allocated *ting-tings* (babysitters) to women.⁴⁰² P-0264 recorded Ongwen receiving reports from a subordinate about distribution and added that Ongwen was also popular because, unlike in other brigades, he would distribute women to younger soldiers if he thought they were capable of looking after a girl.⁴⁰³ Ongwen would reward only those who worked well in attacks and in battle with a wife.⁴⁰⁴

Authority to distribute male abductees

132. P-0309 described how Ongwen distributed male abductees within his unit.⁴⁰⁵ P-0330 relates how Ongwen assigned abductees to his second-in-command for training.⁴⁰⁶

Authority to order killings

133. Dominic Ongwen also had the authority to order killings outside the context of disciplinary punishment. P-0330 described how, during his time as an escort, Ongwen ordered him to kill a captured person who was suspected of being UPDF soldier. On another occasion, abductees were told to trample a suspicious person to death. P-0330 was one of five soldiers who were selected to make sure that the abductees stepped on and killed the suspected person.⁴⁰⁷

Reputation as an unusually effective commander in the LRA

134. Another indicator of Dominic Ongwen's authority and control over troops was the fact that he was viewed within all echelons of the LRA as being a highly effective LRA commander who initiated operations autonomously and enthusiastically. Joseph Kony

⁴⁰¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 20-21.

⁴⁰² P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 43, 45-46.

⁴⁰³ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

⁴⁰⁴ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

⁴⁰⁵ P-0309, [UGA-OTP-0249-0472-R01](#) at 0488.

⁴⁰⁶ P-0330, [UGA-OTP-0256-0071-R01](#) at 0074-0075.

⁴⁰⁷ P-0330, [UGA-OTP-0256-0071-R01](#) at 0080.

and Vincent Otti frequently described Dominic Ongwen as an example for other LRA commanders to follow. On 27 September 2003, (a few days after it was announced that Dominic Ongwen was to be second-in-command of Sinia brigade), Kony singled Ongwen out from among commanders in Sinia for praise as a hardworking commander.⁴⁰⁸ By contrast, Kony criticised a number of other commanders in Sinia, including another Sinia battalion commander, Pokot, as well as the then-commander of Sinia, Abudema, warning him (Abudema) that he may be replaced as the head of Sinia brigade.⁴⁰⁹

135. On 12 February 2004, Kony praised Dominic Ongwen for his attack on Koc Ongako, holding him up as an example.⁴¹⁰ On 18 May 2004, (shortly after the Odek attack) Kony told LRA commanders on the radio, “you just look at ODOMI, how good ODOMI is working, OVER”.⁴¹¹ Similarly, on 24 May 2004, Kony praised Dominic Ongwen after the Lukodi attack.⁴¹² On 29 June 2004, P-0125 recorded that, “Col. Ongwen Dominic and Lt. Col. Ocan Labongo have proved dangerous, destructive to both property and lives and have vowed to continue with their acts”.⁴¹³ On 18 July 2004 intercepted communications record Otti stating that Dominic Ongwen is working very well. Kony replied that Ongwen always plans first before moving to attack and that is why he is performing very well.⁴¹⁴

136. Dominic Ongwen’s reputation was seen as an unusually effective commander is confirmed by Prosecution witnesses. P-0264, who served in the Sinia brigade when

⁴⁰⁸ ISO Logbook, [UGA-OTP-0232-0234](#) at 0477.

⁴⁰⁹ ISO Logbook, [UGA-OTP-0232-0234](#) at 0477.

⁴¹⁰ ISO logbook, [UGA-OTP-0061-0002](#) at 0069.

⁴¹¹ P-0059, [UGA-OTP-0248-0328-R01](#) at 0331-0332 (Audio transcript annotation by P-0059, [UGA-OTP-0248-0436-R01](#) at 0442); *see also* P-0003, [UGA-OTP-0248-0094-R01](#) at 0103 (Audio transcript annotation by P-0003, [UGA-OTP-0248-0198-R01](#) at 0204). *See further*, P-0224, [UGA-OTP-0244-3024-R01](#) at 3041-3042 (Joseph Kony and Vincent Otti frequently described Dominic Ongwen as an example for other LRA commanders to follow).

⁴¹² ISO logbook, [UGA-OTP-0061-0206](#) at 0329.

⁴¹³ Police Logbook, [UGA-OTP-0037-0002](#) at 0072. *See further* ISO logbook, [UGA-OTP-0062-0002](#) at 0090.

(On 7 July 2004, Kony praised Dominic Ongwen for having a good number of soldiers and said that he should be carrying on with operations).

⁴¹⁴ ISO Logbook, [UGA-OTP-0062-0002](#) at 0111 (right page).

Ongwen was brigade commander, said that among LRA rebels, it was considered that if Ongwen was the one planning a mission, it would be successful. P-0264 had heard that Ongwen was a good leader in battle and saw it with his own eyes as well.⁴¹⁵ Ongwen's former second-in-command in Oka battalion, P-0245, explains that Ongwen was viewed by his subordinates as "very good, a brilliant fighter".⁴¹⁶ P-0264 adds that Ongwen was "good at raising the morale within the brigade". Ongwen ordered attacks and then distributed the loot from such attacks among his fighters, "so [...] people would follow what would come out of [his] mouth".⁴¹⁷ Ongwen provided extra food by planning more "work", which meant collecting food from civilians' properties including their houses, and planning more ambushes on civilian vehicles.⁴¹⁸

Rapid and consistent promotions

137. Dominic Ongwen's rapid and consistent rise through the ranks of the LRA is another indicator of his authority and control over troops. Between 1 July 2002 and 31 December 2005, Ongwen was, through successive promotions, raised from the rank of Captain to Brigadier. On 1 July 2002, already in Sinia brigade, he was promoted by Joseph Kony to the rank of Major.⁴¹⁹ On 2 December 2002, Ongwen is referred to as a Major and battalion commander in Sinia brigade under Colonel Buk Abudema and Major Lapanyikwara.⁴²⁰ Ongwen was promoted to Lieutenant Colonel in November 2003,⁴²¹ to Colonel on 30 May 2004,⁴²² and to Brigadier in December 2004.⁴²³ Kony rewarded active

⁴¹⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

⁴¹⁶ P-0245, [UGA-OTP-0244-0313-R01](#) at 0320. *See further* P-0224, [UGA-OTP-0244-2995-R01](#) at 3017-3020, [UGA-OTP-0244-3024-R01](#) at 3026 (Dominic Ongwen followed orders to the letter and expected the same from fighters under his command).

⁴¹⁷ P-0245, [UGA-OTP-0244-0313-R01](#) at 0323.

⁴¹⁸ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

⁴¹⁹ ISO logbook, [UGA-OTP-0063-0194](#) at 0246, 0248; see a list of LRA command structure authored by the ISO at [UGA-OTP-0242-1008](#), dated 22 October 2003, listing Ongwen as a Major in Sinia brigade. *See* P-0059's comments on this list at [UGA-OTP-0258-0699](#) at 0706.

⁴²⁰ ISO logbook, [UGA-OTP-0065-0002](#) at 0083.

⁴²¹ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0051; UPDF logbook, [UGA-OTP-0242-6018](#) at 6199 (right page).

⁴²² ISO logbook, [UGA-OTP-0062-0002](#) at 0004; Audio transcript annotation by P-0003, [UGA-OTP-0248-0143-R01](#) at 0179-0182 (see explanation by P-0003, [UGA-OTP-0248-0094-R01](#) at 0099-0100); Audio transcript annotation by P-0059, [UGA-OTP-0248-0381-R01](#) at 0417-0420 (see explanation by P-0059, [UGA-OTP-0248-0328-R01](#) at 0336-0337); Police intelligence report, [UGA-OTP-0256-0309](#).

⁴²³ ISO logbook, [UGA-OTP-0163-0007](#) at 0165.

soldiers who carried out attacks. On 10 April 2003 (a few months before the Pajule attack), Kony told Ongwen to plan an ambush as some other LRA fighters did recently so that he would get promoted like the two aforementioned soldiers.⁴²⁴

Individual criminal responsibility of Dominic Ongwen

138. Dominic Ongwen is charged with indirect co-perpetration, pursuant to article 25(3)(a), for crimes committed at Odek and Pajule as well as for SGBC and child soldier crimes committed by others. He is charged as the sole indirect perpetrator, also pursuant to article 25(3)(a), of the crimes committed at Lukodi and Abok. In the alternative, Ongwen is charged, pursuant to article 25(3)(b) for the crimes committed at Odek, Lukodi and Abok as well as for SGBC and child soldier crimes committed by others. He is charged in the alternative pursuant to article 25(3)(d) and article 28(a) for the crimes committed at Pajule, Odek, Lukodi and Abok as well as for SGBC and child soldier crimes committed by others. Finally, Dominic Ongwen is also charged in the alternative pursuant to Article 25(3)(c) for crimes committed at Pajule.

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

139. Dominic Ongwen is charged with indirect co-perpetration, pursuant to article 25(3)(a), for crimes committed at Odek and Pajule as well as for SGBC and child soldier crimes committed by others.

140. Article 25(3)(a) does not lay out the precise elements of indirect co-perpetration and the jurisprudence on this matter by the Court is not entirely consistent.⁴²⁵ The Prosecution advances a position largely based on the findings in the *Lubanga* trial

⁴²⁴ ISO logbook, [UGA-OTP-0065-0143](#) at 0266.

⁴²⁵ See, e.g., Appeals Chamber in *Lubanga* (ICC-01/04-01/06-3121-Red A5) at para. 465-466, and the Pre-Trial Chambers in *Ongwen* (ICC-02/04-01/15-422-Conf, para. 37-41), *Blé Goudé* (ICC-02/11-02/11-186, para. 137), *Gbagbo* (ICC-02/11-01/11-656-Red, para. 230) and *Ntaganda* (ICC-01/04-02/06-309, para. 104).

judgment⁴²⁶ (endorsed by the Appeals Chamber)⁴²⁷ and the *Blé Goudé* confirmation decision.⁴²⁸ Accordingly, the elements of indirect co-perpetration are the following:

- (a) The existence of a common plan or agreement between two or more persons, including the Accused,⁴²⁹ that includes “a critical element of criminality”, namely that its implementation will, in the ordinary course of events, lead to the commission of a crime.⁴³⁰
- (b) The use of another person or an organised and hierarchical apparatus of power: in the latter case, the Prosecution must establish the existence of an organisation that is based on hierarchical relationships between superiors and subordinates,⁴³¹ and where the implementation of the will of the co-perpetrators cannot be compromised by a subordinate’s failure to comply due to the fungible nature of the individual subordinates within the organisation.⁴³² This can be established through the attributes of the organisation, such as a large enough size to “provide a sufficient supply of subordinates” in order to replace anyone who refused to act,⁴³³ or through the existence of “intensive, strict, and violent training regimes”.⁴³⁴ However, this element does not necessarily require the Prosecution to establish the subordinates’ almost automatic compliance with “orders” of a superior. Compliance with an order may be sufficient to demonstrate that the organisation is composed of fungible individuals, but it is not the only way to making that showing.⁴³⁵

⁴²⁶ ICC-01/04-01/06-2842, paras 976-1018.

⁴²⁷ ICC-01/04-01/06-3121-Red A5, para. 462-473.

⁴²⁸ ICC-02/11-02/11-186, para. 134-137.

⁴²⁹ ICC-01/04-01/07-716, para. 522.

⁴³⁰ ICC-01/04-01/06-2842, para. 984; ICC-01/04-01/06-796, para. 344.

⁴³¹ ICC-01/04-01/07-717, para. 511-514.

⁴³² ICC-01/04-01/07-717, para. 516-517.

⁴³³ ICC-01/04-01/07-717, para. 516.

⁴³⁴ ICC-01/04-01/07-717, para. 518.

⁴³⁵ *Contra*, ICC-01/04-01/07-717, para. 515-516, 518; ICC-01/09-02/11-382-Red, para. 297; ICC-01/09-01/11-373-Red, para. 292. Actions and attributes other than orders, such as those referred to in this paragraph, may also be capable of establishing this element.

- (c) The ability to cause the organisation to contribute to the crimes:⁴³⁶ again, while compliance with orders⁴³⁷ is one possible manner to establish this element, it is not the only one.⁴³⁸ It may also be established, for example, through a showing that the Accused possessed veto power within the organisation, or that he had the capacity to hire, train, impose discipline and provide resources to the subordinates.⁴³⁹
- (d) The Accused must provide an essential contribution to the common plan which results in the commission of the crimes.⁴⁴⁰ This means that 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”.⁴⁴¹ 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.”⁴⁴²

⁴³⁶ ICC-01/04-01/07-717, para. 511-514. The Prosecution notes that the *Katanga* Confirmation Decision uses the term “control over the organization”. Since this element should not be confused with the separate requirement of the collective control over the crime by all co-perpetrators, the Prosecution focuses on the essence of this element, namely the Accused’s individual ability to use the organization as a tool to contribute to the commission of the crime.

⁴³⁷ ICC-01/04-01/07-717, para. 497-498, 500-510, 514; ICC-01/05-01/08-14-tENG, para. 78; *see also* Roxin, C., *Straftaten im Rahmen organisatorischer Machtapparate*, *Goldammer’s Archiv für Strafrecht* (1963), pages 193-207; K. Ambos, *La parte general del derecho penal internacional* (Montevideo, Temis, 2005), page 240.

⁴³⁸ *See* T. Weigend, ‘Perpetration through an Organization: The Unexpected Career of a German Legal Concept’, *Journal of International Criminal Justice* (2011) Vol. 9, Issue 1, p. 95-101 (noting that under the theory as originally articulated, the touchstone is the “dominance” enjoyed by the perpetrator behind the perpetrator, not orders as such).

⁴³⁹ ICC-01/04-01/07-717, para. 513. These examples are not exhaustive, neither are they indicative of the level of participation that is required to establish responsibility for indirect co-perpetration. They only serve the purpose of demonstrating that a person can move an organization to contribute to a crime by ways other than ordering.

⁴⁴⁰ ICC-01/04-01/06-2842, para. 1006, 1018(ii) (emphasis added). *See also* ICC-01/04-01/06-3121-Red A5, para.469. At para. 488 and 491, the Appeals Chamber refers to the “essential nature of his contribution to the common plan” and “Mr Lubanga’s [essential role] to the implementation of the common plan”. In addition, at para.455 and 499, the Appeals Chamber endorsed the findings and the approach of the Trial Chamber on this issue. *See further*, ICC-02/11-02/11-186, para. 135-136.

⁴⁴¹ ICC-02/11-01/11-656-Red, para. 230; ICC-02/11-02/11-186, para. 135. As to the assessment of the essential nature of a contribution, *see*, ICC-01/04-01/06-2842, para. 1000-1001.

⁴⁴² ICC-01/04-01/06-2842, para. 994; ICC-02/11-02/11-186, para. 136; ICC-01/04-01/07-717, para. 524 and 488(b), referring to “joint control over the crime” and control “together with others”.

- (e) The Accused acted with intent: the concept of “awareness that a consequence will occur in the ordinary course of events” means that, based on how events ordinarily develop, the Accused anticipated that the consequence would occur in the future.⁴⁴³ In the context of this case, it is necessary for the Prosecution to establish that the Accused was aware that implementing the common plan would, in the ordinary course of events, result in the commission of the crimes charged.⁴⁴⁴
- (f) The Accused had the requisite knowledge: for indirect co-perpetration through an organised and hierarchical apparatus of power, the Prosecution must establish that the Accused was aware (a) that the common plan or agreement involved an element of criminality;⁴⁴⁵ (b) of the fundamental features of the organisation;⁴⁴⁶ and (c) of the factual circumstances that enabled him or her, together with other co-perpetrators, to jointly exercise control over the crime.⁴⁴⁷

141. The evidence summarised above in paragraphs 89 to 137, read with paragraphs 612 to 700 (SGBC) and 701 to 758 (child soldiers), satisfies the requirement of indirect co-perpetration and establishes the liability of Dominic Ongwen as an indirect co-perpetrator of the charged SGBC and child soldier conscription or use crimes carried out by the Sinia brigade. He and his co-perpetrators relied on the organised, hierarchical structure of the Sinia brigade to carry out the material elements of the charged crimes. He exercised joint control over the crimes along with his co-perpetrators by subjugating the individual will of the direct perpetrators. He possessed this joint control, from at least 1 July 2002 as a battalion commander and continued to retain this joint control when deputy commander of the Sinia brigade. He then continued to exercise joint control over SGBC and child soldier crimes committed through the organised and

⁴⁴³ ICC-01/04-01/06-3121-Red A5, para. 6, 447-451 where the Appeals Chamber confirmed the Trial Chamber’s factual assessment and legal conclusion in ICC-01/04-01/06-2842, para. 1012.

⁴⁴⁴ ICC-01/04-01/07-717, para. 533.

⁴⁴⁵ See ICC-01/04-01/06-803, para. 361-365.

⁴⁴⁶ ICC-01/04-01/07-717, para. 534.

⁴⁴⁷ ICC-01/04-01/06-803, para. 366-367; ICC-01/04-01/07-717, para. 538. In addition, the Accused must hold knowledge with respect to the subjective requirements relevant to the chapeau elements of articles 7 and 8.

hierarchical military structure of the Sinia brigade as the commander of the Sinia brigade until at least December 2005. He made an essential contribution within the framework of the SGBC and Child Soldier common plans from at least July 2002 to December 2005.

142. Similarly, in light of the evidence summarised above in paragraphs 89 to 137, and the evidence summarised in paragraphs 204 to 287 (Pajule) and 288 to 370 (Odek), Dominic Ongwen is responsible as an indirect co-perpetrator for the crimes at Pajule and Odek. He exercised joint control over the crimes, along with his co-perpetrators. He and his co-perpetrators relied on the organised, hierarchical structure of the LRA, including the LRA personnel deployed at Pajule and Odek to carry out the material elements of the charged crimes. He made an essential contribution within the framework of the Pajule and Odek common plans.

143. Notably, and in contrast to Dominic Ongwen's responsibility as a commander pursuant to article 28, Ongwen is also responsible for the acts carried out pursuant to the relevant common plans by the subordinates of other indirect co-perpetrators, even if these persons were not his own subordinates. For example, for the period where Ongwen was a battalion commander, he is also criminally responsible for the sexual and gender-based crimes and child soldier conscription or use committed in Sinia battalions other than his own. In this context, even in the period before Ongwen became the commander of Sinia brigade, he had an impact on the functioning of the entire Sinia brigade. This is evidenced by, for example, the regular coordination, cooperation and resource-sharing that took place between him and other senior officers of the brigade, including Sinia brigade commander Buk Abudema, and former Sinia second in command Lapanyikwara (Lapaico) described in detail at paragraph 113 above.

144. The evidence relating to the requisite mental element, including the subjective elements of the crimes, the requirements of intent and knowledge pursuant to article 30, and mutual awareness and acceptance that implementing the relevant common plans will result in the fulfilment of the material elements of the crimes is discussed in detail at paragraphs 288 to 370 (Odek), 204 to 287 (Pajule), 612 to 700 (SGBC) and 701 to 758 (child soldiers). The subjective elements relating to the chapeau of article 7 and 8 are dealt with at paragraphs 22 to 61. Additionally, Dominic Ongwen was aware of the fundamental features of the organised structure of the LRA and Sinia brigade: Ongwen, as a military commander in the LRA, commanding units first at the battalion and then at the brigade level, was aware of the position he held within the organisation.⁴⁴⁸ The above evidence demonstrates that Ongwen knew this because when he issued an order, he saw that it was carried out. He knew that he had control over the crimes together with his co-perpetrators. He understood his position in the LRA chain of command. This knowledge was facilitated by his access to a radio.

145. Dominic Ongwen was also aware of the essential features of the organisation that secured “functional automatism”,⁴⁴⁹ *i.e.*, meaning that the organisation was one in which the orders of its superior officers are automatically carried out by their subordinates. The above evidence demonstrates that Ongwen knew about the LRA’s system of rules. He knew that troops under his command carried out his orders automatically because he was responsible for implementing the LRA’s harsh discipline system in the units supervised by him when his orders were not obeyed. Ongwen carried out some of the punishments himself, demonstrating the importance he placed on discipline. He was aware that fighters under his command were fungible because of his position as a long-time commander in the LRA and Sinia brigade. He knew that the LRA and Sinia brigade

⁴⁴⁸ See *Katanga* Trial Judgment, which establishes this as a relevant factor, ICC-01/04-01/07-3436-tEN, para. 1415.

⁴⁴⁹ ICC-01/04-01/07-3436-tEN, para. 1415.

were composed of a sufficient number of individuals, and that this number was replenished regularly through abductions that he led and ordered.

Indirect perpetration pursuant to article 25(3)(a)

146. Dominic Ongwen is charged as the sole indirect perpetrator, pursuant to article 25(3)(a), of the crimes committed at Lukodi and Abok. Indirect perpetration involves commission “through another person”, in which the perpetrator has the sole control over the crime and commits it by making use of another person who physically carries out the incriminated conduct, rather than by directly executing the material elements of the crime⁴⁵⁰

147. The evidence summarised above in paragraphs 89 to 137, and the evidence set out in paragraphs 371 to 429 (Lukodi) and 430 to 499 (Abok), establishes that Dominic Ongwen is responsible as an indirect perpetrator for the crimes at Lukodi and Abok. He exerted control over the crimes at Lukodi and Abok by using the organised, hierarchical structure of the LRA described above (including the troops deployed to Lukodi and Abok) to carry out the material elements of the charged crimes. The evidence relating to the requisite mental element, is discussed in detail at paragraphs 417 and 418 (Lukodi) and 487 to 490 (Abok).

Ordering pursuant to article 25(3)(b)

148. Dominic Ongwen is charged, in the alternative, pursuant to article 25(3)(b) for the crimes committed at Odek, Lukodi and Abok as well as for SGBC and child soldier crimes committed by others. To establish responsibility under ordering, it is necessary to prove that (a) the Accused is in a position of authority, (b) the Accused instructs another person in any form to either: (i) commit a crime which in fact occurs or is attempted or (ii) perform an act or omission in the execution of which a crime is carried out, (c) the

⁴⁵⁰ ICC-01/04-01/06-3121-Red A5, para 465, ICC-02/04-01/15-422-red, para 40.

order had a direct effect on the commission or attempted commission of the crime, and (d) the Accused is 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.⁴⁵¹

149. The evidence discussed above in paragraphs 89 to 137 of how the LRA, including the Sinia brigade, was an organised and hierarchical structure and how Dominic Ongwen was in a position of authority and had control over LRA units under his command read with the sections on Odek (paragraphs 288 to 370), Lukodi (paragraphs 371 to 429), Abok (paragraphs 430 to 499) SGBC (paragraphs 612 to 700) and child soldiers (paragraphs 701 to 758) establishes these elements of ordering. This is the case for the entire duration of the charges, from July 2002 until December 2005.

Aiding and abetting pursuant to article 25(3)(c)

150. This mode of liability is only charged in the context of the attack on Pajule, and is hence discussed at paragraphs 278-280.

Contributing in any other way pursuant to article 25(3)(d)

151. Dominic Ongwen is charged in the alternative pursuant to article 25(3)(d) for the crimes committed at Pajule, Odek, Lukodi and Abok as well as for SGBC and child soldier crimes committed by others. To establish liability under article 25(3)(d), it is necessary to prove that (a) a crime within the jurisdiction of the Court was attempted or committed; (b) a group of persons acting with a common purpose attempted to commit or committed this crime; (c) the Accused contributed to the crime, in any way other than those set out in article 25(3)(a) to (c) of the Statute; (d) the said contribution was intentional; and (e) was made either (i) with the aim of furthering the criminal activity or criminal purpose of the group; or (ii) in the knowledge of the intention of the group to commit the crime.⁴⁵²

⁴⁵¹ ICC-01/04-02/06-309, para. 145.

⁴⁵² ICC-01/04-02/06-309, para. 158.

152. There is no threshold requirement with regard to the contribution under article 25(3)(d). Article 25(3)(d) applies when the Accused contributes to the commission or attempted commission of the crime “in any other way” that is not encapsulated under articles 25(3)(a) to (c).⁴⁵³ It entails the “lowest objective threshold for participation according to article 25”.⁴⁵⁴ Accordingly, any contribution to the charged crimes is sufficient to satisfy this element.⁴⁵⁵

153. The evidence discussed above in paragraphs 89 to 137 read with the sections on Pajule (paragraphs 204 to 287), Odek (paragraphs 288 to 370), Lukodi (paragraphs 371 to 429), Abok (paragraphs 430 to 499) SGBC (paragraphs 612 to 700) and child soldiers (paragraphs 701 to 758) address, *inter alia*, evidence relevant to the subjective and objective elements of article 25(3)(d) as well as the general requirements of intent and knowledge pursuant to article 30 in the context of the relevant charges. These sections, read with the evidence discussed above in paragraphs 89 to 137 fulfil the requirements of article 25(3)(d). This is the case for the entire duration of the charges, from July 2002 until December 2005.

Command responsibility pursuant to article 28(a)

154. Dominic Ongwen is charged in the alternative pursuant to article 28(a) for the crimes committed at Pajule, Odek, Lukodi and Abok as well as for SGBC and child soldier crimes committed by others. To establish liability under command responsibility, it is

⁴⁵³ ICC-01/09-01/11-373, para. 354; ICC-01/04-01/10-465-Red, para. 278. *See also* Kai Ambos, “Article 25”, in Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court*, (C.H.Beck-Hart-Nomos, 1999), p. 484, [21]; Albin Eser, “Individual Criminal Responsibility”, in Cassese A., Gaeta P., Jones J.R.W.D., *The Rome Statute of the International Criminal Court*, Vol. I, (Oxford, Oxford University Press, 2002), p. 802-803.

⁴⁵⁴ ICC-01/09-01/11-373, para. 354. *See also* Kai Ambos, “Article 25”, in Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court*, (C.H.Beck-Hart-Nomos, 1999), p. 484; Albin Eser, “Individual Criminal Responsibility”, in Cassese A., Gaeta P., Jones J.R.W.D., *The Rome Statute of the International Criminal Court*, Vol. I, (Oxford, Oxford University Press, 2002), p. 802-803.

⁴⁵⁵ ICC-01/09-01/11-373, para. 354. While the pre-trial chamber in *Mbarushimana* referred to a “significant” contribution (ICC-01/04-01/10-465-Red, para. 276-285), later pre-trial chambers have made no reference to this threshold requirement (*See e.g., Ntaganda*, ICC-01/04-02/06-309, para. 158), which does not feature in the Statute. This is also the position taken by Judge Fernandez, the only judge from the Appeals Chamber who expressed herself on the elements of article 25(3)(d). *See* ICC-01/04-01/10-514 OA4, Dissenting Opinion Judge Fernandez, para. 8-15.

necessary to prove that: (a) the Accused must be either a military commander or a person effectively acting as such; (b) the Accused must have effective command and control, or effective authority and control over the forces (subordinates) who committed one or more of the crimes set out in articles 6 to 8 of the Statute; (c) the accused either knew or, owing to the circumstances at the time, should have known that the forces (subordinates) were committing or about to commit one or more of the crimes set out in article 6 to 8 of the Statute; and (d) the Accused failed to take the necessary and reasonable measures within his or her power to prevent or repress the commission of such crime(s) or failed to submit the matter to the competent authorities for investigation and prosecution.⁴⁵⁶

155. The evidence discussed above in paragraphs 89 to 137 establishes, firstly the organised and hierarchical structure of the LRA and secondly, Ongwen's position of authority and control over troops within this military structure. It makes clear that from July 2002 to December 2005, Dominic Ongwen was a military commander in the LRA, commanding units first at the battalion, and then at the brigade level. This evidence, read with the sections on Pajule (paragraphs 204 to 287), Odek (paragraphs 288 to 370), Lukodi (paragraphs 371 to 429), Abok (paragraphs 430 to 499) SGBC (paragraphs 612 to 700) and child soldiers (paragraphs 701 to 758) fulfils the requirements of article 28(a).

⁴⁵⁶ ICC-01/04-02/06-309, para. 164. The Prosecution notes that some decisions of this Court, which are not binding on this Trial Chamber, also include an element of causation for command responsibility under article 28, namely that the crimes committed by the forces must have resulted from the failure of the Accused to exercise control properly over them (*see* ICC-01/05-01/8-3343, para. 210-213). The Prosecution challenges the legal correctness of the findings in relation to this additional element, and submits that it should not be applied in this case. In any event, the facts and evidence summarised in this document meet this additional element, regardless of whether it is legally required.

V. PERSECUTION

Introduction

156. As detailed below, Dominic Ongwen committed the crime of persecution with respect to each of the four IDP camp attacks, as charged in counts 10, 23, 36, 49. These counts are dealt with separately in this stand-alone section, rather than under each IDP camp attack section, because it is necessary to examine the LRA's broader persecutory aim and conduct to understand Dominic Ongwen's persecutory intent in relation to these attacks.

157. This section, paragraphs 156-203, applies equally to all four persecution charges. It details the persecutory campaign carried out by the LRA, and Ongwen's role in and knowledge of it.

158. Since its inception, the LRA has aimed to overthrow the Ugandan Government, headed by President Yoweri Museveni. This aim was explicitly professed in numerous LRA manifestos and policy documents that were disseminated to the general public. A 1999 LRA manifesto called for the liberation of Uganda from "one-party-dictatorship" and the removal from power of the National Resistance Movement ("NRM")/UPDF regime.⁴⁵⁷ Similarly, the preamble to the LRA Constitution considered that it (the LRA) had a moral obligation to liberate Uganda from the misrule of the NRM.⁴⁵⁸ Another policy document called for the restoration of multi-party democracy and the removal of Museveni through armed struggle.⁴⁵⁹ In furtherance of this political aim, the LRA attacked civilians whom the LRA perceived to be supporting the Government.

159. The LRA perceived this political support to exist where civilians lived in Government-established IDP camps, or where they were perceived to be assisting the Government or

⁴⁵⁷ LRA Manifesto, [UGA-OTP-0269-0791](#) at 0794, 0796.

⁴⁵⁸ LRA Constitution, [UGA-OTP-0012-0326](#) at 0329-0330. *See also*, handwritten internal LRA "rules" which refer to the objective of defeating the ruling government: [UGA-OTP-0025-0388](#) (Acholi original), [UGA-OTP-0268-0010](#) (translation); and [UGA-OTP-0026-0094](#) (Acholi original), [UGA-OTP-0253-0162](#) (English translation).

⁴⁵⁹ LRA Policy Document, [UGA-OTP-0012-0242](#) at 0246, 0249.

UPDF, or even where civilians were just not openly supportive of the LRA.⁴⁶⁰ Criminal conduct (the deprivation of fundamental rights, such as the right to life) carried out to punish this perceived political support amounts to persecution on political grounds, in violation of article 7(1)(h).⁴⁶¹

160. Intercepted radio communications and statements by former LRA fighters demonstrate the existence of continuous persecutory orders, stemming ultimately from Joseph Kony. The evidence shows that Dominic Ongwen was aware of, endorsed, and executed these orders.

The LRA targeted civilians they perceived as supporting the Government

161. The evidence set out below demonstrates that the LRA considered civilians residing in IDP camps to be supporting the Government and opposed to the LRA. The LRA also considered anyone perceived to be assisting the Government, directly or indirectly, as Government supporters and LRA political opponents.

The LRA considered civilians residing in IDP camps as supporters of the Government

162. As a result of the LRA insurgency, by the turn of the millennium,⁴⁶² large numbers of civilians in northern Uganda were forced into IDP camps with UPDF protection,⁴⁶³ because they were too exposed to LRA attacks in their villages.⁴⁶⁴ Joseph Kony issued orders to attack IDP camps throughout northern Uganda, as he considered civilians residing in them to be siding with the Government.⁴⁶⁵ The LRA made this an explicit

⁴⁶⁰ P-0422, [UGA-OTP-0270-0004](#) at 0022.

⁴⁶¹ See ICC-02/11-02/11-186, para. 122-123; see also ICC-01/09-01/11-373, para. 269-274; ICC-01/09-02/11-382, para. 283.

⁴⁶² P-0009, [UGA-OTP-0151-0167-R01](#) at 0174.

⁴⁶³ P-0422, [UGA-OTP-0270-0004](#) at 0024; P-0017, [UGA-OTP-0036-0007-R01](#) at 0010; P-0218, [UGA-OTP-0238-0720-R01](#) at 0722; P-0422, [UGA-OTP-0270-0004](#) at 0024; see also P-0280, [UGA-OTP-0247-1252-R01](#) at 1256, P-0422, [UGA-OTP-0270-0004](#) at 0024.

⁴⁶⁴ P-0280, [UGA-OTP-0247-1252-R01](#) at 1255-1256; P-0218, [UGA-OTP-0238-0720-R01](#) at 0722; P-0028, [UGA-OTP-0217-0171-R01](#) at 0175-0176; P-0293, [UGA-OTP-0248-0040-R01](#) at 0044, 0051; [UGA-OTP-0044-0044](#) at 0049.

⁴⁶⁵ See *infra*, para. 164.

discriminatory policy, sending open letters to IDP camp residents that warned them to leave the camps or stand to be attacked.⁴⁶⁶ Internal LRA documents specifically addressed the issue of IDP camps, stating that “the LRM/A should see to it that there are no camps in Gulu and Kitgum because they are like the gate and source of information for our enemies”.⁴⁶⁷ This regulation stemmed from Kony’s belief that only civilians who were “government agents” lived in IDP camps, and “civilians who want to survive” should not stay in them.⁴⁶⁸

163. Numerous Prosecution witnesses confirm that civilians living in IDP camps were perceived by the LRA as supporters of the Government.⁴⁶⁹ For example:

- P-0245, a former second-in-command to Ongwen, explains that the Government “didn’t want to see any civilian in the villages” while “the rebels did not want the civilians to stay in the camps”.⁴⁷⁰ Therefore, the LRA considered that any civilians who remained in the IDP camps during attacks were Government supporters and should be killed;⁴⁷¹
- P-0009, an Acholi clan chief who was one of many people abducted during the Pajule attack in October 2003, stated that Vincent Otti told him and the other abductees that “people were supporting the government by moving from their villages.”⁴⁷² P-0009 also recalled that Otti threatened to kill the Pajule abductees, saying that they should not be in the camp and are Government supporters;⁴⁷³

⁴⁶⁶ P-0084, [UGA-OTP-0139-0149-R01](#) at 0162; ISO logbook, 31 August 2002, [UGA-OTP-0064-0002](#) at 0086.

⁴⁶⁷ LRA Rules, [UGA-OTP-0026-0094](#) at 0095 (original Acholi version), [UGA-OTP-0253-0162](#) at 0164 (English translation); LRA Rules, [UGA-OTP-0026-0273](#) at 0274 (original Acholi version); [UGA-OTP-0253-0165](#) at 0167 (English translation).

⁴⁶⁸ ISO logbook, [UGA-OTP-0068-0146](#) at 0151.

⁴⁶⁹ P-0028, [UGA-OTP-0217-0171-R01](#) at 0175-0176; P-0245, [UGA-OTP-0244-0285-R01](#) at 0291-0293, 0307-0308; P-0009, [UGA-OTP-0151-0167-R01](#) at 0176-0177; P-0067, [UGA-OTP-0139-0193-R01](#) at 0203; *see also* P-0138, [UGA-OTP-0228-6443-R01](#) at 6469; P-0018, [UGA-OTP-0159-0002-R01](#) at 0010.

⁴⁷⁰ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291.

⁴⁷¹ P-0245, [UGA-OTP-0244-0285-R01](#) at 0292-0293; *see also* P-0048, [UGA-OTP-0209-0099](#) at 0123.

⁴⁷² P-0009, [UGA-OTP-0151-0167-R01](#) at 0177.

⁴⁷³ P-0009, [UGA-OTP-0151-0167-R01](#) at 0176.

- P-0067, another Pajule abductee, stated that Otti threatened to execute any civilian who stayed in Pajule camp and declared that all the Acholi living in camps would be killed;⁴⁷⁴
- P-0028, a senior advisor to Kony, stated that after Kony gave the order for civilians to be killed because they were Government supporters,⁴⁷⁵ he started hearing over the radio about the killing of many people in IDP camps;⁴⁷⁶

164. Intercepted LRA radio communications also confirm that IDP camp residents were perceived as Government supporters and targeted on that basis. Below is a sample of relevant intercepted communications for the period 2002-2004:

- 31 August 2002: Kony instructed LRA commanders in Uganda to distribute letters to civilians telling them that the “LRA wants all able bodied pple [to] all move and join LRA and no body [sic] should move to camps”, stated that “this time LRA shouldn’t spare any civilian who doesn’t want to side with LRA”, and approved of another commander’s suggestion that the LRA should bring resistant civilians into line by “killing mercilessly”;⁴⁷⁷
- 9 October 2002: “Otti said all [peo]ple in Gulu are now in camps. Kony issued order that his com[manders] should start killing civilians because they are siding with Museveni”;⁴⁷⁸
- 26 November 2002: Kony told his commanders that if civilians were in the IDP camps, “any person that you will meet you will know that you have met with UPDF and shoot straight away on sight”;⁴⁷⁹
- 3 May 2003: Kony authorised Otti to attack IDP camps, burning them and killing the people there because “all Acholi are stupid and agents of Museveni”;⁴⁸⁰

⁴⁷⁴ P-0067, [UGA-OTP-0139-0193-R01](#) at 0203.

⁴⁷⁵ P-0028, [UGA-OTP-0217-0100-R01](#) at 0103-0104; [UGA-OTP-0217-0125-R01](#) at 0140-0141; [UGA-OTP-0217-0148-R01](#) at 0169; [UGA-OTP-0217-0171-R01](#) at 0189.

⁴⁷⁶ P-0028, [UGA-OTP-0217-0100-R01](#) at 0103-0105.

⁴⁷⁷ ISO logbook, [UGA-OTP-0064-0002](#) at 0086.

⁴⁷⁸ ISO logbook, [UGA-OTP-0068-0002](#) at 0053.

⁴⁷⁹ ISO logbook, [UGA-OTP-0065-0002](#) at 0064.

⁴⁸⁰ ISO logbook, [UGA-OTP-0063-0002](#) at 0179.

- 26 February 2004: Otti instructed that what Odhiambo did in Lango by killing people in camps must be done by all LRA wherever they are;⁴⁸¹
- 7 July 2004: Kony ordered his commanders to kill civilians in IDP camps because they support the Government to fight against the LRA.⁴⁸²

165. The LRA's persecutory campaign, although solely based on political grounds, ultimately affected several ethnicities, which the LRA perceived to be supporting the Government.⁴⁸³ Kony initially sought political support from people of his own ethnic group, the Acholi.⁴⁸⁴ However, when the Acholi did not join his fight against the Ugandan Government, Kony issued orders for them to be killed.⁴⁸⁵ He ordered that Acholi "truly be killed and if possible wiped off totally b[ecause] instead of running to the bush to join hands with LRA so that Museveni is toppled, they go to Museveni".⁴⁸⁶

166. Kony also targeted other ethnic groups, such as the Langi and the Itesos, who were perceived to support the Government and UPDF.⁴⁸⁷ In early 2003, on Kony's orders, Charles Tabuley went to Soroti (in the Teso sub-region) to kill Iteso civilians who were "not cooperating, who were stubborn".⁴⁸⁸ On 16 October 2003, Kony congratulated Odhiambo for killing Langi civilians in Lango sub-region and encouraged other LRA

⁴⁸¹ ISO logbook, [UGA-OTP-0061-0002](#) at 0103.

⁴⁸² UDPF logbook, [UGA-OTP-0255-0228](#) at 0355-0356.

⁴⁸³ ISO logbook, [UGA-OTP-0061-0002](#) at 0102-0104; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0038.

⁴⁸⁴ P-0028, [UGA-OTP-0217-0148-R01](#) at 0168-0169, [UGA-OTP-0217-0171-R01](#) at 0173-0174.

⁴⁸⁵ P-0028, [UGA-OTP-0217-0148-R01](#) at 0168-0169, [UGA-OTP-0217-0171-R01](#) at 0174-0175, 0189; P-0085, [UGA-OTP-0215-0593-R01](#) at 0613-0615, [UGA-OTP-0215-0047-R01](#) at 0073; ISO logbook, 13 December 2002, [UGA-OTP-0065-0002](#) at 0105 ("Kony said he is being accused of killing innocent civilians but that he is right to do so because all Acholis are mobilising alongside with Museveni to kill him"); UDPF logbook, [UGA-OTP-0197-2162](#) at 2190 (Kony orders killing of Acholi since they foolishly support Museveni and don't want to join the LRA in the bush); ISO logbook, 23 December 2003, [UGA-OTP-0066-0002-R01](#) at 0147 (indicating that Kony said Acholi should be killed because of their support for Museveni); ISO logbook, 28 April 2003 and 3 May 2003, [UGA-OTP-0063-0002](#) at 0157, 0179 (indicating that Kony said that the LRA should wipe out all Acholi and that Otti could attack any camp, burn it and kill all the people because "all Acholi are stupid and are agents of Museveni"); ISO logbook, 5 February 2004, [UGA-OTP-0061-0002](#) at 0045 ("[Kony] said all Acholi should be killed. He said Acholi who are in the bush are the only good ones and the rest must be wiped out").

⁴⁸⁶ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0147.

⁴⁸⁷ P-0040, [UGA-OTP-0209-0461-R01](#) at 0488, [UGA-OTP-0220-0704-R01](#) at 0707-0708, [UGA-OTP-0220-0678-R01](#) at 0687-0688; P-0028, [UGA-OTP-0217-0171-R01](#) at 0176; UDPF logbook, [UGA-OTP-0197-2040](#) at 2050; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0025, 0028, 0035.

⁴⁸⁸ P-0040, [UGA-OTP-0220-0678-R01](#) at 0702, [UGA-OTP-0220-0704-R01](#) at 0707-0708.

commanders to do the same since Langi are Museveni supporters.⁴⁸⁹ Similarly, on 10 November 2003, Kony and Abudema spoke about how Langi must “be killed until they get finished” because they are all “pro-Museveni”.⁴⁹⁰

The LRA considered civilians to be supporters of the Government if they were perceived as resisting the LRA directly or indirectly

167. As outlined below, civilians were persecuted as Government supporters for a wide variety of actions that the LRA interpreted as resistance to its cause, including suspected affiliation with LDU’s, possession of a firearm, or any action that the LRA interpreted as directly or indirectly supporting the Government or Government-affiliated actors like the UPDF.

168. Kony ordered the killing of any civilian who he believed might join or support the Government-funded LDUs.⁴⁹¹ Orders to attack the Lango and Teso sub-regions increased after the death of Charles Tabuley, former brigade commander of Stockree, in October 2003, as Kony blamed civilians for supporting the Amuka and Arrow LDUs⁴⁹² that assisted the UPDF in those regions.⁴⁹³ Kony ordered that: “everything that had life had to be killed now because all of them were involved in supporting UPDF against LRA”.⁴⁹⁴ Kony also ordered that Langi women should be killed because, “they are the ones producing militias who are killing them [LRA]”.⁴⁹⁵

⁴⁸⁹ UPDF logbook, [UGA-OTP-0197-2040](#) at 2050.

⁴⁹⁰ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0066-0067; *see also* ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0035.

⁴⁹¹ P-0138, [UGA-OTP-0228-0467-R01](#) at 0496, 0498-0499, [UGA-OTP-0228-0503-R01](#) at 0521-0522, [UGA-OTP-0228-6443-R01](#) at 6456, [UGA-OTP-0228-6419-R01](#) at 6439; P-0070, [UGA-OTP-0228-2891-R01](#) at 2902; P-0258, [UGA-OTP-0243-1795-R01](#) at 1800-1801, [UGA-OTP-0243-1824-R01](#) at 1828; ISO logbook, [UGA-OTP-0232-0234](#) at 0257, 0309, 0317-0318, 0348, 0612-0613; ISO logbook, [UGA-OTP-0062-0002](#) at 0049; ISO logbook, [UGA-OTP-0061-0002](#) at 0098; *see also* P-0017, [UGA-OTP-0036-0007-R01](#) at 0017.

⁴⁹² ISO logbook, [UGA-OTP-0232-0234](#) at 0309, 0317.

⁴⁹³ P-0070, [UGA-OTP-0208-0146-R01](#) at 0169-0170, [UGA-OTP-0228-2891-R01](#) at 2902; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0028.

⁴⁹⁴ P-0070, [UGA-OTP-0228-2891-R01](#) at 2902; *see also* ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0038; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0012, 0025, 0028, 0035; UPDF logbook, [UGA-OTP-0197-1078](#) at 1212.

⁴⁹⁵ ISO logbook, 11 November 2003, [UGA-OTP-0066-0002-R01](#) at 0038; UPDF intelligence report, [UGA-OTP-0015-0013](#) at 0024.

169. Affiliation with a militia group was assumed if a civilian showed any sign of armed resistance against the LRA. In such instances, Kony authorised broad, indiscriminate attacks on all civilians throughout that area, instructing his commanders to kill anyone they came across.⁴⁹⁶ For example, P-0016 recalled hearing that Kony ordered that all of the Langi be killed after Kony was informed of an incident where a Langi civilian killed two LRA soldiers.⁴⁹⁷

170. This LRA backlash occurred against any armed civilian, even in the absence of violence against the LRA. For instance, P-0138, a sergeant in Sinia brigade and later a 2nd lieutenant in Control Altar, explains that after a civilian in Lira took away a gun from a young LRA soldier, Kony ordered his troops to “clear the entire area there”, to kill “any living thing in that area.”⁴⁹⁸ He further explained that because guns had been distributed to civilians for their protection, “the order was that [...] [i]f you get a civilian who was a man, it is assumed that he has a gun so he should be killed”.⁴⁹⁹

171. Civilians who were not armed or suspected of involvement with LDUs were still suspected by Kony of being “planted by” —or spies or agents for—the Government.⁵⁰⁰ Civilians were often killed or ordered to be killed as a “security measure” out of an alleged fear that the civilians would reveal LRA positions or other tactical information to Government soldiers⁵⁰¹ or as a punishment for having done so.⁵⁰²

⁴⁹⁶ See, e.g., ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0025, 0028; UPDF logbook, [UGA-OTP-0197-2040](#) at 2092 (Kony and other commanders discuss plans for mass killing of Langi civilians in retaliation for the killing of one LRA rebel with a spear).

⁴⁹⁷ P-0016, [UGA-OTP-0228-3348-R01](#) at 3357-3358.

⁴⁹⁸ P-0138, [UGA-OTP-0228-0467-R01](#) at 0496-0497.

⁴⁹⁹ P-0138, [UGA-OTP-0228-0503-R01](#) at 0521.

⁵⁰⁰ ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0030; ISO logbook, [UGA-OTP-0068-0146](#) at 0151; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0173; ISO logbook, [UGA-OTP-0064-0093](#) at 0111.

⁵⁰¹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0167; P-0258, [UGA-OTP-0243-1795-R01](#) at 1808-1809; P-0045, [UGA-OTP-0220-1087-R01](#) at 1109; P-0200, [UGA-OTP-0243-0107-R01](#) at 0110; P-0096, [UGA-OTP-0228-1901-R01](#) at 1908; P-0245, [UGA-OTP-0244-0461-R01](#) at 0485-0486; ISO logbook, [UGA-OTP-0061-0206](#) at 0222-0223; ISO logbook, [UGA-OTP-0068-0146](#) at 0170-0171, 0249.

⁵⁰² P-0105, [UGA-OTP-0228-4952-R01](#) at 4981-4982; ISO logbook, [UGA-OTP-0063-0002](#) at 0028, 0064; ISO logbook, [UGA-OTP-0068-0146](#) at 0166, 0171, 0249-0250; ISO logbook, [UGA-OTP-0232-0234](#) at 0547; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0015.

172. The LRA considered a wide range of civilian conduct as indicative of opposition to the LRA, such as: failing to reveal UPDF positions to the LRA,⁵⁰³ refusing to follow LRA orders,⁵⁰⁴ moving to IDP camps instead of joining the LRA,⁵⁰⁵ spreading an alarm when the LRA was near,⁵⁰⁶ or running or escaping from the LRA.⁵⁰⁷ Suspicious conduct included innocuous activities like carrying a phone⁵⁰⁸ or moving in vehicles on the roads.⁵⁰⁹

173. Perceived signs of resistance from even a few civilians in a particular area routinely triggered a broad attack on all civilians in that area. For example, in September 2002, an LRA commander reported to Kony his suspicion that civilians on bicycles told the UPDF about his position, and Kony ordered the commander to return to “that area, and kill all persons he can see including babies, dogs etc. and burn down all houses, telling the civ. that he did that because of civilians directing UPDF to LRA instead of denying any knowledge about LRA.”⁵¹⁰

Joseph Kony issued continuous persecutory orders:

174. Throughout the charged period, Joseph Kony continually issued orders to attack and kill civilians who did not support the LRA.⁵¹¹ Joseph Kony instructed his commanders

⁵⁰³ P-0096, [UGA-OTP-0228-1901-R01](#) at 1906, 1909; P-0352, [UGA-OTP-0260-0315-R01](#) at 0329.

⁵⁰⁴ UPDF logbook, [UGA-OTP-0197-1078](#) at 1125.

⁵⁰⁵ ISO logbook, [UGA-OTP-0064-0002](#) at 0086.

⁵⁰⁶ P-0422, [UGA-OTP-0270-0004](#) at 0022.

⁵⁰⁷; ISO sound recording, [UGA-OTP-0054-0010](#) (track 2), [UGA-OTP-0247-1102](#) (enhanced, track 2); Translation, [UGA-OTP-0132-0105-R01](#) at 0134; ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0030; P-0085, [UGA-OTP-0222-0462-R01](#) at 0469.

⁵⁰⁸ ISO logbook, [UGA-OTP-0068-0146](#) at 0154; ISO logbook, [UGA-OTP-0232-0234](#) at 0276; *see also* P-0105, [UGA-OTP-0228-4952-R01](#) at 4981-4982.

⁵⁰⁹ P-0028, [UGA-OTP-0217-0171-R01](#) at 0183, 0188-0189; [UGA-OTP-0217-0100-R01](#) at 0104.

⁵¹⁰ ISO logbook, [UGA-OTP-0064-0093](#) at 0140. For other examples, *see* P-0245, [UGA-OTP-0244-0461-R01](#) at 0485-0486; P-0138, [UGA-OTP-0228-0467-R01](#) at 0497; P-0258, [UGA-OTP-0243-1863-R01](#) at 1877-1878; ISO logbook, [UGA-OTP-0068-0002](#) at 0058; ISO logbook, [UGA-OTP-0060-0149](#) at 0267; P-0028, [UGA-OTP-0217-0100-R01](#) at 0103.

⁵¹¹ Various witnesses discuss these orders. *See, e.g.*, P-0070, [UGA-OTP-0208-0107-R01](#) at 0111-0113; P-0138, [UGA-OTP-0228-0467-R01](#) at 0496, [UGA-OTP-0217-0125-R01](#) at 0140-0141, [UGA-OTP-0217-0171-R01](#) at 0189; P-0085, [UGA-OTP-0215-0047-R01](#) at 0073; P-0028, [UGA-OTP-0217-0100-R01](#) at 0103; [UGA-OTP-0217-0125-R01](#) at 0141; [UGA-OTP-0217-0171-R01](#) at 0188-0189; P-0040, [UGA-OTP-0220-0704-R01](#) at 0707. For examples of persecutory orders from the logbooks, *see the following*. *From 2002*: ISO logbook, [UGA-OTP-0063-0194](#) at 0216, 0250; ISO logbook, [UGA-OTP-0064-0002](#) at 0086; ISO logbook, [UGA-OTP-0064-0093](#) at 0103, 0111. *From 2003*: ISO logbook, [UGA-OTP-0063-0002](#) at 0028-0029, 0064, 0147-0148, 0157, 0179, 0191; ISO

to, “weigh the minds of the people in a particular area and decide whether they support LRA or not. That if not, the people in that area should be killed all”.⁵¹² He repeatedly gave directives to kill civilians “who are siding with Museveni government”⁵¹³ but not those who are “pro-LRA”.⁵¹⁴

175. The Prosecution possesses sound recordings of several intercepted radio communications that reflect the LRA’s discriminatory intent against perceived Government supporters. For example, in a communication intercepted on 25 November 2003, Joseph Kony and Buk Abudema discussed killing civilians that support Museveni, including anyone found with a gun; P-0003 and P-0059 both listened to a sound recording of this conversation and identified the voices of Kony and Abudema.⁵¹⁵

176. Similarly, in a communication intercepted on 10 October 2003, the day of the Pajule attack, Kony and Otti discuss that civilians should be killed because they are the “bad ones” who assist the army and join the Home Guards [LDUs];⁵¹⁶ Otti confirms to Kony that he instructed the troops to kill more than was done in Atiak⁵¹⁷ (referring to a notorious attack on Atiak that resulted in many civilian casualties⁵¹⁸). P-0138 listened to a sound recording of this communication and identified the voices of Kony and Otti.⁵¹⁹

logbook [UGA-OTP-0068-0146](#) at 0151, 0154, 0170-0172, 0249, 0250; ISO logbook, [UGA-OTP-0232-0234](#) at 0307, 0333-0334, 0349, 0383, 0403, 0544; ISO logbook [UGA-OTP-0060-0149](#) at 0267; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0015, 0025, 0037-0038, 0145; UPDF logbook, [UGA-OTP-0197-1866](#) at 2029; UPDF logbook, [UGA-OTP-0197-2162](#) at 2190, 2239, 2248. From 2004-2005: ISO logbook, [UGA-OTP-0061-0002](#) at 0016, 0103, 0104; ISO logbook, [UGA-OTP-0061-0206](#) at 0222-0223; ISO logbook, [UGA-OTP-0062-0145](#) at 0249, 0288, 0295; ISO logbook, [UGA-OTP-0159-0002-R01](#) at 0123, 0124, 0030.

⁵¹² ISO logbook, [UGA-OTP-0064-0093](#) at 0122.

⁵¹³ See, e.g., ISO logbook, [UGA-OTP-0061-0002](#) at 0098, 0104; ISO logbook, [UGA-OTP-0064-0002](#) at 0025.

⁵¹⁴ ISO logbook, [UGA-OTP-0063-0194](#) at 0327-0328; see also Letter to the public from Joseph Kony, [UGA-OTP-0025-0352](#) at 0353 (original), [UGA-OTP-0268-0007](#) at 0008 (translation) (“No one is going to be killed anyhow unless you have done something that hinders our war against Museveni”); P-0105, [UGA-OTP-0228-0260-R01](#) at 0272 (confirming that homesteads belonging to civilians sympathetic to the LRA were not attacked).

⁵¹⁵ ISO sound recording, [UGA-OTP-0239-0062](#) (enhanced, track 2, at 00:25:31 (voices have been identified by P-0059, [UGA-OTP-0248-0328-R01](#) at 0337 [Transcript at [UGA-OTP-0248-0342-R01](#)] and P-0003, [UGA-OTP-0248-0094-R01](#) at 0102 [Transcript at [UGA-OTP-0248-0224-R01](#)]), [UGA-OTP-0037-0314](#) (original).

⁵¹⁶ P-0138, [UGA-OTP-0228-6419-R01](#) at 6439 (summarising Kony and Otti’s conversation); see also ISO logbook, [UGA-OTP-0232-0234](#) at 0547-0548.

⁵¹⁷ P-0138, [UGA-OTP-0228-6419-R01](#) at 6439 (summarising Kony and Otti’s conversation).

⁵¹⁸ See P-0422, [UGA-OTP-0270-0004](#) at 0025 and *supra*, para. 16.

⁵¹⁹ P-0138, [UGA-OTP-0228-6419-R01](#) at 6438.

Dominic Ongwen was aware of Kony's persecutory campaign against civilians perceived as Government supporters

177. Dominic Ongwen was aware of the persecutory campaign orchestrated by Kony. Throughout the charged period, logbook entries and other intercept-related evidence show that Ongwen reported on air during radio communications where persecutory orders were issued or discussed. For example:

- 10 November 2002: Kony instructed his commanders that they could attack soft targets because they are “Museveni’s p[eo]ple” and that “even p[eo]ple traveling on bicycles can be shot using support weapons”⁵²⁰;
- 18 March 2003: Kony said that “all p[eo]ple moving in vehicles are agents of Museveni who are working ways of destroying LRA so they must all be killed”;⁵²¹
- 31 March 2003: Kony stated that “civilians hate the LRA and those civilians who do not want to join the LRA in the bush are enemies and must all be executed”;⁵²²
- 16 April 2003: Kony said the LRA should start operations on civilians because “these are people who are dangerous to the LRA”;⁵²³
- 28 April 2003: Kony said all Acholi not in the bush are useless and should be wiped out;⁵²⁴
- 7 June 2003: referring to Ongwen’s attack on Opit road, Kony stated that Ongwen should have burned all the civilians’ houses because they are worse than the UPDF and that Ongwen should have continued burning houses all the way up to Odek;⁵²⁵
- 23 February 2004: referring to Odhiambo’s report about his attack on Barlonyo IDP camp, Kony instructed all units in Uganda to attack and kill civilians as

⁵²⁰ ISO logbook, [UGA-OTP-0065-0002](#) at 0020.

⁵²¹ ISO logbook, [UGA-OTP-0063-0002](#) at 0026.

⁵²² ISO logbook, [UGA-OTP-0063-0002](#) at 0067; ISO logbook, [UGA-OTP-0065-0143](#) at 0229; ISO handwritten notes, [UGA-OTP-0242-1274](#) at 1274-1275.

⁵²³ ISO logbook, [UGA-OTP-0063-0002](#) at 0124.

⁵²⁴ ISO logbook, [UGA-OTP-0063-0002](#) at 0157.

⁵²⁵ ISO logbook, [UGA-OTP-0068-0146](#) at 0229.

Odhiambo has done “because it’s the same civilian which Museveni recruit to fight LRA therefore they should all be finished”;⁵²⁶

- 24 February 2004: Kony said that he is “very happy” about the killing Odhiambo did in Lango and that “all people should know that those who support Museveni will all be killed by LRA”;⁵²⁷
- 26 February 2004: Kony stated that the only “true” Acholi, Langi and Itesos are those ones who are in the bush with the LRA and all those who remain at home are “foolish” and must be killed; Otti stated that what Odhiambo did in Lango by killing people in camps must be done by all LRA wherever they are and that the LRA will kill all useless civilians who are siding with the government;⁵²⁸
- 17 June 2004: Abudema stated that “civilians are the worst enemy to [the LRA] and should all be killed b[ecau]se they are easily changed to become soldiers”.⁵²⁹

LRA senior leadership implemented Kony’s persecutory orders

178. Senior commanders relayed Kony’s orders down the chain of command. For example, on 9 September 2002, Vincent Otti said “all LRA should put aside the issue of peace talks but instead concentrate seriously on the order Kony issued [that] morning”,⁵³⁰ referring to Kony’s order to wipe out all people in areas where the population is perceived to oppose the LRA.⁵³¹ Otti further noted that the people did not yet “know the danger of siding with [the] UPDF”.⁵³² Likewise, on 24 November 2003, Buk Abudema, said that the LRA’s “major problem is civilians who still clings on Museveni like ticks.

⁵²⁶ ISO logbook, [UGA-OTP-0061-0002](#) at 0096.

⁵²⁷ ISO logbook, [UGA-OTP-0061-0002](#) at 0098.

⁵²⁸ ISO Logbook, [UGA-OTP-0061-0002](#) at 0103.

⁵²⁹ ISO logbook, [UGA-OTP-0062-0002](#) at 0040. For additional examples where Ongwen was on air during the discussion of persecutory orders, see ISO logbook, [UGA-OTP-0062-0002](#) at 0049; ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0164; ISO logbook, [UGA-OTP-0061-0002](#) at 0196-0197.

⁵³⁰ ISO logbook, [UGA-OTP-0064-0093](#) at 0124.

⁵³¹ ISO logbook, [UGA-OTP-0064-0093](#) at 0122.

⁵³² ISO logbook, [UGA-OTP-0064-0093](#) at 0124.

That civilians must be killed until they whole accept to join LRA to remove Museveni".⁵³³

179. In compliance with Kony's orders, senior commanders carried out attacks on civilians perceived to be supporting the Government, including those residing in IDP camps. For example, in February 2004, Colonel Okot Odhiambo carried out major attacks on Langi civilians residing at the IDP camps at Abia and Barlonyo, during which hundreds of civilians were killed and many houses burned.⁵³⁴ Odhiambo was praised by Kony⁵³⁵ and Otti⁵³⁶ after these attacks and promoted to Brigadier a few weeks later (on 13 March 2004).⁵³⁷ Ongwen was on air when Kony and Otti praised Odhiambo's efforts and instructed all LRA commanders to kill civilians in the camps like Odhiambo had done.⁵³⁸

180. A few months after Odhiambo's notorious attack on Barlonyo IDP camp and subsequent promotion, on or about 19 May 2004, Ongwen's troops carried out the charged attack on Lukodi IDP camp. A few days later, on 24 May 2004, Ongwen boasted about the Lukodi attack on the radio, reporting that he decided to "kill all l[i]ving things in the camp" and that therefore he is sure that Museveni will "note him" just as he did Odhiambo for his attack on Barlonyo IDP camp.⁵³⁹ That same day, Kony ordered Ongwen to continue killing civilians in the IDP camps and stated that more than 50

⁵³³ ISO logbook, [UGA-OTP-0066-0002-R01](#) at 0086-0087; see also ISO logbook, [UGA-OTP-0062-0145](#) at 0288 (Abudema instructed all LRA units to hit vehicles and people indiscriminately, without mercy, because he had heard that people have become "stubborn").

⁵³⁴ For Barlonyo: P-0146, [UGA-OTP-0228-4397-R01](#) at 4412; P-0054, [UGA-OTP-0221-1757-R01](#) at 1781; ISO logbook, [UGA-OTP-0061-0002](#) at 0093; Intelligence Report, [UGA-OTP-0015-0013](#) at 0028; Report, [UGA-OTP-0015-0031](#) at 003; [UGA-OTP-0015-0032](#) (photographs of Barlonyo victims); Police Report, [UGA-OTP-0015-0157](#) at 0157; Investigative Report, [UGA-OTP-0015-0158](#) at 0158, 0160-0161. For Abia: Police Report, [UGA-OTP-0025-0069](#) at 0069-0074; List of Victims, [UGA-OTP-0070-0071](#) at 0071-0078; [UGA-OTP-0036-0002](#) at 0002-0003.

⁵³⁵ ISO logbook, [UGA-OTP-0061-0002](#) at 0096, 0098.

⁵³⁶ ISO logbook, [UGA-OTP-0061-0002](#) at 0103 (Otti states that what Odhiambo did in Lango by killing people in camps must be done by all LRA wherever they are; Ongwen reported on air).

⁵³⁷ ISO logbook, [UGA-OTP-0061-0002](#) at 0146 (Odhiambo's promotion is announced; Ongwen on air); [UGA-OTP-0132-0352](#) at 0384 (transcript of tape where Kony promotes Odhiambo).

⁵³⁸ ISO logbook, [UGA-OTP-0061-0002](#) at 0094-0096, 0098, 0102-0104.

⁵³⁹ UPDF logbook, [UGA-OTP-0254-2982](#) at 3050.

civilians should be killed for every dead LRA fighter.⁵⁴⁰ Less than a week later, like Odhiambo before him, Ongwen was promoted.⁵⁴¹

Dominic Ongwen's individual criminal responsibility for persecution

181. Contrary to international law, Dominic Ongwen severely deprived the civilians residing at Pajule, Odek, Lukodi and Abok IDP camps of their fundamental rights to life; liberty and security of the person; freedom of movement; private property; not to be subjected to torture or to cruel, inhumane or degrading treatment; and not to be held in slavery or servitude.

182. The charged crimes of attacking civilians,⁵⁴² murder,⁵⁴³ attempted murder,⁵⁴⁴ torture/other inhumane acts/cruel treatment,⁵⁴⁵ enslavement,⁵⁴⁶ pillaging,⁵⁴⁷ destruction of property⁵⁴⁸ and outrages on personal dignity⁵⁴⁹ form the underlying conduct of the persecution of the civilian population on political grounds at Pajule, Odek, Lukodi and Abok IDP camps.⁵⁵⁰

183. As detailed in the sections of this document summarising the evidence concerning the four IDP camp attacks, Dominic Ongwen is responsible for the crime of persecution under articles 25(3)(a) (as an indirect co-perpetrator at the Pajule and Odek IDP camp attacks and as an indirect perpetrator at the Lukodi and Abok IDP camp attacks), (b) (ordering), (d)(i) and (ii) and 28(a). He acted with the requisite intent and knowledge under article 30.

⁵⁴⁰ UPDF logbook, [UGA-OTP-0255-0228](#) at 0278.

⁵⁴¹ ISO logbook, [UGA-OTP-0062-0002](#) at 0004; UPDF Intelligence Report, [UGA-OTP-0016-0486](#) at 0490-0491.

⁵⁴² Counts 1 (Pajule), 11 (Odek), 24 (Lukodi), 37 (Abok).

⁵⁴³ Counts 2, 3 (Pajule), 12, 13 (Odek), 25, 26 (Lukodi), 38, 39 (Abok).

⁵⁴⁴ Counts 14, 15 (Odek), 27, 28 (Lukodi), 40, 41 (Abok).

⁵⁴⁵ Counts 4, 5 (Pajule), 16, 17 (Odek), 29, 30 (Lukodi), 42, 43 (Abok).

⁵⁴⁶ Counts 8 (Pajule), 20 (Odek), 33 (Lukodi), 46 (Abok).

⁵⁴⁷ Counts 9 (Pajule), 21 (Odek), 34 (Lukodi), 47 (Abok).

⁵⁴⁸ Count 35 (Lukodi), 48 (Abok).

⁵⁴⁹ Count 22 (Odek).

⁵⁵⁰ See ICC-01/04-02/06-309, para. 58; *see also*, ICC-02/11-02/11-186, para. 122-123; ICC-01/09-01/11-373, para. 269-274.

Dominic Ongwen acted with discriminatory intent:

184. In addition to the *mens rea* under article 30, Dominic Ongwen acted with the intent to severely deprive the group of civilians of Abok, Lukodi, Odek, and Pajule IDP camps of fundamental rights and to target these groups on the basis of their perceived support for the Ugandan Government.

185. As described below, Dominic Ongwen was aware of Kony's persecutory campaign against civilians perceived as Government supporters, endorsed that campaign, and implemented Kony's persecutory orders during the four charged attacks and on other occasions.

Dominic Ongwen implemented Kony's persecutory orders by attacking Pajule IDP camp

186. Dominic Ongwen implemented Kony's persecutory orders by attacking Pajule IDP camp on or about 10 October 2003. As a Government-protected IDP camp located in Acholi territory, the LRA perceived Pajule IDP camp to be inhabited by Government supporters.

187. Ongwen told Pajule abductee P-0009, a local Chief, that the LRA was going to kill all the civilians there because they were supporting the Government.⁵⁵¹ He then kicked P-0009 so hard that he fell on the ground.⁵⁵² Ongwen also kicked or caned every abductee brought near him.⁵⁵³

188. P-0084, a UPDF soldier who formed part of the post-attack fact-finding mission, confirmed P-0009's account of the persecutory intent underlying the Pajule attack. He recalled a conversation with P-0009, during which P-0009 told him about some of the reasons Vincent Otti had given for attacking Pajule, including (i) that the "people of

⁵⁵¹ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551.

⁵⁵² P-0009, [UGA-OTP-0241-0546-R01](#) at 0551.

⁵⁵³ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551.

Pajule were not supporting the rebels but were accusing and reporting them to the government troops“; (ii) “because the people were allowing their children to be recruited as LDUs“; and (iii) because “they thought that the people should leave the camps and go back to their homes.”⁵⁵⁴ P-0084 also reports that, in the week prior to the Pajule attack, the LRA distributed a letter addressed to the population of Pajule IDP camp, warning them to leave the camps or stand to be attacked and warning the people to avoid reporting the LRA to the UPDF.⁵⁵⁵

189. P-0067 witnessed the murder of one of the Pajule abductees, Lacung, who was a typist at a Government administration office.⁵⁵⁶ P-0067 heard the LRA soldier tell Lacung, “you are an employee of the government and I am going to kill you.”⁵⁵⁷ The soldier then killed Lacung by piercing him on the side with a bayonet knife.⁵⁵⁸

Dominic Ongwen implemented Kony’s persecutory orders by attacking Odek IDP camp

190. Dominic Ongwen implemented Kony’s persecutory orders by attacking Odek IDP camp on or about 29 April 2004. As a Government-protected IDP camp located in Acholi territory, the LRA perceived Odek IDP camp to be inhabited by Government supporters. P-0258 heard Ongwen and Kony speaking on the radio prior to the Odek attack; they discussed that the people in Odek “are very difficult people” who should be taught a lesson.⁵⁵⁹

191. P-0245, who participated in the Odek attack, confirmed that Ongwen, relaying an order by Kony, ordered the killing of “those ones who remain in the camp” as they “are supporting government”⁵⁶⁰ and should be considered enemies.⁵⁶¹ P-0245 explained that

⁵⁵⁴ P-0084, [UGA-OTP-0139-0149-R01](#) at 0174.

⁵⁵⁵ P-0084, [UGA-OTP-0139-0149-R01](#) at 0162.

⁵⁵⁶ P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁵⁵⁷ P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁵⁵⁸ P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁵⁵⁹ P-0258, [UGA-OTP-0243-1795-R01](#) at 1816-1818.

⁵⁶⁰ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291-0292, 0308.

⁵⁶¹ P-0245, [UGA-OTP-0244-0313-R01](#) at 0317; see also P-0224, [UGA-OTP-0244-3050-R01](#) at 3062-3072.

one purpose of the Odek attack was “to show the civilians that Government cannot protect you in the camp”.⁵⁶² Following the attack, Ongwen addressed his men and the Odek abductees, including abductee P-0269, who heard Ongwen say he had “informed Joseph Kony that he attacked Odek and killed many people”. Upon hearing this, Ongwen said that Kony laughed at the news, saying that anyone living in the camp should be killed.⁵⁶³

Dominic Ongwen implemented Kony’s persecutory orders by attacking Lukodi camp

192. Dominic Ongwen implemented Kony’s persecutory orders by attacking Lukodi IDP camp on or about 19 May 2004. As a Government-protected IDP camp located in Acholi territory, the LRA perceived Lukodi to be inhabited by Government supporters.

193. Lukodi was attacked, *inter alia*, because the LRA were looking to revenge the public criticism of the LRA by a UPDF officer from Lukodi.⁵⁶⁴ The LRA had an established pattern of attacking the home area of political opponents.⁵⁶⁵

194. P-0018, an abductee who participated in the Lukodi attack under Dominic Ongwen, reports that shortly before the attack, Ongwen told his troops that they would now kill the Acholis because they are “stubborn”, “pigheaded”, and “want to stay in the camps”.⁵⁶⁶

Dominic Ongwen implemented Kony’s persecutory orders when attacking Abok camp

195. Dominic Ongwen implemented Kony’s persecutory orders by attacking Abok IDP camp on or about 8 June 2004. As a Government-protected IDP camp located in Lango

⁵⁶² P-0245, [UGA-OTP-0244-0269-R01](#) at 0276.

⁵⁶³ P-0269, [UGA-OTP-0271-2464-R01](#) at 2468-2471.

⁵⁶⁴ P-0245, [UGA-OTP-0244-0363-R01](#) at 0389-0390.

⁵⁶⁵ See, e.g., ISO logbook, [UGA-OTP-0068-0002](#) at 0058.

⁵⁶⁶ P-0018, [UGA-OTP-0159-0002-R01](#) at 0010. See also P-0202, [UGA-OTP-0243-0907-R01](#) at 0925, [UGA-OTP-0243-1011-R01](#) at 1025-1026, [UGA-OTP-0243-1035-R01](#) at 1039 (indicating that he heard Ongwen order his fighters “to work in Lukodi because these people are stubborn” and further explained that “stubborn” in this context meant that Lukodi people cooperate with the Government soldiers by reporting LRA positions).

territory, on the border of Acholi territory, the LRA perceived Abok to be inhabited by Government supporters.

196. During the Abok attack, P-0293, a camp leader, overheard LRA fighters discussing Ongwen's order to "kill everyone who was not one of them",⁵⁶⁷ meaning civilians siding with the Government.

197. P-0293 also reports that in the period before Abok IDP camp was set up, LRA rebels had visited his village to seek political support, telling the villagers that good Government was with the LRA, not the Government in power.⁵⁶⁸ However, according to P-0293, the rebels did not get the support of the people in his area because of the "bad things they were doing to people", such as abducting children, looting and killing people.⁵⁶⁹ P-0286, an Abok abductee, confirmed that the civilians at Abok IDP camp did not support the LRA.⁵⁷⁰

Dominic Ongwen's words and conduct on occasions other than the four charged incidents, further demonstrates his discriminatory intent against civilians perceived as Government supporters

198. In addition to the four charged attacks, Ongwen implemented Kony's persecutory orders during other attacks on civilians residing in IDP camps.

199. For example, on Kony's orders, Ongwen targeted Lagile IDP camp for attack on the basis of the civilian population's perceived opposition to the LRA. On 4 April 2003, Ongwen reported that the "p[eo]ple of Lagile once sees LRA they make alarm and jointly gang against any LRA moving in their area."⁵⁷¹ Kony responded that the people of Lagile have long been a "problem" and instructed all LRA units to move to Lagile

⁵⁶⁷ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

⁵⁶⁸ P-0293, [UGA-OTP-0248-0040-R01](#) at 0051.

⁵⁶⁹ P-0293, [UGA-OTP-0248-0040-R01](#) at 0052.

⁵⁷⁰ P-0286, [UGA-OTP-0248-0060-R01](#) at 0086.

⁵⁷¹ ISO written notes, [UGA-OTP-0242-1241](#) at 1242.

and kill everyone in that location.⁵⁷² The next day, Ongwen reported that he had attacked Lagile IDP camp, burning down many houses, killing over twenty civilians and abducting many others.⁵⁷³

200. Similarly, on 25 February 2004, Dominic Ongwen was on air when LRA commander Onen told Kony that some boys in Lira-Palwo had been willing to assist an LRA soldier posing as a defector, and Kony stated that “people in Lira Palwo are very bad people and Onen should organise and kill them seriously”.⁵⁷⁴ A few weeks later, in March 2004, Dominic Ongwen jointly with other commanders attacked Lira-Palwo IDP camp,⁵⁷⁵ killing over 20 civilians and burning huts.⁵⁷⁶

201. Witnesses describe Ongwen as a vocal advocate of the LRA’s persecutory campaign. For example, P-0097, a child soldier conscripted into Ongwen’s group in February 2005, heard Ongwen state that they must attack people in the camps because they do not support Kony and also that they must attack civilians and kill them because they were supporting the Government.⁵⁷⁷

202. Similarly, P-0009, a village chief who encountered Ongwen during a number of peace talk meetings, said that Ongwen was “very fierce” and “very anti-governmental”.⁵⁷⁸ Ongwen stated that the LRA should “sing one funeral song and kill all of the Chiefs and the delegation that went there [to meet Kony for peace talks];”⁵⁷⁹ this statement by Ongwen echoed prior LRA rhetoric calling for the killing of any religious or other leader who pressed the LRA to enter into peace talks with the Government.⁵⁸⁰

⁵⁷² ISO written notes, [UGA-OTP-0242-1241](#) at 1242; ISO logbook, [UGA-OTP-0063-0002](#) at 0079-0080.

⁵⁷³ ISO logbook, [UGA-OTP-0063-0002](#) at 0083.

⁵⁷⁴ ISO logbook, [UGA-OTP-0061-0002](#) at 0101.

⁵⁷⁵ ISO logbook, [UGA-OTP-0061-0002](#) at 0165.

⁵⁷⁶ [UGA-OTP-0018-0028](#) at 0040; ISO logbook, [UGA-OTP-0061-0002](#) at 0165.

⁵⁷⁷ P-0097, [UGA-OTP-0258-0489-R01](#) at 0498.

⁵⁷⁸ P-0009, [UGA-OTP-0241-0546-R01](#) at 0552.

⁵⁷⁹ P-0009, [UGA-OTP-0241-0546-R01](#) at 0552.

⁵⁸⁰ See, e.g., ISO logbook, [UGA-OTP-0064-0093](#) at 0157 (Kony ordered all commanders operating in Uganda to “kill any priest, Rev. and any person who may come to them demanding LRA for peace talks with the govt.”).

203. Records of intercepted radio communications are consistent with the above-referenced witness accounts of Ongwen as someone strongly anti-Governmental who targeted civilians for attacks on political grounds. On 1 August 2004, Ongwen dismissed radio reports that he had instructed his soldiers to return home, declaring that he would shock the people who had been happy about those reports by “starting to kill civilians seriously” and stating that “he had already deployed squads for atrocities.”⁵⁸¹ On 29 September 2004, Ongwen stated: “UPDF and civilians always keep singing that LRA should all come out of the bush if they don’t want to get finished. He said all those are rubbish. He said as they keep saying that, he will organise more atrocities”.⁵⁸²

VI. ATTACK ON PAJULE IDP CAMP

Introduction

204. Pajule and Lapul IDP camps were set up in 1996.⁵⁸³ Located in Aruu County, Pader District,⁵⁸⁴ the two camps were bisected by a road running north to south - referred to as the Kitgum to Lira road. Pajule IDP camp was situated on the east side of the road. Lapul IDP camp was situated on the west side.⁵⁸⁵ The two camps were treated as one large camp (“Pajule IDP camp”) by aid agencies. This submission will use the term Pajule IDP camp to refer to both camps unless otherwise stated.

205. Along the main road running through the camp, there were shops that formed a trading centre.⁵⁸⁶ The inhabitants of the camps lived in and around the trading centre.⁵⁸⁷ It is estimated that in October 2003, there were between 15,000 and 30,000 civilians

⁵⁸¹ ISO logbook, [UGA-OTP-0062-0145](#) at 0152-0153; *see also* Sound recording, [UGA-OTP-0241-0257](#) (Enhanced, [UGA-OTP-0258-0143](#)); P-0059, [UGA-OTP-0266-0074](#) at 0079, Annotated transcript of sound recording, [UGA-OTP-0266-0146](#) at 0155 (“Even me, I now want to assemble my people so that I distribute them and then give them their deaths as they want. Over.”); P-0016, [UGA-OTP-0265-0318](#) at 0328-0329, Annotated transcript of sound recording, [UGA-OTP-0265-0481](#) at 0490.

⁵⁸² ISO logbook, [UGA-OTP-0062-0145](#) at 0299.

⁵⁸³ P-0081, [UGA-OTP-0070-0029-R01](#) at 0031.

⁵⁸⁴ ICC-02/04-01/15-487-Conf-AnxA, p.2.

⁵⁸⁵ P-0047, [UGA-OTP-0027-0177-R01](#) at 0184.

⁵⁸⁶ P-0047, [UGA-OTP-0027-0177-R01](#) at 0184.

⁵⁸⁷ P-0084, [UGA-OTP-0139-0149-R01](#) at 0155.

living at the camp.⁵⁸⁸ The camp also contained a Catholic mission⁵⁸⁹ to the west and barracks housing UPDF and LDU soldiers to the north-west. The UPDF and LDU soldiers served as guards to the camp.⁵⁹⁰

206. It is an agreed fact that on or about 10 October 2003, shortly after Ugandan Independence Day, Pajule IDP camp was attacked.⁵⁹¹ The evidence will prove beyond reasonable doubt that this attack resulted from a common plan (the “Pajule common plan”) that was conceived and implemented by Dominic Ongwen together with other senior commanders of the LRA, including Joseph Kony, Vincent Otti, Raska Lukwiya and Bogi Bosco (“Pajule co-perpetrators”).

207. Shortly before 10 October 2003, Vincent Otti summoned LRA fighters to a meeting not far from Pajule IDP camp.⁵⁹² LRA fighters predominantly from Control Altar, Trinkle brigade and Sinia brigade LRA units attended.⁵⁹³ After coming together, Vincent Otti and other senior commanders held a meeting.⁵⁹⁴ Dominic Ongwen, who was travelling with Vincent Otti at the time, attended this meeting.⁵⁹⁵

208. During the course of this meeting, senior LRA commanders agreed on a common plan to attack Pajule IDP camp. The Pajule common plan served several purposes, including: attacking UPDF soldiers guarding the camp; demonstrating the LRA’s power;

⁵⁸⁸ P-0084, [UGA-OTP-0139-0149-R01](#) at 0161; P-0008, [UGA-OTP-0137-0058](#) at 0058-0059.

⁵⁸⁹ P-0084, [UGA-OTP-0139-0149-R01](#) at 0155, Sketch map of Pajule IDPC, [UGA-OTP-0139-0178](#).

⁵⁹⁰ P-0084, [UGA-OTP-0139-0149-R01](#) at 0152-0153.

⁵⁹¹ ICC-02/04-01/15-487-Conf-AnxA, p. 5.

⁵⁹² P-0045, [UGA-OTP-0220-1035-R01](#) at 0152; P-0146, [UGA-OTP-0228-4253-R01](#) at 4258-4259; P-0209, [UGA-OTP-0243-0319-R01](#) at 0330; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁵⁹³ P-0045, [UGA-OTP-0220-1035-R01](#) at 1052-1053; P-0146, [UGA-OTP-0228-4253-R01](#) at 4274-4276; P-0209, [UGA-OTP-0243-0354-R01](#) at 0364, 0373, [UGA-OTP-0243-0379-R01](#) at 0386, 0388.

⁵⁹⁴ P-0045, [UGA-OTP-0218-0143-R01](#) at 0158; [UGA-OTP-0220-1035-R01](#) at 1053; P-0209, [UGA-OTP-0243-0354-R01](#) at 0375; [UGA-OTP-0243-0379-R01](#) at 0389; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁵⁹⁵ P-0144, [UGA-OTP-0253-0026-R01](#) at 0033; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820-0821; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085; Audio files of Defence interview with P-0209: [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#), and [UGA-D26-0011-0030](#) (the transcripts of these audio files are to be disclosed by the Defence to all Parties in due course).

expressing LRA dissatisfaction with civilians residing at the camp who were perceived to support the Ugandan Government; pillaging items; and abducting civilian residents in order to carry pillaged items and serve as conscripts in the LRA.⁵⁹⁶

209. It was also agreed that the LRA fighters attacking the camp were to be divided into groups.⁵⁹⁷ Each group was tasked with attacking a different area within the camp. One group headed by an LRA fighter called Bogi was tasked with attacking the barracks at the camp.⁵⁹⁸ Other groups were tasked with attacking the civilian areas of the camp. Vincent Otti's escort, Onyee, was tasked with attacking the Catholic mission.⁵⁹⁹ Dominic Ongwen was tasked with leading a group of LRA fighters to attack the trading centre area within the camp.⁶⁰⁰ LRA fighters were also tasked with ambushing reinforcements that were sent to repel the attack.⁶⁰¹

210. After the meeting concluded, senior commanders, including Dominic Ongwen, ordered subordinates to select and prepare a number of LRA fighters to participate in

⁵⁹⁶ P-0009, [UGA-OTP-0151-0167-R01](#) at 0177; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146; P-0045, [UGA-OTP-0218-0143-R01](#) at 0157, [UGA-OTP-0218-0171-R01](#) at 0186; P-0048, [UGA-OTP-0209-0179-R01](#) at 0184; P-0070, [UGA-OTP-0228-3010-R01](#) at 3036; P-0084, [UGA-OTP-0139-0149-R01](#) at 0161-0162, [UGA-OTP-0069-0416](#) at 0417; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 26; P-0130, [UGA-OTP-0191-0272-R01](#) at 0278-0279; P-0138, [UGA-OTP-0228-0568-R01](#) at 0593, [UGA-OTP-0228-6290-R01](#) at 6312, 6316, 6322, 6328; P-0144, [UGA-OTP-0228-1376-R01](#) at 1397, [UGA-OTP-0253-0057-R01](#) at 0064; P-0209, [UGA-OTP-0243-0354-R01](#) at 0365, 0375; Audio files of Defence interview with P-0209, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#) (the transcripts of these audio files are to be disclosed by the Defence to all Parties in due course); P-0309, [UGA-OTP-0249-0472-R01](#) at 0485; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085. With respect to the purpose of expressing LRA dissatisfaction with civilians residing at the camp *see further*, section on persecution, para. 156-203.

⁵⁹⁷ P-0081, [UGA-OTP-0070-0029-R01](#) at 0039; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191-0193.

⁵⁹⁸ P-0045, [UGA-OTP-0218-0143-R01](#) at 0159, [UGA-OTP-0220-1035-R01](#) at 1051; P-0146, [UGA-OTP-0228-4397-R01](#) at 4417; P-0209, [UGA-OTP-0243-0354-R01](#) at 0365, [UGA-OTP-0243-0379-R01](#) at 0388, 0391, 0395; [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#).

⁵⁹⁹ P-0045, [UGA-OTP-0220-1035-R01](#) at 1051-1052; P-0105, [UGA-OTP-0228-4996-R01](#) at 5038; P-0146, [UGA-OTP-0228-4397-R01](#) at 4416-4417; ISO logbook, [UGA-OTP-0133-0289](#) at 0395.

⁶⁰⁰ P-0030, [UGA-OTP-0220-0878-R01](#) at 0903-0904; P-0045, [UGA-OTP-0218-0143-R01](#) at 0160, [UGA-OTP-0220-1035-R01](#) at 1051, 1057, [UGA-OTP-0220-1064-R01](#) at 1074; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 26; P-0138, [UGA-OTP-0228-6385-R01](#) at 6403-6404; P-0144, [UGA-OTP-0228-1376-R01](#) at 1401-1402, 1405, 1410, [UGA-OTP-0253-0026-R01](#) at 0052; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249.

⁶⁰¹ P-0006, [UGA-OTP-0144-0072-R01](#) at 0076-0077; P-0007, [UGA-OTP-0147-0214-R01](#) at 0217; P-0008, [UGA-OTP-0137-0002-R01](#) at 0006; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146; P-0045, [UGA-OTP-0220-1035-R01](#) at 1058, [UGA-OTP-0218-0113-R01](#) at 0139; P-0130, [UGA-OTP-0191-0272-R01](#) at 0278-0279; P-0138, [UGA-OTP-0228-0568-R01](#) at 0593, [UGA-OTP-0228-6290-R01](#) at 6312; P-0144, [UGA-OTP-0228-1376-R01](#) at 1399; P-0330, [UGA-OTP-0256-0071-R01](#) at 0086.

the attack.⁶⁰² Those in charge of the various groups and those selected to participate in the attack then left towards Pajule in order to execute the Pajule common plan.⁶⁰³ A small group of LRA fighters headed by Vincent Otti remained behind.⁶⁰⁴

211. The attack started at around 05:30-06:00,⁶⁰⁵ when a large number of fighters entered the camp. Civilian victims as well as LRA fighters estimated that the number of LRA fighters that participated in the attack at Pajule ranged from a minimum of forty to numbers much higher.⁶⁰⁶ The LRA fighters were armed with guns and were shooting, whistling, and ululating.⁶⁰⁷ LRA fighters, including Dominic Ongwen, were also communicating using radio communication equipment.⁶⁰⁸

⁶⁰² P-0045, [UGA-OTP-0218-0113-R01](#) at 0139; [UGA-OTP-0220-1035-R01](#) at 1050-1053, 1056; P-0146, [UGA-OTP-0228-4224-R01](#) at 4246-4247; P-0209, [UGA-OTP-0243-0354-R01](#) at 0375-0376; P-0309, [UGA-OTP-0258-0818-R01](#) at 0821.

⁶⁰³ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160; P-0209, [UGA-OTP-0243-0379-R01](#) at 0396; P-0048, [UGA-OTP-0209-0179-R01](#) at 0184; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486; P-0330, [UGA-OTP-0256-0071-R01](#) at 0086; P-0138, [UGA-OTP-0228-0568-R01](#) at 0592-0598, [UGA-OTP-0228-6290-R01](#) at 6310-6328.

⁶⁰⁴ P-0045, [UGA-OTP-0218-0113-R01](#) at 0140; [UGA-OTP-0220-1035-R01](#) at 1057; P-0048, [UGA-OTP-0209-0204-R01](#) at 0220; P-0209, [UGA-OTP-0243-0379-R01](#) at 0389; P-0138, [UGA-OTP-0228-0568-R01](#) at 0594, [UGA-OTP-0228-6290-R01](#) at 6310-6328.

⁶⁰⁵ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075; P-0007, [UGA-OTP-0147-0214-R01](#) at 0217; P-0008, [UGA-OTP-0137-0002-R01](#) at 0005; P-0009, [UGA-OTP-0151-0167-R01](#) at 0175, [UGA-OTP-0241-0546-R01](#) at 0549; P-0045, [UGA-OTP-0218-0113-R01](#) at 0139, [UGA-OTP-0218-0143-R01](#) at 0161, [UGA-OTP-0220-1035-R01](#) at 1057-1058; P-0047, [UGA-OTP-0027-0177-R01](#) at 0190-0191; P-0052, [UGA-OTP-0207-0196-R01](#) at 0204-0205; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0067, [UGA-OTP-0139-0193-R01](#) at 0195; P-0081, [UGA-OTP-0070-0029-R01](#) at 0032; P-0084, [UGA-OTP-0139-0149-R01](#) at 0163; P-0107, [UGA-OTP-0169-0002-R01](#) at 0014; P-0130, [UGA-OTP-0191-0272-R01](#) at 0280; P-0209, [UGA-OTP-0243-0379-R01](#) at 0389, 0395; P-0249, [UGA-OTP-0238-0771-R01](#) at 0773; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486; P-0330, [UGA-OTP-0256-0071-R01](#) at 0086; P-0138, [UGA-OTP-0228-0568-R01](#) at 0594.

⁶⁰⁶ P-0045, [UGA-OTP-0218-0143-R01](#) at 0161; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0084, [UGA-OTP-0139-0149-R01](#) at 0164, [UGA-OTP-0069-0416](#) at 0417; P-0107, [UGA-OTP-0169-0002-R01](#) at 0013; P-0130, [UGA-OTP-0191-0272-R01](#) at 0279; P-0209, [UGA-OTP-0243-0354-R01](#) at 0375-0376, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#); P-0309, [UGA-OTP-0249-0472-R01](#) at 0486.

⁶⁰⁷ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075; P-0007, [UGA-OTP-0147-0214-R01](#) at 0217; P-0009, [UGA-OTP-0241-0546-R01](#) at 0549; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191-0192; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0067, [UGA-OTP-0139-0193-R01](#) at 0196; P-0081, [UGA-OTP-0070-0029-R01](#) at 0032; P-0130, [UGA-OTP-0191-0272-R01](#) at 0280; P-0249, [UGA-OTP-0238-0771-R01](#) at 0773-0777.

⁶⁰⁸ P-0045, [UGA-OTP-0218-0113-R01](#) at 0140, [UGA-OTP-0218-0171-R01](#) at 0187, 0189; P-0048, [UGA-OTP-0209-0204-R01](#) at 0219-0220; P-0249, [UGA-OTP-0263-2810-R01](#) at 2812. *See also* P-0144, [UGA-OTP-0253-0026-R01](#) at 0044-0045.

212. Civilian residents within the camp awoke to the sound of gunfire and seeing LRA fighters dressed in a mix of military-style uniforms and civilian clothing.⁶⁰⁹ Some of the LRA fighters were bare-chested or had their shirts tied around their waist and were wearing gumboots.⁶¹⁰

213. After approximately one hour of intense fighting at the barracks, the UPDF/LDU forces managed to repel the LRA fighters.⁶¹¹ A UPDF helicopter also flew over the area.⁶¹² This caused some of the LRA fighters attacking the barracks to withdraw to other areas of the camp.⁶¹³ Other LRA fighters were overpowered. For example, P-0045 described how she was forced to retreat and help an injured LRA fighter. She described being forced to abandon an LRA SPG9 gun.⁶¹⁴

214. After retreating the LRA fighters returned to their original meeting point where Vincent Otti was waiting for them.⁶¹⁵ They took with them items that they had pillaged and civilians they had abducted.⁶¹⁶ The LRA fighters then released some of the civilians

⁶⁰⁹ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075-0076; P-0009, [UGA-OTP-0151-0167-R01](#) at 0175, [UGA-OTP-0241-0546-R01](#) at 0549; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191; P-0052, [UGA-OTP-0207-0196-R01](#) at 0206-0207; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0084, [UGA-OTP-0139-0149-R01](#) at 0164; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486.

⁶¹⁰ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075-0076; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191; P-0052, [UGA-OTP-0207-0196-R01](#) at 0206.

⁶¹¹ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182, 0187; P-0084, [UGA-OTP-0069-0416](#) at 0418.

⁶¹² P-0047, [UGA-OTP-0027-0177-R01](#) at 0192.

⁶¹³ P-0309, [UGA-OTP-0249-0472-R01](#) at 0486.

⁶¹⁴ P-0045, [UGA-OTP-0218-0143-R01](#) at 0167, [UGA-OTP-0220-1035-R01](#) at 1061; Military intelligence report, [UGA-OTP-0255-0810](#).

⁶¹⁵ P-0048, [UGA-OTP-0209-0204-R01](#) at 0220.

⁶¹⁶ P-0006, [UGA-OTP-0144-0072-R01](#) at 0076-0077; P-0008, [UGA-OTP-0137-0002-R01](#) at 0006; P-0045, [UGA-OTP-0218-0143-R01](#) at 0161-0162; P-0047, [UGA-OTP-0027-0177-R01](#) at 0187-0188, 0193; P-0048, [UGA-OTP-0209-0179-R01](#) at 0186; P-0084, [UGA-OTP-0069-0416](#) at 0418; P-0130, [UGA-OTP-0191-0272-R01](#) at 0278, 0281; P-0144, [UGA-OTP-0228-1376-R01](#) at 1413.

that had been abducted. Others were divided amongst the various units of the LRA.⁶¹⁷ The LRA units then split into different groups and moved away from the area.⁶¹⁸

215. The evidence of intercepted radio communications between LRA commanders, statements from former LRA fighters, and statements from civilian victims of the attack, proves beyond reasonable doubt that the attack on Pajule IDP camp resulted in the crimes charged. The evidence also establishes that Dominic Ongwen bears individual criminal responsibility on account of his participation in the planning and execution of the attack.

Crimes committed in Pajule

Count 1 – attacks directed against the civilian population (article 8(2)(e)(i)):

216. LRA fighters under the joint control of the Pajule co-perpetrators, including Dominic Ongwen, carried out an attack against the civilian population of Pajule IDP camp as such, or individual civilians not taking direct part in the hostilities. Ongwen intended them to be the object of the attack.

217. The Prosecution submits that the following facts described under counts 2-3 (murder), counts 4-5 (torture), count 6 (cruel treatment) and count 7 (other inhumane acts), count 8 (enslavement), and count 9 (pillaging) qualify as the underlying conduct of the war crime of attacks directed against the civilian population.⁶¹⁹

⁶¹⁷ P-0006, [UGA-OTP-0144-0072-R01](#) at 0080; P-0009, [UGA-OTP-0151-0167-R01](#) at 0176-0177; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146-0147; P-0048, [UGA-OTP-0209-0204-R01](#) at 0220; P-0061, [UGA-OTP-0144-0043-R01](#) at 0049-0050; P-0067, [UGA-OTP-0139-0193-R01](#) at 0202-0203; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 27; P-0209, [UGA-OTP-0243-0399-R01](#) at 0404; P-0249, [UGA-OTP-0238-0771-R01](#) at 0780; P-0250, [UGA-OTP-0243-1353-R01](#) at 1362; P-0309, [UGA-OTP-0249-0472-R01](#) at 0488.

⁶¹⁸ P-0006, [UGA-OTP-0144-0072-R01](#) at 0080; P-0045, [UGA-OTP-0220-1064-R01](#) at 1076-1077; P-0209, [UGA-OTP-0243-0379-R01](#) at 0393; P-0048, [UGA-OTP-0209-0204-R01](#) at 0220; P-0309, [UGA-OTP-0249-0472-R01](#) at 0488; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087.

⁶¹⁹ Trial Chamber II in *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 ICC-01/04-01/07-3436, para. 802.

Counts 2-3 – murder (articles 7(1)(a) and 8(2)(c)(i)):

218. LRA fighters who participated in the attack had the express intent to kill civilians (or persons taking no active part in hostilities),⁶²⁰ and armed with guns and knives for this purpose.⁶²¹ During the course of the attack, LRA fighters shot at civilian residents who tried to escape or refused to carry pillaged items, resulting in the killing of civilians.⁶²²

219. Among the dead were civilians Pangarasio Onek and Kinyera Lacung.⁶²³ According to P-0067, “Lacung was killed bacuse [sic] he was working for the government. I heard one of the LRA say that you are an employee of the government and I am going to kill you [...] he opened a bayonet knife, affixed on top of a gun, and pierced him on the side”.⁶²⁴ P-0008, a former camp resident, explained that he saw the dead body of Lacung after it had been brought back “from the bush” by relatives of the deceased.⁶²⁵ P-0007, a former camp resident, attended the funeral of Lacung.⁶²⁶

220. P-0067 heard LRA fighters order Onek to be shot in the head because he refused to carry items given to him by the LRA.⁶²⁷ He saw an LRA fighter point “a small foldable gun in the middle of the back of Pangarasio’s head and he was shot three times in the head”.⁶²⁸ P-0008 later saw the dead body of Onek.⁶²⁹

⁶²⁰ The definition of the war crime of murder contains a materially distinct element from the corresponding crime against humanity, in that pursuant to article 8(2)(c)(i), the murder must be committed against “persons taking no active part in the hostilities, including members of armed forces who, have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause”. See ICC-01/05-01/08-3343, para. 92.

⁶²¹ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075; P-0052, [UGA-OTP-0207-0196-R01](#) at 0206; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0067, [UGA-OTP-0139-0193-R01](#) at 0196; P-0130, [UGA-OTP-0191-0272-R01](#) at 0280; P-0249, [UGA-OTP-0238-0771-R01](#) at 0774.

⁶²² Note that the elements of murder may be satisfied whether or not a victim’s body has been recovered. A victim’s killing may be proven by circumstantial evidence, so long as the victim’s death is the only reasonable inference that can be drawn. See ICC-01/05-01/08-3343, para. 88.

⁶²³ P-0006, [UGA-OTP-0144-0072-R01](#) at 0080; P-0007, [UGA-OTP-0147-0214-R01](#) at 0218; P-0008, [UGA-OTP-0137-0002-R01](#) at 0007, 0008; P-0067, [UGA-OTP-0139-0193-R01](#) at 0200, 0201; P-0081, [UGA-OTP-0070-0029-R01](#) at 0033.

⁶²⁴ P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁶²⁵ P-0008, [UGA-OTP-0137-0002-R01](#) at 0008; see also P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁶²⁶ P-0007, [UGA-OTP-0147-0214-R01](#) at 0218.

⁶²⁷ P-0067, [UGA-OTP-0139-0193-R01](#) at 0200.

⁶²⁸ P-0067, [UGA-OTP-0139-0193-R01](#) at 0201.

⁶²⁹ P-0008, [UGA-OTP-0137-0002-R01](#) at 0010.

221. Other witnesses saw bodies of other people killed by the LRA during the attack.⁶³⁰ P-0047, a UPDF soldier who reported on the attack,⁶³¹ saw dead bodies of civilians and LRA fighters at the camp.⁶³² A photograph of the dead bodies seen by P-0047 was also taken.⁶³³
222. P-0067 saw the dead body of a 40-year-old female at the trading centre area with her children crying beside her.⁶³⁴ A fact-finding mission conducted by P-0084 after the attack concluded that civilians were killed by LRA fighters during the attack.⁶³⁵
223. P-0249, a civilian abducted from the camp, saw LRA fighters shoot at a civilian which resulted in his “intestines [being] spilled out”.⁶³⁶ Several civilian victims state that the LRA fighters who attacked Pajule IDP camp threatened to either shoot⁶³⁷ or kill them.⁶³⁸ LRA fighters threatened to kill children of civilians in the camp and locked children in a hut for this purpose.⁶³⁹
224. Dominic Ongwen was himself seen and heard to threaten to kill civilians that refused to move as he instructed.⁶⁴⁰

⁶³⁰ P-0084, [UGA-OTP-0139-0149-R01](#) at 0152.

⁶³¹ See Report, [UGA-OTP-0037-0282](#).

⁶³² P-0047, [UGA-OTP-0027-0177-R01](#) at 0183, 0193, 0194.

⁶³³ See Photograph, [UGA-OTP-0037-0281](#).

⁶³⁴ P-0067, [UGA-OTP-0139-0193-R01](#) at 0197, 0198.

⁶³⁵ P-0084, [UGA-OTP-0069-0416](#) at 0419; P-0084, [UGA-OTP-0139-0149-R01](#) at 0152, 0156, 0169; Military intelligence report, [UGA-OTP-0255-0810](#).

⁶³⁶ P-0249, [UGA-OTP-0238-0771-R01](#) at 0774.

⁶³⁷ P-0008, [UGA-OTP-0137-0002-R01](#) at 0005; P-0061, [UGA-OTP-0144-0043-R01](#) at 0047; P-0249, [UGA-OTP-0238-0771-R01](#) at 0774.

⁶³⁸ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075; P-0008, [UGA-OTP-0137-0002-R01](#) at 0005; P-0067, [UGA-OTP-0139-0193-R01](#) at 0196.

⁶³⁹ P-0067, [UGA-OTP-0139-0193-R01](#) at 0196.

⁶⁴⁰ P-0249, [UGA-OTP-0238-0771-R01](#) at 0779.

Counts 4-5 - torture (articles 7(1)(f) and 8(2)(c)(i)) and count 6 - cruel treatment (article 8(2)(c)(i)), and count 7 – other inhumane acts (article 7(1)(k)):

225. The Prosecution submits that the beating of civilians, forcing them to carry heavy loads, often for long distances while tied to each-other under constant threat of harm, being subjected to punitive conditions, and witnessing the beatings and killings of other abductees who were either too weak or who attempted to escape caused severe physical or mental pain or suffering, amounting to torture under articles 7(1)(f) and 8(2)(c)(i) of the Statute.⁶⁴¹

226. The war crime of torture requires a “specific purpose”,⁶⁴² such as obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind. On the other hand, torture as a crime against humanity requires “control”.⁶⁴³

227. Further, the Prosecution also submits that this conduct amounts to the war crime of cruel treatment under article 8(2)(c)(i) and the crime against humanity of other inhumane acts under article 7(1)(k).⁶⁴⁴ Both crimes require the infliction of severe physical or mental pain or suffering against civilians,⁶⁴⁵ or those *hors de combat*.⁶⁴⁶ As

⁶⁴¹ See *Prosecutor v Brdjanin*, IT-98-36-A, Appeal Judgement, 3 April 2007, para. 251: “Acts inflicting physical pain may amount to torture even when they do not cause the amount of pain of the type accompanying serious injury. Whether an act causes severe pain or suffering is determined on a case-by-case basis”; see further, section on persecution, para. 111-147.

⁶⁴² Torture as a war crime requires that a specific purpose be proven (“specific purpose requirement”), whereas torture as a crime against humanity does not contain this requirement. Compare Elements of Crimes, article 8(2)(c)(i)-4, para. 2 with *ibid.*, article 7(1)(f), fn. 14.

⁶⁴³ Torture as a crime against humanity includes a requirement that “[s]uch person or persons were in the custody or under the control of the perpetrator” (“control requirement”), something that is not required for torture as a war crime. Compare Elements of Crimes, article 7(1)(f), para. 2 with *ibid.*, article 8(2)(c)(i)-4.

⁶⁴⁴ For the purposes of applying the “materially distinct” test, the legal elements of the crime may include the *chapeau* requirements of the particular crime. See ICC-01/04-01/07-3436-tENG, para. 1696; see also, ICC-01/04-01/07-717, para. 419; see further, *Prosecutor v Natelic & Martinovic*, IT-98-34-A, Appeal Judgement, 3 May 2006, para. 562.

⁶⁴⁵ Per Element 1 of the crime against humanity of other inhumane acts: “The perpetrator inflicted great suffering, or serious injury to body or to mental or physical health, by means of an inhumane act”; see Elements of Crimes, article 7(1)(k), para. 1. Similarly, Element 1 of the war crime of cruel treatment requires: “The perpetrator inflicted severe physical or mental pain or suffering upon one or more persons”. See Elements of Crimes, article 8(2)(c)(i)-3, para. 1.

with all forms of ill-treatment, “in certain circumstances the suffering can be exacerbated by social and cultural conditions and it should take into account the specific social, cultural and religious background of the victims when assessing the severity of the alleged conduct.”⁶⁴⁷

228. In the course of the attack on Pajule, LRA fighters inflicted severe physical and mental pain or suffering on civilians taking no active part in hostilities. Such pain or suffering did not arise from, and was not inherent in or incidental to, lawful sanctions.

229. This treatment was carried out to intimidate and/or punish the civilian population because of their perceived support for the Government.⁶⁴⁸ Furthermore, this treatment was carried out when the victims were under the control of the LRA attackers.⁶⁴⁹

230. P-0067 was abducted during the attack. LRA fighters used an axe to break into P-0067's home before using rope to tie up the witness and his family members. He was made to carry pillaged items.⁶⁵⁰ He also explained that LRA fighters selected children of civilians in order to burn them. The children were placed in a hut which was then locked. However, LRA fighters were prevented from carrying out their actions by a UPDF helicopter that arrived at the scene.⁶⁵¹

231. P-0009 was forcibly removed from his home located near the trading centre. He was kicked and beaten with the butt of a gun by LRA fighters. He was then tied with his

⁶⁴⁶ Per Element 2 of the war crime of cruel treatment: “Such person or persons were either hors de combat, or were civilians, medical personnel, or religious personnel taking no active part in the hostilities”. See Elements of Crimes, article 8(2)(c)(i)-3, para. 2.

⁶⁴⁷ See *Prosecutor v. Limaj et al.*, IT-03-66-T, Judgement, 30 November 2005, para. 237.

⁶⁴⁸ Per Element 2 of the war crime of torture: “The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind”. See Elements of Crimes, article 8(2)(c)(i)-4, para. 2. See generally, the section on persecution, para. 156-203. See especially, the submissions on persecution under Count 10, para. 186-189.

⁶⁴⁹ Per Element 2 of the crime against humanity of torture: “Such person or persons were in the custody or under the control of the perpetrator”. See Elements of Crimes, article 7(1)(f), para. 2.

⁶⁵⁰ P-0067, [UGA-OTP-0139-0193-R01](#) at 0195-0196, 0200.

⁶⁵¹ P-0067, [UGA-OTP-0139-0193-R01](#) at 0196.

arms behind his back.⁶⁵² P-0009 was taken to Dominic Ongwen who was present at the trading centre area. Dominic Ongwen kicked him as well as other civilians that were brought to him.⁶⁵³

232. LRA fighters forced their way into the house of P-0006. She was forced to carry pillaged items for the LRA.⁶⁵⁴ LRA fighters attacked P-0061, ripped off his shirt and used it to tie his hands behind his back.⁶⁵⁵ He was then made to carry pillaged items.⁶⁵⁶ LRA fighters fired shots at the house of P-0249 demanding that he come out.⁶⁵⁷ Once he and his wife exited, they were separated. P-0249 was then tied up.⁶⁵⁸ According to P-0081, abducted civilians were forced to carry heavy items that had been pillaged as well as wounded LRA fighters.⁶⁵⁹ These civilians were forced to march to an LRA meeting point.⁶⁶⁰ Civilians who refused to carry items or failed to move quickly enough were beaten or killed.⁶⁶¹

233. The account provided by victims is corroborated by evidence from P-0309 who participated in the attack directly under the command of Dominic Ongwen. Following orders, P-0309 abducted civilians and forced them to carry pillaged items. He said that “if someone was moving slowly with their carried goods the LRA fighters who they were carrying the food for would beat them”.⁶⁶²

⁶⁵² P-0009, [UGA-OTP-0151-0167-R01](#) at 0175; P-0009, [UGA-OTP-0241-0546-R01](#) at 0549.

⁶⁵³ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551.

⁶⁵⁴ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075.

⁶⁵⁵ P-0061, [UGA-OTP-0144-0043-R01](#) at 0045-0047.

⁶⁵⁶ P-0061, [UGA-OTP-0144-0043-R01](#) at 0046.

⁶⁵⁷ P-0249, [UGA-OTP-0238-0771-R01](#) at 0773-0774.

⁶⁵⁸ P-0249, [UGA-OTP-0238-0771-R01](#) at 0774.

⁶⁵⁹ P-0081, [UGA-OTP-0070-0029-R01](#) at 0033-0036, 0040.

⁶⁶⁰ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075, 0077; P-0081, [UGA-OTP-0070-0029-R01](#) at 0034.

⁶⁶¹ P-0006, [UGA-OTP-0144-0072-R01](#) at 0075; P-0009, [UGA-OTP-0241-0546-R01](#) at 0550, 0551; P-0081, [UGA-OTP-0070-0029-R01](#) at 0035; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146, 0147; P-0045, [UGA-OTP-0218-0171-R01](#) at 0172; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046, 0047; P-0067, [UGA-OTP-0139-0193-R01](#) at 0200; P-0144, [UGA-OTP-0228-1418-R01](#) at 1429-1430; P-0309, [UGA-OTP-0249-0472-R01](#) at 0487.

⁶⁶² P-0309, [UGA-OTP-0249-0472-R01](#) at 0487.

Count 8 – enslavement (article 7(1)(c)):

234. LRA fighters deprived civilians of their liberty by abducting hundreds of them and making them carry food items and other equipment that they had looted from the camp. In doing so, LRA fighters including Dominic Ongwen exercised powers attaching to the right of ownership over the abductees including by depriving them of their liberty and exacting forced labour, reducing them to a servile status.⁶⁶³

235. LRA fighters abducted, tied up, and forced civilians to carry pillaged items as well as wounded LRA fighters to an LRA meeting point.⁶⁶⁴ Civilians who could not move quickly enough or comply with instructions were caned, beaten⁶⁶⁵ or killed. Among them was P-0009, who was forced to carry a bag of rice.⁶⁶⁶

236. P-0249 saw Dominic Ongwen instruct civilians to carry items and start moving. As civilians were walking in the bush, Dominic Ongwen moved up and down the line, instructing them to move faster.⁶⁶⁷

237. P-0138 estimated that at least two hundred civilian residents were abducted and enslaved following the attack at the camp.⁶⁶⁸ Some witnesses place this number much higher.⁶⁶⁹ P-0144, a former LRA fighter who participated in the attack, estimated that four hundred civilians were abducted during the attack.⁶⁷⁰ P-0250, an abductee,⁶⁷¹

⁶⁶³ See *Katanga* Trial Judgment, ICC-01/04-01/07-3436-tENG, para. 1976 (“The use of threats, force or other forms of physical or mental coercion, the exaction of forced labour, the exertion of psychological pressure, the victim’s vulnerability and the socioeconomic conditions in which the power is exerted may also be taken into account”); see also, *Prosecutor v Kunarac et al*, No. IT-96-23&23/1, Appeal Judgement, 12 June 2002, para. 119.

⁶⁶⁴ P-0081, [UGA-OTP-0070-0029-R01](#) at 0033-0036, 0040.

⁶⁶⁵ P-0067, [UGA-OTP-0139-0193-R01](#) at 0199-0200; P-0249, [UGA-OTP-0238-0771-R01](#) at 0776.

⁶⁶⁶ P-0009, [UGA-OTP-0151-0167-R01](#) at 0176-0177, [UGA-OTP-0241-0546-R01](#) at 0550; P-0144, [UGA-OTP-0253-0026-R01](#) at 0038-0039.

⁶⁶⁷ P-0249, [UGA-OTP-0263-2810-R01](#), at 2813.

⁶⁶⁸ P-0138, [UGA-OTP-0228-0568-R01](#) at 0598.

⁶⁶⁹ P-0048, [UGA-OTP-0209-0204-R01](#) at 0215.

⁶⁷⁰ P-0144, [UGA-OTP-0228-1418-R01](#) at 1426, [UGA-OTP-0253-0026-R01](#) at 0052.

⁶⁷¹ P-0250 was abducted twice. After his second abduction in February 2002, he was in Sinia brigade under the command of Richard Ojok – and ultimately Dominic Ongwen. See P-0250, [UGA-OTP-0243-1353-R01](#) at 1363-1364.

estimated that around three hundred civilians were abducted.⁶⁷² P-0084 flew over the camp in a helicopter during the attack. He saw that approximately three hundred being abducted.⁶⁷³ P-0047 was present during the attack. He was informed that approximately three hundred civilians were abducted during the attack.⁶⁷⁴ A Police intelligence report stated that 504 abductees were released on 11 October.⁶⁷⁵

238. Dominic Ongwen himself played a direct role in enslaving civilians from Pajule. P-0309 explained that he abducted two civilians and that he did this “because ONGWEN ordered me to do so”.⁶⁷⁶ P-0067 and P-0249 saw Dominic Ongwen lead a group of abducted civilians.⁶⁷⁷

239. P-0101 saw Dominic Ongwen return from the attack with seven civilian abductees who were carrying pillaged goods.⁶⁷⁸

240. After the civilians had returned to the LRA meeting point they were addressed by senior LRA commanders including Vincent Otti and Dominic Ongwen.⁶⁷⁹ Some of the civilians were later released. Others were retained and distributed to serve as recruits within the LRA.⁶⁸⁰ P-0309 said that Ongwen and his group “took some abductees with [them and that Ongwen] divided the abductees amongst his troops”.⁶⁸¹ P-0209 described

⁶⁷² P-0250, [UGA-OTP-0243-1311-R01](#) at 1323.

⁶⁷³ P-0084, [UGA-OTP-0139-0149-R01](#) at 0164-0165, [UGA-OTP-0069-0416](#) at 0419.

⁶⁷⁴ P-0047, [UGA-OTP-0027-0177-R01](#) at 0182, 0191.

⁶⁷⁵ Police intelligence report, [UGA-OTP-0256-0335](#).

⁶⁷⁶ P-0309, [UGA-OTP-0258-0818-R01](#) at 0822.

⁶⁷⁷ P-0067, [UGA-OTP-0139-0193-R01](#) at 0199-0200; P-0249, [UGA-OTP-0238-0771-R01](#) at 0776-0777, P-0249, [UGA-OTP-0263-2810-R01](#), at 2813.

⁶⁷⁸ P-0101, ICC-02-04-01-15-T-13-CONF-ENG, p. 26.

⁶⁷⁹ P-0009, [UGA-OTP-0151-0167-R01](#) at 0177; P-0081, [UGA-OTP-0070-0029-R01](#) at 0036-0037.

⁶⁸⁰ P-0006, [UGA-OTP-0144-0072-R01](#) at 0080; P-0009, [UGA-OTP-0151-0167-R01](#) at 0176-0177; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146-0147; P-0061, [UGA-OTP-0144-0043-R01](#) at 0049-0050; P-0067, [UGA-OTP-0139-0193-R01](#) at 0202-0203; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 27; P-0249, [UGA-OTP-0238-0771-R01](#) at 0780; P-0250, [UGA-OTP-0243-1353-R01](#) at 1362; P-0309, [UGA-OTP-0249-0472-R01](#) at 0488.

⁶⁸¹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0488.

how six civilians, including men between the ages of 18 to 20 years old were integrated into Trinkle brigade.⁶⁸²

Count 9 - pillaging as a war crime (article 8(2)(e)(v)):

241. LRA fighters under Dominic Ongwen's command appropriated food items and other personal property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation.⁶⁸³ The pillaging was not justified by military necessity.⁶⁸⁴

242. LRA fighters attacked and pillaged the trading centre area in the camp in order to loot items and abduct civilians.⁶⁸⁵ According to P-0309, LRA fighters "started to break into shops, taking sugar, salt anything to eat".⁶⁸⁶

243. P-0249 witnessed Dominic Ongwen ordering LRA fighters to pillage food items and supplies from shops and homes within the camp.⁶⁸⁷ This account is corroborated by P-0309 whom Ongwen ordered to pillage items and abduct civilians to carry the items.⁶⁸⁸

244. Statements obtained from other civilian victims and LRA fighters describe how LRA fighters broke into homes and shops and pillaged items without the consent of the

⁶⁸² P-0209, [UGA-OTP-0243-0399-R01](#) at 0404-0405.

⁶⁸³ Lack of consent can be inferred from the absence of the rightful owner from the place from where property was taken or by the existence of coercion. *See* ICC-01/05-01/08-3343, para. 116.

⁶⁸⁴ *See Katanga* Trial Judgement, ICC-01/04-01/07-3436-tENG, para. 894, 952-953; In the context of pillaging food, the *Hadžihasanović* Trial Chamber at the ICTY held: "To plead a defence of necessity and for it to succeed, the following conditions must be met: (i) there must be a real and imminent threat of severe and irreparable harm to life existence; (ii) the acts of plunder must have been the only means to avoid the aforesaid harm; (iii) the acts of plunder were not disproportionate and, (iv) the situation was not voluntarily brought about by the perpetrator himself. *See Prosecutor v. Hadžihasanović and Kubura*, IT-01-47-T, Trial Judgment 15 March 2006, para. 53, 1895. This finding was upheld on appeal. *See Prosecutor v. Hadžihasanović*, IT-01-47-A, Appeals Judgment, 22 April 2008, para. 351.

⁶⁸⁵ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160, [UGA-OTP-0220-1035-R01](#) at 1051-1057, [UGA-OTP-0220-1064-R01](#) at 1074; P-0138, [UGA-OTP-0228-6385-R01](#) at 6403-6404; P-0144, [UGA-OTP-0228-1376-R01](#) at 1397, 1401-1402, [UGA-OTP-0228-1376-R01](#) at 1401-1402, 1405, 1406; P-0146, [UGA-OTP-0228-4224-R01](#) at 424; P-0309, [UGA-OTP-0249-0472-R01](#) at 0487.

⁶⁸⁶ P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0487, [UGA-OTP-0258-0818-R01](#) at 0822.

⁶⁸⁷ P-0249, [UGA-OTP-0238-0771-R01](#) at 0775.

⁶⁸⁸ P-0309, [UGA-OTP-0258-0818-R01](#) at 0822.

owner. Items pillaged included maize, soda, groundnuts, beans, soap, salt and rice.⁶⁸⁹ A Police intelligence report compiled after the attack confirmed that foodstuff and drugs were looted from Pajule trading centre.⁶⁹⁰

Count 10 - persecution (article 7(1)(h))

245. The Prosecution submits that the facts described above under counts 1 (attack on civilians), counts 2-3 (murder), counts 4-5 (torture), count 6 (cruel treatment) and count 7 (other inhumane acts), count 8 (enslavement), and count 9 (pillaging) form the underlying conduct of the crime of persecution. The submissions in the section on persecution, paragraphs 156 to 203, are also incorporated here by reference.

Dominic Ongwen's individual criminal responsibility for crimes in Pajule

246. As described below, Dominic Ongwen bears individual criminal responsibility for the crimes charged pursuant to article 25(3)(a) as an indirect co-perpetrator. He is also responsible under articles 25(3)(b), 25(3)(c) and (d)(i) and (ii), and as a military commander pursuant to article 28(a).

Dominic Ongwen is criminally responsible under article 25(3)(a)

i. Dominic Ongwen was part of a common plan or an agreement with one or more persons

247. Dominic Ongwen committed each of the charged crimes in concert with others through his contribution to the Pajule common plan, by means which included the commission of crimes.

248. Joseph Kony, Vincent Otti, Raska Lukwiya, Dominic Ongwen and others were co-perpetrators of the Pajule common plan. The plan was conceived during a meeting that

⁶⁸⁹ P-0001, [UGA-OTP-0138-0002-R01](#) at 0006; P-0008, [UGA-OTP-0137-0002-R01](#) at 0005-0006; P-0015, [UGA-OTP-0043-0131-R01](#) at 0146; P-0061, [UGA-OTP-0144-0043-R01](#) at 0046; P-0067, [UGA-OTP-0139-0193-R01](#) at 0195-0196, 0198; P-0084, [UGA-OTP-0139-0149-R01](#) at 0152, 0154, 0170.

⁶⁹⁰ Police intelligence report, [UGA-OTP-0256-0336](#).

took place a short distance away from the camp the evening prior to the attack.⁶⁹¹ At the time of the attack, Ongwen held a leadership role within the LRA and was a member of Control Altar and Sinia.⁶⁹² According to P-0209, Ongwen was an able LRA fighter who was travelling with Vincent Otti at the time of the attack at Pajule because of his skills in planning.⁶⁹³

249. LRA fighters P-0045, P-0138, P-0146, P-0209, P-0101, P-0309 and P-0330 were present when Ongwen, Vincent Otti, Raska Lukwiya and other commanders met to plan the attack.⁶⁹⁴ The meeting lasted approximately two hours.⁶⁹⁵ Dominic Ongwen's attendance at the meeting is confirmed by two of his escorts P-0309 and P-0330. P-0309 and P-0330 saw Dominic Ongwen attend the meeting; they also said that a chair was set up at the meeting for Ongwen to sit on.⁶⁹⁶

250. UPDF soldiers P-0084 and P-0359, who were monitoring LRA movements at the time, also confirm Dominic Ongwen's presence in the vicinity.⁶⁹⁷

251. At the meeting between the Pajule co-perpetrators, it was agreed that LRA fighters would be divided into groups and attack different parts of Pajule IDP camp.⁶⁹⁸ Dominic Ongwen was selected and agreed to lead one of the groups during the attack.⁶⁹⁹

⁶⁹¹ P-0045, [UGA-OTP-0220-1035-R01](#) at 1050-1052; P-0138, [UGA-OTP-0228-0503-R01](#) at 0518, UGA-OTP-0568 at 0592-0593, [UGA-OTP-0228-6385-R01](#) at 6404; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249, [UGA-OTP-0228-4253-R01](#) at 4258-4259; P-0209, [UGA-OTP-0243-0319-R01](#) at 0330; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁶⁹² P-0105, [UGA-OTP-0228-4996-R01](#) at 5036; P-0144, [UGA-OTP-0228-1376-R01](#) at 1402, [UGA-OTP-0253-0026-R01](#) at 0036; Audio files of Defence interview with P-0209, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#) (transcripts of this interview are to be provided by the Defence in due course); P-0309, [UGA-OTP-0249-0472-R01](#) at 0485-0487. *See also* P-0045, [UGA-OTP-0218-0171-R01](#) at 0178.

⁶⁹³ P-0209, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#).

⁶⁹⁴ P-0045, [UGA-OTP-0220-1035-R01](#) at 1050-1052; P-0138, [UGA-OTP-0228-0503-R01](#) at 0518, UGA-OTP-0568 at 0592-0593, [UGA-OTP-0228-6385-R01](#) at 6404; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249, [UGA-OTP-0228-4253-R01](#) at 4258-4259; P-0209, [UGA-OTP-0243-0319-R01](#) at 0330; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 23-24.

⁶⁹⁵ Audio files of Defence interview with P-0209, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#) (transcripts of this interview are to be provided by the Defence in due course).

⁶⁹⁶ P-0309, [UGA-OTP-0249-0472-R01](#) at 0485, [UGA-OTP-0258-0818-R01](#) at 0820-0821; P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁶⁹⁷ P-0084, [UGA-OTP-0139-0149-R01](#) at 0161; P-0359, [UGA-OTP-0260-0151-R01](#) at 0154.

252. After the meeting, “Otti announced to 80-100 LRA fighters [...] that they were going to attack Pajule”.⁷⁰⁰ Dominic Ongwen also requested that LRA fighters be prepared to carry out the attack.⁷⁰¹ P-0330, an LRA fighter who participated in the attack explained that after the meeting, Dominic Ongwen’s “2C came and selected the standby” – a term used for LRA fighters that were selected to participate in an attack.⁷⁰²

253. Following preparations, LRA fighters then left towards Pajule.⁷⁰³ P-0101 saw Ongwen and others leave in order to execute attack and common plan.⁷⁰⁴

254. Intercepted LRA communications recorded in the UPDF and ISO logbooks confirm that in the days leading up to the attack, the co-perpetrators were planning to attack Pajule, and that Dominic Ongwen was travelling together with Vincent Otti and other LRA commanders:

5 October 2003

255. On 5 October 2003, a UPDF logbook records that Otti had joined with Abudema’s group, together with “Dominic” and others who had all reached the rendezvous point.⁷⁰⁵ On the same date, the ISO logbook records: “Abudema was moving to attack Pajule T/centre”.⁷⁰⁶

⁶⁹⁸ P-0015, [UGA-OTP-0043-0131-R01](#) at 0146; P-0045, [UGA-OTP-0220-1035-R01](#) at 1051; P-0081, [UGA-OTP-0070-0029-R01](#) at 0039; P-0047, [UGA-OTP-0027-0177-R01](#) at 0191-0193; P-0105, [UGA-OTP-0228-4996-R01](#) at 5016; P-0107, [UGA-OTP-0169-0002-R01](#) at 0013-0014; P-0138, [UGA-OTP-0228-6290-R01](#) at 6312, 6316; P-0144, [UGA-OTP-0228-1376-R01](#) at 1395-1397; P-0146, [UGA-OTP-0228-4224-R01](#) at 4247, 4249, 4251; P-0209, [UGA-OTP-0243-0354-R01](#) at 0366-0367, 0369, 0372-0375; P-0209, [UGA-OTP-0243-0379-R01](#) at 0389.

⁶⁹⁹ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160, [UGA-OTP-0220-1035-R01](#) at 1051, 1057, [UGA-OTP-0220-1064-R01](#) at 1074; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 26; P-0138, [UGA-OTP-0228-6385-R01](#) at 6403-6404; P-0144, [UGA-OTP-0228-1376-R01](#) at 1401-1402, 1405, 1410; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249; P-0359, [UGA-OTP-0260-0151-R01](#) at 0154.

⁷⁰⁰ P-0309, [UGA-OTP-0249-0472-R01](#) at 0485.

⁷⁰¹ P-0209, [UGA-D26-0011-0028](#), [UGA-D26-0011-0029](#); [UGA-D26-0011-0030](#); P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁷⁰² P-0330, [UGA-OTP-0256-0071-R01](#) at 0085.

⁷⁰³ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160; P-0209, [UGA-OTP-0243-0379-R01](#) at 0396; P-0048, [UGA-OTP-0209-0179-R01](#) at 0184; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486; P-0330, [UGA-OTP-0256-0071-R01](#) at 0086.

⁷⁰⁴ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 23-24.

⁷⁰⁵ UPDF logbook, [UGA-OTP-0197-1078](#) at 1130 (right page).

⁷⁰⁶ ISO logbook, [UGA-OTP-0133-0289](#) at 0384.

7 October 2003

256. On 7 October 2003, a UPDF logbook again records Ongwen moving with Otti before the attack: "Otti has told Kony that he has divided the movements of the Comdrs as follows: Angola is moving with Bogi Coach, Dominic is moving with him (Otti)".⁷⁰⁷ Later that day, the same logbook records that Otti "is moving together with Dominic, Raska Lukwiya, and Caesar Acellam".⁷⁰⁸

9 October 2003

257. On 9 October 2003, the day before the attack on Pajule, an ISO logbook records Kony speaking to Otti and Abudema: Kony said this time, killing should be the order of the day [...] he will not forget to get the ring leaders of Acholi who are spearheading the struggle against LRA".⁷⁰⁹

10 October 2003

258. On 10 October 2003, the day of the attack on Pajule, an ISO logbook records that: "Otti said he sent a big force on an attack. Otti said under the command of Lukwiya Raska to attack PAJULE T/c but they have not come back. Kony said Otti's main target should have been civilians because they are the ones making UPDF continue following LRA.⁷¹⁰ [...] Otti said he instructed his soldiers to target all the big people in Pajule including OYWAL, the priests. Lukwiya 1mm came on air briefly and said they went and attacked PAJULE BARRACKS. [...] He said they succeeded in attacking all positions which were in their plan".⁷¹¹

259. Still on 10 October, one UPDF logbook identifies Otti as stating that he deployed forces "under the commands of Raska Lukwiya, Ongyer, Dominic and Kapere to move and attack mission, IDP camp, trading centre, UPDF barracks and deploy ambushes in

⁷⁰⁷ UPDF logbook, [UGA-OTP-0197-1078](#) at 1133 (left page).

⁷⁰⁸ UPDF logbook, [UGA-OTP-0197-1078](#) at 1134 (left page).

⁷⁰⁹ ISO logbook, [UGA-OTP-0133-0289](#) at 0393 (left page).

⁷¹⁰ ISO logbook, [UGA-OTP-0133-0289](#) at 0395 (right page).

⁷¹¹ ISO logbook, [UGA-OTP-0133-0289](#) at 0396 (left page).

all routes”.⁷¹² Another UPDF logbook entry records “that Dominic/Bwona [...] should attack the mission to loot drugs and other properties”.⁷¹³

260. Still on 10 October, Raska Lukwiya reported to Otti that he had looted a B10 weapon and he has “many abductees whom he has abducted this morning”, and that “he is moving separately with Dominic, Kapere and Ongyer”.⁷¹⁴

261. In the days after the attack, the UPDF and ISO logbooks record numerous radio communications between Otti and Kony speaking about the success of the attack in Pajule IDP camp, including noting the weapons that were lost as well captured.⁷¹⁵ Otti reported on 13 October that that an estimated 200-300 civilians were abducted.⁷¹⁶

13-14 October 2003

262. LRA radio communications were intercepted on 13 and 14 October and sound recorded⁷¹⁷ by the ISO (attribution of voices provided by LRA fighters P-0016,⁷¹⁸ P-0138⁷¹⁹ and UPDF radio operator P-0003⁷²⁰). In the sound recording, Otti confirms that he led the attack, stating the number of abducted – 200 to 300 – which is the same number recorded in the logbooks: (Otti): We gathered almost two hundred people, almost three hundred people then we addressed them and told them that, today was the day to show who was powerful. Over. (Kony): That is it. Over.⁷²¹

⁷¹² UPDF logbook [UGA-OTP-0242-6018](#) at 6159 (right page).

⁷¹³ UPDF logbook, [UGA-OTP-0197-1078](#) at 1140 (right page).

⁷¹⁴ UPDF logbook, [UGA-OTP-0242-6018](#) at 6160 (left page).

⁷¹⁵ ISO logbook, [UGA-OTP-0133-0289](#) at 0397-0398; UPDF logbook, [UGA-OTP-0197-1078](#) at 1143, 1146.

⁷¹⁶ ISO Logbook, [UGA-OTP-0232-0234](#) at 0562; ISO Logbook, [UGA-OTP-0133-0289](#) at 0404; ISO Fax notes, [UGA-OTP-0242-0755](#) at 0758; UPDF Logbook, [UGA-OTP-0254-0229](#) at 0237-0238, UPDF logbook, [UGA-OTP-0242-6018](#) at 6163.

⁷¹⁷ Sound recording, [UGA-OTP-0054-0014](#) (original), [UGA-OTP-0247-1110](#) (enhanced, track 1); [UGA-OTP-0247-1118](#) (enhanced, track 2).

⁷¹⁸ P-0016, [UGA-OTP-0228-3535-R01](#) at 3557.

⁷¹⁹ P-0138, [UGA-OTP-0228-6331-R01](#) at 6337, 6355, [UGA-OTP-0228-6361-R01](#) at 6374.

⁷²⁰ P-0003, [UGA-OTP-0132-0002-R01](#) at 0010-0011, Audio transcript annotation by P-0003, [UGA-OTP-0132-0243-R01](#) at 0265; *see also* P-0070, [UGA-OTP-0228-2349-R01](#) at 2357.

⁷²¹ Audio transcript annotation by P-0003, [UGA-OTP-0132-0243-R01](#) at 0267; P-0003, [UGA-OTP-0132-0002-R01](#) at 0011.

ii. *Dominic Ongwen 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*

263. Each of the co-perpetrators made coordinated contributions to the realisation of their common plan. Otti organised the planning meetings. Raska Lukwiya led a group of fighters on the ground in Pajule IDP camp. Ongwen was directly involved in planning the attack with other senior LRA commanders,⁷²² and led fighters attacking the trading centre.⁷²³

264. P-0309 confirms that Ongwen ordered fighters under his command to “join troops at the trading centre”.⁷²⁴ Other witnesses confirm that Ongwen led LRA fighters who attacked the trading centre area, in order to pillage items and abduct civilians.⁷²⁵ P-0144, for example, saw Ongwen at the trading centre area during the attack.⁷²⁶

265. During the course of the attack, Dominic Ongwen coordinated the efforts of LRA fighters. Ongwen instructed LRA fighters to commit crimes by pillaging items and abducting civilians.⁷²⁷

266. Several civilian victims also witnessed Ongwen’s essential command role while on the ground. According to P-0009 and P-0249, Ongwen was wearing military uniform and holding a stick during the attack. He was surrounded by LRA fighters, some of whom saluted him.⁷²⁸ Ongwen used the stick to instruct LRA fighters⁷²⁹ and was seen to issue

⁷²² P-0309, [UGA-OTP-0249-0472-R01](#) at 0485.

⁷²³ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160, [UGA-OTP-0220-1035-R01](#) at 1051, 1057, [UGA-OTP-0220-1064-R01](#) at 1074; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 26; P-0138, [UGA-OTP-0228-6385-R01](#) at 6403-6404; P-0144, [UGA-OTP-0228-1376-R01](#) at 1401-1402, 1405, 1410; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485-0487; P-0359, [UGA-OTP-0260-0151-R01](#) at 0154.

⁷²⁴ P-0309, [UGA-OTP-0249-0472-R01](#) at 0486.

⁷²⁵ P-0045, [UGA-OTP-0218-0143-R01](#) at 0160, [UGA-OTP-0220-1035-R01](#) at 1051, 1057, [UGA-OTP-0220-1064-R01](#) at 1074; P-0138, [UGA-OTP-0228-6385-R01](#) at 6404; P-0144, [UGA-OTP-0228-1376-R01](#) at 1401-1402, 1405, 1410; P-0146, [UGA-OTP-0228-4224-R01](#) at 4249.

⁷²⁶ P-0144, [UGA-OTP-0228-1376-R01](#) at 1405, 1415-1417, [UGA-OTP-0253-0026-R01](#) at 0052.

⁷²⁷ P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0488.

⁷²⁸ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551.

⁷²⁹ P-0249, [UGA-OTP-0238-0771-R01](#) at 0774-0775.

orders to LRA fighters under his command, including an order to pillage items.⁷³⁰ He deployed LRA fighters to different parts of the camp during the attack.⁷³¹ He directed LRA fighters where to shoot.⁷³² He also communicated with other LRA fighters using radio communication equipment.⁷³³

267. Dominic Ongwen's conduct and presence expressly encouraged LRA fighters to commit crimes.

268. Dominic Ongwen's essential contribution continued as the LRA fighters retreated from the attack and returned to their meeting point. P-0249 saw Dominic Ongwen threaten to kill abducted civilians if they did not move.⁷³⁴ He led a group of abducted to move faster.⁷³⁵ P-0067 saw Dominic Ongwen lead a group of abducted civilians.⁷³⁶ Once the LRA fighters had returned to their meeting point, Dominic Ongwen addressed the civilians that had been abducted.⁷³⁷ P-0009, a civilian victim who had been abducted, heard Ongwen tell civilians that they could never return home.⁷³⁸ Ongwen also ordered that abducted civilians be divided among his group.⁷³⁹

269. Dominic Ongwen's contributions, individually and cumulatively, had a direct effect on the commission of crimes. They were essential to the success and implementation of the common plan leading to the commission of the crimes charged.

⁷³⁰ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551; P-0249, [UGA-OTP-0238-0771-R01](#) at 0775, [UGA-OTP-0263-2810-R01](#) at 2812.

⁷³¹ P-0249, [UGA-OTP-0238-0771-R01](#) at 0775, [UGA-OTP-0263-2810-R01](#) at 2812.

⁷³² P-0249, [UGA-OTP-0238-0771-R01](#) at 0775.

⁷³³ P-0249, [UGA-OTP-0263-2810-R01](#) at 2812.

⁷³⁴ P-0249, [UGA-OTP-0238-0771-R01](#) at 0779.

⁷³⁵ P-0249, [UGA-OTP-0263-2810-R01](#) at 2813.

⁷³⁶ P-0067, [UGA-OTP-0139-0193-R01](#) at 0199-0200.

⁷³⁷ P-0009, [UGA-OTP-0151-0167-R01](#) at 0176-1777; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087.

⁷³⁸ P-0009, [UGA-OTP-0151-0167-R01](#) at 0177.

⁷³⁹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0488.

270. Further, Dominic Ongwen's contribution demonstrates that he and other Pajule co-perpetrators intentionally caused an attack against civilian residents from Pajule IDP camp. He was aware that the common plan involved an element of criminality.

iii. Dominic Ongwen had joint control over – and used – the organisation, which consisted of an organised and hierarchical apparatus of power

271. This element is satisfied by reference to the section on common elements of modes of liability, paragraphs 89 to 155.

iv. Dominic Ongwen had the ability to cause the organisation to contribute to the crimes

272. This element is satisfied by reference to the section on common elements of modes of liability, paragraphs 89 to 155.

v. Dominic Ongwen was aware of the factual circumstances that allowed him to exert joint control over the crimes

273. This element is satisfied by reference to the section on common elements of modes of liability, paragraphs 89 to 155.

274. Dominic Ongwen's knowledge of the factual circumstances that enabled him to exercise control over the crimes jointly with his co-perpetrators can be established from the following facts:

- he was aware that he exercised *de jure* and *de facto* command authority over a group of LRA fighters in Pajule IDP camp;⁷⁴⁰
- his knowledge that other co-perpetrators who espoused the Pajule common plan were willing to implement it and also exercised command and control over the LRA troops;⁷⁴¹

⁷⁴⁰ See sections on the Pajule common plan, para. 247-262, and Dominic Ongwen's essential contribution to the Pajule common plan, para. 263-270.

- his role in planning the attack;⁷⁴²
- his coordination of the attack on the ground;⁷⁴³
- his direction to other LRA fighters during the attack;⁷⁴⁴
- his direction to civilians during and after the attack;⁷⁴⁵
- his knowledge that the LRA had an effective structure and hierarchy;⁷⁴⁶
- his knowledge of the size and structure of the LRA, and its composition of trained fighters with obedience to hierarchy.⁷⁴⁷

vi. Dominic Ongwen had knowledge and intent as prescribed by article 30 and specific to the crimes

275. Dominic Ongwen intended to bring about the objective elements of the crimes, and/or was aware that they would occur in the ordinary course of events in implementing the Pajule common plan.

276. Dominic Ongwen's intent and/or knowledge is established from the following facts:

- he and his co-perpetrators adopted the Pajule common plan;⁷⁴⁸
- he knew that his co-perpetrators espoused the Pajule common plan;⁷⁴⁹
- he knew about the roles that other co-perpetrators were assigned in the Pajule common plan and the means they had at their disposal to implement it;⁷⁵⁰
- he was aware of the contribution that other members of the Pajule common plan provided towards its implementation;⁷⁵¹
- he gave instructions to his subordinates to implement the Pajule common plan;⁷⁵²

⁷⁴¹ See section on the Pajule common plan, para. 247-262.

⁷⁴² See section on Dominic Ongwen's essential contribution to the Pajule common plan, para. 263-270.

⁷⁴³ *Id.*

⁷⁴⁴ *Id.*

⁷⁴⁵ *Id.*

⁷⁴⁶ See section on common elements of the modes of liability, para. 89-155.

⁷⁴⁷ *Id.*

⁷⁴⁸ See section on the Pajule common plan, para. 247-262.

⁷⁴⁹ *Id.*

⁷⁵⁰ *Id.*

⁷⁵¹ *Id.*

⁷⁵² See section on Dominic Ongwen's essential contribution to the Pajule common plan, para. 263-270.

- he coordinated the attack operation in the trading centre.⁷⁵³

Dominic Ongwen is criminally responsible under article 25(3)(b)

277. Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(b) for the crimes charged. Ongwen ordered the commission of crimes, holding a position of authority.⁷⁵⁴ He had command authority over the troops and issued military orders during the course of the attack. As described above, his orders had a direct effect on the commission of crimes,⁷⁵⁵ including pillaging⁷⁵⁶ and the abduction of civilians.⁷⁵⁷ He witnessed his orders being executed.

Dominic Ongwen is criminally responsible under article 25(3)(c)

278. Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(c) for the crimes charged. Pre-Trial Chambers have held that “what is required for this form of responsibility is that the person provides assistance to the commission of a crime and that, in engaging in this conduct, he or she intends to facilitate the commission of the crime”.⁷⁵⁸ There is no requirement that the level of assistance be anyhow qualified other than by the required specific intent to facilitate the commission of the crime (as opposed to a requirement of sharing the intent of the perpetrators).⁷⁵⁹ For the purpose of facilitating the commission of the charged crimes in Pajule, Ongwen aided, abetted or otherwise assisted in their commission.

279. Based on the above evidence, Dominic Ongwen’s participation in the common plan and the dominant role he played on the ground facilitated the commission of crimes by other LRA fighters. His presence at the trading centre as witnessed by P-0009, P-0144, P-

⁷⁵³ *Id.*

⁷⁵⁴ *Id.*

⁷⁵⁵ P-0249, [UGA-OTP-0238-0771-R01](#) at 0775; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486.

⁷⁵⁶ See P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0488; P-0249, [UGA-OTP-0238-0771-R01](#) at 0775.

⁷⁵⁷ P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0487.

⁷⁵⁸ ICC-02/04-01/15-422-Red, para. 43; ICC-02/11-02/11-186, para. 167.

⁷⁵⁹ ICC-02/04-01/15-422-Red, para. 43; ICC-01/12-01/15-84, para. 26.

0249, and P-0309 provided moral support and encouragement to LRA fighters.⁷⁶⁰ As described above, in commanding, deploying and coordinating LRA fighters during the attack, Ongwen's actions also provided practical assistance and had the effect of strengthening the capability of LRA fighters to commit the crimes charged. In particular, his violent treatment of civilians served as an example to LRA fighters who participated in the attack.⁷⁶¹

280. Dominic Ongwen's conduct during the attack was intentional and was performed for the purpose of facilitating the commission of crimes by LRA fighters. As a commander leading the attack at the trading centre, he knew that his presence and conduct would facilitate LRA fighters to commit crimes. He was aware that LRA fighters participating in the attack intended to commit crimes.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

281. Dominic Ongwen also contributed to the commission or attempted commission of crimes by a group of persons, including Otti and Lukwiya, who were acting with a common purpose to further their criminal activity or criminal purpose to attack the camp, by means which involved the commission of crimes.⁷⁶²

282. Dominic Ongwen knew the group's intention to commit the crimes. As described above, Ongwen intentionally contributed to the commission of these crimes by means including his planning of the operation, his deployment of troops, issuing orders during the attack, and participating in the attack itself, in which crimes against civilians were committed. He did so with the aim of furthering the crimes and criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

⁷⁶⁰ P-0009, [UGA-OTP-0241-0546-R01](#) at 0550-0551; P-0144, [UGA-OTP-0228-1376-R01](#) at 1405, 1415-1416; P-0249, [UGA-OTP-0238-0771-R01](#) at 0774-0775; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0487.

⁷⁶¹ P-0009, [UGA-OTP-0241-0546-R01](#) at 0551; P-0067, [UGA-OTP-0139-0193-R01](#) at 0199-0200; P-0249, [UGA-OTP-0238-0771-R01](#) at 0776-0777, P-0249, [UGA-OTP-0263-2810-R01](#), at 2813.

⁷⁶² See section on the Pajule common plan, para. 247-262.

Dominic Ongwen is criminally responsible under article 28(a)

283. Dominic Ongwen is also individually criminally responsible as a military commander pursuant to article 28(a) for the crimes charged. At the time of the attack, Ongwen was a member of Control Altar and Sinia. He was given a leadership role in the attack. He led a group of LRA fighters to attack the trading centre.⁷⁶³

284. Dominic Ongwen knew that the LRA fighters were committing or were about to commit the crimes in Pajule, though, *inter alia*:

- his own involvement in the preparation, planning and/or execution of such crimes;⁷⁶⁴
- his personal observation of the commission of such crimes.⁷⁶⁵

285. 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 committed at or near Pajule IDP camp during the attack or during its aftermath.⁷⁶⁶

286. The acts and omissions of Dominic Ongwen that demonstrate his failure to take all such necessary and reasonable measures include:

- his failure to order or initiate genuine or adequate investigations of crimes by LRA forces under his command;
- his failure to discipline, dismiss, demote or refrain from promoting or rewarding members of the LRA forces who were involved in the attack;
- his failure to issue orders that were necessary and reasonable in the circumstances to prevent or repress the commission of crimes by the LRA fighters in Pajule.

⁷⁶³ P-0105, [UGA-OTP-0228-4996-R01](#) at 5036; P-0144, [UGA-OTP-0228-1376-R01](#) at 1402; P-0309, [UGA-OTP-0249-0472-R01](#) at 0485-0487. *See also* P-0045, [UGA-OTP-0218-0171-R01](#) at 0178.

⁷⁶⁴ *See* section on the Pajule common plan, para. 247-262.

⁷⁶⁵ *See* section on Dominic Ongwen's essential contribution to the Pajule common plan, para. 263-270.

⁷⁶⁶ *See* section on common elements of the modes of liability, para. 89-155.

287. Dominic Ongwen's failure to exercise his duty to prevent crimes increased the risk that the forces would commit these crimes.

VII. ATTACK ON ODEK IDP CAMP

Introduction

288. Odek IDP camp was situated around the village of Odek in Odek Sub-County, Omoro County, Gulu District. The camp was created in mid-2003. The civilian population moved to the camp to seek refuge and protection from the LRA, who were attacking civilians in their villages and looting their property.⁷⁶⁷ Approximately 6,000 civilians people inhabited the camp in grass-thatched huts. The camp remained in existence until it was disbanded in 2008.⁷⁶⁸

289. On or about 29 April 2004, Joseph Kony, Dominic Ongwen, the Sinia brigade leadership, Okwonga Alero, a battalion Commander in Trinkle brigade, and other LRA commanders ("Odek co-perpetrators") implemented a common plan to attack Odek IDP camp ("Odek common plan"). The Odek common plan served several purposes, including: attacking UPDF soldiers guarding the camp;⁷⁶⁹ punishing civilians residing at the camp that were perceived to be supporting the Ugandan Government;⁷⁷⁰ pillaging items;⁷⁷¹ killing civilians⁷⁷² and abducting them to serve as conscripts in the LRA.⁷⁷³

⁷⁶⁷ P-0218, [UGA-OTP-0238-0720-R01](#) at 0722; P-0274, [UGA-OTP-0244-3375-R01](#) at 3377.

⁷⁶⁸ P-0274, [UGA-OTP-0267-0174](#) at 0177, [UGA-OTP-0244-3375-R01](#) at 3377; ISO Field Report, [UGA-OTP-0242-0199](#) at 0199; *see also*, sketches of the camp drawn by P-0218 ([UGA-OTP-0238-0731-R01](#)), P-0274 ([UGA-OTP-0244-3388-R01](#)) and P-0325 ([UGA-OTP-0264-0252](#)).

⁷⁶⁹ P-0245, [UGA-OTP-0244-0269-R01](#) at 0278-0279, [UGA-OTP-0244-0285-R01](#) at 0290, [UGA-OTP-0244-0313-R01](#) at 0316; P-0142, [UGA-OTP-0244-0693-R01](#) at 0698.

⁷⁷⁰ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, [UGA-OTP-0244-0313-R01](#) at 0317; *see further*, the section on persecution, para. 190-191.

⁷⁷¹ P-0142, [UGA-OTP-0244-0693-R01](#) at 0698-0699, [UGA-OTP-0228-4542-R01](#) at 4549-4551; P-0054, [UGA-OTP-0251-0070-R01](#) at 0080, [UGA-OTP-0251-0101-R01](#) at 0121-0122; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218; P-0314, [UGA-OTP-0258-0841-R01](#) at 0851.

⁷⁷² P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, 0308, [UGA-OTP-0244-0313-R01](#) at 0317; P-0054, [UGA-OTP-0251-0070-R01](#) at 0080.

⁷⁷³ P-0205, [UGA-OTP-0247-0481-R01](#) at 0499-0500; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154; P-0314, [UGA-OTP-0258-0841-R01](#) at 0851.

290. As the day was drawing to a close, the civilian residents of the camp gathered underneath a mango tree. An LDU soldier named Odong addressed the residents, warning them to be vigilant as the LRA were believed to be operating in the area, having attacked some civilians nearby earlier that day. As he was finishing his address, at approximately 17:00, the LRA attacked.⁷⁷⁴

291. Entering from the northern side, a large group of LRA fighters advanced into the camp.⁷⁷⁵ The attackers split in two groups, with one group moving toward the barracks, killing the soldiers there and burning it down.⁷⁷⁶ The LDU soldiers defending the camp were quickly overwhelmed.⁷⁷⁷ The other attacking group spread throughout the camp and down into the trading centre.⁷⁷⁸ Civilians panicked, running in all directions to escape the gunfire.⁷⁷⁹ LRA fighters fired their weapons at civilians during the attack,⁷⁸⁰ which continued for at least one hour.⁷⁸¹

292. Dominic Ongwen told his fighters that any civilian found was to be shot. This order was executed to devastating effect; at least 61 civilians were shot dead. LRA fighters pillaged food and enslaved civilians, who were beaten and made to carry food away. Men, women and children were abducted. Some abducted men were later murdered by LRA fighters, while children were conscripted into the ranks of the LRA.

⁷⁷⁴ P-0218, [UGA-OTP-0238-0720-R01](#) at 0723; P-0274, [UGA-OTP-0244-3375-R01](#) at 3378; P-0268, [UGA-OTP-0248-0013-R01](#) at 0016-0017; P-0309, [UGA-OTP-0249-0472-R01](#) at 0492.

⁷⁷⁵ P-0218, [UGA-OTP-0238-0720-R01](#) at 0723; ISO Field Report, [UGA-OTP-0242-0199](#) at 0199.

⁷⁷⁶ P-0245, [UGA-OTP-0244-0285-R01](#) at 0294-0296, 0311; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087; P-0352, [UGA-OTP-0260-0315-R01](#) at 0333; P-0410, [UGA-OTP-0267-0207-R01](#) at 0220; P-0054, [UGA-OTP-0251-0070-R01](#) at 0078, 0100; P-0314, [UGA-OTP-0258-0841-R01](#) at 0852; P-0309, [UGA-OTP-0249-0472-R01](#) at 0492; P-0340, [UGA-OTP-0270-0388-R01](#) at 0398-400; ISO Field Report, [UGA-OTP-0242-0199](#) at 0199; UPDF logbook of internal radio correspondence collected from the UPDF 4th Div. barracks in Gulu (hereafter, “UPDF 4th Div. Report”), [UGA-OTP-0233-0383](#) at 0405-0408.

⁷⁷⁷ P-0218, [UGA-OTP-0238-0720-R01](#) at 0725; P-0252, [UGA-OTP-0243-0428-R01](#) at 0432; P-0309, [UGA-OTP-0249-0472-R01](#) at 0492.

⁷⁷⁸ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; P-0054, [UGA-OTP-0251-0070-R01](#) at 0078, 0085-0086, 0100; P-0309, [UGA-OTP-0249-0472-R01](#) at 0492; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154.

⁷⁷⁹ P-0218, [UGA-OTP-0238-0720-R01](#) at 0724; P-0252, [UGA-OTP-0243-0428-R01](#) at 0431; P-0270, [UGA-OTP-0241-0168-R01](#) at 0171.

⁷⁸⁰ P-0309, [UGA-OTP-0249-0472-R01](#) at 0492.

⁷⁸¹ P-0218, [UGA-OTP-0238-0720-R01](#) at 0724; P-0274, [UGA-OTP-0244-3375-R01](#) at 3379; P-0268, [UGA-OTP-0248-0013-R01](#) at 0019.

293. Intercepted radio communications between LRA commanders, statements from former LRA fighters and statements from civilian victims of the attack establish beyond reasonable doubt that the attack resulted in the crimes charged. The evidence also establishes that Dominic Ongwen bears individual criminal responsibility as a result of his planning and execution of the attack.

Crimes committed in Odek

Count 11 – attacks directed against the civilian population (article 8(2)(e)(i))

294. LRA fighters under the joint control of the Odek co-perpetrators including Dominic Ongwen carried out an attack against the civilian population of Odek IDP camp as such, or individual civilians not taking direct part in the hostilities. Ongwen intended them to be the object of the attack.

295. The Prosecution submits that the following facts described under counts 12-15 (murder and attempted murder), counts 16-17 (torture), count 18 (other inhumane acts), count 19 (cruel treatment), count 20 (enslavement), count 21 (pillaging) and count 22 (outrages on personal dignity) qualify as the underlying conduct of the war crime of attacks directed against the civilian population.

Counts 12-13 – murder (articles 7(1)(a) and 8(2)(c)(i))

296. In the course of the attack, men, women and children were brutally murdered by the LRA. The principal cause of death was by gunshot. Anyone found remaining in the camp was to be killed.⁷⁸² LRA fighters were ordered to shoot civilians in the chest and head, to ensure they died.⁷⁸³ Civilians were shot in the back as they ran away from the

⁷⁸² P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, 0306, [UGA-OTP-0244-0313-R01](#) at 0316; *see also*, P-0054, [UGA-OTP-0251-0101-R01](#) at 0107-0110.

⁷⁸³ P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

LRA.⁷⁸⁴ Among the victims were elderly civilians over 80 years old,⁷⁸⁵ and a heavily pregnant woman and her unborn child.⁷⁸⁶

297. LRA fighter, P-0264, was ordered to spray bullets inside civilian houses.⁷⁸⁷ He shot dead a civilian man in his 30s as he sat on the ground.⁷⁸⁸ P-0352, a female LRA fighter, watched as a hut with civilians inside was set on fire by the attackers, while other civilians were shot down before her.⁷⁸⁹ P-0252, who was abducted during the attack, witnessed an LRA fighter open the door of a hut and shoot dead a lady inside.⁷⁹⁰

298. Young children were also targeted and killed. P-0410 witnessed an LRA fighter pierce the body of a baby with a bayonet.⁷⁹¹ The four-year old son of an LDU soldier stationed in the camp was found shot dead close to the barracks, alongside the body of his father.⁷⁹²

299. As they were being abducted, camp residents P-0252,⁷⁹³ P-0275,⁷⁹⁴ P-0268⁷⁹⁵ and P-0269⁷⁹⁶ saw many dead civilians lying scattered throughout the camp. LRA fighters, P-0264 and P-0406, saw many dead civilians in the camp, including women and children,⁷⁹⁷ some beaten so badly their brains were exposed.⁷⁹⁸ The day after the attack, P-0270, a former camp resident, saw corpses everywhere in the camp, including those of her own children.⁷⁹⁹ All of the deceased had gunshot wounds.⁸⁰⁰

⁷⁸⁴ P-0325, [UGA-OTP-0264-0242](#) at 0245.

⁷⁸⁵ P-0218, [UGA-OTP-0238-0720-R01](#) at 0725.

⁷⁸⁶ P-0325, [UGA-OTP-0264-0242](#) at 0245-0246.

⁷⁸⁷ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155.

⁷⁸⁸ *Id.*

⁷⁸⁹ P-0352, [UGA-OTP-0260-0315-R01](#) at 0333.

⁷⁹⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433. *See also*, P-0340, [UGA-OTP-0270-0388-R01](#) at 0406.

⁷⁹¹ P-0410, [UGA-OTP-0267-0207-R01](#) at 0223.

⁷⁹² P-0218, [UGA-OTP-0238-0720-R01](#) at 0725.

⁷⁹³ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433-0434.

⁷⁹⁴ P-0275, [UGA-OTP-0244-3398-R01](#) at 3402.

⁷⁹⁵ P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

⁷⁹⁶ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032; P-0269, [UGA-OTP-0271-2444-R01](#) at 2447-2448.

⁷⁹⁷ P-0264, [UGA-OTP-0256-0139-R01](#) at 0155.

⁷⁹⁸ P-0406, [UGA-OTP-0270-1048-R01](#) at 1050.

⁷⁹⁹ P-0270, [UGA-OTP-0241-0168-R01](#) at 0173-0174.

300. At least 61 civilians were murdered in the camp.⁸⁰¹ Bodies also lay strewn in the trading centre.⁸⁰² Camp resident, P-0325, came upon a dead mother shot in the head, her crying baby boy still tied to her back.⁸⁰³ In the trading centre, he saw an elderly couple aged in their 70s, lying dead in front of their small shop.⁸⁰⁴

301. The dead were hastily buried in scattered graves close to the camp, and along the banks of the Odek River.⁸⁰⁵ P-0218, a former camp resident, personally buried some of the bodies, including that of his uncle and a young girl who was found face-down in the Odek River, shot in the back.⁸⁰⁶ P-0325 offered up his own land to be used as a grave site. 16 bodies were buried on his plot of land; most of them were women and children. Among them was a grandmother shot in the chest. The bullet had passed through her, also killing her 4 year-old grandson who she was carrying on her back.⁸⁰⁷

302. The murder of civilians from Odek was not confined to the camp itself. Civilians abducted from the camp that struggled or tried to escape were killed.⁸⁰⁸ LRA fighter, P-0410, was made to kill one of the abductees as they left Odek.⁸⁰⁹ P-0275's young brother, abducted along with him during the attack, was killed because he was unable to walk any further as his feet were too swollen.⁸¹⁰ Nine men abducted from Odek were first

⁸⁰⁰ P-0218, [UGA-OTP-0238-0720-R01](#) at 0724-0725; P-0274, [UGA-OTP-0244-3375-R01](#) at 3380.

⁸⁰¹ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; *see also*, ISO Field Report, [UGA-OTP-0242-0199](#) at 0199-0201; Selected LRA Atrocities Report, [UGA-OTP-0032-0038-R01](#) at 0043, 0077-0078. Some of the deceased listed in the report are also cited by P-0218 as having been killed during the attack: KILAMA HILARY, OJARA, ODOKI, OJOK, KIDEGA, Titus LATIGO, AYELA Fabio OTOO (*see* [UGA-OTP-0238-0720-R01](#) at 0727) are each mentioned by P-0218 as being abducted and killed following the attack on Odek. *See further*, [UGA-OTP-0250-0265](#), a local memorial plaque in Odek listing the names of 44 civilians killed by the LRA during the attack on 29 April 2004.

⁸⁰² P-0309, [UGA-OTP-0249-0472-R01](#) at 0493.

⁸⁰³ P-0325, [UGA-OTP-0264-0242](#) at 0246.

⁸⁰⁴ P-0325, [UGA-OTP-0264-0242](#) at 0248.

⁸⁰⁵ P-0218, [UGA-OTP-0238-0720-R01](#) at 0728; P-0270, [UGA-OTP-0241-0168-R01](#) at 0174; P-0269, [UGA-OTP-0248-0026-R01](#) at 0034; ISO Field Report, [UGA-OTP-0242-0199](#) at 0202-0203.

⁸⁰⁶ P-0218, [UGA-OTP-0238-0720-R01](#) at 0728.

⁸⁰⁷ P-0325, [UGA-OTP-0264-0242](#) at 0247.

⁸⁰⁸ P-0309, [UGA-OTP-0249-0472-R01](#) at 0494; P-0314, [UGA-OTP-0258-0841-R01](#) at 0853.

⁸⁰⁹ P-0410, [UGA-OTP-0267-0207-R01](#) at 0223.

⁸¹⁰ P-0275, [UGA-OTP-0244-3398-R01](#) at 3402, 3410; P-0270, [UGA-OTP-0241-0168-R01](#) at 0174; P-0218, [UGA-OTP-0238-0720-R01](#) at 0727.

made to carry an injured LRA commander, before they were murdered in the bush.⁸¹¹ P-0252 was forced to kill one of these men with a club,⁸¹² while his father was similarly murdered.⁸¹³

303. The day after the attack on 30 April 2004, Dominic Ongwen reported the deaths of “more than 10 civilians” in Odek on LRA radio – a report which was recorded in UPDF,⁸¹⁴ ISO⁸¹⁵ and Police⁸¹⁶ logbooks, and which is described in further detail below.

304. An audio recording from the same date, verified by UPDF and ISO radio operators P-0003 and P-0059,⁸¹⁷ as well as LRA signallers P-0016 and P-0019,⁸¹⁸ also described in further detail below, records Dominic Ongwen reporting the attack on Odek, saying: “I’ve just been shooting people”,⁸¹⁹ including “all of the *waya* [civilians]”.⁸²⁰ Otti relayed Ongwen’s report that so many civilians died “he did not know the number”.⁸²¹

⁸¹¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0439; P-0275, [UGA-OTP-0244-3398-R01](#) at 3408; P-0264, [UGA-OTP-0256-0139-R01](#) at 0156; P-0218, [UGA-OTP-0238-0720-R01](#) at 0727; P-0268, [UGA-OTP-0248-0013-R01](#) at 0019-0022; P-0325, [UGA-OTP-0264-0242](#) at 0248-0249. *See also*, P-0340, [UGA-OTP-0270-0411-R01](#) at 0420; P-0269, [UGA-OTP-0271-2444-R01](#) at 2452-2453.

⁸¹² P-0252, [UGA-OTP-0243-0428-R01](#) at 0440-0441.

⁸¹³ *Compare* P-0218, [UGA-OTP-0238-0720-R01](#) at 0727 *with* P-0252, [UGA-OTP-0243-0428-R01](#) at 0440; *see also*, P-0275, [UGA-OTP-0244-3398-R01](#) at 3408.

⁸¹⁴ UPDF logbook, [UGA-OTP-0197-2319](#) at 2440 (short-hand rough note): “Dead, 09 killed on spot + many civs”; UPDF logbook, [UGA-OTP-0197-1670](#) at 1691, left page (logbook); *see also*, UPDF Intelligence report, [UGA-OTP-0017-0150](#) at 0154, [UGA-OTP-0017-0157](#) at 0160; UPDF 4th Div. Report”), [UGA-OTP-0233-0383](#) at 0408-0409, 0414, 0441.

⁸¹⁵ ISO logbook, [UGA-OTP-0061-0206](#) at 0270 (left page): “Kony asked whether the no of civilians Dominick killed if it can reach 10, but Dominic claimed that he killed more than 10 civilians”; *see also*, ISO Field Report, [UGA-OTP-0242-0199](#) at 0202-0203.

⁸¹⁶ Police Logbook, [UGA-OTP-0037-0002](#) at 0145-0146 (“Tem Wek Ibong who led the attack [...] said he was from killing people [...] the number of civilians killed was put at more than 10 (ten) but he said is expected to rise”).

⁸¹⁷ *See* P-0059, [UGA-OTP-0248-0328-R01](#) at 0332-0334, Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#); P-0003, [UGA-OTP-0248-0094-R01](#) at 0097-0099, Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#).

⁸¹⁸ *See* P-0016, [UGA-OTP-0259-0011-R01](#) at 0021 and Audio transcript annotation by P-0016, [UGA-OTP-0259-0065](#); P-0019, [UGA-OTP-0262-0176-R01](#) at 0188 and Audio transcript annotation by P-0019, [UGA-OTP-0262-0298](#).

⁸¹⁹ P-0016, [UGA-OTP-0259-0011-R01](#) at 0023, Audio transcript annotation by P-0016, [UGA-OTP-0259-0065](#) at 0070 (row 1183); P-0019, [UGA-OTP-0262-0176-R01](#) at 0180; P-0003, [UGA-OTP-0248-0094-R01](#) at 0099, Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#) at 0516 (rows 1181-1182).

⁸²⁰ “*Waya*” was a code-word for civilians. *See* P-0059, [UGA-OTP-0248-0328-R01](#) at 0334, Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#) at 0519 (row 1256); *see also*, P-0003, [UGA-OTP-0248-0094-R01](#) at 0101-0102.

⁸²¹ Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#) at 0323 (rows 1302-1304); P-0059, Annotated transcript, [UGA-OTP-0248-0462-R01](#) at 0521 (rows 1302-1304).

305. The day after the attack, UPDF officer P-0359, visited Odek and witnessed the dead being collected.⁸²² On 15 May 2004, ISO officer P-0301 also visited Odek to investigate the incident.⁸²³ He recorded the names of 25 civilians murdered as a result of the attack, and the locations of three separate burial sites.⁸²⁴

Counts 14-15 - attempted murder (articles 7(1)(a) and 8(2)(c)(i))

306. On some occasions during the attack on Odek, murders resulting from the implementation of the Odek common plan were not fully carried out because of independent circumstances. These comprised acts of attempted murder. LRA fighters commenced the crime by means of the substantial step of attacking the victim with lethal force, but the victim did not die.

307. For example, one camp resident locked herself in her hut when the attack began. An LRA fighter fired shots through the door, wounding her husband and hitting her in the neck. She survived, but her husband later died of his wounds.⁸²⁵ They were among the injured civilians transported to Lacor Hospital after the attack.⁸²⁶ Similarly, former camp leader, P-0274, found another woman shot in the cheek, her baby still tied to her back. He helped to nurse her wounds and she survived.⁸²⁷

Counts 16-17 - torture (articles 7(1)(f) and 8(2)(c)(i)), count 18 – other inhumane acts (article 7(1)(k)) and count 19 - cruel treatment (article 8(2)(c)(i))

308. The beating of civilians, forcing them to carry heavy loads, often for long distances while tied to each-other under constant threat of harm, being subjected to punitive

⁸²² P-0359, [UGA-OTP-0260-0151-R01](#) at 0155.

⁸²³ P-0301, [UGA-OTP-0249-0423-R01](#) at 0435; ISO Field Report, [UGA-OTP-0242-0199](#).

⁸²⁴ ISO Field Report, [UGA-OTP-0242-0199](#) at 0199-0203.

⁸²⁵ P-0218, [UGA-OTP-0238-0720-R01](#) at 0725; P-0268, [UGA-OTP-0248-0013-R01](#) at 0022.

⁸²⁶ P-0218, [UGA-OTP-0238-0720-R01](#) at 0725; P-0268, [UGA-OTP-0248-0013-R01](#) at 0022; *see also*, ISO Field Report, [UGA-OTP-0242-0199](#) at 0201, where Santa AKELLO is listed as being among the injured.

⁸²⁷ P-0274, [UGA-OTP-0244-3375-R01](#) at 3380; *see also*, P-0325, [UGA-OTP-0264-0242](#) at 0248.

conditions, and witnessing the beatings and killings of other abductees who were either too weak or who attempted to escape, caused severe physical or mental pain or suffering.⁸²⁸ This amounted to torture under articles 7(1)(f) and 8(2)(c)(i), the war crime of cruel treatment under article 8(2)(c)(i) and the crime against humanity of other inhumane acts under article 7(1)(k) of the Statute.⁸²⁹

309. In the course of the attack on Odek, LRA fighters inflicted severe physical and mental pain or suffering on civilians taking no active part in hostilities. Such pain or suffering did not arise from, and was not inherent in or incidental to, lawful sanctions.

310. This treatment was carried out to intimidate and/or punish the civilian population because of their perceived support for the Government.⁸³⁰ Furthermore, this treatment was carried out when the victims were under the custody or control of the LRA attackers.⁸³¹ The pain inflicted amounted to torture, cruel treatment, and other inhumane acts.

311. P-0270, a female camp resident, was sexually assaulted by another female LRA fighter, who penetrated her vagina, first with a comb, then with a stick used for cooking, as her husband was forced to watch.⁸³² It was done with such force that she began to bleed.⁸³³ The attacker then threw her to the floor and stepped on her chest.⁸³⁴ After the attacker

⁸²⁸ See *Prosecutor v Brdjanin*, IT-98-36-A, Appeal Judgement, 3 April 2007, para. 251 (“Acts inflicting physical pain may amount to torture even when they do not cause the amount of pain of the type accompanying serious injury. Whether an act causes severe pain or suffering is determined on a case-by-case basis”).

⁸²⁹ For the purposes of applying the “materially distinct” test, the legal elements of the crime may include the *chapeau* requirements of the particular crime. See ICC-01/04-01/07-3436-tENG, para. 1696; see also, ICC-01/04-01/07-717, para. 419; see further, *Prosecutor v Natelic & Martinovic*, IT-98-34-A, Appeal Judgement, 3 May 2006, para. 562.

⁸³⁰ Per Element 2 of the war crime of torture: “The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind”. See Elements of Crimes, article 8(2)(c)(i)-4, para. 2. See generally, the section on persecution, para. 156-203. See especially, the submissions on persecution under Count 23, para. 190-191.

⁸³¹ Per Element 2 of the crime against humanity of torture: “Such person or persons were in the custody or under the control of the perpetrator”. See Elements of Crimes, article 7(1)(f), para. 2.

⁸³² P-0270, [UGA-OTP-0241-0168-R01](#) at 0172.

⁸³³ P-0270, [UGA-OTP-0241-0168-R01](#) at 0172.

⁸³⁴ P-0270, [UGA-OTP-0241-0168-R01](#) at 0172.

ran away, P-0270 had to remove the stick from her own body, causing her immense pain and mental anguish.⁸³⁵

312. P-0275, a nine year old boy, was beaten with sticks and an RPG.⁸³⁶ P-0268, a female camp resident, was beaten with a gun.⁸³⁷ LRA fighter, P-0352, witnessed such treatment being meted out in the camp.⁸³⁸ P-0252 was kicked to the ground before being abducted.⁸³⁹ Referring to a dead civilian nearby, his LRA captor later warned him: “if you try to run, we will kill you like him”.⁸⁴⁰

313. As abductees were led away from Odek, they were forced to carry heavy loads. Among them was P-0268, who was made to carry a sack of maize weighing 50 kilograms.⁸⁴¹ Civilians were beaten if they walked too slowly.⁸⁴² In the bush, women were beaten with guns by their LRA captors because their babies were crying too much.⁸⁴³

Count 20 – enslavement (article 7(1)(c))

314. During the course of the attack, LRA fighters deprived civilians of their liberty. LRA fighters under Dominic Ongwen’s command deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. Men, women and children were abducted, conscripted into the LRA, forced to perform manual labour, or otherwise reduced to a servile status.

⁸³⁵ P-0270, [UGA-OTP-0241-0168-R01](#) at 0172, 0175.

⁸³⁶ P-0275, [UGA-OTP-0244-3398-R01](#) at 3403.

⁸³⁷ P-0268, [UGA-OTP-0248-0013-R01](#) at 0017-0018.

⁸³⁸ P-0352, [UGA-OTP-0260-0315-R01](#) at 0333.

⁸³⁹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433.

⁸⁴⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0434.

⁸⁴¹ P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

⁸⁴² P-0268, [UGA-OTP-0248-0013-R01](#) at 0019.

⁸⁴³ P-0268, [UGA-OTP-0248-0013-R01](#) at 0020.

315. Men, women and children were abducted from Odek.⁸⁴⁴ LRA fighters forced civilians to carry away luggage⁸⁴⁵ and food.⁸⁴⁶ Among them were P-0268⁸⁴⁷ and P-0269.⁸⁴⁸ They were made to carry the goods at least four kilometres, to a location called Lakim.⁸⁴⁹ Most of the women were kept in captivity for a number of days before being released.⁸⁵⁰ Adult male abductees were made to carry an injured LRA fighter, as well as large weaponry.⁸⁵¹

316. Children were also abducted in the course of the attack.⁸⁵² LRA fighter, P-0410, abducted a young boy at gun-point together with his father, and forced them to carry away food.⁸⁵³ A female LRA commander was in charge of handling the abducted girls.⁸⁵⁴ All of P-0270's children were abducted,⁸⁵⁵ including P-0275.⁸⁵⁶ Children were tied together with ropes and dragged away from their homes.⁸⁵⁷

317. LRA fighters P-0245,⁸⁵⁸ P-0309⁸⁵⁹, P-0264⁸⁶⁰ P-0352⁸⁶¹ and P-0330⁸⁶² all saw abductees being led away from Odek during the attack. They were tied together and forced to

⁸⁴⁴ P-0245, [UGA-OTP-0244-0313-R01](#) at 0319; P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; P-0309, [UGA-OTP-0249-0472-R01](#) at 0494; P-0340, [UGA-OTP-0270-0411-R01](#) at 0416; P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546-4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706; ISO Field Report, [UGA-OTP-0242-0199](#) at 0201-0202; Selected LRA Atrocities Report, [UGA-OTP-0032-0038-R01](#) at 0077, which reports that 16 civilians were abducted; UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0408-0409, 0419.

⁸⁴⁵ P-0330, [UGA-OTP-0256-0071-R01](#) at 0088; P-0340, [UGA-OTP-0270-0388-R01](#) at 0395.

⁸⁴⁶ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; P-0325, [UGA-OTP-0264-0242](#) at 0248.

⁸⁴⁷ P-0268, [UGA-OTP-0248-0013-R01](#) at 0017-0019.

⁸⁴⁸ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0034.

⁸⁴⁹ P-0218, [UGA-OTP-0238-0720-R01](#) at 0727; P-0252, [UGA-OTP-0243-0428-R01](#) at 0435; P-0275, [UGA-OTP-0244-3398-R01](#) at 3402.

⁸⁵⁰ P-0268, [UGA-OTP-0248-0013-R01](#) at 0021-0022; P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0034; P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; P-0252, [UGA-OTP-0243-0428-R01](#) at 0436; P-0270, [UGA-OTP-0241-0168-R01](#) at 0174.

⁸⁵¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0436.

⁸⁵² P-0218, [UGA-OTP-0238-0720-R01](#) at 0727; P-0270, [UGA-OTP-0241-0168-R01](#) at 0171, 0174; P-0245, [UGA-OTP-0244-0285-R01](#) at 0306; P-0325, [UGA-OTP-0264-0242](#) at 0249; Gusco File, [UGA-OTP-0098-0085](#) at 0089-0090; P-0205, [UGA-OTP-0247-0481-R01](#) at 0495-0496, 0499; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

⁸⁵³ P-0410, [UGA-OTP-0267-0207-R01](#) at 0222.

⁸⁵⁴ P-0252, [UGA-OTP-0243-0428-R01](#) at 0434.

⁸⁵⁵ P-0270, [UGA-OTP-0241-0168-R01](#) at 0171.

⁸⁵⁶ P-0270, [UGA-OTP-0241-0168-R01](#) at 0174; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401; *see also*, ISO Field Report, [UGA-OTP-0242-0199](#) at 0202.

⁸⁵⁷ P-0410, [UGA-OTP-0267-0207-R01](#) at 0223; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401-3402; P-0252, [UGA-OTP-0243-0428-R01](#) at 0433, 0435; *see also*, P-0218, [UGA-OTP-0238-0720-R01](#) at 0727; P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

⁸⁵⁸ P-0245, [UGA-OTP-0244-0313-R01](#) at 0319, [UGA-OTP-0244-0520-R01](#) at 0523.

⁸⁵⁹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0494.

⁸⁶⁰ P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

carry away pillaged goods.⁸⁶³ P-0142 saw the abductees after the attack.⁸⁶⁴ The attackers were instructed to abduct and return with “beautiful” girls.⁸⁶⁵ This order was carried out, with P-0245 estimating that 35 civilians were abducted, including seven girls.⁸⁶⁶ Women with young babies were also among the abducted.⁸⁶⁷ At least one girl was later made to be a forced wife.⁸⁶⁸ P-0286, a civilian abducted in the subsequent attack on Abok IDP camp, met two abducted women in the bush and was told they were from Odek.⁸⁶⁹

318. Following the attack, UPDF officer P-0359 ordered his soldiers to pursue Dominic Ongwen’s attacking group. His forces managed to rescue seven civilians abducted from Odek, some of them children and elderly.⁸⁷⁰

319. Some abductees stayed in the bush for days or weeks, while others such as P-0252, were absorbed into the LRA ranks.⁸⁷¹ According to LRA fighter P-0330, men and children were abducted from Odek to “work as soldiers”.⁸⁷² P-0406 stated that the abductees were divided up by soldiers under Ongwen’s command.⁸⁷³

320. As described in further detail below, the day after the attack on 30 April 2004, the abduction of “8 young boys” from Odek is recorded in the UPDF logbook.⁸⁷⁴ The police

⁸⁶¹ P-0352, [UGA-OTP-0260-0315-R01](#) at 0334.

⁸⁶² P-0330, [UGA-OTP-0256-0071-R01](#) at 0088.

⁸⁶³ P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

⁸⁶⁴ P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, 4546, 4547, [UGA-OTP-0244-0693-R01](#) at 0705-0706.

⁸⁶⁵ P-0205, [UGA-OTP-0247-0481-R01](#) at 0495-0496.

⁸⁶⁶ P-0245, [UGA-OTP-0244-0313-R01](#) at 0319-0320.

⁸⁶⁷ P-0352, [UGA-OTP-0260-0315-R01](#) at 0334; P-0410, [UGA-OTP-0267-0207-R01](#) at 0223; P-0314, [UGA-OTP-0258-0841-R01](#) at 0852.

⁸⁶⁸ P-0275, [UGA-OTP-0244-3398-R01](#) at 3403.

⁸⁶⁹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0082, 0084.

⁸⁷⁰ P-0359, [UGA-OTP-0260-0151-R01](#) at 0155.

⁸⁷¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0433-0451; *see also*, P-0142, [UGA-OTP-0228-4542-R01](#) at 4552, [UGA-OTP-0244-0693-R01](#) at 0705; P-0245, [UGA-OTP-0244-0313-R01](#) at 0319; *see further*, section on conscription and use of child soldiers, para. 701-758.

⁸⁷² P-0330, [UGA-OTP-0256-0071-R01](#) at 0088.

⁸⁷³ P-0406, [UGA-OTP-0270-1056-R01](#) at 1059-1063.

⁸⁷⁴ UPDF logbook, [UGA-OTP-0197-1670](#) at 1690, right page (long-hand): “[h]e claimed to have attacked Odek and the following have been charged fm them [...] 08 young boys were abducted”; UPDF logbook, [UGA-OTP-0197-2319](#) at 2440 (short-hand): “Abductees 08”; *see also*, UPDF Intelligence report, [UGA-OTP-0017-0150](#) at 0154, [UGA-OTP-0017-0157](#) at 0160; UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0408-0409, 0414, 0441.

logbook also records the number of “eight missing”.⁸⁷⁵ The following day, on 1 May 2004, the ISO logbook records a second report by Ongwen on the Odek attack. Otti refers to a Mega FM report on the incident, which stated “30 civilians were missing” as a result of the attack on Odek.⁸⁷⁶

321. An intercepted LRA audio recording from 30 April 2004, described in further detail below, records Dominic Ongwen stating that he had abducted “males and females” from Odek.⁸⁷⁷ P-0003,⁸⁷⁸ P-0016,⁸⁷⁹ P-0019⁸⁸⁰ and P-0059⁸⁸¹ each confirm that the abductees were reported as being “mixed”, a reference to the abductees being both male and female.

322. On 15 May 2004, P-0301, visiting Odek to investigate the incident,⁸⁸² recorded the names of 16 abducted civilians, including nine children.⁸⁸³ Included in his list of abducted are the names of P-0252 and P-0275.⁸⁸⁴ A Police intelligence report stated that 25 people were abducted.⁸⁸⁵

Count 21 – pillaging (article 8(2)(e)(v))

323. LRA fighters appropriated food items and other personal property in Odek. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation. The pillaging was not justified by military necessity.

⁸⁷⁵ Police Logbook, [UGA-OTP-0037-0002](#) at 0145.

⁸⁷⁶ ISO logbook, [UGA-OTP-0061-0206](#) at 0273 (left page): at (18:30-19:45 hrs): “OTTI then mentions that the Odek incident had been reported on Mega FM, and that 23 people were killed and 30 were missing”.

⁸⁷⁷ P-0016, [UGA-OTP-0259-0011-R01](#) at 0025; P-0059, [UGA-OTP-0248-0328-R01](#) at 0334 and Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#) at 0522 (rows 1318-1324).

⁸⁷⁸ P-0003, [UGA-OTP-0248-0094-R01](#) at 0099.

⁸⁷⁹ P-0016, [UGA-OTP-0259-0011-R01](#) at 0025.

⁸⁸⁰ P-0019, [UGA-OTP-0262-0176-R01](#) at 0191.

⁸⁸¹ P-0059, [UGA-OTP-0248-0328-R01](#) at 0334.

⁸⁸² P-0301, [UGA-OTP-0249-0423-R01](#) at 0435, ISO Field Report, [UGA-OTP-0242-0199](#).

⁸⁸³ ISO Field Report, [UGA-OTP-0242-0199](#) at 0202.

⁸⁸⁴ ISO Field Report, [UGA-OTP-0242-0199](#) at 0202. P-0252 is no. 9, while P-0275 is listed under the heading: “Abducted but escaped”.

⁸⁸⁵ Police intelligence report, [UGA-OTP-0256-0314](#).

324. In the course of the attack, LRA fighters pillaged food from the camp.⁸⁸⁶ They also broke into the stores in the trading centre, looting the contents.⁸⁸⁷ P-0330 was one such fighter. He stole flour, salt and soda from the trading centre.⁸⁸⁸ P-0264 also looted from the shops, while “lifters” collected soap and other items.⁸⁸⁹ P-0340,⁸⁹⁰ P-0352⁸⁹¹ and P-0410⁸⁹² each stole food from civilian homes in the camp, such as beans and flour. All of the food aid recently distributed to the camp by the World Food Programme was stolen by the attackers.⁸⁹³ As a result of the pillaging, many of the camp residents in Odek suffered intense hunger.⁸⁹⁴

325. LRA fighter, P-0054, saw the attackers pillaging food and personal possessions from the homes of civilians.⁸⁹⁵ He saw Dominic Ongwen himself go to pillage from the trading centre.⁸⁹⁶ Women were made to carry away the looted foodstuffs.⁸⁹⁷ Among them was P-0268, who was made to carry a sack of maize,⁸⁹⁸ P-0269, who carried looted flour,⁸⁹⁹ and P-0252, who carried away maize and cow peas.⁹⁰⁰

326. During the attack, P-0245 saw these civilians carrying the pillaged food away,⁹⁰¹ as did P-0264.⁹⁰² P-0142⁹⁰³ saw them after the attack. In an audio recording verified by P-0019

⁸⁸⁶ P-0054, [UGA-OTP-0251-0101-R01](#) at 0102; P-0314, [UGA-OTP-0258-0841-R01](#) at 0852; P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; Police intelligence report, [UGA-OTP-0256-0314](#).

⁸⁸⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0434; P-0245, [UGA-OTP-0244-0285-R01](#) at 0293-0294; P-0309, [UGA-OTP-0249-0472-R01](#) at 0493.

⁸⁸⁸ P-0330, [UGA-OTP-0256-0071-R01](#) at 0088.

⁸⁸⁹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

⁸⁹⁰ P-0340, [UGA-OTP-0270-0388-R01](#) at 0409.

⁸⁹¹ P-0352, [UGA-OTP-0260-0315-R01](#) at 0333.

⁸⁹² P-0410, [UGA-OTP-0267-0207-R01](#) at 0222.

⁸⁹³ P-0325, [UGA-OTP-0264-0242](#) at 0249.

⁸⁹⁴ P-0325, [UGA-OTP-0264-0242](#) at 0249.

⁸⁹⁵ P-0054, [UGA-OTP-0251-0101-R01](#) at 0104; *see also*, P-0270, [UGA-OTP-0241-0168-R01](#) at 0171; P-0142, [UGA-OTP-0244-0693-R01](#) at 0705.

⁸⁹⁶ P-0054, [UGA-OTP-0251-0070-R01](#) at 0078, 0085-0086, 0094, 0099, [UGA-OTP-0240-0068-R01](#) (sketch) at 0069. Dominic Ongwen, marked as “DO”, is indicated as going to the trading centre during the Odek attack.

⁸⁹⁷ P-0218, [UGA-OTP-0238-0720-R01](#) at 0726; P-0309, [UGA-OTP-0249-0472-R01](#) at 0494.

⁸⁹⁸ P-0268, [UGA-OTP-0248-0013-R01](#) at 0018.

⁸⁹⁹ P-0269, [UGA-OTP-0248-0026-R01](#) at 0032-0033.

⁹⁰⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0436.

⁹⁰¹ P-0245, [UGA-OTP-0244-0285-R01](#) at 0311.

⁹⁰² P-0264, [UGA-OTP-0256-0139-R01](#) at 0156.

⁹⁰³ P-0142, [UGA-OTP-0244-0693-R01](#) at 0705, [UGA-OTP-0228-4542-R01](#) at 4544-4557.

and P-0059, and described in further detail below, Dominic Ongwen stated he had captured a “diamond” from Odek.⁹⁰⁴ Logbook evidence also notes Ongwen reporting the pillaging of a valuable diamond from Odek.⁹⁰⁵

Count 22 – outrages upon personal dignity (article 8(2)(c)(ii))

327. The attackers humiliated, degraded or otherwise violated the dignity of Odek residents. The severity of the humiliation, degradation or other violations was of such degree as to be generally recognised as an outrage upon personal dignity. It is further required that the victims were either *hors de combat*, civilians, medical personal or religious personnel taking no active part in the hostilities.⁹⁰⁶

328. Outrages upon personal dignity are constituted by any act or omission which would be generally considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity.⁹⁰⁷ The severity of the humiliation and degradation may be such that any reasonable person would be outraged.⁹⁰⁸ The focus of violations of dignity is primarily on acts, omissions, or words that do not necessarily involve long-term physical harm, but which nevertheless are serious offences deserving of punishment.⁹⁰⁹

⁹⁰⁴ Sound recording, [UGA-OTP-0235-0015](#) (enhanced) [UGA-OTP-0039-0006](#) (original); P-0019, [UGA-OTP-0262-0176-R01](#) at 0185-0186, Audio transcript annotation by P-0019, [UGA-OTP-0262-0205](#) (rows-29-60); P-0059, [UGA-OTP-0258-0755](#) at 0767, Audio transcript annotation by P-0059, [UGA-OTP-0258-0809](#) (rows 29-60).

⁹⁰⁵ ISO logbook, [UGA-OTP-0061-0206](#) at 0272 (right page) to 0273 (left page); UPDF logbook, [UGA-OTP-0197-1670](#) at 1692, right page (long-hand): “Dominic reported that he had charged a certain Diamond from Odek”. UPDF logbook, [UGA-OTP-0197-2319](#) at 2445 (short-hand); UPDF Intelligence Report, [UGA-OTP-0017-0157](#) at 0160; ISO logbook, [UGA-OTP-0061-0206](#) at 0272 (right page) – 0273 (left page): “Dominic told Kony that y/day he had forgotten of one thing to inform him about. That he got a diamond which worth 10 million dollars is in the glass”.

⁹⁰⁶ See Elements of Crimes, article 8(2)(c)(ii), fn 57, indicating that “persons” can include dead persons and that the cultural background of victims should be taken into account.

⁹⁰⁷ ICC-01/04-01/07-717, para. 369-371; *Prosecutor v Kunarac* IT-96-23&IT-96-23/1-A, Judgement (Appeals Chamber), 12 June 2002, para. 163, (“*Kunarac* Appeals Judgement”).

⁹⁰⁸ *Kunarac* Appeals Judgement, para. 162.

⁹⁰⁹ *Prosecutor v Kvočka et al*, IT-98-30/1-T, Trial Judgement, 2 November 2001, para. 172.

329. For example, P-0252 was forced to kill an abducted man with a club, suffering extreme mental anguish as a result. For the next three days, he was forced to look at the decomposing bodies, including that of his own father, to ensure everyone had died.⁹¹⁰

330. During the attack, LRA fighters forced women to abandon their children⁹¹¹ on the side of the road.⁹¹² P-0275 saw an abandoned baby, naked and crying.⁹¹³ Similarly, P-0268, an abductee, saw a two year old boy left on the roadside. His mother, forced to abandon him, was among the abductees.⁹¹⁴ Abductee P-0269 saw several children on the road, including a crying baby thrown in a rubbish pit.⁹¹⁵ She stated: “If you are a mother carrying your baby on your back, they will tell you to remove that baby [...] you just untie the baby, while one hand is holding what you are carrying on your head. So, the baby would just drop on the road.”⁹¹⁶

Count 23 – persecution (article 7(1)(h))

331. The Prosecution submits that the above submissions under counts 11 (attack on civilians) counts 12-15 (murder and attempted murder), counts 16-17 (torture), count 18 (other inhumane acts), count 19 (cruel treatment), count 20 (enslavement), count 21 (pillaging) and count 22 (outrages on personal dignity) qualify as the underlying conduct of the crime of persecution. The submissions in the section on persecution, paragraphs 156 to 203, are also incorporated here by reference.

⁹¹⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0440-0441.

⁹¹¹ The *Bagosora* Trial Chamber at the ICTR has held that leaving infants without care could be defined as an outrage upon personal dignity. *See Prosecutor v. Bagosora*, ICTR-94-1-T, Trial Chamber, Decision on Motions for Judgement of Acquittal, 2 February 2005, para. 40.

⁹¹² P-0410, [UGA-OTP-0267-0207-R01](#) at 0223.

⁹¹³ P-0275, [UGA-OTP-0244-3398-R01](#) at 3402.

⁹¹⁴ P-0268, [UGA-OTP-0248-0013-R01](#) at 0019.

⁹¹⁵ P-0269, [UGA-OTP-0271-2476-R01](#) at 2491.

⁹¹⁶ P-0269, [UGA-OTP-0271-2444-R01](#) at 2451.

Dominic Ongwen's individual criminal responsibility for crimes in Odek

332. Dominic Ongwen is individually criminally responsible for the crimes charged pursuant to article 25(3)(a) as an indirect co-perpetrator.⁹¹⁷ He is also responsible under articles 25(3)(b), (d)(i) and (ii), and (f), and as a military commander pursuant to article 28(a).

Dominic Ongwen is criminally responsible under article 25(3)(a)

i. Dominic Ongwen was part of a common plan or an agreement with one or more persons

333. Dominic Ongwen committed each of the charged crimes in concert with others through his contribution to the Odek common plan, by means which included the commission of crimes.

334. Joseph Kony,⁹¹⁸ Dominic Ongwen as commander of Sinia brigade, the Sinia brigade leadership,⁹¹⁹ Okwonga Alero, a battalion commander in Trinkle brigade⁹²⁰ and others⁹²¹ were co-perpetrators of the Odek common plan. The common plan was conceived when Kony gave an order to Ongwen to attack Odek.⁹²² This order was relayed by Ongwen⁹²³ to his subordinate troops in Sinia.⁹²⁴

⁹¹⁷ See ICC-02/11-02/11-186, para. 134-137; ICC-01/04-02/06-309, para. 104.

⁹¹⁸ P-0245, [UGA-OTP-0244-0269-R01](#) at 0276; P-0142, [UGA-OTP-0244-0667-R01](#) at 0675.

⁹¹⁹ P-0142, [UGA-OTP-0244-0667-R01](#) at 0677; P-0205, [UGA-OTP-0247-0447-R01](#) at 0448-0449, [UGA-OTP-0247-0076-R01](#) at 0084; P-0264, [UGA-OTP-0256-0139-R01](#) at 0152.

⁹²⁰ P-0245, [UGA-OTP-0244-0227-R01](#) at 0248-0249, 0250-0251, [UGA-OTP-0244-0269-R01](#) at 0279.

⁹²¹ P-0142, [UGA-OTP-0244-0710-R01](#) at 0719-0721; *see also*, the list transcribed by P-0125: [UGA-OTP-0170-0034](#) at 0036.

⁹²² P-0245, [UGA-OTP-0244-0227-R01](#) at 0248, [UGA-OTP-0244-0269-R01](#) at 0276, [UGA-OTP-0244-0285-R01](#) at 0290-0291, [UGA-OTP-0244-0313-R01](#) at 0316; P-0142, [UGA-OTP-0244-0667-R01](#) at 0675; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218.

⁹²³ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, [UGA-OTP-0244-0313-R01](#) at 0317, [UGA-OTP-0244-0227-R01](#) at 0253, [UGA-OTP-0244-0256-R01](#) at 0262; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087.

⁹²⁴ P-0245, [UGA-OTP-0244-0227-R01](#) at 0253, [UGA-OTP-0244-0285-R01](#) at 0291; P-0142, [UGA-OTP-0244-0693-R01](#) at 0698.

335. The aim of the attack was clear: (i) to attack the military barracks;⁹²⁵ and (ii) to attack the civilians.⁹²⁶ Any civilians found remaining in the camp were to be killed, as they were deemed to be supporting the Government.⁹²⁷

336. Troops were also supplied by Alero,⁹²⁸ a battalion commander in Trinkle brigade,⁹²⁹ thus making it a joint attack between Sinia and Trinkle brigades.⁹³⁰ According to LRA fighters P-0245 and P-0309, Ongwen was the commander with the most authority on the ground.⁹³¹ Ongwen was superior to Alero within the hierarchy in the LRA.⁹³²

337. Pre-attack briefings were held in Omel Kuru⁹³³ and Bolo,⁹³⁴ where hundreds of LRA fighters were present. Approximately 200 fighters were selected for the attack,⁹³⁵ an estimated 100 from Sinia brigade, and 100 from Trinkle brigade.⁹³⁶ Troops from each Sinia battalion, Oka, Terwanga and Siba, took part.⁹³⁷

338. Dominic Ongwen briefed and instructed the troops to attack Odek.⁹³⁸ He expressly ordered his troops to attack and kill civilians, instructing his men that “any civilians

⁹²⁵ P-0245, [UGA-OTP-0244-0269-R01](#) at 0278-0279, [UGA-OTP-0244-0285-R01](#) at 0290, [UGA-OTP-0244-0313-R01](#) at 0316; P-0142, [UGA-OTP-0244-0693-R01](#) at 0698.

⁹²⁶ P-0245, [UGA-OTP-0244-0227-R01](#) at 0248-0249, [UGA-OTP-0244-0285-R01](#) at 0290-0291, [UGA-OTP-0244-0313-R01](#) at 0317; P-0142, [UGA-OTP-0244-0693-R01](#) at 0698.

⁹²⁷ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, [UGA-OTP-0244-0313-R01](#) at 0317; *see further*, the section on persecution, para. 190-191.

⁹²⁸ P-0245, [UGA-OTP-0244-0269-R01](#) at 0279-0280.

⁹²⁹ P-0245, [UGA-OTP-0244-0227-R01](#) at 0250, [UGA-OTP-0244-0269-R01](#) at 0279.

⁹³⁰ P-0245, [UGA-OTP-0244-0227-R01](#) at 0252-0253, [UGA-OTP-0244-0285-R01](#) at 0296.

⁹³¹ P-0245, [UGA-OTP-0244-0269-R01](#) at 0277; P-0054, [UGA-OTP-0251-0070-R01](#) at 0078.

⁹³² P-0245, [UGA-OTP-0244-0269-R01](#) at 0277.

⁹³³ P-0142, [UGA-OTP-0244-0667-R01](#) at 0675, [UGA-OTP-0244-0693-R01](#) at 0698, [UGA-OTP-0228-4542-R01](#) at 4550; P-0205, [UGA-OTP-0247-0447-R01](#) at 0448-0449.

⁹³⁴ P-0245, [UGA-OTP-0244-0269-R01](#) at 0279, [UGA-OTP-0244-0256-R01](#) at 0259, [UGA-OTP-0244-0227-R01](#) at 0249-0250, 0255.

⁹³⁵ P-0245, [UGA-OTP-0244-0269-R01](#) at 0279; P-0142, [UGA-OTP-0244-0667-R01](#) at 0675; P-0410, [UGA-OTP-0267-0207-R01](#) at 0220; *see also* UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0408.

⁹³⁶ P-0245, [UGA-OTP-0244-0269-R01](#) at 0280.

⁹³⁷ P-0054, [UGA-OTP-0251-0070-R01](#) at 0079-0080; P-0142, [UGA-OTP-0244-0693-R01](#) at 0700; P-0205, [UGA-OTP-0247-0076-R01](#) at 0084-0085; P-0264, [UGA-OTP-0256-0139-R01](#) at 0152; *see also*, P-0340, [UGA-OTP-0270-0388-R01](#) at 0404.

⁹³⁸ P-0142, [UGA-OTP-0244-0693-R01](#) at 0698; P-0245, [UGA-OTP-0244-0269-R01](#) at 0278-0279.

who remain in the camp should be killed”.⁹³⁹ He also ordered the abduction of civilians,⁹⁴⁰ including “beautiful girls” from Odek,⁹⁴¹ as well as “good boys” to work as soldiers.⁹⁴² Ongwen also gave orders to pillage, telling his men that since there was no food in the group, they should “go and collect food” from Odek,⁹⁴³ and to attack the military barracks.⁹⁴⁴ The last words uttered by Ongwen before the attack was that “nothing should be left alive in Odek”.⁹⁴⁵ In Ongwen’s presence, LRA fighters, including P-0410, were then smeared with oil to protect them from bullets.⁹⁴⁶

339. The troops left Bolo, moving to approximately two kilometres outside Odek. A civilian was abducted to provide intelligence on the camp and its defences,⁹⁴⁷ which was reported as being under-protected and vulnerable.⁹⁴⁸ Dominic Ongwen and Alero moved with separate companies of fighters towards the camp.⁹⁴⁹ They were armed with heavy weaponry, including a “twelve” and a B-10 weapon.⁹⁵⁰ Ongwen personally led the attacking group to Odek.⁹⁵¹

⁹³⁹ P-0245, [UGA-OTP-0244-0285-R01](#) at 0291, 0308, [UGA-OTP-0244-0313-R01](#) at 0317; *see also*, P-0054, [UGA-OTP-0251-0070-R01](#) at 0080.

⁹⁴⁰ P-0264, [UGA-OTP-0256-0139-R01](#) at 0154; P-0314, [UGA-OTP-0258-0841-R01](#) at 0851.

⁹⁴¹ P-0205, [UGA-OTP-0247-0481-R01](#) at 0495-0496.

⁹⁴² P-0205, [UGA-OTP-0247-0481-R01](#) at 0499-0500.

⁹⁴³ P-0142, [UGA-OTP-0244-0693-R01](#) at 0698-0699, [UGA-OTP-0228-4542-R01](#) at 4549-4551; P-0054, [UGA-OTP-0251-0070-R01](#) at 0080, [UGA-OTP-0251-0101-R01](#) at 0121-0122; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218; P-0314, [UGA-OTP-0258-0841-R01](#) at 0851; P-0406, [UGA-OTP-0270-1030-R01](#) at 1035.

⁹⁴⁴ P-0205, [UGA-OTP-0247-0447-R01](#) at 0470; P-0245, [UGA-OTP-0244-0285-R01](#) at 0288; P-0142, [UGA-OTP-0244-0693-R01](#) at 0698-0699; P-0054, [UGA-OTP-0251-0070-R01](#) at 0080; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154.

⁹⁴⁵ P-0410, [UGA-OTP-0267-0207-R01](#) at 0218.

⁹⁴⁶ P-0410, [UGA-OTP-0267-0207-R01](#) at 0219.

⁹⁴⁷ P-0245, [UGA-OTP-0244-0269-R01](#) at 0282-0284, [UGA-OTP-0244-0285-R01](#) at 0286; P-0330, [UGA-OTP-0256-0071-R01](#) at 0087.

⁹⁴⁸ P-0245, [UGA-OTP-0244-0285-R01](#) at 0286.

⁹⁴⁹ P-0245, [UGA-OTP-0244-0269-R01](#) at 0280, [UGA-OTP-0237-0198](#) (sketch), indicating Ongwen and Alero being at the centre of the attacking group in Odek.

⁹⁵⁰ P-0410, [UGA-OTP-0267-0207-R01](#) at 0219, 0221; P-0314, [UGA-OTP-0258-0841-R01](#) at 0851; P-0340, [UGA-OTP-0270-0388-R01](#) at 0399.

⁹⁵¹ P-0340, [UGA-OTP-0270-0411-R01](#) at 0424.

340. As detailed above, this common plan was then successfully executed with devastating effects on the civilian population, resulting in the commission of the crimes charged under counts 11-23.

ii. *Dominic Ongwen 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*

341. Each of the co-perpetrators made coordinated contributions to the realisation of their common plan. Kony ordered Dominic Ongwen to commit the attack. Alero provided troops. Dominic Ongwen contributed to the crimes charged in the following ways:

- briefing and instructing the troops prior to the attack;⁹⁵²
- planning the attack itself;⁹⁵³
- ordering fighters under his command to commit crimes;⁹⁵⁴
- deploying troops to Odek;⁹⁵⁵
- blowing a whistle to signal the commence of the attack;⁹⁵⁶
- commanding and coordinating the attack on the ground. P-0264,⁹⁵⁷ P-0054,⁹⁵⁸ P-0245⁹⁵⁹, P-0340⁹⁶⁰ and P-0309,⁹⁶¹ who all participated in the attack, each place Ongwen on the ground in Odek;

⁹⁵² P-0142, [UGA-OTP-0244-0667-R01](#) at 0675, [UGA-OTP-0244-0693-R01](#) at 0698; P-0205, [UGA-OTP-0247-0447-R01](#) at 0465-0467; P-0264, [UGA-OTP-0256-0139-R01](#) at 0152-0154; P-0245, [UGA-OTP-0244-0269-R01](#) at 0278-0279

⁹⁵³ P-0142, [UGA-OTP-0244-0667-R01](#) at 0675, [UGA-OTP-0244-0693-R01](#) at 0698; P-0245, [UGA-OTP-0244-0269-R01](#) at 0277; P-0205, [UGA-OTP-0247-0261-R01](#) at 0269, [UGA-OTP-0247-0447-R01](#) at 0448-0449.

⁹⁵⁴ P-0245, [UGA-OTP-0244-0285-R01](#) at 0308, [UGA-OTP-0244-0313-R01](#) at 0316; P-0142, [UGA-OTP-0244-0693-R01](#) at 0699; P-0205, [UGA-OTP-0247-0261-R01](#) at 0269, [UGA-OTP-0247-0447-R01](#) at 0465-0467, 0470, [UGA-OTP-0247-0481-R01](#) at 0495-0496; P-0264, [UGA-OTP-0256-0139-R01](#) at 0154; UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0419.

⁹⁵⁵ P-0245, [UGA-OTP-0244-0269-R01](#) at 0279-0280; P-0054, [UGA-OTP-0251-0070-R01](#) at 0078; P-0205, [UGA-OTP-0247-0261-R01](#) at 0271, [UGA-OTP-0247-0447-R01](#) at 0465-0467, 0470, [UGA-OTP-0247-0471-R01](#) at 0472.

⁹⁵⁶ P-0245, [UGA-OTP-0244-0285-R01](#) at 0299-0300. *See also*, P-0410, [UGA-OTP-0267-0207-R01](#) at 0222.

⁹⁵⁷ P-0264, [UGA-OTP-0256-0139-R01](#) at 0152-0156.

⁹⁵⁸ P-0054, [UGA-OTP-0251-0070-R01](#) at 0078, 0085-0086, 0094, 0099; *see also*, P-0054, [UGA-OTP-0240-0068-R01](#) (sketch) at 0069. Dominic Ongwen, marked as “DO”, is indicated as going to the trading centre during the Odek attack.

⁹⁵⁹ P-0245, [UGA-OTP-0244-0227-R01](#) at 0251-0252, [UGA-OTP-0244-0285-R01](#) at 0296-0298 and 0302-0305; *see also*, P-0245, [UGA-OTP-0237-0198](#) (sketch), [UGA-OTP-0237-0199](#) (sketch). Dominic Ongwen, marked as “Odomi” and “DO”, is indicated as being in the centre of the attacking group in Odek

⁹⁶⁰ P-0340, [UGA-OTP-0270-0411-R01](#) at 0424.

⁹⁶¹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0492-0495.

- conscripting and using young children under the age of 15 to participate actively in hostilities;⁹⁶²
- failing, while under a duty stemming from his position, to take adequate steps to prevent, repress or punish the perpetrators of such crimes.⁹⁶³
- communicating with his superiors before and after the attack on the radio.⁹⁶⁴

342. On this last contribution, logbooks and intercepted LRA radio communications record two post-attack reports by Dominic Ongwen.

30 April 2004

343. The first post-attack report from 30 April 2004 was recorded by the ISO in Gulu.⁹⁶⁵ It has been verified by UPDF and ISO radio operators P-0003⁹⁶⁶ and P-0059,⁹⁶⁷ as well as former LRA radio signallers, P-0016⁹⁶⁸ and P-0019.⁹⁶⁹ All four witnesses confirm that Dominic Ongwen is the voice reporting on the Odek attack. Using his call sign, “Tem Wek Ibong”, Ongwen takes responsibility for the Odek attack. “Tem” initially signs on and says:

“I am just from beating someone in Odek” .⁹⁷⁰

⁹⁶² P-0252, [UGA-OTP-0243-0428-R01](#) at 0433-0451; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401; P-0218, [UGA-OTP-0238-0720-R01](#) at 0727; *see further*, the section on conscription and use of child soldiers, para. 701-758.

⁹⁶³ P-0142, [UGA-OTP-0244-0710-R01](#) at 0713, [UGA-OTP-0244-0776-R01](#) at 0808.

⁹⁶⁴ Police Logbook, [UGA-OTP-0037-0002](#) at 0144-0146; ISO logbook, [UGA-OTP-0061-0206](#) at 0270-0273; UPDF logbook, [UGA-OTP-0197-1670](#) at 1690-1691 (long-hand); UPDF logbook, [UGA-OTP-0197-2319](#) at 2439, 2440, 2445 (short-hand); P-0245, [UGA-OTP-0244-0285-R01](#) at 0309, [UGA-OTP-0244-0269-R01](#) at 0276; P-0142, [UGA-OTP-0228-4542-R01](#) at 4555; P-0309, [UGA-OTP-0249-0472-R01](#) at 0495; UPDF Report, [UGA-OTP-0017-0150](#) at 0153; UPDF Report, [UGA-OTP-0017-0157](#) at 0160.

⁹⁶⁵ Sound recording, [UGA-OTP-0235-0038](#), Track 2 (enhanced), [UGA-OTP-0051-0074](#) (original).

⁹⁶⁶ *See* P-0003, [UGA-OTP-0248-0094-R01](#) at 0097-0099, Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#).

⁹⁶⁷ *See* P-0059, [UGA-OTP-0248-0328-R01](#) at 0332-0334 and Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#).

⁹⁶⁸ *See* P-0016, [UGA-OTP-0259-0011-R01](#) at 0021 and Audio transcript annotation by P-0016, [UGA-OTP-0259-0065](#).

⁹⁶⁹ *See* P-0019, [UGA-OTP-0262-0176-R01](#) at 0188 and Audio transcript annotation by P-0019, [UGA-OTP-0262-0298](#).

⁹⁷⁰ P-0059, Audio transcript annotation, [UGA-OTP-0248-0462-R01](#) at 0499 (rows 733-737); Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#) at 0300 (rows 733-737); P-0019, [UGA-OTP-0262-0176-R01](#) at 0189.

Kony asked Ongwen if he had cleaned the “backside of his mother” in Odek.⁹⁷¹

This query was a reference to the killing of civilians.⁹⁷²

Dominic Ongwen replied: “Completely, OVER”.⁹⁷³

He said he has burned “everything including the barracks”.⁹⁷⁴

344. Later, Otti again called Dominic Ongwen, using his call-sign: “TEM WEK IBONG, TEM WEK IBONG”, asking him to finish his earlier report.

Ongwen said: “I have just come from shooting people” in Odek.⁹⁷⁵

He continued: “[I]et the people wait to hear about the *waya*, we have shot all of them, OVER”.⁹⁷⁶

“*Waya*” was a code word for civilians.⁹⁷⁷

Otti later relayed Ongwen’s report that he had killed so many civilians, “he did not know the number”.⁹⁷⁸ The report finishes with Dominic Ongwen noting that “eight males” were abducted from Odek.⁹⁷⁹ P-0003,⁹⁸⁰ P-0016⁹⁸¹ and P-0059⁹⁸² confirm that the abductees were reported as being “mixed”, a reference to their mixed gender.

345. This radio report is corroborated by the logbook entries recorded by the UPDF, ISO and police on 30 April and 1 May 2004.

⁹⁷¹ P-0059, [UGA-OTP-0248-0328-R01](#) at 0332-0334; P-0003, [UGA-OTP-0248-0094-R01](#) at 0097-0099; P-0019, [UGA-OTP-0262-0176-R01](#) at 0189. Audio transcript annotation by P-0019, [UGA-OTP-0262-0298](#) at 0337 (row 748).

⁹⁷² P-0003, [UGA-OTP-0248-0094-R01](#) at 0097-0098, Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#) at 0301 (rows 748-750); P-0016, [UGA-OTP-0259-0011-R01](#) at 0021.

⁹⁷³ P-0003, [UGA-OTP-0248-0094-R01](#) at 0098.

⁹⁷⁴ P-0059, [UGA-OTP-0248-0328-R01](#) at 0333; P-0019, [UGA-OTP-0262-0176-R01](#) at 0188.

⁹⁷⁵ P-0016, [UGA-OTP-0259-0011-R01](#) at 0023, Audio transcript annotation by P-0016, [UGA-OTP-0259-0065](#) at 0070 (row 1183); P-0019, [UGA-OTP-0262-0176-R01](#) at 0180.

⁹⁷⁶ P-0059, [UGA-OTP-0248-0328-R01](#) at 0334.

⁹⁷⁷ P-0059, [UGA-OTP-0248-0328-R01](#) at 0334.

⁹⁷⁸ P-0059, Audio transcript annotation, [UGA-OTP-0248-0462-R01](#) at 0521 (rows 1302-1304); *see also*, Audio transcript annotation by P-0003, [UGA-OTP-0248-0263-R01](#) at 0323 (rows 1302-1304); P-0016, [UGA-OTP-0259-0011-R01](#) at 0023.

⁹⁷⁹ P-0059, [UGA-OTP-0248-0328-R01](#) at 0334 *referring to* Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#) at 0522, rows 1318-1324.

⁹⁸⁰ P-0003, [UGA-OTP-0248-0094-R01](#) at 0099.

⁹⁸¹ P-0016, [UGA-OTP-0259-0011-R01](#) at 0025.

⁹⁸² P-0059, [UGA-OTP-0248-0328-R01](#) at 0334.

346. On 30 April at 18:30, the ISO logbook records Dominic Ongwen reporting that he had attacked the camp and the barracks, “burning it to the ground completely”, and captured weapons. Ongwen claimed he had “killed more than 10 civilians”.⁹⁸³

347. Also on 30 April at 18:30, the UPDF logbook records a report of the attack by “Dominic Labongo” on Odek.⁹⁸⁴ The reference to “Labongo” is likely a transcription error, given that the short-hand rough note refers only to “Dominic” taking responsibility.⁹⁸⁵ Notably, “Labongo” was also on air at the same time of the Odek attack report.⁹⁸⁶ On hearing of the attack, Kony said that he wanted “those of Odek to be killed seriously b[ecau]se they refused to support him and yet he is born of that place”.⁹⁸⁷ Kony asked if any civilians had died, to which Ongwen replied: “more than 10”.⁹⁸⁸ The entry records the abduction of “8 young boys” from Odek, as well as a list of weapons seized.⁹⁸⁹

348. The relevant police logbook entry records “Tem Wek Ibong”, known to be Dominic Ongwen’s alias, reporting that he “was from killing people” and listing seized weapons. The number of dead civilians was put at “more than 10”.⁹⁹⁰ The death toll was expected to rise as “some were killed in the bush”.⁹⁹¹ It also records the number of “8 missing”, a

⁹⁸³ ISO logbook, [UGA-OTP-0061-0206](#) at 0269-0270.

⁹⁸⁴ UPDF logbook, [UGA-OTP-0197-1670](#) at 1690-1691 (long-hand), [UGA-OTP-0254-2982](#) at 3004-3005 (re-scan).

⁹⁸⁵ UPDF logbook, [UGA-OTP-0197-2319](#) at 2439, 2440, 2445 (short-hand).

⁹⁸⁶ See P-0059, [UGA-OTP-0248-0328-R01](#) at 0332; UPDF logbook, [UGA-OTP-0197-1670](#) at 1690 (long-hand) [UGA-OTP-0254-2982](#) at 3004 (re-scan); ISO logbook, [UGA-OTP-0061-0206](#) at 0269.

⁹⁸⁷ UPDF logbook, [UGA-OTP-0197-1670](#) at 1690, [UGA-OTP-0254-2982](#) at 3004 (re-scan); see also, P-0231, [UGA-OTP-0243-2087-R01](#) at 2093.

⁹⁸⁸ UPDF logbook, [UGA-OTP-0197-1670](#) at 1691, [UGA-OTP-0254-2982](#) at 3005 (re-scan).

⁹⁸⁹ UPDF logbook, [UGA-OTP-0197-1670](#) at 1690, right page (long-hand): “[h]e claimed to have attacked Odek and the following have been charged fm them [...] 08 young boys were abducted”, [UGA-OTP-0254-2982](#) at 3004 (re-scan).; UPDF logbook, [UGA-OTP-0197-2319](#) at 2440 (short-hand): “Abductees 08”; see also, UPDF Intelligence report, [UGA-OTP-0017-0150](#) at 0154, [UGA-OTP-0017-0157](#) at 0160; UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0408-0409, 0414, 0441.

⁹⁹⁰ Police Logbook, [UGA-OTP-0037-0002](#) at 0144-0146.

⁹⁹¹ Police Logbook, [UGA-OTP-0037-0002](#) at 0146; see also, P-0125, [UGA-OTP-0175-0300-R01](#) at 0304.

reference to the abductees taken from Odek.⁹⁹² P-0125, the police constable intercepting LRA radio communications, transcribed a list of fighters responsible for the attack, recording Ongwen as being the commander responsible.⁹⁹³

1 May 2004

349. The second Odek post-attack report by Dominic Ongwen was made on 1 May 2004 at approximately 11:00. It was sound recorded by the ISO in Gulu.⁹⁹⁴ Both P-0019⁹⁹⁵ and P-0059⁹⁹⁶ confirm that Ongwen is the speaker.

350. In this report, Dominic Ongwen says that in yesterday's attack, he captured a valuable "diamond".⁹⁹⁷ Kony asks if it is real, to which Ongwen replies "[I]t is there. Grade A. Over."⁹⁹⁸ Ongwen stated that the officer responsible for looting the diamond is named Okot Martin.⁹⁹⁹ Kony then promotes Okot Martin to the rank of full lieutenant.¹⁰⁰⁰ The results of the Odek attack are also mentioned in this sound recording, in particular that Mega FM had reported that over 23 people were killed in the attack, and that 30 were missing.¹⁰⁰¹

351. This radio report was also recorded in the UPDF and ISO logbooks on 1 May 2004.

352. The ISO logbook records Dominic Ongwen coming on air and saying that he had not completed his report from the previous day. He said that he also successfully pillaged a

⁹⁹² Police Logbook, [UGA-OTP-0037-0002](#) at 0145.

⁹⁹³ See P-0125, [UGA-OTP-0175-0300-R01](#) at 0304, [UGA-OTP-0170-0034](#) at 0036.

⁹⁹⁴ Sound recording, [UGA-OTP-0235-0015](#) (enhanced) [UGA-OTP-0039-0006](#) (original).

⁹⁹⁵ P-0019, [UGA-OTP-0262-0176-R01](#) at 0185-0186, Audio transcript annotation by P-0019, [UGA-OTP-0262-0205](#).

⁹⁹⁶ P-0059, [UGA-OTP-0258-0755](#) at 0767, Audio transcript annotation by P-0059, [UGA-OTP-0258-0809](#).

⁹⁹⁷ P-0059, [UGA-OTP-0258-0755](#) at 0767; P-0019, [UGA-OTP-0262-0176-R01](#) at 0185.

⁹⁹⁸ P-0019, [UGA-OTP-0262-0176-R01](#) at 0186, Audio transcript annotation by P-0019, [UGA-OTP-0262-0205](#) at 0207 (row 39); P-0059, [UGA-OTP-0258-0755](#) at 0768, Audio transcript annotation by P-0059, [UGA-OTP-0258-0809](#) at 0811 (row 39).

⁹⁹⁹ P-0019, [UGA-OTP-0262-0176-R01](#) at 0187, Audio transcript annotation by P-0019, [UGA-OTP-0262-0205](#) at 0210 (row 101); P-0059, [UGA-OTP-0258-0755](#) at 0769, Audio transcript annotation by P-0059, [UGA-OTP-0258-0809](#) at 0814 (row 101).

¹⁰⁰⁰ P-0019, [UGA-OTP-0262-0176-R01](#) at 0186; P-0059, [UGA-OTP-0258-0755](#) at 0767.

¹⁰⁰¹ Audio transcript annotation by P-0019, [UGA-OTP-0262-0205](#) at 0215-0216 (rows 220-233).

“diamond” from Odek.¹⁰⁰² Kony then promoted the same officer mentioned in the above radio report, Okot Martin.¹⁰⁰³ Otti mentioned that Mega FM had reported on the Odek attack: that “23 people were reported killed and 30 missing”.¹⁰⁰⁴ The UPDF logbook records the same details.¹⁰⁰⁵

353. Following the attack, Dominic Ongwen addressed his men and the Odek abductees, including P-0269. Recognising Ongwen from her previous period of captivity in his group,¹⁰⁰⁶ P-0269 heard Ongwen say he had “informed Joseph Kony that he attacked Odek and killed many people”. Upon hearing this, Ongwen said that Kony laughed at the news, saying that anyone living in the camp should be killed.¹⁰⁰⁷ According to P-0245, nothing happened in the Odek attack that was not ordered by Dominic Ongwen.¹⁰⁰⁸

354. Dominic Ongwen’s contributions, individually and cumulatively, were essential to the success of the Odek common plan leading to the commission of the crimes charged. By their coordinated contributions, the co-perpetrators— including Ongwen—exercised control over the crimes committed as a consequence of the common plan.

iii. Dominic Ongwen had joint control over – and used – the organisation, which consisted of an organised and hierarchical apparatus of power

355. This element is satisfied by reference to the section on the common elements of modes of liability, paragraphs 89 to 155.

¹⁰⁰² ISO logbook, [UGA-OTP-0061-0206](#) at 0272-0273.

¹⁰⁰³ ISO logbook, [UGA-OTP-0061-0206](#) at 0273.

¹⁰⁰⁴ ISO logbook, [UGA-OTP-0061-0206](#) at 0272-0273.

¹⁰⁰⁵ UPDF logbook, [UGA-OTP-0197-1670](#) at 1692 (long-hand), [UGA-OTP-0254-2982](#) at 3006 (re-scan); UPDF logbook, [UGA-OTP-0197-2319](#) at 2445 (short-hand).

¹⁰⁰⁶ See P-0269, [UGA-OTP-0271-2322-R01](#) at 2339-2340, [UGA-OTP-0271-2344-R01](#) at 2346- 2354.

¹⁰⁰⁷ P-0269, [UGA-OTP-0271-2464-R01](#) at 2468-2471.

¹⁰⁰⁸ P-0245, [UGA-OTP-0244-0285-R01](#) at 0301-0302.

iv. Dominic Ongwen had the ability to cause the organisation to contribute to the crimes

356. This element is satisfied by reference to the section on the common elements of modes of liability, paragraphs 89 to 155.

v. Dominic Ongwen was aware of the factual circumstances that allowed him to exert joint control over the crimes

357. This element is satisfied by reference to the section on the common elements of modes of liability, paragraphs 89 to 155.

358. Further, as described in detail above in the sections on Dominic Ongwen's role in the Odek common plan, paragraphs 333 to 340, and his essential contribution to the implementation of the plan, paragraphs 341 to 354, Ongwen was aware of the factual circumstances that allowed him to exert control over the crimes committed in Odek.¹⁰⁰⁹

359. Dominic Ongwen's knowledge of the factual circumstances that enabled him to exercise control over the crimes jointly with his co-perpetrators can be established from the following facts:

- he was aware that he exercised *de jure* and *de facto* command authority over the LRA troops;¹⁰¹⁰
- his knowledge that other co-perpetrators who espoused the common plan were willing to implement it and also exercised command and control over the LRA troops;¹⁰¹¹
- his role in planning the attack;¹⁰¹²
- his coordination of the attack on the ground;¹⁰¹³

¹⁰⁰⁹ See sections on the Odek common plan, para. 333-340, and Ongwen's essential contribution to the Odek common plan, para. 341-354.

¹⁰¹⁰ See section on the Odek common plan, para. 333-340.

¹⁰¹¹ *Id.*

¹⁰¹² See section on Dominic Ongwen's essential contribution to the Odek common plan, para. 341-354.

- his knowledge that the LRA had an effective structure and hierarchy;
- his knowledge of the size and structure of the LRA, and its composition of trained fighters with obedience to hierarchy.¹⁰¹⁴

vi. Dominic Ongwen had knowledge and intent as prescribed by article 30 and specific to the crimes

360. Dominic Ongwen intended to bring about the objective elements of the crimes, and/or was aware that they would occur in the ordinary course of events in implementing the Odek common plan.

361. Dominic Ongwen's intent and/or knowledge is established from the following facts:

- he and his co-perpetrators adopted the Odek common plan;¹⁰¹⁵
- he knew that his co-perpetrators espoused the Odek common plan;¹⁰¹⁶
- he knew about the roles that other co-perpetrators were assigned in the Odek common plan and the means they had at their disposal to implement it;¹⁰¹⁷
- he gave instructions to his subordinates to implement the Odek common plan;¹⁰¹⁸
- he was aware of the contribution that other members of the Odek common plan provided towards its implementation;¹⁰¹⁹
- he coordinated the attack on the ground.¹⁰²⁰

Dominic Ongwen is criminally responsible under article 25(3)(b)

362. Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(b) for the crimes charged. Dominic Ongwen ordered the commission of crimes,

¹⁰¹³ *Id.*

¹⁰¹⁴ See section on common elements of modes of liability, para. 89-155.

¹⁰¹⁵ See section on the Odek common plan, para. 333-340.

¹⁰¹⁶ *Id.*

¹⁰¹⁷ *Id.*

¹⁰¹⁸ *Id.*

¹⁰¹⁹ *Id.*

¹⁰²⁰ See section on Dominic Ongwen's essential contribution to the Odek common plan, para. 341-354.

holding a position of authority as Commander of Sinia brigade.¹⁰²¹ He had command authority over the troops and issued military orders during the course of the attack. His orders had a direct effect on the commission or attempted commission of the crimes.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

363. Dominic Ongwen also contributed to the commission or attempted commission of crimes by a group of persons, including Kony and Alero, who were acting with a common purpose to further their criminal activity or criminal purpose to attack the camp, by means which involved the commission of crimes.¹⁰²²

364. Dominic Ongwen knew the group's intention to commit the crimes. As described above, Ongwen intentionally contributed to the commission of these crimes by means including his planning of the operation, his deployment of troops, issuing orders before the attack, and participating in the attack itself, in which crimes against civilians were committed. He did so with the aim of furthering the crimes and criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

Dominic Ongwen is criminally responsible under article 25(3)(f)

365. As described above in the section on attempted murder, paragraphs 306 to 307, on some occasions during the attack, murders resulting from the implementation of the co-perpetrators' common plan, and/or Ongwen's orders, were not fully carried out because of independent circumstances. These comprised acts of attempted murder. Dominic Ongwen is individually criminally responsible under article 25(3)(f) for these acts. As described in the article 25(3)(a) knowledge and intent section, paragraphs 360 to 361, Ongwen possessed the necessary knowledge and intent for these crimes.

¹⁰²¹ *Id.*

¹⁰²² See section on the Odek common plan, para. 333-340.

Dominic Ongwen is criminally responsible under article 28(a)

366. Dominic Ongwen is also individually criminally responsible as a military commander pursuant to article 28(a) for the crimes charged. At the time of the attack, Ongwen was the commander of Sinia brigade.

367. Dominic Ongwen knew that the LRA fighters were committing or were about to commit the crimes in Odek, though, *inter alia*:

- his own involvement in the preparation, planning and/or execution of such crimes;¹⁰²³
- his receipt of information about the commission of such crimes from members of the LRA;
- his personal observation of the commission of such crimes.¹⁰²⁴

368. He took responsibility for the attack on LRA radio. Dominic Ongwen also failed, while under a duty arising 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.¹⁰²⁵

369. The acts and omissions of Dominic Ongwen that demonstrate his failure to take all such necessary and reasonable measures include:

- his failure to order or initiate genuine or adequate investigations of crimes by LRA forces under his command;
- his failure to discipline, dismiss, demote or refrain from promoting or rewarding members of the LRA forces who were involved in the attack;

¹⁰²³ See section on the Odek common plan, para. 333-340.

¹⁰²⁴ See section on Dominic Ongwen's essential contribution to the Odek common plan, para. 341-354.

¹⁰²⁵ See section on common elements of modes of liability, para. 89-155.

- his failure to issue orders that were necessary and reasonable in the circumstances to prevent or repress the commission of crimes by the LRA fighters.

370. Dominic Ongwen's failure to exercise his duty to prevent crimes increased the risk that the forces would commit these crimes.

VIII. ATTACK ON LUKODI IDP CAMP

Introduction

371. Lukodi IDP camp was situated north of Gulu town in Bungatira sub-county, Aswa County, in Gulu district.¹⁰²⁶ The camp included two main civilian areas, military barracks, a school, and a trading centre.¹⁰²⁷ About 7,000 people lived in the camp in May 2004.¹⁰²⁸ There were 30 LDU soldiers stationed at the barracks.¹⁰²⁹

372. On or about 19 May 2004, at around 18:00, a large group of LRA fighters attacked Lukodi IDP camp from the east.¹⁰³⁰ Dressed in a mix of military-style uniforms and civilian clothing, the LRA were armed with firearms, light support weapons, sticks, spears, and machetes.¹⁰³¹ The attackers included men, women and children.¹⁰³² The attack started with a whistle.¹⁰³³ Government soldiers withdrew after a short

¹⁰²⁶ P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0022; P-0035, [UGA-OTP-0036-0082-R01](#) at 0084.

¹⁰²⁷ P-0060, Sketch, [UGA-OTP-0069-0048](#) at 0048; P-0035, Sketch, [UGA-OTP-0036-0094](#) at 0094; P-0205, Sketch, [UGA-OTP-0233-1387](#) at 1387; P-0036, Sketch, [UGA-OTP-0036-0063](#) at 0063; P-0119, Sketch, [UGA-OTP-0171-0064-R01](#) at 0077; P-0202, Sketch, [UGA-OTP-0236-0489](#) at 0489.

¹⁰²⁸ P-0017, [UGA-OTP-0036-0007-R01](#) at 0035; P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0022.

¹⁰²⁹ P-0035, [UGA-OTP-0036-0082-R01](#) at 0084.

¹⁰³⁰ P-0024, [UGA-OTP-0069-0189-R01](#) at 0191; P-0185, [UGA-OTP-0233-1020-R01](#) at 1027; P-0187, [UGA-OTP-0233-1031-R01](#) at 1034; P-0195, [UGA-OTP-0233-1046-R01](#) at 1050; P-0119, [UGA-OTP-0171-0064-R01](#) at 0067-0068. According to other witness accounts, the attack took place on 20 May 2004. *See e.g.*, P-0026, [UGA-OTP-0069-0018-R01](#) at 0021; P-0060, [UGA-OTP-0069-0034-R01](#) at 0041; P-0017, [UGA-OTP-0036-0007-R01](#) at 0036; P-0035, [UGA-OTP-0036-0082-R01](#) at 0087 (between 20 and 22 May). While witness accounts differ as to the date and time of the attack, they are consistent in their description of the attack.

¹⁰³¹ P-0024, [UGA-OTP-0069-0189-R01](#) at 0191, 0193; P-0026, [UGA-OTP-0069-0018-R01](#) at 0021; P-0035, [UGA-OTP-0036-0082-R01](#) at 0088; P-0410, [UGA-OTP-0267-0207-R01](#) at 0226; P-0185, [UGA-OTP-0233-1020-R01](#) at 1024; P-0119, [UGA-OTP-0171-0064-R01](#) at 0068.

¹⁰³² P-0035, [UGA-OTP-0036-0082-R01](#) at 0088; P-0195, [UGA-OTP-0233-1046-R01](#) at 1052.

¹⁰³³ P-0018, [UGA-OTP-0159-0002-R01](#) at 0011; P-0410, [UGA-OTP-0267-0207-R01](#) at 0226.

engagement with the LRA, leaving the remaining civilian population defenceless.¹⁰³⁴ At this point, the civilians became the sole target of the LRA.¹⁰³⁵

373. The attack lasted no more than an hour or two.¹⁰³⁶ Nevertheless, the attackers caused chaos in the camp. They intentionally injured and killed civilians, adults and children alike. They set civilian huts on fire, and looted food and other property. They abducted men and women to carry the loot, and conscripted children to serve as LRA fighters. UPDF reinforcements arrived shortly after the LRA had retreated from the camp.¹⁰³⁷ The wounded were transported to Gulu Regional Referral Hospital, but some later died as a result of injuries.¹⁰³⁸ Because of the attack, most civilians abandoned the camp.¹⁰³⁹

374. The attack group consisted of fighters from the Gilva brigade sick-bay and Sinia brigade.¹⁰⁴⁰ Dominic Ongwen had control over the attack and the attackers. He conceived, planned, and ordered the attack. Before the attack, he selected fighters, appointed leaders, delegated responsibilities, briefed the attack group, and sent them to execute his orders. After the attack – he did not go into the camp himself but remained nearby – Ongwen received a report from his officers who led the attack and communicated the results of the attack on the LRA military radio to Kony, Otti, and other senior LRA commanders.

¹⁰³⁴ P-0024, [UGA-OTP-0069-0189-R01](#) at 0191; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011; P-0202, [UGA-OTP-0243-0907-R01](#) at 0922-0923; P-0035, [UGA-OTP-0036-0082-R01](#) at 0084.

¹⁰³⁵ P-0410, [UGA-OTP-0267-0207-R01](#) at 0226-0227; P-0202, [UGA-OTP-0243-0907-R01](#) at 0919; P-0258, [UGA-OTP-0243-1824-R01](#) at 1828, 1830.

¹⁰³⁶ P-0035, [UGA-OTP-0036-0082-R01](#) at 0088; P-0187, [UGA-OTP-0233-1031-R01](#) at 1038; P-0410, [UGA-OTP-0267-0207-R01](#) at 0226.

¹⁰³⁷ P-0026, [UGA-OTP-0069-0018-R01](#) at 0022-0023; P-0187, [UGA-OTP-0233-1031-R01](#) at 1036; P-0205, [UGA-OTP-0247-0109-R01](#) at 0117; P-0035, [UGA-OTP-0036-0082-R01](#) at 0089.

¹⁰³⁸ P-0026, [UGA-OTP-0069-0018-R01](#) at 0024; P-0035, [UGA-OTP-0036-0082-R01](#) at 0089; P-0036, [UGA-OTP-0036-0042-R01](#) at 0056; P-0017, [UGA-OTP-0036-0007-R01](#) at 0037.

¹⁰³⁹ P-0060, [UGA-OTP-0069-0034-R01](#) at 0037; P-0026, [UGA-OTP-0069-0018-R01](#) at 0025.

¹⁰⁴⁰ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 28-29; P-0258, [UGA-OTP-0243-1824-R01](#) at 1825-1826, 1829, 1836.

Crimes committed in Lukodi

Count 24 - attack directed against the civilian population (article 8(2)(e)(i))

375. LRA fighters under Dominic Ongwen's command carried out an attack against the civilian population of Lukodi IDP camp as such, or individual civilians not taking direct part in the hostilities. Ongwen intended them to be the object of the attack.

376. The number of murdered and wounded civilians, the nature of the crimes, the ages and identities of victims, and the extent of destroyed civilian property – which can be seen in video footage and photographs taken in the aftermath of the attack – all demonstrate that Ongwen's soldiers attacked the civilian population of Lukodi deliberately.¹⁰⁴¹

377. The Prosecution submits that the following facts described under counts 25-28 (murder and attempted murder), counts 29-30 (torture), count 31 (other inhumane acts), count 32 (cruel treatment), count 33 (enslavement), count 34 (pillaging), and count 35 (destruction of property) constitute the underlying conduct of the war crime of attack directed against the civilian population.

Counts 25-26 - murder (articles 7(1)(a) and 8(2)(c)(i))

378. In the course of the attack, LRA fighters killed more than 45 civilians, including at least 12 children.¹⁰⁴² These civilians took no active part in hostilities.¹⁰⁴³ In contrast, not one Government soldier was killed in the attack.¹⁰⁴⁴ The civilians were shot, stabbed,

¹⁰⁴¹ Video, [UGA-OTP-0023-0008](#); Photographs, [UGA-OTP-0023-0311](#) to [UGA-OTP-0023-0360](#), [UGA-OTP-0023-0391](#) to [UGA-OTP-0023-0407](#); P-0036, Forensic Medical Report, [UGA-OTP-0023-0188](#) at 0191-0194.

¹⁰⁴² P-0042, List of Dead, [UGA-OTP-0146-0145](#) at 0145 (46 names); P-0035, [UGA-OTP-0036-0082-R01](#) at 0090 (“23 to 25 dead bodies”, including “bodies of at least 12 children”); P-0038, Photograph, [UGA-OTP-0016-0637](#) (dead child); P-0060, Notebook, [UGA-OTP-0069-0049](#) at 0050-0052 (42 names); P-0017, [UGA-OTP-0036-0007-R01](#) at 0037 (“42 civilians”); P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0024-0025 (“42 civilians”); Police intelligence report, [UGA-OTP-0256-0312](#) (“more than 40 civilians”); P-0256, Photographs, [UGA-OTP-0250-1475](#), [UGA-OTP-0250-1476](#) (45 names).

¹⁰⁴³ P-0410, [UGA-OTP-0267-0207-R01](#) at 0227.

¹⁰⁴⁴ P-0035, [UGA-OTP-0036-0082-R01](#) at 0089; P-0018, [UGA-OTP-0159-0002-R01](#) at 0012; P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0024.

strangled, burned, and beaten to death.¹⁰⁴⁵ P-0026's eight-year-old daughter was shot in the stomach and bled to death in front of her.¹⁰⁴⁶ P-0024 watched LRA fighters throw her own daughter and two other children inside a burning house. When the children tried to escape from the fire, LRA fighters threw them back inside, where they perished. They were just four years old.¹⁰⁴⁷ P-0024's mother, uncle, and son were shot and killed during the attack.¹⁰⁴⁸

379. The killing of civilians was not confined to the camp itself. The LRA killed abductees, mainly men, after they left Lukodi.¹⁰⁴⁹ That night, P-0187 heard the sound of other abductees being beaten to death.¹⁰⁵⁰ After her release, P-0195 saw an old man's body with a gunshot wound near the Unyama River.¹⁰⁵¹ P-0187 saw the corpses of male and female abductees at a distance from Lukodi camp, which were never collected and buried.¹⁰⁵²

380. The LRA attackers did not hide their murderous intent. Abductee P-0185 heard LRA fighters say, "kill all of them".¹⁰⁵³ P-0195, who was abducted to carry the loot, was told by an LRA commander that Joseph Kony was very upset with civilians, and that the LRA were "supposed to kill all of you".¹⁰⁵⁴

¹⁰⁴⁵ P-0036, [UGA-OTP-0036-0042-R01](#) at 0058-0059; P-0196, [UGA-OTP-0233-1061-R01](#) at 1066; P-0185, [UGA-OTP-0233-1020-R01](#) at 1025; P-0195, [UGA-OTP-0233-1046-R01](#) at 1052, 1055-1056; P-0187, [UGA-OTP-0233-1031-R01](#) at 1038; P-0410, [UGA-OTP-0267-0207-R01](#) at 0226-0227; P-0202, [UGA-OTP-0243-0907-R01](#) at 0914-0915, 0919-0920; P-0035, [UGA-OTP-0036-0082-R01](#) at 0089-0090; P-0301, [UGA-OTP-0249-0423-R01](#) at 0433.

¹⁰⁴⁶ P-0026, [UGA-OTP-0069-0018-R01](#) at 0022.

¹⁰⁴⁷ P-0024, [UGA-OTP-0069-0189-R01](#) at 0193.

¹⁰⁴⁸ P-0024, [UGA-OTP-0069-0189-R01](#) at 0195.

¹⁰⁴⁹ P-0187, [UGA-OTP-0233-1031-R01](#) at 1038, 1042; P-0202, [UGA-OTP-0243-0907-R01](#) at 0915; P-0119, [UGA-OTP-0171-0064-R01](#) at 0068-0069.

¹⁰⁵⁰ P-0187, [UGA-OTP-0233-1031-R01](#) at 1038-1039.

¹⁰⁵¹ P-0195, [UGA-OTP-0233-1046-R01](#) at 1055; *see also*, P-0024, [UGA-OTP-0069-0189-R01](#) at 0193.

¹⁰⁵² P-0187, [UGA-OTP-0233-1031-R01](#) at 1038, 1042.

¹⁰⁵³ P-0185, [UGA-OTP-0233-1020-R01](#) at 1024.

¹⁰⁵⁴ P-0195, [UGA-OTP-0233-1046-R01](#) at 1054.

381. The day after the attack, Lukodi residents buried their dead in and around the camp.¹⁰⁵⁵ In the following days, P-0036, a Government pathologist from Kampala, exhumed and re-buried 25 bodies on the site as part of a local investigation into the incident, revealing some of the identities of victims and the manner in which they died.¹⁰⁵⁶ These exhumations were also recorded by the authorities on video, wherein the names and ages of the deceased are visible, ranging between 2 and 80 years old.¹⁰⁵⁷ P-0301, who arrived at the camp at 09:00 the morning after the attack to assess the security situation, saw “bodies hacked in a barbaric way.”¹⁰⁵⁸ He recorded 38 bodies of men, women, and children, all civilians, including a three-year-old girl and elderly people.¹⁰⁵⁹

Counts 27-28 - attempted murder (articles 7(1)(a) and 8(2)(c)(i))

382. On some occasions during the attack on Lukodi, murders were not fully carried out because of circumstances independent of Ongwen’s intentions. LRA fighters commenced the crime by means of the substantial step of attacking the victim, but the victim did not die. These constitute acts of attempted murder.

383. LRA fighters shot at children and adults who were taking no active part in hostilities.¹⁰⁶⁰ At least six civilians were wounded in the course of the attack.¹⁰⁶¹ For

¹⁰⁵⁵ P-0035, [UGA-OTP-0036-0082-R01](#) at 0089.

¹⁰⁵⁶ P-0036, [UGA-OTP-0036-0042-R01](#) at 0058; *see further*, P-0017, [UGA-OTP-0036-0007-R01](#) at 0037; P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0024; P-0036, [UGA-OTP-0036-0042-R01](#) at 0056-0059; P-0036, Forensic Medical Report, [UGA-OTP-0023-0105](#) at 0108-0111; 25 Post-Mortem Requests and 25 Reports, [UGA-OTP-0146-0153](#) to [UGA-OTP-0146-0227](#); P-0035, [UGA-OTP-0036-0082-R01](#) at 0090-0091; P-0301, [UGA-OTP-0249-0423-R01](#) at 0433. For a complete CID file, *see* [UGA-OTP-0248-1235](#).

¹⁰⁵⁷ *See* Video, [UGA-OTP-0023-0008](#) at time stamps 00:29:15 - Exhumed body of ANYWAR Charles, aged 33; 00:31:40 - Exhumed body OPIRO James, aged 7; 00:32:03 - Exhumed body of OROMOA Santo, aged 35 years; 00:32:53 - Exhumed body of ANGOM Jojina, aged 80; 00:34:44 - Exhumed body of OJARA Joseph, aged 4; 00:25:39 - Exhumed body of OCAYA Vincent, aged 64; 00:35:42 - Exhumed body of ODOCH Agoja, aged 85; 00:36:23 - Exhumed body of ALUM Tabisha 80; 00:36:33 - Exhumed body of AJOK Ajaaf, aged 7; 00:37:10 - Exhumed body of AKELLO Ataro, aged 3; 00:37:19 - Exhumed body of OKELLO Innocent, aged 3; 00:38:18 - Makeshift graves are visible; 00:39:49 - Exhumed body of LAKOT Janath, aged 32; 00:40:00 - Exhumed body of OKOT Kenneri, aged 65; 00:42:03 - Exhumed body of OBEN Otto, aged 6; 00:45:23 - Exhumed body of KITER Rose, aged 55; 00:46:01 - Exhumed body of ATIM Ajok, aged 2; 00:46:25 - Exhumed body of AJUK Christine, aged 25; 00:48:11 - Exhumed body of OTIM David, aged 28.

¹⁰⁵⁸ P-0301, [UGA-OTP-0249-0423-R01](#) at 0433.

¹⁰⁵⁹ P-0301, [UGA-OTP-0249-0423-R01](#) at 0432-0433.

¹⁰⁶⁰ P-0024, [UGA-OTP-0069-0189-R01](#) at 0191; P-0026, [UGA-OTP-0069-0018-R01](#) at 0022, 0024.

example, P-0026 and her two daughters were at home when five LRA fighters started shooting into their house. P-0026 and her older daughter were shot and wounded, while her youngest did not survive.¹⁰⁶² Similarly, LRA fighters hit P-0185 with a bayonet, and shot at him when he tried to escape.¹⁰⁶³ Abductee P-0196, a seven-year-old child, was hiding with his siblings and others in a grass-thatched hut when an attacker fired a shot inside.¹⁰⁶⁴

384. Children were thrown into burning huts, and kicked back inside when they tried to escape.¹⁰⁶⁵ An LRA fighter threw P-0196 inside a burning hut because the child was “interfering with the movement of other abductees”. When P-0196 finally managed to get outside, an LRA fighter shouted that he should be shot.¹⁰⁶⁶

Counts 29-30 - torture (articles 7(1)(f) and 8(2)(c)(i)) and count 31 – other inhumane acts (articles 7(1)(k)) and count 32 - cruel treatment (article 8(2)(c)(i))

385. The beating of civilians, forcing them to carry heavy loads, often for long distances while tied to each-other under constant threat of harm, being subjected to punitive conditions, and witnessing the beatings and killings of other abductees who were either too weak or who attempted to escape caused severe physical or mental pain or suffering to civilians at Lukodi.¹⁰⁶⁷ These acts amounted to torture under articles 7(1)(f) and 8(2)(c)(i), the war crime of cruel treatment under article 8(2)(c)(i), and the crime against humanity of other inhumane acts under article 7(1)(k) of the Statute.¹⁰⁶⁸

¹⁰⁶¹ P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0024; P-0060, Notebook, [UGA-OTP-0069-0049](#) at 0052-0053; P-0035, [UGA-OTP-0036-0082-R01](#) at 0089.

¹⁰⁶² P-0026, [UGA-OTP-0069-0018-R01](#) at 0022; Medical records, [UGA-OTP-0069-0355](#) at 0355-0358.

¹⁰⁶³ P-0185, [UGA-OTP-0233-1020-R01](#) at 1024.

¹⁰⁶⁴ P-0196, [UGA-OTP-0233-1061-R01](#) at 1065.

¹⁰⁶⁵ P-0187, [UGA-OTP-0233-1031-R01](#) at 1037; P-0024, [UGA-OTP-0069-0189-R01](#) at 0193; P-0410, [UGA-OTP-0267-0207-R01](#) at 0227.

¹⁰⁶⁶ P-0196, [UGA-OTP-0233-1061-R01](#) at 1065.

¹⁰⁶⁷ See *Prosecutor v Brdjanin*, IT-98-36-A, Appeal Judgement, 3 April 2007, para. 251: “Acts inflicting physical pain may amount to torture even when they do not cause the amount of pain of the type accompanying serious injury. Whether an act causes severe pain or suffering is determined on a case-by-case basis”.

¹⁰⁶⁸ For the purposes of applying the “materially distinct” test, the legal elements of the crime may include the *chapeau* requirements of the particular crime. See ICC-01/04-01/07-3436-tENG, para. 1696; see also, ICC-01/04-

386. In the course of the attack on Lukodi, LRA fighters inflicted severe physical and mental pain or suffering on civilians taking no active part in hostilities. Such pain or suffering did not arise from, and was not inherent in or incidental to, lawful sanctions.

387. These acts were carried out to intimidate and/or punish the civilian population because of their perceived support for the Government¹⁰⁶⁹ and when the civilians were under the control of the LRA attackers.¹⁰⁷⁰ The pain inflicted amounted to torture, cruel treatment, and other inhumane acts.

388. The LRA attackers ruthlessly assaulted civilians, in particular small children.¹⁰⁷¹ P-0024 saw two girls, including her own daughter, being beaten when they tried to escape from a burning house. Both girls survived, but sustained eye injuries.¹⁰⁷²

389. Abducted civilians – including mothers with babies and elderly people – were forced to carry heavy loot while being beaten and under threat of death.¹⁰⁷³ Those not able to continue carrying heavy loot were shot.¹⁰⁷⁴ P-0187 was stabbed for dropping a heavy load, and was beaten for allowing a looted goat to escape when trying to hide from a helicopter gunship.¹⁰⁷⁵

390. As LRA fighters marched abductees out of the camp, they forced mothers to abandon their children under threat of death. The LRA fighters threw small children, including

01/07-717, para. 419; *see further*, *Prosecutor v Natelic & Martinovic*, IT-98-34-A, Appeal Judgement, 3 May 2006, para. 562.

¹⁰⁶⁹ Per Element 2 of the war crime of torture: “The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind”. *See* Elements of Crimes, article 8(2)(c)(i)-4, para. 2. *See generally*, the section on persecution, para. 156-203. *See especially*, the submissions on persecution under Count 36, para. 192-194.

¹⁰⁷⁰ Per Element 2 of the crime against humanity of torture: “Such person or persons were in the custody or under the control of the perpetrator”. *See* Elements of Crimes, article 7(1)(f), para. 2.

¹⁰⁷¹ P-0195, [UGA-OTP-0233-1046-R01](#) at 1055; P-0024, [UGA-OTP-0069-0189-R01](#) at 0191, 0194; P-0035, [UGA-OTP-0036-0082-R01](#) at 0088.

¹⁰⁷² P-0024, [UGA-OTP-0069-0189-R01](#) at 0193.

¹⁰⁷³ P-0024, [UGA-OTP-0069-0189-R01](#) at 0192; P-0187, [UGA-OTP-0233-1031-R01](#) at 1036.

¹⁰⁷⁴ P-0024, [UGA-OTP-0069-0189-R01](#) at 0193; P-0018, [UGA-OTP-0159-0002-R01](#) at 0012.

¹⁰⁷⁵ P-0187, [UGA-OTP-0233-1031-R01](#) at 1036.

babies, in the bush because the children were crying and making it difficult for their mothers to carry pillaged goods.¹⁰⁷⁶ Children that tried to re-join their mothers were kicked back into the bush.¹⁰⁷⁷

Count 33 – enslavement (article 7(1)(c))

391. LRA fighters under Dominic Ongwen’s command deprived civilians of their liberty by abducting them and placing them under military guard to prevent their escape. Men, women and children were abducted, conscripted into the LRA, forced to perform manual labour, or otherwise reduced to a servile status.

392. During the attack, a designated group of LRA fighters systematically abducted civilians.¹⁰⁷⁸ Abductees were tied up and marched from the camp to the LRA’s rendezvous point (“RV”) under armed guard.¹⁰⁷⁹ These abductees – mainly women aged 20 to 50 – were used as slave labour to carry looted items such as beans, sim-sim, and sorghum.¹⁰⁸⁰ P-0195, the wife of P-0185, was abducted along with their young daughter, but was later released.¹⁰⁸¹ Most women were subsequently released after they reached a resting point, although not all abductees were this fortunate.¹⁰⁸²

393. In compliance with Joseph Kony’s orders, boys and girls were abducted with the intention of turning them into soldiers or sex slaves.¹⁰⁸³ P-0410, who participated in the

¹⁰⁷⁶ P-0195, [UGA-OTP-0233-1046-R01](#) at 1051-1052; P-0187, [UGA-OTP-0233-1031-R01](#) at 1037; P-0024, [UGA-OTP-0069-0189-R01](#) at 0194; P-0202, [UGA-OTP-0243-0907-R01](#) at 0915, 0920; P-0018, [UGA-OTP-0159-0002-R01](#) at 0013.

¹⁰⁷⁷ P-0024, [UGA-OTP-0069-0189-R01](#) at 0194.

¹⁰⁷⁸ P-0119, [UGA-OTP-0171-0064-R01](#) at 0068-0069; P-0205, [UGA-OTP-0243-0719-R01](#) at 0726; P-0142, [UGA-OTP-0228-4583-R01](#) at 4591; P-0410, [UGA-OTP-0267-0207-R01](#) at 0226-0227; P-0202, [UGA-OTP-0243-0928-R01](#) at 0939, 0943, [UGA-OTP-0243-0948-R01](#) at 0951-0952.

¹⁰⁷⁹ P-0195, [UGA-OTP-0233-1046-R01](#) at 1051; P-0187, [UGA-OTP-0233-1031-R01](#) at 1035-1036, 1038; P-0024, [UGA-OTP-0069-0189-R01](#) at 0192; P-0119, [UGA-OTP-0171-0064-R01](#) at 0068-0069.

¹⁰⁸⁰ P-0196, [UGA-OTP-0233-1061-R01](#) at 1065; P-0024, [UGA-OTP-0069-0189-R01](#) at 0193; P-0195, [UGA-OTP-0233-1046-R01](#) at 1053-1054; P-0205, [UGA-OTP-0247-0109-R01](#) at 0117. *See also*, P-0060, Notebook, [UGA-OTP-0069-0049](#) at 0052.

¹⁰⁸¹ P-0185, [UGA-OTP-0233-1020-R01](#) at 1026-1027.

¹⁰⁸² P-0187, [UGA-OTP-0233-1031-R01](#) at 1039, 1041; P-0205, [UGA-OTP-0247-0109-R01](#) at 0117.

¹⁰⁸³ P-0205, [UGA-OTP-0243-0690-R01](#) at 0701, [UGA-OTP-0243-0819-R01](#) at 0825-0827; P-0410, [UGA-OTP-0267-0207-R01](#) at 0227; P-0119, [UGA-OTP-0171-0064-R01](#) at 0068-0069.

attack, saw that the LRA captured many children aged ten and above, including young girls.¹⁰⁸⁴ P-0196, his two siblings, and other civilians were taken from a hut where they were hiding. P-0196's brother never returned, and his fate remains unknown.¹⁰⁸⁵

Count 34 – pillaging (article 8(2)(e)(v))

394. LRA fighters appropriated food items and other personal property from Lukodi. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation. The pillaging was not justified by military necessity.

395. Prior to the attack, relief organisations had distributed emergency supplies to Lukodi residents, such as beans, maize, cooking oil, soap, cooking utensils, and blankets.¹⁰⁸⁶ These items were subsequently looted by the LRA.

396. During the attack, the LRA fighters entered civilian houses and shops to take food, livestock, clothes, and household items.¹⁰⁸⁷ P-0185 saw the LRA loot sugar, salt, sweets, and soap from a shop.¹⁰⁸⁸ LRA fighters also forced civilians to collect food and household items from civilian houses, and to carry the loot to the RV point under armed guard.¹⁰⁸⁹ P-0195 and her sister-in-law were forced to carry beans and maize bags taken from her house.¹⁰⁹⁰ LRA fighters forced P-0024, with a two-week old baby on her back, to carry two basins of beans on her head.¹⁰⁹¹

¹⁰⁸⁴ P-0410, [UGA-OTP-0267-0207-R01](#) at 0227.

¹⁰⁸⁵ P-0196, [UGA-OTP-0233-1061-R01](#) at 1066.

¹⁰⁸⁶ P-0026, [UGA-OTP-0069-0018-R01](#) at 0022; P-0187, [UGA-OTP-0233-1031-R01](#) at 1034; P-0195, [UGA-OTP-0233-1046-R01](#) at 1050, 1057; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011; P-0202, [UGA-OTP-0243-0948-R01](#) at 0954.

¹⁰⁸⁷ P-0026, [UGA-OTP-0069-0018-R01](#) at 0022; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011; P-0205, [UGA-OTP-0247-0089-R01](#) at 0107-0108; P-0202, [UGA-OTP-0243-0928-R01](#) at 0943-0944.

¹⁰⁸⁸ P-0185, [UGA-OTP-0233-1020-R01](#) at 1024.

¹⁰⁸⁹ P-0187, [UGA-OTP-0233-1031-R01](#) at 1035-1036, 1038; P-0024, [UGA-OTP-0069-0189-R01](#) at 0192; P-0202, [UGA-OTP-0243-0907-R01](#) at 0924; P-0035, [UGA-OTP-0036-0082-R01](#) at 0090-0091.

¹⁰⁹⁰ P-0195, [UGA-OTP-0233-1046-R01](#) at 1051.

¹⁰⁹¹ P-0024, [UGA-OTP-0069-0189-R01](#) at 0192. *See also*, P-0060, Notebook, [UGA-OTP-0069-0049](#) at 0052.

Count 35 - destruction of property (article 8(2)(e)(xii))

397. LRA fighters destroyed property belonging to civilians in Lukodi, whom they viewed as adversaries. The property was protected from destruction under the international law of armed conflict. The destruction was not required by military necessity.

398. The attackers deliberately burned civilian huts and the property that remained after their looting.¹⁰⁹² The extent of destroyed civilian property, visible in video footage and photographs taken in the aftermath of the attack, illustrates the deliberate nature of the destruction. The post-attack video shows Ugandan Police, the UPDF, medical personnel, and local officials inspecting the camp after the attack.¹⁰⁹³ Burned civilian huts are visible throughout the video.¹⁰⁹⁴ P-0301 recalled seeing “the remains of burned out huts”.¹⁰⁹⁵ Over 200 civilian huts in the camp, in addition to the army detachment, were burnt.¹⁰⁹⁶

Count 36 - persecution (article 7(1)(h))

399. The facts described above under count 24 (attack on civilians), counts 25-28 (murder and attempted murder), counts 29-30 (torture), count 31 (other inhumane acts), count 32 (cruel treatment), count 33 (enslavement), count 34 (pillaging), and count 35 (destruction of property) form the underlying conduct of the crime of persecution. The submissions in the section on persecution in paragraphs 156 to 203 are incorporated here by reference.

¹⁰⁹² P-0410, [UGA-OTP-0267-0207-R01](#) at 0226-0227; P-0195, [UGA-OTP-0233-1046-R01](#) at 1051; P-0187, [UGA-OTP-0233-1031-R01](#) at 1036-1037, 1042; P-0024, [UGA-OTP-0069-0189-R01](#) at 0192; P-0202, [UGA-OTP-0243-0907-R01](#) at 0924-0925; P-0196, [UGA-OTP-0233-1061-R01](#) at 1066; P-0185, [UGA-OTP-0233-1020-R01](#) at 1025; P-0026, [UGA-OTP-0069-0018-R01](#) at 0022; P-0035, [UGA-OTP-0036-0082-R01](#) at 0088; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011-0012.

¹⁰⁹³ Video, [UGA-OTP-0023-0008](#). Lukodi Primary School is visible at 00:07:54 and 00:11:45, confirming the location; P-0036, Forensic Medical Report, [UGA-OTP-0023-0105](#) at 0108-0111.

¹⁰⁹⁴ See Video, [UGA-OTP-0023-0008](#), time stamps: 00:08:17, 00:09:25, 00:12:30, 00:13:45, 00:14:40, 00:16:10, 00:20:45, 00:28:30, 00:33:50, 00:35:54, 00:44:25, where burning huts in Lukodi are visible; see also, Photographs, [UGA-OTP-0023-0311](#) to [UGA-OTP-0023-0360](#), [UGA-OTP-0023-0391](#) to [UGA-OTP-0023-0407](#).

¹⁰⁹⁵ P-0301, [UGA-OTP-0249-0423-R01](#) at 0433.

¹⁰⁹⁶ P-0017, [UGA-OTP-0036-0007-R01](#) at 0037; P-0017, CID Report, [UGA-OTP-0023-0022](#) at 0024; Police intelligence report, [UGA-OTP-0256-0312](#).

Dominic Ongwen's individual criminal responsibility for crimes in Lukodi

400. The evidence shows that Dominic Ongwen is individually criminally responsible for the crimes charged pursuant to article 25(3)(a) as the sole indirect perpetrator.¹⁰⁹⁷ He had control over the crimes described above because the persons who directly perpetrated the crimes were acting as his 'tools'. He is also, in the alternative, responsible under articles 25(3)(b), (d)(i) and (ii), and (f), and as a military commander pursuant to article 28(a).

Dominic Ongwen is criminally responsible under article 25(3)(a)

i. Dominic Ongwen exerted control over the crimes whose material elements were brought about by one or more persons

401. The following facts demonstrate Dominic Ongwen's control over the crimes committed in Lukodi, the material elements of which were brought about by persons under his control. The submissions that follow should be read in conjunction with paragraphs 89 to 155 of this document, which address the modes of liability common to many of the charges brought against Ongwen.

402. First, Dominic Ongwen devised the plan to attack Lukodi IDP camp, which included overrunning a military detachment, abducting, brutalising and killing civilians, and burning and looting civilian homes.¹⁰⁹⁸ He considered the civilians at Lukodi to be "stubborn".¹⁰⁹⁹ According to P-0142 and P-0172, a former Captain in the LRA¹¹⁰⁰ attached to the Gilva brigade sick-bay at the time of the Lukodi attack, other LRA officers helped

¹⁰⁹⁷ See ICC-01/04-01/07-3436-tENG, para. 1399. The Prosecution adopts the following elements for indirect perpetration as held in *Katanga*:

"In the Chamber's view, and in accordance with its foregoing definition of perpetrator, criminal responsibility as an indirect perpetrator is incurred where a person:

- i. exerts control over the crime whose material elements were brought about by one or more persons;
- ii. meets the mental elements prescribed by article 30 and the mental elements specific to the crime at issue; and
- iii. is aware of the factual circumstances which allow the person to exert control over the crime".

¹⁰⁹⁸ P-0018, [UGA-OTP-0159-0002-R01](#) at 0009-0010; P-0019, [UGA-OTP-0218-0571-R01](#) at 0590-0591.

¹⁰⁹⁹ P-0202, [UGA-OTP-0243-0907-R01](#) at 0925-0926; P-0018, [UGA-OTP-0159-0002-R01](#) at 0010.

¹¹⁰⁰ P-0142, [UGA-OTP-0243-2356-R01](#) at 2358.

Ongwen to design the exact plan of the attack.¹¹⁰¹ On 17 May 2004, two or three days before the attack, during an LRA radio communication, Ongwen requested permission from Kony to attack camps and pillage food.¹¹⁰²

403. Second, Dominic Ongwen exerted control over the Sinia brigade and Gilva brigade sick-bay forces that executed the attack on Lukodi. Before the attack, he selected a core group of fighters from his Sinia brigade.¹¹⁰³ He had also gathered fighters from Major Olak Tulu's Gilva sick-bay near the Aswa River one day before the attack.¹¹⁰⁴ These forces were under Ongwen's command on an *ad hoc* basis for the duration of the Lukodi attack. Ongwen was able to do so because he was senior to Tulu in the LRA hierarchy.¹¹⁰⁵

404. Third, Dominic Ongwen gave specific orders to his subordinates about the attack on Lukodi.¹¹⁰⁶ During a pre-attack briefing near Atoo Hills, he instructed the attack group on how to enter the camp and defeat the Government soldiers.¹¹⁰⁷ He divided the attackers into two sub-groups: one group primarily engaged the military defence, while another targeted the civilian camp.¹¹⁰⁸ He ordered his subordinates to shoot soldiers, burn houses, loot everything, and to return with food.¹¹⁰⁹ Ongwen told his fighters to kill

¹¹⁰¹ P-0172, [UGA-OTP-0243-2468-R01](#) at 2475; P-0142, [UGA-OTP-0244-0732-R01](#) at 0738.

¹¹⁰² UPDF logbook, [UGA-OTP-0197-1670](#) at 1723.

¹¹⁰³ P-0142, [UGA-OTP-0228-4542-R01](#) at 4562; P-0018, [UGA-OTP-0159-0002-R01](#) at 0009-0010; P-0145, [UGA-OTP-0219-0213-R01](#) at 0228.

¹¹⁰⁴ P-0172, [UGA-OTP-0243-2331-R01](#) at 2341-2343, [UGA-OTP-0243-2468-R01](#) at 2472-2473, 2474-2476, [UGA-OTP-0243-2519-R01](#) at 2528, 2533, 2535, 2540; P-0145, [UGA-OTP-0219-0213-R01](#) at 0221, 0223, 0228-0229; P-0224, [UGA-OTP-0244-2961-R01](#) at 2978; P-0142, [UGA-OTP-0244-0732-R01](#) at 0738, 0741; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 28-30; P-0018, [UGA-OTP-0159-0002-R01](#) at 0009-0010; P-0016, [UGA-OTP-0228-3464-R01](#) at 3480-3484. According to P-0172, most of Tulu's fighters joined Ongwen's group (See [UGA-OTP-0243-2519-R01](#) at 2541). According to P-0145, Ongwen arrived at Gilva sickbay location and addressed the officers telling them to prepare people because he already had a standby force (See [UGA-OTP-0219-0213-R01](#) at 0222). Tulu was also known under the names Otulu and Toolbox.

¹¹⁰⁵ P-0258, [UGA-OTP-0243-1824-R01](#) at 1830.

¹¹⁰⁶ P-0142, [UGA-OTP-0228-4620-R01](#) at 4622; P-0016, [UGA-OTP-0228-3464-R01](#) at 3486.

¹¹⁰⁷ P-0245, [UGA-OTP-0244-0393-R01](#) at 0398; P-0142, [UGA-OTP-0244-0732-R01](#) at 0741; P-0205, [UGA-OTP-0243-0690-R01](#) at 0701, [UGA-OTP-0247-0109-R01](#) at 0110.

¹¹⁰⁸ P-0205, [UGA-OTP-0243-0690-R01](#) at 0712-0713, [UGA-OTP-0247-0089-R01](#) at 0107-0108; P-0258, [UGA-OTP-0243-1824-R01](#) at 1830-1831.

¹¹⁰⁹ P-0142, [UGA-OTP-0244-0732-R01](#) at 0741; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 31-32; P-0205, [UGA-OTP-0247-0109-R01](#) at 0111; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011; P-0202, [UGA-OTP-0243-0907-R01](#) at 0925; P-0406, [UGA-OTP-0270-1073-R01](#) at 1084.

civilians¹¹¹⁰ and he warned them: “If you don't complete your mission, don't return”.¹¹¹¹ Ongwen instructed that the post-attack RV was to be the same as the pre-attack RV.¹¹¹² After the commanders received the briefing, they relayed the orders to their subordinates.¹¹¹³

405. Fourth, Dominic Ongwen appointed specific subordinates to carry out the attack.¹¹¹⁴

Ongwen did not go to the attack site himself. He was in a position where he could issue orders and relied on his subordinates to carry them out. Ongwen selected Captain Ocaka from Sinia brigade as the overall commander on the ground,¹¹¹⁵ assisted by P-0142 and P-0205, acting commanding officer of Terwanga Battalion.¹¹¹⁶ P-0142 and Ocaka were selected because they knew the area.¹¹¹⁷ Ocaka assigned Ojara, an LRA fighter from Gilva brigade,¹¹¹⁸ to lead the group responsible for pillaging food.¹¹¹⁹ Ongwen made P-0142 responsible for abducted civilians. Both P-0142 and P-0245 said that had P-0142 not followed Ongwen's orders in relation to the Lukodi attack, he would have been punished.¹¹²⁰

406. Fifth, Dominic Ongwen received post-attack reports from his subordinates. The day after the attack, fighters re-joined Ongwen and others at the pre-arranged RV near Ato Hills.¹¹²¹ Having received a written report produced by his Intelligence Officer, Ongwen

¹¹¹⁰ P-0202, [UGA-OTP-0243-0948-R01](#) at 0955, [UGA-OTP-0243-1011-R01](#) at 1026; P-0410, [UGA-OTP-0267-0207-R01](#) at 0225; P-0245, [UGA-OTP-0244-0363-R01](#) at 0389; P-0142, [UGA-OTP-0228-4542-R01](#) at 4574; P-0406, [UGA-OTP-0270-1073-R01](#) at 1084.

¹¹¹¹ P-0245, [UGA-OTP-0244-0393-R01](#) at 0399; P-0205, [UGA-OTP-0247-0109-R01](#) at 0111.

¹¹¹² P-0205, [UGA-OTP-0243-0690-R01](#) at 0702. Ongwen said he would not be at the RV point, but would send someone to collect them.

¹¹¹³ P-0245, [UGA-OTP-0244-0393-R01](#) at 0398.

¹¹¹⁴ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 28-32; P-0245, [UGA-OTP-0244-0363-R01](#) at 0384-0385; P-0018, [UGA-OTP-0159-0002-R01](#) at 0010; P-0016, [UGA-OTP-0228-3464-R01](#) at 3481.

¹¹¹⁵ P-0205, [UGA-OTP-0243-0719-R01](#) at 0731, [UGA-OTP-0247-0089-R01](#) at 0106; P-0245, [UGA-OTP-0244-0363-R01](#) at 0384-0386; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 30, 52-53; P-0016, [UGA-OTP-0228-3464-R01](#) at 3481.

¹¹¹⁶ P-0205, [UGA-OTP-0243-0690-R01](#) at 0695-0697, [UGA-OTP-0247-0089-R01](#) at 0106-0107.

¹¹¹⁷ P-0224, [UGA-OTP-0244-2961-R01](#) at 2971; P-0245, [UGA-OTP-0244-0363-R01](#) at 0386.

¹¹¹⁸ P-0205, [UGA-OTP-0243-0719-R01](#) at 0731.

¹¹¹⁹ P-0205, [UGA-OTP-0243-0719-R01](#) at 0731; P-0018, [UGA-OTP-0159-0002-R01](#) at 0011.

¹¹²⁰ P-0142, [UGA-OTP-0228-4620-R01](#) at 4623; P-0245, [UGA-OTP-0244-0363-R01](#) at 0387-0388.

¹¹²¹ P-0205, [UGA-OTP-0243-0719-R01](#) at 0737-0738; P-0245, [UGA-OTP-0244-0418-R01](#) at 0420; P-0410, [UGA-OTP-0267-0207-R01](#) at 0227.

thanked the fighters.¹¹²² Ocala and P-0142 described verbally to Ongwen what happened at Lukodi.¹¹²³ The report included ammunition and uniforms captured.¹¹²⁴ The day after the attack, the co-opted Gilva troops returned to their position with guns, food, and clothes.¹¹²⁵

407. Sixth, Dominic Ongwen reported his responsibility for the Lukodi attack during radio communication with senior LRA commanders¹¹²⁶ on 21 and 24 May 2004. His report was intercepted and written down in the UPDF and ISO logbooks, as well as sound-recorded by the ISO in Gulu.¹¹²⁷

21 May 2004

408. A sound recording¹¹²⁸ of an intercepted radio communication on 21 May contains exchanges between Joseph Kony, Vincent Otti, and Dominic Ongwen about the Lukodi attack. The first portion includes a communication between “Wat Pa Dano” (Otti’s alias) and “Layom Cwiny” (Kony’s alias):¹¹²⁹

“[Otti]: I heard that some groups [...] attacked Lukodi[.]

[Kony]: Lukodi?

[Otti]: Lukodi seem[s] to be a small centre in Bungatira. [...] I heard that they shot and killed more than 25 people [...], they burnt down more than 100

houses. [...] Yesterday, but I do not know which group it was [...] [T]he

Division Commander of Gulu [...] said that if LRA comes civilians should run

¹¹²² P-0205, [UGA-OTP-0243-0740-R01](#) at 0741-0743.

¹¹²³ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 31-33; P-0142, [UGA-OTP-0228-4542-R01](#) at 4568-4571; P-0205, [UGA-OTP-0247-0109-R01](#) at 0118-0120.

¹¹²⁴ P-0205, [UGA-OTP-0243-0740-R01](#) at 0741-0743, 0747.

¹¹²⁵ P-0172, [UGA-OTP-0243-2331-R01](#) at 2343-2344, [UGA-OTP-0243-2468-R01](#) at 2476, [UGA-OTP-0243-2478-R01](#) at 2479-2480, [UGA-OTP-0243-2519-R01](#) at 2536.

¹¹²⁶ P-0142, [UGA-OTP-0228-4542-R01](#) at 4582; P-0224, [UGA-OTP-0248-0688-R01](#) at 0707; P-0205, [UGA-OTP-0247-0109-R01](#) at 0120-0121; P-0019, [UGA-OTP-0218-0571-R01](#) at 0588-0591.

¹¹²⁷ UPDF Report, [UGA-OTP-0017-0268](#) at 0271, 0273; ISO logbook, [UGA-OTP-0061-0206](#) at 0321; P-0016, [UGA-OTP-0223-0034-R01](#) at 0054-0073; P-0070, [UGA-OTP-0228-2188-R01](#) at 2195-2196; Sound recording, [UGA-OTP-0054-0046](#) (original, track 2), [UGA-OTP-0239-0123](#) (enhanced).

¹¹²⁷ UPDF Report, [UGA-OTP-0016-0522](#) at 0525; ISO logbook, [UGA-OTP-0061-0206](#) at 0329.

¹¹²⁸ Sound recording, [UGA-OTP-0054-0046](#) (original, track 2), [UGA-OTP-0239-0123](#) (enhanced version).

¹¹²⁹ P-0003, [UGA-OTP-0069-0803-R01](#) at 0808.

to the bush. [...] They should not run to the barracks as that would bring lots of confusion. [...] [T]hat is what I heard”.¹¹³⁰

409. The second portion¹¹³¹ of the same radio exchange (annotated with the identities of the speakers by P-0003)¹¹³² includes a conversation between “Tem Wek Ibong” (Dominic Ongwen’s alias¹¹³³) and “Wat Pa Dano” (Otti’s alias):

“[Otti]: Who attacked Lukodi?

[Ongwen]: Ah, I am the one.

[Otti]: I beg your pardon?

[Ongwen]: It’s me. Over.

[Otti]: [*Laughs*] Roger. [...] I heard that they burnt more than one hundred houses.

[Ongwen]: It happened exactly like you have said.

[Otti]: They killed over fifty people... twenty five”.

[Ongwen]: That is still few. Over.¹¹³⁴

410. Radio operators P-0003 and P-0059, and LRA signallers P-0016 and P-0019, all listened to this sound recording. Each of them confirms that Dominic Ongwen is the one taking responsibility for the Lukodi attack.¹¹³⁵

411. The UPDF logbook entry on 21 May corroborates the above sound recording, noting the following at 18:30: “Otti reported to Kony that radio news reported that a certain LRA gr[ou]p under unknown comm[an]d[e]rs attacked and killed 25 civ[ilian]s

¹¹³⁰ Intercept transcript, [UGA-OTP-0132-0077-R01](#) at 0086-0087.

¹¹³¹ Sound recording, [UGA-OTP-0054-0046](#) (original, track 2), [UGA-OTP-0239-0123](#) (enhanced version).

¹¹³² P-0003, [UGA-OTP-0132-0002-R01](#) at 0005.

¹¹³³ See P-0125, [UGA-OTP-0175-0300-R01](#) at 0304; P-0003, [UGA-OTP-0248-0094-R01](#) at 0101; P-0059, [UGA-OTP-0248-0328-R01](#) at 0332.

¹¹³⁴ Annotated transcript by P-0019, [UGA-OTP-0262-0235](#) at 0288.

¹¹³⁵ P-0003, [UGA-OTP-0132-0002-R01](#) at 0005-0006, para. 18, 19 (b), Annotated transcript by P-0003, [UGA-OTP-0132-0093](#) at 0102-0103; P-0016, [UGA-OTP-0223-0034-R01](#) at 0053-0075; P-0059, [UGA-OTP-0150-0037-R01](#) at 0040, para 6 (f), [UGA-OTP-0266-0074](#) at 0079-0080, para. 44-50; Annotated transcript by P-0059, [UGA-OTP-0266-0084](#) at 0137-0138; P-0019, [UGA-OTP-0262-0176-R01](#) at 0187-0188, para. 88-93; Annotated transcript by P-0019, 19 May 2016, [UGA-OTP-0262-0235](#) at 0288.

including young people and burnt about 100 houses in Lokoti t[rading] centre in Bungatira. Dominic imm[ediately] told Otti that he is the one who made that deployment".¹¹³⁶

412. Similarly, the ISO logbook entry from the same date and time records: "Otti told Kony that he heard that a gr[ou]p of LRA hit Lokodi, a trading centre in Bungatira, killing about 25 p[eo]ple. That they burnt about 100 huts. Otti said [that] the 4th Div CO said civilians should run to the barracks. Kony commented that why doesn't he tell them to run to town. Both Kony and Otti were very happy with the killing. [...] Otti asked Dominic, who attacked Lokodi. Dominic replied that he is the one who attacked. Otti said that is the only style for them to maintain".¹¹³⁷

24 May 2004

413. Three days later, on 24 May 2004, the UPDF,¹¹³⁸ ISO¹¹³⁹ and Police¹¹⁴⁰ logbooks all record that Dominic Ongwen again reported on the radio, taking responsibility for the attack and giving a more complete report. He said that "he had caused havoc and decided to kill all living things" in Lukodi, overrunning the UPDF forces and the civilian camp.¹¹⁴¹ Ongwen added that he had captured 3 SMGs, 60 magazines, 20 pairs of gumboots, 25 uniforms, and killed 3 UPDF soldiers. Ongwen said that when "civilians die he feels happy".¹¹⁴² In reply, Kony congratulated Ongwen for his actions, adding that even if one UPDF soldier dies with 450 civilians during an LRA attack, that

¹¹³⁶ UPDF logbook, [UGA-OTP-0197-1670](#) at 1732 (left page), [UGA-OTP-0254-2982](#) at 2036 (left page); UPDF Rough Notes, [UGA-OTP-0197-2319](#) at 2530 *See also*, UPDF intelligence report, [UGA-OTP-0017-0268](#) at 0271.

¹¹³⁷ ISO logbook, [UGA-OTP-0061-0206](#) at 0321 (left and right pages). *See also*, ISO Fax, [UGA-OTP-0241-1721](#) at 1802-1803.

¹¹³⁸ UPDF logbook, [UGA-OTP-0197-1670](#) at 1736 (left page).

¹¹³⁹ ISO logbook, [UGA-OTP-0061-0206](#) at 0329.

¹¹⁴⁰ Police logbook, [UGA-OTP-0037-0002](#) at 0114. In contrast to the UPDF and ISO entries date for the Police entry is 25 May 2004.

¹¹⁴¹ UPDF logbook, [UGA-OTP-0197-1670](#) at 1736 (left page).

¹¹⁴² ISO logbook, [UGA-OTP-0061-0206](#) at 0329 (left and right pages); UPDF Intelligence Report, [UGA-OTP-0016-0522](#) at 0525.

is “good fighting”.¹¹⁴³ Soon after the post-attack reports, Ongwen received praise and yet another promotion from Kony.

414. P-0019 heard Dominic Ongwen’s report about the Lukodi attack live on the LRA radio. Ongwen described the houses he had burned, people he had killed and the weapons he had captured from the UPDF soldiers. P-0019 recalled that Kony was pleased with this action. He said, “Odomi [...] I thank you very much for what you have done. May God [...] protect you and help you to do more that type of work”.¹¹⁴⁴

30 May 2004

415. About 10 days after the Lukodi attack, Kony promoted Dominic Ongwen from Lieutenant Colonel to Colonel, and Tulu from Major to Lieutenant Colonel.¹¹⁴⁵ These promotions were announced in an LRA radio transmission on 30 May 2004.¹¹⁴⁶ Having listened to this sound-recorded conversation, both P-0003¹¹⁴⁷ and P-0059¹¹⁴⁸ verified that “Odomi” is among those promoted. These promotions were recorded in ISO¹¹⁴⁹ and UPDF¹¹⁵⁰ logbook entries on 30 May 2004.

2 June 2004

416. The Police logbook entry dated 2 June 2004 contains a summary of a radio communication intercepted on that day, which noted the following promotions of LRA officers:

“Kony, in particular, lauded Col. Ongwen Dominic following his recent performances in Odek and Lukodi. Col. Ongwen Dominic himself informed Kony that he would lay hands in arresting non-performing officers. [...] On

¹¹⁴³ UPDF Intelligence Report, [UGA-OTP-0016-0522](#) at 0525.

¹¹⁴⁴ P-0019, [UGA-OTP-0218-0571-R01](#) at 0590-0593.

¹¹⁴⁵ UPDF Intelligence Report, [UGA-OTP-0016-0486](#) at 0490-0491; P-0205, [UGA-OTP-0243-0760-R01](#) at 0765-0767; P-0019, [UGA-OTP-0218-0594-R01](#) at 0597.

¹¹⁴⁶ Sound recording, [UGA-OTP-0239-0112](#) (enhanced, track 2), [UGA-OTP-0052-0056](#) (original), Transcript, [UGA-OTP-0248-0381-R01](#) at 0417-0420.

¹¹⁴⁷ P-0003, [UGA-OTP-0248-0094-R01](#) at 0100.

¹¹⁴⁸ P-0059, [UGA-OTP-0248-0328-R01](#) at 0336-0337.,

¹¹⁴⁹ ISO logbook, [UGA-OTP-0062-0002](#) at 0004.

¹¹⁵⁰ UPDF logbook, [UGA-OTP-0197-1670](#) at 1748.

the promotions released on 30/5/2004 by Kony himself, some details are below as new ranks: [...]

(iii) Colonels (Col) – Ongwen Dominic Wanyama [...]

(iv) Lieutenant Colonels (Lt. Col) – Olak Otulu".¹¹⁵¹

ii. *Dominic Ongwen had knowledge and intent as prescribed by article 30 and specific to the crimes*

417. Dominic Ongwen intended to bring about the objective elements of the crimes, and/or was aware that they would occur in the ordinary course of events. Ongwen's intent and/or knowledge is established from, *inter alia*, the following facts, as described above:¹¹⁵²

- he planned the attack on Lukodi;
- he gave specific instructions to his subordinates to attack and commit crimes in Lukodi;
- he deployed armed troops for the attack on Lukodi;
- he knew about the crimes committed by LRA forces in Lukodi, and reported on the success of the attack on LRA military radio.

418. With respect to the crimes committed above, Dominic Ongwen knew that the victims were civilians, as demonstrated by his remarks in radio transmissions when reporting the attack.

¹¹⁵¹ Police logbook, [UGA-OTP-0037-0002](#) at 0102-0103.

¹¹⁵² See section on Dominic Ongwen exerting control over the crime whose material elements were brought about by one or more persons, para. 401-416.

iii. *Dominic Ongwen was aware of the factual circumstances which allowed him to exert control over the crimes*

419. Dominic Ongwen's knowledge of the factual circumstances that enabled him to exercise control over the crimes through other persons is established from, *inter alia*, the following facts as described above:¹¹⁵³

- he was aware that he exercised *de jure* and *de facto* command authority over the LRA troops that he deployed to Lukodi;
- his role in planning the attack on Lukodi;
- his issuing of instructions to his subordinates who attacked Lukodi.

Dominic Ongwen is criminally responsible under article 25(3)(b)

420. Dominic Ongwen is also individually criminally responsible for the crimes charged pursuant to article 25(3)(b). He ordered the commission of crimes, holding a position of authority as the commander of Sinia brigade, and as a Lieutenant Colonel over the Gilva brigade fighters who participated in the attack. He had command authority over the troops and issued military orders before the attack. His orders had a direct effect on the commission or attempted commission of the crimes which were carried out with intent and knowledge.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

421. Dominic Ongwen also contributed to the commission or attempted commission of crimes by a group of persons, including Joseph Kony, Vincent Otti, Ocala, and Tulu, who were acting with a common purpose to further their criminal activity or criminal purpose to attack the camp, by means which involved the commission of crimes, pursuant to article 25(3)(d)(i) and (ii).¹¹⁵⁴

¹¹⁵³ *Ibid.*

¹¹⁵⁴ See section on Dominic Ongwen's control over the crime, para. 401-416.

422. Dominic Ongwen knew of the group's intention to commit the crimes. As described above, Ongwen intentionally contributed to the commission of these crimes by means including his planning of the operation, his deployment of troops, and issuing orders for the attack, in which crimes against civilians were committed. He did so with the aim of furthering the crimes and criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

Dominic Ongwen is criminally responsible under article 25(3)(f)

423. As described above, on some occasions during the attack on Lukodi, murders were not fully carried out because of independent circumstances. These comprised acts of attempted murder, for which Dominic Ongwen is individually criminally responsible under article 25(3)(f) of the Statute. As described above, Ongwen possessed the necessary knowledge and intent for these crimes.

Dominic Ongwen is criminally responsible under article 28(a)

424. Dominic Ongwen is also individually criminally responsible for the crimes charged as a military commander pursuant to article 28(a). At the time of the attack, Ongwen held effective command and control over the attacking fighters by virtue of his command of Sinia brigade and as a Lieutenant Colonel and the highest ranking LRA officer involved in the operation.¹¹⁵⁵

425. Dominic Ongwen knew that the LRA fighters were committing or were about to commit the crimes in Lukodi, through, *inter alia*:

- his own involvement in the preparation, planning and/or execution of such crimes;

¹¹⁵⁵ P-0205, [UGA-OTP-0243-0690-R01](#) at 0731; P-0245, [UGA-OTP-0244-0363-R01](#) at 0384-0385, 0386; P-0054, [UGA-OTP-0221-1757-R01](#) at 1760.

- his receipt of information about the commission of such crimes from members of the LRA under his command, as well as other sources.

426. Dominic Ongwen took responsibility for the attack in intercepted LRA radio communications but 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 during the attack or during its aftermath.

427. The acts and omissions of Dominic Ongwen that demonstrate his failure to take all such necessary and reasonable measures include:

- his failure to order or initiate genuine or adequate investigations of crimes by LRA forces under his command. P-0205 personally delivered a report to Ongwen regarding civilian deaths and civilians caught in crossfire;¹¹⁵⁶
- his failure to discipline, dismiss, demote or refrain from promoting or rewarding members of the LRA forces who were involved in the attack;
- his failure to issue orders that were necessary and reasonable in the circumstances to prevent or repress the commission of crimes by the LRA fighters.

428. When LRA fighters heard about Lukodi deaths on public radio, they discarded it as Government propaganda.¹¹⁵⁷ It was reported on Mega FM that people were killed in Lukodi, with P-0245 hearing the report before the Lukodi attack group arrived back at the RV.¹¹⁵⁸ Likewise, P-0205 heard Ongwen being accused of killing 24 civilians on public radio.¹¹⁵⁹ When Ongwen heard about the Mega FM report on Lukodi, he said, “These people finished the mission. This is what the leader wanted”.¹¹⁶⁰

¹¹⁵⁶ P-0205, [UGA-OTP-0247-0175-R01](#) at 0186-0188.

¹¹⁵⁷ P-0205, [UGA-OTP-0243-0719-R01](#) at 0724, [UGA-OTP-0247-0175-R01](#) at 0187.

¹¹⁵⁸ P-0245, [UGA-OTP-0244-0418-R01](#) at 0420.

¹¹⁵⁹ P-0205, [UGA-OTP-0243-0719-R01](#) at 0722, [UGA-OTP-0247-0109-R01](#) at 0120.

¹¹⁶⁰ P-0245, [UGA-OTP-0244-0418-R01](#) at 0421.

429. Dominic Ongwen's failure to exercise his duty to prevent crimes increased the risk that the forces would commit these crimes.

IX. ATTACK ON ABOK IDP CAMP

Introduction

430. On or about 8 June 2004, LRA officers and Sinia brigade fighters subordinate to Dominic Ongwen attacked Abok IDP camp, located in Ngai sub-county, in Apac district.¹¹⁶¹ In the course of the attack, LRA fighters murdered, tortured and committed inhumane acts against the civilian population. The LRA also treated the civilians cruelly, abducted and enslaved them, looted and destroyed their property.

431. From the 1980s to the early 2000s, frequent LRA attacks in the area displaced civilians from their villages and forced them to seek refuge at locations like Abok trading centre.¹¹⁶² Instability around Abok peaked in 2003 and 2004,¹¹⁶³ leading to the formal establishment of Abok as a camp for internally displaced persons in 2004.¹¹⁶⁴ The camp population swelled to at least 7,400 residents,¹¹⁶⁵ with some tallies as high as 13,000.¹¹⁶⁶ This amassing of property and human bodies, however, made Abok an inevitable target for the LRA: "Abok camp was like a bee-hive they were waiting to go and harvest honey from at the right time".¹¹⁶⁷

¹¹⁶¹ UPDF Report, [UGA-OTP-0032-0038-R01](#) at 0043; UPDF Report, [UGA-OTP-0037-0153](#) at 0177; P-0284, [UGA-OTP-0244-1180-R01](#) at 1184-1185.

¹¹⁶² P-0279, [UGA-OTP-0258-0478-R01](#) at 0481-0482; P-0280, [UGA-OTP-0247-1252-R01](#) at 1255; P-0282, [UGA-OTP-0261-0246-R01](#) at 0248; P-0284, [UGA-OTP-0244-1180-R01](#) at 1184-1185; P-0286, [UGA-OTP-0248-0060-R01](#) at 0063-0066; P-0293, [UGA-OTP-0248-0040-R01](#) at 0044; P-0304, [UGA-OTP-0261-0233-R01](#) at 0235; P-0306, [UGA-OTP-0261-0277-R01](#) at 0279.

¹¹⁶³ P-0280, [UGA-OTP-0247-1252-R01](#) at 1255-1256; *See* P-0286, [UGA-OTP-0248-0060-R01](#) at 0064-0065; P-0304, [UGA-OTP-0261-0233-R01](#) at 0235; P-0306, [UGA-OTP-0261-0277-R01](#) at 0279.

¹¹⁶⁴ P-0280, [UGA-OTP-0247-1252-R01](#) at 1255-1256; P-0284, [UGA-OTP-0244-1180-R01](#) at 1183; P-0286, [UGA-OTP-0248-0060-R01](#) at 0065; P-0293, [UGA-OTP-0248-0040-R01](#) at 0044; P-0304, [UGA-OTP-0261-0233-R01](#); P-0306, [UGA-OTP-0261-0277-R01](#) at 0279.

¹¹⁶⁵ P-0306, [UGA-OTP-0247-1269](#).

¹¹⁶⁶ P-0284, [UGA-OTP-0244-1180-R01](#) at 1183, 1185; P-0293, [UGA-OTP-0248-0040-R01](#) at 0045, [UGA-OTP-0244-1197](#); P-0306, [UGA-OTP-0261-0277-R01](#) at 0280

¹¹⁶⁷ P-0284, [UGA-OTP-0244-1180-R01](#) at 1189.

432. That “harvest” took place on 8 June 2004.¹¹⁶⁸ During the daytime, Abok camp residents witnessed LRA troops moving across the roads.¹¹⁶⁹ A UPDF force was sent from the barracks to track them,¹¹⁷⁰ but the LRA out-maneuvred the pursuers and hid near Abok IDP camp.¹¹⁷¹

433. The LRA commenced its attack in the evening.¹¹⁷² Their primary targets were the UPDF barracks and the civilian centre.¹¹⁷³ The UPDF force of about 15 soldiers, while able to defend its own barracks,¹¹⁷⁴ was unable to prevent the LRA from flooding into the camp.¹¹⁷⁵ The LRA killed civilians, burned huts, pillaged personal property, and abducted civilians to carry those pillaged goods under armed guard and threat of death.¹¹⁷⁶

434. Some camp residents were burned in their homes; others were shot dead in their homes, on their doorsteps, in the places where they sought refuge or in their backs as

¹¹⁶⁸ P-0280, [UGA-OTP-0247-1252-R01](#) at 1257; P-0281, [UGA-OTP-0261-0257-R01](#) at 0260; P-0282, [UGA-OTP-0261-0246-R01](#) at 0249; P-0284, [UGA-OTP-0244-1180-R01](#) at 1185; P-0286, [UGA-OTP-0248-0060-R01](#) at 0068; P-0293, [UGA-OTP-0248-0040-R01](#) at 0047-0048; P-0304, [UGA-OTP-0261-0233-R01](#) at 0236; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281.

¹¹⁶⁹ P-0279, [UGA-OTP-0258-0478-R01](#) at 0482; P-0280, [UGA-OTP-0247-1252-R01](#) at 1257; P-0282, [UGA-OTP-0261-0246-R01](#) at 0249; P-0284, [UGA-OTP-0244-1180-R01](#) at 1185-1186; P-0286, [UGA-OTP-0248-0060-R01](#) at 0068; P-0293, [UGA-OTP-0248-0040-R01](#) at 0046-0047; P-0280, [UGA-OTP-0247-1252-R01](#) at 1257.

¹¹⁷⁰ P-0282, [UGA-OTP-0261-0246-R01](#); P-0284, [UGA-OTP-0244-1180-R01](#) at 1185-1186; P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

¹¹⁷¹ P-0284, [UGA-OTP-0244-1180-R01](#) at 1185-1186; P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

¹¹⁷² P-0280, [UGA-OTP-0247-1252-R01](#) at 1257; P-0281, [UGA-OTP-0261-0257-R01](#) at 0261; P-0282, [UGA-OTP-0261-0246-R01](#) at 0249; P-0284, [UGA-OTP-0244-1180-R01](#) at 1185; P-0286, [UGA-OTP-0248-0060-R01](#) at 0069; P-0287, [UGA-OTP-0261-0268-R01](#) at 0270; P-0293, [UGA-OTP-0248-0040-R01](#) at 0046-0048; P-0304, [UGA-OTP-0261-0233-R01](#) at 0236; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281; P-0340, [UGA-OTP-0270-0431-R01](#) at 0434.

¹¹⁷³ P-0280, [UGA-OTP-0247-1252-R01](#) at 1262; P-0286, [UGA-OTP-0248-0060-R01](#) at 0072-0073; P-0293, [UGA-OTP-0248-0040-R01](#) at 0047-0048; P-0304, [UGA-OTP-0261-0233-R01](#) at 0237; P-0340 [UGA-OTP-0270-0431-R01](#) at 0438.

¹¹⁷⁴ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0284, [UGA-OTP-0244-1180-R01](#) at 1186; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281.

¹¹⁷⁵ P-0281, [UGA-OTP-0261-0257-R01](#) at 0261; P-0284, [UGA-OTP-0244-1180-R01](#) at 1186; *See e.g.*, P-0293, [UGA-OTP-0248-0040-R01](#) at 0048; P-0304, [UGA-OTP-0261-0233-R01](#) at 0237; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281.

¹¹⁷⁶ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0485; *See e.g.*, P-0280, [UGA-OTP-0247-1252-R01](#); P-0281, [UGA-OTP-0261-0257-R01](#) at 0261-0263; P-0282, [UGA-OTP-0261-0246-R01](#) at 0250-0252; P-0284, [UGA-OTP-0244-1180-R01](#) at 1186-1188; P-0286, [UGA-OTP-0248-0060-R01](#); P-0287, [UGA-OTP-0261-0268-R01](#) at 0270-0272; P-0293, [UGA-OTP-0248-0040-R01](#); P-0304, [UGA-OTP-0261-0233-R01](#) at 0236-0237; P-0306, [UGA-OTP-0261-0277-R01](#) at 0281-0282; Intelligence Report, [UGA-OTP-0016-0434](#) at 0439; Intelligence Report, [UGA-OTP-0016-0440](#) at 0444; Intelligence Report, [UGA-OTP-0017-0353](#) at 0357; UPDF Report, [UGA-OTP-0032-0038-R01](#) at 0057; UPDF Report, [UGA-OTP-0037-0153](#) at 0177.

they ran from the camp.¹¹⁷⁷ The next morning, survivors returned to find about 28 bodies strewn throughout the camp, including children.¹¹⁷⁸

435. Intercepted radio communications between LRA commanders, statements from former LRA fighters, and statements from civilian victims of the attack prove beyond reasonable doubt that the attack resulted in the crimes charged. The evidence also establishes that Dominic Ongwen bears individual criminal responsibility as a result of his control of the perpetrators.

Crimes committed in Abok

Count 37 - attack against the civilian population (article 8(2)(e)(i))

436. LRA fighters under the control of Dominic Ongwen carried out an attack against the civilian population of Abok IDP camp as such, or individual civilians not taking direct part in the hostilities. Dominic Ongwen intended them to be the object of the attack.

437. The Prosecution submits that the following facts described under counts 38-41 (murder and attempted murder), count 42-43 (torture), count 44 (other inhumane acts) and count 45 (cruel treatment), count 46 (enslavement), count 47 (pillaging), and count 48 (destruction of property) qualify as the underlying conduct of the war crime of attacks directed against the civilian population.

Counts 38-39 - murder (articles 7(1)(a) and 8(2)(c)(i))

438. At least 28 persons were killed at Abok IDP camp.¹¹⁷⁹ Witnesses,¹¹⁸⁰ intercepted radio communications,¹¹⁸¹ and other documentary evidence¹¹⁸² demonstrate that LRA fighters shot, burned, and beat civilians to death during the attack.¹¹⁸³

¹¹⁷⁷ P-0279, [UGA-OTP-0258-0478-R01](#) at 0845; P-0280, [UGA-OTP-0247-1252-R01](#) at 1257-1258 & 1262; p-0282, [UGA-OTP-0261-0246-R01](#) at 0250; P-0284, [UGA-OTP-0244-1180-R01](#) at 1187; P-0287, [UGA-OTP-0261-0268-R01](#) at 0271; P-0293, [UGA-OTP-0244-1201](#). *see* P-0286, [UGA-OTP-0248-0060-R01](#) at 0071-0072.

¹¹⁷⁸ P-0280, [UGA-OTP-0247-1252-R01](#) at 1262; P-0284, [UGA-OTP-0244-1180-R01](#) at 1187; P-0293, [UGA-OTP-0248-0040-R01](#) at 0051; P-0306, [UGA-OTP-0261-0277-R01](#) at 0282.

439. P-0287 and P-0304 confirmed that the rebels shot unarmed people as they ran through the camp.¹¹⁸⁴ LRA fighters who found P-0280 hiding with his family in a latrine hole shot dead P-0280's father, brother, and a neighbour.¹¹⁸⁵ P-0406, an escort to one of Ongwen's subordinate commanders, Okwera, recalled a house where about 10 people, adults and children were sleeping. Okwera ordered P-0406 to assault one of the men in the house with the butt of a gun when he refused to carry the goods that were to be looted. When this had no effect, Okwera picked three of the women in the house to carry the loot and then closed the door and set the house on fire with the remaining inhabitants inside.¹¹⁸⁶ P-0330, an LRA fighter who participated in the attack, confirmed that the LRA set the houses in the camp on fire: "We burnt people, those who did not come out of their houses. We set fire in Abok the same way as during the Odek camp."¹¹⁸⁷

440. P-0293, an Abok camp leader, hid at a nearby banana plantation where he was able to witness and document the attack.¹¹⁸⁸ From this vantage point, he saw rebels beating civilians to death, and saw that LRA fighters took grass from burning thatched roofs to spread fire to other homes.¹¹⁸⁹

¹¹⁷⁹ P-0280, [UGA-OTP-0247-1252-R01](#) at 1262; P-0293, [UGA-OTP-0248-0040-R01](#) at 0051; P-0306, [UGA-OTP-0261-0277-R01](#) at 0282.

¹¹⁸⁰ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0284, [UGA-OTP-0244-1180-R01](#) at 1187; P-0293, [UGA-OTP-0248-0040-R01](#) at 0051; P-0252, [UGA-OTP-0243-0428-R01](#) at 0445; P-0048, [UGA-OTP-0209-0337-R01](#) at 0361.

¹¹⁸¹ ISO logbook, [UGA-OTP-0062-0002](#) at 0023, 0025; Intelligence Report, [UGA-OTP-0016-0434](#) at 0435; Intelligence Report, [UGA-OTP-0017-0358](#) at 0359.

¹¹⁸² UPDF Report, [UGA-OTP-0032-0038-R01](#) at 0057; UPDF Report, [UGA-OTP-0037-0153](#) at 0177; P-0293, [UGA-OTP-0244-1201](#); P-0306, [UGA-OTP-0247-1270-R01](#) at 1271; Police intelligence report, [UGA-OTP-0256-0307](#).

¹¹⁸³ Intelligence Report, [UGA-OTP-0016-0434](#) at 0439; Intelligence Report, [UGA-OTP-0016-0440](#) at 0444; Intelligence Report, [UGA-OTP-0017-0353](#) at 0357; Report, [UGA-OTP-0032-0038-R01](#) at 0057; Report, [UGA-OTP-0037-0153](#) at 0177; P-0245, [UGA-OTP-0244-0494-R01](#) at 0499.

¹¹⁸⁴ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271; P-0304, [UGA-OTP-0261-0233-R01](#) at 0237.

¹¹⁸⁵ P-0280, [UGA-OTP-0247-1252-R01](#) at 1257.

¹¹⁸⁶ P-0406, [UGA-OTP-0270-0196](#) at 1109-1110.

¹¹⁸⁷ P-0330, [UGA-OTP-0256-0071-R01](#) at 0089.

¹¹⁸⁸ P-0293, [UGA-OTP-0248-0040-R01](#) at 0048.

¹¹⁸⁹ P-0293, [UGA-OTP-0248-0040-R01](#) at 0048-0049.

441. In the aftermath of the attack, camp residents P-0281, P-0284 and P-0282 saw dead bodies of civilians in the camp.¹¹⁹⁰ Some of the bodies were burned and others had the backs of their heads smashed.¹¹⁹¹ P-0281 heard that the rebels would kill people by hitting them on the back of the head.¹¹⁹² P-0284 confirmed that dead bodies were found inside houses, at doorsteps and others among the remains of burnt huts.¹¹⁹³ P-0282 was told that the rebels had asked his uncle for money before shooting him.¹¹⁹⁴

442. Returning to the camp in the morning after the attack, P-0293 compiled a list of the dead; he documented the deaths of 28 civilians killed by gunshots, burning, and beating.¹¹⁹⁵ The cause of death was apparent from inspection of the bodies: a person burned to death had skin turned charcoal black from fire.¹¹⁹⁶

443. P-0284, also a leader of Abok camp, escorted a group of officials through the camp the next morning, and “saw all the dead bodies”, 28 in total.¹¹⁹⁷ He observed civilians killed by bullets and by burning.¹¹⁹⁸ P-0280 recounted that one abducted girl was killed in the bush. She could not stop crying, and was taken away from view and beaten “until she was not crying anymore”.¹¹⁹⁹ P-0304’s cousin was killed by the rebels in captivity.¹²⁰⁰

444. Before the attack, Dominic Ongwen issued an order to “kill everyone who was not one of them”; additionally, Kalalang Okello issued a second directive to conserve ammunition by either beating people to death or abducting them.¹²⁰¹ P-0293 heard LRA

¹¹⁹⁰ P-0281, [UGA-OTP-0261-0257-R01](#) at 0262-0263; P-0284, [UGA-OTP-0244-1180-R01](#) at 1187; P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

¹¹⁹¹ P-0281, [UGA-OTP-0261-0257-R01](#) at 0263.

¹¹⁹² P-0281, [UGA-OTP-0261-0257-R01](#) at 0263.

¹¹⁹³ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187.

¹¹⁹⁴ P-0282, [UGA-OTP-0261-0246-R01](#) at 0250.

¹¹⁹⁵ P-0293, [UGA-OTP-0244-1201](#).

¹¹⁹⁶ P-0293, [UGA-OTP-0248-0040-R01](#) at 0053.

¹¹⁹⁷ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187.

¹¹⁹⁸ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187-1188.

¹¹⁹⁹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0087.

¹²⁰⁰ P-0304, [UGA-OTP-0261-0233-R01](#) at 0237.

¹²⁰¹ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

fighters discussing which of these two orders to follow.¹²⁰² Regardless of the manner of killing, deaths resulted because these orders were transmitted to LRA fighters attacking Abok.¹²⁰³

445. In an intercepted radio communication on 10 June 2004, described in further detail below, Dominic Ongwen reported that he attacked Abok, “killing many people and burning many huts”.¹²⁰⁴ The sound recording¹²⁰⁵ was played to P-0003, P-0059, P-0016, and P-0019. According to all four witnesses, the attack and the number of houses burnt was discussed between Otti, Kony/Labalpiny and Ocen, while Ongwen subsequently confirmed he carried out the attack.¹²⁰⁶

Counts 40-41 - attempted murder (articles 7(1)(a) and 8(2)(c)(i))

446. On some occasions during the attack on Abok, murders were not fully carried out because of independent circumstances. LRA fighters commenced the crime by means of a substantial step—attacking the victim or burning the victim’s home—but the victim did not die.

447. LRA fighters shot at fleeing civilians in order to kill them, and burned civilian homes with no regard for civilians trapped inside.¹²⁰⁷ P-0282 was shot in the legs as he fled from rebels that attempted to break into his home.¹²⁰⁸ He dragged himself into an unfinished house where he hid until the rebels left the camp.¹²⁰⁹

¹²⁰² P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

¹²⁰³ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

¹²⁰⁴ ISO Logbook, [UGA-OTP-0062-0002](#) at 0023 (right page); UPDF Logbook, [UGA-OTP-0254-2982](#) at 3078; [UGA-OTP-0255-0228](#) at 0325.

¹²⁰⁵ Sound recording, [UGA-OTP-0235-0049](#) (enhanced), [UGA-OTP-0053-0006](#) (original).

¹²⁰⁶ P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Annotated transcript by P-0003, [UGA-OTP-0248-0106-R01](#) at 0122-0124; Annotated transcript by P-0059, [UGA-OTP-0248-0524](#) at 0542, row 411-412; Annotated transcript by P-0016, [UGA-OTP-0259-0086](#) at 0087, rows 411-414. Annotated transcript by P-0019, [UGA-OTP-0262-0363](#) at 0381; rows 411-414.

¹²⁰⁷ P-0284, [UGA-OTP-0244-1180-R01](#) at 1187; P-0293, [UGA-OTP-0248-0040-R01](#) at 0051, [UGA-OTP-0244-1201](#); P-0286, [UGA-OTP-0248-0060-R01](#) at 0071-0072.

¹²⁰⁸ P-0282, [UGA-OTP-0261-0246-R01](#) at 0250.

¹²⁰⁹ P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

448. P-0293 learned of an abducted camp resident who was shot in the leg as he ran away from the LRA rebels, and feigned death to escape.¹²¹⁰ P-0286 was the last to escape from his home when the rebels arrived.¹²¹¹ The rebels were upon him by the time he reached the door and attempted to run.¹²¹² One of the rebels shot at him three times but missed.¹²¹³

449. P-0279 was an abductee who was forced to carry beans, goats and a heavy bag.¹²¹⁴ When she could no longer carry the load, P-0279 was beaten, strangled, and cut with a machete until she was unconscious.¹²¹⁵ When she awoke at dawn P-0279 was covered in blood.¹²¹⁶ P-0304 was in the same group of abducted civilians and witnessed P-0279 being beaten and left for dead.¹²¹⁷

450. The morning after the attack P-0282 saw injured people gathered in the middle of the camp, some of whom had cuts over their heads and others gunshots wounds on their arms and stomachs.¹²¹⁸

Counts 42-43 - torture (articles 7(1)(f) and 8(2)(c)(i)), count 44 – other inhumane acts (article 7(1)(k)) and count 45 - cruel treatment (article 8(2)(c)(i))

451. The beating of civilians, forcing them to carry heavy loads, often for long distances while tied to each-other under constant threat of harm, being subjected to punitive conditions, and witnessing the beatings and killings of other abductees who were either too weak or who attempted to escape caused severe physical or mental pain or

¹²¹⁰ P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

¹²¹¹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0070.

¹²¹² P-0286, [UGA-OTP-0248-0060-R01](#) at 0070.

¹²¹³ P-0286, [UGA-OTP-0248-0060-R01](#) at 0070.

¹²¹⁴ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0484.

¹²¹⁵ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

¹²¹⁶ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

¹²¹⁷ P-0304, [UGA-OTP-0261-0233-R01](#) at 0238.

¹²¹⁸ P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

suffering.¹²¹⁹ This amounts to torture under articles 7(1)(f) and 8(2)(c)(i), the war crime of cruel treatment under article 8(2)(c)(i) and the crime against humanity of other inhumane acts under article 7(1)(k) of the Statute.¹²²⁰

452. In the course of the attack on Abok, LRA fighters inflicted severe physical and mental pain or suffering on civilians taking no active part in hostilities. Civilians were subjected to pain or suffering through beatings and murder inflicted upon them by the rebels. Abducted civilians were forced to carry heavy loads under threat of death or intimidation by the rebels. Such pain or suffering did not arise from, and was not inherent in or incidental to, lawful sanctions.

453. This treatment was carried out to intimidate and/or punish the civilian population because of their perceived support for the Government.¹²²¹ Furthermore, this treatment was carried out when under the control of the LRA attackers.¹²²² The pain inflicted amounted to torture, cruel treatment, and other inhumane acts.

454. In preparation for the Abok IDP camp attack, the LRA abducted two young men from outside the nearby Itubara camp.¹²²³ They interrogated both men to learn the location of the UPDF barracks.¹²²⁴ One of the two civilians led the rebels to the site of the old

¹²¹⁹ See *Prosecutor v Brdjanin*, IT-98-36-A, Appeal Judgement, 3 April 2007, para. 251 (“Acts inflicting physical pain may amount to torture even when they do not cause the amount of pain of the type accompanying serious injury. Whether an act causes severe pain or suffering is determined on a case-by-case basis”).

¹²²⁰ For the purposes of applying the “materially distinct” test, the legal elements of the crime may include the *chapeau* requirements of the particular crime. See ICC-01/04-01/07-3436-tENG, para. 1696; see also, ICC-01/04-01/07-717, para. 419; see further, *Prosecutor v Natelic & Martinovic*, IT-98-34-A, Appeal Judgement, 3 May 2006, para. 562.

¹²²¹ Per Element 2 of the war crime of torture: “The perpetrator inflicted the pain or suffering for such purposes as: obtaining information or a confession, punishment, intimidation or coercion or for any reason based on discrimination of any kind”. See *Elements of Crimes*, p. article 8(2)(c)(i)-4, para. 2. See generally, the section on persecution, para. 156-203. See especially, the submissions on persecution under Count 49, para. 195-197.

¹²²² Per Element 2 of the crime against humanity of torture: “Such person or persons were in the custody or under the control of the perpetrator”. See *Elements of Crimes*, article 7(1)(f), para. 2.

¹²²³ P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

¹²²⁴ P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

barracks which had moved location,¹²²⁵ and was shot for his failure to bring them to the new site. The second civilian was shot in the leg as he tried to run away.¹²²⁶

455. P-0281 saw an LRA rebel severely beat her father with the butt of his gun while demanding money from him.¹²²⁷ The rebel hit him so much that P-0281 thought her father was going to be killed.¹²²⁸ Two rebels asked P-0287's mother for money and when she said she did not they grabbed and searched her.¹²²⁹ When they found money on her the rebels beat P-0287's mother over the head with a thick stick.¹²³⁰

456. When rebels entered the home of P-0286, they fired three shots at him, and then presented a choice: to be killed, or to "work" with the LRA.¹²³¹ After P-0286 chose to "work", he was bound with a rope. An LRA fighter stamped on his injured foot, and forced him to lead the LRA to the barracks and the shops.¹²³² One shop was empty, so P-0286 was beaten with the butt of a gun. They threatened that if the next shop was empty, they would kill him.¹²³³ These gunshots and beatings were meant to intimidate and coerce P-0286 into submission, and to obtain information about the location of shops that could be looted.

457. Rebels took P-0304 out of his home and forced him to carry a basin of sim-sim.¹²³⁴ He was later given another load to carry because he was too short to assist P-0286 carry a wounded rebel on a stretcher.¹²³⁵ As the rebels and abducted civilians left the camp, P-

¹²²⁵ Prior to the attack on Abok, the location of the barracks changed position. Witnesses P-0293 and P-0304 have both drawn sketches indicating the positions of the "new barracks" and "old barracks" in Abok. *See* the maps drawn by P-0293, [UGA-OTP-0248-0058](#), and P-0304, [UGA-OTP-0261-0244](#).

¹²²⁶ P-0293, [UGA-OTP-0248-0040-R01](#) at 0047.

¹²²⁷ P-0281, [UGA-OTP-0261-0257-R01](#) at 0261.

¹²²⁸ P-0281, [UGA-OTP-0261-0257-R01](#) at 0261.

¹²²⁹ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271.

¹²³⁰ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271.

¹²³¹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0070.

¹²³² P-0286, [UGA-OTP-0248-0060-R01](#) at 0070.

¹²³³ P-0286, [UGA-OTP-0248-0060-R01](#) at 0072.

¹²³⁴ P-0304, [UGA-OTP-0261-0233-R01](#) at 0236.

¹²³⁵ P-0304, [UGA-OTP-0261-0233-R01](#) at 0237.

0304 was hit continuously with a bayonet for walking too slow and dropping the load he carried.¹²³⁶

458. On the march away from the camp, LRA fighters ordered P-0286 and P-0280 to carry a wounded fighter.¹²³⁷ LRA rebels threatened to kill P-0280 and P-0286 if they dropped or left him behind during an attack from the UPDF.¹²³⁸ P-0280 and P-0286 fell down a number of times because the injured rebel was too heavy, and each time the rebels beat them with the butt of a gun or a panga.¹²³⁹ As a result, P-0286 suffered intense back and chest pain.¹²⁴⁰

459. P-0286 was then forced to march on his injured foot for two days, and knew that stopping or asking for assistance could result in being killed.¹²⁴¹ During this march, P-0286 saw an elderly female abductee being beaten because she could no longer walk. LRA fighters passed her on the road in single file, each one slapping or hitting her, until she defecated on herself.¹²⁴² These blows and beatings were inflicted as punishment for not being able to continue walking, and to intimidate other abductees to continue without stopping or resting.¹²⁴³

460. When P-0279 was abducted by the rebels she was forced to carry a load of beans and later two goats on her head and across her back.¹²⁴⁴ As she walked with the load, a rebel poked her back with the butt of his gun.¹²⁴⁵ The goats were subsequently switched for a heavy bag for P-0279 to carry.¹²⁴⁶ When she could no longer bear the weight of the bag, a

¹²³⁶ P-0304, [UGA-OTP-0261-0233-R01](#) at 0238.

¹²³⁷ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0286, [UGA-OTP-0248-0060-R01](#) at 0076.

¹²³⁸ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258.

¹²³⁹ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0286, [UGA-OTP-0248-0060-R01](#) at 0076.

¹²⁴⁰ P-0286, [UGA-OTP-0248-0060-R01](#) at 0076.

¹²⁴¹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0076, 0078.

¹²⁴² P-0286, [UGA-OTP-0248-0060-R01](#) at 0075.

¹²⁴³ P-0286, [UGA-OTP-0248-0060-R01](#) at 0076.

¹²⁴⁴ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483.

¹²⁴⁵ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0484.

¹²⁴⁶ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

rebel took it from her and beat P-0279 all over her body with the butt of his gun.¹²⁴⁷ The rebel strangled, beat and cut her with a machete until she was unconscious.¹²⁴⁸

461. Rebels took P-0287 from his mother as they attempted to escape the attack on the camp.¹²⁴⁹ As the rebels beat up his mother, P-0287, then just an infant, was given to another abducted person.¹²⁵⁰

Count 46 – enslavement (article 7(1)(c))

462. LRA fighters under Dominic Ongwen’s command deprived civilians of their liberty by abducting and placing them under armed guard to prevent their escape. Men, women and children were abducted, conscripted into the LRA, forced to perform manual labour, or otherwise reduced to a servile status.

463. During the attack, civilians were captured and used to carry looted goods away from the camp under threat of death.¹²⁵¹ LRA rebels took P-0279 from the house where she hid during the attack and forced her to carry a heavy load of beans and two goats.¹²⁵² P-0280 and P-0286 together were forced to carry a wounded LRA fighter.¹²⁵³ P-0280 was taken to the Atoo foothills where the LRA had its base. He saw many other abductees there.¹²⁵⁴ He was forced to kill another abductee, as a lesson to others who were thinking of escaping.¹²⁵⁵ P-0280 stayed in the bush for five months.¹²⁵⁶ P-0286 was forced to participate in attacks on Opit and Acet before he escaped.¹²⁵⁷

¹²⁴⁷ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

¹²⁴⁸ P-0279, [UGA-OTP-0258-0478-R01](#) at 0484.

¹²⁴⁹ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271-0272.

¹²⁵⁰ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271-0272

¹²⁵¹ P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0484; *See* P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0286, [UGA-OTP-0248-0060-R01](#) at 0075-0078.

¹²⁵² P-0279, [UGA-OTP-0258-0478-R01](#) at 0483-0484.

¹²⁵³ P-0280, [UGA-OTP-0247-1252-R01](#) at 1258; P-0286, [UGA-OTP-0248-0060-R01](#) at 0076.

¹²⁵⁴ P-0280, [UGA-OTP-0247-1252-R01](#) at 1260.

¹²⁵⁵ P-0280, [UGA-OTP-0247-1252-R01](#) at 1260-1261.

¹²⁵⁶ P-0280, [UGA-OTP-0247-1252-R01](#) at 1261.

¹²⁵⁷ P-0286 at [UGA-OTP-0248-0060-R01](#) at 0078-0085.

464. P-0304 was similarly taken from his home by the rebels and forced to carry a heavy load during his captivity.¹²⁵⁸ He recalled a number of people together with whom he was abducted; some were killed during captivity and others eventually returned from the bush.¹²⁵⁹ P-0406 saw seven people abducted during the attack in which he took part. Three of them were aged around 12 years old.¹²⁶⁰

465. When P-0284 returned to the camp he found that several people had been abducted during the attack, eight of whom were between 13 and 20 years of age.¹²⁶¹ P-0293 and P-0306 confirmed that some people who were abducted during the attack were rescued by the UPDF contingent that pursued the rebels as they left Abok.¹²⁶²

466. A police intelligence report stated that 26 civilians were abducted and four eventually escaped.¹²⁶³

Count 47 – pillaging (article 8(2)(e)(v))

467. LRA fighters under Dominic Ongwen’s command appropriated food items and other personal property. They intended to deprive the owners of their food and property and to appropriate it for private or personal consumption and use. The owners did not consent to the appropriation. The pillaging was not justified by military necessity.

468. A group of about 50 women and children was selected to accompany LRA fighters to Abok, specifically to carry away pillaged goods.¹²⁶⁴ P-0293 saw LRA fighters taking food items, clothing, cooking utensils, and first aid provisions from homes that had not yet been set ablaze.¹²⁶⁵ P-0286 was forced to lead rebels to the trading centre shops, where

¹²⁵⁸ P-0304, [UGA-OTP-0261-0233-R01](#) at 0236-0237.

¹²⁵⁹ P-0304, [UGA-OTP-0261-0233-R01](#) at 0237.

¹²⁶⁰ P-0406, [UGA-OTP-0270-1116-R01](#) at 1127-1128.

¹²⁶¹ P-0284, [UGA-OTP-0244-1180-R01](#) at 1188.

¹²⁶² P-0293, [UGA-OTP-0248-0040-R01](#) at 0050; P-0304, [UGA-OTP-0261-0277-R01](#) at 0282-0283.

¹²⁶³ Police intelligence report, [UGA-OTP-0256-0307](#).

¹²⁶⁴ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443.

¹²⁶⁵ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

LRA fighters “packed away whatever items they could carry”, including sugar, cooking oil, salt, soap, and biscuits.¹²⁶⁶ LRA fighters blew whistles to signal to the carriers to meet the fighters and receive the looted goods. P-0252, one of the LRA loot carriers, was given beans. He also observed that fighters came back with maize, cooking oil, and other goods from the shops.¹²⁶⁷ P-0340 and P-0330, both participants in the attack, pillaged food from civilian houses in the camp.¹²⁶⁸

469. P-0281 and P-0304 both witnessed LRA rebels come into their homes and take their money and clothes.¹²⁶⁹ P-0282’s home was looted in the same manner; rebels came into the house and looted a radio, clothes, foodstuffs, cooking utensils and luggage.¹²⁷⁰

470. LRA rebels that apprehended P-0287 and his mother as they fled, took money they found on P-0287’s mother.¹²⁷¹ When P-0284 and P-0306 returned to the camp the morning after the attack, they found that the rebels had looted food items, goats, cooking pots from the camp and supplies from the shops.¹²⁷²

Count 48 - destruction of property (article 8(2)(e)(xii))

471. LRA fighters destroyed property belonging to civilians in Abok, whom they viewed as adversaries. The property was protected from destruction under the international law of armed conflict. The destruction was not required by military necessity.

472. LRA fighters set huts on fire at the commencement of the attack.¹²⁷³ So much of the camp was set on fire that it was difficult to discern the number of affected structures, or

¹²⁶⁶ P-0286, [UGA-OTP-0248-0060-R01](#) at 0072-0073.

¹²⁶⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443-0445.

¹²⁶⁸ P-0340, [UGA-OTP-0270-0439-R01](#) at 0442; P-0330, [UGA-OTP-0256-0071-R01](#) at 0089.

¹²⁶⁹ P-0281, [UGA-OTP-0261-0257-R01](#) at 0261; P-0304, [UGA-OTP-0261-0233-R01](#) at 0236.

¹²⁷⁰ P-0282, [UGA-OTP-0261-0246-R01](#) at 0250-0251.

¹²⁷¹ P-0287, [UGA-OTP-0261-0268-R01](#) at 0271.

¹²⁷² P-0284, [UGA-OTP-0244-1180-R01](#) at 1187-1188; P-0306, [UGA-OTP-0261-0277-R01](#) at 0282.

¹²⁷³ P-0284, [UGA-OTP-0244-1180-R01](#) at 1186; P-0286, [UGA-OTP-0248-0060-R01](#) at 0069; P-0293, [UGA-OTP-0248-0040-R01](#) at 0048; P-0340, [UGA-OTP-0270-0439-R01](#) at 0448.

to accurately assess the damage afterwards.¹²⁷⁴ P-0286 observed that LRA fighters lit every other house on fire, knowing that they were built close enough for the fire to spread to adjacent structures.¹²⁷⁵

473. P-0281, P-0287 and P-0293 all witnessed rebels set houses in the camp on fire.¹²⁷⁶ The flames from the fire enabled P-0293 to see the rebels take burning grass from one house to the next.¹²⁷⁷ As P-0282 hid during the attack he heard shouting, clanging sounds as well as the crackling sound of houses being burnt.¹²⁷⁸ He later saw the rebels setting houses on fire as he hid in an unfinished house within the camp.¹²⁷⁹ As he fled the camp P-0284 observed that the camp was on fire.¹²⁸⁰

474. Witness estimates of the number of homes burned range between 160 and 1,000.¹²⁸¹ An intercepted communication after the attack recorded a conversation between Vincent Otti, Raska Lukwiya, and Ocen, Buk Abudema's signaller,¹²⁸² discussing the results of the Abok attack. Otti said, "Weren't there 30 left?" Ocen replied, "Out of 600, 30 remained."¹²⁸³ Dominic Ongwen then came on the air and said "Then we started firing at anything at all that was there. We burnt all the houses including the camp and the barracks. All of them were burnt".¹²⁸⁴ This audio report was also recorded in the UPDF and ISO logbooks. They noted that Ongwen reported that he attacked Abok, "killing

¹²⁷⁴ P-0286, [UGA-OTP-0248-0060-R01](#) at 0072; *see* P-0252, [UGA-OTP-0243-0428-R01](#) at 0444.

¹²⁷⁵ P-0286, [UGA-OTP-0248-0060-R01](#) at 0071; *see* P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

¹²⁷⁶ P-0281, [UGA-OTP-0261-0257-R01](#) at 0262; P-0287, [UGA-OTP-0261-0268-R01](#) at 0270-0271; P-0293, [UGA-OTP-0248-0040-R01](#) at 0048.

¹²⁷⁷ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049.

¹²⁷⁸ P-0282, [UGA-OTP-0261-0246-R01](#) at 0249.

¹²⁷⁹ P-0282, [UGA-OTP-0261-0246-R01](#) at 0251.

¹²⁸⁰ P-0284, [UGA-OTP-0244-1180-R01](#) at 1186.

¹²⁸¹ P-0280, [UGA-OTP-0247-1252-R01](#) at 1262; P-0284, [UGA-OTP-0244-1180-R01](#) at 1188.

¹²⁸² P-0059, [UGA-OTP-0248-0328-R01](#) at 0332.

¹²⁸³ Sound recording, [UGA-OTP-0235-0049](#) (enhanced), [UGA-OTP-0053-0006](#) (original); P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0124; P-0059, Audio transcript annotation, [UGA-OTP-0248-0524](#) at 0542.

¹²⁸⁴ Sound recording, [UGA-OTP-0235-0049](#) (enhanced), [UGA-OTP-0053-0006](#) (original); P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0124; P-0059, Audio transcript annotation, [UGA-OTP-0248-0524](#) at 0542.

many people and burning many huts".¹²⁸⁵ A Police intelligence report records that 656 huts were set ablaze.¹²⁸⁶

Count 49 - persecution (article 7(1)(h))

475. The Prosecution submits that the facts described above under count 37 (attack on civilians) counts 38-41 (murder and attempted murder), count 42-43 (torture), count 44 (other inhumane acts) and count 45 (cruel treatment), count 46 (enslavement), count 47 (pillaging), and count 48 (destruction of property) form the underlying conduct of the crime of persecution. The submissions in the section on persecution in paragraphs 156 to 203), which are also incorporated here by reference.

Dominic Ongwen's individual criminal responsibility for crimes in Abok

476. As described below, Dominic Ongwen is individually criminally responsible for the crimes charged pursuant to article 25(3)(a) as an indirect perpetrator.¹²⁸⁷ The Prosecution case is that he had control over the crimes described above because the persons who directly perpetrated the crimes were acting as his 'tools'. He is also responsible under articles 25(3)(b), (d)(i) and (ii), and (f), and as a military commander pursuant to article 28(a).

¹²⁸⁵ ISO Logbook, [UGA-OTP-0062-0002](#) at 0023 (right page); UPDF Logbook, [UGA-OTP-0254-2982](#) at 3078; [UGA-OTP-0255-0228](#) at 0325.

¹²⁸⁶ Police intelligence report, [UGA-OTP-0256-0307](#).

¹²⁸⁷ See ICC-01/04-01/07-3436-tENG, para. 1399. The Prosecution adopts the following elements for indirect perpetration as held in *Katanga*:

"In the Chamber's view, and in accordance with its foregoing definition of perpetrator, criminal responsibility as an indirect perpetrator is incurred where a person:

- i. exerts control over the crime whose material elements were brought about by one or more persons;
- ii. meets the mental elements prescribed by article 30 and the mental elements specific to the crime at issue; and
- iii. is aware of the factual circumstances which allow the person to exert control over the crime".

Dominic Ongwen is criminally responsible under article 25(3)(a)

i. Dominic Ongwen exerted control over the crimes whose material elements were brought about by one or more persons

477. The following facts demonstrate Dominic Ongwen's control over the crimes committed in Abok, the material elements of which were brought about by persons under his control.

478. First, Dominic Ongwen was involved in the preparation stages of the attack. Prior to the attack, he was present at a parade of Sinia brigade fighters, where one of his subordinate commanders selected the attackers.¹²⁸⁸ Ongwen was in a position where he could issue orders and relied on his subordinates to carry them out. P-0330 heard Ongwen order the attack on Abok; specifically to "attack the barracks, collect food and burn houses".¹²⁸⁹ P-0406 and P-0054 were also present at the briefing. P-0406 heard Ongwen order that people should be abducted, that those who run away be shot, and that houses should be burned.¹²⁹⁰ P-0054 heard Ongwen order his fighters to collect food from Abok.¹²⁹¹

479. Second, Dominic Ongwen appointed Kalalang Okello of Sinia's Oka battalion to be the leader on the ground.¹²⁹² Ongwen himself retained overall command: P-0280 and P-0286 heard LRA fighters indicate that Ongwen was their overall leader.¹²⁹³ P-0054, a Sinia brigade member, went to the Abok attack in Kalalang's group.¹²⁹⁴ He confirmed that Kalalang was in charge on the ground, while the overall commands came from Ongwen.¹²⁹⁵ It "must have been [Ongwen]" who decided to launch the attack; Kalalang

¹²⁸⁸ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443.

¹²⁸⁹ P-0330, [UGA-OTP-0256-0071-R01](#) at 0088.

¹²⁹⁰ P-0406, [UGA-OTP-0270-1116-R01](#) at 1118-1119.

¹²⁹¹ P-0054, [UGA-OTP-0271-2090-R01](#) at 2107.

¹²⁹² P-0252, [UGA-OTP-0243-0428-R01](#) at 0443; P-0280, [UGA-OTP-0247-1252-R01](#) at 1259; P-0286, [UGA-OTP-0248-0060-R01](#) at 0073; P-0232, [UGA-OTP-0233-0459](#) at 0461.

¹²⁹³ P-0280, [UGA-OTP-0247-1252-R01](#) at 1260; P-0286, [UGA-OTP-0248-0060-R01](#) at 0082, 0083.

¹²⁹⁴ P-0054, [UGA-OTP-0251-0128](#) at 0140.

¹²⁹⁵ P-0054, [UGA-OTP-0251-0128](#) at 0137.

was obligated to follow the instructions of his superior, and at the time, that superior was Ongwen.¹²⁹⁶ Through Kalalang, Ongwen's instructions were conveyed to the LRA fighters. P-0286 saw that Kalalang Okello was obeyed whenever he gave orders, and was called "Adit," meaning boss.¹²⁹⁷ The attackers reported to Ongwen at Atoo Hills and he was present during a head count of the LRA fighters after the attack.¹²⁹⁸

480. Third, Dominic Ongwen transmitted the results of the attack over the radio to Joseph Kony and other LRA commanders, receiving commendations and critique of his tactical decisions in return. These reports were captured and intercepted by the UPDF and ISO logbooks between 8 and 10 June 2004, as well as sound-recorded by the ISO in Gulu.¹²⁹⁹

9 June 2004

481. UPDF logbooks record that during the 18:30 LRA radio communication on 9 June 2004, Ongwen reported to Otti that he attacked "Aboke Centre" and "burnt about 600 civilian houses" even though civilians had detected his forces before the attack.¹³⁰⁰

10 June 2004

482. Dominic Ongwen made another radio report on 10 June 2004. This sound recording was played to P-0003, P-0059, P-0016, and P-0019. According to all four witnesses, the attack and the number of houses burnt was discussed between Otti, Kony/Lapalpin, and Ocen, while Ongwen confirms he carried out the attack.¹³⁰¹

¹²⁹⁶ P-0054, [UGA-OTP-0251-0128](#) at 0141.

¹²⁹⁷ P-0286, [UGA-OTP-0248-0060-R01](#) at 0071, 0073 & 0076.

¹²⁹⁸ P-0252, [UGA-OTP-0243-0428-R01](#) at 0445.

¹²⁹⁹ UPDF logbook, [UGA-OTP-0197-1670](#) at 1764-1766; ISO logbook, [UGA-OTP-0062-0002](#) at 0022-0025; Sound recording, [UGA-OTP-0235-0049](#) (enhanced), [UGA-OTP-0053-0006](#) (original).

¹³⁰⁰ UPDF Logbook, [UGA-OTP-0254-2982](#) at 3078, UPDF Logbook, [UGA-OTP-0255-0228](#) at 0324.

¹³⁰¹ P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Annotated transcript by P-0003, [UGA-OTP-0248-0106-R01](#) at 0122-0124; P-0059, [UGA-OTP-0248-0328-R01](#) at 0336, Annotated transcript by P-0059, [UGA-OTP-0248-0524](#) at 0542, row 411-412; P-0016, [UGA-OTP-0259-0011-R01](#) at 0026, Annotated transcript by P-0016, [UGA-OTP-0259-0086](#) at 0087, rows 411-414; P-0019 [UGA-OTP-0262-0176-R01](#) at 0192; Annotated transcript by P-0019, [UGA-OTP-0262-0363](#) at 0381; rows 411-414.

483. Dominic Ongwen reported that, “Yesterday, I went for an attack”; that he was “just coming from warming the bodies of the boys,” meaning that he had just participated in fighting; and that he “abducted some *waya*,” a code word for civilians.¹³⁰² He reported that “we started firing at anything at all that was there. P-0003, P-0059, P-0016 and P-0019 each identify Ongwen as stating that “we burnt everything that was there including all the huts even the camp and the barracks”.¹³⁰³

484. The conversation continued with Joseph Kony giving Dominic Ongwen tactical advice for better results in future attacks. He said to “first reduce in size” meaning to establish a camp, and then “to send soldiers to abduct civilians”.¹³⁰⁴ Dominic Ongwen responded “I actually did it like that,” but complained that civilians “would all start making alarm”.¹³⁰⁵ Kony explained, “If you fail to do this you’ll get a missed call,” a term meaning the failed execution of a plan.¹³⁰⁶ Kony then gave the example of a previous ambush led by Ocan Bunia, commander of Gilva brigade, at Alero, asking Ongwen to “try doing it that way, but having done it don’t keep doing the same thing over and over again”.¹³⁰⁷ This exchange shows that Ongwen and Kony each had preferred tactics to optimise the effectiveness of attacks, and that Ongwen had the discretion to carry out the attack with his preferred method.

¹³⁰² Sound recording, [UGA-OTP-0235-0049](#) (enhanced), [UGA-OTP-0053-0006](#) (original); P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0124; P-0059, [UGA-OTP-0248-0328-R01](#) at 0335, Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0541-0542; P-0016, [UGA-OTP-0259-0011-R01](#) at 0026, Audio transcript annotation by P-0016, [UGA-OTP-0259-0086](#) at 0086-0091.

¹³⁰³ P-0003, [UGA-OTP-0248-0094-R01](#) at 0101, Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0127 (row 473); Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0545 (row 473); Audio transcript annotation by P-0016, [UGA-OTP-0259-0086](#) at 0090 (row 473); Audio transcript annotation by P-0019, [UGA-OTP-0262-0363](#) at 0384 (row 473).

¹³⁰⁴ P-0003, [UGA-OTP-0248-0094-R01](#) at 0102; P-0059, [UGA-OTP-0248-0328-R01](#) at 0335-0336.

¹³⁰⁵ P-0003, [UGA-OTP-0248-0094-R01](#) at 0102.

¹³⁰⁶ P-0059, [UGA-OTP-0248-0328-R01](#) at 0336.

¹³⁰⁷ P-0003, [UGA-OTP-0248-0094-R01](#) at 0102, Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0132; P-0059, [UGA-OTP-0248-0328-R01](#) at 0336, Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0550.

485. Dominic Ongwen reported that he received heavy shelling from government mambas during the attack. Otti congratulated him for his effort.¹³⁰⁸

486. Although the location of Abok is not mentioned on the intercept tape, details appearing on the recording such as the number of houses burnt,¹³⁰⁹ the shelling by “mamba” vehicles,¹³¹⁰ and the civilians raising alarm prior to the attack,¹³¹¹ match those in the UPDF and ISO logbook records on 9 and 10 June 2004.¹³¹²

ii. Dominic Ongwen had knowledge and intent as required by article 30 and specific to the crimes

487. Dominic Ongwen intended to bring about the objective elements of the crimes, and/or was aware that they would occur in the ordinary course of events.

488. Dominic Ongwen’s intent and/or knowledge is established from, *inter alia*, the following facts described in detail above:¹³¹³

- he planned the attack on Abok;
- he gave instructions to his subordinates to attack and commit crimes Abok;
- he deployed troops for the attack on Abok;
- he knew about the crimes committed by LRA forces in Abok, the success of which he reported on LRA radio;

¹³⁰⁸ P-0019, [UGA-OTP-0262-0176-R01](#) at 0191, Audio transcript annotation by P-0019, [UGA-OTP-0262-0363](#) at 0378-0385.

¹³⁰⁹ P-0003, [UGA-OTP-0248-0094-R01](#) at 0101; Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0122-0124; Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0541 (rows 391-393). *See* Audio transcript annotation by P-0019, [UGA-OTP-0262-0363](#) at 0384 (rows 475-479). This transcript excerpt was not played to P-0016.

¹³¹⁰ Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0127 (row 475-479); Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0545 (rows 475-477); Audio transcript annotation by P-0016, [UGA-OTP-0259-0086](#) at 0090 (rows 475-479); P-0016, [UGA-OTP-0259-0011-R01](#) at 0027; P-0019, [UGA-OTP-0262-0176-R01](#) at 0192, Audio transcript annotation by P-0019, [UGA-OTP-0262-0363](#) at 0384 (rows 475-479).

¹³¹¹ *See* Audio transcript annotation by P-0003, [UGA-OTP-0248-0106-R01](#) at 0125 (row 436, 438); P-0003, [UGA-OTP-0248-0094-R01](#) at 0101; Audio transcript annotation by P-0059, [UGA-OTP-0248-0524](#) at 0543 (rows 436, 438); Audio transcript annotation by P-0016, [UGA-OTP-0259-0086](#) at 0088 (row 436, 438); Audio transcript annotation by P-0019, [UGA-OTP-0262-0363](#) at 0382 (row 436, 438).

¹³¹² *See* ISO Logbook, [UGA-OTP-0062-0002](#) at 0023-0024; UPDF Logbook, [UGA-OTP-0254-2982](#) at 3078, [UGA-OTP-0197-1670](#) at 1764.

¹³¹³ *See* section on Dominic Ongwen’s control over the crime, at para. 477-489.

- Kony, while commending his successful attack through the radio, also criticised those tactics which failed to optimise the amount of death and destruction.

489. Dominic Ongwen's formulation of a plan to attack a civilian camp, and his discussion with Joseph Kony about the best way to deal with civilians during such an attack demonstrates that he knew the victims were civilians.

iii. Dominic Ongwen was aware of the factual circumstances which allowed him to exert control over the crimes

490. Dominic Ongwen's knowledge of the factual circumstances that enabled him to exercise control over the crimes through other persons is established from inter alia, the following facts, which are described in detail above:

- he was aware that he exercised *de jure* and *de facto* command authority over the LRA troops that he deployed to Abok;
- his role in planning the attack on Abok;
- his appointment of a sub-leader;
- his issuing of instructions to his subordinates who attacked Abok.

Dominic Ongwen is criminally responsible under article 25(3)(b)

491. Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(b) for the crimes charged. Ongwen ordered the commission of crimes, holding a position of authority as commander of Sinia brigade. He had command authority over the troops and issued military orders during the course of the attack. His orders had a direct effect on the commission or attempted commission of the crimes.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

492. Dominic Ongwen contributed to the commission or attempted commission of crimes by a group of persons, including Kony and Kalalang Okello, who were acting with a

common purpose, to further their criminal activity or criminal purpose to attack the camp, by means which involved the commission of crimes.¹³¹⁴

493. Dominic Ongwen knew the group's intention to commit the crimes. As described above, Ongwen intentionally contributed to the commission of these crimes by means including his planning of the operation, his deployment of troops, and issuing orders before the attack, in which crimes against civilians were committed. He did so with the aim of furthering the crimes and criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

Dominic Ongwen is criminally responsible under article 25(3)(f)

494. As described above, on some occasions during the attack on Abok, murders were not fully carried out because of independent circumstances. These comprised acts of attempted murder. As a result, Dominic Ongwen is individually criminally responsible under article 25(3)(f) for these acts. As described above, Ongwen possessed the necessary knowledge and intent for these crimes.

Dominic Ongwen is criminally responsible under article 28(a)

495. Dominic Ongwen is also individually criminally responsible as a military commander pursuant to article 28(a). At the time of the attack, Dominic Ongwen was the commander of Sinia brigade.

496. Dominic Ongwen knew that the LRA fighters under his command or authority were committing the charged crimes at Abok IDP camp. This is demonstrated through Dominic Ongwen's own involvement in the preparation and planning of the attack, as well as his reports conveyed to other senior LRA commanders about the results of the attack.

¹³¹⁴ See section on Dominic Ongwen's control over the crime, at para. 477-489.

497. 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 Abok during the attack or during its aftermath.

498. The acts and omissions of Dominic Ongwen that demonstrate his failure to take all such necessary and reasonable measures include:

- his failure to order or initiate genuine or adequate investigations of crimes by LRA forces under his command;
- his failure to discipline, dismiss, demote or refrain from promoting or rewarding members of the LRA forces who were involved in the attack;
- his failure to issue orders that were necessary and reasonable in the circumstances to prevent or repress the commission of crimes by the LRA fighters.

499. Dominic Ongwen's failure to exercise his duty to prevent crimes increased the risk that the forces would commit these crimes.

X. SEXUAL AND GENDER-BASED CRIMES

Introduction

500. The regime of sexual abuse of girls and women in the LRA is one of its defining features. The systematic nature of its conduct and its strict system of rules governing sexual relations were singular. The LRA's system of distributing women and girls to so-called husbands was one way in which LRA fighters demonstrated their power attaching to the right of ownership over abducted women and girls. The women were treated as spoils of war, awarded as prizes without any more say in the matter than if they had been animals or inanimate objects.

501. Joseph Kony and his senior commanders regarded abducted women and girls as their possessions: sometimes valued, but ultimately disposable and replaceable.¹³¹⁵ Joseph Kony outlined his justification for the distribution of girls and women¹³¹⁶ by stating that that “courtship brings indiscipline.”¹³¹⁷ He further stated that distributing the girls “prevents sexually transmitted infection from spreading” and that the “big men” (officers) have many wives because “they are soldiers and officers”.¹³¹⁸ There was no genuine consent to the allocation of the girls to their “husbands” and any of the subsequent sexual activity. The women and girls were punished if they failed in their domestic duties, and if they tried to escape they were brutally caned or murdered. Some were made to engage in military combat. The LRA also expected these women to forcibly conceive and bear the children of these “husbands”.¹³¹⁹

502. All units of the LRA were involved in the abduction of girls and women and their subsequent subjugation into a forced exclusive conjugal relationship. As a battalion commander in, and later as a brigade commander of, Sinia brigade, Dominic Ongwen faithfully carried out the LRA’s brutal policy toward girls and women. He also made sure that the LRA policy was followed by fighters in the Sinia brigade under his command. From at least 1 July 2002 to 31 December 2005, he committed, together with others and through Sinia fighters, the crimes of forced marriage, rape, sexual slavery, enslavement, and torture.

503. As a senior LRA commander, Ongwen was one of those who benefited most from the misery of the abducted women and girls. P-0101 said that, “when young girls are

¹³¹⁵ ISO Logbook, UGA-OTP-00133-0289 at 0371: Kony recorded on the logbook consoling Bogi Bosco, whose wife had escaped and was heard of Mega FM, that “LRA changes women like cloth[e]s [and] Bogi should not mind and should get move and get another lady from Teso to replace Aloyo”.

¹³¹⁶ Kony letter, [UGA-OTP-0270-0196](#) (Translation) [UGA-OTP-0025-0362](#) (Acholi original).

¹³¹⁷ Kony letter, [UGA-OTP-0270-0196](#) at 0198 (Translation) [UGA-OTP-0025-0362](#) at 0363 (Acholi original).

¹³¹⁸ Kony letter, [UGA-OTP-0270-0196](#) at 0198 (Translation) [UGA-OTP-0025-0362](#) at 0363 (Acholi original).

¹³¹⁹ Kony letter, [UGA-OTP-0270-0196](#) at 0200 (Translation) [UGA-OTP-0025-0362](#) at 0365 (Acholi original).

abducted, you are raped while you're still young. [...] Dominic was the worst when it came to young [...] girls. [...] he still has sex with them at a very young age".¹³²⁰

504. Dominic Ongwen directly perpetrated sexual and gender-based crimes against all his forced wives, P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, and P-0236. His crimes include forced marriage, rape, sexual slavery, enslavement, torture, outrages upon personal dignity, and forced pregnancy. His conduct more than a decade.

505. In September and November 2015, the Single Judge of Pre-Trial Chamber II pursuant to article 56 of the Statute, heard witnesses P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, P-0236 via video link.¹³²¹ Trial Chamber IX has recognised this evidence as being formally submitted in the trial proceedings, but has deferred the assessment of the relevance and probative value of that evidence until deliberation of its judgement pursuant to article 74 of the Statute.¹³²²

Forced marriage as an "other inhumane act"

506. Forced marriage is an inhumane act of a character similar to the acts set out in article 7(1)(a)-(j). Pre-Trial Chamber II in its Confirmation Decision¹³²³ held that "forced marriage as another inhumane act differs from the other crimes with which Dominic Ongwen is charged and notably from the crime of sexual slavery in terms of conduct,

¹³²⁰ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 62-63. Also UPDF logbook [UGA-OTP-0254-1077](#) at 1346 where Omona is reported to be angry at Ongwen because he did not hand over the *ting-tings* that were for Kony but kept them for himself.

¹³²¹ P-0226 and P-0227 testified between 15 and 19 September 2015. See ICC-02/04-01/15-T-8-Conf; ICC-02/04-01/15-T-9-Conf; ICC-02/04-01/15-T-10-Conf; ICC-02/04-01/15-T-11-Conf. Between 9 and 17 November 2015, P-0099, P-0101, P-214, P-0235 and P-0236 testified. See ICC-02/04-01/15-T-13-Conf; ICC-02/04-01/15-T-14-Conf; ICC-02/04-01/15-T-15-Conf; ICC-02/04-01/15-T-16-Conf ; ICC-02/04-01/15-T-17-Conf. For the audio-visual recordings of these hearings, see ICC-02/04-01/15-351-Conf-Anx1; ICC-02/04-01/15-351-Conf-Anx2; ICC-02/04-01/15-354-Conf-Anx1; ICC-02/04-01/15-354-Conf-Anx2; ICC-02/04-01/15-355-Conf-Anx1; ICC-02/04-01/15-358-Conf-Anx1; ICC-02/04-01/15-358-Conf-Anx2; ICC-02/04-01/15-356-Conf-Anx1; ICC-02/04-01/15-357-Conf-Anx1; ICC-02/04-01/15-352-Conf-Anx1.

¹³²² ICC-02/04-01/15-520.

¹³²³ ICC-02/04-01/15-422-Conf, para. 92.

ensuing harm, and protected interests”¹³²⁴ and approved its inclusion in the Document Containing the Charges. The Chamber ruled that the central element of forced marriage is the imposition of “marriage” on the victim, *i.e.*, the imposition regardless of the will of the victim of duties that are associated with marriage, as well as of the social status of being the perpetrator’s “wife”.¹³²⁵

507. In making this ruling, the *Ongwen* Pre-Trial Chamber noted the persuasive jurisprudence of the Appeals Chamber of the Special Court for Sierra Leone (“SCSL”), which held that an accused who, by force, threat of force, or coercion, or by taking advantage of coercive circumstances, caused one or more persons to serve as a conjugal partner, and knew that his actions were part of a widespread or systematic attack against a civilian population and amounted to the infliction of great suffering, or serious injury to body or to mental or physical health sufficiently similar in gravity to the crimes against humanity described in article 2 of the Statute of the SCSL, is guilty of the offence of forced marriage as an “other inhumane act”.¹³²⁶ There is no difference between the Statute of the SCSL and the Rome Statute that warrants different treatment of this crime at this Court.

508. There was a rule within the ranks of the LRA that there was to be no sex outside “marriage”. As explained in the section on the Accused’s liability as an indirect co-perpetrator of SGBC (paragraphs 612 to 700), the exclusivity of this forced conjugal union pertained only to the “wife”; the “husband” could have many wives. Mandated by Joseph Kony and propagated by his senior commanders, the rule was strictly enforced and breaches of it were severely punished. The crime served as the gateway for

¹³²⁴ *Id.*

¹³²⁵ *Id.*, para. 93.

¹³²⁶ See *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-A, Appeal Judgement, 26 October 2009, para. 735-736. See also, *Prosecutor v. Brima, Kamara and Kanu*, SCSL-2004-16-A, Appeal Judgment, 22 February 2008, para. 196.

the other sexual and gender-based crimes perpetrated upon abducted women and girls, such as rape and sexual slavery.

509. Forced marriage irrevocably changed the status of its victims, both in the way that they perceived themselves and how they were perceived by others. Women and girls whom Dominic Ongwen forcibly married, without any reference to their wishes in the matter, frequently continue to regard themselves as his “wives” to this day. As noted by the Pre-Trial Chamber, “what matters is that the so-called marriage is factually imposed on the victim, with the consequent social stigma”.¹³²⁷ For some of the victims, this self-image comes freighted with mixed emotions towards the man who forcibly married them. They are often burdened with residual regard and even affection for the man who subjected them to forced marriage, as well as raping them and holding them in sexual slavery — no doubt arising from the fact that, over the months or years of their association his behaviour towards them was not always brutal and violent. This is particularly the case when that man is the father of their children. Other people within the society to which the victims have returned following their escape from the LRA also refer to these victims as LRA “wives” and they are frequently regarded with suspicion and sometimes hostility. Dominic Ongwen himself, once he arrived in the custody of the ICC, listed two of his victims as his “wives” (he did not use inverted commas) in the list of telephone contacts he provided to the Registry.¹³²⁸ By referring to a person as a “wife,” or to persons as “wives” in these submissions, or by making reference to “marriage”, the Prosecution does not intend 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.

¹³²⁷ ICC-02/04-01/15-422-Conf, para 93.

¹³²⁸ ICC-02/04-01/15-257-Conf-Exp-Anx.

510. The jurisprudence of the *ad hoc* courts and tribunals illustrates two aspects of forced marriage that support its existence as a separate crime appropriately placed within the category of “other inhumane acts”, rather than being subsumed in the crime of sexual slavery.¹³²⁹ First, the perpetrator of forced marriage typically demands exclusive conjugal and domestic “duties” of the victim, such as bearing children, cooking and cleaning, in addition to forcing sexual intercourse upon the victim.¹³³⁰ Chambers at the SCSL emphasised this distinction in finding that separate counts of sexual slavery and the other inhumane act of forced marriage were established independently,¹³³¹ and noted that the latter was “not predominantly a sexual crime”.¹³³²

511. Secondly, as a consequence, the victims of forced marriage suffer separate and additional harm to those of the crime of sexual slavery.¹³³³ The Pre-Trial Chamber in its Confirmation Decision recognised that the victims of forced marriage suffer separate and additional harm to those of the crime of sexual slavery or other crimes under the Statute and further that, distinct from the sexual harm, the crime of forced marriage “violates the independently recognised right to consensually marry and establish a family”.¹³³⁴ The domestic duties required of the forced wives curtail their liberty in a

¹³²⁹ Oosterveld, V., “The Gender Jurisprudence of the Special Court for Sierra Leone: Progress in the Revolutionary United Front Judgments”, *Cornell International Law Journal*, Vol. 44 (2011), p. 49, 65 (hereafter, Oosterveld, V.); see e.g. *Prosecutor v. Brima, Kamara and Kanu*, SCSL-2004-16-A, Appeal Judgment, 22 February 2008 (hereafter, “AFRC Appeal Judgement”), para. 195, 201-203, overturning the characterisation of forced marriage as a mere form of the crime of sexual slavery; *Prosecutor v. Sesay et al.*, SCSL-04-15-T, Trial Judgement, 2 March 2009 (hereafter, “RUF Trial Judgement”), p. 678, 682, finding the Accused liable for the other inhumane act of forced marriage; *Prosecutor v. Nuon et al.*, Case 002/19-09-2007-ECCC-OCIJ, D427, Closing Order, 15 September 2010 (hereafter, “Case 002 Closing Order”) which confirmed charges of forced marriage, and highlighting that forced sexual intercourse was merely one aspect of the harm suffered by the victims; *Prosecutor v. Nuon et al.*, Case 002/19-09-2007-ECCC-OCIJ, D268/2, Order on Request for Investigative Action Concerning Forced Marriages and Forced Sexual Relations, 18 December 2009, para. 10 (hereafter, “Case 002/02 Investigative Action Decision”), affirming the constitutive aspects of forced marriage as articulated in the AFRC case, in particular the fact that proof of forced sexual relations was not required, but could be evidence of harm to the victim; *Prosecutor v. Nuon et al.*, Case 002/19-19-2007-ECCC/TC, E301/9/1, Decision on Additional Severance of Case 002 and Scope of Case 002/02, 4 April 2014, confirming the separate charge of forced marriage on a national scale.

¹³³⁰ See e.g. RUF Trial Judgement, para. 1211-13, 1293, 1295, 1413.

¹³³¹ RUF Trial Judgement, para. 1460-1461, 1472.

¹³³² AFRC Appeal Judgement, para. 195.

¹³³³ Case 002/02 Investigative Action Decision, para. 10.

¹³³⁴ ICC-02/04-01/15-422-Conf, para 94; See also, International Covenant on Civil and Political Rights, 999 UNTS 14668 (1966), art. 23; Universal Declaration of Human Rights, United Nations General Assembly Resolution 217 A(III) (1948), art. 16; Convention on the Elimination of All Forms of Discrimination Against

manner independent of the restriction on sexual freedom.¹³³⁵ The whole concept of marriage – its social status, property rights, inheritance rights, legitimising effect upon children, importance as the foundation of the family unit, and potential source of comfort and companionship to marital partners – is perversely reconstructed for the victims of forced marriage. Having been denied the right to practice any of the traditional rituals associated with the marriage ceremony, they are forced to endure all the burdens and receive none of the benefits of this social institution.¹³³⁶ This is an ongoing crime that does not require the immediate geographical proximity of the perpetrator. Finally, the physical and psychological damage of the experience itself is, for victims of forced marriage, also supplemented by the “lasting social stigma which hampers their recovery and reintegration into society”.¹³³⁷

Forced pregnancy

512. The value protected by the criminalisation of forced pregnancy is primarily reproductive autonomy.¹³³⁸ Commentators agree that the term “forced pregnancy” includes both “(en)forced impregnation (pregnancy as a result of rape or of an illegal medical procedure) and (en)forced maternity (being forced to carry the pregnancy)”.¹³³⁹ The act causing the enforced pregnancy need not have occurred during the period of the

Women, 1249 UNTS 13 (1981), art. 16; RUF Trial Judgement, para. 1293, 1471; AFRC Appeal Judgement, para. 195; Case 002 Closing Order, para. 217, 845.

¹³³⁵ Universal Declaration of Human Rights, art. 3; ICCPR, art. 3.

¹³³⁶ Case 002 Closing Order, para. 217, 855, 1447.

¹³³⁷ RUF Trial Judgement, para. 1296, 1351; Oosterveld, V., p. 65.

¹³³⁸ Boon, ‘Rape and forced pregnancy under the ICC Statute: human dignity, autonomy, and consent,’ [2000-2001] 32 *Columbia Human Rights Law Review* 625 (hereafter “Boon”), p. 655; see also p. 657-658, 660.

¹³³⁹ Ambos, *Treatise on International Criminal Law (Vol.II: The Crimes and Sentencing)* (Oxford: OUP, 2014) (hereafter “Ambos”), p. 102; Cottier, ‘War crimes – para. 2 (b) (xxii)’ (hereafter “Cottier”), in Triffterer (ed.), *Commentary on the Rome Statute of the International Criminal Court: Observers’ Notes, Article by Article*, 2nd Ed. (München/Oxford/Baden-Baden: C.H.Beck/Hart/Nomos, 2008) (hereafter “Triffterer”), p. 448, mn. 210. *see also* Steains, ‘Gender issues,’ in Lee (ed.), *The International Criminal Court: the Making of the Rome Statute* (The Hague: Kluwer, 1999) (hereafter “Steains”), p. 365-367.

woman's unlawful confinement,¹³⁴⁰ nor need be attributed to the perpetrator of the confinement,¹³⁴¹ although in this case it is.

513. In its Confirmation Decision, the Pre-Trial Chamber ruled that "it is [...] the act of confinement which must be carried out with the required special intent. Indeed the crime of forced pregnancy does not depend on the perpetrator's involvement in the women's conception; it is only required that the perpetrator knows that the women is pregnant and that she has been made pregnant forcibly. It is apparent that the essence of the crime of forced pregnancy is in unlawfully placing the victim in a position in which she cannot choose whether to continue the pregnancy."¹³⁴²

514. The Pre-Trial Chamber continued: "By the same token, it is not necessary to prove that the perpetrator has a special intent with respect to the outcome of the pregnancy, or that the pregnancy of the woman is in any way causally linked to her confinement. While the first alternative of the special intent requirement ("intent of affecting the ethnic composition of any population") would typically include such component, the second alternative ("intent of carrying out other grave violations of international law") does not call for any such restrictive interpretation."¹³⁴³

¹³⁴⁰ Ambos, p. 102 (citing *inter alia* Werle, *Principles of International Criminal Law*, 2nd Ed. (The Hague: T.M.C. Asser Press, 2009), mns. 883-884).

¹³⁴¹ Boot and Hall, 'Rape ... or any other form of sexual violence of comparable gravity,' (hereafter "Boot and Hall") in Triffterer, p. 256, mn. 112; La Haye, 'Article 8(2)(b)(xxii)—Rape, Sexual Slavery, Enforced Prostitution, Forced Pregnancy, Enforced Sterilization, and Sexual Violence' (hereafter "La Haye"), in Lee (ed.), *The International Criminal Court: Elements of Crimes and Rules of Procedure and Evidence* (Ardsley: Transnational, 2001), p. 194; Marković, 'Vessels of reproduction: forced pregnancy and the ICC,' [2008-2008] 16 *Michigan State Journal of International Law* 439 (hereafter "Marković"), p. 442.

¹³⁴² ICC-02/04-01/15-422-Red, para. 99

¹³⁴³ ICC-02/04-01/15-422-Red, para. 99.

SGBC committed personally by Dominic Ongwen

P-0099: Count 50 – forced marriage as an inhumane act (article 7(1)(k)) and count 57 – enslavement (article 7(1)(c))

515. P-0099 was abducted in February 1998.¹³⁴⁴ She was 15 years old.¹³⁴⁵ Dominic Ongwen participated in this attack.¹³⁴⁶

516. Although P-0099 was not distributed immediately as a wife, it was clear that she was abducted for that purpose. P-0099 was detained against her will in Joseph Kony's household in Jebellin, Sudan, where she was forced to work as a *ting-ting* (a young girl not yet old enough to be a wife who was forced to perform domestic chores like babysitting).¹³⁴⁷ She was forced to carry out domestic duties including looking after children and washing clothes.¹³⁴⁸ She was not able to leave.¹³⁴⁹ She knew this because her friend, Lucy, was beaten to death when LRA fighters found out that she planned to escape.¹³⁵⁰

517. Kony wanted P-0099 to be his wife, but she refused.¹³⁵¹ She refused three other commanders before she accepted to be Dominic Ongwen's wife.¹³⁵² This choice was made under coercive circumstances. Although she was able to choose her husband,¹³⁵³ this was an unusual privilege, likely allowed only due to her status as the niece of a high-level LRA commander, one who was particularly close to Kony.¹³⁵⁴ Had P-0099 not chosen a husband, she would have been allocated one without her consent. According

¹³⁴⁴ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 11, 13.

¹³⁴⁵ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 13.

¹³⁴⁶ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 17.

¹³⁴⁷ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 20-22.

¹³⁴⁸ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 21.

¹³⁴⁹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 23.

¹³⁵⁰ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 23-24.

¹³⁵¹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 24-25.

¹³⁵² P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 27-28.

¹³⁵³ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 26.

¹³⁵⁴ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, pp. 25-27.

to Joseph Kony, it “wasn’t acceptable” for a woman to remain single in the LRA.¹³⁵⁵ LRA radio communications corroborate P-0099’s account. On 15 and 28 May 2003, Joseph Kony ordered that all women must stay with their husbands¹³⁵⁶ on the basis that LRA rules do not allow women to stay without men.¹³⁵⁷

518. The day that P-0099 joined Dominic Ongwen’s household, she was forced to have sex with him. She was taken to his house by his escorts, where she took a bath.¹³⁵⁸ There were guns in his house.¹³⁵⁹ She went to Ongwen’s bed and he told her to close the door. He told her to sit on the bed and to remove her clothes.¹³⁶⁰ He told her to lie down. Then he put himself on top of her and had sex with her.¹³⁶¹ She told him “you have hurt me”.¹³⁶² He did not answer.

519. P-0099 purported to consent to sex with Dominic Ongwen, but it was not genuine consent, and it was given in coercive circumstances. She explained that: “it was time for me to become a wife. Now if I had refused and if he had ordered that I be killed, what would happen. That’s why I accepted [...] because he may say that I’m promoting prostitution among his soldiers”.¹³⁶³ Evidence of this rape and other facts related to P-0099’s forced marriage to Ongwen were not challenged by the Defence during her testimony in the article 56 proceedings.

520. Although this rape predates the Court’s temporal jurisdiction, it constitutes vital context for the Chamber to achieve a proper understanding of the coercive environment that existed during Dominic Ongwen’s commission of the crimes of forced marriage and enslavement charged in relation to this victim in the period 1 July to September 2002.

¹³⁵⁵ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 27.

¹³⁵⁶ ISO logbook, [UGA-OTP-0068-0146](#) at 0172.

¹³⁵⁷ ISO logbook, [UGA-OTP-0068-0146](#) at 0204.

¹³⁵⁸ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 31-32.

¹³⁵⁹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 33.

¹³⁶⁰ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 32.

¹³⁶¹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 32.

¹³⁶² P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 32.

¹³⁶³ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 36.

521. From the time she was first raped, P-0099 was Dominic Ongwen's forced wife, with no right to choose any other sexual partner.¹³⁶⁴ One of P-0099's main tasks in Ongwen's household was to have sex with him on demand.¹³⁶⁵ As a result of Ongwen forcing her to have sex with him, P-0099 had a son in June 2002.¹³⁶⁶

522. Dominic Ongwen also instructed her to cook, do the laundry, and work in the garden.¹³⁶⁷ If she refused she was beaten. On one occasion she and another forced wife, Margaret,¹³⁶⁸ were beaten by two of Ongwen's escorts, Ocan and Owor, because they had refused to cook.¹³⁶⁹ Being a forced wife to Ongwen, including having to submit to regular rape and to do domestic tasks for him, arose because he took advantage of coercive circumstances. It was an inhumane act that inflicted great suffering or serious injury to her body or to her mental or physical health of a character similar to other crimes against humanity charged in this document. Ongwen knew this because, as the perpetrator, he saw from the closest possible vantage point the impact that his conduct had on her.

523. P-0099 escaped in September 2002. From 1 July 2002, the date after which the Court has temporal jurisdiction, to her escape in September 2002, she was in northern Uganda. She was physically guarded in the sick-bay by LRA fighters including Dominic Ongwen's escorts and John Matata. She was not able to return to her home. If she had tried to escape, she would have been killed. Although she was not physically with Dominic Ongwen during this period, she continued to be his forced wife.¹³⁷⁰

524. Dominic Ongwen continued to exercise total control over her life, including that she have sex with no-one but him.

¹³⁶⁴ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 40-41, 44-45.

¹³⁶⁵ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 36, 40-41.

¹³⁶⁶ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 42-43.

¹³⁶⁷ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 40.

¹³⁶⁸ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 36-38.

¹³⁶⁹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 40-41.

¹³⁷⁰ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 40-48.

525. Dominic Ongwen also exercised powers attaching to the right of ownership over P-0099, by imposing on her a deprivation of liberty including the performance of domestic duties, which reduced her to a servile status. He deprived her of her liberty by placing her under armed guard and imposing conditions that made it impossible for her to escape. Even though she was not physically proximate to Ongwen during the charged period, P-0099 continued to cook, do the laundry, and garden.

P-0101: Count 50 – forced marriage as an inhumane act (article 7(1)(k)), count 51 – torture (article 7(1)(f)), count 52 – torture (article 8(2)(c)(i)), count 53 – rape (article 7(1)(g)), count 54 – rape (article 8(2)(e)(vi)), count 55 – sexual slavery (article 7(1)(g)), count 56 – sexual slavery (article 8(2)(e)(vi)), count 57 – enslavement (article 7(1)(c)), count 58 – forced pregnancy (article 7(1)(g)), and count 59 – forced pregnancy (article 8(2)(e)(vi))

526. P-0101 was abducted in August 1996 by Dominic Ongwen and other LRA fighters.¹³⁷¹ She was 15.¹³⁷²

527. The day she was abducted, Dominic Ongwen forced P-0101 to be his wife.¹³⁷³ He removed her blouse and smeared her with shea nut oil, a ritual that LRA fighters sometimes performed on abducted girls before they became forced wives.¹³⁷⁴

528. That evening, Dominic Ongwen sent his escorts to bring P-0101 to his tent. She was afraid.¹³⁷⁵ P-0101 refused to enter his tent and returned to where she was sleeping.¹³⁷⁶ Ongwen sent his escorts again, who forced P-0101 to go to his tent.¹³⁷⁷ P-0101 pleaded with Ongwen not to rape her.¹³⁷⁸ Ongwen said to her: “Have you seen this gun? If you

¹³⁷¹ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 16, 17, 21, 48-50.

¹³⁷² P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 16.

¹³⁷³ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17, 50-51.

¹³⁷⁴ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 50, 63.

¹³⁷⁵ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17.

¹³⁷⁶ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17.

¹³⁷⁷ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17.

¹³⁷⁸ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17-18, 50.

refuse to sleep here then you're going to face the consequences".¹³⁷⁹ With the help of his escorts, Ongwen pinned her down. He put his penis in her vagina. He caused her to cry, caused her pain and caused her to bleed.¹³⁸⁰ Her clothes were covered in blood.¹³⁸¹ It was the first time she had had sex.¹³⁸² Evidence of this rape and other facts related to her forced marriage to Ongwen were not challenged by the Defence during her testimony in the article 56 proceedings.

529. Over the eight years that she was in captivity, Dominic Ongwen continued to force P-0101 to have sex with him. She had no ability to choose not to do so.¹³⁸³ He beat her when she refused to have sex with him.¹³⁸⁴ At no time was she able to escape. If she were caught, she would have been killed. She had seen this being done to others, and was too scared to try to flee.¹³⁸⁵ As his forced wife, Ongwen also made her perform domestic duties for him, including cooking and fetching and chopping wood.¹³⁸⁶

530. Being a forced wife to Dominic Ongwen included having to maintain an exclusive sexual relationship with him, having sexual intercourse with him on demand, bearing his children, performing domestic chores and otherwise doing what Ongwen instructed her to do. P-0101's forced marriage to Ongwen was an inhumane act that caused her great suffering or serious injury to her body or to her mental or physical health of a character similar to other crimes against humanity charged in this document. Ongwen knew this because, as the perpetrator, he saw from the closest possible vantage point the impact that his conduct had on her.

¹³⁷⁹ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 17.

¹³⁸⁰ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 18, 50.

¹³⁸¹ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 18-19.

¹³⁸² P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 18.

¹³⁸³ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 19-21.

¹³⁸⁴ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 21.

¹³⁸⁵ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 44.

¹³⁸⁶ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 38.

531. By forcing her to perform domestic duties, raping her regularly, beating her, and preventing her from escaping, forcing her to do what he told her to do, and having the power to decide whether she lived or died, Dominic Ongwen exercised powers attaching to the right of ownership over P-0101, depriving her of her liberty and reducing her to a servile status.

532. This same conduct further caused P-0101 severe physical or mental pain or suffering, which was inflicted by Dominic Ongwen for the purpose of intimidation, coercion or punishment, including preventing her escape. During this conduct P-0101 was a civilian taking no active part in hostilities and Dominic Ongwen was aware of the factual circumstances that established her status. At all times, P-0101 was under Ongwen's custody or control. The pain or suffering that he caused her arose from rapes and beatings for refusing to be raped, which are not lawful sanctions.

533. As a result of Ongwen's repeated rape, P-0101 became pregnant. She gave birth to three children fathered by Dominic Ongwen.¹³⁸⁷ Her second child was one year, four months old, when P-0101 escaped in July 2004. Her first child also escaped with her.¹³⁸⁸ Her third child was born after her escape. From 1 July 2002 to July 2004, in the period when she was pregnant with her second and third child, Ongwen confined P-0101, whom he had forcibly made pregnant. He confined her with the intention to continue to carry out grave violations of international law, including using her as his forced wife, and raping, sexually enslaving, enslaving, and torturing her. His intent is demonstrated by the evidence cited above that he continued, during her pregnancy, to commit the same crimes as prior to her pregnancy. Although Ongwen also confined her during her first pregnancy, the confinement occurred outside the Court's temporal jurisdiction.

¹³⁸⁷ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 11, 16, 19, 21.

¹³⁸⁸ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 7, 29, 43. It is an agreed fact between the parties that Dominic Ongwen and P-0101 are biological parents of two children born in the charged period. *See* ICC-02/04-01/15-487-Conf-AnxA, p. 5.

P-0214: Count 50 – forced marriage as an inhumane act (article 7(1)(k)), count 51 – torture (article 7(1)(f)), count 52 – torture (article 8(2)(c)(i)), count 53 – rape (article 7(1)(g)), count 54 – rape (article 8(2)(e)(vi)), count 55 – sexual slavery (article 7(1)(g)), count 56 – sexual slavery (article 8(2)(e)(vi)), count 57 – enslavement (article 7(1)(c)), count 58 – forced pregnancy (article 7(1)(g)), and count 59 – forced pregnancy (article 8(2)(e)(vi))

534. P-0214 was abducted in June 2000 by LRA fighters from the Sinia brigade commanded by Pope and Kidega.¹³⁸⁹ She was abducted with about 50 others.¹³⁹⁰ P-0214 and the other abductees were forced to carry pillaged items.¹³⁹¹ They walked to Kony's base in Abatulanga, Sudan.¹³⁹²

535. Kony distributed P-0214 to Dominic Ongwen's household in about September 2002.¹³⁹³ When P-0214 arrived at Ongwen's household, she met P-0226, who was part of Ongwen's household and was carrying out domestic duties for him, including cooking and washing clothes.¹³⁹⁴

536. When she first arrived at Dominic Ongwen's household, P-0214 was instructed to cook, wash clothes, and do other chores within the household.¹³⁹⁵ These duties as well as nursing Ongwen when he was injured were also required of her after she became Ongwen's wife.¹³⁹⁶ P-0235 confirmed this account.¹³⁹⁷

537. When Dominic Ongwen told P-0214 that he wanted her to be his wife, she refused.¹³⁹⁸ Ongwen told his security guards to get sticks. She was scared, so she submitted to his

¹³⁸⁹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 5-7.

¹³⁹⁰ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 7.

¹³⁹¹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 7-9.

¹³⁹² P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 12.

¹³⁹³ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 15-16, 17, 43-44.

¹³⁹⁴ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 18.

¹³⁹⁵ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 20, 21.

¹³⁹⁶ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 27.

¹³⁹⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 8-9.

¹³⁹⁸ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 21-22.

demand. Ongwen told her that she had already been smeared so she was ready to be his wife.¹³⁹⁹ He said that when a husband calls on a girl, she should not refuse.¹⁴⁰⁰

538. She entered his room and lay down.¹⁴⁰¹ She did not want to.¹⁴⁰² Guards were outside. There was a gun inside his room.¹⁴⁰³ Dominic Ongwen told her to remove her clothes. He pulled his shorts down. His penis was uncircumcised. She was afraid. She had never slept with a man before. He put his penis inside her vagina. She felt pain when he entered her. She tried to push him away but he was too heavy.¹⁴⁰⁴ She cried afterwards.¹⁴⁰⁵

539. On that occasion, and every occasion after that, P-0214 had no choice whether to have sex with Dominic Ongwen.¹⁴⁰⁶ P-0235 confirmed that P-0214 was Ongwen's wife.¹⁴⁰⁷ His security was present whenever she went to his sleeping quarters.¹⁴⁰⁸ On no occasion could she escape, because Ongwen's armed security escort guarded her.¹⁴⁰⁹ In her time in the LRA, she had sex only with Ongwen.¹⁴¹⁰ Evidence of her rape and other facts related to her forced marriage to Ongwen were not challenged by the Defence during her testimony in the article 56 proceedings.

540. P-0235 said that they beat P-0214 "because he [Dominic Ongwen] had asked [P-0214] to bring him water for bathing [...] [P-0214] was already pregnant at that point [...] He

¹³⁹⁹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 22-23.

¹⁴⁰⁰ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 22-23.

¹⁴⁰¹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 23.

¹⁴⁰² P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 27.

¹⁴⁰³ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 23.

¹⁴⁰⁴ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 24.

¹⁴⁰⁵ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 24-25.

¹⁴⁰⁶ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 25, 26, 27-28.

¹⁴⁰⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 12-13.

¹⁴⁰⁸ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 25-26.

¹⁴⁰⁹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 26.

¹⁴¹⁰ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 28.

beat [P-0214] even using a machete [... which] cut her arm a little bit around the elbow".¹⁴¹¹

541. As a result of Dominic Ongwen's repeated rapes, P-0214 became pregnant four times, in 2005, 2006, 2007 and 2008.¹⁴¹² P-0214 miscarried once and had three children fathered by Ongwen.¹⁴¹³ P-0227 confirmed that P-0214 was pregnant when P-0235 arrived in Ongwen's household, in 2005.¹⁴¹⁴ During her first forced pregnancy in Uganda in 2005, Ongwen confined her by guarding her constantly and through the fear that he had instilled in her of escaping.¹⁴¹⁵ While she was pregnant, he continued to carry out grave violations of international law including continuing to use her as his forced wife, and raping, torturing, sexually enslaving and enslaving her. P-0214 managed to escape the LRA in 2011.¹⁴¹⁶

542. From about September 2002 to 31 December 2005, Dominic Ongwen forced P-0214, as his forced wife, to maintain an exclusive sexual relationship with him, have sexual intercourse with him on demand, bear his children, perform domestic chores and otherwise do what he instructed her to do. Her forced marriage to Ongwen was an inhumane act that inflicted great suffering or serious injury to her body or to her mental or physical health of a character similar to other crimes against humanity charged in this document. Ongwen knew this because, as the perpetrator, he saw from the closest possible vantage point the impact that his conduct had on her.

543. Dominic Ongwen also inflicted severe physical or mental pain or suffering upon P-0214 while she was under his custody or control by having sexual intercourse with her

¹⁴¹¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 44.

¹⁴¹² P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 27-30; P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 34-35.

¹⁴¹³ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 28-30. It is an agreed fact between the parties that Dominic Ongwen and P-0214 are the biological parents of one child born in the charged period. *See* ICC-02/04-01/15-487-Conf-AnxA, p. 5.

¹⁴¹⁴ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 35, 42-43.

¹⁴¹⁵ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 28, 34-35.

¹⁴¹⁶ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 34.

by force, or by threat of force or coercion, and by beating her. He inflicted this pain or suffering to punish or intimidate her and to reinforce his control over her. During this conduct, P-0214 was a civilian taking no active part in hostilities and Dominic Ongwen was aware of the factual circumstances that established her status. She was under Ongwen's custody and control because she was constantly guarded by his security. Her pain or suffering did not arise from any lawful sanctions.

544. Dominic Ongwen exercised powers attaching to the right of ownership over P-0214, by imposing on her a deprivation of liberty including the performance of domestic duties, which reduced her to a servile status, and her submission to regular rape. This exercise of power included receiving her from Joseph Kony, and keeping her after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude.

P-0226: Count 50 – forced marriage as an inhumane act (article 7(1)(k)), count 51 – torture (article 7(1)(f)), count 52 – torture (article 8(2)(c)(i)), count 53 – rape (article 7(1)(g)), count 54 – rape (article 8(2)(e)(vi)), count 55 – sexual slavery (article 7(1)(g)), count 56 – sexual slavery (article 8(2)(e)(vi)), count 57 – enslavement (article 7(1)(c)), and count 60 – outrages upon personal dignity (article 8(2)(c)(ii))

545. In about 1998, armed LRA fighters under Dominic Ongwen's command abducted P-0226 from her home. She was about seven years old.¹⁴¹⁷ They forced her to carry a bag of salt. It rained and the bag leaked on to her head, giving her sores.¹⁴¹⁸ Her abductors forced her to walk through the bush for about one month. She was exhausted; her stomach, feet, and head ached. She was guarded, could not escape, and could not complain. She witnessed her abductors kill another abductee because she was tired.¹⁴¹⁹

¹⁴¹⁷ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 8-11, 20, 23; Media Article, [UGA-OTP-0235-0094](#) at 0097; Media Article, [UGA-OTP-0235-0103](#) at 0103.

¹⁴¹⁸ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 14, 16.

¹⁴¹⁹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 21-22.

546. When they reached Sudan, P-0226 and other girls aged 10 to 15 years had shea butter smeared on their body as part of a ritualised initiation.¹⁴²⁰ LRA commanders then selected the girls to become their wives. P-0226 was taken to Dominic Ongwen's home.¹⁴²¹ He hid her from other senior LRA commanders to ensure that he kept her.¹⁴²²

547. Soon after her abduction, she was made a *ting-ting* in Dominic Ongwen's home. She had to fetch water and collect vegetables for cooking. She was not permitted to move about freely.¹⁴²³ When she was about 10 years old, Ongwen summoned her to have sex with him. She was disgusted and frightened. She refused. Ongwen ordered his escorts to beat her. He watched them do it.¹⁴²⁴ They beat her with bamboo sticks, so severely that her hands and body were swollen and she could not sit properly. After one week of being beaten continually, P-0226 submitted to Ongwen's demands.¹⁴²⁵

548. Dominic Ongwen tore P-0226's clothes off. He had to lift her onto his bed because she was so small. He threatened to kill her if she cried. He penetrated her vagina with his penis. He caused her injury and bleeding.¹⁴²⁶ He bragged and laughed with other commanders about having raped her.¹⁴²⁷

549. Each time that Dominic Ongwen had sex with P-0226 after this first rape, it was forced.¹⁴²⁸ She had no choice. When they moved back to Uganda, Ongwen announced that P-0226 was now his wife. She was not allowed to have any sexual interest in anyone except her husband, Ongwen, otherwise she would have been beaten or killed.¹⁴²⁹

¹⁴²⁰ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 24-25.

¹⁴²¹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 26, 29, ICC-02/04-01/15-T-9-CONF-ENG, p. 27.

¹⁴²² P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 34, ICC-02/04-01/15-T-9-CONF-ENG, p. 32-34.

¹⁴²³ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 36-37.

¹⁴²⁴ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 38-39.

¹⁴²⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 39-40.

¹⁴²⁶ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 41-42.

¹⁴²⁷ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 42, ICC-02/04-01/15-T-9-CONF-ENG, p. 41-42.

¹⁴²⁸ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 45-46.

¹⁴²⁹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 53, ICC-02/04-01/15-T-9-CONF-ENG, p. 51-52, 55.

Evidence of this rape and other facts related to Ongwen's forced marriage with P-0226 was not challenged by the Defence during her testimony in the article 56 proceedings.

550. P-0226 was forced to do domestic chores, including cutting grass for bedding,¹⁴³⁰ cooking and carrying the saucepans, and the cutlery and dishes that Dominic Ongwen used. Other witnesses corroborate P-0226's account. P-0205 said that P-0226 was with Ongwen after the Lukodi attack and, along with other wives, was "just carrying out the normal chores of women at home, like cooking".¹⁴³¹ P-0235 confirmed that P-0226 cooked for Ongwen.¹⁴³² P-0226 could not refuse.¹⁴³³ She knew that if she disobeyed his instructions as his wife, she would be either beaten or killed.¹⁴³⁴ She was not permitted to escape; she knew that she would be beaten to death if caught.¹⁴³⁵

551. According to P-0226, Dominic Ongwen, "liked beating people and he liked punishing people".¹⁴³⁶ Ongwen beat P-0226 frequently.¹⁴³⁷ She still feels pain from all the beating.¹⁴³⁸ One time she was beaten until she was unconsciousness as punishment for purportedly urinating in a river. On that occasion, Ongwen watched his escorts beat her.¹⁴³⁹ On another, she was beaten until she was unconscious as punishment for giving leftover food to women to eat.¹⁴⁴⁰ On yet another occasion she was beaten because Ongwen thought she had a love interest in his escort.¹⁴⁴¹

552. Once, Dominic Ongwen forced P-0226 and others to beat to death a UPDF soldier that his fighters captured during an attack on Patongo, northern Uganda, sometime in late

¹⁴³⁰ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 54.

¹⁴³¹ P-0205, [UGA-OTP-0243-0740-R01](#) at 0751, [UGA-OTP-0243-0740-R01](#) at 0749-0750, [UGA-OTP-0243-0671-R01](#) at 0677-0681.

¹⁴³² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 8-9.

¹⁴³³ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 44, ICC-02/04-01/15-T-9-CONF-ENG, p. 42.

¹⁴³⁴ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 47, 50.

¹⁴³⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 64; ICC-02/04-01/15-T-9-CONF-ENG, p. 3-4.

¹⁴³⁶ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 25.

¹⁴³⁷ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 44-46, 52-53.

¹⁴³⁸ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 40.

¹⁴³⁹ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 5-6.

¹⁴⁴⁰ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 6.

¹⁴⁴¹ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 63.

2002 or early 2003.¹⁴⁴² Sitting on a chair, Ongwen told P-0226 and others that anyone who refused to beat the soldier would also be killed.¹⁴⁴³ P-0226 picked up the heavy stick with both her hands. She hit him once. Her clothes were spattered with blood. When they had finished, he was dead.¹⁴⁴⁴ She witnessed many other similar events.¹⁴⁴⁵

553. Although the exact date of this event is uncertain, it likely occurred in late 2002 or early 2003, and certainly after 1 July 2002. P-0205 said that Dominic Ongwen's attack on Patongo, following which this event occurred, was after Operation Iron Fist in mid-2002.¹⁴⁴⁶ P-0235 said that Ongwen was shot in the leg after his attack on Lanyatilo, which occurred on 16 September 2002.¹⁴⁴⁷ Further, P-0226 and P-0309 recalled Ongwen being shot in the knee while crossing a road after the Patongo attack.¹⁴⁴⁸ P-0205 said that this happened in July 2002, on the way to attack Abim.¹⁴⁴⁹ Joseph Kony issued the order for Raska Lukwiya and Vincent Otti to attack Abim on 15 May 2003.¹⁴⁵⁰

554. By forcing P-0226 to participate in the killing of another human being, Dominic Ongwen humiliated, degraded or otherwise violated her dignity. The severity of the humiliation and degradation was such that "any reasonable person would be outraged",¹⁴⁵¹ which Ongwen was aware of because it was an unusually cruel act. During this conduct, P-0226 was a civilian taking no active part in hostilities and Dominic Ongwen was aware of the factual circumstances that established her status.

555. From about 1 July 2002 to sometime in 2003, Dominic Ongwen forced P-0226, as his forced wife, to maintain an exclusive sexual relationship with him, have regular sexual

¹⁴⁴² P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 56, 58-59, 61-63.

¹⁴⁴³ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 63.

¹⁴⁴⁴ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 62-63.

¹⁴⁴⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 64.

¹⁴⁴⁶ P-0205, [UGA-OTP-0243-0644-R01](#) at 0654-0656, 0660-0662.

¹⁴⁴⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 57; ISO logbook, [UGA-OTP-0067-0148](#) at 0154.

¹⁴⁴⁸ P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 68; P-0309, [UGA-OTP-0249-0472-R01](#) at 0491.

¹⁴⁴⁹ P-0205, [UGA-OTP-0247-0292-R01](#) at 0307-0309, [UGA-OTP-0247-0228-R01](#) at 0250.

¹⁴⁵⁰ ISO logbook, [UGA-OTP-0068-0146](#) at 0169. *See also*, P-0105, [UGA-OTP-0228-4952-R01](#) at 4985-4986.

¹⁴⁵¹ *Kunarac Appeals Judgement*, para. 162.

intercourse with him, perform domestic chores, and otherwise do what he instructed her to do. Her forced marriage to Ongwen was an inhumane act that inflicted great suffering or serious injury to her body or to her mental or physical health of a character similar to other crimes against humanity charged in this document. Ongwen knew this because, as the perpetrator, he saw from the closest possible vantage point the impact that his conduct had on her.

556. Dominic Ongwen also inflicted severe physical or mental pain or suffering upon P-0226 by among other things, forcing her to kill, beating her, and by regularly having sex with her by force, or by threat of force or coercion.¹⁴⁵² He inflicted this pain or suffering to intimidate or to punish her, to reinforce his control over her. During this conduct P-0226 was a civilian taking no active part in hostilities, which Ongwen knew because he was present when she was abducted in 1998. She was under Ongwen's custody and control because she was constantly guarded by his security.¹⁴⁵³ Her pain or suffering did not arise from any lawful sanctions.

557. Dominic Ongwen exercised powers attaching to the right of ownership over P-0226, by imposing on her a deprivation of liberty including the performance of domestic duties, which reduced her to a servile status, and her submission to regular rape.¹⁴⁵⁴ This exercise of power included confining her after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude.¹⁴⁵⁵

¹⁴⁵² P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 40-41, 47.

¹⁴⁵³ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 38-40, 47.

¹⁴⁵⁴ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 29, 32, 34, 36, 44.

¹⁴⁵⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 9-11, 14, 16, 20, 22-23, 26, 29, 34.

P-0227: Count 50 – forced marriage as an inhumane act (article 7(1)(k)), count 51 – torture (article 7(1)(f)), count 52 – torture (article 8(2)(c)(i)), count 53 – rape (article 7(1)(g)), count 54 – rape (article 8(2)(e)(vi)), count 55 – sexual slavery (article 7(1)(g)), count 56 – sexual slavery (article 8(2)(e)(vi)), and count 57 – enslavement (article 7(1)(c))

558. P-0227 was abducted by LRA fighters¹⁴⁵⁶ under Dominic Ongwen’s command¹⁴⁵⁷ in about April 2005.¹⁴⁵⁸ She and other abductees were forced to carry looted goods. They were led towards Amalac riverbank.¹⁴⁵⁹ Along the way, she was beaten with a log by a *kadogo* (a child fighter) for not responding to her abductors’ questions correctly.¹⁴⁶⁰ She was also beaten for not walking stealthily.¹⁴⁶¹ When they arrived at Amalac riverbank, the LRA soldiers reported to their commander, Ongwen. Ongwen called her over. He asked her how she was, from where she had been abducted, her education level, and whether she was homesick.¹⁴⁶²

559. P-0227 started living in Dominic Ongwen’s household, with Ongwen’s more senior wives, including P-0214.¹⁴⁶³ P-0235 confirmed this.¹⁴⁶⁴ Ongwen and P-0214 assigned her domestic duties including fetching water, cutting grass, and collecting firewood.¹⁴⁶⁵ She was guarded closely. She could not have escaped.¹⁴⁶⁶

560. A little over a month after her abduction, P-0227 became Dominic Ongwen’s wife. Ongwen summoned her to his house. She was shaking with fear. He performed a perfunctory ritual on her and told her to lie down and take off her clothes.¹⁴⁶⁷ He undressed and asked her to spread open her legs. He penetrated both her vagina and

¹⁴⁵⁶ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 6-7, 24.

¹⁴⁵⁷ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 15-16.

¹⁴⁵⁸ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 6.

¹⁴⁵⁹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 15.

¹⁴⁶⁰ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 12-13, 24-25.

¹⁴⁶¹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 15.

¹⁴⁶² P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 15-20.

¹⁴⁶³ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 25, 29.

¹⁴⁶⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 17.

¹⁴⁶⁵ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 34, 44.

¹⁴⁶⁶ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 28, 29-30, 37.

¹⁴⁶⁷ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 38-39.

her anus with his penis by force.¹⁴⁶⁸ She screamed and cried; she felt like her whole body was being torn apart. To quiet her, he threatened her with his bayonet.¹⁴⁶⁹ She was not able to refuse to sleep with him; she felt that her “whole life was in his hand”.¹⁴⁷⁰

561. Because of the injuries to her vagina and anus, P-0227 had difficulty going to the toilet.¹⁴⁷¹ She had bled on the bedsheets.¹⁴⁷² Evidence of her rape and other facts related to her forced marriage to Dominic Ongwen were challenged by the Defence only with respect to whom she first told about it and when. P-0227 said that the first time that she spoke about her rape by Ongwen was to ICC investigators. She did not mention it to GUSCO upon her escape in 2010 because she “was exhausted at the time”, forgot certain things,¹⁴⁷³ and was talking to a man.¹⁴⁷⁴ She said that now she “recall[ed] things properly”¹⁴⁷⁵ and was “telling the truth, the real truth of the events that happened to me”.¹⁴⁷⁶

562. After the rape, Dominic Ongwen considered P-0227 to be his conjugal partner. He referred to her as his wife, a term she did not consent to, but could not change. He exercised exclusive conjugal and sexual rights over her.¹⁴⁷⁷ If P-0227 had chosen to have a different conjugal or sexual partner, she would have been beaten or killed by Ongwen or his escorts/subordinates.¹⁴⁷⁸ She saw him do that to another one of his wives, P-0236.¹⁴⁷⁹

¹⁴⁶⁸ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 39.

¹⁴⁶⁹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 39.

¹⁴⁷⁰ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 41.

¹⁴⁷¹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 40.

¹⁴⁷² P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 40.

¹⁴⁷³ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 61.

¹⁴⁷⁴ P-0227, ICC-02/04-01/15-T-11-CONF-ENG, p. 45.

¹⁴⁷⁵ P-0227, ICC-02/04-01/15-T-11-CONF-ENG, p. 24.

¹⁴⁷⁶ P-0227, ICC-02/04-01/15-T-11-CONF-ENG, p. 45.

¹⁴⁷⁷ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 44.

¹⁴⁷⁸ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 44.

¹⁴⁷⁹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 52-54.

563. She could not escape, and when she was thought to have attempted to do so, she was brutally beaten.¹⁴⁸⁰ On one occasion, Dominic Ongwen ordered that she be beaten for spending time at another soldier's house.¹⁴⁸¹ Her body, buttocks and arms were swollen, and it was difficult for her to walk.¹⁴⁸²

564. As a result of her rape by Dominic Ongwen, P-0227 gave birth to a son,¹⁴⁸³ although she was "not yet ready to have a child",¹⁴⁸⁴ and could not make any choice in respect to the conception. P-0227 said that her experience in the bush made her "feel bad for [her] life".¹⁴⁸⁵

565. From about April to 31 December 2005, Dominic Ongwen, by force, caused P-0227 to serve as a conjugal partner. She was forced to maintain an exclusive sexual relationship with him, have regular sexual intercourse with him, perform domestic chores and otherwise do what he instructed her to do. Her forced marriage to Ongwen was an inhumane act that inflicted great suffering or serious injury to her body or to her mental or physical health of a character similar to other crimes against humanity charged in this document. Ongwen knew this because, as the perpetrator, he saw from the closest possible vantage point the impact that his conduct had on her.

566. After becoming his wife, P-0227 continued to be subjected to forced labour and Dominic Ongwen forced her repeatedly to have sex him,¹⁴⁸⁶ under coercive circumstances in which she was continuously guarded by his escorts and could not escape.¹⁴⁸⁷ Ongwen exercised powers attaching to the right of ownership over P-0227, by imposing on her a deprivation of liberty including the performance of domestic duties,

¹⁴⁸⁰ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 44.

¹⁴⁸¹ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 55.

¹⁴⁸² P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 55.

¹⁴⁸³ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 44-45, 53, 55.

¹⁴⁸⁴ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 44.

¹⁴⁸⁵ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 62.

¹⁴⁸⁶ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 42-43.

¹⁴⁸⁷ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 43.

which reduced her to a servile status, and her submission to regular rape. This exercise of power included confining her after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude.

567. Dominic Ongwen inflicted severe physical or mental pain or suffering upon P-0227 by among other things having sexual intercourse with her by force, or by threat of force or coercion. He inflicted this pain or suffering to intimidate her and to reinforce his control over her. During this conduct, P-0227 was a civilian taking no active part in hostilities and Dominic Ongwen was aware of the factual circumstances that established her status. She was under Ongwen's custody and control because she was constantly guarded by his security. Her pain or suffering did not arise from any lawful sanctions.

P-0235: Count 57 – enslavement (article 7(1)(c)) and count 60 – outrages upon personal dignity (article 8(2)(c)(ii))

568. P-0235 was abducted in September 2001 or 2002. It is likely to be September 2002: although P-0235 initially said it was in September 2001,¹⁴⁸⁸ she said later that it might have been September 2002.¹⁴⁸⁹ She said that she had “been in the bush for a really long time and [...] was not very sure about the year. It was when [she] came back that [she] was told that [she] was abducted in 2001”.¹⁴⁹⁰ She said that, “In 2002, I had just been newly abducted”.¹⁴⁹¹ Further, P-0235 said that she went to an attack on Lanyatilo, which Dominic Ongwen reported on the radio as happening on 16 September 2002,¹⁴⁹² soon after her abduction.¹⁴⁹³ She had also said previously in her statement to the Prosecution that her abduction was in 2002.¹⁴⁹⁴

¹⁴⁸⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 3.

¹⁴⁸⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 14.

¹⁴⁹⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 50, 57, 63.

¹⁴⁹¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 67.

¹⁴⁹² ISO logbook, [UGA-OTP-0067-0148](#) at 0154.

¹⁴⁹³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 14, 67.

¹⁴⁹⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 50.

569. P-0235 was forced to carry pillaged items away from her home.¹⁴⁹⁵ Other abductees were also forced to carry things.¹⁴⁹⁶ There were both adults and young children amongst those who were abducted.¹⁴⁹⁷ Forced to walk the long distance to Pader, her feet became swollen.¹⁴⁹⁸ Her abductors carried guns; she was fearful that if she tried to escape she would be killed.¹⁴⁹⁹ She came to learn that her abductors were from Buk Abudema's Sinia brigade.¹⁵⁰⁰

570. When she arrived in Pader, P-0235 saw Dominic Ongwen, Buk Abudema, Vincent Otti and Charles Tabuley.¹⁵⁰¹ The LRA divided up the abductees and distributed them.¹⁵⁰² Buk Abudema assigned P-0235 to P-0214,¹⁵⁰³ which later she learnt meant Ongwen's household.¹⁵⁰⁴ She stayed there until her escape.¹⁵⁰⁵

571. When new abductees first arrived, they were asked if they wanted to go home; if they answered yes, they were beaten.¹⁵⁰⁶ Abductees answered no the next time, for fear of the consequences.¹⁵⁰⁷ This was the practice across all the LRA.¹⁵⁰⁸

572. Older girls were given to husbands and the younger girls kept as *ting-tings* until they were old enough to be distributed as wives.¹⁵⁰⁹ Girls were not able to choose to whom they were distributed.¹⁵¹⁰ The senior commanders would take their pick.¹⁵¹¹ In some cases Joseph Kony dictated how girls were distributed; other times he left it up to

¹⁴⁹⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 4, 5.

¹⁴⁹⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 5.

¹⁴⁹⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 6.

¹⁴⁹⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 6.

¹⁴⁹⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 6.

¹⁵⁰⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 5.

¹⁵⁰¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 7, 51.

¹⁵⁰² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 7.

¹⁵⁰³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 7-8.

¹⁵⁰⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 9, 12-13, 52.

¹⁵⁰⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 57.

¹⁵⁰⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 17-18.

¹⁵⁰⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 18.

¹⁵⁰⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 18.

¹⁵⁰⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 18.

¹⁵¹⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 23.

¹⁵¹¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 19.

Dominic Ongwen. In the latter case, Ongwen gave girls to soldiers who did not have wives and informed Joseph Kony afterwards.¹⁵¹² Once a girl was distributed as a wife, no-one else was able to have sex with her.¹⁵¹³ If another man had sex with her, she might be killed.¹⁵¹⁴ P-0235 witnessed P-0236 beaten and a man who she purportedly was unfaithful with, Nyeko, Ongwen's escort, killed for this reason.¹⁵¹⁵

573. In Dominic Ongwen's household, P-0235 was initially a *ting-ting*. P-0227 confirmed this.¹⁵¹⁶ She cooked, fetched water, washed, collected wood and took things to Ongwen.¹⁵¹⁷ P-0214, a more senior Ongwen wife, beat her when she was too slow.¹⁵¹⁸ P-0235 was not allowed to go anywhere alone.¹⁵¹⁹ When collecting firewood or fetching water, she was watched.¹⁵²⁰ Evidence of this enslavement was not challenged by the Defence during her testimony in the article 56 proceedings.

574. Dominic Ongwen forcing P-0235 to carry out these domestic tasks amounts to enslavement under article 7(1)(c). Ongwen exercised powers attaching to the right of ownership over P-0235, by imposing on her a deprivation of liberty including the performance of domestic duties, which reduced her to a servile status. This exercise of power included confining her after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude.

575. Once, P-0235 tried to escape. She was caught and told that she would be killed.¹⁵²¹ Dominic Ongwen and other commanders ordered that she be beaten.¹⁵²² She was beaten

¹⁵¹² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 19-21.

¹⁵¹³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 21.

¹⁵¹⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 21.

¹⁵¹⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 21-23.

¹⁵¹⁶ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 37.

¹⁵¹⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 13.

¹⁵¹⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 13.

¹⁵¹⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 11.

¹⁵²⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 11.

¹⁵²¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 10.

¹⁵²² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 10.

severely.¹⁵²³ She decided that she would not attempt another escape for fear of being killed.¹⁵²⁴

576. Not long after her abduction, Dominic Ongwen ordered that two men who had tried to escape be beaten to death.¹⁵²⁵ P-0235 was chosen to kill them.¹⁵²⁶ P-0235 was not able to carry out the task because she was crying so hard at the prospect of having to kill someone.¹⁵²⁷ The men were killed by other new abductees.¹⁵²⁸

577. By ordering P-0235 to participate in the killing of another human being, Dominic Ongwen humiliated, degraded or otherwise violated her dignity. Although she did not ultimately perform the task, the request alone was such that “any reasonable person would be outraged”.¹⁵²⁹ Ongwen was aware of the humiliating or degrading nature of the request, because it was unusually cruel and traumatic to demand that of someone. During this conduct P-0235 was a civilian taking no active part in hostilities and Dominic Ongwen was aware of the factual circumstances that established her status.¹⁵³⁰ Evidence of this outrage upon P-0235’s dignity was not challenged by the Defence during her testimony in the article 56 proceedings.

578. P-0235 moved with Sinia brigade to DRC in 2006.¹⁵³¹ There, Dominic Ongwen made her his wife.¹⁵³² Ongwen sent P-0236 to call P-0235 to spend the night with him.¹⁵³³ P-0235 told Ongwen that she did not want to go.¹⁵³⁴ He insisted, telling her, “Do you know

¹⁵²³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 10-11.

¹⁵²⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 10.

¹⁵²⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 23-24.

¹⁵²⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 24.

¹⁵²⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 24-25.

¹⁵²⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 25.

¹⁵²⁹ *Kunarac Appeals Judgement*, para. 162.

¹⁵³⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 51.

¹⁵³¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 27-28.

¹⁵³² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

¹⁵³³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

¹⁵³⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

the rules that we apply in the bush?”¹⁵³⁵ Ongwen was referring to the rule that once a girl is mature, she should have a husband.¹⁵³⁶ P-0235 knew that if refused she would be beaten.¹⁵³⁷

579. Dominic Ongwen told P-0235 to undress.¹⁵³⁸ He raped her three times. She cried.¹⁵³⁹ Ongwen told her that she was now his wife.¹⁵⁴⁰ P-0235 had not had sex before Ongwen raped her.¹⁵⁴¹ One week later Ongwen called her again for sex.¹⁵⁴² P-0235 went because she feared that she might get in trouble if she refused.¹⁵⁴³ As a result of her repeated rape, P-0235 became pregnant and gave birth to three children, in 2007, 2010, and 2014.¹⁵⁴⁴ P-0235 was forced to continue to undertake domestic duties including fetching bathing water and doing laundry while she was Ongwen’s wife.¹⁵⁴⁵

580. At one point in DRC, Dominic Ongwen thought P-0227 had tried to escape and blamed it on P-0235 and P-0236.¹⁵⁴⁶ Ongwen ordered P-0235 and P-0236 beaten.¹⁵⁴⁷ His *kadogo* escorts beat them severely.¹⁵⁴⁸ On another occasion, in Sudan, Ongwen beat P-0235 and P-0227 for not having prepared his bed.¹⁵⁴⁹ P-0235 has scars on her breasts from this beating.¹⁵⁵⁰

581. Dominic Ongwen is not charged with the crimes of forced marriage, rape, torture, sexual slavery, enslavement, and forced pregnancy of P-0235 that happened in Sudan

¹⁵³⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

¹⁵³⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

¹⁵³⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 33-34.

¹⁵³⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 34.

¹⁵³⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 34-36.

¹⁵⁴⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 35.

¹⁵⁴¹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

¹⁵⁴² P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 36.

¹⁵⁴³ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 36.

¹⁵⁴⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 37-38.

¹⁵⁴⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 36-37.

¹⁵⁴⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 41.

¹⁵⁴⁷ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 41.

¹⁵⁴⁸ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 41-42.

¹⁵⁴⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 42-43.

¹⁵⁵⁰ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 42-43.

and DRC. They post-date the upper limit of the charged period, 31 December 2005, which was selected because the evidence does not support the existence of a non-international armed conflict between the UPDF and the LRA or a widespread or systematic attack against a civilian population after that date. Nevertheless, these facts constitute vital context for the Chamber to understand P-0235's experience during the charged period.

P-0236: Count 57 – enslavement (article 7(1)(c))

582. P-0236 was abducted by armed LRA fighters in September 2002.¹⁵⁵¹ She was 11.¹⁵⁵²

583. P-0236 was taken to a meeting point, where she met men, women, girls, and *kadogos*.¹⁵⁵³ She was the youngest girl.¹⁵⁵⁴ She was distributed to Dominic Ongwen's group,¹⁵⁵⁵ which P-0235 confirmed.¹⁵⁵⁶ After joining his group, a fighter under Ongwen's command named Ariyang gathered new abductees to witness him stab with a bayonet two people who had tried to escape.¹⁵⁵⁷ They were told that the same thing would happen to them if they tried to escape.¹⁵⁵⁸

584. P-0236 was beaten often. She and other new abductees were whipped 10 times shortly after their abduction, as part of an initiation.¹⁵⁵⁹ Once, in Gulu, Dominic Ongwen told his escort, a *kadogo* named Chak Dieng, to beat her five times because she was "dirty" and did not like taking care of herself.¹⁵⁶⁰ P-0236 said that she was also beaten if she did not listen to or forgot commands, or if the laundry that she was made to wash was dirty.¹⁵⁶¹

¹⁵⁵¹ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 6-7, 8.

¹⁵⁵² P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 6, 33.

¹⁵⁵³ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 33.

¹⁵⁵⁴ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 9.

¹⁵⁵⁵ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 11.

¹⁵⁵⁶ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 17.

¹⁵⁵⁷ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 11, 34.

¹⁵⁵⁸ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 11-12.

¹⁵⁵⁹ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 12-13.

¹⁵⁶⁰ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 13, 34.

¹⁵⁶¹ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 14.

585. P-0236's duties as a *ting-ting* in Uganda were to wash, to cook, and to do laundry.¹⁵⁶²

P-0227 also saw P-0236 being subjected by Dominic Ongwen to such forced labour and servitude.¹⁵⁶³ Evidence of this enslavement was not challenged by the Defence during P-0236's article 56 testimony. Ongwen forcing P-0236 to carry out these domestic tasks amounts to enslavement under article 7(1)(c). Ongwen exercised powers attaching to the right of ownership over P-0236, by imposing on her a deprivation of liberty including the performance of domestic duties, which reduced her to a servile status. This exercise of power included receiving her from Buk Abudema,¹⁵⁶⁴ and confining her after she had been abducted by means of force or threat of force, with the purpose of forced labour and servitude.

586. P-0236 was also beaten in 2007, after she had crossed with Dominic Ongwen into the Democratic Republic of the Congo ("DRC"), for purportedly having a relationship with Nyeko.¹⁵⁶⁵ Kony ordered Nyeko to be shot, and for P-0236 to be caned 100 times.¹⁵⁶⁶ Ongwen told her to not be unfaithful again.¹⁵⁶⁷ P-0227¹⁵⁶⁸ and P-0235¹⁵⁶⁹ gave similar evidence of this event. Also in the DRC, another of Dominic Ongwen's forced wives, P-0214, accused P-0236 and another forced wife, of witchcraft.¹⁵⁷⁰ LRA rules strictly prohibited witchcraft, on pain of death.¹⁵⁷¹

587. In 2007, in DRC, Dominic Ongwen made P-0236 his wife. He called her and she went to him. He told her to lie down on his bed. P-0236 "did not have any right", so she lay on the bed. He told her to undress, and she did so. There was a gun in his bedroom. He lay on top of her, and had sex with her. She was a virgin. She did not have a choice. She

¹⁵⁶² P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 14.

¹⁵⁶³ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 37.

¹⁵⁶⁴ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 11.

¹⁵⁶⁵ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 13, 14, 15, 16.

¹⁵⁶⁶ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 15.

¹⁵⁶⁷ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 16.

¹⁵⁶⁸ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 52-54.

¹⁵⁶⁹ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 21-23.

¹⁵⁷⁰ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 17-18.

¹⁵⁷¹ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 38.

was under his authority. Ongwen's security forces were sleeping just a few metres outside his tent, reinforcing the coercive nature of the situation.¹⁵⁷²

588. After this, Dominic Ongwen had sex with her regularly. Each time it was by force.¹⁵⁷³ After she became Ongwen's wife, she was not allowed to say no to sexual intercourse.¹⁵⁷⁴ As a result of her rape, P-0236 gave birth to two children.¹⁵⁷⁵ She was confined during her pregnancy; she requested to Ongwen to release her, but he did not.¹⁵⁷⁶ At no point after she was abducted was P-0236 able to walk away from Ongwen's group.¹⁵⁷⁷ She had seen people who had tried to escape arrested, caned or killed.¹⁵⁷⁸

589. P-0236 escaped in April 2015, after nearly 13 years in the bush.¹⁵⁷⁹ P-0236 said that, compared to her, her school mates who were not abducted were "much better off than I am [...] I have injuries. I'm weak. Maybe if I had not been abducted I would not have been shot at, I would not have been injured, I would not have any – I would be suffering".¹⁵⁸⁰ She said that her children found it difficult to adapt to normal life.

590. Dominic Ongwen is not charged with the crimes of forced marriage, rape, torture, sexual slavery, enslavement, and forced pregnancy of P-0236 that happened in DRC. They post-date the upper limit of the charged period, 31 December 2005, which was selected because the evidence does not support the existence of a non-international armed conflict between the UPDF and the LRA or a widespread or systematic attack against a civilian population after that date. Nevertheless, these facts constitute vital context for the Chamber to understand P-0236's experience during the charged period.

¹⁵⁷² P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 21-24.

¹⁵⁷³ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 24.

¹⁵⁷⁴ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 42.

¹⁵⁷⁵ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 24-25.

¹⁵⁷⁶ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 26.

¹⁵⁷⁷ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 11-12, 43-44.

¹⁵⁷⁸ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 43-44.

¹⁵⁷⁹ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 36.

¹⁵⁸⁰ P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 37.

Other Corroborative Evidence

591. Apart from the direct testimony of Dominic Ongwen's forced conjugal partners, other witnesses state that these women were Ongwen's "wives" and that they were subjected to crimes including enslavement, rape, sexual slavery, forced marriage and forced pregnancy. These witnesses all lived and worked with Ongwen in the bush. They name some of the victims of counts 50-60 and relate stories consonant with the testimony given by these women.

592. P-0054 is a former LRA fighter in the Sinia brigade. He stated that he participated in the Odek attack.¹⁵⁸¹ He stated that he saw "Odomi's wives" go to the Odek trading centre to participate in pillaging food stuff at the centre.¹⁵⁸² He also knows the names of two of Ongwen's wives, names being used by P-0101 and P-0226.¹⁵⁸³

593. P-0142 is a former LRA fighter who recalled that Sinia brigade had about 250 to 300 men who had wives and that the number of the women would be more than the men because some men had two wives and others had three.¹⁵⁸⁴ The witness knew some of Dominic Ongwen's wives by name, including P-0101 and P-0099.¹⁵⁸⁵

594. P-0205 was assigned to Sinia brigade. The witness stated that a girl bearing the name of P-0227 was abducted by LRA soldiers on the orders of Dominic Ongwen who sent the soldiers that abducted her.¹⁵⁸⁶ She later became Ongwen's wife.¹⁵⁸⁷ According to the witness, when the LRA attacked Patongo, women including Ongwen's wives took part in the attack,¹⁵⁸⁸ naming P-0101, P-0214 and P-0226.¹⁵⁸⁹ The statement of P-0205

¹⁵⁸¹ P-0054, [UGA-OTP-0245-0017](#) at 0024, [UGA-OTP-0251-0070-R01](#) at 0076-0075.

¹⁵⁸² P-0054, [UGA-OTP-0251-0101-R01](#) at 0119.

¹⁵⁸³ P-0054, [UGA-OTP-0251-0128](#) at 0130.

¹⁵⁸⁴ P-0142, [UGA-OTP-0244-0755-R01](#) at 0768.

¹⁵⁸⁵ P-0142, [UGA-OTP-0244-0755-R01](#) at 0769-0772.

¹⁵⁸⁶ P-0205, [UGA-OTP-0243-0520-R01](#) at 0527.

¹⁵⁸⁷ P-0205, [UGA-OTP-0243-0520-R01](#) at 0527.

¹⁵⁸⁸ P-0205, [UGA-OTP-0243-0671-R01](#) at 0677.

¹⁵⁸⁹ P-0205, [UGA-OTP-0243-0671-R01](#) at 0678-0681.

corroborates the statement and testimony of P-0226 that she was present at the Patongo attack.¹⁵⁹⁰

595. P-0252 was abducted during the Odek attack in 2004.¹⁵⁹¹ The witness knew two of Ongwen's wives although he did not know their names, but he knew the name of a young girl who stayed with Dominic's wife and ran errands for her.¹⁵⁹² This corroborates P-0235's account as to the name she was known by, and that that she started out as a *ting-ting* running errands in the Ongwen household until she was made an Ongwen wife.¹⁵⁹³

596. P-0351 was abducted when she was about 12 years old by LRA soldiers led by Ocan.¹⁵⁹⁴ Ongwen was in Sudan and when the witness arrived there she stayed in Odomi's household with his wives and other girls, whose job was to help the wives.¹⁵⁹⁵ Ongwen had many wives but Min Back and P-0214 are the only ones she saw.¹⁵⁹⁶ P-0214 was about 18.¹⁵⁹⁷ She did not have any children.¹⁵⁹⁸ There were many other wives and girls in Odomi's household.¹⁵⁹⁹ The witness remembers P-0235 who later became Odomi's wife.¹⁶⁰⁰ The witness saw her going to sleep with him.¹⁶⁰¹

597. P-0352 was abducted in March 2003 and taken to Buk's group where she stayed for about five to six months before joining Ongwen's group.¹⁶⁰² When the witness arrived at Ongwen's household, she estimates that around ten women lived in Odomi's household

¹⁵⁹⁰ P-0205, [UGA-OTP-0243-0671-R01](#) at 0680.

¹⁵⁹¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0430-0433

¹⁵⁹² P-0252, [UGA-OTP-0243-0428-R01](#) at 0437.

¹⁵⁹³ P-0252, [UGA-OTP-0243-0428-R01](#) at 0437.

¹⁵⁹⁴ P-0351, [UGA-OTP-0263-0002-R01](#) at 0004.

¹⁵⁹⁵ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009-0010.

¹⁵⁹⁶ P-0351, [UGA-OTP-0263-0002-R01](#) at 0010.

¹⁵⁹⁷ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009.

¹⁵⁹⁸ P-0351, [UGA-OTP-0263-0002-R01](#) at 0010.

¹⁵⁹⁹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009-0010.

¹⁶⁰⁰ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009.

¹⁶⁰¹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009.

¹⁶⁰² P-0352, [UGA-OTP-0260-0315-R01](#) at 0317-0323.

as wives and *ting-tings*.¹⁶⁰³ The youngest girl was called P-0235.¹⁶⁰⁴ She was around 15 years old or less.¹⁶⁰⁵

598. P-0366 was abducted in December 2000 and was taken to Odomi's household.¹⁶⁰⁶ Upon her arrival, she encountered the following people: (1) some of Odomi's wives, including P-0101 and P-0214; and (2) a number of *ting-tings*, including P-0226, P-0235 and P-0236.¹⁶⁰⁷ P-0214 had no child but she was pregnant while the witness was there.¹⁶⁰⁸ Odomi spoke to the witness and told her that if she tried to escape and was caught she would be killed.¹⁶⁰⁹ P-0366 paints a picture of the Ongwen household which corroborates the direct accounts given by the Ongwen "wives" themselves. Four days after the witness joined Odomi's household, three of Odomi's other wives arrived.¹⁶¹⁰ Among them was P-0101.¹⁶¹¹

599. P-0366 also gives an indication of the rules regarding women and girls that were in force when they were in bush.¹⁶¹² For instance, when she was at Odomi's household the witness noticed he was sleeping with P-0226 when she was still a *ting-ting* (about 12 years old); this was against the rules but because he was a commander no one could say anything because people feared him.¹⁶¹³ Further, there was a rule against girls talking to other boys.¹⁶¹⁴ P-0226 apparently violated this rule.¹⁶¹⁵ She was to go and fetch water and Dominic Ongwen saw her talking to a boy.¹⁶¹⁶ He took P-0226 to a tree and tied her with

¹⁶⁰³ P-0352, [UGA-OTP-0260-0315-R01](#) at 0323.

¹⁶⁰⁴ P-0352, [UGA-OTP-0260-0315-R01](#) at 0323.

¹⁶⁰⁵ P-0352, [UGA-OTP-0260-0315-R01](#) at 0323.

¹⁶⁰⁶ P-0366, [UGA-OTP-0260-0289-R01](#) at 0291-0294.

¹⁶⁰⁷ P-0366, [UGA-OTP-0260-0289-R01](#) at 0294.

¹⁶⁰⁸ P-0366, [UGA-OTP-0260-0289-R01](#) at 0295.

¹⁶⁰⁹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0294.

¹⁶¹⁰ P-0366, [UGA-OTP-0260-0289-R01](#) at 0294.

¹⁶¹¹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0294.

¹⁶¹² P-0366, [UGA-OTP-0260-0289-R01](#) at 0295-0297.

¹⁶¹³ P-0366, [UGA-OTP-0260-0289-R01](#) at 0295-0296, 0303.

¹⁶¹⁴ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303.

¹⁶¹⁵ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303.

¹⁶¹⁶ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303.

a string and then ordered his escorts to beat her.¹⁶¹⁷ According to P-0366, P-0226 “cried until she could not cry anymore”.¹⁶¹⁸ P-0226 described this incident in her statement and in her testimony before the Pre-Trial Chamber. As a further point of corroboration, the witness stated that Ongwen was shot in the thigh in an attack in Lira and he had to go to the sick-bay to recover from his wounds.¹⁶¹⁹ The witness was also in the sick-bay because she had injured her leg on a tree stump.¹⁶²⁰ Ongwen had two wives with him at the sick-bay: P-0214 and P-0226 (who had become his wife by that time).¹⁶²¹ This corroborates P-0214’s account that she was in the sick-bay to look after Ongwen after he was injured.

600. P-0374 was abducted from her village Otwal on 22 September 2003.¹⁶²² She was abducted by soldiers from the Terwanga battalion under the Sinia brigade.¹⁶²³ She stayed in Nyero’s household first as a *ting-ting* and later as his wife.¹⁶²⁴ The witness stated that Odomi had many wives and the night she brought food to his house she saw many women sitting to the side.¹⁶²⁵ She heard that one of Odomi’s wives was known by the name that P-0235 adopted in the bush.¹⁶²⁶

601. Evidence from two other members of Dominic Ongwen household who do not name any of the victims of counts 50-60 provides accounts of Ongwen’s treatment of his wives more generally.

602. P-0097 was abducted from his home in February 2005 by LRA rebels and taken to Ongwen at a position near Acet.¹⁶²⁷ When the witness arrived he saw Ongwen’s wives

¹⁶¹⁷ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303

¹⁶¹⁸ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303.

¹⁶¹⁹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0304.

¹⁶²⁰ P-0366, [UGA-OTP-0260-0289-R01](#) at 0304.

¹⁶²¹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0304.

¹⁶²² P-0374, [UGA-OTP-0263-0023-R01](#) at 0025.

¹⁶²³ P-0374, [UGA-OTP-0263-0023-R01](#) at 0029.

¹⁶²⁴ P-0374, [UGA-OTP-0263-0023-R01](#) at 0030- 0032, 0037-0039.

¹⁶²⁵ P-0374, [UGA-OTP-0263-0023-R01](#) at 0041.

¹⁶²⁶ P-0374, [UGA-OTP-0263-0023-R01](#) at 0041.

¹⁶²⁷ P-0097, [UGA-OTP-0258-0489-R01](#) at 0492 -0493.

sitting with him and although Ongwen had many wives he only saw two of them.¹⁶²⁸ The witness lived and moved around with Ongwen's group until his escape in November 2005.¹⁶²⁹ During the period of his stay with Ongwen and his group of soldiers, the witness saw that one of Ongwen's wives had a baby and the other gave birth to a baby.¹⁶³⁰

603. P-0199 was abducted in June 2003 from Moru Ngatuny in Amuria district and was later given to Owacha as a wife.¹⁶³¹ When Owacha was captured by UPDF soldiers, she was given to Okello as wife.¹⁶³² Okello was shot by the UPDF and injured.¹⁶³³ She never saw him again.¹⁶³⁴ The witness was then taken to Dominic Ongwen's household where she was given as a *ting-ting* to Ongwen's wife Betty Adong in Sudan.¹⁶³⁵ She acted as a *ting-ting* between 2005 and 2006.¹⁶³⁶ Among her tasks was helping Betty Adong with carrying the baby she had and other household chores.¹⁶³⁷ The witness also saw another Ongwen wife who was expecting her first child although she cannot recall her name.¹⁶³⁸

DNA Kinship Analysis

604. DNA kinship analysis conducted by the Netherlands Forensic Institute ("NFI") further supports the charges against Dominic Ongwen for direct perpetration of sexual and gender-based crimes. In addition to the evidence of the above witnesses, the Prosecution has received the reports of witness P-0414, an expert in biological tracing and forensic science. These reports examine the DNA samples collected from P-0099, P-0101, P-0214, P-0227, P-0235 and P-0236. P-0414 forwarded to the Office of the

¹⁶²⁸ P-0097, [UGA-OTP-0258-0489-R01](#) at 0495.

¹⁶²⁹ P-0097, [UGA-OTP-0258-0489-R01](#) at 0502.

¹⁶³⁰ P-0097, [UGA-OTP-0258-0489-R01](#) at 0501.

¹⁶³¹ P-0199, [UGA-OTP-0236-0557-R01](#) at 0559, 0563-0566.

¹⁶³² P-0199, [UGA-OTP-0236-0557-R01](#) at 0566-0567.

¹⁶³³ P-0199, [UGA-OTP-0236-0557-R01](#) at 0567.

¹⁶³⁴ P-0199, [UGA-OTP-0236-0557-R01](#) at 0567.

¹⁶³⁵ P-0199, [UGA-OTP-0236-0557-R01](#) at 0568-0569.

¹⁶³⁶ P-0199, [UGA-OTP-0236-0557-R01](#) at 0568-0569.

¹⁶³⁷ P-0199, [UGA-OTP-0236-0557-R01](#) at 0569.

¹⁶³⁸ P-0199, [UGA-OTP-0236-0557-R01](#) at 0569.

Prosecutor three expert reports dated 1 March 2016, 6 June 2016 and 6 July 2016.¹⁶³⁹ The March report with reference number 2006 02 20 029 (request numbers 004 and 005) details the outcome of the request to generate DNA profiles from 10 reference samples and to conduct DNA kinship analysis on them.¹⁶⁴⁰ The June report with reference number 2006 02 20 029 (request numbers 001, 004 and 006) details the outcome of the request to investigate the parenthood of Dominic Ongwen and his alleged children with P-0101 and P-0099 and to cross-check the labelling of previous samples of these persons sent to the NFI.¹⁶⁴¹ The July report with reference number 2006 02 20 029 (request number 007) details the outcome of the re-sampling operation of six persons previously sampled in 2006 and the DNA profiles of four persons who had not been analysed before.¹⁶⁴²

605. The DNA kinship analysis indicates that it is overwhelmingly likely (with a probability of paternity greater than 99.99%) that Dominic Ongwen is the father of:

- one boy with P-0099;¹⁶⁴³
- one boy and two girls with P-0101;¹⁶⁴⁴
- one girl with P-0214;¹⁶⁴⁵
- one boy with P-0227;¹⁶⁴⁶
- one girl and two boys with P-0235;¹⁶⁴⁷ and
- two boys with P-0236.¹⁶⁴⁸

606. The Prosecution submits that in as much as paternity is contested by the Defence,¹⁶⁴⁹ the evidence summarised in the two foregoing paragraphs is compelling proof of one of

¹⁶³⁹ See DNA reports provided by P-0414: [UGA-OTP-0258-0357](#); [UGA-OTP-0265-0106](#); [UGA-OTP-0266-0019](#); and [UGA-OTP-0267-0160](#).

¹⁶⁴⁰ DNA Report, [UGA-OTP-0258-0357](#).

¹⁶⁴¹ DNA Report, [UGA-OTP-0265-0106](#).

¹⁶⁴² DNA Reports, [UGA-OTP-0266-0019](#); [UGA-OTP-0267-0160](#).

¹⁶⁴³ See DNA Reports, [UGA-OTP-0265-0106](#) at 0116, [UGA-OTP-0267-0160](#) at 0169.

¹⁶⁴⁴ See DNA Reports, [UGA-OTP-0265-0106](#) at 0115-0116, [UGA-OTP-0266-0019](#) at 0028.

¹⁶⁴⁵ See DNA Report, [UGA-OTP-0258-0357](#) at 0363.

¹⁶⁴⁶ See DNA Report, [UGA-OTP-0258-0357](#) at 0362.

¹⁶⁴⁷ See DNA Reports, [UGA-OTP-0258-0357](#) at 0363-0364, [UGA-OTP-0267-0160](#) at 0165.

¹⁶⁴⁸ See DNA Reports, [UGA-OTP-0266-0019](#) at 0028-0029, [UGA-OTP-0267-0160](#) at 0169-0170.

the constituent elements of charges 53 (rape as a crime against humanity) and 54 (rape as a war crime), namely that Dominic Ongwen invaded the bodies of P-0101, P-0214, P-0227 with his sexual organ.¹⁶⁵⁰

Dominic Ongwen's individual criminal responsibility for SGBC committed personally

607. Dominic Ongwen committed the crimes against P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, and P-0236 as a direct perpetrator, pursuant to article 25(3)(a).

608. Dominic Ongwen physically carried out the objective element(s) of each crime, which is described in the above section (paragraphs 515 to 611).

609. Dominic Ongwen acted with intent and knowledge pursuant to article 30. Ongwen meant to engage in and knew about or was fully aware of the consequences of his conduct against P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, and P-0236. As someone who spent considerable time with them – enough to generate real emotional attachments with some of them – and who was directly involved in their lives in the bush, Ongwen saw first-hand the pain and suffering he caused P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, and P-0236 as he forced them to marry him and then repeatedly raped, tortured, enslaved and sexually enslaved them, violated their dignity and kept them confined while they were pregnant with the aim of continuing this victimisation.

610. The contextual mental element for crimes against humanity – Dominic Ongwen's knowledge that his conduct was part of or intended the conduct to be part of a

¹⁶⁴⁹ *Comapre* the joint submission on agreed facts, ICC-02/04-01/15-487-Conf-AnxA, p. 5, with the provisional agreed facts document, ICC-02/04-01/15-509-Conf-AnxA, p. 14-17, where, despite positive DNA results indicating that Dominic Ongwen is the father, the Defence did not agree to the paternity of children Ongwen allegedly had with P-0099, P-0101, P-0227 and P-0235 because such facts were, according to t, “outside the circumstances of the case, [and] thus not relevant.”

¹⁶⁵⁰ *See* Elements of Crimes, where the definition of rape as a war crime and crime against humanity is defined at p. 8 & 28 (“The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.”).

widespread or systematic attack directed against a civilian population – is addressed in the section on contextual elements (paragraphs 38 to 61). The contextual mental element for war crimes – that Ongwen was aware of factual circumstances that established the existence of an armed conflict – is addressed in the same section.

611. Lastly, Dominic Ongwen satisfies the specific subjective elements required by the crimes charged as counts 50 to 60. This is described in the above section (paragraphs 515 to 611).

SGBC committed by others in Sinia brigade

612. Dominic Ongwen, together with other senior commanders of the LRA and through fighters in Sinia brigade, perpetrated sexual and gender-based crimes against women and girls. In the Sinia brigade Ongwen was at the head of a structure through which the practice of abduction, forced marriage, rape, torture, slavery and sexual slavery was enforced. Under Ongwen's leadership, the practices of the LRA were vigorously enforced so that the overwhelming majority of abducted girls and women had an identical experience of victimisation to that of the seven women described in the section on Dominic Ongwen's direct perpetration of SGBC. As well as being the victims of the crimes described above, those seven women are witnesses who were able to observe the practice of victimisation of other girls and women within the Sinia brigade in general.

613. The statements of numerous other witnesses, including Sinia commanders and fighters, who were present in Sinia and able to observe the same practice, prove not only the existence of this practice of victimisation within Sinia but also the particularly brutal and expansive scope that it had under Dominic Ongwen's command.

614. In particular, the accounts of five women forcibly married to fighters in Sinia brigade, P-0351, P-0352, P-0366, P-0374 and P-0396, are examples of specific instances of forced

marriage, rape, sexual slavery, enslavement and torture that occurred in the Sinia brigade. They provide proof that these crimes were committed as a matter of routine and that they are attributable to Dominic Ongwen. Their evidence establishes that:

- the women and girls were abducted by fighters in Sinia;
- the Sinia brigade, as the LRA in general, had strict rules on sexual conduct, which dictated that these abducted women and girls were forced to “marry” the Sinia fighters;
- the abducted women and girls were raped, tortured, sexually enslaved and enslaved; and
- the LRA hierarchy and its strict system of discipline ensured total adherence to its rules, as set out in the section on common elements of modes of liability, paragraphs 89 to 155.

615. In contrast to charges 50 through to 60, which detail specific named victims of crimes perpetrated by Dominic Ongwen personally, charges 61 through to 68 do not name each victim. P-0351, P-0352, P-0366, P-0374 and P-0396 are simply *examples* of a much *larger* group of women who are the victims of these crimes.

Count 61 – forced marriage as an inhumane act (article 7(1)(k)), count 62 – torture (article 7(1)(f)), count 63 – torture (article 8(2)(c)(i)), count 64 – rape (article 7(1)(g)), count 65 – rape (article

8(2)(e)(vi)), count 66 – sexual slavery (article 7(1)(g)), count 67 – sexual slavery (article 8(2)(e)(vi)), count 68 – enslavement (article 7(1)(c))

Victim evidence

P-0351

616. P-0351 was abducted by the LRA in December 2002 at the age of 12 by Raska Lukwiya's group.¹⁶⁵¹ She was smeared with shea butter and told that if she tried to escape she would be killed. She was forced to carry looted goods. She saw the rebels abduct civilians and keep young girls and boys. She saw many abducted girls aged between 10 and 20 years old.¹⁶⁵² On one occasion she was forced to take part in the killing of a civilian who had tried to escape. The rebels said that they wanted the new abductees who had not killed people to come and kill someone. Threatened with her life and at gunpoint, P-0351 participated.¹⁶⁵³

617. Shortly after her abduction, she was transferred to Dominic Ongwen's group.¹⁶⁵⁴ She was taken to the sick-bay where her tasks, and those of other young girls, included looking after the babies and fetching water. She saw other young girls ordered to do the same. After the sick-bay she was taken back to Ongwen's group.¹⁶⁵⁵ She stayed with Dominic Ongwen's wives and other girls. There were many wives and girls in Ongwen's household, including P-0214 and P-0235. She also saw wives of Raska and Lapaicho who were staying in Ongwen's group. The girls had to work, fetch water and cook. The women looked after the children and carried things.¹⁶⁵⁶

¹⁶⁵¹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0004.

¹⁶⁵² P-0351, [UGA-OTP-0263-0002-R01](#) at 0006.

¹⁶⁵³ P-0351, [UGA-OTP-0263-0002-R01](#) at 0007.

¹⁶⁵⁴ P-0351, [UGA-OTP-0263-0002-R01](#) at 0007-0008.

¹⁶⁵⁵ P-0351, [UGA-OTP-0263-0002-R01](#) at 0008-0009.

¹⁶⁵⁶ P-0351, [UGA-OTP-0263-0002-R01](#) at 0009-0011.

618. After a time, Dominic Ongwen gave P-0351 as a wife to Kalalang, one of his subordinate commanders.¹⁶⁵⁷ Kalalang already had two other wives who had two children. That night Kalalang told the witness she was now his wife and raped her. She did not refuse because she feared being killed if she did. She had seen this happen to other girls.¹⁶⁵⁸ After that night, Kalalang slept with the witness and his wives alternately. As Kalalang's wife, P-0351 had to cook and sleep with him.¹⁶⁵⁹ The witness recalled that in the bush, women and girls had no choice. Most of the girls in the bush were given to men as wives. The witness believes they had been distributed just as she had been.¹⁶⁶⁰ The girls had to carry the food, fetch water, cook and carry everything when attacked. They would be beaten if they lost their load. P-0351 was beaten many times for dropping her load. Girls in particular were beaten, and she remembered how her husband, Kalalang, would order her to be beaten with canes by two or three soldiers at a time.¹⁶⁶¹ The witness escaped in 2006.¹⁶⁶²

P-0352

619. P-0352 stated that she was abducted by Buk's Sinia battalion in March 2003.¹⁶⁶³ Okwer was a subordinate commander in Buk's group. P-0352 stated that "when girls first arrived they were given to a leader to be taken care of, meaning you would stay in his house. These girls were called *ting-tings*. Then when they wanted you to become a wife, sometimes you would remain with that leader and sometimes not. In some cases, girls would become wives very quickly after they were distributed."¹⁶⁶⁴ The abductees were divided to different households. Okwer took her to his house and smeared her. P-0352 saw other girls in Okwer's household.¹⁶⁶⁵ They had to cook, fetch water and wash the

¹⁶⁵⁷ P-0351, [UGA-OTP-0263-0002-R01](#) at 0012.

¹⁶⁵⁸ P-0351, [UGA-OTP-0263-0002-R01](#) at 0013.

¹⁶⁵⁹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0012-0013.

¹⁶⁶⁰ P-0351, [UGA-OTP-0263-0002-R01](#) at 0013.

¹⁶⁶¹ P-0351, [UGA-OTP-0263-0002-R01](#) at 0013.

¹⁶⁶² P-0351, [UGA-OTP-0263-0002-R01](#) at 0015.

¹⁶⁶³ P-0352, [UGA-OTP-0260-0315-R01](#) at 0317.

¹⁶⁶⁴ P-0352, [UGA-OTP-0260-0315-R01](#) at 0327.

¹⁶⁶⁵ P-0352, [UGA-OTP-0260-0315-R01](#) at 0318-0319.

clothes.¹⁶⁶⁶ P-0352 described the punishments of the women for breaking the rules. She said that one girl was caned 50 times for not cooking well. Other people were beaten for the same reason or for dropping their load or planning to escape. Okwer gave the orders in his household for someone to be beaten.¹⁶⁶⁷

620. P-0352 stated that about one week after she had arrived at Okwer's household, she and a boy named Tabu were accused of thinking to escape and, for that reason, beaten. She recalled, "[t]hey were going to cane us because we were thinking about escaping, and that with the beatings we would forget about home [...] It was very painful. They gave each of us 50 strokes [...] Tabu was shot and killed a short time after this."¹⁶⁶⁸

621. Okwer told her if she tried to escape she would be killed.¹⁶⁶⁹ P-0352 recalled an occasion when she and many other girls of the group were ordered by Dominic Ongwen to kill Acayo, an abducted girl accused of witchcraft. Ongwen said that this should be done to stop others who wanted to practice witchcraft. They beat Acayo until she died.¹⁶⁷⁰

622. After five or six months with Buk's group, Okwer's group moved to Dominic Ongwen's group under Sinia. Okwer was Dominic Ongwen's second in command. Around 10 women lived in Ongwen's household as wives and *ting-tings*, including one called Fatuma.¹⁶⁷¹ Ongwen ordered that P-0352 should stay at Okwer's and be a babysitter. Ongwen also gave one girl who had been a *ting-ting* at Okwer's for about five months to Odoki, one of Okwer's soldiers. The witness also recalled the distribution

¹⁶⁶⁶ P-0352, [UGA-OTP-0260-0315-R01](#) at 0320.

¹⁶⁶⁷ P-0352, [UGA-OTP-0260-0315-R01](#) at 0321-0322.

¹⁶⁶⁸ P-0352, [UGA-OTP-0260-0315-R01](#) at 0322.

¹⁶⁶⁹ P-0352, [UGA-OTP-0260-0315-R01](#) at 0321-0322.

¹⁶⁷⁰ P-0352, [UGA-OTP-0260-0315-R01](#) at 0330.

¹⁶⁷¹ P-0352, [UGA-OTP-0260-0315-R01](#) at 0323.

by Ongwen of another girl as a wife.¹⁶⁷² Okwer had many wives, and slept with all of them alternately.

623. About a month after joining Dominic Ongwen's group, Okwer raped the witness. She did not refuse because she feared he would kill her. She said that Okwer would have had to ask for Ongwen's permission to make P-0352 his wife (by raping her) because Ongwen issued all the orders. As Okwer's wife, the witness still had to carry on with her work. She had to cook, fetch water, carry food and other items.¹⁶⁷³ Other commanders and fighters in Ongwen's group had wives. Ojok, Otto, and Opige all had forced wives.¹⁶⁷⁴

624. P-0352 heard orders about abductions. She saw abducted boys of between 17 and 20 and girls of 12 and 16. The new abductees were brought to Dominic Ongwen's house and he decided where they would be distributed to.¹⁶⁷⁵ No one could take any abductee without Ongwen's permission. The witness described the distribution and assignments of the girls as *ting-tings* and how they could become wives at any age. They had no choice about it.¹⁶⁷⁶ The witness also recalled the abduction of many people from Odek. The young abductees were kept and moved with their group. They were taken to the headquarters. Later on the same day, Okwer and Odoki brought two girls to Okwer's home of about 16 years old. They would fetch water and wash saucepans.¹⁶⁷⁷

P-0366

625. P-0366 was abducted by the LRA in December 2000. She remained in captivity until early 2003. One of her abductors was called Otto.¹⁶⁷⁸ The stand-by group that abducted her was from C-Coy battalion headed by Dominic Ongwen. While moving, the soldiers

¹⁶⁷² P-0352, [UGA-OTP-0260-0315-R01](#) at 0324, 0327.

¹⁶⁷³ P-0352, [UGA-OTP-0260-0315-R01](#) at 0324-0325.

¹⁶⁷⁴ P-0352, [UGA-OTP-0260-0315-R01](#) at 0326.

¹⁶⁷⁵ P-0352, [UGA-OTP-0260-0315-R01](#) at 0326.

¹⁶⁷⁶ P-0352, [UGA-OTP-0260-0315-R01](#) at 0327.

¹⁶⁷⁷ P-0352, [UGA-OTP-0260-0315-R01](#) at 0334.

¹⁶⁷⁸ P-0366, [UGA-OTP-0260-0289-R01](#) at 0291, 0305.

abducted more people.¹⁶⁷⁹ After two weeks, they reached Ongwen's group, C-Coy battalion. The abductees were distributed to different households. This happened after the commanders Ongwen, Otto, Onen and Oling sat and discussed.¹⁶⁸⁰ P-0366 was taken to Ongwen's household, where Ongwen told her that if she tried to escape she would be killed. The witness recalled Ongwen's role in the distribution of women to other LRA fighters in Sinia.¹⁶⁸¹

626. While living in Dominic Ongwen's household, P-0366 met his wives, including P-0214 and P-0101; and his *ting-tings*, including P-0226 and P-0236. The witness was told to babysit the children.¹⁶⁸² The witness described her tasks including babysitting, cooking, cleaning clothes, and fetching water and wood. There were soldiers present to prevent escape.¹⁶⁸³ She stated that Ongwen, as the commander, was in charge of everyone. Anyone who would do something wrong was brought to Ongwen's place.¹⁶⁸⁴ She saw Ongwen start beating two girls who had tried to escape and order that they be "finished". The girls were beaten to death.¹⁶⁸⁵ The witness and other new recruits were forced by Ongwen's escort, Korea, to beat a woman to death.¹⁶⁸⁶

627. About a year after her abduction, the witness was moved from Dominic Ongwen's household. Ongwen distributed five girls, including the witness, to five of his escorts, including Nyang, Richard and Kidega. She was given to Kidega. Ongwen oversaw the marriage ritual and told them to stay with and obey the person he gave them to or else be beaten.¹⁶⁸⁷ P-0366 stated that women would become wives at any age. Kidega told P-0366 that she would live with him as she had been initiated.¹⁶⁸⁸

¹⁶⁷⁹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0292.

¹⁶⁸⁰ P-0366, [UGA-OTP-0260-0289-R01](#) at 0293.

¹⁶⁸¹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0293, 0300.

¹⁶⁸² P-0366, [UGA-OTP-0260-0289-R01](#) at 0294.

¹⁶⁸³ P-0366, [UGA-OTP-0260-0289-R01](#) at 0295-0296.

¹⁶⁸⁴ P-0366, [UGA-OTP-0260-0289-R01](#) at 0295-0296.

¹⁶⁸⁵ P-0366, [UGA-OTP-0260-0289-R01](#) at 0298.

¹⁶⁸⁶ P-0366, [UGA-OTP-0260-0289-R01](#) at 0297.

¹⁶⁸⁷ P-0366, [UGA-OTP-0260-0289-R01](#) at 0300.

¹⁶⁸⁸ P-0366, [UGA-OTP-0260-0289-R01](#) at 0300-0301.

628. That night Kidega wanted to sleep with the witness, who refused. Told by Kidega about her refusal, Dominic Ongwen ordered that the witness be caned 60 strokes for her refusal. Ongwen watched her being beaten. After two weeks Kidega raped her.¹⁶⁸⁹

629. The witness described the rules that existed in the LRA regarding women and girls including rules against boys sleeping with girls before they were initiated, girls speaking with any other men after they had been initiated, and girls refusing to become wives. The witness stated that the abducted girls would normally become a *ting-ting* and after that a wife.¹⁶⁹⁰ P-0366 also stated that none of the girls could refuse to be a wife. She saw women being beaten if they refused and heard of others being killed for refusing.¹⁶⁹¹

P-0374

630. P-0374 was abducted in September 2003 by a group of LRA rebels lead by Nyero. Nyero smeared the witness and another woman with shea butter.¹⁶⁹² The witness reached a camp of about 500 people where she saw commanders Ojoko, Kobi, Kalalang as well as Dominic Ongwen, the leader of Sinia.¹⁶⁹³ Nyero was a commander in Terwanga, in Sinia brigade. Ojoko was Terwanga's leader but Kobi and Kalalang were also leaders. The girls would take food to Ojoko's house.

631. The witness stated that Dominic Ongwen was in charge of Sinia and that people only spoke of him as the Sinia leader.¹⁶⁹⁴ She witnessed his role in the distribution of women to fighters under his command in Sinia brigade.¹⁶⁹⁵ There were other women and girls at Nyero's house.¹⁶⁹⁶ Nyero would sleep alternately with his wives. In Nyero's house

¹⁶⁸⁹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0301-0302.

¹⁶⁹⁰ P-0366, [UGA-OTP-0260-0289-R01](#) at 0303-0304.

¹⁶⁹¹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0304.

¹⁶⁹² P-0374, [UGA-OTP-0263-0023-R01](#) at 0025-0026, 0028.

¹⁶⁹³ P-0374, [UGA-OTP-0263-0023-R01](#) at 0028.

¹⁶⁹⁴ P-0374, [UGA-OTP-0263-0023-R01](#) at 0029.

¹⁶⁹⁵ P-0374, [UGA-OTP-0263-0023-R01](#) at 0028.

¹⁶⁹⁶ P-0374, [UGA-OTP-0263-0023-R01](#) at 0030.

women and girls had different roles. They all had to work. Girls had to cook, fetch water and wash clothes. Women had to collect grass and make the beds.¹⁶⁹⁷ The witness recalled the punishments of the girls and women for breaking the rules. All of them were beaten.¹⁶⁹⁸

632. At some point, the witness stayed at the sick-bay for about two months with other women. Lagonga was there to guard them. She estimates that about 20 households were there. Upon Nyero's message, Kalalang told those from Nyero's household to return to Nyero.¹⁶⁹⁹

633. When she returned, P-0374 was raped by Nyero. He told her she was going to be his wife, sleep with him and have children. He beat and threatened to kill her if she disrespected him and refused to do what he told her to. She submitted. She stated that she does not know of any girl or woman who had accepted willingly to become a wife.¹⁷⁰⁰

634. P-0374 recalled the punishments of the girls and women for breaking the rules. All of them were beaten. She said that Nyero's wives were beaten if they did something wrong. One time Nyero ordered that one of his wives should be beaten simply for not stopping her baby from crying.¹⁷⁰¹

635. Nyero once told the witness that in the bush, there was no escape.¹⁷⁰² She was scared that if she escaped she would be killed. She recalled that, on one occasion, on their way to Omot they passed an abductee who had been killed. She and others were told that if

¹⁶⁹⁷ P-0374, [UGA-OTP-0263-0023-R01](#) at 0031.

¹⁶⁹⁸ P-0374, [UGA-OTP-0263-0023-R01](#) at 0032.

¹⁶⁹⁹ P-0374, [UGA-OTP-0263-0023-R01](#) at 0035-0036.

¹⁷⁰⁰ P-0374, [UGA-OTP-0263-0023-R01](#) at 0037-0038.

¹⁷⁰¹ P-0374, [UGA-OTP-0263-0023-R01](#) at 0032.

¹⁷⁰² P-0374, [UGA-OTP-0263-0023-R01](#) at 0033-0034.

they tried to escape they would be killed like him.¹⁷⁰³ P-0374 recalled her experience of how she was beaten under the orders of Yaape, an LRA fighter. She was ordered not to cry or else be killed. After the beating, Yaape asked her if she wanted to escape, and she said she did not. That night, Nyero told her that he had been informed that she was planning to escape. He told her that in the bush there is no escape and that if someone tried to escape, they would be killed.¹⁷⁰⁴

636. The witness described the distribution of girls and women in the bush. She stated that they were transferred from one home to another, even to homes in different groups. They would be given to babysit, work, or be given to a man in another house. They could not refuse an order of the leaders. They had to obey or be killed. The only option for a girl was to work as a *ting-ting* and later on become a wife. She saw people killed for having a relationship without authorisation.¹⁷⁰⁵ P-0374 also recalled the killing of two girls accused of being witches.¹⁷⁰⁶

637. After Nyero's death the witness was taken to be one of the girls at Kalalang's house. She cooked, fetched water, collected grass, made beds and washed clothes. One of the other girls later became one of Kalalang's wives.¹⁷⁰⁷ She also described Ojoko's household and her tasks whilst she stayed there briefly before being taken back to and released by Kalalang around Easter 2005.¹⁷⁰⁸

P-0396

638. P-0396 was abducted by the LRA in December 2004 at the age of 13.¹⁷⁰⁹ The group that abducted her was headed by Kalalang and included other LRA soldiers such as Lapana,

¹⁷⁰³ P-0374, [UGA-OTP-0263-0023-R01](#) at 0034.

¹⁷⁰⁴ P-0374, [UGA-OTP-0263-0023-R01](#) at 0034.

¹⁷⁰⁵ P-0374, [UGA-OTP-0263-0023-R01](#) at 0039.

¹⁷⁰⁶ P-0374, [UGA-OTP-0263-0023-R01](#) at 0041.

¹⁷⁰⁷ P-0374, [UGA-OTP-0263-0023-R01](#) at 0043-0044.

¹⁷⁰⁸ P-0374, [UGA-OTP-0263-0023-R01](#) at 0044-0045.

¹⁷⁰⁹ P-0396, [UGA-OTP-0267-0246-R01](#) at 0248-2049.

Okeny, Ochang and Ocii.¹⁷¹⁰ Among this group of LRA were children about 12 to 15 years old.¹⁷¹¹ The witness and other abductees were forced to carry heavy loads of pillaged goods and to walk for several days until they reached a place called Wii-Polo.¹⁷¹² Dominic Ongwen was at Wii-Polo and was the leader of the group.¹⁷¹³

639. Upon arrival, the soldiers went to report to him and to deliver the items carried by the abductees.¹⁷¹⁴ The abductees were then brought to Ongwen, who ordered that they be beaten in order to “remove the civilian” from them.¹⁷¹⁵ Ongwen told the abductees that whoever tried to escape would be chased and killed.¹⁷¹⁶ Ongwen and Kalalang also both said that if you are given a husband and refuse to be his wife you will be killed.¹⁷¹⁷

640. After a few weeks, Ongwen distributed the witness and several other girls to his commanders.¹⁷¹⁸ Ongwen gave P-0396 to Okeny, who told the witness that if she refused to sleep with him, she would be killed.¹⁷¹⁹ Two other girls were given to Ochang and Ocii.¹⁷²⁰ The witness stated that neither she nor the other girls had a choice about becoming wives since they feared being killed if they refused.¹⁷²¹

641. The same night of the distribution, Okeny raped P-0396.¹⁷²² He slept with her many times after that, threatening her at gunpoint if she resisted.¹⁷²³ After P-0396 became Okeny’s wife, he gave her orders on a daily basis.¹⁷²⁴ He would tell her to cook, wash his

¹⁷¹⁰ P-0396, [UGA-OTP-0267-0246-R01](#) at 0249.

¹⁷¹¹ P-0396, [UGA-OTP-0267-0246-R01](#) at 0249.

¹⁷¹² P-0396, [UGA-OTP-0267-0246-R01](#) at 0250-0252.

¹⁷¹³ P-0396, [UGA-OTP-0267-0246-R01](#) at 0251.

¹⁷¹⁴ P-0396, [UGA-OTP-0267-0246-R01](#) at 0252.

¹⁷¹⁵ P-0396, [UGA-OTP-0267-0246-R01](#) at 0253.

¹⁷¹⁶ P-0396, [UGA-OTP-0267-0246-R01](#) at 0254.

¹⁷¹⁷ P-0396, [UGA-OTP-0267-0246-R01](#) at 0254.

¹⁷¹⁸ P-0396, [UGA-OTP-0267-0246-R01](#) at 0249, 0255-0256.

¹⁷¹⁹ P-0396, [UGA-OTP-0267-0246-R01](#) at 0256.

¹⁷²⁰ P-0396, [UGA-OTP-0267-0246-R01](#) at 0256.

¹⁷²¹ P-0396, [UGA-OTP-0267-0246-R01](#) at 0256.

¹⁷²² P-0396, [UGA-OTP-0267-0246-R01](#) at 0257.

¹⁷²³ P-0396, [UGA-OTP-0267-0246-R01](#) at 0257.

¹⁷²⁴ P-0396, [UGA-OTP-0267-0246-R01](#) at 0258.

clothes, collect water, and wash his feet.¹⁷²⁵ Okeny also forced her to beat a girl near Odek camp and to participate in a killing.¹⁷²⁶ While with Ongwen's group, the witness met several of his wives, including P-0236, P-0235 and P-0214.¹⁷²⁷ The witness escaped in April or May 2005.¹⁷²⁸

Evidence from other witnesses

642. Child soldier P-0097 recalled how Dominic Ongwen assigned girls to other rebel soldiers including one girl given to Ogwal as a wife. Ongwen decreed that "she would go to get firewood, cook for him and wash his clothes. At night, Ogwal and the girl would be sleeping in the same place".¹⁷²⁹ P-0097 also described Ongwen's orders to Ojera to beat a girl who tried to escape.¹⁷³⁰

643. P-0099 said that Joseph Kony had about 40 wives in Sudan.¹⁷³¹ She said that the rules did not allow a wife to sleep with any other man than that assigned to her.¹⁷³² She described Joseph Kony's distribution of girls who were paraded at an assembly after Friday prayers in Sudan.¹⁷³³

644. P-0101, one of Dominic Ongwen's forced wives, recalled the same ceremony.¹⁷³⁴ After such rituals, Joseph Kony and other commanders selected girls to be their forced wives.¹⁷³⁵ The moment she arrived back in Uganda, P-0101 made a radio broadcast imploring Dominic Ongwen to release two of his other forced wives. She was quite clear that they were not able to come home unless Ongwen released them.¹⁷³⁶ P-0101 said that,

¹⁷²⁵ P-0396, [UGA-OTP-0267-0246-R01](#) at 0258.

¹⁷²⁶ P-0396, [UGA-OTP-0267-0246-R01](#) at 0259-0260.

¹⁷²⁷ P-0396, [UGA-OTP-0267-0246-R01](#) at 0256-0257.

¹⁷²⁸ P-0396, [UGA-OTP-0267-0246-R01](#) at 0260.

¹⁷²⁹ P-0097, [UGA-OTP-0258-0489-R01](#) at 0500.

¹⁷³⁰ P-0097, [UGA-OTP-0258-0489-R01](#) at 0497.

¹⁷³¹ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 21.

¹⁷³² P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 40.

¹⁷³³ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 52.

¹⁷³⁴ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 50, 63, 64.

¹⁷³⁵ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 26, 29, ICC-02/04-01/15-T-9-CONF-ENG, p. 27.

¹⁷³⁶ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 11-12.

“when young girls are abducted, you are raped while you’re still young. If you’re 11 years old or 12 years old, if there is a high-ranking commander who is kind, then they will let you actually mature a little bit, but with the rest of them they will just abduct you and make you a wife at a very young age. [...] Dominic was the worst when it came to young [...] girls. [...] he still has sex with them at a very young age”.¹⁷³⁷

645. P-0142, a fighter in Terwanga battalion, said that Dominic Ongwen was in charge of distributing abducted women and girls to different battalions within the brigade.¹⁷³⁸ They were first taken to the brigade headquarters; he then considered which battalions had people without wives, and would distribute the women and girls to those battalions; the battalion commanders would decide who got the women and girls at the battalion level.¹⁷³⁹ P-0142 estimated that about 250 to 300 men in Sinia brigade had wives. Some had two or three. The women were all abductees;¹⁷⁴⁰ they could not refuse to become wives because they were with people who were armed.¹⁷⁴¹

646. P-0142 said that a woman was abducted from Obalanga in 2003, with three other girls. Buk Abudema gave her to P-0142 with the remark: “you have no wife: take this one”.¹⁷⁴² Later, P-0142 had other wives.¹⁷⁴³ P-0142 also recalled Dominic Ongwen’s role in distribution.¹⁷⁴⁴ P-0142 said that girls too young to become wives were distributed as *ting-tings*. They were supposed to take care of the children and work like house-girls for the other women.¹⁷⁴⁵

¹⁷³⁷ P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 62-63.

¹⁷³⁸ P-0142, [UGA-OTP-0244-0755-R01](#) at 0765-0766.

¹⁷³⁹ P-0142, [UGA-OTP-0244-0755-R01](#) at 0765-0766.

¹⁷⁴⁰ P-0142, [UGA-OTP-0244-0755-R01](#) at 0768-0769.

¹⁷⁴¹ P-0142, [UGA-OTP-0244-0755-R01](#) at 0773-0774.

¹⁷⁴² P-0142, [UGA-OTP-0244-0732-R01](#) at 0752-0753.

¹⁷⁴³ P-0142, [UGA-OTP-0244-0755-R01](#) at 0761-0763.

¹⁷⁴⁴ P-0142, [UGA-OTP-0244-0755-R01](#) at 0765-0766.

¹⁷⁴⁵ P-0142, [UGA-OTP-0244-0755-R01](#) at 0768-0769.

647. Dominic Ongwen gave a wife to Sinia fighter P-0205 on the occasion of his promotion by Joseph Kony.¹⁷⁴⁶ P-0205 also recalled Ongwen's role in distribution of women in Sinia.¹⁷⁴⁷

648. P-0214, one of Dominic Ongwen's forced wives, recalled that girls were smeared with ashes and eggs.¹⁷⁴⁸ She described how commanders pointed to the girls they wanted.¹⁷⁴⁹

649. When P-0226, one of Dominic Ongwen's forced wives, arrived at the LRA base in Jebellin, Sudan, after her abduction in 1998, she and other female abductees had shea butter smeared on their body in a purification ritual.¹⁷⁵⁰ P-0226 recalled that girls were selected to be *ting-tings* or wives depending on their perceived maturity. The girls and women had no choice but to accede. If they refused they would be beaten or killed.¹⁷⁵¹ P-0226 confirmed that forced wives who showed interest in a man who was not their husband would be killed along with the man.¹⁷⁵² P-0226 described how after an attack on Patongo led by Dominic Ongwen, he ordered new female abductees to beat a captured soldier to death, and threatened that anyone who refused would themselves be killed. Ongwen watched while his orders were carried out.¹⁷⁵³

650. P-0227, another forced wife to Dominic Ongwen, said that he allocated a girl to be a wife to a soldier known as Olak, who was Ongwen's direct subordinate.¹⁷⁵⁴

651. P-0235, one of Dominic Ongwen's forced wives, described Dominic Ongwen's central role in the distribution of abducted women and girls, as well as his communication with

¹⁷⁴⁶ P-0205, [UGA-OTP-0243-0786-R01](#) at 0802-0804.

¹⁷⁴⁷ P-0205, [UGA-OTP-0243-0819-R01](#) at 0829-0832.

¹⁷⁴⁸ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 13.

¹⁷⁴⁹ P-0214, ICC-02/04-01/15-T-15-CONF-ENG, p. 12-16.

¹⁷⁵⁰ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 24-25.

¹⁷⁵¹ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 32.

¹⁷⁵² P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 51-53.

¹⁷⁵³ P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 56, 58-59, 61-63.

¹⁷⁵⁴ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 46.

Joseph Kony on the subject.¹⁷⁵⁵ P-0406 stated that new recruits, especially girls aged between 12 and 16, would stay in Ongwen's home.¹⁷⁵⁶ He recalled an occasion in Gulu where some of the abducted women were sent to Ongwen's home and other commanders. Sometimes the girls were taken to Kony in Sudan.¹⁷⁵⁷ He stated that the girls had no choice and that if they refused they would be beaten. He saw this happen. P-0406 recalled an instance, when Ongwen was in charge of Sinia brigade, when a 15-year-old girl was given to an old man called Obol. She was beaten until she went with him.¹⁷⁵⁸

652. P-0264 stated that Ongwen would distribute women to younger LRA fighters based on the fighter's ability to "work" in battle.¹⁷⁵⁹ P-0264 was ordered by Acellam to cane his wives in front of him when they had done something wrong, such as for refusing to make him tea, prepare him bathing water, clean his clothes or cook for him. The witness saw this many times with other commanders instructing their escorts to cane the wives for wrong-doing. He said that it was standard practice within the LRA to discipline the wives and *ting-tings*.¹⁷⁶⁰

Radio intercept evidence

653. On 1 April 2003, Dominic Ongwen reported to Joseph Kony on the radio that one of his soldiers had had sex with the wives of Buk Abudema and Otim Charles and impregnated them. Joseph Kony ordered Dominic Ongwen to kill the soldier and that the two women be "put in jail [...] while awaits their final judgements".¹⁷⁶¹ The next day, Dominic Ongwen reported that he had killed the soldier in question.¹⁷⁶²

¹⁷⁵⁵ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 17-23.

¹⁷⁵⁶ P-0406, [UGA-OTP-0270-1154-R01](#) at 1155.

¹⁷⁵⁷ P-0406, [UGA-OTP-0270-1154-R01](#) at 1157.

¹⁷⁵⁸ P-0406, [UGA-OTP-0270-1154-R01](#) at 1159-1161.

¹⁷⁵⁹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0161.

¹⁷⁶⁰ P-0264, [UGA-OTP-0256-0139-R01](#) at 0165.

¹⁷⁶¹ ISO logbook, [UGA-OTP-0063-0002](#) at 0068 (1 April 2003), 0071-0072.

¹⁷⁶² ISO logbook, [UGA-OTP-0063-0002](#) at 0072 (2 April 2003), 0073.

654. On 4 April 2003, Joseph Kony told his commanders on the radio, “with women, those once got should be captured and raped seriously without mercy”.¹⁷⁶³

655. On 11 July 2004, Dominic Ongwen reported on the radio to Buk Abudema that the wives of a subordinate officer had escaped. Ongwen said that he had informed the subordinate officer to abduct other young girls because “there is no way he [Dominic Ongwen] can survive in the bush without women”.¹⁷⁶⁴

Dominic Ongwen’s individual criminal responsibility for SGBC committed by others

Dominic Ongwen is criminally responsible as an indirect co-perpetrator under article 25(3)(a)

i. Dominic Ongwen was part of a common plan or an agreement with one or more persons

656. From at least 1 July 2002 to 31 December 2005, in northern Uganda, Dominic Ongwen, Joseph Kony, and the Sinia brigade leadership (“SGBC co-perpetrators”) implemented a common plan to abduct girls and women to serve as domestic servants (enslavement), forced exclusive conjugal partners (forced marriage), and sex slaves (sexual slavery) in the Sinia brigade (“SGBC common plan”). The implementation of the common plan in the ordinary course of events resulted in the commission of rape and torture.

657. Although the SGBC co-perpetrators were geographically distant, they implemented the SGBC common plan in a coordinated manner through high-frequency radio. LRA radio use is explained in detail in the section on intercepted LRA radio communications (paragraphs 62 to 88). Joseph Kony, as the commander-in-chief of the LRA, provided the strategic direction to the SGBC common plan, and relied on his commanders, including Dominic Ongwen and other senior leaders in Sinia brigade to implement it, through Sinia brigade fighters. Dominic Ongwen adhered to the SGBC common plan. This is demonstrated by his: (i) executing Joseph Kony’s orders without hesitation through his

¹⁷⁶³ [UGA-OTP-0063-0002](#) at 0080 (left side).

¹⁷⁶⁴ UPDF logbook, [UGA-OTP-0197-1670](#) at 1821.

command structure; (ii) benefiting from the SGBC common plan by keeping forced wives; and (iii) making statements propagating the aims of the SGBC common plan or conduct in furtherance of the SGBC common plan.

658. The SGBC common plan had four facets. The first was to abduct women and girls. This was the necessary precursor to the commission of the crimes charged in this section (paragraphs 612-655). This facet of the SGBC common plan started with Joseph Kony's orders.

- P-0040 heard Joseph Kony issue the order to abduct girls on a number of occasions, particularly in connection with the kidnappings from Aboke and Lwala schools.¹⁷⁶⁵
- P-0142 heard, in 1997 and 1998, Joseph Kony order LRA commanders Matata and Otti Lagony in words such as, "You're going to Uganda. If there are some big boys among you there, you go and abduct girls as wives".¹⁷⁶⁶ P-0142 heard this order given about three times but he believed that Joseph Kony must have issued it many other times.¹⁷⁶⁷
- P-0245 confirmed that it was Joseph Kony who gave the orders for women to be abducted because, "there is the human nature, you have to get a woman to sleep with".¹⁷⁶⁸
- P-0233 recalled that orders to abduct girls between 13 and 15 were passed over the radio from Joseph Kony to his commanders. It was not a secret.¹⁷⁶⁹
- P-0330 recalled that when they went to attack villages and camps, the rule was not to abduct older people. The Holy thought older people would escape but young children would not. The witness recalled Kony saying, when they were in Sudan, that when they go to abduct they should only take children.¹⁷⁷⁰

¹⁷⁶⁵ P-0040, [UGA-OTP-0220-0779-R01](#) at 0791-0804.

¹⁷⁶⁶ P-0142, [UGA-OTP-0244-0755-R01](#) at 0767.

¹⁷⁶⁷ P-0142, [UGA-OTP-0244-0755-R01](#) at 0767-0768.

¹⁷⁶⁸ P-0245, [UGA-OTP-0244-0545-R01](#) at 0553.

¹⁷⁶⁹ P-0233, [UGA-OTP-0243-1149-R01](#) at 1159-1160.

¹⁷⁷⁰ P-0330, [UGA-OTP-0256-0071-R01](#) at 0081.

- P-0138 recalled that Kony gave the order on the radio to abduct boys and girls aged 11 to 15 because they were easy to teach. This order was given by Joseph Kony and passed through Vincent Otti to other LRA commanders. As Vincent Otti's radio operator, P-0138 heard Joseph Kony's order himself.¹⁷⁷¹
- P-0070 said that Kony was in charge of the headquarters, where all the orders came from. At times, Kony passed the orders to Otti Vincent who passed them on to other commanders. At other times Kony would issue direct orders and specify whether they were for abductions, or attacks or for killings.¹⁷⁷²
- P-0264 recalled that the overall decision about whether abductions should be carried out or not at various times was taken by Kony.¹⁷⁷³

659. The most senior LRA commanders acknowledged publicly the existence of this facet of the SGBC common plan. In December 2002, Joseph Kony and Vincent Otti participated in a public broadcast on Mega FM radio station in Gulu.¹⁷⁷⁴ Kony said, "[A]s being rebels we don't abduct children, but that's the way we recruit".¹⁷⁷⁵ His second-in-command, Vincent Otti said: "I want to assure you that the girls whom we collect and send to the bush are our mothers. We always collect the young ones who are not infected with HIV".¹⁷⁷⁶ By his reference to HIV, Vincent Otti acknowledged that these women and girls were abducted for sex.

660. Sometimes, possibly for political reasons or as punishment, orders were given that the abduction of girls and women should stop temporarily.¹⁷⁷⁷ P-0070 said that after Operation Iron Fist, Kony forbade Sinia brigade from abducting girls for about two months and ordered the release of previously abducted girls. This was done as a

¹⁷⁷¹ P-0138, [UGA-OTP-0228-0538-R01](#) at 0551-0552. *See also*, P-0224, [UGA-OTP-0244-3050-R01](#) at 3062.

¹⁷⁷² P-0070, [UGA-OTP-0228-2834-R01](#) at 2840-2842.

¹⁷⁷³ P-0264, [UGA-OTP-0256-0139-R01](#) at 0163.

¹⁷⁷⁴ Mega FM sound recording, [UGA-OTP-0023-0002](#), Mega FM translation and transcript, [UGA-OTP-0023-0011](#).

¹⁷⁷⁵ Mega FM translation and transcript, [UGA-OTP-0023-0011](#) at 0013.

¹⁷⁷⁶ Mega FM translation and transcript, [UGA-OTP-0023-0011](#) at 0020.

¹⁷⁷⁷ ISO logbook, [UGA-OTP-0232-0234](#) at 0280-0281.

punishment for breaking the LRA rules about sleeping with uncleansed girls. In 2003, they were allowed to start abducting again.¹⁷⁷⁸ P-0205 said that Kony would pass the ‘stop’ order to Vincent Otti, who would send that message to the division commander. The division commander relayed the message to the brigade commanders, who passed it on to the battalion and the lower commanders.¹⁷⁷⁹ The way that P-0070 and P-0205 described orders relating to the abduction of women and girls being passed on demonstrates the systematic fashion in which the LRA, including the Sinia brigade, implemented Kony’s orders and, thereby, the SBGC common plan.

661. The second facet of the SGBC common plan was the forced marriage of women and girls after they were abducted. P-0142 said that typically Joseph Kony issued an order to abduct on the radio. When the order was carried out, the women and girls were brought to Sinia brigade headquarters and the brigade commander (at the relevant times Buk Abudema and then Dominic Ongwen) informed Joseph Kony of the number and kind of girls abducted. Joseph Kony then ordered them to be distributed.¹⁷⁸⁰

662. P-0070 recalled that at first, the abducted girls had to be sent to Kony, pass the test and get smeared in oil, before the men could sleep with them. He detailed that after the Iron Fist things changed. Women would be splashed with water even after only three or four days and then distributed to men. After Iron Fist, the commander at the brigade level dealt with the newly abducted girls. It was up to him to splash water, cleanse them and distribute to officers and men under him. This was all ordered by Kony.¹⁷⁸¹

¹⁷⁷⁸ P-0070, [UGA-OTP-0208-0254-R01](#) at 0278-0282; P-0070, [UGA-OTP-0228-3067-R01](#) at 3069-3074.

¹⁷⁷⁹ P-0205, [UGA-OTP-0243-0819-R01](#) at 0826.

¹⁷⁸⁰ P-0142, [UGA-OTP-0244-0755-R01](#) at 0765.

¹⁷⁸¹ P-0070, [UGA-OTP-0208-0254-R01](#) at 0275-0277

663. P-0040 recalled Joseph Kony's view that LRA fighters did not have time to persuade girls, so women and girls were not allowed to refuse whoever they were distributed to. The man could not refuse either.¹⁷⁸²

664. The third facet of the SGBC common plan was for women and girls to submit to rape and sexual slavery by, and perform domestic duties for, the LRA fighters with whom they were paired. The radio conversation quoted above at paragraph 654 reflects this aspect of the SGBC common plan.

665. SGBC co-perpetrators intended sexual relations to be exclusively between a man and his "wife". The radio exchange on 1 and 2 April 2003 between Dominic Ongwen and Joseph Kony on this subject is detailed in paragraph 667.

666. The fourth facet of the SGBC common plan, which arose in the ordinary course of events as a result of its implementation, was to coerce girls and women when they refused or failed to submit or perform as ordered, by beatings and threats of beatings or death. On 17 and 18 December 2002, Joseph Kony ordered on the radio that abductees who were deemed difficult to control, specifically those that did not submit to the orders of the commanders, to be killed¹⁷⁸³ or beaten.¹⁷⁸⁴ P-0245 observed that a merciful commander was one who, when he captured escapees, would only cane them.¹⁷⁸⁵

667. Dominic Ongwen coordinated his actions with his SGBC co-perpetrators, regularly communicating on the radio about the SGBC common plan. He received orders, reported on what he had done in furtherance of, and expressed his support for, the SGBC common plan.

¹⁷⁸² P-0040, [UGA-OTP-0220-0805-R01](#) at 0811-0812.

¹⁷⁸³ ISO logbook, [UGA-OTP-0065-0002](#) at 0113.

¹⁷⁸⁴ ISO logbook, [UGA-OTP-0065-0002](#) at 0115.

¹⁷⁸⁵ P-0245, [UGA-OTP-0244-0554-R01](#) at 0563.

- On 24 March 2003, Dominic Ongwen informed Joseph Kony that he decided to kill Karamajong and Sudanese girls that he had been keeping because they had become stubborn.¹⁷⁸⁶
- On 1 April 2003, Dominic Ongwen reported to Joseph Kony on the radio that one of his soldiers had had sex with the wives of Buk Abudema and Otim Charles and impregnated them. Joseph Kony ordered Dominic Ongwen to kill the soldier and that the two women be “put in jail [...] while awaits their final judgements”.¹⁷⁸⁷ On 2 April 2003, Dominic Ongwen reported that he had killed the soldier in question.¹⁷⁸⁸
- On 10 March 2004, Joseph Kony complained on the radio to Dominic Ongwen that he had let all the senior LRA women with him escape. Dominic Ongwen replied that he had many female “recruits” who could replace the escapees.¹⁷⁸⁹
- On 11 July 2004, Dominic Ongwen sent a message to Buk Abudema that the wives of one of his (Dominic Ongwen’s) subordinate officer had escaped. He asked for permission to inform that officer to abduct other young girls because “there is no way he [Dominic Ongwen] can survive in the bush without women”.¹⁷⁹⁰
- On 4 August 2004, a senior LRA commander asked on the radio about his wife, whom he had left with Dominic Ongwen. He instructed Dominic Ongwen to ensure that she did not escape.¹⁷⁹¹
- On 26 June 2005, Dominic Ongwen indicated to Omona, a superior commander, on the radio that two women, one of them the “wife of Alit Santo”, wanted to escape. He was instructed to ensure that they did not.¹⁷⁹²

¹⁷⁸⁶ [UGA-OTP-0065-0143](#) at 0208 (K’jong is an abbrev. for Karamajong, a nomadic indigenous group that lives in northern Uganda).

¹⁷⁸⁷ ISO logbook, [UGA-OTP-0063-0002](#) at 0068, 0071-0072.

¹⁷⁸⁸ ISO logbook, [UGA-OTP-0063-0002](#) at 0072, 0073.

¹⁷⁸⁹ ISO logbook, [UGA-OTP-0061-0002](#) at 0137.

¹⁷⁹⁰ UPDF logbook, [UGA-OTP-0197-1670](#) at 1821.

¹⁷⁹¹ ISO logbook, [UGA-OTP-0062-0145](#) at 0164.

¹⁷⁹² ISO logbook, [UGA-OTP-0163-0007](#) at 0139.

- On 10 July 2005, Omona asked Dominic Ongwen if he had abducted *ting-tings* for Kony. Dominic Ongwen said, “not yet [... but that] Kony should not worry because he is going to work on that himself”.¹⁷⁹³

ii. *Dominic Ongwen 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*

668. The contribution that Dominic Ongwen made to the SGBC common plan was an essential one. As discussed in the section on common elements of modes of liability (paragraphs 89 to 155), by virtue of the LRA’s strict hierarchy, Dominic Ongwen had operational control over first, Oka battalion, and then Sinia brigade, and was thus able to control what fighters under his command did. It was he who gave the orders at an operational level to ensure that the SGBC common plan was carried out in the units that he commanded. It was he who enforced discipline to ensure that it was followed by fighters under his command and by women and girls distributed to them. And it was he who, as described in more detail in the section on his direct perpetration of SGBC (paragraphs 515 to 611), set the example for his subordinates by maintaining forced wives of his own. According to P-0235, he was explicit that, in doing so, he was following LRA rules that required wives to submit to their husbands.¹⁷⁹⁴

Ordering

669. First, Dominic Ongwen made an essential contribution by ordering fighters under his command to implement the SGBC common plan. P-0205 recalled that on one occasion

¹⁷⁹³ ISO logbook, [UGA-OTP-0163-0007](#) at 0169.

¹⁷⁹⁴ P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 32.

Dominic Ongwen asked him whether he had abducted anyone; P-0205 confessed that he had not yet. Dominic Ongwen told him to go back and organise his unit to abduct.¹⁷⁹⁵

670. P-0205 reported that on occasions Dominic Ongwen would give a general order that abductions of women and girls should be carried out. His subordinates would decide the precise time and location. This was the case in respect of an abduction raid at a village called Omia Pachwa.¹⁷⁹⁶ P-0205 gave numerous examples of locations where abductions were carried out by the Sinia brigade and other fighters under the control of Dominic Ongwen and on his orders. He recounted an abduction of a girl carried out by a subordinate named Oyet Agach,¹⁷⁹⁷ the abduction of a girl from Otwal by a subordinate called Charles Oriang,¹⁷⁹⁸ and abduction missions that it seems P-0205 himself conducted in 2004 at Onegwok¹⁷⁹⁹ and Paicho.¹⁸⁰⁰

671. P-0250 recalled that after the death of Ocitti (at Amuria), Dominic Ongwen ordered that a lot of abductees be taken to “replace” Ocitti’s death.¹⁸⁰¹ Among the five abductees who joined P-0250’s unit, two were girls. P-0250’s commander, Okema, took one to become his wife. The other was taken to headquarters.¹⁸⁰² Okema had already two wives, Akello Florence, and Oyella.¹⁸⁰³

672. P-0233, a company commander in the second battalion of Gilva brigade, recalled that Dominic Ongwen ordered a combined group of soldiers from Stockree and Sinia brigade to abduct boys and girls between the age of 13 and 15 from Acet.¹⁸⁰⁴ P-0233 went

¹⁷⁹⁵ P-0205, [UGA-OTP-0243-0867-R01](#) at 0874.

¹⁷⁹⁶ P-0205, [UGA-OTP-0243-0819-R01](#) at 0823-0827.

¹⁷⁹⁷ P-0205, [UGA-OTP-0243-0520-R01](#) at 0527-0528.

¹⁷⁹⁸ P-0205, [UGA-OTP-0243-0520-R01](#) at 0534-0535.

¹⁷⁹⁹ P-0205, [UGA-OTP-0243-0867-R01](#) at 0872-0873.

¹⁸⁰⁰ P-0205, [UGA-OTP-0243-0867-R01](#) at 0872, 0876.

¹⁸⁰¹ P-0250, [UGA-OTP-0243-1414-R01](#) at 1416.

¹⁸⁰² P-0250, [UGA-OTP-0243-1414-R01](#) at 1417-1418.

¹⁸⁰³ P-0250, [UGA-OTP-0243-1414-R01](#) at 1426.

¹⁸⁰⁴ P-0233, [UGA-OTP-0243-1149-R01](#) at 1150-1153.

to Acet. They took four boys and one 14 year old girl named Aciro.¹⁸⁰⁵ P-0233's account of Dominic Ongwen giving these orders is corroborated by P-0205.¹⁸⁰⁶ P-0406 stated that two girls from ten people abducted from Odek were brought to Okwee. One of them was given to a fighter called Dennis. Okwee was dividing the abductees at a location where Dominic Ongwen was the most senior commander.¹⁸⁰⁷ P-0406 also stated that it was Dominic Ongwen who had addressed them before the Lukodi attack and given them orders which included abduction of children of 17 years and below.¹⁸⁰⁸ The instructions relayed to the witness also included killing any civilians who resisted abduction.¹⁸⁰⁹ P-0406 stated that, before the Abok attack, Dominic Ongwen ordered the witness and other attackers to burn houses, abduct people, shoot those who tried to run away, and make the abductees carry the loot.¹⁸¹⁰ He said that more than 35 people were abducted from Abok.¹⁸¹¹ Among the abducted girls were three who were about 12 years old. These three girls were taken to the home of Dominic Ongwen. They were collected by Korea who was Dominic Ongwen's chief escort.¹⁸¹²

673. P-0142 said that it was Dominic Ongwen who gave the order to attack Odek on or about 30 April 2004.¹⁸¹³ Civilians taking no active part in hostilities including girls and women were abducted during the course of that attack. P-0142 was involved in the attack on Lukodi, which Dominic Ongwen ordered. P-0142 was responsible for the abducted civilians. There were about 20 of them, according to P-0142, mostly women.¹⁸¹⁴

¹⁸⁰⁵ P-0233, [UGA-OTP-0243-1149-R01](#) at 1154-1155.

¹⁸⁰⁶ P-0205, [UGA-OTP-0243-0520-R01](#) at 0526.

¹⁸⁰⁷ P-0406, [UGA-OTP-0270-1056-R01](#) at 1059-1062.

¹⁸⁰⁸ P-0406, [UGA-OTP-0270-1073-R01](#) at 1083.

¹⁸⁰⁹ P-0406, [UGA-OTP-0270-1073-R01](#) at 1084.

¹⁸¹⁰ P-0406, [UGA-OTP-0270-1116-R01](#) at 1118-1119.

¹⁸¹¹ P-0406, [UGA-OTP-0270-1116-R01](#) at 1126.

¹⁸¹² P-0406, [UGA-OTP-0270-1116-R01](#) at 1128.

¹⁸¹³ P-0142, [UGA-OTP-0228-4542-R01](#) at 4549.

¹⁸¹⁴ P-0142, [UGA-OTP-0228-4583-R01](#) at 4591.

674. P-0245 recalled that abductions under the command of Dominic Ongwen took place at Lacani, Acholibur, Omel Kuru, Odek, Lukodi and Palaro.¹⁸¹⁵ Abductions of young girls in particular were performed by the Oka battalion of the Sinia brigade at Wol, Kitgum Matidi, Kalong and Atanga,¹⁸¹⁶ in which P-0245 took part. About 20 girls between the ages of about 14 to 16 were abducted from a school in Atanga to become LRA wives in 2002, after Operation Iron Fist. The leader of the raid was Ojok Otngec and it was Dominic Ongwen who had given the command to carry out the raid.¹⁸¹⁷

675. P-0200 described Dominic Ongwen as an active and brutal LRA commander and noted his role in the abduction and distribution of girls to be sex slaves for other commanders.¹⁸¹⁸ He was one of many children abducted from Arute village in Amuria district by Dominic Ongwen.¹⁸¹⁹

676. P-0286 recalled that he was told that every order carried out by Kalalang and Oceng came directly from Dominic Ongwen.¹⁸²⁰ He detailed that it was the rebels' practice to pick young beautiful ladies and make them their wives.¹⁸²¹

677. P-0330 recalled that during the time he was an escort of Dominic Ongwen, girls were abducted. Some were trained and given guns, others were distributed to the leaders. P-0330 heard Dominic Ongwen give orders for abducted girls to stay with him and Okello who was his second-in-command. P-0330 described a girl given as a wife to Odoki by Okello. P-0330 explained that about five girls were taken from the attack on Opit, four of whom stayed at Okello's home.¹⁸²²

¹⁸¹⁵ P-0245, [UGA-OTP-0244-0520-R01](#) at 0523-0524.

¹⁸¹⁶ P-0245, [UGA-OTP-0244-0520-R01](#) at 0524-0525.

¹⁸¹⁷ P-0245, [UGA-OTP-0244-0520-R01](#) at 0526-0528.

¹⁸¹⁸ P-0200, [UGA-OTP-0243-0043-R01](#) at 0046.

¹⁸¹⁹ P-0200, [UGA-OTP-0243-0043-R01](#) at 0044.

¹⁸²⁰ P-0286, [UGA-OTP-0248-0060-R01](#) at 0083.

¹⁸²¹ P-0286, [UGA-OTP-0248-0060-R01](#) at 0086.

¹⁸²² P-0330, [UGA-OTP-0256-0071-R01](#) at 0081-0082.

678. P-0352 recalled hearing orders about abductions. She saw abducted boys of between 17 and 20 and girls of 12 and 16. The new abductees were brought to Dominic Ongwen's house and he decided on where they would be distributed.¹⁸²³ She said that no one could take any abductee without Dominic Ongwen's permission.¹⁸²⁴

Distributing

679. Second, Dominic Ongwen made an essential contribution by personally supervising the distribution of female abductees.

680. P-0205 recalled that after abductions had taken place, senior commanders in Sinia brigade met Dominic Ongwen to decide on distribution.¹⁸²⁵ P-0097 recalled how Ongwen assigned girls to other rebel soldiers, including one girl given to Ogwal.¹⁸²⁶

681. P-0366 recalled her abduction and that of others by LRA fighters.¹⁸²⁷ She stated that the distribution of the abductees to different households took place after the commanders Ongwen, Otto, Onen and Oling sat and discussed.¹⁸²⁸ She also recalled how Ongwen distributed five girls, including the witness, to five of his escorts, including Nyang, Richard and Kidega.¹⁸²⁹

682. P-0396 recalled how the LRA rebels that abducted her went to report to Dominic Ongwen and to deliver the items carried by the abductees.¹⁸³⁰ She stated that the abductees were then brought to Ongwen, who ordered that they be beaten in order to "remove the civilian" from them.¹⁸³¹ She said that Ongwen distributed the witness and

¹⁸²³ P-0352, [UGA-OTP-0260-0315-R01](#) at 0326.

¹⁸²⁴ P-0352, [UGA-OTP-0260-0315-R01](#) at 0327.

¹⁸²⁵ P-0205, [UGA-OTP-0243-1149-R01](#) at 1160.

¹⁸²⁶ P-0097, [UGA-OTP-0258-0489-R01](#) at 0500.

¹⁸²⁷ P-0366, [UGA-OTP-0260-0289-R01](#) at 0291-0292, 0305.

¹⁸²⁸ P-0366, [UGA-OTP-0260-0289-R01](#) at 0293.

¹⁸²⁹ P-0366, [UGA-OTP-0260-0289-R01](#) at 0300.

¹⁸³⁰ P-0396, [UGA-OTP-0267-0246-R01](#) at 0252.

¹⁸³¹ P-0396, [UGA-OTP-0267-0246-R01](#) at 0253.

several other girls to the commanders.¹⁸³² P-0397, *inter alia*, said that “there were strict rules regarding women and girls and who would have them. It was only Ongwen that could make this decision. Even if Ot Ngec abducted a girl, the girl would have to be taken to Ongwen to distribute.”¹⁸³³ P-0379 said that two abducted girls, who were approximately 15 and 16 years old, were taken to Ongwen who distributed them to Kidega.¹⁸³⁴

683. As described above in paragraphs 612-655, the abduction of girls inevitably led to their forced marriage and then their rape, sexual slavery, slavery and torture. These paragraphs contain examples of Dominic Ongwen’s role in the distribution as wives and *ting-tings* of abducted women and girls to fighters under his command and their forced marriage, rape, sexual slavery, enslavement and torture.

Operational control

684. Third, Dominic Ongwen made an essential contribution by having operational control over the implementation of the SGBC common plan in Oka battalion and then the Sinia brigade.

685. P-0264 recalled abductions by the Oka battalion, commanded by Ben Acellam, of which the witness was part. He was part of a mission at a camp in Pader where two girls, two boys and a mature woman, named Josephine, were abducted. The fighters reported back to Acellam who would have been required to report the abduction to Ongwen, as the brigade commander. Acellam distributed Josephine to a commander called Lutugu.¹⁸³⁵ P-0264 stated that in order for a *ting-ting* to become a wife Acellam would have to ask Ongwen.¹⁸³⁶

¹⁸³² P-0396, [UGA-OTP-0267-0246-R01](#) at 0249-0250, 0255-0256.

¹⁸³³ P-0379, [UGA-OTP-0260-0039](#) at 0064.

¹⁸³⁴ P-0379, [UGA-OTP-0260-0039](#) at 0064.

¹⁸³⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0162.

¹⁸³⁶ P-0264, [UGA-OTP-0256-0139-R01](#) at 0164.

686. Pursuant to Dominic Ongwen's directive, P-0205 ordered one of his battalion officers, Patrick Okeny, to go to Omia Pachwa and come back with girls, boys and food. The raiders came back with five girls. P-0205 brought three of them to Dominic Ongwen in Koyo Lalogi. Dominic Ongwen then gave his permission for P-0205 to pass them on to others. One was eventually distributed to Joseph Kony and another to an LRA officer in headquarters called Dennis Opio.¹⁸³⁷

687. P-0250 saw Dominic Ongwen at the attack on Amuria in Teso, together with another commander called Ocitti.¹⁸³⁸ Dominic Ongwen was the second in command at the attack on Amuria.¹⁸³⁹ During this attack, civilians, including young children, were abducted.¹⁸⁴⁰ Dominic Ongwen was in charge of taking them back to Tabuley. Some remained with Tabuley; others were taken to Otti and other commanders.¹⁸⁴¹ The girls were divided among the commanders at a place called Katakwi. Sergeant Okema, who was in P-0250's unit, was given a girl.¹⁸⁴²

688. P-0231 said that in August 2002, Dominic Ongwen sent his troops to attack Pajule. There, they abducted about 50 people including children as young as 12. These abductees from Pajule were divided the morning after being taken.¹⁸⁴³

Leading by example

689. Fourth, Dominic Ongwen made an essential contribution by maintaining several forced wives of his own, and thus leading by example. By personally abducting women and girls, forcing them to marry him, raping them regularly, forcing them to carry out domestic duties, and beating them, he demonstrated his approval of crimes committed by his fighters and in so doing contributed to their perpetuation in his brigade. The

¹⁸³⁷ P-0205, [UGA-OTP-0243-0819-R01](#) at 0823-0832.

¹⁸³⁸ P-0250, [UGA-OTP-0243-1400](#) at 1405.

¹⁸³⁹ P-0250, [UGA-OTP-0243-1400](#) at 1406.

¹⁸⁴⁰ P-0250, [UGA-OTP-0243-1400](#) at 1407.

¹⁸⁴¹ P-0250, [UGA-OTP-0243-1400](#) at 1408.

¹⁸⁴² P-0250, [UGA-OTP-0243-1400](#) at 1410-1411.

¹⁸⁴³ P-0231, [UGA-OTP-0244-0341-R01](#) at 0351-0352.

perpetration of crimes by Dominic Ongwen on his own forced wives (as set out in the evidence of P-0099, P-0101, P-0214, P-0226, P-0227, P-0235, and P-0236) is exactly the same conduct that other LRA fighters pursued towards their forced wives in the privacy of their homes. The statements provided by P-0351, P-0352, P-0366, P-0374 and P-0396 is further proof of this.

Discipline

690. Fifth, Dominic Ongwen made an essential contribution by ensuring strict discipline in Oka battalion and then Sinia brigade, as described in detail in the section on the common elements of modes of liability (paragraphs 89 to 155). This prevented girls and women from misbehaving or escaping, so that the commission of crimes could continue. It also meant that LRA rules in relation to abductions, forced marriage, rape, domestic tasks, and punishments – as described above – were followed.

iii. Dominic Ongwen had joint control over – and used – the organisation, which consisted of an organised and hierarchical apparatus of power

691. This is addressed in the section on the common elements of modes of liability, paragraphs 89 to 155.

iv. Dominic Ongwen had the ability to cause the organisation to contribute to the crimes

692. This is addressed in the section on the common elements of modes of liability, paragraphs 89 to 155.

v. Dominic Ongwen had knowledge and intent as prescribed by article 30 and specific to the crimes

693. Dominic Ongwen intended to bring about the objective elements of the crimes or, alternatively, was aware that the crimes would occur in the ordinary course of events when implementing the common plan. This is demonstrated most powerfully by his own words on LRA radio, as described above in paragraph 667. His intent and

knowledge are also amply demonstrated by his keeping multiple wives, whom he forcibly married, raped over the course of many years, forced to perform domestic tasks, and whom he beat severely when they were disobedient or attempted to escape, as described in further detail in the section on direct perpetration of SGBC (paragraphs 515 to 611). His intent and knowledge is also demonstrated by his direct involvement and role in the abduction, distribution and victimisation of the women and girls in Sinia as described in paragraphs 612-655. His knowledge of the existence of the SGBC common plan and his intent to implement it is demonstrated by the same.

vi. Dominic Ongwen was aware of the factual circumstances that allowed him to exert joint control over the crimes

694. Dominic Ongwen was aware that his role in the implementation of the common plan, and hence in the commission of the crime, was essential. This element is detailed in the section on the common elements of modes of liability, paragraphs 89 to 155.

Dominic Ongwen is criminally responsible under article 25(3)(b)

695. On the basis of the evidence set out above, Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(b) for ordering the crimes charged. He held a position of authority as a commanding officer within the LRA as described in the section on the common elements of modes of liability, paragraphs 89 to 155. He routinely issued orders to his subordinates, including to abduct women and girls and to distribute them to himself and other LRA fighters, as described paragraphs 612-655. His orders and inducement had a direct effect on the crimes committed, as described above.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

696. On the basis of the evidence set out above, Dominic Ongwen contributed to the commission of crimes by a group of persons, including Joseph Kony and other senior LRA commanders, who were acting with a common purpose. Dominic Ongwen's

contribution was made with the aim of furthering their criminal activity or criminal purpose to abduct girls and women to serve as forced exclusive conjugal partners (forced marriage), domestic servants (enslavement), and sex slaves (sexual slavery), which also resulted in the ordinary course of events in the commission of rape and torture.

697. As described above in paragraphs 668 to 690, Dominic Ongwen made a substantial contribution to these crimes. He did so with the aim of furthering the crimes and criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

Dominic Ongwen is criminally responsible under article 28(a)

698. On the basis of facts and evidence elaborated above, Dominic Ongwen is also responsible for the charged crimes as a military commander pursuant to article 28(a). The status of Dominic Ongwen as a military commander throughout the charged period is set out in the section on the common elements of modes of liability, paragraphs 89 to 155.

699. The charged crimes were committed by troops under Ongwen's effective command and control or effective authority and control as a result of his failure to exercise control properly. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that girls and women were being abducted to serve as forced exclusive conjugal partners (forced marriage), to have sexual intercourse with them without their consent (rape and sexual slavery), to force them to perform domestic and other duties (enslavement), and to punish them when they refused or failed to submit or perform as ordered (torture). This is demonstrated by Ongwen's own involvement in the planning and execution of the crimes, the reports conveyed to him about the commission of

crimes by his subordinates and his personal observation of the crimes, as described in 656 to 690.

700. Dominic Ongwen failed to take any of the necessary and reasonable measures within his power to prevent these crimes being committed by his subordinates. Nor did he submit them for prosecution by competent authorities. This is not surprising since Ongwen was himself at the heart of the crimes being committed. Not only did he fail to do anything to stop the crimes, the evidence summarised above demonstrates that he actively encouraged them.

XI. CONSCRIPTION AND USE OF CHILD SOLDIERS

Introduction

701. The LRA has been notorious for the widespread conscription and use of child soldiers for almost three decades. Tens of thousands of children and young adults were abducted in northern Uganda during the insurgency and forcibly integrated into the LRA.¹⁸⁴⁴ Photographs of LRA groups commonly depict armed children alongside LRA commanders.¹⁸⁴⁵

702. Male children were abducted exclusively for the purpose of becoming LRA fighters. Abducted girls were generally not given fighting roles, but instead were used primarily

¹⁸⁴⁴ P-0422, [UGA-OTP-0270-0004](#) at 0028; UN, “Uganda: Child soldiers at centre of mounting humanitarian crisis”, [UGA-OTP-0231-0148](#); UNICEF, “Children bear the brunt of Uganda’s 19-year conflict”, [UGA-OTP-0231-0150](#); Human Rights Watch Report, Stolen Children: Abduction and Recruitment in Northern Uganda, [UGA-OTP-0133-0059](#); Uganda Human Rights Commission Annual Report 2003, [UGA-OTP-0132-0678](#) at 0750; Diary of Investigations, [UGA-OTP-0248-1743](#); UN, “Rights of the child: Report of the United Nations High Commissioner for Human Rights on the mission undertaken by her Office, pursuant to Commission resolution 2000/60, to assess the situation on the ground with regard to the abduction of children from northern Uganda”, [UGA-OTP-0132-0423](#); HRW, “Uganda: Child abductions skyrocket in north”, [UGA-OTP-0132-0514](#); “Gusco and World Vision documents on abductees”, [UGA-OTP-0015-0098](#).

¹⁸⁴⁵ Photographs depicting LRA, e.g. [UGA-OTP-0028-0058](#), [UGA-OTP-0028-0073](#), [UGA-OTP-0245-0039](#), [UGA-OTP-0245-0040](#), [UGA-OTP-0245-0041](#).

as domestic servants, sex slaves and/or forced exclusive conjugal partners.¹⁸⁴⁶ Girls were frequently used as porters, but only a few received military training.¹⁸⁴⁷

703. The LRA targeted children because they were considered easier to control, more quickly adaptable to the life in the bush,¹⁸⁴⁸ and less likely to escape than older abductees.¹⁸⁴⁹ As the totality of evidence in this case demonstrates, abduction of children was a systematic practice and policy of the LRA. Sinia brigade under Dominic Ongwen was no exception.

704. From at least 1 July 2002 until 31 December 2005, Dominic Ongwen, Joseph Kony and the Sinia brigade leadership implemented a common plan to abduct children, including those under 15, in northern Uganda and use them as active participants in hostilities. The charges against Ongwen in this case are limited to the conscription and use of child soldiers in the Sinia brigade, in which the Accused played a key role throughout the relevant period, first as battalion commander and then as brigade commander.¹⁸⁵⁰

705. The evidence of these crimes and Dominic Ongwen's criminal responsibility includes over 40 witnesses who observed child soldiers in Sinia brigade, including nine witnesses who were themselves child soldiers. Records of intercepted LRA communications from 2002-2005 also contain numerous discussions of conscription and use of children by the LRA. In addition, civilians residing in the four attacked IDP camps also provide personal observations of children amongst the LRA attackers.

¹⁸⁴⁶ P-0245, [UGA-OTP-0244-0520-R01](#) at 0528; P-0224, [UGA-OTP-0248-0712-R01](#) at 0736. *See further*, details about the treatment of girls and women in the LRA in the section on SGBC, para. 500-700.

¹⁸⁴⁷ P-0018, [UGA-OTP-0159-0002-R01](#) at 0009-0012; P-0352, [UGA-OTP-0260-0315-R01](#) at 0328 and 0331-0333; P-0374, [UGA-OTP-0263-0023-R01](#) at 0032; P-0366, [UGA-OTP-0260-0289-R01](#) at 0306; P-0314, [UGA-OTP-0258-0841-R01](#) at 0861; P-0199, [UGA-OTP-0236-0557-R01](#) at 0567-0568.

¹⁸⁴⁸ ISO logbook, [UGA-OTP-0066-0201](#) at 0250; P-0245, [UGA-OTP-0244-0520-R01](#) at 0532; P-0224, [UGA-OTP-0248-0712-R01](#) at 0717-0718; P-0200, [UGA-OTP-0248-0822-R01](#) at 0829; P-0231, [UGA-OTP-0243-1939-R01](#) at 1940-1944; P-0138, [UGA-OTP-0228-0538-R01](#) at 0552.

¹⁸⁴⁹ P-0245, [UGA-OTP-0244-0520-R01](#) at 0532-0533; P-0070, [UGA-OTP-0228-2834-R01](#) at 2849; P-0330, [UGA-OTP-0256-0071-R01](#) at 0081.

¹⁸⁵⁰ *See further* section on common elements of modes of liability, para. 89-155.

Crimes committed against children under 15

Count 69 - Conscription of children under 15 years of age into an armed group (article 8(2)(e)(vii))

706. Conscription is a form of recruitment into an armed force or group. The distinction with enlistment is the additional element of compulsion. The Appeals Chamber in *Lubanga* held that “the element of compulsion necessary for the crime of conscription can be established by demonstrating that an individual under the age of fifteen years joined the armed force or group due to, *inter alia*, a legal obligation, brute force, threat of force, or psychological pressure amounting to coercion”.¹⁸⁵¹ The Appeals Chamber further noted the jurisprudence of the SCSL, which held that the enrolment into an armed group by brute force, such as abduction, constituted the crime of conscription.¹⁸⁵² The SCSL found abduction to be a particularly egregious form of conscription.¹⁸⁵³

707. The conscription of child soldiers is a continuing crime. It is committed the moment the child is forced to join the armed group and ends only when the child reaches 15 years of age or leaves the armed group.¹⁸⁵⁴ With respect to demonstrating the child’s age, the Appeals Chamber has held that providing evidence of the precise age of the child recruited or used by an armed group is not required. Rather, it suffices to establish that victims are within a certain age range, namely under the age of 15.¹⁸⁵⁵

708. With regard to exact locations and dates of conscription and use of children in hostilities, the Pre-Trial Chamber in *Ntaganda* observed that the Prosecution need not identify specific locations and dates of conscription or use of children as active participants in hostilities, as long as evidence demonstrates that a child was

¹⁸⁵¹ ICC-01/04-01/06-3121-Red, para. 278.

¹⁸⁵² ICC-01/04-01/06-3121-Red, para. 281.

¹⁸⁵³ *Prosecutor v. Brima et al (AFRC case)*, SCSL-04-16-T, Trial Judgment, 20 June 2007, para. 1276.

¹⁸⁵⁴ ICC-01/04-01/06-2842, para. 618 and 759, *citing* to ICC-01/04-01/06-803-tEN, para. 248 and ICTR, *Prosecutor v. Nahimana et al., Case No. ICTR-99-52-A*, Appeals Chamber, Judgement, 28 November 2007, para. 721.

¹⁸⁵⁵ ICC-01/04-01/06-3121-Red, para. 198.

integrated into the armed group or used to participate actively in hostilities within the temporal and geographical scope of the charges.¹⁸⁵⁶

Abductions as the primary mode of recruitment for the LRA, including the Sinia brigade

709. Prosecution witnesses assert that none of the children was in the LRA voluntarily.¹⁸⁵⁷

By 2002 abduction of children and young adults was almost the exclusive method of recruitment for the LRA. Prosecution trial witnesses who were former LRA fighters all state they were abducted into the armed group. Several of these witnesses - experienced fighters in their twenties during the charged period - were abducted, trained and first deployed when younger than 15.

710. Joseph Kony has for decades, including throughout the charged period, ordered his commanders to abduct young men and boys to serve as LRA fighters.¹⁸⁵⁸ Logbooks of intercepted LRA radio communications are replete with such directives. At times, Joseph Kony explicitly articulated the ideal ages of the abductees. For example, on 21 October 2002, a UPDF logbook records that “Kony said that no LRA should abduct ppl fm [sic] 15 years old and above because they are problems”.¹⁸⁵⁹ The abduction orders were transmitted to LRA brigade and battalion commanders, including Dominic Ongwen, usually via radio.¹⁸⁶⁰ The brigade and battalion commanders were then entrusted with executing the orders, thereby securing an influx of new fighters.

¹⁸⁵⁶ ICC-01/04-02/06-309, para. 83.

¹⁸⁵⁷ P-0224, [UGA-OTP-0248-0712-R01](#) at 0713-0714; P-0200, [UGA-OTP-0243-0107-R01](#) at 0110-0111. See also P-0410, [UGA-OTP-0267-0207-R01](#) at 0211.

¹⁸⁵⁸ E.g., ISO logbook, [UGA-OTP-0063-0002](#) at 0148; ISO logbook, [UGA-OTP-0065-0002](#) at 0034-0035; P-0205, [UGA-OTP-0247-0481-R01](#) at 0494-0498; P-0138, [UGA-OTP-0228-0538-R01](#) at 0552.

¹⁸⁵⁹ ISO logbook, [UGA-OTP-0065-0002](#) at 0049; *see further* para. 742.

¹⁸⁶⁰ P-0205, [UGA-OTP-0247-0481-R01](#) at 0493-0498; P-0231, [UGA-OTP-0243-2025-R01](#) at 2041; ISO logbook, [UGA-OTP-0063-0002](#) at 0148; ISO logbook, [UGA-OTP-0065-0002](#) at 0034-0035.

711. During the charged period, the Sinia brigade abducted boys and young men, many of whom were younger than 15, to serve as fighters.¹⁸⁶¹ Children were abducted from their homesteads, in the vicinity of schools or simply from the side of the road.¹⁸⁶² They were abducted as long as they looked healthy and able to fight, even if they were only 10 or 12 years old.¹⁸⁶³ As former Sinia child soldiers themselves observed, abducting children was standard practice for the LRA in order to increase the group's numbers.¹⁸⁶⁴ P-0264 explained that the LRA did not arm older people out of fear that the adults would use weapons against the commanders.¹⁸⁶⁵

712. Dominic Ongwen regularly ordered his troops to abduct civilians.¹⁸⁶⁶ P-0314, a 14-year-old child soldier in Sinia brigade, described that soldiers would come back from attacks with newly abducted people, and children of his age and younger would be kept.¹⁸⁶⁷ P-0205, a commanding officer within Sinia, recalled Dominic Ongwen ordering his units to abduct civilians aged 10 years and older to replenish their ranks.¹⁸⁶⁸ P-0233 described how Dominic Ongwen organised an abduction mission to Acet, in which P-0233 took part. Among its objectives was to abduct boys between 13 and 15 years of age. Boys of that age range were indeed abducted from Acet and conscripted into the Sinia brigade.¹⁸⁶⁹ During the briefing prior to the attack on Odek IDP camp on or about 29 April 2004, Dominic Ongwen instructed his fighters that if they found "good boys or girls" they should return with them. As explained by P-0205, who was present at the

¹⁸⁶¹ P-0205, [UGA-OTP-0243-0819-R01](#) at 0824-0825, [UGA-OTP-0247-0481-R01](#) at 0497-0500; ISO logbook, [UGA-OTP-0064-0093](#) at 0129-0130; P-0224, [UGA-OTP-0244-3186-R01](#) at 3193-3198; P-0307, [UGA-OTP-0266-0425-R01](#) at 0432; P-0410, [UGA-OTP-0267-0207-R01](#) at 0223 and 0227.

¹⁸⁶² P-0224, [UGA-OTP-0244-3186-R01](#) at 3191-3198, [UGA-OTP-0248-0712-R01](#) at 0714; *see* P-0245, [UGA-OTP-0244-0341-R01](#) at 0355-0356; P-0097, [UGA-OTP-0165-0035-R01](#) at 0036; P-0252, [UGA-OTP-0243-0428-R01](#) at 0433; P-0275, [UGA-OTP-0244-3398-R01](#) at 3400-3402; P-0410, [UGA-OTP-0267-0207-R01](#) at 0209-0210.

¹⁸⁶³ P-0205, [UGA-OTP-0247-0481-R01](#) at 0498-0500, [UGA-OTP-0243-0819-R01](#) at 0833; *see also* P-0245, [UGA-OTP-0244-0520-R01](#) at 0524; P-0379, [UGA-OTP-0260-0039](#) at 0042; P-0410, [UGA-OTP-0267-0207-R01](#) at 0210 and 0227.

¹⁸⁶⁴ P-0307, [UGA-OTP-0266-0425-R01](#) at 0433; P-0410, [UGA-OTP-0267-0207-R01](#) at 0210 and 0227.

¹⁸⁶⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0145-0146.

¹⁸⁶⁶ P-0205, [UGA-OTP-0243-0520-R01](#) at 0530-0531; P-0224, [UGA-OTP-0244-3186-R01](#) at 3193-3198; P-0245, [UGA-OTP-0244-0520-R01](#) at 0523-0528.

¹⁸⁶⁷ P-0314, [UGA-OTP-0258-0841-R01](#)-01 at 0849.

¹⁸⁶⁸ P-0205, [UGA-OTP-0243-0819-R01](#) at 0825-0827, 0832-0833.

¹⁸⁶⁹ P-0233, [UGA-OTP-0243-1149-R01](#) at 1151-1162.

briefing, this instruction referred to those capable of being soldiers, with 12 being the preferred starting age.¹⁸⁷⁰ Boys under 15 were subsequently abducted in the Odek attack and conscripted into Sinia brigade, including P-0252, who was 11 years old, and P-0275, who was only nine years old.¹⁸⁷¹ P-0410, a child soldier who took part in the Odek attack, stated that the LRA purposely waited for the children to return back from school before attacking.¹⁸⁷² Ongwen reported abducting eight boys from Odek in an intercepted radio communication on 30 April 2004.¹⁸⁷³

713. Some of the other locations where children under 15 were abducted and conscripted into the LRA with the participation of fighters in Sinia brigade between 1 July 2002 and 31 December 2005 in northern Uganda include, *inter alia*, Pajule IDP camp on or about 10 October 2003,¹⁸⁷⁴ Lukodi IDP camp on or about 19 May 2004,¹⁸⁷⁵ Abok IDP camp on or about 8 June 2004,¹⁸⁷⁶ Acholibur in approximately 2003,¹⁸⁷⁷ and the area of the Ibong mountains in August 2002.¹⁸⁷⁸

714. Upon abduction, children were forcibly integrated into the LRA. Witnesses described children in Sinia sometimes being beaten as a form of initiation, in order “to beat the

¹⁸⁷⁰ P-0205, [UGA-OTP-0247-0481-R01](#) at 0499-0500.

¹⁸⁷¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0430-0435; P-0275, [UGA-OTP-0244-3398-R01](#) at 3400; P-0218, [UGA-OTP-0238-0720-R01](#) at 0726-0727; ISO Field Report, [UGA-OTP-0242-0199](#) at 0201-0202; P-0314, [UGA-OTP-0258-0841-R01](#) at 0852; P-0410, [UGA-OTP-0267-0207-R01](#) at 0223; P-0264, [UGA-OTP-0256-0139-R01](#) at 0156; P-0325, [UGA-OTP-0264-0242](#) at 0249; *see further*, section on the Odek IDP camp attack, para. 314-322.

¹⁸⁷² P-0410, [UGA-OTP-0267-0207-R01](#) at 0220.

¹⁸⁷³ UPDF logbook, [UGA-OTP-0197-1670](#) at 1690, right page (long-hand); UPDF Intelligence report, [UGA-OTP-0017-0150](#) at 0154, [UGA-OTP-0017-0157](#) at 0160; UPDF 4th Div. Report, [UGA-OTP-0233-0383](#) at 0408-0409, 0414, 0441; Police Logbook, [UGA-OTP-0037-0002](#) at 0145; P-0059, [UGA-OTP-0248-0328-R01](#) at 0334 and Audio transcript annotation by P-0059, [UGA-OTP-0248-0462-R01](#) at 0522, rows 1318-1324; *see further*, section on the Odek IDP camp attack, para. 314-322, 344.

¹⁸⁷⁴ P-0009, [UGA-OTP-0151-0167-R01](#) at 0176, 0178; P-0199, [UGA-OTP-0236-0557-R01](#) at 0561-0563; P-0144, [UGA-OTP-0228-1418-R01](#) at 1429-1431; P-0250, [UGA-OTP-0243-1383-R01](#) at 1394-1395; *see also* P-0264, [UGA-OTP-0256-0139-R01](#) at 0158; *see further*, section on the Pajule IDP camp attack, para. 234-240.

¹⁸⁷⁵ P-0410, [UGA-OTP-0267-0207-R01](#) at 0218-0227; *see further*, section on the Lukodi IDP camp attack, para. 391-393.

¹⁸⁷⁶ *See* P-0293, [UGA-OTP-0248-0040-R01](#) at 0050; P-0284, [UGA-OTP-0244-1180-R01](#) at 1188; P-0286, [UGA-OTP-0248-0060-R01](#) at 0087; *see further*, section on the Abok IDP camp attack, para. 462-466.

¹⁸⁷⁷ P-0245, [UGA-OTP-0244-0363-R01](#) at 0364-0372.

¹⁸⁷⁸ P-0245, [UGA-OTP-0244-0341-R01](#) at 0351-0357.

civilian out of them”.¹⁸⁷⁹ Children would then be assigned to individual fighters, often to the very soldiers who abducted them.¹⁸⁸⁰ New abductees were known as “recruits” within the LRA.¹⁸⁸¹ Small children would sometimes also be called “kalogos”, a Swahili term meaning small.¹⁸⁸²

715. The abducted children were threatened with death if they attempted to run away.¹⁸⁸³ If caught trying to escape, they were routinely killed or severely beaten, often by other children, in order to instil fear in them and dissuade them from escaping.¹⁸⁸⁴ P-0314 stated that almost all children in his group were forced to participate in such killings. Commanders, including the Accused, were the source of such orders.¹⁸⁸⁵

Children in Sinia

716. Children under 15 were present in all three battalions of the Sinia brigade—Oka, Terwanga, Siba--and in the brigade’s headquarters.¹⁸⁸⁶ One LRA fighter described children as young as 10 joining the Oka battalion in the relevant time period.¹⁸⁸⁷ Another

¹⁸⁷⁹ P-0314, [UGA-OTP-0258-0841-R01](#) at 0853; P-0410, [UGA-OTP-0267-0207-R01](#) at 0211; P-0396, [UGA-OTP-0267-0246-R01](#) at 0253; P-0330, [UGA-OTP-0256-0071-R01](#) at 0074-0075; P-0309, [UGA-OTP-0249-0472-R01](#) at 0477; P-0097, [UGA-OTP-0258-0489-R01](#) at 0493.

¹⁸⁸⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0432-0435, 0438; P-0275, [UGA-OTP-0244-3398-R01](#) at 3402-3406; P-0264, [UGA-OTP-0256-0139-R01](#) at 0145; P-0309, [UGA-OTP-0249-0472-R01](#) at 0476; P-0366, [UGA-OTP-0260-0289-R01](#) at 0307.

¹⁸⁸¹ P-0314, [UGA-OTP-0258-0841-R01-01](#) at 0855; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076.

¹⁸⁸² P-0070, [UGA-OTP-0228-2945-R01](#) at 2947-2948; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076

¹⁸⁸³ P-0205, [UGA-OTP-0247-0130-R01](#) at 0144; P-0264, [UGA-OTP-0256-0139-R01](#) at 0146; P-0314, [UGA-OTP-0258-0841-R01](#) at 0860; P-0330, [UGA-OTP-0256-0071-R01](#) at 0079; P-0410, [UGA-OTP-0267-0207-R01](#) at 0211 and 0216; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151

¹⁸⁸⁴ P-0205, [UGA-OTP-0243-0520-R01](#) at 0536; P-0245, [UGA-OTP-0244-0554-R01](#) at 0563; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 64; P-0200, [UGA-OTP-0243-0057-R01](#) at 0061; P-0275, [UGA-OTP-0244-3398-R01](#) at 3403; P-0309, [UGA-OTP-0249-0472-R01](#) at 0477; P-0264, [UGA-OTP-0256-0139-R01](#) at 0146 and 0167; P-0352, [UGA-OTP-0260-0315-R01](#) at 0321 and 0326; P-0314, [UGA-OTP-0258-0841-R01](#) at 0850 and 0856-0857; P-0307, [UGA-OTP-0266-0425-R01](#) at 0437; P-0264, [UGA-OTP-0256-0139-R01](#) at 0146; P-0280, [UGA-OTP-0247-1252-R01](#) at 1260.

¹⁸⁸⁵ P-0314, [UGA-OTP-0258-0841-R01](#) at 0850; P-0330, [UGA-OTP-0256-0071-R01](#) at 0074; and 0080-0081; P-0309, [UGA-OTP-0249-0472-R01](#) at 0477; P-0097, [UGA-OTP-0258-0489-R01](#) at 0495 and 0497

¹⁸⁸⁶ P-0205, [UGA-OTP-0243-0520-R01](#) at 0529-0534, 0541-0543, [UGA-OTP-0243-0544-R01](#) at 0545-0563; see also P-0224, [UGA-OTP-0248-0712-R01](#) at 0725-0726; P-0249, [UGA-OTP-0238-0771-R01](#) at 0775, 0777, 0778 and [UGA-OTP-0263-2810-R01](#) at 2814; P-0280, [UGA-OTP-0247-1252-R01](#) at 1260; P-0374, [UGA-OTP-0263-0023-R01](#) at 0030; P-0366, [UGA-OTP-0260-0289-R01](#) at 0306-0307; P-0379, [UGA-OTP-0260-0039](#) at 0042 read together with 0045. See also individual accounts of P-0097, P-0252, P-0264, P-0275, P-0307, P-0309, P-0314, P-0330 and P-0410.

¹⁸⁸⁷ P-0231, [UGA-OTP-0243-2025-R01](#) at 2047-2048; P-0205, [UGA-OTP-0243-0819-R01](#) at 0833.

LRA member said that most soldiers in Dominic Ongwen's group in 2003-2004 were children younger than 18, and 70% to 80% of those were between 13 and 15 years old.¹⁸⁸⁸

717. Witnesses P-0097, P-0252, P-0264, P-0275, P-0307, P-0309, P-0314, P-0330 and P-0410 were under 15 years of age when conscripted into Sinia during the relevant period. They were all abducted, threatened with death if they attempted to escape and forced to witness what happened to those whose escape attempts failed. These witnesses also describe other children in the brigade who were younger than 15.

718. P-0097 was 12 years old when abducted by the LRA from his home village in February 2005.¹⁸⁸⁹ He tried to run away, but four armed rebels discovered him hiding under a tree and ordered him to go with them. He did not have any choice but to obey, or he would have been killed.¹⁸⁹⁰ He was abducted together with two other boys, one older and one younger.¹⁸⁹¹ Within days of his abduction, he was taken to Dominic Ongwen's group, and the Accused ordered the boys to stay with him.¹⁸⁹² The witness stayed with the Accused and saw him almost every day thereafter.¹⁸⁹³ P-0097 observed other young children in the group: girls who were about 13 or 14 and young boys who were mostly younger than he was.¹⁸⁹⁴ P-0097 escaped in November 2005.¹⁸⁹⁵

¹⁸⁸⁸ P-0200, [UGA-OTP-0248-0822-R01](#) at 0829-0830; P-0200, [UGA-OTP-0243-0133-R01](#) at 0146.

¹⁸⁸⁹ P-0097, [UGA-OTP-0165-0035-R01](#) at 0036 and [UGA-OTP-0258-0489-R01](#) at 0491-0492; P-0097's National ID Card, [UGA-OTP-0269-0735](#); P-0097's Baptismal Certificate, [UGA-OTP-0258-0509](#); P-0097's Examination Slip (2014), [UGA-OTP-0269-0733](#); P-0097's Student Card, [UGA-OTP-0263-2469](#) and [UGA-OTP-0263-2470](#); P-0097's National Immunisation Card, [UGA-OTP-0269-0737](#); P-0097's Progress Report Card issued in 2001, [UGA-OTP-0269-0739](#); P-0097's Comprehensive Secondary School Card, [UGA-OTP-0269-0740](#).

¹⁸⁹⁰ P-0097, [UGA-OTP-0258-0489-R01](#) at 0492.

¹⁸⁹¹ P-0097, [UGA-OTP-0258-0489-R01](#) at 0493.

¹⁸⁹² P-0097, [UGA-OTP-0258-0489-R01](#) at 0494.

¹⁸⁹³ P-0097, [UGA-OTP-0258-0489-R01](#) at 0494, 0496, 0505 and [UGA-OTP-0165-0035-R01](#) at 0037, 0039.

¹⁸⁹⁴ P-0097, [UGA-OTP-0258-0489-R01](#) at 0499-0500.

¹⁸⁹⁵ P-0097, [UGA-OTP-0258-0489-R01](#) at 0502.

719. P-0252 was abducted during the attack on Odek IDP camp on or about 29 April 2004, when he was 11 years old.¹⁸⁹⁶ He tried to hide but was fired upon and caught, kicked and tied. He was then dragged through the camp and into the bush.¹⁸⁹⁷ P-0252 later learned he was abducted by Dominic Ongwen's group, and he saw the Accused almost daily.¹⁸⁹⁸ The witness was assigned to serve under an individual who belonged to the group of Ongwen's escorts.¹⁸⁹⁹ He remembered other children in the group, some as young as five.¹⁹⁰⁰ P-0252 received his first training after about a week in the LRA and was taught how to use a gun about two months later.¹⁹⁰¹ He was taught along with other children already in the bush.¹⁹⁰² P-0252 had participated in military operations and attacks against civilians¹⁹⁰³ before he managed to escape.¹⁹⁰⁴

720. P-0264 was abducted by the Terwanga battalion from his village in 2002 and escaped in 2014.¹⁹⁰⁵ He was between 11 and 13 years old at the time of abduction.¹⁹⁰⁶ The LRA surrounded P-0264's home compound, and whilst his father and brother managed to get away, the witness was caught. His mother pleaded with the rebels not to take him but to no avail.¹⁹⁰⁷ He was forced to tie a rope around his waist that was attached to ground nuts he was made to carry on his head.¹⁹⁰⁸ P-0264 tried to escape shortly after his abduction, but he was caught. The second-in-command in Terwanga ordered his death. He was beaten with a machete, but the beating was interrupted by the arrival of a helicopter, and the LRA later spared his life.¹⁹⁰⁹ P-0264 was an escort to commanders in

¹⁸⁹⁶ P-0252, [UGA-OTP-0243-0428-R01](#) at 0431; P-0252's National ID Card, [UGA-OTP-0269-0730](#); P-0252's Voter Location Slip, [UGA-OTP-0269-0732](#); P-0252's Citizen Card, [UGA-OTP-0269-0726](#); P-0252's Tobacco Grower Registration Form, [UGA-OTP-0269-0728](#)

¹⁸⁹⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0432-0433.

¹⁸⁹⁸ P-0252, [UGA-OTP-0243-0428-R01](#) at 0436.

¹⁸⁹⁹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0438.

¹⁹⁰⁰ P-0252, [UGA-OTP-0243-0428-R01](#) at 0438 and 0451-0452.

¹⁹⁰¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442.

¹⁹⁰² P-0252, [UGA-OTP-0243-0428-R01](#) at 0442.

¹⁹⁰³ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443-0450.

¹⁹⁰⁴ P-0252, [UGA-OTP-0243-0428-R01](#) at 0452.

¹⁹⁰⁵ P-0264, [UGA-OTP-0256-0139-R01](#) at 0142 and 0145; P-0264's National ID Card, [UGA-OTP-0256-0183](#).

¹⁹⁰⁶ P-0264, [UGA-OTP-0256-0139-R01](#) at 0142-0143 and 0145.

¹⁹⁰⁷ P-0264, [UGA-OTP-0256-0139-R01](#) at 0145-0146.

¹⁹⁰⁸ P-0264, [UGA-OTP-0256-0139-R01](#) at 0146.

¹⁹⁰⁹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0142-0146.

the Sinia brigade, whilst under 15.¹⁹¹⁰ He spent most of his time in the Sinia brigade from his abduction until the LRA left Uganda.¹⁹¹¹ He received military training and participated in attacks against civilians as well as military operations.¹⁹¹²

721. P-0275 was only nine years old when abducted in the attack on Odek IDP camp on or about 29 April 2004 and forced to join the LRA unit that abducted him.¹⁹¹³ He described being abducted with two other boys; all three were tied, marched through the camp, and given loot to carry.¹⁹¹⁴ He referred to the man who took him from Odek, and in whose group he thereafter remained, as Lapwony (“teacher” in Acholi).¹⁹¹⁵ He was told he had to carry a gun and was taught how to assemble, oil and disassemble it. He knows it was an AK47 rifle, although the witness never actually fired it.¹⁹¹⁶ P-0275 described other children, even younger than he was, in the group.¹⁹¹⁷

722. P-0307 was around 12 or 13 when he was abducted from his home in September 2002 by Dominic Ongwen’s group and conscripted into the LRA.¹⁹¹⁸ He was abducted together with three elderly persons who were subsequently released, but the LRA kept the witness.¹⁹¹⁹ He was first trained only days after abduction along with other boys of similar age, with the Accused present.¹⁹²⁰ P-0307 described an incident shortly after his abduction, when the Accused put a big knife to his chest after the witness failed to

¹⁹¹⁰ P-0264, [UGA-OTP-0256-0139-R01](#) at 0149.

¹⁹¹¹ P-0264, [UGA-OTP-0256-0139-R01](#) at 0150.

¹⁹¹² P-0264, [UGA-OTP-0256-0139-R01](#) at 0151, 0152-0160, 0166-0169.

¹⁹¹³ P-0275, [UGA-OTP-0244-3398-R01](#) at 3400-3402; P-0275’s Birth Certificate, [UGA-OTP-0244-3417](#); P-0275’s National ID Card, [UGA-OTP-0244-3418](#) and [UGA-OTP-0269-0721](#); P-0275’s Child Health Card, [UGA-OTP-0269-0711](#); P-0275’s Voter Location Slip, [UGA-OTP-0269-0720](#); P-0275’s School Report, [UGA-OTP-0269-0710](#); P-0275’s Examination Report, [UGA-OTP-0269-0712](#); P-0275’s Primary School Progressive Report, [UGA-OTP-0269-0714](#); P-0275’s Terminal Report Card, [UGA-OTP-0269-0719](#); P-0275’s GUSCO Letter, [UGA-OTP-0244-3419](#).

¹⁹¹⁴ P-0275, [UGA-OTP-0244-3398-R01](#) at 3401.

¹⁹¹⁵ P-0275, [UGA-OTP-0244-3398-R01](#) at 3402-3403, 3405.

¹⁹¹⁶ P-0275, [UGA-OTP-0244-3398-R01](#) at 3404.

¹⁹¹⁷ P-0275, [UGA-OTP-0244-3398-R01](#) at 3407.

¹⁹¹⁸ P-0307, [UGA-OTP-0266-0425-R01](#) at 0428-0429; P-0307’s World Vision File, [UGA-OTP-0170-0338](#); P-0307’s Child Health Card, [UGA-OTP-0266-0446](#); P-0307’s National ID Card, [UGA-OTP-0266-0448](#);

¹⁹¹⁹ P-0307, [UGA-OTP-0266-0425-R01](#) at 0429.

¹⁹²⁰ P-0307, [UGA-OTP-0266-0425-R01](#) at 0440-0441.

salute him.¹⁹²¹ P-0307 described other children of his age and younger joining the group.¹⁹²² He was an escort for a commander in Sinia until he escaped sometime in spring 2004, when he was still younger than 15.¹⁹²³

723. P-0309 was abducted by the LRA from his home in September 2002.¹⁹²⁴ He was around 13-14 years old.¹⁹²⁵ Two men grabbed his hands and tied the witness and others around their waists.¹⁹²⁶ P-0309 recalled that his school had stopped functioning because of the LRA activity, and children of about his age were abducted on the same day.¹⁹²⁷ The commander of the group that abducted him was Dominic Ongwen, and the witness was brought to him the next day. Dominic Ongwen asked the abductees how old they were, and the witness answered that he was 14.¹⁹²⁸ P-0309 was assigned to Dominic Ongwen's group of escorts and, from his early days in the bush, carried the Accused's gun.¹⁹²⁹ He was armed and trained and took part in attacks,¹⁹³⁰ before escaping from the LRA around September 2004.¹⁹³¹

724. P-0314 was abducted in September 2002 at the age of 14,¹⁹³² when he was staying in his uncle's house.¹⁹³³ The rebels kicked in the door of the hut where the witness and other children were sleeping, tied them and started walking with them to the bush.¹⁹³⁴

¹⁹²¹ P-0307, [UGA-OTP-0266-0425-R01](#) at 0430.

¹⁹²² P-0307, [UGA-OTP-0266-0425-R01](#) at 0433.

¹⁹²³ P-0307, [UGA-OTP-0266-0425-R01](#) at 0437.

¹⁹²⁴ P-0309, [UGA-OTP-0249-0472-R01](#) at 0474.

¹⁹²⁵ P-0309, [UGA-OTP-0249-0472-R01](#) at 0474; P-0309's ID card, [UGA-OTP-0258-0837](#); P-0309's Driving Permit, [UGA-OTP-0249-1045](#); P-0309's Reunion Letter, [UGA-OTP-0258-0836](#); P-0309's Voters Card, [UGA-OTP-0249-1046](#) and [UGA-OTP-0249-1047](#); P-0309's Amnesty File, [UGA-OTP-0248-0974](#).

¹⁹²⁶ P-0309, [UGA-OTP-0249-0472-R01](#) at 0474-0475.

¹⁹²⁷ P-0309, [UGA-OTP-0249-0472-R01](#) at 0474-0475, [UGA-OTP-0258-0818-R01](#) at 0824.

¹⁹²⁸ P-0309, [UGA-OTP-0249-0472-R01](#) at 0475-0476.

¹⁹²⁹ P-0309, [UGA-OTP-0249-0472-R01](#) at 0476-0477.

¹⁹³⁰ P-0309, [UGA-OTP-0249-0472-R01](#) at 0477-0490.

¹⁹³¹ P-0309, [UGA-OTP-0258-0818-R01](#) at 0830; P-0309's Reunion letter, [UGA-OTP-0258-0836](#).

¹⁹³² P-0314, [UGA-OTP-0258-0841-R01](#), at 0843; P-0314's National ID Card, [UGA-OTP-0258-0869](#); P-0314's Driving Permit, [UGA-OTP-0269-0703](#); P-0314's Reunion Letter, [UGA-OTP-0269-0708](#); P-0314's Certificates of Education (2010), [UGA-OTP-0269-0701](#); P-0314's Primary School ID Card, [UGA-OTP-0269-0706](#); P-0314's List of family births, [UGA-OTP-0269-0705](#).

¹⁹³³ P-0314, [UGA-OTP-0258-0841-R01](#) at 0843-0844.

¹⁹³⁴ P-0314, [UGA-OTP-0258-0841-R01](#) at 0844.

His abductors were LRA rebels from the Terwanga battalion.¹⁹³⁵ P-0314 became an escort to a senior Sinia fighter, who for some time served directly under Dominic Ongwen.¹⁹³⁶ P-0314 also described other children under 15 who were conscripted into the Sinia brigade.¹⁹³⁷ He received his first military training after one or two months and was armed with an AK47 after about six months with the LRA.¹⁹³⁸ He escaped around September 2004.¹⁹³⁹

725. P-0330 was 13 years old when abducted in either December 2002 or in 2003 from a village in Pader district.¹⁹⁴⁰ He was initially abducted by two individuals who were not affiliated with the LRA but was taken by the LRA a day later.¹⁹⁴¹ P-0330 was brought before Dominic Ongwen right after being abducted and remained in the Sinia brigade, commanded by the Accused, until his escape.¹⁹⁴² P-0330 was trained together with other children who were from 8 to 17 years old, and he received a gun and a uniform.¹⁹⁴³ He became one of Dominic Ongwen's escorts.¹⁹⁴⁴ P-0330 escaped around November 2004, having just turned 15.¹⁹⁴⁵

726. P-0410 was part of a group of children abducted by the LRA in June or July 2002 when he was 13. He had just returned from school and was still wearing his school uniform.¹⁹⁴⁶ The children were tied with a rope around their waists, leaving their hands

¹⁹³⁵ P-0314, [UGA-OTP-0258-0841-R01](#) at 0843.

¹⁹³⁶ P-0314, [UGA-OTP-0258-0841-R01](#) at 0858.

¹⁹³⁷ P-0314, [UGA-OTP-0258-0841-R01](#) at 0849, 852.

¹⁹³⁸ P-0314, [UGA-OTP-0258-0841-R01](#) at 0848 read with 0847.

¹⁹³⁹ P-0314, [UGA-OTP-0258-0841-R01](#) at 0850.

¹⁹⁴⁰ P-0330, [UGA-OTP-0256-0071-R01](#) at 0073; P-0330's Rachele File, [UGA-OTP-0124-0358](#) at 0358; P-0330's Birth Certificate, [UGA-OTP-0269-0696](#); P-0330's National ID Card, [UGA-OTP-0256-0097](#).

¹⁹⁴¹ P-0330, [UGA-OTP-0256-0071-R01](#) at 0073-0074.

¹⁹⁴² P-0330, [UGA-OTP-0256-0071-R01](#) at 0074-0075 and 0077.

¹⁹⁴³ P-0330, [UGA-OTP-0256-0071-R01](#) at 0076-0077.

¹⁹⁴⁴ P-0330, [UGA-OTP-0256-0071-R01](#) at 0078, 0085.

¹⁹⁴⁵ Information in P-0330's Rachele file, [UGA-OTP-0124-0358](#) at 0358.

¹⁹⁴⁶ P-0410, [UGA-OTP-0267-0207-R01](#) at 0209-0210; P-0410's Rachele Intake Form, [UGA-OTP-0126-0248](#); P-0410's National ID Card, [UGA-OTP-0267-0239](#); P-0410's Student Identity Card, [UGA-OTP-0267-0234](#); P-0410's Examination Certificate (2008), [UGA-OTP-0267-0235](#); P-0410's Examination Certificate (2010), [UGA-OTP-0267-0237](#).

free so they could “carry luggage”.¹⁹⁴⁷ Several of the LRA rebels who abducted P-0410 were themselves under 15.¹⁹⁴⁸ He too was trained in a group with other young boys, aged 12 and above.¹⁹⁴⁹ P-0410 carried a gun and was an escort to a fighter in Sinia brigade, throughout his time in the bush.¹⁹⁵⁰ He escaped around June 2004.¹⁹⁵¹

727. Experienced LRA fighters in Sinia brigade name children under the age of 15 who were in the brigade during the charged period. For example, P-0205 remembered that the escorts of Oka’s intelligence officer were aged 12 to 14 and that they participated in operations.¹⁹⁵² The witness also named a boy under 15, who served in Terwanga battalion with a LRA fighter called Nyero.¹⁹⁵³ The boy participated in several operations with Nyero. P-0205 deployed both of them to the Odek attack on or about 29 April 2004. The boy died in combat in 2004, aged 14.¹⁹⁵⁴ P-0231 described two 10-year-olds serving under a specific commander in the Oka battalion. One was abducted in 2002.¹⁹⁵⁵

728. Children under 15 served directly under Dominic Ongwen, including as his escorts.¹⁹⁵⁶ The young age of some of the Accused’s escorts is vividly described by one of his forced wives, who noted that in addition to instructing his escorts, Dominic Ongwen would sometimes go and “play with them”.¹⁹⁵⁷

¹⁹⁴⁷ P-0410, [UGA-OTP-0267-0207-R01](#) at 0210.

¹⁹⁴⁸ P-0410, [UGA-OTP-0267-0207-R01](#) at 0209.

¹⁹⁴⁹ P-0410, [UGA-OTP-0267-0207-R01](#) at 0213-0214.

¹⁹⁵⁰ P-0410, [UGA-OTP-0267-0207-R01](#) at 0212-0215.

¹⁹⁵¹ P-0410’s Rachele file, [UGA-OTP-0126-0248](#).

¹⁹⁵² P-0205, [UGA-OTP-0243-0520-R01](#) at 0536, [UGA-OTP-0243-0544-R01](#) at 0553-0555.

¹⁹⁵³ P-0205, [UGA-OTP-0243-0520-R01](#) at 0542-0543.

¹⁹⁵⁴ P-0205, [UGA-OTP-0243-0544-R01](#) at 0545-0548.

¹⁹⁵⁵ P-0231, [UGA-OTP-0243-2049-R01](#) at 2050-2053.

¹⁹⁵⁶ P-0054, [UGA-OTP-0251-0101-R01](#) at 0115-0116; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 20, 49-51; P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 74; P-0224, [UGA-OTP-0248-0712-R01](#) at 0718-0726; P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 41-42, 44; P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 28-29; P-0314, [UGA-OTP-0258-0841-R01](#) at 0859 and 0864; P-0330, [UGA-OTP-0256-0071-R01](#) at 0078, 0085; P-0252, [UGA-OTP-0243-0428-R01](#) at 0438; P-0309, [UGA-OTP-0249-0472-R01](#) at 0476, 0479 and [UGA-OTP-0258-0818-R01](#) at 0827.

¹⁹⁵⁷ P-0099, ICC-02/04-01/15-T-14-CONF-ENG, p. 41-42, 44.

729. P-0205 described in detail a particular escort of the Accused, who was 12 years old in 2002¹⁹⁵⁸ and accompanied Dominic Ongwen wherever he went.¹⁹⁵⁹ The Accused and his escorts trained him to use a gun, and he wore a uniform that he received from the Accused.¹⁹⁶⁰ The escort was killed in 2004 at the age of 14.¹⁹⁶¹

Training and discipline

730. The children in the Sinia brigade were trained for active participation in hostilities.¹⁹⁶² Dominic Ongwen himself trained abductees under the age of 15 in how to parade and fire a gun.¹⁹⁶³ The LRA units were continuously moving during the charged period and, as a consequence, resorted to mostly training recruits “on the front line” or during the movements in the bush “when they had time”.¹⁹⁶⁴ P-0275, himself only nine years old at the time, described children as young as six being trained. He could tell they were so young because the muzzles of their AK47 rifles dragged on the ground as they carried the guns on their shoulders.¹⁹⁶⁵

731. Children were taught to parade, march, handle weapons and shoot.¹⁹⁶⁶ They were trained how to move in the bush, how to abduct and what to do during enemy

¹⁹⁵⁸ P-0205, [UGA-OTP-0243-0564-R01](#) at 0565.

¹⁹⁵⁹ P-0205, [UGA-OTP-0243-0544-R01](#) at 0561.

¹⁹⁶⁰ P-0205, [UGA-OTP-0243-0544-R01](#) at 0560-0561, [UGA-OTP-0243-0564-R01](#) at 0572-0573.

¹⁹⁶¹ P-0205, [UGA-OTP-0243-0574-R01](#) at 0575-0576.

¹⁹⁶² P-0205, [UGA-OTP-0243-0520-R01](#) at 0536-0538, [UGA-OTP-0247-0130-R01](#) at 0142-0144, [UGA-OTP-0243-0630-R01](#) at 0641-0643; P-0224, [UGA-OTP-0248-0712-R01](#) at 0716-0717, 0727-0730; P-0231, [UGA-OTP-0243-1939-R01](#) at 1940-1944; P-0314, [UGA-OTP-0258-0841-R01-01](#) at 0855; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076; P-0307, [UGA-OTP-0266-0425-R01](#) at 0440-0441; P-0410, [UGA-OTP-0267-0207-R01](#) at 0213-0214 and 0216; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151; P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0309, [UGA-OTP-0249-0472-R01](#) at 0479; P-0280, [UGA-OTP-0247-1252-R01](#) at 1260.

¹⁹⁶³ P-0396, [UGA-OTP-0267-0246-R01](#) at 0253-0255.

¹⁹⁶⁴ P-0205, [UGA-OTP-0247-0130-R01](#) at 0142-0144, [UGA-OTP-0243-0520-R01](#) at 0536-0538, [UGA-OTP-0243-0544-R01](#) at 0556, [UGA-OTP-0243-0630-R01](#) at 0632-0633, 0641; P-0200, [UGA-OTP-0248-0822-R01](#) at 0829; P-0309, [UGA-OTP-0249-0472-R01](#) at 0479; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 64-65.

¹⁹⁶⁵ P-0275, [UGA-OTP-0244-3398-R01](#) at 3407.

¹⁹⁶⁶ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0275, [UGA-OTP-0244-3398-R01](#) at 3404; P-0101, ICC-02/04-01/15-T-13-CONF-ENG, p. 64-65 and ICC-02/04-01/15-T-14-CONF-ENG, p. 2-3; P-0235, ICC-02/04-01/15-T-17-CONF-ENG, p. 26-27 and 47-48; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151; P-0396, [UGA-OTP-0267-0246-R01](#) at 0255; P-0366, [UGA-OTP-0260-0289-R01](#) at 0306-0307; P-0379, [UGA-OTP-0260-0039](#), at 0047; P-0314, [UGA-OTP-0258-0841-R01](#) at 0855; P-0307, [UGA-OTP-0266-0425-R01](#) at 0440-0441; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076; P-0410, [UGA-OTP-0267-0207-R01](#) at 0213; P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0309, [UGA-OTP-0249-0472-R01](#) at 0479.

attacks.¹⁹⁶⁷ They were taught about LRA rules and discipline.¹⁹⁶⁸ Child soldiers described being beaten for the slightest mistake they made.¹⁹⁶⁹

732. The new recruits were also given a gun, usually after the older soldiers assessed they could be trusted with one.¹⁹⁷⁰ Children under 15 also received uniforms.¹⁹⁷¹

Count 70 – Use of children under the age of 15 to participate actively in hostilities (article 8(2)(e)(vii))

733. As outlined in the witness narratives above, children under 15 in the Sinia brigade were used in combat as well as in a variety of roles and activities linked to combat – as looters, porters, guards, escorts, and scouts.¹⁹⁷² Children under 15 often died or were injured as a result of their active participation in hostilities.¹⁹⁷³

734. Children under 15 years of age were used in the LRA campaign against the Ugandan Government. When laying ambushes, the children participated alongside the LRA combatants.¹⁹⁷⁴ Children also fought against the UPDF in battles and ambushes.¹⁹⁷⁵

¹⁹⁶⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0224, [UGA-OTP-0248-0712-R01](#) at 0716-0717, 0727-0730; P-0205, [UGA-OTP-0243-0544-R01](#) at 0551-0553; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076; P-0410, [UGA-OTP-0267-0207-R01](#) at 0213-0214; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151; P-0252, [UGA-OTP-0243-0428-R01](#) at 0442.

¹⁹⁶⁸ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0264, [UGA-OTP-0256-0139-R01](#) at 0151-152; P-0330, [UGA-OTP-0256-0071-R01](#) at 0076.

¹⁹⁶⁹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0307, [UGA-OTP-0266-0425-R01](#) at 0438; P-0330, [UGA-OTP-0256-0071-R01](#) at 0079; P-0410, [UGA-OTP-0267-0207-R01](#) at 0210; P-0264, [UGA-OTP-0256-0139-R01](#) at 0152; P-0097, [UGA-OTP-0258-0489-R01](#) at 0497-0498.

¹⁹⁷⁰ P-0054, [UGA-OTP-0251-0101-R01](#) at 0110-0111; P-0205, [UGA-OTP-0247-0130-R01](#) at 0145; P-0352, [UGA-OTP-0260-0315-R01](#) at 0328; P-0314, [UGA-OTP-0258-0841-R01-01](#) at 0848 read with 0847; P-0307, [UGA-OTP-0266-0425-R01](#) at 0441; P-0330, [UGA-OTP-0256-0071-R01](#) at 0077; P-0410, [UGA-OTP-0267-0207-R01](#) at 0214; P-0264, [UGA-OTP-0256-0139-R01](#) at 0147 and 0151; *see also* P-0280, [UGA-OTP-0247-1252-R01](#) at 1260.

¹⁹⁷¹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0442; P-0205, [UGA-OTP-0243-0544-R01](#) at 0553; P-0330, [UGA-OTP-0256-0071-R01](#) at 0077.

¹⁹⁷² For the Appeals Chamber's interpretation of what constitutes active participation of children in hostilities see Appeal Chamber Judgment ICC-01/04-01/06-3121-Red, para. 322-340.

¹⁹⁷³ P-0205, [UGA-OTP-0243-0574-R01](#) at 0575-0576, [UGA-OTP-0243-0544-R01](#) at 0545-0546, 0548; P-0314, [UGA-OTP-0258-0841-R01-01](#) at 0848; P-0307, [UGA-OTP-0266-0425-R01](#) at 0435-0436; P-0410, [UGA-OTP-0267-0207-R01](#) at 0217; P-0097, [UGA-OTP-0258-0489-R01](#) at 0495

¹⁹⁷⁴ P-0205, [UGA-OTP-0243-0520-R01](#) at 0537.

¹⁹⁷⁵ P-0252, [UGA-OTP-0243-0428-R01](#) at 0443-0450.

735. Children under 15 regularly took part in attacks against civilians.¹⁹⁷⁶ Child soldiers were deployed in attacks on IDP camps and forced to kill and abduct civilians.¹⁹⁷⁷ Witnesses abducted by fighters in the Sinia brigade under Dominic Ongwen's command in the relevant period confirmed very young children amongst their abductors.¹⁹⁷⁸
736. Children who were not armed with guns were used during attacks to achieve other LRA military objectives. For example, children were often tasked with raising the alarm or making noise to exaggerate the perception of LRA strength.¹⁹⁷⁹ Children also burned and pillaged civilian houses during attacks,¹⁹⁸⁰ and they were used to loot and carry looted items from attack sites.¹⁹⁸¹ In fact, many abducted children were forced to carry loot as they were being abducted.¹⁹⁸² Children were also used as scouts in the LRA, to keep watch and alert the LRA about their enemy's movements.¹⁹⁸³
737. One of the most common roles for the children conscripted into the LRA was that of an escort or guard to senior LRA fighters.¹⁹⁸⁴ As described above, Dominic Ongwen

¹⁹⁷⁶ P-0314, [UGA-OTP-0258-0841-R01](#) at 0850, 0851, 0852, 0853; *see also* P-0275, [UGA-OTP-0244-3398-R01](#) at 3407; P-0307, [UGA-OTP-0266-0425-R01](#) at 0432-0434; P-0330, [UGA-OTP-0256-0071-R01](#) at 0081; P-0330, [UGA-OTP-0256-0071-R01](#) at 0083-0090; P-0410, [UGA-OTP-0267-0207-R01](#) at 0219-0228; P-0252, [UGA-OTP-0243-0428-R01](#) at 0445-0446; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0487 and 0491, [UGA-OTP-0258-0818-R01](#) at 0825.

¹⁹⁷⁷ P-0252, [UGA-OTP-0243-0428-R01](#) at 0447-0450; P-0245, [UGA-OTP-0248-0877-R01](#) at 0881-0898, [UGA-OTP-0248-0911-R01](#) at 0929, 0932-0937, 0939; P-0264, [UGA-OTP-0256-0139-R01](#) at 0147, 0155 and 0168-0169; P-0374, [UGA-OTP-0263-0023-R01](#) at 0033; P-0307, [UGA-OTP-0266-0425-R01](#) at 0437; P-0330, [UGA-OTP-0256-0071-R01](#) at 0083-0090; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218-0224; P-0396, [UGA-OTP-0267-0246-R01](#) at 0249.

¹⁹⁷⁸ P-0227, ICC-02/04-01/15-T-10-CONF-ENG, p. 9, 13, 15-16; P-0187, [UGA-OTP-0233-1031-R01](#) at 1039; P-0396, [UGA-OTP-0267-0246-R01](#) at 0249.

¹⁹⁷⁹ P-0252, [UGA-OTP-0243-0428-R01](#) at 0435; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401; *see also* P-0293, [UGA-OTP-0248-0040-R01](#) at 0048.

¹⁹⁸⁰ *E.g.*, P-0018, [UGA-OTP-0159-0002-R01](#) at 0012; P-0293, [UGA-OTP-0248-0040-R01](#) at 0049; P-0330, [UGA-OTP-0256-0071-R01](#) at 0083; P-0410, [UGA-OTP-0267-0207-R01](#) at 0227

¹⁹⁸¹ P-0307, [UGA-OTP-0266-0425-R01](#) at 0433 and 0435; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218-0224; P-0309, [UGA-OTP-0249-0472-R01](#) at 0486-0487.

¹⁹⁸² P-0314, [UGA-OTP-0258-0841-R01](#) at 0844; P-0410, [UGA-OTP-0267-0207-R01](#) at 0210, 0223; P-0264, [UGA-OTP-0256-0139-R01](#) at 0146 and 0167; P-0252, [UGA-OTP-0243-0428-R01](#) at 0436; P-0097, [UGA-OTP-0258-0489-R01](#) at 0493.

¹⁹⁸³ P-0205, [UGA-OTP-0243-0630-R01](#) at 0642; P-0374, [UGA-OTP-0263-0023-R01](#) at 0033; P-0307, [UGA-OTP-0266-0425-R01](#) at 0436; P-0330, [UGA-OTP-0256-0071-R01](#) at 0075.

¹⁹⁸⁴ *E.g.*, P-0314, [UGA-OTP-0258-0841-R01](#) at 0858; P-0307, [UGA-OTP-0266-0425-R01](#) at 0438; P-0330, [UGA-OTP-0256-0071-R01](#) at 0077-0078; P-0410, [UGA-OTP-0267-0207-R01](#) at 0214-0215; P-0264, [UGA-OTP-0256-0139-R01](#) at 0149-0150; P-0352, [UGA-OTP-0260-0315-R01](#) at 0328; P-0374, [UGA-OTP-0263-0023-R01](#) at 0030 and 0033; P-0396, [UGA-OTP-0267-0246-R01](#) at 0258.

himself used children under 15 as his escorts.¹⁹⁸⁵ The escorts accompanied the LRA fighters closely, carrying out their escort and bodyguard duties in active conflict zones. The escorts provided physical security to their commander and ensured that anything that their commander requested was done. During battles the escorts had to stay at the side of the commander they were escorting, and if the commander was injured, they had to take care of him.¹⁹⁸⁶ Sinia fighters P-0245 and P-0054 described children who served as their escorts. P-0245 mentioned his armed escort who had fought at least since 2002. By autumn 2003, he was about 13 or 14 years old.¹⁹⁸⁷ This boy participated as a fighter in the attacks on Odek IDP camp on or about 29 April 2004 and in Palaro in 2003. He also fought alongside Dominic Ongwen in Acholi Pii.¹⁹⁸⁸ P-0054 refers to a young recruit who served under him and who participated in the attack on Odek IDP camp on or about 29 April 2004.¹⁹⁸⁹

738. Besides instances mentioned elsewhere in this section, children under 15 years participated actively in hostilities in, *inter alia*, the attack on Pajule IDP camp on or about 10 October 2003,¹⁹⁹⁰ the attack on Lukodi IDP camp on or about 19 May 2004,¹⁹⁹¹ the attack on Odek IDP camp on or about 29 April 2004,¹⁹⁹² the attack on Abok IDP camp on or about 8 June 2004,¹⁹⁹³ and the attack at Omia Pachwa in 2004.¹⁹⁹⁴

¹⁹⁸⁵ P-0054, [UGA-OTP-0251-0101-R01](#) at 0115-0118, 0123-0126; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 20, 49-51; P-0226, ICC-02/04-01/15-T-9-CONF-ENG, p. 74; P-0224, [UGA-OTP-0248-0712-R01](#) at 0725-0726; P-0299, ICC-02/04-01/15-T-14-CONF-ENG, p. 32; P-0236, ICC-02/04-01/15-T-16-CONF-ENG, p. 28-29; *See further*, para. 719, 723, 725, 728-729 and references therein.

¹⁹⁸⁶ P-0252, [UGA-OTP-0243-0428-R01](#) at 0438; P-0226, ICC-02/04-01/15-T-8-CONF-ENG, p. 49-51; P-0205, [UGA-OTP-0243-0574-R01](#) at 0589-0601; see also P-0205, [UGA-OTP-0247-0076-R01](#) at 0079; P-0264, [UGA-OTP-0256-0139-R01](#) at 0150

¹⁹⁸⁷ P-0245, [UGA-OTP-0244-0520-R01](#) at 0525, [UGA-OTP-0248-0877-R01](#) at 0881-0898; Photograph, [UGA-OTP-0240-0084](#).

¹⁹⁸⁸ P-0245, [UGA-OTP-0248-0877-R01](#) at 0881-0898, [UGA-OTP-0248-0911-R01](#) at 0929, 0932-0937, 0939.

¹⁹⁸⁹ P-0054, [UGA-OTP-0251-0101-R01](#) at 0115-0118, 0123-0126.

¹⁹⁹⁰ P-0009, [UGA-OTP-0241-0546-R01](#) at 0549; P-0006, [UGA-OTP-0144-0072-R01](#) at 0075.

¹⁹⁹¹ P-0018, [UGA-OTP-0159-0002-R01](#) at 0012; see also P-0187, [UGA-OTP-0233-1031-R01](#) at 1039; P-0195, [UGA-OTP-0233-1046-R01](#) at 1052.

¹⁹⁹² P-0054, [UGA-OTP-0251-0101-R01](#) at 0115-0118, 0123-0126; P-0252, [UGA-OTP-0243-0428-R01](#) at 0435; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401; P-0205, [UGA-OTP-0243-0544-R01](#) at 0545-0546; P-0218, [UGA-OTP-0238-0720-R01](#) at 0724; P-0264, [UGA-OTP-0256-0139-R01](#) at 0155-0156; P-0410, [UGA-OTP-0267-0207-R01](#) at 0219; P-0274, [UGA-OTP-0244-3375-R01](#) at 3379

¹⁹⁹³ P-0293, [UGA-OTP-0248-0040-R01](#) at 0049; P-0280, [UGA-OTP-0247-1252-R01](#) at 1260; P-0054, [UGA-OTP-0251-0128](#) at 0135-0142.

¹⁹⁹⁴ P-0205, [UGA-OTP-0243-0544-R01](#) at 0553-0555.

Dominic Ongwen's individual criminal responsibility for crimes against children under 15

739. Dominic Ongwen is criminally responsible for conscripting children under 15 and using them to participate actively in hostilities as an indirect co-perpetrator pursuant to article 25(3)(a), for ordering the alleged crimes pursuant to article 25(3)(b), or for contributing to the alleged crimes pursuant to article 25(3)(d)(i) and (ii), and as a military commander pursuant to article 28(a).

Dominic Ongwen is criminally responsible pursuant to article 25(3)(a)

i. Dominic Ongwen was part of a common plan or an agreement with one or more persons

740. From at least 1 July 2002 to 31 December 2005, in the context of the on-going non-international armed conflict in northern Uganda, Dominic Ongwen, Joseph Kony and the Sinia brigade leadership ("child soldiers co-perpetrators") implemented a common plan to abduct children into Sinia brigade in order to ensure a constant supply of fighters ("child soldiers common plan"). The co-perpetrators meant to engage in their conduct and intended to conscript children under 15 and use them to participate actively in hostilities, or were aware this would occur in the ordinary course of events when implementing the child soldiers common plan.

741. Joseph Kony, throughout the relevant period, issued orders to abduct and train children to replenish the LRA forces. Kony's orders were received by Dominic Ongwen and other brigade and battalion commanders, who were entrusted with their execution.¹⁹⁹⁵

¹⁹⁹⁵ P-0231, [UGA-OTP-0243-2025-R01](#) at 2041; P-0205, [UGA-OTP-0247-0481-R01](#) at 0493-0498, [UGA-OTP-0243-0819-R01](#) at 0825-0827, 0832-0833; *See also* P-0330, [UGA-OTP-0256-0071-R01](#) at 0081.

742. Kony instructed his commanders to concentrate on abducting only young children because they are easy to control.¹⁹⁹⁶ He envisioned that children “will grow as their soldiers”,¹⁹⁹⁷ and explained that it is easier to work with children and train them to become LRA soldiers.¹⁹⁹⁸ Kony articulated the ideal age of abductees. Those aged above 15 years old were viewed as “problems” who should not be abducted.¹⁹⁹⁹ On one occasion, Kony instructed all of his commanders to abduct boys of 10 years of age and below.²⁰⁰⁰ On 9 May 2003, Kony spoke of abducting people of the “right size”,²⁰⁰¹ *i.e.* those the LRA thought were most useful: children under 15. Kony further told his commanders to keep new abductees well because “they are now their fresh fighters”,²⁰⁰² their “future” fighters,²⁰⁰³ and the “pillars of LRA”.²⁰⁰⁴ He also emphasised the importance of abducting and training recruits: “without recruits [the LRA] will not operate effectively”;²⁰⁰⁵ recruits will “keep [the] LRA [surviving]”;²⁰⁰⁶ and without children the “LRA would be nowhere”.²⁰⁰⁷

743. Reports of intercepted LRA radio communication in the relevant period demonstrate that senior LRA commanders, including Dominic Ongwen, shared Kony’s objective to abduct children. One commander, for instance, reported that on 6 September 2002, Dominic Ongwen abducted 86 recruits after an ambush.²⁰⁰⁸ On 21 July 2002, Tabuley reported that another commander, who at the time in Sinia brigade,²⁰⁰⁹ had abducted school children.²⁰¹⁰ On 18 August 2002, Lukwiya reported he had abducted a good

¹⁹⁹⁶ ISO logbook, [UGA-OTP-0065-0002](#) at 0073; P-0138, [UGA-OTP-0228-0538-R01](#) at 0552.

¹⁹⁹⁷ ISO logbook, [UGA-OTP-0064-0093](#) at 0121.

¹⁹⁹⁸ ISO logbook, [UGA-OTP-0065-0002](#) at 0065.

¹⁹⁹⁹ ISO logbook, [UGA-OTP-0065-0002](#) at 0049.

²⁰⁰⁰ ISO logbook, [UGA-OTP-0065-0002](#) at 0035.

²⁰⁰¹ ISO logbook, [UGA-OTP-0068-0146](#) at 0150-0151.

²⁰⁰² ISO logbook, [UGA-OTP-0064-0002](#) at 0049.

²⁰⁰³ ISO logbook, [UGA-OTP-0068-0146](#) at 0161; UPDF logbook, [UGA-OTP-0197-2162](#) at 2209.

²⁰⁰⁴ ISO logbook, [UGA-OTP-0064-0002](#) at 0052.

²⁰⁰⁵ ISO logbook, [UGA-OTP-0064-0002](#) at 0056.

²⁰⁰⁶ ISO logbook, [UGA-OTP-0068-0002](#) at 0042.

²⁰⁰⁷ ISO logbook, [UGA-OTP-0065-0002](#) at 0049.

²⁰⁰⁸ ISO logbook, [UGA-OTP-0064-0093](#) at 0129-0130.

²⁰⁰⁹ ISO logbook, [UGA-OTP-0064-0093](#) at 0166-0167.

²⁰¹⁰ ISO logbook, [UGA-OTP-0063-0194](#) at 0308.

number of “young children who were undergoing training and had high morale.”²⁰¹¹ Lukwiya also reported that a battalion commander in Sinia,²⁰¹² abducted many recruits-- “very active and healthy bodied young [people]” - who were easily picking up training and the LRA ways of life.²⁰¹³ On several occasions, commanders reported to Kony that they had abducted children of “the right size”,²⁰¹⁴ *i.e.* children under 15.

744. Dominic Ongwen acted in a coordinated manner with his co-perpetrators to implement the common plan. P-0205 confirmed that Dominic Ongwen ordered his subordinates to abduct children. The same witness recalled that on one occasion, Dominic Ongwen told him that those under his command were free to abduct, so it was at the discretion of the individuals to replenish their forces.²⁰¹⁵ Dominic Ongwen regularly communicated with his co-perpetrators, *inter alia*, reporting on the actions carried out in pursuance of the common plan. For example, following the attack on Odek IDP camp on or about 29 April 2004, Dominic Ongwen reported on the LRA radio that men and women had been abducted in the attack.²⁰¹⁶ On one occasion, when receiving a report on newly abducted recruits from his subordinate, Dominic Ongwen expressed that the recruits should be kept very well and that abduction “should be at its [peak] because [it is the] LRA future”.²⁰¹⁷

745. The evidence outlined in other paragraphs of this section and this document as a whole further demonstrates that Dominic Ongwen was part of the child soldiers common plan and that his contribution to its execution was an essential one.²⁰¹⁸

²⁰¹¹ ISO logbook, [UGA-OTP-0064-0002](#) at 0049.

²⁰¹² ISO logbook, [UGA-OTP-0065-0002](#) at 0083.

²⁰¹³ ISO logbook, [UGA-OTP-0064-0002](#) at 0052.

²⁰¹⁴ E.g. ISO logbook, [UGA-OTP-0068-0146](#) at 0150-0151 and 0161.

²⁰¹⁵ P-0205, [UGA-OTP-0243-0819-R01](#) at 0832-0833.

²⁰¹⁶ *See supra*, para. 344.

²⁰¹⁷ ISO logbook, [UGA-OTP-0062-0145](#) at 0277.

²⁰¹⁸ *See further* para. 89-155, on the common elements of modes of liability.

ii. Dominic Ongwen 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

746. Dominic Ongwen's contribution to the realisation of the child soldiers common plan included the following:

- He led by example, by personally using children under 15 as escorts or in his personal entourage. These children participated in hostilities alongside him.²⁰¹⁹
- He ordered his subordinates to abduct children to replenish the ranks of his units,²⁰²⁰ at times explicitly ordering that children under 15 be abducted.²⁰²¹
- He actively encouraged and endorsed the conscription of children into the LRA.²⁰²²
- He planned, ordered, coordinated and deployed troops under his command for military attacks and attacks against the civilian population, in which children under 15 years actively participated or were abducted. He personally participated in some of those attacks.²⁰²³
- He had operational control over the implementation of the child soldiers common plan in the units he commanded by virtue of his position.²⁰²⁴
- At least from when he was brigade commander of Sinia, Dominic Ongwen supervised and distributed military supplies for the brigade that included children under 15 in its ranks.²⁰²⁵

²⁰¹⁹ See further, para. 719, 723, 725, 728-729 and references therein.

²⁰²⁰ P-0224, [UGA-OTP-0244-3186-R01](#) at 3191-3198; P-0205, [UGA-OTP-0243-0520-R01](#) at 0530-0531, [UGA-OTP-0247-0481-R01](#) at 0497-0500, [UGA-OTP-0243-0819-R01](#) at 0825-0827, 0832-0833; P-0314, [UGA-OTP-0258-0841-R01](#) at 0850.

²⁰²¹ P-0233, [UGA-OTP-0243-1149-R01](#) at 1151-1162.

²⁰²² P-0205, [UGA-OTP-0243-0819-R01](#) at 0832-0833; P-0314, [UGA-OTP-0258-0841-R01](#) at 0846 and 0860; P-0309, [UGA-OTP-0249-0472-R01](#) at 0488; P-0097, [UGA-OTP-0258-0489-R01](#) at 0494.

²⁰²³ P-0245, [UGA-OTP-0248-0911-R01](#) at 0895-0896, [UGA-OTP-0248-0911-R01](#) at 0927-0932; see also P-0187, [UGA-OTP-0233-1031-R01](#) at 1039; P-0195, [UGA-OTP-0233-1046-R01](#) at 1052; P-0309, [UGA-OTP-0249-0472-R01](#) at 0491; P-0054, [UGA-OTP-0251-0101-R01](#) at 0115-0118, 0123-0126, [UGA-OTP-0251-0128](#) at 0135-0142; P-0252, [UGA-OTP-0243-0428-R01](#) at 0435; P-0275, [UGA-OTP-0244-3398-R01](#) at 3401; P-0205, [UGA-OTP-0243-0544-R01](#) at 0545-0546; P-0218, [UGA-OTP-0238-0720-R01](#) at 0724; P-0293, [UGA-OTP-0248-0040-R01](#) at 0049; P-0280, [UGA-OTP-0247-1252-R01](#) at 1260; P-0314, [UGA-OTP-0258-0841-R01](#) at 0850; P-0307, [UGA-OTP-0266-0425-R01](#) at 0433; P-0330, [UGA-OTP-0256-0071-R01](#) at 0083; P-0410, [UGA-OTP-0267-0207-R01](#) at 0218-0219 and 0225; see further the sections on attacks on Pajule, Odek, Lukodi and Abok IDP camps.

²⁰²⁴ See further the section on common elements of modes of liability, para. 89-155. See also P-0352, [UGA-OTP-0260-0315-R01](#) at 0326-0327

²⁰²⁵ P-0205, [UGA-OTP-0247-0418-R01](#) at 0437-0439, 0444; P-0231, [UGA-OTP-0243-1972-R01](#) at 1997.

- He encouraged, supervised and took part in military training of children.²⁰²⁶
- He maintained communication with his co-perpetrators and his subordinates.²⁰²⁷
- As a battalion commander and then Sinia brigade commander, Dominic Ongwen had effective command and control over troops who conscripted and used children under 15. He failed to take steps to prevent or repress the crimes being committed or to punish the perpetrators.

iii. Dominic Ongwen had control over – and used – the organisation, which consisted of an organised and hierarchical apparatus of power

747. This element is satisfied by reference to the section on the common elements of modes of liability, paragraphs 89 to 155.

iv. Dominic Ongwen had the ability to cause the organisation to contribute to the crimes

748. This element is satisfied by reference to the section on the common elements of modes of liability, paragraphs 89 to 155.

v. Dominic Ongwen had knowledge and intent as required by article 30 and specific to the crimes

749. Dominic Ongwen intended to bring about the objective elements of the crimes or, alternatively, was aware that the crimes would occur in the ordinary course of events when implementing the child soldiers common plan.

750. As described above, Dominic Ongwen ordered abductions targeting young children and was briefed by his subordinates about them. He witnessed children under 15 in Sinia brigade, and he himself used children under 15 as escorts. Prior to LRA operations, Dominic Ongwen would himself brief his troops, which included children under 15, and

²⁰²⁶ P-0205, [UGA-OTP-0243-0564-R01](#) at 0572-0573; P-0396, [UGA-OTP-0267-0246-R01](#) at 0253-0255; P-0379, [UGA-OTP-0260-0039](#) at 0047; P-0307, [UGA-OTP-0266-0425-R01](#) at 0440

²⁰²⁷ See section on intercepted LRA radio communications, para. 62-88.

these children took part in ambushes, attacks against civilian population, and combat with the UPDF.

751. Witness P-0189 provided a telling description of Dominic Ongwen's knowledge and intent with regard to child soldiers. The witness described meeting the Accused as part of a peace-talk endeavour in 2006. Dominic Ongwen was accompanied by 13- or 14-year-old children who were overloaded, carrying too much weight for their sizes. The witness asked the Accused to release the children, but Dominic Ongwen refused, stating "I will not release children, you call them children, I call them my soldiers".²⁰²⁸ P-0189 made a specific plea to release a boy who looked particularly miserable and was known as Ongwen's slave boy; however, Ongwen again refused.²⁰²⁹ Though these events occurred a few months outside the temporal scope of the charges, they are nonetheless indicative of Dominic Ongwen's knowledge and intent with regard to child soldiers also during the charged period.²⁰³⁰ P-0359 also saw Ongwen in September 2006, and he was accompanied by children between the ages of 12-15 who were armed with AK47 rifles.²⁰³¹ Like P-0189, P-0359 asked Ongwen to release the young children in his group, but Ongwen refused.²⁰³²

752. There can be no doubt Dominic Ongwen knew or should have known that children conscripted into the Sinia brigade were younger than 15 years. He was surrounded by these children and interacted with them daily.²⁰³³ The majority were by their very appearance under 15, some manifestly so, as evidenced by the photographs of some of the former child soldiers taken shortly after their escape from the LRA.²⁰³⁴ Moreover,

²⁰²⁸ P-0189, [UGA-OTP-0260-0121-R01](#) at 0128.

²⁰²⁹ P-0189, [UGA-OTP-0260-0121-R01](#) at 0128; Photograph, [UGA-OTP-0260-0147](#).

²⁰³⁰ See also P-0355, [UGA-OTP-0257-1674](#) at 1682-1684.

²⁰³¹ P-0359, [UGA-OTP-0260-0151-R01](#) at 0158-0159.

²⁰³² P-0359, [UGA-OTP-0260-0151-R01](#) at 0160.

²⁰³³ E.g. P-0314, [UGA-OTP-0258-0841-R01-01](#) at 0846; P-0330, [UGA-OTP-0256-0071-R01](#) at 0074.

²⁰³⁴ Photograph of P-0097, [UGA-OTP-0165-0050](#); Photographs of P-0275, [UGA-OTP-0244-3419](#), [UGA-OTP-0244-3415](#) at 3415; Photograph of P-0410 in his Rachele file, [UGA-OTP-0126-0248](#); Photograph of P-309's attached to his Reunion Letter, [UGA-OTP-0258-0836](#); Photograph of P-0314 attached to his Amnesty Certificate,

Ongwen asked the new abductees about their ages, and the children directly told him they were younger than 15.²⁰³⁵ Finally, abducting very young children was in itself a longstanding LRA policy and Dominic Ongwen himself on at least one occasion explicitly ordered that children under 15 be abducted.²⁰³⁶

vi. Dominic Ongwen was aware of the factual circumstances that allowed him to exert control over the crimes

753. Dominic Ongwen was aware of the factual circumstances that allowed him to exert control over the crimes. Ongwen knew that he had control over the crimes because he was ordering and overseeing them being committed and in some instances committed the crimes himself. He routinely issued orders and had the young recruits trained and orchestrated their participation in hostilities as part of Sinia brigade. Given the structure and discipline system of the LRA and the Sinia brigade, as well as his commanding role as set out in the section on common elements of modes of liability, paragraphs 89 to 155, Dominic Ongwen was clearly aware of the factual circumstances enabling him to exercise control over the commission of crimes through other persons.

Dominic Ongwen is criminally responsible under article 25(3)(b)

754. Dominic Ongwen is also individually criminally responsible pursuant to article 25(3)(b) for ordering the alleged crimes. He held a position of authority as a commanding officer within the LRA and routinely issued orders to his subordinates, including to carry out abductions and military operations that resulted in children under 15 being conscripted into units under his command and children under 15 being actively used in hostilities. His orders had a direct effect on the crimes committed, as described above.

[UGA-OTP-0269-0699](#); Photograph of P-0314 attached to his Reunion Letter, [UGA-OTP-0269-0708](#); Photograph of P-0307 in his World Vision File, [UGA-OTP-0170-0338](#).

²⁰³⁵ P-0309, [UGA-OTP-0249-0472-R01](#) at 0475-0476; P-0396, [UGA-OTP-0267-0246-R01](#) at 0253; *see also* P-0314, [UGA-OTP-0258-0841-R01](#) at 0845.

²⁰³⁶ P-0233, [UGA-OTP-0243-1149-R01](#) at 1151-1162.

Dominic Ongwen is criminally responsible under article 25(3)(d)(i) and (ii)

755. Dominic Ongwen also contributed to the commission of crimes by a group of persons, including Joseph Kony and other senior Sinia commanders who were acting with a common purpose. Dominic Ongwen's contribution was made with the aim of furthering their criminal activity or criminal purpose to forcibly recruit children into the LRA, including those younger than 15, and to use them to actively participate in the hostilities. As elaborated above, Dominic Ongwen coordinated and deployed troops to abduct children into the LRA; planned, coordinated and participated in attacks that resulted in the conscription of children into the LRA or in which children were used to actively participate in hostilities; and he trained or supervised the military training of children. He did so with the aim of furthering the criminal activity or criminal purpose of the group or, at least, knowing of the group's intention to commit the crimes.

Dominic Ongwen is criminally responsible under article 28(a)

756. Dominic Ongwen is also responsible for the charged crimes as a military commander pursuant to article 28(a). Dominic Ongwen's position of a military commander throughout the charged period is set out in detail in the section on common elements of modes of liability, paragraphs 89 to 155.

757. The charged crimes were committed by troops in Sinia brigade under Dominic Ongwen's effective command and control or effective authority and control as a result of his failure to exercise control properly. Dominic Ongwen knew or, owing to the circumstances at the time, should have known that the soldiers in Sinia brigade under his command or authority were conscripting children under 15 and using them to participate actively in hostilities. This is demonstrated by Dominic Ongwen's own involvement in the planning and execution of the crimes, the reports conveyed to him about the commission of crimes by his subordinates and his personal observation of the crimes.

758. Dominic Ongwen failed to take any of the necessary and reasonable measures within his power to prevent these crimes being committed by his subordinates. Nor did he submit them for prosecution by competent authorities. This is not unexpected since Dominic Ongwen was at the heart of the crimes being committed. Not only did he fail to do anything to stop the crimes, the evidence summarised above demonstrates that he actively encouraged them.

XII. CONCLUSION

759. The Prosecution submits that the evidence described above, in addition to the oral evidence to be heard in the course of this trial, does and will prove beyond reasonable doubt that Dominic Ongwen is criminally responsible for the crimes charged under counts 1 to 70 in the Document Containing the Charges.

Respectfully submitted,



Fatou Bensouda
Prosecutor

Dated this 6th day of September 2016
At The Hague, The Netherlands